



**2016/0336(CNS)**

29.9.2017

# **AMENDMENTS**

## **31 - 301**

**Draft report**

**Alain Lamassoure**

(PE608.035v01-00)

Common Consolidated Corporate Tax Base (CCCTB)

Proposal for a directive

(COM(2016)0683 – C8-0471/2016 – 2016/0336(CNS))



**Amendment 31**  
**Sander Loones**

**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. In addition to the harmful effect of the loss of fiscal autonomy inherent in the harmonisation of the corporate tax base, the consolidation and redistribution of taxable profits by the proposed distribution key will disadvantage small, modern economies.*

**Amendment 32**  
**Barbara Kappel**

**Proposal for a directive**

—

*Proposal for a rejection*

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

Or. en

**Amendment 33**  
**Esther de Lange, Gunnar Hökmark, Brian Hayes**

**Proposal for a directive**

—

*Proposal for a rejection*

***The European Parliament rejects the***

*Commission proposal.*

Or. en

**Amendment 34**  
**Beatrix von Storch**

**Proposal for a directive**

–

*Proposal for a rejection*

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

Or. en

**Amendment 35**  
**Ramón Jáuregui Atondo, Jonás Fernández**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

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

*Amendment*

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more 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. ***Finally, the mainstream digitalisation of many sectors of the economy coupled to the fast developing digital economy, based on transactions making intensive use of intangible assets that are sometimes very difficult to value and compare with other assets, questions the consistence of the Union corporate tax models designed for***

*brick and mortar industries, to the extent that valuation and calculation criteria may be re-invented to fit 21st century commercial activities.* 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. es

**Amendment 36**  
**Bernard Monot**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

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

*Amendment*

(1) Companies which seek to do business across frontiers *have put in place* tax planning structures *which* 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.

Or. fr

## *Justification*

*The aim of the Commission's proposal for a directive is to combat aggressive tax optimisation (which de facto, if not de jure, constitutes tax evasion) and not to establish the principle for starting to harmonise Member States' tax systems. The recital should not therefore seek to mix these two objectives, which are entirely independent of one another.*

### **Amendment 37**

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

#### *Amendment*

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more 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 ***and create distortion between large companies and small and medium enterprises***. Action to rectify these problems should therefore address both these types of market deficiencies. ***If this proposal does not result in an agreement eliminating the distortion in question, the European 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***

**Amendment 38**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang**

**Proposal for a directive**

**Recital 1**

*Text proposed by the Commission*

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

*Amendment*

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more 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. ***Digitisation greatly facilitates cross border business. Removing barriers to the Single Market, including tax barriers, and creating a more favourable business environment through neutral, simplified and coordinated tax rules is therefore more important than ever. Current rules may need to be adapted to respond to the digitalisation of our economy.*** Although those situations highlight shortcomings that are completely different in nature, they create obstacles which impede the proper functioning of the internal market. Action to rectify these problems should therefore address both these types of market deficiencies.

**Amendment 39**  
**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 these problems should therefore address both these 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 40**  
**Esther de Lange, Gunnar Hökmark, Brian Hayes**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

(1) Companies which seek to do

*Amendment*

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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.

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Or. en

**Amendment 41**  
**Marco Valli, Laura Agea**

**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.

*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 harmful* 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

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.

liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles *and distortions* which *grant multinational companies an unfair competitive advantage over small and medium enterprises and* 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 42**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Recital 1**

*Text proposed by the Commission*

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

*Amendment*

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more 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 *while respecting the principle of tax neutrality but also the free movement of services in the European Single Market.*

Or. en

**Amendment 43**  
**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 these problems should therefore address both these types of *market* deficiencies.

*Amendment*

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more 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 deficiencies.

Or. en

**Amendment 44**  
**Esther de Lange, Gunnar Hökmark, Brian Hayes**

**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 legally sound, long-term legal clarity and certainty will always be an attractive location for companies to operate from.*

Or. en

**Amendment 45**

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

**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 46**

**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 47**  
**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 48**  
**Esther de Lange, Gunnar Hökmark, Brian Hayes**

**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 49**  
**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

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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.

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 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 50**  
**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 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 non-taxation risks in the Union through eradicating disparities in the interaction of national corporate tax systems.

Or. en

**Amendment 51**

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

**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 52**

**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

#### *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 ***by providing for effective taxation mechanisms based on tangible data that is hard to transfer or conceal, such as sales revenue and staff numbers employed.*** It is therefore necessary to provide for mechanisms that discourage



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.

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 53**

**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 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

#### *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 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

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.

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 54**  
**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

*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 **tackling** 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.

should also be removed.

