



E-News from KPMG's EU Tax Centre



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E-News from the EU Tax Centre

Issue 121 – October 7, 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 decision on the right of appeal against a request for information in tax matters](#)

On October 6, 2020 the Court of Justice of the EU (CJEU) issued its decisions in joined cases C-245/19 and C-246/19 on cross-border exchange of information between tax authorities. The joined cases relate to two requests for information from the Spanish tax authorities to the Luxembourg tax authorities, based on the Spanish-Luxembourg double tax treaty and the EU Directive on administrative cooperation in the field of taxation (2011/16/EU). In order to be able to respond to the request, the Luxembourg tax authorities requested information from a Luxembourg third-party company and a Luxembourg bank. Under the Luxembourg law in force at the time, the requirement could not be challenged in legal proceedings and failure to provide the information was subject to substantial fines in Luxembourg.

The CJEU held that Article 47 of the Charter of Fundamental Rights of the EU (Right to an effective remedy and to a fair trial), read together with Articles 7 (the right to privacy) and 8 (the right to the protection of personal data), and Article 52(1) thereof (which allows the exercise of certain fundamental rights to be restricted in certain circumstances):

- precludes legislation of a Member State implementing the procedure for the exchange of information on request established by EU mutual assistance Directive from preventing a person who holds information from bringing an action against a decision by which the competent authority of that Member State orders that person to provide it with that information, with a view to following up on a request for exchange of information made by the competent authority of another Member State, but
- does not preclude such legislation from preventing the taxpayer subject to the investigation giving rise to that request for information and the third parties concerned by the information in question from bringing an action against that decision.

The CJEU's decision is in contrast with the [opinion](#) issued by Advocate General (AG) Kokott on July 2, 2020, according to which, the taxpayer and the third parties concerned by the should also have a right to challenge such a decision front of the courts of the requested Member State. In the AG's view, the exclusion of legal protection infringes the right to an effective remedy under article 47 of the Charter of Fundamental Rights of the EU.

Please refer to the [press release](#) issued by the Court of Justice for further details.



State Aid

[European Commission to appeal General Court's judgment in a case regarding Irish tax rulings](#)

On September 25, 2020, the European Commission (EC) [announced](#) its decision to appeal a July 2020 judgment of the EU General Court in a case regarding Irish tax rulings that were issued in favor of the taxpayer (a multinational corporate entity headquartered in the United States).

The judgment (Case T-778/16, July 15, 2020) of the EU General Court annulled the EC's decision whereby the EC had found that Ireland had granted illegal state aid to the taxpayer through selective tax breaks. The case relates to tax rulings granted by the Irish Revenue in 1991 and 2007 confirming the basis for the attribution of taxable profits to Irish branch operations of the multinational group companies. For more information, read [E-news Issue 120](#).

[European Commission opens individual State aid cases for excess profit exemptions granted by Belgium](#)

On August 31, 2020, the European Commission published thirty-nine state aid announcements on excess profit exemptions that have been granted by Belgium through the excess profit rulings scheme between 2004 and 2015.

These actions of the European Commission are linked to the decision of the General Court of February 14, 2019 (T-131/16), in a case that had tackled the excess profit ruling scheme in aggregate, rather than looking at individual rulings. The Court ruled that the Commission had

failed to demonstrate the existence of an aid scheme. As a result, the Commission's decision of January 11, 2016 – in which the excess profit rulings scheme was considered as illegal state aid – was annulled in its entirety. Please refer to [Euro Tax Flash 411](#) for detailed information on the General Court's decision.

The Commission is now assessing each case individually (i.e. per company who received such rulings) through separate in-depth investigations.

[General Court ruled Spain's shipping tax scheme as illegal State aid](#)

On September 23, 2020, the General Court of the European Union issued a judgment concluding that the Spanish tax system applicable to certain finance lease agreements entered into by shipyards constitutes an aid scheme, and that any unlawful State aid granted under that system must be recovered from the beneficiaries.

