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E-News from the EU Tax Centre

Issue 112 – December 6, 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](#)

[AG Opinion in Société Générale case](#)

On November 28, 2019, Advocate General (AG) Hogan of the Court of Justice of the European Union (CJEU) rendered his opinion in the case of Société Générale (Case C-565/18). The case concerns the compatibility with EU law of the Italian financial transaction tax (FTT), which is due on any transaction involving derivative financial instruments having as their underlying assets financial instruments governed by Italian law, irrespective of where the transaction was concluded and the State of residence of the contracting parties. The AG concluded that the Italian FTT does not infringe the free movement of capital, because it is not discriminatory.



State Aid

[European Commission confirms no appeal in the Dutch ruling state aid case](#)

On November 27, 2019, the European Commission advised that, after carefully assessing the General Court judgment of September 24, 2019 concluding that the transfer pricing ruling granted by the Netherlands to a US coffee manufacturing group does not constitute state aid, the Commission would not appeal the Court's ruling to the CJEU.

For more background on the case, please refer to [KPMG's Euro Tax Flash](#).

[Spain commits to repeal tax exemption for ports from 2020](#)

On November 15, 2019, the European Commission issued a press release acknowledging a Spanish commitment to repeal a tax exemption benefitting Spanish ports from 2020 onwards. Port authorities in Spain are currently exempt from corporate income tax on their main sources of revenue including port fees or income from rental or concession contracts. The decision follows a European Commission investigation into the matter in January 2019.

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

[Investigation opened into tax exemptions for Italian ports](#)

On November 15, 2019, the European Commission announced it has opened an in-depth investigation to assess whether tax exemptions granted to Italian ports under Italian law are in line with EU State aid rules. The European Commission are investigating whether a corporate tax exemption for Italian ports that earn profits from economic activities provides Italian ports with a competitive advantage when they operate on the internal market and therefore represents State aid.

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

[CJEU decision in Dilly's Wellnesshotel case](#)

On November 14, 2019, the CJEU rendered its decision in the *Dilly's Wellnesshotel* case (Case C-585/17). The CJEU considered the treatment of an Austrian energy tax rebate scheme and the calculation of the rebate by way of a formulaic calculation. The CJEU held that the scheme should be deemed to be compatible with EU State aid requirements and the transitional provisions in the EU State Aid Regulation (651/2014).

[EU State aid rules intend to achieve tax reform](#)

On November 14, 2019, the EU Deputy Director for State aid, Carles Esteva Mosso, reiterated that the goal of the European Commission's State aid investigations is to incentivize governments to reform the manner in which companies are taxed as opposed to making multiple adverse findings.



Infringement Procedures & Referrals to CJEU

[Reasoned opinions on ATAD sent to various Member States](#)

On November 27, 2019, the European Commission sent reasoned opinions to Austria and Ireland requesting that the interest limitation rules provided for in the EU Anti-Tax Avoidance Directive (2016/1164) are transposed into their respective national laws. Both Austria and Ireland argue that existing national laws are equally effective which would allow for a deferral of the interest limitation rules until January 1, 2024. However, the Commission informed both countries in 2018 that it does not agree with this view. If the relevant Member State fails to act within the next two months, the Commission may decide to proceed with a case before CJEU.

[Reasoned opinions on Dispute Resolution Directive sent to various Member States](#)

On November 27, 2019, the European Commission sent reasoned opinions to Cyprus, Czech Republic, Germany, Greece, Italy, Luxembourg and Spain concerning their failure to complete the transposition of the EU Tax Dispute Resolution Directive (2017/1852) into domestic law by the deadline of June 30, 2019. If the relevant Member State fails to act within the next two months, the Commission may decide to proceed with a case before the CJEU.

Denmark

[Reasoned opinion on treatment of certain dividends](#)

On November 27, 2019, the European Commission sent a reasoned opinion to Denmark regarding the treatment of dividends paid to non-resident undertakings for collective investment in transferrable securities (UCITS) on the basis that dividends paid to similar Danish undertakings are taxed on a different basis. If Denmark fails to act within the next two months, the Commission may decide to proceed with a case before the CJEU.

Germany

[Reasoned opinion on real estate treatment](#)

On November 27, 2019, the European Commission sent a reasoned opinion to Germany in respect of legislation which applies a different tax treatment to German domestic companies in relation to the sale of real estate than the treatment that is applied to foreign companies without business activities in Germany. If Germany fails to act within the next two months, the Commission may decide to proceed with a case before the CJEU.

