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International Tax Watch: business Tax for the coming years

Posted 14.09.2021

- **EU Commission's Anti-Tax Avoidance Agenda**

On 18 May 2021, the European Commission ("**Commission**") of the European Union ("**EU**") published a communication on "Business Taxation for the 21st century". The Commission sets out both a long-term vision to provide an EU tax system that will be more globalised and more digital to fit the new economic environment, and a tax agenda for the next two years, with targeted measures that promote productive investment and entrepreneurship and ensure effective taxation.

1. 1. For the long-term agenda: the BEFIT

The flagship initiative of the Commission is the "Business in Europe: Framework for Income Taxation" ("**BEFIT**") which will replace the Commission's 2011 proposal for a Common Consolidated Corporate Tax Base (CCCTB). The BEFIT will provide a single corporate tax rulebook for the EU, based on a formulary apportionment, which would build on the reallocation of profits under OECD's Pillar 1 and a common tax base determined following OECD's Pillar 2 rules. Details on the BEFIT will only come in 2023.

1. 2. Agenda for the next two years

This agenda builds on the July 2020 EU Tax Action Plan and includes:

- A legislative proposal by the end of the year amending ATAD to address shell companies in the EU ("**ATAD3**") which would encompass actions such as requiring companies to report to the tax administration the necessary information to assess whether they have substantial presence and real economic activity. If not, tax administrations would deny tax benefits linked to the existence or the use of abusive shell companies. In relation thereto, on 20 May 2021, the

Commission already adopted an inception impact assessment roadmap that aims to provide an EU legislative measure which defines substance requirements for tax purposes to be met by entities within the EU. This roadmap was opened for feedback until 17 June 2021. The results of the impact assessment will help inform the Commission's decision. Also, a public consultation was launched in June and has been closed on 27 August 2021. The adoption of the legislative proposal is planned for Q1 2022.

- A legislative proposal by 2022, requiring certain large companies operating in the EU to publish their effective tax rates based on the methodology under discussion in the OECD's Pillar 2.
- A legislative proposal to address the debt-equity bias in corporate taxation, via an allowance system for equity (the Debt Equity Bias Reduction Allowance - "DEBRA") by Q1 2022 which would tackle excessive accumulation of debts preventing the EU as a whole from possible negative spill-over effects should some countries face high waves of insolvency. As for the proposed measures for shell companies, the Commission adopted an inception impact assessment roadmap which is open for feedback until 12 July 2021 and a public consultation will also be launched soon.

Furthermore, in order to better support businesses during the Covid 19 pandemic recovery, the Commission has also adopted a non-binding Recommendation on the domestic treatment of losses that prompts Member States to allow up to €3m of loss carry-back for businesses to at least the previous fiscal year.

Finally, in addition to the above corporate tax reforms, the Commission will swiftly propose measures to implement OECD's Pillar 1 (partial re-allocation of taxing rights) and Pillar 2 (minimum effective taxation of multinationals' profits) once a consensus-based global agreement will be reached internationally.

- **G7 tax reform**

Finance Ministers of the 7 richest nations (i.e. the US, the UK, France, Germany, Canada, Italy and Japan) so called "**G7**", reached a landmark global tax agreement on 5 June 2021 to tackle tax challenges that arise from the global digital economy and multinationals leading to:

- the creation of a new taxing right where the largest and most profitable multinationals will pay their fair share of tax in the countries in which they operate, using a formulaic approach; and
- A global minimum rate that ensures that large multinational businesses pay an effective tax rate of at least 15% in each country they operate.

Key details of the agreement, such as in-scope companies and how the tax revenue would be distributed, are yet to be thrashed out in the larger G20 during their 10-11 July 2021 meeting.

For any further information please contact us or visit our website at **www.elvingerhoss.lu**.

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