



European Tax Report Confédération Fiscale Européenne (CFE)

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News - Direct Taxes

EUROPEAN COMMISSION

The Commissioner's vision of an Internal Market without tax obstacles

Three approaches published by the EU Commission

The European Commission came forward with three communications on tax policy co-ordination. Their aim is to eliminate tax obstacles of the internal market as Commissioner Kovács outlined during a conference organised by the German Chambers of Industry and Commerce.

„One of the achievements of European Integration is the Internal Market which is the largest competitive Single Market in the World. But unlike the US, the Japanese or the Chinese market, the EU internal market is characterized by a large number of tax-induced obstacles resulting from now 25 but soon 27 different tax systems“, explained the Commissioner.

Proposals focusing on tax obstacles

To eliminate tax obstacles of the internal market, the European Commission has published three proposals. The first one deals with the general objectives of coordinating Member States' non-harmonised direct tax systems in the internal market. Key issues are:

- Removing discrimination and double taxation
- Preventing inadvertent non-taxation and abuse
- Reducing the compliance costs associated with being subject to more than one tax system.

The second proposal is concerned with exit taxation in the corporate sector. It analyses the legal requirements laid down in the EC Treaty as interpreted by the European Court of Justice (ECJ) in the de Lasteyrie case, and confirmed and developed in the N case, and considers how these affect exit taxes levied on individuals and on companies. The Commission intends to develop more detailed guidance on these issues in close cooperation with Member States.

The third approach concerns the tax treatment of

losses in cross-border situations. The issue of cross-border loss relief has gained widespread attention by the judgement from the European Court of Justice in the “Marks & Spencer” case rendered in December 2005. In this decision the Court obliges, under certain conditions, the Member State of a parent company to grant relief for definitive losses of a subsidiary established in another Member State.

Instrument: CCCTB

The EU Commission believes that one systematic way is to address the underlying tax obstacles with a common consolidated corporate tax base (CCCTB). A comprehensive legislative proposal will be presented by 2008. Commissioner Kovács stressed out that “harmonization would only cover the tax base and would not relate to the tax rates”.

Read more (click to open):

European Commission: Co-ordinating Member States' direct tax systems in the Internal Market

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

European Commission: Exit taxation and the need for co-ordination of Member States' tax policies

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

European Commission: Tax treatment of Losses in Cross-Border Situations

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

European Commission: Information on the Common Consolidated Tax Base

General information:

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

CCCTB Working Group, Meeting on 12-13 December, 2007

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

News - Direct Taxes

EUROPEAN COMMISSION

Infringements

Belgium

Discrimination against foreign charities

Belgium allows tax relief for gifts to charities on the condition that they are established in Belgium. Charities in other Member States are excluded from the relief. The provision breaches European law which the ECJ confirmed in its ruling on Stauffer-Case (C-386/04 of 14 September, 2006). Similar cases are taken up against Ireland, Poland and the United Kingdom. If Belgium does not reply satisfactorily, the European Commission may refer the matter to the European Court of Justice.

Read more (click to open):

Press Release: European Commission requests Belgium to end discrimination against foreign charities

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

Flemish registration tax

Flanders deducts from the registration tax on the purchase of a house the amount of the registration tax paid earlier on another house provided it was in Flanders. The European Commission considers that this a restriction of the right of every EU citizen to move freely within the European Union. After not having amended the legislation despite the formal request in form of a reasoned opinion, Belgium is now referred to the European Court of Justice. This case also illustrates that the European treaty is binding the regional authorities of the Member States in the same way as the central governments.

Read more (click to open):

Press Release: The Commission refers Belgium to the Court of Justice over discrimination in Flemish registration tax

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

Taxation of houses

Belgian residents who possess a owner-occupied house or a secondary house receive tax reliefs for mortgage interest, for capital repayment a mortgage loan and for contributions paid on a life insurance contract related to such mortgage loan. A person resident in another Member State who owns a house in Belgium does not benefit from these provisions.

