



**BRUSSELS | 9 MAY 2022**

## **CFE Opinion Statement on the EU Commission VAT in the Digital Age Consultation**

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On 5 May 2022, CFE Tax Advisers Europe issued an [Opinion Statement](#) on the EU VAT in the Digital Age Consultation. CFE welcomes the work of the European Commission in seeking to review the appropriateness of current VAT rules in the EU in light of changes brought about by digitalisation of the economy.

The CFE is very concerned that the introduction of non-harmonised digital reporting requirements and e-invoicing is effectively fragmenting the single market. While the CFE does not consider that Member States should be required to implement such requirements, if they do decide to do so the CFE considers that it is highly desirable that the systems should be implemented in so far as possible in a harmonised manner. They should also be implemented in a manner that seeks to minimise the burdens on businesses and in particular SMEs, since such requirements can be particularly burdensome for them.

CFE would also like to stress that reporting requirements and the need for them to effectively address VAT fraud must be balanced against taxpayers' rights. Many taxpayers are wary of Member States goldplating any requirements, and requiring even further evidence than may be necessary under any common rules adopted, and being pursued unfairly by overly zealous tax authorities. CFE believes that the risks to taxpayers' rights could be balanced by ensuring that taxpayers have full access to the data which can be viewed by the tax authorities.

While CFE Tax Advisers Europe can see that there may be sectors where it is reasonable to have a presumption that everyone using a platform to sell goods and services is acting as a taxable person, it does have concerns about how far such presumptions should be taken. There are obvious issues as to input tax recovery and how to define this at an EU-level, as to who should recover input tax and to what extent. It is appropriate to have a rule governing this, but CFE is of the view that if one is considered a taxable person, one should have the right of recovery of input VAT. The volume of VAT registrations which may flow from such a rule should also be considered, in terms of compliance and oversight burdens for tax administrations.

CFE is also of the view that the OSS should be extended to supplies with installation with the final consumer and in chain supplies where extending it would be desirable. CFE is of the view that the IOSS should also be extended as the current financial threshold significantly limits the utility of the system. We also consider that there would be merit in extending the OSS to business to business supplies in cases where VAT is not accounted for using the reverse charge under Article 194 of the Directive.

The CFE also believes there ought to be a facilitation scheme available for supplies of greater value, although this would of course need to include customs requirements when the value of goods is over 150 Euro. However, CFE considers that it would be ideal if the system could incorporate both purposes, both customs and VAT requirements. CFE is of the view that this will benefit SMEs given the cost of compliance versus the volume of sales.

CFE reiterates its position that it welcomes the work of the European Commission in seeking to review the appropriateness of current VAT rules in the EU in light of changes brought about by digitalisation of the economy, and remains available to assist in any further stakeholder consultation processes.

We invite you to read the [Opinion Statement](#) and would welcome any feedback or queries concerning the position paper.

## OECD Public Consultation on a Crypto-Asset Reporting Framework & Amendments to CRS - 23 May 2022

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The OECD is holding a [hybrid public consultation meeting](#) on 23 May 2022 concerning its recent consultation process on establishing a Crypto-Asset Reporting Framework & Amendments to the Common Reporting Standard. The meeting will focus on the questions in the consultation document and the issues identified in the written input provided by interested parties as part of the consultation process.

Those wishing to participate in the consultation in person should [submit their application for registration](#) by Thursday 12 May 2022. Those wishing to participate virtually should [register on Zoom](#) by Thursday 19 May 2022. The meeting will also be broadcast live for non-registered participants on [OECD WebTV](#).

## EU Parliament Resolution on Committee Publishes Meeting Papers & Updated Guidelines

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The [Resolution of the European Parliament](#) on the "Pandora Papers: implications for the efforts to combat money laundering, tax evasion and tax avoidance" has now been published in the Official Journal of the European Union.

In the Resolution, the Parliament calls on the Commission to "*review the data exposed in the Pandora Papers and analyse whether further legislative action is appropriate at EU level*", and "*take the Pandora Papers data into account in the process for compiling the EU list of high-risk third countries*". The Resolution also "*points out that the self-regulation and supervision of these professions [tax adviser profession] has not been effective in ensuring compliance and sanctioning breaches of the law; welcomes, in this regard, the Commission's proposal to equip the new anti-money laundering authority with the power to*

*coordinate the supervision of the non-financial sector, coordinate peer reviews of supervisory standards and practices, and request that non-financial supervisors investigate possible breaches of AML/CFT requirements.*

The Parliament in its Resolution also *"urges Member States and world leaders gathered in the G20 intergovernmental forum, the Inclusive Framework and in the United Nations to take effective measures to rein in tax havens and their operating model, by effectively banning shell companies (corporations with no economic substance whose sole purpose is to avoid taxes or other laws) through the introduction of specific mandatory transparency and business activity criteria to prevent their use and outlawing other forms of financial secrecy, and to agree on and promptly implement a minimum effective corporate tax rate, while further extending and improving the global automatic and mandatory exchange of information on all sorts of private holdings"*.

## **OECD Invites Input on Regulated Financial Services Exclusion Under Amount A of Pillar One**

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The OECD is inviting input until 20 May on a [consultation](#) concerning the Financial Services Exclusion under Amount A of Pillar One of the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy. In addition, the [comments](#) received in the consultation on the extractives exclusion under Amount A of Pillar One have now been published.

The consultation document on the Financial Services Exclusion sets out that:

*The Regulated Financial Services Exclusion will exclude from the scope of Amount A the revenues and profits from Regulated Financial Institutions. The defining character of this sector is that it is subject to a unique form of regulation, in the form of capital adequacy requirements, that reflect the risks taken on and borne by the firm. It is this regulatory driver that generally helps to align the location of profits with the market. The scope of the exclusion derives from that requirement, meaning that Entities that are subject to risk-based capital measures*

(and only those) are excluded from Amount A.

*There are six types of Regulated Financial Institution defined in this document: Depositary Institution; Mortgage Institution; Investment Institution; Insurance Institution; Asset Manager; a Mixed Financial Institution. A seventh category is added, for a limited type of service entity that exclusively performs functions for a Regulated Financial Institution (RFI Service Entity). The definition for each type of Regulated Financial Institution generally contains three elements, all of which must be satisfied: a licensing requirement; a regulatory capital requirement; and an activities requirement. These conditions recognise the uniquely regulated nature of financial services. Where the conditions are met, the revenues and profits of the Entity are wholly excluded from Amount A.*

*However, commentators should note that this does not reflect the final or consensus views of the Inclusive Framework and that some members hold the view that reinsurance and asset management ought not to be excluded from Amount A.*

Input can be submitted in Word format up until 20 May 2022 by email to [tfde@oecd.org](mailto:tfde@oecd.org), addressed to: Tax Treaties, Transfer Pricing and Financial Transactions Division OECD/CTPA.

## **Final Reminder: CFE Forum 2022 on 12 May 2022 in Brussels**

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CFE Tax Advisers Europe's [2022 Forum](#) will be held on 12 May 2022 in Brussels on the topic of “*The Future of Holding Companies & VAT Grouping in the Current Tax Policy Climate*”. The conference will examine issues surrounding the European Commission’s Unshell Proposal and how policy developments affect the use of holding companies and VAT groups across tax structures.

A key-note on EU's Unshell proposal will be provided by Benjamin Angel, Director, DG TAXUD, European Commission. Speakers from a wide range of stakeholder perspectives will examine issues raised by the Commission’s proposal, legitimate

uses of holding companies, and problems with the divergence in approaches throughout the EU on VAT grouping. More details about the programme, line-up of speakers and the registration link for the event is available [here](#).

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