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Philippe Arraou, President of ETAF

FOREWORD

Dear ETAF Members,
Dear friends,

The impact of the pandemic was and still is particularly noticeable with SMEs that did not have possibilities to adapt to disruptions in supply chains. As an advocate for SMEs, our profession showed high flexibility and resourcefulness when it came to navigating our clients through these difficult times. We helped ease the economic impact of the pandemic and we did that under a high amount of pressure. We have proven to society what a regulated independent profession can achieve – and we should be proud of that.

For ETAF, the economic crisis triggered thought-provoking new impulses. In October we invited EU officials, politicians and tax advisers from all over Europe to discuss with us how fair taxation could play a role in the stable recovery of our economy. We saw a clear momentum for fair taxation because now more than ever, governments can't afford to lose billions of euros each year to tax fraud, evasion and avoidance.

We need rules that are appropriate and address the imbalances in our tax systems. Globalization and digitalization have fundamentally changed our economies and created new challenges for our tax systems. The current rules of the international tax system are now a century old and they are not fit for today's economy.

It is high time that everyone pays their fair share of taxes, especially digital companies, who are the big winners of the COVID-19 pandemic. A significant milestone in that regard was the historic OECD tax agreement on a global minimum effective corporate tax rate set at 15% (so-called 'Pillar II'). ETAF strongly supports the European Com-

mission's work on a suitable implementing directive for EU Member States, bringing the EU one step closer to fair taxation. The Commission has also started to look at shell companies more closely. It proposes a minimum economic substance test in several steps to help Member States identify undertakings that do not perform any actual economic activity and can be misused for tax avoidance or evasion purposes.

But let me be clear: A strong, regulated and independent tax advising profession can help steer the wheel towards tax fairness. We are legally obliged to comply with all applicable laws. Our close relationships with our clients are based on trust in our expertise and excellent training. As a result, we make an important contribution to tax acceptance and help strengthen the tax compliance in our societies. Our profession has proven its reliability at numerous occasions during these difficult times.

Dear Members, dear Friends, ETAF will not shy away from speaking up when it comes to the value of our profession to raise acknowledgement of regulations that are useful and beneficial.

I hope you will enjoy reading our Annual Report.

Yours faithfully,
Philippe Arraou

PROFESSIONAL LAW

Fighting money laundering with a new legislation

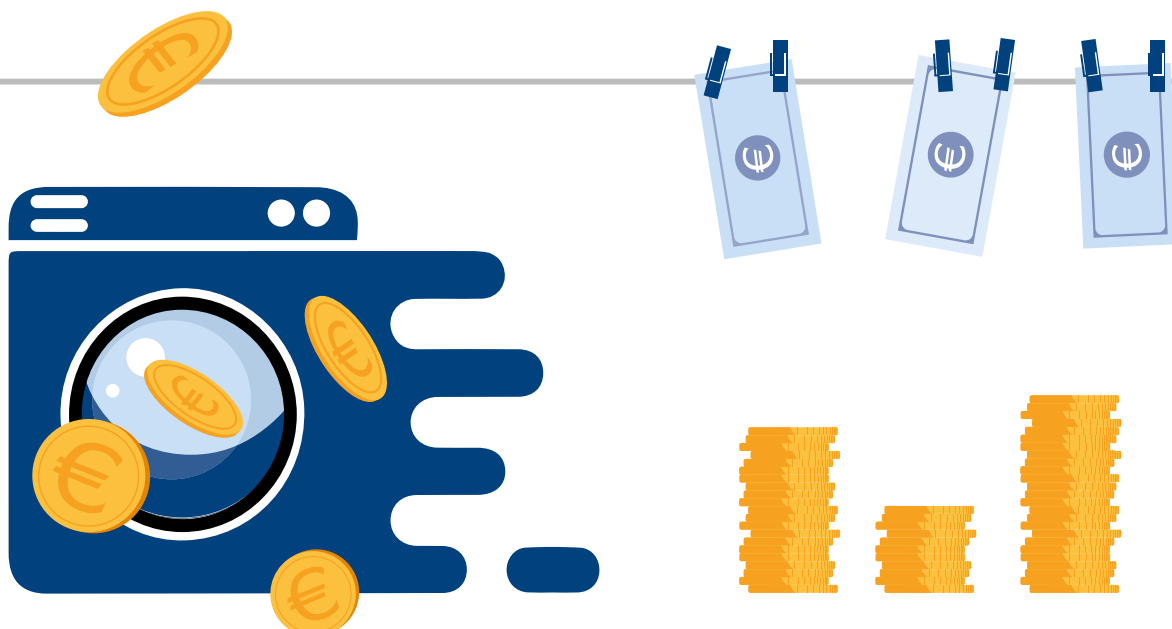
On 20 July 2021, the European Commission published a comprehensive legislative package to combat money laundering and the financing of terrorism (AML/CFT) with a total of four legislative proposals: a regulation to establish a new European anti-money laundering authority AMLA, a regulation to introduce a single corpus of rules, a recast of Regulation 2015/847 on information accompanying transfers of funds and a 6th anti-money laundering Directive.

