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EU Commission Publishes DAC9 Proposal for a Central Filing Mechanism for Pillar 2 Reporting

The European Commission has today published a "DAC9" proposal to amend the Directive on administrative cooperation in the field of taxation (Directive 2011/16/EU) and harmonise the reporting process in the EU for the OECD/G20 Base Erosion and Profit Shifting (BEPS) Pillar Two Directive's minimum effective tax rate of 15% on MNEs across their operational jurisdictions.

The DAC9 proposal would allow MNEs to file one standardised "Top-up Tax Information Return" and introduce a mechanism for automatic information exchange between EU Member States, as envisaged in Article 44 of the Pillar Two Directive. The proposal's central filing mechanism allows an MNE's ultimate parent entity (UPE) or a designated filing entity to submit a single, consolidated Top-up Tax Information Return for the entire group, instead of requiring each constituent entity within the EU to file individually.

To facilitate the filing, two main conditions must be met: the jurisdiction of the UPE (or designated entity) must have arrangements for information exchange with all relevant EU countries, and the central report must cover all necessary jurisdictional data points. The proposal introduces a structured "dissemination approach" to ensure that tax authorities across Member States receive the appropriate segments of the Top-up Tax Information Return.

To streamline these exchanges, a standardised electronic form for the Top-up Tax Information Return will be created, along with an automated computer system (within the existing EU Common Communication Network) to manage data sharing. The form aligns with the OECD's GloBE Information Return and is supported by an EU-developed IT infrastructure funded by the Fiscalis program, which will also finance any updates to ensure interoperability and compliance with evolving international standards.

The proposal will now be considered by the EU Council.

New EU Tax Priorities: Insights from Commissioner-Designate Wopke Hoekstra's Q&A for Confirmation Hearing

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In a written Q&A exchange with the EU Parliament held in preparation for his confirmation hearing before the European Parliament on 7 November, Wopke Hoekstra, the European Commissioner-Designate for Climate, Net-Zero, and Clean Growth, outlined strategic tax policies to bolster the EU's climate goals while supporting economic competitiveness and social equity.

Hoekstra emphasised the importance of tax policy as a key driver in the EU's twin transition to a green and digitally advanced economy. He proposed a streamlined corporate tax framework aimed at reducing compliance costs for small- and medium-sized enterprises (SMEs) and plans to address "tax obstacles" that currently hinder cross-border business operations within the EU. Hoekstra reaffirmed his commitment to simplifying EU tax directives, including Anti-Tax Avoidance and Administrative Cooperation rules, with an ambitious goal of reducing administrative reporting burdens by 25% overall and by 35% specifically for SMEs.

Hoekstra proposed decisive steps to prevent tax evasion, tax avoidance, and the use of shell companies within the EU and abroad, stressing the importance of implementing global tax reforms in line with OECD standards. In the context of climate goals, he is prioritising environmental tax measures to harmonise energy taxation across Member States. This would support the EU's 2040 and 2050 emissions targets by incentivising sustainable energy consumption and discouraging carbon-intensive production. Plans to revisit the Energy Taxation Directive (ETD) were highlighted, aiming to modernise tax rates for energy products based on emissions profiles, in line with the EU's "polluter pays" principle. Additionally, Hoekstra proposed removing longstanding tax exemptions for aviation and maritime fuels, a move intended to foster the transition to sustainable fuels in these sectors.

Hoekstra stressed his commitment to international tax transparency and compliance with the OECD's Pillar II agreement on minimum corporate taxation. He advocated for a coordinated EU response to enforce minimum tax rates on multinationals and prevent harmful tax competition within the EU, acknowledging that the special legislative procedure requiring unanimity among Member States remains a challenge. He also addressed the urgency of addressing the tax implications of digital assets and cryptocurrencies, proposing collaborative EU action to ensure these assets do not facilitate tax evasion.

ECOFIN: Political Agreement Expected This Week on ViDA

The ECOFIN Council will meet on 5 November 2024, and are expected to reach political agreement and finalise key VAT reforms under the EU's VAT in the Digital Age (VIDA) package. This legislative proposal will introduce new standardised digital reporting and e-invoicing for cross-border transactions, a digital platform policy to streamline VAT for short-term rentals and transport services offered via digital platforms, and a single VAT registration across EU Member States.

Ahead of the ECOFIN Council meeting, Dutch Finance Minister Heinen shared an agenda note with the Dutch House of Representatives and Senate outlining key decisions expected at the meeting. The note set out the compromises to ensure VIDA's adoption across Member States, such as that the platform rules will allow some exemptions for small businesses using specific VAT schemes. A phased transition period is anticipated for countries that already have their own digital VAT reporting systems, allowing them until 2030 to align with EU standards. It is noted that Estonia, however, has continued to voice concerns about neutrality and administrative costs for businesses, particularly regarding the platform component of ViDA.

OECD Tax Report to G20: Key Developments in International Tax Reform

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The latest OECD Tax Report to the G20 details progress in the international tax landscape. The report outlines developments in the Two-Pillar Solution, aimed at addressing tax challenges linked to the digitalisation of the economy. The Subject to Tax Rule (STTR), a component of Pillar Two has been reinforced by a new multilateral treaty signed by 19 jurisdictions, offering developing countries a mechanism to tax outbound payments that receive low or no taxation abroad. Additionally, with 45 countries already implementing global minimum tax legislation under the Global Anti-Base Erosion (GloBE) Rules, the OECD projects a substantial increase in the coverage of multinational enterprises (MNEs) by 2025.

The OECD reports that efforts continue to finalise the Multilateral Convention (MLC) for Amount A under Pillar One, and that the MLC text has received widespread support, though remaining political discussions also aim to refine consensus on Amount B.

The Base Erosion and Profit Shifting (BEPS) Project's minimum standards also remain a core focus for the OECD, and it reports over 54,000 exchanges of information on tax rulings since the BEPS Action Plan's inception. Moreover, tax treaties have been fortified by the BEPS Multilateral Instrument (MLI), now covering 1,950 bilateral treaties. Country-by-Country reporting continues to expand, with 120 jurisdictions mandating reporting requirements, enhancing transparency of MNE operations.

In addition to the Two-Pillar Solution, the OECD emphasises enhanced tax transparency in the report, particularly on real estate transactions and beneficial ownership, aligning with the Global Forum's capacity-building programs. In 2023, data on 134 million financial accounts was exchanged automatically among jurisdictions, totalling nearly EUR 12 trillion in assets. The introduction of the Crypto-Asset Reporting Framework (CARF) is also detailed in the report, reflecting global efforts to standardise tax transparency for crypto-assets, with commitments to further support developing jurisdictions.

EU to Introduce Standardised Reporting for CbCR

The European Commission has proposed a implementing regulation to standardise reporting under the country-by country reporting requirements from the 2013 Directive 2013/34/EU, which mandates that companies exceeding certain revenue thresholds must disclose country-by-country tax information. The proposed regulation introduces a common template and electronic format, and companies within the scope would need to comply with these requirements starting from financial years in 2025. Reports will require the use of XHTML with Inline XBRL markup, ensuring both human-readable and machine-readable formats, facilitating digital accessibility and regulatory compliance.

The regulation specifies that EU-regulated undertakings must structure tax reports according to an established taxonomy, ensuring that data elements are uniformly presented. For instance, companies must mark up data on tax expenses, revenues, and related information using a predefined core taxonomy to meet the automated reporting criteria. Notably, the regulation exempts some non-EU parent companies from using the specific EU template but requires their EU subsidiaries to publish tax information on behalf of the entire group if needed.

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