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OECD Digital Tax Webcast Update & Pillar 1 and 2 Consultation

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The OECD has launched a consultation concerning blueprints for Pillar 1 (review of profit allocation and nexus rules to reflect digital business models) and Pillar 2 (global anti-base erosion rules for a minimum effective taxation rate). Details of the consultation and progress in the negotiations of the Inclusive Framework to agree a solution to challenges posed by the digitalisation of the economy were presented in an OECD Tax Talks Webcast which took place today.

The OECD G20 Report and Inclusive Framework Cover Statement presented to Finance Ministers in advance of the G20 meeting scheduled for 14 October sets out that the blueprints "reflects convergent views on a number of key policy features, principles and parameters of both Pillars, and identifies remaining political and technical issues where differences of views remain to be bridged".

As concerns Pillar 1, the Inclusive Framework note that progress has been made on developing technical and policy solutions to the working blocks for agreeing tax allocations rights, and that the solution will:

- *Allocate a portion of residual profit of in-scope businesses to market/user jurisdictions;*
- *Be computed using consolidated financial accounts as the starting point, contain a limited number of book-to-tax adjustments and ensure that losses are appropriately taken into account;*

- *Contain broad safe-harbour or exemption rules from segmentation to reduce complexity;*
- *Contain effective means to eliminate double taxation in a multilateral setting, including a new multilateral tax certainty process with respect to Amount A, and a new multilateral convention would be developed to implement the solution.*

Issues of scope, quantum, safe harbour implementation and tax certainty matters for Amount A will be progressed in further work of the Inclusive Framework following the public consultation.

The Inclusive Framework Cover Statement additionally details that as regards Pillar 2, although no agreement has been reached, the Blueprint provides a solid basis for future agreement on:

- *Design of the four rules as set out in the Programme of Work: a) the income inclusion rule (IRR); b) the switch-over rule; c) the undertaxed payment rule (UTPR); and d) the subject to tax rule (STTR);*
- *The right of all members of the Inclusive Framework to implement the income inclusion rule and subject to tax rule as part of an agreed Pillar Two regime;*
- *That there may be members that are not in a position to implement these rules but those implementing them would apply them consistently with the agreed Pillar Two vis-à-vis all other jurisdictions (including groups headquartered therein) that also join this consensus;*
- *That a subject to tax rule will be an integral part of a consensus solution on Pillar Two;*
- *The basis on which the United States' Global Intangible Low Taxed Income Regime (GILTI) would be treated as a Pillar Two compliant income inclusion rule as set out in the Report on the Blueprint on Pillar Two.*

OECD Secretary General Angel Gurría stated of the developments, "It is clear that new rules are urgently needed to ensure fairness and equity in our tax systems, and to adapt the international tax architecture to new and changing business models. Without a global, consensus-based solution, the risk of further uncoordinated, unilateral measures is real, and growing by the day. It is imperative that we take this work across the finish line. Failure would risk tax wars turning into trade wars at a time when the global economy is already suffering enormously."

Input is invited by Monday 14 December 2020 at the latest. The input sought concerns technical questions concerning aspects of the Blueprints for Pillar 1 and 2. Parties can submit input by way of comments in Word format to the e-mail address cfa@oecd.org, addressed to the "OECD Centre for Tax Policy and Administration".

A virtual public consultation will follow the consultation in January 2021, with a view to an agreement being concluded and model draft legislation and guidelines for implementation being published by the Inclusive Framework by mid-2021.

Council of the EU Update Blacklist of Non-Cooperative Jurisdictions for Tax Purposes

The EU's list of non-cooperative jurisdictions for taxation purposes was updated by the Council of the EU on 6 October 2020.

Anguilla and Barbados were added to the Blacklist following on from the OECD's Global Forum peer review reports on transparency and exchange of information, in which the jurisdictions had their compliance ratings downgraded from partially compliant to non-compliant.

Additionally, the Council of the EU endorsed the removal from the EU black and/or greylist of a number of other jurisdictions, including Oman, the Cayman Islands, Mongolia and Bosnia and Herzegovina, establishing that those countries have implemented reforms to comply with EU tax good governance standards.

Twelve jurisdictions now remain on the EU blacklist: American Samoa, Anguilla, Barbados, Fiji, Guam, Palau, Panama, Samoa, Seychelles, Trinidad and Tobago, the US Virgin Islands and Vanuatu.

EU Parliament Appoints New Financial Services & Capital Markets Commissioner

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The EU Parliament has approved the appointment of Ireland's Mairead McGuinness to the role of Commissioner for Financial Services, Financial Stability and Capital Markets, with 583 votes in favour, 75 against and 37 abstentions. Additionally, Parliament approved a change of portfolio for Latvian Commission Executive Vice-President Valdis Dombrovskis, to take up responsibility for the trade portfolio. The appointments follow from the resignation of Irish Commissioner, Phil Hogan, following a breach of COVID-19 travel guidelines in Ireland.

Both candidates were subject to extensive questioning during their confirmation hearings, with Ms McGuinness stressing that she viewed a fair and efficient tax system as important for European taxation and its citizen, promising to remove her 'national hat off at the door' when pushed on the topic of the impact of lower Irish corporate taxation rates on the Single Market.

EU Commission Launches Consultation on Implementing Powers for EU VAT Committee

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The EU Commission has launched consultation on a Roadmap concerning a planned proposal for a Council Directive to confer implementing powers on the Commission in the area of value added tax (VAT).

This was contained in the Commission's 2020 Tax Package Action Plan, and is being pursued on the basis that consistent implementation of the VAT Directive is imperative for the proper operation of EU VAT rules. Accordingly, the Commission will propose to confer empowerment on the Commission to adopt implementing acts by turning the VAT Committee into a 'comitology committee'. At present, the VAT Committee is comprised of Member States and the Commission, and agrees non-binding guidance on the interpretation of EU VAT rules. The Commission in its Roadmap sets out that this planned directive would 'contribute to a more uniform application of the EU VAT legislation to the benefit of taxable persons having economic activities in several Member States'. The Roadmap also points out that comitology procedures are already in use for excise duties and administrative cooperation matters.

The Roadmap sets out that the proposal for a Directive is anticipated prior to the end of 2020. Input on the Roadmap can be submitted up to 29 October via the Have Your Say portal.

EU Commission Approves 1.5 Billion Euro in State Aid for Italian Companies

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The European Commission has approved State aid measures that will provide over 1.5 billion Euro to companies in Italy which were badly impacted by COVID-19 conditions. The measures allow for a 30% reduction of social security contributions due where the place of employment is in the regions of Southern Italy.

The State aid is approved in line with the Temporary State Aid Framework adopted in March 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.

Executive Vice-President Margrethe Vestager stated of the measures: *"Southern Italy has been hard hit by the economic consequences of the coronavirus outbreak. This €1.5 billion Italian measure will support labour and help companies active in the regions of Southern Italy tackle the liquidity issues they are facing as a result of the outbreak, thereby maintaining the level of employments and preserving the continuity of economic activity during and after the outbreak. We will continue working closely with Member States to ensure that national support measures can be put in place in a coordinated and effective way, in line with EU rules.*"

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