E-News from KPMG's EU Tax Centre

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KPMG's EU Tax Centre helps you understand the complexities of EU tax law and how this can impact your business, enabling you to better predict how rules will develop and how to leverage opportunities and minimize risks arising from EU tax law.

E-News provides you with EU tax news that is current and relevant to your business. KPMG's EU Tax Centre compiles a regular update of EU tax developments that can have both a domestic and a cross-border impact. CJEU cases can have implications for your country.

Latest CJEU, EFTA and ECHR

AG Opinions on cross-border loss relief

On January 10, 2019, Advocate General (AG) Kokott of the Court of Justice of the European Union (CJEU) rendered Opinions in the Memira (C-607/17) and in the Holmen (C-608/17) cases. Both cases concern the compatibility with EU law of the Swedish rules on the deductibility of losses from foreign subsidiaries, and the extent to which the 'Marks & Spencer exception' applies, i.e. losses are considered final. The AG concluded that in the cases under review, losses cannot be considered final.

For more information, please refer to KPMG'S Euro Tax Flash.

X case (C-157/17) removed from CJEU proceedings

On December 12, 2018, the CJEU issued an order to remove from its proceedings the case X v. Staatssecretaris van Financiën (C-157/17) due to the statement received on December 3, 2018, in which the Dutch Supreme Court withdrew its request.

Infringement Procedures & Referrals to CJEU

Referrals to CJEU

France

On October 29, 2018, reference was made to the CJEU by the French Supreme Court for a preliminary ruling in the case DN v Ministre de l'Action et des Comptes publics (Case C-672/18). The referring court requested that the CJEU answer questions regarding the interpretation of the Merger Directive in capital gain taxation.

State aid

European Commission investigation into Dutch tax rulings

On January 10, 2019 the European Commission launched an investigation to evaluate whether the tax rulings granted to two US group companies by the Netherlands constitute State aid within the meaning of EU law.

For more information, please refer to KPMG's Euro Tax Flash.

EU Institutions

EUROPEAN COMMISSION

European Commission communication on unanimity in taxation

On January 15, 2019, the European Commission issued a communication on extending qualified majority voting to all EU tax policies. The document suggests a progressive approach to phase out national vetoes on matters of taxation by the end of 2025 and replace the current unanimity rule with Qualified Majority Voting (QMV). Under Qualified Majority Voting, the European Parliament and EU Council are co-legislators on an equal footing, and a minimum of sixteen Member States, representing at least 65% of the EU population, must vote in favor of the legislation.

For more information, please refer to KPMG's Euro Tax Flash.

OECD

Report on Corporate Tax Statistics published

On January 15, 2019, the OECD issued a report providing internationally comparable statistics and analysis from approximately 100 countries on corporate tax revenues, corporate income tax rates, corporate effective tax rates, and tax incentives related to innovation

For more information, please refer to KPMG's TaxNewsFlash

Multilateral Convention developments

On January 10, 2019, Monaco deposited its instrument of ratification for the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (MLI) and the MLI was signed by Belize with expected Reservations and Notifications.

Greenland and Faroe Island join the inclusive framework for implementing measures against BEPS

On January 18, 2019, the OECD announced that Greenland and the Faroe Islands joined the Inclusive Framework for the global implementation of the Base Erosion and Profit Shifting (BEPS) Project. The framework focuses on the review and implementation of the BEPS minimum standards.

Local Law and Regulations

Austria

Plan for the introduction of a digital service tax

On January 11, 2019, the Ministry of Finance issued a press release announcing a plan to introduce a digital tax regime in 2019. The regime, based on the EU proposal on a digital services tax, would apply to companies deriving income from online advertising with an annual worldwide turnover of EUR 750 million or more and an Austrian annual turnover of EUR 10 million or more.

Belgium

Opening the debate on taxing digital companies

On January 17, 2019, Belgian lawmaker Vanessa Matz initiated discussions on taxing digital companies in Belgium after the EU-wide digital tax proposal failed to materialize in December 2018. Matz submitted two draft bills mirroring the language and provisions of the European Commission's proposal on digital tax to the lower house of the Belgian parliament.

