



**tax advisers  
europe**



**CFE** Annual Report

**2018**

## MEMBER ORGANISATIONS / OBSERVERS / STANDING GUEST IN 2018

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CFE is an umbrella organisation representing the tax profession in Europe. On 31 December 2018, our members comprised 30 professional organisations from 24 European countries, representing more than 200,000 individual members, and 1 standing guest organisation from Uzbekistan. Our functions are to safeguard the professional interests of tax advisers, to assure the quality of tax services provided by tax advisers, to exchange information about national tax laws and professional law, and to contribute to the coordination of tax law in Europe.

	<b>AT</b> Kammer der Steuerberater und Wirtschaftsprüfer (KSW)		<b>PT</b> Associação Portuguesa de Consultores Fiscais (APCF)
	<b>BE</b> Institut des Experts-Comptables et des Conseils Fiscaux / Instituut van de Accountants en de Belastingconsulenten		<b>PL</b> Krajowa Izba Doradców Podatkowych (KIDP)
	<b>CH</b> EXPERTsuisse		<b>RO</b> Camera Consultantilor Fiscali (CCF)
	<b>CZ</b> Komora daňových poradců ČR (KDPČR)		<b>SM</b> Ordine dei Dottori Commercialisti e degli Esperti Contabili (ODCEC)
	<b>ES</b> Asociación Española de Asesores Fiscales (AEDAF) Registro de Economistas de Asesores Fiscales (REAF)		<b>SI</b> Zbornica Davcnih Svetovalcev Slovenije (ZDSS)
	<b>FI</b> Suomen Veroasiantuntijat ry (Association for Finnish Tax Professionals)		<b>SK</b> Slovenská komora danových poradcov (SKDP)
	<b>FR</b> Institut des Avocats Conseils Fiscaux (IACF)		<b>UK</b> The Chartered Institute of Taxation (CIOT) Tax Faculty – Institute of Chartered Accountants in England and Wales (ICAEW)
	<b>IT</b> Associazione Nazionale Tributaristi Italiani (ANTI) Consiglio Nazionale dei Dottori Commercialisti e degli Esperti Contabili (CNDCEC)		<b>UA</b> The Union of the Tax Advisers of Ukraine
	<b>IE</b> The Irish Tax Institute (ITI)	<b>Observers:</b>	
	<b>LU</b> Ordre des Experts-Comptables (OEC)		<b>HR</b> Hrvatska Komora Poreznih Savjetnika (HKPS)
	<b>LV</b> Latvijas Nodokļu Konsultantu Asociācija		<b>LT</b> Association of Lithuanian Tax Advisers
	<b>MT</b> Malta Institute of Taxation (MIT)		<b>NL</b> De Nederlandse Vereniging van Advocaten-Belastingkundigen (NVAB)
	<b>NL</b> Register Belastingadviseurs (RB) De Nederlandse Orde van Belastingadviseurs (NOB)		<b>RU</b> Palata Nalogovykh Konsultantov (Chamber of Tax Advisers)
		<b>Standing guest:</b>	
			<b>UZ</b> The Chamber of Tax Advisors of Uzbekistan



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**Ray McCann CTA**  
(Fellow) ATT  
President CIOT



**Paul Aplin**  
OBE FCA CTA (Fellow)  
President ICAEW

We were delighted and honoured to be asked by the Executive Board of the CFE Tax Advisers Europe to write the Foreword to their Annual Report for 2018. At a time when so much about the future relationship between the United Kingdom and our European friends, colleagues, and neighbours is uncertain, we take great pride in the contribution that the many members of our respective Chartered Institutes make to the valuable work of the CFE.

It was with very real pleasure that we hosted your General Assembly in London and celebrated with you at the Tower of London reception and the dinner at Chartered Accountants Hall, a building that draws upon Italian inspiration and which was opened in 1893. We will not quickly forget the sunset at the Tower of London or being entertained by singers whose repertoire included Italian arias complimented by la bella danza of Piergiorgio gracefully gliding across the dance floor!

As well as meetings of the CFE Tax Advisers Europe's Professional Affairs Committee, Fiscal Committee and of course the General Assembly itself, this year saw the first meeting of a joint initiative of the CFE Tax Advisers Europe, CIOT and ICAEW to bring together future leaders of the tax profession and we hope this will lead to even greater cooperation in years to come.

So thank you on behalf of the Chartered Institute of Taxation (CIOT) and the Institute of Chartered Accountants in England and Wales (ICAEW) for what was one of the highlights of the London tax summer.

Looking ahead, the UK and Europe face many similar tax related challenges. By continuing to work together, as we have done for many years, we will meet those challenges - whether they concern the taxation of the digital world, addressing tax avoidance and evasion, helping our respective governments detect and deter money laundering, assisting governments to develop stable economic environments in which businesses can start, grow and prosper or indeed with issues yet to emerge. And by working together we will continue to encourage and attract the very best young talent to a modern, dynamic, exciting, and rewarding tax profession that offers careers in which they have opportunities to develop and grow into the leaders of the profession in the future.

And together in partnership, the ICAEW, CIOT and CFE Tax Advisers Europe will continue to offer strong thought leadership now and in the future.

To fraternity and cooperation.

**Ray McCann CTA**  
(Fellow) ATT  
President CIOT

**Paul Aplin**  
OBE FCA CTA (Fellow)  
President ICAEW



**Piergiorgio Valente**  
CFE President

It is with the utmost excitement that I am writing for this year's CFE Annual Report. 2018 has been a landmark year for international taxation and tax policy, exceeding all expectations.

The Digital Tax Package was released by the European Commission, putting on the table the most concrete proposal for the taxation of the digital economy and putting pressure on the international community to find consent. Important progress was achieved in the context of the 2016 VAT Action Plan and the CCCTB proposal passed a key test as well, since it was approved (with amendments) by the European Parliament. DAC6 entered into force envisaging new obligations on tax professionals towards mandatory disclosure of tax planning schemes and challenging the equilibrium in tax relations. A proposal for a Whistleblowers Directive was published in order to expand and reinforce the sources of information on violations of EU law. The fiscal state aid debate was stimulated (and further complicated) with a few more key decisions, such as Engie and McDonalds.

And although 2018 tax policy developments kept our interest at its peak, I am personally convinced that 2019 will outperform this precedent.

2019 is likely to see the maturation of some of the most ground-breaking tax projects of the century. Apart from the new questions to arise, we hope to see responses to questions such as:

- Taxation of the Digital Economy: How will Member States' positions evolve and will there be agreement at EU level? Further, what will we read in the 2019 Interim Report of the OECD on the matter and how will the latter interact with EU concepts?
- CCCTB: Will the new global tax landscape convince Member States to adopt what is probably the most revo-

lutionary proposal in the history of EU tax law? And how will the EU legislator achieve integration of the CCCTB with the proposals for taxation of the digital economy?

- How far will we go with the implementation of the VAT Action Plan and will we achieve the desired impacts for the Single Market?
- What will the next episode be in the fiscal state aid saga? Will the Court of Justice give responses to the pending question marks and how will the responses be perceived on the other side of the Atlantic?

In addition, 2019 will see the implementation in practice of the measures taken at EU and international level (e.g, in the context of the BEPS Project) and experience tells us that application means opportunity to revise and amend.

In all cases, CFE Tax Advisers Europe will closely monitor the developments, voice tax advisers' concerns and pursue the most effective promotion of a fair and efficient tax framework in the EU and beyond.

A key tool in these efforts from 2018 on is the Global Tax Advisers Platform, of which CFE is a founding member. GTAP connotes the strongest cooperation among tax professionals all around the globe, constituting our common response to the collaboration initiatives launched internationally to advance the identification of appropriate new tax rules.

We hope that 2019 shall see progress in the globalisation and digitalisation of the tax profession itself to best address the needs of an ever-evolving and integrating tax world.

**Piergiorgio Valente**  
President of CFE Tax Advisers Europe

## Fiscal Committee

### Overview

CFE's Fiscal Committee is comprised of two Sub-Committees: the Direct Taxes Subcommittee and Indirect Taxes Subcommittee, which focus on monitoring and responding to developments in tax policy and tax law at both European and international level. The Fiscal Committee aims to provide members with a cohesive view of the current state of affairs in tax policy by providing detailed analyses and updates concerning the work of the EU, OECD and UN.

Member and observer organisations nominate delegates who attend the Fiscal Committee's technical meetings and are contacted on a regular basis concerning developments in taxation policy. The views communicated to CFE by those delegates concerning the developments are then represented in CFE's Opinion Statements and outreach work in both European and international tax fora.

### Activities

In 2018, the CFE Fiscal Committee and Professional Affairs Committee developed an Action Plan identifying the tax files which it considered to be most relevant to the interests of its members, in order to prioritise contributions to tax policy developments emanating from the EU Commission, OECD and UN. The means by which the Fiscal Committee carried out the work relating to its priorities included the following activities:

- Monitoring relevant tax policy developments at both European and international level;
- Reviewing legislative developments and monitoring progress within Member States on the implementation of tax reforms, particularly concerning the Anti-Tax Avoidance Directives of the European Commission;
- Distributing updates and questionnaires to delegates concerning tax matters of particular importance;
- Publishing Opinion Statements setting out the views of the Fiscal Committee on tax policy developments, many of which have been republished in leading tax journals both in Europe and North America;
- Engaging with European Commission and European Parliament concerning tax policy developments and providing specific input setting out the views of members on these matters;
- Representing CFE Tax Advisers Europe at taxation expert groups, including:
  - EU Platform for Tax Good Governance;
  - EU VAT Expert Group;
  - EU VAT Forum;
  - UN Committee of Experts in International Cooperation in Tax Matters.

### Priorities

2018 was an important year for tax policy, both within Europe and across the world. There were numerous significant tax policy developments, in particular in the areas of taxation of the digital economy, mandatory disclosure, anti-tax avoidance and the common VAT system, to name only a few.



Fiscal Committee meeting in Brussels



Fiscal Committee meeting in London

The Fiscal Committee represented the views of members by engaging with the European Commission and OECD on relevant policy initiatives and matters of importance to the Committee, participated in various international expert groups, and issued publications and Opinion Statements.

Priorities of the Fiscal Committee in 2018 included:

### Direct Taxes Sub-Committee

- **Taxation of the Digital Economy.** The first quarter of 2018 saw the publication of the OECD's Interim Report on the Tax Challenges Arising from Digitalisation. It also saw the introduction of the EU's long-anticipated proposals to tax the digital economy in the Single Market, in the form of a short-term interim turnover tax for digital businesses and a long-term goal of redefining concepts of permanent establishment, profit allocation and value creation.

CFE responded by publishing an Opinion Statement setting out its view that redefining those concepts is best achieved at international level, and discussing in detail the



Direct Tax Subcommittee meeting in London



Brodie McIntosh (CFE), Marek Krawczyk (Deloitte) and Mark Saunders (Deloitte)



Paul Kraan and Victor Viana



Jos Goubert and Geraldine Schembri

practical and legal issues it identified with the proposals.

Monitoring and informing our members on the progress of the EU proposals, further OECD developments and reviewing unilateral measures introducing national digital taxes will be a priority for 2019.

- **EU Mandatory Disclosure Rules 'DAC6'**. A joint priority of the Fiscal Committee and Professional Affairs Committee in 2018 was monitoring progress concerning the European Commission's tax intermediaries' Directive 'DAC6'. The Directive entered into force on 25 June 2018, introducing complex mandatory disclosure rules for intermediaries across the EU. In addition to publishing Opinion Statements concerning the Directive itself and professional privilege implications it entails, representatives from CFE also met with officials from the European Commission to discuss their views on the Directive. Practical implementation of the new EU mandatory disclosure rules was the topic of CFE's 2018 Professional Affairs Conference, which took place on 23 November in Madrid, in order to give members further insight on the

issue. Monitoring the implementation of the Directive will be an ongoing priority for the Committee in 2019.

- **Common Corporate Tax Base ("CCTB") / Common Consolidated Corporate Tax Base ("CCCTB")**. Following on from the 2016 European Commission push to progress agreement on an EU Common Consolidated Corporate Tax Base by launching two separate legislative proposals, the European Parliament on 15 March approved amendments to the Common Consolidated Corporate Tax Base and Common Corporate Tax Base proposals. The proposals aim to develop a single set of tax rules for all Member States, with taxes to be managed via a "one-stop-shop" system, such that businesses can calculate what is to be paid to each member state based on where profits have been generated. The proposals will also incorporate concepts of digital presence, which is a particular issue CFE will be monitoring in light of digital tax developments in 2018.

