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INTRODUCTION

Philippe Arraou, President of ETAF

Dear ETAF Members,
dear friends,



tax professionals are facing an ever increasing amount of EU legislative proposals coming from the European institutions in the policy areas that concern our professions, namely tax policy and professional law.

In the professional area, as you know, no other subject was so much in the centre of our attention than the “Services Package” of the European Commission.

In this field, for once, I am glad to have good news for you:

The “Services e-card” project of the European Commission has failed. It has been rejected in the European Parliament with a surprisingly vast majority and the member states were even less able to find a common approach – too controversial were their positions. ETAF strongly objected the introduction of the Services e-card in the form it was proposed. Our main concern was the implementation of the country of origin principle, which would have meant that our existing national standards would have been undermined „through the back door“. This concern has now been successfully removed!

Concerning the agreement on disclosure obligations for “tax intermediaries”, ETAF acknowledges that the safeguarding of the professional secrecy – which was one of our main concerns – has been taken duly into account in this Directive. It should also be appreciated that the danger of an over-reporting has been limited because the scope of reportable cross-border tax schemes was finally narrowed – a subject which was controversial among the Finance Ministers until the very last minute.

Last but not least, EU Tax Commissioner Pierre Moscovici very recently presented his new proposals on the taxation of the digital economy. ETAF welcomes the efforts and the intentions of the European Commission to address this issue. Though, I hope that all the endeavours will be concentrated to find a comprehensive long-term solution, rather than dispersed to search for a short-term one. Furthermore, and despite some different approaches, I would still recommend for a comprehensive long-term solution to be included in the framework of the OECD activity on this topic. I hope you will enjoy reading our Newsletter!

Yours sincerely,
Philippe Arraou

PROFESSIONAL LAW

Services e-card fails in the European Parliament

On 21 March 2018, MEPs of the IMCO committee voted to reject both legislative texts on the services e-card. The main factors that have led to oppose the card were the burden of proof being left to the host member state and the fear of the country of origin principle being introduced through the backdoor.

In May 2017, ETAF had strongly advised against the introduction of the services e-card to protect the standards and quality of the profession as well as to avoid the country of origin principle.

Although the IMCO committee rejected the proposal, Elżbieta Bieńkowska, European Commissioner for the Internal Market and Industry looks forward to relaunch this project. She tweeted “we still need progress on ecard, to provide true Single Market for companies, especially SMEs”.

The European Parliament published a press release after the abovementioned rejection, leaving open the possibility of relaunching the legislative process. On 5 April 2018, the Bulgarian presidency of the Council expressed its wishes to continue with the legislative work on the services e-card. On the other hand, several national delegations of Western Europe, such as France and Germany, are not in favour of the proposal.

- [ETAF Statement on the services e-card](#)
- [EP Press release and further information](#)

EP and Council agree on directive on proportionality test

On 20 March 2018 the representatives of the European Parliament and Council reached an agreement in the trilogue on the directive on a proportionality test before adopting a new regulation of professions.

Since the introduction of the Services Package in January 2017, ETAF successfully advocated for the decision-making prerogatives to remain within the Member States and the subsidiarity principle to be respected. The co-legislators agreed to leave the Member States a bigger margin of discretion when introducing new rules for professions.

The IMCO-committee will vote on this agreement on 24 April 2018.

Commission proposals on the taxation of the digital economy

On 21 March 2018, the European Commission has published two new legislative proposals and reform recommendations regarding the taxation of the digital economy.

The Commission's proposal on a short-term solution envisages the introduction of a tax on certain revenues from digital activities, where the user plays a major role in the value creation.

The tax shall apply to revenues:

- from the sale of online advertising spaces,
- digital intermediary activities allowing users to interact with each other and thus facilitating the sale of goods and services between them and
- the sale of data generated from user-provided information.

This interim tax shall have a tax rate of 3% and shall be collected by the Member States where the users are located. It will only apply to companies with global revenues exceeding €750 million and EU revenues exceeding €50 million.

The long-term solution of the Commission aims at reforming the corporate tax rules to include the concept of a digital presence in order to tax the profits generated in a territory where a company does not have any physical presence. A taxable digital presence (or virtual permanent establishment) would be recognised in a Member State if a company or digital platform exceeds €7 million in annual revenues. Other criteria would be the number of users of a digital platform (more than 100,000 in a taxable year in a Member State) and the number of business contracts that are created between the company and users (over 3000 in a taxable year).

