



E-News from KPMG's EU Tax Centre



[Latest CJEU, EFTA and ECHR](#)

[EU Institutions](#)

[OECD](#)

[Local Law and Regulations](#)

[Local Courts](#)

E-News from the EU Tax Centre

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KPMG's EU Tax Centre helps you understand the complexities of EU tax law and how this can impact your business, enabling you to better predict how rules will develop and how to leverage opportunities and minimize risks arising from EU tax law.

E-News provides you with EU tax news that is current and relevant to your business. KPMG's EU Tax Centre compiles a regular update of EU tax developments that can have both a domestic and a cross-border impact. CJEU cases can have implications for your country.

Latest CJEU, EFTA and ECHR

[CJEU decision on the French Supreme Court's case law in the Accor case](#)

On October 4, 2018, the Court of Justice of the European Union (CJEU) rendered its decision in the Commission vs. France case (C-416/17) regarding the compatibility with EU law of the French Supreme Court's case law interpreting the CJEU decision in the Accor case (C 310/09). The Court ruled that such case law is contrary to the fundamental freedoms and further noted that France failed to fulfil its obligations under the EU treaties, as the French Supreme Court did not refer the matter to the CJEU.

For more information, please refer to [Euro Tax Flash 384](#).

AG Opinion in Wächtler Case on implementation of exit taxation rules in Germany

On September 26, 2018, Advocate General (AG) Wathelet of the CJEU rendered his Opinion in the Wächtler Case (C-581/17). The case concerns the German exit tax rules and whether these are compatible with the EU-Switzerland Agreement on the free movement of persons. Under the exit tax rules unrealized appreciations in the value of company rights are taxed (without deferral) when a German national transfers his residence to Switzerland. The AG concluded that the German legislation constitutes an infringement of the EU-Switzerland agreement.



EU Institutions

COUNCIL OF THE EUROPEAN UNION

Fourth revision of the EU list of non-cooperative jurisdictions for tax purposes

On October 2, 2018, the Economic and Financial Affairs Council of the EU (ECOFIN) agreed to remove Palau from the EU blacklist of non-cooperative jurisdictions, first published on December 5, 2017, thus reducing to six the number of remaining blacklisted jurisdictions. The EU Finance Ministers also agreed to remove Peru and Liechtenstein from the grey list.

For more information, please refer to [Euro Tax Flash 383](#).

EUROPEAN COMMISSION

Fair Taxation Seminars 2018

This year the European Commission organized five seminars on fair taxation: in Latvia (April 19), Austria (May 17), France (June 8), Ireland (September 19) and Italy (September 26). The seminars were aimed at facilitating the exchange of knowledge among participants in order to reach a better understanding of both national and Union-level challenges and opportunities for fairer taxation policies.

For more information on the meetings and the meeting reports, please refer to the [Fair Taxation Seminars' 2018 webpage](#).

EUROPEAN PARLIAMENT

TAX3 Committee hearing on impact of Brexit and EU-third country agreements in the fight against tax evasion

On September 26, 2018, the TAX3 Special Committee held a hearing on how the EU has tackled tax evasion and avoidance in its relations with third countries and addressed future relations with the UK. During the first panel discussion on Brexit, it was recognized that taxation is bound to be included in any future Brexit deal and the impact of Brexit on tax matters was discussed. The second panel discussion focused on the lessons to be taken from the EU trade agreements and the EU's tax policies to better understand the impact of bilateral tax treaties on developing countries.

For more information, please refer to the [verbatim](#) of this public hearing.

[TAX3 Committee hearing on EU-Swiss relations in the tax and anti-money laundering areas](#)

On October 1, 2018, the TAX3 Special Committee held a hearing to discuss the various aspects of the relations between Switzerland and the EU in tax matters, such as administrative cooperation, the obligations on automatic exchange of information and the fight against harmful tax competition. During the presentations, certain aspects of Swiss legislation were analyzed, followed by recommendations. In closing the hearing, the Chair of the TAX3 Committee underlined that the Committee will follow-up on the various aspects outlined by the invited experts.

For more information, please refer to the [verbatim](#) of this public hearing.

[ECON Committee discusses reports on taxation of the digital economy](#)

On October 9, 2018, the ECON Committee of the European Parliament discussed the two draft reports prepared by the rapporteurs on the European Commission's proposals on taxation of a significant digital presence and on a digital services tax (DST). Following the discussions, further amendments to the draft reports are expected before the European Parliament votes on its final position in January 2019.



OECD

[Global mutual agreement procedure \(MAP\) statistics for 2017 released](#)

On October 10, 2018, the OECD released the global mutual agreement procedure (MAP) statistics for 2017. Members of the Inclusive Framework on BEPS have committed to report their MAP statistics pursuant to an agreed reporting framework and to publish them on a yearly basis. The 2017 MAP statistics are now available covering 85 jurisdictions and almost all MAP cases worldwide.

For more information, please refer to [KPMG's TaxNewsFlash](#).

