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European Commission Launched DAC Evaluation

The European Commission has initiated an evaluation of Directive 2011/16/EU, also known as the Directive on Administrative Cooperation (DAC). The evaluation aims to measure DAC's effectiveness, cost-efficiency, relevance to contemporary and forthcoming needs, internal and external coherence, and added value at the EU level. In alignment with the Commission's goal of simplifying reporting for companies and tax administrations, particular attention will be given to reducing the reporting burden. This evaluation will consider DAC's operation from 2018 to 2022, excluding DAC7 and DAC8 as they were not yet implemented.

Crucially, this evidence-based exercise will include an evaluation of the hallmarks for the exchange of information on potentially harmful cross-border arrangements introduced by DAC6, which is envisaged in Article 27(2) of the DAC.

Stakeholders are invited to participate in this evaluation by submitting evidence and completing a [consultation questionnaire](#) by Tuesday, 30 July 2024.

CFE - Accountancy Europe Members' Only Webinar: New EU AML Rules - What Changes For Practitioners?

In 2021 the European Commission put forward an ambitious package of legislative proposals to strengthen the EU's Anti-Money Laundering (AML) rules

- “the AML Package”. After more than two years of negotiations, the European Parliament adopted the AML package on 24 April 2024. Accountants, auditors and tax advisers play an important role in keeping European citizens safe from money laundering and terrorist financing. The new AML rules will bring significant changes for these professions.

CFE Tax Advisers Europe and Accountancy Europe have partnered to help member bodies, tax advisers, accountants and auditors better understand the changes. We will address how the new requirements will affect practitioners’ day-to-day work, why it’s important to start preparing now and where to start. This is an **invitation-only webinar for CFE Tax Advisers Europe and Accountancy Europe Member organisations and their members.**

The discussion will take the form of a virtual fireside chat between Angela Foyle, Accountancy Europe AML Working Party Chair, Aleksandra Vasilić, Director AML Office, EY, and Rolf Declerck, President of the Commission on Quality Performance Review, Belgian Institute of Tax Advisors and Accountants, CFE Tax Advisers Europe.

Registration for Members of CFE and Accountancy Europe is now open via the following [link](#).

[#UseYourVote - European Elections - 6 to 9 June 2024](#)

CFE Tax Advisers Europe has concluded a Partnership Agreement with the European Parliament to promote the 2024 European elections scheduled for 6 - 9 June 2024, and EU citizens with a right to vote can directly elect Members of the European Parliament from their constituencies.

In a few weeks time the European Union will witness the world’s second-largest democratic exercise as citizens cast their votes in the 2024 European Elections. This moment is an opportunity for every citizen to shape the future of Europe, while also helping uphold democracy - because the more people vote the stronger democracy becomes.

The European Parliament has launched its campaign to encourage voter turnout. The emotional campaign is centred around a four minute video featuring senior Europeans who have witnessed first-hand the transformative power of democracy in their lives. These exceptional individuals wanted to pass on their personal stories - whether they lived through times of oppression or experienced the fragility of democracy - to their grandchildren and the next generation more widely. Together, their testimonies paint a story of how voting is not something we should take for granted and urge the viewer to #UseYourVote. Or others will decide for you.

More information on the voting process is available on the [EU Elections webpage](#).

EU Finance Ministers Seek Compromise on FASTER & ViDA

The EU Finance Ministers are due to meet tomorrow for the next Economic and Financial Affairs Council meeting (ECOFIN). The Council will seek political agreement on the proposal for a Council Directive on Faster and Safer Relief of Excess Withholding Taxes (FASTER). The Directive (compromise draft text) lays down rules on the issuance of a digital tax residence certificate by Member States and the procedure to relieve any excess withholding tax that can be withheld by a Member State on dividends from publicly traded shares and, where applicable, interest from publicly traded bonds paid to registered owners who are resident for tax purposes outside that Member State.

