



## CFE EVENTS

### **Towards greater fairness in taxation: CFE, AOTCA and STEP present a draft Model Taxpayer Charter**

CFE, in collaboration with two tax professional bodies in other regions of the world, the Asia-Oceania Tax Consultants' Association (AOTCA) and the Society of Trust and Estate Practitioners (STEP), has presented on 13 May 2013 a draft Model Charter of taxpayer rights and obligations. The Model Charter has been designed as a balanced document, acceptable for both governments and taxpayers in and beyond Europe. It is based on a survey on the status quo of taxpayer rights and obligations in 37 countries, including the world's five largest economies and 24 European countries (21 EU member states). Indeed work on this project began about 1.5 years ago, before the European Commission announced its plans to develop a "European Taxpayer's Code".

The three tax professional bodies are now collecting feedback from governments, international organisations and interested stakeholders with the aim of producing a final Model Taxpayer Charter in the future.

The text of the Charter can be downloaded free of charge on the CFE website; the full study is available for sale.

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

Text of the Model Taxpayer Charter and related documents on the CFE website: [EN](#)

## DIRECT TAX

### **CFE appointed to new Commission „Platform for Tax Good Governance“**

CFE has been appointed as a member of the newly created „Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation“, along with 14 other organisations representing business, tax and accounting professionals, civil society NGOs, academics and trade unions which will discuss with representatives from all EU member states the abo-

vementioned topics, in particular the European Commission's two recommendations of 6 December 2012 on aggressive tax planning (C(2012)8806) and on "measures intended to encourage third countries to apply minimum standards of good governance in tax matters", dubbed tax havens recommendation (C(2012)8805). Also CFE's Dutch member NOB has been appointed. Like the two recommendations, the Platform is one of 34 proposed or intended measures of the European Commission's Action Plan against tax fraud and evasion. CFE representative in the group is Fiscal Committee Chairman Piergiorgio Valente, his alternate is Stella Raventós. The Platform held its first meeting on 10 June 2013.

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

Press release: [EN](#)

### **Commission refers France to ECJ over discriminatory tax rules on new residential property**

The French rules grant domestic investments in new residential property accelerated depreciation benefits, while they do not allow the same for similar investments abroad. Thus, the European Commission has decided to refer France to the EU's Court of Justice for discriminatory tax rules.

The French provisions apply to new properties located in the national territory, under the clause that they let for a minimum of 9 years, while French taxpayers who invest in residential property to let in another EU Member State cannot benefit from accelerated depreciation. The Commission observes that taxpayers doing the same investment abroad would face a higher tax liability, and argues that such provision seems incompatible with the free movement of capital.

The referral to the ECJ is the last step in the infringement procedure. The Commission had already formally requested France in February 2011 ([IP/11/160](#)) to review its tax rules in order to ensure compliance with EU law, but no action has been undertaken until now.

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

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

## **New UN practical manual on Transfer Pricing for developing countries**

On 29 May 2013, the UN Committee of Experts on International Cooperation in Tax Matters issued the final release of its Practical Manual on Transfer Pricing for Developing Countries.

In the authors' intention, the manual is a response to the need, often expressed by developing countries, for clearer guidance on the policy and administrative aspects of transfer pricing analysis to some of the transactions of multinational enterprises. The guidelines are not only designed to assist policy makers and administrators in dealing with complex transfer pricing issues, but also taxpayers in their dealings with tax administrations.

Thus, similarly to the OECD Guidelines, the Manual serves strictly as practical guidance, not as a legislative proposal or mandatory policy, and therefore much effort has been spent in trying to reflect complicated issues in a simple and clear examples. Differently from OECD guidelines, the UN guidelines emphasise the aspect of transfer pricing practices characteristic to the developing countries' economies, i.e. labour intensive manufacturing. Another relevant difference is that the Manual includes country-specific chapters, in which Brazil, China, India and South Africa all list either the transfer pricing system in place in their country or issues of particular concern for their respective jurisdiction. Considering the main role that these countries play in the group of developing countries, this serves as an example of successful (best) practices.

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

Manual: [EN](#)

## **OECD revises safe harbours Transfer Pricing guidelines**

On 16 May 2013, the OECD Council approved the revision of the provisions on safe harbours in the Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations (TPG), as conclusive moment of a revision procedure started in June 2012 involving a public consultation opened last November.

