



E-News from KPMG's EU Tax Center

Key Insights of E-News Issue 237

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*: AG opinion on the compatibility of the Austrian private foundation regime with the free movement of capital
- *Infringements*: Commission sends letters of formal notice to Hungary, Ireland, Italy and Romania regarding discriminatory taxation of income from bonds / securities and other financial instruments
- *Council of the EU*: October 2026 update of the EU list of non-cooperative jurisdictions
- *Council of the EU*: ECOFIN discusses calls for an EU-wide windfall tax on energy companies
- *European Commission*: Public consultation launched on the DAC recast proposal
- *European Parliament*: Resolution adopted on the EU's approach to corporate tax policy
- *Tax Omnibus*: Czechia, Denmark, Finland and Italy publish their positions on the European Commission proposal
- *Ireland*: 2027 Budget includes corporate tax measures and implementation of the Pillar Two Side-by-Side Package
- *Luxembourg*: 2027 Budget Bill proposes corporate tax rate cuts and unlimited tax loss carryforwards
- *Netherlands*: Policy decree on the application of the Minimum Tax Act (Pillar Two)



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Latest CJEU, EFTA and ECHR

Key Insights

- CJEU decision on the application of the anti-abuse rule under Parent-Subsidiary Directive
- AG opinion on the compatibility of the Austrian private foundation regime with the free movement of capital

CJEU

CJEU decision on the application of the anti-abuse rule under Parent-Subsidiary Directive

On October 15, 2026, the Court of Justice of the European Union (CJEU or the Court) rendered its [decision in case C-203/25](#), on the interpretation of the anti-abuse provision in the Parent-Subsidiary Directive (the PSD or the Directive).

The Court confirmed that the PSD anti-abuse provision has a broad scope and is not limited to situations involving conduit companies. Importantly, the existence of genuine economic activity at the level of the direct parent company is not sufficient, by itself, to rule out abuse. Tax authorities must assess the arrangement as a whole and may consider all relevant facts and circumstances across the wider chain of transactions. In the case at hand, this included the transfer of shares, loan arrangements and assignments of receivables involving entities other than the immediate dividend recipient. The Court also noted that recognition of beneficial ownership under a tax treaty does not prevent the application of the PSD anti-abuse rule.

Building on its previous "Danish cases" jurisprudence, the Court confirmed that tax authorities may take into account:

- the similarity between dividend amounts received by the parent company and amounts ultimately transferred through the wider structure;
- the onward transfer of funds within the group; and
- the timing and frequency of such transfers.

The Court clarified that abuse cannot be presumed solely because amounts correspond or because dividends are transferred onwards. Equally, the anti-abuse rule is not limited to situations where funds are transferred shortly after receipt. Repeated transfers over a longer period may also be relevant indicators when viewed in the context of the overall arrangement.

Anti-abuse assessment may extend to transactions carried out outside the Member State of the distributing subsidiary

The Court held that national tax authorities are entitled to take a holistic view of the arrangement when applying the anti-abuse provision. This includes considering:

- transactions carried out in other jurisdictions;

- events occurring after the dividend payment; and
- tax advantages obtained by parties elsewhere in the structure, including the ultimate beneficial owner (UBO).

The Court rejected the argument that the relevant tax advantage must arise at the level of the distributing subsidiary.

The Court finally addressed whether the withholding tax exemption can be denied without proving that the distributing subsidiary itself knew, or could have known, about the abusive arrangement. The Court concluded that such knowledge is not required. Whilst abuse requires both objective and subjective elements, the subjective element need only be demonstrated in relation to at least one participant in the chain of transactions or the ultimate beneficial owner. Limiting the analysis to the knowledge of the distributing subsidiary would undermine the effectiveness of the PSD anti-abuse provision.

For more details, please refer to EuroTaxFlash [Issue 586](#).

AG opinion on the compatibility of the Austrian private foundation regime with the free movement of capital

On September 10, 2026, Advocate General (AG) Juliane Kokott of the Court of Justice of the European Union (CJEU) [rendered an opinion in case C-475/25](#). The AG proposed that the CJEU find that the free movement of capital does not preclude Austrian rules under which a private foundation may deduct distributions to beneficiaries from its corporate tax base only where those beneficiaries are subject to Austrian capital gains tax.

The case concerns an Austrian private foundation whose beneficiaries were resident in Switzerland. In 2014, the foundation derived capital income, including interest income, gains from share disposals, and gains from real estate sales. After making distributions to its Swiss-resident beneficiaries, the foundation sought to reduce its taxable corporate income by the amount of those distributions. The Austrian tax authorities denied the deduction on the grounds that the beneficiaries were not subject to Austrian capital gains tax. The plaintiff challenged the position of the tax authorities and, after several stages of litigation, the case was brought before the Austrian Supreme Administrative Court (the Supreme Court).

The dispute follows the CJEU's 2015 judgment in C-589/13¹, in which an earlier version of the Austrian rules was found to infringe the free movement of capital. In response, Austria amended its legislation in 2015. Under the revised regime, a private foundation may reduce its taxable capital income by distributions only where Austrian capital gains tax has been withheld and remitted on those distributions. Where distributions are exempt from Austrian capital gains tax, including by virtue of a double tax treaty, the deduction is generally unavailable. The Supreme Court requested a preliminary ruling from the CJEU on whether the revised regime is compatible with the free movement of capital.

The AG noted that, whilst the dispute formally concerns the taxation of Austrian private foundations, the issues raised are closely linked to the taxation of profit distributions more generally. As a result, in the AG's view, the case may have broader implications for the CJEU's case law on the free movement of capital. The AG also noted that the case at hand is noteworthy because it examines the matter from the perspective of the distributing foundation, rather than that of the beneficiaries receiving the distributions.

The AG recalled that under the rules under dispute, a foundation can generally deduct distributions made to beneficiaries subject to Austrian capital gains tax, but not distributions made to beneficiaries who are not subject to that tax, including non-residents. The AG found that this difference in treatment may put foundations with foreign beneficiaries at a disadvantage, discourage cross-border distributions, and make foundations with foreign beneficiaries less attractive. Therefore, the AG concluded that the rules represent a restriction on the free movement of capital.

