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EU direct tax initiatives: 2022 year-end state of play

European Commission – ECOFIN Council – BEPS 2.0 – Minimum Tax Directive – Anti-tax avoidance – Unshell – SAFE – BEFIT – DEBRA – Public Country-by-Country Reporting – DAC7 – DAC8 – Withholding tax framework – FASTER

With the end of 2022 approaching, KPMG's EU Tax Centre took the opportunity to look back on some of the highlights of the year in the EU and international tax world. As this was a particularly eventful year from a tax perspective, this special edition of Euro Tax Flash highlights the most important tax developments recorded during 2022 and notes some of the initiative that should be paid attention to in 2023.

EU Minimum Tax Directive (Pillar Two)

EU Minimum Tax Directive at a glance

The European Commission (EC) published the initial Minimum Tax Directive proposal on December 22, 2021 after the OECD had published its Model Rules for the Global Anti-Base Erosion (GloBE) Rules two days before. Following technical discussions in the Council working groups, a number of compromise texts were published in the course of 2022 and provided for several amendments, including to make reference to the ongoing work of the OECD, rectify areas of discrepancy between the Model Rules and the initial text and provide for a deferral option of up to six years for Member

States where a maximum number of twelve UPEs are based in that jurisdiction. Nevertheless, the file remained in deadlock throughout 2022 due to reservations raised by Poland and Hungary.

A new compromise version of the draft Directive was released on November 25, 2022, which mainly includes linguistic and structural changes compared to the June 2022 version and remains closely aligned with the OECD GloBE Model Rules.

Status

On December 15, 2022, the Council of the EU reached unanimous agreement to implement the EU Minimum Tax Directive. The final text of the Directive was published in the Official Journal of the EU exactly one year after the initial proposal was released by the European Commission. Council Directive (EU) 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union therefore entered into force on December 23, 2022.

The agreed Directive requires Member States to transpose the rules into domestic law by December 31, 2023 and to start applying the Income Inclusion Rule (IIR) for fiscal years beginning on or after this date. The Undertaxed Profits Rule (UTPR) will be applied for fiscal years beginning on or after December 31, 2024.

In addition, the agreed text provides the option for Member States to implement a qualified domestic top-up tax (QDMTT) and to defer the application of the IIR and the UTPR up to December 31, 2029, where a maximum number of 12 UPEs are based in that EU Member State.

For more details, please refer to Euro Tax Flash Issue 500.

What to keep in mind

With the EU Directive now in place, it is important to monitor how EU Member States will incorporate the GloBE rules in their domestic legislation. Key design decisions that are left to national legislators include:

- whether to introduce an optional qualified domestic minimum top-up tax;
- for Member States with no more than 12 UPEs – whether to apply the IIR and UTPR at a later stage in accordance with the deferral option;
- which items of the OECD commentary and GloBE Implementation Framework to incorporate into domestic law (e.g. safe harbor provisions),
- how to establish a filing process that allows centralized group filing and automatic information exchange with other GloBE jurisdictions under bilateral or multilateral competent authority agreements.

Member States may also consider whether or how to reform local tax incentives (e.g. R&D tax credits) to align with the GloBE definition of a ‘qualified refundable tax credit’. This momentous overhaul of the international tax system could also be a good opportunity for jurisdictions to consider whether current domestic tax regimes can be simplified, for example by removing legislation that might be obsolete following the implementation of the GloBE rules.

The Netherlands has conducted a public consultation on a draft bill - Minimum Taxes Act 2024 (closed at the start of December 2022), while Ireland conducted a high-level consultation on the implementation of Pillar Two in Summer 2022. The French and German Ministries of Finance announced their intention to publish a first implementation draft law for discussion in early 2023 and other Member States are likely to follow suit.

Momentum is also building in non-EU jurisdictions (e.g. UK, Switzerland, Japan, Korea, Australia, New Zealand, Canada), we expect Pillar Two implementation to pick up further speed once the OECD’s work on the GloBE Implementation Framework advances further. On December 20, 2022, the OECD released the first three components of the package, including guidance on transitional safe harbors and penalty relief as well as public consultation papers

on the GloBE Information Return and tax certainty. An expected fourth component in form of administrative guidance has not been released but is expected in early 2023.

For more information, please refer to KPMG's Tax News Flash.

