ETAF
European Tax Adviser Federation

ETAF NEWS

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INTRODUCTION

Philippe Arraou, President of ETAF

Dear ETAF Members,
Dear friends,

The European Commission set its policy priorities for the next mandate and significantly raised its climate ambition with the European Green Deal. The goal is to be climate neutral by 2050. What can tax do to contribute to the fight against climate change? How can we adapt our national tax systems to help reach climate neutrality? As you know, taxation remains at the core of national sovereignty being one of the last policy area where decisions are taken with unanimity.

Nevertheless, in her presentation of the European Green Deal the president of the Commission, Ursula von der Leyen, suggested that proposals regarding the taxation of energy in the framework of the Green Deal could be taken using the ordinary legislative procedure. Politically, it will be very interesting to observe the developments in this regard. The Energy Taxation Directive could be the first tax dossier where the Council could use majority voting to decide. It will be reviewed in the Council in 2020 and a concrete proposal is expected for Spring 2021.

In addition to this, another hot topic on the tax agenda is the fast-developing technology and its impact on our tax systems. Tax administrations are already facing major challenges in adapting to digitalization and the more and more digitalized economy is creating new needs for both the tax payer and digital companies. We need clear rules to ensure fairness and an effective tax collection.

Dear Members, dear friends, I assure you that in 2020, ETAF will keep discussing these topics at the forefront and with you decision-makers in the European Commission, Members of the European Parliament and of course with any other stakeholders. We rely on the expertise of our Members when raising our voice and we will make sure that our concerns and our ideas are heard.

Last but not least, I am pleased to announce that the Austrian Chamber of Tax Advisers and Auditors (KSW) joined ETAF this year. We are happy to welcome our Austrian friends and are looking forward to a fruitful relationship.

I hope you will enjoy reading our Newsletter!

Yours sincerely,
Philippe Arraou

PROFESSIONAL LAW

ETAF participates in European Parliament's hearing on liberal professions

On 8 January 2020, the President of the European Tax Adviser Federation, Philippe Arraou, participated in a hearing organised by the EPP group of the European Parliament. The hearing with the title "Liberal Professions in Europe – What challenges lie ahead?" focused on recent Single Market legislation and their impact as well as long-term strategies for a better enforcement of Single Market rules. Many MEPs participated in the event and intervened with interesting contributions.

Mr Arraou pointed out that ETAF supports independence and high-quality standards of national regulatory frameworks for tax advisers. He stressed the fact that the market for tax advisers is open at EU level and that the main obstacles are language barriers and the complexity of the different tax systems. Mr Arraou questioned the infringement procedure initialised by the Commission against Germany in order to limit the reserved activities of German tax practitioners since this would lower the quality of tax advising services in Germany by giving the activity into the hands of unqualified service providers. Furthermore, Mr Arraou urged the decision makers to maintain the confidentiality principle for tax advisers because it forms the basis of the work of tax advisers. Finally, he raised the contradictory policy of the Commission, where DG GROW continues with proposing deregulation, while DG TAXUD demands a high-quality and compliance-oriented tax service.

The role of taxation in the European Green Deal

Taxation of climate polluters is gaining momentum at EU level. On 5 December 2019, during the Economic and Financial Affairs Council (ECOFIN), the European Finance Ministers have adopted a conclusion that aims at reviewing the Energy Taxation Directive. The text invites the European Commission to pay special attention to the scope of the Directive, minimum rates and specific tax reductions and exemptions. Tax Commissioner Paolo Gentiloni assured that the Commission would launch an assessment to consider the impact of a possible revision of the Directive on competitiveness, connectivity and social aspects. This decision is connected to the broad agreement among the EU Member States to tackle the climate crisis. Furthermore, the ECOFIN conclusion follows another initiative aimed at using taxation to fight climate change: the tax on air transport proposed in autumn by 9 Member States. In fact, on 7 November 2019, the Finance Ministers of the Netherlands, Germany, Belgium, Bulgaria, Denmark, France, Italy, Luxembourg and Sweden have signed a joint statement to urge the European Commission to design a form of aviation tax. The group of countries remarked that aviation has a significant impact on the environment causing 2,5% of global CO2-emissions. Furthermore, the statement highlights that aviation transport is exempted from excise duties, no VAT is levied on international flights and there is no coordinated ticket tax. The initiative was led by the Netherlands which in May had already declared its readiness to tax flight tickets from 2021 in order to reduce the gap with other less polluting transport modes, such as trains.

