

CFE EUROPEAN TAX REPORT 2005/14

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C.F.E. NEWS:

► ***The C.F.E. Brussels Office is moving***

The C.F.E. Brussels Office will have new contact details as of 7th December 2005:

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► ***New C.F.E. Opinion Statement on the General Anti - Avoidance Rules***

A new C.F.E. Opinion Statement has been produced on the General Anti - Avoidance Rules. It can be found on the C.F.E. website, www.cfe-eutax.org (under the section "Fiscal issues", choose "opinion statements" on the left hand side marginal).

LATEST EUROPEAN DEVELOPMENTS

European Commission:

► ***ADOPTED DIRECTIVE, COMPANY LAW, CROSS-BORDER MERGERS***

Company law: cross-border mergers Directive adopted and published

The Commission has welcomed the recent adoption of the cross-border mergers Directive, which has now been published in the Official Journal. The Directive was adopted in a single reading by both the Council and the Parliament. This key measure responds to strong demand from businesses and enables cross-border mergers of limited-liability companies in the European Union, which until now had been impossible or very difficult and expensive.

Read More: [EN](#) [FR](#) [DE](#)

Official Journal: [EN](#) [FR](#) [DE](#)

► ***STATE AID, TAX EXEMPTION PROHIBITION, REAL ESTATE TRANSFER***

Commission prohibits real estate transfer tax exemption for housing companies

The Commission has prohibited, under the EC Treaty rules on state aid, the implementation of a German aid scheme which foresees to exempt housing companies in the labour market region of Berlin from the real estate transfer tax in case of mergers and acquisitions. The objective of the scheme is to redevelop the housing market in the labour market region of Berlin as this market is characterised by oversupply.

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► ***CO2 TAXATION SYSTEM, STATE AID, INVESTIGATION, SLOVENIA***

Commission closes formal investigation on CO2 taxation system in Slovenia following changes to legislation

The Commission has approved under EC Treaty state aid rules a Slovenian scheme granting reductions in carbon dioxide taxation to operators of combined heat and power (CHP) installations; companies that participate in the EU emission trading scheme, in line with the Directive on emission trading, and companies that enter into voluntary environmental agreements.

Read More: [EN](#) [FR](#) [DE](#)

► **WASTE TOURISM, LANDFILL TAXES INTRODUCTION**

Zeeland Commissioner Van Gelder advocates landfill taxes to tackle ‘waste tourism’ and promote sustainability

Wim van Gelder, Queen’s Commissioner for the Dutch Province of Zeeland, has called on the European Commission and national authorities to do more to help eliminate “waste tourism” by companies exporting their refuse products to countries which charge less for its disposal. In an outlook report presented to the EU Committee of the Regions (CoR) on 17 November, Mr van Gelder suggests that one possible solution to the problem is the introduction of landfill taxes to make waste tourism a less attractive option and to encourage more sustainable waste schemes.

Read More: [EN](#)

► **ADOPTED REGULATION, ACCOUNTING STANDARDS, IAS N39**

Commission endorses “IAS 39 Fair Value Option”

The European Commission has adopted a Regulation endorsing the amended International Accounting Standard (IAS) N° 39 on Financial Instruments: Recognition and Measurement, the “Fair Value Option”. This text was unanimously supported by Member States at the Accounting Regulatory Committee and by the European Parliament. Adoption is retroactive to 1st January 2005, so that companies will be able to apply the amended standard for their 2005 financial statements.

Read More: [EN](#) [FR](#) [DE](#)

► **COMPANY LAW, ACTION PLAN, SHAREHOLDER RIGHTS, SPEECH**

Future of the Company Law Action Plan, speech by Commissioner Mr. McCreevy

The first priority is to promote good governance practices throughout the EU. Corporate governance practices vary among Member States because of their different economic, social and legal traditions. Nevertheless, there is a clear market-driven trend towards convergence in Europe. This phenomenon is likely to develop further with the growing integration of European capital markets.

Read More: [EN](#)

► **MORTGAGE CREDIT MARKET, COMMISSION PERSPECTIVE, SPEECH**

The EU Mortgage Credit Market, speech by Commissioner Mr. McCreevy

Recent developments in EU regulation may add impetus to the growth of the EU mortgage credit market. The Capital Requirements Directive provides for a particular treatment for residential property. This includes reduced capital requirements for residential property, an expansion of the scope of the property that is eligible for the reduction, and preferential treatment for covered bonds. All this will certainly affect activity in the EU mortgage market and do so in a way, some commentators argue, that could result in benefits for end (consumer) borrowers.

Read More: [EN](#)

► **FINANCIAL REPORTING, EU STRATEGY, IFRS, SPEECH**

EC Strategy on Financial Reporting: progress on convergence and consistency, speech by Commissioner Charlie McCreevy

It is worth recalling why the EU decided to embark on the IFRS endeavour. For the EU single market, it would of course have been possible to try and develop some kind of EU GAAP. But the EU has a broader and more ambitious vision for accounting. Capital is the most mobile of all resources. Our financial markets are becoming ever more closely integrated. Global capital markets require and deserve global accounting standards. This promotes greater efficiency, better diversification and lowers capital costs. In turn, lower capital costs promote investment growth and employment.

