European Commission releases action plan for a fairer corporate tax system in the EU

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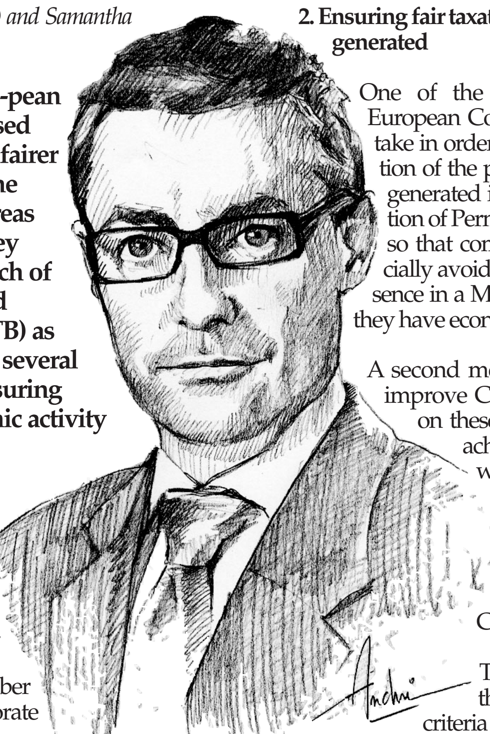

On 17 June, the Euro-pean Commission released its Action Plan: "A fairer Corporate Tax System in the European Union: 5 Key Areas for Action". Some of the key actions include the re-launch of the Common Consolidated Corporate Tax Base (CCCTB) as well as the introduction of several tax measures aiming at ensuring taxation where the economic activity takes place.

The objectives of the Action Plan, as presented in the document published, are as follows:
- Re-establish the link between taxation and where the economic activity takes place;
- Make sure the that EU Member States can correctly value corporate activity in their jurisdiction;
- Create a competitive and growth friendly corporate tax environment for the EU;
- Secure a strong EU approach to external corporate tax issues, including measures to implement BEPS, to deal with non-cooperative tax jurisdictions and to increase tax transparency.

The 5 Key Areas for Action

To achieve these objectives, the EU Commission has presented 5 actions:

1. Re-launch of the Common Consolidated Corporate Tax Base (CCCTB)

The work on the introduction at EU level of a Common Consolidated Corporate Tax Base (CCCTB) will be re-launched. The CCCTB is a single set of rules that companies operating within the EU would use to compute their taxable profits. As opposed to the initial 2011 proposal on which the EU member States never came to an agreement, the new proposal will introduce a mandatory CCCTB through a step-by-step approach. Consolidation of losses cross border will be introduced as a second step, as this has been the most difficult element in negotiations so far. The Commission is expected to present this new proposal as early as possible in the course of 2016.

2. Ensuring fair taxation where profits are generated

One of the measures that the European Commission intends to take in order to ensure a fair taxation of the profits where they are generated is to adjust the definition of Permanent Establishment so that companies cannot artificially avoid having a taxable presence in a Member State in which they have economic activity.

A second measures would be to improve CFC rules. Consensus on these elements should be achieved in the Council within 12 months. The measures are expected to be made legally binding before an agreement is reached on the revised CCCTB.

The Commission further plans to amend the criteria of the so-called code of conduct so that the Code of Conduct Group can give high priority to ensuring effective taxation. Furthermore, the EU Commission will work on measures to ensure that EU legislation aiming at preventing double taxation does not lead to double non-taxation.

Following last year's amendments to the EU Parent Subsidiary Directive so as to stop the use of certain hybrid instruments, it is now planned to amend the EU Interest & Royalty Directive so that the EU Member States will no longer be required to give the beneficial treatment to interest and royalty payments if there is no effective taxation elsewhere in the EU. In a second step, it is planned to align the Parent-Subsidiary Directive with the recast Interest and Royalties Directive.

The Commission considers that the EU Transfer Pricing (TP) framework has to be improved and that the EU will build upon the guidelines currently being developed as part of the OECD BEPS project in order to bring TP outcomes in line with value creation, ultimately developing coordinated and more concrete implementation within the EU. As far as preferential tax regimes, such as patent boxes, are concerned, the EU Commission emphasizes that it was agreed at the level of the Code of Conduct for Business Taxation Group that these should be based on the "modified nexus approach", meaning that there should be a direct link between the tax benefits and the underlying research and development activities. The Commission will continue to provide guidance to Member States on how to implement patent box regimes which are in line with this new approach, ensuring that they are not harmful, and will carefully monitor implementation. If, within 12 months, the Commission finds that Member States are not applying this new approach consistently, it will prepare binding legislative measures to ensure its proper implementation.

