



# E-News from KPMG's EU Tax Centre



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

**Issue 118 – May 11, 2020**

KPMG's EU Tax Centre compiles a regular update of EU and international tax developments that can have both a domestic and a cross-border impact, with the aim of helping you keep track of and understand these developments and how they can impact your business.

**[Latest CJEU, EFTA and ECHR](#)**

CJEU order in joined cases C-168/19 (HB) and C-169/19 (IC) v. Istituto nazionale della previdenza sociale (INPS)

On April 30, 2020, the CJEU published its decision in cases HB and IC. In line with existing case-law, the Court ruled that EU law does not preclude a tax treatment resulting from a double tax treaty concluded between two member States. The two cases dealt with retirement pensions, taxation of which is allocated according to whether the recipients of those pensions were in employment in the private sector or the public sector and, in the latter case, according to whether or not they are nationals of the member States of residence.

The decision can be consulted [here](#).

## CJEU Order in case C-565/18 Société Générale S.A. v Agenzia delle Entrate – Direzione Regionale Lombardia Ufficio Contenzioso

On April 30, 2020 the CJEU issued a [judgement](#) in case 565/18 concerning the compatibility of the Italian financial transaction tax with EU law. The financial transaction tax is a liability relating to any transaction involving derivative financial instruments having as their underlying assets financial instruments governed by Italian law. The Court concluded that the Italian financial tax does not infringe the free movement of capital because it is not discriminatory – in line with the opinion issued by the Advocate General.

## State Aid

### Temporary Framework for State Aid

During April 2020, the Commission has approved a number of additional State aid schemes from a.o. Belgium, Germany, Hungary, Portugal, Bulgaria, Poland, Lithuania, Luxembourg and Greece under the State aid Temporary Framework. An overview of all cases approved by the Commission under the Temporary Framework to date is available [here](#). The non-confidential versions of individual decision are made available in the [State aid register](#). For more information on State aid measures in the context of the coronavirus, please refer to the [“State aid rules and coronavirus” section](#) of the Commission’s Competition website.

For details on the Temporary Framework for State aid measures adopted by the European Commission and related measures implemented by Member States, please refer to [E-News Issue 117](#).

### EU Commission opens in-depth investigation into Belgian aid scheme to support videogame production

In 2014, the EU Commission approved a Belgian tax shelter scheme to support film production. Belgium has decided to extend the support provided under the existing scheme on funding of film production to also apply to funding of videogame production. On April 30, 2020 the Commission announced it has opened an in-depth investigation whether the extended aid scheme to support videogame production is in line with EU State aid rules.

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



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## EU Institutions

### EUROPEAN COMMISSION

#### European Commission proposes extension of DAC6 deadlines

On May 8, 2020, the European Commission (EC) announced that it was proposing to defer by three months certain deadlines for filing and exchanging information under Council Directive 2018/822/EU (DAC6), which introduces the EU mandatory disclosure rules (MDRs).

The EC is proposing to change the date for the beginning of the 30-day period for reporting cross-border arrangements from July 1, 2020 to October 1, 2020 and postpone the date for the reporting of “historical” cross-border arrangements (i.e. the first step of which was implemented between June 25, 2018 and June 30, 2020) to November 30, 2020.

Click [here](#) for further details in a KPMG Tax News Flash from May 8, 2020.

#### [Brexit update: Updated notice on VAT consequences of Brexit](#)

The European Commission recently updated the [Notice](#) to stakeholders regarding the VAT consequences of the withdrawal of the United Kingdom from the European Union. The Withdrawal Agreement introduced a transitional period until December 31, 2020, and the Notice discusses scenarios for transactions starting within the transitional period but ending after it, for transactions performed as of the end of the transitional period, and furthermore for transactions relating to Northern Ireland.

#### [Brexit update: Second round of future relationship negotiations with the UK](#)

On April 24, the European Commission released a [statement](#) by Michel Barnier, the EU's Head of Task Force for Relations with the United Kingdom following the second round of future relationship negotiations with the UK. Two rounds of negotiations are left between the Commission and the UK (in the weeks of May 11 and June 1), before a live conference will be held in the course of June to take stock of the progress made in the negotiations. According to the statement, the main four areas in which progress needs to be made are (i) the level playing field, (ii) the overall governance of the future partnership, (iii) the future police and judicial cooperation in criminal matters and (iv) fisheries.

#### [Brexit update: Statement following the first meeting of the Specialized Committee on the Protocol on Ireland / Northern Ireland](#)

On April 30, 2020, the European Union and the United Kingdom held their first Specialized Committee meeting on the implementation and application of the Protocol on Ireland / Northern Ireland. The Commission underlines the importance of the UK setting out its plans regarding the implementation measures described by the Protocol and providing a detailed timetable, to ensure that the Protocol can be applied in full from January 1, 2021.

For more information, please refer to the European Commission's [statement](#).

## **EUROPEAN PARLIAMENT**

#### [EFTA Parliament Committee discusses COVID-19 pandemic](#)

On April 23, 2020 the EFTA Parliament Committee (EFTA PC) held its first meeting since the beginning of the COVID-19 pandemic. The aim was to discuss the economic, social and political impact of the crisis on the EFTA states. The policy responses of the governments in Iceland, Liechtenstein, Norway and Switzerland were also discussed. For more information, please refer to the EFTA [press release](#).



