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## Philippe Arraou, President of the ETAF

Dear ETAF Members,  
dear friends,

as the first foundation year of ETAF is soon coming to an end, I would like to take the opportunity to look back on our achievements and successes we were able to realize in our very first year.

For European tax professionals, 2016 has proven to be an outstanding and forward-looking year! With the foundation of the “European Tax Adviser Federation”, we set a new milestone in the representation of tax practitioners across Europe by uniting more than 230,000 tax professionals, making us the largest organisation of regulated tax professionals in Europe.

After setting our political priorities during the first months, we quickly managed to establish ETAF as a serious partner for the European institutions. Already in May 2016, ETAF succeeded in being appointed by the European Commission as a new member of the “Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation”, an expert group composed of Member States’ tax authorities and fifteen business, civil society and tax practitioner organisations.

ETAF took advantage of many inaugural meetings with European Commission representatives throughout the year to present ETAF, its objectives and activities. On these occasions, ETAF expressed its full support to the Commission’s ongoing work on tax transparency and fighting against harmful

and illegal tax practices, but also raised some concerns that certain elements of the Single Market Strategy concerning professional regulations might not be coherent with the Commission's objectives of increasing responsibilities of tax advisers. We made clear that it is a great chance for the European Commission to benefit from existing professional regulations in the ETAF Member States, because they are a guarantee for high quality, liability and transparency. We incorporated these arguments into our "Statement on current European Commission initiatives concerning tax transparency on the one hand and the single market strategy on the other hand" and submitted it to the relevant European Commission representatives.

The ETAF Launching Conference in September was definitely one of the highlights in 2016. We used this excellent opportunity to introduce ETAF as a key player in taxation and professional issues. The presence of Commissioner Moscovici, his speech to the audience and his very positive response to our engagement to support the Commission's work and our tax proposals are a clear proof for the extremely successful work of ETAF in its first year of existence.

Looking forward into 2017, great challenges are lying ahead of us. To name just a few: A comprehensive reform of the corporate tax system (CCCTB) is on the table, the VAT system needs improvement to be fit for the future and we have to expect measures on Disincentives for advisers and intermediaries for potentially aggressive tax planning schemes which demand our special attention and high vigilance.

From my point of view, however, one thing is certain: ETAF will stay determined to defend the interests of our profession at EU level concerning tax issues as well as professional law and will raise its voice at every opportunity.

Yours sincerely,  
Philippe Arraou

## Corporate Taxation Reform Package – C(C)CTB reloaded

On 25 October 2016, the European Commission published three proposals aiming at implementing a fairer tax system for business, closing loopholes between EU countries and non-EU countries and providing new dispute resolution rules to relieve problems with double taxation for businesses.

The key elements are:

- In a first step, the corporate tax base shall be **harmonized** throughout the EU **as from 2019**. The Commission therefore proposes uniform rules for the calculation of taxable company profits and further provisions to close off opportunities for corporate tax evasion.
- In a second step, the taxable company income shall be "consolidated" throughout the EU **by the year 2021**. "Consolidation" means that a common taxable profit or loss would be calculated on all **the economic activities which a company carries out throughout the entire EU**. This total amount would then be re-allocated to the member states and would be taxed there with the respective tax rates.
- Furthermore, companies shall be prevented from exploiting loopholes (hybrid mismatches) between the tax systems of the member states and those of third countries. In this context, the anti-tax-avoidance directive which was adopted in July 2016 addresses mismatches within the EU. The new proposal shall now tackle mismatches with **non-EU countries**.
- A new proposal for the double taxation dispute resolution shall cover a broader range of cases than nowadays, and the member states shall be bound by deadlines for agreeing on binding solutions.

All four proposals require **unanimity** in the Council. On 8 November 2016, the ECOFIN Council held an exchange of views on the initiatives. A rapid agreement is not to be expected, especially not on the new C(C)CTB proposals.