On 15 January 2020, the European Parliament has approved its resolution on the European Green Deal. The MEPs have welcomed the planned proposal of the European Commission to review the Energy Taxation Directive and called on the Commission to make proposals for coordinated measures to close tax exemptions for aviation and maritime fuels in the Member States.

The OECD struggles with the international tax reform

During the first week of December 2019, the United States and France revealed some deep disagreements on the OECD Pillar 1 proposal to reform the international tax framework. Steven Mnuchin (US Treasury Secretary) sent a letter to the OECD Secretary-General Jose Angel Gurria expressing concerns “regarding potential mandatory departures from arm’s length transfer pricing and taxable nexus standards”. Thus, it seems that the US are not ready to support the OECD unified approach under Pillar 1. The answer of Mr. Gurria specifically highlighted the Mnuchin’s interventions at G20 meeting that moved the discussions to a broader scope using a more formulaic approach and a new nexus concept. Bruno Le Maire (French Minister of Finance) stated that the proposal of the US based on the safe harbor regime was unacceptable for France and for other OECD partners. In January, the French Finance Minister Bruno Le Maire announced that France and the United States have given themselves 15 days to reach a compromise on digital taxation at OECD level. Le Maire stated that during these two weeks the US will not impose any sanctions on imports from France. The EU Trade Commissioner Phil Hogan confirmed that “the European Commission will stand together with France and all of the Member States who wish to have the sovereign right to impose digital taxation in a fair way”. On 23 January in Davos, France and the United States have announced an agreement on the basis of work at the OECD on digital taxation. Paris and Washington have agreed that they will work on minimum taxation if there is also an agreement on digital taxation, treating the two OECD pillars as one package.

In the meantime, other European countries are following the examples of France by unilaterally implementing or planning to implement some forms of digital taxation. These forms of digital tax drafted or applied by EU Member States are overall in line with the Commission's proposal, but with some differences. For example, while the Italian one is to be paid only by digital companies with revenues in Italy above €5,5 million, in Spain the proposed threshold amounts to €3 million. Other differences regard the tax rate: the proposal currently discussed in Czech Republic sets a rate of 7% on the revenues, a big difference compared to the 3% imposed by France.

Germany proposes Financial Transaction Tax under enhanced cooperation

The German Finance Minister Olaf Scholz has relaunched the idea of a Financial Transaction Tax (FTT) under enhanced cooperation. On 9 December 2019, Mr Scholz sent a proposal for an FTT to the Finance Ministers of 9 EU Member States (France, Belgium, Portugal, Austria, Slovenia, Greece, Spain, Italy and Slovakia). The text, that calls for the participation of the ten countries involved in the enhanced cooperation, includes a rate of 0,2% to be levied on the purchase of shares of listed companies with a market capitalization of more than € 1 billion. The tax is set to have an impact on about 500 businesses within the 10 involved countries. The French Finance Minister, Bruno Le Maire, welcomed the proposal and highlighted the cooperation between France and Germany in drafting this text, with particular reference to the principle of mutualization. In fact, the text includes a proposal for mutualizing the tax revenues in order to provide support to countries with small financial markets which would not be able to cover the costs of collecting the tax using their own resources. However, on 21 January, the Austrian Finance Minister Gernot Blümel declared that Austria is not keen to support the proposal. Mr Blümel warned his German counterpart that the proposal is too far from the ambitious plan initially proposed by the European Commission. Specifically, Austria is still available to discuss a new broader proposal which should not penalize small investors.

The first tax actions of the new European Parliament

The well-awaited TAX subcommittee is still to be formed but MEPs are already working on several tax files. On 18 December 2019, during the plenary session in Strasbourg, they have adopted a resolution on "Fair taxation in a digitalised and globalised economy" calling for a common EU approach for ambitious international tax reform at the OECD. Irene Tinagli (S&D Italy), chair of the ECON Committee, calls for an ambitious international tax reform within the OECD. The resolution claims that the European Commission and the Member States should agree on a joint position and should speak with one voice at international level. Furthermore, it supports the commitment of the Commission to propose a new European solution if an international agreement is not reached by the end of 2020.

