



CFE EVENTS

CFE Forum on 26 March 2015: “Tax governance and tax risk management in a post-BEPS world”

As the BEPS project proceeds to completion, it is crucial that companies, their tax advisers and tax administrations are aware of the implications of the new international framework grounded on transparency, multilateral cooperation and information exchange. With concepts like the “spirit of the law”, “economic substance” and “value creation” coming to the fore, tax mitigation and the structuring of companies’ businesses will have to take into account a larger number of variables and a different set of risks.

In a “post-BEPS” world, transfer pricing disputes as well as spill-over effects of double taxation and the degree of scrutiny of operations in general by tax administrations are expected to increase.

The 2015 CFE Forum will address these pressing topics, and will help companies and their tax advisers prepare for the future. Confirmed speakers include high-ranking European Commission officials, businesses, academics and tax practitioners.

READ MORE (click to open):

- Programme and registration: [EN](#)

DIRECT TAX

Cross-border group relief and final losses: CJEU dismisses infringement action against the UK

On 3 February 2015, the EU Court of Justice (CJEU) has found UK legislation making cross-border loss relief subject to certain conditions compatible with EU law. The decision dismisses the European Commission’s infringement action against the UK (case C-172/13). The Commission had held that the legislation at issue (which had been enacted as a consequence of the CJEU’s 2005 judgment in the case Marks & Spencer) infringes the freedom of establishment to the extent that losses were only to

be considered final if at the end of the relevant accounting period no rule on carrying-forward of losses exists in the country of the subsidiary or the subsidiary that incurred the losses had gone into liquidation, and that the UK provision excluded cases before April 2006 from cross-border group relief. The Court did not agree that the refusal of loss relief where there is no possibility of loss-carrying-forward in the subsidiary’s state violates the freedom of establishment. Moreover, it disagreed with the Commission’s conclusion that the subsidiary would have to go into liquidation to make losses final and found that the Commission had not established that losses incurred before April 2006 were actually not eligible.

READ MORE (click to open):

- Judgment: [All EU languages](#)
- Press release: [EN](#)

Council adopts anti-abuse rule in Parent-Subsidiary Directive

The EU Ecofin Council, on 27 January 2015, has formally adopted the revision of the EU Parent-Subsidiary-Directive, providing for a minimum anti-abuse rule. Agreement on the amendment had already been reached at the Ecofin meeting of 9 December 2014. EU member states have to implement the new rule (as well as the subject-to-tax clause adopted in July 2014) until the end of 2015.

READ MORE (click to open):

- Press release: [EN](#) (All EU languages)
- Text of the amendment: [EN](#)

Commission renews Joint Transfer Pricing Forum

On 26 January 2015, the European Commission has decided to set up a new Joint Transfer Pricing Forum (JTPF) consisting of representatives of the EU member states and 18 organisations to advise the Commission in finding practical solutions to transfer pricing issues. The mandate of the JTPF will be two years. Deadline for applications is 25 February 2015.

READ MORE (click to open):

- Commission decision: [EN, DE, FR](#)
- Call for applications : [EN](#)

UK plans introducing diverted profits tax against tax avoidance by multinationals

On 7 January 2015, the UK House of Commons debated the newly proposed diverted profits tax, designed to discourage international businesses from shifting profits. As the UK tax administration HMRC explains, the tax will operate through two basic rules: The first rule counteracts arrangements by which foreign companies exploit the permanent establishment rules. The second rule prevents companies from creating tax advantages by using transactions or entities that lack economic substance. The rule shall apply to profits arising as of 1 April 2015.

READ MORE (click to open):

- Meeting record : [EN](#)
- UK tax administration note : [EN](#)

BEPS: CFE comments on avoidance of PE status, treaty abuse and dispute resolution

The CFE has contributed three Opinion Statements to the OECD work to counter corporate base erosion and profit shifting (BEPS): On 9 January, it submitted two statements on the artificial avoidance of permanent establishment status (BEPS Action 7) and on preventing tax treaty abuse (BEPS Action 6). On 16 January, it commented on making dispute resolution mechanisms more effective (BEPS Action 14). All three are joint statements of the CFE and AOTCA, the Asia-Oceania Tax Consultants' Association with which the CFE cooperates at technical level in BEPS matters.

READ MORE (click to open):

- CFE Opinion Statements:
- FC 1/2015: Avoidance of PE status: [EN](#)
 - FC 2/2015: Tax treaty abuse: [EN](#)
 - FC 3/2015: Dispute resolution mechanisms: [EN](#)

INDIRECT TAX

New VAT and excise duty tables

The European Commission has published its updated tables on VAT and excise duty rates applied in EU member states. The VAT tables include information on the evolution of the rates since the introduction of VAT. Both updates reflect the situation of 1 January 2015.