Most important feature of the new guidelines is to provide greater certainty for cases involving small-

er taxpayers or less complex transactions, relieving compliance burdens and helping to design a transfer pricing compliance environment that makes optimal use of the resources available.

The previous guidance where not specifically supporting transfer pricing safe harbours, not reflecting the point of view of a growing number of OECD Member countries which adopt transfer pricing safe harbour provisions. Also, the existing guidelines were largely silent with regard to the possibility of a bilateral agreement establishing a safe harbour, even though some countries have favourable experience with such bilateral agreements.

The revised guidelines recognise that properly designed safe harbours can help to relieve some compliance burdens and to provide taxpayers with greater certainty. They encourage, under the right circumstances, the use of bilateral or multilateral safe harbours, as they may provide a significant relief from compliance burdens without creating problems of double taxation or double non-taxation. Moreover, to facilitate negotiations between tax administrations, the new guidance provides sample memoranda of understanding for competent authorities to establish bilateral safe harbours for certain classes of transfer pricing cases.

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

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

Revised Safe Harbours Section: [EN](#)

## **Survey on corporate income tax regimes for SMEs open until 21 June**

CFE has been asked by the German research institute ZEW and a consultancy to help provide input to a study which is trying to assess the actual benefit of specific income tax treatment of SMEs, currently carried out for the European Commission (see [CFE European Tax & Professional Law Report April 2012](#)). Input can be provided until 21 June 2013.

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

Online survey: [EN](#)

The questionnaire in pdf format can be obtained from the [CFE Office](#).

## DIRECT TAX

### Netherlands asked to abolish selective tax exemption for public companies

On 2 May 2013, the EU Commission has formally asked the Netherlands to abolish the exemption from corporate tax granted to Dutch public undertakings. The Commission considers that public companies that carry out economic activities in competition with private companies should reasonably be subject to corporate tax, just as private companies are. Exempting certain companies merely because they are publicly owned gives them a competitive advantage, which cannot be justified under EU state aid rules.

There are a number of exceptions from this exemption (certain sectors, like farming or mining, and certain publicly owned companies, like Schiphol airport in Amsterdam or the National Lottery), but the majority of the economic activities carried out by public bodies, including all services, and many publicly owned companies, are formally exempt from corporate tax.

In July 2008, following a number of complaints, the Commission informed the Dutch authorities of its preliminary view that its measure were considered distortive of competition in the internal market, in breach of Article 107 TFEU, as considered constituting a selective advantage for public companies. Now two different solutions have been set out to overcome this: abolishing the corporate tax exemption for economic activities by all public bodies, or, alternatively, abolishing the corporate tax exemption only for publicly owned companies, provided that all economic activities currently carried out by the public administration are hived off into publicly owned companies subject to corporate tax.

The Netherlands now have to inform the Commission within one month whether they intend to agree the proposed amendments. In absence of an agreement, the Commission may open a formal state aid investigation.

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

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

## INDIRECT TAX

### Commission requests UK to amend its legislation on boats fuel

The European Commission has formally requested the United Kingdom to ensure that private boats will no longer use lower taxed fuel.

Under EU rules on fiscal treatment of fuels, fishing vessels benefit from a lower tax rate, and this must to be assured by marking lower taxed fuel with colored dye and by imposing fuel distributors to operate using two separate fuel tanks. Private leisure boats should not use fuel intended for fishing, but UK legislation still not requires distributors to adopt separate cisterns, as mandatory.

The Commission's request takes the form of a reasoned opinion. In the absence of a satisfactory response within two months, the Commission may refer the United Kingdom to the EU's Court of Justice.

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

Press release (May 2013 infringement package):  
[EN](#) [FR](#) [DE](#) (several languages available)

### Cross-border VAT rulings test case

The European Commission has set up the EU VAT Forum in 2012 in order to help business and tax authorities in improving the way VAT works in practice.

Thirteen Member States (Belgium, Estonia, Spain, France, Cyprus, Lithuania, Latvia, Malta, Hungary, Netherlands, Portugal, Slovenia and the United Kingdom) have agreed to participate in a test case for private VAT ruling requests relating to cross-border situations, starting on 1 June 2013.

