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EU Sets Out New Corporate Tax Reform Proposals

The European Commission has published a new plan for corporate tax reform within the European Union, encompassing a number of short term and longer term proposals. The plan is embedded in a Communication on Business Taxation for the 21. Century.

The main pillars of the Commission proposal are set out as follows:

- Common rulebook for a better business environment in the Single Market "Business in Europe: Framework for Income Taxation" (or BEFIT) intended to cut red tape, reduce compliance costs and minimise tax avoidance;
- Ensuring greater public transparency: requiring certain large companies to publish their effective tax rates;
- Supporting businesses to recover from COVID-19 Member States, recommending to allow companies to offset their 2020 and 2021 losses against taxes they paid before 2020;
- Tackling the abusive use of shell companies: monitoring and reporting requirements for shell companies so tax authorities can better respond to aggressive tax planning;

- Addressing the debt-equity bias in corporate taxation Encouraging companies to seek finance through equity rather than debt: DEBRA proposal;
- "On the road to 2050: Rethinking the EU tax mix", a proposal in support of EU's green and digital ambition.

The Commission also adopted a recommendation on the tax treatment of losses, allowing loss carry-back for companies that were profitable in the tax periods prior to 2020 - they would be able to offset their 2020 and 2021 losses against profits of the earlier years.

Key element of the longer-term EU tax policy strategy is a 2023-planned proposal entitled "Business in Europe: Framework for Income Taxation" (BEFIT) that would replace the CCCTB proposal already on the table. BEFIT intends to introduce a common tax base and formulary apportionment on basis of the conclusions of the discussion on Pillar 1, and single rulebook for the application of Pillar 2. It is not yet clear what the elements of the formula would entail and to what extent the BEFIT proposals would differ from the now withdrawn CCCTB. The European Commission Communication indicates that BEFIT would enable a single pan- EU corporate tax return for an MNE, amounting to significant administrative simplification for companies doing business in the Single Market.

Commenting, EU Commissioner for Economy (and Taxation), Paolo Gentiloni, said: *"It's time to rethink taxation in Europe. As our economies transition to a new growth model supported by NextGenerationEU, so too must our tax systems adapt to the priorities of the 21st century. The renewal of the transatlantic relationship offers an opportunity to make decisive progress towards a global tax reform. We must work to seize that opportunity, while ensuring that an international agreement protects Europe's key interests. Today we set out how a global deal will be implemented in the EU - and the other steps we will take over* *the coming three years to increase tax transparency and help businesses small and large to recover, grow and invest.",* Mr Gentiloni said presenting the proposals.

The European Parliament's Chair of the FISC Taxation Subcommittee, Paul Tang welcomed the EU proposals, saying that the good will of US President Joe Biden to end the race to the bottom should be used to facilitate the corporate tax reform process. Mr Tang added that "for starters BEFIT is a much better acronym than CCCTB". On the other hand, Ireland rejected Biden's proposals on minimum tax rate, expressing significant reservations: *"We do have really significant reservations regarding a global minimum effective tax rate status at such a level that it means only certain countries, and certain size economies can benefit from that base - we have a really significant concern about that."*, Irish Finance Minister Mr Donohoe was quoted for Sky News.

OECD to Introduce Cryptocurrency Reporting by End 2021

During the CFE's 2021 Forum, held virtually on 6 May 2021, Director of the Centre for Tax Policy at the OECD, Pascal Saint-Amans, gave a keynote speech on the panel discussion topic of cross-border exchange of information.

Mr Saint-Amans confirmed that the OECD aims to update reporting standards for exchange of information to include cryptocurrencies and e-assets by the end 2021, noting that the US is particularly interested in the expansion of the reporting standards to include crypto-assets. The OECD's Common Reporting Standard (CRS) "*calls on jurisdictions to obtain information from their financial institutions and automatically exchange that information with other jurisdictions on an annual basis. It sets out the financial account information to be exchanged, the financial institutions required to report, the different types of accounts and taxpayers* *covered, as well as common due diligence procedures to be followed by financial institutions."*

Mr Saint-Amans also confirmed that the G20 meeting of Finance Ministers in July is still the intended deadline for an agreement to be reached on finding international taxation solutions for the digital economy.

