



## DIRECT TAX

### Commission asks Belgium to change dividend taxation rules

On 26 March 2015, the European Commission has sent a reasoned opinion to Belgium asking the country to provide for a possibility to deduct from the taxable income the income from financial instruments which have been sold, given as security or lent in the context of in rem securities or loans in cross-border situations. The Commission considers that the Belgian rules do not comply with the EU Parent-Subsidiary Directive.

#### **READ MORE (click to open):**

- Press release, March infringement package: [EN](#) (Several languages available)

### Commission refers Greece to CJEU over two inheritance tax discriminations

On 26 March 2015, the European Commission has decided to refer Greece to the EU Court of Justice (CJEU) regarding two provisions in Greek inheritance tax legislation: The first concerns bequests to non-profit organisations in another EU or EEA country. Greek law applies a preferential tax rate of 0.5% for certain Greek non-profit entities, whereas similar non-profit entities established in other EU/EEA states can only benefit from the preferential tax rate if legacies to Greek non-profit entities also have access to a preferential tax treatment in the other country. If such reciprocity is not met, the applicable tax rate varies between 20-40%, depending on the taxable value of the property. The second case concerns an exemption of a primary residence from inheritance tax which is available only for taxpayers (and heirs) who live(d) in Greece.

#### **READ MORE (click to open):**

- Bequests to non-profit organisations, press release: [EN](#) (DE, EL, FR available)
- Exemption linked to residence in Greece, press release: [EN](#) (DE, EL, FR available)

### UK diverted profits tax entering into force

The UK's newly introduced "diverted profits tax" aiming at complex business arrangements of certain multinational groups with activity in the UK has entered into force on 1 April 2015. The tax which will be set at a rate of 25% applies in two situations, namely- where a foreign company has artificially avoided having a taxable presence in the UK; and- where a UK company (or a UK permanent establishment of a non-resident) has transactions with a low-taxed entity that lack economic substance. The UK government has announced further guidance providing for more clarification, i.e. on the rules for giving credit for tax paid, the operation of the conditions under which a charge can arise, specific exclusions and the application of DPT to companies subject to the oil and gas regime. The notification requirement will be narrowed. The tax has been criticised for deviating from the emerging BEPS consensus currently sought by the OECD and G20 and for containing many discretionary elements. Also questions on its compatibility with EU law and existing tax treaties have been raised.

#### **READ MORE (click to open):**

- HMRC Guidance (last updated 30 March 2015): [EN](#)

### Council endorses transfer pricing experts' recommendations and supports consideration of alternative dispute resolution

On 10 March 2015, the EU Ecofin Council endorsed the recommendations made by the Joint Transfer Pricing Forum (JTPF) in June 2014 on Secondary Adjustments, Risk Management and Compensating Adjustments, asking member states to implement the recommendations as soon as possible. The Council also recognised "that given the high workload on the Mutual Agreement Procedures under the Arbitration Convention, the implementation of Alternative Dispute Resolution mechanisms may be usefully considered by the JTPF".

**READ MORE (click to open):**

- Council conclusions : [EN](#)
- June 2014 Recommendations (see Annexes):  
[EN](#)

**READ MORE (click to open):**

- Judgment regarding Luxembourg:  
[All EU languages](#)
- Judgment regarding France: [All EU languages](#)
- Press release: [EN](#) ([ES](#), [CS](#), [DE](#), [FR](#), [IT](#), [PL](#), [PT](#), [SK](#), [SL](#))

## INDIRECT TAX

### CJEU denies VAT exemption for care workers and temporary agencies supplying care services

On 12 March 2015, the EU Court of Justice (CJEU) decided in the German preliminary case C 594/13, “go fair Zeitarbeit”, that neither state-examined care workers who provide their services directly to persons in need of care nor a temporary-work agency which supplies such workers to establishments recognised as being devoted to social wellbeing come within the scope of the VAT public interest activities exemption for ‘bodies recognised as being devoted to social wellbeing’.

**READ MORE (click to open):**

- Judgment : [All EU languages](#)

### CJEU: No excise duties to be paid on smuggled goods entering a member state only for transit

On 5 March 2015, the CJEU decided in the Austrian preliminary ruling case C-175/14, Prankl, that where goods subject to excise duty have been smuggled into the territory of a member state and are transported, without the required accompanying documents, to another member state, where they are discovered, the transit member states are not permitted also to levy excise duty on the driver who transported them. These goods cannot be considered as having been held for commercial purposes in the transit state.

