



European Commission
Taxation and Customs Union

ACTIVITIES OF THE EUROPEAN UNION (EU) IN THE TAX FIELD IN 2009



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ACTIVITIES OF THE EUROPEAN UNION (EU) IN THE TAX FIELD IN 2009

1. PERSONAL AND CORPORATE TAXATION

1.1. Taxation of savings

Widespread tax evasion through the use of Liechtenstein foundations which came to light at the beginning of 2008 once again demonstrated the importance of international cooperation in the area of savings taxation. The application since July 2005 of the provisions of the Savings Taxation Directive¹ (EUSD) and of the related Agreements concluded with 5 European third countries (Switzerland, Liechtenstein, Monaco, Andorra and San Marino) and 10 dependent or associated territories of the United Kingdom and the Netherlands should certainly be considered as an important step forward in this process. The provisions of the EUSD and the related Agreements aim to ensure that through the automatic exchange of information between tax authorities or by means of a withholding tax with revenue sharing (this second method is within the EU only applied on a transitional basis by two Member States), savings income in the form of interest payments received by individuals resident in the EU is made subject to effective taxation, in accordance with the laws of the Member State of residence, wherever this income is obtained in the EU or in the other participating third countries and dependent or associated territories.

The Commission put forward, on 13 November 2008, a proposal² to close identified loopholes in the EUSD. The Commission proposal notably seeks to better ensure the taxation of interest payments which are channelled through intermediate tax-exempted structures (trust, foundations...). It also proposes to extend the scope of the EUSD to income equivalent to interest, such as income arising from investments in certain innovative financial products and life insurance products.

The European Parliament gave its position (legislative resolution) on 24 April 2009.

The European Economic and Social Committee adopted its opinion on 13 May 2009.

Discussions are still ongoing at Council level, building on unanimous conclusions adopted on 2 December 2008 and 9 June 2009. On 2 December 2009,³ the Swedish Presidency of the Council made public the current state of these discussions.

In parallel with this review process of the EUSD, as requested by the Council on 9 June 2009 formal consultations have been opened with the Swiss Confederation, the Principality of Liechtenstein, the Republic of San Marino, the Principality of Monaco and

¹ Council directive 2003/48/EC of 3 June 2003, OJ L157/38

² COM(2008) 727 of 13 November 2008

³

http://www.consilium.europa.eu/cms3_applications/applications/openDebates/openDebate_s-PREVIEW.ASP?id=962&lang=en&details=YES&cmsID=1105



the Principality of Andorra to examine their availability to amend their existing Savings Taxation Agreements with the EU in line with the outcome of the review of EUSD "level playing field". Discussion also covered the follow-up to the commitments made by these countries to comply with the OECD standards as regards the exchange of information for taxation purposes, including the non-application of the banking secrecy in this context. Similar steps in relation to savings are also being taken towards the dependent and associated territories of the United Kingdom and the Netherlands which already apply the same measures as those provided by the EUSD in its present form. The Commission continues to conduct exploratory talks with Singapore, Macao and Hong-Kong with a view to promoting the EUSD, as a further development to the commitments to exchange of information on request in accordance with the OECD standards which have recently been taken by these important financial centres. The Commission is also conducting formal negotiations with Norway, at the request of the latter and on the basis of a mandate received from the Council, with a view to concluding an agreement providing for cooperation between the EU and Norway in the form of measures equivalent to those of the EUSD.

Detailed information is available on Internet through the following link: http://ec.europa.eu/taxation_customs/taxation/personal_tax/savings_tax/savings_directive_review/index_en.htm

1.2. Good Governance in the Tax Area

On 28 April 2009 the Commission adopted a Communication⁴ on promoting good governance in the tax area (transparency, exchange of information and fair tax competition).

The Communication builds on the existing EU policy on good governance in the tax area and the 1 April 2009 G20 conclusions concerning non-cooperative jurisdictions and tax havens. In the Communication the Commission proposes a series of steps towards promoting good governance in the tax area, for action both within and outside the EU and both at EU and at individual Member States' levels:

a) Improve good governance in the tax area within the EU to ensure transparency and effective exchange of tax information between Member States, thus also strengthening the argument for other jurisdictions to take similar steps. Actions at EU level would consist notably in agreeing on the Commission proposals to replace the current Mutual Assistance and Recovery Directives and amend the Savings Directive. The Commission also believes that work on the standstill and rollback of harmful business tax measures in EU Member States under the Code of Conduct on Business taxation should continue.

b) Ensure policy coherence and EU coordination of Member States' actions towards third countries. Related actions would consist for instance in considering what incentives and defensive measures towards third countries could be adopted to improve good governance in the tax area, through EU external policies (financial support/access to markets) and coordinated national actions (anti-abuse measures, bilateral tax treaties...).

⁴ COM (2009) 201 28/04/2009, Promoting Good Governance in Tax Matters



On 9 June 2009, the ECOFIN Council adopted conclusions on good governance in tax matters (focusing on internal aspects), in line with the Commission's objective and invited the future Presidency to report back on progress in this area in the autumn of 2009. The conclusions recall the importance of implementing the good governance tax principles of transparency, exchange of tax information and fair tax competition as a means of ensuring a level playing field and of combating cross border tax fraud and evasion. They contribute to sending a political message to third countries that the EU is willing to strengthen good governance internally (as well as externally).

In the framework of its development policy, the Commission continued discussions with third countries on possible Government commitments to transparency, exchange of information and fair tax competition. On the basis of these commitments, countries may be granted an additional funding under the 10th European Development Fund, where a specific incentive allocation is available for good governance, including in the tax area.

For further information, see:

- DG Taxation and Customs Union's website under "Other EU work related to harmful tax practices):

http://ec.europa.eu/taxation_customs/taxation/company_tax/harmful_tax_practices/index_en.htm

- DG Development's website: Country strategic papers with commitments on good governance in the tax area are accessible through the following link:

http://ec.europa.eu/development/geographical/methodologies/strategypapers10_fr.cfm

1.3. Company Taxation

On 17 April, the Commission sent a report to the Council on the functioning of the Interest and Royalties Directive. The aim of the Directive is to eliminate double taxation on cross-border interest and royalty payments between associated companies. The report says that the overall implementation of the Directive has been satisfactory. However, suggestions for more uniform interpretation and legal certainty are proposed. The report also looks at improvements to the existing text, including broadening the scope of the Directive. Discussions on the findings of the report at Council level should provide guidance to the Commission for a future amending legislative proposal.

The Report can be found at this web link:

http://ec.europa.eu/taxation_customs/common/publications/com_reports/taxation/index_en.htm

Further information on the Interest and Royalties Directive can be found at this web link:

http://ec.europa.eu/taxation_customs/taxation/company_tax/interests_royalties/index_en.htm

On 23 November 2009, the Council's Financial Questions Group discussed the findings of the report. The Swedish Presidency highlighted the most relevant topics for future



amendments of the Directive and there was a fruitful discussion of possible future legislative action in this area.

