



2016/0336(CNS)

15.5.2017

AMENDMENTS

16 - 45

Draft opinion
Evelyn Regner
(PE1124085v02-00)

Common Consolidated Corporate Tax Base (CCCTB)

Proposal for a directive
(COM(2016)0683 – C8-0471/2016 – 2016/0336(CNS))

Amendment 16
Daniel Buda

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which impede the proper functioning of the internal market. Action to rectify those problems should therefore address both types of market deficiencies.

Amendment

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which impede the proper functioning of the internal market. ***Within a more globalised, mobile and digital economic framework,*** action to rectify those problems should therefore address both types of market deficiencies ***through the alignment of company tax systems in the Union and the creation of a fairer and more coherent tax environment in which companies can operate.***

Or. ro

Amendment 17
Angel Dzhambazki

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Companies which seek to do

Amendment

(1) ***While*** companies which seek to do

business across frontiers within the Union *encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which impede the proper functioning of the internal market. Action to rectify these problems should therefore address both these types of market deficiencies.*

business across frontiers within the Union *may in certain circumstances encounter administrative obstacles, corporate taxation of Member States remains a matter for Member States to determine. In this regard, underlines the importance of respect for the principle of subsidiary in tax matters and draws attention to the formal objections submitted by several national parliaments including Ireland, Sweden, Denmark, Malta, the Netherlands and Luxembourg concerning subsidiarity infringements in relation to corporate tax harmonisation throughout the EU.*

Or. en

Amendment 18
Jane Collins

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which

Amendment

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which

impede the proper functioning of the internal market. *Action to rectify these problems should therefore address both these types of market deficiencies.*

impede the proper functioning of the internal market.

Or. en

Amendment 19
Pascal Durand

Proposal for a directive
Recital 1

Text proposed by the Commission

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which impede the proper functioning of the internal market. Action to rectify these problems should therefore address both these types of market deficiencies.

Amendment

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more **aggressive and** sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which impede the proper functioning of the internal market. Action to rectify these problems should therefore address both these types of market deficiencies.

Or. en

Amendment 20
Pascal Durand

Proposal for a directive
Recital 2

(2) To support the proper functioning of the internal market, the corporate tax environment in the Union should be shaped in accordance with the principle that companies pay their fair share of tax in the jurisdiction(s) where their profits are generated. It is therefore necessary to provide for mechanisms that **discourage** companies from taking advantage of mismatches amongst national tax systems in order to lower their tax liability. It is equally important to also stimulate growth and economic development in the internal market by facilitating cross-border trade and corporate investment. To this end, it is necessary to eliminate both double taxation and double non-taxation risks in the Union through eradicating disparities in the interaction of national corporate tax systems. At the same time, companies need an easily workable tax and legal framework for developing their commercial activity and expanding it across borders in the Union. In that context, remaining cases of discrimination should also be removed.

(2) To support the proper functioning of the internal market, the corporate tax environment in the Union should be shaped in accordance with the principle that companies pay their fair share of tax in the jurisdiction(s) where their profits are generated. ***A corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would increase transparency of activities of multinational enterprises and enable the public to assess their impact on the economy.*** It is therefore necessary to provide for mechanisms that **prevent** companies from taking advantage of mismatches amongst national tax systems in order to lower their tax liability. ***Groups with establishments within the Union should support the European Union principles of good governance.*** It is equally important to also stimulate growth and economic development in the internal market by facilitating cross-border trade and corporate investment. To this end, it is necessary to eliminate both double taxation and double non-taxation risks in the Union through eradicating disparities in the interaction of national corporate tax systems. At the same time, companies need an easily workable tax and legal framework for developing their commercial activity and expanding it across borders in the Union. In that context, remaining cases of discrimination should also be removed

Or. en

Amendment 21
Daniel Buda

Proposal for a directive
Recital 4

Text proposed by the Commission

(4) Considering the need to act swiftly in order to ensure a proper functioning of the internal market by making it, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, it is necessary to **divide** the ambitious CCCTB initiative into two separate proposals. At a first stage, rules on a common corporate tax base should be enacted, before addressing, at a second stage, the issue of consolidation.