Spain

[Reasoned opinion sent to Spain on capital gains deferral](#)

On November 27, 2019, the European Commission sent a reasoned opinion to Spain regarding a deferral of the taxation of capital gains on certain types of divisions of companies. It was observed that the Spanish law does not grant a tax deferral if the shareholders of the

divided company do not receive the same proportion of shares in all companies resulting from the division, which is incompatible with the terms of the Merger Directive (90/434/EEC). If Spain fails to act within the next two months, the Commission may decide to proceed with a case before the CJEU.



EU Institutions

EUROPEAN COMMISSION

[New Commission appointed by the European Council](#)

On November 28, 2019, the European Council appointed the new European Commission led by the newly elected President of the Commission, Ursula von der Leyen. The new Commission has taken office with effect from December 1, 2019 and will serve until October 31, 2024. As noted below, the nomination of a Commissioner by the United Kingdom remains outstanding.

[EU takes action against UK for failure to nominate Commissioner-designate](#)

On November 14, 2019, the European Commission took steps against the United Kingdom (UK) for its failure to nominate a Commissioner-designate to the European Commission. The UK Government has argued that it is unable to make a nomination due to a “purdah” in the UK, a domestic law restriction that prevents the UK Government from taking certain action during a general election cycle. The Commission believes that the UK has breached its legal obligations under existing EU treaties.

EUROPEAN COUNCIL

[Public CbCR stalled](#)

On November 28, 2019, the EU Council of Ministers failed again to reach agreement on the introduction of public country-by-country reporting (CbCR) at a meeting of the EU Competitiveness Council. A majority of 16 countries need to vote in favor of the proposal for it to proceed but there were only 14 votes in favor of the proposal with a number of smaller EU Member States voicing concerns.

[Directive on cross-border mobility of companies adopted](#)

On November 18, 2019, the European Council adopted a directive on cross-border conversions, mergers and divisions.

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

EUROPEAN PARLIAMENT

[The European Parliament declares climate emergency](#)

On November 28, 2019, the European Parliament approved a resolution declaring a global climate and environmental emergency. The European Parliament established goals which state that the EU should cut emissions by 55% by 2030 to become climate neutral by 2050 and that the European Commission should ensure that all proposals are aligned with the objective of limiting global warming to under 1.5 °C going-forward.

[New transparency measure proposed for online digital platforms](#)

On November 14, 2019, the European Parliament submitted proposals to the European Commission which are designed to assist the fight against VAT evasion throughout the EU. The amendments proposed would require online digital platforms to retain data on the transactions facilitated via the platform and report this information to relevant tax authorities.

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

EUROPEAN ECONOMIC AND SOCIAL COMMITTEE

[EESC calls for an end to all EU investor citizenship schemes](#)

On November 18, 2019, the European Economic and Social Committee (EESC) urged Member States to phase out all provisions that grant fast-track access to EU citizenship or residence for third country nationals in exchange for a significant investment, due to risks relating to money laundering and tax evasion. The opinion follows similar suggestions made by the European Parliament and the European Commission.

For more information, please refer to [EESC's opinion on Investor Citizenship and Residence Schemes in the European Union](#).



OECD

[Multilateral Convention developments](#)

On December 1, 2019, the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent BEPS (2016) (MLI) entered into force in respect of Ukraine, Switzerland and Canada. On November 28, 2019, the MLI was approved by the Moroccan Government and the Czech Parliament. The MLI was ratified in Costa Rica on October 29, 2019 and will enter into effect 3 months after Costa Rica deposits its instruments of ratification with the OECD. On November 26, 2019, Kenya and Oman signed the MLI bringing the total number of signatories to 92 jurisdictions.

[OECD publishes peer review reports on dispute resolution in seven jurisdictions](#)

On November 28, 2019, the OECD published the seventh round of stage one peer review reports. The reports examine the implementation of the BEPS Action 14 minimum standard in Brazil, Bulgaria, China (People's Republic of), Hong Kong (China), Indonesia, Russia and the Kingdom Saudi Arabia.

For more information, please refer to the [peer review reports](#).

[Updates on CRS Multilateral Competent Authority Agreement on automatic exchange of information](#)

On November 27, 2019, Oman joined the Multilateral Competent Authority Agreement on Automatic Exchange of Information Agreement (2014) (CRS MCAA). The CRS MCAA aims to introduce automatic exchange of financial account information in tax matters pursuant to OECD/G20 Common Reporting Standards.