1.4. Transfer pricing issues

On 14 September the Commission proposed a revised Code of Conduct for applying the Arbitration Convention to improve elimination of double taxation. The Commission proposal is the result of a monitoring exercise on the effectiveness of the application of the Arbitration Convention (AC). Based on Member States' practical experience it was recognised that the three-year target for resolution of the cases, was proving difficult to achieve. The revised Code clarifies and provides common interpretation of some provisions of the AC in order to facilitate resolution of many more cases within the three year time frame.

The proposed common interpretation covers the following topics: serious penalties, the scope of the AC (triangular transfer pricing and thin capitalization cases), interest charged/credited by tax administrations when a case is dealt with under the AC, the functioning of the AC (as regards rules about the deadline for the setting-up of the Advisory Commission and criteria for establishing the independence of arbitrators), the date from which a case is admissible under the AC and the inter-action of the AC and domestic litigation.

On 22 December, the Council and the representatives of the governments of the Member States approved the revised code of conduct for the effective implementation of the convention on the elimination of double taxation in connection with the adjustment of profits of associated enterprises.

1.5. Code of Conduct for business taxation⁵

The code of conduct group deals with implementation of a 1997 code of conduct aimed at eliminating situations in the EU of harmful tax competition. The code of conduct group is responsible for assessing and reviewing member states' tax measures, with a view to the rolling back of tax measures deemed as harmful (where a favourable tax regime in one Member State attracts businesses from other Member States), and for monitoring a "standstill".

The Code of Conduct Group met three times during the Czech Presidency. It reported to the ECOFIN on 29 June on the election of a new Chair, "standstill" and "rollback" and progress made in the execution of the future work package agreed by ECOFIN on 2 December 2008. During the Swedish Presidency, the Code of Conduct Group met twice and once in the setting of a sub-group. It reported to ECOFIN on 18 November 2009 on developments regarding "standstill" and on the steps taken that aim at completing the future work package by the end of the Spanish Presidency.

1.6. Common consolidated corporate tax base (CCCTB)

In 2009, work was focused on the preparation of a detailed impact assessment and the drafting of a legislative proposal. However, some detailed technical aspects and the impact assessment still require some further work, and this work is continuing.

⁵ Council Conclusions of the ECOFIN Council meeting of 1 December 1997



The CCCTB would enable companies to follow the same rules for calculating the tax base for all their EU-wide activities, rather than in accordance with the existing 27 systems, thereby, simplifying procedures, improving efficiency and reducing compliance costs. Member States would retain full sovereignty over their tax revenues as they would continue to set their own national tax rates.

More information can be found on the dedicated web pages:

http://ec.europa.eu/taxation_customs/taxation/company_tax/common_tax_base/index_en.htm

1.7. Cross-border withholding tax

On 19 October the Commission adopted a recommendation that outlines how EU Member States could make it easier for investors resident in EU Member States to claim withholding tax relief on dividends, interest and other securities income received from other Member States. The recommendation also suggests measures to eliminate the tax barriers that financial institutions face in their securities investment activities while at the same time protecting tax revenues against errors or fraud. The recommendation is designed to provide guidance to Member States in how to ensure that procedures to verify entitlement to tax relief do not hinder the functioning of the Single Market. A study⁶ by the Commission services estimates the costs related to the present reclaim procedures applied by Member States at € 1.09 billion annually and the amount of tax relief that is foregone because of the difficulties in making claims for refunds at € 5.47 billion annually.

1.8. Taxation of mergers, divisions, partial divisions - codified version

On 19 December, the Council adopted a Directive on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States. The new directive is aimed at codifying Directive 90/434. The new legislative act supersedes the various acts incorporated in it, while fully preserving the content of the act being codified.

2. VALUE ADDED TAX (VAT)

2.1 Fight against VAT fraud

2.1.1 Measures against tax evasion linked to import

The Council adopted on 30 June a Directive intended to strengthen measures against the evasion of value added tax (VAT) on imports. The new act specifies the conditions under which the importation of goods is exempt from VAT if followed by a supply or transfer of those goods to a taxable person in another Member State. This adoption followed a Commission proposal of 1 December 2008.

⁶

http://ec.europa.eu/taxation_customs/resources/documents/common/whats_new/study_fisco.pdf



The exemption applies only if the importer has provided the following information to the competent authorities of the Member State of importation:

- the VAT identification number of the importer issued in the Member State of importation
- the VAT identification number of the customer, to whom the goods are supplied, issued in another member state, or his own VAT identification number issued in the member state in which the dispatch or transport of the goods ends
- the evidence that the imported goods are intended to be transported or dispatched from the member state of importation to another member state.

2.1.2 Legal certainty for traders regarding intra-community transactions

On 23 June the Commission made available an online service offering the possibility for a taxpayer to get a certificate proving that he checked the validity of the VAT identification number of a client at a given time. This certificate can be used as one of the elements of evidence supporting the non-application of VAT on supplies to business customers in other Member States. It will therefore constitute one element for a compliant trader to prove his good faith in case he is involuntarily involved in a fraud (in particular carousel fraud) organised by his client.

2.1.3 Recast of the administrative cooperation regulation

On 18 August the European Commission adopted a proposal for a recast of the Regulation on administrative cooperation in the field of valued added tax, extending and reinforcing the legal framework for the exchange of information and cooperation between tax authorities. One of the key elements of the proposal is the creation of a legal base to set up Eurofisc: a common operational structure allowing Member States to take rapid action in the fight against cross border VAT fraud. The Commission today also adopted a report on the functioning of the administrative cooperation.

Eurofisc

One of the most novel elements in the proposal is the creation of Eurofisc. It is set out to be an operational structure where Member States will in practice, fight fraud together. It should allow a very fast exchange of targeted information between all Member States as well as the setting up of common risk and strategic analysis. This will enable Member States to react timely to stop fraud and catch fraudsters, making it more difficult for new fraud schemes to emerge and spread around the Community

Joint responsibility for the protection of tax receipts

The proposal changes the approach of the protection of VAT revenues. In addition to giving Member States tools to cooperate more closely and to exchange information faster, the Recast regulation sets out that Member States are jointly responsible for the protection of VAT revenues in all Member States.



Direct access to databases

Tax authorities store a large amount of information regarding their own taxpayers in their databases; rapid access to this information can be very useful to other Member States in order to detect cross-border fraud schemes. The proposal grants tax authorities of other Member States a direct access to a defined set of information contained in these databases.

Quality of data

The proposal contains a framework to ensure the quality, comparability and usability of the information contained in national databases. It includes rules on registration, deregistration and rules on initial and regular risk analysis processes.

Information to taxpayers

In order to prevent them from being caught involuntarily in fraud schemes, taxpayers will benefit from an enhanced and secure system of validation of their counterparts' VAT number and identity. This will significantly increase the legal certainty of their business environment when making intra-community supplies.

