



## European Tax Report Confédération Fiscale Européenne (CFE)

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### NEWS - INDIRECT TAX

## European Council

### Measures against tax evasion linked to import

The European Council has adopted a Directive intended to strengthen measures against the evasion of VAT on imports (10689/09). The new act specifies the conditions under which the importation of goods is exempt from VAT if followed by a supply or transfer of those goods to a taxable person in another Member State.

The exemption applies only if the importer has provided the following information to the competent authorities of the Member State of importation:

- the VAT identification number of the importer issued in the Member State of importation
- the VAT identification number of the customer, to whom the goods are supplied, issued in another Member State, or his own VAT identification number issued in the Member State in which the dispatch or transport of the goods ends
- the evidence that the imported goods are intended to be transported or dispatched from the Member State of importation to another Member State.

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

Council Directive amending Directive 2006/112/EC

**EN**

legislation and jurisprudence. In the "TNT Post UK Ltd" ruling, the Court takes the view that the exemption enjoyed by the British national postal service, The Royal Mail, complies with the "VAT" (2006/112/EC) and "postal services" (1997//67/EC) directives (see European Tax Report 4/2009).

In a document put to the delegations in June, the Swedish Presidency states that the Court ruling clarifies the scope of the exemption on VAT applicable to the postal services, but "does not bring enlightenment to all areas of shadow". Sweden believes that the ruling does not clarify the situation for tax exemptions on stamps and terminal dues, even though a proposed directive which has been on the table of the Council since 2004, and which is currently deadlock, provides for their removal. The Swedish Presidency further takes the view that in spite of the "TNT Post UK Ltd" ruling, "the scope of the exemption will continue to diverge, as the scope of the universal service obligation is different in each Member State". The Presidency argues that this situation "works against the harmonisation of the postal sector".

Currently Sweden does not exempt any postal service from VAT, not even the universal service operator. This solution would satisfy the Commission if all of the Member States did the same. The Commission has written to the Member States to ask them how they intended to come into line with the jurisprudence of the Court. The process is currently underway.

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

Case C-357/07

**EN**

### Most Member States accept VAT exemption for postal services

On 16 July, the Swedish Presidency unsuccessfully tried to convince the Member States on the need to relaunch negotiations to put an end to the VAT exemption which applies to the historic public postal operators, with regard to the "TNT Post UK Ltd" ruling (case C-357/07) returned by the ECJ earlier this year. With the exception of just a few delegations, the majority of Member States approve the current

## NEWS - INDIRECT TAX

### European Commission

#### Call for a harmonised application of the VAT grouping rules

The European Commission has adopted a Communication setting out its position on VAT grouping schemes. The EU VAT legislation gives Member States the option, for the purpose of administrative simplification, to regard as one single taxable person those who, while legally independent, are closely bound to one another by financial, economic and organisational links. The Communication includes guidelines which aim at ensuring a correct, coherent and uniform application of the VAT grouping option.

The Communication sets out the Commission's view on how the provisions of Article 11 of the VAT Directive should be translated into practical arrangements whilst respecting the basic principles of the Community VAT system and ensuring that the effects of using the option scheme remain restricted to the Member State applying it. The Communication includes the following aspects:

- Only taxable persons may join a VAT group. Additionally, a taxable person should only be able to join one VAT group at a time.
- The group is itself a taxable person subject to the same rights and obligations as any other taxable person and all the provisions of the VAT Directive as well as the rulings by the European Court of Justice apply to it.
- The group, as a single taxable person, should be identified for VAT purposes by a single number.
- Only companies or fixed establishments physically present in the Member State that has introduced the VAT grouping scheme may be members of a VAT group. A VAT grouping scheme should be open to all sectors of economic activity in the Member State which introduces such a scheme.
- The financial, economic and organisational links must exist simultaneously.
- The VAT group's right to deduct input VAT shall be determined on the basis of the transactions of the group as such with third parties.
- One of the most important consequences of forming a VAT group is the "disappearance" from a VAT perspective of transactions between the members of the group, i.e. transactions for consideration between the individual members of the group. These transactions are considered non-existent for VAT purposes.
- It is of utmost importance that Member States take all necessary measures to prevent tax evasion or avoidance, as well as abusive practices, through

the use of their national VAT grouping schemes. No unjustified advantage or unjustified harm should arise from the implementation of the VAT grouping option.

