



**VALÈRE MOUTARLIER**

**MIROUNA VERBAN**

**KEITH O'DONNELL**

**DANA GOLDBERG**

**THE END OF  
ACCEPTED  
NORMS  
IN TAX**

**Your global tax partner**



**VALÈRE  
MOUTARLIER**



**EUROPEAN  
COMMISSION  
PERSPECTIVE**

21

**legislative initiatives**  
have been presented by  
the Juncker Commission.

14

**have been adopted** by the Council of the European Union.

7

**are still on the table**, which the Council needs to adopt.

**At least €50-70 billion:**  
corporate tax revenues lost annually  
in the EU due to tax avoidance



**€150 billion:**

VAT losses due to fraud, avoidance and  
miscollection each year – equivalent to  
the entire EU budget



**74% of EU citizens** believe that the European Union should do more to tackle tax avoidance.

## WE AGREE. THIS IS WHY THE JUNCKER COMMISSION HAS DELIVERED ON:

### Tax transparency

Far-reaching rules on  
information exchange



Tax administrations can  
spot those who do not  
play by the rules

### Anti-tax avoidance

Legislation to close  
loopholes, put an end to  
preferential tax deals and  
increase transparency on  
beneficial ownership



It is much more difficult  
for companies to game  
the system

### Global action

EU list of tax havens and  
increased tax cooperation  
with non-EU countries



There is clarity on who  
does not play fair

### Improving decision-making

Debate kick-started on  
reforming decision-making  
for EU taxation policy



Quicker, more effective  
and more democratic  
compromises on taxation  
in the future

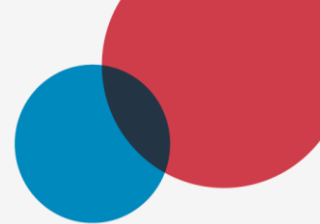


**MIROUNA  
VERBAN**

**FRENCH  
PERSPECTIVE**

# NEW TOOLS TO ACCESS INFORMATION

## FRANCE

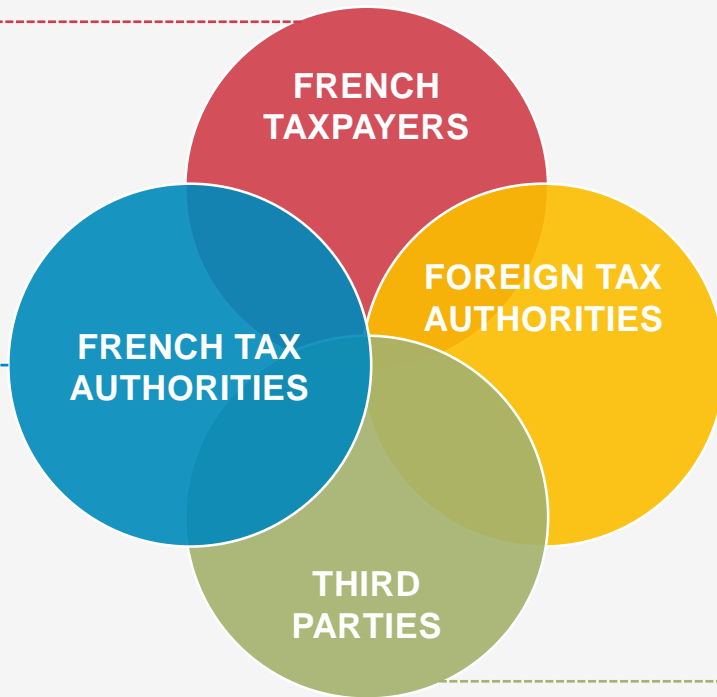


Filing requirements, namely:

- ❖ TP documentation and CbCR
- ❖ DAC 6.

Investigation means

- ❖ Data mining
- ❖ Tax raids.



Exchange of information between tax authorities.

Information from third parties

- ❖ Online marketplaces
- ❖ Extension of the communication right
- ❖ Hearings
- ❖ Whistleblowers.

# CLOSING TAX LOOPHOLES

## FRANCE



01

### **GAAR: exclusively tax-driven Operations/ transactions**

ART. L. 64 of the tax procedure code.



02

### **ATAD: principally tax-driven Operations/ transactions**

ART. 205 A of the French tax code  
ART. L. 64 A of the tax procedure code.



03

### **Specific Anti- abuse provisions**

ART. 119 ter and 210-0 A, III of the French tax code.