## OECD

### Global Forum publishes new peer review reports and reveals compliance ratings for eight jurisdictions

The Global Forum on Transparency and Exchange of Information for Tax Purposes [published eight new peer review reports](#) assessing compliance with the international standard on transparency and exchange of information on request (EOIR) on April 6, 2020. Three jurisdictions (Brunei Darussalam, Macau and Switzerland) received an overall rating of “Largely Compliant” for this second round of peer reviews, confirming those issued after the first round of assessment.

The overall rating of Barbados and the Seychelles was downgraded from “Largely Compliant” to “Partially Compliant” since their last reviews. The three remaining jurisdictions – Liberia, Peru and Tunisia – were undergoing their first full peer reviews. The resulting reports rated Liberia as Partially Compliant while Peru and Tunisia both obtained a “Largely Compliant” rating.

### OECD releases BEPS Action 14 reports

On April 9, 2020, the OECD released publications of the stage 2 peer review monitoring reports of the seven jurisdictions in batch 2: Austria, France, Germany, Italy, Luxembourg and Sweden. According to the OECD, the results from the peer review and peer monitoring process demonstrate positive changes across all seven jurisdictions. For further details, please refer to the OECD [press release](#).

### OECD receives public comments on draft model rules for platform operators

On April 15, 2020, the OECD released the public comments received in response to the [public consultation document](#) containing draft model rules for reporting by platform operators with respect to sellers in the sharing and gig economy. Interested stakeholders were invited to send their comments no later than April 13, 2020. The public comments can be accessed [here](#).

### New OECD report focuses on how tax policy can aid governments in dealing with the COVID 19 crisis

On April 15, 2020 the OECD published a report on tax and fiscal policy to the Coronavirus Crisis. The report discusses how tax and fiscal measures can cushion the impact of continued containment and mitigation policy, and support economic recovery. The report shows that while rapid and extensive action has been taken by many governments, getting the support to the most vulnerable households and firms still poses significant challenges. According to the report, developing countries will need specific (financial) support in order to help health and fiscal systems withstand the current shocks. The OECD also looks at how tax law can be used in future recovery efforts, focusing on multilateral collaboration, but not excluding the introduction of exceptional tax measures. On taxation of the digital economy, the report mentions that ensuring that MNEs pay a minimum level of tax (Pillar 2) will become more prominent. The OECD suggests that increased use of digital services and the need to collect more revenues could provide new impetus to efforts to reach agreement on Pillar 1 issues internationally.

The full report is available [here](#).

## Taxing wages 2020

On April 30, 2020 the OECD [published](#) its annual publication on the various taxes levied on wages and salaries in OECD countries.



## Local Law and Regulations

### Belgium

#### [Circular letter on remuneration from foreign related company published](#)

On April 7, 2020, Circular Letter 2020/C/52 (the Circular Letter) was published. It addresses the remuneration received by a Belgian taxpayer from a foreign related company. The Circular Letter relates to the Law on fiscal, anti-abuse, financial and various other provisions of February 11, 2019, which introduced, among other provisions, a legal fiction in cases where an employee or a director of a Belgian company receives remuneration (e.g. stock options and benefits in kind) from a foreign related company. In such cases, the Belgian company must withhold wage tax from the regular salary of the employee or director and file the corresponding salary slips. The current circular clarifies to which employers the wage tax withholding and filing obligation applies, who the beneficiaries of the remuneration are and for which remuneration the wage withholding tax and the salary slip filing obligations apply.

### Cayman

#### [Economic substance regime - Change in beneficial ownership definition](#)

On March 30, 2020, The Ministry of Financial Services issued a press release announcing that the Cabinet had approved initiatives to amend the beneficial ownership definition. As a result, the definition will change from holding “more than 25%” to holding “25% or more” of the shares of voting rights in a company as of May 15, 2020.

### Denmark

#### [Proposal implementing ATAD CFC rules postponed again](#)

On April 15, 2020, the Prime Minister of Denmark informed the president of the Danish parliament that as a result of the Covid-19 crisis a number of legislative proposals have to be postponed. Amongst the proposals that are postponed is law proposal ([L48](#)) transposing into Danish legislation the CFC rules in line with the European Union Anti-Tax Avoidance Directive (ATAD). This means that the implementation of this final part of the ATAD directive will be delayed for the third time. It is unclear when the legislation will be decided on by the parliament.

## **Finland**

### [MLI – Finland gazettes MLI statement in respect of Cyprus and Uruguay](#)

On April 20, 2020 Finnish government statements of April 15, 2020 regarding the applicability of the MLI to the Cyprus-Finland Income Tax Treaty (2012) and the Finland – Uruguay Income and Capital Tax Treaty (2011) were published in Finland's Official Gazette.