3. Additional measures for a better tax environment for business

- Enabling cross-border offset of losses

The Commission will propose that until full CCCTB consolidation is introduced, EU group entities will be able to offset their profits and losses in different Member States. The aim would be to allow temporary cross-border loss relief so that these EU group entities pay tax on their net profits in the EU. In order to make sure that one EU Member State does not definitively carry the burden of losses incurred into another Member State, there would be a mechanism to recapture these losses as soon as the Company is making profits. This proposal will be one of the implementation stages of the CCCTB.

- Improving double taxation dispute resolution mechanisms

Measures will be implemented to make sure that double taxation disputes can be solved efficiently, before the CCCTB is implemented: improvements to the current mechanisms to resolve double taxation disputes in the EU will be proposed by the Summer 2016 in order to create a coordinated approach to dispute resolution with clearer rules and more stringent timelines, building on the systems already in place.

4. Further progress on tax transparency

In addition to the recent proposal to introduce an automatic exchange on tax rulings in the EU, the Commission would like to ensure a more common approach to third country non-cooperative tax jurisdictions and proceed with work on corporate tax transparency, such as country-by-country reporting options. As an immediate first step, the Commission has published an EU-wide list of third country non-cooperative tax jurisdictions. The aim of this list is to offer Member States a tool to compare their national lists and adjust their respective approaches to non-cooperative tax jurisdictions, as necessary. The Commission will amend this list on a regular basis to reflect changes to Member States' own national lists. Further work in screening third countries for compliance with tax good governance standards should be performed on the basis of this list. This list created a minor storm, with understandable protests from many of the countries on the list on the basis that they were treated differently by the OECD's list which treated them as cooperative. The OECD weighed in too, suggesting in a Kafkaesque twist that the EU list wasn't really a list. "Affaire à suivre" as they say in Brussels and Paris...

Finally, as announced in the March 2015 Tax Transparency Package, the Commission is assessing whether additional disclosure obligations of certain corporate tax information should be introduced. Together with this Action Plan, the Commission is launching a public consultation on various possible options, which will feed into the impact assessment work that will be concluded at the latest in the first quarter of 2016.

5. EU tools for coordination

The EU Commission would like to improve EU Member States' coordination on tax audits and reform the EU Code of conduct group and platform on tax good governance.

The way forward

The action plan released by the Commission is ambitious in terms of content, even though many measures are similar and linked to the recommendations in the process of being developed at OECD level as part of the BEPS project. While it can be expected that for some of the measures, EU Member States will probably manage to come to an agreement easily, for some others, like the offsetting of cross-border losses or the introduction of a mandatory CCCTB, negotiations will most probably be very difficult. For the CCCTB, complex issues, notably around profit allocation and determining which countries will be the winners and losers were unsolvable previously.

It is difficult to see sufficiently increased political impetus (even post-BEPS) to arrive at a solution this time around, so it will be another challenge for the Luxembourg presidency to move forward this element of the action plan.

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Le FEI et la BIL signent le premier accord de financement au Luxembourg destiné à soutenir les entreprises innovantes

Le Fonds européen d'investissement (FEI) et la Banque Internationale à Luxembourg SA (BIL) ont annoncé avoir signé un accord visant à accroître les prêts aux petites et moyennes entreprises (PME) innovantes, ainsi qu'aux entreprises de taille intermédiaire (ETI) au Luxembourg.

Il s'agit de la première transaction au Luxembourg qui bénéficie du soutien du Fonds européen pour les investissements stratégiques (FEIS), à travers lequel la Commission européenne et le Groupe BEI déploieront le Plan d'investissement pour l'Europe.

Le nouvel accord permet à la BIL de participer à hauteur de 60 millions d'euros au financement d'entreprises innovantes au Luxembourg sur les deux prochaines années. Les prêts seront couverts par une garantie du FEI par le biais de l'initiative InnovFin, avec l'appui financier du programme Horizon 2020 de la Commission. L'accord permettra à la BIL d'offrir aux sociétés innovantes un financement supplémentaire à des conditions favorables. Commentant cet accord, le directeur général du FEI, Pier Luigi Gilibert, a déclaré: «Je suis heureux de signer le premier accord de garantie à destination des PME dans le cadre du Fonds européen pour les investissements stratégiques (FEIS) au Luxembourg avec la BIL. Le FEIS nous permettra d'accroître notre soutien aux entreprises innovantes au Luxembourg afin de garantir que les entrepreneurs pourront bénéficier de ce financement sur les deux prochaines années».

