



E-News from KPMG's EU Tax Centre



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E-News from the EU Tax Centre

Issue 105 – August 23, 2019

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 may develop and how to leverage opportunities and reduce 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.

[Infringement Procedures & Referrals to CJEU](#)

[Referrals to the CJEU](#)

France

On May 24, 2019, reference was made to the Court of Justice of the European Union (CJEU) by the French Supreme Court in the case *Société Générale* (C-403/19). The referring court requested clarifications regarding the compatibility with the free movement of capital of the French tax credit system.

Luxembourg

On May 31, 2019, reference was made to the CJEU by the Luxembourgish Court of Appeal in the case L (Case C- 437/19). The referring court requested clarifications regarding the notion of “fishing expedition” in the Directive on Administrative Cooperation (2011/16).

Portugal

On May 17, 2019, reference was made to the CJEU by a Portuguese court in the case MK (C-388/19). The referring court requested clarifications regarding the compatibility with EU law of the Portuguese tax treatment of capital gains realized by a non-resident from the sale of immovable property located in Portugal.



State aid

Publication of the Commission decision on the UK CFC Group Financing Exemption scheme

On August 20, 2019, the Commission decision on the state aid investigation into the UK Group Financing Exemption scheme was published in the Official Journal. The beneficiaries of the aid have two months to appeal the decision.

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



OECD

Stage 2 monitoring reports for BEPS Action 14 published

On August 13, 2019, the stage two peer review monitoring reports with regard to BEPS Action 14 on improving tax dispute resolution mechanisms were published for Belgium, Canada, the Netherlands, Switzerland, the United Kingdom, and the United States. All six jurisdictions introduced internal guidance for bilateral consultations, reduced the time needed to close cases, and utilized the Multilateral Instrument to bring the treaties to the standard.

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

Albania and Namibia join the Inclusive Framework on BEPS

On August 8 and 9, 2019, Albania and Namibia joined the Inclusive Framework on BEPS, becoming the 133rd and 134th jurisdictions to join the collaboration efforts to end tax avoidance.

Honduras launches accession process to join the Global Forum on Transparency and Exchange of Information

In accordance with a press release issued on August 9, 2019 by the Honduran Revenue Administration Service (SAR), the process of accession into the Global Forum on Transparency and Exchange of Information for Tax Purposes has been opened.

[Multilateral Convention developments](#)

On August 8, 2019, Ukraine deposited its instrument of ratification for the Multilateral Convention (2016) (MLI). The MLI will enter into force on December, 1 2019.



Local Law and Regulations

Bulgaria

[Introduction of mandatory transfer pricing documentation and bill to implement EU Tax Dispute Resolution Directive](#)

On August 13, 2019, amendments to the Tax and Social Security Procedure Code were published, after adoption by the parliament on July 31, 2019. The amendments introduce mandatory transfer pricing documentation requirements and implement the EU Tax Dispute Resolution Directive (2017/1852).

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

[Amendments to Corporate Income Tax Act published](#)

On August 13, 2019, amendments to the Bulgarian Corporate Income Tax Act (CITA) were published. The amendments provide that the Controlled Foreign Corporation (CFC) rules will not be applicable to taxable persons subject to alternative taxes and CFCs that are subject to an alternative form of taxation in the countries of which they are tax residents. The amendments apply as of August 13, 2019.

Cayman Islands

[Issuance of economic substance update](#)

On July 26, 2019, the Ministry of Financial Services and Home Affairs issued an update on economic substance. This follows the legislative assessment by the OECD forum on harmful tax practices which concluded the legislative framework was not harmful. Further, amendments aimed at introducing fully-equipped monitoring mechanisms are expected in August 2019.

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

Czech Republic

[Bill for the implementation of DAC6](#)

On August 12, 2019, it was announced that a bill implementing Council Directive (EU) 2018/822 on the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC6) was sent to parliament. If adopted, the bill will come into force on July 1, 2020.

Denmark

[Proposal on treatment of hybrid instruments sent for comments](#)

On August 9, 2019, the Ministry of Taxation sent a law proposal abolishing preferential interest deduction rules for hybrid instruments that are part of Tier 1 capital of financial institutions for comments. Interested parties may submit their comments by September 5, 2019. If passed, the law is expected to enter into force on July 1, 2020.

