



CFE EVENTS

CFE Forum on 19 April 2012: Tax law in the light of judgments - the interaction of European law and the national courts

National courts play a crucial role in the application of EU law. Apart from the everyday application of EU law on a case, it is their task to contribute to a uniform interpretation by identifying unclear EU law questions to be referred to the European Court of Justice for a preliminary ruling. For tax practitioners, it is essential to know how a national tax court will apply EU law and when a reference to the ECJ has to be made.

The European Court of Justice's *acte clair* doctrine releases a national court from having to refer a case to the ECJ if there can be no reasonable doubts as to the validity and interpretation of EU law. This leaves a wide margin of appreciation to the national courts. The Forum will take a look at how this margin is applied in practice in different EU Member States.

Complexity is added by the fact that principles of EU law are applied differently in tax and Internal Market matters: the ECJ has held that the obligation of the principal to withhold a 15% tax from the payment to servicers of construction work violates the Internal Market freedoms (case C-433/04, *Commission vs. Belgium*) while in the VAT Directive, a reverse charge may be imposed. The question arises whether a Directive may deviate from the TFEU Treaty as interpreted by the ECJ without violating the Treaty. The limits of such deviation need to be outlined more clearly.

Both subjects will cover direct and indirect tax issues.

READ MORE (*click to open*):

CFE website: [EN](#)

NEWS - DIRECT TAX

Commission consults on “double-non-taxation”, seeing disclosure requirements as a possible means

On 29 February 2012, the European Commission has opened a public consultation on factual examples and possible ways to end “double-non-taxation” of companies arguing that this may distort the Internal Market by giving a competitive advantage over companies who are subject to ordinary taxation. The Commission views “double-non-taxation” as non- or extremely low taxation resulting from the combination of tax rules of more than one country in direct taxes. Thus, the outcome is in line with the law but undesired from a revenue, equality or other political perspective. A number of typical situations are described: These are entities that are treated transparent in some but non-transparent in other member states, different treatment of hybrid financial instruments containing elements both of debt and equity, double tax conventions leading to double relief and DTCs with no- or low-tax third countries, unilateral advance pricing arrangements, transactions with associated enterprises in no or low-tax jurisdictions, interest deduction on debt that finances tax-exempt income and different treatment of active and passive income. Reference is made to the 2011 OECD report on disclosure initiatives which identifies disclosure requirements for tax advisers as a means to overcome “double-non-taxation”. The Commission intends to develop a Communication on strengthening good tax governance in late 2012. The consultation which expressly encourages anonymous submissions will be open until 30 May 2012.

READ MORE (*click to open*):

Consultation website: [EN](#) (DE, FR available)

Consultation paper: [EN](#) [FR](#) [DE](#) [BG](#) [CS](#) [EL](#) [ES](#) [IT](#) [LV](#) [MT](#) [NL](#) [PT](#) [PL](#) [RO](#) [SK](#) [SL](#) [FI](#) [SV](#)

Commission presents report on Savings Directive – Šemeta seeks to prevent bilateral agreements with Switzerland

On 1 March 2012, the European Commission adopted a report on the results of the European Savings Taxation Directive, as it is required to do every 3 years. The report which covers the period 2005-2010 shows that the quality and usability of data which member states transmit to each other has improved, thanks to common EU rules on automatic exchange of information. It also provides practical suggestions to member states' tax administrations on how to make the current system even more transparent in the future. This includes, for example, details on how paying agents can complete data in a better way for the purpose of international reporting. The report also notes that loopholes in the current Savings Tax Directive continue to be exploited, for example, by increased use of new tax structures and new financial products designed to avoid tax liability. The Commission sees this as evidence for an urgent need to extend the scope of the EU Savings Directive, a project awaiting political breakthrough in the Council since November 2008.

Meanwhile, on 5 March 2012, Commissioner Algirdas Šemeta sent a letter to the Danish Council presidency expressing his view that EU law prevented member states from following the German and UK example by concluding bilateral savings tax agreements with Switzerland (see [European Tax Report 9/2011](#)). All bilateral direct tax agreements of member states with third countries should contain a carve-out for all areas covered by existing EU instruments or current proposals.