CFE is one of the 15 organisations admitted to the Forum, appointed for a three-year mandate.

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

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

## INDIRECT TAX

### VAT derogation for Czech Republic and Poland

On 14 May 2013, the EU Council adopted a decision authorising the Czech Republic and Poland to apply measures derogating from Article 5 of EU VAT Directive 2006/112/EC. The decision defines specific rules on the territorial application of VAT regarding the construction and maintenance of border bridges and common road sections between the countries. Aim is to set out a simplified VAT regime for these services.

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

Press release (see page 27): [EN](#)

### ECJ: Belgium could refuse VAT refund in case of incomplete invoices, despite of other information provided later – Petroma Transports

On 8 May 2013, the European Court of Justice decided in case C-271/12, Petroma Transports, that the former “6th” VAT Directive 77/388/EEC, must be interpreted as not precluding national legislation under which the right to deduct VAT may be refused to taxable persons who are recipients of services and in possession of incomplete invoices, even if those invoices are supplemented by information seeking to prove the occurrence, nature and amount of the transactions invoiced after such a refusal decision was adopted. The preliminary ruling case had been referred to the ECJ by the Cour d’appel of Mons/Belgium.

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

Judgment: [EN](#) (other languages available)

### ECJ: Member state may refuse repayment of VAT levied in infringement of EU law where this would lead to unjust enrichment - Alakor

On 16 May 2013, the European Court of Justice decided in the preliminary ruling case C-191/12, Alakor, that the principle of repayment of taxes levied in infringement of EU law does not preclude a Member

State from refusing to repay part of the VAT, the deduction of which had been precluded by a national measure contrary to European Union law, on the ground that that part of the tax had been subsidised by aid granted to the taxable person and financed by the EU and by that State, provided that the economic burden relating to the refusal to deduct VAT has been completely neutralised.

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

Judgment: [EN](#) (other languages available)

### ECJ rules on VAT consequences of the cessation of taxable economic activity –Marinov case

On 8 May 2013, the European Court of Justice ruled in the preliminary ruling case C-142/12, Marinov, in which reference for a preliminary ruling had been made by the Administrative Court of Varna/Bulgaria. According to the ECJ, the VAT Directive also covers the cessation of the taxable economic activity as a result of the removal of the taxable person from the VAT register. The Directive precludes a provision of national law under which, in the event of the cessation of the taxable economic activity, the taxable amount of the transaction is to be the open market value of the assets in existence at the time of that cessation, unless that value corresponds in practice to the residual value of those goods at that date and account is thus taken of the change in the value of those goods between the date of their acquisition and the date of the cessation of the taxable economic activity. The relevant Article 74 of VAT Directive has direct effect.

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

Judgment: [EN](#) (other languages available)

### ECJ rules on the time at which VAT liability arises – TNT Poland

On 16 May 2013, the European Court of Justice ruled in the preliminary ruling case C-169/12, TNT Poland, that the VAT Directive precludes national legislation which provides that, in respect of transport and shipping services, VAT becomes chargeable on the date on which payment is received in full or in part, but no later than 30 days from the date on which those services are supplied, even where the invoice has been issued earlier and specifies a later deadline for payment.

## INDIRECT TAX

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

Judgment: [EN](#) (other languages available)

### ECJ rules on reimbursement of excise duty for products transported to another member state after release for consumption in the first state –Scandic Distilleries

On 30 May 2013, the European Court of Justice ruled in the preliminary ruling case C-663/11, Scandic Distilleries, in which reference for a preliminary ruling had been made by the Court of Appeal of Oradea/Romania. The ECJ decided that the EU excise duty rules have to be interpreted that, when products, which are subject to excise duty that has been paid and which have been released for consumption in one Member State, are transported to another Member State where those products are subject to excise duty, which has also been paid, a request for reimbursement of the excise duty paid in the Member State of departure may not be refused on the sole ground that that request was not made before those goods were dispatched. This is different if the excise duty has not been paid in the Member State of destination.