[MLI recent developments](#)

On October 3, 2018, the cabinet of Qatar authorized the accession to the MLI. On October 1, 2018, the MLI entered into force in respect of New Zealand, Serbia, Sweden and the United Kingdom. On September 26, 2018 Japan, Australia and France became the 13th, 14th and 15th jurisdictions to submit their instruments for ratification. The convention will subsequently go into effect for Japan, Australia and France on January 1, 2019. On September 25, 2018, the Georgian Foreign Relations Committee approved the MLI.

[New jurisdictions join inclusive framework for implementing measures against BEPS](#)

Aruba and the Dominican Republic have recently become the 118th and 119th members to join the BEPS Inclusive Framework.

[OECD holds a joint workshop on the experience of country-by-country reporting](#)

On September 27, 2018 tax officials from 21 jurisdictions met in China to share experiences from the first year of country-by-country reporting and explore how information can be used most effectively in the tax risk assessment of MNE groups.

For more information, please refer to [OECD's announcement](#).



Local Law and Regulations

Andorra

[Corporate Tax Regime incorporates BEPS standards](#)

The Andorran government has approved Law 6/2018 implementing BEPS measures into its Corporate Tax System. The amendments include adoption of country-by-country reporting, restriction of the patent box regime, abolition of bonuses for certain corporate activities and modification of the special regime for foreign subsidiaries holdings.

For more information, please refer to [KPMG's TaxNewsFlash](#).

Belgium

[Draft bill on the avoidance of withholding tax adopted](#)

On September 28, 2018, the Council of Ministers approved a draft bill which amends the Corporate Income Tax Code in regard to combating withholding tax avoidance and evasion in case of an unjustified refund or exemption.

Czech Republic

[Bill to implement EU anti-tax avoidance directives into domestic law](#)

Provisions to transpose EU Directive 2016/1164 (ATAD1) and EU Directive 2017/952 (ATAD 2) into domestic law are pending before the Czech Parliament. The draft bill introduces interest limitation rules in addition to existing thin capitalization rules, controlled foreign company (CFC) rules, a general anti-avoidance rule (GAAR) and hybrid mismatches rules in accordance with ATAD1 and ATAD2. If enacted, the new rules will apply as of January 1, 2019.

Denmark

[Bill aiming to prevent tax avoidance using trusts presented to Parliament](#)

On October 4, 2018, the Ministry of Finance presented a bill to Parliament that would tighten tax legislation to prevent tax avoidance via trust schemes. The proposal aims to clarify the legal basis for tax trusts managed from Denmark. Other matters covered in the proposal

include the application of the arm's length principle to transactions involving a trust, hybrid mismatches resulting from differences in legal qualifications of trusts, the taxing of the transfer of assets into trusts by Danish taxpayers, and the introduction of a tax liability for trusts emigrating from Denmark.

[Bill to implement EU anti-tax avoidance directives submitted to the Parliament](#)

On October 3, 2018, a bill to transpose EU Directive 2016/1164 (ATAD 1) and EU Directive 2017/952 (ATAD 2) into domestic law was presented to Parliament. The bill introduces interest limitation rules, controlled foreign company (CFC) rules, the general anti-avoidance rule (GAAR), exit taxation in accordance with ATAD 1 and hybrid mismatches rules in accordance with ATAD 2. If adopted, the new rules will apply as of January 1, 2019, with the exception of the exit taxation and hybrid mismatches rules which will apply from January 1, 2020.

Estonia

[Bill to implement EU anti-tax avoidance directives into domestic law](#)

On September 26, 2018, a bill transposing EU Directive 2016/1164 (ATAD1) into domestic law was approved by the Government. The draft bill introduces interest limitation rules, controlled foreign company (CFC) rules, a general anti-avoidance rule (GAAR) and exit taxation rules in accordance with ATAD1. If adopted by Parliament, the new rules will apply as of January 1, 2019. The Government plans to implement hybrid mismatches rule in accordance with EU Directive 2017/952 (ATAD 2) as of January 1, 2020.

Finland

[Bill to implement ATAD interest limitation rules presented to Parliament](#)

On September 27, 2018, the Finnish government presented a bill to Parliament to amend the interest deduction limitation rules pursuant to implementation of the ATAD. If the law is enacted, the new interest deduction limitation rules would be effective as of January 1, 2019.

For more information, please refer to [KPMG's TaxNewsFlash](#).

France

[Instrument of ratification of the MLI deposited](#)

On September 26, 2018, France deposited its instrument of ratification for the MLI. The convention will take effect for France on January 1, 2019.

[Guidelines on the special tax regime for mergers released](#)

On October 3, 2018, the French tax authorities issued guidelines on the special tax regime for mergers, divisions and transfers of assets, which includes the requirements for benefiting from the special tax regime, details on the filing obligation concerning cross-border reorganizations, the new anti-abuse rule, and the associated ruling procedure.

Greece

[Draft bill implementing EU Directive 2016/2258 \(DAC5\) adopted](#)

On October 4, 2018, a bill implementing EU Directive 2016/2258 (DAC5) was adopted by Parliament. The law, which amends the Tax Procedural Code in order to grant tax authorities access to anti-money laundering information, will apply retroactively as of January 1, 2018.