¹ In C-589/13, the CJEU held that the unfavorable treatment of private foundations which make profit allocations to non-resident beneficiaries as compared to those making profit allocations to local beneficiaries infringes the free movement of capital.

The AG next analyzed whether the restriction could be justified by an overriding reason in the public interest. In this context, the AG noted that the disputed legislation pursues the legitimate objective of single taxation² – i.e., ensuring that income derived by Austrian private foundations is taxed only once in Austria, either at the level of the beneficiary through Austrian capital gains tax or, where Austria cannot tax the beneficiary, at the level of the foundation through corporate income tax.

Nevertheless, the AG took the view that, from the perspective of the objectives of single taxation and the avoidance of economic double taxation, an Austrian private foundation transferring assets to Austrian-resident beneficiaries is not in a comparable situation to a foundation transferring assets to beneficiaries resident abroad. The tax mechanism differs fundamentally, as transfers to resident beneficiaries are subject to Austrian tax, whereas transfers to non-resident beneficiaries are generally not. In the latter case, corporation tax on the equivalent value of the transfer serves to achieve single taxation in Austria while avoiding economic double taxation. Referring to the CJEU's case law on dividend distributions, the AG concluded that the two situations are not comparable and may therefore be treated differently for corporation tax purposes under the free movement of capital.

The AG continued by analyzing whether the assessment above could be impacted by the provisions of the Austria-Switzerland double tax treaty. The AG noted that whilst the treaty allocates taxing rights over the beneficiaries' income to Switzerland, it does not prevent Austria from taxing the private foundation itself as the distributing entity. Moreover, the possibility of economic double taxation arising from the interaction of Austrian and Swiss tax rules does not, in the AG's view, render the regime incompatible with EU law, as EU law does not generally require Member States to eliminate all instances of international double taxation.

In light of the above, the AG proposed that the CJEU rule that the free movement of capital does not preclude a national regime under which an Austrian private foundation may deduct distributions only where the recipient is subject to Austrian capital gains tax. It is important to note that AG opinions are not binding on the CJEU and it remains to be seen whether the CJEU will follow the AG's recommendations.

² The AG acknowledged that the objective of single taxation has not been recognized by the CJEU as a distinct justification for restrictions on the free movement of capital. However, in the AG's view, this reflects the principle that a mere reduction in tax revenue cannot justify such restrictions, rather than a rejection of single taxation itself. In the AG's view, that is not the situation in the present case, where the objective of single taxation pursues the broader and legitimate aim of fair taxation by preventing earnings generated in Austria from "escaping taxation" altogether.

Infringement procedures and CJEU referrals

Key Insights

- Commission sends letters of formal notice to Germany, Estonia, Latvia, Lithuania and Hungary regarding DAC penalty regimes
- DAC9 infringement proceedings: reasoned opinion issued to Czechia
- Commission sends letters of formal notice to Hungary, Ireland, Italy and Romania regarding discriminatory taxation of income from bonds / securities and other financial instruments
- Austrian Court refers Capital Duties Directive questions in real estate transfer tax case to the CJEU

Infringement procedures

Commission sends letters of formal notice to Germany, Estonia, Latvia, Lithuania and Hungary regarding DAC penalty regimes

On October 1, 2026, the European Commission (EC) [announced its decision to send letters of formal notice](#) to Germany, Estonia, Latvia, Lithuania and Hungary regarding the penalties applicable under their national rules implementing the Directive on Administrative Cooperation in the field of taxation (Council Directive 2011/16/EU, as amended - DAC).

According to the EC, the legislation of the five Member States does not provide for effective, proportionate and dissuasive penalties for breaches of DAC obligations. In particular, the Commission considers that the penalties currently available under domestic law are too low to deter non-compliance with DAC reporting and information exchange obligations. In addition, the EC takes the view that the relevant penalty frameworks do not sufficiently take into account factors such as the gravity, scale or repetition of the infringement, the economic capacity of the offender, or the economic incentives associated with non-compliance.

The Commission further notes that these shortcomings may affect the quality, completeness and reliability of information exchanged between tax authorities under the DAC framework and, therefore, undermine the effective functioning of administrative cooperation in taxation within the European Union.

The Commission's action is consistent with findings from its [2025 evaluation of the DAC framework](#), which identified the need for stronger national penalty regimes and referred to concerns raised by the European Court of Auditors regarding the deterrent effect of penalties applicable to DAC reporting obligations.

A letter of formal notice is the first step of the infringement procedure. Germany, Estonia, Latvia, Lithuania and Hungary are required to respond to the Commission's concerns within two months. In the absence of a satisfactory response, the EC may decide to proceed by issuing a reasoned opinion.

For more information on the DAC evaluation, please refer to [Euro Tax Flash Issue 571](#).

Updates on DAC9 infringement proceedings

On October 1, 2026, the EC [announced that it had issued a reasoned opinion to Czechia](#) in relation to the transposition of Council Directive (EU) 2025/872 (DAC9).

On January 30, 2026, the EC launched infringement proceedings against several Member States that had not adopted or notified all measures required to fully implement DAC9. On July 8, 2026, the EC announced that it had issued reasoned opinions to Belgium, Bulgaria and Cyprus, while closing infringement proceedings against Romania and Sweden.

The EC has now decided to send a reasoned opinion to Czechia on the grounds that it has not yet adopted or notified all measures required to fully implement DAC9. According to the EC, tax authorities across the EU should be able to exchange information on multinational companies within the scope of the EU Minimum Tax Directive as from June 2026. The reasoned opinion represents the second stage of the infringement proceedings initiated on January 30, 2026, through a letter of formal notice. Czechia now has two months to respond and take the necessary measures. Otherwise, the EC may decide to refer the case to the Court of Justice of the European Union (CJEU) and request financial sanctions.

For previous coverage, please refer to [E-News Issue 225](#) and [E-News Issue 233](#).