Or. en

**Amendment 55**  
**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 56**  
**Esther de Lange, Gunnar Hökmark**

**Proposal for a directive**  
**Recital 3**

*Text proposed by the Commission*

*Amendment*

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)<sup>7</sup>, 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

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)<sup>7</sup>, 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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<sup>7</sup> Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

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, *albeit only if and when the formula for consolidation is able to encompass all forms of tangible and intangible economic activity*. 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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<sup>7</sup> Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Or. en

**Amendment 57**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**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)<sup>7</sup>, 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

*Amendment*

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)<sup>7</sup>, 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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<sup>7</sup> Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

location for investment internationally, ***and remove obstacles that impede the proper functioning of the internal market, without harmonizing corporate tax rates.*** 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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<sup>7</sup> Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Or. en

## **Amendment 58**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang**

### **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)<sup>7</sup>, 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

#### *Amendment*

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)<sup>7</sup>, 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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<sup>7</sup> Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

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. ***Once implemented in all Member States, the CCCTB would ensure that taxes are paid where profits arise.*** Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market.

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

Or. en

## **Amendment 59** **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)<sup>7</sup>, 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

#### *Amendment*

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB), 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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<sup>7</sup> Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

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.

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

Or. de

## **Amendment 60**

**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 61**

**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 62**

**Matt Carthy**

**Proposal for a directive**

**Recital 3 a (new)**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 63**

**Matt Carthy**



**Proposal for a directive**  
**Recital 3 b (new)**

*Text proposed by the Commission*

*Amendment*

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

Or. en

**Amendment 64**  
**Matt Carthy, Fabio De Masi**

**Proposal for a directive**  
**Recital 3 c (new)**

*Text proposed by the Commission*

*Amendment*

**(3c)** *For unitary taxation to work as a means to end profit-shifting it needs to be global, and that 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, as 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. For this reason full-inclusion CFC rules should apply. No income arising from economic activity undertaken by the CFC should be exempted.*

Or. en

**Amendment 65**  
**Luděk Niedermayer**

**Proposal for a directive**  
**Recital 4**

(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 agreed, before addressing, at a second stage, the issue of consolidation.***

(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 ensure simultaneous entry into force of the Directive on a Common Corporate Tax Base and this Directive as long as the application of the CCTB is not delayed or conditioned by finalization of the CCCTB. Because this change of regime is a significant step in the completion of the internal market it needs flexibility in order to be properly executed from its start onwards. Hence, as the internal market encompasses all Member States, the CCCTB should be introduced in all Member States. However, if the Council fails to adopt a unanimous decision on the proposal to establish a CCCTB, it is appropriate to initiate, without delay, the procedure for a Council decision authorising enhanced cooperation in the area of the CCCTB. Such enhanced cooperation should be open at any time to any Member State in accordance with the Treaty on the Functioning of the European Union. In order to allow adjustment of the CCCTB regime to the constant evolving international and European tax agenda and policies, the European Parliament should produce a yearly assessment and invite, where needed, the European Council to adopt the procedure of article 48 paragraph 7 of the Treaty on European Union. Under this scheme, the European Council would authorise the Council of the European Union to vote at qualified majority on any change needed for CCCTB on the basis of a resolution of the European Parliament.***

Or. en

**Amendment 66**  
**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 agreed, 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 agreed, before addressing, at a second stage, the issue of consolidation. ***Because these changes of regimes are significant steps in the completion of the internal market they need flexibility in order to be properly executed. Hence, as the internal market encompasses all Member States, they should be introduced in all Member States. However, if the Council fails to adopt unanimous decision on either step to establish a CCCTB, it is appropriate to initiate, without delay, the procedure for a Council decision authorising enhanced cooperation in the area of CCTB and CCCTB.***

Or. en

**Amendment 67**  
**Esther de Lange**

**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

*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 agreed, before addressing, at a second stage, the issue of consolidation.

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 agreed, 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 68**  
**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 agreed, before addressing, at a second stage, the issue of consolidation.*

*Amendment*

(4) *In order to make the tax system, 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 enter into force at the same time.*

Or. de

**Amendment 69**  
**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Neena Gill, Paul Tang**

**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 agreed, 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 agreed, before addressing, at a second stage, the issue of consolidation. ***But implementing the CCTB without consolidation would not tackle the problem of profit shifting. Therefore, it is essential that the consolidation is applied in all Member States from 31 December 2019.***

Or. en

**Amendment 70**  
**Fabio De Masi, Matt Carthy**

**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 agreed, 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 ***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 71**  
**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 agreed, 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 72**  
**Ramón Jáuregui Atondo, Jonás Fernández**

**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,*

*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, *even though* rules

rules on *a common corporate* tax base *should be agreed, before addressing, at a second stage, the issue of consolidation.*

on *the* tax base *and consolidation should be addressed in parallel, without ruling out, if necessary, making use of the enhanced cooperation procedure in the event that one or more Member States prevent the Council from reaching a unanimous agreement.*