Throughout the negotiations of this text in the course of 2021, ETAF followed closely the developments and accompanied the debate. In November 2021, we presented our reasoned [opinion statement](#) to MEPs and Member States' permanent representations in Brussels. ETAF also participated to the [public consultation](#) launched by the European Commission.

We support the European Commission in its effort to replace the existing patchwork of regulations by a single corpus of rules, and argue that this should take place under consideration of the different national structures, legal cultures and the different professional law systems in Europe.

We however expressed some concerns about the creation of a new EU AML Authority. The competencies of the AMLA in the non-financial sector should be limited to a coordinating and advisory function. The non-financial sector has multi-layered economic sectors and a variety of existing obliged entities. The supervision of this sector should remain decentralized at the level of Member States; they can act faster, more effectively and more appropriately. This would prevent an unnecessary interference with the competencies of the Member States.

ETAF will stay vigilant on this controversial file and keep engaging in the discussions.



ETAF in close cooperation with Chair of FISC subcommittee Paul Tang

In July 2020, the European Commission published its [action plan](#) to fight tax evasion and make taxation simple and easy. It aims at combating tax fraud, facilitating compliance with tax rules and further exploiting new technical developments and the increasing digitalization in order to achieve these goals.

ETAF positioned itself and pointed out that tax compliance in Europe had to be improved in the long term. As a reaction to our Tax Compliance [paper](#), ETAF was approached in 2021 by the office of MEP Paul Tang, Chair of the FISC subcommittee in the European Parliament.

The Dutch MEP had shown great interest in our opinion on tax compliance and especially on the role of professional law within this context. At the time, he was evaluating the added value of introducing a professional code within his own country, the Netherlands.

We provided Mr. Tang with detailed information on professional regulations in ETAF member countries and held several informal exchanges on this matter.

In this joint long-term project, ETAF will use its excellent relations with the European Parliament to advocate for the interests of European tax advisers.



MEP Paul Tang, during the ETAF Conference on 12 October 2021

Pandora Papers: opposing the general suspicion around intermediaries

The year 2021 has seen the Pandora Papers [investigation](#) led by the International Consortium of Investigative Journalists (ICIJ) uncover more than 29 000 offshore companies and shed light on tax evasion by thousands of individuals, including many political leaders such as Czech Prime Minister Andrej Babiš, Cypriot President Nicos Anastasiades and the Dutch Finance Minister Wopke Hoekstra.

In the wake of these revelations, the European Parliament adopted during its Plenary session on 21 October 2021 a [resolution](#) calling on the EU to draw lessons from the Pandora Papers.

Immediately after the vote, ETAF sent a [letter](#) to all members of the subcommittee on tax matters (FISC) in the European Parliament to express its concerns about some statements and to defend the regulated tax profession.

Among other things, the EP resolution stated that “*the self-regulation and supervision of these professions has not been effective in ensuring compliance and sanctioning breaches of the law*”.

ETAF expressly disagreed with this assessment and recalled that, in the ETAF Members, where the profession is regulated, tax advisers are legally obliged to practice their profession conscientiously, diligently and in full compliance with all applicable laws. They must respect a binding and enforceable professional code and are subject to a disciplinary sanctions system in the case of infringements.

ETAF also opposed the general suspicion around intermediaries introduced by the text and claimed the positive role of tax advisers for our societies while outlining the need to preserve professional secrecy, which is a core value of the exercise of the profession.

Throughout 2021, ETAF kept following closely any initiative that might have emerged in reaction to the Pandora Papers and engaged with different stakeholders on this subject.



Justified and unjustified barriers in the Internal Market

On 1 September 2021, ETAF sent a letter with amendment proposals to the rapporteurs and shadow rapporteurs of the EP initiative draft report on “Tackling non-tariff and non-tax barriers in the Single Market”.

The report listed some of the key barriers to cross-border activities, stressing that inadequate implementation and enforcement of EU law, restrictive national regulations, territorial supply constraints, red-tape and gold-plating may have negative consequences both at EU and national level, depriving citizens of jobs, consumers of choices, and entrepreneurs of opportunities.

In the report, passed in the committee in charge on 23 November 2021 and finally adopted in the European Parliament on 16 February 2022, the MEPs actually recognised some of ETAF’s requests. By repeatedly referring to unjustified barriers, the European Parliament indirectly admitted that there may well be justified barriers in the Single Market. Furthermore, the final report acknowledged that regulated professions have a special status in the Single Market, with which they also serve the public interest.