Report on the functioning of administrative cooperation

The report drafted according to article 45 of Council Regulation 1798/2003 in cooperation with Member States is the first report since the entry into force of the Regulation. It outlines areas where administrative cooperation is functioning well and points out areas for improvement. Its conclusions have been taken into account in the proposal for the recast of the Regulation.

The texts of the proposals are available at this web link:

http://ec.europa.eu/taxation_customs/index_en.htm

Further information on the strategy to improve anti-fraud measures can be found at:

http://ec.europa.eu/taxation_customs/taxation/tax_cooperation/reports/index_en.htm

2.1.4 Measures for a consistent response to carousel fraud in certain sectors

VAT fraud is a major concern for Member States' revenues and the correct functioning of the Internal Market. A common and particularly severe form of this fraud is VAT carousel fraud. This particular fraud costs billions of Euros to the EU finances every year. It is often organised on a large scale, sometimes by criminal organisations.

Carousel fraud is traditionally organised with small goods of high value. Recently, several Member States reported cases of carousel fraud on greenhouse gas emission allowances.

In order to allow Member States to take rapid action against this kind of fraud, the Commission has adopted a proposal for a Directive allowing the application of a reverse



charge mechanism on supply of five categories of particularly fraud sensitive goods and services, namely: computer chips, mobile phones, precious metals, perfumes and greenhouse gas emission allowances.

The possibility for all Member States to opt for the application of reverse charge under the same conditions to a limited list of goods and services provides Member States with the necessary tool to tackle worrying fraud phenomena in a flexible manner while ensuring consistency in the response Member States give to carousel fraud and avoid fraud relocation. It will also give valuable experience for evaluating the efficiency of such a measure.

On 3rd December the Council agreed on a general approach on this proposal, based on limiting the scope of the measure to greenhouse gas emission allowances. Discussions will continue on the remaining part of the proposal.

The text of the proposal is available at this web link:

http://ec.europa.eu/taxation_customs/index_en.htm

2.1.5 VAT gap study

On 30 October 2009, the European Commission published a study carried out by an external contractor on the gap between the amount of VAT due and the amount received in 25 Member States, and the evolution of these figures, over a period of 7 years.

The study comes up with an estimate VAT gap varying between 90 billion and 113 billion EUR in the period 2000-2006. For 2006, this represents 12% of the theoretical VAT liability with important national differences.

Table 1 Aggregate estimates of the VAT gap, 2000 – 2006 (EUR billion)

	2000	2001	2002	2003	2004	2005	2006
EU-10	6,5	8,3	8,3	7,6	8,6	8,1	7,9
EU-15	84,4	96,2	98,9	101,1	103,6	105,2	98,8
EU-25	90,9	104,5	107,1	108,7	112,3	113,3	106,7

Note: EU-10 and EU-25 exclude Cyprus. Non-Euro currencies converted to EUR using the average exchange rate in each year.

Table 2 Aggregate estimates of the VAT gap as a share of theoretical liability, 2000 - 2006

	2000	2001	2002	2003	2004	2005	2006
EU-10	20%	22%	20%	19%	19%	16%	14%
EU-15	12%	13%	13%	14%	13%	13%	12%
EU-25	13%	14%	14%	14%	14%	13%	12%

Note: EU-10 and EU-25 exclude Cyprus.

The study also gives the evolution of the VAT gap per country over the period.



2.2. Reduced VAT rates

Following the ECOFIN political agreement of 10 March 2009, the Council adopted on the 5th of May Directive 2009/47/EC essentially allowing all Member States – on a permanent basis – to opt for the application of reduced rates of value-added tax (VAT) to certain labour-intensive local services, including restaurant and catering services.

The adoption of Directive 2009/47/EC is one of the measures envisaged in the European economic recovery plan⁷, approved by the European Council in December 2008, aimed at protecting employment and promoting entrepreneurship. In particular, Directive 2009/47/EC gives the Member States flexibility when it comes to the application of reduced VAT rates in sectors where they could stimulate overall economic growth and job creation without jeopardising the proper functioning of the Internal Market. In line with the Lisbon strategy for growth and jobs, and in particular the Small Business Act, it will offer new incentives especially for SMEs and it will help fighting against fraud and the negative consequences of the economic and financial crisis.

EU rules on VAT rates, set by the Council Directive 2006/112/EC, require Member States to apply a minimum 15 % standard rate to the supply of most goods and services. As a general rule, Member States are however allowed to apply one or two reduced VAT rates of at least 5% to a limited number of supplies.

The current rules are the outcome of a variety of initiatives over the years, including the 1992 Council Directive on the harmonisation of VAT rates in the context of the EU single market, and subsequent Council Directives and Decisions to allow reduced VAT rates on labour-intensive local services with a view to stimulating employment and reducing fraud.

Reduced rates on certain labour-intensive local services had so far only been allowed on a temporary basis.

Under the Directive adopted by the Council, Member States that so wish may apply reduced VAT rates, on a permanent basis, to:

- the following labour-intensive local services:
 - minor repairing of bicycles, shoes and leather goods, clothing and household linen (including mending and alteration);
 - window cleaning and cleaning in private households;
 - domestic care services such as home help and care of the young, elderly, sick or disabled;
 - hairdressing;
 - the renovation and repairing of private dwellings, excluding materials which account for a significant part of the value of the service supplied;

⁷ COM(2008) 800 final



- restaurant and catering services, with the possibility to exclude the supply of (alcoholic and/or non-alcoholic) beverages;
- books, on all physical means of support.

In addition, Portugal may apply a reduced VAT rate to tolls on bridges in the Lisbon area, Cyprus is allowed to apply a reduced VAT rate to the supply of liquid petroleum gas in cylinders, and Malta may maintain a zero VAT rate for the supply of foodstuffs for human consumption and pharmaceuticals.

2.3. Review of the VAT rules on invoicing

On 16 January the Commission published a study on the VAT invoicing rules contained in the VAT Directive carried out for the European Commission by PricewaterhouseCoopers.

On 28 January, the Commission adopted a proposal to change the VAT Directive 2006/112/EC in respect to the invoicing rules, based on a Communication on the technological developments in the field of electronic invoicing. The aim of the proposal is to increase the use of electronic invoicing, reduce burdens on business, support small and medium sized enterprises (SMEs) and help Member States to tackle fraud. The proposal simplifies, modernises and harmonises the VAT invoicing rules. In particular, it eliminates the current barriers to e-invoicing in the VAT Directive by treating paper and electronic invoices equally. The proposal is a key element of the Commission's Action Programme to reduce burdens on business by 25% by 2012, and is part of the Commission's strategy to combat VAT fraud more efficiently.

The Communication and the proposal reflect the real concerns of the business community and tax administrations, as indicated in their replies to the public consultation. A recent opinion of the High Level Group of Independent Stakeholders (HLG) also showed a demand for all the VAT aspects of invoicing to be looked at more widely. The proposal, therefore, not only addresses the VAT obstacles which hamper the up-take of electronic invoicing and storage, but it also addresses difficulties that businesses face due to the diversity of national rules on the content of invoices.