Or. es

### **Amendment 73**

**Matt Carthy, Fabio De Masi**

#### **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 agreed, before addressing, at a second stage, the issue of consolidation.*

*Amendment*

(4) *Dividing the CCCTB initiative into two separate 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 formulary 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 74**

**Marco Valli, Laura Agea**

#### **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

*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 agreed, before addressing, at a second stage, the issue of consolidation.***

and, on the other hand, more resilient to tax avoidance schemes, it is ***crucial to achieve an ambitious CCCTB with full consolidation; to this end the two separate proposals should move in parallel and be implemented at the same time.***

Or. en

## **Amendment 75**

**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 agreed, 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 76**

**Brian Hayes, Esther de Lange, Frank Engel, 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

*Amendment*

(4) Considering the need to ***support*** a proper functioning of the internal market by making it, on the one hand, friendlier to



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 agreed, before addressing, at a second stage, the issue of consolidation.

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 agreed, before addressing, at a second stage, the issue of consolidation.

Or. en

#### **Amendment 77**

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

#### **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 States' 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 78**

**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***

***deleted***

*a minimum of resources. On this premise, for reasons of proportionality, the rules on a CCCTB should be mandatory only for groups of companies of a substantial size. For that purpose, a size-related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. In addition, in order to better serve the aim of facilitating trade and investment in the internal market, the rules on a CCCTB should also be available, as an option, to those groups that fall short of the size-related threshold.*

Or. de

#### **Amendment 79**

**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 CCCTB should be mandatory only for groups of companies of a substantial size. For that purpose, a size-related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. In addition, in order to better serve the aim of facilitating trade and investment in the internal market, the rules on a CCCTB should also be available, as an option, to those groups that fall short of the size-related threshold.* **deleted**

Or. en

## **Amendment 80**

**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang**

### **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 CCCTB should be mandatory only for groups of companies of a substantial size. For that purpose, a size-related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. In addition, in order to better serve the aim of facilitating trade and investment in the internal market, the rules on a CCCTB should also be available, as an option, to those groups that fall short of the size-related threshold.**

**deleted**

Or. en

## **Amendment 81**

**Brian Hayes, Frank Engel, Gunnar Hökmark**

### **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**

**(5) Many aggressive tax planning structures tend to feature in a cross-border context, which implies that the participating groups of companies possess a minimum of resources. On this premise, for reasons of proportionality, the rules on**

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

a CCCTB should be *optional for all* groups of companies.

Or. en

## Amendment 82

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

##### *Amendment*

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

**Amendment 83**  
**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 context, which implies that the participating groups of companies possess a minimum of resources. On this premise, for reasons of proportionality, the rules on a CCCTB should be mandatory only for groups of companies of a substantial size. For that purpose, a size-related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. In addition, in order to better serve the aim of facilitating trade and investment in the internal market, the rules on a CCCTB should also be available, as an option, to those groups that fall short of the size-related threshold.

*Amendment*

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

**Amendment 84**  
**Ramón Jáuregui Atondo, Jonás Fernández**

**Proposal for a directive**  
**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

**(5a)** *All things being equal the switch to a common consolidated corporate tax base may result in loss or gain of fiscal revenues for Member States. In order to compensate losses, a temporary compensation fund is created, financed with the fiscal surplus from Member States with gain in fiscal revenue, due to the new regime. Compensation will be adjusted each year to take into account possible national or regional decisions taken prior to the entry into force of the directive. The Commission should be required to propose the removal or the change of the compensation system after a period of five years, and to set the ceilings for compensation.*

Or. es

#### **Amendment 85**

**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 CC 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.*

**Amendment 86**

**Bernd Lucke**

**Proposal for a directive**

**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

***(5a) All things being equal the switch to a common consolidated corporate tax base may result in loss or gain of fiscal revenues for Member States. In order to compensate losses, a temporary compensation fund is created, financed with the fiscal surplus from Member States with gain in fiscal revenue, due to the new regime. Compensation will be based on an assessment of the tax revenues that would have been obtained if the tax laws as of 31 December 2016 had been applicable. The compensation fund expires five years after entry into force of this Directive, unless the Council unanimously decides otherwise.***

Or. en

**Amendment 87**

**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 88**  
**Lieve Wierinck**

**Proposal for a directive**  
**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

*(5a) In order to avoid the existing breakdown of the tax effort between small and medium enterprises (SMEs) and Multinational Corporations (MNCs) as mentioned in the European Parliament resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect (2015/2066(INI)), a common corporate tax base should not put SMEs at a competitive disadvantage, enhancing a level playing field for SME's.*

