



# E-News from KPMG's EU Tax Centre



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## **E-News from the EU Tax Centre**

### **Issue 96 – April 19, 2019**

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.

## **[Infringement Procedures & Referrals to CJEU](#)**

### **[Infringement Procedures](#)**

#### [Infringement procedure against Belgium closed](#)

On April 11, 2019, the European Commission closed the infringement procedure against Belgium's tax rules on interest income from bonds after Belgium amended the corresponding legislation.

#### [Norway respond to EFTA Surveillance Authority's reasoned opinion](#)

On April 5, 2019, the Norwegian Ministry of Finance responded to the EFTA Surveillance Authority's reasoned opinion of December 5, 2018, in relation to the unequal reporting obligations from services provided by residents in other EEA States. The Ministry of Finance concluded that the reporting obligations do breach the freedom to provide services but the measures are justified by the principles of effectiveness of fiscal supervision and tax collection, and prevention of tax fraud.

For more information, please refer to the [response](#).



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## EU Institutions

### COUNCIL OF THE EUROPEAN UNION

#### Agreement reached on Brexit extension

On April 10, 2019, the European Council agreed to a Brexit extension under Article 50(3) of the Treaty on the Functioning of the European Union requested by the British Prime Minister on April 5, 2019. An extension was granted until October 31, 2019, to allow for the ratification of the Withdrawal Agreement. The Council established as a condition for the continuation of the extension that the UK must participate in European Parliament elections on May 23-26, 2019. If the UK fails to hold European Parliament elections, the extension will be revoked and the UK will withdraw from the European Union on June 1, 2019.

For more information, please refer to the [agreement document](#).

#### Informal ECOFIN meeting of April 5-6, 2019

On April 5 and 6, 2019, the ECOFIN held an informal meeting in Bucharest, Romania, where they discussed the role of taxation in supporting inclusive and sustainable growth, the fight against tax avoidance, as well as the European Commission's proposal to have a dedicated debate during the ECOFIN meeting in May to coordinate the EU position on the taxation of the digital economy prior to the G20 summit.

### EUROPEAN PARLIAMENT

#### European Parliament approves new rules protecting whistle-blowers

On April 15, 2019, the European Parliament adopted new rules to better protect whistle-blowers who disclose violations of EU Law with 591 votes in favor, 29 against and 33 abstentions. The new rules allow potential whistle-blowers to report either on internal or external channels and ensure protection when unveiling information publicly under certain circumstances. The new rules still require final approval by the EU ministers.

For more information, please refer to the [report](#).



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## OECD & UN

## OECD

### [Albanian Council of Ministers approves incorporation to the Inclusive Framework for the implementation of BEPS](#)

On April 10, 2019, the Albanian Council of Ministers endorsed the joining of the OECD/G20 Inclusive Framework for the implementation of the BEPS Project. The Inclusive Framework was created in February 2016 and has 128 members. Members are required to commit to the comprehensive BEPS package, and its consistent implementation.

### [Public consultation on draft report on tax morale](#)

On April 10, 2019, the OECD launched a public consultation on a draft report on tax morale which updates the 2013 report “What drives tax morale?”. A first draft was presented and discussed at the OECD’s conference on the Role of Tax Morales in Developing Countries that took place on January 25, 2019. The consultation will run until May 10, 2019.

For more information, please refer to the [consultation document](#).

### [Multilateral Convention developments](#)

On April 9, 2019, Luxembourg deposited its instrument of ratification for the Multilateral Convention (2016) (MLI). The MLI will enter into force in relation to Luxembourg on August 1, 2019, and the MLI coverage of its bilateral treaties will depend on the final adoption positions taken by the other countries. In addition, on April 8, 2019, the Canadian House of Commons (lower house of parliament) approved the MLI and submitted it to the Senate for further approval. Moreover, the Portuguese parliament accepted to ratify the MLI on April 4, 2019.

## UNITED NATIONS

### [UN transfer pricing guidelines update](#)

On April 11, 2019, an update to the Practical Manual on Transfer Pricing for Developing Countries was issued by the United Nations Committee of Experts on International Cooperation in Tax Matters. The update introduces a new chapter on financial transactions, amends the rules on profit splits, and revises transfer pricing capability, risk assessment and audits.

### [Updates to the UN Model Tax Convention released](#)

On April 3, 2019, the United Nations (UN) released several working documents in advance of the eighteenth session of the Committee of Experts on International Cooperation in Tax Matters scheduled for April 23-26, 2019. The released documents include:

- A [Paper](#) discussing an update to the UN Model Double Taxation Convention Commentary on Article 5 in accordance with the work done by the OECD in the BEPS project.