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

Judgment: [EN](#) (other languages available)

Opinion of Advocate-General Sharpston: [EN](#) (other languages available)

### ECJ decides on the concept of ‘transfer of a totality of assets or part thereof’ in the VAT Directive

On 30 May 2013, the European Court of Justice decided in preliminary ruling case C-651/11, in which reference for a preliminary ruling had been made by the Dutch Supreme Court Hoge Raad, that the disposal of 30% of the shares in a company to which the transferor supplies services that are subject to VAT does not amount to the transfer of a totality of assets or services or part thereof within the meaning of Articles 5(8) and/or 6(5) of the VAT Directive, irrespective

of the fact that the other shareholders transfer all the other shares in that company to the same person at practically the same time and that that disposal is closely linked to management activities carried out for that company.

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

Judgment: [EN](#) (other languages available)

## TAX ADMINISTRATION

### IOTA Monitoring of Efficiency of Tax Audits

On 15-17 May 2013, the IOTA (Intra-European Organisation of Tax Administrations) delegates discussed in Budapest about the challenge of monitoring direct and indirect impact and efficiency of tax audits in the current period of budgetary constraints, in other words of having to do better with less resources.

Important conclusions for the taxpayers’ side are that future audits will be increasingly based on risk analysis for target selection and supported by early and light interventions, more information will be provided by tax administration websites, in order to stimulate spontaneous compliance.

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

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

### OECD publishes comparative survey on tax administration in 52 jurisdictions

On 17 May 2013, the OECD published “Tax Administration 2013”, a comprehensive survey of tax administration systems and practices across 52 advanced and emerging economies (including all OECD, EU, and G20 members). Its starting point is the premise that revenue bodies can be better informed and work more effectively together given a broad understanding of the administrative context in which each operates. The series identifies some of the fundamental elements of modern revenue bodies and uses data, analysis and country examples to identify key trends, comparative levels of performance, recent developments and examples of good practice. This 5th edition also contains a new section dealing with revenue bodies’ support of tax intermediaries.

## TAX ADMINISTRATION

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

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

Full report: [EN](#) (read-only version)

## ADMINISTRATIVE COOPERATION AND FIGHT AGAINST TAX FRAUD

### European Council: 10 points on tackling of tax evasion, tax fraud, aggressive tax planning and money laundering

On 22 May 2013, leaders of the European Union agreed on 10 main points to set out the strategy to tackle tax evasion, tax fraud, aggressive tax planning and money-laundering.

Most important decisions concern the extension of automatic exchange of information covering the whole range of incomes and promoting automatic exchange of information as the new international standard), new plans for finalizing the cross-border savings tax legislation (The European Commission received a mandate to negotiate amendments to EU agreements with Switzerland, Liechtenstein, Monaco, Andorra and San Marino, while Austria and Luxemburg gave conditioned pledge to adopt the Savings Directive by the end of 2013) and the efforts to carry forward the Commission's recommendations on aggressive tax planning and profit shifting (through the presentation of a proposal for the revision of the Parent-Subsidiary Directive and the review of the anti-abuse provisions in relevant EU legislation).

The Council will report back on progress on all these issues by December 2013.

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

[European Council conclusions](#) (all EU languages)

### OECD Forum on Tax Administration releases communiqué on fight against evasion while increasing business confidence

On 17 May 2013, the OECD Forum on Tax Administration, a group created in 2002 to promote dialogue between tax administrations and to identify good tax administration practices, released a document on fighting offshore tax evasion, promoting automatic exchange of information and increasing trust of businesses. The communiqué indicates that the UK, the US and Australia have gathered a very significant amount of data on complex offshore structures, announcing it will now be used to detect tax evasion structures. Countries are requested to exchange information they might receive from the International Consortium of Investigative Journalists, responsible for the "offshore leaks" in early April 2013. The Forum members also announce that a framework for cooperative compliance for large business has been developed and adapted also to SMEs.

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

Communiqué: [EN](#)

### New mandate to EU Commission for negotiating with 5 extra-EU jurisdictions

On 14 May 2013, The EU Council gave a mandate to the Commission for negotiating amendments to the EU's agreements on the taxation of savings income with Switzerland, Liechtenstein, Monaco, Andorra and San Marino.

The Commission will negotiate on the basis of its 2008 proposal for a revision of the savings directive (2003/48/EC), to ensure that these five countries continue to apply measures equivalent to the EU Directive, even after an update of this Directive.

