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## **United Nations Assert Greater Role In International Tax Affairs**

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The Secretary General of the United Nations (UN), Antonio Guterres, has called for a greater role of the UN in setting the international tax affairs in order to achieve a "fully inclusive" international tax agenda. In a [report](#) published by the UN entitled "Promotion of inclusive and effective international tax cooperation at the United Nations - Report of the Secretary-General", Mr Guterres contends that enhancing of the UN role in tax-norm shaping and rule setting, taking into account existing multilateral and international arrangements, will make international tax cooperation "fully inclusive and more effective". The Report also notes that the rules developed at the OECD do not adequately address the needs and priorities of developing countries and/or are beyond their capacities to implement.

The Secretary-General Report follows on from the [Resolution](#) of the UN General Assembly requesting intergovernmental discussions at the United Nations on ways to strengthen the inclusiveness and effectiveness of international tax cooperation, through the evaluation of additional options, including the possibility of a framework or instrument developed and agreed upon through a UN intergovernmental process.

Manal Corwin, Director of the OECD Centre for Tax Policy and Administration, speaking for the FT, [said](#) it was "disappointing that the United Nations had chosen to ignore the positive impact of the most significant changes and concrete results that have been delivered over the last two decades". Ms Corwin

contended the UN Report contained "a number of inaccuracies and misleading statements."

The UN discussions over the proposed new global framework for tax policy will commence on 18 September and will be put through a vote of the UN Committee on Experts in Taxation Matters, where CFE is represented by Chair of the Direct Taxes Subcommittee Jos Goubert, and subsequently at the UN General Assembly.

## **CFE Professional Affairs Conference: "Tax Adviser 2030: Evolution or Revolution for Tax Practice, Policy and Administration?"**

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[Register now](#) for the 16th European Conference on Tax Advisers' Professional Affairs, organised by CFE Tax Advisers Europe and the Finland's Association of Tax Consultants. The conference will be held in Helsinki, Finland, on Thursday 21 September 2023 from 10:00am to 16:00pm, on the topic of "Evolution or Revolution for Tax Practice, Policy and Administration".

Two conference panels of speakers will examine the evolution of fiscal systems, tax practice and tax administration, prompted by both policy developments at EU and international level, as well as tax avoidance, enforcement of EU law in relation to taxation and impact on the tax profession.

The conference aims to address the significant impact and evolution of regulatory developments on the evolution of the tax profession with the OECD anti-avoidance initiatives and the BEPS project, DAC Directives, EU Fiscal State Aid Investigations; the ethics of tax professionals (cf. CFE Discussion Paper on Professional Judgment in Tax Planning); the changing EU regulatory/enforcement landscape/fairness of tax arrangements observed via the prism of various tax revelations (Pandora Papers, LuxLeaks) and the fiscal State aid investigations (Apple case), and last but not least the rise of AI.

The first panel will assess the Impact of EU/ OECD Developments on Fiscal Systems and Tax Policy. The second panel will analyse the significance of the Impact of AI on digitalisation of tax systems with a focus on the OECD Tax Administration 3.0 project, the work of the Forum on Tax Administration, and the road to better aligned digitalisation of European tax administrations, by looking at the Finish collaborative real-time economy project for digitalisation, presented by the Finnish Tax Administration (Finish Real Economy project).

Further information concerning the conference and registration is available [here](#).

## **OECD Working Paper on Taxation of Labour vs Capital Income**

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On 28 August, the OECD published a [working paper](#) entitled "The taxation of labour vs. capital income". The paper highlights that dividend income and capital gains are generally subject to lower effective tax rates (ETRs) than wage income at the personal level, concluding that differential tax treatment of labour and capital income can affect the efficiency and equity of tax systems.

According to the paper, many governments tax labour and capital income differently, in line with prevailing theoretical views that capital should be taxed more favourably than labour. But recent academic findings have challenged these views, with some studies supporting better alignment of the tax treatment of capital and labour. The concentration of capital income among high income earners and concerns about inequality also are driving greater interest in the topic, the OECD paper notes.

## **CFE Opinion Statement in Case-83/21 Airbnb Ireland & Airbnb Payments UK**

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The CFE has issued an [Opinion Statement](#), prepared by the ECJ Task Force, on the ECJ decision of 22 December 2022 in case C-83/21, *Airbnb Ireland* and *Airbnb Payments UK* decided following the Opinion of AG Szpunar delivered on 7 July 2022. Inter alia, at issue was the compatibility with the freedom to provide services of the tax obligations imposed by the Italian government on service providers offering their intermediation services regarding real estate located in Italy. The Court found admissible to impose the obligation to collect and report data and to withhold tax on the intermediated payments. However, it held disproportionate to request them the appointment of a tax representative resident in Italy.

This case covered other issues such as: i) whether the tax obligations imposed by the Italian government on service providers would fall within the scope of three directives regulating the provisions of services within the EU, which would require communicating it to the Commission prior to its enactment, and; ii) whether the domestic referring court is bound to phrase the preliminary ruling questions following the wording proposed by the parties in the domestic procedures. Those questions will not be covered in this Opinion Statement, which focuses solely on compatibility with fundamental freedoms and, specifically, with the freedom to provide services.

The Court decision in *Airbnb* clarifies the limits of Member States' action concerning the imposition of tax-related obligations to non-taxpayers and reaffirms the inadmissibility of imposing the appointment of tax representatives. Although provided with a new opportunity, the Court did not further clarify the conditions by which a neutral criterion at face value would amount to factual discrimination (i.e. when it is not "inherently neutral" or can be more easily met by residents). This issue has already been addressed in our previous [Opinion Statement](#) on the *Vodafone* case. *Airbnb* appears to prevent any discussions on the validity of DAC7 in what concerns the reporting obligations. Furthermore, *Airbnb* might facilitate the introduction of withholding tax regimes also with non-resident withholding agents.

Finally, *Airbnb* does not prevent Member States (and the respective regions and municipalities) from imposing reporting and withholding tax obligations on the platforms operating within their territories. In case they effectively decide to do so autonomously, online platforms may be faced with thousands of different tax (procedural) regimes, increasing their compliance costs exponentially and hindering their capacity to offer their services within the internal market effectively. For that reason, the EU Commission could consider a proposal to harmonise the respective regimes through a directive.

We invite you to read the [Opinion Statement](#) of the CFE ECJ Task Force and remain available for any queries you may have. We invite you to read the statement and remain available for any queries you may have.

## General Court Dismissed EU Minimum Tax Challenge

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The General Court of the European Union (GC) [dismissed](#) as manifestly inadmissible an action for annulment of the EU Directive on Pillar 2/ Minimum Tax i.e. Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union. In the Case T-144/23, Koninklijke Boskalis NV, established in the Netherlands, and Boskalis Offshore Transport Services NV, established in Belgium v Council of the European Union, the Court stated that the time-limit for bringing proceedings is a matter of public policy, having been established in order to ensure that legal positions are clear and certain and to avoid any discrimination or arbitrary treatment in the administration of justice. The Court established that the contested measure was published in the Official Journal on 22 December 2022, indicating that the time limit for applying for the annulment of that measure or of one of its provisions, in accordance with Article 263 TFEU, expired on 15 March 2023. As result, the application was dismissed as manifestly inadmissible.

On 12 December 2022, the Council adopted the Commission proposal a for Council Directive on ensuring a global minimum level of taxation for multinational

enterprise groups, becoming one of the first jurisdictions to implement the OECD agreement on Pillar 2.

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