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E-News from KPMG's EU Tax Centre

Key Insights of E-News Issue 235

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. Today's edition includes updates on:

- *CJEU:* Belgian Court refers questions on interest limitation rules to the CJEU
- *United Nations:* 2025 update to the UN Model Tax Convention released
- *Bahrain:* Pillar Two guidance issued
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Key Insights

- Belgian Court refers questions on interest limitation rules to the CJEU

CJEU referrals

Belgian Court refers questions on interest limitation rules to the CJEU

On August 10, 2026, the Official Journal of the European Union published a request for a preliminary ruling in Case C-416/26 before the Court of Justice of the European Union (CJEU), which had been lodged on April 24, 2026, by the Tribunal de première instance du Brabant Wallon.

The case concerns the Belgian implementation of the ATAD interest limitation rule, under which exceeding borrowing costs are generally deductible only up to the higher of 30 percent of EBITDA or EUR 3 million. Belgian legislation also allows Belgian group companies to enter into interest deduction agreements to transfer unused interest deduction capacity within a group.

The dispute arose after the Belgian tax authorities denied an interest deduction capacity transfer between Belgian group companies. The transferring company had a net interest income position and therefore did not have exceeding borrowing costs. The tax authorities took the position that, as the company did not have its own deduction capacity under the Belgian rules, it could not transfer capacity to other group members.

The taxpayer argued that the Belgian regime results in an asymmetrical application of the group approach permitted under Article 4(1) of ATAD. While the Belgian rules provide for an effective consolidation of EBITDA at group level, they do not allow exceeding borrowing costs of one group member to be offset by the net interest income position of another group member. According to the taxpayer, this may result in a group that has no net exceeding borrowing costs on a consolidated basis nevertheless being subject to an interest deduction limitation.

The referring Court rejected the taxpayer's interpretation of the domestic legislation and held that a company cannot transfer more deduction capacity than it possesses itself. However, the Court considered that questions remain as to whether the Belgian rules are compatible with Article 4(1) of ATAD and the EU principles of equality and non-discrimination.

The Court therefore referred the following questions to the CJEU:

- Whether Article 4(1) of ATAD permits a system that provides for a "full" consolidation of EBITDA at group level while allowing only a "partial" consolidation of exceeding borrowing costs, such that net interest income earned by one group company cannot offset exceeding borrowing costs incurred by another group company.
- Whether Article 4(1) of ATAD has direct effect and may be applied directly by national courts where a Member State has opted to apply the group approach provided for under the Directive.

The referral forms part of a series of Belgian cases concerning the application of the interest limitation rules to groups. Similar questions were referred by the same Court in C-414/26 and C-415/26, which are currently pending before the CJEU alongside C-416/26.

OECD and other International Organizations

Key Insights

- 2025 update to the UN Model Tax Convention released

United Nations

2025 update to the UN Model Tax Convention released

On August 28, 2026, the United Nations (UN) Tax Committee published the text of the 2025 UN Model Tax Convention (MTC).

Key amendments of the update include:

- A new subject-to-tax mechanism has been added in order to prevent situations in which cross-border payments escape effective taxation or are taxed at an inappropriately low level. The new paragraph 3 of Article 1 makes treaty-based restrictions on source taxation conditional upon the taxation of the relevant income in the residence jurisdiction at a minimum level to be determined by the contracting states.
- The revised UN MTC introduces Article 5A, which specifically addresses activities connected with natural resources. In essence, where a foreign enterprise carries out exploration or exploitation activities in the other state, it will generally be regarded as having a permanent establishment in that other state, unless the duration of those activities remains below an aggregate threshold of 30 days within the relevant twelve-month period.
- The update introduces a new provision on insurance premiums (Article 12C). It allows the source jurisdiction to impose tax on such premiums on a gross basis. The former insurance permanent establishment rule from Article 5(6) is no longer included in the main body of the Convention and remains only as an optional solution as discussed in the Commentary.
- The revision also introduces a new provision on fees for services (Article 12AA), replacing the narrower Article 12A on fees for technical services and Article 14 on independent personal services. This new article gives the source state the right to tax such income, subject to a ceiling that is to be agreed through bilateral treaties.
- The revised MTC provides for an expanded meaning of the term ‘royalties’ (Article 12). The definition is broadened to include payments for software, irrespective of whether those payments are treated as consideration for the use of copyright.

