

Euro Tax Flash

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Euro Tax Flash from KPMG's EU Tax Centre



ECOFIN Meeting on Corporate Tax

ECOFIN – FTT – Enhanced Cooperation – Code of Conduct – Automatic exchange of information – BEPS – CCCTB – Tax Avoidance

On December 8, 2015 the Council of the EU (ECOFIN) met to discuss recent corporate taxation initiatives launched by the European Commission and supported by the European Parliament. The ECOFIN discussed the status of the proposals for (1) a Directive on a Financial Transaction Tax (FTT) and (2) a Directive on a Common Consolidated Corporate Tax Base (CCCTB) taking into account the Commission's work on a potential anti-BEPS Directive. The ECOFIN also formally adopted the Directive amending the existing Directive on Administrative co-operation in the field of direct taxation (2011/16/EU) on automatic exchange of information on tax rulings, as well as agreements with Liechtenstein, San Marino (approved for signing), and Switzerland on the automatic exchange of financial account information.

Formal adoption of several initiatives on automatic exchange of information

The ECOFIN formally adopted without further amendments the

Directive amending the existing Directive on Administrative co-operation in the field of direct taxation (2011/16/EU) on automatic exchange of information on tax rulings (see [ETF 258](#)), as well as two agreements with Liechtenstein and Switzerland on the automatic exchange of financial account information. The Council also approved the signing of a similar taxation agreement with San Marino.

The amended directive and these agreements are part of the Commission's initiatives to improve transparency and clamp down on tax avoidance, by requiring the Member States and the three countries to exchange specific types of information automatically. See [here](#) for more details on the amended directive dealing with automatic exchange of information on tax rulings.

Status of the proposed FTT

Austria announced that agreement has been reached by ten Member States participating under the enhanced cooperation regime on the fundamental features of the FTT. Estonia, which was initially part of the group is however no longer supporting the initiative. Discussions are still ongoing on the tax rates. Several Member States, including the UK showed concerns regarding the extraterritorial effects of the initiative and its potential negative impact. In this context, the Luxembourg Presidency underlined the necessity to lead discussions on FTT in an inclusive manner and to keep the ECOFIN informed about any progress made by the group.

The remaining issues were highlighted in the previous ECOFIN meeting of December 9, 2014 (see [ETF 242](#)) and have been restated in the [presidency note](#) on the state of play on the FTT issued in November 2015. Further work will be required on the level of tax rates, as well as on the concrete conditions for the FTT to be implemented, including a possible collection mechanism for the tax. EU Commissioner Moscovici indicated that a first agreement could be formalized before summer 2016.

EU Tax Centre Comment

It remains to be seen whether the discussions on FTT will progress during 2016, notwithstanding the positive comments from the EU Commissioner and French Finance Minister that a major step had been reached towards its implementation.

State of play on CCCTB and a potential Anti-BEPS Directive

EU Commissioner Moscovici highlighted the importance of CCCTB to build a fair and transparent framework for corporate taxation. He

announced the presentation in January 2016 of a new package of measures that should contribute to the prevention of tax avoidance. The new initiative, including legislative as well as non-legislative proposals to implement BEPS and CCCTB should provide for a coordinated approach to prevent base erosion and profit shifting and should clarify the EU external strategy vis-à-vis third countries on tax transparency and good governance. He also underlined the progress made on updating transfer pricing rules within the EU and that work is continuing on the recast of the Interest and Royalties Directive, particularly regarding the introduction of a common anti-abuse clause. Consideration is also being given to introducing the concept of a minimum effective taxation in the context of that directive.

No consensus has been reached on the implementation of an EU wide CCCTB and most Member States stressed the necessity for the European Commission to preserve national sovereignty when drafting the related legislative proposals. Open issues have especially been highlighted in the [presidency note](#) on the state of play on CCCTB. The Luxembourg presidency also acknowledged that while the CCCTB should be an essential part of a more global solution to address tax avoidance within the EU, it cannot cover every issue raised by BEPS. In this respect, the European Commission's initiative for the implementation of an Anti-BEPS Directive was welcomed by most Member States, as an effective means to address OECD recommendations on BEPS in a swift and coordinated manner at EU level. In this respect, the [Council's conclusions](#) issued after the meeting identify EU directives as well as non-legislative approaches as possible means of implementing certain anti-BEPS action points.

EU Tax Centre Comment

These discussions should be seen as part of the EU's overall focus on aggressive tax planning. The ECOFIN acknowledged the model role played by the European Union as regards the implementation of the OECD recommendations on BEPS, but also underlined the necessity to ensure a level playing field for the Member States. It remains to be seen how the European Commission will articulate the CCCTB and Anti-BEPS initiatives as part of its fight against tax avoidance.

Other issues

Although no public discussion took place, the revision of the Code of Conduct's mandate was also addressed in the context of a report presenting the work done to reform the scope and governance of the working group. The Council's [Conclusions](#) endorsing a new work

package for the group include the possible development of general guidance on how to prevent tax avoidance and BEPS as well as a possible mandate to address the concept of effective taxation. It is expected that work on strengthening the Code of Conduct will be finalised during the first half of 2016.

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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