US Senate Reservations on Biden's Tax Proposals

Members of the Unites States Senate Committee on Finance expressed concerns with Joe Biden's proposal at the OECD table of negotiations, urging the President to reconsider the approach and not to cede taxing rights to other countries without comparable concessions in return.

In a letter to Secretary Yellen, signed by the Republican Senator Mike Crapo, a ranking member, Committee members insist the agreement on revision of international tax rules should be based on clearly articulated and well-established tax principles. The letter in particular focused on the carve-outs/ exceptions offered to China in the course of the OECD negotiations. Republican Senate Committee members consider "unacceptable for the United States to endorse any agreement that would allow DSTs or similar unilateral measures to continue to be imposed on U.S. companies. There is bipartisan consensus for ensuring that every country plays by the same rules, including China".

"Not only was the United States the first to enact a global minimum tax when it enacted the global intangible low-taxed income (GILTI) regime, we continue to be the only country to date that has enacted a global minimum tax. Because the United States already has a robust minimum tax, the IF acknowledged in 2020 there was good reason to treat GILTI as a “deemed compliant regime” – in large part because GILTI, in its current form, is already harsher in many respects than the Pillar 2 minimum tax under consideration at the OECD.", the letter states.

Finally, the Committee members ask US Treasury whether President Biden would commit to accept only an agreement that requires foreign countries to repeal national DSTs (and the EU to refrain from enacting digital levy) or similar unilateral measures once an initial OECD agreement is reached.

UN Releases Updated Transfer Pricing Manual

The United Nations has now published the 2021 update to the Practical Manual on Transfer Pricing for Developing Countries, adopted by the UN Tax Committee of Experts on International Cooperation in Tax Matters ("Tax Committee"), at its 22nd Session in April 2021.

The third edition of the Transfer Pricing Manual incorporates feedback received on the previous 2017 version, and also includes new content on financial transactions, profit splits, centralised procurement functions and comparability issues.

OECD Publish Inheritance Tax Report

The OECD has published a report on Inheritance Tax in OECD Countries, comparing inheritance tax, estate and gift taxes across OECD countries, analysing the roles these taxes have to play in raising tax revenues, and identifying means of reforming the taxes for countries to improve the function of inheritance, estate and gift taxes.

Wealth inequality, economic recovery from the COVID-19 pandemic, an ageing population and wealth concentration amongst older age groups will reinforce inequality, and highlights the need for tax administrations to examine the issue of inheritance, estate and gift taxes. The report aims to assist tax administrations in this process.

Tax Inspectors Without Borders Mobilises Over 1 Billion USD in Tax Revenues for Developing Countries

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The Tax Inspectors Without Borders, a joint OECD and UN initiative launched in 2015 to assist developing countries with their auditing capacity and in increasing compliance of MNEs worldwide, has now aided in the collection of over 1 Billion USD in developing countries.

The initiative has over 42 successfully completed programmes, with 45 more projects in progression assisting developing countries in effectively collecting tax from multinational entities, which is vital in light of the coronavirus crisis.

Mr. Angel Gurría, OECD Secretary-General said of the Tax Inspectors Without Borders initative: "*With our partners, we have exceeded the USD 1 billion milestone, making a direct contribution to the domestic resource mobilisation needs of some of the poorest countries in the world. It has been an honour to champion the TIWB model of development co-operation for the 21st century.*"

EU Commission Proposes New Regulation to Address Distortion by Foreign Subsidies in Single Market

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The EU Commission has announced a new proposal for a Regulation to address distortion by foreign subsidies in the Single Market, by introducing regulation which would enable the Commission to "investigate financial contributions granted by public authorities of a non-EU country which benefit companies engaging in an economic activity in the EU and redress their distortive effects".

