

10 December 2012

FTT newsletter

A round-up of FTT developments across Europe



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There has been little movement this week in both the EU FTT and the unilateral FTTs. However, the draft bill introduced in the US House of Representatives (detailed below) is an interesting development in the application of the French FTT. This raises questions around territoriality and, if the bill were to become law, would have a significant effect on the impact of the French FTT's application to ADRs over underlying French shares and could indirectly impact the application of the FTT outside France.

To discuss any aspect of FTT please contact your usual Deloitte contact or **Martin Walker** on +44 20 7303 7644.

The EU FTT

An ECOFIN meeting was held on 4 December 2012. Although the EU FTT was discussed, no significant developments arose at this meeting. There will be a special meeting of ECOFIN on 12 December where the main topic will be Banking Union.

This is the same date that the European Parliament is due to give its consent to enhanced cooperation.

Consequently, there are rumours that the Commission may also unveil a revised draft (together with additional analysis) of the EU-wide FTT that could go ahead under the enhanced co-operation procedure. However, this is more likely to occur in the New Year.



UNILATERAL FTTs

France

ADRs over French underlying shares are now within scope of the French FTT ("FFTT") from 1 December. We understand that it is currently being debated whether Article 29(4) of the France – US double tax treaty, which



applies to stamp taxes, prevents France imposing the FTT on transactions executed on a US market. It is debatable whether the FTT should be considered a stamp tax for these purposes. It is believed that discussions between the US and France are on-going at least as part of a wider discussion on FATCA

Draft legislation has been introduced in the US legislature by Tom Price, a member of the House of Representatives Ways and Means Committee. This legislation, if passed, would ensure that the US Treasury cannot assist a foreign government in the assessment and collection of a FTT on transactions occurring in the US. It also specifically protects securities transactions in the US (including ADRs over French shares) from the enforcement of the FTT, specifically referring to Article 29(4) of the treaty. Whether this bill is likely to pass remains unclear at the moment.

To discuss, please contact **Helene Alston** on +33 1 55 6160 32

Italy

There have been no material movements in the Italian FTT ("IFTT") over the last week. In particular discussions continue with regard to the previously raised concerns mainly involving impact on derivatives, regulated markets and territoriality rules.

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