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ECOFIN gives green light to FTT enhanced cooperation initiative

Council of the EU – Commission - FTT – enhanced cooperation

On January 22, 2013, the Economic and Financial Affairs (ECOFIN) Council of the EU agreed on 11 Member States moving forward with a Financial Transaction Tax (FTT) under enhanced cooperation.

Background

As a result of an orientation debate held during the ECOFIN meeting on June 22, 2012, the Danish presidency of the Council noted that the Commission's proposal for an EU-wide FTT was not unanimously supported by Member States. This paved the way for Member States to examine the option of moving forward under enhanced cooperation, which provides the legal basis for a limited number of Member States, i.e. at least nine, to adopt measures that only apply to those Member States.

Eleven Member States – Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovenia, Slovakia and Spain, formally requested enhanced cooperation. Having checked that the requirements for enhanced cooperation were met, in October 2012 the Commission issued a draft decision for the introduction of the FTT under enhanced cooperation. On December 12, 2012, the European Parliament approved this draft decision.

Discussions in Council

According to official statements made during the press conference and a press release that followed the ECOFIN council meeting on January 22, 2013, the Council adopted a decision authorizing 11 Member States to proceed with the introduction of an FTT through enhanced cooperation. According to ECOFIN Council President Michael Noonan, although a formal vote did not take place, it was clear from discussions held that a qualified majority was present. Today's discussion did not deal with the substance of the proposal for an FTT under enhanced cooperation, but focused on the procedural aspects of this file.

Next steps

According to the Commissioner for Taxation and Customs Union, Algirdas Šemeta, the Commission is going to present its proposal for an FTT under enhanced cooperation in the next few weeks. The

Commissioner indicated that this will be based largely on the scope and objectives of the Commission's original proposal for all 27 Member States published in September 2011, with minor adjustments to reflect its adoption under enhanced cooperation. The proposal will be accompanied by an Impact assessment which will include estimates for the revenues expected to be raised by this tax. The Commissioner estimated that the 11 participating Member States account for two thirds of the EU gross domestic product (GDP) and for approximately 90% of the eurozone GDP and that it is therefore likely that the enhanced cooperation regime could generate tens of billions of euros "to the public purse" − more than an 11 to 16 proportion of the Commission's initial revenue estimate – approximately 57 billion EUR.

Although only participating Member States are allowed to vote on the proposed Directive, all 27 Member States will participate in the technical discussions and debates. Observations from non-participating Member States may therefore be taken into account when agreeing on the proposal. Other Member States are also free to join the initiative.

EU Tax Centre Comment

There are a number of issues that remain open to discussion and are likely to generate debate in future Council meetings. One such area is whether revenues from the enhanced cooperation FTT will contribute to individual Member States' budgets, or to the EU budget (in the latter case in conjunction with a proportionate decrease in contributions from the gross national income). Also, although the Commissioner noted that, in line with the initial proposal, both sides of a qualifying transaction will fall under the scope of the FTT, this might be disputed by some Member States. President Noonan also noted that the final directive will have to take account of the Single Market.

Should you require further assistance in this matter, please contact the EU Tax Centre or, as appropriate, your local KPMG tax advisor.

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