**READ MORE (click to open):**

- Judgment: [All EU languages](#)

### CJEU: No reduced VAT rate for e-books

On 5 March 2015, the EU Court of Justice (CJEU) confirmed in its judgment on cases C-479/13 and C-502/13 the European Commission’s actions for infringement against France and Luxembourg which apply reduced rates on electronic books. The Court specifies that the VAT Directive allows reduced rates only for books provided by a physical means of support. Books provided only electronically did not constitute goods but e-services, and there is no room for a reduced VAT rate for e-services.

### Advocate-General: Holding company should be able to deduct input VAT

On 26 March 2015, CJEU Advocate-General Paolo Mengozzi has delivered his opinion in joined cases C-108 and 109/14, Larentia + Minerva and Marenavé. The cases concern the recovery of input tax incurred by holding companies connected with capital transactions and the eligibility of non-corporates to VAT groups. Advocate-General Mengozzi found that because such expenditure has a direct and immediate link with that holding company’s economic activity as a whole, input VAT on that expenditure should not be apportioned between the economic and non-economic activities of the holding company but should be recoverable, subject to restrictions resulting from exempt supplies (e.g. the interest on loans to subsidiaries). The Advocate-General further explains that VAT grouping is not generally reserved to corporates, but such a restriction can be justified by the prevention of abuse or tax evasion or avoidance. National legislation requiring a relationship of control and subordination to assume close financial, economic and organisational links can also be justi-

fied. Advocate-General opinions are not legally binding for the CJEU judges but often followed.

**READ MORE (click to open):**

- Advocate-General opinion: [EN](#) (All EU languages)

### VAT cross border rulings project extended until September 2018

The VAT cross border rulings project is a pilot project offering taxable persons who envisage cross-border transactions between two or more participating EU member states to ask for a binding advance ruling on the VAT treatment of these transactions. The pilot has started in June 2013 and has now been extended once more, to continue until 30 September 2018. Only a limited number of EU member states have so far agreed to participate.

**READ MORE (click to open):**

- Dedicated website: [EN](#)

### Commission updates information on national laws relating to MOSS

On 16 March 2015, the European Commission has published a final report containing information on national rules applied for the use of the mini one-stop shops (MOSS) for e-services, telecommunication and broadcasting services. Basic information for micro-businesses has been made available as well.

**READ MORE (click to open):**

- National rules (Excel file): [EN](#)
- Basic information for micro-businesses: [EN](#)
- Overview: Application by member states of VAT rules with relevance for the MOSS: [EN](#)
- Dedicated website on VAT for telecommunications, broadcasting and e-services: [EN/DE/FR](#)

### Commission asks France to apply standard VAT rate for non-food agricultural products

The European Commission has sent a reasoned opinion asking France on 26 March 2015 to apply the normal VAT rate to products of agricultural origin which are not intended for use in food products or in agricultural production. France authorises the application of a reduced VAT rate for certain products used in the production of non-food industrial products.

**READ MORE (click to open):**

- Press release: March infringement package: [EN](#) (Several languages available)

## OTHER TAX POLICY

### McDonalds faces tax avoidance accusations

According to a report published by NGOs, McDonald's managed to save one billion of taxes throughout Europe between 2009 and 2013, benefiting from an advantageous tax treatment of IP receipts provided for by Luxembourg law. As a result, McDonald's paid €16 million in taxes on royalty payments received worth more than €3.7 billion. In 2013, it paid €3.3 million in taxes across Europe. Most McDonald's restaurants are not operated by the company itself but by franchisees who pay for the use of the McDonald's logo and other intellectual property.

