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## INTRODUCTION

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### Philippe Arraou, President of the ETAF

Dear ETAF Members,  
dear friends,



for European tax professionals, the last months turned out to be extraordinarily challenging, which made it all the more necessary for ETAF to intervene on the political stage. First, if we have a look at the “Services Package” of the European Commission, we are dealing with not less than a serious attempt of the European Commission to interfere widely with the legislative competence of the Member States and their margin of discretion when regulating a profession. ETAF Members are therefore very concerned about the Services Package as it questions fundamental pillars of all tax advising professions.

ETAF seized the opportunity and adopted a clear position on the Services Package which consists of an obligatory proportionality test before adopting new professional regulations, a notification procedure that requires Member States to notify every new provision in an early drafting stage to the Commission and a European Services e-Card, where many questions remain open and unsolved. We made very clear to the EU legislative bodies that regulated tax advising professions ensure a high level of quality in business services and contribute to growth by establishing a trustful and liable working relationship with business partners.

It is very gratifying to see how ETAF’s work on the Services Package made an important impact in establishing ETAF as a serious partner for the European institutions, what the many meetings and in particular our invitations to several hearings and workshops in the European Parliament clearly demonstrate.

Turning to tax issues, the new Commission proposal to introduce EU-wide disclosure obligations for “tax intermediaries” is at the forefront of the political scene. This proposal aims at obliging “tax intermediaries” to disclose “reportable” cross-border arrangements to the respective national tax authorities. This proposal demands high vigilance and our special attention. While ETAF generally supports the Commission’s ongoing work on tax transparency, it is important to point out that 98% of our members do not come into any contact with the questioned international tax schemes. Rather on the contrary: They typically represent SME’s by helping them to pay their fair share of corporate tax.

With a view to the future, further challenges lie ahead of us: A comprehensive reform of the corporate tax system as CCTB or CCCTB is still on the table, the VAT system needs improvement to be fit for the future and the fast growing digitalization in fiscal procedures and the challenges it poses for tax professionals is a major issue for the future. You can be certain that ETAF will defend the interests of our profession at EU level – both in professional and tax law – and will raise its voice at every opportunity.

Yours sincerely,  
Philippe Arraou

## PROFESSIONAL LAW

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### **Services Package: ETAF invited to Stakeholder Hearings and Workshops of S&D group and IMCO Committee**

On 1st June 2017, following an invitation of the S&D IMCO working group, Philippe Arraou, President of ETAF, participated in a lively debate on the Commissions’ proposal for a European Services e-Card at the European Parliament. The European Services e-card is part of the Commission’s Services Package of January 2017. It is one of the most controversial legislative proposals by the Commission as MEP Nicola Danti, Vice-Chair of the IMCO Committee and S&D Coordinator, stated in his opening remarks.

Mr. Arraou made clear that ETAF members strongly favor a deepening of the Single Market and support cross-border provision of business services, which are the main objectives of the proposed Services Package. Nevertheless, he underlined major concerns that were raised by ETAF members: the deadlines being too short for the host Member State to examine thoroughly an application, concerning both temporary cross-border services and permanent establishment; the assumption of approval which would go along with an application when exceeding those deadlines, meaning that the proposal bears the risk that service providers who do not fulfil the respective professional qualifications would have to be accepted by the host Member State, after exceeding these deadlines.

MEP Danti, in this regard, also uttered his concern about the introduction of the country-of-origin principle, while MEP Virginie Rozière, S&D Shadow Rapporteur for the Services e-Card, urged the Commission to focus on the implementation of existing provisions rather than introducing new measures. She also feared additional administrative burden for enterprises and doubted that the measure would bring substantial value for the internal market.

Robert Strauss, Head of Unit “Service Policy for Consumers” at DG GROW, said that the Services Directive had not been implemented to its full potential, which posed an obstacle to service providers and prohibited cross-border investments.

He stated that a Services e-Card would simplify the administration for cross-border service providers and increase trust. He finally insisted on the fact that the application for a European Services e-Card would be a voluntary act for any enterprise.

In another Workshop on 11th July 2017, organised by the IMCO Committee, the focus lay mainly on the reform recommendations adopted by the Commission against certain Member States, among which France, Germany, Italy and Belgium. Philippe Arraou, who again intervened as one

of the stakeholder panel speakers, launched a clear statement that public interests and professional regulation are strongly linked. Mr. Arraou rejected any compromise on quality, as high expertise and high quality of tax services means high value for SME. He also explained the great importance of the independence of a tax adviser: it guarantees the best possible consultancy without any influence through third parties' commercial interests.



ETAF President, Philippe Arraou (r.), in a lively debate with MEP Virginie Rozière and MEP Nicola Danti.