Commission sends letters of formal notice to Hungary, Ireland, Italy and Romania regarding discriminatory taxation of income from bonds / securities and other financial instruments

On October 1, 2026, the European Commission (EC) announced its [decision to send letters of formal notice](#) to Hungary, Ireland, Italy and Romania. The letters concern the tax treatment of income derived from bonds, as follows:

- *Hungary*: interest earned on Hungarian government bonds is exempt from personal income tax and social contribution tax, while interest from comparable EU/EEA government bonds is taxed under the ordinary rules.
- *Ireland*: capital gains on bonds issued or guaranteed by the Irish government and certain public bodies are exempt from capital gains tax, whereas gains on comparable EU/EEA bonds are generally subject to tax. The EC considers that these rules may restrict the free movement of capital under Article 63 TFEU and Article 40 of the EEA Agreement.
- *Italy*: the Italian case concerns withholding tax on interest and other income from Italian corporate and government bonds. Certain non-resident investors can benefit from an exemption, but only if the bonds are deposited with an Italian financial intermediary, an Italian permanent establishment of a non-resident intermediary, or in some cases, a non-resident intermediary that has appointed an Italian tax representative. The EC takes the view that these conditions make custody and administration services from intermediaries in other EU/EEA States less attractive when those intermediaries have no Italian permanent establishment. The conditions also discourage non-resident investors from using such intermediaries. The EC considers this a restriction on the freedom to provide services under Article 56 TFEU and Article 36 of the EEA Agreement.
- *Romania*: under Romanian law, capital gains derived from the transfer of securities and other financial instruments where the financial intermediary handling the transaction is not established in Romania are subject to higher tax rates than those applicable when the intermediary is established in Romania. The EC takes the view that the difference in treatment discourages investors from using financial intermediaries established in other EU Member States or EEA countries without a permanent establishment in Romania. The Commission considers that the Romanian rules represent a restriction on the freedom to provide services under EU law.

A letter of formal notice is the first step of the infringement procedure. Hungary, Ireland, Italy and Romania are required to respond to the Commission's concerns within two months. In the absence of a satisfactory response, the EC may decide to proceed by issuing a reasoned opinion.

CJEU referrals

Austrian Court refers Capital Duties Directive questions in real estate transfer tax case to the CJEU

On September 3, 2026, the Austrian Supreme Administrative Court (the Supreme Court) [referred two questions to the CJEU](#) concerning the compatibility of Austrian real estate transfer tax (RETT) with Council Directive 2008/7/EC concerning indirect taxes on the raising of capital (the Capital Duties Directive).

The referral follows the CJEU's June 4, 2026, judgment in case C-837/24, in which the Court held that the Directive precludes the imposition of indirect taxes on contributions in kind of shares in real estate-owning companies made upon the formation of a capital company, provided that the transaction qualifies as a restructuring operation within the meaning of the Directive³. For more information on C-837/24, please refer to Euro Tax Flash [Issue 581](#).

The case concerns an Austrian real estate-owning OG (Offene Gesellschaft) with two corporate partners, A GmbH and B GmbH. A GmbH held the entire capital interest in the partnership, while B GmbH participated solely as a working partner. Both companies were wholly owned by the same holding company. RETT had already been levied on the acquisition of the partnership interest. Subsequently, B GmbH was merged into A GmbH by way of a side-stream merger. As a result, A GmbH became the sole remaining partner of the OG. The OG subsequently ceased to exist. Under the Austrian rules on mergers (Anwachsung), all assets and liabilities of the partnership, including the real estate, transferred automatically to A GmbH.

The Austrian tax authorities treated the merger as a separate taxable acquisition of real estate and levied RETT⁴. The taxpayer challenged the assessment and argued that the RETT previously paid on the acquisition of the partnership interest should be credited against the RETT arising upon the merger. However, the Federal Fiscal Court rejected that argument on the grounds that the relevant credit mechanism did not apply and that the transactions did not involve the same parties. The legal proceedings reached the Supreme Administrative Court, that considered necessary to seek guidance from the CJEU on the interpretation of the Capital Duties Directive.

The first question concerns whether an Austrian OG qualifies as a 'capital company' within the meaning of Article 2 of Directive 2008/7/EC. The Directive applies to 'capital companies' as defined therein, including both legal entities specifically listed in the Directive and other entities operating for profit that may be assimilated to such companies. While an Austrian OG is not expressly listed among the covered legal forms, the referring court asks whether an OG engaged in the management of real estate should nevertheless be regarded as a capital company. In that regard, the court notes that the CJEU has traditionally interpreted the concept of a capital company broadly.

If the OG is considered a capital company, the referring court further asks whether the transfer of the partnership's assets and liabilities to the sole remaining partner through a merger constitutes a restructuring operation within the meaning of Article 4(2) of the Directive. The court also seeks clarification on whether Austrian RETT could nevertheless be imposed under the exception provided in Article 6(1)(b), which allows Member States to levy transfer duties on transfers of real estate located in their territory. Unlike in case C-837/24, legal ownership of the underlying real estate passed to the acquiring company as a result of the merger.

For more details, please refer to a [report prepared by KPMG in Austria](#) (available only in German).

³ The Austrian Ministry of Finance responded with an information letter dated July 29, 2026. According to the letter, RETT should not be levied on restructurings that clearly fall within the scope of the Directive. The letter also confirmed that Austrian stock corporations (AG), limited liability companies (GmbH) and European companies (SE) are capital companies within the meaning of the Directive.

⁴ The case concerns the law in force in 2022 and 2023. The Austrian Budget Accompanying Act 2025 subsequently amended the RETT share-consolidation rules, including by lowering the threshold to 75 percent and extending the tax to indirect consolidations.

Key Insights

- October 2026 update of the EU list of non-cooperative jurisdictions
- Code of Conduct Group work program under the Irish Presidency
- ECOFIN discusses calls for an EU-wide windfall tax on energy companies
- EC launches public consultation on DAC recast proposal
- European Parliament adopts resolution on the EU's approach to corporate tax policy

Council of the EU

October 2026 update of the EU list of non-cooperative jurisdictions

On October 9, 2026, the Economic and Financial Affairs Council [adopted conclusions on the EU list of non-cooperative jurisdictions](#) (Annex I) and the state of play with respect to commitments taken by cooperative jurisdictions to implement tax good governance principles (Annex II – so called “grey list”).

The Council agreed to move Panama and Viet Nam from the list of non-cooperative jurisdictions (Annex I) to Annex II (the grey list). In addition, Belize was removed from Annex II, having fulfilled its previous commitments.

