

## INFORMATION ACROSS BORDERS

Ian Young reviews the recent CFE annual Forum in Brussels

All tax systems depend on information provided by taxpayers and others for the system to run efficiently and effectively. Flows of information across borders can be particularly problematic.

Confédération Fiscale Européenne (CFE) is the pan-Europe body that brings together national tax adviser organisations including, from the UK, ICAEW Tax Faculty, CIOT and the Institute of Indirect Taxation.

Each year CFE holds a day-long Forum in Brussels and looks at the direct tax and VAT aspects of particular topics. In the last two years the same subject matters have been chosen so that speakers and delegates can compare and contrast what is happening across all the taxes and understand the important international developments that will affect their practices in their own countries.

This year's Forum in April 2010 was designed to look at recent developments designed to bring about greater exchange of information across borders and greater transparency within borders, and the increasing willingness on the part of fiscal authorities to pursue taxation liabilities across borders.

It was somewhat ironic that while the Forum looked at the way more openness and transparency was being introduced in tax issues across borders, the eruption in Iceland of the Eyjafjallajökull volcano brought physical movement in northern Europe to an almost complete standstill. As one wit said, 'The last wish of the Icelandic economy was to have its ashes scattered over Europe'.

The presentations at the Forum were from the heads of tax policy and VAT at the European Commission, a representative from OECD's Forum on Transparency and Exchange of Information, and senior business representatives from Shell and Hewlett Packard. I was also a speaker representing CFE and the Tax Faculty.

Finally there were speakers from the revenue authority in Belgium and from Luxembourg and Switzerland all explaining how their countries have changed their banking secrecy or confidentiality rules to allow the cross-border exchange of information on bank details.



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The Forum was also informed that there are about to be new versions of the European Union mutual assistance and recovery of taxes directives as well as a protocol to the OECD Council for Europe Convention which the UK signed up to in 2008. The protocol will be open to signature in May 2010 at the OECD annual conference and will also allow for cross border exchange of banking information.

So there are a lot of changes taking place to make sure that fiscal authorities can have all the information they feel they need to make sure taxpayers pay the tax that is due. Clearly if individuals are doing things across borders in the hope that their home revenue authority won't know about it, and therefore can't tax them, then that is evasion and it is absolutely appropriate that revenue authorities should take all the steps necessary to stop it.

The Forum also heard about the new VAT package which was introduced in Europe in January 2010 and is one of the ways in which the European Union is trying to limit the impact of VAT fraud on the public finances of member states. The UK has been losing literally billions of pounds in recent years as a result of MTIC (Missing Trader Intra-Community) Fraud when a trader charges VAT on its sales and disappears before it has paid over the VAT to the UK or other revenue authority.

Theo Keijzer, Vice President of Tax Policy at Shell, was a speaker and made the point that national tax systems were designed in the early part of the twentieth century and are now struggling to cope with the way business and individuals organise their affairs on a global basis.

In my own presentation I noted that if you go back and look at the accounts of Unilever in 1978 you will find that in those days the subsidiary companies were established in individual countries and everything that Unilever did in that country would be done by that one company. There was next to no trading between the different companies within the Unilever group. Contrast that with today's world where Unilever runs its business across the world without taking too much notice of where individual country boundaries lie. And Unilever is no exception: it is estimated that well over 50% of world trade, which has grown exponentially over the past 30 years, is between companies that are connected and under common ownership. All this trading across the globe has created enormous problems for revenue authorities, particularly as groups of companies can potentially arrange the way that they (quite legitimately) organise the intra-group flows of goods and services so that profits can end up in jurisdictions where the rate of tax is lower.

One of the most recent and visible changes in international taxation has been the pursuit of individuals who are seen to be investing in tax havens and offshore finance centres and evading the tax that they would otherwise have to pay to the revenue authority where they are resident. The backdrop to this has been the extraordinary strain put on the public finances of nearly every country in the world by the recession.

The OECD now maintains a list of countries which are, or are not, complying with their obligations to share information with other revenue authorities. The list first saw the light of day in April 2009 at the time of the G20 summit in London and initially had a black list, with four countries on it, as well as grey and white lists. The countries on the black list immediately agreed to

be more cooperative and were moved to the grey part of the list and since then the countries that would not exchange information across borders because of their domestic banking secrecy rules have all agreed to change those rules.

There have been over 400 information exchange agreements entered into over the past 12 months and now OECD is embarking on the next phase of what might be called an international information exchange clear-up. There will be a peer review of the tax systems of all the major economies of the world as well as the tax systems of the tax haven countries. This will be complemented by physical visits to all these countries to find out whether they are doing what they say they are. There will be questionnaires to gather information which will be completed not only by the countries themselves but also by the countries that are their major trading partners. The OECD aims to report for each country on the availability of information, access to information and the exchange of information and will publish reports on more than 100 countries.

A further indication of how quickly events are moving was the announcement that Greece had changed its domestic law, on the day the CFE Forum was taking place, and it will increase tax on higher earners and introduce a major crackdown on evasion. George Papandreou said in a speech at the Brookings Institute in the United States, 'we will be prosecuting offenders, no matter how rich or powerful, to show that we mean business'. These measures are designed to reduce the Greek budget deficit from 13% of GDP down to just under 9%.

All these changes create enormous challenges for the fiscal authorities throughout the world and there is always a concern that when they require more powers they are not always mindful that the other side of the coin is to provide adequate safeguards for honest taxpayers. The ICAEW Tax Faculty will be doing all it can to make sure that an appropriate balance is struck between powers and safeguards.

**Ian Young is the Tax Faculty's International Tax Manager**