Amendment

(4) Considering the need to act swiftly in order to ensure a proper functioning of the internal market by making it, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, it is necessary to **adopt a stage-by-stage approach to** the ambitious CCCTB initiative **before dividing it** into two separate proposals. At a first stage, rules on a common corporate tax base should be enacted, before addressing, at a second stage, the issue of consolidation. ***This directive is part of the second stage, setting out the conditions for being in a group, the possible forms that a group can take and the technical consolidation rules.***

Or. ro

Amendment 22

Daniel Buda

Proposal for a directive

Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) In this way, the CCCTB is in line with Commission efforts to achieve fairer and more efficient taxation, being largely complementary to EU company law; it is also broadly in line with projects such as the Capital Markets Union and various initiatives intended to ensure tax transparency, promote the exchange of information and combat money laundering.

Or. ro

Amendment 23

Pascal Durand

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) ***Many aggressive tax planning structures tend to feature in a cross-border context, which implies that the participating groups of companies possess a minimum of resources. On this premise, for reasons of proportionality, the rules on a CCCTB should be mandatory only for groups of companies of a substantial size. For that purpose, a size-related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. In addition, in order to better serve the aim of facilitating trade and investment in the internal market, the rules on a CCCTB should also be available, as an option, to those groups that fall short of the size-related threshold.***

Amendment

(5) A size-related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. In addition, in order to better serve the aim of facilitating trade and investment in the internal market, the rules on a CCCTB should also be available, as an option, to those groups that fall short of the size-related threshold.

Or. en

Amendment 24
Daniel Buda

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) Many aggressive tax planning structures tend to feature in a cross-border context, which implies that the participating groups of companies possess a minimum of resources. On this premise, for reasons of proportionality, the rules on a common base should be mandatory only for companies which belong to a group of a substantial size. For that purpose, a size-related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial

Amendment

(5) Many aggressive tax planning structures tend to feature in a cross-border context, which implies that the participating groups of companies possess a minimum of resources. On this premise, for reasons of proportionality, the rules on a common base should be mandatory only for companies which belong to a group of a substantial size, ***while exempting micro-enterprises and SMEs***. For that purpose, a size-related threshold should be fixed on the basis of the total consolidated revenue

statements. In addition, to ensure coherence between the two steps of the CCCTB initiative, the rules on a common base should be mandatory for companies which would be considered as a group should the full initiative materialise.

of a group which files consolidated financial statements. In addition, to ensure coherence between the two steps of the CCCTB initiative, the rules on a common base should be mandatory for companies which would be considered as a group should the full initiative materialise.

Or. ro

Amendment 25
Constance Le Grip

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) *In a context where the emergence of the digital economy is tending to call into question the relevance of traditional tax rules, it is desirable to take into account, for purposes of consolidating the base of a taxpayer, its turnover installed in a fixed manner in the Member State or Member States within which the taxpayer has no physical structure, extending the concept of ‘permanent establishment’ to include virtual establishments.*

Or. fr

Amendment 26
Daniel Buda

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) *Given the digital change in the business environment, it is necessary to define and implement the concept of a ‘digital business establishment’.*
Companies that generate profits in a

Member State without having a physical establishment there should be treated in the same way as companies that do have a physical establishment in that Member State. Therefore, the CCCTB should also apply to digital corporations.

Or. ro

Amendment 27
Jane Collins

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) The revenue from withholding taxes on interest and royalty payments should be shared in accordance with the formula for the apportionment of the consolidated tax base of the tax year in which the withholding tax is due, in order to compensate for the fact that interest and royalty payments would have previously led to a deduction and the benefit would have been shared by the group. The revenue from withholding taxes on dividends, however, should not be shared. Contrary to interest and royalty payments, dividends are distributed from profits which have already been subjected to corporate taxation and therefore, a dividend distribution does not involve, for group members, any benefit consisting in a deduction of business expenses.

Amendment

(8) The revenue from withholding taxes on interest and royalty payments should be shared in accordance with the formula for the apportionment of the consolidated tax base of the tax year in which the withholding tax is due, in order to compensate for the fact that interest and royalty payments would have previously led to a deduction and the benefit would have been shared by the group. The revenue from withholding taxes on dividends, however, should not be shared. Contrary to interest and royalty payments, dividends are distributed from profits which have already been subjected to corporate taxation and therefore, a dividend distribution does not involve, for group members, any benefit consisting in a deduction of business expenses. ***Any payments due should be paid to the Member State and not the EU;***

Or. en

Amendment 28
Daniel Buda

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

Amendment

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation. ***On the other hand, these equally weighted factors are more resilient to aggressive tax planning practices than the widespread transfer pricing methods for allocating profit. In this way, loopholes between national tax systems, in particular transfer pricing, which accounts for around 70% of all profit shifting in the EU, could be eliminated and a major step taken towards a fair, efficient and transparent tax***

Amendment 29
Constance Le Grip

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

Amendment

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned, ***including in the case of activities in the digital economy sector which do not necessarily require a fixed place in a Member State in order to carry on an activity there***. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business

activity, a safeguard clause should provide for an alternative method of income allocation.