The Spanish tax lease system, in financing certain lease agreements, allowed shipping companies to benefit from a 20% to 30% price reduction when purchasing ships constructed by Spanish shipyards. The European Commission found that the objective of this tax lease system was to grant tax advantages to economic interest groupings and the investors participating in them, which then passed on part of those benefits to the shipping companies that bought a new ship. The EC adopted a decision in July 2013, concluding that the system constituted State aid in the form of a selective tax advantage that was partially incompatible with the internal market and ordered the Spanish authorities to recover the aid from the investors (the members of the economic interest groupings).

The taxpayers (applicants) in this case contested the EC's position and brought actions to annul the EC's decision. In December 2015, the EU General Court annulled the EC decision. The EC appealed, and the Court of Justice of the European Union set aside the judgment of the General Court and referred the case back to the General Court for further analysis. In its second judgement (of September 23, 2020), the General Court dismissed the actions brought by the taxpayers. Read [TaxNewsFlash](#) for more information.



[EU Institutions](#)

[EUROPEAN COMMISSION](#)

[EU recovery package – Next Generation EU – Tax proposal\(s\) expected as of the first semester 2021](#)

In July 2020, the European Union's heads of government reached agreement on the EU recovery package to mitigate the consequences of the COVID-19 pandemic (the "Next Generation EU" recovery instrument), which contains a EUR 750 billion recovery fund and a new multi-year budget (2021-2027). In its conclusions to the July extraordinary meeting, the European Council confirmed that the Union will work towards reforming the own resources system and introduce new own resources.

In line with the European Commission's proposal of May 27, 2020 (please refer to [E-news Issue 120](#) for further details), the conclusions to the European Council's special meeting in July 2020 note that a first new own resource based on non-recycled plastic waste will be introduced and

apply as of January 1, 2021 (read [Euro Tax Flash issue 434](#) for further details).

The Commission will put forward:

- in the first semester of 2021, a proposal on a carbon border adjustment mechanism (CBAM) with a view to its introduction at the latest by January 1, 2023 – a public consultation [was launched](#) in July 2020;
- a proposal on a revised Emissions Trading System (ETS), possibly extending it to aviation and maritime.

With regard to the own resource based on digital services taxation, European Commission representatives have on several occasions [noted](#) that the Commission's preference is for an international solution. However, should agreement not be reached at global level, a proposal from the Commission is [expected](#) in the first semester of 2021 with a view to its introduction at the latest by January 1, 2023. The details of such a proposal are under discussion.

The Commission will also work towards the introduction of other own resources, which may include a Financial Transaction Tax.

The system of own resources for the EU is adopted by the Council of the EU, acting unanimously and having consulted the European Parliament, and must also be ratified by each EU country. The current system of own resources has remained largely unchanged for three decades. In its conclusions of July 21, 2020, the Council tasked the Commission with putting forward proposals for potential additional own resources.

[European Commission consultation on energy taxation](#)

In addition to the new own resources being considered as part of the Commission's Recovery Plan for Europe, the EC is also considering an overhaul of the way in which energy products are taxed in the EU, including changes to the taxation of the aviation sector as "to make aviation greener and more environmentally sustainable" (see [this statement](#) by Commissioner Gentiloni). In conjunction with the CBAM consultation (July 2020), the Commission also launched an open consultation on the revision of the Energy Tax Directive, which includes a section on the aviation sector. According to Commissioner Gentiloni, the introduction of a harmonized tax on aviation fuel for flights within the European Union is one of the options that will be studied as part of the review of the Energy Tax Directive that is [planned](#) to be concluded by mid-2021.

[EC's Communication on business taxation \(incl. digital taxation\) expected October 28, 2020](#)

[Accountancy Europe reports](#) that, based on a recent agenda from the College of Commissioners, the EC's Communication on business taxation for the 21st century will be published on October 28, 2020. The Communication will include the European Commission's views and (possible) timeline on the taxation of the digitalized economy.

[European Commission live event on the role of taxation in recovery and long-term growth](#)

On September 21, 2020, the European Commission hosted a live event focused on how taxation can support the EU's recovery. Several issues were discussed, including the Commission's timetable for its proposals on new own resources, public Country-by-Country Reporting (CbCR) And the Common Consolidated Corporate Tax Bases (CCCTB).