Bulgaria

Tax position regarding gains from trade of cryptocurrencies

On January 14, 2019, an official announcement concerning the taxation of gains from the sale or exchange of cryptocurrencies was published by the National Revenue Agency. Gains from the trade of cryptocurrencies are considered gains from financial assets. Companies that generated gains from these assets in 2018 must declare and pay a 10% corporate income tax no later than March 31, 2019.

France

Public consultation on corporate income tax rules reform

On January 21, 2019, a public consultation was launched on the interpretation of the new rules adopted in the 2019 Finance Act, as regards the French intellectual property regime, the compatibility of the French group taxation regime with EU law and amended interest limitation rules transposing the Anti-Tax Avoidance Directive.

Italy

Legislative Decree transposing ATAD

On January 12, 2019, Legislative Decree No.142 entered into force. The Legislative Decree takes effect January 1, 2019 and transposes the EU Anti-Tax Avoidance Directives, by amending existing rules on interest deduction limitation, exit taxation, and Controlled Foreign Companies, as well as introducing anti-hybrid rules addressing reverse hybrid and tax residence mismatches.

For more information, please refer to KPMG's TaxNewsFlash

Lithuania

Tax amnesty announced

On January 10, 2019, the Lithuanian tax authorities announced a tax amnesty for both individual and company taxpayers. Under the tax amnesty, taxpayers will not be charged penalties or interest on undeclared income reported for the 2014-2018 if the related taxes are paid.

Amendment on transfer pricing documentation rules

On December 31, 2018, an Order introducing new transfer pricing documentation rules was approved by the Ministry of Finance. The new rules implement the OECD's recommendations on BEPS, and apply to transactions between related parties conducted in 2019 and subsequent years.

For more information, please refer to [KPMG's TaxNewsFlash]

Poland

Certain withholding tax measures temporarily postponed

A decree published on December 31, 2018 temporarily postpones or limits withholding tax rules applicable when a payment exceeds PLN 2 million. The decree does not affect other withholding tax requirements that are effective January 1, 2019. Under the amended withholding tax regime, Polish entities must exercise due diligence in verifying whether the conditions for applying a preferential tax rate are satisfied as well as the status of the recipient under the new definition of beneficial owner.

For more information, please refer to [KPMG's TaxNewsFlash]

Portugal

New Reporting obligations on bank accounts over EUR 50,000 approved

On January 11, 2019, a proposal requiring banks to disclose accounts with a balance of over EUR 50,000 was approved by the parliament. If the President enacts the legislation, banks will have until July 31, 2019 to disclose required information.

Spain

Digital tax on large tech firms

On January 19, 2019 the Spanish government approved a draft law that imposes a 3% tax on digital revenues of technology companies The law, in line with EU digital tax service proposal, applies to companies with global revenues of more than EUR 700 million, and local revenues in Spain of at least EUR 3 million.

Non-financial information law published

On December 30, 2018, Law 11/2018 on non-financial information and diversity entered into force. The law, which applies retroactively as of January 1, 2018, extends the scope of information that certain Spanish companies are required to disclose in their managerial report and establishes that the statement of non-financial information should include tax information regarding profits on a country-by-country basis, taxes on profits and public subsidies received.

Sweden

Proposed rules on reporting obligation for tax schemes

On January 15, 2019, a committee submitted a proposal to the Swedish government outlining new reporting obligations for certain tax arrangements, in line with the EU Directive 2018/822. The proposed rules are expected to enter into force on July 1, 2020.

Updated guidance on reporting obligations for financial institutions

On January 8, 2019, the Swedish tax administration updated its guidance on reporting obligations for financial institutions in accordance with the Common Reporting Standard (CRS) and the EU directive on mandatory automatic exchange of financial information. As a result, beginning January 1, 2019, profit-sharing collectives and certain pension funds now classified as financial institutions are subject to additional reporting requirements.

Switzerland

Swiss position on the taxation of the digitalized economy

On January 15, 2019, the State Secretariat for International Finance published an updated position on the taxation of the digitalized economy indicating that Switzerland does not plan to introduce interim measures such as the digital tax proposed in the European Union.

Local Courts

Italy

Supreme Court's decision on the Parent-Subsidiary Directive

On December 13, 2018, the Supreme Court held that for the withholding tax exemption provided for in the Parent-Subsidiary Directive to be applicable, effective taxation of the concerning dividend in the Member State of the parent company is required.

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Key links

- Visit our website for earlier editions

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