



2016/0337(CNS)

29.9.2017

AMENDMENTS

70 - 328

Draft report

Paul Tang

(PE608.050v01-00)

Common Corporate Tax Base

Proposal for a directive

(COM(2016)0685 – C8-0472/2016 – 2016/0337(CNS))

Amendment 70
Sander Loones
on behalf of the ECR Group

Proposal for a directive

—

Proposal for a rejection

***The European Parliament rejects the
Commission proposal.***

Or. nl

Justification

The justification given for this proposal is that it will address unfair tax avoidance. The aim is worthy, but can be achieved better by means of other, more proportionate and smarter action. The harmonisation of the corporate tax base is an excessive restriction on the sovereignty of the Member States, which in addition would prevent the EU (and its Member States) from being fiscally competitive.

Amendment 71
Barbara Kappel

Proposal for a directive

—

Proposal for a rejection

***The European Parliament rejects the
Commission proposal.***

Or. en

Amendment 72
Esther de Lange, Brian Hayes, Gunnar Hökmark

Proposal for a directive

—

Proposal for a rejection

The European Parliament rejects the Commission proposal.

Or. en

Amendment 73
Beatrix von Storch

Proposal for a directive

–

Proposal for a rejection

The European Parliament rejects the Commission proposal.

Or. en

Amendment 74
Eva Joly
on behalf of the Verts/ALE Group

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

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

impede the proper functioning of the internal market **and create distortion between large companies and small and medium-sized enterprises**. Action to rectify those problems should therefore address both types of market deficiencies. ***If this proposal does not result in an agreement eliminating the distortion in question, the Commission should issue a new proposal based on Article 116 of the Treaty on the Functioning of the European Union, whereby the European Parliament and the Council, act in accordance with the ordinary legislative procedure to issue the necessary directives.***

Or. en

Amendment 75

Esther de Lange, Brian Hayes, Gunnar Hökmark

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

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types of market deficiencies.

foregoing the fact that taxation is a national competence and without leading to de facto automatic transfers of tax revenues between Member States.

Or. en

Amendment 76
Alfred Sant, Costas Mavrides

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) ***Tax systems across the Union should be encouraged to remain competitive when this contributes to making the economy more attractive for investment and thus allowing for the preservation of a favourable fiscal environment for companies.*** ***Concomitantly,*** 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.

Or. en

Amendment 77
Petr Ježek, Lieve Wierinck

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.

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(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 ***while respecting the principle of tax neutrality but also the free movement of services in the European single market.***

Or. en

Amendment 78
Barbara Kappel

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***

Amendment

(1) 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

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.

mismatches between two or more tax systems for the purpose of reducing the tax *burden on* 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.

Or. en

Amendment 79
Marco Valli

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 *aggressive, complex 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 *and distortions* which impede the proper functioning of the internal market *and grant multinational companies an unfair competitive advantage over small and medium-sized*

enterprises. Action to rectify those problems should therefore address both types of market deficiencies.

Or. en

Amendment 80

Matt Carthy

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.

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(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 *avoidance* 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 *facilitate tax avoidance, reducing the budgetary resources available to Member States, and* impede the proper functioning of the internal market. Action to rectify those problems should therefore address both types of market deficiencies.

Or. en

Amendment 81

Bernd Lucke

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. Action to rectify those problems should therefore address both types of deficiencies.

Or. en

Amendment 82

Esther de Lange, Brian Hayes, Gunnar Hökmark

Proposal for a directive

Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Companies, both big and small, which seek to do business irrespective of their location in the Union need first and foremost long-term legal clarity and certainty in order to stimulate (long-term) investments. Member States who are able to provide sound, long-term legal clarity and certainty will always be an attractive location for companies to operate from.

Or. en

Amendment 83
Brian Hayes, Esther de Lange, Gunnar Hökmark, Frank Engel

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Tax policy and the ability to set corporate tax rates remains a national competence. While administrative simplification of corporate taxation systems may lead to greater efficiencies, the likely impact of a common consolidated tax base is an intrusion into Member States' tax policy and their ability to set corporate tax rates into the future.

Or. en

Amendment 84
Gunnar Hökmark

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) Taxation is a national competence, dependent on the political view and actions of governments and parliaments, based upon fiscal policies and political aspirations regarding public spending.

Or. en

Amendment 85
Esther de Lange, Brian Hayes, Gunnar Hökmark

Proposal for a directive
Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) Corporate tax rates within the

Union paint a very diffuse picture of the different levels of tax burdens on companies. Effective tax rates, however, show different and in some cases even opposite results.

Or. en

Amendment 86
Gunnar Hökmark

Proposal for a directive
Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) It is the responsibility of the tax authority in every nation in cooperation with each other to secure that taxes are paid and to define where taxes shall be paid dependent on the character of the business.

Or. en

Amendment 87
Othmar Karas

Proposal for a directive
Recital 2

Text proposed by the Commission

Amendment

(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

(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. **That principle should also apply to new and innovative business models in the digital era. It should therefore be ensured that companies that generate profits in a Member State in which they do not have a physical**

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.

establishment but do have a digital presence are treated in the same way as companies having a physical establishment in the country concerned. Accordingly, the concept of 'digital establishment' should be defined where there is a significant digital presence, and the Common Consolidated Corporate Tax Base (CCCTB) should also include digital activities. It is 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.

Or. de

Amendment 88

Brian Hayes, Esther de Lange, Gunnar Hökmark, Frank Engel

Proposal for a directive

Recital 2

Text proposed by the Commission

(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

Amendment

(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.

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. ***At the same time, a corporate tax environment in the Union must be competitive and allow Member States to define their own national corporate tax system in order to attract and keep investment in the Union.*** 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 89

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 2

Text proposed by the Commission

(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

Amendment

(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 ***and where they have economic substance***. It is therefore necessary to provide for mechanisms that ***prohibit*** companies from taking advantage of mismatches amongst national tax systems

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.

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.

Or. en

Amendment 90
Fabio De Masi, Matt Carthy

Proposal for a directive
Recital 2

Text proposed by the Commission

(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***

Amendment

(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 double non-taxation risks in the Union through eradicating disparities in the interaction of national corporate tax systems.

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 91
Markus Ferber

Proposal for a directive
Recital 2

Text proposed by the Commission

(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.

Amendment

(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. ***The proposal for a CCTB should therefore harmonise the provisions on the basis for calculating corporate tax, but not the rates of***

Amendment 92

Marco Zanni

Proposal for a directive

Recital 2

Text proposed by the Commission

(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.

Amendment

(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, ***providing for effective taxation mechanisms based on tangible data that is hard to transfer or conceal, such as revenue from sales and the number of employees.*** 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.

Or. it

Amendment 93
Barbara Kappel

Proposal for a directive
Recital 2

Text proposed by the Commission

(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.

Amendment

(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 double taxation risks in the Union through **solving** 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 94
Matt Carthy

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The new proposals promise to prevent profit-shifting by ending transfer

pricing tax avoidance schemes; however, for unitary taxation to work as a means to end profit-shifting it needs to be global. Implementing the CCCTB at an EU level runs the risk that current losses from EU members to the rest of world could be locked in, and so could the exploitation of the rest of the world by some Member States. An EU-only approach could eliminate the incentives to profit-shift within the EU, but exacerbate the incentives and opportunity to profit-shift out of the EU.

Or. en

Amendment 95
Alfred Sant, Costas Mavrides

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) Moreover, diversity of tax regimes may attract foreign investors to invest their funds in peripheral countries, regions and islands. Thus, diversity of tax regimes allows these regions to draw cross border investments that would otherwise locate elsewhere. As such, diversity of tax regimes is accepted as reasonable, useful and sustainable for peripheral regions, in order to stimulate job creation and new economic activities.

Or. en

Amendment 96
Barbara Kappel

Proposal for a directive
Recital 3

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)⁷, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive location for investment internationally. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be highly effective in improving the functioning of the internal market through countering tax avoidance schemes. ***In this light, the initiative for a CCCTB should be re-launched in order to address, on an equal footing, both the aspect of business facilitation and the initiative's function in countering tax avoidance. Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market.***

⁷ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)⁷, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive location for investment internationally. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be highly effective in improving the functioning of the internal market through countering tax avoidance schemes.

⁷ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Or. en

Amendment 97
Esther de Lange, Gunnar Hökmark

Proposal for a directive
Recital 3

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)⁷, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive location for investment internationally. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be highly effective in improving the functioning of the internal market through countering tax avoidance schemes. In this light, the initiative for a CCCTB should be re-launched in order to address, on an equal footing, both the aspect of business facilitation and the initiative's function in countering tax avoidance. Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market.

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⁷ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Or. en

Amendment 98
Barbara Kappel

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)⁷, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive location for investment internationally. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be **highly** effective in improving the functioning of the internal market through countering tax avoidance schemes. In this light, the initiative for a CCCTB should be re-launched in order to address, ***on an equal footing, both the aspect of business facilitation and*** the initiative's function in countering tax avoidance. Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market.

⁷ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Amendment

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)⁷, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive location for investment internationally. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses ***which are subject to corporate tax*** within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be effective in improving the functioning of the internal market through countering tax avoidance schemes. In this light, the initiative for a CCCTB should be re-launched in order to address the initiative's function in countering tax avoidance. Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market.

⁷ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Or. de

Amendment 99
Matt Carthy

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) *While strong cooperation among Member States in setting EU-wide rules for tackling cross-border tax avoidance and tax evasion by multinationals corporations operating within the EU is to be welcomed, the provision of further economic and fiscal decision-making powers from Member States to the Commission results in transferring power from democratically elected governments in very diverse economies across the EU, reducing accountability and control over economic decision-making by citizens in these Member States.*

Or. en

Amendment 100

Pervenche Berès, Hugues Bayet, Paul Tang, Cătălin Sorin Ivan, Jeppe Kofod, Peter Simon

Proposal for a directive

Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) *The European Commission, in its communication to the European Parliament and the Council of 21 September 2017 entitled "A fair and efficient tax system in the European Union for the Digital Single Market", believes that the CCCTB offers the basis to address the tax challenges posed by the digital economy.*

Or. en

Amendment 101

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) *In addition, improving the internal market is the key factor for encouraging growth and job creation. The introduction of a CCCTB should improve growth and lead to more jobs in the Union by reducing the administrative costs for companies, particularly for small businesses operating in several Member States.*

Or. en

Amendment 102
Matt Carthy

Proposal for a directive
Recital 3 b (new)

Text proposed by the Commission

Amendment

(3b) *The ability to set tax rates and control tax-collection systems must remain in the hands of Member States.*

Or. en

Amendment 103
Matt Carthy

Proposal for a directive
Recital 3 c (new)

Text proposed by the Commission

Amendment

(3c) *The adoption of proposals relating to taxation must continue to be made according to the principle of unanimity in the Council.*

Or. en

Amendment 104
Esther de Lange, Gunnar Hökmark

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 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.
Whereas (partial) harmonisation of the corporate tax base across the Union could be beneficial to businesses and also help in the fight against tax avoidance by dealing with (hybrid) mismatches between two or more corporate tax regimes, it also has the potential to put more emphasis on competition between Member States based solely on the corporate tax rate, leading to an intensified 'race to the bottom'.

Or. en

Amendment 105
Fabio De Masi, Matt Carthy, Stelios Kouloglou

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

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 ***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.***

avoidance schemes, it is necessary to ***implement the legislative proposal on a Common Corporate Tax Base (CCTB) and on a Common Consolidated Corporate Tax Base (CCCTB) simultaneously, as loss consolidation has potentially large and immediate revenue costs, with no likely offsetting benefits approaching anything like the same scale. Loss consolidation without a contemporary move to a unitary basis would thus be illogical, and also costly.***

Or. en

Amendment 106
Barbara Kappel

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) In order to ***make*** the internal market, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, it is necessary ***for both of the present proposals for directives to be negotiated in parallel and to enter into force at the same time.***

Or. de

Amendment 107
Eva Joly
on behalf of the Verts/ALE Group

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 ***deal with the CCTB and CCCTB proposals in parallel.*** Rules on a common corporate tax base should ***enter into application at the same time as the consolidation.***

Or. en

Amendment 108

Marco Valli

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 ***crucial to achieve an ambitious CCCTB with a full consolidation and therefore that the two separate proposals move in parallel and are implemented at the same time.***

Or. en

Amendment 109

Marco Zanni

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 divide the ambitious CCCTB initiative into two separate proposals, ***while at the same time guaranteeing that they enter into force simultaneously.***

Or. it

Amendment 110
Luděk Niedermayer

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 ***advisable to deal with the two legislative proposals in parallel as long as the application of the CCTB is not delayed or conditioned by finalization of the CCCTB.***

Or. en

Amendment 111
Siegfried Mureşan

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 ***recommendable that these two legislative proposals are dealt with in parallel, as long as the application of CCTB is not delayed or conditioned by the finalization of CCCTB.***

Or. en

Amendment 112
Markus Ferber

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 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. ***Consolidation should take place only after the rules on the common base have been fully implemented.***

Or. de

Amendment 113
Bernd Lucke

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 *useful* 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.

Or. en

Amendment 114
Brian Hayes, Esther de Lange, Gunnar Hökmark, Frank Engel

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 *support* 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.

Or. en

Amendment 115
Brian Hayes, Esther de Lange, Gunnar Hökmark, Frank Engel

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) *It should be considered that no sufficiently detailed impact assessment has been conducted on either the CCTB or CCCTB proposals. To understand the true impact of the proposals, particularly in terms of the impact on Member State's corporate tax revenue, it is necessary for a detailed impact assessment to be conducted on a country-by-country basis, which considers all different national systems of corporate tax collection.*

Or. en

Amendment 116
Matt Carthy, Fabio De Masi

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) *The proposal to separate the implementation of the CCTB and CCCTB proposals is likely to result in significant declines in corporate tax bases across the EU; if loss consolidation were to be implemented with no switch to unitary taxation and formula apportionment at the same time the revenue impact would be dramatic and immediate; and any possible gains would be gradual and quite likely small in comparison.*

Or. en

Amendment 117
Petr Ježek, Lieve Wierinck

Proposal for a directive
Recital 4 a (new)

Text proposed by the Commission

Amendment

(4a) *This directive is not about harmonisation of the corporate tax rates of the Member States and thus, should not affect the discretion of Member States with regards to their national corporate taxation rates.*

Or. en

Amendment 118
Fabio De Masi, Matt Carthy

Proposal for a directive
Recital 5

Text proposed by the Commission

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. 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, 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.*

deleted

Amendment 119**Barbara Kappel****Proposal for a directive****Recital 5***Text proposed by the Commission**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. 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, 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.* *deleted*

Or. en

Amendment 120**Brian Hayes, Gunnar Hökmark, Frank Engel****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 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.***

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 ***optional for all*** companies.

Or. en

Amendment 121

Eva Joly

on behalf of the Verts/ALE Group

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

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. 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, 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.

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, 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria. *Five years after the entry into force of this Directive, the Commission shall, in its review, assess the impact of making this system mandatory for all companies and, if appropriate, present a legislative proposal to amend this Directive accordingly.*

Or. en

Amendment 122
Bernd Lucke

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 statements. In addition, to ensure coherence between the two steps of the

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. 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. *Since this Directive aims at a new standard for corporate taxation for*

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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.

all business in Europe, no more than five years after implementation and conditional on a positive assessment of what has been achieved, the threshold should be lowered to zero. 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.

Or. en

Amendment 123

Ramón Jáuregui Atondo, Jonás Fernández

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 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.* In order to better serve the aim of facilitating trade and investment in the internal market,

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, the rules on a common base *shall apply to companies operating in more than one Member State, although Member States may introduce a harmonised simplified procedure for SMEs.* 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those

the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.

criteria.

Or. es

Amendment 124
Petr Ježek

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 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.

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. 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, 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria. ***When evaluating the impact of this directive, five years after its implementation, the Commission should examine whether the new rules should also be made mandatory for SME.***

Or. en

Amendment 125
Markus Ferber

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 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***. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.

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 ***initially*** be mandatory only for companies which belong to a group of a substantial size. For that purpose, a size-related threshold ***of EUR 750 000 000*** should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. ***This threshold should be reduced by EUR 75 000 000 per year over a ten-year period***. In addition, to ensure coherence between the two steps of the CCCTB initiative, ***consolidation should not take place until ten years after the entry into force of the common base***. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.

Or. de

Amendment 126
Esther de Lange, Gunnar Hökmark

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) Many aggressive tax planning structures tend to feature in a cross-border

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. 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, 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria.

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 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. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a common corporate tax base should also be available, as an option, to companies which do not meet those criteria. *It is important, however, to realise that giving the ability to companies to choose between the harmonised rules or the rules of national tax laws can create new possibilities for tax avoidance.*

Or. en

Amendment 127

Fabio De Masi, Matt Carthy

Proposal for a directive

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) For reasons of proportionality, the rules for the CCTB and CCCTB should in a first step only be mandatory for companies which belong to a group above a certain 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, 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. After a transitional period of several years, the new rules should be compulsory for all companies.