Read More: [EN](#)

European Parliament▶ **COMPANY TAXATION, AMENDED REPORT****Company taxation - debate over amendments**

In Nov 2003, the Commission presented a follow-up assessing progress in development of the CCCTB to which the EP decided to present its own-initiative Report. During his last appearance before the ECON Committee on Monday 14th of Nov, Charlie McCreevy, European Union internal market commissioner, reiterated his views expressed during his various public appearances and disfavoured harmonisation of national tax regimes when he said bluntly that "Tax harmonisation is not on the agenda, nor will it be". The vote on amendments of the report took place 29th of November.

Press Release: [EN](#)

Amended Report: [EN](#) [FR](#) [DE](#)

▶ **COMMON SYSTEM OF VAT, LENGTH OF APPLICATION OF MINIMUM RATES, ECON**

On the 17th of November the Final amended report was adopted on the proposal for a Council directive amending Directive 77/388/EEC on the common system of value added tax, with regard to the length of time during which the minimum standard rate is to be applied. The Rapporteur is Becsey Zsolt László. The final report contains such amendments as application not only of the minimum of 15% rate but also the maximum rate which is 25%. The Parliament recommends that the Commission carry out a general assessment of the macro-economic impact of implicit and standard VAT rates.

Final Amended Report: [EN](#)

▶ **VAT REFUND RULES, REPORT, ECON**

On the 16th of November the Final Report was adopted on the proposal for a Council directive laying down detailed rules for the refund of value added tax, provided for in Directive 77/388/EEC, to taxable persons not established in the territory of the country but established in another Member State. The Rapporteur is Becsey Zsolt László.

Final Report: [EN](#)

OECD▶ **MULTIRATELAR TAX PROGRAMME****Memorandum of Understanding on the implementation of the Multilateral Tax Programme at the OECD-Budapest Multilateral Tax Centre**

Hungary's Minister of Finance, Dr Veres János, and the OECD, represented by Mr Jeffrey Owens, Director of the Centre for Tax Policy and Administration, signed today a Memorandum of Understanding on the implementation of the multilateral tax programme at the OECD-Budapest Multilateral Tax Centre. The Memorandum of Understanding thus formalises a long term partnership between Hungary and the OECD in the operation of the OECD-Budapest Multilateral Tax Centre.

Read More: [EN](#)

▶ **TAX INFORMATION EXCHANGE AGREEMENT, AUSTRIA AND BERMUDA****OECD welcomes tax information exchange agreement between Australia and Bermuda**

Australia and Bermuda signed a bilateral agreement on the exchange of information for tax purposes, coinciding with the start of a two-day OECD Global Forum on Taxation in Melbourne focusing on issues relating to transparency and information exchange. The agreement was the second such arrangement entered into by Bermuda, which signed a similar accord signed in 1988 with the United States, and follows a similar agreement last month between the Isle of Man and the Netherlands.

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► **TAXATION FORUM, PROGRESS IN TRANSPARENCY**

OECD Global Forum on Taxation reviews progress on transparency, information exchange

A two-day meeting in Melbourne, Australia, of government officials from 55 OECD and non-OECD economies marked a further stage in international discussions on what is needed for a so-called "global level playing field" in the areas of transparency and exchange of information for tax purposes.

Read More: [EN](#) [FR](#)

Opening speech: [EN](#)

Press Release: [EN](#)

► **NORWEGIAN AVIATION FUEL TAX**

The Political Economy of the Norwegian Aviation Fuel Tax

This report was prepared by the Norwegian consultancy firm ECON Analyse as part of a broader work on "the political economy of environmentally related taxes".

Report: [EN](#)

European Court of Justice:

► **C-5/05, *Staatssecretaris van Financiën v B.F. Joustra***

In this reference for a preliminary ruling, the Netherlands Hoge Raad (Supreme Court) seeks guidance on the interpretation of Articles 7 to 9 of Council Directive 92/12/EEC, (2) which forms part of the legislation establishing the internal market. Those provisions lay down rules as to where excise duty is to be charged, in various circumstances in which dutiable goods are moved between Member States; in general, it is chargeable in the Member State of final destination.

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► **C-394/04 and C-395/04 *Diagnostiko & Therapeftiko Kentro Athinon-Ygeia AE v Ipourgos Ikonomikon***

These references were made in the course of proceedings between Diagnostiko & Therapeftiko Kentro Athinon-Ygeia AE ('Ygeia'), a legal person governed by private law whose objects are the provision of hospital and medical care, and Ipourgos Ikonomikon (Minister for Economic Affairs), concerning the refusal of Dimosia Ikonomiki Ipiresia Forologias Anonimon Emporikon Etairion Athinon (State Financial Service for the Taxation of Public Limited Trading Companies, Athens) to exempt from VAT, as activities closely related to hospital and medical care, the provision of telephone services and the hiring out of televisions to in-patients and the provision of beds and meals to persons accompanying them.

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