[Jordan joins the Global Forum on transparency and exchange of information](#)

On November 27, 2019, Jordan joined the OECD Global Forum on Transparency and Exchange of Information for Tax Purposes.

[Updates on Multilateral Convention on Mutual Administrative Assistance in Tax Matters](#)

On November 27, 2019, representatives from Benin, Bosnia and Herzegovina, Cape Verde, Mongolia and Oman signed the Multilateral Convention on Mutual Administrative Assistance in Tax Matters on the occasion of the tenth Plenary Meeting of the Global Forum, bringing the total number of signatories of the Convention to 135.

[Global Forum on tax transparency and exchange of information shows significant progress](#)

On November 26 and 27, 2019, the tenth anniversary meeting of the Global Forum on transparency and exchange of information for tax purposes was held in Paris. The report of the Global Forum and the 2019 AEOI implementation report demonstrate that the Global Forum, acting as the multilateral body for tax transparency and information sharing, has made significant progress in the past ten years.

For more information, please refer to the [10th anniversary report of the Global Forum](#) and the [2019 AEOI implementation report](#).

[Updates on Multilateral Competent Authority Agreement on automatic exchange of country-by-country](#)

On November 26, 2019, Tunisia joined the Multilateral Competent Authority Agreement (MCAA) (2016) on the automatic exchange of Country-by-Country reports (CbC MCAA). The CbC MCAA was also approved by the Moroccan Government on this date.

[New dispute resolution mechanism](#)

On November 22, 2019, the deputy director at the OECD's Center for Tax Policy and Administration, Grace Perez-Navarro, said that the OECD is working on a new dispute resolution mechanism to overcome opposition to mandatory binding arbitration.

[Tenth batch of dispute resolution peer reviews on dispute resolution launched](#)

On November 18, 2019, the OECD announced that it started gathering input for Stage 1 peer reviews for a further 10 jurisdictions, namely, Aruba, Bahrain, Barbados, Gibraltar, Greenland,

Kazakhstan, Oman, Qatar, Saint Kitts and Nevis, Thailand, Trinidad and Tobago, the United Arab Emirates and Vietnam. Taxpayers are invited to submit views on specific issues relating to access to Mutual Agreement Procedures (MAP), the clarity and availability of MAP guidance and the timely implementation of MAP agreements for each of these jurisdictions.

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



Local Law and Regulations

Austria

[OECD suggests carbon tax increase](#)

On November 13, 2019, the OECD suggested that the Austrian rate of carbon taxation could be increased to assist the pursuit of Austria's 2030 Climate Strategy, citing that the Austrian rate of carbon tax is relatively low when compared against other jurisdictions.

For more information, please refer to the [Executive Summary of the OECD Austrian Economic Survey](#).

Belgium

[Clarification on interest limitation rules](#)

On December 3, 2019, the Belgian Government presented a bill to the Belgian Parliament which seeks to clarify when a taxpayer is considered to be part of a group for Belgian interest limitation rules purposes. The bill also clarifies the manner in which the calculation of a taxpayer's EBITDA should be performed and how the threshold of EUR 3 million should be divided among Belgian group members. The interest limitation rules are in force since January 1, 2019. Difficulties had arisen in practice due to the lack of certain guidelines to date.

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

[Changes to the legal framework for specialized real estate investment funds and regulated real estate companies](#)

The Belgian legal framework for regulated real estate companies and specialized real estate investment funds has evolved quite significantly over recent years with a law from May 2, 2019 on the treatment of diverse financial provisions representing the latest set of reforms. KPMG Belgium has prepared a report to clarify the latest position.

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

[Lower house of Belgian Parliament accepts the DAC6 bill for consideration](#)

On November 26, 2019, the Belgian Chamber of Representatives accepted for consideration a bill to transpose the EU Directive 2018/822 on mandatory disclosure rules (DAC6) into Belgian domestic law.

Bulgaria

[DAC6 transposition bill submitted to parliament](#)

On November 18, 2019, the Bulgarian Government presented a bill to transpose EU Directive 2018/822 on mandatory disclosure rules (DAC6) into Bulgarian domestic law to the Bulgarian Parliament.

[Mandatory transfer pricing documentation amendments](#)

On November 12, 2019, amendments were submitted to the Bulgarian Parliament regarding the thresholds to be met for taxpayers be required to prepare a mandatory local transfer pricing file. The amendments, if approved, would apply from January 1, 2020.

