Briefing

International review for September

Speed read

Following an eventful first half of 2026, the international tax world is slowly but surely getting busier after a brief summer break. The French Constitutional Court has ruled France's DST is constitutional and enforceable, and a CJEU decision has provided some much-needed clarity on the VAT treatment of transfer pricing adjustments. The European Commission has proposed several new own resources for its 2028–2034 Budget, and the OECD's latest tax policy reform report shows some interesting trends around the world this month. Finally, the OECD has published a list of signatories to the GloBE Information Return Multilateral Competent Authority Agreement.

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French Constitutional Court upholds DST

On 12 September 2025 the French Constitutional Court issued its decision (no. 2025-1157 QPC) on the Digital Services Tax (DST), following a referral by the Conseil d'État in June 2025 (see my July 2025 update for more details).

The court rejected the constitutional challenge brought by Digital Classifieds France, and ruled that the DST provisions in the French Tax Code do not infringe upon the principles of equality before the law or equality in public burdens as guaranteed by the French Constitution. The decision confirmed the legality of the DST regime, including its group-based thresholds, territoriality rules based on the 'national presence coefficient,' and the exclusion of certain digital services from the tax base, which the court found to be sufficiently justified and proportionate.

The French DST therefore remains enforceable, and companies subject to it must continue to comply with the existing rules and thresholds. More broadly, the decision may reinforce the legitimacy of similar unilateral digital tax measures in other European Union (EU) member states, especially in the absence of a coordinated global solution. That being said, it still remains to be seen whether the US Administration's stance on 'extraterritorial and discriminatory taxes' will pose an existential threat to unilateral DSTs in the coming months

CJEU decision: transfer pricing adjustments are subject to VAT

On 4 September 2025, the CJEU published its judgment in *SC Arcomet Towercranes SRL* (Case C-726/23), in which it held that inter-company transfer pricing payments based on the transactional net margin method provided for in the OECD Transfer Pricing Guidelines are subject to value added tax (VAT). The CJEU broadly follows the nonbinding opinion of its Advocate General that was published earlier this year (see my April update for more details).

The VAT treatment of transfer pricing adjustments has for a long time been elusive and subject to several in-depth papers from the EU VAT Committee and the EU VAT Expert Group, arriving at slightly different conclusions. EU tax authorities have so far only published limited guidance on the matter. This case as well as other pending cases before the CJEU (for example, *Stellantis Portugal, SA* (Case C-603/24)) are thus providing some much-needed clarity on the VAT treatment of transfer pricing arrangements in the EU.

This case clarifies that intra-group transfer pricing payments, even those calculated using the transactional net margin method, are subject to VAT as they represent payments for services. For businesses with limited ability to recover VAT, such as those in financial services or real estate, this decision results in an additional tax cost. However, for most businesses, the decision should not incur additional tax costs if they meet the proper documentation requirements. This is because most intra-group transactions occur cross-border, when the recipient typically self-assesses VAT under the reverse-charge mechanism. In addition, most businesses possess the full right to recover VAT, allowing the self-assessed VAT to be fully deductible in the same VAT return.

Intra-group transactions based on transfer pricing agreements must be supported by VAT-compliant invoices that include sufficient details regarding the nature and quantity of the services or goods provided. This documentation is essential to demonstrate that the services or goods have been effectively provided and utilized by the taxpayer. If such details are absent, tax authorities may request additional information and potentially deny VAT recovery. This requirement will become more stringent as EU member states implement e-invoicing requirements, especially once the EU VAT in the Digital Age intra-EU e-invoicing and digital reporting mandate becomes effective in 2030.

Proposal for a system of EU own resources

On 16 July 2025, the European Commission (EC) published a proposal for a Council Decision on the system of own resources of the EU. This follows the 2020 interinstitutional agreement (IIA) between the EC, European Parliament and Council of the EU. Under the IIA, the EC committed to issuing proposals for new own resources of revenue to the EU budget.

In line with the 2021 and 2023 proposals for EU own resources, the EC continues to suggest that national contributions to the EU budget should be based on the Carbon Border Adjustment Mechanism (CBAM) and Emissions Trading System (ETS). In addition, the EC is now proposing three new own resources in the form of:

- **Corporate Resource for Europe (CORE):** An annual lump-sum contribution to the EU budget with reference to corporate turnover. The contribution would be levied at the level of EU companies and EU-based permanent establishments of non-EU companies with an annual turnover of at least €100m (subject to certain exemptions). The contribution amount would be determined as per a 'bracket system', with higher net turnovers resulting in larger contributions.
- **E-waste own resource:** Contribution to the EU budget with reference to the weight of electrical and electronic equipment in each Member State that is not collected annually. The contribution would amount to €2 per kilogram of uncollected e-waste. The proposal states this would lead to positive environmental outcomes while supporting the EU's strategic autonomy in critical raw materials.

- **Tobacco excise duty own resource:** Contribution to the EU budget of 15% of the revenue generated from applying the minimum excise duty rate on the amounts of manufactured tobacco and tobacco related products released for consumption.

The own resource decision has to be unanimously agreed by Member States in the Council. If adopted, the proposed amendments to the EU own resource system would apply as of 1 January 2028, whilst the CORE levy would apply as of 1 January of the first calendar year following the year in which the Council Decision has entered into force.

