



DIRECT TAX

No agreement in Council on subject to tax clause in Parent-Subsidiary proposal

The EU Ecofin Council on 6 May 2014 failed to reach agreement on the subject to tax clause in the proposal for a revised Parent-Subsidiary Directive. The proposal essentially contains two parts, a harmonised anti-abuse rule and a subject to tax clause designed at preventing double-non taxation of hybrid loan payments from subsidiaries to parent companies in another EU member state. While reportedly, agreement is more realistic on the subject to tax clause, the anti-abuse rule appears to have little chances of reaching unanimity. This is why the Greek Council presidency had proposed splitting the dossier.

Opposition to the subject to tax clause came from Sweden. According to press reports, Sweden indicated on 28 May that it could lift its opposition if the Commission was ready to include a statement in the Council minutes that the subject-to-tax clause would only apply to double non-taxation leading to unintended tax benefits and that it should not apply if it generates double taxation. Malta meanwhile has raised concerns about the obligation of the parent company's member state to tax profits that are deductible by the subsidiary.

The proposal has been scheduled for adoption at the Council meeting on 20 June 2014.

The CFE has commented on the dossier in its Opinion Statement FC 10/2014.

READ MORE (click to open):

Council press release: [EN](#)

Statement by Commissioner Šemeta: [EN](#) (FR available)

CFE Opinion Statement FC 10/2014: [EN](#)

OECD publishes BEPS comments received on hybrid mismatches

The OECD has published the comments received to its public consultation on "neutralising the effects of hybrid mismatch arrangements" (BEPS Action 2). The 457 pages received include the Opinion Statement FC 9/2014 of the CFE, submitted on 2 May 2014.

READ MORE (click to open):

Hybrid mismatches comments: [EN](#)

Opinion Statement FC 9/2014: [EN](#)

INDIRECT TAX

VAT Committee guideline on the treatment of importation of small consignments

On 28 May 2014, the European Commission's VAT Committee has published a guideline on the VAT treatment of importation of small consignments. The VAT Committee consisting of the Commission and EU member states seeks to promote the uniform application of the provisions of the VAT Directive. Its guidelines are not legally binding.

READ MORE (click to open):

VAT Committee Guideline: [EN](#)

ECJ Advocate-General: Facilities provided by a third party may create a fixed establishment

On 15 May 2014, EU Court of Justice Advocate-General Juliane Kokott has delivered her opinion on fixed establishment in VAT in the Polish case C-605/12, Welmory. The case concerns an internet site operated by a company in Cyprus using infra-

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structure in Poland belonging to a Polish company. The Polish tax authority considered that the services supplied to the Cypriot company were subject to Polish VAT, arguing that the services provided by the Polish company for the Cypriot company constituted a fixed establishment of the latter in Poland at which those services were received. According to the (non-binding) opinion, when assessing whether a company has human and technical resources in another state to be considered a fixed establishment, resources provided by a third party may be sufficient, if the local infrastructure can be used as if it belonged to the company receiving the services.

READ MORE (click to open):

Opinion: **DE** (available in several EU languages, not EN)

ECJ Advocate-General: Different VAT treatment of books and audiobooks can be justified

EU Court of Justice's Advocate-General Paolo Mengozzi has issued his opinion in a Finnish case (C-219/13) on the justification of a different VAT treatment of books and audiobooks. According to EU VAT rules, member states may apply a reduced VAT rate to all books on a physical medium, including paper, CD-ROM or USB sticks. Finland applies the reduced rate only to paper books. The Advocate-General suggests that the differences between paper books and contents only accessible by means of a playing device could justify a different treatment. The opinion is not binding.

READ MORE (click to open):

Opinion: **FR** (available in several EU languages, not EN)

ECJ: National law may not deny right to reduction of VAT taxable amount in case of cancellation, refusal, non-payment or price reduction after supply

On 15 May 2014, the European Court of Justice

delivered its judgment in preliminary ruling case C-337/13, *Almos*, upon reference from the Hungarian Supreme Court (Kúria), stating that taxable persons may rely on the VAT Directive before national courts against the Member State to obtain a reduction of their taxable amount for VAT in case of cancellation, refusal, non-payment or price reduction after the supply takes place. National law may impose formalities which serve to prove that the conditions for the reduction have been met, to the extent these proofs are necessary.

READ MORE (click to open):

Judgment: **EN** (all EU languages)

Financial Transaction Tax to be introduced progressively

The 10 countries willing to introduce a Financial Transaction Tax by way of enhanced cooperation informed the EU Council of their intention to work on a progressive implementation, focusing initially on the taxation of shares and some derivatives. The first steps would be implemented at the latest on 1 January 2016. Slovenia has left the group which may however be temporary only. The remaining members are Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovakia and Spain.

READ MORE (click to open):

Council press release: **EN**

Commission to host Warsaw event on new VAT Mini One Stop Shops

The European Commission is planning to host an event on 9 September 2014 in Warsaw to inform businesses about the new 2015 VAT rules and the "Mini One Stop Shops" for e-services, broadcasting and telecom operators. Further information will be published at a later stage.

ADMINISTRATIVE COOPERATION AND FIGHT AGAINST TAX FRAUD

OECD members and further countries endorse declaration for automatic exchange of information

On 6 May 2014, the 34 OECD member states plus 13 further countries including EU countries Latvia and Lithuania as well as Brazil, China and India, have made a joint "Declaration on Automatic Exchange of Information in Tax Matters", confirming their willingness to implement the OECD information exchange standard presented on 13 February 2014 into national law. Information would be exchanged on a reciprocal basis and subject to "certain confidentiality requirements". Technical details of this standard are currently being elaborated and are due to be presented in September 2014. On 19 March 2014, there had already been a statement of a smaller group of "early adopters" of the standard.