The planned amendments reflect the need to consider the evolution in savings products and developments in investor behaviour since the first version of the directive came into force in 2005 by enlarging its scope to include all types of savings income, as well as products that generate interest or equivalent income, and by providing a „look-through“ approach for the identification of beneficial owners.

The mandate represents an important step in the EU's efforts to clamp down on tax evasion and tax fraud on cross-border basis.

## ADMINISTRATIVE COOPERATION AND FIGHT AGAINST TAX FRAUD

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

Press release: [EN](#) [FR](#) (see pp.10 f)

### Twelve new signatories for OECD's Multilateral Convention

On 29 May 2013, 12 more countries have signed, or have committed to sign, the OECD's Multilateral Convention on Mutual Administrative Assistance in Tax Matters. In addition, another 6 countries have ratified the Convention.

Austria, Belize, Estonia, Latvia, Luxembourg, Nigeria, Saudi Arabia, Singapore and the Slovak Republic signed the Convention. Burkina Faso, Chile and El Salvador signed a letter of intention to sign the Convention. Belize, Ghana, Greece, Ireland, Malta, and the Netherlands including its Caribbean islands and Aruba, Curaçao and Sint Maarten deposited their instruments of ratification. In addition, Morocco recently signed the Convention.

Facts reflect the aim of tax authorities to move from bilateral to multilateral cooperation and from exchange of information on request to other forms of co-operation such as automatic exchange of information, in response to the increase in number and in complexity of cross-border transactions. The Convention provides a comprehensive multilateral framework for such co-operation and complements other initiatives, such as a standardized multilateral automatic exchange model, developed by the OECD and its G20 partners.

The Convention also provides for spontaneous exchange of information, simultaneous tax examinations and assistance in tax collection, ensuring, nevertheless, the rights of taxpayers by protecting the confidentiality of the information exchanged.

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

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

## OTHER TAX POLICY

### European Parliament resolution against Tax Fraud, Tax Evasion and Tax Havens

On 21 May 2013, the European Parliament gathered in Strasbourg for the plenary session adopted (non-legislative) recommendations to endorse a common European strategy against tax fraud, evasion and havens, on the initiative of Slovenian social democrat MEP Mojca Kleva Kekuš.

The European Commission and Parliament believe that tax non-compliance costs the EU taxpayer an estimated €1 trillion euro per year in lost potential revenue. Thus, EU Parliament issued an all-embracing document addressing MEP's priorities and requests for concrete action to EU Commission, EU Member states and other main institution in order to counteract tax law breaches and to reduce the tax gap. The measures demanded concern a wide number of tax issues, i.a., a mandatory CCCTB, transfer pricing, hybrid mismatches, a VAT quick reaction mechanism, country-by-country reporting of tax payments, FATCA or the way the EU should pursue its goals at international level.

Most remarkable appears the request to the Commission to prepare and promote a Code of Conduct for auditors and advisers. According to MEPs, firms should alert national tax authorities of any signs of aggressive tax planning of the company, and auditors should not be allowed to provide prohibited non-audit services, whereas tax advisory services relating to structuring transactions and tax consulting should be regarded as such.

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

Press release: [EN](#) (all EU languages)

Adopted text: [EN](#) (all EU languages)

### New Taxation working paper on the impact of fiscal devaluation

On 16 May 2013, the European Commission presented DG TaxUD's working paper '36 on the impact of fiscal devaluation.

As Member States, having joined the Economic and Monetary Union, cannot decide an autonomous exchange rate policy as an instrument to face macroe-

## OTHER TAX POLICY

conomic imbalances any more, interest is growing on the opportunity of mimicking the effects of an external devaluation by a tax swap called internal or fiscal devaluation.

Fiscal devaluation consists in a budget-neutral reduction of payroll taxes matched by changes in other taxes or in government expenditures. I.e., a reduction of employers' social security contributions is financed by raising the VAT rate, this constituting a measure that might, at the same time, stimulate the economy. When nominal wages are not immediately adjusted to the reduction in the social security contribution rate, labour costs are reduced and net exports increase. A higher VAT rate depresses consumption and imports, while exports remain exempted from VAT. As a consequence, output are expected to expand and the trade balance improves.

