

CFE EUROPEAN TAX REPORT 2006/03

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CFE NEWS

► CFE Forum 2006 on the 27th April

The CFE Forum 2006 will take place on the 27th April in Concert Noble, Rue d'Arlon 82, Brussels. The topic for indirect taxation is "VAT for Public Entities and Charities" and the topic for direct taxation is "ECJ and the new path". For the full program and registration form, please consult our website <http://www.cfe-eutax.org>.

LATEST EUROPEAN DEVELOPMENTS

European Commission:

► Accounting: Commissioner McCreevy welcomes work programme for convergence between EU and US standards

Charlie McCreevy, European Commissioner for Internal Market and Services, has welcomed the publication of a Memorandum of Understanding between the United States Financial Accounting Standards Board (FASB) and the International Accounting Standards Board (IASB) that outlines a work programme for convergence between US Generally Accepted Accounting Practices (GAAP) and International Financial Reporting Standards (IFRS). This convergence programme is an important step in bringing about mutual recognition of accounting standards between the EU and the US, and reflects comments made by Committee of European Securities Regulators (CESR) concerning equivalence between GAAP and IFRS.

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► WTO condemns US tax subsidies; EU calls on US to end illegal tax breaks for Boeing

The WTO Appellate Body has backed EU condemnation of US federal tax subsidies for exporters in the FSC dispute. A WTO Panel had previously found in favour of the EU by concluding that despite some changes to its domestic legislation the US has yet to abide by earlier rulings and recommendations of the WTO Dispute Settlement Body on its payments of export tax subsidies preserved in the "transition" and "grand-fathering" provisions of the revised Jobs Act that have been judged to violate WTO rules. Once the Appellate Body report has been adopted by the WTO in thirty days time the US will have 60 days to bring its legislation into line with its WTO obligations.

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► Taxation in the EU25 from 1995 to 2004

In 2004, tax revenue (i.e. the total amount of taxes and social contributions) in the EU25 stood at 40.7% of GDP, compared with 40.9% in 2003. After increasing from 41.2% in 1995 to 42.4% in 1999, the tax-to-GDP ratio then declined steadily to 40.8% in 2002. The trend in the euro-zone was similar: tax revenue rose from 41.6% of GDP in 1995 to 43.0% in 1999, then fell to 41.1% in 2004. These figures come from a publication issued by Eurostat, the Statistical Office of the European Communities.

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► **Speech delivered by Commissioner Kovács before the European Movement Ireland in Dublin on EU tax policy and its implications for Ireland**

To begin, I should make three points clear concerning the Commission's policy objectives in the tax field: First, the Commission believes that many aspects of the taxation rules of Member States must be modified if they are to contribute to the proper functioning of the Internal Market and to the competitiveness of the EU. Second, the Commission has no ambitions to propose the harmonisation of corporate tax rates. Third, with the growing intra-Community movements of persons, goods and services, increased co-operation between tax administrations is in the interests of the Member States business and the general public.

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The Council:

► **Council extends the validity of reduced VAT rates for labour-intensive services**

The Council has adopted a directive enabling the member states to apply reduced VAT rates for certain labour-intensive services until 2010, enacting an agreement reached at its meeting on 24 January. Member states may apply a reduced rate to district heating and two (or in exceptional cases three) out of the following five services: small repair services, the renovation of private dwellings, window cleaning and private household cleaning, domestic care services and hairdressing, on condition that they request authorisation to do so by 31 March 2006.

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The Meeting: [EN](#) [FR](#) [DE](#)

Official Journal (page 12): [EN](#) [FR](#) [DE](#)

European Court of Justice:

► **Judgments of the Court of Justice in Cases C-255/02, C-419/02 and C-223/03**

The sixth VAT directive does not grant a taxable person any right to deduct input vat where the transactions from which that right derives constitute an abusive practice. In addition, where payments are made on account, in order for VAT to become chargeable without the supply having taken place, it is necessary, in particular, for the goods or services to have been precisely identified. In these three cases, English courts submitted questions on the interpretation of the Sixth VAT Directive, which establishes a common system of VAT, in connection with proceedings concerning schemes drawn up by certain economic operators in order to reduce their VAT liability.

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

Judgment C-255/02 (Halifax): [EN](#) [FR](#) [DE](#)

Judgment C-419/02 (BUPA): [EN](#) [FR](#) [DE](#)

Judgment C-223/03 (Huddersfield): [EN](#) [FR](#) [DE](#)

► **Judgment of the Court of Justice in Joined Cases C-226/04 and C-228/04**

The Court delivers its first judgment on the option to exclude service providers who are not in compliance in respect of the payment of social security contributions and taxes from a public services contract. The Court observes, first of all, that the directive on public service contracts lays down an exhaustive list of seven grounds for excluding candidates from a contract, including those of excluding candidates who have not fulfilled their obligations relating to social security and those who have not fulfilled their obligations as regards the payment of taxes. The application of those grounds of exclusion is left to the Member States which may not, however, provide for any other grounds of exclusion.

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Judgment C-226/04 and C-228/04 (La Cascina and Zilch): [EN](#) [FR](#) [DE](#)

OECD:**► OECD invites comments on the application of transactional profit methods**

As part of its procedures for monitoring the implementation of the 1995 Transfer Pricing Guidelines (“the 1995 TP Guidelines”), Working Party No. 6 of the OECD Committee on Fiscal Affairs has selected two areas to be considered in priority: Comparability issues encountered when applying the transfer pricing methods authorised by the 1995 TP Guidelines (whether traditional transaction methods or transactional profit methods) and the application of transactional profit methods (i.e., the profit split methods and the transactional net margin method which are described in Chapter III of the 1995 TP Guidelines). It is expected that the ultimate outcome of the review of transactional profit methods should be a revision of Chapter III of the 1995 TP Guidelines.

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► OECD to work on clarifying VAT/GST application in cross-border trade

The OECD is launching a new project aimed at providing guidance for governments on applying Value Added Taxes, or VAT - also called Goods and Services Tax, or GST, in some countries - to cross-border trade. Pending completion of this project, OECD countries have agreed on two fundamental principles for charging VAT/GST on internationally traded services and intangibles: For consumption tax purposes internationally traded services and intangibles should be taxed according to the rules of the jurisdiction of consumption; the burden of value added taxes themselves should not lie on taxable businesses except where explicitly provided for in legislation.

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► Recent OECD Initiatives to Resolve International Tax Disputes

The OECD Centre for Tax Policy and Administration (the CTPA) is organising, in cooperation with BIAC, a consultation between business and government on recent OECD initiatives to improve dispute settlement procedures under tax treaties. The consultation meeting will take place on Monday, 13 March 2006, in Tokyo and will bring together representatives from the private sector and senior government officials of OECD Member countries.

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