READ MORE *(click to open)*:

OECD news release: [EN](#)

Declaration: [EN](#)

Switzerland getting ready for automatic information exchange

On 21 May 2014, the Swiss government has adopted draft mandates for the introduction of the global standard for automatic tax information exchange. These are to be finally adopted in autumn, following consultation with the parliamentary committees and the Cantons.

OTHER TAX POLICY

Digital economy working group publishes final report

On 28 May 2014, the independent working group on taxation of the digital economy, set up by the European Commission in autumn 2013, delivered its final report. The report is not in favour of a different tax treatment of the digital sector. Among the recommendations is an expansion of the VAT Mini One Stop

Shop to all goods and services in business-to-consumer transactions.

READ MORE *(click to open)*:

Press release: [EN](#) (DE FR LT PT available)

Final report: [EN](#)

OECD reports progress on tax agenda

On the occasion of the meeting of the OECD Council at ministerial level on 6 May 2014, the OECD has released a document providing an overview on the progress achieved and the next steps in various OECD tax dossiers, namely BEPS, exchange of information and tax and development.

READ MORE *(click to open)*:

Report: "Bringing the international tax rules into the 21st century": [EN](#)

BEPS update available online

The update webcast on the OECD BEPS Project and its September 2014 deliverables, broadcasted on 26 May 2014, is available on-line. The topics dealt with include

- Transfer pricing documentation and template for country-by-country reporting
- Tax treaty abuse
- Tax challenges of the digital economy, and
- Hybrid mismatch arrangements.

READ MORE *(click to open)*:

Webcast: [EN](#)

STATE AID

Commission approves Spanish cinema support scheme

On 19 May 2014, the European Commission has announced that amendments to a Spanish scheme allowing to grant tax deductions for cinema and audiovisual productions are in line with EU state aid rules. The Commission concluded, in particular, that the benefit of the scheme is not contingent on spending a certain proportion of the production costs in Spain and therefore complies with the November 2013 EU criteria for cinema support.

READ MORE (click to open):

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

OTHER EU POLICY

European tax advisers' priorities in EU policy: Goals for the next 5 years ahead

On the occasion of the European elections, the CFE has published a joint Opinion Statement of its Fiscal and Professional Affairs Committees, containing the main expectations of European tax advisers towards the European institutions. The 8 priorities concern solutions to double taxation, tax sovereignty, transparency, the design of tax rules, recognition of taxpayer rights, respect of professional privilege of tax advisers, facilitation of VAT compliance and coordination with the OECD.

READ MORE (click to open):

Opinion statement FC 11/2014, PAC 2/2014: [EN](#)

Commission approves public service compensation measures for the French post

On 26 May 2014, the European Commission has concluded that tax relief granted by France to the French post to ensure that a high density of postal services is maintained over the period 2013-2017 is in line with EU rules on state aid. It has also authorised the payment of a grant to fund La Poste's task of transporting and delivering the press over the period 2013-2015. The Commission considered that the two aid measures are not likely to unduly distort competition in the Single Market, in particular because they only partially offset the net costs of the public service tasks incumbent on La Poste.

READ MORE (click to open):

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

ECONOMIC POLICY

OECD evaluates restrictions to services in 40 countries and makes economic policy recommendations for Germany

The OECD has published its "Services Trade Restrictiveness Index", measuring the degree of restrictions to cross-border services among its member states and selected other countries in different sectors, including accounting and legal services. Criteria used include restrictions to legal form, ownership and management, recognition of professional qualifications as well as fee and advertising rules. According to the index, Poland, Portugal and Switzerland are the most regulated CFE countries in accounting, while the Netherlands, the Czech Republic and the UK are at the other end of the scale. In legal services, Slovakia, Austria and Switzerland are found to be most regulated among CFE members while Finland, Sweden and the UK are the least regulated. In both accounting and legal services, the category "restrictions on the movement of persons" is responsible for most restrictions.

On a separate note, the OECD also published economic policy recommendations for Germany on 13 May 2014. Tax recommendations include the reduction of tax exemptions for housing, property and VAT as well as a lowering of taxes on wages. Also the reduction of tax expenditures having a negative en-

ECONOMIC POLICY

Environmental impact such as tax breaks for company cars and commuting are recommended. In professional services, the OECD sees potential in encouraging economic growth by opening reserved activities to a broader range of providers and by reviewing fee rules, which exist for tax advisers in Germany.

READ MORE *(click to open)*:

Services Trade Restrictiveness Index website with interactive tools: [EN](#) (FR available)

Economic survey Germany: [EN](#)

Confédération Fiscale Européenne
-The European Federation of Tax Advisers-
188A, Av. de Tervuren
B-1150 Brussels

Editor: Rudolf Reibel, LL.M., CFE Fiscal and Professional Affairs Officer

If you have any suggestions or questions, please feel free to contact the editor:
brusselsoffice@cfe-eutax.org

Layout: Karima Baakil, Management Assistant

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AUDIT

New EU Audit Regulation and Directive published in Official Journal

On 27 May 2014, the revised EU Audit Directive and the new EU Audit Regulation on audits of public interest entities have been published in the EU Official Journal. The measures contained in the two pieces of legislation shall be applied as of 17 June 2016.

READ MORE *(click to open)*:

[Audit Regulation \(EU\) No 537/2014](#) (all EU languages)

[Audit Directive 2014/56/EC](#)(all EU languages)

IMPRESSUM



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