



## European Tax Report Confédération Fiscale Européenne (CFE)

July 2011 / Edition 7

### CFE EVENTS

#### ECJ Seminar on 20 October 2011

CFE offers tax practitioners the unique opportunity to discuss current issues in European direct taxation with a judge and other members of the European Court of Justice. Practitioners will learn about the evolution of the ECJ direct tax case law, its often-mentioned “tide change” in the past years and selected issues from recent cases.

This will be followed by an open discussion with a panel of distinguished tax experts addressing hot topics such as transfer pricing and double taxation, exit taxes, human rights in taxation and the burden of proof in ECJ proceedings. Practitioners may raise other issues in EU direct tax.

In the morning, participants will attend a public hearing of the ECJ in a tax case on capital duty (C-443/09).

The number of participants is limited to 35 professionals.

We look forward to welcoming you to this special day!

**READ MORE (click to open):**

ECJ seminar, CFE website: [EN](#)

#### CFE PAC Conference: New regulatory trends for tax advisers - necessary or not ?

The 4th CFE Professional Affairs Conference in Brussels on 29 November 2011 will deal with regulation of the tax profession at national level and recent developments in EU legislation and ECJ case-law that may impact on regulation.

Speaker from national tax administration, the European Commission and the tax profession will discuss the benefits and disadvantages and the Internal Market challenges of regulation to find out how the future regulatory environment for tax advisers will and should look like.

More information available soon on the [CFE website](#).

#### IBFD report from CFE/NOB Amsterdam Conference available

The IBFD has made available two comprehensive reports from the joint CFE/NOB Amsterdam Conference on 24 June 2011, titled “The impact of changing global cross-border trade on the EU VAT system”. The documents, one covering the morning and the other covering the afternoon session have been prepared by Fabiola Annacondia and Suat Göydeniz (both IBFD).

**READ MORE (click to open):**

Amsterdam Conference reports: [EN](#)

### NEWS - DIRECT TAX

#### Updated list of ECJ direct tax cases

On 15 July 2011, the European Commission has updated its list of European Court of Justice direct tax case law. The list contains all direct tax judgments since 1960 and pending cases before the Court, but also infringement decision of the Commission that have not yet been brought before the ECJ and cases before other courts like e.g. the European Court of Human Rights. The list also mentions on which cases CFE Opinion Statements have been issued.

**READ MORE (click to open):**

List of direct tax cases: [EN](#)

#### Transfer pricing and developing countries – Commission publishes study and considers further support

On 15 July 2011, the Commission published a study containing recommendations how developing countries can adopt and implement transfer pricing rules in line with international standards in order to increase their tax revenue. The Commission stresses that transfer pricing is a central challenge to developing countries' capacity to effectively tax multinational

corporations.

The study outlines the current transfer pricing situation in Ghana, Honduras, Kenya and Vietnam, and based on this makes recommendations for donor support. As a follow up to the study the Commission envisages providing financial support in capacity building in transfer pricing to selected developing countries.

**READ MORE (click to open):**

Study: [EN](#)

Appendices (EN):

[Ghana](#)

[Honduras](#)

[Kenya](#)

[Vietnam](#)

### Commission publishes responses to dividends taxation consultation

The Commission has published all responses to the consultation on taxation problems relating to cross-border dividends paid to individual or portfolio investors. Such cases where the Parent-Subsidiary Directive does not apply often cause double taxation. CFE was one of the 90 respondents (56 from organisations at EU and national levels, 33 from citizens and one public authority), see [CFE European Tax Report 5/2011](#), p.1. An evaluation of the consultation has not been published.

**READ MORE (click to open):**

All responses: [EN](#)

### Savings tax: Commission asks Council for mandate to amend agreements with Switzerland and smaller European states

At the Ecofin meeting of 12 July 2011, the Commission asked the Council for a mandate to negotiate amendments of the existing savings tax agreements with Switzerland, Andorra, Liechtenstein, Monaco and San Marino with the aim of replacing the current withholding tax by exchange of information. As such

mandate was not given, the Polish Council presidency asked the Council to re-examine its position in the light of the progress made by the Hungarian Council presidency.

**READ MORE (click to open):**

Press release, p.14: [EN](#) [FR](#) [CZ](#) [ES](#) [PL](#) [SK](#)

### OECD publishes comments on the meaning of beneficial owner in Model Tax Convention

On 22 July 2011, the OECD released the comments received to its public consultation on its discussion draft on the meaning of “beneficial owner” in the OECD Model Tax Convention (see [CFE European Tax Report 4/2011](#), p.4).

**READ MORE (click to open):**

List of comments: [EN](#) [FR](#)

### OECD publishes comments on the administrative aspects of transfer pricing

On 8 July 2011, the OECD published the responses received to its invitations to comment of 8 March and 10 June 2011 on administrative aspects of transfer pricing (see CFE European Tax Reports [3/2011](#), p.2 and [6/2011](#), p.3). The OECD intends to use these comments for its work in this area, including the review of the existing guidance on safe harbours in Chapter IV of the Transfer Pricing Guidelines.