Following this latest revision, Annex I of the EU list of non-cooperative jurisdictions therefore includes the following eight jurisdictions: American Samoa, Anguilla, Guam, Palau, the Russian Federation, Turks and Caicos Islands, the US Virgin Islands and Vanuatu.

In addition, the grey list now includes the following ten jurisdictions: the British Virgin Islands, Brunei Darussalam, Eswatini, Greenland, Jordan, Montenegro, Morocco, Panama, Türkiye and Viet Nam.

For more details, please refer to [Euro Tax Flash Issue 585](#).

Code of Conduct Group work program under the Irish Presidency

On September 28, 2026, the Code of Conduct Group (Business Taxation) issued its [work program for the second half of 2026](#), under the Irish Presidency. Key work items include:

- *Tax defensive measures*: The Group is expected to continue its assessment of how Member States apply tax defensive measures to jurisdictions on the EU list. Building on previous monitoring exercises, efforts will focus on gathering updated information and evaluating whether existing defensive measures achieve their intended objectives.
- *Geographical scope of the screening process*: Further work is anticipated on the methodology used to determine which jurisdictions fall within the scope of the EU screening exercise.

- *Screening criteria:* The Group is expected to monitor international developments relating to the exchange of beneficial ownership information as part of its ongoing consideration of expanding the listing criteria. It will also assess how changes to the FHTP methodology may affect EU listing standards and monitoring practices. In addition, the Group aims to continue work on simplifying compliance and monitoring processes for companies, partnerships and collective investment funds under criterion 2.2 (no facilitating of offshore structures), and on the review of criterion 2.1 (preferential tax regimes).

For more information, please refer to the Code of Conduct Group's [website](#).

ECOFIN discusses calls for an EU-wide windfall tax on energy companies

During the press conference following the ECOFIN meeting on October 9, 2026, Irish Minister for Finance Simon Harris indicated that finance ministers had discussed the taxation of windfall profits in the energy sector during their informal breakfast meeting. The discussion was prompted by a joint initiative from Austria, Germany, Italy, Poland, Portugal and Spain, which called for an EU-level discussion on potential additional taxation of oil and gas companies' windfall profits.

According to Mr. Harris, any decision on whether to bring forward legislative proposals remains a matter for the European Commission. However, he noted that finance ministers considered the issue worthy of further examination and agreed to task officials with exploring the matter further, alongside a Commission-led group established to examine potential options.

When asked whether the European Commission intends to propose an EU-wide windfall tax on energy companies, Commissioner Valdis Dombrovskis reiterated the Commission's view that decisions on the introduction of windfall taxes are primarily for individual Member States. At the same time, he confirmed that ministers had agreed to establish a working group to further examine the issue, facilitate the exchange of best practices, and support Member States in assessing possible approaches.

Neither Minister Harris nor Commissioner Dombrovskis commented on whether the Commission is considering a legislative proposal, or provided a timeline for any potential EU-wide initiative.

For more information, please refer to the [webstream of the press conference](#).

European Commission

EC launches public consultation on DAC recast proposal

On October 6, 2026, the EC [launched](#) a public consultation on the Directive on Administrative Cooperation (DAC) recast proposal.

As a reminder, the proposal was published on June 24, 2026, and aims to consolidate the various DAC texts (DAC1 to DAC9) into a single cohesive text to improve clarity. In addition, the draft proposes several amendments, which aim to remove duplicate reporting and to streamline the application of certain rules within the existing framework. This includes updates to notification requirements relating to DAC4 (country-by-country reporting) and DAC9 (exchange of global minimum tax information), reporting requirements under DAC6 (EU Mandatory Disclosure Rules) and DAC7 (Reporting obligations on platforms operators).

The consultation period ends on December 1, 2026.

For more information on the DAC recast proposal, please refer to [Euro Tax Flash Issue 583](#) and our dedicated [KPMG webcast](#).

European Parliament

European Parliament adopts resolution on the EU's approach to corporate tax policy

On October 6, 2026, the [European Parliament adopted a resolution on the EU's approach to corporate tax policy](#) in a changing international environment. The resolution highlights the importance of maintaining a competitive, predictable, and transparent corporate tax framework, while promoting simplification, combating harmful tax practices, and supporting international tax cooperation.

Key points include:

- *Concerns regarding the OECD "side-by-side" approach:* while reaffirming its support for Pillar Two, the Parliament expresses concerns that the side-by-side arrangement may weaken the level playing field and place EU-headquartered multinational groups at a competitive disadvantage compared to US groups benefiting from the safe harbor. The Parliament calls on the European Commission to assess the impact of the arrangement, including potential effects on Member States' tax revenues and EU competitiveness.
- *Support for further tax simplification:* the Parliament acknowledges that Pillar Two has introduced significant compliance costs and administrative burdens and welcomes the Commission's Tax Omnibus initiative. It encourages efforts to streamline overlapping reporting obligations and anti-avoidance measures, provided that tax transparency and anti-abuse protections are maintained.
- *Business in Europe: Framework for Income Taxation (BEFIT) directive:* the Parliament called on the Commission to revisit the proposed BEFIT directive to address potential overlaps with Pillar Two and consider a more focused, step-by-step approach.
- *Tax incentives and competitiveness:* the Parliament stressed that Pillar Two should not undermine legitimate incentives for research and innovation and called for the continued use of tax measures that attract investment and support high-value activities within the EU.
- *Continued support for tax transparency and anti-avoidance measures:* the Parliament reiterates its support for public country-by-country reporting, measures against harmful tax practices and enhanced international cooperation to combat tax avoidance and tax evasion.
- *International tax cooperation:* The Parliament called on Member States to continue engaging constructively in negotiations on the UN Framework Convention on International Tax Cooperation while ensuring that UN initiatives complement the OECD/G20 process.

The resolution is not legally binding but provides an indication of the European Parliament's views on the Commission's competitiveness and tax simplification agenda, as well as the future direction of EU corporate tax policy.

