



Annual Report

2018

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Philippe Arraou, President of ETAF

FOREWORD

Dear ETAF Members,
Dear friends,

In 2018 our profession has found itself facing an ever increasing amount of legislation coming from the European level and challenging the core of the profession.

Preserving our well-proven high professional quality that is based on effective regulations belonged to our priorities in the year 2018.

The Services Package of the European Commission was set out to bring profound changes to how we exercise our profession. That is why ETAF worked meticulously to defend our professional standards and contributed to the rejection of the so-called “services e-card”. Thus, we prevented the introduction of the country-of-origin-principle through the back door and preserved our purposeful national requirements.

ETAF's engagement in professional law especially paid off, when the notification procedure has failed in the Council as well as in the European Parliament and the reversal of burden of proof was prevented.

Another equally important success for our profession was when we protected the compulsory chamber membership and shareholding requirements that were challenged by the directive on the proportionality test. It aimed at obliging the Member States to consider certain criteria before introducing professional regulations.

I am pleased to tell you that 2018 was also the year where ETAF grew by three new members from Belgium (IEC-IAB), Hungary (MOKLASZ) and Romania (CEC-CAR). This encouraged our rather young organization to continue its fruitful work and stay on course together with the new member organisations. The collaboration

with our newly gained colleagues is already bearing fruit and I am convinced that our profession will have an even stronger voice in Europe now.

Coming to tax law, we faced a major proposal by the European Commission aiming at taxing the digital economy. ETAF was at the forefront of the discussions around this topic and argued for a long-term solution, preferably on international level. We organized a very successful conference in May 2018 with high-end decision-makers from the European institutions, MEPs, shareholders and tax professionals to debate fair taxation and transparency goals in the digital economy.

The increasing digitalization in the tax collecting process raised concerns within national tax authorities but also and most importantly within our profession. Therefore, in November 2018 we invited again decision-makers on EU-level and tax professionals from all over Europe to debate the new technologies that bring new challenges and profoundly change the way we work.

ETAF will continue this work and will make sure that our voice is heard in Europe. Facing the increased legislation coming from the European institutions, we can rely on the expertise of our member organisations and, in this way, effectively shape European tax and professional law policy.

I hope you will enjoy reading our Annual Report!

*Yours sincerely,
Philippe Arraou*

PROFESSIONAL LAW

Our achievements on the Services Package



Stephen Quest, Director General for Taxation and Customs Union, European Commission, at our Tax Conference "How to ensure fair taxation in a digitalized world"

Two years after the publication of the Services Package of the European Commission in January 2017, it's time to draw a balance and to have an outlook.

Services e-card failed for this legislative term

The project of a "European Services e-card" can definitely be regarded as failed. After rejection through the European Parliament in March 2018, some attempts to take up this topic again could be observed, but they did not prove successful. From the very beginning, [ETAF has pleaded for a withdrawal of the proposals](#) because our professional standards would have been undermined by the introduction of a country-of-origin principle through the backdoor, and because such a services e-card would have caused a disproportionate, huge amount of bureaucracy.

Proportionality test now includes some positive elements

Although the Directive on the proportionality test could not be prevented as such, it was possible to introduce some positive elements. First of all, it is expressly stated in Art. 1 of the Directive that it lies in the Member States' competence and margin of discretion to decide "whether and how to regulate" a profession, if this profession is not harmonised on EU level. Furthermore, special proportionality criteria for the obligatory chamber membership and the shareholding requirements could be introduced into the considerations of the Directive. The final trilogue text has been adopted by the EP plenary on 14 June 2018.

Notification procedure: trilogue negotiations blocked

The legislative process on the notification procedure came to a deadlock in the Council. In October 2018, a blocking minority against the proposal was formed in the Council, leaving the Austrian Presidency with no mandate to continue the trilogue negotiations on the basis of the original General Approach of May 2017. A mid-November 2018 scheduled trilogue appointment had to be cancelled. The most controversial issue was whether the Commission shall have the possibility to issue binding decisions against the Member States, requiring them to refrain from adopting a specific measure or, if a Member State has already adopted a measure, to remove it. This possibility should have, according to the Commission's proposal, applied to certain regulatory areas under Article 15 (2) of the Services Directive, which include the reserved activities and the shareholding requirements amongst other.