Other updates concern the treatment of international transport in the source state (Article 8) and dispute resolution mechanisms (Article 25).

The UN MTC itself serves as a non-binding template that countries may choose to follow when negotiating new treaties and amending existing ones.

Local Law and Regulations

Key Insights

- Bahrain issues Pillar Two guidance
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Bahrain

Pillar Two guidance issued

On August 23, 2026, Bahrain published non-binding guidance on the computation of the local domestic minimum top-up tax (DMTT).

Whilst broadly following the OECD Commentary, the guidance also provides some additional clarifications and examples. Key focus areas of the guidance include:

- the role of Consolidated Financial Statements to determine the Constituent Entities of an MNE Group and determine if the Group is within the scope of the DMTT (including clarifications on acceptable and authorized financial accounting standards, the deemed consolidation test and adjustments for material competitive distortions);
- required DMTT adjustments to the financial accounting net income or loss and amount of covered taxes for purposes of calculating the effective tax rate;
- computation of the substance-based income exclusion;
- special computation rules (e.g., for investment entities, minority-owned constituent entities, joint ventures);
- the treatment of corporate restructuring (e.g., impact of entities joining or leaving the group).

The guidance complements Decree-Law No. 11 of 2024, which introduced the global minimum tax in the form of a DMTT effective from January 1, 2025.

For previous coverage, please refer to E-News Issue 223.

Denmark

Dividend withholding tax refund procedure updated following Supreme Court ruling

The Danish Tax Agency has updated its guidance on claims for refunds of Danish dividend withholding tax following a June 2026 decision of the Danish Supreme Court confirming that such claims are subject to a five-year limitation period. The Supreme court had held in joint cases BS-36976/2025-HJR and BS-36974/2025-HJR that refund claims submitted by non-resident taxpayers are covered by the special five-year limitation period under the Danish withholding tax law, rather than the ordinary three-year limitation period that the Danish tax authorities had applied since 2016. For more details see E-News Issue 232.

Under the updated guidance taxpayers may claim a refund of excess Danish dividend tax within five years from the date the tax was withheld. The Danish Tax Agency also announced that it will automatically reopen relevant cases that were previously rejected on the basis of the shorter three-year limitation period and reassess them under the new interpretation.

The updated guidance also reiterates the conditions for obtaining a refund, including requirements relating to the claimant's tax residence, proof that Danish dividend tax was withheld, beneficial ownership of the shares at the time of the dividend distribution, and evidence that the tax withheld exceeded the final tax due under an applicable tax treaty, the Parent-Subsidiary Directive, or Danish domestic law. The guidance further explains the documentation requirements and confirms that applications must be submitted electronically.

Greece

List of jurisdictions with preferential tax regimes relevant for 2024

On August 6, 2026, the Greek Ministry of National Economy and Finance published Ministerial Decision A.1160/2026 setting out the list of jurisdictions considered to have a preferential tax regime for the 2024 tax year.

The list is relevant in light of the defensive measures adopted by Greece against jurisdictions included on it, including restrictions on the deductibility of certain expenses incurred in relation to residents of those jurisdictions.

For the 2024 tax year, the list remains largely unchanged compared to the list applicable for 2023 and continues to include 42 jurisdictions. The only notable change concerns Gibraltar, which is included only for the period from January 1 to June 30, 2024.