As already issued in the Schumacker Case C-279/93 of 14 February 1995, this constitutes an infringement of the free movement of workers guaranteed by Article 39 of the EC Treaty. If the owner of the house is self-employed this would breach the freedom of establishment guaranteed by Art. 43 of the EC Treaty. Finally the provision contradicts also Art. 56 of the EC Treaty: the free movement of capital as it restricts Belgian residents to buy a house outside Belgium. The European Commission has sent a formal request to Belgium.

Read more (click to open):

Press Release: Direct Taxation: Commission requests Belgium to end discriminatory taxation regarding houses outside Belgium

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

Personal income tax

In Belgium workers who receive income from foreign and national sources cannot benefit from a full deduction of personal and family allowances. When a double tax convention is applicable, Belgium exempts foreign source income of Belgian residents from tax but nevertheless takes such foreign source income into account for the purpose of determining the rate of tax applicable to the taxpayers' Belgian source income. This leads to a limited deduction personal and

family allowances. The European Commission referred Belgium to the European Court of Justice.

for entailing a higher taxation and has therefore sent a formal request.

Read more (click to open):

Press Release: The Commission refers Belgium to the Court of Justice over discrimination regarding deductions of personal and family allowances for residents with income from foreign sources

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

Read more (click to open):

Press Release: Commission requests Greece to end discrimination against non-Greek partnerships

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

Denmark and Finland

Car taxation

In Denmark the registration tax on foreign company cars and leasing cars is not proportionate to the duration of the registration of the vehicle as requested by the European Court of Justice.

Under Finnish legislation a person staying in Finland and carrying out a task of definite duration can not be sure that he will benefit from the right of car registration tax exemption that he is entitled to according to the Council Directive 83/182/EEC. The European Commission has sent formal requests.

Read more (click to open):

Press Release: Car taxation: infringement procedures against Denmark and Finland

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

Italy

Interest and royalty payments

The Directive 2003/49/EC of 3 June 2003 has not been implemented correctly by the Italian state. The aim of the Directive is to abolish taxation of interest and royalty payments made between associated companies of different Member States in the Member State at source. Herewith the equality of tax treatment shall be guaranteed between national and cross-border transactions. The European Commission has sent a formal request in form of a reasoned opinion. If Italy does not reply satisfactorily within two months, the case may be referred to the European Court of Justice.

Read more (click to open):

Press Release: Taxation of interest and royalty payments: The Commission requests Italy to implement the Community Directive correctly

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

Greece

Non-Greek partnerships

Non-resident partnerships in Greece are taxed more heavily than those residents in Greece. The Greek state has justified this provision by underlining that a proportion of the profits of a domestic partnership are taxed in the hands of the individual partners. The European Commission does not consider the reason

Application of withholding tax on dividends

The European Commission has sent a formal request to end the application of a withholding tax on

the distribution of dividends to parent companies established in the Netherlands. From the point of view of the Commission, the provision is contrary to the parent-subsidiary directive (90/435/EEC) which, under certain conditions, exempts from any withholding tax distributions between companies established in different EU member states.

Read more (click to open):

Press Release: Commission requests Italy to end the application of a withholding tax on dividends paid to parent companies in the Netherlands

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

Portugal

Non-Portuguese service providers

In Portugal domestic providers are taxed on their net profits, whereas non-resident entities are subject to a withholding tax based on the gross amount of their income. Portugal underlined that these rules do not apply for the majority of EU and EFTA/EEA Member States with whom Portugal has signed a Double Tax Convention (DTC). However the European Commission considers the provision as discriminatory for those states who have not signed the DTC. A formal request has been sent to Portugal.

Read more (click to open):

Press Release: The Commission requests Portugal to end discrimination against non-Portuguese service providers

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

Sweden

Foreign pension funds

Under the Swedish legislation premiums paid by

employers for pension insurance taken with insures established in another Member State are treated less favourable than contributions to domestic schemes. It is less attractive for two reasons: first the taxation takes place earlier and secondly a higher tax rate has to be paid. Since the Swedish government did not follow the reasoned opinion, the European Commission has decided to refer Sweden to the European Court of Justice.