The Council will also seek political agreement on the VAT in the Digital Age (ViDA) package. This package has three main objectives: the introduction of Digital Reporting Requirements (DRR) and e-invoicing for cross-border transactions; updating the VAT treatment of the platform economy, and a single EU VAT Registration.

CFE Forum 2024 Report

The CFE Forum took place on 18 April 2024 in Brussels, where attendees were welcomed by CFE President, Ian Hayes, who opened the conference which this year focused on the topic of *“Sharing the Tax Pie: Revisiting the Role of the UN, EU & OECD in Tax Policy; and Taxable Presence Threshold (Fixed Establishment) in Indirect Taxation”*. The Forum brought together two excellent panels of speakers to discuss the allocation of tax base from a direct and indirect tax perspective, examining issues on dividing the tax pie in a digital world and international tax reform.

Keynote Interview with Pascal Saint-Amans

Director of Tax Policy at CFE Tax Advisers Europe, Aleksandar Ivanovski, held a keynote interview with Pascal Saint-Amans to open the Forum, reflecting on the complexities of internal tax reform and negotiations in fiscal policy, and the future direction for tax cooperation.

In particular, Aleksandar Ivanovski and Pascal Saint-Amans discussed the implementation of Pillar 2 and the complexities of negotiation involving multiple countries, the aim of stopping tax competition, particularly for highly mobile activities and intellectual property income. Pillar 1's uncertainty was explored, especially regarding US ratification, with alternative scenarios discussed, including a UN solution and the potential consequences of implementing unilateral Digital Services Taxes (DSTs).

The discussion also touched on the EU's response and the shift in positions of Global South jurisdictions, addressing the needs of developing countries. Mr Saint-Amans expressed concerns over negotiation fragmentation, political dimensions, and the need for certain OECD countries to be more generous and for developing countries to have more realism in negotiations. Mr Saint-Amans also emphasised the importance of tax as a force for good, focusing on tax certainty, pro-growth policies, and addressing inequalities through appropriate

regulation.

Direct Taxes Panel - Sharing the Tax Pie

Bruno Gouthière, Chair of CFE's Fiscal Committee, introduced the direct taxes panel and the focus of the panel discussions as being the contemporary challenges surrounding international taxation, the developments at the UN, OECD's Two-Pillar solution, unilateral Digital Services Taxes, the EU Commission's stance in the context of UN-level discussions and the necessity for globally coherent tax governance mechanisms. The purpose of discussions was to explore the status quo of international direct tax issues.

Speakers on the direct tax panel included: Mr. Benjamin Angel Director, European Commission DG TAXUD; Professor Philip Baker, KC, OBE, Barrister and Professor of Law at Oxford University; Ms. Olivia Long, Head of Tax Policy at Matheson LLP (Ireland); and Professor Irma Mosquera Valderrama, Professor of Tax Governance at University of Leiden Law School. The panel discussion was moderated by Mr. Bruno Gouthière, Partner at CMS Francis Lefebvre Avocats and Chair of CFE Tax Advisers Europe Fiscal Committee.

The speakers emphasised the need for greater domestic revenue mobilisation and expressed concerns about the practical effectiveness of current tax measures, particularly the OECD's Pillar One Multilateral Instrument. Ms Olivia Long provided a high-level overview of the OECD's Multilateral Convention, which assigns new taxing rights to market jurisdictions for large multinational groups with revenues over 20 billion and profit margins over 10%, includes double tax relief and dispute resolution processes, and ongoing political negotiations.

It was agreed that Amount A and withholding taxes present complex challenges in their allocation and implications on international tax fairness. The discussions underscored the complexity of adapting international tax agreements to diverse national tax systems, and the ongoing struggle to find a common ground that

respects both sovereign rights and global economic fairness. Pillar 2's implementation poses significant challenges, particularly for developing countries, highlighting the need for clearer guidance and concerns about compatibility with international agreements.

Irma Mosquera Valderrama expressed concerns about the practical implications of the MLI and BEPS measures on businesses, highlighting challenges posed by the MLI, with specific focus on Article 5 (Permanent Establishment) and the principal purpose test, highlighting the disconnect between theory and practice, noting real-life cases where the intended solutions did not materialise as expected.

