



**BRUSSELS | 22 MAY 2023**

## **G7 Welcome Progress on Two-Pillar International Tax Process**

The G7 leaders emphasised their strong political commitment towards the swift global implementation of the OECD/G20 Inclusive Framework Two-Pillar Solution to address the tax challenges arising from globalisation and the digitalisation of the economy and to establish a more stable and fairer international tax system:

"We recognise the significant progress in the negotiation of the Pillar 1 Multilateral Convention (MLC) and reaffirm our commitment to the swift completion of the negotiation so that the MLC can be ready for signature within the agreed timeline. We welcome the progresses in domestic legislation toward the implementation of Pillar 2. We will further provide developing countries with support for strengthening their tax capacity to build sustainable tax revenue sources, highlighting the importance of assistance for the implementation of the

Two-Pillar Solution.", the G7 Hiroshima [Communiqué](#) states.

The OECD's Director of Tax Policy and Administration recently suggested the Inclusive Framework and the OECD Secretariat are on-track for completion of the Pillar 1 multilateral instrument, which aims to reallocate a portion of the large multinational companies' profits to the market jurisdictions. Ms Corwin [reportedly](#) said she was feeling confident the multilateral treaty text would be brought to the IF delegates by the end of July, with transitional elements for existing national digital services taxes (DSTs) should the work progress sufficiently.

The 49th G7 summit was held from 19 -21 May 2023 in Hiroshima, Japan was attended by France, United States, United Kingdom, Germany, Japan, Italy and Canada, in a format that included the European Union and Ukraine. Whilst most of the discussions were focused on geopolitical issues and agreeing specific steps to ensure continued support for Ukraine in the face of Russia's war of aggression, the final Communiqué also sets out the coordinated approach to ensure economic resilience of global supply chains in the face of de-globalisation risks. China and Russia, for their part, [denounced the summit](#), with China stating "it will not accept the G7-dominated Western rules that seek to divide the world based on ideologies and values."

## [AG Kokott: State Aid Law Should Apply to Outlier Tax Cases Only](#)

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Advocate General Kokott issued an [Opinion](#) in Case C-454/21 P | Engie Global LNG Holding and Others v Commission and C-451/21 P | Luxembourg v Commission. AG Kokott's Opinion largely disagrees with the General Court judgment which confirmed the European Commission' approach in this fiscal State aid case, suggesting that the EU institutions should not use State aid law

to shape an EU Member state (ideal) tax system.

AG Kokott considers that the European Commission erred in finding that Luxembourg had granted unlawful State aid to the Engie group in the form of advantageous tax rulings, and that only manifestly inconsistent tax rulings may constitute a selective advantage following a 'plausibility check'.

The Opinion argues that the Commission can only look at the 'outliers' to assess tax rulings under State aid law: the discretion enjoyed by the Member States in tax assessment would exceed its limits if they abused their tax law in order to grant advantages to individual undertakings in circumvention of the rules on State aid, only when there is manifest error or inconsistency as happened in the case of Gibraltar. Compliance with State aid law should be a concern only with *manifestly discriminatory issues*, to avoid the EU courts becoming supreme tax courts.

Pointing to the notion of legal certainty, AG Kokott further argues that a limited review of national tax law under State aid rules is required in the light of taxpayers' interest in legal certainty. Both the principle of legal certainty and the binding/ final nature of administrative acts under national law would be brought into question if every erroneous tax assessment (advance tax rulings as well as normal tax assessments) might be considered an infringement of State aid law, AG Kokott argues.

Opinions of Advocates General are not binding on the European Court of Justice under EU law.

## [EU Ministers Approve DAC8 \(Crypto-Assets Reporting\)](#)

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Following the approval by the ambassadors of EU Member states accredited in Brussels, the EU Finance Ministers sitting as ECOFIN Council, [agreed](#) the general approach on the EU Directive on crypto-assets reporting (DAC8), which largely follows the OECD CARF framework. This agreement amends the EU Directive 2011/16/EU on administrative cooperation in the field of taxation (DAC).

Speaking after the ECOFIN Council meeting, *Elisabeth Svantesson, Minister for Finance of Sweden* said: "Today we are strengthening the rules for administrative cooperation and closing loopholes that have previously been used to avoid taxation of income. This reduces the risk of crypto-assets being used as a safe haven for tax avoidance and tax fraud. The agreement is yet another example of the EU as a leader in the implementation of global standards.", Ms Svantesson said.

Under EU law, in a special legislative procedure, the Council must consult the European Parliament and the European Economic and Social Committee. The ECON Parliamentary Committee vote is [scheduled](#) for 30 May 2023, with plenary vote in the European Parliament now planned for 10 July 2023.

## [Save the Date: CFE, ICAEW & PwC Event "A Gender Equal Tax System in Europe: Reflections for a New Agenda" - 4 July 2023](#)

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On 4 July 2023 p.m., CFE Tax Advisers Europe, the ICAEW Women in EU Finance Network and PwC will co-host a panel discussion at the European Parliament on the topic of *"A Gender Equal Tax System in Europe: Reflections for a New Agenda"*.

Gender equality in fiscal affairs is a matter of fairness, well-being and growth. While the EU has taken steps to include a gender perspective in all stages of policy design significant challenges remain – including when it comes to tax. The structure and administration of tax systems often still have different impacts on gender.

As the EU starts to look ahead towards a new legislative term, what would it take to establish a truly inclusive tax system by 2030? What needs to be done to ensure that future changes to tax systems help drive gender equality as well as responding to Europe’s green, digital and growth ambitions? Speakers will offer views and reflections on a pathway towards a more gender equal tax system by 2030, and address questions such as: what are the key features of tax system designed to help reduce gender inequality and what is lacking today; what do policymakers and tax administrations need to do to in the next EU legislative period to build a tax system that is gender equal, green, digital and competitive; and, what lessons can be learnt from international best practice.

Further details concerning speakers and registration will be made available in due course.

## European Commission BEFIT Summary Report

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The European Commission has published a [summary report](#) on the public consultation on BEFIT, “Business in Europe: Framework for Income Taxation – BEFIT”. The consultation was open in the period 13 October 2022 - 26 January 2023 and the Commission received responses from citizens, business, professional and business groups.

Notably, on the problem definition the report notes: "50 out of 77 respondents agree or strongly agree that the current situation with 27 different national corporate tax systems gives rise to problems in the Single Market. Respondents who disagree or strongly disagree with the problem (7 out of 77) come from the field of business/ professional associations and companies. They consider the existing regulation sufficient and state that businesses around Europe are already used to the current system. Moreover, they underline that BEFIT could add complexity, costs and cause additional disputes."

Regarding the scope of BEFIT, and the necessity for the EU action to include a threshold and the possibility to opt in for those not in scope, a majority of survey respondents consider it as very effective (22/77) or effective (19/77) to have a threshold for mandatory application with a possibility for groups/companies (including SMEs) below the threshold to opt in (in total 53%).

Most of the survey respondents believe that for calculating the tax base making limited adjustments to a company's financial accounts is effective or very effective (almost 60%) compared to the possibility of putting a comprehensive set of corporate tax rules in place (almost 25%), the European Commission summary report notes.

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