On the CbCR dossier, the German Finance Minister noted that the German Presidency of the

Council is supportive of further discussions on the topic, albeit in absence of a common position from the German government.

Regarding the CCCTB proposal, Benjamin Angel – Director for Direct Taxation in DG TAXUD, noted that negotiations have been stalled in the Council and the Commission may therefore decide to separate various CCCTB provisions into separate proposals.

[Communication on new Capital Markets Union action plan](#)

On September 24, 2020, the EC published a [Communication](#) on a new action plan for a Capital Markets Union (CMU), which includes the following tax-related considerations:

- the need to address the debt bias in taxation, to remove undue fiscal incentives for debt financing (potentially addressed through a slicing out of the relevant provisions of the CCCTB proposal – also see above for comments by DG TAXUD Director Angel);
- the need to alleviate the tax burden in cross-border investments. The Commission aims to propose a common, standardised, EU-wide system for withholding tax relief at source, leveraging the OECD's work on the treaty relief and compliance enhancement (TRACE) system and EU initiatives in this area, such as the code of conduct on withholding tax.

[Brexit update – Round eight of negotiations for a new partnership between the EU and the United Kingdom and letter of formal notice sent to the UK](#)

On September 10, 2020, the European Commission [published remarks](#) by Michel Barnier, the EU's Chief Negotiator, following round eight of negotiations for a new partnership between the EU and the United Kingdom. A key topic of the negotiations includes the UK's sovereignty - in particular with regard to the role of the CJEU, the future legislative autonomy of the UK, and fisheries.

On October 1, 2010, the European Commission sent a letter of formal notice to the UK for breaching its obligations under the Withdrawal Agreement, thus marking the beginning of a formal infringement process against the UK. This follows the publication by the UK government of the draft "United Kingdom Internal Market Bill" on September 9, 2020, that, if adopted, would – in the Commission's view, violate the Protocol on Ireland / Northern Ireland, as it would allow the UK authorities to disregard the legal effect of the Protocol's substantive provisions under the Withdrawal Agreement.

According to a Commission [press release](#), the UK government has failed to withdraw the contentious parts of the Bill, despite requests by the EU, therefore breaching its obligation to act in good faith, as set out in Article 5 of the Withdrawal Agreement. Furthermore, it has launched a process, which – if the Bill is adopted – would impede the implementation of the Withdrawal Agreement.

The UK has one month to submit its observations to the letter of formal notice. After examining these observations, or if no observations have been submitted, the Commission may, if appropriate, decide to issue a Reasoned Opinion.

[EC publishes first implementation report on ATAD](#)

On August 19, 2020, the European Commission published a first report on the implementation of the EU Anti-Tax-Avoidance Directive (2016/1164) (ATAD). The report is the first step in the

evaluation of the impact of the Directive and focuses on the implementation of the early applicable ATAD measures, i.e. interest limitation, general anti-abuse and controlled foreign company rules, which Member States had until December 31, 2018 to implement, with a January 1, 2019 application date.

The report notes that the ATAD is a minimum standard and therefore allows Member States to provide more restrictive rules in their national legislation transposing the ATAD than those prescribed by the Directive, provided that these measures are in compliance with the EU fundamental freedoms of the Internal Market. An overview of some of the instances where Member States have introduced stronger measures is provided in the report and includes, inter alia, a level of deductibility of exceeding borrowing costs in relation to EBITDA below the 30% ratio prescribed by ATAD, a safe harbour threshold lower than the EUR 3 million allowed by the Directive, etc.

The report further notes that after the expiry of the December 31, 2018 transposition deadline, the Commission opened infringement procedures against 12 Member States that have failed to notify national implementing measures, four of which – Austria, Denmark, Spain and Ireland, were still open. A state of play regarding transposition checks is included in the report and covers infringement procedures with respect to exit taxation and the first deadline for the hybrid mismatch provisions.

