BRUSSELS | **MARCH 2020**

1. Message from the CFE Executive Board on the COVID-19 Impact

As each and every one of us is impacted by the alarming spread of COVID-19 and how it is affecting our lives, the CFE Executive Board had, regretfully, taken the difficult decision to cancel the CFE Annual Forum, the General Assembly and all the Technical meetings in April.

At present, it is uncertain what the next phases of the coronavirus outbreak will look like, and what measures will need to be taken. However, please rest assured that we will closely monitor and evaluate the situation, and keep you updated on whether there will be any impact on the other CFE events that are planned for this year. At this time, our priority is the safety and wellbeing of our members, our staff and our partners. We have put in place a remote working scheme for our staff, in accordance with the applicable public health measures in Belgium, and are conducting our meetings via video and teleconference.

To the extent possible given these circumstances, the CFE Board together with the CFE Team continue to work on the existing projects and focus on relevant new technical publications and policy developments, in close conjunction with the Member Organisations and in synergy with the work of the EU institutions and the OECD. We encourage you to visit the CFE website and our social media channels (Twitter, Linkedin) to stay informed about the most recent CFE technical work and publications. As ever, the CFE Brussels Team is available to work with you on relevant tax technical or policy matters, and to assist you with any queries you may have.

We will continue to keep you abreast of developments in the CFE agenda in the period to come.

2. OECD's COVID-19 Taxation Measures Toolkit

The OECD has published a Toolkit containing the details of taxation and financial measures taken by governments around the world in response to the COVID-19 outbreak. A global reference document setting out the measures taken by tax administrations worldwide has also been created by the Forum on Tax Administration.

The OECD has also created a dedicated webpage concerning the COVID-19 outbreak, providing information and country profiles on the spread of the virus, and recommended responses concerning a variety of policy areas.

Pascal Saint-Amans, in a blogpost stated that *"one of the few certainties is that tax policy will play an important role in the immediate response of governments to support individuals and businesses, as well as in future rounds of policy action, including to rebuild our economies, which will ultimately take place once the health crisis has been contained. The OECD, working with other international organisations, will deploy all its data gathering power and analytical capacities to help governments across the world."*

The OECD recommends a range of tax policy measures be employed, such as more generous welfare and income support payments, deferral or waiver of employer and self-employed social security contributions, tax concessions for those working in health and emergency services, deferral of VAT and custom duties payments, expediting the payment of refunds, deferring or waiving taxes, or increasing loss carry-forward provisions.

3. EU COVID Response

In March, the European Commission adopted a Temporary Framework concerning State aid measures to assist Member States in dealing with the economic impact of the COVID-19 outbreak. To minimise the economic impact of the COVID-19 outbreak, the Framework allows Member States to provide aid by: providing grants, selective tax advantages, and advance payments of up to 800,000 Euro; providing State guarantees for loans taken by businesses; subsidising public loans to companies, putting in place safeguards for banks providing State aid to the economy; and providing short-term export credit insurance.

The EU Commission also published a Communication setting out a coordinated economic response of the European Commission to the COVID-19 outbreak. To minimise economic impact of the COVID-19 outbreak, the EU through its coordinated response will work with Member States to establish means to compensate sectors for losses incurred, to ensure SMEs are provided with liquidity urgently needed, to establish funds to be made available to counter the effects of the virus on employment, and have encouraged Member States to make full use of State Aid provisions to support national support measures

The European Council published a statement setting out their commitment to take the all necessary steps to overcome the COVID-19 crisis. In the statement, the European Council reiterates the measures taken to assist Member States in dealing with the economic impact of the COVID-19 outbreak, including measures in relation to limiting the spread of the virus, to ensuring the provision of medical resources and to minimise the economic impact through the Temporary Framework.

In relation to economic measures taken to minimise the economic impact of the COVID-19 outbreak, the Council of the EU have agreed with the Commission assessment that that *"the conditions for the use of the general escape clause of the EU fiscal framework – a severe economic downturn in the euro area or the Union as a whole – are fulfilled"*, noting that *"The use of the clause will ensure the needed flexibility to take all necessary measures for supporting our health and civil protection systems and to protect our economies, including through further discretionary stimulus and coordinated action, designed, as appropriate, to be timely, temporary and targeted, by Member States."*

In addition, a proposal to extend the State aid Temporary Framework has been sent to Member States for consultation by the Commission. The Commission has also temporarily removed from the Short-term export-credit Communication all countries listed in the marketable risk list, in order to ensure public short-term export credit insurance is more widely available.

4. EU Publishes Roadmap Concerning External Tax Good Governance Strategy

The European Commission has published a Roadmap concerning its Action Plan to fight tax evasion and simplify taxation, as well as for its external strategy for tax good governance.