The progression of the CCTB proposal in particular was listed as a priority for the Austrian Council Presidency. CFE issued a comprehensive Opinion Statement on the EU Commission

proposals for CCTB and CCCTB, is monitoring developments at Council level, and will continue to prioritise this topic in 2019.

- Monitoring ATAD implementation.** In 2018, the Fiscal Committee continued to monitor and update delegates concerning the implementation of BEPS related legislation, in particular the transposition of the EU ATAD 1 and ATAD 2 Directives in Member States, and the implementation of the OECD Multilateral Instrument. This work is ongoing and will continue to be a priority in 2019, with particular focus on implementation in practice, at which time the Fiscal Committee intends to draft a further Opinion Statement concerning the matter.
- EU Parliament – TAX3 & EU “Blacklist”.** In 2018, the Fiscal Committee monitored and updated delegates concerning EU Parliament work carried out by the new inquiry committee investigating financial crimes, tax evasion and tax avoidance, TAX3. TAX3 focused on tax avoidance and evasion related to the digital economy, circumvention of VAT, methods used in the EU tax blacklist of third-country tax havens, EU progress in removing harmful tax regimes, and the impact of double tax treaties. CFE attended hearings held in Parliament by the Committee and updated members on progress. TAX3's report on the inquiry will be presented by March 2019, and will be the subject of an Opinion Statement of the Fiscal Committee.

The Fiscal Committee also continued to monitor and update members concerning the work of EU Parliament carried out by way of maintaining the so-called “blacklist” of non-cooperative jurisdictions for tax matters.

- Tax Competition & Taxpayers Rights.** Issues concerning tax competition and taxpayers rights are more relevant than ever in light of the changing landscape of taxation policy, and the number of new EU legislative proposals introduced in 2018. As well as raising these issues at meetings of the Platform for Tax Good Governance, the Fiscal Committee has now published Opinion Statements on the two topics that were submitted to the Platform in 2018. The Committee will continue to monitor developments in the fields in the coming year.

#### Indirect Taxes Sub-committee

- VAT Action Plan Proposal Package.** In 2018, the indirect tax field has seen a raft of proposals introduced by the EU designed to implement the definitive VAT system as well as provide interim solutions for Member States experiencing difficulties stemming from the transitional VAT system (that has been in place for more than 25 years). The proposals introduced in 2018 include: a proposal to simplify VAT rules for SMEs, a proposal to reform VAT rates, a proposal to introduce quick fixes to address issues with the transitional VAT system, a proposal providing for enhanced administrative cooperation, a proposal providing for an interim reverse charge to be able to be applied by Member States facing endemic carousel fraud, a proposal to align VAT rules for electronic



Fiscal Committee meeting in London



Indirect Tax Subcommittee meeting in London

and physical publications, and a proposal setting out the technical revisions required to existing EU VAT legislation in order to effect the proposed comprehensive revision.

The analysis of the proposed legislation has been the absolute priority of the Indirect Taxes Subcommittee, and the subject of the majority of the Opinion Statements issued by the Committee in 2018. The ongoing monitoring of the progress of the VAT Action Plan will continue to be the focus of the Indirect Taxes Subcommittee in 2019.

#### Publications & Tax Technical Work of the Fiscal Committee

In 2018, the Fiscal Committee of CFE Tax Advisers Europe published 8 Opinion Statements, and 1 Opinion Statement jointly with the Professional Affairs Committee:

- Opinion Statement FC 1/2018** on the European Commission proposal of 21 March 2018 for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services.
- Opinion Statement FC 3/2018** on problems caused by VAT numbers in cross-border transactions.
- Opinion Statement FC 4/2018** on a proposal for a Council Directive amending Directive 2006/112/EC, as regards rates of value added tax.

- **Opinion FC 5/2018** on practical difficulties arising from the practices and procedures of the Court of Justice of the European Union.
- **Opinion Statement FC 6/2018** on a proposal for a Council Directive amending Directive 2006/112/EC, on the common system of value added tax as regards the special scheme for small enterprises.
- **Opinion Statement FC 7/2018** on a proposal for a Council Directive to introduce detailed technical measures for the operation of the definitive VAT system.
- **Opinion Statement FC 8/2018** on the notion of “minimal human intervention” in the definition of “electronically supplied services” for the purposes of Article 58 of the VAT Directive.
- **Opinion Statement FC 10/2018** on the European Commission Platform for Tax Good Governance discussion questionnaire on tax competition and competitiveness.
- **Opinion Statement CFE 1/2018** on the importance of taxpayer rights, codes and charters on tax good governance.

## Professional Affairs Committee

### Overview

The Professional Affairs Committee, one of the technical committees of CFE, engages in the policy areas that concern and affect the exercise of the tax advisory profession. By way of submitting position papers and engaging and engaging with the European Commission and the OECD, the Professional Affairs Committee advances the CFE Board priorities that concern the tax advisory profession at large.

In the past year, the Professional Affairs Committee participated in many initiatives at EU and OECD level that aim to contribute to the ongoing policy debate and to voice the concerns of European tax advisers. Apart from partaking in ongoing discussions with the EU Commission in different policy areas, the Professional Affairs Committee regularly responds to various EU and OECD questionnaires and also drafts technical updates of relevance for tax advisers which are aimed at informing the members of recent developments.

Following a ‘root and branch’ restructuring, the Professional Affairs Committee streamlined its working groups to allow for targeted engagement of delegates in the policy files under discussion on the basis of members’ professional interests, as follows:

- Ethics and Codes Working Group;
- Regulatory Affairs Working Group;
- Anti-Money Laundering Working Group;
- Working Group on Tax Certainty and Taxpayers’ Rights
- Professional Affairs Conference Task Force;
- Tax Digitalisation Working Group (to be transferred to the newly formed Tax Technology Committee).

The work of the Professional Affairs Committee broadly covers issues such as: ethics and professional codes, anti-money laundering, reporting of tax avoidance schemes, cooperation with tax authorities, digitalisation of tax services, taxpayers’ rights, tax

certainty, professional qualifications and regulation, liability and insurance, cross-border mobility, business structures of tax firms, client confidentiality and legal privilege.

### Activities

Following the work of the European Commission and the OECD in more detail, the Professional Affairs Committee contributed to the ongoing policy discussion of relevance for tax advisers with tax technical comments in the form of Opinion Statements and policy submissions to the European Commission and the OECD, as well as through ongoing participation in meetings and activities of the European Commission, European Parliament and the OECD.

The PAC published the following Opinion Statements, position papers and surveys:

- **Opinion Statement PAC 1/2018** on the OECD Consultation regarding Mandatory Disclosure Rules for Addressing CRS Avoidance Arrangements and Offshore Structures (Prepared by CFE on behalf of the Global Tax Advisers’ Cooperation Forum).
- **Opinion Statement PAC 2/2018** on the European Parliament Recommendations to the Council and Commission following the inquiry into money laundering,



Professional Affairs Committee meeting in Brussels



Reinhard Biebel, Wim Gohres and Aleksandar Ivanovski



Steven Taylor (HMRC)



Professional Affairs Committee meeting in London



Radek Neuzil and Jiří Nekovář



Miroslav Marcinčin and Ilze Birzniece

tax avoidance and tax evasion of 13 December 2017.

- **Opinion Statement PAC 3/2018** (CFE 1/2018) on the Importance of Taxpayer Rights, Codes and Charters on Tax Good Governance, jointly with the Fiscal Committee
- **Opinion Statement PAC 4/2018** on the EU Whistleblowers Protection.
- **Opinion Statement PAC 5/2018** on the legal professional privilege reporting waiver set out in the EU Mandatory Disclosure Rules Directive (DAC6).
- **CFE Survey** on the implementation status of the 4th EU Anti-Money Laundering Directive, published in April 2018.
- **Joint Survey CFE Tax Advisers Europe & Her Majesty's Revenue and Customs (HMRC): "Regulation of tax advisers: working in collaboration with other countries"**, published in October 2018.

### Priorities

#### Mandatory Disclosure Rules

A priority for the Professional Affairs Committee in 2018 was the Council Directive on mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements ("DAC6"). The Directive entered into force on 25 June 2018, introducing complex mandatory disclosure rules for intermediaries across the EU.

Representatives from CFE Tax Advisers Europe also engaged with officials from the European Commission to discuss CFE concerns related to the draft Directive, in addition to publishing Opinion Statements concerning the Directive itself and the professional privilege implications it entails. Reinhard Biebel, Direct Tax Policy

Unit of the European Commission DG Taxation and Customs Union addressed the Professional Affairs Committee at its meeting in Brussels in April 2018. Mr Biebel presented the detail of the EU mandatory disclosure rules and engaged with questions from CFE delegates.

The Professional Affairs Committee welcomed the policy direction on increased tax transparency, but called for further technical guidance and more clarity for tax advisers in the course of the transposition of this Directive.

Practical implementation of the new EU mandatory disclosure rules was also the topic of CFE's 2018 Professional Affairs Conference, which took place on 23 November in Madrid, in order to give members further insight on the issue. Monitoring the implementation of the Directive will be an ongoing priority for the Professional Affairs Committee in 2019.

The Committee published two Opinion Statements in this regard:

- **Opinion Statement PAC 1/2018** on the OECD Consultation regarding Mandatory Disclosure Rules for Addressing CRS Avoidance Arrangements and Offshore Structures (Prepared by CFE on behalf of the Global Tax Advisers' Cooperation Forum).
- **Opinion Statement PAC 5/2018** on the legal professional privilege reporting waiver set out in the EU Mandatory Disclosure Rules Directive (DAC6).

The Committee drafted an Opinion Statement in conjunction with AOTCA and WAUTI (under auspices of the GTAP platform)

regarding the OECD consultation on mandatory disclosure rules in respect of the common reporting standard avoidance ("CRS") and offshore structures. The Opinion Statement was published as a joint GTAP position paper and submitted to the OECD in January 2018.

The Opinion Statement PAC 5/2018 on the legal professional privilege reporting requirement waiver of Article 8ab(5) of the Council Directive (EU) 2018/822 of 25 May 2018 sets out CFE's expectation that European Union Member States will fully respect the legal professional privilege reporting waiver as set out in Article 8ab(5) of DAC6 in the course of transposition and implementation of this Directive, in those Member States where such rights exist for tax advisers under domestic law.

#### **"Regulation of tax advisers: working in collaboration with other countries"**

The CFE Professional Affairs Committee meeting in September 2018 was hosted at Merchant Taylors' Hall in London. CFE Tax Advisers Europe and the CIOT invited the UK's tax administration, Her Majesty's Revenue & Customs (HMRC) to attend and present their work on professional standards. Mr Steven Taylor, Head of Agent Strategy at HMRC, addressed the Professional Affairs Committee with a presentation on managing unaffiliated/ unqualified tax advisers. The Committee members learnt that a particular focus at present is how to strengthen the existing framework for professional regulation of tax advisers.

For the benefit of CFE delegates and the HMRC, a small number of questions were sent out to the attending countries to further understanding on the approach to tax regulation and professional standards. These questions were tailored to build on what has already been captured in the CFE Professional Affairs Handbook. The questions focused on issues such as dealing with disciplinary cases, the relationship between the tax institutes/ chamber and the professional bodies and how they uphold professional standards amongst tax practitioners. The countries which responded to the survey are: Austria, Belgium, Croatia, Czech Republic, France, Lithuania, Malta, the Netherlands, Russia, Slovakia, Slovenia, Spain and Switzerland.

#### **Anti-Money Laundering**

An ongoing priority of the Professional Affairs Committee is the constant evolution of the EU anti-money laundering legislation. CFE updated delegates on developments related to the enactment of the 5th AML Directive, as well as the implementation deadline of the 4th EU Anti-Money Directive ("AMLD") into domestic legislation. The AML supervisory regime is complex, and the 4th AMLD poses many practical questions for tax advisers and supervisors of AML compliance, considering that tax advisers are obliged entities for AML purposes pursuant to Article 2 of the 4th AMLD.

To that end, having drafted and circulated a comprehensive questionnaire to CFE Member Organisations, the Anti-Money Laundering Working Group compiled a summary on the implementation status of the 4th AML Directive among our member countries based on responses to the questionnaire. Particular focus was given to the national risk assessments, beneficial ownership registers, Member Organisations' supervisory obligations,

where those exist, the national oversight regime, as well as issues related to identification of risks and compliance in general.

