



# E-News from KPMG's EU Tax Centre



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

**Issue 103 – July 26, 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 may develop and how to leverage opportunities and reduce 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](#)**

[CJEU order on Portuguese rules on mergers and acquisitions](#)

On July 15, 2019, the Court of Justice of the European Union (CJEU) issued an order in the Galeria Parque Nascente-Exploração de Espaços Comerciais case (C-438/18) concerning the compatibility with EU law of the Portuguese rules on mergers and acquisitions. The CJEU concluded that the Portuguese rules, preventing the absorbing company from deducting costs incurred before the merger that would have been deductible if the merger had not taken place, are compatible with the EU Merger Directive (90/434).

## [EFTA study on state aid enforcement by national courts](#)

On July 19, 2019, the Surveillance Authority of the European Free Trade Association (EFTA) published a Study on state aid private enforcement by national courts in Iceland, Liechtenstein, and Norway. In total, the Study identified forty-five cases, nineteen pertaining to Norway, twenty-four to Iceland and two to Liechtenstein. Given the small number of relevant cases, the Study concludes that notwithstanding any possible upward trend, private enforcement of state aid rules remains a rare phenomenon in these states.

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



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

### [Referrals to the CJEU](#)

#### [France](#)

On July 24, 2019, it was reported that reference was made to the CJEU by the Supreme Administrative Court for a preliminary ruling. The referring court requested a ruling regarding deductions for the calculation of a tax credit in relation to withholding taxes and the free movement of capital.



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## [State aid](#)

### [New Recovery Notices on illegal State aid adopted](#)

On July 22, 2019, the European Commission adopted a new Notice, replacing the 2007 Recovery Notice, on the implementation of its decisions mandating Member States to recover unlawful and incompatible State aid. The new Recovery Notice provides guidance on the quantification of the aid to be recovered, the identification of the beneficiaries and the implementation of the recovery in case of tax reliefs, insolvency proceedings and restructuring.

### [European Commission appeals decision in the Fútbol Club Barcelona case](#)

On May 6, 2019, the European Commission made an appeal to the CJEU regarding the decision of the General Court in the case Fútbol Club Barcelona v. Commission (T-865/16). The attacked ruling annulled the Commission's decision finding that Spain granted illegal state aid to certain professional football clubs benefiting from the status of non-profit entity.



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## [EU Institutions](#)

## EUROPEAN COMMISSION

### Annual report on relations with national parliaments

On July 11, 2019, the European Commission published its annual report 2018 on the application of the principle of subsidiarity and proportionality and on relations with national parliaments. The report concludes that the number of reasoned opinions by national parliaments continued to fall and that no proposal presented by the Commission – including on the taxation of digital activities - received reasoned opinions from more than four national Parliaments, far below the triggering threshold for a 'yellow card'.

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

## EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

### EESC opinion on Qualified Majority Voting

On July 17 and 18, 2019, the members of the European Economic and Social Committee (EESC) discussed the European Commission's ambition to start a debate on changing the decision-making processes in some areas of EU Tax policy from unanimity to qualified majority voting (QMV). The Committee endorses a gradual shift to QMV, provided all Member States have the opportunity to take part in the decision-making process.

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



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## OECD

### G7 final remarks on minimum taxation and the digitalized economy

On July 17 and 18, 2019, the G7 Finance Ministers and Central Bank Governors met in Chantilly, France to discuss minimum taxation and the digitalized economy. The G7 countries reached an agreement on the necessity to tax companies with no or limited physical presence in a jurisdiction, taking into account the specificities of "highly digitalized business models" and concluded the implementing a minimum tax is critical to eliminating harmful tax competition and aggressive tax planning.

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

### Bosnia and Herzegovina joins the Inclusive Framework on BEPS

On July 11, 2019, it was announced that Bosnia and Herzegovina joined the Inclusive Framework on Base Erosion and Profit Shifting (BEPS), becoming the 131st jurisdiction to join the collaboration efforts to end tax avoidance.