Or. en

**Amendment 89**  
**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Alfred Sant, Neena Gill, Paul Tang**

**Proposal for a directive**  
**Recital 5 a (new)**

*Text proposed by the Commission*

*Amendment*

*(5a) Taking into account the digital change in the business environment, it is necessary to define the concept of a digital business establishment. Companies which raise revenues in a Member State without having a physical establishment in that*



*Member State have to be treated in the same way as companies with a physical establishment.*

Or. en

**Amendment 90**

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

**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 91**

**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 92**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Recital 5 b (new)**

*Text proposed by the Commission*

*Amendment*

*(5b) The principal tax authority will provide SME's with the necessary tools that will help them to comply with the administrative and organisational requirements that an opt-in to the CCCTB entails.*

Or. en

**Amendment 93**  
**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 94

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 therefore includes the objective to have a part of the EU fiscal revenues financed from the common consolidated corporate tax base.***

Or. en

## Amendment 95

Matt Carthy, Fabio De Masi

### Proposal for a directive

#### Recital 6

*Text proposed by the Commission*

*Amendment*

(6) Eligibility for the consolidated tax group should be determined in accordance with a ***two-part*** test based on (i) control (more than ***50 percent*** of voting rights) and (ii) ownership (more than ***75 percent*** of equity) or rights to profits (more than ***75 percent*** of rights giving entitlement to profit). ***Such a test would ensure a high level of economic integration between group members.*** To guarantee the integrity of the system, the ***two*** thresholds for control and ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through

(6) Eligibility for the consolidated tax group should be determined in accordance with a test based on (i) control (more than ***25percent*** of voting rights) and (ii) ownership (more than ***50 percent*** of equity) or rights to profits (more than ***50 percent*** of rights giving entitlement to profit). ***Control may also exist where there are agreements with fellow shareholders or members. Control may also be effectively exercised in certain circumstances where the parent holds a minority or none of the shares in the subsidiary. Member States should be entitled to require that undertakings not subject to control, but which are managed on a unified basis or have a common***

companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

***administrative, managerial or supervisory body, be included in consolidated financial statements.*** To guarantee the integrity of the system, the thresholds for control and ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

Or. en

## **Amendment 96**

**Fabio De Masi, Matt Carthy**

### **Proposal for a directive**

#### **Recital 6**

##### *Text proposed by the Commission*

(6) Eligibility for the consolidated tax group should be determined in accordance with a two-part test based on (i) control (more than **50** percent of voting rights) and (ii) ownership (more than **75** percent of equity) or rights to profits (more than **75** percent of rights giving entitlement to profit). Such a test would ensure a high level of economic integration between group members. To guarantee the integrity of the system, the two thresholds for control and ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

##### *Amendment*

(6) Eligibility for the consolidated tax group should be determined in accordance with a two-part test based on (i) control (more than **25** percent of voting rights) and (ii) ownership (more than **50** percent of equity) or rights to profits (more than **50** percent of rights giving entitlement to profit). Such a test would ensure a high level of economic integration between group members. To guarantee the integrity of the system, the two thresholds for control and ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

Or. en

## Amendment 97

Eva Joly

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Recital 6

##### *Text proposed by the Commission*

(6) Eligibility for the consolidated tax group should be determined in accordance with a **two-part** test based on (i) control (more than 50 percent of voting rights) **and** (ii) ownership (more than 75 percent of equity) or rights to profits (more than 75 percent of rights giving entitlement to profit). Such a test would ensure a high level of economic integration between group members. To guarantee the integrity of the system, the **two thresholds** for control **and** ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

##### *Amendment*

(6) Eligibility for the consolidated tax group should be determined in accordance with a **two-criteria** test based on (i) control (more than 50 percent of voting rights) **or** (ii) ownership (more than 75 percent of equity) or rights to profits (more than 75 percent of rights giving entitlement to profit). Such a test would ensure a high level of economic integration between group members. To guarantee the integrity of the system, the **criteria** for control **or** ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

Or. en

## Amendment 98

Barbara Kappel

### Proposal for a directive

#### Recital 6

##### *Text proposed by the Commission*

(6) Eligibility for the consolidated tax group should be determined in accordance with a two-part test based on (i) control (more than 50 percent of voting rights) and (ii) ownership (more than 75 percent of

##### *Amendment*

(6) Eligibility for the consolidated tax group should be determined in accordance with a two-part test based on (i) control (more than 50 percent of voting rights) and (ii) ownership (more than 75 percent of

equity) or rights to profits (more than 75 percent of rights giving entitlement to profit). Such a test would ensure a high level of economic integration between group members. To guarantee the integrity of the system, the two thresholds for control and ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

equity) or rights to profits (more than 50 percent of rights giving entitlement to profit). Such a test would ensure a high level of economic integration between group members. To guarantee the integrity of the system, the two thresholds for control and ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

