European Tax Report
Confédération Fiscale Européenne (CFE)

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NEWS - INDIRECT TAXES

COUNCIL OF THE EUROPEAN UNION

Reverse Charge Mechanism

The United Kingdom has received the permission from the EU Council to introduce a special measure derogating from Article 193 of Directive 2006/112/EC on the common system of the value added tax.

The liability for paying value added tax is placed on the taxable persons under certain conditions and exclusively for special goods (mobile telephones and computer chips/microprocessors). The aim is to tackle tax evasion.

Read more (click to open):

Press Release Council Meeting Agriculture and Fisheries, p. 18

language: EN

EUROPEAN COMMISSION

Derogation from the common system of VAT in Italy

The proposal of the European Commission regarding the Italian request to apply measures to derogate from certain articles of the VAT directive (2006/112/EC) deals with the problem of differentiate between business and private use of a car. If a car is also used for private purposes the right to deduct VAT on expenditure related to motorised vehicles shall be restricted. At the same time the taxpayer will be relieved from accounting for tax on the private use of the vehicle (Art. 26(1)(a)) when the right of deduction is limited. The restriction is set at a flat rate of 60% and is restricted to a certain type of vehicles (certain seating capacity, certain weight etc.).

Read more (click to open):

Proposal for a Council Decision authorising the Italian Republic to apply measures derogating from Articles 26(1)(a) and 168 of Directive 2006/112/EC on the common system of value added tax

language: EN FR DE

NEWS - DIRECT TAXES

EUROPEAN COMMISSION

Progress report on Common Consolidated Corporate Tax Base (CCCTB)

The European Commission has adopted a Communication on the progress towards a Common Consolidated Corporate Tax Base. The other Institutions shall be informed about the work carried out in the working groups including identified problems and possible solutions. It is planned to make a formal proposal in 2008.

Cross-border activities

The CCCTB aims at facilitating cross-border activities. European companies would be enabled to follow the same rules for calculating the tax base for all their EU-wide activities. From the point of view of the EU Commission procedures could be simplified, compliance costs could be reduced and efficiency could be improved. The European Commission underlined that the sovereignty over Member States' tax revenues is not affected by this proposal. Moreover the Commission does not intend to harmonise tax rates.

Nature of the CCCTB

The CCCTB should be very broad, simple and uniform. Further the tax base could be consolidated and optional for companies. Two issues will have to be elaborated in particular: Firstly how and to which extend the financial sector shall be included. Secondly the nature of the administrative framework of the CCCTB (improving cooperation and mutual assistance and possible new working methods at Community level).

Read more (click to open):

Press Release by the European Commission on the progess report

language: **EN** **FR** **DE**

Report by the European Commission on further progress during 2006 and next steps towards a proposal on the Common Consolidated Corporate Tax Base (CCCTB)

language: **EN** **FR** **DE**

Discriminatory taxation of dividends and interest paid to foreign pension funds

Nine European countries (Czech Republic, Denmark, Lithuania, the Netherlands, Slovenia, Spain, Sweden, Poland and Portugal) have received a letter of formal notice by the European Commission. The EU Commission assumes that foreign pension funds may be taxed more heavily than domestic funds. Such a higher taxation would probably not be in line with the EC Treaty or the EEA Agreement as it may restrict the free movement of capital. The letter is the first step of an infringement procedure under Article 226 of the EC Treaty.

Higher withholding tax

The higher taxation might be a result of withholding taxes. In contrast to domestic pension funds, foreign pension funds may either not be exempted from withholding tax or the refund procedure does not apply to them.

Denkavit-Case

In the near past, the European Court of Justice ruled in the Denkavit-Case (C-170/05) of 14 December 2006 that a lower taxation of domestic dividends and interest payments compared to foreign infringes European law. At the moment the European Commission investigates the situation in other Member States. Therefore it might be possible that in the near future, other infringement procedures will be opened.

Read more (click to open):

Press Release by the European Commission on on discriminatory taxation of dividends

language: **EN** **FR** **DE**

FRANCE

Guideline on implications of ECJ's Denkavit case

The French tax administration has published a guideline on the implication of the ECJ decision in the Denkavit Case (C-170/05). The European Court of Justice had adopted the decision that the French withholding tax on outbound dividends is incompatible with the freedom of establishment (Art. 43 EC Treaty).

It is stated that dividends distributed by a French subsidiary to a parent company established in the European Economic Area (except Liechtenstein) will be exempted from French withholding tax from 1 January 2007 if the following criteria are fulfilled:

• The parent company holds at leat 5% in the capital of the French subsidiary
• The parent company is unable to set off the French withholding tax applicable, because the parent company benefits from a participation exemption regime in its country of residence

Read more (click to open):

Ministry of Finance in France

language: **FR**

EUROPEAN COMMISSION

Portuguese tax amnesty 2005 contrary against EC law

The European Commission considers that the Portuguese tax amnesty from 2005 did not respect the free movement of capital (Art. 67 EC Treaty). It provided a preferential penalty rate of 2.5% for investments in Portuguese government bodies (instead of 5% in any other assets).

