



European Tax Report Confédération Fiscale Européenne (CFE)

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SAVE THE DATE

CFE Professional Affairs Conference: “A developing relationship: tax authority – taxpayer – tax adviser”

CFE is planning to host a Professional Affairs Conference on **1 December 2010** in Düsseldorf/Germany.

The conference will address the recent efforts of tax administrations to increase compliance of taxpayers through various initiatives that do or do not include tax advisers. Tax authorities in different countries have chosen different approaches such as increasing transparency through additional disclosure obligations, enhanced mutual trust, compliance monitoring by tax advisers or risk management by tax authorities. It seems worth asking whether these new forms of cooperation will create to win-win-situations for all parties involved or to what extent they will have the effect of preventing taxpayers from making use of their rights.

The half-day conference seeks to provide views from France, Germany, the United Kingdom and the Netherlands, including both tax administrations and businesses.

READ MORE (click to open):

More information will follow on our website: [EN](#)

NEWS - INDIRECT TAX

Council adopts new rules for quicker and more electronic VAT invoicing

On its last meeting before the summer break on 13 July 2010, the Ecofin Council adopted a directive amending the VAT Directive 2006/112/EC to simplify VAT invoicing, in particular through obliging member states to abolish less favourable treatment of e-invoices compared to paper invoices. The proposal also includes deadlines for the issuing of invoices in order to speed up the information exchange on intra-community supplies. The change is part of a package proposed by the “High Level Group of Independent Stakeholders on Administrative Burdens”

(also known as Stoiber Group) in 2008 with the aim of reducing administrative burden. The group hopes that alone through equal treatment of e-invoices and paper invoices, € 18 billion could be saved each year.

READ MORE (click to open):

Council press release: [EN](#) [FR](#)

Amending directive: [EN](#) [FR](#) [DE](#)

Additional statement: [EN](#) [FR](#) [DE](#)

Commission proposes extension of VAT refund possibility as new web- based procedure faced delays

On 15 July 2010, the Commission proposed a directive postponing the deadline for submitting of VAT refund requests related to 2009. In view of the late implementation of the new electronic VAT refund procedure by member states which had to be implemented by 1 January 2010, the Commission proposes giving more time to taxpayers to introduce their requests for VAT refund. At the same time, the Commission proposes harmonising some features of the national VAT refund web portals in order to make them more interoperable and accessible for taxpayers.

The VAT Refund Directive allows for the refund of VAT on business expenses incurred by taxable persons in a member state in which they are not established. Taxable persons submit their applications for a refund via a web portal developed by their member state. However, (up to 4.5 months) late implementation and technical problems in some member states have prevented taxable persons from submitting their refund applications. In order to safeguard the taxpayers' right to deduct VAT, the deadline for submission of refund requests for 2009 shall now be shifted from 30 September 2010 to 31 March 2011.

In addition, because member states have diverging views on the technical operation of the Directive, the Commission considers it is necessary to set up an efficient mechanism to harmonise certain detailed technical requirements for the adoption of which the Commission is asking for more powers.

The Commission thereby responded to requests from business organisation such as BusinessEurope

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who even called for re-introduction of the previous paper-based system from 1979. Under the paper procedure, taxpayers had to send original invoices to all member states in which they incurred VAT in order to receive a refund. According to an OECD study earlier this year, 80% of VAT paid unnecessarily abroad cannot be recovered in practice (see [CFE European Tax Report 02/2010](#), p.2).

READ MORE (click to open):

Original press release: [EN](#) [FR](#) [DE](#) [DA](#) [ES](#) [NL](#) [IT](#) [SW](#) [PT](#) [FI](#) [EL](#) [CS](#) [ET](#) [HU](#) [LT](#) [LV](#) [MT](#) [PL](#) [SK](#) [SL](#) [BG](#) [RO](#)

Text of the proposal: [EN](#) [FR](#) [DE](#)

Commission calls for comments on VAT collection in relation to centralised customs clearance

On 12 July, the European Commission has opened a public consultation on the simplification of VAT collection procedures for importers using centralised customs clearance. The Commission points out that, under the current VAT directive, these importers are still subject to VAT obligations in each member state of physical arrival and destination of goods. Substantive simplification would require changing the VAT directive.

READ MORE (click to open):

Commission website: [EN](#) [FR](#) [DE](#)

Consultation paper: [EN](#) [FR](#) [DE](#)

Commission proposes to allow Latvian VAT exemption for taxable persons until turnover of € 50,000

On 5.7.2010, the European Commission adopted a proposal for a Council decision derogating from Art.287 of the VAT Directive 2006/112/EC that would allow Latvia to exempt taxable persons whose annual turnover does not exceed an equivalent of € 50,000 from VAT. This exemption would apply until the end of 2013 or until a Directive regulating the thresholds that allow for VAT exemption would become effective.

