**Open letter to the European Commissioner for Taxation Paolo Gentiloni: the time has come to establish a European Agency for Tax Cooperation**

Dear Commissioner Gentiloni, we, European professors of Tax Law, have read with the greatest interest the Commission’s proposal of the 17th of May 2023 for a Regulation establishing a new EU Customs Code. Such a proposal includes 33 articles that provide for the establishment of a EU Customs Authority (ECA) to which 15 “core tasks” will be entrusted from the very beginning (Art. 208). It is the first time that the Commission proposes to the European Parliament and to the Council to establish a EU Agency in the area of taxation. We have read that one of the reasons that have lead the Commission to propose the establishment of a EU Customs Authority is that the present cooperation between national customs administrations has proved insufficient to address current problems in that area of EU law: implementation of EU customs legislation still differs between national authorities, there is no centralised assessment of customs fraud risks and coordination of controls is lacking.

Very similar grounds would justify, in our view, the establishment of an EU Agency in the field of taxation. Under EU directives and regulations currently in force, Member States tax administrations already exchange a significant flow of information. Nevertheless, according to EU Court of Auditors (Special report n. 3/2021) such information is lacking in quality, precision and completeness and often is not properly used, which results in an important loss of tax revenue both for national and EU budgets. Divergent practices moreover exist in Member States as to the implementation of EU tax legislation governing harmonised taxes and despite long standing bilateral and multilateral cooperation between individual national tax authorities, coordination of tax controls on cross-border taxable transactions appears still limited in the absence of an operational framework regulated at EU level. We therefore strongly believe that the establishment of a European Agency for Tax Cooperation will greatly contribute filling these gaps and significantly improve both the homogenous implementation of EU tax legislation and the efficiency of national tax administrations action and controls.

In a first phase the future European Agency for Tax Cooperation’s tasks would consist only in supporting the operation of national tax administrations and cooperation between them. With a view to proposing to you a draft EU regulation, we have drawn inspiration, in addition to your proposal on the establishment of the European Customs Authority, from the regulations governing other previous EU Authorities, namely the European Labour Authority (ELA, the most recent one set up in 2019) and the three EU Authorities operating in the area of financial markets and institutions (ESMA, EBA and EIOPA). The Agency would be therefore primarily entrusted with the task of facilitating the exchange of information between national tax administrations and of supporting their effective compliance with cooperation obligations imposed upon them by EU directives and regulations currently in force, such as regulation 904/2010 and the EUROFISC network for VAT, directive 2011/16/UE (CRS, cross-border rulings, CBC Reporting,…) for direct taxes and directive 2010/24/EU concerning mutual assistance for the recovery of claims. A second task assigned to the future Agency would consist in coordinating and supporting simultaneous controls and joint enquiries as they are already provided in existing EU regulations and directives in the areas within Agency’s competence. Also the Agency might be assigned tasks related to the operational management of some of the European IT platforms or common communication systems containing taxpayers or taxable transactions data that have been set up by EU legislative acts in the area of harmonised taxes namely in the area of VAT and excise duties. Finally, a European Agency for Tax Cooperation would effectively complement the action of the two EU bodies (OLAF and EPPO) that for some years now have been conferred wide-ranging powers for protecting EU financial interests by fighting against tax frauds and by prosecuting tax criminal offences.

To date 35 Agencies and Authorities have been set up by EU regulations covering all the areas of the Union intervention with the exception of customs and tax law. All such EU bodies have proven to exercise extremely useful functions for the implementation of Union’s policies and legislation. They have established very close cooperation relations with all the Member States administrations acting in the same areas of competence. Many national civil servants are seconded every year to EU Agencies for improving such a fruitful cooperation. The time has therefore come to apply this institutional model also to the area of EU tax legislation and policy by establishing a European Agency for Tax Cooperation.