Or. de

#### **Amendment 99**

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

#### **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 100

Eva Joly

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Recital 7

##### *Text proposed by the Commission*

(7) Rules on business reorganisations should ensure that the effect of such reorganisations on the existing taxing rights of Member States is kept to a minimum. Each time that a company joins a group, the Member States where other group members are resident for tax purposes or situated should therefore not bear the extra cost of losses that the company incurred under the rules of another corporate tax system which applied to that company prior to the rules of this Directive. ***Pre-consolidation trading losses of a company joining a group should thus be carried forward to be set off against that company's apportioned share.***

Accordingly, losses incurred by a group member during the period of consolidation should not exclusively be allocated to that group member but be shared across the group instead. In the case of more extensive reorganisations, where more than one company is leaving a loss-making group, it would be essential to fix a threshold, in order to determine under which conditions companies should no longer be leaving a loss-making group without being allocated any losses to carry forward. A similar adjustment should be made in respect of capital gains resulting from the disposal of certain assets within a short period after those assets joined, or departed from, a group alongside a joining or leaving company. In these cases, the Member State(s) where these gains accrued should be given the right to tax them, despite the fact that the assets may no longer be under their taxing jurisdiction. The tax treatment of capital gains engrained in self-generated intangible

##### *Amendment*

(7) Rules on business reorganisations should ensure that the effect of such reorganisations on the existing taxing rights of Member States is kept to a minimum. Each time that a company joins a group, the Member States where other group members are resident for tax purposes or situated should therefore not bear the extra cost of losses that the company incurred under the rules of another corporate tax system which applied to that company prior to the rules of this Directive. Accordingly, losses incurred by a group member during the period of consolidation should not exclusively be allocated to that group member but be shared across the group instead. In the case of more extensive reorganisations, where more than one company is leaving a loss-making group, it would be essential to fix a threshold, in order to determine under which conditions companies should no longer be leaving a loss-making group without being allocated any losses to carry forward. A similar adjustment should be made in respect of capital gains resulting from the disposal of certain assets within a short period after those assets joined, or departed from, a group alongside a joining or leaving company. In these cases, the Member State(s) where these gains accrued should be given the right to tax them, despite the fact that the assets may no longer be under their taxing jurisdiction. The tax treatment of capital gains engrained in self-generated intangible assets calls for a customised approach, since these assets are often not registered on a company's financial accounts and since there does not seem to be a way to

assets calls for a customised approach, since these assets are often not registered on a company's financial accounts and since there does not seem to be a way to precisely calculate their value. Accrued capital gains should therefore be assessed on the basis of a suitable proxy, namely the costs for research and development and for marketing and advertising over a specific period.

precisely calculate their value. Accrued capital gains should therefore be assessed on the basis of a suitable proxy, namely the costs for research and development and for marketing and advertising over a specific period.

Or. en

**Amendment 101**  
**Barbara Kappel**

**Proposal for a directive**  
**Recital 9**

*Text proposed by the Commission*

*Amendment*

***(9) In order to prevent circumventing the tax exemption of the gains from the disposals of shares, this tax-free treatment should be disallowed where it is illegitimately extended to sales of assets other than shares. This situation would occur if assets are moved by way of intra-group transactions, without tax implications, to a group member with the plan to subsequently, sell the shares in that group member and include the assets in that sale. In such case, the assets would effectively benefit, under the cover of a sale of shares, from the tax exemption that applies to disposals of shares. Accordingly, it would also be necessary to cater for intra-group transfers of assets which are then sold out of the group within a period of up to two years. Namely, an adjustment should be made in order to treat an asset as having left the group from the Member State where it was located initially, i.e. prior to the intra-group transfer, and in this way, discourage the artificial intra-group transfer of assets (other than shares)***

***deleted***



*towards Member States with beneficial tax regimes for capital gains from disposals of assets.*

Or. en

## **Amendment 102**

**Barbara Kappel**

### **Proposal for a directive**

#### **Recital 10**

*Text proposed by the Commission*

*Amendment*

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

***deleted***

*clause should provide for an alternative method of income allocation.*

Or. en

### **Amendment 103**

**Eva Joly**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

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

##### *Amendment*

(10) *As far as companies not involved in digital business through virtual permanent establishments are concerned,* the formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, *tangible* assets and sales by destination. *As far as companies fully or partially operating digitally through one or several virtual permanent establishments are concerned, the formula apportionment for the consolidated tax base should comprise four equally weighted factors, namely labour, tangible assets, revenues generated from collected data and number of users in the destination country.* Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and *tangible* assets should be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales, *or, as far as digital activities are concerned, revenues generated from collected data and the number of users* should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of

*income allocation.*

wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented.