Local Law and Regulations

Key Insights

- Czechia: Parliamentary committee issues reasoned opinion on Tax Omnibus proposal
- Germany: Guidance on profit and loss transfer agreements and partnerships as income tax group parents
- Ireland: Corporate tax measures in 2027 budget
- Kenya: Global minimum tax regulations issued
- Luxembourg: 2027 Budget Bill includes corporate tax measures
- Mauritius: Guide on Qualified Domestic Minimum Top-Up Tax (QDMTT) released
- Netherlands: Policy decree on the application of the Minimum Tax Act (Pillar Two)
- Poland: Windfall tax on fuel companies enacted

Czechia

Parliamentary committee issues reasoned opinion on Tax Omnibus proposal

On September 29, 2026, the Committee on European Affairs of the Czech Chamber of Deputies (the Committee) sent the European Commission (EC) a [reasoned opinion on certain provisions of the proposed Taxation Omnibus](#). Whilst supporting the objective of tax simplification, the Committee raised concerns regarding several elements of the proposal.

Key points include:

- *R&D tax incentives*: the Committee concluded that the proposed EU-wide R&D tax incentive regime is not in line with the principle of subsidiarity. In particular, the Committee considered that the EC had not sufficiently demonstrated that the objectives of the measure could not be adequately achieved by Member States or would be better achieved at EU level. The Committee also noted that Member States already operate their own R&D incentive regimes and expressed concerns regarding additional administrative burdens and impacts on Member States' fiscal autonomy.
- *Minimum holding requirements*: the Committee supported the Czech Government's opposition to the proposal to remove the minimum holding requirements under the Interest and Royalties Directive (2003/49) and the Parent-Subsidiary Directive (2011/96), noting that the measure could have significant fiscal implications for Member States and goes beyond the objective of tax simplification.
- *Measures supported*: the Committee recommended supporting measures that lead to genuine simplification and reduced administrative burdens, including the repeal of the imported mismatch rules, the extension of the general anti-abuse rule, the mandatory carryover of interest to subsequent periods, the mandatory use of Model A for CFC rules and the extension of the Merger Directive to Czech cooperatives.
- *Czech partnerships to remain in Directive Annex*: The Committee also called on the Czech government to push for Czech general partnerships (veřejná obchodní společnost, v.o.s.) and limited partnerships (komanditní společnost, k.s.) to stay in the Annex to the Interest and Royalties Directive.

- *Limitation of Commission's powers:* the Committee recommended that the Commission's delegated powers be limited to administrative updates to the directive annexes. It also considered that substantive changes should be subject to the standard legislative procedure, including an ex-ante impact assessment and public and expert consultations.

For more information on the Tax Omnibus proposal, please refer to Euro Tax Flash [Issue 582](#) and our dedicated [KPMG webcast](#).

Denmark

Government publishes preliminary position on the Tax Omnibus proposal

On September 30, 2026, the Danish Ministry of Taxation sent a [memo on the proposed Taxation Omnibus Directive](#) (Tax Omnibus) to the Danish Parliament's European Affairs Committee. The memo sets out the Danish Government's preliminary position. Overall, the Government supports the proposal's aim of simplifying EU direct tax rules and reducing administrative burdens. However, it is concerned about the expected revenue losses and about Member States' ability to tackle aggressive tax planning.

Key points include:

- *Revenue impact:* The Danish Government's preliminary assessment is that the package could result in a significant loss of tax revenue, substantially exceeding the projected administrative savings. The main drivers of the loss are the proposed changes to the Parent-Subsidiary Directive and the Anti-Tax Avoidance Directive.
- *Removal of minimum holding requirement:* "In isolation" the Government sees significant simplification potential in removing withholding taxes on intra-EU dividends, interest and royalties, and in streamlining the relief procedures. The Government also welcomes extending the dividend withholding tax exemption to pension funds and calls for a definition to cover all Danish pension institutions and their investment vehicles. On the other hand, the memo notes that expanding the Parent-Subsidiary-Directive would require Denmark to exempt dividends on listed portfolio shares received by companies, regardless of where the investor is resident. According to the memo, the taxation of capital gains on such shares would probably also have to be abolished. The Government considers this a significant tax cut for businesses that cannot be justified by the reduction in administrative burden.
- *ATAD:* the Government has concerns about the proposed changes to the ATAD, including whether existing anti-abuse rules can be kept. It is particularly concerned about the proposed exclusion of Pillar Two groups and SMEs from the CFC rules, which it expects to have significant negative revenue effects.
- *Subsidiarity and other measures:* the Danish Government agrees with the EC that the proposal complies with the principle of subsidiarity. It is broadly positive about clearer EU rules on R&D costs and about the amendments to the Arbitration Directive. The Government supports the aims of the Merger Directive changes.

Finland

Government publishes letter on Tax Omnibus proposal

On September 3, 2026, the [Finnish Government sent a letter to the Finnish Parliament](#) setting out its position on the proposed Taxation Omnibus Directive (Tax Omnibus). The Government supports simplifying the rules and reducing administrative burdens. However, it stressed that the changes should be balanced against the need to combat tax avoidance and should not lead to significant revenue losses. It also noted that several elements of the proposal appear to narrow the tax base rather than simply reduce administrative burdens.

Key points include:

- *Minimum holding requirements:* the Government is critical of the proposal to remove the minimum holding requirements under the Interest and Royalties Directive and the Parent-Subsidiary Directive. It considers that the

change could cause significant revenue losses, particularly in relation to withholding tax on dividends. The proposed exemption could also have far-reaching effects on Finland's dividend tax system and on its taxing rights in relation to third countries. The letter also notes that the change could encourage investors to hold shares through holding companies, which could reduce capital income tax revenue. The Government would prefer to streamline the two directives without abolishing the minimum holding requirement altogether.