EU implementation of Pillar One

Pillar One at a glance

Since February 2022, the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) has been releasing for public comment on a rolling basis building blocks in relation to Amount A aimed at reallocating profits of multinational enterprises to market jurisdictions, namely:

- nexus and revenue-sourcing rules (see E-News Issue 148);
- tax base determination rules (see E-News Issue 149);
- scope provisions (see E-News Issue 152);
- extractives exclusion rules (see E-News Issue 153);
- regulated financial services exclusion rules (see E-News Issue 154);
- tax certainty mechanisms (see E-News Issue 156);
- first progress report on operating provisions (see E-News Issue 158);
- second progress report on administration and tax certainty (see E-News Issue 163);
- standstill and withdrawal rules for digital service taxes and other relevant similar measures (see KPMG's Tax News Flash)

In addition, on December 8, 2022, the Inclusive Framework issued a public consultation document seeking public comments on the main design elements of Amount B aimed at simplifying and streamlining the application of the arm's length principle in relation to baseline marketing and distribution activities (see E-News Issue 167).

Status

To address reservations raised by Poland regarding the adoption of the EU Minimum Tax Directive independent of Pillar One, a specific provision was added to the Directive text requiring the EC to submit a progress report to the Council on the implementation of Pillar One by June 30, 2023. Furthermore, the EC committed to putting forward, if appropriate, a proposal by the end of 2023 if agreement at international level on a Pillar One solution is not reached.

What to keep in mind

If agreement on a Pillar One solution is not reached at global level, the EC may explore a resurrection of its 2018 proposal for a Digital Permanent Establishment, harmonization of unilateral Digital Services Taxes in the EU or the introduction of an EU digital levy as a new own-resource for the EU.

For an overview of currently applied Digital Services Taxes, please refer to KPMG's summary of the taxation of the digitalized economy.

Proposal to prevent the misuse of shell entities (ATAD3)

ATAD3 at a glance

On December 22, 2021, the EC issued a proposal for a Directive aimed at fighting the use of shell entities and arrangements for tax purposes (the Unshell Directive or "ATAD 3"). The proposal sets out a list of features, referred to as "gateways", to filter entities at risk of lacking substance by reference to the proportion of passive income, cross-border

activity and whether the administration of day-to-day operations and the decision-making on significant functions are outsourced.

High-risk entities are those that meet all three gateways based on a self-assessment and that do not benefit from one of the carve-outs set out in the proposal. These entities would be required to report on their substance, i.e. own premises, own bank account and adequate management or employees.

Companies failing to meet all substance indicators would be deemed to be “shell entities” and, unless able to rebut this presumption, would be denied certain tax benefits otherwise available based on double tax treaties and EU directives.

The EC proposed that Member States should transpose the rules into domestic law by June 30, 2023 and that the provisions of the Directive should apply as of January 1, 2024.

For more information, please refer to Euro Tax Flash Issue 464.

Status

Unanimity is required for the rules to be adopted and Member States have held a number of discussions on the proposal following the end of the consultation period, in order to reach agreement on a compromise text. While most Member States support the initiative, discussions on the design of the assessment against substance indicators as well as on the tax consequences are ongoing and will continue in 2023.

What to keep in mind

Taxpayers operating in the EU will want to monitor progress on the Unshell proposal and any possible delays in the implementation timeline proposed by the EC. Although the risk assessment steps and substance indicators initially proposed by the EC will likely change as a result of the negotiations process, the EC’s December 2021 proposal serves as a good starting point for an initial assessment of the impact on existing structures.

It is furthermore important for taxpayers to continue to monitor the increased focus of EU tax administrations and developments from national courts across the EU with on beneficial ownership and substance, as well as local anti-treaty and anti-directive shopping measures. Key insights from KPMG on this topic are available here.

Securing the Activity Framework of Enablers (SAFE)

SAFE at a glance

On July 6, 2022, the EC launched a public consultation on the SAFE initiative following previous statements on its intention to address the behavior of certain intermediaries (enablers) that engage in unacceptable behavior. According to the call for evidence for an impact assessment, the following three policy options are being considered:

- requirement for all enablers to carry out dedicated due diligence procedures;
- prohibition to facilitate tax evasion and aggressive tax planning, combined with due diligence procedures and a requirement for enablers to register in the EU;
- code of conduct for all enablers.

The call for evidence is framed as a supplement to the EC’s Unshell proposal. However, the public consultation questionnaire notes that the initiative will focus on establishing appropriate procedures and compliance measures in order to effectively tackle tax evasion or aggressive tax planning resulting from complex structures designed by some intermediaries that provide tax advisory services. This wording suggests that the EC may be looking to address a broader range of issues than those described in the Inception Impact Assessment.