### Opinion Statement on the tax challenges from the Digitalization of the Economy

On March 5, 2019, CFE Tax Advisers Europe a Brussels-based association of European tax advisers published an Opinion Statement on the challenges arising from the digitalization of the economy discussed in the OECD consultation of February 13, 2019.

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



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## Local Law and Regulations

### Croatia

#### [Croatian parliament adopts EU Tax Dispute Resolution Directive](#)

On June 16, 2019, the Croatian Parliament adopted a draft bill implementing the EU Tax Dispute Resolution Directive (2017/1852). The new rules went into effect on July 1, 2019.

### Czech Republic

#### [EU Dispute Resolution Directive presented to the Czech Chamber of Deputies](#)

On July 9, 2019, legislation transposing the EU Tax Dispute Resolution Directive (2017/1852) was presented to the Chamber of Deputies.

### France

#### [Guidelines and consultation on new Industrial Property regime](#)

On July 17, 2019, the French tax authorities published guidelines on the new tax regime on income from Industrial Property (IP). The new regime, applicable from January 1, 2019, allows taxpayers to apply a reduced 10% tax rate for IP income that fulfills the requirements of the OECD's modified nexus approach. A consultation on these guidelines was also launched. Interested parties may submit their comments until September 15, 2019.

#### [Digital Services Tax adopted by the French Senate](#)

On July 11, 2019, the amended bill introducing a French Digital Services Tax (DST) was adopted by the Senate. The tax will apply retroactively as of January 1, 2019. In this respect, an investigation into its alleged discriminatory nature against US companies was initiated by the US Trade Representative on July 10, 2019.

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

### Greece

#### [Tax Rate reductions announced](#)

On July 20, 2019, the Prime Minister announced a reduction to the corporate income tax rate from 28% to 24% and a reduction to the dividend withholding tax rate from 10% to 5% for income earned in 2019.

#### [Circular on tax treatment of income from the sharing economy through digital platforms](#)

On July 16, 2019, the Public Revenue Authority issued a circular on the taxation of income derived from the sharing economy through digital platforms. The circular clarifies that taxable income includes the total rent and compensation payments received under a cancellation policy. Conversely, commissions paid to the digital platform are excluded from the tax base.

### **Hungary**

#### [Budget Bill for 2020](#)

On July 12, 2019, the 2020 Budget Bill was enacted by the parliament. The bill foresees the abolition of the advertisement tax and of the year-end surcharge applied to corporate income tax, innovation tax and to the special surtax imposed on energy suppliers.

### **Iceland**

#### [Consultation on draft regulation on CbC reporting launched](#)

On May 7, 2019, amendments to the country-by country (CbC) reporting were adopted. In response to the OECD's findings, on July 12, 2019, the Minister of Finance and Economic Affairs launched a consultation on a draft regulation on CbC reporting.

### **Ireland**

#### [Regulations on the EU Tax Dispute Resolution Directive](#)

On July 5, 2019, regulations giving effect to the EU Tax Dispute Resolution Directive (2017/1852) were drafted. The purpose of these regulations is to provide mechanisms to help resolve disputes between Ireland and other Member States, resulting from the interpretation and application of measures granting relief from double taxation.

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

### **Italy**

#### [Implementation of urgent measures in the field of corporate income taxation](#)

Following the conversion of Law Decree No. 34 into law on June 29, 2019, urgent measures were implemented in the field of corporate income taxation. These measures include the option to forgo filing a tax ruling application when utilizing the patent box regime, and the ability to recognize increased book values of goodwill and other tangible and intangible assets resulting from certain mergers and divisions taking place before 2022.

#### [Public consultation on the draft rules on the patent box regime](#)

On July 22, 2019, the Italian Tax Authorities launched a public consultation on draft new rules implementing the patent box regime introduced by Law Decree No. 34 of April 30, 2019.

## **Latvia**

### [Simplified transfer pricing requirements for low value-adding services](#)

On July 18, 2019, amendments introducing simplified transfer pricing requirements for low value-adding services that reduce the administrative burden on businesses entered into force.