Or. fr

Amendment 30

Jane Collins

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. ***To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half).*** The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative

Amendment

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and ***not the EU and*** should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State ***and not the EU*** where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

method of income allocation.

Or. en

Amendment 31
Daniel Buda

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) Since the objectives of this Directive, namely to improve the functioning of the internal market through countering practices of international tax avoidance and to facilitate businesses in expanding across borders within the Union, cannot be sufficiently achieved by the Member States acting individually and in a disparate fashion because coordinated action is necessary to obtain these objectives, but can rather, by reason of the fact that the Directive targets inefficiencies of the internal market that originate in the interaction between disparate national tax rules which impact on the internal market and discourage cross-border activity, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives, especially considering that its mandatory scope is limited to groups beyond a certain size.

Amendment

(18) Since the objectives of this Directive, namely to improve the functioning of the internal market through countering practices of international tax avoidance and to facilitate businesses in expanding across borders within the Union, cannot be sufficiently achieved by the Member States acting individually and in a disparate fashion because coordinated action is necessary to obtain these objectives, but can rather, by reason of the fact that the Directive targets inefficiencies of the internal market that originate in the interaction between disparate national tax rules which impact on the internal market and discourage cross-border activity, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives, especially considering that its mandatory scope is limited to groups beyond a certain size. ***In fact, the envisaged measures do not go further than harmonising the corporate tax base, which is a prerequisite for curbing identified obstacles that distort the internal market. Furthermore, this stage-by-stage approach entitles Member States to determine their desired amount of tax revenues in order to meet their budgetary***

policy targets. At the same time, it does not affect Member States' right to set their own profits tax rate.

Or. ro

Amendment 32

Jane Collins

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. A company that applies the rules of this Directive ***shall cease to*** be subject to the national corporate tax law ***in respect of all matters regulated by this Directive***, unless otherwise stated.

Amendment

2. A company that applies the rules of this Directive ***will still*** be subject to the national corporate tax law, ***where there is a conflict, the national corporate tax law takes precedence***, unless otherwise stated.

Or. en

Amendment 33

Daniel Buda

Proposal for a directive

Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

1. The rules of this Directive shall apply to a company that is established under the laws of a Member State, including its permanent establishments in other Member States, where the company meets all of the following conditions:

Amendment

1. The rules of this Directive shall apply to a company that is established under the laws of a Member State, including its permanent ***and digital business*** establishments in other Member States, where the company meets all of the following conditions:

Or. ro

Amendment 34

Angel Dzhambazki

Proposal for a directive
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR 750 000 000 during the financial year preceding the relevant financial year;

Amendment

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR 750 000 000 (*or equivalent in domestic currency*) during the financial year preceding the relevant financial year;

Or. en

Amendment 35
Pascal Durand

Proposal for a directive
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR **750 000 000** during the financial year preceding the relevant financial year;

Amendment

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR **40 000 000** during the financial year preceding the relevant financial year;

Or. en

Amendment 36
Constance Le Grip

Proposal for a directive
Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR **750 000 000** during the financial year preceding the relevant financial year;

Amendment

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR **40 000 000** during the financial year preceding the relevant financial year;

Amendment 37
Constance Le Grip

Proposal for a directive
Article 2 – paragraph 2 – subparagraph 1

Text proposed by the Commission

This Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in one or more Member *State* where the company meets the conditions laid down in points (b) to (d) of paragraph 1.

Amendment

This Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in one or more Member *States, and in relation to turnover installed in a fixed manner in one or more Member States*, where the company meets the conditions laid down in points (b) to (d) of paragraph 1.

Amendment 38
Daniel Buda

Proposal for a directive
Article 2 – paragraph 2 – subparagraph 1

Text proposed by the Commission

This Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in one or more Member States where the company meets the conditions laid down in points (b) to (d) of paragraph 1.