READ MORE (click to open):

Proposal: [EN](#) [FR](#) [DE](#)

Commission publishes excise duty rates and tax receipts on energy products and electricity, alcoholic beverages and manufactured tobacco

The documents were made available on the Commission's website on 20.7.2010.

READ MORE (click to open):

Commission website: [EN](#)

Commission publishes VAT rates information

On 15.7.2010, the Commission has published on their website a document containing the VAT rates applied in the EU member states on 1 July 2010.

READ MORE (click to open):

[EN](#) [FR](#) [DE](#)

NEWS - DIRECT TAX

OECD approves updates to Model Tax Convention, Transfer Pricing Guidelines and Report on Attribution of Profits to Permanent Establishments

On 22.7.2010, the OECD Council approved the 2010 versions of the OECD Model Tax Convention, the 1995 Transfer Pricing Guidelines and the 2008 Report on the Attribution of Profits to Permanent Establishments. The updates are the result of several years of work.

Model Tax Convention

The OECD Model Tax Convention is used by both OECD member countries and non-member countries as the basis for the negotiation, application and inter-

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pretation of their bilateral tax treaties. The Model and the worldwide network of over 3000 treaties based upon it provide a means of settling on a uniform basis the most common problems that arise in the field of international double taxation.

The OECD's Committee on Fiscal Affairs works on an ongoing basis to revise the Model Tax Convention and its commentaries to address changing economic conditions. The 2010 update to the Model Tax Convention includes a new Article 7 (business profits), which completes the Committee's work on the attribution of profits to permanent establishments. It also introduces new text relating to the granting of the benefits of tax treaties with respect to the income of collective investment vehicles, the application of tax treaties to state-owned entities (including sovereign wealth funds), tax treaty issues relating to common telecommunications transactions, and the application of Article 15 (income from employment) to employees who work for a short duration in a foreign country.

Transfer Pricing Guidelines

The OECD's Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations provide guidance on the application of the "arm's length principle", which is the international consensus on the valuation for tax purposes of cross-border transactions between associated enterprises. In a global economy where multinational enterprises (MNEs) play an increasingly prominent role, consistent application of the arm's length principle helps to ensure that the taxable profits reported by MNEs in the countries where they operate reflect the economic activity undertaken there and that taxpayers can avoid the risk of double taxation that may result from a dispute between two countries about the determination of the arm's length remuneration for their cross border transactions.

The 2010 revision to the Transfer Pricing Guidelines is the first major revision to this document since the guidelines were released in 1995. It contains more detailed guidance on how to perform comparability analysis in practice in order to compare the conditions of transactions between associated enterprises with those of transactions between independent enterprises. It also includes new guidance on how to select the most appropriate transfer pricing method to the circumstances of the case and on how to apply in practice two of the OECD-approved transfer pricing methods, referred to as "transactional profit methods", namely the transactional net margin method and the transactional profit split method. This update also includes a new chapter providing detailed guidance on the transfer pricing aspects of business

restructurings.

OECD estimates that the new guidelines will help both developed and developing countries ensure that MNEs do not use transfer pricing to shift profits into low-tax jurisdictions and, at the same time, that they will not be subject to double taxation. The guidelines should help reduce and resolve disputes between tax authorities.

Permanent establishments

The report on the attribution of profits to permanent establishments provides guidance on the manner in which the arm's length principle can be used in determining the profits attributable to a permanent establishment.

Hard copies of the 2010 versions of the Model Tax Convention and the Transfer Pricing Guidelines will be available in September.

READ MORE (*click to open*):

News release: [EN](#) [FR](#)

Information on Model Tax Convention update: [EN](#) [FR](#)

Information on Transfer Pricing Guidelines update: [EN](#) [FR](#)

OECD invites comments on the transfer pricing aspects of intangibles

The consultation will be open until 15 September 2010. More information on this issue can be found in the CFE European Tax Report June 06/2010 on page 5.