After an inconsistent Council legal opinion of May 2018, [ETAF pointed out that the reversal of the burden of proof](#) would de facto replace the national legislator. As a result, the national legislator would have been deprived of the legislative competence in professional law and would only had the possibility to reach out to the European Court of Justice. At that point, many Member States realised the problem, causing considerable uncertainty among Member States over the legality of such a construction. In particular, elementary questions have been raised regarding the legal consequences of such a binding decision. ETAF was pleading for the Commission's legal acts to be issued as recommendations. This would provide clarity on the burden of evidence and proof, avoiding anti-systemic application and enforcement of European legislation and prevent long-term litigation over procedural issues.

Towards the end of the year, the Member States came up with a new compromise proposal foreseeing a "strengthened recommendation" which was immediately rejected by the European Commission.

Protecting our professional secrecy

On 13 March 2018, the Finance Ministers of the EU Member States reached an agreement on the proposed directive concerning transparency for tax intermediaries. The proposal requires intermediaries such as tax advisers, accountants and lawyers that design and/or promote tax planning schemes to report schemes that are considered potentially aggressive.

Having closely followed the development of the proposed directive since it was firstly launched in June 2017, ETAF strongly positioned itself in favour of safeguarding 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 broad scope of the Directive, 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. Commenting on the political agreement, ETAF President Philippe Arraou stated:

“Even if our fundamental concerns about this Directive remain unchanged, we have to acknowledge that one of our main objectives, the safeguarding of our professional secrecy, has been taken duly into account in the Directive. Furthermore, we appreciate that the danger of an “overreporting” is now limited because the scope of reportable cross-border tax schemes has finally been narrowed –a subject which was controversially discussed among the Finance Ministers until the very last minute”.



The General Assembly of ETAF

PROFESSIONAL LAW

Survey on professional regulations of Tax Advisers



Philippe Arraou and Eva Joly (Member of the European Parliament, Greens/EFA, France), at our Tax Conference "How to ensure fair taxation in a digitalized world"

Last year, ETAF developed a survey with different questions regarding the regulation of the profession of Tax Advisers. The participants of the survey were the ETAF Members (BStBK, DStV, CNDCEC, CSOEC, IEC-IAB, MOKLASZ, CECCAR). The aim of the questionnaire was to understand how the profession is regulated within the different countries. ETAF asked the participants about various aspects of the profession such as membership obligations, professional qualifications to become a tax adviser, ethic rules/codes of conduct, professional activities that tax advisers are allowed to carry out, etc. The results showed that the regulation of the profession within ETAF Members has various common aspects but it also has certain differences that need to be addressed.

Regarding the common aspects we can highlight the fact that the profession is regulated by national law in all our ETAF Members. The membership is mandatory in most of the cases, besides in MOKLASZ and in DStV. The profession of a Tax adviser is considered to be a liberal profession in all ETAF countries. A continuous professional training is required of all professionals of ETAF Members. In case of misbehavior, tax advisers belonging to ETAF Members are subject to sanctions. Usually it is the Ministry of Finance who is responsible for the oversight of the profession with the exception of Italy (Ministry of Justice) and Belgium (Ministry of Economy). Last but not least, all ETAF Members have their own ethic rules with which tax advisers have to comply.

Nevertheless, ETAF has found out certain differences regarding the regulation of the profession. The results of the survey show that the confidentiality rules are not exactly the same within ETAF Members. It is important to distinguish between "right of non-disclosure of a client's information", "obligation to report tax avoidance" and "obligation to report money laundering" which are not applied homogeneously within ETAF Members. Professional activities that a tax adviser is allowed to carry out also differ widely from one country to another. While in Germany they are entitled to proceed with any of the stated activities (i.e. tax/business consulting, accounting, representation in Court and representation in criminal tax matters), in Hungary they are limited to do only tax/business consulting. The professional qualification/training in order to become a tax adviser seems to be similar regarding the structure (e.g. theory and practice). Nevertheless, the time invested and the exact procedure varies significantly from one country to another. Regarding the shareholding requirements the results show that they do not apply in all ETAF Members either.