Or. en

Amendment 128

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) One of the main problems encountered by the tax authorities is the impossibility of gaining access in due time to comprehensive and relevant information about MNEs' tax planning strategies. Such information should be made publicly available, in order for tax authorities to react quickly to tax risks, by assessing those risks more effectively, targeting checks and alerting about changes required to the legislation in force.

Or. en

Amendment 129

Brian Hayes, Esther de Lange, Gunnar Hökmark, Frank Engel

Proposal for a directive

Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Aggressive tax planning by multinational companies is a global problem that requires a global solution. The ideal way to tackle this problem is on

an internationally agreed basis through the OECD Base Erosion and Profit Shifting (BEPS) initiative.

Or. en

Amendment 130
Ramón Jáuregui Atondo, Jonás Fernández

Proposal for a directive
Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Figures on Member States' effective rates shall be based on homogeneous and comparable data provided by companies.

Or. es

Amendment 131
Fabio De Masi

Proposal for a directive
Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) In order to put a halt to the detrimental race to the bottom in tax rates across the EU, the Commission should put forward a proposal ensuring a minimum effective corporate tax rate of 25% across Member States.

Or. en

Amendment 132
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) In order to create a level playing field and to eliminate tax competition and the resulting race to the bottom as regards corporate taxation levels, minimum effective corporate tax rate should be introduced in parallel of the common consolidated corporate tax base so as to avoid transferring unfair competition on the tax base to unfair competition on the tax rates. This Directive therefore sets a minimum corporate tax rate at 20% in each Member State, applicable two years after the date of implementation of the present Directive, with a possibility for Member States to extend this deadline up to five years subject to a prior authorisation by the Commission.

Or. en

Amendment 133

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 5 c (new)

Text proposed by the Commission

Amendment

(5c) A severe lack in investments has been one of the root causes of the Union economic troubles but the Union budget is still insufficiently geared towards future-oriented investments. Creating additional Union budget related resources is possible according to the existing flexibilities of the Treaty. This proposal, together with the proposal for a CCCTB, should therefore aim at having a part of the EU fiscal revenues financed from the common consolidated corporate tax base.

Amendment 134**Barbara Kappel****Proposal for a directive****Recital 6***Text proposed by the Commission**Amendment*

(6) *It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. On the contrary, it should not be seen as essential to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. This dimension should better be left to bilateral tax treaties and national law due to its complicated interaction with international agreements.*

deleted

Or. de

Amendment 135**Petr Ježek, Thierry Cornillet, Lieve Wierinck****Proposal for a directive****Recital 6***Text proposed by the Commission**Amendment*

(6) It is necessary to *define* the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all concerned taxpayers share a common

(6) *One of the main shortcomings of the current international tax rules is that the taxing right of a jurisdiction only arises when the business has a physical presence in that jurisdiction. It is necessary to *redefine* the concept of a*

understanding and to exclude the possibility of a mismatch due to divergent definitions. On the contrary, it should not be seen as essential to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. This dimension should better be left to bilateral tax treaties and national law due to its complicated interaction with international agreements.

permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union ***to also include a digital presence, without hampering the potential of the digital sector.*** The aim would be to ensure that all concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. On the contrary, it should not be seen as essential to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. This dimension should better be left to bilateral tax treaties and national law due to its complicated interaction with international agreements.

Or. en

Amendment 136

Ramón Jáuregui Atondo, Jonás Fernández

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. ***On the contrary, it should not be seen as essential to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. This dimension should better be left to bilateral tax treaties and national law due to its complicated interaction with***

Amendment

(6) It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. ***This notion of permanent establishment, which shall constitute grounds justifying taxation in a given jurisdiction, should also be adapted to the digital era, since many business models do not require physical infrastructure to conduct transactions with customers and make profits.***

international agreements.

Or. es

Amendment 137

Marco Valli

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. ***On the contrary, it should not be seen as essential*** to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. ***This dimension should better be left to*** bilateral tax treaties and national law ***due to its complicated interaction with international agreements.***

Amendment

(6) It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. ***Similarly, it is important*** to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. ***The definition should be incorporated accordingly into*** bilateral tax treaties and national law.

Or. en

Amendment 138

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who

Amendment

(6) ***Too often, multinational companies make arrangements to transfer their profits to tax havens without paying***

is resident for tax purposes within the Union. The aim would be to ensure that all concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. ***On the contrary***, it should not be seen as essential to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. This dimension should better be left to bilateral tax treaties and national law due to its complicated interaction with international agreements.

any or very low rates of tax. The concept of permanent establishment will provide a precise, binding definition of the criteria which must be met if a multinational company is to prove that it is situated in a given country. This will force multinational companies to pay their taxes fairly. It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all concerned taxpayers, ***including those operating in the digital sector***, share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. ***At this stage***, it should not be seen as essential to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. This dimension should better be left to bilateral tax treaties and national law due to its complicated interaction with international agreements. ***However, the Commission should make a proposal to set up a European model of tax treaty which could ultimately replace the thousands bilateral treaties concluded by each Member States.***

Or. en

Amendment 139

Fabio De Masi, Matt Carthy, Stelios Kouloglou

Proposal for a directive

Recital 6

Text proposed by the Commission

(6) It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all

Amendment

(6) It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. The aim would be to ensure that all

concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. ***On the contrary, it should not be seen as essential to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. This dimension should better be left to bilateral tax treaties and national law due to its complicated interaction with international agreements.***

concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions.

Or. en

Amendment 140

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Taking into account the digital change in the business environment as well as the current gap in taxation between digitally operating companies and physically operating businesses, as well as between digital MNEs and SMEs, it is necessary to define the concept of a virtual permanent establishment. A level-playing field is needed for similar business models which only differ from one another in this aspect that one of them uses a digital solution instead of a physical one and therefore is not considered to have a physical presence in the country. Companies that generate a significant amount of revenues in a Member State without having a physical establishment in that Member State should be treated in the same way as companies having a physical establishment. Therefore, this proposal

should also apply to digital corporations.

Or. en

Amendment 141

Brian Hayes, Esther de Lange, Gunnar Hökmark, Frank Engel

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Taxing the digital economy at a global level has been a number one priority in the OECD BEPS Action Plan. Therefore, any attempt made to impose a new tax on the digital economy at EU level could put Europe at a mismatch to the rest of the world given that the digital economy is global in nature. As part of the OECD BEPS Action Plan, a report with recommendations on taxing the digital economy at a global level will be published in Spring 2018; any decision to plan for a tax on the digital economy at an EU level in advance of this report would be unnecessary and premature.

Or. en

Amendment 142

Markus Ferber

Proposal for a directive

Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Current corporate tax legislation is not suited to the challenges of the digital economy. Digital services are largely decoupled from physical establishments. Current corporate tax legislation therefore needs to be expanded to include the concept of virtual establishment.

Particular account should be taken in this connection of the work carried out by the OECD on an internationally consistent set of rules.

Or. de

Amendment 143
Barbara Kappel

Proposal for a directive
Recital 7

Text proposed by the Commission

Amendment

(7) To mitigate tax avoidance risks, which distort the functioning of the internal market, a common corporate tax base should be designed broadly. Based on this premise, all revenues should be taxable unless expressly exempted. As regards participations of at least 10 %, income consisting in dividends or proceeds from the disposal of shares held in a company outside the group should be exempt, in order to prevent double taxation in foreign direct investment. In the same vein, the profits of permanent establishments should also be exempt from tax in the state of the head office. It is also considered that the exemption of income earned abroad meets the need for simplicity for businesses. Indeed, in giving relief for double taxation, most Member States currently exempt dividends and proceeds from the disposal of shares, thereby avoiding computing the taxpayer's entitlement to a credit for the tax paid abroad, in particular where such entitlement must take account of the corporation tax paid by the company distributing the dividends.

deleted

Or. de

Amendment 144
Fabio De Masi, Matt Carthy

Proposal for a directive
Recital 7

Text proposed by the Commission

(7) To mitigate tax avoidance risks, which distort the functioning of the internal market, a common corporate tax base should be designed broadly. Based on this premise, all revenues should be taxable unless expressly exempted. *As regards participations of at least 10 %, income consisting in dividends or proceeds from the disposal of shares held in a company outside the group should be exempt, in order to prevent double taxation in foreign direct investment. In the same vein, the profits of permanent establishments should also be exempt from tax in the state of the head office. It is also considered that the exemption of income earned abroad meets the need for simplicity for businesses. Indeed, in giving relief for double taxation, most Member States currently exempt dividends and proceeds from the disposal of shares, thereby avoiding computing the taxpayer's entitlement to a credit for the tax paid abroad, in particular where such entitlement must take account of the corporation tax paid by the company distributing the dividends.*

Amendment

(7) To mitigate tax avoidance risks, which distort the functioning of the internal market, a common corporate tax base should be designed broadly. Based on this premise, all revenues should be taxable unless expressly exempted.

Or. en

Amendment 145
Barbara Kappel

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Taxable revenues should be

Amendment

(8) Taxable revenues should be

reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. ***To support innovation in the economy and modernise the internal market, deductions should be provided for research and development costs, including super-deductions, and those should be fully expensed in the year incurred (with the exception of immovable property). Small starting companies without associated enterprises which are particularly innovative (a category which will in particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses.***

reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income.

Or. de

Amendment 146
Marco Valli

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Taxable revenues should be reduced by business expenses and ***certain*** other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, deductions ***should be provided*** for research and development ***costs, including super-deductions, and those should be fully expensed in the year*** incurred (with the exception of immovable property). ***Small starting companies without associated enterprises which are***

Amendment

(8) Taxable revenues should be reduced by business expenses and other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support ***real*** innovation in the economy and modernise the internal market, ***without opening new opportunities for aggressive tax planning, tax*** deductions for research and development ***shall be strictly limited to the actual costs*** incurred ***in genuine R&D investments; other public policy instruments shall be preferred to unproductive tax incentives to***

particularly innovative (a category which will in particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses.

multinationals in pursuing the objective to stimulate investments.

Or. en

Amendment 147
Markus Ferber

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, *deductions should be provided* for research and development costs, *including super-deductions, and those should be fully expensed in the year incurred (with the exception of immovable property). Small starting companies without associated enterprises which are particularly innovative (a category which will in particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses.*

Amendment

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, *taxpayers should receive a tax credit of 10%* for research and development costs.

Or. de

Amendment 148
Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 8

Text proposed by the Commission

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and *modernise* the internal market, deductions should be provided for research and development *costs, including super-deductions, and those should be fully expensed* in the year incurred (with the exception of immovable property). Small *starting* companies without associated enterprises which are particularly innovative (*a category which will in particular cover start-ups*) *should also* be supported through *enhanced* super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses.

Amendment

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and *modernize* the internal market, deductions should be provided for research and development *genuine expenses*, in the year incurred (with the exception of immovable property). *However, such R&D allowance shall not be regarded as a substitute for national policies aiming at stimulating innovation in Europe. Moreover, Member States are encouraged to apply their R&D tax benefits on social contributions and/or wages rather than on corporate income taxes.* Small *and medium* companies without associated enterprises which are particularly innovative *could* be supported through super-deductions for research and development costs *in certain circumstances*. In order to ensure legal certainty, there should also be a list of non-deductible expenses. *In order to avoid financing research and development of new potentially toxic financial instruments and to limit R&D allowance to key strategic and future-related investments, such costs should be non-deductible insofar as they concern financial undertakings.*

Or. en

Amendment 149

Paul Tang, Neena Gill, Emmanuel Maurel, Nessa Childers, Hugues Bayet, Peter Simon

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, deductions should be provided for research and development costs, including super-deductions, and those should be fully expensed in the year incurred (with the exception of immovable property). Small starting companies without associated enterprises which are particularly innovative (a category which will in particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses.

Amendment

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, deductions should be provided for research and development costs ***relating to expenses on staff, subcontractors, agency workers and freelancers***, including super-deductions, and those should be fully expensed in the year incurred (with the exception of immovable property). Small starting companies without associated enterprises which are particularly innovative (a category which will in particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses. ***A clear definition of costs of research and development is needed to avoid misuse of the deductions.***

Or. en

Amendment 150
Luigi Morgano, Pervenche Berès

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the

Amendment

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the

production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, deductions should be provided for research and development costs, including super-deductions, and those should be fully expensed in the year incurred (with the exception of immovable property). Small starting companies without associated enterprises which are particularly innovative (a category which will in particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses.

production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, deductions should be provided for research and development costs, including super-deductions, and those should be fully expensed in the year incurred (with the exception of immovable property). Small starting companies without associated enterprises which are particularly innovative (a category which will in particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses, *which should nonetheless take into account the specificities of the business model of cooperative enterprises and cooperative consortia.*

Or. en

Amendment 151
Alfred Sant, Costas Mavrides

Proposal for a directive
Recital 8

Text proposed by the Commission

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, deductions should be provided for research and development costs, including super-deductions, and those should be fully expensed in the year incurred (with the exception of immovable property). Small starting companies without associated enterprises which are particularly innovative (a category which will in

Amendment

(8) Taxable revenues should be reduced by business expenses and certain other items. Deductible business expenses should normally include all costs relating to sales and expenses linked to the production, maintenance and securing of income. To support innovation in the economy and modernise the internal market, deductions should be provided for research and development costs, including super-deductions, and those should be fully expensed in the year incurred (with the exception of immovable property). Small starting companies without associated enterprises which are particularly innovative (a category which will in

particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. In order to ensure legal certainty, there should also be a list of non-deductible expenses.

particular cover start-ups) should also be supported through enhanced super-deductions for research and development costs. ***This condition should prevent large Multinational Enterprises (MNE) from setting up supposed start-up companies, which in fact belongs to a MNE, in order to make use of the enhanced super deduction. Such enhanced super deduction will increase the amount of losses, which may be carried forward to be set off against future profits. Therefore, it provides for a prospective application of the enhanced super deduction.*** In order to ensure legal certainty, there should also be a list of non-deductible expenses.

Or. en

Amendment 152
Barbara Kappel

Proposal for a directive
Recital 9

Text proposed by the Commission

Amendment

(9) Recent developments in international taxation have highlighted that, in an effort to reduce their global tax liability, multinational groups of companies have increasingly engaged in tax avoidance arrangements leading to base erosion and profit shifting, through excessive interest payments. It is therefore necessary to limit the deductibility of interest (and other financial) costs, in order to discourage such practices. In that context, the deductibility of interest (and other financial) costs should only be allowed without restrictions to the extent that those costs can be offset against taxable interest (and other financial) revenues. Any surplus of interest costs should however be subject to deductibility restrictions, to be determined by reference

deleted

to a taxpayer's taxable earnings before interest, tax, depreciation and amortisation ('EBITDA').

Or. en

Amendment 153

Petr Ježek

Proposal for a directive

Recital 9

Text proposed by the Commission

(9) Recent developments in international taxation have highlighted that, in an effort to reduce their global tax liability, multinational groups of companies have increasingly engaged in tax avoidance arrangements leading to base erosion and profit shifting, through excessive interest payments. It is therefore necessary to limit the deductibility of interest (and other financial) costs, in order to discourage such practices. In that context, the deductibility of interest (and other financial) costs should only be allowed without restrictions to the extent that those costs can be offset against taxable interest (and other financial) revenues. Any surplus of interest costs should however be subject to deductibility restrictions, to be determined by reference to a taxpayer's taxable earnings before interest, tax, depreciation and amortisation ('EBITDA').

Amendment

(9) Recent developments in international taxation have highlighted that, in an effort to reduce their global tax liability, multinational groups of companies have increasingly engaged in tax avoidance arrangements leading to base erosion and profit shifting, through excessive interest payments. It is therefore necessary to limit the deductibility of interest (and other financial) costs, in order to discourage such practices. In that context, the deductibility of interest (and other financial) costs should only be allowed without restrictions to the extent that those costs can be offset against taxable interest (and other financial) revenues. Any surplus of interest costs should however be subject to deductibility restrictions, to be determined by reference to a taxpayer's taxable earnings before interest, tax, depreciation and amortisation ('EBITDA'). ***Member States could further restrict the amount of the deductibility of interest (and other financial) costs to ensure a higher level of protection.***

Or. en

Amendment 154

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) Recent developments in international taxation have highlighted that, in an effort to reduce their global tax liability, multinational groups of companies have increasingly engaged in tax avoidance arrangements leading to base erosion and profit shifting, through excessive interest payments. It is therefore necessary to limit the deductibility of interest (and other financial) costs, in order to discourage such practices. ***In that context, the deductibility of interest (and other financial) costs should only be allowed without restrictions to the extent that those costs can be offset against taxable interest (and other financial) revenues.*** Any surplus of interest costs should ***however*** be subject to deductibility restrictions, to be determined by reference to a taxpayer's taxable earnings before interest, tax, depreciation and amortisation ('EBITDA').