In a next step, the Commission will publish a comprehensive evaluation report, which will include an overview of the implementation of the other ATAD measures, i.e. exit taxation, hybrid mismatches (applicable from January 1, 2020) and reverse hybrid mismatches (applicable from January 1, 2022).

[EC publishes report on the Taxation of Household Capital in EU Member States: Impact on Economic Efficiency, Revenue & Redistribution](#)

On August 14, 2020, the European Commission published a report on the Taxation of Household Capital in EU Member States: Impact on Economic Efficiency, Revenue & Redistribution. [The paper](#) discusses the economic and distributional effects of the taxation of capital income, capital gains and inheritances and gifts, and provides an overview of laws implemented in Member States.

COUNCIL OF THE EU

[Cayman Islands and Oman delisted, Barbados and Anguilla added to the EU list of non-cooperative jurisdictions](#)

On October 6, 2020, the Economic and Financial Affairs Council of the EU (ECOFIN) adopted a revised EU list of non-cooperative jurisdictions for tax purposes (the EU blacklist). The EU Finance Ministers agreed to add two new jurisdictions to the list: Anguilla and Barbados, as well as to remove the Cayman Islands and Oman from the EU blacklist.

Following this latest revision, the EU blacklist (Annex I to the Council conclusions of February 18, 2020) includes the following twelve jurisdictions: American Samoa, Anguilla, Barbados, Fiji, Guam, Palau, Panama, Samoa, Seychelles, Trinidad and Tobago, US Virgin Islands, Vanuatu.

The Council also approved a series of changes and postponement of deadlines with respect to Annex II (the so-called “grey list”), as a result of which the grey list includes the following ten jurisdictions: Australia, Botswana, Eswatini, Jordan, Maldives, Morocco, Namibia, Saint Lucia, Thailand and Turkey.

Read Euro Tax Flash [Issue 435](#) for further details.

[European Parliament and Council discuss the EU's long-term budget and recovery fund](#)

Subsequent to agreement among EU leaders (special European Council meeting, July 2020) on the Union's long-term budget (the multiannual financial framework – MFF) and the EU's recovery fund (Next Generation EU), on August 27, 2020, delegations from the European Commission, the Council and the European Parliament (EP) initiated trilateral talks on a political level in view of reaching agreement on EU financing package for 2021-2027, which includes:

- the MFF regulation – requires unanimity in the Council, once it has received the EP's consent. The Parliament may approve or reject the Council's position but cannot make amendments to it.
- the own resources decision – subject to unanimous agreement in the Council, after the EP issues its opinion, and ratification by every Member State.

Negotiations are ongoing.

[Priorities of the German Council Presidency – ECON Committee hearing](#)

On September 2, 2020, Vice-Chancellor Olaf Scholz, German Minister of Finance, appeared in the European Parliament's ECON Committee to present the priorities of the German Council Presidency. Among other areas of economic and financial affairs, the German Presidency will also focus on “achieving progress on a global agreement on digital taxation, introducing a financial transaction tax, revising the directive on administrative cooperation in the field of taxation, and intensifying work on anti-money laundering and terrorist financing.”

A selection of ECOFIN agenda items was also presented, including:

- ECOFIN meeting on November 4, 2020: political agreement on administrative cooperation in the field of taxation (i.e. DAC7);
- ECOFIN meeting on December 1, 2020: progress report on the financial transaction tax (FTT), adoption of Council Conclusions on digital taxation and the business taxation code of conduct.

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

During a [live event](#) hosted by the European Commission on September 21, 2020, the German Finance Minister also answered questions regarding the public Country-by-Country Reporting dossier. According to Mr. Scholz, the German Presidency is supportive of further discussions on the topic, albeit in absence of a common position from the German government.

[Informal ECOFIN meeting of September 2020](#)

On September 11-12, 2020, Finance Ministers of the EU Member States attended an [informal ECOFIN meeting](#) chaired by the German Council Presidency. In his [remarks](#) after the meeting, European Commission Executive Vice-President Dombrovskis, noted a “need to work on tax

fairness”, with a focus on “large digital companies” and the need for global minimum taxation. Mr. Dombrovskis confirmed that the Commission will present an Action Plan on business taxation for the 21st century this autumn and will move ahead with a digital tax proposal in the first half of next year, should consensus not be reached at international level, through the OECD.