## ETAF Statements on the Services Package of the European Commission

In April 2017, ETAF positioned itself regarding the Services Package of the European Commission, which consists of an obligatory **Proportionality Test** before adopting new professional regulations, a **Notification Procedure** that requires Member States to notify every new provision in an early drafting stage to the Commission and a **European Services e-Card**, that aims at facilitating administrative procedures in order to provide services in EU countries other than the home country.

Regulated tax advising professions ensure a high level of quality in business services and contribute to growth by establishing a trustful and liable working relationship with business partners. ETAF Members are therefore very concerned about the Services Package as it questions fundamental pillars of all tax advising professions.

Please find more information in our statements here:

- [ETAF Statement on the Proportionality Test](#)
- [ETAF Statement on the Notification Procedure](#)
- [ETAF Statement on the European Services e-Card](#)

## TAX LAW

### European Commission introduces tough disclosure rules for tax intermediaries

The European Commission is decisively taking action against tax intermediaries who design aggressive tax planning schemes for their clients. For this purpose, on 21 June 2017, DG TAXUD has published a legislative proposal for a directive on tax transparency, aimed at intermediaries like tax advisers, accountants, banks and lawyers.

The strict disclosure rules that are being imposed on intermediaries only concern cross-border arrangements. Tax schemes that stay within the borders of the Member States are exempted from any disclosure obligation.

As soon as a tax arrangement is meant to obtain an advantage, according to the Commission, it shall be “reportable” and thus fall into the category of tax arrangements that need to be filed by intermediaries. It is nevertheless irrelevant, if an advantage actually is obtained, what counts is the structure of the tax scheme.

Tax intermediaries who are entitled to a legal professional privilege under the national law of the Member States are exempted from this provision. In those cases, where an intermediary is protected, the obligation to disclose information shall shift to the tax payer.

While ETAF generally supports the fight against tax fraud and is in favor of tax transparency, our Members highlight emphatically the outstanding importance of professional secrecy as a ground pillar of the profession.

## **Legislative Procedure**

The proposal is an amendment to the Directive for Administration Cooperation (DAC), and will be submitted to the European Parliament for consultation and to the Council for adoption. Decisions on tax matters are taken unanimously in the Council according to the special legislative procedure, as indicated in Art. 115 TFEU.

Preparing the legislative procedure, in November 2016, DG TAXUD had launched a public consultation on “Disincentives for advisers and intermediaries for potentially aggressive tax planning schemes”, which offered different policy options, in case EU action was appropriate. ETAF took the initiative and strongly advocated a policy option that favoured an EU Code of Conduct for intermediaries.

[Proposal on tax intermediaries](#)

[Annex to the proposal](#)

## **Council adopts a directive against corporate tax avoidance and hybrid mismatches**

On 29 May 2017, the Council adopted a directive to fight corporate tax avoidance implicating third countries. The directive aims at combating hybrid mismatches between the tax systems of EU Member States and third countries and thus preventing corporate groups from taking advantage of the disparities between several tax jurisdictions.

This measure corresponds to the Anti-Tax-Avoidance-Package of the European Commission launched in July 2016, addressing the exploitation of incongruities between two or more tax systems within the European Union. Following the OECDs recommendations on corporate tax base erosion and profit shifting from 2015, the [new Anti-Tax-Avoidance](#) directive will now focus on third countries and complement the existing provisions accordingly. Member States have until 31 December 2019 to implement the new ATAD 2 directive into national law.

On 21 February 2017, the European finance ministers had reached an agreement in the ECOFIN-Council on provisions to fight corporate tax avoidance implicating third countries.

The European Parliament had given its opinion on 27 April 2017. MEPs in the Economic and Monetary Affairs Committee had backed a report drafted by rapporteur Olle Ludvigsson (S&D) by 44 votes to 0 with 2 abstentions. The draft report supports the Councils resolution on the fight against “hybrid mismatches” and especially tackles large companies, reducing or even avoiding corporate taxation.

The Council also debated a possible list of third country jurisdictions that fail to comply with tax good governance standards. It is supposed to “contribute to the fight against tax evasion and promote fairer taxation, both in Europe and beyond”. The list is intended to be ready by the end of 2017.

[Press release on Council directive regarding hybrid mismatches](#)

[Press release on EP-vote on committee draft report](#)

## **ETAF General Assembly confirms Philippe Arraou as President of ETAF**

On 26 April 2017 the ETAF General Assembly elected the President and a new Board for the period of two years. Philippe Arraou has been unanimously reelected by the General Assembly as President of ETAF. Prof. Dr. Michael Korth and Volker Kaiser have been confirmed as Board members in office and Luigi Alfredo Carunchio will be replacing Gerardo Longobardi as a Board member.



The Members of the General Assembly with ETAF-President Philippe Arraou and the ETAF Board.

### **Disclaimer:**

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ETAF [www.etaf.tax](http://www.etaf.tax) is a European umbrella organisation for 250,000 tax professionals from France, Germany, Italy and Belgium. 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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