- A [Paper](#) discussing an update to the UN Model Double Taxation Convention Commentary on beneficial ownership issues considering the 2014 OECD's update on this topic.
- A [New Chapter](#) on mutual agreement procedure to be included in the UN Handbook on Dispute Avoidance and Resolution.
- A [revised edition](#) of the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries.



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## Local Law and Regulations

### Austria

#### Government approves digital tax package

On April 3, 2019 the Austrian government approved the first part of a digital tax package. The digital tax package includes a tax on revenues derived from online advertising, based on the EU proposal for a digital services tax, which applies to companies with revenues of EUR 750 million worldwide and EUR 25 million in Austria. The applicable rate was increased from 3% to 5%. The digital tax package was further submitted for expert evaluation.

### Bulgaria

#### Public consultation on the implementation of the EU Tax Dispute Resolution Directive

On April 8, 2019, the Ministry of Finance launched a public consultation on a proposal to implement the EU Tax Dispute Resolution Directive 2017/1852. The consultation closes on May 8, 2019.

### Cyprus

#### Parliament approves bill implementing ATAD

On April 5, 2019, the parliament approved a bill implementing the EU Anti-Tax Avoidance Directive 2016/1164. The bill amends the interest limitation, controlled foreign corporation and general anti-abuse rules. The new rules will retroactively apply from January 1, 2019.

### Czech Republic

#### Amendments implementing ATAD published

On March 27, 2019, tax amendments implementing the EU Anti-Tax Avoidance Directive 2016/1164 were published in the official gazette. The amendments include the introduction of rules on the deductibility of interest expenses, controlled foreign corporations without significant economic activities, a new general anti-abuse rule implementing a principal purpose test, and exit taxation rules for the transfer of assets to another country without a change of ownership.

For more information, please refer to [KPMG's TaxNewsFlash](#).

## **Finland**

### [New laws on tax dispute resolution and investment funds.](#)

On April 12, 2019, the Finnish President ratified new laws that introduce international tax dispute rules, implement the EU Tax Dispute Resolution Directive 2017/1852, and amend the tax legislation on investment funds.

### [Nominee registered shares legislation amended](#)

On April 12, 2019, a bill amending the nominee registered shares legislation was ratified by the President. These shares are not registered under the name of their beneficial owner but as held by a nominee. The withholding tax rate for dividend payments on nominee registered shares whose beneficial owner is known to be a resident in Finland by the company payer is 50%, and will be applicable from January 1, 2020. Regarding dividends on nominee registered shares to non-residents, the applicable withholding tax rate is 30% and it will enter into force in January 1, 2021.

## **France**

### [Digital services tax replacement must tax profits made on data](#)

On April 12, 2019, the Minister of Finance announced that the French tax of 3% on digital services will only be abolished and replaced by an OECD solution if the latter incorporates the taxation of digital activities and profits made on data.

### [French parliament approves bill on digital services tax](#)

On April 9, 2019, a bill introducing a digital services tax and amending the corporate tax reduction path was approved by the French National Assembly. The bill was also sent to the Senate for discussion and further approval.

## **Germany**

### [Bill implementing Tax Dispute Resolution Directive](#)

On April 16, 2019, the Ministry of Finance published a bill implementing the EU Tax Dispute Resolution Directive 2017/1852. The bill will apply from July 1, 2019.

### [Guidance on non-residents income from online advertising](#)

On April 10, 2019, the Ministry of Finance issued guidance IV C 5 - S 2411/11/10002 on the treatment of online advertising payments made to non-residents on digital platforms. The guidance clarifies that the withholding tax on income from payments in exchange for the temporary use of a right or the transfer of know-how does not apply to income from online advertising on digital platforms.

### [Update to Country by Country reporting rules](#)

On April 5, 2019, an update to the Application Decree on the General Tax Code regarding country-by-country (CbC) reporting was issued by the Ministry of Finance. The updated Decree mandates that German ultimate parent companies must submit a CbC report when a group's consolidated revenues reach EUR 750 million and sets up the reporting for covered domestic group companies of foreign entities.

## **Greece**

### [Preferential tax regime list published](#)

On March, 2019, the Public Revenue Authority published Circular A.1107 listing jurisdictions with preferential tax regimes in 2018. A tax regime is considered preferential when the level of taxation is less than 50% of the corresponding Greek taxation. The list is relevant for the application of the controlled foreign corporation rules.

### [2019 Public Revenue Authority priorities](#)

On April 5, 2019, a document listing the 2019 Public Revenue Authority priorities was published. The list of priorities includes the transposal of the EU Anti-Tax Avoidance Directive 2 2017/952, implementation of EU secondary legislation or ratification of multilateral treaties on the exchange of information and tax dispute resolution, and the emission of guidance on the application of the mutual agreement procedure.