04

### **Beneficial owner**

ART. 10, 11 and 12 of the OECD model tax convention

### **Prevention of treaty abuse**

ART. 29(9) of the OECD model tax convention  
ART. 7 of the Multilateral Instrument (MLI).



05

### **CFC rules**

ART. 209 B of the French tax code.



# CRIMINALISATION OF TAX LAW

## FRANCE



**Name and  
shame**



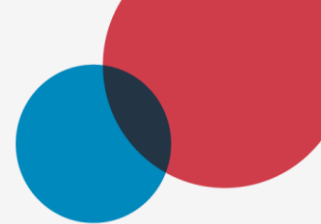
**Automatic transmission  
to public prosecutor**



**Reinforcement of  
criminal penalties**

# ENHANCED COOPERATION

FRANCE



Regularisation



New relation of  
mutual trust



Tax  
rulings







**KEITH  
O'DONNELL**



**LUXEMBOURG  
PERSPECTIVE**

# LUXEMBOURG POLICY

## LUXEMBOURG

01

Luxembourg's history as a small country within Europe drives approach to tax policy: strong sense of fiscal prudence, European but independent-minded; business-friendly.



02

Luxembourg wants to be best practice in implementing EU directives and international recommendations. Major shift in law and practice as a result.



03

However, not in favour of gold plating, knee jerk reactions or proposals that lack coherence.



# APPLICATION IN PRACTICE

## LUXEMBOURG



Increase in formality and complexity of laws. EOI across multiple dimensions. EU directives implemented closely adhering to original texts (ATAD 1, 2, DAC VI, ..).



Remain business friendly and competitive: consultation with industry on implementation, revised ruling practice, pushback on EU proposals that don't make sense.



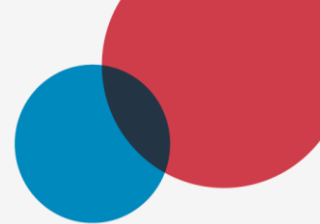


**DANA GOLDBERG  
VP TAX, TEXTRON**

**US  
PERSPECTIVE**

# INFORMATION ACCESS SITUATION

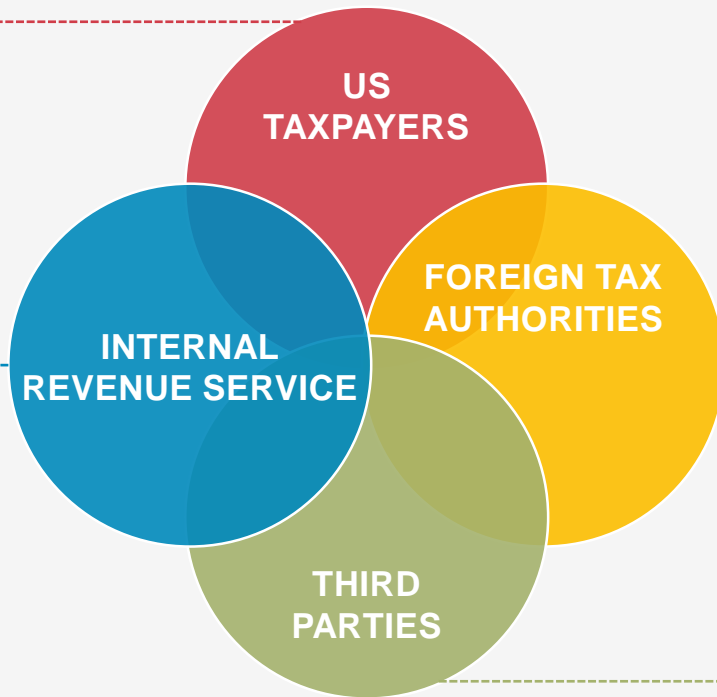
## UNITED STATES



### Filing requirements

- ❖ TP documentation and CbCR
- ❖ ASC 740 and Schedule UTP
- ❖ Reportable Transactions
- ❖ APB 23
- ❖ More detailed forms

Massive increase in taxpayer documentation available but strained budgets and state of technology constrain utility.



Exchange of information between tax authorities.

### Information from third parties

- ❖ Online marketplaces
- ❖ Shrinking of advisor-client privileges
- ❖ NGOs and Hearings
- ❖ Whistleblowers
- ❖ Advisor disclosures of reportable transactions.

