

CFE's Tax Top 5

KEY TAX NEWS OF THE WEEK

BRUSSELS | 18 NOVEMBER 2019



OECD Publishes Stakeholder Comments on Pillar One Consultation

The OECD has now [published the comments](#) submitted by stakeholders to the Secretariat proposals for taxation of the digitalising economy on the basis of the 'unified approach' under Pillar One. Under the proposed approach, new taxation rights for market jurisdictions are recognised as a matter of novelty. The new rules are intended to apply to companies that derive value from consumer-interaction with users in market jurisdictions. Under the new profit allocation rules, a share of the deemed residual profits of the 'consumer-facing' multinational companies will be reallocated to market jurisdictions, through formulary apportionment and use of proxies such as sales.

CFE issued an [Opinion Statement](#) responding to the consultation highlighting a number of key elements that should be embedded as part of this process, calling for more clarity and early consensus at political level as to the outcome of the process. CFE's statement emphasises the significance of departing from well-established principles of international tax law towards a more complex international tax system which partly introduces formulary apportionment.

A [public consultation meeting](#) will take place this week from 21-22 November in Paris. Piergiorgio Valente, President of CFE Tax Advisers Europe, and Aleksandar Ivanovski, Tax Policy Manager of the CFE Brussels Office, will attend the consultation on behalf of CFE Tax Advisers Europe. Registrations are now closed, and the numbers of attendees are limited. Those unable to attend can watch the consultation live on [OECD WebTV](#) and the meetings will also be able to viewed later via the OnDemand tab of the OECD platform.



Council of the EU Adopts Company Law Directive

On 18 November, the Council of the EU [adopted](#) the second of two Commission proposals initially published in April 2018 on reforming and digitalising EU company law, which aim to make it easier for companies to merge, divide or move within the EU Single Market, whilst preventing fraud and abusive behaviour in cross-border operations. The proposals were adopted by the EU Parliament in April 2019.

The rules allow companies to register, set up new branches or file documents online. As concerns cross-border conversions, mergers and divisions, the EU rules for cross-border conversions and divisions aim to update existing ones to facilitate reorganisation, provided that the operations are genuine. Companies will be required to inform employees on the

legal and economic consequences of a cross-border operation, and the Directive introduces mandatory anti-abuse control procedures to prevent cross-border operations which have abusive, criminal or fraudulent aims. This requires companies to demonstrate genuine economic activity at the place of registration, in line with the decision of Cadbury Schweppes. National authorities will be enabled by the provisions of the Directive to block any cross border operations carried out for fraudulent aims.

The directive will enter into force 20 days after publication in the Official Journal of the EU. Member states will have 36 months thereafter to adopt necessary measures for implementation of the Directive.



Tax Dispute Resolution: Input Invited on 10th Batch of BEPS Action 14 Peer Reviews

In the framework of the BEPS Action Plan, and steps undertaken under BEPS Action 14 concerning the improvement of the tax dispute resolution mechanisms, the OECD has now [invited input](#) concerning the 10th round of peer reviews, in order to assess the efforts by countries to implement the Action 14 minimum standard as agreed to under the OECD/G20 BEPS Project.

Input is requested in relation to the jurisdictions of: Aruba, Bahrain, Barbados, Gibraltar, Greenland, Kazakhstan, Oman, Qatar, Saint Kitts and Nevis, Thailand, Trinidad and Tobago, the United Arab Emirates and Vietnam. BEPS Action 14 seeks to improve the tax-dispute resolution mechanisms via the Inclusive Framework peer-review process.

Interested parties are requested to submit completed responses to the Peer Review questionnaire via e-mail to fta.map@oecd.org in Word format by 16 December.



Reminder: CFE Conference on Anti-Money Laundering, Paris - 29 November 2019

There are limited places remaining for the CFE Tax Advisers Europe 12th European Conference on Tax Advisers' Professional Affairs, entitled "Making Anti-Money Laundering More Effective For Tax Advisers". This year, jointly organised by CFE and the Institut des Avocats Conseils Fiscaux (IACF), the conference will take place at the Maison de l'Artisanat in Paris, France, on Friday 29 November 2019 from 9:15 am to 4 pm.

Considering all the recent developments on the anti-money laundering front, CFE invited representatives of the OECD Tax & Crime Division to speak about the international approach against money laundering concerning tax evasion and tax crimes, alongside speakers from academia, practice and other international organisations. Tax practitioners from the Netherlands, France and the United Kingdom will shed light on the effect of anti-money laundering directives in practice. Speakers will examine the perceived risks posed by the tax profession in facilitating money laundering based on the EU Commission's Supranational Risk Assessments and will also discuss the compliance with the new and existing EU Anti-Money Laundering Directives, as well as the efforts taken to address money laundering in the broader international context.

[Register now](#) to secure your place at the conference.



Platform for Collaboration on Tax Consultation on Transfer Pricing Toolkit

The Platform for Collaboration on Tax, a joint initiative of the IMF, OECD, UN and World Bank Group, issued a [draft toolkit](#) in October 2019 designed to help developing countries in the implementation of effective transfer pricing documentation requirements. Input on the draft toolkit was due by 8 November 2019. The Global Tax Advisers Platform, of which CFE Tax Advisers Europe is a founding member, was pleased to submit a [response](#).

The consultation sought specific input concerning: whether the draft toolkit addresses all the relevant considerations for the design of an effective transfer pricing documentation regulatory system; whether particular approaches (e.g. penalties or compliance incentives) are especially beneficial for limited capacity developing countries, in terms of enforcement of transfer pricing documentation; whether there other transfer pricing documentation requirements not covered in this toolkit that should be considered; and what additional considerations and/or tools can be included to assist developing countries to implement effective transfer pricing documentation.

GTAP welcomed the draft toolkit, and [set out](#) its view that the toolkit has significant potential impact in terms of developing uniformity in practice across jurisdictions. GTAP's responses to the consultation questions were based on responses compiled by fellow founding GTAP member, the West African Union of Tax Institutes and its member organisation, the Chartered Institute of Taxation of Nigeria (CITN).



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



[Twitter](#)

[LinkedIn](#)