The directive on the corporate taxation of a digital presence of a company would not cover situations where an EU Member State has a bilateral agreement with a third country. For this reason, the Commission published reform recommendations for Member States, defining how to review these tax agreements to be in line with the proposed directives.

ETAF supports a fair and balanced taxation of digital companies

While ETAF shares the Commission's position that the current international tax rules do not allow for a fair competition between traditional and digital companies, the two-step approach with a short-term and a long-term solution is raising doubts within ETAF Members. ETAF believes that focussing on one long-term solution and working closely within the OECD framework would contribute to the principle of better regulation and, at the same time, supports the EU taking on a leadership role in taxing the digital economy.

ETAF had actively contributed to shape the proposals on hand by participating in the consultation and submitting a position paper supporting a fair taxation of digital companies on a long-term basis.

[Commission proposals on taxing the digital economy](#)

[ETAF position paper on the taxation of the digital economy](#)

[ETAF press release](#)

ETAF succeeds in safeguarding the professional secrecy

On 13 March 2018, the European Finance Ministers reached a political agreement on the proposed directive on disclosure obligations for tax intermediaries.

In the course of the legislative procedure, ETAF strongly advocated in favour of the safeguard of the professional secrecy as one of the ground pillars of tax professionals. Furthermore, ETAF stressed the danger of an “overreporting” towards the fiscal administration due to the scope of the Directive being too broad, which would have caused a disproportionate amount of information to be reported to the tax administrations and resulted in an excessive burden for both tax advisers and tax administrations.

The final version of the proposed directive showed that ETAF’s main objective was taken duly into account, since the professional secrecy has been safeguarded by the introduction of a waiver. Furthermore, the danger of overreporting has been limited because the scope of reportable cross-border tax schemes has finally been narrowed.

Proposed directive on disclosure rules for tax intermediaries – key points

The key provision of the proposed directive is the obligation of the Member States to require from “tax intermediaries” to file information on “reportable” cross-border arrangements to the national tax authorities (Art. 8aaa). The tax arrangement must be “reportable” in order to fall under the disclosure regime. Therefore, Annex IV specifies a “main benefit test” with generic and specific criteria. The criterion to be fulfilled in any case is that the main benefit of the arrangement is to obtain a tax advantage.

The term “tax intermediary” is defined as any person that designs, markets, organizes or makes available for implementation or manages the implementation of a reportable cross-border arrangement. The definition includes any person that could be reasonably expected to know about such reportable cross-border arrangement.

Member States can give intermediaries a waiver from filing information on a reportable tax scheme where the intermediaries are entitled to a legal professional privilege (professional secrecy/confidentiality principle) under the national law of the Member States (Art. 8aaa). In these cases, the obligation to disclose information shall return to the taxpayer and the tax adviser would then however be obliged to inform the taxpayer of their responsibility.

The information to be filed shall contain the identity of the intermediary and the taxpayer and a summary of the cross-border tax arrangement (including the value of the transaction).

The abovementioned information shall be filed within thirty days after the reportable cross-border arrangement was made available for implementation.

The directive must be implemented into national law by the Member States by 31 December 2019. The new reporting requirements shall enter into force on 1 July 2020.

[Political agreement on disclosure obligations for tax intermediaries](#)

ETAF's engagement in developing the Blockchain technology

On 7 March 2018, the ETAF team met with the Start-ups and Innovation Unit of DG CONNECT. Michael Schick, ETAF Head of Office, explained that ETAF members have a twofold-interest in the Blockchain technology: As professionals on the one hand and for their clients on the other hand. He welcomed the creation of the EU Blockchain Observatory and Forum and highlighted the main implications of the blockchain technology for the tax advisers. Furthermore, he expressed ETAF views on the risks and opportunities of this technology by sharing thoughts concerning the privacy of the financial data and the taxation of profits from blockchain activities and cryptocurrencies.

The F3 Unit defined the objectives of the EU Blockchain Observatory and Forum and explained that it is an instrument that the European Commission is using to collect information, map existing initiatives and allow stakeholders to exchange on this topic. Afterwards, on the basis of the data gathered, the European Commission would consider if regulatory actions were needed. The two officers stressed that feedbacks from organisations as ETAF are welcome in order to better understand the implications of the technology. They clarified that they were only superficially aware of the potential impact of the Blockchain technology for tax advisers.