The Commission believes that it is necessary to increase the up-take of electronic invoicing, by removing the pre-conditions of advanced electronic signatures or electronic data interchange (EDI) for sending invoices electronically. Moreover, the electronic storage of invoices would be allowed, even if the original invoice is in paper format, and common storage periods are proposed.

This proposal is currently under discussion in the Council.

2.4 Commission proposal for a Council Directive amending several elements of the VAT Directive

The Council adopted on 22 December 2009 a Directive amending several elements of Council Directive 2006/112/EC based on November 2007 Commission proposal.

Comments from the business world and the Member States had demonstrated the need to amend several elements of the VAT Directive.



These amendments concern: the scope of the scheme applicable to natural gas and electricity since 2003 in order to bring legislation into line with economic developments; the tax treatment of joint undertakings set up pursuant to Article 187 of the TFEU; the taking into account of certain consequences of EU enlargement; and the arrangements for exercising the right to deduct VAT for mixed-use immovable property and business assets.

2.5 VAT package: place of taxation for services - mini one stop shop for electronically supplied services and VAT refund to non-established businesses

The VAT Package, which was adopted by Member States at the ECOFIN Council in February 2008, provides for new provisions which will see VAT for business-to-business services paid in the country of consumption rather than the country where the supplier is located, while for business-to-consumer services, VAT will continue to be paid in the Member State in which the supplier is established. It also provides for a faster, more effective electronic procedure for businesses to reclaim the VAT that they pay in a Member State other than the one in which they are established. For more information, see: http://ec.europa.eu/taxation_customs/index_en.htm. These new rules enter into force from the 1 January 2010. On 1 December the Commission adopted an implementing regulation on Refunds of VAT laying down the detailed rules for the electronic submission of refund request and exchange of information on these requests.

In preparation for the entry into force of the new rules, the Commission adopted on 17 December a proposal on implementing measures for the VAT Directive 2006/112 (COM(2009) 672 final), which includes a number of measures related to the VAT Package, in particular to prevent situations of double taxation that could arise as a result of diverging interpretations of the new rules. For example, there are guidelines for suppliers on establishing the location and tax status of the customer, as this will determine the rate of VAT that must be paid. Other guidelines focus on the provisions within the VAT Package which complement or provide exceptions to these general new rules. This proposal is currently under discussion in Council.

2.6 VAT grouping

On 2 July the Commission adopted a Communication setting out its position on VAT grouping schemes. The EU VAT legislation gives Member States the option, for the purpose of administrative simplification, to regard as one single taxable person those who, while legally independent, are closely bound to one another by financial, economic and organisational links. The Communication includes guidelines which aim at ensuring a correct, coherent and uniform application of the VAT grouping option.

At the same time, the Commission opened infringement procedures for the reason of non-conformity of certain Member States' regulations with the EU Law.

2.7 VAT treatment of insurance and financial services

On 9 June the ECOFIN took note of a progress report on the Commission proposals regarding the value added tax treatment of insurance and financial services.

The 2007 Commission proposal is aimed at clarifying and updating the definitions and rules governing insurance and financial services – which are exempt from VAT – thus



increasing legal certainty for economic operators and tax administrations, reducing administrative burdens and reducing the impact of hidden VAT in the costs of service providers. The existing definitions were established in the 1970s and have led to uneven interpretation by the Member States.

This proposal remains under discussion in Council.

2.8 VAT treatment of postal services

In the case TNT the Court decided (Judgement of 23.03.2009, case C-357/07) that as VAT-exempted 'public postal services' must be regarded all operators, whether public or private, who undertake to supply not individually negotiated postal services which meet the essential needs of the population and therefore, in practice, to provide all or part of the universal postal service in a Member State.

While the Council invited the Spanish and Belgian Presidencies to explore and examine all options in order to make steps forward in this respect and to report the progress made at the ECOFIN Council in December 2010 at the latest, the Commission as guardian of the Treaties will open infringement procedure against Member States whose legislation is not conform to the mentioned ECJ judgement beginning 2010.

2.9 VAT derogations: Council decisions concerning individual Member States

On the basis of Article 395 of Council Directive 2006/112/EC, Member States may be authorised to derogate from the common VAT rules to simplify the procedure for charging the tax or to prevent certain types of tax evasion or avoidance. Such derogations have been authorised under the following different procedures:

- Council Decisions authorised by the Council under the procedure provided for in Article 395(2) and Article 395(3);
- Council Decisions tacitly approved under the former Article 27(4) of the Sixth VAT Directive⁸;
- Special measures that were applied by the Member States before 1st January 1977 and that were notified to the Commission before 1st January 1978, under Article 394.

The list reflecting the present state of play concerning the derogations applicable is available on the EUROPA website:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/key_documents/table_derogations/vat_index_derogations_en.pdf

⁸ Sixth Council Directive of 17 May 1977 on the harmonisation of the laws of the Member States relating to turnover taxes – Common system of value added tax: uniform basis of assessment (OJ L 145, 13.6.1977, p. 1). This Directive was repealed in its entirety by Directive 2006/112/EC with effect from 1 January 2007 while the provisions of Article 27(4) of the Sixth Directive referred to were deleted by Council Directive 2004/7/EC of 20 January 2004 amending Directive 77/388/EEC concerning the common system of value added tax, as regards conferment of implementing powers and the procedure for adopting derogations (OJ L 27, 30.1.2004, p. 44)



2.10 VAT-exemption on the importation of certain goods - codified version

The Council adopted on 20 October a Directive concerning the exemption from value added tax on the final importation of certain goods on the common system of value added tax. The new directive is aimed at codifying Directive 90/434. The new legislative act supersedes the various acts incorporated in it, while fully preserving the content of the act being codified.

3. EXCISE DUTIES AND OTHER INDIRECT TAXES

3.1 General provisions applicable on excise duties

On 24 July, the Commission adopted a Regulation implementing Council Directive 2008/118/EC as regards the computerised procedures for the movement of excise goods under suspension of excise duty.

This Regulation lays down measures concerning the structure and content of the electronic messages exchanged through the computerised system, the rules and procedures to be followed on the exchange of the messages and the structure of paper documents to be used in case the computerised system is not available.

3.2 Tobacco

On 10 November, the Council reached political agreement on a draft directive, based on the July 2008 Commission Proposal, aimed at updating EU rules on the structure and rates of excise duties on tobacco products.

The Directive is intended to ensure a higher level of public health protection by raising minimum excise duties on cigarettes, whilst bringing the minimum rates for fine-cut tobacco gradually into line with those for cigarettes.

The outcome of a fourth four-yearly review of tobacco taxation under directives 92/79/EEC, 92/80/EEC and 95/59/EC, it is aimed at modernising and simplifying the rules and making them more transparent.

The proposal also updates the definitions of different types of tobacco products so as to remove loopholes which allow certain cigarettes or fine cut tobacco to be presented as cigars, cigarillos or pipe tobacco and therefore benefiting from a lower tax rate.