READ MORE (click to open):

Report COM(2012) 65: [EN](#) [FR](#) [DE](#)

Staff working document: [EN](#)

Franco-German green paper on an approximation of corporate income tax

On 6 February 2012, France and Germany have provided further clarification on the planned coordination of their corporate income taxes. While France intends to follow the German approach of a broader tax base and a lower tax rate, Germany would introduce a more generous tax treatment of subsidiaries

as it is applied in France. Offsetting of losses between related companies shall be facilitated in Germany. Two options to achieve this would be to refrain from requiring a profit transfer agreement or to raise the minimum shareholding threshold (which is 95% in France). Also the maximum carry-back of losses in Germany could be aligned with the French law which would mean an almost-doubling from € 511.500 to € 1 million.

As to dividends, the exemption from corporation tax could be made conditional upon a minimum shareholding of 5% (which is the French situation). Changes would concern only corporations, no partnerships. No coordination of personal income tax (for partners in partnerships) is intended. This shall be done until January 2013. Finance ministers François Baroin and Wolfgang Schäuble have informed the other member states at the 21 February meeting of the Ecofin Council. The two countries have stressed that this should not contravene EU efforts to introduce a CCCTB for all 27 member states or, more realistically, CCCTB by way of enhanced cooperation of at least 9 countries. 12 EU member states have already signalled their readiness to participate in a CCCTB.

READ MORE (click to open):

Green paper: [FR](#) [DE](#)

European Commission requests Belgium to review discriminatory venture capital tax incentive

On 27 February 2012, the European Commission has asked Belgium to amend its legislation on tax credits for investing in venture capital. Belgian legislation grants a personal income tax credit to individuals investing in shares and units of "ARKimedes funds". This credit is only granted on the condition that these investors are resident of Flanders. Consequently, residents of other member states cannot benefit from the mentioned tax credit even if they are fully taxable in Belgium because they derive all or almost all of their personal income in Belgium. The Commission considers that this legislation is incompatible with the Treaties, as it discourages the free movement of workers and self-employed persons. These provisions also go against the case-law of the EU Court of Justice that taxpayers who are tax residents of other member states of the EU or EEA but derive all or almost all of their income in Belgium should be entitled to the same tax benefits as Belgian residents (see case [C-279/93 Schumacker](#)). The request takes the form of a reasoned opinion, the second stage of an infringement procedure. If the rules are not brought into compliance within two months, the Commission may refer the matter to the EU Court of Justice.

NEWS - DIRECT TAX

READ MORE (click to open):

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

CFE comments on Permanent Establishment provisions of OECD Commentary

In February 2012, the CFE has submitted an Opinion Statement in response to the public consultation on proposed changes to the Commentary relating to Article 5 OECD Model Tax Convention, the provision defining Permanent Establishment. The CFE response was discussed at the CFE Fiscal Committee meeting on 30 January 2012. The OECD has published all 43 responses received, three of which come from CFE member bodies (German BStBK and UK CIOT and ICAEW).

READ MORE (click to open):

CFE Opinion Statement: [EN](#)

Comments received by OECD: [EN](#)

OECD recommends action on international tax loopholes

On 5 March 2012, OECD issued its report "Hybrid Mismatch Arrangements: Tax Policy and Compliance" describing arrangements that exploit national differences in the tax treatment of instruments, entities or transfers to deduct the same expense in several different countries, to make income "disappear" between countries or to artificially generate several tax credits for the same foreign tax. The report, which draws from the OECD Directory on Aggressive Tax Planning, concludes that these arrangements generate significant policy issues in terms of tax revenue, competition, economic efficiency, fairness and transparency. It notes that concerns about distortions caused by double taxation also apply to "double non-taxation".

READ MORE (click to open):

OECD Report: [EN](#) [FR](#)

CFE comments on transfer pricing related to loans (SGI case)

The ECJ Task Force of the CFE has commented on the case law of the European Court of Justice on transfer pricing related to loans (decision of 21 January 2010 in Case C-311/08, SGI). The Opinion Statement asks the ECJ for more clarification under which conditions non-arm's length situations are to be considered abusive.

