16 July 2020

Global Tax Alert

European Commission adopts package for fair and simple taxation

Executive summary

On 15 July 2020, the European Commission (the Commission) adopted a package for fair and simple taxation (the tax package). The tax package includes a set of new initiatives to ensure European Union (EU) tax policy supports Europe's recovery from the COVID-19 crisis and long-term sustainable growth. The tax package contains three separate but complementary initiatives:

- Action Plan for fair and simple taxation supporting the recovery
- Legislative proposal in the form of a Revision of the Directive on administrative cooperation (DAC7)
- Communication on Tax Good Governance in the EU and beyond

According to the press release, the tax package is the first part of a comprehensive and ambitious EU tax agenda for the coming years. The Commission will also work on a communication presenting a new approach to business taxation for the 21st century, to address the challenges of the digital economy and ensure all multinationals pay a minimum level of tax. This communication is expected before the end of the year. It will also come with proposals to ensure that taxation supports the EU's objective of reaching climate neutrality by 2050.

Building a better working world

Detailed discussion

The tax package, as presented by the Commission on 15 July 2020, includes measures intended to reinforce the fight against tax abuse and to help tax administrations keep pace with a constantly evolving economy, while also reflecting the ambition to ease administrative burdens for citizens and companies. In addition it aims to ensure improved cooperation with non-EU countries, and to strengthen the EU's support to developing countries.

The tax package is part of a more comprehensive tax agenda and does not cover the issues related to digital taxation or minimum effective taxation. The Commission will present a dedicated action plan on business taxation scheduled for the end of the year, which will take stock of the discussions at the Organisation for Economic Co-operation and Development (OECD) on these issues and will also set out a roadmap for corporate taxation in the EU that is fit to meet the challenges of the 21st century.

The tax package consists of three elements:

1. Action Plan for fair and simple taxation supporting the recovery

The tax package includes an Action Plan with 25 distinct actions that the Commission will take between now and 2024 with the aim to make taxation fairer, simpler and more adapted to modern technologies. The Action Plan seeks to simplify the life for honest taxpayers and will also help Member States to harness the potential of data and new technologies, to better fight tax fraud, improve compliance and reduce administrative burdens.

The 25 distinct actions are included in the annex of the Action Plan and fall within the following broad categories:

- Effective and efficient tax registration (simplifying registration for taxpayers; two actions)
- Efficient tax reporting (simplifying reporting from business and ensuring accuracy of reported information; three actions)
- Payment of taxes due (increasing efficiency of tax payment procedures in the EU; three actions)
- Verification, monitoring and administrative cooperation (streamlining verification procedures and improving controls targeting; six actions)
- Dispute prevention and resolution (avoiding disputes or resolving them as efficiently as possible; two actions)
- Simplify EU tax rules for more competitiveness in the Single Market (simplifying the life of taxpayers operating in the Single Market by simplifying and updating existing legislation in certain areas; nine actions)

2. Revision of the Directive on administrative cooperation (DAC7)

The second element of the tax package is a legislative proposal to revise the Directive on Administrative Cooperation (DAC). The proposal introduces an automatic exchange of information between Member States' tax administrations for income/revenues generated by sellers on digital platforms. Through this revision, tax administrations will collect information that would help them to verify whether those who earn money through digital platforms pay their appropriate share of taxes.

The activities that are reportable under the proposed rules include the rental of immovable property, the provision of personal services, the sale of goods, the rental of any mode of transport, and investment and lending in the context of crowdfunding. The information, as collected and verified, should be reported within one month following the end of the reportable period in which the seller is identified as a reportable seller. Reporting shall only take place in one Member State (i.e., single reporting). The information reported has to be communicated by the competent authorities of the Member State where the reporting took place to the Member State where the reportable seller is a resident. The exchange will take place within two months following the end of the reportable period.

In addition, the legislative proposal also introduces a general legal framework for the conduct of joint audits between two or more Member States.

3. Communication on Tax Good Governance in the EU and beyond

The last element of the tax package is the Communication on "Tax Good Governance in the EU and beyond." In the EU, Tax Good Governance has been the umbrella under which the EU has sought to fight harmful tax competition and create a level playing field on tax between EU countries and beyond. The Communication aims to review progress made in enhancing tax good governance in the EU but also externally and suggests areas for improvement. The Commission is proposing the following concrete steps:

- Reform of the Code of Conduct for Business Taxation, to ensure that it can effectively tackle a wider range of forms of harmful tax competition it has identified in a more transparent manner.
- Review of the EU list of non-cooperative jurisdictions for tax purposes.
- Reinforcement of the EU's Tax Good Governance rules regarding the provision of EU funds and defensive measures, to ensure that the EU's listing process has a real impact and provides clarity and certainty for third countries.
- Additional support for developing country partners in enhancing Tax Good Governance.

Related to the above third proposal of promoting Tax Good Governance through the provision of EU funds, the Commission also issued on 14 July 2020 a recommendation on making State financial support to undertakings in the EU conditional on the absence of links to non-cooperative jurisdictions. The restrictions should also apply to companies that have been convicted of serious financial crimes, including, among others, financial fraud, corruption, non-payment of tax and social security obligations. The recommendation also includes exceptions to the restrictions, for example, if the undertaking can prove that it has paid adequate tax in the Member State for a given period of time (e.g., the last three years) or if it has a genuine economic presence in the listed country. Member States should inform the Commission of the measures that they will implement to comply with the recommendation, in line with the EU's Tax Good Governance principles.

Implications

With the presentation of its tax package, the Commission has put forward a range of proposals and initiatives to roll out its ambitious tax agenda. With this package the Commission also responds to various requests and initiatives brought forward by the European Parliament and in particular has addressed many recommendations stipulated in the final 2019 report of the TAXE subcommittee.

Taxpayers are recommended to further monitor the developments and, in particular for the DAC7 legislative proposal, assess the impact of the proposed rules on their business.

Detailed reporting on the key elements of the package is forthcoming.

For additional information with respect to this Alert, please contact the following:

EY Société d'Avocats, Paris

- Jean-Pierre Lieb jean.pierre.lieb@ey-avocats.com

Ernst & Young GmbH Wirtschaftsprüfungsgesellschaft, Munich

- Klaus von Brocke klaus.von.brocke@de.ey.com

Ernst & Young Belastingadviseurs LLP, Rotterdam

- Marlies de Ruiter marlies.de.ruiter@nl.ey.com
- Maikel Evers maikel.evers@nl.ey.com

Ernst & Young Belastingadviseurs LLP, Amsterdam

- Konstantina Tsilimigka konstantina.tsilimigka@nl.ey.com

Ernst & Young LLP (United States), Global Tax Desk Network, New York

- Jose A. (Jano) Bustos joseantonio.bustos@ey.com

EY | Assurance | Tax | Transactions | Advisory

About EY
EY is a global leader in assurance, tax, transaction and advisory services. The insights and quality services we deliver help build trust and confidence in the capital markets and in economies the world over. We develop outstanding leaders who team to deliver on our promises to all of our stakeholders. In so doing, we play a critical role in building a better working world for our people, for our clients and for our communities.

EYG no. 004888-20Gbl

1508-1600216 NY
ED None

ey.com