- *CFC rules*: the Government supports the aim of simplifying the CFC rules. However, it considers the proposed exclusion of Pillar Two groups and SMEs partly concerning from the perspective of protecting the Finnish tax base, as CFC rules still have an important preventive effect for these taxpayers. Finland applies its CFC rules to individuals as well as companies. The Government considers it important that the rules can continue to be used against holding company arrangements set up by individuals.
- *R&D tax incentives*: the Government considered that the proposed EU-wide R&D tax incentive is not necessary, since R&D can be promoted through national tax rules and the Finnish system already provides incentives. In its view, the measure would not significantly improve the situation and could make the tax system more complex.
- *Interest limitation rule*: the Government noted that it can support simplifying the interest limitation rule and reducing the number of options, provided this does not significantly increase the risk of tax avoidance and profit shifting. It considered that critical infrastructure projects should be protected mainly by further developing the existing infrastructure exemption rather than by the proposed general exemption for low-risk third-party loans. It welcomed the temporary exemption for the defence sector.
- *Measures supported*: the Government supports several other elements of the proposal. These include the prohibition of prior authorization procedures for withholding tax relief, the extension of the general anti-abuse rule to minimum taxation and withholding taxes, and the alignment of the Merger Directive with EU company law. It also supports the objectives of the changes to the Dispute Resolution Directive. Moreover, the Government notes that it can accept the EC's delegated powers to update the annexes listing the legal forms covered by the Directives.
- *Budgetary impact*: the Government estimates that the proposal as a whole would reduce Finnish tax revenue by at least several hundred million euros, on a static basis.

Italy

Ministry of Economy and Finance publishes report on Tax Omnibus proposal

On October 6, 2026, the Italian Ministry of Economy and Finance (MEF) sent the Italian Parliament its [report on the proposed Taxation Omnibus Directive](#) (Tax Omnibus). The MEF supports the aim of simplification and considers that it serves the national interest. However, it noted that several provisions appear to go beyond the stated objective of reducing administrative burdens. In its view, simplification should not weaken protection against tax avoidance, should limit the impact on national tax revenue, and should leave Member States some tax policy choices.

Key points include:

- *Revenue impact*: the MEF noted that some measures would extend existing tax exemptions or make mandatory options that Member States had previously chosen not to implement, and that the cumulative revenue effect could be particularly significant for Italy. According to the report, the main revenue effects would come from the changes to the Interest and Royalties Directive, the Parent-Subsidiary Directive and the Anti-Tax Avoidance Directive (ATAD).
- *Anti-abuse safeguards*: the MEF noted that several proposed changes would reduce or remove conditions that currently act as checks against tax planning, such as minimum holding thresholds, minimum holding periods and anti-abuse clauses. It also considered that the proposed changes to the interest limitation rule could encourage debt over equity financing.
- *Asymmetric impact*: according to the MEF, Member States that have already implemented the optional ATAD provisions would need few or no changes, while others, including Italy, could bear a disproportionate share of the compliance and revenue costs. Measures with potentially asymmetric effects should therefore be assessed on a country-by-country basis and, where appropriate, accompanied by transitional provisions or safeguard clauses.

- *FASTER Directive*: the proposal would make the FASTER procedures mandatory for withholding tax relief under the Interest and Royalties Directive and the Parent-Subsidiary Directive. The MEF noted that Italy's current exemption system has so far worked securely and that the change would reduce Member States' flexibility. It said the risks of base erosion, double non-taxation, the use of interposed companies and weaker preventive controls should be carefully assessed. In Italy, those controls currently rely partly on withholding agents.
- *ATAD changes*: the MEF noted that, because several options under the ATAD would become mandatory, Italian law would need to be amended in a number of areas, including the thresholds under the interest limitation rule and the CFC exclusions. On the proposed repeal of the imported mismatch rule, Italy would need to decide whether to repeal its domestic provision or keep it as a stricter national measure.

Germany

Guidance on profit and loss transfer agreements and partnerships as income tax group parents

On July 17, 2026, the German Federal Ministry of Finance (BMF) [released](#) updated guidance on the German corporate tax group regime (*Organschaft*). Under the regime, the income of a controlled company (*Organgesellschaft*) may be attributed to a parent entity (*Organträger*) for tax purposes. Key requirements include a profit and loss transfer agreement (PLTA) concluded for at least five years, financial integration, and, where a partnership acts as the parent entity, the existence of a qualifying commercial activity.

The guidance replaces the previous circular dated November 10, 2005, and reflects recent developments in German Federal Fiscal Court (BFH) case law relating to managing holding partnerships and German business split-up structures.

Key points addressed in the updated guidance include:

- *Profit and loss transfer agreements (PLTAs)*: The statutory five-year minimum duration requirement is determined by the civil law effectiveness of the agreement. Accordingly, the requirement is not met where a PLTA is concluded for five years but becomes legally effective only after registration in the commercial register in a subsequent year. The guidance also confirms that the agreement may provide that its term begins only in the fiscal year in which registration becomes effective.
- *Financial integration*: Where a partnership acts as the parent entity of a tax group, the shares conferring a majority of voting rights in the controlled company must be held directly by the partnership.
- *Commercial activity requirement*: Where a partnership acts as the parent entity of a tax group, it must carry on its own commercial activity. The guidance clarifies that this requirement is only met where the activity is more than merely insignificant. In the case of holding partnerships, it may be met where the partnership operates as a managing holding company, holds interests in several subsidiaries and actively performs management functions for them. The guidance also confirms that services provided to group companies may constitute a qualifying commercial activity if supplied and charged on arm's-length terms, while a partnership does not satisfy the requirement solely because it derives commercial income through participation in a commercially active partnership.
- *Business split-up structures*: Property holding partnerships in German business split-up structures may qualify as tax group parents even where their activities would otherwise be regarded as asset management.
- *Timing of commercial activity*: While the requirements for a tax group must generally be satisfied from the beginning of the subsidiary's fiscal year, the partnership's qualifying commercial activity does not need to exist from that date.

The updated guidance applies to all open cases.

For more information, please refer to a [report](#) prepared by KPMG in Germany.

Ireland

Corporate tax measures in 2027 budget

On October 6, 2026, the [Irish government released its 2027 budget](#).