Further information:

- [Communication “Building a fair, competitive and stable corporate tax system for the EU”](#)
- [Proposal for a Common Corporate Tax Base](#)
- [Proposal for a Common Consolidated Corporate Tax Base \(CCCTB\)](#)
- [Proposal to amend Directive \(EU\) 2016/1164 as regards hybrid mismatches with third countries](#)
- [Proposal for a new Double Taxation Dispute Resolution Mechanisms in the European Union.](#)

## **Cross-border VAT in e-commerce and online business shall become simpler**

On 1 December 2016, the European Commission presented a package of measures for simplifying VAT in e-commerce and online businesses in the EU. The key elements of this comprehensive reform package are:

- **Online VAT One Stop Shop for the entire VAT due across the EU**

Online traders shall no longer be obliged to register for VAT in all the Member States to which they sell goods. Instead, businesses shall be able to use the **VAT Online One Stop Shop** for their VAT declaration which shall be hosted in every Member State by its national tax administration and in the own language of the country. Furthermore, companies shall only be obliged to make **one simple quarterly return** for the entire VAT due across the whole of the EU. According to the Commission, this measure is expected to reduce VAT-related administrative burdens for companies by 95%. The new rules shall also ensure that the VAT will be paid in the Member State of the final consumer, leading to a fairer distribution of the VAT revenues amongst EU countries and helping to reduce the current VAT losses on online sales every year.

- **New thresholds for micro-businesses, start-ups and SME’s**

Under the new proposals, businesses shall be allowed to continue to apply the VAT rules of their home country until a threshold of €10.000 per year in cross-border online sales. A second threshold of €100.000 per year shall be valid for SME’s and bring them simplified rules especially for identifying where their customers are based. Concerning VAT related invoicing and record keeping requirements, small companies shall also be able to continue to apply the rules of their home country. The basic idea is that the first point of contact will always be with the tax administration in the Member State where the business is located. Furthermore, businesses shall no longer be audited by each Member State where they have sales.

- **Action against VAT fraud from outside the EU**

The current VAT exemption for small consignments imported into the EU with a value less than €22 shall be removed. This system is highly susceptible to fraud and abuse: In order to benefit from this VAT exemption, imported high-value goods such as smartphones or tablets are consistently undervalued or wrongly described in the importation paperwork. Besides, it creates major distortions against EU businesses since they are liable to VAT also for amounts under €22, unlike their non EU competitors.

- **Same VAT rules for e-books, e-newspapers and their printed equivalents**

According to the proposals, the Member States shall in future be allowed to align the VAT rates on e-publications to those on printed publications, They shall, however, not be obliged to do this).

Regarding the timetable, the Commission’s plan is to introduce these innovations until 2021 at the latest. The package includes several legislative proposals that will now be submitted to the European Parliament for consultation and to the Council for adoption. As always in tax matters, the proposals require unanimity in the Council; the European Parliament will be consulted.

To the legislative proposals:

- [COM\(2016\) 757 final](#)
- [COM\(2016\) 756 final](#)
- [COM\(2016\) 755 final](#)
- [COM\(2016\) 758 final](#)
  
- [Overview at DG TAXUD and further information](#)
- [Press Release](#)

## **Outcome of the ECOFIN Council on 8 November 2016**

The ECOFIN Council of Ministers discussed numerous tax issues have been discussed in on 8 November 2016:

### **1. Prevention of money laundering: Access to information on beneficial ownership**

The Finance Ministers agreed on the [proposal COM \(2016\) 450](#) granting access for tax authorities to information held by authorities responsible for the prevention of money laundering. In particular, tax authorities will get greater access to information on the beneficial ownership of intermediary entities and other relevant customer due diligence information. The directive will require monitoring obligations from the member states to enable access to information on the beneficial ownership of companies. The proposal is one of a number of measures set out by the Commission in July 2016, in the wake of the April 2016 Panama Papers revelations. It will apply as from 1 January 2018.

Further information:

- [Council press release](#)
- [Communication of the European Commission](#)

### **2. VAT rules – cross border transactions**

The Council adopted [conclusions](#) on improvements to VAT rules for cross-border transactions. These conclusions relate to the VAT identification number as an additional condition for an exemption for an intra-EU supply, to the improvement of the quality and reliability of data used in the EU's VAT information exchange system and to determine the VAT treatment of the transaction chain, including 'triangular transactions'.