Furthermore, they gave some details on the inception phase and the upcoming initiatives (starting in April 2018). They explained that the first topics the Forum will focus on should be (i) Blockchain and compliance with EU data policy; (ii) Tokenisation and financial issues; (iii) Evolution of the technology itself; (iv) Privacy and anonymity. They invited ETAF to register as a partner of the EU Blockchain Observatory and Forum, in order to respond to the call for contributors published in the upcoming weeks.

[ETAF Positions on the Blockchain technology](#)

European Parliament approves reports on CCCTB

On 15 March 2018, in its plenary session, the European Parliament adopted the reports on the Common Corporate Tax Base (CCTB) and the Common Consolidated Corporate Tax Base (CCCTB) respectively drafted by MEPs Paul Tang and Alain Lamassoure, previously approved by the ECON Committee on 21 February 2018.

Although it was not drafted specifically to deal with the concerns around the taxation of digital businesses, the European Commission has indicated that the CCCTB proposal could represent a measure to integrate the concept of a "significant digital presence" within the EU regulation. Indeed, one of the main points of this proposal was the introduction of the concept of a virtual permanent establishment.

Furthermore the proposals set a turnover threshold for groups required to file the CCCTB (€750 million, to be lowered to zero after seven years) with a tax credit of 10% of the costs for research and development, as long as these costs do not exceed €20 million.

The approved reports are now in the hands of the Commission and the Council for their consideration.

[CCCTB report](#)

[CCTB report](#)

European Parliament sets up a new TAX3 committee

After the Conference of Presidents of the European Parliament decided on a new mandate for a special committee on financial crimes, tax evasion and tax avoidance, 45 MEPs were appointed for a period of 12 months. The committee will build upon the work of the prior TAXE 1, TAXE 2 and PANA inquiry committees as well as follow up on the effective implementation by Member States, the Commission and the Council and the impact of the recommendations by the abovementioned former committees. On 22 March 2018, the members of the committee elected MEP Petr Ježek (ALDE) as their chair. MEP Roberts Zile (ECR), MEP Eva Joly (Greens/EFA), MEP Esther de Lange (EPP) and MEP Ana Gomes (S&D) were appointed as vice-chairs.

The committee will focus on the use of offshore tax havens to save VAT, tax evasion and tax avoidance related to the digital economy and the impact of the EU's 'blacklist' of non-cooperative jurisdictions for tax purposes.

[TAX3 mandate](#)

MISCELLANEOUS

INVITATION ETAF TAX CONFERENCE

on Wednesday **23 May 2018 at 14:00 p.m.**
at the Sofitel Europe
Place Jourdan 1, 1040 Bruxelles

How to ensure fair taxation in a digitalized world?

14:00 h | Registration

14:30 h | Welcome address

Philippe Arraou, President of ETAF

14:40 h | Keynote speech

Stephen Quest, Director General for Taxation and
Customs Union, European Commission

15:00 h | Panel I: Taxation of the digital economy:
the way forward

Maria Elena Scoppio, Head of unit, DG TAXUD, European Commission

Paweł Gruza, Undersecretary of State, Polish Ministry of Finance

Guillaume Drano, Permanent Representation of France to the EU

Dr. Eva Oertel, Legal Counsel, International Tax Center, Bavarian
Ministry of Finance

Umberto Zanini, Dottore Commercialista specialised in international tax, ETAF

16:15 h | Coffee break

16:45 h | Panel II: TAX3 and the role of tax professionals
in fair taxation

Jeppe Kofod, Member of the European Parliament (S&D, Denmark)

Eva Joly, Member of the European Parliament (Greens/EFA, France)

Luděk Niedermayer, Member of the European Parliament
(EPP, Czech Republic)

18:00 h | Reception

Simultaneous interpretation: EN-DE-FR

Registration under info@etaf.tax

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ETAF www.etaf.tax is a European umbrella organisation for 250,000 tax professionals from France, Germany, Italy and Belgium. ETAF was launched in January 2016 as an international non-profit organisation (AISBL), governed by Belgian law and located in Brussels. The main role and mission of ETAF is to represent the tax profession at European level in liaising closely with European policy makers to promote good legislation in tax and professional matters. ETAF is a registered organisation in the EU Transparency Register with the register identification number 760084520382-92.

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