The countries which responded to the questionnaire are Austria, Belgium, Croatia, Czech Republic, Ireland, Italy, Lithuania, Luxembourg, Russia, Spain, the Netherlands and the United Kingdom. The responses are available in the publications section of the CFE website.

This work is ongoing and will continue to be a priority in 2019.

#### **European Parliament Inquiries into Tax Evasion, Tax Avoidance and Financial Crimes**

The Professional Affairs Committee closely followed the developments in the European Parliament, in particular the various reports and recommendations arising from the parliamentary inquiries investigating tax avoidance, tax evasion and financial crimes. CFE was regularly in attendance at the parliamentary hearings and updated the CFE members on ongoing relevant developments in Parliament (both under the PANA Committee inquiry and the newly established TAX3 Committee).

In January 2018, the Professional Affairs Committee published an Opinion Statement PAC 2/2018 on the European Parliament Recommendations to the Council and Commission following the inquiry into money laundering, tax avoidance and tax evasion of 13 December 2017.

#### **Whistleblowers' Protection Across the EU**

In 2017, the Ethics and Codes Working Group of the Professional Affairs Committee began looking into the EU Commission proposals for EU-wide protection of whistleblowers and subsequently contributed to the Commission public consultations and questionnaires on the topic.

In 2018, the Committee issued an Opinion Statement on the European Commission proposal for a Directive of the European Parliament and of the Council on the protection of persons reporting on breaches of EU law (whistleblowing). This statement set out CFE's support for the proposals that seek to establish horizontal rules for protection of whistleblowers, as well as their important societal role in advancing public policy interests, specifically in reporting tax fraud, corruption, abusive and illegal practices. The Opinion Statement highlighted certain aspects of the Commission proposal in relation to taxation that in our members' view merit further technical refinement, in particular the broad wording of Article 1(1)d.

#### **Advancing Taxpayers' Rights**

An ongoing priority for the CFE and the Professional Affairs Committee is securing equal taxpayer rights throughout the EU. This topic is more relevant than ever in light of the changing tax landscape, and the number of new EU legislative proposals that introduce EU-wide obligations. As well as raising these issues at meetings of the EU Platform for Tax Good Governance, the CFE Professional Affairs Committee published a joint Opinion Statement with the Fiscal Committee, PAC 3/2018 (CFE 1/2018) on the Importance of Taxpayer Rights, Codes and Charters on Tax Good Governance.

## Tax Technology Committee

### Establishment

The newly formed Tax Technology Committee (TTC) was established as a response to the importance of digital taxation both now and for the foreseeable future. In this regard, the TTC has a different approach to tax and technology, being devoted to digital transformation and all its ramifications for tax. It is focused on the role professionals handling tax in all manifestations will have, the risks posed to them by the development of Artificial Intelligence and the direct interaction between taxpayer and revenue authority.

The setup of the Committee was approved by the General Assembly on 20 April 2018 in Brussels, and as from 1 January 2019 Ian Hayes, current CFE First Vice-President, will chair the new Committee.

### Priorities

The first Tax Technology Committee meeting will be held in Brussels on 29 January 2019. Tax Digitalisation, Artificial Intelligence and Cross-Border Considerations are the priorities of the Committee in 2019.

Regarding Tax Digitalisation, the Committee will focus on key areas of activity and the impact of digitalisation on tax advisers. The main topics to be discussed are: software systems and multiple APIs; digitalisation of tax administration projects; Blockchain and secure automated systems; data collection, analytics, visualisation; and the move from aggregate to transactional (use of SAF-T).

As far as Artificial Intelligence is concerned, the Committee will analyse use of AI to predict the outcome in litigation and the tax technical issues of the taxpayer capacity of artificial intelligence.

The trends in cross-border tax technology developments will also be analysed by the TTC, focusing on creation of database records, risk management, access, privacy and rights (i.e. governments as data hubs via tax administrations), and digital Charters in the cross-border context.

## ECJ Task Force

The CFE ECJ Task Force is a group of tax academics and renowned tax practitioners which meets regularly to discuss and issue Opinion Statements on selected decisions of the Court of Justice of the European Union. Since 2013, it has been chaired by Georg Kofler (CFE, Austria) and its current members are Alfredo Garcia Prats (Spain), Werner Haslehner (Luxembourg), Volker Heydt (EU, Belgium), Eric Kemmeren (Netherlands), Michael Lang (Austria), Jürgen Lüdicke (Germany), João Félix Pinto Nogueira (IBFD, Portugal), Pasquale Pistone (IBFD, Italy), Emmanuel Raingard de la Blétière (France), Stella Raventós-Calvo (CFE, Spain), Isabelle Richelle (CFE, Belgium), Alexander Rust (Austria, Germany) and Rupert Shiers (CFE, UK).

The ECJ Task Force generally meets four times a year for full-day meetings. It aims to analyse selected judgments of the Court of



Ian Hayes



Prof. Dr. Georg Kofler and Jeremy Woolf

Justice of the European Union which have wide impact, and provide high-level practical input for tax practitioners on these judgments through issuing written Opinion Statements.

In 2018, the following Opinion Statements (ECJ-TF) were issued:

- **Opinion Statement ECJ-TF 1/2018** on the Compatibility of Limitation-on-Benefits (LoB) Clauses with the EU Fundamental Freedoms (= ET 2018, pp. 419-425).
- **Opinion Statement ECJ-TF 2/2018** on the CJEU decision of 7 September 2017 in Case C-6/16, Egiom, concerning the compatibility of the French anti-abuse rule regarding outbound dividends with the Parent-Subsidiary Directive and fundamental freedoms (= ET 2018, pp. 471-478).
- **Opinion Statement ECJ-TF 3/2018** on the CJEU decision of 12 June 2018, in Case C-650/16, Bevola, concerning the utilisation of "definitive losses" attributable to a foreign permanent establishment (= ET 2019 [in print]).

These Opinion Statements are submitted directly to the European Institutions, disseminated to a wide audience of tax practition-



Brodie McIntosh, Aleksandar Ivanovski and Isabelle Richelle



Christian Amand

ers and academics throughout Europe and published in IBFD's "European Taxation" journal.

Moreover, the EU Report on "Seeking anti-avoidance measures of general nature and scope – GAAR and other rules", the subject of this year's IFA conference, has been prepared within the framework of the ECJ Task Force and has been published in CDFI Vol. 103a (2018), pp. 61-93.

The ECJ Task Force and its members are also actively involved in the organisation of the annual conference at the University of Luxembourg, and often speak at the conference. Topics of the conference over the past few years have included "Landmark Decisions in Direct Tax Jurisprudence" (2014), "Primary Law Limits to Direct Taxation: Fundamental Rights, Fundamental Freedoms and State Aid" (2015), "EU Tax Policy in the 21st Century" (2016), "Time and Tax" (2017) and "Tax and the Digital Economy" (2018). Next year's conference will deal with the EU's Anti-Tax Avoidance Directive (ATAD). Books containing the written contributions for the conferences are edited by Task Force Members Werner Haslechner, Georg Kofler and Alexander Rust, and published by Kluwer.

## CFE Engagement

### European Commission Platform for Tax Good Governance

The European Commission Platform for Tax Good Governance is a forum for expert representatives from business, tax professional and civil society organisations. The Platform is chaired by Director-General of DG Taxation and Customs Union, Stephen Quest. The Platform aims to facilitate a structured dialogue and exchange of views and expertise in order to achieve a more coordinated and effective EU approach to counter tax evasion and avoidance, to identify and remedy double taxation and to promote good tax systems in third countries.

CFE President, Piergiorgio Valente, and Chair of the Fiscal Committee, Stella Raventós-Calvo, participated as representatives of the CFE in 2018 at the Platform. Through their interventions, CFE was successful in having taxpayers' rights added as a topic to be addressed by the Platform. As part of its work with the Platform, the Fiscal Committee provided policy feedback on the following topics:

- The importance of taxpayer rights, codes and charters on tax good governance;
- Tax competition and tax competitiveness;
- The EU's digital tax proposal package;
- The EU's Mandatory Disclosure Rules (DAC6);
- The transposition of BEPS and ATAD provisions;
- The EU updates to the List of Non-Cooperative Jurisdictions for Tax Matters.

### EU VAT Forum

The EU VAT Forum offers a discussion platform where business and VAT authorities meet to discuss how the implementation of VAT legislation can be improved in practice. The CFE representatives for 2018 were Ian Hayes and Christian Amand. Issues examined in the course of the 2018 meetings included cross-border rulings, penalties and sanctions, VAT refunds and the exchange of VAT relevant payment data through e-commerce and marketplaces, amongst other topics.

### VAT Expert Group

The VAT Expert Group assists and advises the European Commission on VAT matters. The group is composed of individuals appointed in a personal capacity with requisite expertise in the area of VAT, and organisations representing particular businesses and tax practitioners that can assist in the development and implementation of VAT policies.

The Chair and Vice Chair of the CFE Indirect Taxes Subcommittee, Jeremy Woolf and Trudy Perié, are the CFE Tax Advisers Europe representatives to the Group. The focus of the Expert Group in 2018 was on examining the numerous VAT Action Plan proposals of the Commission. CFE provided feedback to the Commission on the proposals by way of input at these meetings, as well as by elaborating on identified issues in its Opinion Statements concerning the VAT proposals issued in 2018.

### United Nations Tax Committee

The UN Committee of Experts in International Cooperation in Tax Matters (UN Tax Committee) now meets twice a year, in May in New York and in October in Geneva.

CFE applied for, and was granted, NGO (non-governmental organisation) status with the UN in 2006, and from that time Ian Young, Chair of the CFE Direct Taxes Sub-Committee, has represented CFE at the meetings of the UN Tax Committee. These meetings were originally held once per year but increased to twice per year from 2017 to reflect the increased importance of tax matters within the UN as determined at the Addis Ababa Finance For Development Conference in 2015.

The Chair and Vice-Chair of the CFE Direct Tax Sub-Committee, Ian Young and Jos Goubert, both took part in the two 2018 meetings.

Ian Young gave a presentation on Taxpayer Charters, along with representatives from the International Chamber of Commerce, at the UN Tax Committee meeting in May 2018 in New York. Ian Young hopes to begin work with a number of the member countries of the UN to build on the work that CFE has undertaken in creating its Model Taxpayer Charter finalised in 2016.

At its May 2018 meeting; the UN Tax Committee launched an updated version of the UN Model Tax Convention between Developed and Developing Countries and also launched the second edition of the UN Manual on Transfer Pricing for Developing Countries. Jos Goubert gave a presentation to CFE delegates at the September Fiscal Committee meeting concerning the updates to the Convention.

In addition to the two annual, plenary, sessions of the UN Tax Committee, six sub-committees meet on an ongoing ad-hoc basis, which include the members of the Committee as well as representatives of the private sector. Jos Goubert is a member of the Sub-committee on Dispute Avoidance and Resolution.

There are currently five other sub-committees:

- Tax Challenges Related to the Digitalisation of the Economy;
- Environmental Tax Issues;
- Extractive Industries Taxation - Issues for Developing Countries;
- UN Model Tax Convention between Developed and Developing Countries; and
- Manual for Negotiation of Bilateral Treaties between Developed and Developing Countries.

### EU Institutions

- **European Commission.** In 2018, CFE held regular meetings with representatives from the European Commission to exchange views and discuss policy and other technical aspects related to the policy priorities of CFE Tax Advisers Europe. Of particular significance, CFE held meetings with Tom Neale and Reinhard Biebel to discuss issues concerning the mandatory disclosure rules "DAC6" Directive.

Representatives of the European Commission also attended CFE events in 2018. Uwe Ihli addressed the January 2018 Fiscal Committee Meeting in Brussels and Bert Zuijndorp was a speaker at the CFE Forum



Ian Young



Remo Dominici and Paolo Centore

in April. Reinhard Biebel addressed the Fiscal and Professional Affairs Committee delegates at a joint technical meeting on the EU mandatory disclosure Directive held following the CFE Forum in April, and was a speaker at the Professional Affairs Conference held in Madrid in November. Maria Elena-Scoppio was also a speaker at the CFE Forum in Brussels in April. CFE Tax Advisers Europe has maintained a constructive working relationship with the European Commission.

