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INTRODUCTION

Philippe Arraou, President of ETAF

Dear ETAF Members,
dear friends,



I am pleased to present to you a new edition of our ETAF Newsletter.

While EU leaders have appointed the German politician Ursula von der Leyen as the new Commission's President and the European Parliament approved her in a considerably tight vote, the Finnish government has taken over the EU Council presidency from 1 July.

The Finnish presidency will focus on advancing the discussions on CCCTB and follow closely the developments on OECD level regarding the taxation of the digital economy. So far, the EU has not been able to come up with solutions on a "digital tax" and has thus missed the chance to be at the forefront in this regard.

Furthermore, Finland is determined to raise the EU's climate ambition and get all Member States on board to reach climate-neutrality as early as they can. This will most probably shape our future tax systems. On European level we can observe an increase of talks about an end of tax exemptions

on kerosene and the taxation of the aviation sector in general. The Dutch government has recently taken initiative in the Council and suggested a coordinated approach for taxing aviation. For sure, we can expect a Commission proposal on this topic in the next legislative period.

If the Council manages to conclude negotiations on the multiannual financial framework of the EU by the end of the Finnish mandate in December 2019, the Finnish government intends to even provide 25% of the EU spending for climate policies.

Additionally, the Finnish program foresees a special focus on services in the EU and on removing barriers to cross-border trade in services. As a cornerstone of the single market services will keep playing an important role in market policies and we will thoroughly observe the developments concerning the tax advising professions throughout Europe. We are committed to defend our high professional standards and national requirements that ensure qualified tax advise.

Other priorities of the new presidency will be the strengthening of common values and the rule of law as well as enhancing competitiveness and social inclusion.

Last but not least I congratulate the new Board members of ETAF, Volker Kaiser, Hans-Michael Korth, Luigi Carunchio, Benoît Vanderstichelen and Robert Sova, who have been elected during our General Assembly on 12 June. I feel honored to have been re-elected as President and thank our members for their trust and encouragement.

I hope you will enjoy reading our Newsletter!

Yours sincerely,
Philippe Arraou

PROFESSIONAL LAW

European Commission tries to revamp the notification procedure

After the trilogue negotiations on the notification procedure came to a deadlock, the European Commission launched the idea of an “Improved Implementation of the Services Directive”. This idea results from a working paper approved during the last Meeting of the Expert Group on the Implementation of the Services Directive.

In the above-mentioned working paper, the Commission intends to introduce adaptations to the existing notification procedure with effect as of 1 June 2019. In particular, the Commission announces that whenever a Member State would fail to notify a measure falling under the notification obligation of the Services Directive and the Commission became aware of the existing or envisaged measure, the Commission services could request the Member State in question to proceed with the notification of that measure within 14 calendar days as from the date of the request.

Once the measure would officially be notified, Article 15(7) of the Services Directive provides for a period of three months within which the Commission would examine the compatibility with EU law of the requirements laid down in the notified measure and, where appropriate, adopt a decision requesting the Member State in question to refrain from adopting the requirements or to abolish them.

In case the Commission adopted a decision according to Article 15(7) of the Services Directive, it would first send its objections regarding the compatibility of the notified measure within four weeks. The notifying Member State would have eventually the opportunity to respond to the Commission’s objections and would be requested to do so within four weeks from their receipt. During this exchange of comments, Member States could

complete or correct the information provided. The exchange of comments between the notifying Member State, other Member States and the Commission should take place through the Internal Market Information System which is a communication tool designed by the Commission.

After the communications between Member States and Commission, the Commission would be entitled to take a decision which should be addressed to the concerned Member State and public, according to article 288 TFUE.

According to the Commission, [Article 15 \(7\) of the Services Directive](#) serves as the legal basis for this implementation. However, it seems questionable if Article 15 (7) is actually suitable as a legal basis, due to its weak formulation and its partially contradictory wording. Nineteen Member States have already raised objections against this initiative of the Commission.

European Semester: Country specific recommendations in professional law

High professional regulation and restrictive requirements to enter the market seem to be the common denominator addressed by the country-specific recommendations of the European Commission (EC) for all ETAF members' jurisdictions. The Commission published its recommendations on 5 June, analyzing the national stability and reform programs of the Member States and suggesting ways of strengthening the single market.

Regarding [Belgium](#), the Commission states that the Belgian regulatory framework for accountants and tax advisers is considerably more restrictive than the EU average. The Federal Planning Bureau estimates that an ambitious reduction of the regulatory burden in legal and accounting services would increase labour productivity. In the light of this assessment, the Commission recommends to reduce the regulatory and administrative burden to remove barriers to competition, particularly in professional services.