The proposal would also make the taxation rules more transparent, thereby creating a level playing field for manufacturers and giving flexibility to Member States to set minimum taxes.

3.3 Alcohol

The Commission launched a new study in alcohol taxation in 2009. This study, which is being carried out by an external contractor, is due to report in Spring 2010. It is intended to use the report to analyse whether the current rates and structures of excise duties are adequately supporting the internal market or to what extent proposals for change are needed.



3.4 Energy taxation

On 30 November the Commission organised a one day conference in Brussels on 'What taxation for a low carbon economy?'

The threat to the climate is one of the greatest challenges our world is facing today. Substantial mitigation efforts are needed and it is crucial to use cost-effective instruments for this purpose. The EU opted for the EU emission trading system (ETS) to be its main instrument in this context. However, the question remains what is the role that taxation could or should play with respect to emissions in the non-ETS sector.

The conference focused on possibilities to address global warming through targeted taxation instruments, in theory and in practice and taking into account broader economic and social considerations.

Formulating a tax policy that also addresses environmental concerns requires good quality data. DG Taxation and Customs Union, working together with Eurostat, has filled a gap in developing an estimate for the portion of energy tax revenue that is raised on transport fuel. This makes it possible to estimate more precisely the tax burden falling specifically on the transport sector. These data were notably quoted in the Communication "Towards a sustainable future for transport", adopted by the Commission on 17 June 2009.

4. ALL TAXES: TAX AVOIDANCE AND EVASION MEASURES

4.1 Administrative cooperation in the assessment of taxes

On 2 February the Commission adopted a proposal for a Directive aiming at improving mutual assistance between Member States' tax authorities in the assessment of taxes.

One of the novelties of the proposal⁹ is its wider scope, as it covers all taxes except those that are dealt with under a specific European Community legislation, i.e. VAT and Excise duties.

The proposal aims to help Member States to efficiently cooperate at international level, in order to overcome the increasing difficulties that they are experiencing in properly assessing taxes due. The proposal provides clearer and more precise rules in the area of cooperation. In particular, it sets up common rules of procedures, common forms, formats and channels for exchanging information. It also allows tax administration officials in one Member State to be on the territory of another Member State and to participate actively – with the same powers of inspection – in administrative enquiries carried out there.

One of the main elements of the new draft Directive is to tackle the question of bank secrecy being invoked to refuse cross border co-operation. Based on the OECD Model Convention, the proposal contains a provision by which a requested Member State cannot refuse to supply information concerning a taxpayer of the requesting Member State solely because this information is held by a bank or other financial institution. As such, the proposal abolishes bank secrecy in the relations between tax authorities when

⁹ COM(2009)29



a requesting Member State is assessing the tax situation of one of its resident taxpayers.

Another crucial element of the proposal is that Member States are obliged to provide the same level of cooperation to their EU partners as they have agreed to with any third country, thus stressing the specific EU dimension.

4.2 Anti-fraud agreement with Liechtenstein

The European Commission adopted on 10 December 2008 the proposal for an anti-fraud agreement¹⁰ between the EU and its Member States and the Principality of Liechtenstein.

The proposed agreement covers mutual administrative (including special forms of cooperation such as joint investigation teams and recovery) and legal assistance (including provisions on seizures and on banking/financial information) in the fight against fraud and other irregularities to the detriment of the financial interests of the parties, including the evasion of direct taxation.

On 10 February 2009, the ECOFIN Council adopted conclusions "inviting the Commission to continue the negotiations with Liechtenstein in order to obtain such changes in the text of the draft agreement to ensure effective administrative assistance and access to information with regard to all forms of investment, in particular foundations and trusts. As regards the provision of information in tax matters to the Member States, the Council expects Liechtenstein to encompass in the agreement with the European Community and its Member States at least a similar scope of obligations as Liechtenstein recently agreed with third countries."

On 11 March 2009, Liechtenstein issued an official statement, whereby it recognises the OECD Article 26 standard (exchange of information upon request even though information is held by a bank).

The modified draft agreement was on the agenda of the ECOFIN in June, October and December.

4.3 Anti-fraud agreement with other third Countries

A recommendation has been adopted by the College of Commissioners on 30 June 2009 to open negotiations with Andorra, Monaco, San Marino and Switzerland with a view to concluding agreements similar to the Liechtenstein anti fraud agreement.

This point has been on the ECOFIN agenda in October and December.

4.4 Mutual assistance for the recovery of claims relating to certain levies, duties, taxes and other measures.

On 2 February the Commission adopted a proposal for a Directive aiming at improving mutual assistance between Member States' tax authorities in the recovery of taxes.

¹⁰ COM 2008(839) of 10 December 2008



The proposal to improve mutual assistance in the recovery of taxes¹¹ aims at reinforcing and improving recovery assistance between the Member States. This should help to increase the recovery ratio, which currently only amounts to approximately 5% of the total for which recovery assistance is requested.

The Commission proposes in particular to:

- Cover all taxes and duties levied by the Member States and their administrative subdivisions, as well as compulsory social security contributions;
- Introduce compulsory spontaneous exchange of information concerning refunds of taxes made by national tax authorities to non residents;
- Allow officials of one country to actively participate in administrative enquiries on the territory of another country;
- Allow that recovery assistance is requested in an early stage of the recovery process, if this leads to an increase of the recovery chances;
- Simplify and rationalise the procedures to be used when requesting or providing mutual assistance;

On 4 September the Commission adopted a report on the use of the provisions on mutual assistance for recovery of claims relating to certain levies, duties, taxes and other measures between 2005 and 2008. The statistics show an increase in the amounts of tax due recovered through the procedures of mutual assistance between Member States. The amounts grew six fold between 2003 and 2008. However, the amounts actually recovered are still deceptively low in comparison with the amounts Member States claim to recover. Although it is very difficult to quantify, the available figures show that only 5% of the amounts claimed are actually recovered.

5. FISCAL STATE AID DECISIONS

DG TAXUD is consulted on all fiscal state aid cases.

For decisions on fiscal state aid cases see the state aid register on the website of the Directorate General for Competition of the European Commission at:

http://ec.europa.eu/comm/competition/state_aid/register/ii/#by_instrument

The State aid provisions of the EC Treaty provisions apply when a tax measure is discriminatory and provides an advantage only to certain enterprises, or certain activities.

The Commission has been given the exclusive power under the Treaty to take decisions on whether or not aid granted by Member States is compatible with the Treaty.

The Commission may require that illegally granted aid be repaid by recipients to the public authorities which granted it. The Member State must recover the aid immediately

¹¹ COM(2009)28



in accordance with domestic procedures. Commission decisions can be challenged before the European Court of Justice. On application by a Member State, the Council may, acting unanimously, decide that aid which that State is granting or intends to grant shall be considered compatible with the common market, if such a decision is justified by exceptional circumstances.

