



BRUSSELS | **AUGUST 2019**

1. France & US Reach Compromise on Digital Tax Dispute at G7 Meeting

At the G7 Summit taking place in Biarritz from 24 to 26 August, an agreement has [reportedly](#) been reached between the US and France concerning the recently introduced French digital tax. The French bill on digital services tax, adopted on 11 July by the French parliament, imposes a 3% digital services tax on resident and non-resident companies with a global turnover above 750 million Euros, and a national turnover above 25 million Euros, and applies with retroactive effect from 1 January 2019.

The Office of the United States Trade Representative promptly [launched an investigation](#) under Section 301 of the Trade Act of 1974 into whether the French digital services tax unfairly targets US businesses. At a hearing on 19 August 2019, companies Airbnb, Amazon, Facebook, Google, Microsoft and Twitter in a [joint statement](#) said the tax *“is unjustifiable in that it infringes international agreements, and unreasonable in that it is discriminatory, retroactive and inconsistent with international tax policy principles.”* The Information Technology Industry Council, which represents Amazon, Facebook, Apple and Google, also stated in written testimony that the costs of any tax will be passed on down the supply chain. Testimony for Facebook also stated that the tax would hinder development of the digital economy and pose problems for digital business models.

The agreement reached at the G7 Summit reportedly provides for a repayment mechanism to be introduced whereby France would repay any amount taxed in excess of any method agreed at OECD level for the taxation of digital businesses. José Ángel Gurría Treviño, Secretary General at the OECD, speaking at the Summit, [confirmed](#) that the OECD has made significant progress on the issue.

2. Global Forum on Tax Transparency Publish Compliance Reports

The OECD's Global Forum on Transparency and Exchange of Information for Tax Purposes has [published](#) nine peer reviews assessing the compliance of certain jurisdictions with international standards of transparency and exchange of information on request. The reviews form part of the second round of peer reviews, which focus on compliance with updated

standards of transparency, in line with the Financial Action Task Force Recommendations, in relation to beneficial ownership information for relevant arrangements and legal entities.

The jurisdictions subject to the peer reviews were Botswana, Costa Rica, Croatia, the Federated States of Micronesia, Guatemala, Lebanon, Malaysia, Nauru and Vanuatu. Costa Rica, Croatia, Lebanon, Malaysia, the Federated States of Micronesia and Nauru were deemed “largely compliant”, whereas Botswana and Vanuatu were rated as “partially compliant”. Guatemala was deemed to be “non-compliant” on the basis that exchange of accounting and banking information does not take place. It is the second jurisdiction to receive a non-compliant rating after Trinidad and Tobago.

The reviews were undertaken as part of the second round of peer reviews by the Global Forum, following the international standards for transparency and exchange of information being updated to include aspects relating to beneficial ownership.

3. 9th US Circuit Court of Appeals Upholds Amazon Decision

The 9th U.S. Circuit Court of Appeals has [upheld a decision](#) of the U.S. Tax Court in a \$1.5 billion US dollar dispute concerning payments made to Amazon.com by an Amazon subsidiary in Luxembourg, Amazon Europe Holding Technologies SCS, for the transfer of intangible property required to operate its business in Europe.

The Court ruled that under the definitions of intangible property at the subject time, the payments should not include amounts for workforce, goodwill and innovation, as argued by the IRS. The Court rejected the broader definition of intangible property sought to be applied by the IRS in its appeal, stating that the definition at the subject time was limited to independently transferable assets.

It was noted in the decision that under the current definition of intangibles, the position taken by the IRS in the appeal would be correct.

4. New Members of the OECD Inclusive Framework

In August, Albania and Namibia became the 133rd and 134th jurisdictions to join the [OECD's BEPS Inclusive Framework](#). Members of the Inclusive Framework have the opportunity to work together on an equal footing with other OECD and G20 countries on implementing the BEPS package consistently and on developing further standards to address remaining BEPS issues.

There are now a total of 134 jurisdictions that are participating in the project.

5. Reminder: 12th European Conference on Tax Advisers' Professional Affairs

The [12th European Conference on Tax Advisers' Professional Affairs](#) will be held in Paris on Friday, 29 November 2019, on the topic of "Tax Transparency Trends: Are Tax Advisers Ready for the New EU Anti-Money Laundering Rules?"