The jurisdictions included on the list are: Albania, Andorra, Anguilla, Bahamas, Bahrain, Barbados, Belize, Bermuda, Bonaire, Bosnia and Herzegovina, British Virgin Islands, Bulgaria, Cayman Islands, Cyprus, Gibraltar (until June 30, 2024), Guernsey, Hungary, Ireland, Isle of Man, Jersey, Kosovo, Kyrgyzstan, Liechtenstein, Macau, Maldives, Marshall Islands, Moldova, Monaco, Mongolia, Montenegro, North Macedonia, Paraguay, Qatar, Saba, Saudi Arabia, St. Eustatius, Timor-Leste, Tokelau, Turkmenistan, Turks and Caicos Islands, United Arab Emirates, and Vanuatu.

For previous coverage, please refer to E-News Issue 218.

Ireland

Updated Pillar Two guidance

On August 28, 2026, Irish Revenue published updated guidance on the application of the Irish minimum taxation rules (Pillar Two). The changes concern the treatment of prior year adjustments relating to pre-transition fiscal years that have an impact on deferred tax expenses.

For previous coverage on the Irish Pillar Two guidance, please refer to E-News Issue 216.

Italy

Omnibus Decree published includes measures implementing Pillar Two Side-by-Side Package

On August 11, 2026, Italy published Legislative Decree no. 148/2026 (the Omnibus Decree) in the Official Gazette introducing several tax measures, including the OECD Side-by-Side (SbS) Package.

Key direct tax measures include:

- *Pillar Two*: Introduction of the SbS Safe Harbour and the Ultimate Parent Entity (UPE) Safe Harbour, as well as the agreed treatment of Qualified Tax Incentives (QTIs) and the Substance-Based Tax Incentive (SBTI) Safe Harbour. The provisions apply for fiscal years beginning on or after January 1, 2026. Notably, the Omnibus Decree also includes a placeholder provision for other elements of the SbS Package (e.g., the Simplified Effective Tax Rate (ETR) Safe Harbour), with detailed statutory provisions to be provided at a later stage.
- *Tax losses:* Introduction of a regime allowing an Italian resident company involved in a merger with an EU/EEA group company to deduct that foreign company's final losses from its taxable income subject to a number of conditions. This includes the requirements for companies to be in the same group, for the foreign company to have ceased activity and disposed of all assets, and for the losses to no longer be usable in the state of residence (including after any transfer of control). The final losses must also be recalculated under Italian corporate income tax rules (*imposta sul reddito delle società* - IRES).
- *Withholding tax*: Increase of the withholding tax rate on dividends paid to EU/EEA pension funds and foreign sub-accounts of pan-European Personal Pension Products from 11 percent to 20 percent.
- *Permanent establishments*: Introduction of a legally certain date for financial statements of permanent establishments (PEs) of non-resident entities. Under the new rules, the PE's income statement and balance sheet must be finalized and assigned a legally certain date (e.g., via qualified electronic time stamp) by the tax return filing deadline. Once time-stamped, the PE's accounts must be disclosed in the tax return. The new rules will apply to tax years ongoing on December 31, 2026. For more information, please refer to July 2026 report prepared by KPMG in Italy.

The Omnibus Decree entered into force on August 12, 2026.

Lithuania

Updated guidance on CFC and thin capitalization rules

On August 10 and 11, 2026, the Lithuanian State Tax Inspectorate updated its commentary on the Corporate Income Tax Law, providing additional guidance on the application of the controlled foreign company (CFC) rules and thin capitalization rules.

Key clarifications include:

- *CFC rules*: Additional guidance is provided on the low-tax test, the one-third passive income threshold and the economic substance exemption. The updated commentary also clarifies the treatment of entities established in jurisdictions where corporate income tax is generally levied upon profit distribution.
- *Thin capitalization rules*: The updated commentary clarifies the treatment of loan repayments including year-end refinancing arrangements which may be disregarded for purposes of the 4:1 debt-to-equity ratio where they lack economic substance. Further examples provide guidance on the treatment of cash-pooling arrangements, while the commentary also addresses circumstances in which interest deductions may be denied for abusive financing structures.