During the last months, the European Parliament has also approved three VAT-related opinions. On 14 November 2019, MEPs have approved the opinion drafted by Ondřej Kovařík (Renew, CZ) on a proposal for amending the Directive 2006/112. On the basis of such report, market platforms such as eBay and Amazon will be responsible for gathering data related to sales made by using their interfaces, in order to support the calculation of VAT by tax administrations. On 17 December 2019, during the last plenary session of 2019, the European Parliament has also adopted the report on the proposal for a Council directive amending Directive 2006/112/EC as regards introducing certain requirements for payment service providers and the report on the proposal for a Council regulation amending Regulation (EU) No 904/2010 as regards measures to strengthen administrative cooperation in order to combat VAT fraud. Both opinions have been drafted by MEP Lídia Pereira (EPP, Portugal) who recommends investing in new digital technologies to strengthen the collection systems of the Member States, including the use of blockchain technology to improve the exchange of information between tax authorities.

Public CbCR still blocked at Council level

The Commission's proposal on public country-by-country reporting (CbCR) has been at the center of interinstitutional discussions in the last months of 2019. The proposal would require companies to make public certain financial data such as turnover, profit and taxes. During the discussion at the November Competitiveness Council, 12 Member States have declared their opposition to the proposal, namely: Luxembourg, Latvia, Slovenia, Ireland, Estonia, Austria, Sweden, Czech Republic, Hungary, Croatia, Cyprus and Malta. The qualified majority required for approving the proposal could not be achieved, thus an official vote did not take place. Furthermore, ten of these countries (with the exception of Croatia and Austria) have signed a joint declaration stating that the proposal should be negotiated as a tax text within the ECOFIN on simple consultation of the European Parliament.

The ECOFIN meeting of 5 December 2019 took note of this deadlock on public country-by-country reporting at the Competitiveness Council. In spite of the attempt of the 10 countries to change the legal basis of the proposal, the Executive Vice-President Valdis Dombrovskis indicated that the Commission has no intention of withdrawing the legislative proposal or to change its legal basis.

The European Parliament is following the file closely: it has adopted by large majority a resolution criticizing the deadlock in the Council during its plenary session of October 2019.

MISCELLANEOUS

ETAF Tax Conference on "Future dynamics of EU tax policy"

On 5 December 2019, over 80 participants from the EU institutions, different stakeholders and many tax advisers joined the Conference on "Future Dynamics of EU tax policy" hosted by ETAF in Brussels. In her keynote speech, Maria Teresa Fabregas Fernandez (Director Indirect Taxation and Tax Administration at DG TAXUD, European Commission) described the possible tax priorities of the European Commission in the next 5 years. She confirmed that digital taxation, the European Green Deal and a Carbon Border Tax would be high on the tax agenda of the EU. Other than that, the Commission would continue working on the simplification of the tax system, keep fighting tax fraud and harmful tax regimes and eventually work towards using the passerelle clauses to move towards qualified majority voting.

In the first panel Ms. Fabregas Fernandez, Martin Martinez-Navarro (Référendaire at the European Court of Justice in the Cabinet of the Irish Judge Collins) and Marcus Scheuren (Senior adviser at ECON Secretariat, European Parliament), discussed these tax priorities and the relationships between the different EU institutions in setting up tax policies.

The second panel focused on how the EU and the OECD influence each other when it comes to designing and implementing tax policies. Bernardus Zuijdendorp (Head of Unit Company Taxation Initiatives at DG TAXUD, European Commission), Piergiorgio Valente (President of the Confédération Fiscale Européenne) and Marek Belka (Member of the European Parliament, S&D, Poland) debated about the last developments of the OECD proposal to reform the international tax system and the role of the European Union in promoting this topic at global level.

Summary of the ETAF Conference on “Future dynamics of EU tax policy”

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ETAF www.etaf.tax is a European umbrella organisation for 300,000 tax professionals from France, Germany, Italy, Belgium, Romania, Hungary and Austria. 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.