READ MORE (click to open):

- Updated VAT tables: [EN, DE, FR](#)
- Excise duty tables :
- Tobacco: [EN](#)
Energy products : [EN](#)
Alcohol : [EN](#)

FTT to be introduced as of 2016

On 27 January 2015, the finance ministers of ten of the eleven EU countries participating in the plan to introduce a financial transactions tax by way of enhanced cooperation have agreed that such tax should be levied as of 1 January 2016. The countries (Austria, Belgium, Estonia, France, Germany, Italy, Portugal, Slovakia, Slovenia and Spain) agree that the tax shall apply to shares and derivatives. Details of the new tax are still to be discussed but discussions have reassumed under Austrian coordination. The only country absent was Greece, due to the upcoming change of government following the elections of end-January.

CJEU rules on definition of "letting of immovable property" in VAT

On 22 January 2015, the EU Court of Justice decided in preliminary ruling case C-55/14, Stade Luc Varenne, upon reference by a Belgian court that making available, for consideration, a football stadium under a contract reserving certain rights and prerogatives to the stadium owner and providing for the supply, by the owner, of various services, including services of maintenance, cleaning, repair and upgrading, representing 80% of the charge which is agreed, does not constitute, as a general rule, a 'letting of immovable property' within the meaning of that provision.

READ MORE (click to open):

- Judgment: [EN](#) (All EU languages)

OTHER TAX POLICY

CFE publishes national reports on tax changes

The CFE has published the January 2015 National Reports of its Fiscal Committee. The reports contain changes in tax laws between September 2014 and January 2015 in 13 European countries (Belgium, the Czech Republic, France, Ireland, Italy, Malta, the Netherlands, Poland, Romania, Slovakia, Slovenia, Spain and the UK).

READ MORE (click to open):

- CFE Fiscal Committee National Reports January 2015: [EN](#)

STATE AID

Commission publishes its decision to investigate into Luxembourg's Amazon rulings

On 16 January 2015, the European Commission has published its decision of 7 October 2014 to open in-depth investigations into the Luxembourg tax authorities' ruling concerning the tax treatment of Amazon (see [CFE European Tax & Professional Law Report October 2014](#)).

READ MORE (click to open):

- Decision: [EN](#)

PROFESSIONAL LAW

Rules on consumer contracts apply to lawyer's engagement with client

The EU Court of Justice decided on 15 January 2015 in the preliminary ruling case C-537/13, Šiba, upon reference by the Lithuanian Supreme Court that the EU Directive on unfair terms in consumer contracts 93/13/EEC may also apply to standard terms of contracts for the provision of legal services between a lawyer and a client. A lawyer is thus to be considered a "seller" or "supplier" in the sense of the Directive, despite his exercise of a liberal profession. The Directive 93/13/EEC has been amended by the EU Consumer Rights Directive 2011/83/EU which was not yet in force at the time of the case at issue but it seems likely that the Court would decide in the same way for a contract concluded today by a tax adviser and his/her consumer client.

READ MORE (click to open):

- Judgment: [EN](#) (All EU languages)

ANTI MONEY LAUNDERING

Compromise text of 4th AML Directive available

On 27 January 2015, the European Parliament's ECON and LIBE Committees endorsed the compromise for a revision of the EU Anti Money Laundering Directive brokered in December 2014 between the European Commission, the Parliament and the EU Council. From the tax advisers' perspective, the revision provides for a strengthening of professional secrecy: According to the current rules, member states can opt to exempt tax advisers from the obligation to report indications of money laundering and to lay down the mandate where the tax adviser receives the information from the client in the course of ascertaining the client's legal position or defending or representing the client in judicial proceedings, provided that national law allows tax advisers to perform these activities. Under the new rules, member states may no longer opt but will have to provide for this exemption, improving the client's access to tax advice and effective defence. A bone of contention had been the introduction of registers containing information on beneficial owners of corporate and legal entities

incorporated in the EU. Such registers had not been included in the Commission's initial proposal of 2013 but were strongly favoured by the Parliament which managed to assert its position. The information will not only be accessible to tax advisers and other "obliged entities" but to anyone who can demonstrate a legitimate interest. There will also be registers for trusts governed by the law of an EU country that generate tax consequences. Beneficial ownership information on trusts will be available for obliged entities but not for the public. The compromise paves the way for adoption at second reading by the EP plenary. The EU Council agreed on the text on 10 February and will formally adopt it at one of its next meetings. Member states will have two years to implement the provisions of the Directive. The CFE has contributed to the legislative process through three Opinion Statements containing a number of technical comments that have been taken on board by the EU legislator.

READ MORE (click to open):

- Agreed text: **EN**
- EP Press release (27 January): **EN**
(FR available)
- Council Press release (10 February): **EN**
(All EU languages)

IMPRESSUM



CONFEDERATION
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