Amendment

(9) Recent developments in international taxation have highlighted that, in an effort to reduce their global tax liability, multinational groups of companies have increasingly engaged in tax avoidance arrangements leading to base erosion and profit shifting, through excessive interest payments. It is therefore necessary to limit the deductibility of interest (and other financial) costs, in order to discourage such practices. Any surplus of interest costs should be subject to deductibility restrictions, to be determined by reference to a taxpayer's taxable earnings before interest, tax, depreciation and amortisation ('EBITDA').

Or. en

Amendment 155
Markus Ferber

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks that this entails for the indebtedness of companies, it is critical to provide for

Amendment

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks that this entails for the indebtedness of companies, it is critical to provide for

measures which neutralise the current bias against equity financing. *In this light, it is envisaged to give taxpayers an allowance for growth and investment according to which increases in a taxpayer's equity should be deductible from its taxable base subject to certain conditions. Thus, it would be essential to ensure that the system does not suffer cascading effects and to this end, it would be necessary to exclude the tax value of a taxpayer's participations in associated enterprises. Finally, to make the scheme of the allowance sufficiently robust, it would also be required to lay down anti-tax avoidance rules.*

measures which neutralise the current bias against equity financing. *The interest limitation rule constitutes an appropriate and sufficient tool for this purpose.*

Or. de

Amendment 156
Barbara Kappel

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks that this entails for the indebtedness of companies, it is critical to provide for measures which neutralise the current bias against equity financing. *In this light, it is envisaged to give taxpayers an allowance for growth and investment according to which increases in a taxpayer's equity should be deductible from its taxable base subject to certain conditions. Thus, it would be essential to ensure that the system does not suffer cascading effects and to this end, it would be necessary to exclude the tax value of a taxpayer's participations in associated enterprises.*

Amendment

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks that this entails for the indebtedness of companies, it is critical to provide for measures which neutralise the current bias against equity financing.

Finally, to make the scheme of the allowance sufficiently robust, it would also be required to lay down anti-tax avoidance rules.

Or. en

Amendment 157

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 10

Text proposed by the Commission

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks that this entails for the indebtedness of companies, it is critical to *provide for measures which* neutralise the *current* bias against equity financing. *In this light, it is envisaged to give taxpayers an allowance for growth and investment according to which increases in a taxpayer's equity should be deductible from its taxable base subject to certain conditions. Thus, it would be essential to ensure that the system does not suffer cascading effects and to this end, it would be necessary to exclude the tax value of a taxpayer's participations in associated enterprises. Finally, to make the scheme of the allowance sufficiently robust, it would also be required to lay down anti-tax avoidance rules.*

Amendment

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks that this entails for the indebtedness of companies, it is critical to neutralise the bias against equity financing, *by gradually removing the possibility to deduct interest paid out on loans from the tax base of a tax payer.*

Or. en

Amendment 158

Marco Valli

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks that this entails for the indebtedness of companies, it is critical to provide for measures which neutralise the current bias against equity financing. In this light, it is ***envisaged to give taxpayers an allowance for growth and investment according to which increases in a taxpayer's equity should be deductible from its taxable base subject to certain conditions. Thus, it would be essential to ensure that the system does not suffer cascading effects and to this end, it would be necessary to exclude the tax value of a taxpayer's participations in associated enterprises. Finally, to make the scheme of the allowance sufficiently robust, it would also be required to lay down anti-tax avoidance rules.***

Amendment

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks that this entails for the indebtedness of companies, it is critical to provide for measures which neutralise the current bias against equity financing. In this light, it is necessary to ***move gradually towards a regime of full non-deductibility of interest expenses at the global level. Until such reform is achieved, limitations on interest deductibility shall at least be strengthened in order to tackle the issue of excessive debt financing.***

Or. en

Amendment 159
Fabio De Masi, Matt Carthy

Proposal for a directive
Recital 10

Text proposed by the Commission

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks

Amendment

(10) The fact that interest paid out on loans is deductible from the tax base of a taxpayer whilst this is not the case for profit distributions creates a definitive advantage in favour of financing through debt as opposed to equity. Given the risks

that this entails for the indebtedness of companies, it is critical to provide for measures which neutralise the current bias against equity financing. In this light, *it is envisaged to give taxpayers an allowance for growth and investment according to which increases in a taxpayer's equity should be deductible from its taxable base subject to certain conditions. Thus, it would be essential to ensure that the system does not suffer cascading effects and to this end, it would be necessary to exclude the tax value of a taxpayer's participations in associated enterprises. Finally, to make the scheme of the allowance sufficiently robust, it would also be required to lay down anti-tax avoidance rules.*

that this entails for the indebtedness of companies, it is critical to provide for measures which neutralise the current bias against equity financing. In this light, *the deductibility of interest payments on loans should be restricted through thin capitalization rules. Moreover, loans are more and more often used as equity, although benefiting from deductibility of interest payments, and are the scheme most used in hybrid mismatch arrangements; for such reasons taxpayers should be provided with incentives to grow their equity share without further narrowing down the tax base.*

Or. en

Amendment 160

Fabio De Masi, Matt Carthy

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In order to discourage the shifting of passive (mainly, financial) income out of highly-taxed companies, any losses that such companies may incur at the end of a tax year should be presumed to mostly correspond to the results of trading activity. Based on that premise, taxpayers should be allowed to carry losses forward indefinitely without restrictions on the deductible amount per year. Since the carry-forward of losses is intended to ensure that a taxpayer pays tax on its real income, there is no reason to place a time limit on carry forward. Regarding the prospect for a loss carry-back, no such a rule would need to be introduced because that this is relatively rare in the practice of Member States, and tends to lead to

Amendment

deleted

excessive complexity. Furthermore, an anti-abuse provision should be laid down in order to prevent, thwart or counter attempts to circumvent the rules on loss deductibility through purchasing loss-making companies.

Or. en

Amendment 161

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) In order to discourage the shifting of passive (mainly, financial) income out of highly-taxed companies, any losses that such companies may incur at the end of a tax year should be presumed to mostly correspond to the results of trading activity. Based on that premise, taxpayers should be allowed to carry losses forward *indefinitely without restrictions* on the deductible amount per year. *Since the carry-forward of losses is intended to ensure that a taxpayer pays tax on its real income, there is no reason to place a time limit on carry forward.* Regarding the prospect for a loss carry-back, no such a rule would need to be introduced because that this is relatively rare in the practice of Member States, and tends to lead to excessive complexity. Furthermore, an anti-abuse provision should be laid down in order to prevent, thwart or counter attempts to circumvent the rules on loss deductibility through purchasing loss-making companies.

Amendment

(12) In order to discourage the shifting of passive (mainly, financial) income out of highly-taxed companies, any losses that such companies may incur at the end of a tax year should be presumed to mostly correspond to the results of trading activity. Based on that premise, taxpayers should be allowed to carry losses forward on the deductible amount per year *during a maximum of five years*. Regarding the prospect for a loss carry-back, no such a rule would need to be introduced because that this is relatively rare in the practice of Member States, and tends to lead to excessive complexity. *There should be no carry forward of losses incurred prior to the entry into force of this directive.* Furthermore, an anti-abuse provision should be laid down in order to prevent, thwart or counter attempts to circumvent the rules on loss deductibility through purchasing loss-making companies.

Or. en

Amendment 162
Markus Ferber

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to discourage the shifting of passive (mainly, financial) income out of highly-taxed companies, any losses that such companies may incur at the end of a tax year should be presumed to mostly correspond to the results of trading activity. Based on that premise, taxpayers should be allowed to carry losses forward indefinitely **without** restrictions on the deductible amount per year. Since the carry-forward of losses is intended to ensure that a taxpayer pays tax on its real income, there is no reason to place a time limit on carry forward. **Regarding the prospect for a loss carry-back, no such a rule would need to be introduced because that this is relatively rare in the practice of Member States, and tends to lead to excessive complexity.** Furthermore, an anti-abuse provision should be laid down in order to prevent, thwart or counter attempts to circumvent the rules on loss deductibility through purchasing loss-making companies.

Amendment

(12) In order to discourage the shifting of passive (mainly, financial) income out of highly-taxed companies, any losses that such companies may incur at the end of a tax year should be presumed to mostly correspond to the results of trading activity. Based on that premise, taxpayers should be allowed to carry losses forward indefinitely **with** restrictions on the deductible amount per year. Since the carry-forward of losses is intended to ensure that a taxpayer pays tax on its real income, there is no reason to place a time limit on carry forward. **In addition, there should be the possibility of a loss carry-back.** Furthermore, an anti-abuse provision should be laid down in order to prevent, thwart or counter attempts to circumvent the rules on loss deductibility through purchasing loss-making companies.

Or. de

Amendment 163
Barbara Kappel

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) In order to discourage the shifting of passive (mainly, financial) income out of highly-taxed companies, any losses that such companies may incur at the end of a

Amendment

(12) In order to discourage the shifting of passive (mainly, financial) income out of highly-taxed companies, any losses that such companies may incur at the end of a

tax year should be presumed to mostly correspond to the results of trading activity. Based on that premise, taxpayers should be allowed to carry losses forward indefinitely without restrictions on the deductible amount per year. Since the carry-forward of losses is intended to ensure that a taxpayer pays tax on its real income, there is no reason to place a time limit on carry forward. Regarding the prospect for a loss carry-back, no such a rule would need to be introduced because that this is relatively rare in the practice of Member States, and tends to lead to excessive complexity.

Furthermore, an anti-abuse provision should be laid down in order to prevent, thwart or counter attempts to circumvent the rules on loss deductibility through purchasing loss-making companies.

tax year should be presumed to mostly correspond to the results of trading activity. Based on that premise, taxpayers should be allowed to carry losses forward indefinitely without restrictions on the deductible amount per year. Since the carry-forward of losses is intended to ensure that a taxpayer pays tax on its real income, there is no reason to place a time limit on carry forward. Regarding the prospect for a loss carry-back, no such a rule would need to be introduced because that this is relatively rare in the practice of Member States, and tends to lead to excessive complexity.

Or. en

Amendment 164

Marco Valli

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) In order to facilitate the cash-flow capacity of businesses – for instance, by compensating start-up losses in a Member State with profits in another Member State – and encourage the cross-border expansion within the Union, taxpayers should be entitled to temporarily take into account the losses incurred by their immediate subsidiaries and permanent establishments situated in other Member States. For that purpose, a parent company or head office located in a Member State should be able to deduct from its tax base, in a given tax year, the losses incurred in the same tax year by its immediate subsidiaries or permanent establishments situated in other Member

Amendment

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States in proportion to its holding. The parent company should then be required to add back to its tax base, considering the amount of losses previously deducted, any subsequent profits made by those immediate subsidiaries or permanent establishments. As it is vital to safeguard national tax revenues, the deducted losses should also be reincorporated automatically if this has not already occurred after a certain number of years or if the requisites to qualify as an immediate subsidiary or permanent establishment are no longer met.

Or. en

Amendment 165
Bernd Lucke

Proposal for a directive
Recital 13

Text proposed by the Commission

Amendment

(13) In order to facilitate the cash-flow capacity of businesses – for instance, by compensating start-up losses in a Member State with profits in another Member State – and encourage the cross-border expansion within the Union, taxpayers should be entitled to temporarily take into account the losses incurred by their immediate subsidiaries and permanent establishments situated in other Member States. For that purpose, a parent company or head office located in a Member State should be able to deduct from its tax base, in a given tax year, the losses incurred in the same tax year by its immediate subsidiaries or permanent establishments situated in other Member States in proportion to its holding. The parent company should then be required to add back to its tax base, considering the amount of losses previously deducted, any subsequent profits made by those

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immediate subsidiaries or permanent establishments. As it is vital to safeguard national tax revenues, the deducted losses should also be reincorporated automatically if this has not already occurred after a certain number of years or if the requisites to qualify as an immediate subsidiary or permanent establishment are no longer met.

Or. en

Amendment 166
Fabio De Masi, Matt Carthy

Proposal for a directive
Recital 13

Text proposed by the Commission

Amendment

(13) In order to facilitate the cash-flow capacity of businesses – for instance, by compensating start-up losses in a Member State with profits in another Member State – and encourage the cross-border expansion within the Union, taxpayers should be entitled to temporarily take into account the losses incurred by their immediate subsidiaries and permanent establishments situated in other Member States. For that purpose, a parent company or head office located in a Member State should be able to deduct from its tax base, in a given tax year, the losses incurred in the same tax year by its immediate subsidiaries or permanent establishments situated in other Member States in proportion to its holding. The parent company should then be required to add back to its tax base, considering the amount of losses previously deducted, any subsequent profits made by those immediate subsidiaries or permanent establishments. As it is vital to safeguard national tax revenues, the deducted losses should also be reincorporated automatically if this has not already

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occurred after a certain number of years or if the requisites to qualify as an immediate subsidiary or permanent establishment are no longer met.

Or. en

Amendment 167

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 13

Text proposed by the Commission

Amendment

(13) In order to facilitate the cash-flow capacity of businesses – for instance, by compensating start-up losses in a Member State with profits in another Member State – and encourage the cross-border expansion within the Union, taxpayers should be entitled to temporarily take into account the losses incurred by their immediate subsidiaries and permanent establishments situated in other Member States. For that purpose, a parent company or head office located in a Member State should be able to deduct from its tax base, in a given tax year, the losses incurred in the same tax year by its immediate subsidiaries or permanent establishments situated in other Member States in proportion to its holding. The parent company should then be required to add back to its tax base, considering the amount of losses previously deducted, any subsequent profits made by those immediate subsidiaries or permanent establishments. As it is vital to safeguard national tax revenues, the deducted losses should also be reincorporated automatically if this has not already occurred after a certain number of years or if the requisites to qualify as an immediate subsidiary or permanent

deleted

establishment are no longer met.

Or. en

Amendment 168

Barbara Kappel

Proposal for a directive

Recital 13

Text proposed by the Commission

(13) In order to facilitate the cash-flow capacity of businesses – ***for instance, by compensating start-up losses in a Member State with profits in another Member State – and encourage the cross-border expansion within the Union***, taxpayers should be entitled to temporarily take into account the losses incurred by their immediate subsidiaries and permanent establishments situated in other Member States. For that purpose, a parent company or head office located in a Member State should be able to deduct from its tax base, in a given tax year, the losses incurred in the same tax year by its immediate subsidiaries or permanent establishments situated in other Member States in proportion to its holding. The parent company should then be required to add back to its tax base, considering the amount of losses previously deducted, any subsequent profits made by those immediate subsidiaries or permanent establishments. As it is vital to safeguard national tax revenues, the deducted losses should also be reincorporated automatically if this has not already occurred after a certain number of years or if the requisites to qualify as an immediate subsidiary or permanent establishment are no longer met.

Amendment

(13) In order to facilitate the cash-flow capacity of businesses taxpayers should be entitled to temporarily take into account the losses incurred by their immediate subsidiaries and permanent establishments situated in other Member States. For that purpose, a parent company or head office located in a Member State should be able to deduct from its tax base, in a given tax year, the losses incurred in the same tax year by its immediate subsidiaries or permanent establishments situated in other Member States in proportion to its holding. The parent company should then be required to add back to its tax base, considering the amount of losses previously deducted, any subsequent profits made by those immediate subsidiaries or permanent establishments. As it is vital to safeguard national tax revenues, the deducted losses should also be reincorporated automatically if this has not already occurred after a certain number of years or if the requisites to qualify as an immediate subsidiary or permanent establishment are no longer met.

Or. en

Amendment 169

Barbara Kappel

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) To avoid the base erosion of higher tax jurisdictions through shifting profits via inflated transfer prices towards lower tax countries, transactions between a taxpayer and its associated enterprise(s) should be subject to pricing adjustments in line with the 'arm's length' principle, which is a generally applied criterion.

Amendment

deleted

Or. en

Amendment 170

Fabio De Masi, Matt Carthy

Proposal for a directive

Recital 14

Text proposed by the Commission

(14) To avoid the base erosion of higher tax jurisdictions through shifting profits via inflated transfer prices towards lower tax countries, transactions between a taxpayer and its associated enterprise(s) should be subject to pricing adjustments in line with the 'arm's length' principle, which is a generally applied criterion.

Amendment

(14) To avoid the base erosion of higher tax jurisdictions through shifting profits via inflated transfer prices towards lower tax countries, full inclusion CFC rules should apply to ensure that an entity is liable for its world income.

Or. en

Amendment 171

Petr Ježek, Lieve Wierinck

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) It is crucial to provide for appropriate anti-tax avoidance measures in order to reinforce the resilience of the rules on a common base against aggressive tax planning practices. Specifically, the system should include a general anti-abuse rule ('GAAR'), supplemented by measures designed to curb specific types of avoidance. Given that GAARs have the function of tackling abusive tax practices that have not yet been dealt with through specifically targeted provisions, they fill in gaps, which should not affect the applicability of specific anti-avoidance rules. Within the Union, GAARs should be applied to arrangements that are not genuine. It is furthermore important to ensure that the GAAR apply in a uniform manner to domestic situations, cross-border situations within the Union and cross-border situations involving companies established in third countries, so that their scope and results of application do not differ.