### **3. Derogations from the VAT Directive for Italy**

The Council authorised Italy to continue applying the following derogations from directive 2006/112/EC on VAT:

- 40% limit to the right to deduct VAT charged on expenditure on certain motor vehicles not wholly used for business purposes
- VAT exemption for taxable persons with an annual turnover no higher than € 30 000.

### **4. List of non-cooperative jurisdictions for tax purposes**

The Council could not reach an agreement on the definition of "tax haven" or "non-cooperative jurisdiction". Apparently, the UK started to block corresponding proposals (protecting the Caymans), followed by Ireland, Malta and Luxemburg. Instead, the Council adopted [conclusions](#) only setting out criteria for screening third countries and guidelines on the process for selecting third countries.

See the [Council Homepage](#) for further information.

## Consultation on „disincentives for advisors and intermediaries for aggressive tax planning schemes“

On 10 November 2016, the European Commission (DG TAXUD) launched a [public consultation](#) on “**disincentives for advisors and intermediaries** for potentially aggressive tax planning schemes”. This consultation is a follow-up-action based on the Commission’s [Communication \(FR / DE\)](#) on further measures to enhance transparency and the fight against tax evasion and avoidance from 5 July 2016.

In the Communication of July, the Commission expressed its intention to “**improve the oversight of tax advisors’ activities**” and to “examine how to **shed more light on tax advisors’ activities and create effective disincentives** for those who promote and enable aggressive tax planning”. At the same time, an [inception impact assessment](#) on “introducing effective disincentives for advisors, promoters and enablers of aggressive tax planning schemes resulting in tax avoidance or evasion” was published, where reporting obligations are, among other measures, envisaged in one of the options.

ETAF is following this process with high vigilance and the closest attention, and will seize every possible opportunity to take a clear position on the raised questions. In this sense, ETAF will of course contribute to the consultation which aims to gather views on whether there is a need for EU action to introduce more effective disincentives for intermediaries engaged in operations that facilitate tax evasion and tax avoidance and in case there is, how those disincentives should be designed.

Further information:

- [Direct Link to the consultation](#)

## Commissioner Moscovici at the ETAF Launching Conference: „We are in a new tax era”

On 28 September 2016, the European Tax Adviser Federation – ETAF, which unites more than 230,000 tax advisers from Germany, France and Italy, presented itself for the first time to a broad international audience on the occasion of its launching conference “Europe’s tax agenda for the future”.

The conference was integrated into the opening of the annual congress of the Conseil Supérieur de l’Ordre des Experts-Comptables – CSOEC, an ETAF founding member. The audience included approximately 5.000 professionals from Europe and overseas.

The welcoming address of ETAF President Philippe Arraou and the opening speech of Guy Verhofstadt, Chairman of the liberal ALDE-Group at the European Parliament, were followed by a video message from Pascal Saint-Amans, Director of the Center for Tax Policy and Administration at the OECD, who set the topics for the roundtable discussion.

Subsequently, top representatives from the Commission, the European Parliament, the OECD and the International Tax Center of the Bavarian Ministry of Finance discussed the EU’s tax policy priorities for the years to come. The discussion also dealt with taxation issues of the digital economy – a crucial topic for the future of tax consulting.

During a following roundtable, the ETAF Board members explained why the establishment of a powerful European tax adviser organisation was essential and of vital importance. It was emphasized that many ‘advisers’ in Europe perform beyond a legislative framework and without professional guidelines, due to the fact that the profession is not regulated in all Member States. Some of them have significantly damaged both reputation and public image of the profession. The ETAF Board members further discussed ways to guarantee the highest possible quality of tax consulting throughout Europe and outlined the benefits of professional regulations for customers and the state in those Member States where they already exist.

Vis-à-vis the European Commission, ETAF announced to support the upcoming relaunch of the Common Consolidated Corporate Tax Base (CC-CTB) and the Commission's plans to address tax evasion (Anti-BEPS) and offered its technical assistance in this regard.

In his speech to the audience, Tax Commissioner Pierre Moscovici reaffirmed the European Commission's commitment to combat tax fraud and tax evasion. In view of the upcoming CCCTB proposals, Moscovici said. "We are in a new tax era. The incentives are stronger than they were before. But I am not expecting an easy process." As a matter of fact, the Commissioner responded very positively to our tax proposals and appreciated the engagement from the European tax professionals to support the Commission's work.