- **European Parliament.** Regular meetings and contact with Members of the European Parliament and their advisers was maintained in 2018. CFE have been particularly active in contacting Parliament members in relation to the EU VAT Action Plan proposals. In addition, CFE representatives regularly attend relevant meetings of the European Parliament's Committee on Economic and Monetary Affairs and the new Parliament



GTAP meeting in London



GTAP Signing Ceremony - "Ulaanbaatar Declaration"

inquiry committee, TAX3, formed in 2018 to investigate financial crimes, tax evasion and tax avoidance.

### Global Tax Advisers Platform

CFE Tax Advisers Europe ("CFE") is a founding member of the Global Tax Advisers Platform ("GTAP"), formed in 2013. GTAP is an international platform, representing more than 600,000 tax advisers in Europe, Asia and Africa, that seeks to bring together national and international organisations of tax professionals from all around the world. In 2018, what was formerly GTACF (Global Tax Advisers Cooperation Forum) evolved into GTAP (Global Tax Advisers Platform) and became a signatory to the landmark Ulaanbaatar Declaration, executed in Ulaanbaatar on 12 September 2018.

GTAP is dedicated to the promotion of the public interest by ensuring the fair and efficient operation of national and international tax systems. A fair and efficient global tax framework

favours the effective pursuit of taxpayers' and tax advisers' rights and interests. GTAP is committed to their furtherance, and to the continuous improvement of the framework. In 2018 GTAP continued its work as a platform, embracing discussion on equal footing and encouraging regular dialogue and cooperation. GTAP contextualises tax advisers' position in the international and supranational initiatives launched to identify an appropriate tax framework for the global jurisdiction connoted by digital technologies. GTAP is thus tax advisers' response to the Platform for Collaboration on Tax, the EU Platform for Tax Good Governance, the informal platform for collaboration regarding administrative practices.

The founding members of GTAP are CFE Tax Advisers Europe, the Asia-Oceania Tax Consultants' Association (AOTCA), and the West Africa Union of Tax Institutes (WAUTI). The observer members are the International Association of Financial Executives Institutes (IAFEI), the Society of Trust and Estate Practitioners (STEP), and the Arc Méditerranéen des Auditeurs (AMA). It is a key priority for GTAP to expand its membership and international network in order to reach tax professionals in all corners of the globe, effectively enabling the most inclusive dialogue and interaction.

On that basis, on 12 September 2018, GTAP members and observers signed the Ulaanbaatar Declaration, agreeing on 10 key priorities for the platform. The Declaration is inspired by the signatories' conviction that the tax profession must globalise and digitalise to serve the demands of a global tax world. To that end, the strongest and broadest cooperation possible is a pre-requisite. CFE will continue to prioritise its involvement in GTAP in 2019.

### Knowledge Sharing

#### CFE Tax Academy

The first edition of the CFE Tax Academy was held in Ulaanbaatar, Mongolia, on 11 September 2018. Piergiorgio Valente, CFE President, presented a lecture on Tax and Tax Policy in the Twenty-First Century, discussing the following topics in detail:

- International Framework – Key Concepts & Tax Governance;
- EU/OECD Latest Initiatives to Counteract BEPS Phenomena;
- Interdependence of Corporate Tax Strategies and Corporate Governance;
- OECD Further Initiatives – The Increased Importance of Transparency within the Tax Framework;
- Cases that Increased BEPS Awareness & Concerns;
- Digital Economy – Tax Policy Developments.

The CFE Tax Academy aims to share knowledge and experience on tax matters while exchanging ideas on practical tax issues. The Academy creates opportunities for tax professionals to be updated on global tax developments through attending seminars and trainings.

The event was organised in partnership with the Asia-Oceania Tax Consultants Association (AOTCA) and took place during the 2018 AOTCA Conference.



The annual CFE dinner with representatives from the European Commission and the Council of the European Union is held in Brussels.



CFE Tax Advisers Europe launches its rebranding strategy, encompassing a new website, logo and name, designed to increase visibility and modernise CFE, a focal tool in the communication strategy of CFE.



Ilan Young, Chair of the CFE Direct Taxes Sub-Committee, attends the UN Tax Committee meeting in New York.

JANUARY

FEBRUARY

MARCH

APRIL

MAY

JUNE

JULY

The CFE Office expands as two new staff members, Elizabeth Brito and Brodie McIntosh, join the team.



The CFE Forum is held in Brussels on the topic of "Fair Taxation of the Digital Economy".



CFE President, Piergiorgio Valente, speaks at the ACTL-IBFD Conference "Taxing the Digital Economy" in Amsterdam.





CFE's Semester 1 2018 EU Tax Policy Report is published.



The GTAP Declaration is signed on 12 September 2018 in Ulaanbaatar, Mongolia.

CFE General Assembly and technical meetings take place in London, United Kingdom.



The CFE Professional Affairs Conference is held in Madrid, Spain, discussing the new EU & OECD Mandatory Disclosure Rules.

AUGUST

SEPTEMBER

OCTOBER

NOVEMBER

DECEMBER

CFE's Fiscal Committee issues Opinion Statement FC 7/2018 as regards the Commission proposal to introduce detailed technical measures for the operation of the definitive VAT system.



The CFE and CIOT Conference is held in Milan, Italy, on the topic of Taxation in the Digital Economy, Geopolitics and Taxation, Tax and Tax Policy & Fiscal State Aid. The CFE also participated in the *Italia-Africa Business Week* held on 17-18 October in Rome.



Chair of Fiscal Committee, Stella Raventós-Calvo, attends the EU Platform for Tax Good Governance meeting in Brussels. Piergiorgio Valente and Stella Raventós-Calvo (Alternate) are the CFE Representatives to the Platform for Tax Good Governance, Aggressive Tax Planning and Double Taxation of the European Commission, [2013-2016; 2016-2019]





Bert Zuijndorp, Geraldine Schembri, Philip Baker QC and Aart Roelofsen

### Forum 2018 - Fair Taxation of the Digital Economy

CFE Tax Advisers Europe held its annual Forum in Brussels on 19 April 2018. Three expert panels with speakers from the EU Commission, OECD, academia and business analysed and debated the issue of fair taxation of the digital economy. The Forum discussions focussed on the European Commission proposals for taxation of the digital economy in the Single Market and Recommendation on amending Member States' double tax treaties with third countries, as well as the OECD's Interim Report on the Taxation of the Digital Economy, and the implications of taxing the digital economy from both a direct and indirect tax perspective.

Lutz Lienenkämper, Finance Minister of the State of North Rhine-Westphalia, welcomed speakers and attendees to the Forum, followed by an introduction of the panel topics by Ian Hayes, First Vice-President of CFE Tax Advisers Europe.

#### Panel I - Business Models in the Digital Economy - How Do They Operate & Where is Value Created?

The first panel approached the topic from a high-level perspective, examining business models in the digital economy, and the prevalence and role intangible assets and data play in those models.

The panel was moderated by CFE President, Piergiorgio Valente, who introduced the panellists and set the scene by highlighting three main challenges for taxing the digital economy from an international tax perspective, namely intangibles, nexus and data related challenges. He posed questions concerning the taxation of

the digital economy such as how income from consumer to consumer transactions should be characterised, whether user data from specific jurisdictions should be taxable and whether internet browsing should be considered capable of creating value for a company.

Dr. Seth Benzell, Postdoctoral Associate at the MIT Initiative on the Digital Economy in the United States, explained to the audience what intangible assets are, how they are measured, and discussed fairness in the context of taxing these assets. He detailed the features and business models of the most well known companies in the digital economy, and the role of intangible assets and data in terms of value creation for these models, specifically discussing companies that would be impacted and platforms that would be excluded from the current proposed EU digital tax.

Gary Ashford, Partner at Harbottle & Lewis in London, then discussed the current methods of taxing digital companies, the appropriateness of these methods, and how tax impacts upon the competitiveness of digital business. He highlighted the problems modern business models pose to traditional concepts of international taxation, in particular user location, online social media, and platform sales. Mr Ashford then discussed the implications of the recent US tax reform for these digital business models.

Eric Herren, Cyber Security Senior Adviser at the International Institute for Counter Terrorism in Switzerland, closed the first panel by providing attendees with a different perspective on the challenges of adapting to the digital world, presenting the chal-

allenges and security risks of participating in a data reliant digital economy. Mr Herren presented practical examples of these threats, and some guidelines on how to evade or minimise risk, emphasising that awareness and wariness is key.

#### Panel II: Possible Solutions for Fair Taxation of the Digital Economy – An Examination of the OECD and EU Proposals

The second panel was moderated by Geraldine Schembri, Partner at EMCS Tax and Advisory in Malta, and Chair of the CFE Tax Advisers Working Group on Taxation of the Digital Economy, who directed questions to panellists concerning fair taxation in the context of the OECD work and EU proposals.

Bert Zuidendorp, Head of Company Taxation Initiatives Unit within DG Taxation and Customs Union at the European Commission, provided a detailed analysis of the European Commission's package of proposals for taxation of the digital economy which were issued on 21 March 2018. Mr Zuidendorp explained the Commission's objective of protecting the integrity of the Single Market and the adoption of an EU approach to avoid fragmentation and unilateral national digital taxes being introduced. Mr Zuidendorp stressed that a comprehensive international solution was the preferred outcome of the Commission, which was why the Directives were delivered as a package, and set out proposed rules to redefine

significant digital presence for taxation purposes. Mr Zuidendorp elaborated that the Commission's view was that the international tax framework needs to be updated, but that the interim solution provides the best temporary means of levelling the playing field between economic operators and ensuring there was no further loss of public revenue. Mr Zuidendorp explained the characteristics of the DST, namely to target business models where user contribution to value creation is proportionately higher, without discriminating between domestic and cross-border situations.

Aart Roelofsen, Co-Chair of OECD Working Party 1 dealing with Tax Treaty Issues and member of the UN Committee on Tax Challenges related to the Digital Economy, discussed the history of taxation initiatives concerning the digital economy. Mr Roelofsen related the developments back to the 2013 report of the OECD which concluded that digital companies shifted profits to low-tax jurisdictions and highlighted the disconnect between production and consumption values. Mr Roelofsen discussed the OECD's BEPS Project and presented the technical aspects of the OECD 2018 Interim Report on the Tax Challenges Arising from Digitalisation, and discussed the importance of revising corporate taxation concepts of permanent establishment and profit allocation to account for digital activities. Mr Roelofsen highlighted other fora where the issue of taxation of the digital economy



Piergiorgio Valente, Eric Herren, Gary Ashford and Seth Benzell



Lutz Lienenkämper MdL, Suzanne Metzler and Piergiorgio Valente



CFE Forum 2018



Gary Ashford



Geraldine Schembri, Bert Zijldendorp, Aart Roelofsen and Philip Baker QC



Martin Phelan and Tatiana Ioffe



Professor Philip Baker QC



Geraldine Schembri and Bert Zijldendorp

could be discussed, such as the UN Tax Committee and the OECD/G20 Inclusive Framework.

Professor Philip Baker QC, Barrister, Queen’s Counsel, Field Court Tax Chambers, and Visiting Professor at Oxford University in the United Kingdom, rounded off the discussion by providing views on the possible legal consequences of implementing the proposed Commission Directives. Professor Baker highlighted particular issues with taxation of profits derived from the digital economy under current international tax rules, such as the physical nature of PE, and the fact that previously untaxed profits may now be taxed in light of the US TCJ Act, leading to potential double taxation. He noted the solution would perhaps require current domestic laws to be amended in order for tax treaties with third countries to be renegotiated, which would likely not be possible. Professor Baker discussed the possible shift to formulary apportionment given the indication of profit split method as a profit allocation standard. Professor Baker questioned potential treaty implications of imposing the interim digital tax, particularly as to whether it would be a covered tax and be creditable. Professor Baker also discussed whether the interim tax could constitute discrimination, as it is only envisaged to apply to certain categories of activities carried out in a particular sector of the economy. Finally, Professor Baker raised issues concerning compatibility of the proposed interim tax

with EU law, particularly the prohibition against other turnover taxes apart from VAT.

**Panel III: Indirect Taxation in the Digital Economy**

Moderator of the third panel, Trudy Perié, Head of Loyens & Loeff Amsterdam VAT Practice, Customs and International Trade Group, and Vice-Chair of the CFE Indirect Taxes Subcommittee, introduced the panel by discussing the fact that the impact of the digitalised economy is already apparent, given that VAT legislation is being reformed to introduce new rules for distance sales. Ms Perié noted that many aspects of the reforms were presently uncertain, and that with the introduction of potential new legislation this would only increase.