For more details, please refer to Euro Tax Flash Issue 488.

Status

Based on the EC's public consultation page, the current indicative timing for the EC's adoption of the proposal is the first quarter of 2023. With potential delays in agreement on Unshell and considering that SAFE is framed as a complementary initiative, the timing for release of a proposal on SAFE may, however, be delayed.

What to keep in mind

The European Commission seems keen to address the misuse of shell entities for tax purposes, whether located in the EU or in third countries. Furthermore, the European Parliament has repeatedly called for action in this respect, as well as to address the broader issue of unacceptable behavior by a minority of intermediaries engaged in unacceptable practices. Pressure is therefore likely to continue on Member States to take action, which may lead to increased due diligence obligations for tax advisors operating in the EU, whether operating as part of a professional services firm or in-house.

Business in Europe: Framework for Income Taxation (BEFIT)

BEFIT at a glance

On October 13, 2022, the EC published a call for evidence for an impact assessment and asked for public feedback on proposed policy options for a new corporate tax system referred to as BEFIT.

This initiative would provide common rules for determining the corporate tax base for EU-based entities that are part of a group with global consolidated revenues above a certain threshold. BEFIT would also include provisions for the allocation of profits to Member States based on a pre-defined formula (formulary apportionment). Once allocated, profits would be subject to the corporate income tax rate of the respective Member State. In addition, the EC is asking for views on how the administration of transfer pricing rules and the application of the arm's length principle could be simplified. As a final building block, BEFIT would provide simplifications of filing requirements (e.g. a single EU corporate tax return combined with a one-stop-shop for submitting the group's tax return), simplifying the interactions with tax authorities (e.g. coordination of audits) and providing for alternative dispute prevention and resolution methods.

The call for evidence notes that the proposal will build on earlier proposals of a common (consolidated) corporate tax base (C(C)CTB) as well as principles agreed upon under the OECD BEPS 2.0 framework and further adapt these to ensure suitability for an extended use within the EU.

For more details, please refer to Euro Tax Flash Issue 489.

Status

Interested parties are asked to provide feedback and comments by January 26, 2023. The planned adoption by the EC of a legislative proposal is expected for the third quarter of 2023.

What to keep in mind

Stakeholders that would potentially fall in scope of the new common corporate tax system should monitor closely and contribute to discussions on the EC's BEFIT initiative. In particular, the interaction of BEFIT with the Minimum Tax Directive and the OECD Pillar One (or a related EU initiative) as well as the financial implications for both Member States and taxpayers remain to be clarified.

Based on the legal basis proposed by the EC, a BEFIT Directive would require unanimous approval in the Council. Given the experience with the C(C)CTB proposals and in light of the likely diverging impacts on each Member States, it may be challenging for all Member States to reach agreement on a common corporate tax base framework in the EU.

Proposal for a debt-equity bias reduction allowance (DEBRA)

DEBRA at a glance

On May 11, 2022, the EC issued its proposal for a Directive on a debt-equity balance reduction allowance (DEBRA).The rules would apply to taxpayers that are subject to corporate income tax in an EU Member State and would provide for a deduction from the tax base of a taxpayer in respect of the increases in its equity in a given tax year. In addition, the Directive would introduce a new limitation on interest deductibility, which would need to be applied alongside the interest limitation rules under ATAD.

The EC proposed that Member States should transpose the rules into domestic law by December 31, 2023 and that the provisions of the DEBRA Directive should apply as of January 1, 2024.

For more details, please refer to Euro Tax Flash Issue 475.

Status

Input from stakeholders was collected through a public consultation that ran until end of July 2022 and Member States discussed the proposed text in dedicated working group meetings.

At the ECOFIN meeting on December 6, 2022, it was agreed that examination of the DEBRA proposal should be suspended until other proposals in the area of corporate income taxation announced by the Commission have been put forward. It is understood that this relates to the BEFIT initiative.

For more details, please refer to Euro Tax Flash Issue 496.

What to keep in mind

Stakeholders that would potentially benefit from the proposed allowance or that would be impacted by the proposed interest limitation rules should monitor closely and contribute to discussions on the EC's BEFIT initiative. It may be decided to include the rules proposed under DEBRA in the BEFIT proposal, which would be in line with the EC's initial proposal for a common tax base in the EU – the C(C)CTB.