Amendment

(15) It is crucial to provide for appropriate anti-tax avoidance measures in order to reinforce the resilience of the rules on a common base against aggressive tax planning practices. Specifically, the system should include a ***strong and effective*** general anti-abuse rule ('GAAR'), supplemented by measures designed to curb specific types of avoidance. Given that GAARs have the function of tackling abusive tax practices that have not yet been dealt with through specifically targeted provisions, they fill in gaps, which should not affect the applicability of specific anti-avoidance rules. Within the Union, GAARs should be applied to arrangements that are not genuine. It is furthermore important to ensure that the GAAR apply in a uniform manner to domestic situations, cross-border situations within the Union and cross-border situations involving companies established in third countries, so that their scope and results of application do not differ.

Or. en

Amendment 172

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 15

Text proposed by the Commission

(15) It is crucial to provide for appropriate anti-tax avoidance measures in order to reinforce the resilience of the rules on a common base against aggressive tax planning practices. Specifically, the system should include ***a*** general anti-abuse rule ('GAAR'), supplemented by measures designed to curb specific types of

Amendment

(15) It is crucial to provide for appropriate anti-tax avoidance measures in order to reinforce the resilience of the rules on a common base against aggressive tax planning practices. Specifically, the system should include ***an effective*** general anti-abuse rule ('GAAR'), supplemented by measures designed to curb specific types of

avoidance. Given that GAARs have the function of tackling abusive tax practices that have not yet been dealt with through specifically targeted provisions, they fill in gaps, which should not affect the applicability of specific anti-avoidance rules. Within the Union, GAARs should be applied to arrangements that are not genuine. It is furthermore important to ensure that the GAAR apply in a uniform manner to domestic situations, cross-border situations within the Union and cross-border situations involving companies established in third countries, so that their scope and results of application do not differ.

avoidance. Given that GAARs have the function of tackling abusive tax practices that have not yet been dealt with through specifically targeted provisions, they fill in gaps, which should not affect the applicability of specific anti-avoidance rules. Within the Union, GAARs should be applied to arrangements that are not genuine. It is furthermore important to ensure that the GAAR apply in a uniform manner to domestic situations, cross-border situations within the Union and cross-border situations involving companies established in third countries, so that their scope and results of application do not differ.

Or. en

Amendment 173

Matt Carthy, Fabio De Masi

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) As far as specific anti-tax avoidance measures are concerned, it is often necessary to ascertain the level of taxation on the other side of the border, in order to determine whether the taxpayer is liable to pay tax on foreign generated income. This would create a level-playing field regarding the level of tax and competition within the internal market and also protect the market from base erosion vis-à-vis third countries. In this context, it is necessary to provide for a switch-over clause targeting some types of income earned in a third country, such as profit distributions and proceeds from the disposal of shares, in order to ensure that income be taxable in the Union if it has been taxed below a certain level in a third country. Controlled foreign company ('CFC') legislation is also an indispensable

Amendment

(16) As far as specific anti-tax avoidance measures are concerned, it is often necessary to ascertain the level of taxation on the other side of the border, in order to determine whether the taxpayer is liable to pay tax on foreign generated income. This would create a level-playing field regarding the level of tax and competition within the internal market and also protect the market from base erosion vis-à-vis third countries. In this context, it is necessary to provide for a switch-over clause targeting some types of income earned in a third country, such as profit distributions and proceeds from the disposal of shares, in order to ensure that income be taxable in the Union if it has been taxed below a certain level in a third country. Controlled foreign company ('CFC') legislation is also an indispensable

element of a corporate tax system and has the effect of re-attributing the income of a low-taxed controlled subsidiary to its parent company in an effort to discourage profit shifting. In that regard, it is necessary that CFC rules extend to the profits of permanent establishments where those profits are not subject to tax or are tax exempt in the Member State of the taxpayer.

element of a corporate tax system and has the effect of re-attributing the income of a low-taxed controlled subsidiary to its parent company in an effort to discourage profit shifting. In that regard, it is necessary that CFC rules extend to the profits of permanent establishments where those profits are not subject to tax or are tax exempt in the Member State of the taxpayer. ***Under the Anti-Tax Avoidance Directive Member States are provided with two options for implementing CFC rules - to either tax interest, royalties and other relevant types of income of all low-tax foreign subsidiaries, or alternatively to tax income of low-tax subsidiaries arising from non-genuine arrangements which have been put in place for the essential purpose of obtaining a tax advantage. The second option is very weak and open to abuse, because it only protects against profit-shifting out of the home country and requires the tax authority to analyse many individual transactions of low-tax subsidiaries; Member States should implement the strongest possible CFC rules under the ATAD.***

Or. en

Amendment 174
Barbara Kappel

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) ***As far as specific anti-tax avoidance measures are concerned, it is often necessary to ascertain the level of taxation on the other side of the border, in order to determine whether the taxpayer is liable to pay tax on foreign generated income. This would create a level-playing field regarding the level of tax and competition within the internal market***

Amendment

(16) Controlled foreign company ('CFC') legislation is also an indispensable element of a corporate tax system and has the effect of re-attributing the income of a low-taxed controlled subsidiary to its parent company in an effort to discourage profit shifting. In that regard, it is necessary that CFC rules extend to the profits of permanent establishments where

and also protect the market from base erosion vis-à-vis third countries. In this context, it is necessary to provide for a switch-over clause targeting some types of income earned in a third country, such as profit distributions and proceeds from the disposal of shares, in order to ensure that income be taxable in the Union if it has been taxed below a certain level in a third country. Controlled foreign company ('CFC') legislation is also an indispensable element of a corporate tax system and has the effect of re-attributing the income of a low-taxed controlled subsidiary to its parent company in an effort to discourage profit shifting. In that regard, it is necessary that CFC rules extend to the profits of permanent establishments where those profits are not subject to tax or are tax exempt in the Member State of the taxpayer.

those profits are not subject to tax or are tax exempt in the Member State of the taxpayer.

Or. en

Amendment 175

Esther de Lange, Gunnar Hökmark

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) As far as specific anti-tax avoidance measures are concerned, it is often necessary to ascertain the level of taxation on the other side of the border, in order to determine whether the taxpayer is liable to pay tax on foreign generated income. This would create a level-playing field regarding the level of tax and competition within the internal market and also protect the market from base erosion vis-à-vis third countries. ***In this context, it is necessary to provide for a switch-over clause targeting some types of income earned in a third country, such as profit distributions and proceeds from the***

Amendment

(16) As far as specific anti-tax avoidance measures are concerned, it is often necessary to ascertain the level of taxation on the other side of the border, in order to determine whether the taxpayer is liable to pay tax on foreign generated income. This would create a level-playing field regarding the level of tax and competition within the internal market and also protect the market from base erosion vis-à-vis third countries. Controlled foreign company ('CFC') legislation is an indispensable element of a corporate tax system and has the effect of re-attributing the income of a low-taxed controlled

disposal of shares, in order to ensure that income be taxable in the Union if it has been taxed below a certain level in a third country. Controlled foreign company ('CFC') legislation is *also* an indispensable element of a corporate tax system and has the effect of re-attributing the income of a low-taxed controlled subsidiary to its parent company in an effort to discourage profit shifting. In that regard, it is necessary that CFC rules extend to the profits of permanent establishments where those profits are not subject to tax or are tax exempt in the Member State of the taxpayer.

subsidiary to its parent company in an effort to discourage profit shifting. In that regard, it is necessary that CFC rules extend to the profits of permanent establishments where those profits are not subject to tax or are tax exempt in the Member State of the taxpayer.

Or. en

Amendment 176
Matt Carthy, Fabio De Masi

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Taking into account that the effect of hybrid mismatches is usually a double deduction (i.e. deduction in both states) or a deduction of the income in one state without inclusion in the tax base of another, such situations clearly affect the internal market by distorting its mechanisms and creating loopholes for tax avoidance practices to flourish. Given that mismatches generate from national differences in the legal qualification of certain types of entities or financial payments, they normally do not occur amongst companies which apply the common rules for calculating their tax base. Mismatches would however persist in the interaction between the framework of the common base and national or third-country corporate tax systems. To neutralise the effects of hybrid mismatch arrangements, it is necessary to lay down

Amendment

(17) Taking into account that the effect of **branch and** hybrid mismatches is usually a double deduction (i.e. deduction in both states) or a deduction of the income in one state without inclusion in the tax base of another, such situations clearly affect the internal market by distorting its mechanisms and creating loopholes for tax avoidance practices to flourish. Given that mismatches generate from national differences in the legal qualification of certain types of entities or financial payments, they normally do not occur amongst companies which apply the common rules for calculating their tax base. Mismatches would however persist in the interaction between the framework of the common base and national or third-country corporate tax systems. To neutralise the effects of **branch and** hybrid mismatch arrangements, it is necessary to

rules whereby one of the two jurisdictions in a mismatch deny the deduction of a payment or ensures that the corresponding income is included in the corporate tax base.

lay down rules whereby one of the two jurisdictions in a mismatch deny the deduction of a payment or ensures that the corresponding income is included in the corporate tax base. ***Such rules on branch and hybrid mismatches should act automatically whenever a payment comes across the border having been deducted at the paying end, without having to prove a tax avoidance motive. Member States should revise their double taxation treaties in order to remove provisions that facilitate tax avoidance through mismatches.***

Or. en

Amendment 177
Barbara Kappel

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) Taking into account that the effect of hybrid mismatches is usually a double deduction (i.e. deduction in both states) or a deduction of the income in one state without inclusion in the tax base of another, such situations clearly affect the internal market by distorting its mechanisms and creating loopholes for tax avoidance practices to flourish. Given that mismatches generate from national differences in the legal qualification of certain types of entities or financial payments, they normally do not occur amongst companies which apply the common rules for calculating their tax base. Mismatches would however persist in the interaction between the framework of the common base and national or third-country corporate tax systems. ***To neutralise the effects of hybrid mismatch arrangements, it is necessary to lay down rules whereby one of the two jurisdictions***

Amendment

(17) Taking into account that the effect of hybrid mismatches is usually a double deduction (i.e. deduction in both states) or a deduction of the income in one state without inclusion in the tax base of another, such situations clearly affect the internal market by distorting its mechanisms and creating loopholes for tax avoidance practices to flourish. Given that mismatches generate from national differences in the legal qualification of certain types of entities or financial payments, they normally do not occur amongst companies which apply the common rules for calculating their tax base. Mismatches would however persist in the interaction between the framework of the common base and national or third-country corporate tax systems.

in a mismatch deny the deduction of a payment or ensures that the corresponding income is included in the corporate tax base.

Or. en

Amendment 178

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) Taking into account that the effect of hybrid mismatches is usually a double deduction (i.e. deduction in both states) or a deduction of the income in one state without inclusion in the tax base of another, such situations clearly affect the internal market by distorting its mechanisms and creating loopholes for tax avoidance practices to flourish. Given that mismatches generate from national differences in the legal qualification of certain types of entities or financial payments, they normally do not occur amongst companies which apply the common rules for calculating their tax base. Mismatches would however persist in the interaction between the framework of the common base and national or third-country corporate tax systems. To neutralise the effects of hybrid *mismatch* arrangements, it is necessary to lay down rules whereby one of the two jurisdictions in a mismatch deny the deduction of a payment or ensures that the corresponding income is included in the corporate tax base.

Amendment

(17) Taking into account that the effect of hybrid mismatches is usually a double deduction (i.e. deduction in both states) or a deduction of the income in one state without inclusion in the tax base of another, such situations clearly affect the internal market by distorting its mechanisms and creating loopholes for tax avoidance practices to flourish. Given that mismatches generate from national differences in the legal qualification of certain types of entities or financial payments, they normally do not occur amongst companies which apply the common rules for calculating their tax base. Mismatches would however persist in the interaction between the framework of the common base and national or third-country corporate tax systems. To neutralise the effects of hybrid *mismatches or related* arrangements, it is necessary to lay down rules whereby one of the two jurisdictions in a mismatch deny the deduction of a payment or ensures that the corresponding income is included in the corporate tax base.

Or. en

Amendment 179

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Member States should not be prevented from introducing additional anti-tax avoidance measures in order to reduce the negative effects of shifting profits to low-tax countries outside the Union, which do not necessarily automatically exchange tax information according to Union standards.

Or. en

Amendment 180

Petr Ježek, Thierry Cornillet, Lieve Wierinck

Proposal for a directive

Recital 17 a (new)

Text proposed by the Commission

Amendment

(17a) Since consolidation is only part of the second phase of the new approach to CCCTB, there will be a need for effective dispute resolution mechanisms. Furthermore, taking into account the fact that not all companies will be within the mandatory scope of the upcoming CCCTB, it can be expected that even after the implementation of this directive, a number of double taxation disputes will continue to arise, for which the mechanisms laid down by the Council Directive on Double Taxation Dispute Resolution Mechanisms in the EU shall apply.

Or. en

Amendment 181
Barbara Kappel

Proposal for a directive
Recital 19

Text proposed by the Commission

Amendment

(19) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect of (i) taking into account changes to the laws of Member States concerning the company forms and corporate taxes and amend Annexes I and II accordingly; (ii) laying down additional definitions; (iii) enacting detailed rules against tax avoidance in a number of specified fields relevant to the allowance for growth and investment ; (iv) defining the concepts of legal and economic ownership of leased assets in more detail; (v) calculating the capital and interest elements of lease payments and the depreciation base of leased assets; and (vi) defining more precisely the categories of fixed assets subject to depreciation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

deleted

Or. en

Amendment 182
Bernd Lucke

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect of (i) taking into account changes to the laws of Member States concerning the company forms and corporate taxes and amend Annexes I and II accordingly; **(ii) laying down additional definitions; (iii) enacting detailed rules against tax avoidance in a number of specified fields relevant to the allowance for growth and investment** ; (iv) defining the concepts of legal and economic ownership of leased assets in more detail; (v) calculating the capital and interest elements of lease payments and the depreciation base of leased assets; and (vi) defining more precisely the categories of fixed assets subject to depreciation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

Amendment

(19) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect of (i) taking into account changes to the laws of Member States concerning the company forms and corporate taxes and amend Annexes I and II accordingly; **(ii) defining the concepts of legal and economic ownership of leased assets in more detail; (iii) calculating the capital and interest elements of lease payments and the depreciation base of leased assets; and (iv) defining more precisely the categories of fixed assets subject to depreciation.** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

Or. en

Amendment 183

Markus Ferber

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) In order to supplement or amend certain non-essential elements of this

Amendment

(19) In order to supplement or amend certain non-essential elements of this

Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect of (i) taking into account changes to the laws of Member States concerning the company forms and corporate taxes and amend Annexes I and II accordingly; (ii) laying down additional definitions; (iii) ***enacting detailed rules against tax avoidance in a number of specified fields relevant to the allowance for growth and investment***; (iv) defining the concepts of legal and economic ownership of leased assets in more detail; (v) calculating the capital and interest elements of lease payments and the depreciation base of leased assets; and (vi) defining more precisely the categories of fixed assets subject to depreciation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect of (i) taking into account changes to the laws of Member States concerning the company forms and corporate taxes and amend Annexes I and II accordingly; (ii) laying down additional definitions; (iii) defining the concepts of legal and economic ownership of leased assets in more detail; (iv) calculating the capital and interest elements of lease payments and the depreciation base of leased assets; and (v) defining more precisely the categories of fixed assets subject to depreciation. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

Or. de

Amendment 184
Barbara Kappel

Proposal for a directive
Recital 20

Text proposed by the Commission

(20) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission to adopt annually a list of third country company forms that are similar to the company forms listed in Annex I. Those powers

Amendment

deleted

should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².

¹² *Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).*

Or. en

Amendment 185

Brian Hayes, Esther de Lange, Gunnar Hökmark, Frank Engel

Proposal for a directive

Recital 21

Text proposed by the Commission

Amendment

(21) 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

deleted

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.

Or. en

Amendment 186
Marco Valli

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Within a period of six months after the adoption of this Directive, the Commission shall present a legislative proposal for a minimum effective tax rate at the European level, based on a comparative analysis of different national effective tax rates and Member States' best practices.

Or. en

Amendment 187
Paul Tang, Pervenche Berès, Nessa Childers, Emmanuel Maurel, Neena Gill

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Recalls that EU treasuries lose up to 5.4 billion euros in tax revenue so far from not being able to tax the two biggest digital multinationals. The reason lies in the fact that activities in countries where these enterprises do not have a physical presence cannot be ascertained by tax authorities. This is a real and urgent

social injustice that should be tackled via this directive. This directive offers a way to ascertain the presence of a digital permanent establishment in a Member State. Furthermore, for a phasing in period of two years, this directive first applies to digital enterprises with a substantial size and activity within the EU.

Or. en

Amendment 188

Paul Tang, Emmanuel Maurel, Neena Gill, Nessa Childers

Proposal for a directive

Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) The two directives of the CCCTB proposal will enter into force at the same moment and thus imply a radical change in corporate taxation in Europe. Ahead of the implementation of this directive, national tax administrations should work in good cooperation with some selected companies as to ensure a smooth implementation. National tax administrations may encourage and incentivize companies to participate in this phase.