Key corporate tax measures include:

- *Tax rate on Irish funds*: the tax rate applying to investors in Irish and certain equivalent offshore funds, certain life assurance products, and qualifying offshore funds and ETFs has been reduced from 38 percent to 35 percent. Finance Bill 2027 will also align the taxation of investors in Irish funds held through recognized clearing systems. It was announced there will be further work this year to simplify the existing taxation regime for retail investment and remove barriers to investment.
- *R&D credits*: Taxpayers will be able to increase qualifying expenditure by an amount equal to 5 percent of qualifying R&D payroll costs, subject to certain expenditure limits. The measures also provide that regulated clinical trials may be regarded as satisfying the science test for R&D tax credit purposes, with detailed provisions expected to be included in the Finance Bill.
- *Knowledge Development Box*: the Knowledge Development Box relief has been extended to January 1, 2032, with a time-limited and conditional opt-out available for existing claimants.
- *Tax incentives for start-ups*: the relief from tax for certain start-up companies for the initial five years of operation is being extended by four years to December 31, 2030.
- *Bank levy*: the bank levy has been extended for 2027, targeting a yield of EUR 200 million.
- *Pillar Two*: Finance Bill 2027 will implement the OECD Pillar Two Side-by-Side Package, OECD administrative guidance issued during 2026 and updates to penalty and filing provisions.
- *Irish Investment Account*: a new Irish Investment Account is being introduced from July 1, 2027, to simplify retail investment in capital markets. Investments made through the account will be subject to a flat annual tax of 1 percent on value above a tax-free threshold of EUR 50,000, with a maximum annual contribution of EUR 12,000. These investments will fall outside the scope of other taxes and certain deemed disposal rules.

For more information on the 2027 Budget Bill, please refer to a [report](#) prepared by KPMG in Ireland.

Kenya

Global minimum tax regulations issued

On September 18, 2026, Kenya issued the [Income Tax \(Minimum Top Up Tax\) Regulations 2026](#), providing detailed rules for the implementation of the Domestic Minimum Top-up Tax. The Regulations apply the DMTT to tested years of income occurring on or after January 1, 2025, and broadly follow the OECD GloBE Model Rules.

Key design features include:

- *Accounting standard*: The Regulations provide that net income or loss is based on the financial accounting net income or loss used in preparing the Ultimate Parent Entity's consolidated financial statements. Where that information is not reasonably available, taxpayers may instead rely on financial accounts prepared under another acceptable or authorized accounting standard, subject to adjustments to align material differences with the accounting standard used by the Ultimate Parent Entity.
- *OECD materials*: The regulation includes specific reference to the transitional CbyC Reporting Safe Harbour (which may be elected until a year of income commencing on or after July 1, 2029) and the simplified calculation for non-

material Constituent Entities. In addition, the Regulations broadly refer to other similar Safe Harbours and clarify that the GloBE Model Rules and Agreed Administrative Guidance may be used for interpretative purposes.

- *OECD elections:* While the Regulations generally allow taxpayers to apply elections available under the OECD GloBE Model Rules, they specifically exclude the De Minimis Exclusion election under Article 5.5 of the Model Rules.
- *Filing requirements:* In-scope entities that were already subject to the rules when the Regulations entered into force are required to notify the Commissioner within 60 days from the publication date of the Regulations. A local Top-Up Tax Return must be filed no later than the last day of the sixth month following the end of the fiscal year, while the Top-up Tax payment is due by the end of the fourth month following the end of the accounting period (e.g., April 30, for calendar-year taxpayers). In addition, a GloBE Information Return (GIR) must be filed within 15 months after the end of the reporting fiscal year (18 months for the transitional year). A local GIR filing is not required where the GIR is filed by the Ultimate Parent Entity or a designated filing entity in a jurisdiction with an information exchange agreement with Kenya.

For more details on the Pillar Two rules in Kenya, please refer to the [KPMG BEPS 2.0 tracker](#) in Digital Gateway.

Luxembourg

2027 Budget Bill includes corporate tax measures

On October 7, 2026, the [Luxembourg Government presented the 2027 Budget Bill](#), which includes several measures relevant for businesses and investors.

Key corporate tax measures include:

- *Corporate income tax rate:* corporate income tax rates would be reduced as from tax year 2027. The rate would decrease from 14 percent to 13 percent for taxable income of up to EUR 200,000 and from 16 percent to 15 percent for taxable income above EUR 250,000. An intermediate formula would continue to apply to taxable income between those thresholds.
- *Investment tax credit:* investment tax credit rates applicable to digital transformation and ecological or energy transition projects would increase. The credit rate for qualifying investments and expenses would increase from 18 to 21 percent. In addition, the credit rate for eligible tangible depreciable assets used for digital transformation or ecological and energy transition projects would increase from 6 to 9 percent.
- *Tax loss carryforwards:* the current 17-year limitation on the carryforward of tax losses would be abolished, allowing tax losses to be carried forward without time limitation.
- *Tax credit for the hiring of unemployed people:* the tax credit available to employers hiring qualifying registered jobseekers would be extended until December 31, 2029. Subject to certain conditions, eligible employers may benefit, for a maximum period of 12 months, from a tax credit equal to 10 percent of the employee's gross monthly remuneration.

The Bill will now follow the legislative process and may be amended before its final adoption.

For more information on the 2027 Budget Bill, please refer to the [report](#) prepared by KPMG in Luxembourg.

Mauritius

Guide on Qualified Domestic Minimum Top-Up Tax (QDMTT) released

In September 2026, the Mauritius Revenue Authority (MRA) published a guide on the [Qualified Domestic Minimum Top-Up Tax \(QDMTT\)](#). The guide provides an overview of the Mauritian QDMTT regime and includes a series of frequently asked questions (FAQs) and illustrative examples intended to assist taxpayers in understanding the application of the rules.

The guide provides practical guidance on key aspects of the Mauritian QDMTT, including scope, computation of the top-up tax, available exclusions and safe harbours, and related compliance obligations. The guidance also states that the transitional Country-by-Country Reporting Safe Harbour is available for fiscal years ending on or before June 30, 2029, reflecting the extension introduced by the OECD's January 2026 Side-by-Side Package. This position was not expressly reflected in the Mauritian QDMTT Regulations published in August 2026.

The guide also includes numerical examples illustrating the calculation of the jurisdictional effective tax rate and top-up tax liability.

For previous coverage on QDMTT in Mauritius, please refer to [Enews Issue 235](#).

Netherlands

Policy decree on the application of the Minimum Tax Act (Pillar Two)

On September 25, 2026, the Dutch Ministry of Finance [issued a policy decree](#) collating previously published positions from the Dutch Tax Administration's Pillar 2 knowledge group on the application of the Minimum Tax Act 2024.