### [Draft bill implementing ATAD submitted to the parliament](#)

On April 5, 2019, a bill implementing the EU Anti-Tax Avoidance Directive 2016/1164 was sent to the parliament. The draft amends the controlled foreign corporation and the general anti-abuse rules. The draft also modifies the current interest limitation rule and establishes a threshold of EUR 3 Million or 30% of EBITDA, and allows for the carry-forward of non-deductible excess without limitation. The bill will retroactively apply from January 1, 2019.

### [2018 report on administrative assistance](#)

On April 2, 2019, the Public Revenue Authority published its 2018 report of activities. The report aggregates information on the administrative assistance cases between the Greek tax authorities and tax authorities of other jurisdictions and reveals that the Greek tax authorities completed 683 requests for general administrative assistance, 699 requests specifically for VAT matters, and 816 responses to requests from other EU Member States' tax authorities.

## **Guernsey**

### [Mutual agreement procedure guide published](#)

On April 5, 2019, the Guernsey Revenue Service published a Guide on its Mutual Agreement Procedure. The guide explains how the MAP can be initiated in double taxation and discrimination cases, the administrative procedures, and the documentation requirements for submitting a MAP request.

For more information, please refer to the [guide](#).

## **Ireland**

### [Results of consultation on implementation of ATAD I and II.](#)

On April 4, 2019, the Irish Department of Finance published the results of the public consultation on the implementation of the EU Anti-Tax Avoidance Directives 2016/1164 and 2017/952 (ATAD I and II). The consultation took place from November 12, 2018, to January 18, 2019.

For more information, please refer to the consultation's [outcome](#).

## **Italy**

### [Financial transaction tax clarified](#)

On April 3, 2019, the Italian Tax Authorities published Resolution No. 38/E on the application of the financial transaction tax. The Resolution clarifies that the tax does not apply to the transfer of shares in a business restructuring operation where such transfer only changes the company's legal form without modifying its structure and governance.

## **Malta**

### [2019 Budget Measures Implementation Act gazetted](#)

On March 22, 2019, the 2019 Budget Measures Implementation Act was published in the Official Gazette. The Act includes modifications to the participation exemption regime and clarifies that gains on the transfer of qualifying participations are only exempt to the extent that such gains would also have been exempt had the transfer been made by the beneficial owner of the transferor.

## **Netherlands**

### [Public internet consultation on bill amending the liquidation and cessation loss rules](#)

On April 16, 2019, members of the lower house of the parliament launched an online public consultation on a proposal that amends the liquidation and cessation loss rules in the Corporate Income Tax Act 1969. The new rules would enter into force in January 1, 2021. Interested parties have until May 16, 2019 to respond to the consultation document.

For more information, please refer to please refer to [KPMG's TaxNewsFlash](#).

### [Tax system re-assessment announced](#)

On April 15, 2019, the Ministry of Finance announced the beginning of a broad reassessment of the Dutch tax system focused on digital taxation, corporate tax, taxation of capital income, environmental taxes and simplification measures. The re-assessment aims to develop a specific proposal by 2020.

### [Bill introducing ultimate beneficial ownership register](#)

On April 4, 2019, the Minister of Finance submitted to the lower house of parliament a bill which implements Article 30 of the Fourth Anti-Money Laundering Directive (2015/849/EU) and introduces an ultimate beneficial ownership register. The register records the beneficial owner's name, date and place of birth, nationality, address, tax identification number and a description of the economic interest in the relevant entity.

For more information, please refer to [KPMG's TaxNewsFlash](#).

## Poland

### [Bill on simplified advance pricing agreements](#)

On April 15, 2019, the Ministry of Finance issued a bill on simplified advance pricing agreements (APA) waiving deductibility restrictions on intragroup services. The new simplified APA will apply to low-value-adding services and costs incurred for the use of trademarks and know-how. The simplified APA will not be available for entities with total taxable income equal to less than 1 percent of total revenue earned in either of the two preceding tax years nor to transactions completed before the submission of the APA application. An APA is valid for three years with a possible three year extension.

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



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## Local Courts

### Poland

#### [Supreme Administrative Court decision on restriction to information during tax proceedings](#)

On March 28, 2019, the Supreme Administrative Court rendered its decision in the case NSA sygn. akt II FSK 996/17 regarding a taxpayer's access to information obtained by tax authorities of another country during the tax proceedings. The decision upheld the conclusion reached by the Warsaw Administrative Court that access to information during tax proceedings may be restricted if the information is confidential or for reasons of public interest.



**Robert van der Jagt**

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