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By PwC Deutschland | 14 February 2013

Financial transactions tax

The European Commission has responded to an ECOFIN request for a draft directive on a harmonised financial transactions tax to be levied on financial institutions in respect of the transactions they process.

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For some time a financial transactions tax has been the subject of heated debate in EU circles. Whilst there is a measure of general agreement on the desirability of taxing financial transactions in the interests of curbing or controlling those seen as potentially harmful, there is no true consensus on the details of the tax, or, indeed, on the level of the burden to be imposed. However, 11 member states have expressed their wish to introduce such a tax in a mutually coordinated manner. The European finance ministers gave their approval at their January ECOFIN meeting and asked the Commission to draw up a draft council directive for transposition by those member states wishing to participate in the scheme. The Commission has now published its draft, based largely on its earlier suggestion of 2011. It is addressed to participating member states for transposition into national law by September 30, 2013, to take effect on January 1, 2014. Those states are Austria, Belgium, Estonia, Germany, France, Greece, Italy, Portugal, Slovenia, Slovakia and Spain. Member states with their own financial transactions tax – planned or implemented – are Bulgaria, Cyprus, France, Finland, Greece, Hungary, Ireland, Italy, Romania and Poland. It will be noted that there is some overlap between these two lists. Discrepancies, however, reflect differences in concept, not least on the means of preventing financial institutions from shifting transactions into a more favourable territory. The Commission and the participating member states see the solution in harmonisation and co-operation, rendering avoidance illusory, whilst others see it in an effective design of the tax, making avoidance more costly than the potential saving.

The Commission proposes taxing each financial transaction processed by any locally resident bank or other financial institution (including a branch of a foreign bank) with at least one party resident in a participating member state. The basis would be the market value of the consideration for the transaction. The rates would be set by each participating state, but should not be less than 0.1% on mainstream transactions, or 0.01% on derivatives. Certain transactions are to be specifically exempt, an example being the issue of new securities. The draft directive calls for measures to prevent evasion and to re-cast artificial transactions to reflect their true economic intent (an avoidance of abuse clause), but leaves each member state to take its own concrete steps to secure the system.

Keywords

financial transactions tax