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

Commission Communication

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

### VAT e-learning course

DG TAXUD has put an electronic teaching program on VAT, created as part of the Community programme Fiscalis 2013, on their webpage. This program supports businesses and all other interested parties involved with VAT in familiarising themselves with the European directive 2006/112/EC. The program contains six hours of training and includes 14 units including taxpayers, the location of transactions subject to tax, exemptions and deductions.

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

VAT e-learning course

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

### European Court of Justice

#### Ruling against Ireland on public authority VAT exemptions

In a judgment delivered on 16 July, ECJ ruled that public authorities must pay VAT on all activities outside the usual public authority dealings. Irish private car parks had complained that their state equivalents were exempted from paying VAT. The Court found that this breached Council directive 2006/112/EC (case C-554/07).

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

Case C-554/07

[EN](#)

**NEWS - DIRECT TAX****European Council****Swedish Presidency's priorities in taxation**

The Swedish Presidency intends to work intensely on the Commission's proposals for new or amended Directives in the areas of savings taxation, administrative cooperation and recovery, as well as on the Code of Conduct for business taxation.

The Swedish Presidency will also focus on reducing the administrative burden within the EU. Sweden believes that the VAT invoicing proposal has the potential to reduce the administrative burden on business and includes measures to help tax authorities tackle tax fraud. The aim of the Presidency is therefore to reach a political agreement on the proposal. Also, work will be pursued on the proposal regarding VAT on financial services and the fight against VAT fraud.

Furthermore, the ambition of the Presidency is to reach an agreement on the Tobacco Tax Directives.

The Swedish Presidency will initiate a discussion of how a carbon dioxide tax and emissions trading can best be used in climate policy. The Presidency supports the ongoing work by the Commission to revise the Energy Taxation Directive. Sweden believes that an essential part of such a revision is the introduction by Member States of a carbon dioxide tax in sectors not covered by the EU Emissions Trading Scheme.

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

Swedish Presidency's Work Programme

**EN**

**France advised to introduce a carbon tax**

France should aim to introduce a tax on carbon dioxide emissions by 2010 to help fight global climate change, a panel advising the government said on 28 July (see European Tax Report 6/2009). The French Minister for Economy, Industry and Employment, Christine Lagarde, said after the report was presented that the report was the beginning of a wider process of reflection and consultation.

The report is expected to provide the basis for legisla-

tion, due to be debated after the French Parliament's summer break.

Details of the proposal:

- Under the recommendations, France would bill 32 euros for every tonne of carbon dioxide (CO<sub>2</sub>) emitted in 2010 and raise the levy progressively to 100 euros per tonne by 2030, an increase of 6% a year, adjusted for inflation.
- The tax would add 7-8 cents to the price per litre of petrol from the beginning, and raise heating and cooking gas prices by about 15%.
- The report recommends that some households should benefit from partial and temporary offsetting measures. These would aim to help households in remote suburbs or the countryside, or people who work at night when there is no public transport.

The report did not present a final recommendation on how to treat electricity generation and other energy-intensive industries already covered by European Union emission quotas. The report further did not rule out the possibility of compensating the sectors of the economy that would be most affected by the move, notably truck drivers and farmers. Given the scheme's complexity, former Socialist Prime Minister Michel Rocard, who chairs the panel, said he did not know if it would in fact be ready in 2010.

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

Rapport de conférence

**FR**

**European Commission****Call for negotiation agreements against tax fraud**

On 30 June the European Commission adopted a recommendation by written procedure calling on the EU Council to grant it permission for negotiating agreements against tax fraud with the four European third countries Andorra, Monaco, San Marino and Switzerland. The Commission takes as its base the anti-fraud agreement being finalised between the EU and Liechtenstein, which will cover direct and indirect taxation and include clauses on the exchange of information, in line with OECD norms and standards. Council approval is not expected before September, or even later as European Finance Ministers may wait until after the G20 meeting to tackle tax issues.