The Regulation proposes the introduction of **three tools**, two notification-based and a general market investigation tool:

- A notification-based tool to investigate **concentrations** involving a financial contribution by a non-EU government, where the EU turnover of the company to be acquired (or of at least one of the merging parties) is €500 million or more and the foreign financial contribution is at least €50 million;
- A notification-based tool to investigate **bids in public procurements** involving a financial contribution by a non-EU government, where the estimated value of the procurement is €250 million or more; and
- A tool to investigate **all other market situations** and smaller concentrations and public procurement procedures, which the Commission can start on its own initiative (ex-officio) and may request *ad-hoc* notifications.

Executive Vice-President Margrethe Vestager, said of the proposed Regulation: *"Europe is a trade and investment superpower. In 2019 the stock of foreign direct investments was worth more than 7 trillion euros. Openness of the Single Market is our biggest asset. But openness requires fairness. For more than 60 years, we've had a system of State aid control to prevent subsidy races between our Member States. And today we are adopting a proposal to also tackle distortive subsidies granted by non-EU countries. It is all the more important to* *ensure a level playing field in these challenging times, to support the recovery of the EU economy.*"

More detail concerning the proposed Regulation is available here.

OECD Publish Taxing Wages 2021 Report

The OECD has now published its Taxing Wages 2021 report, examining changes in taxation rates for personal income tax from 2019 to 2020. The report shows that, due to the coronavirus pandemic tax reforms and reduced household income given decreased employment, the effective average rate of taxation decreased in 2020. The average tax rate for a single worker decreased by 0.39 percent in 2020, to 34.6%. This significant decrease is similar to, but notably less than, what was observed in previous economic crises in 2008 and 2009. The lowest tax rate of 0% was observed in Colombia, with the highest tax rate of 51.5% in Belgium.

The report examines rates of taxation and compares, as a percentage share of gross salary, income tax and social security contributions made by employees, social security contributions and payroll taxes paid by employers, as well as any cash benefits received. In addition, the report examines taxes at a household level, comparing rates of taxes across different pay levels and amongst different family configurations, such as families with and without children, and across those households with either single or multiple incomes.

European Union Launches EU Tax Observatory

The EU Tax Observatory, a European Union project aimed at tax avoidance practices and supporting the fight against tax abuse through academic research, analysis and data sharing, has now been officially launched. The project, led by Gabriel Zucman and hosted at PSE, *Ecole d'économie de Paris*, was launched by Commissioner Gentiloni, FISC Chair Paul Tang and other EU officials, with a large study on "how the EU could collect the tax deficit of multinationals."

The event was live-streamed via EU EbS Live and segments are available to watch on-demand here.

Tax Transparency in Africa Report 2021

The Global Forum on Tax Transparency has launched a Report that highlights the positive role played by tax transparency and exchange of information for African governments in their fight against illegal financial flows. According to the Report, the improvement of the Exchange of Information (EOI) infrastructures has helped tax administrations collect more revenue: since 2009, EOI enabled African governments to identify over EUR 1.2 billion of additional revenues (tax, interest and penalties) through offshore tax investigations.

"The devastating socioeconomic impact of the COVID-19 pandemic on Africa and the challenges in mobilising financing to jump-start African economies clearly demonstrate that reliance on Official Development Assistance alone is no longer the solution. Africa needs to take bold and tangible actions to consolidate its tax base. Some of the measures include strengthening capacities for raising domestic taxes and significantly reducing illicit financial flows from the continent. These, among others, are critical to achieving the targets and aspirations of the African Union Agenda 2063 as well as the United Nations Sustainable Development Goals. In this respect, the Africa Initiative on tax transparency is a step in the right direction in reducing tax evasion or avoidance as well as all other forms of illicit financial flows from Africa.", said Albert Muchanga, Commissioner for Economic Development, Trade, Industry and Mining from the African Union Commission.

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