EUROPEAN PARLIAMENT

European Parliament September vote on own resources

During its September Plenary session, the European Parliament adopted its [opinion](#) on the own resources proposal, noting that financing the recovery must be sustainable through the introduction e.g. of taxes on transnational polluters and multinational corporations. The EP also requests a legally binding calendar to introduce these new own resources and proposed the following [timeline](#):

- January 1, 2021: for the new national contribution based on non-recycled plastic packaging waste;
- January 1, 2021: own resource based on the proceeds of the Emissions Trading System;
- January 1, 2023: own resource based on digital services taxation;
- January 1, 2023: own resource based on a carbon border adjustment mechanism;
- January 1, 2024: own resource based on a financial transaction tax;
- January 1, 2026: own resource linked to the common consolidated corporate tax base.



OECD

Global Forum reveals new peer review assessments

On September 1, 2020, the Global Forum on Transparency and Exchange of Information for Tax Purposes (the Global Forum) [published](#) nine new peer review reports assessing compliance with the international standard on transparency and exchange of information on request.

The OECD notes that the new reports relate to jurisdictions with very diverse exchange of information practice and “their findings are equally contrasted”. Papua New Guinea (first full peer review) Chile, China, Gibraltar, Greece, Korea and Uruguay, were rated Largely Compliant. Malta was issued a Partially Compliant rating – downgraded from Largely Compliant, due to concerns related to the effectiveness of enforcement and supervision activities to ensure the availability of ownership, accounting and banking information, while Anguilla was deemed Non-Compliant.

OECD publishes the fifth edition of the Tax Policy Reforms publication

On September 3, 2020, the OECD published its fifth edition of [Tax Policy Reforms](#): OECD and

Selected Partner Economies, an annual publication that provides comparative information on tax reforms across countries and tracks tax policy developments over time.

Given the significant packages of measures that were introduced in the first half of 2020 in response to the COVID-19 crisis, the report also includes a Special Feature on “Tax and Fiscal Policy Responses to the COVID-19 Crisis”.

[OECD/G20 Inclusive Framework – progress in implementing tax transparency through Action 13 Country-by-Country reporting](#)

On September 24, 2020, the OECD released the result of the third phase of peer reviews of the BEPS Action 13 Country-by-Country Reporting (CbCR) initiative, which considers all key elements of the implementation of the CbCR minimum standard as of April 2020: (i) the domestic legal and administrative framework; (ii) the exchange of information (EOI) framework, and (iii) the confidentiality and appropriate use of Country-by-Country reports.

Highlights reported by the OECD include:

- Coverage increased to 131 Inclusive Framework members.
- Over 90 jurisdictions have already introduced legislation to impose a filing obligation on MNE groups, covering almost all MNE Groups with consolidated group revenue at or above the threshold of EUR 750 million.
- Where legislation is in place, the implementation of CbCR has been found largely consistent with the Action 13 minimum standard.
- Many recommendations made in the first two peer review phases have now been addressed and these recommendations have been removed.
- Exchanges of CbC reports began in June 2018 and more than 2500 bilateral relationships for CbC exchanges are now in place.

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



Local Law and Regulations

Austria

Tax loss carrybacks (COVID-19)

On July 24, 2020, a series of tax measures that are intended to boost Austria's economy and facilitate further investments were enacted into Austrian tax law. A related ordinance implementing these measures was issued by the Austrian Ministry of Finance with an effective date of September 17, 2020.

The provisions introduced rules to allow a carryback (expected) of tax losses for 2020 as a response to address the economic implications of the coronavirus (COVID-19) pandemic. In general, any business income tax losses incurred in 2020 that cannot be applied against positive income in 2020 may be carried back and offset against taxable income in 2019 up to a maximum amount of EUR 5 million. Read [TaxNewsFlash for further details](#).

Belgium

Fifth Anti-Money Laundering Directive implemented

On August 5, 2020, the law implementing the Fifth Anti-Money Laundering Directive was published in the Belgian Official Gazette.