Ireland

[Tax provisions in budget 2019](#)

On October 9, 2018, Ireland's government announced the details of the budget 2019 and the proposed tax measures that would affect certain businesses and individuals. The tax measures affecting businesses, include:

- a "strong reaffirmation" of the 12.5% corporation tax rate;
- controlled foreign corporation rules to be effective from January 1, 2019;
- exit tax at a rate of 12.5% to apply from October 10, 2018, for companies ceasing to be Irish tax residents

For more information, please refer to [KPMG's TaxNewsFlash](#).

[Guidance on dividend withholding tax released](#)

On October 2, 2018, the Irish tax authorities published guidance on the implementation of the dividend withholding tax.

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

Italy

[Bill to transpose EU anti-tax avoidance directives into domestic law](#)

A bill to transpose the EU directives on anti-tax avoidance (ATAD) into Italian tax law is pending before the Italian parliament. The bill could still be amended by Parliament before it is adopted (expected by the end of 2018).

For more information, please refer to [KPMG's TaxNewsFlash](#).

Jersey

[Draft budget for 2019 unveiled](#)

On October 9, 2018, the Ministry of Treasury and Resources presented the Draft Budget 2019 that contains tax provisions such as the introduction of an economic substance test for companies.

For more information please refer to the [Draft Budget](#).

Norway

[State Budget 2019 released](#)

On October 8, 2018, the State Budget 2019 was released. It contains a proposal to reduce the statutory corporate tax rate from 23% to 22%, effective from January 1, 2019. In addition, the government stated that the Ministry of Finance will release, for public consultation during 2018, a "white paper" on the introduction of a withholding tax on interest and royalty payments.

For more information, please refer to [KPMG's TaxNewsFlash](#).

Poland

[Bills for amending corporate income tax law presented to Parliament](#)

On September 26, 2018, the Government presented a number of bills to Parliament that would affect Poland's corporate income tax law and would transpose certain EU law measures (specifically EU directives about anti-tax avoidance and concerning the automatic exchange of financial account information) into Polish law.

For more information, please refer to [KPMG's TaxNewsFlash](#).

Serbia

On October 1, 2018, the MLI entered into force for Serbia.

Slovakia

[Government approves draft bill to implement EU Tax Dispute Resolution Directive](#)

On September 26, 2018, the Government approved the draft bill implementing the EU Tax Dispute Resolution Directive. If adopted, the law will take effect as of July 1, 2019, and will apply to tax disputes with both EU and third states with which Slovakia has concluded tax treaties.

Slovenia

[Publication of bills implementing GAAR and CFC rules into domestic law](#)

On September 28, 2018, the Government presented a bill that would align domestic rules with EU Directive 2016/1164 (ATAD1). The bill will implement the GAAR and CFC legislation compatible with ATAD. If enacted, the new rules will apply as of January 1, 2019.

Sweden

On October 1, 2018, the MLI entered into force for Sweden.

Switzerland

[Update on tax reform legislation](#)

On September 28, 2018, the Federal Act on Tax Reform and AHV Financing legislation was adopted by Parliament. This legislation is subject to an optional referendum with a key date in mid-January 2019. If a referendum is called, a public vote could be held on May 19, 2019.

For more information, please refer to [KPMG's TaxNewsFlash](#).

[Automatic exchange of information announced](#)

On October 5, 2018, the Swiss Tax Authority confirmed that it had exchanged financial account information for the first time within the scope of the automatic exchange of information (AEOI). According to this initial exchange, Switzerland will be exchanging information with EU Member States as well as nine other countries and territories in 2018.

United Kingdom

On October 1, 2018, the MLI entered into force for the United Kingdom.



Local Courts

Belgium

[Court of appeal decision on the application of the exemption with progression method](#)

On June 28, 2017, the Liège Court of Appeal rendered its decision in a case regarding the application of the exemption with progression method to rental income from immovable property as provided for in the Double Tax Treaty between Belgium and Luxembourg. The Court ruled that such a method is not incompatible with the applicable treaty, nor with the EU free movement of capital or freedom of movement for workers in the EU.

The Netherlands

[The Dutch Supreme Court's AG renders an Opinion in the Köln Aktienfonds Deka and X cases](#)

On September 29, 2018, the Advocate General to the Dutch Supreme Court (AG Wattel) rendered his Opinion in the Köln Aktienfonds Deka (C-156/17) and X (C-157/17) cases pending before the CJEU. The AG concluded that there is no need to continue with the cases before the CJEU, in light of the latter's decision in the Fidelity Funds case (C-480/16) and thus recommended that the Supreme Court withdraw its request for a preliminary ruling.

Portugal

[Supreme Administrative Court decision on withholding tax on dividends](#)

On September 12, 2018, the Supreme Administrative Court rendered its decision in a case concerning the compatibility with EU law of the withholding tax levied on dividends paid to a company resident in the Netherlands. The Court ruled that the withholding tax on dividends is

not contrary to the EU free movement of capital.



Robert van der Jagt
Chairman, KPMG's EU Tax Centre and
Partner,
Meijburg & Co

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KPMG's EU Tax Centre, Laan van Langerhuize 9, 1186 DS Amstelveen, Netherlands

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