**NEWS - DIRECT TAX****[READ MORE \(click to open\):](#)**

Press Release

[EN](#) [FR](#)**State aid: Italian film tax incentives authorised**

The European Commission has approved under EC Treaty state aid rules Italy's innovative €82 million package of film tax incentives until 31 December 2010. The incentives aim to stimulate investment from outside the film production sector into European cultural films and to support the distribution of such films. The Commission found that the incentives are compatible with the cultural derogation of the EC Treaty. The Commission has also opened a formal investigation into a proposed 30% tax credit for installing digital projection equipment in Italian cinemas, because it has concerns that the measure may mainly benefit large multiplexes which should need less support. The opening of an in-depth investigation gives third parties the possibility to comment on the proposed measure. It does not prejudge the outcome of the procedure.

**[READ MORE \(click to open\):](#)**

Press Release

[EN](#)**OECD****Luxembourg makes progress in OECD standards on tax information exchange**

Luxembourg has signed a protocol to its double taxation convention with Norway, bringing to 12 the number of agreements it has on exchange of information for tax purposes and thus crossing the threshold for being considered to have substantially implemented the internationally agreed standard.

As a consequence the OECD has announced that it was taking Luxembourg off its "grey" list of countries that have undertaken to respect OECD norms on the exchange of tax information but has not yet applied these norms.

**[READ MORE \(click to open\):](#)**

Press Release

[EN](#) [FR](#)**Belgium makes progress in OECD standards on tax information exchange**

Belgium has signed bilateral agreements on the exchange of information in the fields of banking and taxation conventions with Luxembourg, Singapore, San Marino, and the Seychelles as well as a tax convention with the Isle of Man and a tax information exchange agreement with Monaco. These signings mean Belgium now has 12 agreements on exchange of information for tax purposes, crossing the threshold for being considered to have substantially implemented the internationally agreed standard in this area. As a consequence, the Progress Report (from on 2 April 2009) has been updated, and Belgium moves into the category of "Jurisdictions that have substantially implemented the internationally agreed tax standard."

**[READ MORE \(click to open\):](#)**

Press Release

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

## OTHER NEWS

## European Commission

## Two new Commission Taxation Paper

- Taxation Paper **No 18**: '*Tax Co-ordination in Europe: Assessing the First Years of the EU-Savings Taxation Directive.*' Written by Thomas Hemmelgarn and Gaëtan Nicodème.
- Taxation Paper **No 19**: '*The role of fiscal instruments in environmental policy.*' Written by Katri Kosonen and Gaëtan Nicodème.

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

Taxation Paper No 18

[EN](#)

Taxation Paper No 19

[EN](#)

## OECD

## Money Laundering through the Football Sector

The Financial Action Task Force (FATF), with assistance from the OECD Centre for Tax Policy and Administration, has just completed a study, *Money Laundering through the Football Sector*, on what may make the football sector attractive to criminals. It provides several case examples of areas that could be exploited by those wanting to invest illegal money into football, as well as examples of tax evasion.

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

Report

[EN](#)

## Conferences

## Conference on tax incentives for education and training

Cedefop and the European Commission's Directorates-General for Education and Culture and Taxation and Customs Union organise a one day conference on tax incentives for education and training on **22 September 2009** in Brussels.

The conference will provide innovative perspectives on the trends and developments in tax incentives used by governments to promote education and training.

It will in particular

- disseminate results of Cedefop's study on '*The use of tax incentives to support education and training in six selected Member States*' (Germany, France, Ireland, Austria, the Netherlands and Finland);
- highlight good practice on the tax treatment of education and training;
- discuss research results on the impact of tax systems on education and training decisions and different ways to encourage lifelong learning.

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

Conference programme

[EN](#)

## OTHER NEWS

**CFE 50th Anniversary Conference**

The CFE celebrates its 50th Anniversary in 2009. To highlight this event the CFE, together with the Institut des Avocats Conseils Fiscaux (IACF) and Union Professionnelle des Sociétés d'Avocats (UPSA), will organize an Anniversary Conference on Friday **25 September 2009** in Paris. The topic of the Conference is "*Making Europe more competitive - Where are we after 50 years?*".

The CFE is delighted to announce that **Christine Lagarde**, French Minister for the Economy, Industry and Employment, will be the opening speaker of the Conference.

More information about the conference can be found on the CFE [website](#).

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## IMPRESSUM



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