The law can be consulted [here](#) (in Dutch) and [here](#) (in French).

Czech Republic

Provisions on EU Directive on Tax Dispute Resolution Mechanisms published in the Official Gazette

In August 2020, an act containing the provisions of the Directive on tax dispute resolution mechanism in the European Union ([2017/1852](#)) was published in the Czech Official Gazette. The provisions are effective as of September 15, 2020.

DAC6 implementation published in Official Gazette

On August 14, 2020, [a bill](#) (in Czech only) implementing Council Directive (EU) 2018/822 on mandatory disclosure rules (DAC6) was published in the Czech Official Gazette. The bill entered into force on September 1, 2020.

Denmark

Budget bill for 2021 presented

On August 31, 2020, the Danish [budget bill](#) (in Danish only) for 2021 was presented by the government to parliament. The tax measures mentioned in the bill include the following:

- Introduction of a special corporate tax rate for financial transactions;
- establishing a maximum of deductibility of wage costs by companies for wages over DKK 10 million;

- cancelling the planned increases of the chocolate tax, consumption tax, coffee tax, tax on tap water and tax on incandescent light bulbs;
- postponement of the increase of energy taxes, as agreed in the Climate Agreement of June 2018, until 2023.

In light of COVID-19, the government proposes to establish a fund of DKK 9.2 billion in order to combat the financial impact of COVID-19. Furthermore, the government proposed to spend an (additional) DKK 750 million on environmentally friendly R&D to support a sustainable, fair and responsible recovery of the Danish economy.

Finland

Budget 2021 proposal published

On August 13, 2020, the Minister of Finance published its [proposal](#) (in Finnish only) for the budget 2021. The proposal contains various tax measures which would enter into force as from January 1, 2021, unless otherwise indicated, including:

- introduction of a temporary incentive for R&D costs for companies developing intangible rights in cooperation with universities;
- various changes related to personal income tax, including an adjustment of the tax brackets to reflect inflation;
- an increase of excise duties on tobacco products and alcoholic beverages;
- introduction of a mining tax;
- amendments to the real estate tax.

The will be submitted to Parliament for consideration at the beginning of the autumn session, to be adopted in a plenary session of Parliament in December.

Greece

Law containing ATAD 2 provisions on hybrid mismatches and exit tax rules enacted

In August 2020, Greece enacted a law implementing, *inter alia*, a reduction of income tax advance payments (estimated payments); rules against hybrid mismatches resulting from payments regarding financial instruments (anti-tax avoidance EU directive – ATAD 2) and exit tax rules (ATAD 2). Other measures concern the tax dispute out-of-court resolution and the mandatory automatic exchange of information on reportable cross-border arrangements.

Read an [August 2020 report](#) prepared by the KPMG firm in Greece.

Hungary

Legislation concerning the establishment of the 2021 Hungarian central budget

On July 14, 2020, legislation concerning the establishment of the 2021 Hungarian central budget was published. The legislation includes a deferral of the DAC6 reporting deadlines applicable to intermediaries, taxpayers and the Hungarian tax authorities.

In addition, the legislation contains an exemption of building and land tax for real estate which is under property management of associations or foundations, but in fact is owned by the Hungarian government. In addition, the legislation repeals the regulation of the local business tax “top-up liability.”

Read an [August 2020 report](#) prepared by the KPMG firm in Hungary.

Ireland

[Tax Strategy Group papers published on possible tax measures for the 2021 budget](#)

On September 14, 2020, the Department of Finance published papers from the Tax Strategy Group (TSG) describing possible tax measures for the 2021 budget. The papers, published each year, set out tax policy matters for consideration by the TSG and wider stakeholders in the context of the upcoming budget.

The paper discusses in detail the issues relevant to the introduction of interest limitation measures and the various challenges that introducing such measures with effect from January 1, 2021 would pose. It seems from the paper that the Government will defer the introduction of ATAD interest limitation measures until January 1, 2022 with extensive public consultation to begin later this year and to run into 2021.