Mauritius

DMTT regulations gazetted

On August 8, 2026, the Income Tax (Domestic Minimum Top-up Tax) Regulations 2026 were gazetted in Mauritius. While the DMTT framework was introduced through the Finance Act 2025, several key aspects of the regime were left to be prescribed by regulations. As a reminder, the DMTT applies in Mauritius to fiscal year ending on or after January 1, 2025.

The new regulations now provide detailed operating rules that align the Mauritian DMTT regime with the OECD Pillar Two GloBE Model Rules and related OECD guidance.

Key features of the Regulations include:

- *DMTT framework:* The Regulations provide detailed guidance on the determination of GloBE income or loss, adjusted covered taxes, substance-based income exclusions, investment entities, reorganizations, permanent establishments and other key Pillar Two concepts. The regulations expressly refer to OECD Pillar Two guidance as an interpretative aid when applying the DMTT rules.
- *Transitional Safe Harbour:* The regulations incorporate the OECD Transitional Country-by-Country (CbyC) Reporting Safe Harbour. However, they do not appear to reflect the extension of the Safe Harbour to fiscal years beginning on or before December 31, 2027 (but not to fiscal years that end after June 30, 2029) that is included in the OECD's January 2026 SbS Package.

For more information, please refer to the tax alert published by KPMG in Mauritius.

Finance Act 2026 introduces corporate tax and Pillar Two changes

On August 12, 2026, the Finance Act 2026 and the Economic and Financial Measures Act were published in the Mauritius Official Gazette, introducing a range of tax and regulatory measures.

Key corporate income tax measures include:

- *Domestic Minimum Top-up Tax (DMTT):* The Finance Act introduces various amendments to the DMTT regime, including updates to the definitions of Financial Accounting Net Income or Loss (FANIL) and fiscal year, an extension of the deadline for filing amended returns from two to three years, and a reduction of the penalty for non-payment from 5 percent to 2.5 percent of the unpaid DMTT liability.
- *Corporate Climate Responsibility (CCR) levy:* The Finance Act requires the CCR levy (i.e., a minimum 2 percent levy applicable to companies with significant charging income that is designed to ensure a minimum contribution) to be paid quarterly through the Advance Payment System (APS), with transitional relief during the first three years. It also allows treaty-based foreign tax credits to offset the levy, while restricting the use of most other unused tax credits.
- *Fair Share Contribution:* Companies with chargeable income exceeding MUR 24 million (approximately EUR 440,000) will be subject to the Fair Share Contribution solely on the basis of that income threshold, with the turnover-based criterion being abolished.
- *Taxation of Information and Communication Technology (ICT) and digital services*: Non-resident companies supplying software (including licenses, applications and maintenance services) or providing remote maintenance of programs and ICT equipment are deemed to derive income from Mauritius and may therefore become subject to Mauritian income tax. The legislation also introduces a 1 percent withholding tax on certain ICT services and a 5 percent withholding tax on payments for digital promotion and marketing services. The 1 percent withholding tax applies to qualifying ICT payments exceeding MUR 300,000 (approximately EUR 6,250) and excludes royalties, procurement payments and services already subject to withholding tax under another category.
- *Tax incentives:* The Finance Act extends several existing incentives and introduces a new ten-year income tax exemption for qualifying start-up enterprises established on or after June 19, 2026. Eligible businesses must be managed in Mauritius, conduct operations in Mauritius or Africa, qualify under the National SME Incubator Scheme

and be supported by an accredited incubator, with annual turnover not exceeding MUR 100 million (approximately EUR 1,835).

For more information, please refer to the Finance Act 2026 report published by KPMG in Mauritius.

DMTT filing and payment deadlines clarified

On August 28, 2026, the Mauritius Revenue Authority (MRA) issued a communiqué clarifying the filing deadlines for Domestic Minimum Top-up Tax returns applicable to in-scope multinational enterprise (MNE) groups with fiscal years ending between January 1 and May 31, 2025. For these groups, the deadline to file their DMTT return and pay any tax due has been extended from September 7, 2026, to September 30, 2026. The MRA confirmed that no penalties or interest will apply where the DMTT return is submitted and any tax due is paid on or before the extended deadline. For groups with fiscal years ending after May 31, 2025, the DMTT return must be submitted, and any tax due paid, within 15 months after the end of the relevant fiscal year.