Or. en

Amendment 189

Brian Hayes, Esther de Lange, Gunnar Hökmark, Frank Engel

Proposal for a directive

Recital 22 a (new)

Text proposed by the Commission

Amendment

(22a) It should be acknowledged that seven Member State national parliaments

have issued reasoned opinions to state that this legislative act does not comply with the principle of subsidiarity as defined in Article 5(3) TEU.

Or. en

Amendment 190
Petr Ježek, Lieve Wierinck

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) The Commission should be required to review the application of the Directive five years after its entry into force and report to the Council on its operation. Member States should be required to communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

Amendment

(23) *Since this directive contains an important change to corporate taxation rules*, the Commission should be required to *conduct a thorough assessment and* review the application of the Directive five years after its entry into force and report to the Council on its operation. *This assessment should include at least the following points: the optional character for SMEs and the impact on tax revenues of the Member States.* Member States should be required to communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

Or. en

Amendment 191
Markus Ferber

Proposal for a directive
Recital 23

Text proposed by the Commission

(23) The Commission should be required to review the application of the Directive five years after its entry into force and report to the Council on its

Amendment

(23) The Commission should be required to review the application of the Directive five years after its entry into force and report to the Council *and the*

operation. Member States should be required to communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

European Parliament on its operation. Member States should be required to communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

Or. de

Amendment 192

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Recital 23

Text proposed by the Commission

(23) The Commission should be required to review the application of the Directive five years after its entry into force and report to the Council on its operation. Member States should be required to communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

Amendment

(23) The Commission should be required to review the application of the Directive five years after its entry into force and report to the Council **and the European Parliament** on its operation. Member States should be required to communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

Or. en

Amendment 193

Brian Hayes, Gunnar Hökmark, Frank Engel

Proposal for a directive

Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive establishes **a** system of a common base for the taxation of **certain** companies and lays down rules for the calculation of that base.

Amendment

1. This Directive establishes **an optional** system of a common base for the taxation of companies **in the Union** and lays down rules for the calculation of that base.

Amendment 194
Luděk Niedermayer

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive establishes a system of a common base for the taxation of certain companies and lays down rules for the calculation of that base.

Amendment

1. This Directive establishes a system of a common base for the taxation of certain companies and lays down rules for the calculation of that base. ***This Directive does not establish minimum corporate tax rates, effective or statutory, and does not lay basis for introduction of minimum corporate tax rates in future.***

Or. en

Amendment 195
Siegfried Mureşan

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive establishes a system of a common base for the taxation of certain companies and lays down rules for the calculation of that base.

Amendment

1. This Directive establishes a system of a common base for the taxation of certain companies and lays down rules for the calculation of that base. ***This Directive does not establish a minimum corporate tax rate, including effective or statutory corporate tax rates, and does not provide for the introduction of minimum corporate tax rates in the future.***

Or. en

Amendment 196
Markus Ferber

Proposal for a directive
Article 1 – paragraph 1

Text proposed by the Commission

1. This Directive establishes a system of a common base for the taxation of certain companies and lays down rules for the calculation of that base.

Amendment

1. This Directive establishes a system of a common base for the taxation of certain companies and lays down rules for the calculation of that base. ***The Member State concerned shall decide on the amount of the corporate tax rate.***

Or. de

Amendment 197
Barbara Kappel

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

deleted

Or. de

Amendment 198
Brian Hayes, Gunnar Hökmark, Frank Engel

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 ***may be applied by*** 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 199

Eva Joly

on behalf of the Verts/ALE Group

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 virtual permanent*** establishments in other Member States, where the company meets all of the following conditions:

Or. en

Amendment 200

Brian Hayes, Gunnar Hökmark, Frank Engel

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

deleted

Or. en

Amendment 201

Eva Joly

on behalf of the Verts/ALE Group

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 202
Marco Zanni

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. it

Amendment 203
Marco Valli

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 **50 000 000** during the financial year preceding the relevant financial year;

Amendment 204

Markus Ferber

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 during the financial year preceding the relevant financial year. ***The turnover threshold shall be reduced by EUR 75 000 000 per year over a ten-year period;***

Or. de

Amendment 205

Bernd Lucke

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 during the financial year preceding the relevant financial year; ***the total consolidated group revenue of EUR 750 000 000 shall be lowered to zero over a time period of ten years;***

Or. en

Amendment 206

Fabio De Masi, Matt Carthy

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; ***this threshold shall be phased out over a period of five years;***

Or. en

Amendment 207
Tom Vandenkendelaere

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 during the **two** financial **years** preceding the relevant financial year;

Or. nl

Justification

This is intended to avoid annual changes of regime. It would have a delaying effect, in accordance with the law on book-keeping: Article 3(10) of Directive 2013/34/EU.

Amendment 208
Paul Tang, Emmanuel Maurel, Neena Gill, Nessa Childers

Proposal for a directive
Article 2 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. *Without prejudice to the conditions laid down in points (c) to (d) in paragraph 1, this directive shall, for a phasing in period of two years after its implementation, apply first to a tax payer or an associated enterprise that is deemed to have a permanent establishment in the EU by offering a digital platform as laid down in article 5, paragraph 2a(new) of this directive.*

Or. en

Amendment 209

Marco Valli

Proposal for a directive

Article 2 – paragraph 2 – subparagraph 1

Text proposed by the Commission

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 State where the company meets the conditions laid down in points (b) to (d) of paragraph 1.

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. ***Furthermore, it shall also apply to any entity located in a Member State that is the place of effective management of the group's business within the EU, meaning the place where key management and commercial decisions related to the operations inside the EU are implemented;***

Or. en

Amendment 210

Brian Hayes, Gunnar Hökmark, Frank Engel

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 *may also be applied by* 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) *and* (d) of paragraph 1.

Or. en

Amendment 211

Eva Joly

on behalf of the Verts/ALE Group

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

Text proposed by the Commission

Amendment

2a. *This Directive shall also apply to a company that is established under the laws of a third country in respect of its virtual permanent 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 company meets the conditions laid down in points (b) to (d) of paragraph 1.*

Or. en

Amendment 212

Brian Hayes, Gunnar Hökmark, Frank Engel

Proposal for a directive
Article 2 – paragraph 3

Text proposed by the Commission

Amendment

3. *A company that meets the conditions of points (a) and (b) of paragraph 1, but does not meet the conditions of points (c) or (d) of that paragraph, may opt, including for its permanent establishments situated in other Member States, to apply the rules of this Directive for a period of five tax years. That period shall automatically be extended for successive terms of five tax years, unless there is a notice of termination as referred to in Article 65(3). The conditions under points (a) and (b) of paragraph 1 shall be met each time the extension takes place.*

deleted

Or. en

Amendment 213

Petr Ježek, Thierry Cornillet, Lieve Wierinck

Proposal for a directive Article 2 – paragraph 3

Text proposed by the Commission

Amendment

3. A company that meets the conditions of points (a) and (b) of paragraph 1, but does not meet the conditions of points (c) or (d) of that paragraph, may opt, including for its permanent establishments situated in other Member States, to apply the rules of this Directive for a period of five tax years. That period shall automatically be extended for successive terms of five tax years, unless there is a notice of termination as referred to in Article 65(3). The conditions under points (a) and (b) of paragraph 1 shall be met each time the extension takes place.

3. A company that meets the conditions of points (a) and (b) of paragraph 1, but does not meet the conditions of points (c) or (d) of that paragraph, may opt, including for its permanent establishments situated in other Member States, to apply the rules of this Directive for a period of five tax years. That period shall automatically be extended for successive terms of five tax years, unless there is a notice of termination as referred to in Article 65(3). The conditions under points (a) and (b) of paragraph 1 shall be met each time the extension takes place. ***The commission should develop a tool that mitigates the administrative burden and costs for SMEs that voluntary opt-in the new system.***

Amendment 214

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 2 – paragraph 4

Text proposed by the Commission

Amendment

4. *The rules of this Directive shall not apply to a shipping company under a special tax regime. A shipping company under a special tax regime shall be taken into account for the purpose of determining the companies which are members of the same group as referred to in Article 3.*

deleted

Or. en

Amendment 215

Fabio De Masi, Matt Carthy

Proposal for a directive

Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) it has a right to exercise more than **50 %** of the voting rights; and

(a) it has a right to exercise more than **25%** of the voting rights; and

Or. en

Amendment 216

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 3 – paragraph 1 – point a

Text proposed by the Commission

Amendment

(a) it has a right to exercise more than 50 % of the voting rights; **and**

(a) it has a right to exercise more than 50 % of the voting rights; **or**

Or. en

Amendment 217

Marco Valli

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) it has an ownership right amounting to more than **75 %** of the subsidiary's capital or owns more than **75 %** of the rights giving entitlement to profit.

(b) it has an ownership right amounting to more than **50 %** of the subsidiary's capital or owns more than **50 %** of the rights giving entitlement to profit.

Or. en

Amendment 218

Fabio De Masi, Matt Carthy

Proposal for a directive

Article 3 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) it has an ownership right amounting to more than **75 %** of the subsidiary's capital or owns more than **75 %** of the rights giving entitlement to profit.

(b) it has an ownership right amounting to more than **50%** of the subsidiary's capital or owns more than **50%** of the rights giving entitlement to profit.

Or. en

Amendment 219

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive
Article 3 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *The use of letterbox companies by taxpayers operating in the Union should be prohibited. Taxpayers should communicate to tax authorities evidence demonstrating the economic substance of each of the entities in their group, as part of their annual country-by-country reporting obligations.*

Or. en

Amendment 220
Tom Vandenkendelaere

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 2

Text proposed by the Commission

Amendment

(2) 'non-taxpayer' means a company that does not meet the conditions of Article 2(1) **or** (2) and has not opted for applying the rules of this Directive in accordance with Article 2(3);

(2) 'non-taxpayer' means a company that does not meet the conditions of Article 2(1) **and** (2) and has not opted for applying the rules of this Directive in accordance with Article 2(3);

Or. nl

Amendment 221
Matt Carthy

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 10

Text proposed by the Commission

Amendment

(10) 'consolidated group for financial accounting purposes' means all entities that are fully included in consolidated financial statements ***drawn up in accordance with the International Financial Reporting***

(10) 'consolidated group for financial accounting purposes' means all entities that are fully included in consolidated financial statements ***as calculated on a consistent accounting basis applicable to all group***

Standards or a national financial reporting system;

members;

Or. en

Amendment 222

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 11

Text proposed by the Commission

(11) 'research and development' means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any particular application or use in view (basic research); original investigation undertaken in order to acquire new knowledge but directed primarily towards a specific, practical aim or objective (applied research); systematic work, drawing on knowledge gained from research and practical experience and producing additional knowledge, which is directed to producing new products or processes or to improving existing products or processes (experimental development);

Amendment

(11) 'research and development' means experimental or theoretical work undertaken primarily to acquire new knowledge of the underlying foundations of phenomena and observable facts, without any particular application or use in view (basic research); original investigation undertaken in order to acquire new knowledge but directed primarily towards a specific, practical aim or objective (applied research); systematic work, drawing on knowledge gained from research and practical experience and producing additional knowledge, which is directed to producing new products or processes or to improving existing products or processes (experimental development). ***R&D investments generally include the costs of labour and to a lesser extent costs of machinery and equipment, costs of buildings and other current expenses related to the research activities;***

Or. en

Amendment 223

Markus Ferber

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 12

Text proposed by the Commission

(12) 'borrowing costs' means interest expenses on all forms of debt, other costs economically equivalent to interest and expenses incurred in connection with the raising of finance, as defined in national law, including payments under profit participating loans, imputed interest on convertible bonds and zero coupon bonds, payments under alternative financing arrangements, the finance cost elements of finance lease payments, capitalised interest included in the balance sheet value of a related asset, the amortisation of capitalised interest, amounts measured by reference to a funding return under transfer pricing rules, notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings, ***the defined yield on net equity increases as referred to in Article 11 of this Directive***, certain foreign exchange gains and losses on borrowings and instruments connected with the raising of finance, guarantee fees for financing arrangements, arrangement fees and similar costs related to the borrowing of funds;

Amendment

(12) 'borrowing costs' means interest expenses on all forms of debt, other costs economically equivalent to interest and expenses incurred in connection with the raising of finance, as defined in national law, including payments under profit participating loans, imputed interest on convertible bonds and zero coupon bonds, payments under alternative financing arrangements, the finance cost elements of finance lease payments, capitalised interest included in the balance sheet value of a related asset, the amortisation of capitalised interest, amounts measured by reference to a funding return under transfer pricing rules, notional interest amounts under derivative instruments or hedging arrangements related to an entity's borrowings, certain foreign exchange gains and losses on borrowings and instruments connected with the raising of finance, guarantee fees for financing arrangements, arrangement fees and similar costs related to the borrowing of funds;

Or. de

Amendment 224
Siegfried Mureşan

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 30 a (new)

Text proposed by the Commission

Amendment

(30a) 'secrecy or low tax jurisdiction' means any jurisdiction which, from 31 December 2016, meets any of the following criteria:

(a) a lack of automatic exchange of information with all signatories of the multilateral competent authority

agreement in line with the standards of OECD published on 21 July 2014 entitled 'Standard for Automatic Exchange of Financial Account Information in Tax Matters';

(b) no register of the ultimate beneficial owners of corporations, trusts and equivalent legal structures at least compliant with the minimum standard defined in the Directive (EU) 2015/849 of the European Parliament and of the Council;

(c) laws or administrative provisions or practices which grant favourable tax treatment to undertakings irrespective of whether they engage in genuine economic activity or have a significant economic presence in the country in question.

Or. en

Amendment 225
Luděk Niedermayer

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 30 a (new)

Text proposed by the Commission

Amendment

(30a) 'secrecy or low tax jurisdiction' means any jurisdiction which, from 31 December 2016, meets any of the following criteria:

(a) a lack of automatic exchange of information with all signatories of the multilateral competent authority agreement in line with the standards of OECD published on 21 July 2014 entitled 'Standard for Automatic Exchange of Financial Account Information in Tax Matters';

(b) no register of the ultimate beneficial owners of corporations, trusts and equivalent legal structures at least compliant with the minimum standard

defined in the Directive (EU) 2015/849 of the European Parliament and of the Council;

(c) laws or administrative provisions or practices which grant favourable tax treatment to undertakings irrespective of whether they engage in genuine economic activity or have a significant economic presence in the country in question.

Or. en

Amendment 226
Thierry Cornillet

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 30 a (new)

Text proposed by the Commission

Amendment

(30a) ‘Secrecy or low tax jurisdictions’ shall mean any jurisdiction which, from 31 December 2016, meets any of the following criteria: (a) appears on the Council of the European Union’s list of non-cooperative jurisdictions; (b) maintains no register of the ultimate beneficial owners of corporations, trusts and equivalent legal structures at least compliant with the minimum standard defined in Directive (EU) 2015/849 of the European Parliament and of the Council; (c) levies a statutory corporate tax rate of less than 60% of the weighted average corporate tax in the Union;

Or. fr

Amendment 227
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 30 a (new)

Text proposed by the Commission

Amendment

(30a) *'economic substance' means factual criteria, including in the context of the digital economy, which can be used to define the taxable presence of an undertaking, such as the existence of human and physical resources specific to the entity, its management autonomy, its legal reality, the revenues it generates and, where appropriate, the nature of its assets;*

Or. en

Amendment 228

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 30 b (new)

Text proposed by the Commission

Amendment

(30b) *'letterbox company' means any type of legal entity which has no economic substance and which is setup purely for tax purposes;*

Or. en

Amendment 229

Markus Ferber

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 31 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

(31) *'hybrid mismatch' means a situation between a taxpayer and an associated enterprise or a structured arrangement between parties in different tax jurisdictions where any of the following*

(31) *'hybrid mismatch' means a situation involving a taxpayer as referred to in Article 1(2)(b) of Council Directive 2017/952 amending Directive (EU) 2016/1164 as regards hybrid mismatches*

outcomes is attributable to differences in the legal characterisation of a financial instrument or entity, or in the treatment of a commercial presence as a permanent establishment:

with third countries;

Or. de

Justification

Alignment with Council Directive 2017/952 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries

Amendment 230

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 31 – paragraph 1 – introductory part

Text proposed by the Commission

(31) 'hybrid mismatch' means a situation between a taxpayer and *an associated enterprise or a structured arrangement between parties in different tax jurisdictions* where any of the following outcomes is attributable to differences in the legal *characterisation of* a financial instrument or entity, or in the treatment of a commercial presence as a permanent establishment:

Amendment

(31) 'hybrid mismatch' means a situation between a taxpayer and *another entity* where any of the following outcomes is attributable to differences in the legal *characterization of a payment*, a financial instrument or *an* entity, or in the treatment of a commercial presence as a permanent establishment:

Or. en

Amendment 231

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 31 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) a deduction of a payment from the taxable base in the jurisdiction in which the payment has its source without a corresponding inclusion for tax purposes of the same payment in the *other* jurisdiction ('deduction without inclusion');

(b) a deduction of a payment from the taxable base in the jurisdiction in which the payment has its source without a corresponding inclusion for tax purposes of the same payment in the jurisdiction *where the payment is received* ('deduction without inclusion');

Or. en

Amendment 232

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 31 – paragraph 1 – point c

Text proposed by the Commission

Amendment

(c) in case of differences in the treatment of a commercial presence as a permanent establishment, non-taxation of income which has its source in a jurisdiction without a corresponding inclusion for tax purposes of the same income in *the other* jurisdiction ('non-taxation without inclusion').