Hungary

[EU Tax Dispute Resolution Directive transposed into domestic law](#)

On August 7, 2019, it was announced that Hungary transposed EU Tax Dispute Resolution Directive (2017/1852) into domestic law. The law was gazetted on July 23, 2019 and entered into force on July 24, 2019.

[DAC6 transposed into domestic law](#)

On August 7, 2019, it was announced that Hungary transposed EU Directive 2018/822 on the mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements into domestic law. The Law was gazetted on July 23, 2019 and entered into force on July 24, 2019.

Lithuania

[Amendments to the Law transposing DAC6 adopted by parliament](#)

On July 16, 2019, amendments to the Law transposing EU Directive 2018/822 on the mandatory automatic exchange of information in the field of taxation (DAC6) were adopted by the parliament. The amendments will enter into force on July 1, 2020.

Luxembourg

[Bill implementing ATAD2 sent to parliament](#)

On August 8, 2019, bill No. 7466 implementing Council Directive 2017/952 regarding hybrid mismatches with third countries (ATAD2) was sent to the parliament. The directive's provisions would come into force on January 1, 2020.

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

[Draft bill implementing Fifth Anti-money Laundering Directive submitted to parliament](#)

On August 8, 2019, a draft bill implementing EU Directive (2018/843) on the prevention of the use of the financial system for the purposes of money laundering or terrorist financing, was submitted to the parliament. The draft adds several measures with respect to beneficial ownership.

[Draft bill implementing DAC6 submitted to parliament](#)

On August 8, 2019, a draft bill implementing Directive 2018/822 on the mandatory automatic exchange of information in the field of taxation (DAC6) was submitted to parliament.

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

Malta

[Patent box regime deduction rules published](#)

On August 13, 2019, the 2019 Patent Box Regime (Deduction) Rules were published. The deduction applies to income derived from qualifying Intellectual Property (IP) with effect from January 1, 2019. Legislation sets out the conditions for the application of the deduction as well as the method of computing the percentage of qualifying income.

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

Norway

[Proposal to amend group contribution rules sent for comments](#)

On August 13, 2019, the Ministry of Finance launched a consultation on an amendment which would allow for a tax deductible group contribution by a Norwegian parent company to its subsidiary in another EEA state in case of final losses. The changes reflect the judgment of the EFTA Court in Yara International v. the Norwegian State (Case E-15/16). The consultation period is open until November 13, 2019.

Romania

[Publication of ordinance implementing the EU Tax Dispute Resolution Directive](#)

On July 26, 2019, a draft governance ordinance for the implementation of the EU Tax Dispute Resolution Directive (2017/1852) was published by the Ministry of Finance. The regulations apply to complaints submitted from July 1, 2019, in relation to disputes arising from the application of tax treaties related to income or capital earned in a tax year commencing on or after January 1, 2018.



Local Courts

Belgium

[Belgian investors entitled to FTC on dividends from French companies under treaty between Belgium and France](#)

On August 9, 2019, it was reported that the Court of Appeal Brussels confirmed the Belgian Supreme Court's decision in case J.H.L. and M.W. v. the Belgian State (No. F.15.0102.N). The Court concluded that, under the applicable Double Tax Treaty between France and Belgium, Belgium has an obligation to grant a credit for French withholding tax on dividends received by Belgian investors from French companies.

Denmark

[Loans requalified as taxable income](#)

On July 4, 2019, the High Court of Western Denmark upheld the decision of the lower court in case SKM2019.388.VLR. The Court ruled that the money transfers the individual in question received from three foreign entities were not loans and should be characterized as taxable income. The Court considered in particular the collateral provided for the loan, as well as the facts that the interest was not at arm's length and the loan had not been repaid by the set date.

Netherlands

[AG opinion on dividend tax refund for Austrian private foundation](#)

On June 26, 2019, Advocate General (AG) Wattel of the Dutch Supreme Court issued his opinion regarding the claim of an Austrian private foundation for a refund of Dutch dividend withholding tax. The AG concluded that the taxpayer's claims that it should be regarded as the recipient of the dividends are unfounded.



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