[Amendments to Corporate Income Tax](#)

On November 12, 2019, amendments to the Bulgarian Corporate Income Tax Act were presented to the Bulgarian Parliament. Key amendments include amendments to thin capitalization rules, changes to Bulgarian CFC rules and exit taxation and clarifications in respect of the treatment of hybrid mismatches for Bulgarian tax purposes.

Croatia

[Legislation implementing ATAD and ATAD 2 proposed](#)

On November 5, 2019, the Croatian Government proposed amendments to Croatian corporate income tax law which included the introduction of an exit tax and the implementation of anti-hybrid mismatch rules. The amendments would also result in an increase of the threshold for the application of a 12% rate of Croatian corporate income tax to companies with annual revenues of less than HRK 7.5 million (currently HRK 3 million). The amendments, if adopted, will enter into effect from January 1, 2020.

Czech Republic

[7% Digital Services Tax approved by the government](#)

On November 18, 2019, the Czech Government approved the introduction of a 7% digital services tax. The tax will be imposed on taxpayers with a total group consolidated revenue in excess of EUR 750 million and group revenue from taxable digital services from the Czech Republic of over CZK 100 million.

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

Denmark

[Updates on Protocol to Nordic Convention](#)

On November 28, 2019, the amending protocol to the Nordic Convention (1996 as amended through 2008), an Income and Capital Tax Convention between Denmark, the Faroe Islands, Finland, Iceland, Norway and Sweden, entered into force for Denmark, the Faroe Islands and Sweden. The protocol will apply from January 1, 2020, provided that it has been approved by each of the contracting states.

[Amendment to CFC rules proposed to Danish Parliament](#)

On November 6, 2019, the Danish Ministry of Taxation submitted a bill to transpose EU Anti-Tax Avoidance Directive 2016/1164 (ATAD) into Danish legislation. The amendment, if adopted, would broaden the scope of Danish CFC rules and is expected to enter into force on January 1, 2020.

Estonia

[Transposition of ATAD 2 passes first reading by the Estonian Parliament](#)

On November 18, 2019, a bill to transpose EU Anti-Tax Avoidance Directive (2017/952) (ATAD 2) into Estonian domestic law passed its first reading in the Estonian Parliament. The bill must pass a further two readings in the Estonian Parliament before it can be signed into law.

France

[US investigation of French digital services tax](#)

On December 2, 2019, the US Trade Office announced that it had completed an initial investigation of France's digital services tax and has concluded that the tax discriminates against US companies. In response to these findings, authorities in the US have proposed the introduction of new tariffs (at rates up to 100%) on the importation of a range of French products.

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

[French study shows minimal tax increase under OECD Pillar One proposal](#)

On November 19, 2019, the French Council of Economic Analysis reported that a study it performed of the OECD Pillar One Unified Approach proposal showed a limited change of corporate tax revenues for France, Germany, the United States and China under OECD proposal.

Germany

[Transposition of the Fifth Anti-Money Laundering Directive](#)

On November 29, 2019, the German Federal Council (*Bundesrat*) approved a bill to transpose the EU Fifth Anti-Money Laundering Directive (2018/843) into German domestic law.

[Transposition of Dispute Resolution Directive approved](#)

On November 29, 2019, a bill to transpose the EU Tax Dispute Resolution Directive (2017/1852) into German domestic law was approved by the German Federal Council (upper house of the German Parliament).

[Federal Parliament adopts bill increasing air travel tax rates](#)

On November 29, 2019, German Federal Council (*Bundesrat*) approved a bill amending the German Air Travel Tax Act. The amendments would increase air travel tax rates for flights up to 2,500 km from EUR 7.50 to EUR 13.03, from EUR 23.43 to EUR 33.01 for flights up to 6,000 km and from EUR 42.18 to EUR 59.43 for flights exceeding 6,000 km.

[New task force set up to fight tax fraud](#)

On November 18, 2019, authorities in Germany launched a new task force to fight tax fraud and tax avoidance. The task force is designed to pool expertise and analyze data to accelerate the identification of structures that enable large-scale tax avoidance.

[German Ministry of Finance issues guidance in response to Wächtler case \(C-581/17\)](#)

On November 13, 2019, the German Ministry of Finance issued an official guidance in response to the CJEU decision in *Wächtler* (Case C-581/17). According to the official guidance, the taxpayer shall, in the cases where the principle of equal treatment applies, be entitled to apply for a tax deferral if a deposit with interest of 5 years is paid.