„Investments held in other Member States should be taxed in the same way as investments held in the Member States of residence, even on the occasion of tax amnesties“, outlined Commissioner Laszlo Kovacs for EU Taxation and Customs.

The request has been sent to Portugal in the form of a reasoned opinion (Art. 226 EC Treaty). If Portugal does not react to comply with EU law, the EU Commission may take the issue to the Court of Justice.

Read more (click to open):

Press Release by the European Commission on Portuguese Tax amnesty

language: **EN** **FR** **DE**

NEWS - OTHER

COUNCIL OF THE EUROPEAN UNION

Modernising custom procedures

Adoption of Customs 2013 Programme by the Council

The European Commission welcomes that the Council has adopted the Customs 2013 programme for the period 2008 until end of 2013. The aim is to implement the modernisation of the customs code and to introduce a pan-European paperless customs environment. Further it shall support new security policy initiatives.

Enhanced cooperation

The main objective is to enhance the cooperation between administrations in different Member States to fight criminal activities and to speed up custom procedures (to enhance the competition of European business). Therefore on an operational level the new programme will support the development of a pan-European electronic customs, ensure a performing exchange of information between national administrations and to support the further development of simplified procedures for compliant traders.

One single system

The paper free environment for customs would be an important instrument. Although Member States have electronic custom systems, they are in general not inter-connected which results in unnecessary administrative burden. An Automated Import System and a Automated Export System could ensure that operations which have started in one Member State could be finished in another. Traders would have to deal only with one body. Moreover one single system would allow to introduce a unique identification number for businesses in the EU for customs purposes.

Read more (click to open):

Press Release by the European Commission on modernising custom procedures

language: EN FR DE

Provisional version of the decision

language: EN FR DE

EUROPEAN COMMISSION

Database for taxes

The „Taxes in Europe“ database is the European Commission‘s online information tool covering the main taxes in force in the EU Member States. Access is free for all users. The system contains information on around 500 taxes, as provided to the European Commission by the national authorities. All main taxes in revenue terms. These include notably personal income taxes, corporate income taxes, value added taxes, excise duties and the main social security contributions.

The database does not cover information on customs duties and tariffs. This type of information can be found in the customs tariff database TARIC. Minor taxes yielding less than 0.1% of GDP in revenue.
The database will be updated every year. in the near future coverage will be extended to the four Member States currently not represented (Cyprus, Ireland, Malta and Portugal) and include additional information on the taxes already covered. The database is available only in English.

Read more (click to open):

Press Release by the European Commission on new information tool on taxes

language: EN FR DE

Website Taxes in Europe

language: EN FR DE

Database

language: EN

Results of the Public Consultation on Financial and Insurance Services

The DG TAXUD has published a paper summarising the results of the consultation on modernising the rules for VAT exemption for financial and insurance services. The basis for the consultation was a paper which contains views on the current legal framework as set out in the Sixth VAT Directive (Directive 77/388/EEC).

All in all the European Commission received 82 comments whereof 50% were sent by stakeholders from the UK. The rest of the papers came from 12 different EU countries and European Organisations. The only participating country from the new Member States was the Czech Republic.

The papers represented the insurance sector (28 contributions), the banking sector (24 contributions), the investment sector (19 contributions) and other sectors (11 contributions).

Three key results could be identified:

- Modernisation should lead to more legal certainty / clarity and should reduce the administrative burden
- The opinions from economic operators in the insurance sector and the financial sector differ considerably
- The interests of B2B (business to clients) supplies and B2C (business to clients) supplies differ considerably

Read more (click to open):

Summary of the results of the consulation on Financial and Insurances Services

language: EN

Consultation on excise duties for tobacco

The European Commission has launched an online consultation seeking views from stakeholders on the current EU tax legislation on tobacco and possible

changes. On the one hand the law must guarantee the proper functioning of the internal market.
On the other hand the legislation should not contradict the EU objective to discourage the tobacco consumption.

More transparancy

The aim is to make the current rules more transparent and simple. The consultation is addressed to all stakeholders (businesses involved in the manufacturing and distribution of tobacco products, health organizations, government administrations, NGOs etc.). The deadline for comments is 1 June 2007.

Read more (click to open):

Press Release by the European Commission on on tobacco consultation

language: **EN** **FR** **DE**

Consultation page

language: **EN** **FR** **DE**

OECD

OECD Model Tax Convention Application and Interpretation of Article 24 (Non-Discrimination)

The OECD Model Tax Convention serves as a basis for the negotiation, application and interpretation of tax conventions. The prevention of discriminatory taxation is a very important role of tax conventions in particular because residents and non-residents often have to be treated differently for tax purposes. In some cases it is difficult to find out whether a distinction made by a country violates Art. 26 of the OECD convention or if it is legitimate. Against this background the OECD working group Party No. 1 on Tax Conventions and Relates Questions examines the interpretation and application of Article 24 in order to provide more guidance in this area.

The Working Group has opened a consultation on this issue. Comments shall be sent until 31 July 2007 to Jeffrey Owens, Director CTPA, OECD, email: jeffrey.owens@oecd.org

Read more (click to open):

Application and interpretation of Article 24 (non-discrimination - Public discussion draft

language: **EN**

IMPRESSUM

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