This study examines the effectiveness of fiscal devaluation, with specific forum on its impact on France, Italy, Spain and Austria.

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

Working paper #36: [EN](#)

### European Parliament's Annual Tax Report

On 21 May 2013, the EU Parliament has adopted its (non-legislative) Annual Tax Report on a basis of a draft report by MEP Ildikó Gáll-Pelcz (EPP, Hungary), focused on how to free the EU potential for economic growth.

The reports move from considering how the recent debt crisis has raised several problems in the EU which require the proper adjustment of tax policies. While taking into account the fact that taxation policies still remain a competence of national sovereignty, the Parliament stressed that barriers of the internal market and the uncertainties and misunderstandings originating from the legal gaps should be suppressed as soon as possible.

As a possible solution to the abovementioned problems, the Annual Report suggests to create a so-called intelligent and coordinated 'tax-snake' system, which instead of harmonizing the tax systems of all the Member States would better coordinate them, considering the existing tax cuts and tax increases within the national systems.

The report points out the need to introduce structural reforms in the fiscal system, but nevertheless grants priority to growth-oriented fiscal measures and to the promotion of taxes levied more on consumption than on labour, since they are better designed to stimulate economic growth and employment on the long term.

Similarly, since the questions of double taxation and tax evasion still represent considerable problems and cause significant budget losses to the EU member states, the report draws the attention to the necessity of finding an urgent solution to these problems.

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

Annual Tax Report: [EN](#) (other languages available)

### Commission considers introducing tax payments publishing for all large companies

Following the European Council meeting of 22 May 2013, the European Commission, reportedly, is considering extending the obligation to publish tax payments also on large companies and groups in other sectors than the extractive industries (gas, oil, mining, logging), on a country by country basis. Only in April 2013, European Parliament and Council had reached agreement on a reform of the "4th" Accounting Directive, introducing reporting of government payments for that group of companies (see [CFE European Tax & Professional Law Report April 2012](#)).

According to the reports, the Commission considers expanding the scope of its April 2013 proposal for a Directive on Non-financial Corporate Reporting, which presently only covers increased transparency for social and environmental issues. This would mean two separate sets of new EU rules containing obligations to publish tax payments.

In a speech, Internal Market and Services Commissioner Barnier said that he was aiming to have the proposal approved before the European Parliament elections in May 2014.

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

Directive proposal COM(2013)207 of 16 April 2013: [EN](#) (other languages available)



## STATE AID

### Commission reopens Electricité de France case

The European Commission has reopened an inquiry with regards to certain tax measures related to the electricity grid, supposed to represent an unauthorised state aid towards Electricité de France (EDF).

This follows the judgment handed down by the ECJ (Case C-124/10 P) in June 2012, that, annulling the Commission's initial decision (see IP/03/1737), pointed out how the Commission failed to check whether a prudent private investor would have acted in the same way as the French authorities. As a result, the Commission has reopened the inquiry, now covering this aspect. Opening an inquiry does not prejudge the final outcome in any way, as it simply gives interested parties the opportunity to submit their observations.

The case takes origin from the favourable fiscal treatment granted to EDF by the French authorities in occasion of a restructuring of the balance sheet, operated after the creation of accounting reserves, with a view to renovating the grid. Following an in-depth examination, the Commission decided that the non-payment of corporation tax on these provisions had conferred a selective advantage on EDF and amounted to state aid that was incompatible with the internal market, however not applying the mandatory "private investor" test.

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

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

### Flemish legislation on land and real estate is contrary to EU law

On 8 May 2013, the European Court of Justice has ruled in joined cases C-197/11 and C-203/11, that the decree of the Flemish Region of Belgium on land and real estate policy that links the transfer of immovable property in certain communes to the condition that there exists a sufficient connection between the prospective buyer or tenant and the relevant commune and also imposes an obligation on subdividers and developers entailing the delivery of social housing units, while providing for tax incentives and subsidy mechanisms, is contrary to EU Law.

The Constitutional Court of Belgium, before which several applications for annulment of the decree have been brought, had raised this question by referring to

the ECJ for preliminary ruling.

