PwC's EU Direct Tax Group

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EU Direct Tax Newsalert

European Commission publishes Communication on Business Taxation for 21st Century

On 18 May 2021, the European Commission (EC) published a Communication on EU Business Taxation for the 21st Century in which it sets out its vision and measures for both the short and longer term. This initiative reflects the EC's efforts to create what it sees as a future-proof, robust, efficient and fair EU tax framework that meets public financing needs and supports the COVID-19 recovery effort and the green and digital transitions by creating an environment conducive to fair, sustainable and job rich growth and investment. The Communication states that the EC wants to act swiftly to implement the forthcoming global agreement on the reallocation of taxing rights and minimum effective taxation. The EC will take action over the next two years to address the most immediate challenges and set out a plan for a 'holistic EU business tax framework fit for the decades to come'. The EC outlines a range of new measures, including:

Implementing Pillars 1 and 2 in the EU

The EC will propose Directives for implementing Pillars 1 and 2 in the EU. According to the EC, the implementation of a global agreement on minimum effective taxation will also have implications for existing and pending EU Directives and initiatives. The EC will also propose adding Pillar 2 to the criteria for assessing third countries for the EU list of non-cooperative jurisdictions to incentivise them to join the international agreement. The EC will revive its pending proposal to include a subject-to-tax-rule in the Interest & Royalty Directive.

A legislative proposal to address aggressive tax-planning opportunities linked to the use of shell companies ('ATAD 3')

The EC will present a draft Directive in Q4 2021 that will require companies in the EU to report to the tax administration the necessary information to assess whether they have substantial presence and real economic activity and deny tax benefits linked to the existence or the use of abusive shell companies. The proposal will also introduce new tax information, monitoring and tax transparency requirements. The EC intends to take further steps to prevent that royalty and interest payments leaving the EU escape taxation ('double non-taxation'). The EC published an inception impact assessment on 20 May 2021 for feedback which will be followed by a public consultation after 17 June 2021.

A legislative proposal for a Debt Equity Bias Reduction Allowance ('DEBRA')

The EC will present a draft Directive in Q1 2022 to address the debt-equity bias in corporate taxation via an allowance system for equity financing and stimulate the re-equitisation of financially vulnerable companies. The EC will incorporate anti-abuse measures to ensure it is not used for unintended purposes.

A legislative proposal for the annual publication of Effective Tax Rates paid by large companies operating in the EU, based on the methodology under discussion in Pillar 2 of the OECD negotiations. This proposal is expected in 2022 and aims to improve public transparency around the 'real' effective tax rate experienced by large EU companies.

Business in Europe: Framework for Income Taxation ('BEFIT')

This proposal (for 2023) will:

- combine a common rulebook for the tax base with a 'simpler and fairer' way to allocate taxing rights between Member States via formulary apportionment;
- reduce red tape and cut compliance costs in the Single Market for tax authorities and taxpayers;
- combat tax avoidance, and support job creation, growth, and investment;
- ensure reliable and predictable corporate tax revenues for EU Member States;
- replace the pending proposals for a Common Consolidated Corporate Tax Base (CCCTB), which will be withdrawn; and
- be prepared in close cooperation with the Member States, also taking into account the views of the European Parliament, and in consultation with the business sector and civil society groups.

New EU Own Resources

In line with the mandate from the European Council, the EC will also bring forward proposals for new Own Resources that will contribute to the repayments of NextGenerationEU. In July 2021, the EC will propose a Digital Levy, which according to the EC will be compatible with the key policy objective of supporting and accelerating the digital transition and with WTO and international obligations. The Digital Levy will be independent of the expected upcoming global/OECD agreement on international tax reforms and coexist with it once adopted. The 2018 EC proposals for a Digital Services Tax and Significant Digital Presence will be withdrawn. Also, in July 2021, the EC will propose new and reformed pricing mechanisms to support EU climate objectives, notably a Carbon Border Adjustment Mechanism (CBAM) and a proposal for a revised EU Emissions Trading System (ETS), which also aim at supporting the green transition together with the planned reform of the Energy Taxation Directive. After this, the EC will propose other Own Resources which could include a Financial Transaction Tax and an Own Resource linked to the corporate sector.

Besides the Communication, the EC issued a **Recommendation to Member States on the domestic treatment of losses for SMEs** during the COVID-19 recovery to allow companies that were making a profit and paying taxes prior to 2020 to offset their 2020 and 2021 losses against these taxed profits.

The EC will launch a **broader reflection on the future of the EU's tax system**, which will culminate in a Tax Symposium on the 'EU tax mix on the road to 2050' in 2022.