As there were significant aspects also concerning tax advisory professions, we requested a number of amendments to the report:

- ▶ in order to avoid the removal of important national regulation, the scope of the report should be reduced to unjustified barriers solely,
- ▶ as liberal professions like tax advisers, lawyers or doctors are of a significant importance for the European economy and society, national regulations on the admittance of regulation and on professional practice should be respected,
- ▶ instead of proposing a new legislative act, existing instruments supporting the functioning of the Single Market, such as the database of regulated professions, should be improved,
- ▶ although some barriers could be caused by administrative burden, the European Parliament should recognise that some barriers are simply caused by the diversity of language or culture (so-called natural barriers).

TAX LAW

The OECD tax deal - our continuous engagement

2021 has been shaped by the landmark [agreement](#) in October 2021 of 136 members of the OECD Inclusive Framework on Base Erosion and Profit Shifting (BEPS) on a new framework for international tax reform after many years of negotiations.

ETAF has always supported this reform and immediately welcomed the agreement on the Two-Pillar solution to address the tax challenges arising from the digitalisation of the economy in a [press release](#).

On 22 December 2021, another important step was made as the EU became the first jurisdiction to start the legislative process for the transposition of the so-called Pillar II of the OECD agreement, i.e. the minimum 15% effective tax rate for large multinational enterprises (MNE).

Right after its publication, ETAF welcomed in a [press release](#) the proposal for an Implementing Directive, as a genuine “tax revolution”.

The proposed rules will apply to any large group, both domestic and international, which meets the annual threshold of more than €750 million of consolidated revenues in at least two of the four preceding years, and with either a parent company or a subsidiary situated in an EU Member State.

Although only very few ETAF members will have to implement the new rules for their clients meeting the threshold, ETAF has closely followed all the developments and debates in the European Parliament and the EU Council on this proposal.



Benjamin Angel, Director for direct taxation, tax coordination, economic analysis and evaluation at the European Commission at ETAF Conference on 12 October 2021

Taxation is a matter on perpetual evolution and tax advisers should be open and prepared to any future development, including a lowering of the threshold and the event of an application of the new rules to smaller companies.

In the course of the negotiations, we pushed for legal certainty, clear regulations and the avoidance of double taxation. ETAF believes that the EU, as well as the other jurisdictions parties to the deal, should implement the rules as closely as possible to the [OECD model rules](#).

We elaborated several internal briefings on this topic to help our members to better understand the proposed rules and the legislative process. We also kept our members regularly updated on any new development at OECD or EU level through the [Weekly Tax News](#).

Towards a European withholding tax framework?

On 26 October 2021, ETAF participated in a [public consultation](#) on the roadmap of the Commission in order to present, by the end of 2022, a proposal to establish a European withholding tax framework on dividend or interest payments.

From the Commission's point of view, an EU initiative would significantly lower the costs related to withholding tax relief procedures for cross-border investors, which have proven to be complex, lengthy and resource-intensive.

In its [feedback](#), ETAF welcomed this initiative and acknowledged that, under the current rules, investors face many hurdles in order to reach a taxation of their investment at the source which is in line with the respective double taxation agreement.

The Commission envisages three possible options:

- to establish common EU standardised and digitalized forms and procedures for withholding tax refund claims;
- to establish a common EU relief at source system; and
- to require a reporting and subsequent mandatory exchange of beneficial owner-related information on an automated basis to reassure that the correct level of taxation has been applied.

At this stage, ETAF spoke out for the establishment of a fully-fledged common EU relief at source system as long as it stays as simple as possible. ETAF closely followed several studies and initiatives, including in the European Parliament, on this subject and looks forward to engage further in the discussions when the Commission will present its proposal.



Tackling the tax debt-equity bias with DEBRA

In October 2021, ETAF participated in a [public consultation](#) launched by the European Commission on a future allowance system for equity financing in order to mitigate the debt-equity bias induced by taxation (DEBRA), which is expected to be presented in 2022.

Most current tax systems across the EU accept interest payments on debt as a deductible expense while the costs related to equity financing are mostly not tax deductible. This asymmetric tax treatment of the costs induces a bias in investment decisions towards debt financing which can contribute to an excessive accumulation of debt for non-financial corporations, according to the Commission.

In its response to the public consultation, ETAF agreed that companies in the EU should be encouraged to use less debt financing and more equity financing and that an EU-wide initiative which tackles the tax debt-equity bias would be a useful tool to support the recovery of companies from the COVID-19 crisis.