S'exprimant au sujet de cette signature d'importance majeure au Luxembourg, Jyrki Katainen, vice-président de la Commission européenne chargé de l'emploi, de la croissance, de l'investissement et de la compétitivité, a déclaré: «Il s'agit d'un jour important pour les entreprises innovantes au Luxembourg. Cet accord va permettre aux start-ups de concrétiser leurs idées, stimuler la création d'emplois et contribuer à générer de la croissance en Europe. J'adresse mes vœux de réussite à la Banque Internationale à Luxembourg et je remercie le Fonds européen d'investissement pour le rôle qu'il joue dans la mise en œuvre du plan d'investissement pour l'Europe.»

De son côté, Marcel Leyers, membre du Comité de direction de la BIL et Chief of Corporate and Institutional Banking, a déclaré: «La BIL s'est toujours considérée comme une banque incarnant l'innovation dans tous les domaines de la finance. Cet accord constituera un outil efficace pour nous aider à doper l'innovation tout en offrant le soutien dont les start-ups ont besoin pour réussir. C'est une opportunité gagnant-gagnant pour chacun d'entre nous: pour le FEI, pour la BIL et pour les entreprises qui seront désormais en mesure de développer une solide assise financière au Luxembourg et de contribuer au bel avenir du pays. Cet accord est également l'illustration parfaite de la manière dont notre stratégie à 5 ans - BIL2020 - produit déjà des initiatives positives.» Le volet Garanties pour les PME du dispositif InnovFin a pour objectif d'encourager les banques ou d'autres établissements financiers à prêter aux PME et petites ETI (moins de 500 employés) qui ont des besoins d'investissement et/ou d'exploitation pour financer la recherche, le développement et l'innovation, avec le soutien financier de l'UE. Les institutions financières sont sélectionnées dans toute l'Europe par le FEI après évaluation des manifestations d'intérêt. Il s'agit de l'une des premières opérations approuvées par le FEI à bénéficier d'une garantie européenne dans le cadre du FEIS. Cette opération, qui intervient avant même que le FEIS ne soit institué officiellement, illustre l'engagement du Groupe BEI à répondre rapidement aux États membres, à la Commission et au Parlement européen qui ont appelé au lancement urgent d'initiatives concrètes au titre du FEIS pour accélérer la mise en œuvre d'opérations de prêt et de garantie et stimuler la croissance et la création d'emplois dans l'UE.

Assemblée générale du Private Banking Group, Luxembourg

Le Luxembourg, premier centre de banque privée de la zone euro

En date du 17 juin 2015, le Private Banking Group, Luxembourg (PBGL) de l'Association des Banques et Banquiers, Luxembourg (ABBL) a organisé son assemblée générale annuelle en présence du ministre des Finances, Pierre Gramegna.

Avec 318 milliards d'actifs sous gestion, soit une hausse de 4% comparé à l'année dernière, le Luxembourg reste le premier centre de banque privée de la zone euro du fait de son environnement stable et innovant, de son cadre légal et réglementaire moderne et de son expertise internationale pluridisciplinaire.

L'effet combiné d'un nombre de facteurs économiques (contexte de faible taux d'intérêt) et réglementaires (entrée en vigueur de l'échange automatique d'information et protection des investisseurs) a conduit les acteurs de la banque privée au Luxembourg à adapter leur approche stratégique vis à vis d'une clientèle internationale plus exigeante et sophistiquée et à appréhender de nouveaux défis parmi lesquels:
- MiFID II,
- Talent et Éducation (renforcer les compétences de la Place avec le développement d'un Master en Wealth Management dans le cadre d'une collaboration entre le PBGL de l'ABBL et l'Université du Luxembourg),
- Digitalisation des services proposés par la banque privée luxembourgeoise,
- La transparence en matière fiscale avec l'entrée en application en 2016 du Common Reporting Standard développé par l'OCDE.

Le PBGL met à disposition les statistiques actualisées* reprenant notamment l'évolution des avoirs sous gestion, l'origine géographique des clients de banques privées au Luxembourg et l'emploi dans la banque privée.

* http://www.abbl.lu/en/statistiques

Source: ABBL