EU Public Country-by-Country Reporting (CbCR) Implementation

Public CbCR Implementation at a glance

The EU Public CbCR Directive entered into force on December 21, 2021 and introduced a timeline for the adoption of rules that will require multinational groups operating in the EU and that exceed certain size thresholds to publish certain information on their tax affairs. The report will require information on all members of the group (i.e. including non-EU members) within seven key areas: brief description of activities, number of employees, net turnover (including related party turnover), profit or loss before tax, tax accrued and paid, and the amount of accumulated earnings.

EU Member States have until June 22, 2023 to transpose the Directive into domestic legislation. The rules will apply, at the latest, from the commencement date of the first financial year starting on or after June 22, 2024. Individual Member States can nevertheless opt for an early adoption of the rules.

Status

Several jurisdictions have already published draft legislation or introduced the public disclosure rules. One notable example is Romania, where the new disclosure rules will apply from January 1, 2023, which – for calendar year taxpayers, will mean two years earlier than the timeline prescribed under the Directive.

What to keep in mind

In-scope taxpayers – whether part of groups with an EU or non-EU parent, are advised to monitor closely when and how individual Member States decide to implement specific provisions of the Directive. The Directive has several opt-in clauses which would lead to differences in the way the provisions are transposed into domestic law. Moreover, the disclosures in the directive represent a minimum standard, and – in theory – Member States could extend their scope. As an example, Hungary has already indicated the intention to require in-scope groups to provide clarifications on the differences between the income tax accrued and income tax paid, which is not prescribed as being mandatory by the Directive.

The potential early adoption of the rules by certain Member States brings an additional layer of complexity, as in-scope multinationals might be faced with public disclosure requirements sooner than expected. For example, based on the current wording of the Romanian bill implementing the Directive, multinationals with a qualifying Romanian presence would need to disclose their CbCR data up to two years earlier than the deadline provided for under the Directive.

For more details on EU public country-by-country reporting as well as on how it relates to other, similar, initiatives, please refer to the KPMG's EU Tax Centre dedicated webpage.

Reporting obligations for platform operators (DAC7)

DAC7 at a glance

On March 22, 2021, the Council of the European Union adopted the rules revising the Directive on administrative cooperation in the field of taxation (the DAC). Council Directive (EU) 2021/514 (DAC7) allows member states' tax authorities to collect and automatically exchange information on income earned by sellers on digital platforms, from 2023 onwards.

The rules impact both EU platform operators, as well as non-EU entities, if the latter facilitate reportable commercial activities of EU sellers/providers or the rental of immovable property located in the EU. Reportable activities include the rental of immovable property, personal services, sale of goods, and rental of any mode of transport.

The reporting obligations apply with respect to cross-border and local commercial activities. Operators falling within the scope of DAC7 are required to collect and verify in line with certain due diligence procedures the information from sellers/providers on their online platform. Subsequently, certain information will be reported to the sellers/providers and to the relevant tax authority. Such information includes, inter alia, an overview of amounts paid to sellers from the reportable activities and platform fees and commissions incurred.

To eliminate double reporting, DAC7 contains rules that provide relief of the reporting obligations for non-EU platform operators where the Commission has determined that Member States receive equivalent information from non-EU countries that apply similar reporting regimes.

Member States have until December 31, 2022 to transpose the amendments into national law. The Directive will apply from January 1, 2023 throughout the EU and the first reporting of data will be required by January 31, 2024.

Status

Although it is intended that the rules will apply from January 1, 2023, at the date of this publication, a number of Member States – including Cyprus and Romania, had not implemented DAC7. Member States were implementation is pending are nevertheless expected to adopt the rules early in 2023. Not doing so would attract action from the European Commission.

What to keep in mind

Platform operators that have not yet assessed whether they fall in scope of the new requirements are encouraged to do so at the earliest, in light of the closely approaching reporting deadline. KPMG's DAC7 Impact & Readiness solution can be a good starting point for a high-level assessment. In-scope operators that have may also want to consider performing an analysis of existing data as compared to the requirements of DAC7 in order to identify any gaps that would need to be addressed in preparation for compliance.

Extending the scope of reporting and information exchange in the EU (DAC8)

DAC8 at a glance

On December 8, 2022, the EC issued a proposal for an amendment of the Directive on Administrative Cooperation (DAC) to introduce, among other provisions, the exchange of information on crypto-assets (DAC8).