**READ MORE (click to open):**

List of comments: [EN](#) [FR](#)

## NEWS - INDIRECT TAX

**Commission publishes updated excise duty rates**

The Commission has published the excise duty tables relating to energy products, manufactured tobacco and alcoholic beverages applicable as of 1 July 2011.

**READ MORE (click to open):**

Excise duty rates tables: [EN](#)

**Council allows Germany to apply reduced tax to shore-side electricity to ships**

The decision was taken at the EU Ecofin Council meeting of 12 July 2011. The aim of this measure is to reduce noise and air pollution in ports caused by vessels that produce their electricity on board. In June 2011, also Sweden was granted such an exemption from the Energy Taxation Directive, see CFE European Tax Reports [4/2011](#) and [6/2011](#).

**READ MORE (click to open):**

Press release, p.17: [EN](#) [FR](#) [CZ](#) [ES](#) [PL](#) [SK](#)

**New OECD Guidelines on neutrality in VAT**

On 5 July 2011, the OECD published the revised VAT/GST Guidelines on neutrality which have been approved by the OECD Committee on Fiscal Affairs on 28 June 2011. These consist of six guidelines on applying VAT/GST as a tax that is neutral for businesses, including foreign businesses. They form part of the OECD International VAT/GST Guidelines. The draft Neutrality Guidelines had been released for public consultation in December 2010. The comments received have also been published.

**READ MORE (click to open):**

Guidelines: [EN](#) [FR](#)

Comments to public consultation: [EN](#)

## STATE AID

**Commission launches investigation into tax benefits granted by Spain for the purchase of ships**

On 1 July 2011, the European Commission launched an in-depth investigation to check whether a Spanish scheme for the purchase of ships involving leasing and financing through tax relief is compatible with EU rules on state aid.

This scheme would enable maritime transport companies to purchase ships, under certain conditions, at prices that are between 20% and 30% lower than the market price. This appears to result in advantages for the investors and companies taking part in the scheme.

According to the information available, these complex structures were set up by Spanish banks and generally involve a leasing company, Spanish taxpayers wishing to reduce their basic taxable amount and an economic interest grouping (EIG), which is the initial beneficiary of the tax measures in question. Some of the tax measures necessary for the scheme must be approved beforehand by the tax authorities.

At this stage, the Commission considers that this scheme comprises state aid for the EIGs involved, the taxpayers investing in it and the maritime companies purchasing the vessels, and possibly also for the shipyards and certain intermediaries.

Member states can help maritime transport companies to remain competitive at international level in line with the guidelines on state aid for shipping, for instance by applying taxes to them based on fleet tonnage. To date, the Commission has authorised the tonnage tax arrangements of 16 member states.

All interested parties may express their points of view. The non-confidential version of today's decision will be made available once any confidentiality issues have been resolved.

**READ MORE (click to open):**

Press release: [EN](#) [FR](#) [DE](#) [ES](#)

Case in State Aid Register: [EN](#)

## OTHER TAX POLICY

### Ecofin Council expresses concerns towards new financial sector taxes in its comments on the Single Market Act

Following the conclusions of the EU Competitiveness Council on the “Single Market Act”, adopted on 30 May 2011, the EU Economic and Financial Affairs (Ecofin) Council adopted its own observations on 12 July 2011, commenting not only on the tax aspects of the Single Market Act but also on regulatory issues. The Single Market Act is list of the Commission’s priorities in internal market policy for 2011/12 which has been presented on 13 April 2011 (see the last issue of the **CFE European Professional Law Report**, p.6).

Concerning “innovative financing instruments”, a term used by the European Commission for potential taxes of the financial sector or financial transactions, the Council remains reserved, stressing that further assessment was needed to measure their effectiveness and the risk of financial institutions leaving the EU or outsourcing activities. Indeed the Council expresses concerns that any such tax may have a negative impact on member states’ budgets (see point 4). Regarding the CCCTB and energy taxation amendment proposals, the Council uses neutral language saying it would examine them (point 8).

Apart from that, the Ecofin conclusions welcome the Commission’s efforts to remove barriers to the single market for services, expressly naming the scope of regulated professions, reserved activities, insurance obligations, capital ownership and legal form requirements (see points 4 and 6). Such requirements for tax advisers exist in many CFE member states.

**READ MORE (click to open):**

Council conclusions: **EN** **FR**

### EP votes for “new EU deal”, new EU competences and new EU own resources

On 6 July 2011, the EP plenary adopted a non-legislative report containing recommendations to solve the economic, financial and social crisis, drafted by French socialist MEP Pervenche Berès. The report which had been adopted by the CRIS Committee on 30 May 2011 (see **CFE European Tax Report 5/2011**, p.8) believes that the crisis requires resolute

steps towards more European integration, also in tax matters (see points 71 ff). Among others, the report mentions the creation of a European treasury, the introduction of a financial transactions tax and support for the CCCTB. Another point made is that the allocation of EU funds should take into account the taxation strategy of member states and their willingness to cooperate in combating tax evasion and promoting closer tax coordination. 434 MEPs voted in favour and 128 against with 33 abstentions.

**READ MORE (click to open):**

EP Press release: **EN** **FR** **DE**

EP Resolution: **EN** (available in all EU languages)

## IMPRESSUM



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