Netherlands

Updated guidance on tax-neutral mergers and demergers released

On August 18, 2026, the Dutch Ministry of Finance published updated policy decrees on the application of the Dutch corporate income tax rules for tax-neutral legal mergers and demergers. The decrees replace the previous guidance issued in 2022 and update the administrative framework applicable to tax-neutral corporate reorganizations.

Key updates include:

- *Clarification of the anti-abuse test:* the decrees confirm that approval to apply the tax-neutral merger or demerger regime does not provide certainty that the transaction satisfies the anti-abuse test. Taxpayers seeking certainty on the anti-abuse test must obtain a separate ruling from the Dutch tax authorities.
- *Expanded transfer of tax attributes:* the decrees expand the list of tax attributes that may be transferred in a tax-neutral reorganization by including the right to carry forward a negative profit amount. The transferred tax attribute may generally only be used in relation to the business activities acquired from the transferring entity.
- *Clarification of retroactive effect:* the updated guidance confirms that mergers and demergers may take effect from the beginning of the financial year, provided certain conditions are met, including alignment of financial reporting, completion of the transaction within twelve months, and the absence of an incidental tax advantage. Administrative relief for late requests ceases once a tax assessment reflecting a taxable transfer has become final.
- *Additional standard conditions for specific reorganization structures:* the updated guidance expands the categories of transactions eligible for approval under the general authorization procedure. In the case of demergers, this includes transactions where the acquiring entity applies the extension-profit regime (verlengstukwinstregeling) while the demerged entity does not. In the case of mergers, the guidance introduces standard conditions for transactions involving entities that apply different tax currency regimes under the Dutch functional currency rules.

Qatar

Pillar Two implementing decisions issued

On August 27, 2026, the tax authorities in Qatar published decisions on the application and administration of minimum taxation rules. Key areas addressed by the decisions include:

- *Safe Harbours:* the decisions implement the conditions and calculation requirements for applying the Transitional CbyC Reporting Safe Harbour for fiscal years beginning on or before December 31, 2027 (but not to fiscal years that end after June 30, 2029). In addition, the decisions introduce the simplified calculation Safe Harbour for Non-Material Constituent Entities.

- *Currency conversion:* the decisions provide clarifications regarding the currency to be used for IIR and DMTT calculation purposes as well as currency conversion requirements including for determining the IIR top-up tax and DMTT liabilities payable in Qatari riyals.
- *Transitional simplified reporting:* the decisions implement the transitional simplified jurisdictional reporting framework as provided in the OECD January 2025 GIR guidance. This generally allows MNE Groups to report top-up tax calculation data at the jurisdiction level in the transitional period (up to fiscal year 2028) without providing entity level data, subject to certain conditions.
- *Procedural requirements:* the decisions address the appointment process and the compliance responsibilities that may be performed by the Designated Local Entity on behalf of local group members. In addition, the decisions provide clarifications regarding the registration requirements and process.

The decisions complement Law No. 22 of 2024, which introduced a DMTT and IIR for fiscal years starting on or after January 1, 2025.

For more information on the Pillar Two rules in Qatar, please refer to E-News Issue 226.

Romania

"TechUp Romania" state aid scheme enacted

On August 24, 2026, legislation adopting the "TechUp Romania" state aid scheme was published in the Romanian Official Gazette.

The scheme allows eligible companies to benefit from non-refundable grants and a 200 percent deduction for corporate income tax deduction purposes for qualifying R&D expenditure, subject to state aid limits. Regional investment support is also available for qualifying production and technology-service projects, with aid intensity depending on the investment location. Eligible projects must have total costs between RON 5 million and RON 50 million, including minimum spending on both R&D and production/service activities.

The program has a total budget of approximately RON 5.3 billion (EUR 1.05 billion) and will be available for aid awards during 2026-2032.