TAX LAW

Fair taxation of the digital economy

On 21 March 2018, the European Commission has published two legislative proposals and reform recommendations regarding the taxation of the digital economy. The Commission's proposal on a short-term solution envisaged the introduction of a tax on companies with global revenues exceeding €750 million and EU revenues exceeding €50 million. The tax rate of 3% would apply on certain revenues from digital activities:

- 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.

The long-term solution of the Commission aimed 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).

ETAF had actively contributed to shape the proposals on hand by participating in the consultation promoted by the European Commission and [submitting a position paper supporting a fair taxation of digital companies](#) on a long-term basis.

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.

The evolution of the two proposals of the Commission in the course of 2018, has seen a predominant discussion around the short-term solution. The so-called Digital Services Tax has been debated both within the Council (ECOFIN) and by the ECON and TAX3 Committees of the European Parliament. The rapporteur MEP Paul Tang (S&D, Netherlands) proposed to raise the rate from 3% to 5% and to broaden the scope of the proposed Directive to include the provision of video, audio, games or text using a digital interface and a revision clause to assess certain elements two years after the entry into force of the Directive.

[ETAF expressed a positive attitude towards the interim tax proposal](#) of the European Commission, as a measure to avoid the flourishing of unilateral measure by the various Member States that can lead to a fragmentation of the Single Market. However, a tax on revenues should be carefully designed in order to avoid an increase in bureaucracy for tax administrations and compliance costs for companies (e.g. taking into account loss-making companies and double taxation risks) which would lead to an outburst of tax controversies.

On 4 December 2018, the ECOFIN Council has rejected the proposals of the European Commission to tax the digital economy, due to a lack of agreement among the Member States. The two legislative proposals have been discussed controversially in the last months within the Council. France has always been the strongest supporter of introducing this new form of taxation, whereas Germany has been vague for a long time and certain nordic countries, in particular Ireland, Sweden and Denmark, have firmly opposed the proposed directive since the very beginning. Despite the decision of the ECOFIN, France and Germany have wasted no time and relaunched the idea of a minimum taxation of the digital economy, though only scoping-in the revenue from online advertising. The two countries have asked the European Commission to deeply modify the proposal according to this new compromise and urged the Council to adopt it before March 2019. This new proposal is also based on a reverse sunset clause, meaning that the directive to be drafted should enter into force on 1 January 2021, if no international solution has been agreed upon at OECD level.

TAX LAW

Developing e-invoicing rules

On 20 September 2018, ETAF participated to the public consultation on the evaluation of invoicing rules promoted by the European Commission. The common EU rules regarding the issuance, content, and transmission of invoices were originally provided by the Directive 2006/112/EC (the VAT Directive) and amended by the Directive 2010/45/EU (the “Second Invoicing Directive” or “SID”), that aimed at reducing administrative burdens for businesses (in particular small and medium-sized businesses), increasing the use of e-invoicing, while allowing better control of the tax. The consultation intended to gather the view on whether the Second Invoicing Directive achieved its objectives, the extent to which it meets stakeholders’ needs, and the possible areas of improvement.

In its contribution to the assessment, ETAF expressed that the EU VAT invoicing legislation is expected to reduce the differences of invoicing rules between EU Member States in order to facilitate cross-border transactions

and reduce the burden of invoicing on businesses, also considering the needs of SMEs, while reducing the risk of legal uncertainties and disputes.

Furthermore, ETAF highlighted that the SID impacted the uniformity of the invoicing requirements across the EU positively by promoting a faster and more accurate tax control and increasing the use of electronic invoicing. ETAF pointed out that a uniform invoicing rules framework, a competitive price of e-invoicing solutions and a secure and interoperable system are the most important drivers to increase the uptake of e-invoicing.