(c) in case of differences in the treatment of a commercial presence as a permanent establishment, non-taxation of income which has its source in a jurisdiction without a corresponding inclusion for tax purposes of the same income in *another* jurisdiction ('non-taxation without inclusion').

Or. en

Amendment 233

Markus Ferber

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 31 – subparagraph 2

Text proposed by the Commission

Amendment

A hybrid mismatch only arises to the extent that the same payment deducted, expenses incurred or losses suffered in two jurisdictions exceed the amount of

deleted

income that is included in both jurisdictions and which can be attributed to the same source.

Or. de

Amendment 234
Markus Ferber

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 31 – subparagraph 3

Text proposed by the Commission

Amendment

A hybrid mismatch also includes the transfer of a financial instrument under a structured arrangement involving a taxpayer where the underlying return on the transferred financial instrument is treated for tax purposes as derived simultaneously by more than one of the parties to the arrangement, who are resident for tax purposes in different jurisdictions, giving rise to any of the following outcomes:

deleted

(a) a deduction of a payment connected with the underlying return without a corresponding inclusion for tax purposes of such payment, unless the underlying return is included in the taxable income of one the parties involved;

(b) a relief for tax withheld at source on a payment derived from the transferred financial instrument to more than one of the parties involved;

Or. de

Amendment 235
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 33 a (new)

Text proposed by the Commission

Amendment

(33a) ‘tax haven’ means a jurisdiction characterized by one or several of the following criteria:

- (a) no or only nominal taxation for non-residents;**
- (b) laws or administrative practices preventing the effective exchange of tax information with other jurisdictions;**
- (c) legal or administrative provisions preventing tax transparency or the absence of requirement of a substantial economic activity to be carried out;**
- (d) Financial systems with external assets and liabilities out of proportion to domestic financial intermediation;**
- (e) the existence of very specific and restricted tax advantages or certain administrative practices that provide selective advantages for tax planners;**

Or. en

Amendment 236
Markus Ferber

Proposal for a directive
Article 4 – paragraph 1 – subparagraph 1 – point 33 a (new)

Text proposed by the Commission

Amendment

(33a) ‘virtual permanent establishment’ means an undertaking’s significant digital presence in a Member State, with a minimum turnover of EUR 5 000 000, the objective of which is to provide digital offerings;

Or. de

Amendment 237

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1 – point 33 b (new)

Text proposed by the Commission

Amendment

(33b) 'permanent establishment' means a fixed place of business situated in a Member State through which the business of a company of another Member State is wholly or partly carried on; in the case of companies engaging in fully or partly dematerialized digital activities, a virtual permanent establishment means a taxpayer having a significant economic presence in the jurisdiction directed towards consumers or businesses in this country and based on criteria including number of digital contracts concluded with costumers in the jurisdiction, profits coming from those digital activities, volume of digital content and data collected and number of registered users and views or downloads. Attention shall also be put to whether the virtual 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. en

Amendment 238

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The Commission may adopt delegated acts in accordance with Article 66 in order to lay down definitions of more concepts.

Amendment

The Commission may adopt delegated acts in accordance with Article 66 in order to ***update current definitions or*** lay down definitions of more concepts.

Or. en

Amendment 239

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. A taxpayer shall be considered to have a permanent establishment in a Member State other than the Member State in which it is resident for tax purposes when it has a fixed place in that other Member State through which it carries on its business, wholly or partly, including in particular:

Amendment

1. A taxpayer shall be considered to have a ***permanent establishment or a virtual*** permanent establishment in a Member State other than the Member State in which it is resident for tax purposes when it has a fixed place ***or a digital presence*** in that other Member State through which it carries on its business, wholly or partly, including in particular:

Or. en

Amendment 240

Marco Valli

Proposal for a directive

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. A taxpayer shall be considered to have a permanent establishment in a Member State other than the Member State in which it is resident for tax purposes when it has a fixed place in that other Member State through which it carries on

Amendment

1. A taxpayer shall be considered to have a permanent establishment in a Member State other than the Member State in which it is resident for tax purposes when it has a fixed place ***or a digital presence*** in that other Member State

its business, wholly or partly, including in particular:

through which it carries on its business, wholly or partly, including in particular:

Or. en

Amendment 241

Fabio De Masi, Matt Carthy, Stelios Kouloglou

Proposal for a directive

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. A taxpayer shall be considered to have a permanent establishment in a Member State other than the Member State in which it is resident for tax purposes when it has a fixed place in that other Member State through which it carries on its business, wholly or partly, including in particular:

Amendment

1. A taxpayer shall be considered to have a permanent establishment in a Member State other than the Member State in which it is resident for tax purposes when it has a fixed ***or virtual*** place in that other Member State through which it carries on its business, wholly or partly, including in particular:

Or. en

Amendment 242

Alfred Sant

Proposal for a directive

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. A taxpayer shall be considered to have a permanent establishment in ***a*** Member State other than the Member State in which it is resident for tax purposes when it has a fixed place in that other Member State through which it carries on its business, wholly or partly, including in particular:

Amendment

1. A taxpayer shall be considered to have a permanent establishment in Member State other than the Member State in which it is resident for tax purposes ***when it develops a turnover in that other Member State and*** when it has a fixed place in that other Member State through which it carries on its business, wholly or partly, including in particular:

Or. en

Amendment 243

Bernd Lucke

Proposal for a directive

Article 5 – paragraph 1 – introductory part

Text proposed by the Commission

1. A taxpayer shall be considered to have a permanent establishment in a Member State other than *the Member State* in which it is resident for tax purposes when it has a fixed place in that other Member State through which it carries on its business, wholly or partly, including in particular:

Amendment

1. A taxpayer shall be considered to have a permanent establishment in a Member State other than in which it is resident for tax purposes when it has a fixed place in that other Member State through which it carries on its business, wholly or partly, including in particular:

Or. en

Amendment 244

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 5 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) a digital platform or any other digital form remotely accessible to users.

Or. en

Amendment 245

Fabio De Masi, Matt Carthy, Stelios Kouloglou

Proposal for a directive

Article 5 – paragraph 1 – point f a (new)

Text proposed by the Commission

Amendment

(fa) a virtual platform.

Or. en

Amendment 246

Paul Tang, Emmanuel Maurel, Neena Gill, Nessa Childers, Hugues Bayet, Peter Simon, Pervenche Berès

Proposal for a directive

Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. If a taxpayer resident in one jurisdiction provides access to or offers a digital platform such as an electronic application, database, online marketplace, storage room or offers search engine or advertising services on a website or in an electronic application, this taxpayer shall be deemed to have a permanent establishment in a Member State other than the jurisdiction in which it is resident for tax purposes if the total amount of revenue of the taxpayer or associated enterprise due to remote transactions generated from aforementioned digital platforms in the non-resident jurisdiction exceeds EUR 5 000 000 per year.

Furthermore, to determine a significant and sustained digital presence, the Commission shall be empowered to adopt delegated acts in accordance with Article 66 to lay down technical standards for the following digital factors:

(a) the number of registered individual users per month that are domiciled in a Member State other than the jurisdiction in which it is resident for tax purposes who logged in or visited the taxpayer's digital platform;

(b) the number of digital contracts concluded with customers or users that are domiciled in the non-resident jurisdiction in a taxable year;

(c) the volume of digital content collected by the taxpayer in a taxable year.

If on top of the revenue based factor, on

or more of the three digital factors above as defined by the Commission are applicable for a taxpayer in the relevant Member State, the taxpayer shall be deemed to have a permanent establishment in that Member State.

The tax payer shall be required to disclose the relevant information laid down in this article to the tax authorities.

Or. en

Amendment 247

Fabio De Masi, Matt Carthy

Proposal for a directive

Article 5 – paragraph 5 – point b

Text proposed by the Commission

(b) For the purposes of this Article, a person is 'closely related' to a taxpayer if one possesses, directly or indirectly, a right to exercise more than **50** % of the voting rights in the other or an ownership right amounting to more than **50** % of the other's capital or more than **50** % of the rights giving entitlement to profit.

Amendment

(b) For the purposes of this Article, a person is 'closely related' to a taxpayer if one possesses, directly or indirectly, a right to exercise more than **25** % of the voting rights in the other or an ownership right amounting to more than **25** % of the other's capital or more than **25** % of the rights giving entitlement to profit.

Or. en

Amendment 248

Marco Valli

Proposal for a directive

Article 5 – paragraph 6 a (new)

Text proposed by the Commission

Amendment

6a. Member States shall align their bilateral tax treaties to this common definition.

Or. en

Amendment 249

Markus Ferber

Proposal for a directive

Article 5 a (new)

Text proposed by the Commission

Amendment

Article 5a

Virtual permanent establishment

Article 5 shall also apply to virtual permanent establishments. A virtual permanent establishment is an undertaking's significant digital presence in a Member State, with a minimum turnover of EUR 5 000 000, the objective of which is to provide digital offerings.

Or. de

Amendment 250

Markus Ferber

Proposal for a directive

Article 5 b (new)

Text proposed by the Commission

Amendment

Article 5b

By 31 December 2018, taking particular account of ongoing work at OECD level, the Commission shall adopt a delegated act defining ‘virtual permanent establishment’ on the basis of the following criteria:

- volume of data collected and used***
- volume of digital content generated***
- number of users***
- number of digital contracts***

Or. de

Amendment 251

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 6 – paragraph 4

Text proposed by the Commission

4. The tax base shall be calculated for each tax year *unless otherwise provided*. A tax year shall be any twelve-month period, *unless otherwise provided*.

Amendment

4. The tax base shall be calculated for each tax year. A tax year shall be any twelve-month period.

Or. en

Amendment 252

Fabio De Masi, Matt Carthy

Proposal for a directive

Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) *proceeds from a disposal of shares, provided that the taxpayer has maintained a minimum holding of 10 % in the capital or 10 % of the voting rights of the company during the 12 months preceding the disposal, with the exception of proceeds resulting from a disposal of shares held for trading as referred to in Article 21(3) and of shares held by life insurance undertakings in accordance with point (b) of Article 28;*

Amendment

deleted

Or. en

Amendment 253

Esther de Lange, Gunnar Hökmark

Proposal for a directive

Article 8 – paragraph 1 – point c

Text proposed by the Commission

(c) proceeds from a disposal of shares, provided that the taxpayer has maintained a minimum holding of 10 % in the capital or 10 % of the voting rights of the company ***during the 12 months preceding the disposal***, with the exception of proceeds resulting from a disposal of shares held for trading as referred to in Article 21(3) and of shares held by life insurance undertakings in accordance with point (b) of Article 28;

Amendment

(c) proceeds from a disposal of shares, provided that the taxpayer has maintained a minimum holding of 10 % in the capital or 10 % of the voting rights of the company, with the exception of proceeds resulting from a disposal of shares held for trading as referred to in Article 21(3) and of shares held by life insurance undertakings in accordance with point (b) of Article 28;

Or. en

Amendment 254

Fabio De Masi, Matt Carthy

Proposal for a directive

Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) ***received profit distributions, provided that the taxpayer has maintained a minimum holding of 10 % in the capital or 10 % of the voting rights of the distributing company for 12 consecutive months, with the exception of profit distributions from shares held for trading as referred to in Article 21(4) and profit distributions received by life insurance undertakings in accordance with point (c) of Article 28;***

Amendment

deleted

Or. en

Amendment 255

Tom Vandenkendelaere

Proposal for a directive

Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) received profit distributions, provided that the taxpayer ***has maintained*** a minimum holding of 10 % in the capital or 10 % of the voting rights of the distributing company ***for 12 consecutive months***, with the exception of profit distributions from shares held for trading as referred to in Article 21(4) and profit distributions received by life insurance undertakings in accordance with point (c) of Article 28;

Amendment

(d) received profit distributions, provided that the taxpayer ***maintains*** a minimum holding of 10 % in the capital or 10 % of the voting rights of the distributing company, with the exception of profit distributions from shares held for trading as referred to in Article 21(4) and profit distributions received by life insurance undertakings in accordance with point (c) of Article 28;

Or. nl

Justification

On the basis of the EU Parent-Subsidiary Directive, the minimum holding period need not yet have been completed at the time of distribution of dividends, and it is preferable to adopt a similar approach.

Amendment 256
Barbara Kappel

Proposal for a directive
Article 8 – paragraph 1 – point d

Text proposed by the Commission

(d) received profit distributions, provided that the taxpayer has maintained a minimum holding of 10 % in the capital or 10 % of the voting rights of the distributing company for 12 consecutive months, with the exception of profit distributions from shares held for trading as referred to in Article 21(4) and profit distributions received by life insurance undertakings in accordance with point (c) of Article 28;

Amendment

(d) received profit distributions, provided that the taxpayer has maintained a minimum holding of 10 % in the capital or 10 % of the voting rights of the distributing company for 12 consecutive months, with the exception of profit distributions from shares held for trading as referred to in Article 21(4) and profit distributions received by life insurance undertakings in accordance with point (c) of Article 28, ***as well as national profit distributions***;

Or. de

Amendment 257
Fabio De Masi, Matt Carthy

Proposal for a directive
Article 8 – paragraph 1 – point e

Text proposed by the Commission

Amendment

(e) income of a permanent establishment received by the taxpayer in the Member State where the taxpayer is resident for tax purposes. **deleted**

Or. en

Amendment 258
Barbara Kappel

Proposal for a directive
Article 9

Text proposed by the Commission

Amendment

Article 9 **deleted**

Deductible expenses

- 1. Expenses shall be deductible only to the extent that they are incurred in the direct business interest of the taxpayer.***
- 2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, including costs for research and development and costs incurred in raising equity or debt for the purposes of the business.***
- 3. In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the***

extent that costs for research and development reach beyond EUR 20 000 000, the taxpayer may deduct 25% of the exceeding amount.

By way of derogation from the first subparagraph, the taxpayer may deduct an extra 100% of its costs for research and development up to EUR 20 000 000 where that taxpayer meets all of the following conditions:

(a) it is an unlisted enterprise with fewer than 50 employees and an annual turnover and/or annual balance sheet total that does not exceed EUR 10 000 000;

(b) it has not been registered for longer than five years. If the taxpayer is not subject to registration, the period of five years may be taken to start at the moment that the enterprise either starts, or is liable to tax for, its economic activity;

(c) it has not been formed through a merger;

(d) it does not have any associated enterprises.

4. Member States may provide for the deduction of gifts and donations to charitable bodies.

Or. de

Amendment 259
Tom Vandenkendelaere

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

1. Expenses shall be deductible only to the extent that they are incurred *in the direct business interest of the taxpayer.*

Amendment

1. Expenses shall be deductible only to the extent that they *relate to the activity of the undertaking as determined by its articles of association and* are incurred *or*

borne by the taxpayer during the taxable period for the purpose of acquiring or retaining taxable income and on condition that the authenticity and amount of the expenses are demonstrated by supporting documents or, where this is not possible, by any other evidence admissible under general law, other than by oath. Expenses shall be regarded as having been incurred or borne during the taxable period which were genuinely incurred or borne or which acquired the status of proven and established debts or losses and were accounted for as such.

Or. nl

Justification

The general formulations proposed by the Commission will lead to a huge number of cases before the European Court of Justice, and will make it necessary to ensure the uniform application of this article in the whole of the European Union. In my view, the German tax authorities will take a different attitude to their Belgian or French counterparts. The insertion comes from Belgian legislation (Article 49 of the Income Tax Code 1992).

Amendment 260 **Markus Ferber**

Proposal for a directive **Article 9 – paragraph 2**

Text proposed by the Commission

2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, *including costs for research and development and costs incurred in raising equity or debt for the purposes of the business.*

Amendment

2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income.

Or. de

Amendment 261
Esther de Lange, Brian Hayes, Gunnar Hökmark

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, including costs for research and development and costs incurred in raising equity or debt for the purposes of the business.

Amendment

2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, including costs for research and development - ***in accordance with the OECD's Modified Nexus Approach for IP regimes*** - and costs incurred in raising equity or debt for the purposes of the business.

Or. en

Amendment 262
Marco Valli

Proposal for a directive
Article 9 – paragraph 2

Text proposed by the Commission

2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, including costs for research and development and costs incurred in raising equity or debt for the purposes of the business.

Amendment

2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, including costs for research and development, ***provided that are strictly limited to the actual costs of inputs for genuine R&D expenditures***, and costs incurred in raising equity or debt for the purposes of the business.

Or. en

Amendment 263

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 2

Text proposed by the Commission

2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, including *costs* for research and development and costs incurred in raising equity or debt for the purposes of the business.