United Arab Emirates

Pillar Two guidance issued

On August 26, 2026, the federal tax authority in the UAE published guidance on scope and registrations aspects of the minimum taxation rules (Pillar Two) in the UAE.

Key clarifications focus on:

- the conditions for a group to be considered in scope of the QDMTT legislation in the UAE (including clarifications and examples with respect to the (deemed) consolidation test, the consolidated revenue threshold test and the treatment of sovereign wealth fund structures);
- the different types of entities that are subject to the QDMTT legislation in the UAE (including clarifications on terms such as Entity, Constituent Entity, Permanent Establishment, Minority-Owned Constituent Entity, Joint Ventures and JV Subsidiaries, Flow-through Entity and Hybrid Entity);
- the QDMTT registration requirements for different entity types and the process for QDMTT registration.

For previous coverage, please refer to E-News Issue 233.

Local courts

Key Insights

- Federal Fiscal Court decision on constitutionality of minimum taxation of loss carryforwards
- Luxembourg Administrative Court rules on transfer pricing treatment of intragroup debt restructuring
- Supreme Administrative Court confirms foreign tax credits cannot generate a tax refund

Germany

Federal Fiscal Court decision on constitutionality of minimum taxation of loss carryforwards

On April 15, 2026, the German Federal Fiscal Court (the Court or the BFH) issued its judgment in case I R 20/25 (formerly I R 59/12) concerning the application of Germany's minimum taxation rules, and the availability of the relief under Section 163 of the German tax code[1], where those rules lead to a definitive loss of tax loss carryforwards. The decision follows the German Federal Constitutional Court's July 2025 ruling that upheld the constitutionality of the minimum taxation of loss carryforwards – see E-News Issue 216 for more details.

The case concerned a German limited liability company, which was primarily involved in the implementation of an urban development measure and associated real estate transactions. The company incurred considerable losses due to falling property prices and a lack of demand. In the 2004 annual financial statements, receivables amounting to around EUR 44 million had to be written off in full, resulting in a net loss for the year of around EUR 46 million. With insolvency in July 2005, its business activities were discontinued and further receivables of EUR 25 million were written off in the short fiscal year. As a result, the loss carried forward rose to around EUR 72 million by the end of 2005. However, following an agreement in a legal dispute, a reversal of impairment losses of around EUR 74 million was recognized in the 2006 to 2008 balance sheets. For the tax assessment, loss carryforwards were determined for the years 2004 to 2008. However, the tax office only partially took these into account due to the minimum profit taxation requirements. According to this German regulation, only 60 percent of losses above a base amount of EUR one million may be offset. This left taxable income of around EUR 31 million for 2008, resulting in corporation tax and trade tax for the years 2006 to 2008[2].

The insolvency administrator lodged objections to these assessments, arguing that the minimum taxation of loss carryforwards was unconstitutional in the context of insolvency because it violated the principle of equality under German law. This argument was based on the fact that the definitive loss of otherwise unusable loss carryforwards has a permanent effect. The tax office rejected the objections.

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[1] Section 163 of the German tax code allows the tax authorities to reduce, not assess, or collect less tax if applying the tax law strictly would be unfair in a particular case.

[2] In Germany, corporate profits are subject to corporate tax and trade tax. Corporate tax is a federal tax applied to the profits of corporations, while trade tax is levied by local municipalities, with rates varying by location. Together, these taxes form the total tax burden on a corporation's profits, determining the overall tax liability for corporations operating in Germany.

The insolvency administrator subsequently challenged the tax assessments and, alternatively, requested equitable relief under Section 163 of the German Fiscal Code. Following several rounds of litigation, the BFH referred a constitutional question to the Federal Constitutional Court. In its decision of July 23, 2025, the Federal Constitutional Court upheld the constitutionality of the minimum taxation of loss carryforwards. The Constitutional Court held that the regime serves the legitimate objective of ensuring continuous and timely taxation and falls within the legislature's discretion to standardize tax rules.