Regarding a possible future revision of invoicing rules, ETAF supported a modification of the definition of e-invoice to distinguish between structured and unstructured invoices and stressed that it would be important to remove the requirement of the acceptance of e-invoice by the recipient. The simplification of invoicing rules is also important and it should regard the elements to be included within standard invoices and the expansion of the situations in which simplified invoices can be used. ETAF stressed the importance of invoicing regimes for businesses such as simplified invoices, self-billing and summary invoices.

Finally, ETAF spoke out for awareness campaigns, free access to e-invoicing systems, mandatory e-invoicing for the public sector and incentives for businesses opting for e-invoicing as the most important tools to promote the use of e-invoicing.



David Boubliil (Member of the Cabinet of Pierre Moscovici, Economic and Financial Affairs, Taxation and Customs, European Commission) and Philippe Arraou, at our Tax Conference “Will digitalisation make taxation easier?”

The impact of the Blockchain technology on our profession



Philippe Arraou and Stephen Quest, Director General for Taxation and Customs Union, European Commission at our Tax Conference "How to ensure fair taxation in a digitalized world"

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 was 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 were 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 (started in April 2018). They explained that the first topics the Forum would 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 and to contribute to the initiative.

[ETAF Positions on the Blockchain technology](#)

EVENTS

“How to ensure fair taxation in a digitalized world?”

On 23 May 2018, over 100 participants from the EU institutions and multiple Member States joined the Conference on “How to ensure fair taxation in a digitalized world?” hosted by the European Tax Adviser Federation in Brussels. Main subject of the Conference was the Commissions proposal on taxing the digital economy of 21 March 2018. As a keynote, the ETAF Conference was an ideal setting for Director General at DG TAXUD, Stephen Quest, to explain the background and the purpose of the Commissions proposal.

In the first panel under the title “Taxation of the digital economy – the way forward”, Maria Elena Scoppio (Head of Unit at DG TAXUD), Dr Eva Oertel (Bavarian Ministry of Finance), Paweł Gruza (Undersecretary of State, Polish Ministry of Finance), Guillaume Drano, (Permanent Representation of France to the EU) and Umberto Zanini (Italian Dottore Commercialista representing ETAF) offered a very interesting discussion about the right way of taxing the digital economy and exchanged different opinions about it.

The second panel, composed by MEPs Luděk Niedermayer (EPP), Eva Joly (Greens), Ana Gomes (S&D) and Volker Kaiser (Vice-President of BStBK) discussed the “TAX3 and the role of tax professionals in fair taxation”. The debate was opened by MEP Joly who stressed that the tax scandals brought up the scale of the “industry of international tax avoidance” and that regulatory loopholes are created on purpose to facilitate this type of tax avoidance and tax evasion. Mr Kaiser therefore highlighted that 98% of tax advisers were not engaged in supporting multinational in their tax planning schemes.

Overall, the ETAF event offered an excellent outlook on the various positions of governments, MEPs and professionals on the Commission’s proposal on taxing the digital economy. It allowed ETAF to clarify its positions and emphasize the importance of deontology and ethics that are the common ground of members of ETAF.



Guillaume Drano (Permanent Representation of France to the EU), Eva Oertel (International Tax Center, Bavarian Ministry of Finance), Maria Elena Scoppio (Head of Unit, DG TAXUD, European Commission) and Umberto Zanini (Dottore Commercialista specialised in international tax)

“Will digitalisation make taxation easier?”

On 20 November 2018, over 80 participants from the EU institutions, multiple Member States and several organisations joined the Conference on “Will digitalisation make taxation easier?” hosted by the European Tax Adviser Federation in Brussels. The main subject of the Conference was the impact of digitalisation on the various European tax systems. In his welcoming address, ETAF President Philippe Arraou highlighted that digitalisation is an opportunity for many Member States and that tax professionals will continue playing a key role in this new scenario.