Or. en

#### **Amendment 104**

**Fabio De Masi, Matt Carthy**

#### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

(10) The formula apportionment for the consolidated tax base should comprise **three** equally weighted factors, namely labour, **assets** and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour **and assets** should therefore be allocated to the Member State where the labour is performed **or the assets are located**, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). **The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of**

##### *Amendment*

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

*their mobile nature and the resulting risk that the rules of this Directive could be circumvented.* Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

method of income allocation.

Or. en

## **Amendment 105**

**Eva Joly**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

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

##### *Amendment*

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

of this Directive could be circumvented.  
***Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.***

of this Directive could be circumvented.

Or. en

## **Amendment 106**

**Ramón Jáuregui Atondo, Jonás Fernández**

### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

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

##### *Amendment*

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned, ***accurately reflecting the contribution made by each entity in the group to the creation of transnational value***. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile

the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

Or. es

## **Amendment 107**

**Bernd Lucke**

### **Proposal for a directive**

#### **Recital 10**

*Text proposed by the Commission*

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

*Amendment*

(10) The formula apportionment for the consolidated tax base should comprise three factors, namely labour, assets and sales by destination. *The weights attributed to these factors should be determined by a Council decision guided by the principle that the sum of the absolute values of all gains and losses of fiscal revenue in those Member States which participate in the CCCTB system should be minimal when applied to the data of a specific base year equal or prior to the year of entry into force of this Directive. Moreover, the* weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. The asset factor should comprise all fixed tangible assets, but not intangible and

could be circumvented. *Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.*

financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented.

Or. en

## Amendment 108

Esther de Lange, Gunnar Hökmark

### Proposal for a directive

#### Recital 10

*Text proposed by the Commission*

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

*Amendment*

(10) The formula apportionment for the consolidated tax base should comprise **of** weighted factors, namely, **but not limited to**, labour, (**tangible and intangible**) assets and sales by destination **and with a maximum total weighting of labour of 25%**. Those weighted factors **should encompass all forms of tangible and intangible economic activity**, should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business

apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

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

Or. en

## **Amendment 109**

**Marco Valli, Laura Agea**

### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

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

##### *Amendment*

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



for an alternative method of income allocation.

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

Or. en

## **Amendment 110**

**Matt Carthy, Fabio De Masi**

### **Proposal for a directive**

#### **Recital 10**

##### *Text proposed by the Commission*

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

##### *Amendment*

(10) The formula apportionment for the consolidated tax base should comprise **two** equally weighted factors, namely labour and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour should therefore be allocated to the Member State where the labour is performed, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). **Assets should not be included in the formula due to difficulties in accurately valuing them, and the potential for intangible and financial assets to be converted in tangible assets. The allocation formula should accurately reflect demand-side (sales) and supply-side factors (labour), and reflect the factors that generate income and the location where this income is generated. Sales and labour are the factors that generate income while assets generally do**

*method of income* allocation.

*not*<sup>1a</sup>;

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<sup>1a</sup> *For more information on the Canadian model, which does not include assets in the formula, see: Mintz, J., & Smart, M. (2004). Income shifting, investment, and tax competition: theory and evidence from provincial taxation in Canada. Journal of Public Economics, 88(6), 1149–1168, and Mintz, J., & Smart, M. (2004). Income shifting, investment, and tax competition: theory and evidence from provincial taxation in Canada. Journal of Public Economics, 88(6), 1149–1168. Sadiq, K (2015). Unitary Taxation of the Finance Sector: ICTD Working Paper 25)*

Or. en

#### **Amendment 111**

**Lieve Wierinck, Ramon Tremosa i Balcells**

#### **Proposal for a directive**

**Recital 10 a (new)**

*Text proposed by the Commission*

*Amendment*

*(10a) The apportionment formula needs to fully reflect the economic activity that has taken place in each Member State, by duly taking into full account of potential significant differences between their economies. Where the formula results in an imbalanced apportionment that fails to reflect the economic activity, a safeguard clause will remedy such a situation.*

Or. en

#### **Amendment 112**

**Lieve Wierinck, Ramon Tremosa i Balcells**

#### **Proposal for a directive**

**Recital 10 b (new)**

*Text proposed by the Commission*

*Amendment*

***(10b) The apportionment formula needs to reflect a modern, 21st century economy. The Commission shall establish a definition of digital activity, and will consider a formula that takes full account of this, in order to better reflect economic activity in each Member State.***