The conference will examine the impact of existing EU anti-money laundering rules and the new requirements of the 5th AML Directive, including making beneficial owners of legal entities registers public, providing increased access to information on the beneficial ownership of trusts and the expansion of AML rules to entities which store, hold or transfer virtual currencies. Speakers will also discuss enhanced cooperation and exchanges of information provided for between the EU and Member States under the 5th AML Directive. In addition, panellists will discuss compliance with and implementation of the measures in practice and the information available to supervisory bodies to facilitate their obligations under the Directive. More details about the programme and line-up of speakers will be available in due course.

[Register now](#) to benefit from early-bird registration prices and to secure your spot!

6. Inter-American Centre of Tax Administrations Publish Updated BEPS Compliance Database

The Inter-American Centre of Tax Administrations ("CIAT") has published updated information in its [BEPS Monitoring Database](#) concerning the jurisdictions of 15 CIAT member countries, namely Angola, Argentina, Bermuda, Brazil, Chile, Colombia, Costa Rica, Honduras, India, Jamaica, Mexico, Panama, Paraguay, Spain and Uruguay.

The database aims to collate information concerning the implementation status of the BEPS Action Plan in jurisdictions, and currently covers 36 CIAT jurisdictions. Also in August, Kenya and Morocco, two further CIAT member countries, joined the project. The recent updates were compiled using information provided by the tax administration of the countries. The database was updated in relation to BEPS Actions 1, 5, 6, 7, 12, 13, 14 and 15.

7. New Zealand Updates Tax Policy Programme

In August, New Zealand's tax administration published an updated [Tax Policy Work Programme](#) for 2019 - 2020.

Revenue Minister Stuart Nash stated that New Zealand's updated work programme reflects the fact that New Zealand is "*committed to the fundamental principles of a broad-based, low-rate system.*" In relation to business, the plan sets out reviewing tax treatment of innovation and investment. Compliance costs are also identified as a priority. In relation to the digital economy, the programme notes that alternatives to taxing digital businesses without an established presence in the country would be reviewed. Environmental economy is also listed as a priority to be reviewed in the coming 18 months.

New Zealand's tax policy programme was last updated in May 2018.

8. OECD Publishes Stage 2 MAP Peer Reviews

The OECD has now [published](#) the first set of Stage 2 Mutual Agreement Procedure Monitoring Peer Reviews for the jurisdictions of Belgium, Canada, the Netherlands, Switzerland, the United Kingdom and the United States. The stage 2 peer reviews examine the progress of jurisdictions in implementing recommendations set out in their stage 1 peer review reports.

The reports demonstrate that positive steps had been taken by all six jurisdictions, with most jurisdictions updating MAP guidance and allocating more resources to the competent authorities to increase efficiency in handling MAP cases. Additionally, each jurisdiction had either maintained or decreased the timeframe within which MAP cases were resolved, and the majority of jurisdictions were also using the MLI to ensure treaties were in line with the standard.

The peer reviews are being completed as part of the peer review process under Action 14 of the BEPS Action Plan concerning taxation dispute resolution and the Mutual Agreement Procedure (MAP), aimed at making dispute resolution mechanisms more effective.

9. Reminder: Inaugural GTAP Conference – 3 October 2019: Programme & Registration

The Global Tax Advisers Platform's [inaugural conference](#) will take place on 3 October 2019 in Torino on the topic of "*Tax & The Future*". GTAP was formed in 2014 by CFE, AOTCA and WAUTI as a global response of tax advisers to international tax initiatives, with the aim of forging closer links among tax advisers throughout the world. The platform provides the proper framework for a more dynamic, more inclusive cooperation among tax advisers, on the basis of enhanced dialogue, more effective collaboration and openness.

The GTAP conference will examine issues that are of interest to all tax advisers in a borderless, increasingly globalising and automated society, driven by new technologies. To that end, four panels of expert speakers will consider the evolution and future of the topics of global tax policy, corporate income tax and VAT, the global tax profession and business models and tax sustainability.

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10. Canada & Switzerland Ratify OECD Multilateral BEPS Convention

On 29 August, Canada and Switzerland deposited their instruments of ratification for the [OECD Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting](#). The BEPS convention aims to combat tax avoidance by multinational enterprises (MNEs) through prevention of Base Erosion and Profit Shifting (BEPS).

The BEPS multilateral instrument was negotiated within the framework of the OECD G20 BEPS project and enables countries and jurisdictions to swiftly modify their bilateral tax treaties to implement some of the measures agreed.