# TAX REFORM

## UNITED STATES

01

### Base erosion and anti-tax avoidance ('BEAT')

Excise tax on significant payments to foreign related parties (and use of "imported" tax attributes).



02

### Interest expense limitation

Deduction for net interest expense limited to 30% of tax-calculated EBITDA (based on EBIT in 2022) with no relief for higher worldwide gearing.



03

### Conversion to full Worldwide taxation (Subpart F and 'GILTI')

Net earnings of CFCs now subject to shareholder tax, with limited foreign tax credit use and potential partial deduction to offset effects—particularly costly for individual shareholders.



04

### Export incentive

"Foreign domestic intangible income" potentially taxed at lower than typical corporate rates.



05

### Hybrid rules

Us **hyper-embrace** of action item 2, as currently drafted, implicates:

- ❖ NIDS and «interest on equity» deductions
- ❖ Fiscal unities
- ❖ Statutory loss-sharing



# 'ENFORCEMENT' OF TAX LAWS

UNITED STATES



NGOS (often partisan)  
agitating for >transparency so  
as to name and shame



1. Interest
2. Penalties for large errors
3. Vague rules and 2x penalties for aggressive planning



Unpredictable tax auditor  
competency combined with  
significant complexity

# AREAS OF COOPERATION

UNITED STATES



Proactive involvement of  
audit team for so-called  
“corporate giants”



Compliance Assurance  
Program (CAP)



Tax  
rulings







**SPEAKER  
PROFILES**

# SPEAKER PROFILE



## **Valère Moutarlier**

**Directorate General for Taxation and Customs at European Commission**

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Trained at France's premier business and law university, Valère Moutarlier practiced tax law with Bureau Francis Lefebvre, a French Law firm for several years before joining the European Commission. In the Commission, he worked in the Taxation and Customs Directorate General (DG), then the Budget DG, where he gained broad familiarity with the European financial and institutional framework. When he joined the Enterprise and Industry DG in 2003, he headed the Planning and Management Unit and subsequently the GMES Bureau, in charge of building a European space based earth observation programme, known today as Copernicus. After spending five years in the Private office of the Commissioner in Tax policy, he returned to the Taxation and Customs DG as Director in charge of Direct taxation, Economic analysis and Evaluation.

# SPEAKER PROFILE



**Mirouna Verban**

**Arsene, Taxand France**

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Mirouna assists French and international clients in M&A operations as well as general tax issues, especially in media, luxury goods and energy.

Mirouna was recently involved in:

- ❖ Due diligence and acquisition structure for industrial and private equity clients
- ❖ International reorganisation (international mergers, flow management within a parent company, etc).

Mirouna is a member of the Management Committee of Arsene and in charge of HR at Arsene. She is also a member of the Board of the French Association of Women in Tax Law (Association Française des Femmes Fiscalistes – A3F) and of the Orientation Committee in the International Judicial and Fiscal Strategy program at HEC.

# SPEAKER PROFILE



**Keith O'Donnell**

**ATOZ Tax Advisers, Taxand Luxembourg**

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Keith O'Donnell is a member of the Taxand Board and is Managing Partner of ATOZ Tax Advisers in Luxembourg.

Keith has been instrumental in shaping legislative change through coordination with industry groups. Keith has been actively involved in several key tax international bodies including the OECD's collective investment vehicle ICG, the TRACE BAG and the EU Commissions expert group on open-ended real estate funds. He is also the Chair of the ALFI Tax Technical Committee, as well as Chair of the ALFI DTT commission.

# SPEAKER PROFILE

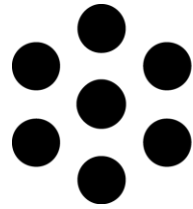


**Dana Goldberg**  
**Vice President, Tax, Textron Inc.**

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Dana L. Goldberg is the vice president of tax for Textron Inc. Her responsibilities include overseeing Textron's worldwide tax operations, leading tax planning and strategy in support of the company's business goals.

Dana joined Textron from Caterpillar, Inc. where she was a senior-level tax executive responsible for its global tax planning and strategy, serving most recently as senior tax director for Global M&A & Corporate Tax, and, previously as global international tax director. Before joining Caterpillar, Dana was an executive with Hewlett-Packard (HP) Company, serving as chief of staff for HP Global Tax. She is a former tax partner of KPMG's M&A Tax Practice and spent over 10 years in Dallas, Texas servicing clients on M&A tax matters.



**TAXAND**