In light of the Federal Constitutional Court's decision, the BFH confirmed that the minimum taxation rules with respect to loss carryforward are not constitutionally objectionable. However, the BFH emphasized that, where minimum taxation leads to definitive effects arising from reversals arising under tax accounting rules, the relief under Section 163 of the German tax code should be given serious consideration. In particular, the BFH indicated that relief should be considered with respect to the profits resulting from the reversal of the EUR 44.2 million impairment, as the combination of the earlier write-down and subsequent write-up constitutes a classic balance sheet reversal effect. In the Court's (BFH) view, denying full utilization of losses in such circumstances could amount to substantive unfairness warranting the Section 163 relief.

Accordingly, whilst the BFH upheld the tax assessments, it set aside the tax authority's rejection of the taxpayer's request for equitable relief. The case was remanded to the tax authorities, which were instructed to make a discretionary decision on the applicability of the Section 163 relief.

Greece

Supreme Administrative Court confirms foreign tax credits cannot generate a tax refund

On June 4, 2025, the Greek Council of State (the Court) issued a decision (no. 1025/2025) concerning the treatment of foreign taxes paid by a Greek company. The Court confirmed that foreign tax credits may reduce Greek corporate income tax liability but cannot create or increase a refundable tax position where the taxpayer already has excess domestic tax credits resulting in a tax refund claim.

The plaintiff filed its corporate income tax return for fiscal year 2017 and reported foreign taxes paid through a foreign branch of approximately EUR 1.97 million. The company argued that these taxes should increase its refundable tax balance and requested the return of the corresponding amount. The tax authorities rejected the claim. Following the taxpayer's administrative appeal, the Directorate for Dispute Resolution held that the foreign tax could not be taken into account because, after offsetting Greek withholding taxes and advance tax payments, the company already had a tax refund position. The Administrative Court of Appeal of Athens upheld that view, leading to the appeal before the Council of State.

The Council of State dismissed the taxpayer's cassation appeal on procedural grounds and left the lower court's interpretation undisturbed.

The Administrative Court of Appeal had interpreted Greek law as mandating that:

- Foreign tax paid on foreign-source income may only reduce Greek corporate income tax otherwise payable.
- The foreign tax credit is limited to the amount of Greek tax attributable to the same income.
- Where, after deducting domestic withholding taxes and advance tax payments, no Greek tax remains payable and a refund position arises, the foreign tax credit cannot generate an additional refund.

In the Court's view, allowing a refund of foreign taxes would effectively require the Greek State to reimburse tax that was never collected by Greece. The Court also noted that the Greek law expressly provides for the refund of excess withholding taxes or advance tax payments, but contains no equivalent provision for foreign taxes paid abroad.

The Court also rejected the taxpayer's argument, which was based on Council of State Decision 651/2020, according to which the foreign tax credit should have been applied before domestic tax prepayments and withholding taxes. In this context, the Council of State held that the case cited by the taxpayer concerned a different legal issue, namely the interpretation of a tax treaty under previous legislation.

Luxembourg

Luxembourg Administrative Court rules on transfer pricing treatment of intragroup debt restructuring

On July 22, 2026, the Luxembourg Administrative Court ruled in favor of a Luxembourg financing company in a dispute concerning the transfer pricing treatment of an intragroup debt restructuring and the deductibility of interest expenses.

The case involved a Luxembourg company that had granted a loan bearing interest at 12 percent to its French subsidiary and financed the loan through bonds issued to its parent company. Following financial difficulties encountered by the subsidiary, the parties implemented a broader restructuring that included a partial waiver of accrued interest, a reduction of the interest rate on future financing, the conversion of part of the debt into equity and additional guarantees provided by an unrelated shareholder group.