## **ETAF appointed as member of the "Platform for Tax Good Governance" of the European Commission**

In May 2016, ETAF was appointed by the European Commission as a new member of the "Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation".

The Platform is an expert group established by the European Commission composed of Member States' tax authorities and fifteen business, civil society and tax practitioner organisations. Its main purpose is to assist the Directorate General for Taxation and Customs (DG TAXUD) in developing new initiatives to promote good governance in tax matters in third countries and in the fight against aggressive tax planning and double taxation. Experts from industry, tax consulting professions and civil society engage in a structured dialogue for a better exchange of expertise to support the EU in its coordinated action against tax avoidance and tax evasion.

ETAF is represented by Hans-Joachim Oettinger (tax adviser and auditor, Vice-President of DStV) as main representative and Volker Kaiser, Vice-President of ETAF and BStBK, as alternate. The new mandate of the Platform began in June 2016 and runs until June 2019. The first meetings of the Platform under its new mandate took place on 14 June and 16 September 2016.

Concerning the fight against tax avoidance and evasion, the work of the platform consists of two pillars: Firstly, the relaunch of the CC(C)TB initiatives was accompanied with ideas and practical relevance. Secondly, the group will work on further measures regarding tax transparency. Here, the focus is particularly on tax rulings, transparency in the field of corporate taxation and the implementation of BEPS Action 12. The latter aspect is very important, because it deeply affects the professional secrecy of tax advisers.

Furthermore, the group is also dealing with effective taxation mechanisms, especially in the interaction with third countries. It draws up a list of countries envisaged by the member states and consolidates the supplied information in order to build up an EU-wide list which ensures transparency for third countries and businesses. Secondly, the platform develops good governance support for third countries to build up their capacities in tax administration and to introduce a common procedure for double taxation agreements with them.

The group will also develop proposals for a better tax environment and a mechanism for the coordination of tax audits between member states. In this regard, ETAF has stated in a relevant public consultation that it welcomes the announced proposals to improve the existing dispute resolution mechanisms in tax matters.

ETAF's participation in the Platform is a great opportunity to contribute the perspective and the practical experience of the tax advising profession to the European Commission in order to achieve reasonable changes in the concerned tax legislation.

## **ETAF calls for more efficient dispute resolution for double taxation cases**

In its contribution to the Commission's public consultation on double taxation dispute resolution mechanisms, ETAF advocates a faster and more efficient procedure to dispute resolution in cases of double taxation. ETAF points out that the actual system of dispute resolution in double taxation highly disadvantages the taxpayers because unregulated and long lasting procedures cause them high financial and chronological expenditures. Paired with the uncertainty about the outcome of the proceedings, taxpayers often accept double taxation because the additional tax liability would be lower than the possible costs of a dispute resolution. The reduction of administrative and financial effort for taxpayers is the main goal according to ETAF. Furthermore, insufficient codes of conduct mean that neither the status nor the duration of the procedure is bindingly regulated for taxpayers and their advisers.

ETAF criticises in particular that different procedural laws in the member states favour double taxation because operational audits in some member states can only take place after the limitation period of the tax assessment in the other member state has expired. Furthermore, the currently used procedure for communication and dispute resolution between the states remains largely unregulated. Especially deadlines as well as information and consultation rights are necessary to provide effective remedies.

### **ETAF prefers a new approach to dispute resolution procedures**

Due to the deficiencies of the currently applied system, ETAF is in favour of a new dispute resolution procedure which not only tackles the causes of double taxation, but resolves the disputes and offers legal certainty as well as judicial remedies before the national courts.

#### **Disclaimer:**

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ETAF [www.etaf.tax](http://www.etaf.tax) is a European umbrella organisation for 230,000 tax professionals from France, Germany and Italy. ETAF was launched in January 2016 as an international non-profit organisation (AISBL), governed by Belgian law and located in Brussels. The main role and mission of ETAF is to represent the tax profession at European level in liaising closely with European policy makers to promote good legislation in tax and professional matters. ETAF is a registered organisation in the EU Transparency Register with the register identification number 760084520382-92.

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