Maria Elena Scoppio, Head of VAT Unit at the European Commission, presented the detail of the proposals concerning the way towards a single European VAT area and the destination based principle, discussing in detail the e-Commerce proposal package. Ms Scoppio discussed that extensions and improvements to the VAT One-Stop-Shop would be implemented to extend to distance sales of goods supplied from third countries and that there would be simpler processes for the declaration and payment of import VAT on low value consignments. Ms Scoppio then went on to briefly discuss the proposed interim digital services tax.

Fergus Matthews, Global Head of VAT, Microsoft, the Netherlands then discussed the proposals from an industry perspective and outlined the opportunities and challenges for a multinational company like Microsoft. Mr Matthews discussed the large amount of VAT fraud in the EU, and questioned the interplay of digital services tax as a self-reporting interim tax in light of that fraud. He then discussed in detail the complexity for businesses concerning proposals which grant Member States more control or access to commercial information as to how data or user contribution is monetised.

Albert Bomer, Indirect Tax Professor at the Vrije Universiteit of Amsterdam and Coordinating Inspector with the Netherlands tax authority, discussed the implications of the European Commission e-commerce and interim digital services tax proposed Directives from an indirect tax perspective. Mr Bomer gave an academic perspective on the indirect tax implications of data collection, in particular drawing parallels between the current European VAT system and the proposed digital services tax, noting both were initially proposed as interim measures, and the difficulties in revising these systems once they are in place. Mr Bomer also discussed the implications for tax authorities of having access to the data, such as in-time interventions, reverse information asymmetry, improved internal tax controls and assurances, and the interplay of these benefits with the legal responsibilities to protect and keep confidential taxpayers' data under EU law.

The Forum was attended by over 150 participants, bringing together representatives from the European Commission, policy makers, policy advisers and lobbyists, practitioners, academics and students, together with representatives from the wider business industry.

#### Award of the CFE Albert J. Rädler Medal 2018



Frits Sobels,  
Amanda Duque  
dos Santos,  
Piergiorgio  
Valente and  
Albert Rädler

CFE Tax Advisers Europe has awarded the Albert J. Rädler Medal 2018 to Ms. Amanda Duque dos Santos of Ludwig-Maximilians-Universität, Munich, for her Master's thesis titled "Transfer-Pricing Rules and State Aid." The Medal was awarded in Brussels by Frits Sobels, Adviser to the Executive Board of CFE Tax Advisers Europe, at the occasion of the Forum 2018, CFE's flagship international tax conference that took place on 19 April 2018.

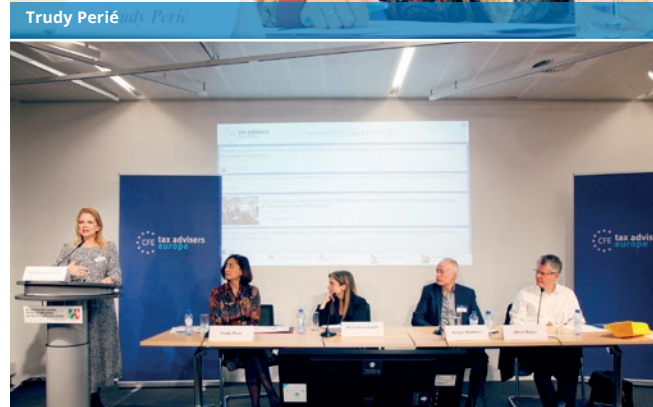
The CFE Albert J. Rädler Medal was launched in 2013 to encourage academic excellence among young tax students in the field of European taxation, and to recognise the outstanding contribution to the field of taxation of the late Professor Albert J. Rädler.



Fergus Matthews



Trudy Perié



Stella Raventós- Calvo-Calvo, Trudy Perié, Maria Elena Scoppio, Fergus Mathews and Albert Bomer



Maria Elena Scoppio



CFE Professional Affairs Conference 2018 Speakers' Dinner in Madrid

### 11th European Conference on Tax Advisers' Professional Affairs

The 11th European Conference on Tax Advisers' Professional Affairs this year entitled 'Transparency Trends in Taxation: How to Reconcile the New EU & OECD Transparency Requirements' took place in Madrid on 23 November 2018, co-organised with AEDAF, CFE Member Organisation from the Kingdom of Spain. Two expert panels debated and analysed the implications of the EU Directive on mandatory automatic exchange of information related to reportable cross-border arrangements (known as "DAC6"). The EU Directive, which entered into force on 25 June 2018, requires certain intermediaries and tax advisers to disclose information to the tax authorities. This Directive builds on other EU transparency initiatives and measures to prevent base-erosion, profit-shifting and aggressive tax avoidance. The conference also addressed the OECD Model Disclosure Rules on CRS avoidance which are targeting promoters involved in the design, marketing or implementation of CRS avoidance arrangements or offshore structures. Whilst the EU's "DAC 6" requires intermediaries or taxpayers to report a hallmarked cross-border arrangement to their national tax authorities, OECD's rules require disclosure of arrangements that are circumventing the Common Reporting Standard.

The expert panels sought to clarify the considerable amount of uncertainty regarding important definitions and legal concepts of the EU mandatory disclosure regime. The Directive intends to provide tax authorities with large amounts of information on aggres-

sive tax planning, which will then be exchanged among the tax authorities of EU Member States. The scope of DAC6 is intentionally wide and includes a range of transactions, which in many cases will have no particular tax objective. In some cases these are transactions that are tax-motivated, whilst in others they may be ordinary financing or corporate transactions with no particular tax objective.

The President of the Spanish Association of Tax Advisers, José Ignacio Alemany Belido, and the first Vice-President of CFE, Ian Hayes, opened the conference and set the scene for the panel discussion, highlighting the challenging task of implementing the new disclosure rules into practice.

Panel I examined the implications of DAC6 and the OECD Model Disclosure Rules from a high-level perspective, focusing on the international policy response in respect of addressing aggressive tax planning and the merits of these initiatives for stakeholders across the board. The panel was moderated by Wim Gohres, Chair of the CFE Professional Affairs Committee.

Reinhard Biebel, European Commission, DG Taxation and Customs Union, Unit for Direct Tax Policy, provided a high-level overview of the EU Directive of mandatory disclosure of potentially aggressive tax planning arrangements. Mr Biebel discussed the policy objective of aiming to increase the effectiveness of tax authorities in tackling cross-border tax avoidance and evasion in the EU Single Market by making potentially aggressive tax planning schemes reportable to the tax authorities and, subsequently, sharing this information with other EU Member States.

From the discussion on the main concepts of the Directive the audience learned that there is no presumption of tax avoidance, however, the absence of action by tax authorities shall not imply acceptance of the validity or the tax treatment of a particular transaction. Mr Biebel also elaborated on the scope of the Directive, as well as timing of reporting, the definitions, retroactivity and the hallmarks as main features or an indication of a reportable cross-border arrangement.

John Peterson, OECD, Head of Aggressive Tax Planning, International Cooperation and Tax Administration at the Centre for Tax Policy and Administration, discussed the OECD Model Disclosure Rules on avoidance of the Common Reporting Standard (CRS) and how the OECD initiatives tie-in with the EU's mandatory disclosure rules. By way of background, Mr Peterson explained that the mandatory disclosure rules are a response to CRS Avoidance and Offshore Structures and are targeted at "intermediaries" i.e. professional advisers and corporate service providers that design, market and implement CRS avoidance and offshore schemes. The way in which the disclosure framework protects the integrity of the CRS was elaborated on, providing attendees with more information on how to determine whether a service provider is an intermediary in respect of an arrangement. Mr Peterson provided an overview of the background to the OECD BEPS Action 12 and the perceived impact of the CRS on addressing aggressive tax planning. Similarly, an update on CRS disclosure in practice was provided, as well as a comparison between the CRS reporting requirements under the OECD Model Rules and EU's DAC6. Mr Peterson rounded off the presentation by providing an overview of the hallmarks on opaque offshore structures and Hallmark "D" of the EU Directive.

By means of key takeaways, the audience learnt that both the OECD and EU mandatory disclosure rules were developed at same time with the same policy objectives and a similar structure. The Mandatory Disclosure Rules for Avoidance Arrangements and opaque structures are expected to play an important role in protecting the integrity of CRS and promoting tax transparency. Targeted primarily at intermediaries that operate in regulated sectors, the intended effect is for the regime to serve as a deterrent, without any undue increase in compliance costs for taxpayers engaged in active businesses or for domestic investment or financial institutions undertaking routine banking transactions.

Jorge Ferreras Gutiérrez, Counsellor at the Permanent Representation of the Kingdom of Spain to the European Union discussed the current status of the DAC6 implementation in Spain. Mr Ferreras provided an overview of the implications of gold plating the Directive to expand the scope of existing or new disclosure regimes and highlighted the need for guidance. The discussion was rounded off by an analysis of the merits of disclosure initiatives for stakeholders, from a government policy perspective.

Olivia Long from the Tax Department of Matheson, Ireland compared and contrasted the existing Irish disclosure regime with the new EU Directive. Ms Long highlighted that all the hallmarks of the Irish disclosure regime are subject to the main benefits test, and elaborated on the modus operandi of the Irish mandatory disclosure rules. Ms Long also discussed the role of tax advisers in the tax avoidance policy debate and highlighted the policy perspective



Olivia Long, John Peterson, Wim Gohres, Reinhard Biebel, Jorge Ferreras and Robert van der Jagt



Jorge Ferreras, Robert van der Jagt and Reinhard Biebel



José Ignacio Alemany Bellido

of the professionals. As a corollary, Ms Long pointed to the conceptual difficulties in designing hallmarks at EU level due to the specificity of the European legal order, where one-size-fits all does not always work well in a multi-layered political structure. As a result, multi-jurisdictional hallmarks, Ms Long noted, may be difficult to implement in practice in all EU Member States.

The expert discussions from a policy perspective were concluded by Robert van der Jagt, Chairman of the KPMG EU Tax Centre, who discussed the implementation of the disclosure regime in the KPMG practice in the Netherlands. The discussion was followed by remarks on the challenges of implementing DAC6 in large firms, highlighting aspects such as the mechanisms for disclosure compliance in multijurisdictional environments as well as compliance in general for cross-border operating firms.

Panel II embarked on a technical analysis of the Directive, and debated the practical implementation issues, examining the features of the Directive and the specific hallmarks. The increasing uncertainty and sensitivity related to the interpretation of the professional privilege waiver as set out in the Directive was evident from the debate. The panel was moderated by Professor Alfredo García Prats, Professor of Tax Law at the University of Valencia.

The second panel discussion began with a presentation by Francisco de la Torre Díaz, Member of Parliament for Ciudadanos (part of ALDE party) and Chairman of the Budget Commission of the Congress of the Kingdom of Spain, who is also a tax inspector on leave. Mr de la Torre highlighted the challenges in the implementation of DAC6 and the potential fines for failure to properly implement an EU Directive. Two pertinent issues were raised in the opening presentation: how tax administrations will deal with flagged-up schemes, and whether Member States can exchange information with each other regarding domestic disclosure arrangements under DAC6. Mr de la Torre concluded that DAC6 is a challenge not only for intermediaries and relevant taxpayers but also for tax authorities and parliaments.

Helen Buchanan, Partner Freshfields London, United Kingdom and Head of the Tax Disputes Practice, discussed practical issues for law firms in the course of DAC6 implementation, focusing on legal professional privilege. In her presentation Ms Buchanan explained that professional privilege is optional under DAC6, which means that Member States may waive reporting requirements if reporting would breach legal professional privilege under national law, provided intermediaries operate within limits of relevant national law that define their professions. In such cases, where legal professional privilege applies, the reporting obligation then shifts to other intermediaries or to the taxpayer.

Ms Buchanan identified a number of issues that pose practical implementation problems, such as the optionality of the legal professional privilege protection, which stems from the difference in national privilege rules, creating risks of market distortion. Many law firms operate cross border through tax transparent partnerships so may need to consider legal professional privilege in every jurisdiction where they operate. In order to avoid regime clashes, Ms Buchanan suggested, it would be better to treat professional partnerships as resident where they are established or regulated.

Alistair Cliff, Tax Director, Deloitte, and Chairman of the Joint Professional Standards Committee of the Chartered Institute of Taxation (CIOT) and the Association of Tax Technicians (ATT), United Kingdom, discussed the reporting practicalities for intermediaries. Mr Cliff elaborated on the definitional aspects and explained that the term “intermediary” means any person that designs, markets, organises or makes available for implementation or manages the implementation of a reportable cross border arrangement or having regard to the relevant facts and circumstances and based on available information and the relevant expertise and understanding required to provide such services, knows or could be reasonably expected to know that they have undertaken to provide, directly or by means of other persons, aid, assistance or advice with respect to designing, marketing, organising, making available for implementation or managing the implementation of an arrangement.