In the case of [France](#), the Commission notes that despite the progress and the adoption of ambitious reforms, barriers to entry the market persist and competition in business services and regulated professions remains low. Data show that the level of regulatory restrictiveness in France is higher than the European Economic Area average in sectors such as accounting and legal services. Main barriers arise in the form of restrictive authorisation requirements, reserves of activities, shareholding and voting rights requirements.

With regard to [Germany](#), the Commission comes to similar conclusions and demands as in the previous years. It claims that barriers to competition in specific professional services are still high compared to other European countries, especially within regulated professions. Particularly, restrictions such as reserved activities and membership fees would undermine the competition. For this reason, the Commission recommends strengthening competition in business services in general and in regulated professions in particular.

According to the country-specific recommendations, regulatory barriers and state involvement also limit competition in [Hungary](#). The regulation of certain professions remains restrictive. The Commission warns that a lack of competition may become detrimental to innovation and efficiency.

The Commission does not enquire in [Italy's](#) regulatory framework as much as it does in other Member States. The country specific recommendations only state that significant barriers to competition persist in certain sectors, such as business services and suggest that improving the quality of the regulatory framework would ensure a fairer competition.

Concerning [Romania](#), burdensome administrative procedures as well as regulatory requirements imposed on services providers, including regulated professions, impede further market development.

OECD runs the games on taxing the digital economy until 2020

After the two rejections of the European Commission's proposal for a Digital Services Tax due to the disagreement at Council level, (first at the December 2018 ECOFIN and then in January 2019 on the second narrow Franco-German initiative), the topic is now being handled at international level. On 9 June, the [G20 Finance Ministers approved the progress](#) made by the OECD on the tax challenges arising from the digitalization of the economy and the work plan that aims to reach an agreement on an international tax reform by 2020. The [OECD roadmap](#) and [Programme of Work](#) that were adopted by the 129 members of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting (BEPS), depict the process to agree on new rules for taxing multinational enterprises at global level. The documents explore two pillars: the first one addresses the issues of "nexus" (where tax should be paid and on what basis) and "profit allocation" (how to determine the portion of profit to be taxed in the jurisdiction where the clients/users are located). The second pillar explores the design of a system that ensures that MNEs pay a minimum level of tax.

In the meantime at EU level, during the [ECOFIN meeting in May](#) the Presidency confirmed that the Member States and the Council would continue to work towards a global agreement at OECD level by 2020 and that only if by the end of 2020 it appears that an agreement at OECD is bound to take more time, the Council could revert to discussing a possible EU approach.

The Franco-German bid to relaunch the EU Financial Transaction Tax

The Financial Transaction Tax (FTT) is a topic discussed between EU Member States since at least 2010. After almost 10 years, in the last months France and Germany have relaunched the idea of an FTT that would be based on the French model. According to a [note submitted by Germany to the ECOFIN](#) on 14 June 2019, the FTT would be levied on acquisitions of shares of listed companies whose head offices are located in the Member States and whose market capitalisation exceeds €1 billion. The tax rate would not be lower than 0.2% of a security's purchase price at the time of acquisition. The tax would be payable in the Member State where the company has issued the financial instrument. The discussions have been taking place between ten Member States participating in enhanced co-operation, namely France, Germany, Belgium, Portugal, Austria, Slovenia, Greece, Spain, Italy and Slovakia. Regarding the distribution mechanism of the revenues collected via the FTT, a balanced allocation system is to be further defined in order to ensure a minimum revenue for countries that are expected to make no or very little revenue from the FTT.

New update of the EU blacklist of non-cooperative jurisdictions in tax

On Friday 14 June, the [ECOFIN](#) decided to [remove Dominica from the EU](#) list of non-cooperative jurisdictions for tax purposes. The list, which was established in December 2017 after screening 92 jurisdictions and 17 countries, is intended to contribute to ongoing efforts to prevent tax avoidance and promote tax good governance worldwide. As a result of this last amendment, the EU tax blacklist now includes 11 jurisdictions: American Samoa, Belize, Fiji, Guam, Marshall Islands, Oman, Samoa, Trinidad and Tobago, United Arab Emirates, US Virgin Islands and Vanuatu.

A tax to support the fight against climate change

The issue connected with environmental footprint and climate change is making its way into EU tax policy. In April, the European Commission has published a [Communication on "A more efficient and democratic decision making in EU energy and climate policy"](#) setting out a plan to move

decisions on energy taxation to Qualified Majority Voting (QMV) in the Council. According to the Commission, moving to the ordinary legislative procedure in matters of environmental and energy taxation would facilitate the alignment of the tax regime to the EU's energy and climate policy objectives. The Communication suggests that proposals in the area of energy taxation could be put forward under the so-called 'passerelle clause' – Article 192(2) – which provides for QMV decision-making for energy taxation measures that are primarily of an environmental nature. This could be justified for environmental taxation measures aiming at reducing CO2 and other polluting emissions or improving energy efficiency, key priorities of the EU's Energy Union strategy and of the Paris Agreement.