READ MORE (click to open):

CFE Opinion Statement: [EN](#)

SGI case: [several languages](#)

NEWS - INDIRECT TAX

European Commission requests Belgium to amend property transfer tax in Brussels

On 27 February 2012, the European Commission has asked Belgium to amend its legislation on the property transfer tax in the Brussels Capital Region. The legislation at stake allows for a tax base reduction of the property transfer tax when buying a primary residence in the Brussels Capital Region on the condition of staying resident in the Region during the next 5 years. The Commission considers that this is incompatible with the TFEU as it discourages the free movement of persons, workers and self-employed. Taxpayers who settle in newly bought property in the Brussels Capital Region are dissuaded from leaving it for the next 5 years as otherwise they would lose the above-mentioned tax advantage and would have to retroactively pay the tax to the Region. The Commission's request takes the form of a reasoned opinion, the second stage of an infringement procedure. If the rules are not brought into compliance within two months, the Commission may refer the matter to the EU Court of Justice.

READ MORE (click to open):

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

NEWS - INDIRECT TAX

Financial Transactions Tax: EP rapporteur presents draft report

The European Parliament is discussing the proposed EU Financial Transaction Tax (FTT, see [European Tax Report 8/2011](#)). After an expert hearing in the ECON Committee on 6 February 2012, rapporteur Anni Podimata (S&D, Greece, ECON Committee) issued her draft report on 10 February in support of the European Commission's proposal of 28 September 2011. As to the application of the tax, the report suggests an extension that the tax should also apply where financial instruments are issued within the territory of a participating member state even though the issuers themselves are not resident in such member state. Other suggested changes seek to link the payment of the tax with the acquisition or ownership of the security traded. Further discussion took place on 29 February in the ECON Committee.

The ECON Committee vote is scheduled for 24 April and the plenary vote for 12 June 2012. The Parliament only has consultative powers on this proposal. Nine countries have expressed their support for the project. These are Austria, Belgium, Finland, France, Germany, Greece, Italy, Portugal and Spain. Cyprus, Malta and Sweden have sent reasoned opinions to the European Parliament claiming that the proposal violates the subsidiarity principle.

READ MORE (click to open):

Draft report by Anni Podimata: [all languages](#)

EP ECON agenda of 28/29 Feb. 2012 with links to reasoned opinions (see item 15): [all languages](#)

European Commission asks Germany to end VAT reduction for works of art

On 27 February 2012, the European Commission has asked Germany to refrain from applying a reduced VAT rate to the supply of works of art and collectors' items saying that Germany's current rules are incompatible with EU law. In Germany, such reduced rate of VAT is applied to all supplies of works of art and collectors' items, as well as the letting of such goods. However, these goods are not included in the list of goods and services that member states may apply a reduced VAT rate to meaning the standard rate has to be applied. The Commission's request takes the form of a reasoned opinion (second step of EU infrin-

gement proceedings). If the rules are not brought into compliance within two months, the Commission may refer the matter to the EU Court of Justice.

READ MORE (click to open):

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

2012 excise duty tables published

The Commission has updated its excise duty tables for energy products and electricity, alcoholic beverages and manufactured tobacco. The new list shows the situation on 1 January 2012.

READ MORE (click to open):

Excise Duty tables (EN):

- [Energy products and electricity](#)
- [Alcoholic beverages](#)
- [Manufactured tobacco](#)

European Economic and Social Committee supports proposed Regulation on Administrative Cooperation in Excise Duties

On 18 January 2012, the European Economic and Social Committee (EESC) adopted an opinion supporting and approving the proposal for a new 'Regulation governing administrative cooperation in the field of excise duty' as being necessary and useful in order to support national administrations' cooperation to ensure effective tax collection and to fight excise tax fraud. The opinion of the EESC is not binding for the EU Council.