In its judgment, the ECJ has stated that the decree constitutes a restriction on the fundamental EU freedoms, not justified by the reason claimed by the Flemish Government of responding to the housing needs of the less affluent local population in the target communes. Moreover, the ECJ considers that, as the Decree provides for an incentives and subsidy mechanism, it is liable to be classified as state aid. Therefore, the referring court has to determine, in the light of the guidance given by the Court, whether those measures should be classified as said.

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

Press release: [EN](#) [FR](#) [DE](#) [CS](#) [ES](#) [EL](#) [IT](#) [HU](#)  
[NL](#) [SK](#)

Judgment: [EN](#) (all EU languages)

Opinion of Advocate General Mazák: [EN](#) (all EU languages)

## CUSTOMS

### The self-assessment questionnaire for AEOs now available in 20 languages

The self-assessment questionnaire for Authorised Economic Operators (AEO) is a practical tool to enable an economic operator to check whether he qualifies for that specific status, implying important simplification in custom rules. The Commission strongly recommends that it be submitted together with the application for the AEO status.

The self-assessment questionnaire agreed between EU Member States and the European Commission guarantees a uniform approach throughout EU. Now the number of language versions of the questionnaire and its explanatory notes has been increased to 20, as announced by the EU Commission on 2 May 2013.

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

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

## OTHER EU POLICY

### Council conclusions on SEPA

At the EU Ecofin Council meeting on 14 May 2013, the Council of the EU adopted its latest conclusions on the Single Euro Payments Area (SEPA).

The Council welcomes the entering into force of Regulation 260/2012 (SEPA Regulation) that, establishing technical and business requirements for credit transfers and direct debits in Euro, mandates migration from national credit transfer and direct debit schemes to SEPA Credit Transfer and SEPA Direct Debit in the euro area by 1 February 2014. The Council points out that this is a significant step towards a truly integrated market for retail payments in Euro and highlights the importance of all the Member States participating in the monetary area to fully respect the new provisions.

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

Press release: [EN](#)

### Council adopts „two-pack“ on economic governance

On 13 May 2013, the EU Council adopted the so-called „two-pack“ of regulations aimed at further improving economic governance in the euro area. Main measures are a regulation on enhanced monitoring and assessment of draft budgetary plans of euro area member states, with closer monitoring for those in an excessive deficit procedure, and a regulation on enhanced surveillance of euro area member states that are experiencing or threatened with serious financial difficulties, or that request financial assistance.

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

Press release: [EN](#)

### EU country-specific recommendations 2013

On 29 May 2013, the European Commission has adopted the annual recommendations to Member States, as instrument to move Europe beyond the crisis and promote growth. Recommendations are country-specific, because based on analysis of each

country's situation, in order to provide guidance to governments on how to not only rebalance their budgetary situation, but also boost their growth potential, increase competitiveness and create jobs in the near future. This touches upon a number of tax issues like VAT exemptions or reduced rates, tax on labour or . For some countries, the recommendations suggest removing restrictions to professional services.

As part of today's package, which marks the culmination of the third European Semester of policy coordination, the Commission has also adopted several decisions under the Excessive Deficit Procedure. Most Member States are making progress on fiscal consolidation and are implementing reforms to increase competitiveness. However, the pace and impact of these efforts varies, as some Member States need to accelerate reforms or to implement them with greater urgency.

Taken together, measures on fiscal consolidation, socio-economic structural reform and growth promotion represent an ambitious set of reforms for the EU economy, to be considered as elements of a comprehensive strategy to move Europe beyond the crisis.

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

European Semester website: [EN](#) (all EU languages)

Statistics on taxation in the context of the recommendations: [EN](#)

### EU Parliament aiming to set up a single EU bank supervisory system

On 22 May 2013, the European Parliament approved the draft of new legislation aiming to set up a single EU bank supervisory system. Still, the legislation has not yet been adopted but referred back to the responsible ECON (Economic and Monetary Affairs) Committee. According to the MEPs' point of view, accountability rules must match the supervisory powers created at or transferred to EU level and the European Central Bank, in its supervisory role, would be requested to be much more open and accountable than for its monetary policy functions.

The ECB would supervise the Eurozone's largest banks directly and have a say in supervising other banks, but also have wider accountability obligations towards the EU and national parliaments and the European Bank Authority. A strict division of ECB staff between monetary policy and supervision roles, to ensure accountability of the ECB supervisory arm, has been laid down.

