Euro Tax Flash from KPMG's EU Tax Centre

Financial Transaction Tax

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EU Blacklist Update

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ECOFIN discusses Financial Transaction Tax and removes Dominica from the EU blacklist

ECOFIN – Financial Transaction Tax –France – Germany – Enhanced Cooperation - EU Blacklist

In a meeting held on June 14, 2019, the Economic and Financial Affairs Council of the EU (ECOFIN) received an update, from the ten Member States participating in the so-called enhanced cooperation procedure, on the latest developments regarding the financial transaction tax (FTT). The German Finance Minister underlined that an agreement on a French modelled FTT is now highly likely and should be finalized in the next couple of weeks.

The ECOFIN also approved, without discussion, amendments to the EU blacklist of uncooperative jurisdictions for tax purposes. Dominica was removed from the blacklist, which now includes eleven jurisdictions.

Financial Transaction Tax

Taxation of the financial sector has been under discussion at the European level since 2011, when the European Commission first proposed implementing an FTT at the EU level. After initial discussions, it became apparent that there was not unanimous support amongst EU Member States for such a tax. As such, in January 2013, eleven Member States were authorized to move forward under the enhanced cooperation procedure. Subject to compliance with certain procedural and legal requirements, enhanced cooperation provides a mechanism for a limited number of Member States (at least nine) to adopt measures that only apply to participating Member States. On February 14, 2013, the EU Commission issued a revised proposal for a Directive to introduce a common FTT in the eleven Member States concerned (Austria, Belgium, Estonia, France, Germany, Greece, Italy, Portugal, Slovenia, Slovakia and

Spain). The proposal was largely based on the original proposal, but with adaptations to reflect the fact that not all EU Member States would apply the tax. In December 2015, Estonia decided to leave the group, while the ten remaining Member States issued a statement announcing the progress that had been made towards reaching a general agreement.

As negotiations on the FTT continued to stall, in June 2018, France and Germany decided to introduce a new impetus to the negotiations and presented a joint position paper in January 2019. The new FTT would be based on the French model and apply to a limited number of transactions, that mainly involve the acquisition of shares issued by listed EU companies with a market capitalization above EUR 1 billion, at a reduced rate of 0.2%. Initial public offerings, market making and intraday trading would not be taxable under the revised proposal.

Since March 2019, further progress has been made towards a compromise based on the French model. In particular, the participating countries now agree that a mutualization mechanism is needed, meaning the revenue generated will be allocated between the Member States wishing to introduce the tax. According to German Finance Minister Scholz during today's meeting, such a mechanism would encourage smaller economies, for which the FTT would only generate limited revenues, to participate in the initiative.

While Scholz further underlined that work at the technical level is still needed before a legal text can be presented, he insisted that an agreement is now highly likely and hopes a first proposal will be finalized in the coming weeks. The text would then be submitted to the ECOFIN for discussion in an inclusive framework between all Member States.

EU Tax Centre Comment

German Finance Minister Scholz confirmed during today's press conference that all ten participating countries have now reiterated their support for a common FTT based on the French model, despite governmental changes in several jurisdictions. The objective is to finalize a legislative text by autumn 2019, at the latest, with a view to implement the tax in Germany as soon as 2021. It remains to be seen whether a final compromise can effectively be reached, and how the other Member States will react to the proposal. Austria in particular previously expressed some skepticism towards the French-German proposal due to its narrower scope, while Belgium insisted that there should be an exemption for pension funds and insurance.

EU Blacklist Update

During their meeting, the EU Finance ministers also approved, without discussion, amendments to the EU blacklist of uncooperative jurisdictions for tax purposes.

The EU blacklist, first adopted on December 5, 2017, is part of the EU's effort to clamp down on tax avoidance and harmful tax practices. Out of the ninety-two jurisdictions initially chosen for screening, seventeen jurisdictions were placed on the blacklist in December 2017. Over the course of 2018, most of the countries and territories on the blacklist engaged in constructive dialogue with the EU and made commitments to comply with the EU's criteria. As such, by the end of 2018, only five jurisdictions remained listed. Most of the commitments were given a deadline of the end of 2018 and their enactment into national law was carefully monitored at a technical level by the Code of Conduct Group on business taxation until the beginning of 2019. The monitoring process revealed that ten jurisdictions either failed to deliver on their

commitments by the agreed deadline or made no commitment to address the EU's concerns. Consequently, Aruba, Barbados, Belize, Bermuda, Dominica, Fiji, the Marshall Islands, Oman, the United Arab Emirates and Vanuatu were added to the blacklist on March 19, 2019. On May 17, 2019, Bermuda, Aruba, and Barbados were further removed from the blacklist.

During the ECOFIN meeting on June 14, 2019, the Finance Ministers made the decision to remove Dominica from the blacklist, as it completed the necessary steps to sign and ratify the OECD multilateral convention on mutual administrative assistance.

The blacklist now includes eleven jurisdictions: American Samoa, Belize, Fiji, Guam, the Marshall Islands, Oman, Samoa, Trinidad and Tobago, the United Arab Emirates, the US Virgin Islands, and Vanuatu.

EU Tax Centre Comment

The work on the EU blacklist is a dynamic process that is regularly reviewed and updated. Additionally, the evolving deadlines will be closely monitored to ensure jurisdictions deliver on their commitments. Jurisdictions will only be removed from the list once they have engaged in dialogue with the EU and addressed EU concerns.

Should you have any queries, please do not hesitate to contact KPMG's EU Tax Centre, or, as appropriate, your local KPMG tax advisor.

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