6. INFRINGEMENTS PROCEEDINGS LAUNCHED BY THE COMMISSION

The Commission is the 'guardian of the Community Treaties'. It monitors the Member States' application and implementation of primary and secondary Community legislation, institutes infringement proceedings in the event of any violation of Community law (Article 258 TFUE) and, if necessary, refers the matter to the Court of Justice. Over the last few years, efforts to prevent abuse of Community rules have become a major part of the Commission's work.

The XXVIth Annual Report on monitoring the application of Community law (2008) was published in 2009¹².

See also the press releases on infringements included in the "infringement" pages of the website of the Directorate General for Taxation and the Customs Union. They are presented by policy area¹³ and by country¹⁴.

Where it detects a failure to comply with Community law, the Commission may initiate the procedure for failure to fulfil an obligation provided for in Article 258 of the Treaty on the functioning of the European Union.

In 2009, DG TAXUD opened **226 new infringement cases**, whereby 136 were related to indirect taxes (VAT: 99; Excise duties: 14; Car, energy and environmental taxation: 23) and 90 were related to direct taxes.

In most of the cases, this implies that DG TAXUD sent to the Member States concerned a letter of formal notice, the first stage of the infringement procedure, inviting them to submit their observations within two months.

At the date of 31 December 2009, 301 infringement cases, for which such a procedure was applied, were still ongoing (124 were related to indirect taxes (VAT: 95; Excise duties: 11; Car, energy and environmental taxation: 18) and 177 to direct taxes).

During 2009, 127 infringement cases were **closed after Member States modified their national legislation** and therefore complied with Community Law.

¹² See:

http://ec.europa.eu/community_law/infringements/infringements_annual_report_26_en.htm

¹³ See:

http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/bypolicy/index_en.htm

¹⁴ See:

http://ec.europa.eu/taxation_customs/common/infringements/infringement_cases/bycountry/index_en.htm



These figures clearly reveal the **Commission plays an important role in correct implementation of European legislation** into national law and therefore ensures uniform application of EU legislation in all Member States.

7. EUROPEAN COURT OF JUSTICE JUDGEMENTS

For judgements of the European Court in 2009 in the tax field see the website of the ECJ at <http://curia.europa.eu/en/index.htm>

Ad-hoc Press releases are published at <http://curia.europa.eu/en/actu/communiqués/index.htm>

See also the website of the Directorate General for Taxation and the Customs Union at http://ec.europa.eu/taxation_customs/common/legislation/case_law/index_en.htm

This section provides a catalogue of the case law in direct taxation, in indirect taxation (e.g. VAT, car taxation and excise duties) and the latest lists of Court cases in the area of customs.

8. ACTIVITIES OF THE EUROPEAN PARLIAMENT

Like all parliaments, the European Parliament has three fundamental powers: legislative power, budgetary power and supervisory power. In the ordinary legislative procedure the European Parliament and the Council of Ministers together adopt legislation proposed by the Commission. Parliament therefore has to give its final agreement. In the tax field, however, the European Parliament provides its opinion on Commission proposals in the tax field but the proposal is not adopted unless there is unanimous agreement by the EU's Council of Ministers. Second, the European Parliament and the Council are the two arms of the budgetary authority. Parliament exercises democratic oversight of all Community activities. In this context, it can set up committees of enquiry, table questions on Commission proposals and it plays a central role in appointing the Commission.

The Opinions delivered in 2009 on tax issues by the Parliament's Committee for Economic and Monetary Affairs and by the Committee for Legal Affairs and the Internal Market, and parliamentary questions and answers on tax subjects, are to be found on the Parliament's website at http://www.europarl.europa.eu/news/public/default_en.htm

9. ACTIVITIES OF THE EUROPEAN ECONOMIC AND SOCIAL COMMITTEE (ECOSOC)

This Committee is also required to provide its opinion on Commission proposals in the tax field. It can also provide opinions in the taxation field at its own initiative. See website at: http://www.eesc.europa.eu/index_en.asp

10. ACTIVITIES OF THE COMMITTEE OF THE REGIONS

The Committee of the Regions adopts opinions on tax proposals that have regional implications. See website at <http://www.cor.europa.eu/>



11. TAX PUBLICATIONS OF THE EUROPEAN COMMISSION IN 2009

11.1 Report "Taxation Trends in the European Union"

The 2009 Report shows that the European Union is, taken as a whole, a high tax area. In 2007, the last year for which detailed data are available, the overall tax ratio, i.e. the sum of taxes and social security contributions in the 27 Member States (EU-27) amounted to 39.8% of GDP (in the weighted average); this value is about 12 percentage points above those recorded in the United States and Japan. The EU tax-to-GDP ratio is high not only compared with these two countries but in general; amongst the major non-European OECD members, only New Zealand has a ratio that exceeds 35 per cent of GDP¹.

The high EU overall tax ratio is not new, dating back essentially to the last third of the 20th century. In those years, the role of the public sector became more extensive, leading to a strong upward trend in the tax ratio in the 1970s, and to a lesser extent also in the 1980s and early 1990s. In the late 1990s, first the Maastricht Treaty and then the Stability and Growth Pact encouraged EU Member States to adopt a series of fiscal consolidation packages. In some Member States, the consolidation process relied primarily on restricting or scaling back primary public expenditures, in others the focus was rather on increasing taxes (in some cases temporarily). At the end of that decade, a number of countries took advantage of buoyant tax revenues to reduce the tax burden, through cuts in the personal income tax, social contributions, but also in the corporate income tax.

The "Taxation Trends in the European Union" report contains a detailed statistical and economic analysis of the tax systems of the Member States of the European Union and Norway. The data are presented within a unified statistical framework (the ESA95 harmonised system of national and regional accounts), which makes it possible to assess the heterogeneous national tax systems on a fully comparable basis.

The standard classifications of tax revenues (by major type of tax or by level of government) presented in most international tax revenue statistics are hard to interpret in economic terms. This publication stands out for offering a breakdown of tax revenues by economic function (i.e. according to whether they are raised on consumption, labour or capital). This classification is based on disaggregated tax data and on a breakdown of the revenue from the personal income tax. In addition, the report contains indicators of the average effective tax burden on consumption, labour and capital, as well as data on environmental taxation and on the top rates for the personal and corporate income tax.

Country chapters give an overview of the tax system in each of the 28 countries covered, the revenue trends and the main recent policy changes. Detailed tables allow comparison between the individual countries and European averages. Data cover the 1995-2007 period and are presented both as a percentage of GDP and as a percentage of total taxation.

The 2009 edition includes several additions and improvements. A new data set on environmental tax revenues has been added, which has direct relevance for sustainable transport policies (see point 3.5). Another significant addition is the presentation on a time series for the top Personal Income Tax Rate, stretching back to 1995; this



information, previously available only for a few years back, revealed a remarkable time trend. Coverage of non-EU corporate income tax rates was improved. Finally, the report includes a comprehensive overview, also available in table form, of the measures taken by the Member States in the fiscal domain to counteract the global economic and financial crisis. This information was previously available only for some EU Member States. The report is available at the following website:

<http://ec.europa.eu/taxtrends>

In addition, as a complement to the report, for the first time in 2009 DG TAXUD makes available on its website statistics on tax revenue by individual tax for each Member state. Previously this information was available only in an aggregated form. The data file can be downloaded through the Taxation Trends page mentioned above.