READ MORE (click to open):

EESC opinion: [EN](#) [FR](#) [DE](#) [BG](#) [ES](#) [CS](#) [EL](#) [IT](#) [LV](#) [MT](#) [NL](#) [PL](#) [PT](#) [RO](#) [SK](#) [SL](#) [FI](#)

Regulation proposal COM(2011) 730:
[all languages](#)

ADMINISTRATIVE COOPERATION AND FIGHT AGAINST TAX FRAUD

US accepts government-to-government approach to FATCA implementation – five EU countries to become “FATCA partners”

On 8 February 2012, the European Commission welcomed the USA's acceptance of a government-to-government approach to tackling US tax evaders and implementing the US Foreign Account Tax Compliance Act (FATCA). The agreed arrangement which, according to the European Commission is more business-friendly for EU financial institutions, is the result of discussions with the USA, following a letter sent by the Commission and EU Presidency to the US tax authorities in April 2011 (see [European Tax Report 4/2011](#)). Through the government-to-government approach to tax information exchange, the administrative burden, compliance costs and legal difficulties which EU financial institutions would otherwise face in applying the FATCA provisions should be greatly reduced. The financial industry estimates that the costs of ensuring compliance with FATCA as initially designed would have been significant, with some sources estimating the cost of the required adaptation as \$100 million for each multinational bank. Any willing member state should now be able to adopt this government-to-government approach to information exchange through coordinated bilateral agreements with the USA. Member states' tax administrations would in turn receive information provision on their residents' accounts held in US' financial institutions. The Commission sees this as a basis for broader future cooperation between the EU and the US on information exchange.

France, Germany, Italy, Spain and the United Kingdom will be the first five EU countries to work together with the United States' Inland Revenue Service to create a means to collect the information from their banks and send it to the US. Once these five „FATCA partners“ finalise the framework, banks in those countries would not have to enter into separate data disclosure agreements with the US Internal Revenue. In turn, the United States would collect and share information with the five participating EU countries about accounts held by their citizens in US financial institutions while in countries not invited to become „FATCA partners“, banks and financial institutions must still cooperate on their own with the US Inland Revenue. It was reported that more countries could become „FATCA partners“.

The Commission underlines that it will continue work to ensure that EU and national data protection legislation is fully respected in the implementation of the

FATCA provisions and expects that this cooperation will help greatly in advancing the EU's efforts to promote the global application of automatic exchange of information for tax purposes. It could also contribute to promote a single approach at global level to reporting arrangements on financial institutions.

READ MORE (*click to open*):

Press release: [EN](#)

Greece signs OECD Convention on Mutual Administrative Assistance

On 22 February 2012, Greece has signed the “Convention on Mutual Administrative Assistance in Tax Matters”, a multilateral agreement developed by the Council of Europe and the OECD open for signature to all countries. The Convention promotes international co-operation in the assessment and collection of taxes. The Convention will allow Greece to work more closely with other countries to combat tax avoidance and evasion which is seen very important in the context of Greece's efforts to improve its internal tax collection system and resolve its debt and budget dilemma. The 33 countries that have signed the Convention so far include 15 EU countries as well as Brazil, Japan, India, Russia and the USA.

READ MORE (*click to open*):

OECD news release: [EN](#) [FR](#)

Text of the Convention: [EN](#)

COMPANY LAW

The future of EU company law – Public consultation and call for transfer of seat directive

The Commission deplores the recent lack of progress in European company law, in particular concerning the proposed European Private Company (SPE), a European limited liability company form. Trying to break this deadlock, the consultation seeks to collect stakeholders' views on the way forward, containing general questions such as the aims of European company law, asking whether further harmonisation

COMPANY LAW

efforts should be undertaken or whether the focus should be on modernising existing legislation. More specific questions concern a possible shift from the distinction public/private to listed/unlisted, the proposed SPE, new rules on the cross-border transfer of the registered office, cross-border mergers and divisions, groups of companies and a review of the existing capital maintenance regime. The consultation is open until 14 May 2012.