In our view, the most suited option would be an allowance on equity that provides for the deductibility of a notional interest on all equity (maintaining the existing interest deductibility), including new ones. Depending on its final design, the future proposal should also include rules to protect it against being used for aggressive tax planning.

ETAF stands ready to further position itself when the Commission will present its proposal.



ETAF EVENTS



EVENTS

ETAF Conference on “Stable Recovery through Fair Taxation”



Philippe Arraou (ETAF president), Elodie Lamer (Tax journalist), Benjamin Angel (Director for direct taxation, tax coordination, economic analysis and evaluation at the European Commission), Aurore Mons delle Roche (Tax Partner at EY and Member of the ITAA Council) and Paul Tang (MEP and Chair of the FISC Subcommittee of the European Parliament).

On 12 October 2021, EU officials and tax advisers from all over Europe discussed how to ensure a Stable Recovery through Fair Taxation during a [conference](#) organised by ETAF in Brussels.

In his welcome address, ETAF President Philippe Arraou recalled that a stable recovery after the COVID-19 pandemic can only be done through a fair taxation. *“This is important for tax acceptance. This is even more crucial for tax compliance”*, he stressed.

As the G20 Finance Ministers were meeting in Washington on 13 October 2021 to endorse the agreement on the reform of the international corporate taxation system reached at the OECD level on 8 October 2021, the ETAF Conference was a good opportunity for the speakers to share their initial reactions on the deal. Benjamin Angel (Director for direct taxation, tax coordination, economic analysis and evaluation at the European Commission), MEP Paul Tang (Chair of the FISC Subcommittee of the European Parliament) and Aurore Mons delle Roche (Tax Partner at EY and Member of the ITAA Council) took part to a lively discussion moderated by the Tax journalist, Elodie Lamer.

At this occasion, Mr Angel extensively explained how the European Commission intends to transpose at EU level the global tax deal and disclosed some details about the UNSHELL Directive to tackle the misuse of shell companies and the future proposal for a new Framework for Income Taxation (BEFIT).

During the debate, participants also reacted to the Pandora Papers investigation. Philippe Arraou seized this opportunity to once again reiterate that an EU-wide legal obligation of tax compliance for tax advisers could make a significant contribution towards avoiding tax evasion. MEP Paul Tang particularly welcomed how ETAF manages to find the “right balance” between the protection of private interests and the protection of the public interest in its work.

Over 30 people attended the conference in person at the Renaissance Hotel while almost 250 participants joined online. All in all, our conference had a great visibility on the social media and was covered by [TaxNotes](#) and [Law360](#).



Philippe Arraou, ETAF President



General Assembly re-elects Philippe Arraou as President

On 14 September 2021, ETAF held a hybrid General Assembly in Brussels. On this occasion, the General Assembly unanimously re-elected Philippe Arraou as President for another three years. Philippe Arraou thanked everyone for their trust since 2015 and hoped for a continued fruitful collaboration with all ETAF members.

The members of ETAF also appointed Andrea Rabb (MOKLASZ) as a new Board Member while Michael Korth (DStV), Volker Kaiser (BStBK), Robert Sova (CECCAR) and Benoît Vanderstichelen (ITAA) have all been re-elected for another term in the Board.



Part of General Assembly of ETAF and team members

ETAF grows by another new member

On 14 September 2021, the Austrian Chamber of Tax Advisers and Auditors (KSW - [Kammer der Steuerberater und Wirtschaftsprüfer](#)) announced its decision to become a full member of ETAF as from 1 January 2022. KSW is the umbrella organization for tax advisers and auditors in Austria and its members are specialists in tax advice, auditing, accounting and balance sheets. It represents the interests of 7,865 accountants (5,900 tax consultants and 1,965 accountants) and is also in charge of around 3,600 trainees. KSW has been an observer member of ETAF since 1 January 2020. The ETAF Board and all members welcomed this decision and count on KSW for a constructive and fruitful collaboration.



ETAF ACTIVITIES 2021

19 January	Meeting with MEP Paul Tang, Chair of the FISC subcommittee
9 March	Meeting with Maria Elena Scoppio and Erik Burckhardt, Members of cabinet of EU Commissioner for taxation Paolo Gentiloni
1 July	Meeting with Stefka Dzhumalieva, Head of Unit B4 “Taxation systems & digital governance”, DG TAXUD
14 September	ETAF General Assembly
12 October	ETAF Conference on “Stable Recovery through Fair Taxation”
3 November	Meeting with AmCham EU, BusinessEurope, Accountancy Europe, ITI, Mayer Brown, Microsoft and PwC
8 December	Meeting with ACCA and Accountancy Europe
10 December	Coordination meeting with ITAA
13 December	Meeting with assistant to MEP Lukas Mandl

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ETAF is a European umbrella organisation for 215,000 tax professionals from France, Germany, 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