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Momentum Builds Behind Africa Group Initiative for UN Tax Convention

Last week, a [meeting](#) was held at the United Nations Headquarters in New York to discuss the Africa Group's call for a UN Tax Convention. The matter was discussed under the the United National General Assembly Second Committee Draft Resolution on Promotion of Inclusive and Effective International Tax Cooperation at the United Nations.

The UN General Assembly is aiming for the *"establishment of a Member State-led, open-ended ad hoc intergovernmental committee to elaborate a comprehensive UN Tax Convention"*. The matter is being approached as one of high priority, with a tentative deadline to finish the UN Tax Convention by June 2025. The proposed international cooperation is to have a *"comprehensive UN Tax Convention with a holistic scope and sufficient flexibility and resilience to continuously ensure equitable results as the international tax cooperation landscape evolves, establishing clear links between international taxation and other key UN agendas and ensuring the full and effective participation of civil society in the intergovernmental UN tax process to develop a new UN Tax Convention"*. A concept note setting out international support for the UN Tax Convention can be found [here](#).

The EU and UK have been [criticised](#) for attempting to block progress on the proposed UN Tax Convention. According to the Financial

Times, "...representatives of the EU and the UK had been vocal in their opposition to backing any of them...In September, EU finance ministers said EU member states "could consider...working at the UN on a non-binding multilateral agenda for co-ordinated actions". This voluntary option would "avoid duplication with existing international tax agreements and brings concrete benefits to the participating countries, while facilitating parallel and sustained progress at the OECD", they wrote at the time. However, negotiation documents seen by the FT, showed that those representing the EU, along with other nations, had sought to row back from supporting even the voluntary option presented by the secretary-general's report. Instead they have backed the creation of a new working group which would propose alternative options for a UN role, and bring these back for discussion at the 80th UN general assembly which starts in September 2025."

EU Commission Commences Infringement Proceedings Against Belgium for Treatment of Non-Resident Taxpayers

The European Commission has referred Belgium to the Court of Justice of the European Union concerning an alleged "failure to comply with the Treaty principle of free movement of workers, as regards taxation of non-resident taxpayers with modest income. In its judgment of 10 March 2022 ([European Commission v the Kingdom of Belgium, Case C-60/21](#)) the Court found that Belgium infringed the Treaty by refusing non-resident taxpayers who earn less than 75% of their worldwide income in Belgium from deducting their alimony payments from their taxable income. Deduction is refused in Belgium even when the taxpayer has no significant taxable income in their State of residence, making it impossible to deduct payments from their taxable income in that State. In response to the 2022 judgment, Belgium extended the personal scope of the tax deduction. However, it did not eliminate the infringement in its entirety. The new legislation introduces two conditions, which appear to unduly restrict the availability of the benefit for non-residents with modest income. If the Court finds that Belgium has not complied with its judgment, it may impose financial

sanctions."

Further information on the proceedings is available [here](#).

48 Countries to Implement OECD Tax Transparency Standards for Crypto-Assets by 2027

[48 countries and jurisdictions](#) have committed to implementing the OECD's global tax transparency framework for the reporting and exchange of information with respect to crypto-assets by 2027. The Crypto-Asset Reporting Framework (CARF) is a key component of the [International Standards for Automatic Exchange of Information in Tax Matters](#) developed by the OECD under a G20 mandate. It provides for the automatic exchange of tax-relevant information on crypto-assets and comes against the backdrop of a rapid adoption of the use of crypto-assets for a wide range of investment and financial uses.

Speaking concerning the commitments made by the jurisdictions, OECD Secretary-General Mathias Cormann said, *"Today's announcement of co-ordinated international action on crypto-assets is a major step forward, marking another important milestone towards the widespread and co-ordinated approach to combat tax evasion through greater transparency and exchange of information. We strongly welcome the extensive support being shown for quick action to make the international exchange of information collected under the OECD standard on crypto-asset reporting a reality. The international community can count on the OECD and the Global Forum on Transparency and Exchange of Information for Tax Purposes to ensure that the tax transparency architecture remains both up-to-date and effective going forward."*

Crypto-asset reporting will be further discussed at the [Global Forum's 16th Plenary Meeting](#) taking place in Lisbon, Portugal from 29 November to 1 December 2023.

Abuse of Law Conference in Brussels: 21 - 22 November 2023

The PwC Chair in Tax Law of the Catholic University of Louvain, the Max Planck Institute of Tax Law and Public Finance, the Tax Institute of the University of Liège with the support of the International Fiscal Association Belgian Branch are co-hosting a conference this week on the topic of "Abuse of Law in European Taxation: Divergence or Convergence of Concepts & Policies?" on 21 and 22 November 2023 in Brussels.

The fight against tax fraud and avoidance has become one of the main drivers of EU legislation and continues to influence the shaping of the case-law of the European Court of Justice in tax matters. The concept of abuse plays a key role in the interpretation of EU primary and secondary law and is even referred to in a number of provisions of EU tax legislation (harmonization directives, administrative cooperation and exchange of information). However, after almost 25 years of application by European and domestic courts and tax authorities, this apparently unifying function of the concept of abuse in tax matters raises a number of unresolved issues, creating significant legal uncertainty for taxpayers.

The conference will gather together academics, public officials and practitioners to discuss the most recent issues concerning the prohibition of abuse in tax matters, as regards the application of fundamental freedoms, the EU corporate tax directives, including the recent Pillar 2 directive and the Unshell directive proposal, VAT and customs, exchange of information,. The conference will also address the latest implications of the notion of abuse of law on corporate tax planning and tax competition among Member States in the context of the international initiatives aiming at curbing base erosion and profit shifting (BEPS) and improving global tax transparency (exchange of information).

Registration for the conference is possible [here](#).

Next Meeting of the FISC European Parliament Subcommittee

The next meeting of the FISC Subcommittee will take place on 30 November 2023 from 09:00 to 10:00 CET. The Subcommittee will host an exchange of views with Ms María José Garde Garde, the new Chair of the Code of Conduct Group on Business Taxation. The exchange of views will address the revision of the Code of Conduct of 8 November 2022, which broadened its scope to include not only preferential tax measures but also 'tax features of general application' and the effectiveness of the Code of Conduct for the EU's work to fight tax evasion and avoidance. Furthermore, it aims to deepen the institutional cooperation between the Code of Conduct Group for Business Taxation and the FISC Subcommittee. The meeting will be livestreamed [here](#).

The Subcommittee also recently published a [calendar of meetings](#) for 2024, currently containing dates for Q1 meetings in 2024. Further information on the topics will be made available in due course.

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