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TAX

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European Parliament votes on Financial Transaction Tax

European Parliament – FTT – consultation procedure – single reading

On May 23, 2012, the European Parliament (EP) voted in favour of the European Commission's Proposal for a Financial Transaction Tax (FTT). The EP proposes certain amendments to the Commission's initial text, including imposing the tax based on both the *issuance principle* – i.e. transactions that involve a financial instrument issued by an EU entity and the *residence principle* as put forward in the Commission's Proposal – i.e. at least one party to the transaction is established in a Member State. The EP also proposes the introduction of a system that would ensure that a contract to buy or sell an instrument would only become legally enforceable once the FTT has been paid.

Please see below a press release issued today by the EP's press service:

"**The proposed financial transaction tax should be better designed to capture more traders and make evasion unprofitable, said the European Parliament in its opinion adopted on Wednesday. The opinion also says the tax should go ahead even if only some Member States opt for it.**

The tax rates proposed by the Commission (0.1% for shares and bonds and 0.01% for derivatives) are considered suitable and pension funds should be the only sector exempted from the tax.

Parliament has been calling for a financial transaction tax (FTT), for close to two years and the Commission tabled a legislative proposal for one late in 2011. The latest Eurobarometer survey shows that 66% of Europeans favour such a tax.

Rapporteur Anni Podimata (S&D, EL) during the debate said, <<The FTT is an integral part of an exit from crisis. It will bring a fairer distribution of the weight of the crisis. This FTT will not lead to relocation outside the EU because the cost of this is higher than paying the tax.>>.

A wider net

The adopted text adds to the Commission proposal an "issuance principle", whereby financial institutions located outside the EU would also be obliged to pay the FTT if they traded securities originally issued within the EU.

For example, Siemens shares, originally issued in Germany and traded between a Hong Kong institution and one in the US would have to pay the tax. Under the Commission's proposals, such transactions would have escaped the tax, because only financial institutions based within the FTT zone would be subject to it.

The "residence principle" proposed by the Commission is also kept, which would mean that shares issued outside of the EU but subsequently traded by at least one institution established within the EU would be caught.

Tackling tax evasion

The resolution also raises the stakes to make evading the FTT potentially far more expensive than paying it. Taking the UK stamp duty approach, the text links payment of the FTT to the acquisition of legal ownership rights. This means that if the buyer of a security did not pay the FTT, he or she would not be legally certain of owning that security. As FTT rates would be low, this risk is expected to far outweigh any potential financial gain from evasion.

Preferably EU-wide, but possibly less

If it is not possible to establish the tax throughout the EU at the outset, enhanced cooperation should be envisaged, the resolution says. However, it also recognises that introducing the tax in a very limited number of Member States could lead to the single market being undermined and that measures should therefore be taken to prevent this. Ms Podimata said <<With the EU having the largest financial market, it is up to us to make the first step. We cannot b held hostage by a handful of Member States>>.

Pension funds

Various exemptions were requested by a number of MEPs. In the end the most substantive exemption was that granted to pension funds, which would see the tax waived on their transactions.

Other important points

- The opinion does not request that the revenues from an FTT be transferred to the EU budget. It does indicate that if the revenues are placed into the EU budget then this would reduce national contributions to the budget; The rapporteur says that such contributions could be reduced by up to 50%.
- The opinion maintains the Commission proposal timetable: 31 December 2013 deadline for Member States to adopt implementing laws and 31 December 2014 for entry into force of these laws.
- The opinion maintains the original proposal to exempt transactions made on the primary market (i.e. purchasing of securities from the issuer when such securities are first placed on the market). This would ensure that investments of benefit to the real economy would not be taxed.

The opinion was approved with 487 votes in favour, 152 against and 46 abstentions.”

EU Tax Centre Comment

The European Parliament's role in the legislative process for the adoption of the FTT is only consultative. Today's vote is nevertheless an important step in this process and could influence debate at Council level (the legislator in this case). It is important to note that EP sees the enhanced cooperation procedure – which allows a minimum of nine Member States to introduce a Directive binding on the cooperating countries only, as a valid alternative for the introduction of the FTT in case the 27 Member States do not reach an agreement.

Should you require further assistance in this matter, please contact the EU Tax Centre or, as appropriate, your local KPMG tax advisor.

Robert van der Jagt
Chairman KPMG's EU Tax Centre
vanderjagt.robert@kpmg.nl

Barry Larking
Head of Knowledge Management, KPMG's EU Tax Centre
larking.barry@kpmg.nl

www.kpmg.com/eutax

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