The Roadmap lists the following as steps to be taken concerning tax evasion: strengthening cooperation tools amongst tax administrations at Union level; introducing new digital solutions to move to real time sharing of information and improve data analytics; for tax data to be provided directly to tax authorities from digital platforms (concerning which a legislative proposal is specifically foreshadowed); and improved cross-border recovery and cooperation agreements.

In relation to simplifying taxation, the Roadmap details that the following actions may be taken: the introduction/improvement of mechanisms concerning cross-border tax disputes, the simplification and modernisation of VAT rules and procedures for withholding taxes in investment in the Single Market; the improvement of cooperative compliance; the introduction of IT solutions to levy tax in real time; and the reinforcement of the EU position with third countries, particularly by way of the external strategy for tax good governance, which may include defensive measures being introduced, technical assistance being offered or agreements being made with third countries.

The Commission will publish the Action Plan together with its initial legislative proposals in June 2020.

5. BEPS Action 6 Peer Review Report on Preventing Treaty Shopping Published

The OECD has released the second Peer Review Report on Action 6 of the Base Erosion & Profit Shifting Project in March, concerning the prevention of granting treaty benefits in inappropriate circumstances. The report contains results concerning aggregate data of the Inclusive Framework jurisdictions as of 30 June 2019, which then totalled 129 jurisdictions.

The report concerning Action 6 sets out that the majority of the Inclusive Framework jurisdictions are in the process of modifying treaties in order to comply with their commitments made concerning treaty shopping, demonstrating the effectiveness of the BEPS MLI.

6. OECD Publishes Responses to CbCR Consultation

In March, the OECD published comments received in relation to a consultation document published in February inviting input concerning Action 13 of the Base Erosion and Profit Shifting Project, on Country-by-Country Reporting. The review is being carried out pursuant to the BEPS Action Plan, which mandated a review of CbCR under Action 13 in 2020.

The consultation document invited input on whether modifications should be implemented for Action 13 such that additional or different data should be reported, requesting practical experiences and issues with reporting requirements under Action 13, input on the use of the reported data by tax administrations, and on the effectiveness and appropriateness of thresholds and reporting.

7. UK to Proceed with Digital Tax

The UK budget delivered in March confirmed that the UK is proceeding with plans to introduce a digital services tax, which will enter into force in April 2020, notwithstanding US President Trump's administration reportedly having advised the UK government at multiple levels that no free trade deal will be agreed should the tax be passed into law.

The tax will apply to businesses making search engines, social media platforms or online marketplaces available to UK users, including any associated online advertising of that business, which have a global annual turnover over £500 million pounds and over £25 million pounds of turnover attributable to revenue derived from UK users. The tax will apply at a rate of 2% to revenue over £25 million pounds.

This follows Executive Vice-President of the European Commission, Margrethe Vestager, having confirmed that nationally imposed digital taxes do not fall short of the EU State aid rules, as argued by some commentators, and the decisions of the European Court of Justice in Cases C-323/18, *Tesco-Global Áruházak Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli* and C75/18, Vodafone Magyarország Mobil Távközlési Zrt. v Nemzeti Adó- és Vámhivatal Fellebbviteli Igazgatósága, in which it was held that steeply progressive turnover taxes which targeted the retail and telecommunication sectors, and largely affected nationals of other Member States or by companies that have their registered office in another Member State, were not discriminatory.

8. Global Forum Holds First Peer Review Meeting

The OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes from 16 to 18 March held the inaugural meeting of their recently established Automatic Exchange of Information Peer Review Group (APRG), concerning the Standard for Automatic Exchange of Financial Account Information in Tax Matters. The meeting was held remotely.

Issues discussed included confidentiality and data security, the development of a framework to assist in establishing the gaps in a jurisdiction's legal framework and how peer reviews concerning the Standard will conclude whether jurisdictions have implemented the Standard effectively.

The Global Forum is the flagship body for ensuring the implementation of the internationally agreed standards of tax transparency and exchange of taxation-relevant information among tax administrations. Over 4,500 bilateral exchanges of information have taken place, in line with the Automatic Exchange of Information Standard, with the exchange containing information concerning financial accounts taxpayers hold outside their jurisdictions.

9. EU Opens Accession Talks to North Macedonia & Albania

In March, the European Council published a statement which endorses the Council of the EU conclusions concerning the Expansion of the EU, in which the Council of the EU decided to open accession negotiations with the Republic of North Macedonia and Albania.

10. Portugal Ratifies OECD MLI

Portugal has deposited its instrument of ratification to the OECD's Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting.

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.

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