On 2 February 2012, the European Parliament has adopted a non-legislative resolution requesting the Commission to propose a directive on the cross-border transfer of company seats. This directive should apply to limited liability companies allowing them to migrate to another member state without losing their legal personality but by being converted into a company under the law of the new member state without having to be wound up. Care should be taken that this leads to no circumvention of legal, social or tax requirement and that the company's relation to third parties is not affected. The company's board or management should be required to present a report and a transfer plan to shareholders and employees or their representatives. Participation rights of employees should be preserved; this may mean that the rules of the original member state would continue to apply if the participation level in the new member states is inferior. The original member state should issue a certificate conclusively declaring that all the acts and formalities required have been completed before the transfer.

READ MORE *(click to open)*:

Consultation document: [EN](#) [FR](#) [DE](#) [BG](#) [CS](#) [EL](#) [ES](#) [IT](#) [LV](#) [MT](#) [NL](#) [PL](#) [PT](#) [RO](#) [SK](#) [SL](#) [FI](#)

Consultation website: [EN](#)

EP resolution: [all languages](#)

Commission proposes introduction of "European Foundation"

On 8 February 2012, the European Commission proposed a regulation establishing the legal company form of a "European Foundation" (to be named FE). By this, the Commission intends to give institutions that serve the public at large the option to benefit from an advantageous regime and reduce compliance costs if they are active cross-border. The new

form would co-exist alongside domestic foundations. Acquiring the status of a European Foundation would be voluntary.

As to the main requirements, a FE would need to prove its public benefit purpose, cross-border dimension and that it possesses the minimum founding assets of €25 000. It can be set up from scratch, by converting a national foundation into a European Foundation or through a merger of national foundations. An FE acquires a legal personality and legal capacity upon its registration in a member state.

European Foundations would benefit from the same tax regime as domestic foundations. Donors supporting them would be entitled to the same tax benefits as if they were donating to a foundation established in their member state. Thus, member states would need to regard the FE as equivalent to public benefit purpose foundations established under their own national legislation.

READ MORE *(click to open)*:

Press release: [all languages](#)

Text of the proposal: [all languages](#)

Impact assessment

- Summary: [EN](#) [FR](#) [DE](#)

- Full text: [EN](#)

FAQs: [EN](#)

STATE AID

Commission consults on revising state aid rules

Various EU state aid rules are currently under review:

On 24 January 2012, the European Commission opened a public consultation on the revision of the EU rules on regional state aid, open until 26 April 2012. As a derogation to the general prohibition to grant aid the TFEU Treaty provides that state aid to promote regional development can, under certain conditions, be considered compatible with the Internal Market. The compatibility criteria to be fulfilled as regards such aid are defined by the European Commission and laid down in different texts some of which will expire at the end of 2013. Interested parties are invited to express their views on the EU rules currently applicable to regional state aid and to suggest amend-

STATE AID

ments to these rules.

A public consultation on state aid for maritime transport has been opened on 14 February 2012.

Lastly, on 16 February 2012, the European Commission published a “Roadmap” indicating the next policy measures the Commission intends to take to review the existing state aid and restructuring guidelines. These guidelines are an instrument specifying the conditions under which member states may help ailing companies, noting that any such help is a distortion of competition. The current guidelines were to expire in 2009 and have been extended until 9 October 2012 in order to ensure continuity during the crisis. Consultations have taken place in 2010 and 2011. Like the current ones, the revised guidelines would be soft law, binding only the Commission but providing legal certainty to companies and member states.

READ MORE *(click to open)*:

Consultation on regional state aid:

- Consultation page: [EN](#)
- Questionnaire: [EN](#) [FR](#) [DE](#) [BG](#) [CS](#) [EL](#) [ES](#)
[FI](#) [IT](#) [LV](#) [MT](#) [NL](#) [PL](#) [PT](#) [RO](#) [SK](#) [SL](#)

Consultation on state aid for maritime transport :
Consultation page: [EN](#)

Roadmap on the review of the rescue and restructuring guidelines: [EN](#)

proposal of February 2009 has been watered down, considerably reducing possible simplification for “micro-s”. Other reservations were expressed by France, Greece, Italy, Luxembourg and Spain.