11.2 Taxes in Europe Database

In 2009, the Commission has updated its "Taxes in Europe Database", an internet tool providing citizens, business and researchers with information on 661 most important taxes in the EU Member States. Using a methodology agreed with the Member States, this database includes information about the main aspects of each tax, as well as economic and statistical data such as the revenue generated. The database is equipped with a powerful search tool, allows for easy comparison among Member States and can be found at the following website:

<http://ec.europa.eu/tedb>

11.3 Taxation papers series.

Taxation Papers¹⁵ are written by the Staff of the European Commission's Directorate-General for Taxation and Customs Union, or by experts working in association with them. Taxation Papers are intended to increase awareness of the work being done by the staff and to seek comments and suggestions for further analyses. Responsibility for "Taxation papers" rests solely with the authors and, in this regard, they do not necessarily represent the position of the European Commission.

Taxation Paper published in 2009:

- Taxation Paper No 14 - Corporate Effective Tax Rates in an Enlarged European Union
Written by Christina Elschner and Werner Vanborren

This paper offers an assessment of European corporate tax regimes using forwardlooking indicators for corporate investment based on the Devereux-Griffith methodology. It draws on time series of average effective tax rates (EATR) using a detailed set of tax parameters for 27 EU Member States as well as some important non-EU countries. The analysis shows that over time the reduction in the corporate effective average tax rates (EATR) was lower than for the corporate statutory rates and the figures suggest that simple corporate tax base broadening by means of less generous

¹⁵ See:

http://ec.europa.eu/taxation_customs/taxation/gen_info/economic_analysis/tax_papers/index_en.htm



capital allowances is not a sufficient explanation for this phenomenon. Finally, it is shown that the tax gap between the old and new EU Member States has grown over time and even accelerated after accession.

- Taxation Paper No 15 - Corporate Income Tax and Economic Distortions Written by Gaëtan Nicodème.

As any non-lump-sum tax, corporate income taxation creates distortions in economic choices, reducing its efficiency. This paper reviews some of these domestic and international distortions and their most recent estimates from the economic literature. Distortions originating from income shifting between capital and labour sources, profit shifting across jurisdictions, the effects of taxation on business location and foreign direct investment are the major sources of distortions.

- Taxation Paper No 16 - International Taxation and Multinational Firm Location Decisions Written by Salvador Barrios, Harry Huizinga, Luc Laeven and Gaëtan Nicodème.

Using a large international firm-level data set, this paper estimates separate effects of host and parent country taxation on the location decisions of multinational firms. Both types of taxation are estimated to have a negative impact on the location of new foreign subsidiaries. In fact, the impact of parent country taxation is estimated to be relatively large, possibly reflecting its international discriminatory nature. For the cross-section of multinational firms, we find that parent firms tend to be located in countries with a relatively low taxation of foreign-source income. Overall, the results show that parent-country taxation – despite the general possibility of deferral of taxation until income repatriation – is instrumental in shaping the structure of multinational enterprise.

- Taxation Paper No 17 - Alternative Systems of Business Tax in Europe: An applied analysis of ACE and CBIT Reforms Written by Ruud A. de Mooij and Michael P. Devereux.

This report explores the economic implications of an allowance for corporate equity (ACE), a comprehensive business income tax (CBIT) and a combination of the two in the EU. It illustrates the key trade-offs in designing ACE and CBIT in the presence of tax distortions at various decision margins of firms, such as its financial structure, investment, profit allocation and discrete location. Using an applied general equilibrium model for Europe, it quantitatively assesses the effects of ACE, CBIT and combined reforms in EU countries. The results suggest that ACE is welfare improving as long as corporate tax rates are not used to cover the cost of base narrowing. CBIT typically reduces welfare by exacerbating marginal investment distortions. When governments adjust statutory corporate tax rates to balance their budget, however, CBIT reforms become more attractive while ACE reforms are welfare reducing in a number of countries. European coordination of reforms mitigates fiscal spillovers within the EU and renders ACE reforms more, and CBIT reforms less, attractive for welfare. A combination of ACE and CBIT reforms can be designed to be revenue neutral and welfare improving through smaller financial distortions.



- Taxation Paper No 18: 'Tax Co-ordination in Europe: Assessing the First Years of the EU-Savings Taxation Directive.' Written by Thomas Hemmelgarn and Gaëtan Nicodème.

This paper reviews the economic effects of the EU Savings Taxation Directive. The Directive aims at enabling taxation of foreign interest payments received by individuals in accordance with the rules of their State of residence. The data suggest that the Directive, which is based on automatic information exchange, has not led to major shifts in international savings. However, this result has to be interpreted with caution since the available data is scarce and not always conclusive.

- Taxation Paper No 19: 'The role of fiscal instruments in environmental policy.' Written by Katri Kosonen and Gaëtan Nicodème.

Environmental protection is one of Europe's key values. The EU has set clear policy objectives to achieve its environmental goals. The EU has favoured market-based instruments, among which fiscal instruments to tackle the climate change problem. This paper takes a policy-making perspective and provides an overview of key issues on the role of fiscal instruments in energy and environmental policies. It describes fiscal instruments as cost-effective means to promote environmental goals and highlights in which cases taxes and other types of fiscal instruments can usefully complement each other to achieve environmental target.

11.4 Other publications

EMCS newsletter

The Excise Movement and Control System (EMCS) is an ambitious project which will introduce electronic processing for declaring, monitoring and discharging movements of excise products under suspension of excise duties within the EU. EMCS will thus replace the current paper-based procedures.

The Commission recognises that the success of this project requires an extensive effort of communication. It therefore provides up-to-date information (via newsletters) on the state of this project on its website, see:

http://ec.europa.eu/taxation_customs/taxation/excise_duties/circulation_control/emcs_info_services/index_en.htm

VAT- gold coins

Article 345 of Council Directive 2006/112/EC requires the Commission to publish the complete list of gold coins in conformity with the criteria envisaged in Article 344, paragraph 1, point 2), of that Directive, in the part "C" of the Official Journal of the European Union before 1 December of each year. The coins included in this list shall be deemed to fulfil those criteria throughout the year for which the list is published. The list valid for the year 2010 was published in Official Journal of the European Union of 28 November 2009 (C 289).



VAT rates in Member States

The list of VAT rates applied in the Member States of the EU is available at this web link:

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/how_vat_works/rates/vat_rates_en.pdf

Excise duty rates in Member States

The list of excise duty rates applied on alcohol beverages, tobacco or energy products, in the Member States is available at this web link:

http://ec.europa.eu/taxation_customs/taxation/excise_duties/alcoholic_beverages/rates/index_en.htm

Consultations of the VAT Committee by Member States

Certain provisions of the VAT require Member States to consult the VAT Committee before they introduce national legislation.