The paper also signals the Department of Finance’s intention to consult with business on the implementation of measures to counteract reverse hybrid mismatches with effect from January 1, 2022 – another requirement of ATAD.

Furthermore, the paper contains measures concerning COVID-19, Brexit and (personal) income tax.

Read an [September 2020 report](#) prepared by the KPMG firm in Ireland for further details.

[The Irish Revenue extends filing deadline regarding approved profit sharing scheme reporting](#)

In September 2020, the Irish Revenue issued updated guidance in respect of the information return for Revenue-approved profit sharing schemes (APSS). In a change from prior years, the information return for an APSS must be filed online through Revenue’s online system, in a manner similar to the filing for the employer returns RSS1 and KEEP1. The extended deadline, to 31 October 2020, is intended to facilitate the transition from a paper-based to an online system.

Read a [September 2020 report](#) prepared by the KPMG firm in Ireland for further details.

Italy

[Law implementing DAC6 published in Italian Official Gazette](#)

On August 11, 2020, a [legislative decree](#) (in Italian only) implementing Council Directive (EU) 2018/822 (DAC6) was published in the Italian Official Gazette. The decree entered into force on August 26, 2020.

Malta

[Guidelines on ATAD implementation published](#)

On August 31, 2020, the Commissioner for Revenue published [guidelines](#) on the scope and application of the provision implementing the EU Anti-Tax Avoidance Directives (2016/1164 – ATAD I and 2017/952 – ATAD II).

Poland

[Proposed changes to corporate and individual income tax laws](#)

On September 29, 2020, a draft bill that would amend the corporate income tax and personal income tax laws, as well as the flat-rate income tax for certain revenues of individuals, was submitted to the lower house of the Polish Parliament. The bill is expected to bring significant systemic changes to the entire domain of income taxes, including expansion of the scope of corporate income tax to certain tax-transparent entities (such as partnerships that are taxed currently only at the partner level).

Specifically, it is proposed that CIT obligations are extended to:

- limited partnerships having their registered office or place of management in Poland;
- general partnerships having their registered office or place of management in Poland, in which general partners are not only individuals, unless the partnership submits to the head of the competent tax office a relevant information on personal income tax (PIT) payers who are entitled to a share in the partnership's profits or an update of such information, within 14 days from the date the change was made.

The draft bill also provides for a tax exemption on the portion of revenue earned by limited partners through shares in a limited partnership.

The bill is scheduled to be discussed in the Polish Parliament in the October 7-9 session.

For further details, read an [October 2020 report](#) prepared by the KPMG firm in Poland.

Portugal

[New model forms for requesting withholding tax exemptions under income tax treaties](#)

On August 31, 2020, [Order no. 8363/2020](#) (in Portuguese only) was published in the Portuguese Official Gazette and includes the new model forms for requesting application of income tax treaty withholding tax exemptions. There are also model forms for use in requesting a full or partial refund of withholding tax, which replace the February 2008 versions of the model forms.

Read a [September 2020 report](#) prepared by the KPMG firm in Portugal.

United Kingdom

[Guidance on disguised remuneration and loan charge implementation](#)

On August 13, 2020, HMRC published details about the settlement of disguised remuneration

schemes and how the loan charge will be implemented to reflect the amended legislation. The loan charge applies to loan balances that were outstanding on April 5, 2019 and arose from the use of disguised remuneration tax avoidance schemes when the tax due has not already been settled. For disguised remuneration loans that are not within the scope of the loan charge under the amended legislation (for example loans entered into before December 9, 2010), HMRC published updated settlement terms to reflect the amended legislation changes.

Read an [August 2020 report](#) prepared by the KPMG firm in the UK.

Sweden

[Proposed tax relief for foreign experts, scientists with temporary assignments](#)

In August 2020, the Swedish Ministry of Finance proposed changes to the tax relief for foreign experts, scientists and other key personnel staying temporarily in Sweden (expert tax relief).

The amendment, which means that the tax relief would apply for a maximum of five years instead of the current three years, is suggested to come into force on January 1, 2021. The suggested extension would however apply to stays in Sweden that started after May 31, 2020.