READ MORE *(click to open)*:

Compromise text: [EN](#)

Reservations from 6 countries: [EN](#)

Council aims at agreement on accounting rules reform by June 2012

The EU Competitiveness Council of 21 February 2012 held an “orientation debate” on the European Commission’s proposal of a reform of the EU Accounting Directive replacing the current 4th and 7th Company Law Directive and introducing worldwide country-by-country reporting of payments to governments for certain types of companies (see [European Tax Report 9/2011](#)). The Council aims at finding an agreement by June 2012. A questionnaire prepared by the Danish Council presidency reveals that particularly the issue of country-by-country reporting is controversial.

READ MORE *(click to open)*:

Press release (p.12-13): [EN](#)

DK presidency questionnaire on country-by-country reporting: [EN](#) [FR](#) [DE](#)

ACCOUNTING

Council adopts compromise on facilitations for “micro-enterprises” in accounting

The Ecofin Council of 21 February 2012 has adopted the compromise accepted by the European Parliament at second reading on 13 December 2011 (see [European Tax & Professional Law Report December 2011](#)), creating a new category of “micro-enterprises” that could benefit from a number of facilitations in their annual reports, provided that their member states make use of this exemption. Germany has criticised that the European Commission’s original

CUSTOMS

Commission proposal: Modernised Customs Code to become the “Union Customs Code”

On 20 February 2012, the European Commission has proposed a Regulation amending the Modernised Customs Code adopted in 2008 that will only become applicable in June 2013. The amendment will take account of a number of practical difficulties and legal changes occurred since its adoption like the fact that the introduction of new EU-wide customs IT systems is not progressing as foreseen in 2008 and the necessity to align the Customs Code with the

CUSTOMS

TFEU “Lisbon” Treaty that introduced the legislative instruments “delegated acts” and “implementing acts” (Art.290 and 291 TFEU). A detailed explanation is contained in the proposal itself.

READ MORE (click to open):

Proposal COM(2012)62: [EN](#) [FR](#) [DE](#)

OTHER EU POLICY

25 EU member states adopt “Fiscal Compact”

On 2 March 2012, 25 countries (all EU member states except for the United Kingdom and the Czech Republic; Ireland has decided to hold a referendum) have signed the “Fiscal Compact” (full title: Treaty on Stability, Coordination and Governance in the Economic and Monetary Union) obliging member states to introduce a “debt brake” requirement in their national laws. The signatories would then no longer be allowed to have a structural deficit exceeding 0.5 % of GDP. Failing this requirement, a deficit procedure will start automatically and could only be stopped by qualified majority of the EU Council. The Council will be empowered to take action against non-compliant member states before the European Court of Justice. Fines up to 0.1% of the GDP could be imposed on non-compliant countries. Only countries that participate in the Fiscal Compact would have access to help from the European Stability Mechanism (ESM).

The contracting states have to report on their public debt issuance plans and to make sure that major economic policy reforms are discussed beforehand and, where appropriate, coordinated among themselves. There would be regular Eurozone summits.

The Fiscal Compact is a treaty of international law legally independent of the EU. It needs ratification from 12 Eurozone countries to enter into force. Target date is 1 January 2013 meaning the debt brakes would have to be effective as of 2014.

READ MORE (click to open):

Text of the Treaty on European Council website (right column): [all languages](#)

Euro countries establish European Stability Mechanism

On 2 February 2012, the countries of the Euro area have established the European Stability Mechanism (ESM) as an international Luxembourg-based financial institution designed to assist Eurozone countries in severe financial difficulties. Target date for the entering into force of the treaty which needs ratification in all 17 Eurozone countries is 1 July 2012, or if feasible, earlier. As a permanent mechanism, the ESM would later replace the instruments EFSF and EFSM.

READ MORE (click to open):

ESM factsheet: [EN](#)

Commission reports on Internal Market progress

The European Commission has published two documents dealing with progress in the area of the Internal Market, one on proposed legislation and one on the implementation of existing legislation:

A working document titled “Delivering the Single Market Act –State of Play” of 15 February 2012 reports on the progress concerning the package of legislative and non-legislative action of Directorate-General Internal Market and Services presented in April 2011 and confusingly titled “Single Market Act” (see [CFE European Tax Report 4/2011](#) and [Professional Law Report 2/2011](#)). The modernisation of the Professional Qualifications Directive, services standardisation, the review of energy taxation and of the accounting rules are highlighted but the “Single Market Act” also refers to projects such as VAT reform and the CCCTB.

