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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clear what the elements of the formula would entail and to what extent the BEFIT proposals would differ from the now withdrawn CCCTB.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.

The EU Tax Observatory Launches at 1 June

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, will officially launch tomorrow 1 June at 11:00 CEST. The project, led by Gabriel Zucman and hosted at PSE, *Ecole d'économie de Paris*, will be launched tomorrow 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 will be live-streamed via EU EbS Live at 11:00 CEST.

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.

EU Parliament Members Discuss Intra-EU Harmful Tax Competition

The European Parliament members discussed a draft report prepared by Aurore Lalucq MEP on reforming the EU policy on harmful tax practices (including the reform of the Code of Conduct Group). The report recommends ways in which national tax practices would become subject to an EU level of ‘minimum level of economic substance’, as well as an introduction of a simplified system to identify harmful tax regimes. In addition, the report recommends a reform of the Code of Conduct on Business Taxation in order to improve its governance, transparency and scope of work. Plenary discussion is at present scheduled for September, preceded by Committee vote on the meeting of 13.7.2021.

Ms Lalucq, MEP rapporteur, said at the Committee meeting: *“The code of Conduct on Business Taxation has had its successes but harmful tax practices have evolved. Because of this, the Code must also adapt. There has been progress on tackling preferential harmful tax practices but now it is time to also deal with general harmful tax practices”.*

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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