

The Contents of EC Tax Review, Volume 27, Issue 4, 2018

Kluwer International Tax Blog

June 29, 2018

Ben Kiekebeld (General Editor EC Tax Review and tax adviser at Ernst & Young Belastingadviseurs LLP)

Please refer to this post as: Ben Kiekebeld, 'The Contents of EC Tax Review, Volume 27, Issue 4, 2018', Kluwer International Tax Blog, June 29 2018, <http://kluwertaxblog.com/2018/06/29/contents-ec-tax-review-volume-27-issue-4-2018/>

We are happy to inform you that the latest issue of the journal is now available and includes the following contributions:

Marie Lamensch, *Adoption of the E-Commerce VAT Package: The Road Ahead Is Still a Rocky One*

The e-commerce VAT package that was adopted in December 2017 is a key element of the European Commission VAT Action Plan and the Digital Single Market strategy. While it should be transposed into the national legislations of the Member States by 2019 and 2021, in this article the author identifies key implementation issues and unfixed enforcement challenges. She highlights, in particular, that relying on electronic platforms to collect the VAT does not come without difficulties and risks of abuse and that the lack of enforcement jurisdiction of EU tax administrations on non-EU businesses remains an unsolved and most worrying issue. Her conclusion is that the adoption of the e-commerce VAT package is certainly not the last step of the EU VAT modernization journey.

Martijn Vroom & Walter de Wit, *Brexit: The Road Ahead for EU-UK Trade*

The countdown to Brexit has started. Given the short timeframe to Brexit and the large trading volumes, the authors investigate which certainties and uncertainties exist regarding the future trade relationship between the European Union (EU) and the United Kingdom (UK). Certain is that the UK is leaving the EU on 29 March 2019. On the basis of the recently presented draft withdrawal agreement, however, the chances are apparent that the UK will not leave the EU Customs Union and the internal market during a transition period ending in December 2020. Taking into account a possible transition period, the authors discuss the most likely scenarios and their impact on trade between the EU and the UK, in particular from a customs perspective.

Franklin Cachia, *Tax Transparency for Intermediaries: The Mandatory Disclosure Rules and Its EU Impact*

Tackling tax avoidance and evasion is among the political priorities in the EU, with a view to creating a deeper and fairer single market. In this context, the European Commission (EC) has presented in recent years a number of initiatives in order to promote a fairer tax system. Enhancing transparency is one of the key pillars in the EC's strategy to combat tax avoidance and evasion. In particular the exchange of information between tax administrations is crucial in order to provide them with the necessary information to exercise their duties efficiently. Recent leaks, including the Panama Papers and Paradise Papers, have highlighted how certain intermediaries appear to have actively helped their clients to make use of aggressive tax planning schemes in order to reduce the tax burden and to conceal money offshore. Whilst some complex transactions and corporate structures may have entirely legitimate purposes, it is also clear that some activities, including offshore structures, may not be legitimate and in some cases, may even be illegal. The proposed legislative framework complements the series of legislative acts that were passed at the level of the EU over the previous years in implementation of some of the conclusions in the context of the BEPS project of the OECD/G20 and the work of the Global Forum in the field of transparency. The main aim remains linked to curbing tax evasion and avoidance through capturing aggressive tax planning schemes. The initiative generally envisages that potentially aggressive cross-border tax planning schemes be disclosed to the authorities.

Philippe Gamito, *Is an Instruction to Make a Payment an Exempt Supply for VAT Purposes?*

Over the last years, the VAT exemption applicable to transactions concerning payments and transfers has been subject to a strict interpretation by the Court of Justice of the European Union (CJEU). What constitutes these transactions has been narrowed down by the CJEU to the function of 'having the effect of transferring funds and entail changes in the legal and financial character'. This has reduced the opportunity for intermediaries in the supply chain to benefit from the exemption. On 21 March 2018, the Advocate General (AG) handed down his Opinion in DPAS Limited (DPAS) (Case C-5/17), whose conclusions appear to potentially narrow down even further any scope for exemption as regards transactions concerning payments or transfers. According to the AG, the exemption should not apply to a provider that 'only' instructs banks to transfer sums of money insofar as it constitutes a 'mere physical, technical or administrative service' that is not covered by the exemption. In this article, the author analyses the AG Opinion and provides some alternate views in light of previous case law.