Secondly, on 24 February, the Commission issued a report dealing with the performance of member states in the implementation of Internal Market initiatives such as the provision of information through the “Your Europe”—portal for citizens and enterprises, the dispute resolution mechanism SOLVIT for administrative problems, the IMI communication system between authorities in member states, the setting-up of the “Points of Single Contact”, the transposition of Directives and infringement proceedings. Estonia, Latvia and Sweden score highest in the Commission’s “fitness check” while Greece, Italy, Portugal and Slovenia receive lowest rankings.

OTHER EU POLICY

READ MORE *(click to open)*:

„Stay of play“ SWD(2012) 21: [EN](#)

„Annual governance check-up 2011“: [EN](#)

Should EU countries use public sector IFRS?

The European Commission has opened a public consultation open until 11 May 2012 on the question to what extent the International Public Sector Accounting Standards (IPSAS) should be applied to EU countries. The IPSAS are an adaptation of the International Financial Reporting Standards IFRS to public sector entities. The “Council Directive on requirements for budgetary frameworks of the Member States”, adopted on 8 November 2011 as part of the „Six-Pack“ legislative package on economic governance in the EU asks for an assessment of the suitability of IPSAS for EU Member States by the end of 2012 to be carried out.

READ MORE *(click to open)*:

Public consultation paper: [EN](#)

Commission website containing Word and online version of questionnaire: [EN](#)

OECD: Making tax administrations work smarter

The OECD Forum on Tax Administration (FTA) has undertaken a project titled ‘Working Smarter’ to examine measures taken by revenue bodies to reduce costs and increase efficiency in the areas of structuring, compliance, legislation and service delivery.

The “Working smarter in structuring the administration, in compliance, and through legislation” information note presents, a.o., the findings of a survey conducted among revenue bodies in the FTA on cost-reduction targets, strategies and frameworks for managing cost-reduction and specific measures to achieve savings or effectiveness gains without leading to increased costs or burdens for taxpayers.

The service delivery component is explored in the “Working smarter in revenue administration - Using demand management strategies to meet service delivery goals” information note, which presents, a.o., the findings from a survey on demand management practices of revenue bodies across the FTA. The report provides insights into a number of strategies and tactics used to better manage demand by simplifying the tax system, providing self-service solutions, and reducing low-value demand.

READ MORE *(click to open)*:

OECD news release: [EN](#)

„Working smarter“ Information notes:

- Structuring the administration, in compliance and through legislation: [EN](#)
- Revenue administration-Using demand management strategies to meet service delivery goals: [EN](#)
- Executive Overview: [EN](#)

OTHER TAX POLICY

EP adopts “Annual Tax Report”

On 2 February 2012, the European Parliament adopted its first “Annual Tax Report”, drafted by Swedish liberal MEP Olle Schmidt. See related article in [European Tax & Professional Law Report 1/2012](#).

READ MORE *(click to open)*:

„Annual tax report“: [several languages](#)

PROFESSIONAL QUALIFICATIONS

European Commission publishes study on reserved activities

On 14 February 2012, the Commission has published a study on reserved activities and their economic impact. The study focuses on 13 countries (CZ, DK, FI, FR, DE, GR, IT, NL, PL, PT, SI, ES, UK) and three sectors one of which is “business services” containing tax advice, legal advice and accountancy.

The study undertakes to measure the degree of restriction through reserved activities and to assess whether an impact on productivity in these sectors and any knock-on effects on other sectors can be observed. The summary suggests that although, particularly in business services, knock-on effects are very likely, the findings on interrelation between reserved activities and productivity are little conclusive and should be treated with caution. The Annexes to the study contain lists of reserved activities, including tax advice, in the countries surveyed.