Greece

[Tax Reform Bill submitted to the Greek Parliament](#)

On November 26, 2019, the draft Tax Reform Bill (the Bill) was submitted to the parliament. The proposed amendments include a reduction of the corporate income tax rate to 24% as of 2019, a reduction of the dividend withholding to 5%, and the extension of the participation exemption regime (i.e. minimum 10% and 36 months holding thresholds) to capital gains. In addition the threshold for a state to qualify as a preferential tax regime is increased to 60% (i.e. a taxpayer is subject to tax at a rate lower than 60% of the tax rate that would be applicable in Greece). Finally reporting obligations for digital platforms are introduced, together with non-compliance fines from EUR 5,000 to EUR 100,000.

[Real estate tax and UCITS tax in Budget 2020](#)

On November 26, 2019 amendments to Greek real estate and UCITS taxes were submitted to the Greek Parliament. Key measures include the extension of a special real estate tax to certain types of entities including alternative investment funds (AIFs) managed by an AIF manager and the abolition of the current UCITS minimum tax of 0.025%; The effective tax rate for estate investment companies and real estate investment mutual funds would also be reduced.

[Expansion of golden visa regime](#)

On November 12, 2019, a Ministerial Decision was published in Greece which expands the Greek entry and residence permit regime for third country nationals that make intangible investments in securities or bank deposits.

Guernsey, Jersey and the Isle of Man

[Additional guidance on economic substance requirements](#)

On November 22, 2019, authorities in Guernsey, Jersey and the Isle of Man published additional guidance on their respective economic substance requirements which addresses the scope and application of the economic substance legislation across the three jurisdictions.

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

Hungary

[Introduction of exit tax](#)

On November 22, 2019, an exit tax, as required under the EU Anti-Tax Avoidance Directive (2016/1164) (ATAD), was introduced into Hungarian national legislation. The legislation follows the Directive closely and levies a 9% general rate of corporate income tax on the difference between the market and net book values of the assets and activities of a taxpayer as at the time of their exit from Hungary.

[Amendments in compliance with ATAD proposed to parliament](#)

On November 12, 2019, the Hungarian Government submitted a bill to the Hungarian Parliament to amending hybrid mismatch rules. The amendments are being proposed to ensure that Hungary is in compliance with the EU Anti-Tax Avoidance Directive (2016/1164) (ATAD) and would, if approved, apply from 2020 onwards.

Iceland

[Amendments to the special taxation on financial institution submitted to parliament](#)

On September 11, 2019, the Icelandic Minister of Finance and Economic Affairs resubmitted a bill amending the existing regime for taxing financial institutions in Iceland to the Icelandic Parliament. The bill proposes a phased reduction to the rate of Icelandic tax imposed on the liabilities of a financial institution in excess of ISK 50 billion from the current rate of 0.376% to 0.145% by 2023.

Italy

[Italian Tax Agency clarifies treatment of re-organization](#)

On November 28, 2019, the Italian Revenue Agency issued a letter explaining that, in the case of a corporate re-organization, tax abuse will not be deemed to exist where a tax benefit arises as a result of the re-organization as a company is entitled to choose the form of incorporation that is most suitable from an Italian tax perspective.

[Tax Inspectors Without Borders partnership between Armenia and Italy](#)

On November 25, 2019, Armenia and Italy agreed plans for two assistance programmes initiated through Tax Inspectors Without Borders (TIWB), a joint initiative of the OECD and UN Development Programme, designed to share expertise between tax administrations to improve the capacity of tax authorities in developing countries. Both countries will work closely with each other on the current tax audit cases to transfer knowledge, best practices and skills.

Lithuania

[Corporate tax rate increase proposed](#)

On October 31, 2019, the Lithuanian Government presented a bill to the Lithuanian Parliament which, if adopted, would result in an increase of corporate income tax rate from 15% to 20% for taxable profits generated by Lithuanian entities and permanent establishments in Lithuania.

Netherlands

[Dutch Government publishes answers to questions on DAC6 implementation](#)

On November 28, 2019, the Dutch government published responses to the questions posed by the upper house of the Dutch Parliament regarding a bill to transpose EU Directive (2018/822) on mandatory disclosure rules (DAC6) into Dutch law. In particular, the Dutch Government clarified that it expects to receive approximately 20,000 reports of cross-border arrangements per annum and that detailed guidance is expected to be published in the first quarter of 2020.

For more information, please refer to [KPMG's Euro Tax Flash](#) on recent mandatory disclosure developments.