Key takeaways include:

- Treatment of certain types of entities, including Dutch limited partnerships and comparable legal arrangements that prepare separate financial information used for consolidation purposes
- Identification of excluded entities including government entities and non-profit organizations as well as ownership conditions for entities held by governments, non-profit organizations and other excluded entities.
- Treatment of flow-through entities, including partially transparent entities, reverse hybrid entities and the interaction with the entity-classification rules under Dutch corporate income tax law.
- Permanent establishments, particularly whether passively leased real estate located in another jurisdiction constitutes a permanent establishment for minimum tax purposes.
- Application of the Income Inclusion Rule (IIR) following acquisitions, disposals and intra-group transfers of low-taxed constituent entities during a fiscal year.
- Taxes qualifying as covered taxes, including the treatment of certain taxes applicable in the Caribbean Netherlands and levies relating to the exploitation of natural resources.
- Application of the anti-hybrid arbitrage rules under the transitional Country-by-Country Reporting Safe Harbour, including the treatment of intra-group financing arrangements within a Dutch fiscal unity.
- Application of the QDMTT where a Dutch constituent entity has an incidental reporting period that differs from the fiscal year of the UPE's consolidated financial statements as a result of a merger, liquidation, or incorporation of a group entity.

For more information about the application of Pillar Two in the Netherlands, please refer to [E-News Issue 231](#).

Poland

Windfall tax on fuel companies enacted

On October 1, 2026, the Polish President signed [legislation introducing a temporary windfall profits tax on the sale of liquid fuels](#). The law will enter into force on November 1, 2026, and will apply to extraordinary profits generated between March 1, 2026, and March 31, 2027. The measure is intended to raise additional revenue to finance Poland's fuel price support program.

Key features of the legislation include:

- *Scope*: The tax applies to entities producing liquid fuels (excluding heating oils) and entities engaged in the international trade of liquid fuel under a foreign trading license.
- *Tax base*: The tax is levied on the excess of actual revenues from fuel sales over a calculated benchmark amount. The benchmark is determined by reference to the taxpayer's 2025 fuel sales margin increased by 20 percent, subject to a minimum margin of 2 percent.
- *Tax rate*: The windfall profits tax is imposed at a rate of 60 percent of the calculated excess profit. For taxpayers that do not produce liquid fuels (i.e., solely active in fuel trading activities), the tax is capped at 50 percent of the relevant business income or net profit attributable to the tax year.

For more information on the measure, please refer to the [report](#) prepared by KPMG in Poland.



Local court decisions

Key Insights

- Dutch Supreme Court clarifies application of reversed and increased burden of proof
- Dutch Supreme Court: cash bonus paid for the cancellation of conditionally granted share rights is tax-deductible

Netherlands

Dutch Supreme Court clarifies application of reversed and increased burden of proof

On October 9, 2026, the [Dutch Supreme Court issued its judgment](#) in case ECLI:NL:HR:2026:1484, clarifying the consequences of being deemed not to have filed the required tax return under Dutch tax law⁵. The case concerned whether the reversal and increase of the burden of proof, which may apply where a filed tax return contains substantive defects resulting in a significant understatement of tax, should be limited to the disputed items giving rise to those defects or extend to the tax assessment as a whole.

Under Dutch tax law, the burden of proof may be reversed and increased if a taxpayer has failed to file the required tax return. According to settled case law, this may occur where the tax reported is significantly lower than the amount actually due, both in relative and absolute terms, and the taxpayer knew or should have known of that discrepancy when filing the return. In such circumstances, the taxpayer must demonstrate, to a particularly high evidential standard, that the tax assessment is incorrect.

The Court held that where a taxpayer has failed to file the required tax return due to substantive defects, the heightened burden of proof applies to the assessment as a whole. In reaching its decision, the Court rejected the view that the consequences should be limited to the specific items affected by the error and found no basis for such a limitation in the legislation.

At the same time, the Court confirmed that a more limited application remains possible in cases involving failures to answer questions in a tax return, or the provision of incorrect answers to such questions. The judgment also reiterates that the reversal and increase of the burden of proof only applies where the underreported tax is significant, both in relative and absolute terms, and the taxpayer knew or should have known of the discrepancy when filing the return.

⁵ This situation arises where a tax return is submitted but contains such significant inaccuracies or omissions that it is treated as if no return had been filed.

Cash bonus paid for the cancellation of conditionally granted share rights is tax-deductible

On October 9, 2026, the [Dutch Supreme Court issued a judgment](#) in proceedings concerning the interpretation of the deduction limitation for employee stock options.

Under Article 10(1)(j) of the Dutch Corporate Income Tax Act, costs relating to the issuance or grant of own shares, options on own shares, profit-sharing certificates or comparable rights are not deductible. The provision is commonly referred to as the 'deduction limitation for employee stock options'. However, its scope is broader, as it not only to rights granted to employees but also to rights granted to third parties.

In the case at hand, the foreign parent company of a Dutch taxpayer granted five employees of the Dutch taxpayer conditional rights to acquire shares in the parent company. The rights were subject to four years of continued employment and the fulfilment of certain performance conditions. Following the sale of a majority stake in the parent company, the employees were offered a cash bonus in exchange for renouncing their conditional share rights. The bonus was not subject to any employment or performance-related conditions. All five employees accepted the offer, with the result that the share rights never became unconditional and no shares were ever issued. The Dutch taxpayer sought to recognize a tax-deductible provision for the future cash bonus payments. Nevertheless, the Dutch tax authorities denied the deduction, arguing that the deduction limitation for employee stock options applied.

The Supreme Court disagreed and held that, in the circumstances of the case, there had been no grant of shares or share option rights within the meaning of the Dutch Tax Code. Consequently, the deduction limitation did not apply, and the taxpayer was entitled to recognize a provision in 2015 for the future cash bonus payments.

For more information, please refer to a [tax alert prepared by KPMG in the Netherlands](#).

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.

In this webcast, KPMG specialists shared insights on the tax initiatives expected to have the greatest impact on the financial services sector.

The most recent instalment of this series was held on October 7, 2026, and covered:

- 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.

Please visit the [event page](#) to watch a replay of the session.

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