Brussels, 3 April 2018

TAX3 Inquiry Committee on Financial Crimes, Tax Evasion and Tax Avoidance

The European Parliament Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance (TAX3) met on 22 March in Brussels for its inaugural meeting, after members were elected by Parliament on 14 March. Petr Ježek (ALDE/ CZ), co-rapporteur on the PANA Committee, was appointed as chair of the TAX3 Committee. Following the approval of TAX3 Committee's mandate, the Members agreed to present a report on the inquiry by 1 March 2019, effectively by the end of this Parliament.

At a joint session of the ECON and TAX3 Committees on 27 March, Commissioner Moscovici discussed EU's tax policy agenda, including tax transparency and the PANA Committee inquiry recommendations. The TAX3 Committee will meet on 16 April in Strasbourg.

EU Commission published the IKEA State aid investigation letter to the Netherlands

EU Commission has published the letter that sets out DG Competition's opening arguments into the inquiry on IKEA's tax arrangements in the Netherlands. Commission's formal investigation procedure is focused on two tax rulings, granted by the Dutch tax administration in 2006 and 2011 respectively. Commission asserts that the profits of IKEA's Dutch entity were artificially reduced by endorsing a method for calculation of the annual fees that allows further transfer of IKEA's worldwide franchising fees to a Luxembourgish entity.

Inter Ikea Holding was part of a special tax scheme in Luxembourg (holding exemption for dividends), effectively relieving profits from corporate taxation in Luxembourg. This regime was declared harmful tax measure within the meaning of the EU Code of Conduct on business taxation on the grounds that the exemption was not conditional upon the payment of a sufficient tax by the distributing company. The measure was subsequently phased out at the end of 2010 at Commission's request.

In 2011, a second tax ruling endorsed a pricing methodology for IP acquisition at the level of Inter IKEA Systems. The ruling further confirmed the tax treatment of an intercompany loan to the parent company in Liechtenstein, i.e. the interest deduction from Netherlands' profits. The Commission asserts that these interest payments were a profit shifting strategy where the vast majority of IKEA's franchising income after 2011 was diverted to the parent company for tax reasons.

The Commission's State aid inquiry will now assess whether the arrangements are at arm's length, in particular:

- Whether the level of the annual licence fee payments reflect Inter IKEA Systems' contribution to the franchising business, and,

- Whether the interest deductions from IKEA's Dutch tax base as endorsed by the tax rulings are compliant with the EU State aid rules.

At this stage of the investigation, the Commission may also request information from other Member states, including market information from other companies or association of undertakings in accordance with the Procedural Regulation 2015/1589.

European Council leaders discuss Digital Taxation

At the Spring meeting held over 22 and 23 March, the European Council discussed issues in corporate taxation facing the European Union. An agenda note published by the Council noted that the leaders discussed how taxation systems should be adapted to encompass new digital business models in the short and medium term, what more could be done to fight tax avoidance and evasion, and how to ensure synergy of efforts at the EU and international level. It was noted there would be no written output following the debate at the March meeting, but that the Council will revisit the issue at the June meeting.

US to amend Country-by-Country reporting regulations

The US have announced that guidance concerning country-by-country reporting obligations for large multinationals will be amended on grounds of national security. The current US regulations, which implement the OECD BEPS transfer pricing tax avoidance action plan, previously set out that reporting requirements apply to multinational groups headquartered in the US, with annual revenues of US $850 million or more. Effective immediately, multinational groups where 50% or more of revenue is derived from contracts with the US government intelligence or security agencies or the Department of Defence can identify in their reporting that they are a specified national security contractor. On that basis, those multinationals are only required to provide information in the reporting schedules concerning the parent entity company, with no other information required to be reported.

CFE Forum "Fair Taxation of the Digital Economy" in Brussels on 19 April

CFE Tax Advisers Europe's Annual Forum will take place in Brussels on 19 April. The forum will focus on aspects of direct and indirect taxation of the digital economy, outlining and discussing EU Commission's proposal and the OECD Interim Report on the Taxation of the Digital Economy. Technical aspects of the recent EU proposals will be discussed by Maria Elena Scoppio, Head of VAT Unit and Bert Zuijdendorp, Head of Company Taxation Initiatives Unit, DG Taxation and Customs Union, European Commission. Register here!

****

The selection of the remitted material has been prepared by

Piergiorgio Valente/ Brodie McIntosh/ Filipa Correia

Follow CFE on LinkedIn *and Twitter*