[Tax Plan 2020 adopted by lower house of parliament](#)

On November 14, 2019, the Dutch Tax Plan for 2020 was adopted by the lower house of the Dutch Parliament. The Plan includes measures to transpose DAC6 into Dutch domestic law and includes an amendment which clarifies that, when applying the main benefit test that is provided for under DAC6, it is not necessary that an arrangement has an element of artificiality. The Plan also introduces a public disclosure regime for certain advisors that have received penalties for participating in punishable offences.

[International collaboration for fight against tax avoidance](#)

On November 13, 2019, a senior Dutch finance official indicated that more international collaboration was required to combat global profit shifting and tax avoidance. The Dutch Government previously proposed in the 2020 budget package of measures, the introduction of a withholding tax on royalty and interest payments from the Netherlands to low-tax jurisdictions at a rate of 21.7%. The Dutch official stated that the Dutch Government expects that the proposal may not be enough to prevent rerouting profits through other countries without an improved international collaboration.

Poland

[Failing to produce enough revenue hydrocarbon tax was abolished](#)

On November 1, 2019, the Law on Hydrocarbon Tax was repealed as the imposing such tax did not make a significant contribution to the State budget as it was expected to.

Slovenia

[Clarifications issued on implementation of the MLI](#)

On November 13, 2019, amendments to existing guidance on the implementation and interpretation of tax treaties were made public. The tax authorities provide additional clarifications on the impact of the MLI on tax treaties, in particular as regards the application of the principal purpose test, amended tax residency rules, permanent establishments, and other treaty benefits, such as dividend withholding tax, or the taxation of capital gains derived from shares in real estate.

Switzerland

[AEOI amendments adopted](#)

On November 20, 2019, the Swiss Federal Council adopted a revision to the Swiss Federal Act and Ordinance on the International Automatic Exchange of Information in Tax Matters (AEOI) in order to implement recommendations of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

United Kingdom

[HMRC urges offshore investment funds investment reporting](#)

On November 22, 2019, it was reported that the UK tax authorities (HMRC) issued “nudge” letters to certain large UK taxpayers encouraging them to verify whether excess and gains from their offshore fund investments are reported correctly when preparing their UK tax returns for 2018-2019.

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

[Cancellation of corporation tax cut](#)

On November 18, 2019, the UK Prime Minister announced that a proposed cut to the UK corporation tax rate from 19% to 17% which was due to take effect in 2020 would be cancelled. The UK is due to hold a parliamentary election on December 12, 2019.



Local Courts

Austria

[Austrian Federal Finance Court on abusive assignment of receivables](#)

The Austrian Federal Finance Court recently held that an assignment of receivables by a taxpayer to a company located in Malta, with which the taxpayer frequently engaged in trade and transactions, was an abusive arrangement.

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

Belgium

[Local court holds there was no abuse concern for capital reduction exemption](#)

On October 1, 2019, the Ghent Court of Appeal (*Hof van Beroep Gent*) gave its decision in the case of *X Holding v. the Belgian tax administration*. The Belgian tax authorities argued that a capital reduction which is financed by dividends from subsidiaries should be treated as a taxable transaction (a capital reduction is typically exempt for Belgian tax purposes). The court rejected this argument and held that a tax-exempt repayment of capital does not require an economic assessment to be performed to prove its necessity.

Denmark

[Denmark tax agency explains fiscal transparency of foreign trust](#)

On November 25, 2019, the Danish Customs and Tax Administration issues a tax board binding answer which clarified that a foreign trust with a trustee residing in Malta, is equivalent to a Danish fund and that payments made from the trust to the beneficiary are taxable as personal income.

France

[Supreme Administrative Court clarifies taxation on income derived from a German limited partner](#)

On November 8, 2019, the French Supreme Administrative Court (*Conseil d'Etat*) clarified the taxation rules of income derived by a French company that is a limited partner (*Kommanditist*) of a German limited partnership (*Kommanditgesellschaft, KG*). The Court held that Article 4(3) of the double taxation agreement between Germany and France allows taxing rights only for the state in which the partnership has a permanent establishment (i.e. Germany in the case at hand). As such, France was restricted from taxing the income received from the German limited partnership.

Germany

[Federal Tax Court holds CFC rules did not violate EU law](#)

On December 3, 2019, the German Federal Tax Court held that, for the years at issue (2005-2007), the German controlled foreign company (CFC) rules for passive income requiring an add-back of passive income with an investment character did not violate the EU fundamental principle of free movement of capital.

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



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