Experience suggests it will prove challenging for all Member States to reach the required unanimous agreement on these proposals. Member States have previously expressed general scepticism about the 2021 and 2023 proposals and highlighted particular reservations on a new statistical own resource based on corporate profits, questioning the added value of such a new own resource. The latest proposals are therefore likely to be subject to in-depth discussions in Council working groups, which may result in further amendments.

Despite being mentioned in previous communications as a potential new own resource, national contributions based on a Financial Transaction Tax and a common EU DST and an EU e-commerce handling fee are notably missing from the proposed package.

The recent Polish Presidency progress report noted that whilst several Member States were open to the idea of a new own resource based on a common EU DST, they were realistic that it could not be introduced in time for the next Multiannual Financial Framework (the EU's long-term Budget) for 2028–2034. The report also noted that other EU countries advised caution as its introduction could trigger retaliatory measures by international partners. The Commissioner responsible for climate, net zero and clean growth, Wopke Hoekstra, also recently responded to a parliamentary question saying the EC prefers a global solution over a European DST.

OECD publishes Tax Policy Reforms report

On 11 September 2025, the OECD published its 10th edition of *Tax policy reforms: OECD and selected partner economies*. This annual publication provides comparative information on tax reforms across countries, tracking tax policy developments over time and identifying trends. The latest edition focuses on tax reforms introduced or announced during the 2024 calendar year in 86 jurisdictions. Key takeaways include:

- **Revenue raising measures:** 2024 continued the trend away from broad tax reliefs given in response to the pandemic and subsequent periods of high inflation. High levels of debt and significant emerging spending needs (e.g. ageing populations, pressures to increase defence spending and the net zero transition) mean that territories of all income levels adopted revenue raising strategies. As well as raising rates of the main taxes, the report noted a trend towards more targeted measures such as windfall or excess profits taxes.

  We have seen the latter trend in practice in recent weeks. On 1 September 2025, Columbia proposed a temporary increase in the corporate income tax surcharge rate from 5% to 15% for financial institutions (including banks) with taxable profits of US $1m and above, and, on 13 August 2025, Poland announced a new windfall tax on the banking sector.
- **Corporation tax:** The 'race to the bottom' on corporate tax rates is a reversing trend, with more jurisdictions increasing corporate tax rates than reducing them for the second consecutive year. However, base narrowing measures remain common as governments continue to offer tax incentives for investment, particularly in research and development, clean technologies and strategic sectors.

  This base narrowing trend was illustrated by Luxembourg's recent announcement of new tax incentives aimed at boosting the country's status as a financial hub an innovation centre. These include a new carried interest regime for fund managers, a favourable stock option regime for start-up employees and tax credits for business angel investors.
- **VAT policy:** Many jurisdictions expanded or extended VAT relief on essential goods and services to address cost-of-living concerns. However, as inflationary pressures eased, a number of countries began scaling back temporary VAT cuts introduced during the pandemic and subsequent energy price crisis. Using indirect tax policy as a tool to address public health concerns continued to gain momentum with many jurisdictions increasing taxes on tobacco, alcohol and sugar-sweetened beverages.

  Denmark provides an interesting case study in this respect. Its 2026 Budget on 29 August 2025 was full of giveaways to consumers to ease the cost of living, and rather than imposing sin taxes, it abolished excise duties on chocolate, other types of sweets and coffee starting in July 2026. However, some commentators have suggested this strategy is designed to sweeten up voters in advance of a parliamentary election in 2026, rather than being evidence of a trend that will catch on in other territories.
- **Fuel duty and carbon taxes:** Countries began increasing fuel excise taxes in 2024 after previous temporary reliefs. High-income countries also expanded carbon pricing and raised carbon tax rates, covering more sectors, including shipping and agriculture.

  Increasing fuel duty, particularly to raise revenue, is a trend worth monitoring, in particular because it has a limited shelf life as countries seek to phase out petrol and diesel cars to meet net zero commitments. For example, in a statement on 6 August 2025, New Zealand announced more details of its plan to abolish petrol taxes and replace them with electronic road user charges based on distance and weight. It will be interesting to see how far and fast this road pricing trend spreads in the coming years.

List of signatories of the GIR MCAA published

On 26 August 2025, the OECD published a list of jurisdictions that have signed the GloBE Information Return Multilateral Competent Authority Agreement (GIR MCAA), which provides a framework for jurisdictions to automatically exchange Pillar Two information filed by in-scope groups as part of the GIR. The list of signatories includes Austria, Belgium, Denmark, France, Ireland, Italy, Japan, South Korea, Luxembourg, the Netherlands, New Zealand, Portugal, Slovakia, Spain and the UK.

EU countries have until 31 December 2025 to transpose DAC 9 (the EU Directive that provides a framework for the exchange of Pillar Two information). Note that DAC 9 does not address exchanges between EU and non-EU jurisdictions; therefore, EU countries also need to sign the GIR MCAA and activate non-EU exchange relationships. ■

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- International review for July 2025 (T Sarson, 31.7.25)
- *Arcomet Towercranes*: the VAT consequence of transfer pricing adjustments (G Salmond & G Bud, 24.9.25)