BRUSSELS I **JANUARY 2020**

1. Digital Tax: No Support for the US 'Safe Harbour' Approach Despite Trade War Threats

The US proposition to make Pillar One optional by allowing companies to 'opt out' of the newly proposed profit allocation rules continues to create tensions among governments and "will not fly politically", the OECD Tax Director Pascal Saint- Amans has said. In addition, Martin Kreienbaum, the Chair of OECD's Committee on Fiscal Affairs, who is also a Director General for International Taxation at the German Federal Ministry of Finance, stated that countries will not accept partial solutions, saying the "*Germany is willing to compromise on Pillar One only if there is a Pillar Two as well*", which concerns the global anti-base erosion proposal and minimum tax.

However, last week brought us a step closer to solving the digital tax conundrum, following meetings between French, EU and US officials at the margins of the World Economic Forum elite gathering in Davos. Bruno Le Maire, Minister of Finance of France, and Steven Mnuchin, the US Treasury Secretary, alongside OECD Secretary-General Angel Gurria agreed to avoid a potential trade war following the introduction of the French Digital Services Tax. The US side agreed to suspend the imposition of tariffs on French goods whilst France agreed not to collect the digital tax until the end of 2020, subject to an OECD agreement by the end of year.

French president Macron confirmed the positive developments, whilst expecting that Paris and Washington will continue negotiations over the digital tax at the OECD until the end of the year. *"France is pursuing its objective of fair taxation on digital companies and finding a compromise within the framework of the OECD,"* the French president stated. The White House did not comment on the matter, but US Assistant Secretary of Treasury Chip Harter suggested that the US letter of last December insisting on Pillar One being a 'safe harbour regime' is still valid. According to media reports, Mr Harter said the United States position has not changed, but the wording on 'safe harbour' should not be understood as 'optional'.

The EU is seeking to avoid a full-blown trade war with the US over digital taxes. To that end, Commission President Ursula von der Leyen met with US President Donald Trump in Davos. In addition, Croatia's Prime Minister Andrej Plenković, currently holding the EU Presidency, stated that the EU and the US are partners who need to find a common language on digital tax at the level of OECD, saying that (national) measures that lead to tariff retaliation from the US side are not helpful.

The latest update from the OECD on this very topic will be cast via the OECD Tax Talks webpage at 31 January 14:00 – 15:00 CET. Registration for the webcast is now open.

2. OECD Publish Country-by-Country Reporting Guidance

As a follow-up to BEPS Action 13, the OECD/G20 Inclusive Framework on BEPS has released additional interpretative guidance on the implementation and operation of Country-by-Country Reporting (CbCR).

The new guidance is intended to provide improved tax certainty for ta administrations and MNEs, and addresses automatic exchange concerning local filings of Country-by-Country reports.

3. ATAF: Africa Has Right to Its Fair Share of Tax

Ahead of the Inclusive Framework meeting scheduled for 29 - 30 January, a meeting of the African Tax Administration Forum (ATAF) took place in Pretoria, for "*important discussions that will play a crucial role in determining how Africa responds to the global proposals to address the tax challenges from the digitalisation of the economy.*" ATAF members sought to agree a common position that will be presented on behalf of African countries in Paris, in particular by ensuring that "*new global tax rules will be fit for purpose in Africa and redress the current imbalance in taxing rights that disadvantage African countries*.", ATAF stated in a press-release.

4. Vietnam & Palau Join the Global Forum on Tax Transparency

In January, Vietnam and Palau became members of the Global Forum on Tax Transparency and Exchange of Information for Tax Purposes, becoming the 159th and 160th countries to join, respectively. The Global Forum on Tax Transparency members aim to address tax evasion by implementing measures and standards agreed at international level in relation to transparency and exchange of information, both on request and through automatic exchange of information processes. Members of the Global Forum are also subject to Peer Review assessments as concerns their compliance with the minimum standards on transparency and exchange of information.