As regards crypto-assets, as a first step, in-scope crypto-asset service providers would be required to collect and verify – in line with specific due diligence procedures, information from EU clients. Subsequently, certain information would be reported to the relevant competent authorities. Under a third step, this information would be exchanged by the recipient Member State with the tax authorities of the Member State where the reportable user is tax resident. The aim is to increase the ability of tax authorities to determine whether income derived from crypto-asset transactions is correctly declared.

DAC8 also includes provisions that would require Member States to introduce a minimum level of penalties for serious non-compliant behavior. The minimum penalties vary based on the type of infringement, the turnover of the non-compliant reporting entity and on whether the offender is a company or an individual. The new system would apply to the new disclosure requirements under DAC8, but also to cases where in-scope companies and individuals fail to comply with existing reporting requirements – e.g. CbCR to tax administrations under DAC4, the Mandatory Disclosure Requirements (DAC6) and the reporting requirements for platform operators (DAC7).

DAC8 also aims to extend the automatic exchange of advanced cross-border rulings to cover high-net-worth individuals. Tax rulings and advance pricing agreements are already part of the information exchange based on DAC3, but existing requirements exclude cross-border rulings that exclusively concern and involve the tax affairs of one or more individuals.

It is understood that this revision of the DAC will also include amendments to the EU Mandatory Disclosure Rules to bring the provisions of DAC6 in line with the recent decision by the Court of Justice of the EU in case C-694/20 – for more information, please refer to Euro Tax Flash Issue 497.

The EC proposes that the provisions of the Directive should apply generally as of January 1, 2026 (with some exceptions). This timeline is aligned to the CARF. Adoption of the proposed rules is subject to unanimous approval by EU Member States, following consultation with the European Parliament.

For more details, please refer to Euro Tax Flash Issue 498.

Status

The EC has launched a public consultation seeking feedback from interested stakeholders on the proposed revisions. The public consultation will run for an eight-week feedback period – starting from December 8, 2022 but extended every day until the proposal is available in all EU languages.

For more information, please refer to the public consultation webpage.

What to keep in mind

DAC8 is an amalgamation of provisions that will impact vastly different stakeholders. Crypto-asset service providers and operators (that provide services to EU clients) will want to assess whether they are in scope of the new rules and consider

how their information collection and reporting systems and processes will need to be updated to meet the new due diligence and reporting obligations.

Individuals holding a minimum of EUR 1,000,000 in financial or investable wealth or assets under management (excluding their main private residence) and that have entered into advanced cross-border rulings may want to monitor the progress of the proposed exchange of information with respect to such rulings.

It will also be interesting to monitor whether Member States reach agreement on the proposed framework for harmonizing penalties for non-compliance. The EC has attempted such harmonization in the past (e.g. by setting a percentage for penalties in the initial Minimum Tax Directive Proposal) but was not successful in getting support from all Member States.

Finally, lawyers that qualify as intermediaries under the EU MDRs and that are prevented by legal professional privilege from reporting arrangements to tax authorities will want to know how their obligations to notify other involved intermediaries will change following a possible revision of DAC6 in line with recent CJEU jurisprudence.

Faster and safer tax excess refund (FASTER)

FASTER at a glance

On April 1, 2022, the EC launched a public consultation (in a questionnaire format) on a new initiative that would introduce a common EU-wide system for withholding tax on dividend and interest payments. KPMG member firms in EMA submitted a response to the EC's consultation highlighting the need for harmonization of the EU withholding tax relief landscape, which is currently fractured and therefore difficult for cross-border investors to navigate. Policy efforts should focus on the gradual transition to a fully-fledged relief at source (RAS) system along with a more efficient harmonized EU refund system acting as a backstop.

For more details see E-News Issue 157.

Status

The EC is aiming to table a Directive proposal for a more efficient WHT refund procedure in the EU by end of spring / beginning of summer 2023.

The European Commission received more than 1,650 feedback instances as part of the consultation process, which suggests that the difficulty and burden for taxpayers to request WHT refunds is an issue of relevance to many stakeholders. It remains to be seen whether the EC's initiative will focus on improving the WHT refund process – as the acronym suggests, or whether the proposal will `be ambitious enough to propose a long-term plan to modernize and harmonize RAS systems across the EU. In any event, given its significance, the proposal may garner sufficient support to move swiftly through the negotiation and adoption process.

What to keep in mind

A public consultation will be initiated once the proposed text is published, which will give stakeholders the opportunity to further contribute to the design of the new framework. We encourage impacted taxpayers to monitor this initiative and to respond to the public consultation in light of the challenges faced in practice.