Or. en

### **Amendment 113**

**Barbara Kappel**

**Proposal for a directive**

**Recital 11**

*Text proposed by the Commission*

*Amendment*

***(11) Due to their specificities, certain sectors, such as the financial and insurance sector, the oil and gas sector as well as shipping and air transport, need an adjusted formula for the apportionment of the consolidated tax base.***

***deleted***

Or. en

### **Amendment 114**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Udo Bullmann, Paul Tang**

**Proposal for a directive**

**Recital 11 a (new)**

*Text proposed by the Commission*

*Amendment*

***(11a) To end the race to the bottom on corporate tax rates at EU level, a European minimum effective corporate tax rate is required. On average, corporate tax in the European Union***

*decreased from 35% in the 1990s to 22.5% today. By adopting the CCCTB, Member States will no longer be able to compete through tax bases, the result being further decreases in the corporate tax rates.*

Or. en

## **Amendment 115**

**Marco Valli, Laura Agea**

### **Proposal for a directive**

#### **Recital 12**

*Text proposed by the Commission*

(12) To optimise the benefits of having a single set of corporate tax rules across the EU for determining the consolidated tax base of groups, groups should be able to deal with a single tax administration ('principal tax authority'). As a matter of principle, that principal tax authority should be based in the Member State where the parent company of the group is resident for tax purposes ('principal taxpayer'). It is essential in this context to lay down common procedural rules for the administration of the system.

*Amendment*

(12) To optimise the benefits of having a single set of corporate tax rules across the EU for determining the consolidated tax base of groups, groups should be able to deal with a single tax administration ('principal tax authority'). As a matter of principle, that principal tax authority should be based in the Member State where the parent company of the group is resident for tax purposes ***or where the group's highest tier of management within the EU is located*** ('principal taxpayer'). It is essential in this context to lay down common procedural rules for the administration of the system.

Or. en

## **Amendment 116**

**Eva Joly**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Recital 13**

*Text proposed by the Commission*

(13) Audits should in principle be

*Amendment*

(13) Audits should in principle be

initiated and coordinated by the principal tax authority, but given that the first stage consisting in the calculation of the tax base is performed locally, the national authorities of any Member State in which the profits of a group member are subject to tax should also be able to request the initiation of an audit. Accordingly, to protect the national tax base, the competent authority of the Member State in which a group member is resident for tax purposes or established in the form of a permanent establishment should be able to challenge before the courts of the Member State of the principal tax authority a decision of that tax authority concerning the notice to create a group or a decision concerning an amended tax assessment. Disputes between taxpayers and tax authorities *should* be dealt with by an administrative body at first instance, in order to reduce the number of cases that reach the courts. That body should be structured and operating in accordance with the law of the Member State of the principal tax authority is competent to hear appeals at first instance.

initiated and coordinated by the principal tax authority, but given that the first stage consisting in the calculation of the tax base is performed locally, the national authorities of any Member State in which the profits of a group member are subject to tax should also be able to request the initiation of an audit. Accordingly, to protect the national tax base, the competent authority of the Member State in which a group member is resident for tax purposes or established in the form of a permanent *or virtual permanent* establishment should be able to challenge before the courts of the Member State of the principal tax authority a decision of that tax authority concerning the notice to create a group or a decision concerning an amended tax assessment. Disputes between taxpayers and tax authorities *may* be dealt with by an administrative body at first instance, in order to reduce the number of cases that reach the courts. That body should be structured and operating in accordance with the law of the Member State of the principal tax authority is competent to hear appeals at first instance. *The Commission should establish a new CCCTB forum to which companies and Member States can refer questions and disputes relating to the CCCTB. That forum should be able to give guidance to companies and Member States.*

Or. en

#### **Amendment 117**

**Hugues Bayet, Jakob von Weizsäcker, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang**

#### **Proposal for a directive Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

*(13a) The Commission should create a new department in DG TAXUD to*

*monitor Member States' tax revenues after the implementation of the CCCTB. In this view, the Commission should increase the means of this DG. This new department should be mandated to give guidance to companies and Member States' tax administrations.*

Or. en

**Amendment 118**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Recital 13 a (new)**

*Text proposed by the Commission*

*Amendment*

*(13a) Encourages the Commission to assess the establishment of a Dispute Settlement Mechanism to ensure a proper dispute settlement when different Member states are involved.*

Or. en

**Amendment 119**  
**Hugues Bayet, Jakob von Weizsäcker, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Peter Simon, Paul Tang**

**Proposal for a directive**  
**Recital 13 b (new)**

*Text proposed by the Commission*

*Amendment*

*(13b) As the High Level Group on Own Resources suggests, a part of the fiscal revenues gained from the common consolidated tax base can be used as an own resource for the Union budget, in order to proportionally reduce Member States' contributions to the same budget. This should lead to a more effective way to levy taxes on exporting and multinational corporations, who benefit*