In this context, Mr Cliff said that an “intermediary” definition could potentially include:

- Lawyers and tax advisers;
- Accountants;
- Banks;
- Providers of company secretarial services;
- Trust companies/fiduciaries; and
- Financial/investment advisers/asset managers.

Apart from performance of relevant activities, a jurisdictional affiliation to an EU Member State could qualify a person as an intermediary. Non-EU intermediaries are not subject to the requirements under the DAC6, however, if they provide relevant services to relevant EU taxpayers, those taxpayers may have a subsidiary reporting obligation. Mr Cliff scrutinised the reporting requirements (timing and substance), providing more detail on ‘what to report’ and ‘when to report’ as set out in the Directive.

Eduardo Gracia, Partner and Head of Tax Ashurts and Chair of the International Tax Committee of the Spanish Association of Tax Advisers (AEDAF), scrutinised the perceived retroactivity of the reporting requirements of the Directive as well as the main benefits test and the concept of advantage.

Mr Gracia stated that there is an obligation to file information on reportable cross-border arrangements the first step of which was implemented between the date of entry into force (25 June 2018) and the date of application of DAC6 (1 July 2020) as per the text of the Directive. Such a requirement, Mr Gracia opined, may be in conflict with constitutional law in some Member States concerning the time limitations on effectiveness of tax law. Mr Gracia raised a point of constitutional EU law, under which there is no vertical direct effect of a non-transposed Directive per the ECJ judgments in the cases of Ratti and Marshal. As a consequence, Mr Gracia concluded, it remains highly questionable whether there is an obligation on intermediaries to apply the requirements before the implementation of national laws or before 1 January 2020. In the event such a requirement exists, the lack of compliance cannot be subject to penalties per the legal principle *nulla poena sine lege*.

Dr Viktoria Wöhrer of the Vienna University of Business and Economics, rounded-off the panel discussion with a comparison of



CFE Professional Affairs Conference in Madrid



Alistair Cliff



Francisco de la Torre, Helen Buchanan, Professor Alfredo- Garcia Prats, Eduardo Gracia and Alistair Cliff



Ian Hayes, Jesús Gascón and José Ignacio Alemany Bellido

the trends of expansion of both data protection and the exchange of information, analysing how to reconcile these two trends.

Dr Wöhrer identified the broad scope of the reporting requirements as potentially triggering over-reporting. As per the DAC6 hallmarks, which are not limited to aggressive tax planning, a PE in a country for which the credit method applies under a tax treaty ("deduction for the same depreciation on the asset are claimed in more than one jurisdiction") or any transfer of hard-to-value intangibles would trigger disclosure.

Regarding the information to be reported, Dr Wöhrer made a comparison with the EU Directive on the exchange of tax rulings (DAC3), which requires identification of any person, other than a natural person. Under DAC6, tax administrations would exchange data on intermediaries and taxpayers including their name, date and place of birth, residence for tax purposes, TIN, associated enter-

prises and identification of any other person potentially affected. According to European jurisprudence, tax information is personal data protected under Article 8 of the European Convention of Human Rights.

Dr Wöhrer rounded off the panel discussion by providing an overview of the conditions for disclosure to be considered in line with EU data protection legislation, specifically in relation to Article 23 of the General Data Protection Regulation and the specific exemption for taxation matters provided therein.

The conference was concluded with high-level remarks from Jesus Gascón, the Director General of the Tax Administration of the Kingdom of Spain (Agencia Tributaria).



Valère Moutarlier and Piergiorgio Valente



Stella Raventós-Calvo and Paul Kraan



Piergiorgio Valente, Markus Ferber and Richard Lyal

**Annual Tax Networking Dinner**

CFE Tax Advisers Europe organises an annual networking dinner which provides the opportunity to strengthen relationships with colleagues and counterparts, and expand engagement beyond formal policy meetings on technical issues. Attendees are able to exchange views in an informal setting with members of the European Commission working in relevant areas, such as Directorate-General for Taxation and Customs Union (DG Taxud), Members of the European Parliament with a particular interest in tax and Members of the Council of the European Union.

In 2018, the Annual Tax Networking Dinner took place on Monday 29 January 2018 at the Amigo Hotel in Brussels. The following representatives of the European Institutions were among the attendees: Richard Lyal, Principal Legal Advisers, Legal Service (Budget, Customs, Taxation), European Commission; Valère Moutarlier, Director, DG TAXUD, Direct taxation, European Commission; Momchil Sabev, Head of Unit, DG TAXUD, Inter-institutional relations, coordination, communication and strategic planning, European Commission; Maria Elena Scoppio, Head of Unit, DG TAXUD, Indirect taxation and tax administration/ Value added tax, European Commission; and Andreas Strub, Head of Unit, General Secretariat of the Council of the European Union, DG Economic Affairs and Competitiveness, Council of the European Union.



Romain Bontemps, Stella Raventós-Calvo, Richard Lyal, Jos Goubert and Alistair Cliff



Heather Brehcist and Valère Moutarlier

## CFE REBRANDING

In order to increase public outreach and to better reflect the work of the organisation, in 2018 CFE implemented a rebranding strategy, and is now known as **CFE Tax Advisers Europe**. The rebranding is part of an initiative to increase visibility, to modernise and be more relevant to stakeholders. The name CFE Tax Advisers Europe was chosen as it is instantly recognisable and representative of the nature of the organisation. The accompanying new logo was designed in such a way that the word 'CFE' was retained as a link with tradition, and the words 'Tax Advisers Europe' were added to clearly illustrate the purpose of the organisation and what it represents: the umbrella organisation of tax advisers in Europe.

Alongside the rebranding, CFE has developed a new website to serve as a focal communication tool fit for purpose in today's digital era. The platform offers to CFE Members and the general public enhanced access to information regarding the organisation, news and events.

The website also incorporates a new, collaborative **Members Section Intranet**, where documents, agendas and events can be created and shared among participants, so that the intranet can be used by CFE's members to collaborate on work items. Interactive messenger discussions can also be held in real time on the intranet.

Further, there is completely redeveloped **European Register of Tax Advisers**, maintained via the website, which now contains more specific information on registered advisers and their area of expertise. This will allow for enhanced visibility for tax advisers, in a modern and updated format that is far more searchable for members of the public. Tax advisers who are not registered should consider signing up to benefit from the widening of their professional network.

## CFE PUBLICATIONS

### Opinion Statements – Policy and Technical position papers published in 2018 by CFE Tax Advisers Europe

#### Fiscal Committee:

In 2018, the Fiscal Committee of CFE Tax Advisers Europe published 8 Opinion Statements:

- **Opinion Statement FC 1/2018** on the European Commission proposal of 21 March 2018 for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services. Published on 04/06/2018.
- **Opinion Statement FC 3/2018** on Problems Caused by VAT Numbers. Published on 05/06/2018.
- **Opinion Statement FC 4/2018** on a Proposal for a Council Directive amending Directive 2006/112/EC, as regards rates of Value Added Tax (COM(2016)758 final, of 1 December 2017 and COM/2018/20 of 28 January 2018). Published on 08/06/2018.
- **Opinion FC 5/2018** on practical difficulties arising from the practices and procedures of the Court of Justice of the European Union. Published on 20/11/2018.

- **Opinion Statement FC 6/2018** on a Proposal for a Council Directive amending Directive 2006/112/EC, on the common system of value added tax as regards the special scheme for small enterprises. Published on 03/07/2018.
- **Opinion Statement FC 7/2018** as regards the Commission proposal to introduce detailed technical measures for the operation of the definitive VAT system. Published on 27/08/2018.
- **Opinion Statement FC 8/2018** on the notion of "minimal human intervention" in the definition of "electronically supplied services" for the purposes of Article 58 of the VAT Directive. Published on 07/12/2018.
- **Opinion Statement FC 10/2018** on the European Commission Platform for Tax Good Governance discussion questionnaire on tax competition and competitiveness. Published on 05/12/2018.

#### Professional Affairs Committee:

In 2018, the Professional Affairs Committee of CFE Tax Advisers Europe published 4 Opinion Statements:

- **Opinion Statement PAC 1/2018** on the OECD Consultation regarding Mandatory Disclosure Rules for Addressing CRS Avoidance Arrangements and Offshore Structures (Prepared by CFE on behalf of the Global Tax Advisers' Cooperation Forum). Published on 16/01/2018.



Bruno Gouthière, Valère Moutarlier, Aleksandar Ivanovski and Heather Brehcist



Momchil Sabev and Ian Young

- **Opinion Statement PAC 2/2018** on the European Parliament Recommendations to the Council and Commission following the inquiry into money laundering, tax avoidance and tax evasion of 13 December 2017. Published on 22/01/2018.
- **Opinion Statement PAC 4/2018** on the EU Whistleblowers Protection. Published on 24/07/2018
- **Opinion Statement PAC 5/2018** on the legal professional privilege reporting waiver set out in the EU Mandatory Disclosure Rules Directive (DAC6). Published on 12/07/2018.

#### ECJ Task Force:

In 2018, the ECJ Task Force published 3 Opinion Statements:

- **Opinion Statement ECJ-TF 1/2018** on the Compatibility of Limitation-on-Benefits (LoB) Clauses with the EU Fundamental Freedoms. Published on 02/05/2018.
- **Opinion Statement ECJ-TF 2/2018** on the CJEU decision of 7 September 2017 in Case C-6/16, Egiom, concerning the compatibility of the French anti-abuse rule regarding outbound dividends with the Parent-Subsidiary Directive and fundamental freedoms. Published on 30/05/2018.
- **Opinion Statement ECJ-TF 3/2018** on the CJEU decision of 12 June 2018, in Case C-650/16, Bevola, concerning the utilisation of “definitive losses” attributable to a foreign permanent establishment. Published on 15/11/2018.

In 2018, the CFE Tax Advisers Europe published 1 joint Fiscal and Professional Affairs Committee Opinion Statement:

- **Opinion Statement CFE 1/2018** on the Importance of Taxpayer Rights, Codes and Charters on Tax Good Governance. Published on 06/06/2018.

#### External Publications

##### European Taxation Tax Journal

The leading European tax law journal European Taxation, edited by IBFD, regularly publishes articles on CFE conferences and selected Opinion Statements of particular relevance. European Taxation is the official journal of the CFE Tax Advisers Europe. The following are a list of the Opinion Statements published by European Taxation in 2018:

- **Opinion Statement ECJ-TF 3/2017** on the judgment of the Court of Justice of the EU of 16 May 2017 in the Case C-682/15, Berlioz Investment Fund SA, concerning the right to judicial review under Article 47 EU Charter of Fundamental Rights in cases of cross-border mutual assistance in tax matters. Published in Volume 58 – Number 2/3 - 2018.
- **Opinion Statement ECJ-TF 4/2017** on the decision of 9 February 2017 of the Court of Justice of the EU in Case C-283/15, X (“pro-rata personal deductions”), concerning personal and family tax benefits in multi-state situations. Published in Volume 58 – Number 4 - 2018.
- **Opinion Statement FC 1/2018** on the European Commission proposal of 21 March 2018 for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital

services. Published in Volume 58 – Number 8 - 2018.

- **Opinion Statement ECJ-TF 2/2018** on the CJEU decision of 7 September 2017 in Case C-6/16, Egiom, concerning the compatibility of the French anti-abuse rule regarding outbound dividends with the Parent-Subsidiary Directive and fundamental freedoms. Published in Volume 58 – Number 10 - 2018.
- **Opinion Statement CFE 1/2018** on the Importance of Taxpayer Rights, Codes and Charters on Tax Good Governance. Published in Volume 58 – Number 11 - 2018.
- **Opinion Statement FC 7/2018** as regards the Commission proposal to introduce detailed technical measures for the operation of the definitive VAT system. Published in Volume 58 – Number 12 - 2018.

#### Interviews & Articles

CFE President Piergiorgio Valente participated in an interview for the Magazine of CFE Member Organisation the Chamber of Tax Advisers of the Czech Republic (KDPČR). The article was published in the edition 03/2018, and the President highlights CFE’s work on keeping Member Organisations informed and involved in promoting uniform standards for access to the tax profession, and contributing to European discussion and consultations to ensure fair taxation and the protection of taxpayers’ rights.

