



BRUSSELS | NOVEMBER 2020

US President-Elect Joe Biden's Tax Plans

In November, the United States elected the Democratic Party candidate Joe Biden as 46th President, while Kamala Harris has made history becoming the first woman elected Vice-President of the United States. After a contentious campaign, the Biden-Harris ticket [won](#) 290 Electoral College votes, thus defeating incumbent Donald Trump's 214 votes. Donald Trump is the first president since 1992 who failed to win a second term in the White House. In a speech following the election, President-elect Biden promised to renew the transatlantic partnership, rebuild relationships and strengthen America's global position, with most of his speech focusing on US domestic policy, contending the Covid-19 impact and rebuilding nation's unity after a bruising campaign.

Biden's tax policy [plans](#) have focused on significant raise of taxes on corporations and individuals earning more than \$400,000 annually. At the same time, Biden has proposed a package of incentives aimed at cutting taxes for lower-income taxpayers. Biden has promised to reverse Trump's legacy \$1.5tn tax cuts, raising the corporate tax rate from 21% to 28%, introduce minimum taxation on all foreign earnings of US overseas subsidiaries and raising the top individual income tax rate to 39.6%. Much of Biden's tax plan implementation depends on the final composition of US Congress, in particular the Senate. The impact of Biden's presidency on the international discussions on taxation of the digital economy held under G20 auspices and facilitated by the OECD, remains unclear at present.

European leaders have congratulated Mr Biden and Ms Harris on their election. On behalf of the EU, Commission President von der Leyen said: "I warmly congratulate Mr Joe Biden on his victory in the US presidential election and look forward to meeting him at the earliest possible opportunity. The EU and the US are friends and allies, our citizens share the deepest of links. Together we have built an unprecedented transatlantic partnership rooted in common history and shared values of democracy, freedom, human rights, social justice and open economy. This partnership has underpinned the liberal rules-based international order for decades and remains a pillar of stability, security and prosperity on both sides of the Atlantic."

OECD Publishes Revised Action 13 Peer Review Methodology

The OECD has published new [methodology documents](#) for BEPS Action 13: Country-by-Country Reporting, following on from the mandate for the peer reviews being extended by the Inclusive Framework in October 2019. The methodology document *“sets out the procedural mechanism by which jurisdictions will complete the peer review from 2020 onwards. This includes the process for collecting the relevant data, the preparation and approval of reports, the outputs of the review and the follow-up process.”*

OECD BEPS Action 13 Report introduced a three-tiered approach to transfer pricing documentation, under which the ultimate parent entity of a group with annual consolidated group revenue equal to or higher than EUR 750 million in the preceding fiscal year is required to file a CbC Report on behalf of the group with its local tax authority. The tax authority with which the CbC Report is filed will exchange the CbC Report with the tax authority in other jurisdictions where the group has operations, under bilateral or multilateral tax treaties or tax information exchange agreements (TIEAs) that permit the automatic exchange of information.

[CFE European Register Webinar: DAC6 EU Mandatory Disclosure Rules - 3 December](#)

CFE's December edition of the European Register Webinar Series will be held virtually on Thursday, 3 December 2020 from 2:30pm to 3:30pm CET, on the topic of "DAC6 EU Mandatory Disclosure Rules Update".

The webinar will welcome tax experts including: Brian Duffy, from William Fry, Ireland; Giampiero Guarnerio, from Roedl & Partner, Italy; and Adrian Rudd, from PwC, United Kingdom. CFE's Tax Policy Manager, Aleksandar Ivanovski will moderate the webinar. The panel will examine the consequences of EU governments' divergent policy on deferral and entering into force of DAC6; implementation in Italy/ UK/ Ireland- implementing regulations and tax administration guidance; implementation in jurisdictions which already operate a DOTAS regime (UK- Ireland); and wider policy implications of mandatory disclosure regimes on aggressive tax planning.

Register [here](#) to secure your place for the webinar.

OECD Publishes Report on Taxing Digital Currencies

The OECD has published a report on [Taxing Digital Currencies](#), examining the tax treatment of virtual currencies, and emerging taxation issues surrounding crypto-assets. The report findings confirm that tax policymakers are in the initial stages of considering the implications of these assets, with G20 and finance ministers calling on organisations to analyse the evasion risk posed by digital currencies and establish compliance and taxation frameworks for emerging digital currencies.

The taxation implications of crypto-assets is an issue being examined by CFE Tax Technology Committee, with a specific working group being established in the Committee following on from the European Commission announcing as part of their Tax Package 2020 the aim to extend EU rules on automatic exchange of information to crypto assets and e-money.

G20 Summit: Stronger International Collaboration Needed

The G20 have called for stronger international collaboration in a number of different areas following on from an OECD report [New Horizons](#) examining structural reforms for recovery from the COVID-19 pandemic. The report was presented at the G20 Summit which took place virtually from 21 – 22 November.

In particular, the G20 has called for increased collaboration in the following fields:

- in health, from research to distributing COVID-19 vaccines,
- in trade, to ensure robust global production chains,
- in the taxation of multinationals as the economy becomes increasingly digitalised,
- in environmental sustainability, and,
- in preventing sudden outflows of capital and sovereign debt crises in emerging markets and developing countries.