Other direct tax initiatives

In addition to the initiatives highlighted through this document, several other areas of EU law will be interesting to monitor throughout 2023, including:

- *ETR disclosure:* A proposal for rules requiring the annual publication of the effective corporate tax rate was initially expected in the first quarter of 2022. Based on the EC's Communication on "Business Taxation for the 21st Century",

the rules would apply to certain large companies operating within the EU and would build on the methodology agreed upon for the Pillar Two effective tax rate (ETR) calculation. It remains to be seen whether this initiative will be back on the agenda with the EU Minimum Tax Directive now in place. A key question concerns the legal basis for such a proposal, i.e. whether the ETR disclosure requirement will be framed as a tax initiative (subject to unanimous approval) or as a non-tax file, such as an amendment to EU public CbyC reporting rules (requiring qualified majority voting in the Council and agreement with the European Parliament).

- *State aid:* Following the CJEU's decision clarifying that an autonomous arm's length principle cannot be applied in State aid investigations independently of how the principle was codified in domestic law, it will be interesting to monitor developments related to the other State aid cases related to transfer pricing arrangements that are currently pending before the CJEU. Although not conclusive, the Court's decision in C-885/19 P and C-898/19 P may provide some indication on the potential outcome of these pending cases in 2023. For more details, please refer to Euro Tax Flash Issue 492.
- *Code of Conduct (Business Taxation):* Following the agreed revision of the Code of Conduct in November 2022, the Code of Conduct Group (CoCG) will also start assessing features of tax systems that have general application and that may have harmful effects. The assessments of such tax measures of general application will start from January 1, 2024 and will focus on measures enacted or modified on or after January 1, 2023. Examples of such general features that may be under scrutiny in the future include notional interest regimes, foreign source income regimes, depreciation rules without a recapture requirement upon disposal and tax residence provisions allowing dual non-residence. For more details, please refer to Euro Tax Flash Issue 491.
- *EU list of non-cooperative jurisdictions:* The revised Code of Conduct also includes the official mandate with respect to the EU list of non-cooperative jurisdictions for tax purpose. The next update of the EU list of non-cooperative jurisdictions is expected to take place in February 2023. In view of updating the list, a key focus will be on how jurisdictions addressed deficiencies in relation to compliance with the automatic exchange of information (AEOI) standard (criterion 1.1), foreign source income exemption (FSIE) reforms (criterion 2.1), implementation of substance requirements for Collective Investment Funds (CIVs) (criterion 2.2) and implementation of CbCR (criterion 3.2).
- *Windfall Profit Taxes:* In light of the EU Regulation of 6 October 2022 on an emergency intervention to address high energy prices, Member States are required to implement a solidarity contribution on surplus profits in the fossil sector, or equivalent measures, by December 31, 2022 (for more information, please refer to E-News Issue 163). In 2023, the EC will have the difficult task of assessing whether Member States have complied with this obligation. Where EU jurisdictions have opted for an equivalent measure (e.g. an adaptation of existing windfall profits taxes), such measures would need to share similar objectives with the contribution and generate comparable or higher proceeds. It is worth noting that the details measures adopted by some Member States to date deviate significantly from the EU regulation, with some also affecting other sectors, such as banking. Developments in this area may therefore be relevant to a wider group of taxpayers than expected based on the provisions of the EU Regulation.

ETC Comment

As previously mentioned, Sweden will succeed the Czech Republic in holding the Presidency of the Council of the EU, to be followed by Spain in the second half of 2023. According to the program published by Sweden, in the area of direct taxation, the Presidency will give priority to measures "aiming to prevent tax evasion, tax avoidance, aggressive tax planning and harmful tax competition". Updating the EU list of non-cooperative jurisdictions is mentioned as an example of such measures, but no specific reference is made to the Unshell and SAFE initiatives. The Presidency will also "work to ensure greater tax transparency and to reinforce the exchange of relevant information within the EU" and "stands ready to advance the work on further strengthening EU administrative cooperation on taxation", which suggests that priority will be given to the various measures proposed under DAC8.

The European Parliament is also expected to continue to be active in raising issues of interest with the Member States and the other institutions and in calling for further EU intervention and harmonization of EU tax legislation.

The year 2023 promises to be another fast-paced and interesting year in terms of direct tax developments. KPMG's EU Tax Centre team look forward to accompanying you on this journey.

Should you have any queries, please do not hesitate to contact KPMG's EU Tax Centre, or, as appropriate, your local KPMG tax advisor.

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