Benjamin Angel, Director of Direct Tax at the EU Commission discussed the progression of UN talks following divisions between countries, emphasising the importance of not undermining the OECD's two-pillar solution and tax transparency initiatives. He highlighted the EU's agenda to strengthen domestic revenue mobilisation and lessen reliance on corporate income tax, through means such as diversifying tax bases and exploring VAT and wealth taxation.

Unilateral Digital Services Taxes (DSTs) and their implications on international tax agreements were agreed to be of significant concern, with discussions on their potential proliferation, trade wars, and impacts on tax stability if the Multilateral Convention fails. The panel also addressed the utility of functional commissions and subsidiary bodies under the UN for tackling tax issues. Philip Baker argued against the creation of a global tax body, suggesting improvements to the UN structure and better coordination among existing organisations to avoid duplication.

Indirect Taxes Panel: Concepts of Fixed Establishment

Panel 2 focused on the concept of Fixed Establishment (FE) as being central to VAT, but that its scope and definition remain a subject of debate, especially in the digital economy. The speakers discussed that the evolving case law on FE highlights the need for clarity, as businesses face uncertainty despite extensive

jurisprudence.

The panel highlighted challenges in practice, including achieving consensus on updates to the FE definition, and the risk of double taxation due to divergent interpretations between Member States. It was agreed that improving dispute resolution mechanisms and preventive methods, rather than legislative changes, may be a more feasible approach to address these issues.

The indirect tax panel featured: Ms. Trudy Perié, Counsel, Loyens & Loeff, Netherlands; Mr. Erik Stessens, Senior Vice President Tax, Mastercard; Dr. Marie Lamensch, Professor of Taxation, Louvain School of Management, UCLouvain; and, Ms. Charlène Herbain from the European Commission. The panel will be moderated by Mr. Jeremy Woolf, Barrister, Pump Court Tax Chambers, United Kingdom, and Chair of the CFE Indirect Taxes Subcommittee.

Ms. Charlène Herbain provided an overview of the concept of FE in VAT, discussing the ongoing debate about the scope and definition of FE, especially in the digital economy. Ms Herbain noted that case law on FE has evolved in waves over time. Businesses highlight uncertainty and need for clarity, despite extensive case law, but Ms Herbain stated that few Member States have raised questions with the Commission about FE interpretation. It was discussed that challenges include achieving consensus among Member States, the binding impact of soft law guidance, and the highly fact-driven nature of FE which may require dispute resolution over rules.

Ms. Trudy Perié and Mr. Erik Stessens jointly presented a comparison of FE vs. Permanent Establishment (PE) in corporate tax, including the requirement for human/technical resources to independently complete transactions for FE, and the higher threshold for establishing an FE compared to a PE. They highlighted concerns about aligning the two concepts, as PE is under pressure in corporate tax, while VAT aims to maintain a high FE threshold. It was agreed that confusion often arises from mixing up the two concepts, which exist for different tax

purposes. Various practical examples were presented and discussed by the panellists and conference attendees.

Marie Lamensch discussed preventive approaches like cross-border ruling pilots and SOLVIT mediation as alternatives to address the double taxation risk. The risk of double taxation is clearly identified in case law as an issue to prevent through implementing measures, but solutions are limited due to the lack of explicit prohibition on double taxation in the VAT Directive. Ms Lamensch discussed that updating the FE definition faces challenges, such as achieving consensus among Member States, deciding between legislation vs. soft law guidance, and the risk of 'freezing' the concept by codifying it in law. Suggestions to remove the FE concept altogether and rely solely on primary place of supply rules, especially for B2B transactions where VAT is deductible were discussed, and the focus on dispute resolution mechanisms and preventive methods as an alternative approach.

Ian Hayes closed the conference by concluding that the panel discussions above all highlighted the absolute need for clarity and for a simplified tax system.

The selection of the remitted material has been prepared by:
Aleksandar Ivanovski & Brodie McIntosh