### [Latvia ratifies Multilateral Instrument](#)

On July 22, 2019, a law ratifying the Multilateral Convention to implement Tax Treaty Related Measures to Prevent BEPS (MLI) was signed by the Latvian President. By submitting its MLI position, Latvia listed its reservations and notifications, and indicated which tax treaties will be covered.

## **Malta**

### [Regulations implementing Tax Dispute Resolution Directive published](#)

On July 12, 2019, regulations implementing the EU Tax Dispute Resolution Directive (2017/1852) into domestic law were published in the Official Gazette.

### [Amendments to the Companies Act Regulations](#)

On July 12, 2019, the Companies Act Regulations, introducing amendments to the existing rules on the requirements to retain a register of beneficial owners, were published in the Official Gazette.

## **Netherlands**

### [EU Tax Dispute Resolution Directive adopted by upper house of parliament](#)

On July 9, 2019, legislation implementing the EU Tax Dispute Resolution Directive (2017/1852) was adopted by the upper house of the parliament, transposing it into domestic law.

### [Directive 2018/822 submitted to the lower house of parliament](#)

On July 12, 2019, draft legislation implementing Directive 2018/822 on the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements was submitted to the lower house of the parliament.

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

### [Bill implementing the EU Tax Resolution Directive published in Official Gazette](#)

On July 15, 2019, the bill implementing the EU Tax Dispute Resolution Directive (2017/1852) was published in Official Gazette No. 234. The bill is effective as of July 16, 2019.

## Poland

### Implementation of ATAD2 and DAC6 announced by Polish government

On July 11, 2019 it was announced that a bill implementing Council Directive 2017/952 regarding hybrid mismatches will be adopted by the Polish government in the third quarter of 2019. The bill's provisions will come into force on January 1, 2020. Further, the bill completes the implementation of Directive (EU) 2018/822 on the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements.

## Spain

### Draft legislation for the implementation of DAC6

On June 20, 2019, draft legislation was proposed by the Spanish tax authorities for the implementation of Directive (EU) 2018/822 on the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements.

## United Kingdom

### Draft legislation on the new Digital Services Tax

On July 11, 2019, draft legislation and guidance on the new Digital Services Tax (DST) was published by the UK Government and will be included in Finance Bill 2019-20. On the same day, a Policy paper on the introduction of a new DST was published by the HMRC.

For more information, please refer to [KPMG's Insight on the UK Digital Services Tax](#).

### Consultation on the implementation of the EU Directive on the exchange of information

On July 22, 2019, HMRC launched a consultation on the implementation of the EU Directive 2018/822 on the mandatory automatic exchange of information in the field of taxation (DAC6). The consultation closes on October 11, 2019.



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## Local Courts

### Netherlands

#### Profit share of a Belgian partner partially derived from a Dutch partner taxable in the Netherlands

On July 19, 2019, the Dutch Supreme Court concluded that the profit share of a Dutch partnership attributable to a Belgian resident may be taxable in the Netherlands, to the extent that such profit share is derived from the activities of a Dutch partner constituting a permanent establishment in the Netherlands.

## Decision on avoidance of double taxation on employment income

On July 19, 2019, the Supreme Court rendered a decision concerning the avoidance of double taxation on employment income under the Double Taxation Treaty between the Netherlands and the Republic of Korea. The Court ruled that the double taxation relief claimed by a Dutch national who worked less than 183 days in Korea could not be granted because there was not a permanent establishment of the employer in Korea and the activities of the employee were of preparatory or auxiliary nature.

## Switzerland

### Federal Supreme Court's decision on refund of withholding taxes

On June 25, 2019, a decision regarding the applicable limitations to the refund of withholding taxes was issued by the Federal Supreme Court. Rejecting the taxpayer's appeal, the Court concluded that as the applicable Double Taxation Treaty between France and Switzerland does not provide rules on the statute of limitations, Swiss time limitations rules apply.



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