David Boubilil (Member of the Cabinet of Pierre Moscovici, Economic and Financial Affairs, Taxation and Customs, European Commission)

In his keynote, David Boubilil, member of the cabinet of Pierre Moscovici, Commissioner for Economic and Financial Affairs, Taxation and Customs, highlighted the massive changes that the digitalisation brought within the economy and the opportunities connected with the use of digital technologies within the tax system. He stressed that new digital technologies can be useful for tax administration to process large amount of data in a more efficient way and the fundamental and evolving role played by tax advisers in our tax systems.



Riccardo Lambri (Dottore Commercialista, Tax expert on Digital Assets), Robby Houben (Associate Professor at University of Antwerp, Counsel Baker McKenzie), Caroline Malcolm (Senior Advisor, Tax and Digitalisation Centre for Tax Policy and Administration, OECD)

In the first panel David Boubilil, Elo Madiste (Counsellor for Taxation, Permanent Representation of Estonia to the EU), Michel Van Hoegaerden (Programme manager at the Federal Public Service of Finance of Belgium) and Luigi Carunchio (Dottore Commercialista, Italian chartered accountant) discussed the “Impact of digitalisation on the relation between taxpayers and tax authorities”.

In the second panel “New digital technologies: challenges and opportunities”, Caroline Malcolm (Senior Advisor – Tax and Digitalisation at Centre for Tax Policy Administration, OECD), Prof. Dr. Robby Houben (Associate Professor at University of Antwerp and Counsel Baker McKenzie) and Riccardo Lambri (Dottore Commercialista, Tax expert on Digital Assets) offered a very interesting discussion about the possible impact of blockchain in the tax systems and on the risks associated with the flourishing market of cryptocurrencies.

EVENTS

General Assembly welcomes three new members



ETAF at November Tax Conference on "Will digitalisation make taxation easier?"

On 23 May 2018 Philippe Arraou, President of ETAF, welcomed everyone to the General Assembly and expressed his joy over the three new members joining ETAF as from 1 July 2018, namely MOKLASZ (Hungarian Tax Adviser Organisation), CECCAR (Romanian Tax Adviser Organisation) and IEC-IAB (Belgian Tax Adviser Organisation). With its three new members, ETAF is nowadays composed by seven Tax Adviser Organizations. Benoit Vanderstichelen, President of IEC-IAB, thanked the ETAF members to have

welcomed IEC-IAB so warmly and expressed his confidence for a fruitful collaboration in the future. He briefly presented his organization to the General Assembly explaining the Belgian Institute was founded in 1984 and had around 5000 members composed by accountants and tax advisers. Unfortunately, the representatives from Hungary and Romania were not able to join the meeting. Nevertheless, the collaboration with them has shown to be very successful / constructive ever since they joined ETAF.

ETAF ACTIVITIES

2018

7 March	Meeting with Pierre Marro and Benoit Abeloos (DGCNECT)
25 April	Meeting with MEP Jakob von Weizsäcker
16 May	Meeting with MEP Luděk Niedermayer
16 May	Meeting with MEP Eva Joly
23 May	ETAF General Assembly
23 May	ETAF Tax Conference “How to ensure fair taxation in a digitalized world?”
19 June	Meeting with MEP Jeppe Kofod
20 June	Meeting with MEP Petr Ježek
28 July	Meeting with MEP Ana Gomes
30 August	Meeting with Assistant to MEP Sergio Cofferati
15 October	Meeting with Assistant to MEP Mady Delvaux
26 October	Meeting with Maria Elena Scoppio (DG TAXUD)
30 October	Meeting with Gerard Oosterwijk, policy adviser to Paul Tang
20 November	ETAF Tax Conference “Will digitalisation make taxation easier”



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ETAF is a European umbrella organisation for 280.000 tax professionals from France, Germany, Italy, Belgium, Romania and Hungary. ETAF was launched in January 2016 as an international non-profit organisation (AISBL), governed under 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.