Amendment

This Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in one or more Member States, *and in relation to revenues otherwise accrued in a Member State*, where the company meets the conditions laid down in points (b) to (d) of paragraph 1.

Amendment 39
Evelyn Regner, Sylvia-Yvonne Kaufmann

Proposal for a directive
Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Directive shall also apply to businesses established under the laws of a third country in respect of their digital business establishments that are specifically directed towards consumers or businesses in a Member State or that principally receive their revenue from activity in a Member State, where the business meets the conditions laid down in points (b) to (d) of paragraph 1. For the purpose of ascertaining whether a digital establishment is specifically directed towards consumers or businesses in a Member State, the physical locations of the consumers or users and suppliers of the goods and services provided shall be taken into account, in accordance with the OECD's BEPS Action 1. If these cannot be ascertained, regard shall be had to whether the establishment is conducting its business under the top level domain of the Member State or of the Union or, in relation to mobile-application-based businesses, is distributing its application via the Member State-specific part of a mobile application distribution centre or whether the business is conducted under a domain which – for example as a result of the use of names of Member States, regions or towns – makes it clear that the establishment is directed towards consumers or businesses in a Member State, or the business activity is subject to General Terms and Conditions applicable specifically for the European Union or a Member State, or the web presence of the business provides advertising space specifically aimed at consumers and businesses in a Member State.

Or. de

Amendment 40
Evelyn Regner, Sylvia-Yvonne Kaufmann

Proposal for a directive
Article 3 – paragraph 1 – point 28 a (new)

Text proposed by the Commission

Amendment

(28a) ‘digital establishment’ means - as defined by the OECD’s BEPS Action 1 - an establishment which is specifically directed towards consumers or businesses in a Member State, with due regard for the physical locations of the consumers or users and of suppliers of the goods and services provided. If these cannot be ascertained, regard shall be had to whether the establishment is conducting its business under the top level domain of the Member State or of the Union or, in relation to mobile-application-based businesses, is distributing its application via the Member State-specific part of a mobile application distribution centre or whether the business is conducted under a domain which – for example as a result of the use of names of Member States, regions or towns – makes it clear that the establishment is directed towards consumers or businesses in a Member State, or the business activity is subject to General Terms and Conditions applicable specifically for the European Union or a Member State, or the web presence of the business offers advertising space specifically aimed at consumers and businesses in a Member State.

Or. de

Amendment 41
Daniel Buda

Proposal for a directive
Article 3 – paragraph 1 – point 28 a (new)

Text proposed by the Commission

Amendment

(28a) ‘Digital business establishment’ means an establishment specifically directed towards consumers and businesses in a Member State and, to that end, account shall be taken of whether the activity is being carried out in the top-level domain of the Member State or of the Union and whether mobile applications are being distributed through part of a distribution centre specifically intended for that purpose in the Member State concerned.

Or. ro

Amendment 42
Daniel Buda

Proposal for a directive
Article 6 – paragraph 1 – point d a (new)

Text proposed by the Commission

Amendment

(da) a digital business establishment.

Or. ro

Amendment 43
Jane Collins

Proposal for a directive
Article 39 – paragraph 1

Text proposed by the Commission

Amendment

The Commission may adopt acts laying down detailed rules on the calculation of the labour, asset and sales factors, ***the allocation of employees and payroll***, assets and sales to the respective factor and the valuation of assets. Those implementing acts shall be adopted in accordance with

The Commission may adopt acts laying down detailed rules on the calculation of the labour, asset and sales factors, assets and sales to the respective factor and the valuation of assets. Those implementing acts shall be adopted in accordance with the examination procedure referred to in

the examination procedure referred to in Article 77(2).

Article 77(2).

Or. en

Amendment 44
Daniel Buda

Proposal for a directive
Article 79 – paragraph 1

Text proposed by the Commission

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council on the operation of this Directive. The report shall in particular include an analysis of the impact of the mechanism set up in Chapter VIII of this Directive on the apportionment of the tax bases between the Member States.

Amendment

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council **and the European Parliament** on the operation of this Directive. The report shall in particular include an analysis of the impact of the mechanism set up in Chapter VIII of this Directive on the apportionment of the tax bases between the Member States.

Or. ro

Amendment 45
Angel Dzhambazki

Proposal for a directive
Article 80 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States **shall** adopt and publish, by 31st December 2020 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

Member States **who opt in may** adopt and publish, by 31st December 2020 at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en