Piergiorgio reported on CFE’s role in the European legislative process and how the organisation develops relations with the European Institutions and others stakeholders.

Piergiorgio Valente also participated in an interview for the Magazine of CFE Member Organisation the Chamber of Tax Advisers of Poland (KIDP). The president stressed CFE strives to contribute to the co-ordination and development of tax law in Europe by sharing the unique insight of its members with European institutions, and to promote the co-ordination of national laws that govern and safeguard the tax adviser profession.

The CFE President Piergiorgio Valente also gave an interview for the magazine of the Belgian Institute of Accountants and Tax Advisers (IEC – IAB), where he highlighted that over the years CFE has become an important interlocutor in the dialogue with the European institutions on matters of taxation.

Stella Raventós-Calvo, Chair of the Fiscal Committee of the CFE, participated in an interview for the French news radio RFI on 28 March 2018. The Fiscal Chair commented on the European Commission’s proposals relating to the amending of Directive 2006/112/EC as regards the introduction of the detailed technical measures for the operation of the definitive VAT system for the taxation of trade between Member States.

In addition, in 2018, CFE was contacted by Law360, a Brussels branch of the tax publisher Lexis Nexis, to publish an article about the Opinion Statement FC 7/2018 on the same European Commission’s proposals, submitted to the European Institutions on 23 August 2018.

Tax Notes, a collection of publications by Tax Analysts, a non-profit tax publisher, also wrote an article about the same CFE position paper on the definitive VAT regime.



CFE General Assembly in London

### Electronic Publications



#### Tax Top 5

The "Tax Top 5" is a weekly e-publication containing the most relevant tax news and tax policy developments from the EU institutions, EU courts and OECD from the previous week. Since being established, more than 100 weekly releases of CFE Tax Top 5 have been sent out. The weekly updates are a great success and the Tax Top 5 is now perceived as one of the most reliable and cohesive tax policy update e-publications in Brussels.

#### Global Tax Top 5

The Global Tax Top 5 is a monthly publication containing a round-up of international tax policy news of wider relevance for tax advisers.

The publication was developed in response to the great success of the Tax Top 5, with a view to provide a succinct report on the most impactful tax policy and legislative developments that have taken place around the globe each month.

The publication builds on a long-standing tax technical and policy cooperation between CFE, AOTCA (Asia-Oceania Tax Consultants Association) and WAUTI (West African Union of Tax Institutes), which are the leading tax professionals' organisations of the Asian-Oceanic and West African regions.

#### EU Tax Policy Report

The EU Tax Policy Report is a journal style publication, issued bi-annually, that provides a detailed analysis of significant primary law and tax policy developments at both EU and international level which would be of interest to European tax advisers which have taken place in the previous six months. It also includes an overview of selected CJEU case-law and relevant European Commission decisions.

## General Assembly

At the meeting in Brussels in April, CFE President Piergiorgio Valente reported on updates to CFE's strategic roadmap and the CFE rebranding, namely the new website, name and logo. The General Assembly voted to approve the establishment of the new Tax Technology Committee, which will be chaired by Ian Hayes. The Assembly also approved the change of name from Global Tax Advisers Cooperation Forum (GTACF) to Global Tax Advisers Platform (GTAP) in order to further reflect the purpose and mission of the organisation. In relation to future meetings, Giuseppe Barranco invited all delegates to the General Assembly 2019 in Turin, Italy on behalf of the Italian Association of Tax Advisers (ANTI).

At the General Assembly in London, the new Executive Board (2019-2020) was elected. The General Assembly unanimously re-elected Piergiorgio Valente (Managing Partner, Valente Associati GEB Partners and Crowe Valente, and Professor at Link Campus University, Rome, Italy) as President and Branislav Kováč (Partner VGD SLOVAKIA, s.r.o., Vice-President Slovak Chamber of Tax Advisers, Slovakia) as Treasurer. Martin Phelan (Partner, Head of William Fry Tax Advisers, Ireland), from the Irish Tax Institute (ITI), was elected Secretary-General, replacing Andrew Clarke.

The General Assembly also appointed two new Vice-Presidents: Gary Ashford (Partner Harbottle & Lewis, Council Member of the Chartered Institute of Taxation, United Kingdom), and Anna Misiak (Head of Tax Practice and Advisory, Board Member of the Chamber of Tax Advisers, Poland). Petra Pospíšilová (President of the Chamber of Tax Advisers of the Czech Republic) was re-elected as Vice-President, whilst Bruno Gouthière (Partner CMS Francis Lefebvre and member of Institut des Avocats Conseils Fiscaux, France) was elected Executive Board Member.

The meeting also re-appointed Stella Raventós-Calvo (Partner Danbury Abogados, Spain) as Chair of the Fiscal Committee and Wim Gohres (Director PricewaterhouseCoopers, NOB – Dutch Association of Tax Advisers, The Netherlands) as Chair of the Professional Affairs Committee. Ian Hayes (Council Member of the Chartered Institute of Taxation, United Kingdom) was appointed Chair of the newly established Tax Technology Committee.

Andrew Clarke, Secretary General, reported on the CFE Milestones achieved. CFE President Piergiorgio Valente and the Vice-President Petra Pospíšilová reported on the first CFE Tax Academy, held in Ulaanbaatar, in Mongolia, on 11 September 2018.

The General Assembly in London and the associated social events were generously hosted by the CFE members from the United Kingdom, the Chartered Institute of Taxation (CIOT) and Tax Faculty/Institute of Chartered Accountants in England and Wales (ICAEW). The Welcome Reception was held at the Tower of London and the Gala Dinner was held at the Chartered Accountants' Hall.



CFE Executive Board (2019-2020)



Martin Tuček, Radek Neužil and Aleš Budja



Marc Bornhauser



Piergiorgio Valente and the delegations of Italy and San Marino to CFE



Piergiorgio Valente and Andrew Clarke



Ray McCann and Glyn Fullelove



Gala Dinner Reception in London



Tatiana Ioffe and the delegation of the Russian Federation to the CFE



Geraldine Schembri, Chris Borg and Professor Isabelle Richelle



Gala Dinner in London



Welcome Reception at the Tower of London



Dick Barmantlo, Paul Kraan and Gary Ashford

## Organisational Structure

The **General Assembly** is the governing body of CFE Tax Advisers Europe, at which each member state is able to be represented. The primary responsibilities of the General Assembly are to decide on the acceptance of members and observers, to approve amendments to the governing statutes, to adopt the business report of the Executive Board and to approve the accounts and budget for the CFE. In 2018, the General Assembly met twice. The first meeting was on 20 April in Brussels and the second one was on 28 September in London.

### DELEGATES OF THE GENERAL ASSEMBLY IN 2018

<b>AT</b>	Klaus Hübner, Friedrich Rödler, Herbert Houf, Jakob Schmalzl, Franz X. Priester
<b>BE</b>	Philippe Vanclooster, André Bert, Christine Cloquet, Jos de Blay, Benoît Vanderstichelen, Bart van Coile
<b>CH</b>	Massimo Bianchi, Kaloyan Stoyanov, Thorsten Kleibold
<b>CZ</b>	Petr Toman, Martin Tuček, Jana Skalova, Radek Neužil, Petra Pospíšilová, Jiří Nekovář
<b>ES</b>	Jesús Sanmartin, Andrés Diaz, Alejandro Puyo, José Blasi, José Ignacio Alemany
<b>FI</b>	Timo Matikkala, Ossi Sopen-Luoma
<b>FR</b>	Marc Bornhauser
<b>IT</b>	Mario Boidi, Pietro Mastrapasqua, Giuseppe Antonio Barranco Di Valdivieso, Francesco Rossi Ragazzi, Giuseppe Zizzo, Walter Vilardi, Massimo Miani, Alessandro Solidoro
<b>IE</b>	Martin Lambe, Martin Phelan
<b>LT</b>	Rūta Bilkštytė
<b>LU</b>	Alexandre Taskiran
<b>LV</b>	Diāna Kļušķina, Ainis Dābols, Inga Kursīte-Priedīte, Daiga Zēna-Zēmane
<b>MT</b>	Conrad Cassar, Renald Micallef
<b>NL</b>	Frank van Merrienboer, Henk Koller, Sylvester Schenk, Paul Kraan, Roelof Vos
<b>PT</b>	Francisco Sousa da Câmara
<b>PL</b>	Dariusz Michal Malinowski, Jacek Andrzej Zieliński, Anna Misiak, Mariusz Cieśla, Lucyna Kadzikowska
<b>RO</b>	Dan Manolescu, Ioan Simion, Romulus Badea
<b>RU</b>	Tatiana Ioffe
<b>SI</b>	Aleš Budja, Dejan Petkovič
<b>SK</b>	Ladislav Pompura, Peter Pašek, Jozef Danis
<b>SM</b>	Monica Zafferani
<b>UA</b>	Leonid Rubanenko, Oleg Shmal
<b>UK</b>	Gary Ashford, Peter Fanning, Bob Davies, Anthony D. Thomas, Carl Bayley

## Executive Board

The **Executive Board** is in charge of the day to day work of CFE Tax Advisers Europe and reports to the General Assembly. The Board monitors developments in taxation law and the profession within Europe, and devises and manages CFE's work streams arising from these issues. Work is managed through two committees, the Fiscal Committee and the Professional Affairs Committee, which are chaired by a member of the Board. The Executive Board is composed of 8 people, i.e. the President, three Vice-Presidents, the Secretary General, the Treasurer, the Chair of the Fiscal Committee and the Chair of the Professional Affairs Committee.

### EXECUTIVE BOARD 2018



President  
**Piergiorgio Valente**



First Vice-President  
**Ian Hayes**



Vice-President  
**Bruno Gouthière**



Vice-President  
**Petra Pospíšilová**



Secretary-General  
**Andrew Clarke**



Treasurer  
**Branislav Kováč**



Chair of the Fiscal Committee  
**Stella Raventós - Calvo**



Chair of the Professional  
Affairs Committee  
**Wim Gohres**

## FISCAL COMMITTEE

**Delegates of the Fiscal Committee 2018**

Fiscal Committee Chair: Stella Raventós - Calvo

Direct Tax Chair: Ian Young

Indirect Tax Chair: Jeremy Woolf

**Direct Taxes Sub-Committee**

Chair: Ian Young

Vice-Chair: Jos Goubert

<b>AT</b>	Friedrich Rödler, Georg Wilfried Kofler
<b>BE</b>	Jos Goubert, Isabelle Richelle (expert)
<b>CH</b>	Pietro Sanionetti, Pascal Hinny
<b>CZ</b>	Lucie Rytířová, Luděk Vacík
<b>ES</b>	Victor Viana, Bárbara Pitarque Villaescusa
<b>FI</b>	Ossi Haapaniemi
<b>FR</b>	Olivier Dauchez
<b>IT</b>	Raffaele Rizzardi, Nicola Vecchietti Massacci, Giampiero Guarnerio
<b>IE</b>	Anne Gunnell
<b>LT</b>	Rūta Bilkšytė
<b>LU</b>	Romain Bontemps
<b>LV</b>	Diāna Kļušķina, Ruta Tereško
<b>MT</b>	Geraldine Schembri, Conrad Cassar Torregiani, Jeanette Calleja Borg
<b>NL</b>	Adjay Pahladsingh, Stephen Brunner, Paul Kraan, Peter Flipsen
<b>PT</b>	Pedro Pais de Almeida
<b>PL</b>	Anna Misiak
<b>RO</b>	Alin Chitu, Adrian Luca
<b>RU</b>	Igor Shikov
<b>SI</b>	Simona Novak
<b>SK</b>	Miriám Galandová
<b>UA</b>	Lyudmyla Rubanenko, Oleg Shmal
<b>UK</b>	Gary Ashford, Rupert Shiers, Jason Short, Glyn Fullelove