## **France**

### [Guidelines on tax consolidated groups amended](#)

On April 15, 2020, the tax authorities amended their [guidelines](#) on tax-consolidated groups in order to incorporate new rules regarding intra-groups dividends as well as capital gains from the sale of shares within the group introduced by article 32 of the Finance Act 2019 of December 28, 2018 with effect from January 1, 2019. The guidelines also detail the consequences on the scope of the tax-consolidated group of the withdrawal of a state from the EU or the EEA (e.g. Brexit).

## **Guernsey**

### [Updated guidance published on tax treatment of large retailers subject to 20% higher tax rate](#)

On April 22, 2020 the Statement of Practice C55 regarding the tax treatment of large retail businesses subject to the higher corporate income tax rate of 20% was [updated](#). Large retailers are subject to this tax rate if their taxable profits exceed the limit of GBP 500,000 in a tax year. In this respect, the updated Statement clarifies that if a qualifying company has an accounting period longer than 12 months, the GBP 500,000 threshold will be increased accordingly. Furthermore, the updated Statement clarifies that anti-avoidance provisions will apply if a qualifying company seeks to change its accounting date, without valid economic reasons, in order to obtain an additional profit threshold available, thus reducing its liability from 20% to 0%.

## **Italy**

### [Tax Authorities amend implementing rules on electronic invoicing](#)

The Italian Tax Authorities published a protocol, which provided implementing rules for the issuance and receipt of electronic invoices. In particular, the Protocol updated the technical specifications which qualifying taxable persons may apply with respect to electronic invoices issued and received from October 1, 2020. However, taking also into account the COVID-19 pandemic, taxable persons may continue to apply the current technical specifications until December 31, 2020.

## **Sweden**

### [Vote on MDR implementation bill postponed](#)

On February 4, 2020 the Swedish Parliament presented its bill to the Swedish Parliament for its approval on April 16, 2020. After postponing the vote on the bill until May 7, 2020, the vote on the bill has again been postponed until May 27, 2020.

## Russia

### New tax measures and changes to treaty policy

The following new taxation measures were announced in Russia:

- 13% income tax on interest accrued on deposits exceeding 1 million rubles (\$12,700) multiplied by the Bank of Russia key rate, starting from 2021
- Increase to 15% taxation rate for dividends and interest paid out from Russia to so-called transit jurisdictions (e.g. Cyprus, Luxembourg and Malta – the process of changing the double tax treaty has already started)
- Cancellation of tax exemptions for interest income on state and regional treasury securities. Additional information can be found [here](#).

Russia has also initiated renegotiations of its income tax treaties with Cyprus, Luxembourg and Malta respectively, proposing to set the minimum withholding tax rate on dividends and interest paid from Russia at 15%. For further information, please refer to a tax alert published by the KPMG member firm in Russia, available [here](#).

## Ukraine

### Tax implications arising upon division of a company – STS clarifications

The State Tax Service (STS) clarified in a letter dated March 19, 2020 that the transfer of assets upon the division of a company is not subject to VAT and corporate income tax for both the surviving company and the new created company. Also, no obligation to apply tax differences for corporate income tax purposes and to assess additional VAT liabilities arises.

## United Arab Emirates

### Cabinet issues decision on sectors and activities eligible for foreign direct investment

On March 17, 2020, the UAE Cabinet has issued a decision concerning the positive list of economic sectors and activities eligible for up to 100% foreign investment in the United Arab Emirates. The list provides a list of 122 activities that are eligible for foreign direct investments, including activities in the following sectors: manufacturing, transport, storage, science and technology and construction. The list also provides a minimum share capital requirement to be met by companies that are or will be wholly owned by foreign investors.

## United Kingdom

### International Tax Compliance (Amendment) Regulations 2020

The [International Tax Compliance \(Amendment\) Regulations 2020](#) were made on April 20, 2020 and will come into force on May 13, 2020. The Regulations amend the International Tax Compliance Regulations 2015 by extending its application to arrangements entered into by the United Kingdom for the exchange of financial account information with other jurisdictions up to April 19, 2020.



## Local Courts

### Germany

#### Federal Financial Court rules on application of EU Arbitration Convention

On March 19, 2020 a [decision](#) of the Financial Federal Court (*Bundesfinanzhof*) was published on the application of the EU Arbitration Convention. The Financial Federal Court confirmed that any violation of the tax law, sanctioned with prison sentence or monetary fines, is deemed a serious penalty within the meaning of article 8(1) of the EU Arbitration Convention (i.e. where legal or administrative proceedings have resulted in a final ruling that by actions giving to an adjustment of transfers of profits, one of the enterprises concerned is liable to a serious penalty). The German competent authority may therefore deny opening a mutual agreement procedure with reference of article 8(1) of the EU Arbitration Convention where in the underlying case, the concerned individual has been convicted in a legally binding manner for assisting in tax evasion.



## KPMG Insights

### COVID-19 Resources

An overview of tax developments being reported globally by KPMG member firms in response to the Novel Coronavirus (COVID-19) is available [here](#). For further insight into the potential tax, legal and mobility implications of COVID-19, please refer to the dedicated [KPMG page](#).

In addition, KPMG Global is hosting a regular webcast series – Keeping Connected Globally Series– Global perspectives on the Future of Tax, Legal and Mobility. Registration for the webcast sessions is available [here](#).



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