The Luxembourg tax authorities increased the taxpayer's taxable income by treating the waived interest as a hidden contribution to the subsidiary. In doing so, the authorities relied on Articles 56 and 56bis of the Luxembourg Income Tax Law (LITL), which incorporate the arm's length principle into Luxembourg domestic law and require transactions between associated enterprises to be priced as if they had been agreed between independent parties. The authorities took the view that the taxpayer should have continued charging interest at the original 12 percent rate and also denied part of the taxpayer's interest deduction, arguing that interest on the bonds should have been calculated on their market value rather than their nominal value.

The Court rejected both adjustments. Referring to Articles 56 and 56bis LITL and the OECD Transfer Pricing Guidelines, the Court held that the arm's length principle requires consideration of the realistically available options of the parties at the time of the restructuring. The Court further noted that the original transfer pricing analysis supporting the 12 percent interest rate had been prepared in a different economic context and could not automatically be relied upon once the subsidiary's circumstances had changed. Taking into account the broader restructuring measures and the participation of unrelated parties, the Court found that an independent creditor could reasonably have accepted a partial interest waiver. The waiver was therefore consistent with the arm's length principle and could not be treated as a hidden contribution.

The Court further held that interest expenses should be calculated on the contractual principal amount of the debt and not on its market value. In this regard, the Court noted that, under Luxembourg tax valuation principles, liabilities are generally valued at their nominal amount and a decline in market value does not alter the debtor's repayment obligation. The Court therefore annulled both adjustments and referred the case back to the tax authorities for implementation of the judgment.

The decision provides guidance on the application of the arm's length principle to intragroup debt restructurings, particularly where the restructuring reflects the realistically available options of the parties and includes the participation of unrelated stakeholders.

EU financial services tax perspectives – October 7, 2026

Against a backdrop of ongoing regulatory change and increasing tax transparency, Financial Services institutions across Europe are navigating a growing range of tax developments that are reshaping compliance, reporting and operating models.

Designed for Heads of Tax, Tax Directors, senior Finance leaders and other FS decision makers, join our KPMG specialists as they share fresh insights on the tax initiatives poised to have the greatest impact for financial services.

The next instalment of this series is scheduled for October 7, 2026, and will cover:

- Omnibus and DAC simplification proposals – what they mean for simplification, compliance and future tax administration across Europe.
- FASTER directive– practical implications, implementation timelines, and what financial institutions need to do now to prepare for these changes
- Pillar Two– lessons learned from the 2024 returns, what to expect for 2025 compliance and predicting future compliance as it relates to the region.

As Pillar Two implementation continues to evolve and jurisdictions gain experience with the first round of GIR filings, MNE groups are facing an increasingly complex compliance landscape.

Please visit the event page to register.

The European Commission's ambitious tax simplification package – A KPMG EU Tax Centre perspective

On June 24, 2026, the European Commission published a tax simplification package, which includes ambitious proposals to amend several corporate tax directives through a Tax Omnibus directive and a proposal to recast the Directive on Administrative Cooperation (DAC). The proposals are aimed at simplifying EU tax rules, reducing compliance burdens for businesses, and strengthening the competitiveness of the Internal Market.

A newly published EU Tax Centre (ETC) position paper sets out our analysis and recommendations on the proposals. The paper outlines key areas where the proposals are likely to deliver simplification while also highlighting areas that may warrant further consideration during the Council negotiations.

Overall, the ETC believes that the EC's tax simplification initiative represents a significant opportunity to simplify the EU tax framework, reduce compliance burdens, and strengthen the competitiveness of the EU internal market.

Whilst the technical observations and recommendations set out in the paper are intended to further contribute to achieving these objectives, the ETC encourages the Council Presidency and Member States, as a matter of priority, to preserve the overall ambition of the EC's proposals.

In particular, the removal of intra-EU withholding tax barriers, the elimination of overlapping anti-abuse and reporting obligations for groups within the scope of Pillar Two, the targeted reforms to the interest limitation and mandatory disclosure rules as well as the proposed introduction of a common minimum standard for R&D tax incentives are welcome and send the right signal to enhance the EU's attractiveness as a place to invest.

For more insights on the Tax Simplification package, please refer to KPMG’s EU Tax Centre webpage.

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