Via the expert tax relief, Sweden wishes to strengthen its position in the global market for highly skilled labour by attracting foreign experts, scientists and other key personnel to Sweden.

Read an [August 2020 report](#) prepared by the KPMG firm in Sweden.

The Netherlands

[Tax package for 2021 presented to the Lower House of Parliament](#)

On September 15, 2020, the Dutch government presented the 2021 Tax Plan package to the Lower House of Parliament.

The 2021 Tax Plan package contains additional measures to stimulate economic growth during the coronavirus (COVID-19) pandemic and measures for a better, fairer, and greener tax system. Many of the proposed measures would be effective January 1, 2021.

The reduction of the general corporate income tax rate from 25% to 21.7% as of January 1, 2021, which had been adopted in 2019, will be cancelled. The general corporate income tax will thus remain at 25%. However, the reduction of the low CIT rate from 16.5% to 15% will go ahead. The SME bracket to which the low CIT rate applies will also be extended from EUR 200,000 to EUR 245,000 in 2021 and to EUR 395,000 as of 2022.

Other measures in the package include:

- clarifications with respect to the overlap between hybrid mismatch measures and certain interest deduction limitations;
- an unlimited carry-forward loss set-off of up to an amount of EUR 1 million of taxable profit, as of January 1, 2022 (currently a carry-forward period of six years applies; the carry-back period is and will remain one year);
- an increase of the Innovation Box tax rate from 7% to 9%, as of financial years commencing on or after January 1, 2021;

- changes to thin cap rule for banks and insurers.

Furthermore, various tax measures related to the COVID-19 crisis that were elaborated on in a policy statement granting approvals have now been embedded in law.

Read a [September 2020 report](#) prepared by the KPMG firm in the Netherlands.

[Consultation on proposal for conditional withholding tax on dividends](#)

On September 25, 2020, the Dutch government launched an internet consultation to allow interested parties an opportunity to respond to a draft bill to introduce a conditional withholding tax on dividends as of 2024. The consultation closes October 2020.

The Dutch Withholding Tax Act 2021 (now effective) provides for a conditional withholding tax, effective as of 2021, on interest and royalties that are paid to group companies in “low tax” jurisdictions. With the draft bill that is now subject to consultation (closes on October 23, 2020), the intention is to expand the conditional withholding tax as to cover dividends, with effect from 2024. A withholding tax at the high corporate income tax rate (currently 25%) would be levied on dividends that are distributed within a group, if the shareholder is established in a jurisdiction appearing on the Dutch list of low tax jurisdictions or on the EU list of non-cooperative jurisdictions, and in certain instances when the interest is held by a hybrid entity and in abuse situations.

For further details, read a [September 2020 report](#) prepared by the KPMG firm in the Netherlands.

[Penalties on the employer reporting obligations for temporary employment of foreign workers applicable as of September 1, 2020](#)

The reporting requirement under the “Posted Workers in the European Union (Working Conditions) Act” was introduced in March 2020, but the reporting requirement was suspended for the first six months. The six-month trial period ended September 1, 2020.

From September onward, penalties may be imposed on both the foreign employer and the Dutch contracting party if they do not fully comply with the conditions of the Act.

- The penalty for foreign employers who do not timely report will range between EUR 1,500 and EUR 4,500 for each employee not reported (on time). The amount is dependent on the total number of employees for whom the penalty is imposed;
- Dutch contracting parties can be subject to a penalty of EUR 1,500 if they fail to verify a notification or fail to do so on time.

Read a [September 2020 report](#) prepared by the KPMG firm in the Netherlands.



[KPMG Insights](#)

COVID-19 Resources

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

DAC6 Resources

KPMG's EU Tax Centre publishes [an overview](#) of latest developments and country summaries on the implementation of the Mandatory Disclosure Requirements (MDR of DAC6), including a DAC6 [transposition and reporting overview](#). KPMG's [DAC6 Summary and Observations memo](#) is also available for download. For further information on how KPMG can assist you in meeting the demands of the EU MDR regime, please refer to the dedicated [KPMG page](#).



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