The calls to taxing aviation have gained further momentum in June, when the idea was discussed in the framework of the Council meeting between EU Transport Ministers of 6 June. Finally, during the Environment Council of 26 June, the Deputy Permanent Representative of the Netherlands have announced the willingness of his government to officially require the European Commission to take the initiative for taxing the aviation sector. The [information note provided to the EU Ministers](#) pushes for a coordinated EU approach in order to avoid fragmentation and disruption of the EU internal market. The Netherlands immediately received a positive answer from Luxembourg but also expects French and Belgian ministers to support the initiative.

European Semester: Country specific recommendations in tax law

In the framework of the European Semester, the country-specific recommendations of the European Commission (EC) do also evaluate the tax systems of the 28 Member States and suggest how to improve them. Complex tax systems, high VAT gaps and tax evasion seem to be a common issue in the ETAF member's States countries.

In its 2019 Stability Programme, Belgium has requested a temporary deviation of 0.5% of GDP from the adjustment path towards the medium-term budgetary objective in view of the implementation of major structural reforms. These reforms refer to a "tax shift" and a revision of corporate income taxation amongst other. The Commission approved the requested temporary deviation provided that it adequately implements the agreed reforms, which will be monitored under the European Semester.

The recommendations of the EC to France looks towards a simplification of the tax system by limiting the use of tax expenditures, removing inefficient taxes and reducing taxes on production. The Commission comes to the conclusion that despite ongoing efforts, the French tax system continues to be very complex. The multiple rates and tax expenditures included in the tax code leads to a loss of readability, thus increasing compliance costs and legal uncertainty.

The country-specific recommendations for Germany points out that there is still potential to reduce distortive taxation on labour through a tax shift away from labour to sources of revenue more supportive to inclusive and sustainable growth. The Commission highlights that the improvements in the previous years were not followed by similar recent progress to reform Germany's tax system. The system remains complex, distorts decision-making and could provide more effective incentives for investment and consumption.

The recommendations to Hungary primarily underline the needs for simplification of the tax system, where a plethora of sector-specific and small taxes raise compliance costs for SMEs. Furthermore, the EC urges the country to strengthen its fight against aggressive tax planning, highlighting the absence of withholding taxes on outbound dividend, interest and royalty payments made by companies based in Hungary and the high capital inflows/outflows through special purpose vehicles which has little impact on the real economy.

In the case of Italy, the EC specifically highlights the high tax burden on labour and capital, detrimental to employment and investments, whilst other taxes less harmful for growth, like property and consumption, are

underused. Furthermore, the recommendations point out that the VAT gap is among the highest in the EU due to the high level of tax evasion related to omitted billing and invoicing. The EC welcomed the mandatory electronic transmission of receipts, though underlining the counterproductive nature of, the increased legal thresholds for cash payments, that discourages the use of electronic payments.

According to the country-specific recommendations of the EC, tax compliance in tax compliance in Romania remains low mainly because of the large portion of informal economy which results in high level of undeclared work. As in Italy, the VAT gap remains very high and the prevalence of cash payments facilitates tax evasion. Therefore, the Commission recommends to ensure the full application of the fiscal framework and to further strengthen tax compliance and collection.

MISCELLANEOUS

ETAF Board renewed

In their General Assembly on 12 June ETAF members voted for Hans-Michael Korth, Luigi Carunchio, Volker Kaiser, Benoît Vanderstichelen and Robert Sova as board members of the new board of ETAF. Philippe Arraou was re-elected as president and thanked the members for their trust and the encouragement to continue with the fruitful work of the past two years.

ETAF members also talked about a new strategy for 2020 and prepared the next conference that will take place towards the end of the year 2019. Philippe Arraou stressed the importance of maintaining and intensifying existing contacts with decision-makers in the European institutions as well as establishing new contacts with regard to the newly elected Parliament.



General Assembly of ETAF in June 2019

Disclaimer:

European Tax Adviser Federation AISBL – ETAF
Rue des Deux Eglises 35 | 1000 Brussels
Phone: +32 2 2350-105 | Email info@etaf.tax | www.etaf.tax

Head of Office: Michael Schick

ETAF www.etaf.tax is a European umbrella organisation for 280,000 tax professionals from France, Germany, Italy, Hungary, Romania 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.