READ MORE (*click to open*):

European Tax Report 06/2010 - p.5: [EN](#)

Auctioning of emission allowances to replace free allocation from 2013

On 14 July 2010, the Climate Change Committee, an expert group within the European Commission, has approved the Commission's proposal for a regulation governing the auctioning of emission allowances under the EU Emissions Trading System (ETS). The draft regulation lays down the rules for auctioning

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emission allowances valid for the third trading period of the EU ETS starting in 2013 as well as allowances to be used by aircraft operators already as from 2012. From 2013, auctioning will progressively replace free allocation as the main method for allocating allowances to all ETS sectors except aviation. In 2013 at least half of the total volume of allowances is expected to be auctioned. For aviation, 15% of allowances will be auctioned in 2012 and this proportion will stay the same in subsequent years.

According to Connie Hedegaard, European Commissioner for Climate Action, the Commission would have preferred a single platform but as some Member states insisted on the possibility to have their own platform the draft regulation now provides for a common platform with opt-out possibility, under the condition that those countries ensure the proper functioning of auctions and the carbon market.

Provided that the European Parliament and the Council do not raise objections, the Commission will adopt the regulation after expiry of the three-month period.

READ MORE (click to open):

Press release: [EN](#) [FR](#) [DE](#)

STATE AID

Tax-based funding of Spanish and French broadcasters approved

The European Commission has approved the new tax-based funding system for the Spanish public broadcaster RTVE, on which it had opened a formal investigation under EU state aid rules in December 2009 (see [CFE European Tax Report 01/2010](#), p.7). Spain abolished advertising and other commercial activities of RTVE and replaced this source of income by new taxes on TV and telecommunications operators. The Commission had doubts concerning the compatibility of the new taxes with EU law, in particular the rules on electronic communications networks and services. However, the Commission has now concluded that the measure is in line with the state aid rules, because it ensures that RTVE will not be overcompensated.

A similar case concerning the funding of France Télévisions by the state has been cleared by the Com-

mission on the same day.

READ MORE (click to open):

Spanish case, press release: [EN](#) [FR](#) [DE](#) [ES](#)

French case, press release: [EN](#) [FR](#) [DE](#)

OTHER TAX POLICY

Bank levies and financial transaction taxes on Ecofin September agenda

Belgium who hosts the EU Council presidency since July has, according to press information, put bank levies and financial transaction taxes (FTT) on the agenda of an extra Ecofin meeting on 7 September 2010 with a view to achieving a common EU position for the G20 finance ministers' and leaders' summits in Korea on 22-23 October and 11-12 November 2010 respectively where new rules for the regulation of financial markets, including requirements for the amount of capital that banks and other financial institutions must hold to cover their liabilities shall be agreed. Both bank levies and a FTT face opposition in the G20 group. The EU is planning to introduce bank-levy schemes even without global agreement, but is worried about creating a competitive disadvantage for its banks.

French minister of economy, industry and employment Christine Lagarde and German minister of finance Wolfgang Schäuble had asked to place the item on the EU agenda in a letter to the Belgian EU presidency. Austria too is reported to strongly favour a transaction tax. The UK however is against an EU FTT without any global agreement. Also the Czech Republic is an FTT opponent. EU Tax Commissioner Algirdas Šemeta is expected to issue a policy paper on an EU-wide FTT in October. Internal Market Commissioner Michel Barnier will submit a discussion paper on bank-levy schemes and plans to present draft legislation in early 2011.

CUSTOMS

Commission updates transit procedure manual

The Commission has published a new consolidated version of the manual describing the common and community transit procedure on 15.7.2010.

READ MORE (click to open):

EN (779 pages)

online registers. It is designed to help legal professionals such as lawyers, tax advisers or judges as well as citizens and enterprises in cross-border situations. The portal which hosts more than 12,000 pages of content and is accessible in all 22 EU languages will be managed by the Commission and will be gradually extended over the next years.

READ MORE (click to open):

E-Justice portal: **22 languages**

Press release: **EN FR DE** (available in 19 other languages)

New Commission guidance for Authorised Economic Operators

On 26.7.2010, the Commission has published a new recommended model and new explanatory notes for the self-assessment of Authorised Economic Operators (AEO) in the context of the Community Customs Code. Member states can grant the AEO status to any economic operator meeting the following common criteria: customs compliance, appropriate record-keeping, financial solvency and, where relevant, security and safety standards. The status of AEO granted by one Member state is recognised by the other Member states if the AEOs meet specific requirements. A new security framework for AEOs has been in place since July 2009.

READ MORE (click to open):

Website: **EN FR DE**

IMPRESSUM



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OTHER EU NEWS



EU opens E-Justice portal for answers to citizens' legal questions

On 16.7.2010, the EU launched an electronic portal providing a starting point for research on the legal systems, legislation and case law in the EU member states, containing links to relevant databases and

The next CFE European Tax Report August/September 2010 will be published in early October 2010.