READ MORE *(click to open)*:

Final Report: [EN](#)

Annexes: [EN](#)

Executive summary: [EN](#)

Commission explains professional qualifications proposal in stakeholder meeting

On 2 February 2012, the European Commission held a conference in Brussels to explain its proposal of 19 December 2011 for a revision of the EU Professional Qualifications Directive (see [European Tax & Professional Law Report 10/2011](#)) to stakeholders and to respond to their questions. CFE was one of the organisations invited.

READ MORE *(click to open)*:

Commission slides with main elements of the proposal: [EN](#)

Agenda and webcast: [EN](#)

PROFESSIONAL LAW

EU standardisation proposal in EP

On 28 February 2012, the European Parliament discussed amendments to the proposed EU Standardisation Regulation on which the CFE had commented in January 2012. Indeed MEP Angelika Niebler (Germany, EPP) has proposed an amendment that had been suggested by CFE and other organisations of the liberal professions aiming at excluding intellectual services of liberal professions from EU standardisation; similar amendment proposals have been tabled by rapporteur Lara Comi (Italy, EPP) and Green MEPs from Denmark and Germany, Emilie Turunen and Heide Rühle. The latter however would only concern a clarification in the recitals, not a carve-out in the articles of the Regulation.

READ MORE *(click to open)*:

Amendment proposals 1-65 by Lara Comi, 9 January 2012: [EN](#) [FR](#) [DE](#)

IMCO amendment proposals 66-276, 9 February 2012 [EN](#) [FR](#) [DE](#)

CFE Opinion Statement: [EN](#)

Commission proposal of 1 June 2011 : [all languages](#)

CROSS-BORDER SERVICES

Commission working paper questions conformity of national regulation of tax advisers with EU law

The Commission appears to have concluded their evaluation of the “Performance Check – Business Services” questionnaire sent to EU and EEA member states. The findings were summarised in a document submitted to these countries pointing out which rules at national level the Commission considers contrary to EU law. These are, among others, advertising restrictions concerning unsolicited mailing and overly burdensome documentation or information requirements for cross-border service providers. The Commission emphasises that apart from professional qualifications matters, countries may not apply their

CROSS-BORDER SERVICES

full set of professional rules on visiting tax advisers from other member states. Moreover, countries must stop applying their national professional rules (including professional qualifications rules) on online services from other member states. Currently, the Commission is holding meetings with member states to discuss these questions.

READ MORE *(click to open)*:

Commission roadmap on the follow-up to the „Performance Check“: [EN](#)

Performance Check questionnaire: [EN](#)

garding tax crimes.

Furthermore, the new rules introduce a risk-based approach. In order to fight corruption, tougher requirements will apply regarding „politically exposed persons“.

The Commission has announced that it will adopt a report on the application of the 3rd Anti-Money Laundering Directive at the end of March 2012, following which work will begin on an impact assessment and the accompanying legislation, with the intention of adopting a legislative proposal amending the Directive by end 2012.

READ MORE *(click to open)*:

FAQs: [EN](#)

EU Commission Anti Money Laundering Roadmap: [EN](#)

OECD news release: [EN](#) [FR](#)

ANTI MONEY LAUNDERING

International money laundering standards revised

On 16 February 2012, the Financial Action Task Force (FATF), an intergovernmental global standard-setter with 36 members and over 180 countries participating, has adopted new standards aimed at strengthening global safeguards in the fight against money laundering and terrorist financing. The European Commission who, along with 15 EU member states, is a member of FATF will take steps to ensure that these revised standards are rapidly incorporated into the EU legislative framework.

The current 3rd Anti Money Laundering Directive (2005/60/EC) applies to the financial sector but also to tax advisers, lawyers or accountants, a.o., imposing duties to identify and verify the identify of their customers and beneficial owners and monitor the transactions of and the business relationship with the customer, report suspicions to public authorities and take supporting measures. The Directive contains an important exemption from the reporting obligations for lawyers and tax advisers that give legal advice to clients or represent them in judicial proceedings. Most CFE countries have made use of this exemption.

The list of predicate offences for money laundering (meaning crimes whose proceeds are laundered) has been expanded to include tax crimes. This aims at contributing to better coordination between anti-money laundering and tax authorities and removing potential obstacles to international cooperation re-

IMPRESSUM



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