Amendment

2. The expenses referred to in paragraph 1 shall include all costs of sales and all expenses, net of deductible value added tax, that the taxpayer incurred with a view to obtaining or securing income, including *genuine expenses* for research and development and *under the conditions of Article 13*, costs incurred in raising equity or debt for the purposes of the business.

Or. en

Amendment 264

Paul Tang, Neena Gill, Emmanuel Maurel, Nessa Childers, Hugues Bayet, Peter Simon

Proposal for a directive

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *The costs for research and development referred to in paragraph 2 shall include only expenses on staff, subcontractors, agency workers and freelancers.*

Or. en

Amendment 265

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *By way of derogation to paragraph 2, expenses for research and development shall not be deductible as far as they concern financial undertakings as defined in Article 3(29).*

Or. en

Amendment 266

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. *Recurring costs relating to environmental protection and reduction of carbon emissions may also be regarded as deductible expenses.*

Or. en

Amendment 267

Esther de Lange, Brian Hayes, Gunnar Hökmark

Proposal for a directive

Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. *In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the extent that costs for research and development reach beyond EUR 20 000* **deleted**

000, the taxpayer may deduct 25% of the exceeding amount.

By way of derogation from the first subparagraph, the taxpayer may deduct an extra 100% of its costs for research and development up to EUR 20 000 000 where that taxpayer meets all of the following conditions:

- (a) it is an unlisted enterprise with fewer than 50 employees and an annual turnover and/or annual balance sheet total that does not exceed EUR 10 000 000;*
- (b) it has not been registered for longer than five years. If the taxpayer is not subject to registration, the period of five years may be taken to start at the moment that the enterprise either starts, or is liable to tax for, its economic activity;*
- (c) it has not been formed through a merger;*
- (d) it does not have any associated enterprises.*

Or. en

Amendment 268

Marco Valli

Proposal for a directive

Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the extent that costs for research and development reach beyond EUR 20 000

deleted

000, the taxpayer may deduct 25% of the exceeding amount.

By way of derogation from the first subparagraph, the taxpayer may deduct an extra 100% of its costs for research and development up to EUR 20 000 000 where that taxpayer meets all of the following conditions:

- (a) it is an unlisted enterprise with fewer than 50 employees and an annual turnover and/or annual balance sheet total that does not exceed EUR 10 000 000;*
- (b) it has not been registered for longer than five years. If the taxpayer is not subject to registration, the period of five years may be taken to start at the moment that the enterprise either starts, or is liable to tax for, its economic activity;*
- (c) it has not been formed through a merger;*
- (d) it does not have any associated enterprises.*

Or. en

Amendment 269
Bernd Lucke

Proposal for a directive
Article 9 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the extent that costs for research and development reach beyond EUR 20 000

deleted

000, the taxpayer may deduct 25% of the exceeding amount.

Or. en

Amendment 270

Fabio De Masi

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the extent that costs for research and development reach beyond EUR 20 000 000, the taxpayer may deduct 25% of the exceeding amount.

deleted

Or. en

Amendment 271

Markus Ferber

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 1

Text proposed by the Commission

Amendment

In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the extent that costs for research and

For research and development costs not exceeding EUR 20 000 000, the taxpayer shall receive a tax credit of 10% of the costs incurred.

development reach beyond EUR 20 000 000, the taxpayer may deduct 25% of the exceeding amount.

Or. de

Amendment 272

Fabio De Masi, Matt Carthy

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 1

Text proposed by the Commission

In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra **50%** of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the extent that costs for research and development reach beyond EUR 20 000 000, the taxpayer may deduct **25%** of the exceeding amount.

Amendment

In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra **10%** of such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the extent that costs for research and development reach beyond EUR 20 000 000, the taxpayer may deduct **5%** of the exceeding amount.

Or. en

Amendment 273

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 1

Text proposed by the Commission

In addition to the amounts which are deductible as costs for research and development in accordance with **paragraph 2**, the taxpayer may **also** deduct, **per tax year**, an extra 50% of **such costs, with the exception of the cost related to movable tangible fixed assets, that it incurred during that year. To the**

Amendment

In addition to the amounts which are deductible as costs for research and development in accordance with **paragraphs 2 and 2a**, the taxpayer may deduct an extra 50% of **its** costs for research and development **up to EUR 10 000 000 where that taxpayer meets all of the following conditions:**

extent that costs for research and development *reach beyond EUR 20 000 000, the taxpayer may deduct 25% of the exceeding amount.*

(a) it is an unlisted enterprise with fewer than 250 employees and an annual turnover and/or annual balance sheet total that does not exceed EUR 40 000000;

(b) it has not been formed through a merger;

(c) it does not have any associated enterprises.

Or. en

Amendment 274

Paul Tang, Neena Gill, Emmanuel Maurel, Nessa Childers

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 1

Text proposed by the Commission

In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, *with the exception of the cost related to movable tangible fixed assets*, that it incurred during that year. To the extent that costs for research and development reach beyond EUR 20 000 000, the taxpayer may deduct 25% of the exceeding amount.

Amendment

In addition to the amounts which are deductible as costs for research and development in accordance with paragraph 2, the taxpayer may also deduct, per tax year, an extra 50% of such costs, that it incurred during that year. To the extent that costs for research and development reach beyond EUR 20 000 000, the taxpayer may deduct 25% of the exceeding amount.

Or. en

Amendment 275

Markus Ferber

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

By way of derogation from the first subparagraph, the taxpayer may deduct an extra 100% of its costs for research and development up to EUR 20 000 000 where that taxpayer meets all of the following conditions:

deleted

(a) it is an unlisted enterprise with fewer than 50 employees and an annual turnover and/or annual balance sheet total that does not exceed EUR 10 000 000;

(b) it has not been registered for longer than five years. If the taxpayer is not subject to registration, the period of five years may be taken to start at the moment that the enterprise either starts, or is liable to tax for, its economic activity;

(c) it has not been formed through a merger;

(d) it does not have any associated enterprises.

Or. de

Amendment 276

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

By way of derogation from the first subparagraph, the taxpayer may deduct an extra 100% of its costs for research and development up to EUR 20 000 000 where that taxpayer meets all of the following conditions:

deleted

(a) it is an unlisted enterprise with fewer than 50 employees and an annual

turnover and/or annual balance sheet total that does not exceed EUR 10 000 000;

(b) it has not been registered for longer than five years. If the taxpayer is not subject to registration, the period of five years may be taken to start at the moment that the enterprise either starts, or is liable to tax for, its economic activity;

(c) it has not been formed through a merger;

(d) it does not have any associated enterprises.

Or. en

Amendment 277

Fabio De Masi

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2

Text proposed by the Commission

Amendment

By way of derogation from the first subparagraph, the taxpayer may deduct an extra 100% of its costs for research and development up to EUR 20 000 000 where that taxpayer meets all of the following conditions:

deleted

(a) it is an unlisted enterprise with fewer than 50 employees and an annual turnover and/or annual balance sheet total that does not exceed EUR 10 000 000;

(b) it has not been registered for longer than five years. If the taxpayer is not subject to registration, the period of five years may be taken to start at the moment that the enterprise either starts, or is liable to tax for, its economic activity;

(c) it has not been formed through a

merger;

(d) it does not have any associated enterprises.

Or. en

Amendment 278

Fabio De Masi, Matt Carthy

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2 – introductory part

Text proposed by the Commission

By way of derogation from the first subparagraph, the taxpayer may deduct an extra **100%** of its costs for research and development up to EUR **20 000 000** where that taxpayer meets all of the following conditions:

Amendment

By way of derogation from the first subparagraph, the taxpayer may deduct an extra **50%** of its costs for research and development up to EUR **10 000 000** where that taxpayer meets all of the following conditions:

Or. en

Amendment 279

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 9 – paragraph 3 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Member States shall not grant additional R&D tax incentives to taxpayers on the outputs of their R&D processes.

Or. en

Amendment 280

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive
Article 9 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. Member States shall put in place national innovation action plans with the aim of effectively stimulating research and development investments, including by granting public subsidies or guaranteed state loans. Member States shall transmit every year their action plans to the European Commission which shall review them and make recommendations, in particular with a view to avoid abuses of national R&D incentives.

Or. en

Amendment 281
Marco Valli

Proposal for a directive
Article 9 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States may provide for the deduction of gifts and donations to charitable bodies.

deleted

Or. en

Amendment 282
Tom Vandenkendelaere

Proposal for a directive
Article 9 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. Member States may accord favourable treatment to environmentally sound and electric cars by means of

specific tax incentives.

Or. nl

Amendment 283
Ramón Jáuregui Atondo, Jonás Fernández

Proposal for a directive
Article 11

Text proposed by the Commission

Amendment

[...]

deleted

Or. es

Amendment 284
Markus Ferber

Proposal for a directive
Article 11

Text proposed by the Commission

Amendment

[...]

deleted

Or. de

Justification

Equity financing should be made more attractive than debt financing by applying the interest limitation rule.

Amendment 285
Fabio De Masi, Matt Carthy

Proposal for a directive
Article 11

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 286

Marco Valli

Proposal for a directive

Article 11

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 287

Esther de Lange, Brian Hayes, Gunnar Hökmark

Proposal for a directive

Article 11

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 288

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 11

Text proposed by the Commission

Amendment

[...]

deleted

Amendment 289

Barbara Kappel

Proposal for a directive
Article 11 – paragraph 1

Text proposed by the Commission

1. For the purposes of this Article, 'AGI equity base' means, *in a given tax year, the difference between the equity of a taxpayer and the tax value of its participation in the capital of associated enterprises as referred to in Article 56.*

Amendment

1. For the purposes of this Article, 'AGI equity base' means *the equity difference.*

Or. de

Amendment 290
Tom Vandenkendelaere

Proposal for a directive
Article 11 – paragraph 2 – point a

Text proposed by the Commission

(a) 'capital and reserves', as described in letter A., under 'Capital, reserves and liabilities' in Annex III to Directive 2013/34/EU of the European Parliament and of the Council²⁴;

Amendment

(a) 'capital and reserves', as described in letter A., under 'Capital, reserves and liabilities' in Annex III to Directive 2013/34/EU of the European Parliament and of the Council²⁴, *with the exception of the revaluation reserves referred to under III.*;

²⁴ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

²⁴ Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182, 29.6.2013, p. 19).

Or. nl

Amendment 291
Tom Vandenkendelaere

Proposal for a directive
Article 11 – paragraph 2 – point b

Text proposed by the Commission

(b) 'capital and reserves', as described in letter L. in Annex IV to Directive 2013/34/EU;

Amendment

(b) 'capital and reserves', as described in letter L. in Annex IV to Directive 2013/34/EU, ***with the exception of the revaluation reserves referred to under III.***;

Or. nl

Amendment 292
Tom Vandenkendelaere

Proposal for a directive
Article 11 – paragraph 2 – point c

Text proposed by the Commission

(c) 'equity', as defined in the International Financial Reporting Standards which are adopted and used in the Union pursuant to Regulation (EC) No 1606/2002 of the European Parliament and of the Council²⁵.

Amendment

(c) 'equity', as defined in the International Financial Reporting Standards which are adopted and used in the Union pursuant to Regulation (EC) No 1606/2002 of the European Parliament and of the Council²⁵, ***with the exception of revaluation reserves.***

²⁵ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

²⁵ Regulation (EC) No 1606/2002 of the European Parliament and of the Council of 19 July 2002 on the application of international accounting standards (OJ L 243, 11.9.2002, p. 1).

Or. nl

Justification

It is not desirable to include revaluation reserves. That could lend itself to fraud.

Amendment 293
Tom Vandenkendelaere

Proposal for a directive
Article 11 – paragraph 3

Text proposed by the Commission

3. An amount equal to the defined yield on the AGI equity base increases shall be deductible from the taxable base of a taxpayer according to paragraphs 1 to 6.

If there is an AGI equity base decrease, an amount equal to the defined yield on the AGI equity base decrease shall become taxable.

Amendment

3. An amount equal to the defined yield on the AGI equity base increases shall be deductible from the taxable base of a taxpayer according to paragraphs 1 to 6.

Or. nl

Justification

This makes the AGI 'pro-cyclical'. Businesses are rewarded for investing their own capital in good times, but punished when they have to use their reserves to tide them over when the business cycle is adverse.

Amendment 294
Tom Vandenkendelaere

Proposal for a directive
Article 11 – paragraph 4

Text proposed by the Commission

4. AGI equity base increases ***or decreases*** shall be calculated, for the first ten tax years that a taxpayer is subject to the rules of this Directive, as the difference between its AGI equity base at the end of the relevant tax year and its AGI equity base on the first day of the first tax year under the rules of this Directive. After the first ten tax years, the reference to the amount of AGI equity base that shall be deductible against the AGI equity base at the end of the relevant tax year shall annually be moved forward by one tax

Amendment

4. AGI equity base increases shall be calculated, for the first ten tax years that a taxpayer is subject to the rules of this Directive, as the difference between its AGI equity base at the end of the relevant tax year and its AGI equity base on the first day of the first tax year under the rules of this Directive. After the first ten tax years, the reference to the amount of AGI equity base that shall be deductible against the AGI equity base at the end of the relevant tax year shall annually be moved forward by one tax year.

year.

Or. nl

Amendment 295
Udo Bullmann, Pervenche Berès

Proposal for a directive
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

Sustainability Allowance

- 1. Taxpayers to which the provisions of this directive are applicable shall have the right to request a sustainability allowance rewarding the taxpayer's efforts to achieve greater efficiency regarding the use of energy and drinking water.***
- 2. To this end, the allowance shall be proportional to the progress of the taxpayer in reducing the consumption of electricity, fossil fuels and drinking water in its economic activities.***
- 3. The establishment of the amount of the allowance shall:***
 - (a) be established based on a computation of the difference, in percentage points, between the total amount of cumulated volumes of electricity, fossil fuels, and water consumed during a financial year and the total amount of the same cumulated volumes during the previous financial year. This computation is to be provided individually for each of the member states in which the taxpayer is resident for tax purposes. The amounts of the consumed volumes of electricity, fossil fuels, and drinking water shall correspond to the volumes stated in the original invoice of the suppliers with whom the taxpayer has contractually agreed the supply of these***

resources.

(b) take account of changes of the volumes of consumed energy and natural resources stemming from variations in the economic activity of the taxpayer. To this end, the changes in the volumes of energy and water established in accordance with the first subparagraph shall be adjusted to the difference between the national apportionment shares established in accordance with the apportionment formula laid down in directive 2016/xxx/EU [Common Consolidated Corporate Tax Base] for the same period. That difference shall be stated in percentage points for each member state and be subtracted from, in case of a negative value of the difference, or added to, in case of a positive value of the difference, the changes of the volumes of consumed energy and natural resources as stated in percentage points for the same period and member state.

(c) if the value defined in accordance with the first two subparagraphs is a positive value, be, for each Member State and the respective financial year, equal to 0.1% of the tax base for each full percentage point established in accordance with the first two subparagraphs. The total amount of the allowance shall not exceed EUR 20 000 000.

4. Taxpayers whose primary economic activity is the generation, processing, and provision of electricity, fossil fuels, and drinking water shall not have the right to benefit from the sustainability allowance. In cases where the generation, processing, and provision of electricity, fossil fuels, and drinking water is the primary economic activity of certain divisions of an undertaking, the taxpayer shall not have the right to request the consideration of these divisions in the establishment of its sustainability allowance.

Amendment 296

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 12 – paragraph 1 – point b

Text proposed by the Commission

(b) 50 % of entertainment costs, up to an amount that does not exceed [x] % of revenues in the tax year;

Amendment

(b) 50 % of ***ordinary and necessary*** entertainment costs ***directly related or associated with the business of the taxpayer***, up to an amount that does not exceed [x] % of revenues in the tax year;

Or. en

Amendment 297

Luigi Morgano, Pervenche Berès

Proposal for a directive

Article 12 – paragraph 1 – point c

Text proposed by the Commission

(c) the transfer of retained earnings to a reserve that forms part of the equity of the company;

Amendment

(c) the transfer of retained earnings to a reserve that forms part of the equity of the company, ***except for the earnings retained to a reserve by cooperative enterprises and cooperative consortia, both during the current activity of the company and after its expiration, in accordance with national tax rules;***

Or. en

Justification

In the spirit of encouraging the widest possible adoption of the CCCTB system, the specific nature of cooperative enterprises and consortia, as far as the implementation of the new Directive is concerned, should be acknowledged, including the specific tax treatment they enjoy.

Amendment 298
Herbert Dorfmann

Proposal for a directive
Article 12 – paragraph 1 – point c

Text proposed by the Commission

(c) the transfer of retained earnings to a reserve that forms part of the equity of the company;

Amendment

(c) the transfer of retained earnings to a reserve that forms part of the equity of the company, *except for the earnings retained to a reserve by cooperatives enterprises and consortia both during the current activity of the company and after its expiration;*

Or. en

Amendment 299
Barbara Kappel

Proposal for a directive
Article 13

Text proposed by the Commission

[...]