## OTHER EU POLICY

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

Press release: [EN](#) (all EU languages)

## CROSS-BORDER TAX ADVICE

### European Commission looking for experience of practitioners with cross-border insurance

On 27 May 2013, the European Commission has opened a public consultation, asking for the experience with professional indemnity insurance that enterprises and professionals had when providing their services cross-border. The simple online questionnaire does not give the possibility to state reasons why respondents are in favour or against professional indemnity insurance requirements. The European Commission is currently looking for a solution to make cross-border professional indemnity insurance cover better available for service providers. The consultation will be open until 16 August 2013.

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

European Commission website: [EN](#)

### Commission publishes study evaluating the legal framework for the free movement of lawyers

This study published on 6 May 2013 has been carried out by the Dutch research institute and consultancy Panteia and the University of Maastricht. In its assessment, it takes into account regulatory and market developments affecting the legal profession, trying to assess whether the objectives of the two lawyers' Directives on free movement (77/249/EEC) and establishment (98/5/EC) have been met. The study finds that "cross-border provision of lawyers' services has become a common, largely unproblematic practice". Problems however persist to the extent that lawyers practicing cross-border have to respect the deontological rules of both their home and host country. The study suggests that only one set of rules should apply, depending on whether the activity is temporary or permanent.

It also proposes that the Directive should state that a lawyer should have professional indemnity insurance for temporary mobility. The study finds that administrative hindrances remain in case of permanent mobility, suggesting a more harmonised admission procedure with the bar associations. In the opinion of the researchers, a separate legal framework for the mobility of lawyers should be maintained. The study also comments on in-house lawyers, favouring the recognition of such possibility by all countries and ownership of law firms by non-lawyers ("alternative business structures"). For the part that concerns multidisciplinary partnerships, CFE has been interviewed as well.

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

Full study: [EN](#)

Summary: [EN](#)

## AUDIT

### EP JURI Committee vote on Audit Directive and Regulation

Already on 25 April 2013, the European Parliament's JURI Committee adopted the reports on the new EU Audit Regulation for public interest entities and the revised EU Audit Directive. Both contain substantial amendments both to the European Commission proposal and to the draft reports by MEP Sajjad Karim (UK, Conservatives), tabled in September 2012:

The JURI text of the Regulation proposal does no longer prohibit requirements in member states that the firm of a share thereof be owned by members of the profession. Also the inclusion of voluntary audits has been deleted, meaning that tax advisers could continue to carry out audits of partnerships or small companies if their national law allows them to. The JURI has also pushed back the attempt to shift public oversight completely to state authorities.

The Commission's proposal for an Audit Regulation contained a prohibition of auditors of public-interest entities to provide tax advice to the same entity. Instead of such prohibition, the JURI favours a solution according to which the company's audit committee may approve that both kinds of services are provided by the same firm.

The EP plenary vote is now envisaged for 19 November 2013.

## AUDIT

The audit proposal was also discussed in the EU Competitiveness Council meeting on 29/30 May 2012.

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

Audit Directive proposal, JURI amendments: [EN](#)

Audit Regulation proposal, JURI amendments [EN](#)

Council press release, see pages 10-12: [EN](#)

## CFE PUBLICATIONS

### CFE revises European Professional Affairs Handbook for Tax Advisers

The CFE presents the 2nd edition of its European Handbook on professional affairs issues for tax advisers.

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

Order at [IBFD](#) / more information: [CFE Website](#)

## CFE EVENTS

**Save the Date : 6th CFE Professional Affairs Conference -  
“Change of climate in taxation:  
Stormy Weathers for tax advisers?”  
on 22 November 2013 in Milan**

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

CFE website: [EN](#)

**International Tax Forum  
“International Tax Strategies: an  
outlook on current worldwide  
developments and the Russian  
perspective”**

The International Tax Forum, organised by the Russian Chamber of Tax Advisers on the topic “International Tax Strategies: an outlook on current worldwide developments and the Russian perspective” will take place on Thursday 19 September 2013 in St. Petersburg, Russia.

*Please note that the deadline to register is 30 June 2013.*

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

CFE website: [EN](#)

## IMPRESSUM



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