Read more (click to open):

Press Release: European Commission decides to refer Sweden to Court concerning discrimination against foreign pension funds

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

News - Indirect Taxes

EUROPEAN COMMISSION

Austria

Reduced rates to supplies of goods in connection with the disposal of waste water and refuse

The Austrian VAT provisions provide for the application of the reduced VAT rate to all transactions concerning the disposal of water waste and refuse. This is contradictory to the Sixth VAT Directive as Member States may subject to reduced rates of VAT only services and not goods (Category 17 of the Annex).

Read more (click to open):

Press Release: Infringement proceedings against Austria, France and Italy

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

Car leased in other Member States

Since 1995, Austria levies non-deductible Austrian VAT on taxable persons leasing cars abroad. The aim is to discourage people leasing cars abroad where a refund of VAT is available according to 8th VAT Directive (79/1072/EEC).

Already three years ago the European Court of Justice interpreted the relevant Community provisions as precluding this national practice. After consulting the VAT Committee on the basis of article 17.7 of the Sixth VAT Directive Austrian state amended its legislation. However it was restricted its application to expenditure incurred January 1st, 2006. Afterwards the scope was extended until 01 January, 2008.

Read more (click to open):

Press Release: Infringement proceedings against Austria, France and Italy

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

France

Reduced rates for services supplied by lawyers within the framework of legal aid

France applies a reduced VAT rate (5,5%) to services provided by lawyers within the framework of legal aid which breaches EU law as Art. 12.3 of the Sixth VAT Directive (Directive 77/388/EEC) defines that the VAT rate is minimum 15%. Indeed Member States have the right to apply reduced rates of goods and services listed in Annex H of the Directive but services provided by lawyers are not included.

Read more (click to open):

Press Release: Infringement proceedings against Austria, France and Italy

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Italy

Extension of the VAT amnesty „condono“ to the year 2002

Tax payers in Italy may wipe their slate clean by paying to the State a fixed sum or a percentage (2%) of the VAT that would have been payable in respect of the goods and services supplied in each taxable year. The Finance Act 2004 extended this tax amnesty to year 2002. From the point of view of the European Commission, this measures go beyond the margin of discretion that Member States enjoy for adjusting their controls on the basis of human and technical resources available to them.

The European Commission has sent a reasoned opinion to Austria, France and Italy. They are the second stage of the infringement procedures under Article 226 of the EC Treaty. Unless the Member States concerned bring their legislation in compliance within two months, the Commission may decide to refer the cases to the European Court of Justice.

Read more (click to open):

Press Release: Infringement proceedings against Austria, France and Italy

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

VAT rates

In Romania and Bulgaria

The European Commission has published the VAT rates which are applicable in Romania and Bulgaria.

Read more (click to open):

European Commission: VAT rates applicable in Romania and Bulgaria

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

Transfer Pricing Forum

Call for applications

The Joint Transfer Pricing Forum (JTPF) has been established in 2002. It is composed of experts from national tax administrations and the business sector under an independent Chairman. The initial two year mandate was prolonged for a second mandate of two years established in the end of 2006.

The European Commission hereby calls for applications for inclusion on its list of applicants for fifteen business representatives as members of the experts group on transfer pricing (the Joint Transfer Pricing Forum) in the field of business taxation and for applications for the position of Chairman of the JTPF.

The application shall be sent as soon as possible and as latest on Wednesday **31st January, 2007**.

Read more (click to open):

European Commission: Transfer Pricing Forum

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

Read more (click to open):

OECD: TAXBEN project

languages: [EN](#)

Confédération Fiscale Européenne
188A, Av. de Tervuren
B-1150 Brussels

Editor: Stella Willborn

If you have any suggestions or questions, please feel free to contact the editor:

brusselsoffice@cfe-eutax.org

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OECD

Taxben project

TAXBEN has attempted to improve our understanding of the functioning and the need for reform of the tax/benefit systems in the EU and to provide policy options to improve the potential growth of the EU. The initiative has involved the participation of seven research institutes across the EU25 and was funded by the European Commission under the Sixth Framework Programme since 2004. On November 2006 the CEPS hosted the final conference of the TAXBEN project.