Amendment

deleted

Or. de

Amendment 300
Markus Ferber

Proposal for a directive
Article 13

Text proposed by the Commission

[...]

Amendment

deleted

Or. de

Justification

Article 4 of Directive 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market already contains provisions limiting the deductibility of interest payments.

Amendment 301

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive

Article 13 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of **30** % of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount of EUR **3 000 000**, whichever is higher.

Amendment

Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of **10** % of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount of EUR **1 000 000**, whichever is higher.

Or. en

Amendment 302

Marco Valli

Proposal for a directive

Article 13 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of **30** % of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount of EUR **3 000 000**, whichever is higher.

Amendment

Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of **10** % of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount of EUR **1 000 000**, whichever is higher.

Or. en

Amendment 303
Ramón Jáuregui Atondo, Jonás Fernández

Proposal for a directive
Article 13 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of **30 %** of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount of EUR 3 000 000, whichever is higher.

Amendment

Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of **10%** of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount of EUR 3 000 000, whichever is higher, ***with a get-out clause based on the rates of interest the group pays to third parties.***

Or. es

Amendment 304
Fabio De Masi, Matt Carthy

Proposal for a directive
Article 13 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of **30 %** of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount ***of EUR 3 000 000, whichever is higher.***

Amendment

Exceeding borrowing costs shall be deductible in the tax year in which they are incurred for maximum of **10 %** of the taxpayer's earnings before interest, tax, depreciation and amortisation ('EBITDA') or for a maximum amount ***defined by the thin capitalization rules.***

Or. en

Amendment 305
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 2 – subparagraph 2

Text proposed by the Commission

For the purposes of this Article, where a taxpayer is permitted or required to act on behalf of a group, as defined in the rules of a national group taxation system, the entire group shall be treated as a taxpayer. In those circumstances, exceeding borrowing costs and the EBITDA shall be calculated for the entire group. The amount of EUR **3 000 000** shall also be considered for the entire group.

Amendment

For the purposes of this Article, where a taxpayer is permitted or required to act on behalf of a group, as defined in the rules of a national group taxation system, the entire group shall be treated as a taxpayer. In those circumstances, exceeding borrowing costs and the EBITDA shall be calculated for the entire group. The amount of EUR **1 000 000** shall also be considered for the entire group.

Or. en

Amendment 306

Marco Valli

Proposal for a directive

Article 13 – paragraph 2 – subparagraph 2

Text proposed by the Commission

For the purposes of this Article, where a taxpayer is permitted or required to act on behalf of a group, as defined in the rules of a national group taxation system, the entire group shall be treated as a taxpayer. In those circumstances, exceeding borrowing costs and the EBITDA shall be calculated for the entire group. The amount of EUR **3 000 000** shall also be considered for the entire group.

Amendment

For the purposes of this Article, where a taxpayer is permitted or required to act on behalf of a group, as defined in the rules of a national group taxation system, the entire group shall be treated as a taxpayer. In those circumstances, exceeding borrowing costs and the EBITDA shall be calculated for the entire group. The amount of EUR **1 000 000** shall also be considered for the entire group.

Or. en

Amendment 307

Fabio De Masi, Matt Carthy

Proposal for a directive

Article 13 – paragraph 2 – subparagraph 2

Text proposed by the Commission

For the purposes of this Article, where a taxpayer is permitted or required to act on behalf of a group, as defined in the rules of a national group taxation system, the entire group shall be treated as a taxpayer. In those circumstances, exceeding borrowing costs and the EBITDA shall be calculated for the entire group. The amount *of EUR 3 000 000* shall also be considered for the entire group.

Amendment

For the purposes of this Article, where a taxpayer is permitted or required to act on behalf of a group, as defined in the rules of a national group taxation system, the entire group shall be treated as a taxpayer. In those circumstances, exceeding borrowing costs and the EBITDA shall be calculated for the entire group. The amount *defined by the thin capitalization rules* shall also be considered for the entire group.

Or. en

Amendment 308

Fabio De Masi, Matt Carthy

**Proposal for a directive
Article 13 – paragraph 4**

Text proposed by the Commission

4. By way of derogation from paragraph 2, a taxpayer who qualifies as a standalone company shall be entitled to fully deduct its exceeding borrowing costs. A standalone company means a taxpayer who is not part of a consolidated group for financial accounting purposes and has no associated enterprises or permanent establishments.

Amendment

deleted

Or. en

Amendment 309

Eva Joly

on behalf of the Verts/ALE Group

**Proposal for a directive
Article 13 – paragraph 6**

Text proposed by the Commission

6. Exceeding borrowing costs that cannot be deducted in a given tax year shall be carried forward ***without time limitation***.

Amendment

6. Exceeding borrowing costs that cannot be deducted in a given tax year shall be carried forward ***for a maximum period of two years***.

Or. en

Amendment 310

Fabio De Masi, Matt Carthy, Stelios Kouloglou

Proposal for a directive

Article 13 – paragraph 6

Text proposed by the Commission

6. Exceeding borrowing costs that cannot be deducted in a given tax year shall be carried forward ***without time limitation***.

Amendment

6. Exceeding borrowing costs that cannot be deducted in a given tax year shall be carried forward ***for a maximum of five years***.

Or. en

Amendment 311

Marco Valli

Proposal for a directive

Article 13 – paragraph 7

Text proposed by the Commission

7. ***Paragraphs 1 to 6 shall not apply to financial undertakings, including those that are part of a consolidated group for financial accounting purposes.***

Amendment

deleted

Or. en

Amendment 312

Eva Joly

on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 7

Text proposed by the Commission

Amendment

7. Paragraphs 1 to 6 shall not apply to financial undertakings, including those that are part of a consolidated group for financial accounting purposes.

deleted

Or. en

Amendment 313
Fabio De Masi, Matt Carthy, Stelios Kouloglou

Proposal for a directive
Article 13 – paragraph 7

Text proposed by the Commission

Amendment

7. Paragraphs 1 to 6 shall not apply to financial undertakings, including those that are part of a consolidated group for financial accounting purposes.

7. Paragraphs 1 to 6 shall not apply to financial undertakings, including those that are part of a consolidated group for financial accounting purposes *for a duration of five years starting on the date of entry into force of this directive.*

Or. en

Amendment 314
Eva Joly
on behalf of the Verts/ALE Group

Proposal for a directive
Article 13 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. Five years after the implementation date of this Directive, Member States shall no longer apply paragraphs 2 to X (currently 2, 3 and 6).

Or. en

Amendment 315
Fabio De Masi, Matt Carthy

Proposal for a directive
Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Royalties limitation rule

1. Royalty costs shall be fully deductible in the tax year in which they are incurred if the corresponding income with the recipient of the royalty or licence fee payments by the taxpayer is subject to an effective tax rate at least as high than the effective tax rate that would have applied for the taxpayer in case of non-deductibility. The deductibility of royalty costs shall be limited in time to three years so as to consider the contribution to the global brand value of the different entities in the group.

2. Royalty costs for which the corresponding income with the recipient of the royalty and licence fee payments is, at its final destination, subject to an effective tax rate lower than the effective tax rate that would apply for the taxpayer in case of non-deductibility shall only be deductible proportionally to the difference in effective tax rates. For the purpose of this paragraph, "proportional" means that for x% difference between the effective tax rates applicable for the taxpayer and the final recipient of the royalty income, a share of x% of the royalty costs are deductible for the taxpayer.

Or. en

Amendment 316
Luigi Morgano, Pervenche Berès

Proposal for a directive
Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. By way of an exception, the benefits granted by cooperative enterprises and cooperative consortia to their own members shall be treated as deductible expenses, in accordance with national tax rules.

Or. en

Justification

In the spirit of encouraging the widest possible adoption of the CCCTB system, the specific nature of cooperative enterprises and consortia, as far as the implementation of the new Directive is concerned, should be acknowledged, including the specific tax treatment they enjoy.

Amendment 317
Herbert Dorfmann

Proposal for a directive
Article 14 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. The benefits granted by cooperatives enterprises and consortia to their own members are in any case deductible.

Or. en

Amendment 318
Herbert Dorfmann

Proposal for a directive
Article 14 a (new)

Text proposed by the Commission

Amendment

Article 14a

Specific exemptions

The earnings retained to a reserve by cooperatives and consortia, both during the current activity of the company and after its expiration, as well as the benefits granted by cooperatives and consortia to their own members are in any case deductible whenever the deductibility is allowed by fiscal national legislations.

Or. en

Amendment 319

Barbara Kappel

Proposal for a directive

Article 19 – paragraph 2

Text proposed by the Commission

2. The costs of stocks and work-in-progress shall be measured consistently ***by using the first-in first-out method, last-in first-out method or the weighted-average cost method.***

Amendment

2. The costs of stocks and work-in-progress shall be measured consistently ***in accordance with the respective national rules.***

Or. de

Amendment 320

Barbara Kappel

Proposal for a directive

Article 19 – paragraph 3

Text proposed by the Commission

3. The cost of stocks and work-in-progress involving items that ordinarily are not interchangeable and goods or services which are produced or supplied respectively and segregated for specific

Amendment

3. The cost of stocks and work-in-progress involving items that ordinarily are not interchangeable and goods or services which are produced or supplied respectively and segregated for specific

projects shall be measured *individually*.

projects shall be measured *in accordance with the respective national rules*.

Or. de

Amendment 321

Barbara Kappel

Proposal for a directive

Article 20 – paragraph 1 – point b

Text proposed by the Commission

Amendment

(b) the market value, where the consideration for the transaction is wholly or partly non-monetary;

deleted

Or. de

Amendment 322

Markus Ferber

Proposal for a directive

Article 22

Text proposed by the Commission

Amendment

Article 22

deleted

Long-term contracts

1. A long-term contract is one which complies with all of the following conditions:

(a) it is concluded for the purpose of manufacturing, installing or constructing, or for performing services;

(b) its term exceeds, or is expected to exceed, 12 months.

2. By way of derogation from Article 16, revenues relating to a long-term contract shall be considered to have been accrued for the amount that corresponds to the part of the long-term contract that has been completed in the relevant tax

year. The percentage of completion of the long-term contract shall be determined by reference to the ratio of costs of that year to the overall estimated costs.

3. Costs relating to long-term contracts shall be deductible in the tax year in which they are incurred.

Or. de

Justification

In view of the particular complexity and riskiness of long-term contracts, revenue accrual based on degree of contract completion is not appropriate. Instead, earnings should accrue under Article 16 in the year in which the contribution in kind is made.

**Amendment 323
Markus Ferber**

**Proposal for a directive
Article 23 – paragraph 2 – point b**

Text proposed by the Commission

(b) if the term of the provision is 12 months or longer and there is no agreed discount rate, the provision shall be discounted at ***the yearly average of the Euro Interbank Offered Rate (Euribor) for obligations with a maturity of 12 months, as published by the European Central Bank, in the calendar year in the course of which the tax year ends;***

Amendment

(b) if the term of the provision is 12 months or longer and there is no agreed discount rate, the provision shall be discounted at a ***rate of 5.5%;***

Or. de

Justification

The current Euribor is, as a discount rate, far too low. At present it is negative, meaning that, if it were applied, the provision would even be greater than the underlying liability. The discount rate must be adjusted upwards accordingly.

Amendment 324
Barbara Kappel

Proposal for a directive
Article 23 – paragraph 3

Text proposed by the Commission

Amendment

- 3. Provisions shall not be deducted for the following:** *deleted*
- (a) contingent losses;**
 - (b) future cost increases.**

Or. de

Amendment 325
Barbara Kappel

Proposal for a directive
Article 25 – paragraph 2

Text proposed by the Commission

Amendment

- 2. In determining whether all reasonable steps to pursue payment have been made, the elements listed in points (a) to (e) shall be taken into account, provided that they are based on objective evidence:** *deleted*
- (a) whether the costs of collection are disproportionate to the debt;**
 - (b) whether there is any prospect of successful collection;**
 - (c) whether it is reasonable, in the circumstances, to expect the taxpayer to pursue collection;**
 - (d) the time that has elapsed following the date of maturity of the obligation;**
 - (e) whether the debtor has been declared insolvent or legal action has been initiated or a debt collector has been engaged.**

Or. de

Amendment 326
Markus Ferber

Proposal for a directive
Article 29

Text proposed by the Commission

Amendment

Article 29

deleted

Exit taxation

1. An amount equal to the market value of transferred assets, at the time of exit of the assets, less their value for tax purposes, shall be treated as accrued revenues in any of the following circumstances:

(a) where a taxpayer transfers assets from its head office to its permanent establishment in another Member State or in a third country;

(b) where a taxpayer transfers assets from its permanent establishment in a Member State to its head office or another permanent establishment in another Member State or in a third country, to the extent that, due to the transfer, the Member State of the permanent establishment no longer has the right to tax the transferred assets;

(c) where a taxpayer transfers its tax residence to another Member State or to a third country, except for those assets which remain effectively connected with a permanent establishment in the first Member State;

(d) where a taxpayer transfers the business carried on by its permanent establishment from a Member State to another Member State or to a third country, to the extent that, due to the transfer, the Member State of the permanent establishment no longer has the right to tax the transferred assets.

2. The Member State to where the

assets, tax residence or the business carried on by a permanent establishment are transferred shall accept the value established by the Member State of the taxpayer or of the permanent establishment as the starting value of the assets for tax purposes.

3. This Article shall not apply to asset transfers related to the financing of securities, assets posted as collateral or where the asset transfer takes place in order to meet prudential capital requirements or for the purpose of liquidity management where those assets are set to revert to the Member State of the transferor within a period of 12 months.

Or. de

Justification

Article 5 of Directive 2016/1164 laying down rules against tax avoidance practices that directly affect the functioning of the internal market already contains provisions on the transfer of assets and on exit taxation.

Amendment 327
Barbara Kappel

Proposal for a directive
Article 29

Text proposed by the Commission

Amendment

Article 29

deleted

Exit taxation

1. An amount equal to the market value of transferred assets, at the time of exit of the assets, less their value for tax purposes, shall be treated as accrued revenues in any of the following circumstances:

(a) where a taxpayer transfers assets from its head office to its permanent establishment in another Member State or

in a third country;

(b) where a taxpayer transfers assets from its permanent establishment in a Member State to its head office or another permanent establishment in another Member State or in a third country, to the extent that, due to the transfer, the Member State of the permanent establishment no longer has the right to tax the transferred assets;

(c) where a taxpayer transfers its tax residence to another Member State or to a third country, except for those assets which remain effectively connected with a permanent establishment in the first Member State;

(d) where a taxpayer transfers the business carried on by its permanent establishment from a Member State to another Member State or to a third country, to the extent that, due to the transfer, the Member State of the permanent establishment no longer has the right to tax the transferred assets.

2. The Member State to where the assets, tax residence or the business carried on by a permanent establishment are transferred shall accept the value established by the Member State of the taxpayer or of the permanent establishment as the starting value of the assets for tax purposes.

3. This Article shall not apply to asset transfers related to the financing of securities, assets posted as collateral or where the asset transfer takes place in order to meet prudential capital requirements or for the purpose of liquidity management where those assets are set to revert to the Member State of the transferor within a period of 12 months.

Or. de

Amendment 328
Barbara Kappel

Proposal for a directive
Article 33

Text proposed by the Commission

Amendment

Article 33

deleted

Individually depreciable assets

1. Without prejudice to paragraph 2 and Articles 37 and 38, fixed assets shall be depreciated individually over their useful lives on a straight-line basis. The useful life of a fixed asset shall be determined as follows:

(a) commercial, office and other buildings, as well as any other type of immovable property in use for the business, with the exception of industrial buildings and structures: 40 years;

(b) industrial buildings and structures: 25 years;

(c) long-life fixed tangible assets, other than the assets referred to in points (a) and (b): 15 years;

(d) medium-life fixed tangible assets: 8 years;

(e) fixed intangible assets: the period for which the asset enjoys legal protection or for which the right has been granted or, where that period cannot be determined, 15 years.

2. Second-hand buildings and other types of immovable property, second-hand long-life fixed tangible assets, second-hand medium-life fixed tangible assets and second-hand fixed intangible assets shall be depreciated in accordance with the following rules:

(a) second-hand commercial, office or other buildings, as well as any other type of immovable property in use for the business, with the exception of industrial buildings and structures: 40 years, unless

the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 40 years, in which case it shall be depreciated over that shorter period;

(b) second-hand industrial buildings and structures: 25 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 25 years, in which case it shall be depreciated over that shorter period;

(c) second-hand long-life fixed tangible assets, other than the assets referred to in points (a) and (b): 15 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 15 years, in which case it shall be depreciated over that shorter period;

(d) second-hand medium-life fixed tangible assets: 8 years, unless the taxpayer demonstrates that the estimated remaining useful life of the asset is shorter than 8 years, in which case it shall be depreciated over that shorter period;

(e) second-hand fixed intangible assets: 15 years, unless the remaining period for which the asset enjoys legal protection or for which the right has been granted can be determined, in which case it shall be depreciated over that period.

Or. de