5. European Economic & Social Committee Recommend Use of Tax Policy to Achieve Sustainable Development Goals

In December, the European Economic & Social Committee published an opinion concerning potential means of achieving Sustainable Development Goals by use of investment and taxation policy methods. Rapporteur for the opinion, Krister Andersson, noted that *"taxation policies determine the economic environment in which investment, employment* *and innovation in businesses take place and they provide governments with revenues for financing public spending. These policies are hence fundamental for achieving the Sustainable Developments Goals and they must be made fit for purpose."*

Notably, the opinion sets out the EESC's view that the use of tax policies concerning climate change would help achieve many sustainable development goals. The Committee further recommends that the EU join the Global Forum on Tax to engage more widely in debate concerning solutions for corporate taxation in the digital economy that can encourage growth and cross-border trade.

6. EU & UK Sign Withdrawal Agreement – EU Asks Countries to Treat UK as EU Member State

On 24 January, the President of the European Council, Charles Michel and the President of the European Commission, Ursula von der Leyen signed the United Kingdom's Withdrawal Agreement, which formalises the UK's exit from the EU at midnight Central European Time on 31 January.

As of 1 February, the UK will cease to be a member state of the European Union, but the EU law will continue to apply to the UK at least until the end of the transition period – 31 December 2020 and the UK will be under jurisdiction of the European Court of Justice. Trade agreements can be negotiated by the UK with third countries during the transition period. A comprehensive free trade agreement will also be negotiated by the EU and the UK.

The Financial Times reported today that the European Commission will send a *note verbale* to 160 countries, a form of diplomatic correspondence, asking them to treat the United Kingdom exceptionally as a member state of the European Union until 31 December 2020, even though it will have left on 31 January 2020. The EU *note verbale* is intended to help the UK navigate through the uncertainty of the post-Brexit transition period.

7. OECD Release Tax Administration Assessment Models

The OECD has made available two new assessment models for tax administrations, the Tax Debt Management Model and the Tax Compliance Burden Maturity Model.

Over 820 Billion Euro is outstanding in collectible debt between the 53 members of the Forum on Tax Administration. The Tax Debt Management Model has been designed to assist administrations assess performance and encourage positive reform. The Tax Compliance Burden Maturity Model aims to identify burdens which may discourage or prevent compliance and negatively impact tax morale. Jim Harra, First Permanent Secretary and Chief Executive of HM Revenue and Customs, who worked on developing the model noted that "*Understanding and addressing burdens is not straightforward and depends on a number of elements, including a solid strategy, a culture of minimising burdens and the confidence and expertise to engage with policy makers."*

8. Cyprus & Saudi Arabia Ratify OECD BEPS MLI

In January, the jurisdictions of Cyprus and Saudi Arabia deposited instruments 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. The MLI will enter into force for both jurisdictions on 1 May 2020.

9. EU Presents Post-Brexit UK Trade Deal Position

The European Commission published an internal EU27 preparatory document that sets out the EU views on the future relationship with the United Kingdom, regarding the free trade agreement.

The presentation sets out following the UK withdrawal from EU on 31 January 2020 under the conditions of the Withdrawal Agreement, a transitional period of 11 months will follow, under which UK shall remain significantly aligned with the EU rules. Such a period should lead to a comprehensive free trade agreement (FTA), potentially leading to regulatory alignment.

The European Commission warns however, that one of the possible outcomes come 1 January 2021 is a '*cliff-edge'* scenario, under which at the end of the transition period, the UK and EU will trade on less than optimal WTO terms.

10. Reminder: Applications Open for the CFE *Albert J. Rädler* Medal Award

CFE Tax Advisers Europe, in cooperation with IBFD, reminds all tax students at Master's level, as well as their supervisors, that the CFE receives applications from eligible tax students for the *Albert J. Rädler* Medal Award until **20 February 2020**. The award is intended to encourage academic excellence among young tax students. The Medal will be awarded at the CFE Forum, our flagship international tax conference on 2 April in Brussels.

The CFE will take care of travel and accommodation arrangements for the successful candidate to attend the CFE Forum. In addition, there is a monetary prize courtesy of the Rädler family and complimentary academic literature from our publishing partner IBFD. Applications are welcome at info@taxadviserseurope.org. More details are available on the CFE website.

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