**READ MORE (click to open):**

- EU Observer article : [EN](#)
- « Unhappy meal » report : [EN](#)

### European Parliament adopts “Annual Tax Report” – CFE comments taken on board

On 25 March 2015, the European Parliament adopted a non-legislative “Annual Tax Report”, commenting on a wide range of issues currently discussed in EU and international tax policy such as automatic exchange of information, country-by-country reporting,

tax rulings, the financial transaction tax, the CCCTB, tax havens, BEPS, specific regimes for income from intellectual property (“patent boxes”) and the recent revisions of the EU Parent-Subsidiary and Anti Money Laundering Directives. The report originally drafted by Greek MEP Eva Kaili seeks to strike a balance between promoting growth-friendly taxation and allowing non-harmful tax competition between states while fighting non-transparency, tax avoidance, tax evasion and fraud. The report does not fail to stress the governments’ role in encouraging complex tax planning by undertakings. The CFE has provided input to the process. A number of points, e.g. on the importance of legal certainty, clarity of the law and predictability of government action, on the confidentiality of information exchanged and business secrets, on the general usefulness of tax rulings, on the presumption of innocence and on the need for a European Taxpayer’s Code advocated by CFE have been included by MEPs in the final text.

#### **READ MORE (click to open):**

- Press release: [EN](#) (FR, EL available)
- Annual Tax Report: [EN](#) (All EU languages available)

## ADMINISTRATIVE COOPERATION AND FIGHT AGAINST TAX FRAUD

### **Commission presents “Tax Transparency Package”, proposing automatic information exchange on tax rulings and APAs**

On 18 March 2015, the European Commission adopted its “Tax Transparency Package” including a proposal for amendment of the EU Directive on Administrative Cooperation in Direct Taxes, introducing automatic exchange of information on cross-border tax rulings and advance pricing agreements (APA) among EU member states. Information on advance tax rulings shall be exchanged as of 2016 on a quarterly basis using a predefined format. The information exchange would include rulings and agreements concluded in the previous 10 years to the extent they are still valid. The proposal does not contain any monetary or size thresholds. Excluded from the exchange are tax rulings issued only to individuals. Moreover, the “Tax Transparency Package” includes a Communication on tax transparency to fight tax evasion and avoidance, mentioning possible further

steps including country by country reporting of tax information and transparency requirements for aggressive tax planning arrangements. The package also mentions the repeal of the EU Savings Tax Directive which has become redundant since the inclusion of the OECD/G20 Common Reporting Standard in the Administrative Cooperation Directive in December 2014. Further measures include a review of the Code of Conduct on Business Taxation, work on quantifying more precisely the tax gap and promoting tax transparency at international level. Before summer 2015, the Commission is planning a re-launch of the CCCTB proposal.

#### **READ MORE (click to open):**

- FAQs: [EN](#)
- Press release, 18 March 2015: [EN](#) (All EU languages)
- Legislative proposal COM(2015)135 : [EN/DE/FR](#)
- Communication COM(2015)136 on tax transparency to fight tax evasion and avoidance: [EN/DE/FR](#)
- FAQs: [EN](#)

### **Commission agrees on information exchange with Switzerland**

On 19 March 2015, the European Commission concluded negotiations on a new tax transparency agreement with Switzerland providing for automatic exchange of information in line with the new OECD/G20 global information exchange standard from 2018. Member States will receive, on an annual basis, the names, addresses, tax identification numbers and dates of birth of their residents with accounts in Switzerland, as well as a broad set of other financial and account balance information. The new agreement will be signed following authorisation by the EU Council and the Swiss government.

### **Commission expert group publishes report on automatic exchange of financial account information**

On 17 March 2015, the European Commission’s Expert Group on automatic exchange of financial account information published its first report. The group was created in October 2014 to assist the Commission in the implementation of automatic exchange of information in direct taxes.

**READ MORE (click to open):**

- AEFI Expert Group, more information (meeting reports, membership etc): [EN](#)

**READ MORE (click to open):**

- ECON Opinion of 2 March 2015: [EN](#)  
 - JURI draft report: [All EU languages](#)  
 - JURI amendment 1 : [EN](#)  
 - JURI amendment 2 : [EN](#)

**STATE AID****Hungarian advertisement tax under scrutiny**

On 12 March 2015, the European Commission opened an in-depth state aid investigation into the Hungarian tax on the turnover from advertisement activities. The Commission has concerns that the progressive tax rates could selectively favour smaller companies, as the rate relies on turnover instead of profit. Another doubt concerns the fact that the deduction of previous losses is granted only for companies that did not make profit in 2013. The Commission has also taken a suspension injunction, prohibiting Hungary from applying progressive rates until the end of the investigation.