## FISCAL COMMITTEE

**Indirect Taxes Sub-Committee**

Chair: Jeremy Woolf

Vice-Chair: Trudy Perié

<b>AT</b>	Christine Weinzierl, Ingrid Rattinger
<b>BE</b>	Ivan Massin, Christian Amand (expert)
<b>CH</b>	Barbara Henzen, Willi Leutenegger
<b>CZ</b>	Milan Tomíček, Petr Toman
<b>ES</b>	Carlos Gómez, Jaime Rodríguez
<b>FI</b>	Timo Matikkala
<b>FR</b>	Véronique Lenoir, Laurent Chetcuti
<b>IT</b>	Paolo Centore, Marco Peirolo, Remo Dominici
<b>IE</b>	Oonagh Carney
<b>LT</b>	Karolina Jogminaitė
<b>LU</b>	Erwan Loquet
<b>LV</b>	Inga Kursīte-Priedīte
<b>MT</b>	Christian Vella
<b>NL</b>	Trudy Perié, Roelof Vos
<b>PT</b>	Francisco Sousa da Câmara
<b>PL</b>	Mariusz Cieśla
<b>RO</b>	Mariana Vizoli, Daniela Tanase
<b>SI</b>	Suzana Tokič
<b>SK</b>	Miriám Patiová
<b>UA</b>	Darya Reva
<b>UK</b>	Ian Hayes, Jeremy Woolf, John Voyez, Peter Dylewski

## PROFESSIONAL AFFAIRS COMMITTEE

**Delegates of the Professional  
Affairs Committee 2018**

Chair: Wim Gohres

<b>AT</b>	Friedrich Rödler, Gerald Klement
<b>BE</b>	Philippe Vanclooster, Christine Cloquet
<b>CH</b>	Pietro Sansonetti
<b>CZ</b>	Radek Neužil, Michal Frank
<b>ES</b>	José Blasi, José Ignacio Alemany
<b>FR</b>	Philippe Rochmann
<b>IT</b>	Gianluigi Longhi, Maria Venturini, Federico Vincenti, Riccardo Bordoli, Emanuela Fusa, Luciano Olivieri
<b>IE</b>	Martin Lambe
<b>LT</b>	Marius Grauskas
<b>LU</b>	John Hames
<b>LV</b>	Ilze Birzniece, Daiga Zēna-Zēmane
<b>MT</b>	Robert Taylor - East, Chris Borg
<b>NL</b>	Henk Koller, Dick Barmentlo, Sylvester Schenk, Frank van Merrienboer, Paul Kraan, Roel Kerckhoffs
<b>PL</b>	Dariusz Michał Malinowski, Lucyna Kadzikowska
<b>RO</b>	Alin Irimia, Alexander Miclev
<b>RU</b>	Henriette Belaye
<b>SI</b>	Aleš Budja
<b>SK</b>	Branislav Kováč, Miroslav Marcinčin
<b>UA</b>	Leonid Rubanenko, Claudia Chosova
<b>UK</b>	Heather Brehcist, Alistair Cliff

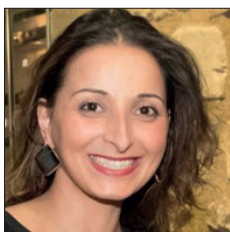
## ECJ TASK FORCE

**Members of the ECJ Task Force 2018**

Chair: Georg Kofler

Alfredo García Prats
Werner Haslehner
Volker Heydt
Eric Kemmeren
Michael Lang
Jürgen Lüdicke
Rupert Shiers
João Félix Pinto Nogueira
Pasquale Pistone
Stella Raventós - Calvo
Isabelle Richelle
Alexander Rust
Emmanuel Raingeard de la Blétière

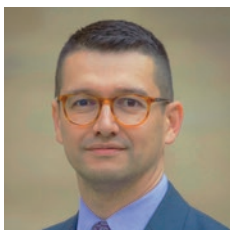
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## IMPRESSUM

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Aleksandar Ivanovski &amp; Brodie McIntosh

**Editorial**

Piergiorgio Valente, President of the CFE

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# Appendix

10 Key Priorities in International Taxation by  
Global Tax Advisers Platform (GTAP) – “The Ulaanbaatar Declaration”



**10 KEY PRIORITIES**  
**IN INTERNATIONAL TAXATION**  
**BY GLOBAL TAX ADVISERS PLATFORM**  
**(GTAP)**

**“THE ULAANBAATAR DECLARATION”**

**12 SEPTEMBER 2018**



**GTAP is an international platform that brings together national and international organizations of tax professionals around the world.** The term “tax professionals” includes persons engaged at professional level with tax consultancy, as lawyers or as accountants, and accredited as such pursuant to applicable national law, irrespective of membership of GTAP.

**The principal purpose of GTAP is to promote the public interest by ensuring the fair and efficient operation of national and international tax systems including recognition of the rights and interests of taxpayers and the role of tax professionals.** To this end, GTAP shall provide the forum for the regular meeting, dialogue and interaction of tax experts from all continents.

**GTAP’s fundamental principle is that taxpayers’ and tax advisers’ interests are better pursued and served within a fair and efficient global tax framework.** Such context shall favor effective provision of tax advice, continuous improvement of services, smooth cooperation among tax advisers, taxpayers and authorities, respect and professional excellence.



GTAP is conceived and developed to respond to the tax needs of the modern world. From the perspective of international taxation, the current era is marked by:

- (i) International and supranational lawmaking and advisory bodies, such as the European institutions and the OECD;
- (ii) Transnational taxpayers, i.e. groups of entities structuring their activities without frontiers; and
- (iii) National tax authorities cooperating closely at international level.

**Territorial boundaries of national tax jurisdictions are fading in favor of a global tax jurisdiction** defined by the new technologies. Such technologies are also substituting for a number of tasks which until today were executed by tax professionals. Simultaneously, new opportunities and challenges are opening.



Remarkably, **the ongoing transition has given rise to tax avoidance and evasion** phenomena which have caused misunderstanding of the role of, and prejudice against, tax professionals. Hence, it is urgent to enhance trust in the tax profession and reaffirm its role as an enabler of tax compliance.

**It is high time that the tax profession evolves to respond to the new context.** An international platform can embrace the joint effort of tax professionals of the world to track the developments, exchange views and expertise, formulate holistic approaches and stimulate progressive solutions in international tax. It is the most appropriate step to strengthen our voice in a fast-changing arena.

**Tax professionals must globalize, digitalize, and regain trust.** The desired evolution is possible only through close cooperation at global level.

**Optimization of tax consultancy within the current framework is the GTAP's goal.**

The 10 key priorities set for the pursuit of this goal are outlined below.



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### 1. Strong cooperation among tax professionals

In a global tax arena, tax professionals cannot be limited by national boundaries. Effective tax consultancy requires that they adopt a global viewpoint, are aware of developments on a global scale, and can give answers for more than one jurisdiction. Taking into account that the tax world is increasingly globalizing, GTAP considers its utmost priority to assist tax professionals in fulfilling the demands created by these changes.

For this purpose, GTAP seeks to ensure availability and diffusion of information on and among different jurisdictions. Therefore, it will employ communication platforms, common data bases, regular meetings and conferences for the exchange of knowledge, experience and ideas, and publications.



## 2. Inclusiveness, Openness, Global reach

The objective of global tax consultancy can only be achieved in the context of a global network, encompassing all tax jurisdictions.

Inclusiveness is a key principle: GTAP shall be open to each and every professional association of accredited tax advisers in every corner of the world, without distinction.

GTAP embraces difference and believes in the value created by interaction of singularities. Therefore, GTAP will seek to facilitate participation by keeping to the minimum any costs, applying new communication technologies, and organizing its meetings in all continents on a rotational basis.

## 3. Position of tax professionals in the tax scenario

Trust is an essential tool for the ongoing relationship between tax advisers, their clients and tax administrations. The current global tax framework is defective and its loopholes have allowed practices to develop which are inappropriate in the ethical and constructive global tax system to which we aspire.



Short term disclosure requirements, introduced as an emergency measure, threaten to drive taxpayers away from their professional advisers.

Nonetheless, as a rule, tax professionals' services are necessary to ensure tax compliance. Tax professionals are the sole persons qualified to interact with the tax authorities representing taxpayers to the latter's best interests. Tax professionals can render taxpayers and tax authorities' communication successful and effective, advising taxpayers on a continuing basis on their rights and obligations.

GTAP undertakes to increase the trust in tax professionals by, amongst other initiatives, establishing a common code of conduct for the provision of tax advice in a global tax world.

#### **4. Impact on the Renovation of the International Tax Scenario**

The international tax scenario is changing. Where territorial tax jurisdiction is fading to give space to a global tax world, territorial regimes lose relevance.



New laws are needed to regulate activities without confines and stateless income.

National and international legislative bodies are striving to identify appropriate criteria beyond national territories and physical presence for the taxation of modern economy.

Tax professionals have much to contribute. Their experience and expertise must be put at the disposal of legislators with a view to creating together a new, fair and efficient system of taxation, fit for the new conditions.

GTAP shall contribute to the discussion, participate in public consultations, take public positions and structure proposals to be used as basis for the new system.

In this respect, it is important that tax professionals express themselves with a single voice that will be heard clearly and loudly.



## 5. Proposal of a new tax system

In the framework of the renovation of the global tax regime, tax professionals are in a position to offer more than contributions: they can take initiatives. Their position in the centre of the tax relations – interacting with both taxpayers and authorities – grants them unique expertise, allowing them to lead the change.

Therefore, GTAP shall encourage tax professionals of the world to take up the challenge of proposing a new system: simple, flexible, practical, fit for modern business, a system that can reclaim taxpayers' confidence.

## 6. Taxpayers' Rights

In the construction of the new system and the transition towards it, it is crucial to safeguard the rights of taxpayers. Adequate guarantees are a mainstay for the desired fair and efficient tax system as well as for any truly democratic community. Such guarantees are equally a prerequisite for tax professionals to carry out their assignments.



In this regard, GTAP prioritises taxpayers' right to fair trial, encompassing the right to obtain advice and present one's tax case, and be represented in tax disputes by tax professionals. Establishment of such rights in all jurisdictions around the world will be sought through consultation with lawmakers and competent authorities, diffusion of information, opinion statements and legal actions. It is also necessary to ensure that such rights include the confidentiality of communications between tax professionals and clients. In this regard, Tax Professionals shall give due regard to the compliance obligations of taxpayers and should only act for taxpayers who are compliant or will become so following the actions proposed by the tax adviser.

## **7. Awareness and Foresight**

The tax system is changing due to the evolution of business and economy. Such evolution is endless and the tax world must follow it closely so as to respond quickly to new needs and ensure effective taxation of new types of income and business models.



Tax professionals must be prepared for the change: they must be informed and proactive; they must acquire the tools and qualifications needed to serve new tax regimes.

GTAP shall seek to monitor the changes and keep tax professionals abreast of them through internal dedicated specialized teams with interdisciplinary qualities. Such teams shall be devoted to research and conduct of studies on business and legal developments from the angle of the tax professional.

## **8. Preparation for the Digital Era**

Digital technologies are changing work and life in general. The tax profession could not but be affected: several tasks performed by tax professionals are now a matter of a few clicks. Concerns are accordingly being raised that the tax profession is vanishing.

However, GTAP sees a great opportunity where robots undertake tasks – mainly executive and supportive. It is tax professionals' chance to take new initiatives and innovate.



To do so they need to qualify to exploit the new technologies' potential, to extract and combine data, to program executive activities, and to give correct instructions.

GTAP will provide tax professionals with procedures and tools to master new technologies, maximize their value and be competitive in an evolving market.

## 9. Tax Advisers Without Borders (TAWB)

The globalizing scenario impacts on relations between advanced and emerging economies. Since the territory of activity is losing relevance, activities in the latter and their potential supervision by tax authorities become particularly important for the global economy. For taxation to work in a global economy, all jurisdictions must be on equal footing.



GTAP undertakes to ensure that tax professionals in emerging economies can respond to the needs of a global tax jurisdiction. To this end, GTAP shall establish a TAWB (Tax Advisers Without Borders) function to promote exchange programs, conferences, online courses and interaction platforms, digital tools and respective training. Equally, it will promote diffusion of information on the tax system of emerging economies for the benefit of tax professionals in advanced countries.

## 10. Tax culture and ongoing education

Apart from qualified tax professionals, a fair and efficient tax system requires well informed taxpayers and authorities. All parties of the tax relationship must have knowledge of the fundamental principles of taxation, their responsibilities and rights.

GTAP will enable the building of such culture. It will seek to ensure that all people all over the world have a real chance to understand taxes and be active participants in tax systems and policy development. To this effect, GTAP favors introduction of relevant lessons into schools and continuous availability of online courses.



**Founders:**

CFE, AOTCA, WAUTI

**Observers:**

STEP, IAFEI, AMA



A handwritten signature in black ink, appearing to read 'Stefano Valeri'.

CFE

A handwritten signature in Chinese characters, reading '池田 集 隆' (Ikeda Shūryū).

AOTCA

A handwritten signature in blue ink, appearing to read 'Antonio'.

WAUTI





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