Speaking at the Summit, OECD Secretary-General Angel Gurría said, *“We need to make sure health and social protection benefit all, that public and private investment is aligned with the Sustainable Development Goals, and we need to build resilience into the heart of our economic and social systems.”*

The ongoing work of the G20 on achieving a political agreement on taxation of the digital economy was also reiterated as a priority by the OECD, with Mr Gurria stating the Inclusive Framework aims to achieve agreement by mid-2021. The EU also [emphasised](#) the commitment of G20 leaders to finding a political agreement.

Chile & Panama Deposit Instruments of Ratification for BEPS MLI

In November, Chile and Panama deposited instruments of ratification for the [OECD's Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting \(MLI\)](#).

The MLI entered into force in July 2018, after being concluded in 2016. The MLI implements tax treaty measures which update international tax rules and aims to restrict opportunity for tax avoidance by implementing minimum tax standards and improving dispute resolution mechanisms. 94 jurisdictions are now covered by the MLI, with 57 having ratified the convention.

The multilateral tax treaty allows jurisdictions to update their existing double tax treaties and transpose measures agreed in the BEPS project without further need for bilateral negotiations. It now extends to over 1,650 bilateral tax treaties.

Forum on Harmful Tax Practices 2020 Reviews

The OECD's Inclusive Framework has approved the [2020 reviews](#) of the Forum on Harmful Tax Practices. The reviews are carried out as part of the implementation of Action 5 of the OECD/G20 Base Erosion and Profit Shifting Project, concerning assessments undertaken by the Forum on Harmful Tax Practices (FHTP) of preferential tax regimes.

From the 49 regimes reviewed in 2020, jurisdictions have made legislative changes to abolish or amend 29 of the regimes, 4 regimes are now fully compliant with the BEPS Action 5 standard, 7 regimes are in the process of being amended and 2 were found not the harmful. The 2 remaining regimes were out of scope.

In 2021, the Forum on Harmful Tax Practices will focus on the effective implementation of the standard, including the spontaneous exchange of information on activities and income of entities by parent, ultimate parent and beneficial owner jurisdictions, as well initiative monitoring to ensure no or nominal

tax jurisdictions have mechanisms in place to comply with the FHTP Standard.

IAFEI Global 50th World Congress - 11 December

The International Association of Financial Executives Institutes (IAFEI) will host its 50th World Congress virtually on Friday, 11 December 2020, on the topic of “The Pivotal Role of the CFO: 6 Pillars to Drive Change and Enhance Value”.

The congress will examine issues such: company performance within the strategic role of CFOs, technology leadership within strategic corporate governance, digital transformation within the changing worldwide business, integrated reporting within the growing role of the CFO, ethics and sustainability within the evolving corporate social dimension and tax in the boardroom within the strategic tax governance.

CFE President, Piergiorgio Valente will introduce the IAFEI CFO Declaration during the congress, and CFE Tax Policy Manager, Aleksandar Ivanovski will give a presentation during a panel on tax in the boardroom. Ian Hayes, Chair of the CFE Tax Technology Committee, will also participate in the conference, in the panel discussion on technology leadership.

Register [here](#) to secure your place for the webinar.

OECD Releases 2019 MAP Statistics

The OECD has published the [2019 Mutual Agreement Procedure Statistics](#), examining the compliance of jurisdictions to implement the minimum standards on resolving treaty-related disputes, under Action 14 of BEPS. Members of the Inclusive Framework on BEPS provide annual reports of statistics concerning the resolution of disputes, in accordance with an agreed reporting framework.

The MAP statistics are now available for 82 jurisdictions, and set out detailed

information for each jurisdiction, as well as aggregated information concerning all jurisdictions. The information sets out the number of existing cases, the number of new cases, the number of existing cases resolved, and the average duration of those cases. The outcomes of cases are also detailed in the statistics.

The number of transfer pricing disputes increased in 2019, with 2700 new cases, representing a 20% increase in transfer pricing cases and a 10% increase in other cases, and the number of outstanding and new disputes also increased. This was despite the fact that the statistics demonstrate that more disputes were resolved in 2019 than in 2018.

France Proceeds With Digital Tax Collection Despite Likely Tariff Retaliation

The French tax authorities have commenced collection processes for its digital tax, with companies such as Facebook and Amazon having received communications with demands for payment of tax for the year 2020.

The French digital tax was signed into law on 24 July 2019, but collection was suspended temporarily during efforts to agree an international means to tax digital companies at the OECD. The French tax imposes a 3% digital services tax on resident and non-resident companies with a global turnover above 750 million Euros, and a national turnover above 25 million Euros.

US President Donald Trump tweeted that there would be “substantial reciprocal action” taken by the US concerning the digital tax. It is expected a reciprocal tariff will be imposed on French luxury items, such as handbags, make-up and champagne. It remains to be seen what may be achieved under US President-elect Joe Biden’s administration, but negotiating positions on issues such as digital tax are likely to be unchanged under the new administration. EU Commission President Ursula von der Leyen has called for partnership with the US to develop a *“rule book for the digital economy and society covering*

everything, from Big Tech to data use and privacy, from infrastructure to security”. She has also confirmed at multiple occasions that should no agreement be reached on digital taxation at the OECD by the deadline of mid-2021 that the EU will take further steps on its previously stalled digital tax discussions.

The selection of the remitted material has been prepared by:
Piergiorgio Valente/ Aleksandar Ivanovski/ Brodie McIntosh/ Filipa Correia