The latest list reflecting the consultations made is available at this web link

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/key_documents/vat_committee/Consultations_VAT_Committee_en.pdf

Guidelines issued by the VAT Committee

A selection of the Guidelines adopted by the VAT Committee is made available. This selection only shows unanimously adopted guidelines which are not subject to any legislative discussion.

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/key_documents/vat_committee/guidelines_en.pdf

11.5 Studies made for the Commission

- Study on the implementation of the Tax Merger Directive. The study carried out by Ernst & Young provides a comprehensive overview of the implementation of the Tax Merger Directive (Council Directive 90/434/EEC as amended) in the 27 EU Member States. The purpose of the survey is to enable the Commission to assess the need for further EU-wide action in this area. The main finding of the survey is that most Member States have correctly transposed the Tax Merger Directive, but it has been under-utilised due to the fact that the corporate law allowing cross border mergers has not been in place in many countries up to recently. The findings and conclusions of the study are those of the authors and should not be construed as reflecting the position of the European Commission.

http://ec.europa.eu/taxation_customs/resources/documents/taxation/company_tax/mergers_directive/study_impl_direct.pdf



- A study on the VAT invoicing rules contained in the VAT Directive (2006/112/EC) was carried out for the European Commission by PricewaterhouseCoopers. It aims to look at the four principal areas of invoicing - the requirement to issue an invoice, the content of an invoice, electronic invoicing and the storage of invoices - with a view to mapping the existing legislation in all Member States, analysing burdens on business and Member States' control needs, and providing recommendations for a more harmonised and modern set of VAT invoicing rules.

http://ec.europa.eu/taxation_customs/resources/documents/taxation/vat/traders/invoicing_rules/phase_4_final_report_en.pdf

Study to quantify and analyse the VAT gap in 25 EU Member States. The study analyses the gap between the amount of VAT due and the amount received in 25 Member States.

http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_cooperation/combating_tax_fraud/reckon_report_sep2009.pdf

11.6 Speeches.

Speeches of the EU Commissioner responsible for taxation:

http://ec.europa.eu/commission_barroso/kovacs/speeches/index_en.htm

12. CONFERENCES AND SEMINARS ON TAX ISSUES ORGANISED BY THE EUROPEAN COMMISSION

- On 30-31 March 2009, the third Brussels Tax Forum took place in Brussels around the topic "Tax systems in a changing world". The conference focused on how to design direct and indirect tax systems that are modern, efficient and fair. It addressed the need for good governance, more transparency and effective exchange of information in the field of taxation. The Brussels Tax Forum is an annual conference that brings together policy makers, experts, stakeholders and the general public from all over the world to discuss tax issues of particular political and general interest. The Brussels Tax Forum was hosted in Brussels by László Kovács, the EU Commissioner responsible for Taxation and Customs Union.

The minutes, presentations and speeches of the Forum are available at this web link:

http://ec.europa.eu/taxation_customs/taxation/gen_info/tax_conferences/tax_forum/index_en.htm

- *Fiscalis 2013 Seminars. The Fiscalis 2013 programme aims at stimulating cooperation between tax authorities in order to build on a more effective fight against fraud, to enhance a common understanding of Community legislation and to develop jointly good administration procedures and best practices. The Programme's budget finances a variety of activities amongst which seminars constitute a good framework for the exchange of ideas on particular topics between officials of the national administrations, Commission representatives and other experts, if necessary. Suggestions may emerge for improving the legal instruments in force or facilitating co-operation between administrations.*



- Seminar on "common forms for exchange of information under the Council Directive 77/799/EEC of 19 December 1977 concerning mutual assistance by the competent authorities of the Member States in the field of direct taxation with subsequent amendments", Naples (Italy), 6-8 April 2009;
- Seminar on "the application of the customs 4200 procedure", Steiermark (Austria), 28-30 April 2009;
- Seminar on "Translating the legal provisions for EMCS Phase 2 into workable solutions for tax administrations and trade, and preparing the legal provisions for EMCS Phase 3", Vilamoura (Portugal), 4-6 May 2009;
- Seminar on "Abuse of triangular operations in missing trader intracommunity fraud and new trends of fraud", Málaga (Spain), 6-8 May 2009;
- Seminar "Impact of tobacco taxation policy on public health", Athens (Greece), 28-29 May 2009;
- Training Seminar on "EU Training Orientation 2013"- Sinaia (Romania), 4-5 June 2009;
- Seminar on "VAT anti-avoidance", Helsinki (Finland), 9-11 June 2009
- Seminar on "Advance Pricing Agreements within the EU", Dubrovnik (Croatia), 24-25 September 2009
- "Tax Inspectors Seminar", jointly organised by the OECD-SECTIS and the European Union (Fiscalis 2013 Programme) Oslo (Norway), 29 September – 1 October 2009
- "Seminar for Heads of Central Liaison Offices", Ystad (Sweden), 25-27 November 2009
- Seminar on "The VAT treatment of bodies governed by public law and of subsidies: issues and prospects" Florence (Italy), 30 November – 2 December 2009
- Seminar on "Tax audit of e-commerce transactions", Paris (France), 8-10 December 2009
 - For further information on Fiscalis seminars see: http://ec.europa.eu/taxation_customs/taxation/tax_cooperation/fiscalis_programme/index_en.htm

- *European Academic Tax Thesis Award:*

The European Academic Tax Thesis Award is a joint initiative of the European Commission (Directorate General Taxation and Customs Union) and the European Association of Tax Law Professors (EATLP). It was launched for the first time in 2007 and is meant to be awarded on a yearly basis. Up to five authors of academic theses defended in 2006 on issues of comparative, European and/or international tax law have had a chance to present their work to interested European Commission officials.



The 2009 European Academic Tax Thesis Award was awarded on 10 June 2009.

The three prize-winners and their respective subjects were:

Emmanuel Raingeard: "The relationship between EC law and international tax law"
(University Paris I-Sorbonne)

Pernilla Rendahl: "Cross-border consumption taxation of digital supplies"
(Jonkoping University)

Marion Tenore: "Taxation of cross-border dividends in Europe" (University of
Naples)



APPENDIX

1. Other Council Decisions

On 10 November 2009, the Council agreed to a Commission proposal to renew a derogation for Portugal in the field of alcohol taxation. Council Decision 2009/831/EC authorises Portugal to apply a reduced rate of excise duty in the autonomous region of Madeira on locally produced and consumed rum and liqueurs and in the autonomous region of the Azores on locally produced and consumed liqueurs and eaux-de-vie.

2. Other Commission proposals

Proposal for a Council Decision authorising the Portuguese Republic to apply a measure derogating from Articles 168, 193 and 250 of Council Directive 2006/112/EC on the common system of value added tax (COM (2009) 641 of 24.11.2009).

Proposal for a Council Decision authorising the Republic of Lithuania to extend the application of a measure derogating from Article 193 of Council Directive 2006/112/EC on the common system of value added tax (COM (2009) 668 of 08.12.2009).