**READ MORE (click to open):**

- Press release: [EN/DE/FR/HU](#)

**ACCOUNTING****Country by country reporting again on EP agenda**

The European Parliament is again discussing the introduction of an obligation of large companies to make public, on a country by country basis, information on turnover, employees, profit or loss, taxes paid thereon and public subsidies received, in the context of a review of the rules on shareholder rights. Such amendment has been suggested in an opinion of the Economic and Monetary Affairs (ECON) Committee. The dossier is in the hands of the Legal Affairs (JURI) Committee several members of which have also proposed introducing country by country reporting. The JURI vote is still due. As the dossier concerns the EU Accounting Directive, the ordinary legislative procedure applies in which the EP votes on equal footing with the EU Council and which does not requires unanimity among the 28 EU member states.

**EVENTS****CFE Forum 2015 / Albert J. Rädler Medal awarded to graduate from Warsaw University**

On 26 March 2015, the CFE hosted its annual international tax technical conference in Brussels. The 2015 CFE Forum was themed "Tax governance and tax risk management in a post-BEPS world", dealing with the impact of the OECD/G20's BEPS Action plan and parallel action at EU level on businesses and how businesses should react to this environment. One session concerned the VAT impact on BEPS. On the occasion of the Forum, the CFE awarded the Albert J. Rädler Medal 2014 to Dorota Malinowska, a graduate from Warsaw University, for her master thesis on "Fairness in allocating taxation rights between source and residence states" The Albert J. Rädler Medal was set up by CFE in 2013 to honour the contribution of the German tax adviser and professor and long-term member of the CFE Fiscal Committee to the development of tax law in Germany and Europe. The Forum was attended by 142 persons which is the highest number in five years. Most participants were tax practitioners from all over Europe, but also staff of the European Commission and Parliament, national ministries and countries' EU representative offices, businesses, CFE member organisations, publishers, trade associations, academics and university students. The presentations of the speakers and moderators can be viewed on the CFE website.

**READ MORE (click to open):**

- CFE Forum presentations: [EN](#)  
 - Press release: Albert J. Rädler Medal 2014: [EN](#)

## CROSS-BORDER TAX ADVICE

### Trade in services negotiations: Council publishes mandate

The EU Council decided on 10 March 2015 to declassify the mandate given to the European Commission to negotiate an international agreement on trade in services (TiSA) and thus allow its publication. The decision reflects a growing public interest for this plurilateral agreement which is currently being negotiated by 24 members of the WTO accounting for 70% of world trade in services. The agreement will be based on the WTO's general agreement on trade in services, and is open for other WTO members to join. It is aimed at opening markets and improving rules in areas such as licensing, financial services, telecommunications, e-commerce, maritime transport and professionals moving abroad temporarily to provide services. The Commission is leading the negotiation on behalf of the EU and the member states. Eleven negotiating rounds have now taken place, and there is no set deadline for concluding the talks. According to the mandate, "the agreement shall confirm the right of the EU and its Member States to regulate and to introduce new regulations on the supply of services within their territories in order to meet public policy objectives."

#### READ MORE *(click to open)*:

- TiSA mandate: [EN](#)

## PROFESSIONAL LAW

### Disclosure of tax avoidance schemes: OECD consults on imposing obligations on tax advisers

On 31 March 2015, the OECD has opened a public consultation on mandatory disclosure of tax planning arrangements, in the context of its BEPS Action Plan (Action 12). The discussion draft contains a number of preliminary recommendations on the design of such disclosure rules, drawing heavily on existing mandatory disclosure regimes in a number of countries (e.g. Canada, Ireland, Portugal, the UK and the US) and their experience. The OECD recommends that countries introducing disclosure requirements should oblige promoters of the scheme which may be tax advisers to report, possibly in addition to the

taxpayer himself. Further recommendations concern the definition of eligible schemes, the reporting time-frame, the content of the report, sanctions and international schemes that produce effects in countries different from the country that requires disclosure. A final document is envisaged for September 2015. Comments can be sent until 30 April.

#### READ MORE *(click to open)*:

- Discussion draft: [EN](#)
- Consultation website: [EN](#)

## IMPRESSUM



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