*most from globalisation and the Single Market, and thus introduce a user-pays principle.*

Or. en

#### **Amendment 120**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Recital 14**

###### *Text proposed by the Commission*

(14) This Directive builds upon Council Directive 2016/xx/EU on a common corporate tax base (which lays down a common set of corporate tax rules for computing the tax base) and focusses on the consolidation of tax results across the group. It *would thus be* necessary to deal with the interaction between the two legislative instruments and cater for the transition of certain elements of the tax base into the new framework of the group. Such elements should include, in particular, the interest limitation rule, the switch-over clause and controlled foreign company legislation as well as hybrid mismatches.

###### *Amendment*

(14) This Directive builds upon Council Directive 2016/xx/EU on a common corporate tax base (which lays down a common set of corporate tax rules for computing the tax base) and focusses on the consolidation of tax results across the group. It *is thus* necessary to deal with the interaction between the two legislative instruments and cater for the transition of certain elements of the tax base into the new framework of the group. Such elements should include, in particular, the interest limitation rule, the switch-over clause and controlled foreign company legislation as well as hybrid mismatches. *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.*

Or. en

#### **Amendment 121**

**Hugues Bayet, Jakob von Weizsäcker, Cătălin Sorin Ivan, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Paul Tang**

#### **Proposal for a directive**

##### **Recital 14 a (new)**

***(14a) In order to create a level playing field and to eliminate tax competition conditions having a negative impact on the economic performance of the internal market and leading to a race to the bottom, minimum effective corporate tax rates should be introduced so as to optimise tax efficiency. Such a minimum effective tax rate would furthermore lead to the benefit of better comparing economic performance of Member States across the EU. The average EU top statutory corporate income tax rate is 22.5%, and in some Member States as low as 10%. The declining tendency of this rate should be reversed so as to avoid a race to the bottom. This directive therefore asks the Commission to come up with a legislative proposal for a minimum effective corporate tax rate at 18% in each Member State. Until such a legislation is in place, the Commission should publish statistics of the effective tax rates in Member States, distinguishing between the effective tax rates of SMEs and MNEs.***

Or. en

**Amendment 122**

**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**

**Recital 14 a (new)**

*Text proposed by the Commission*

*Amendment*

***(14a) This Directive shall be regarded in conjunction with Council Directive 2016/xx/EU on a common corporate tax base upon which it builds. In order to obtain the full objectives of both Directives and the resulting positive effects to the functioning of the internal***



*market. Therefore, it is important that both are implemented at the same time. This goal can be obtained by refraining from the inclusion of provisions that form a barrier to the compatibility of both Directives.*

Or. en

**Amendment 123**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Recital 14 a (new)**

*Text proposed by the Commission*

*Amendment*

*(14a) In order to reach its objectives, this Directive should ensure a real consolidation process of tax bases rather than a simple aggregation process which could eventually lead to new loopholes and mismatches between the different national accounting rules. The consolidated tax base should therefore be regarded as the result of the consolidated net taxable revenue of the group members as calculated on an accounting basis applicable to all group members.*

Or. en

**Amendment 124**

**Barbara Kappel**

**Proposal for a directive**

**Recital 16**

*Text proposed by the Commission*

*Amendment*

*(16) 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*

*deleted*

*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; and (iii) supplementing the rule on the limitation of interest deductibility with anti-fragmentation rules, to better address the tax avoidance risks which may emerge within a group. 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 125**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang**

#### **Proposal for a directive**

#### **Recital 16**

##### *Text proposed by the Commission*

(16) 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; and (iii) supplementing the rule on the limitation of interest deductibility with anti-fragmentation rules, to better

##### *Amendment*

(16) 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; and (iii) supplementing the rule on the limitation of interest deductibility with anti-fragmentation rules, to better

address the tax avoidance risks which may emerge within a group. 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.

address the tax avoidance risks which may emerge within a group. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level **and the opinion of the European Parliament**. 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 126**  
**Bernd Lucke**

**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

*Amendment*

***(17) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission (i) to adopt annually a list of third country company forms that are similar to the company forms listed in Annex I; (ii) to lay down detailed rules on the calculation of the labour, asset and sales factors, the allocation of employees and payroll, assets and sales to the respective factor and the valuation of assets; (iii) to adopt an act establishing a standard form of the notice to create a group; and (iv) to lay down rules on the electronic filing of the consolidated tax return, the form of the consolidated tax return, the form of the single taxpayer's tax return and the supporting documentation required. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>12</sup>.***

*deleted*

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<sup>12</sup> *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 127**  
**Barbara Kappel**

**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

*Amendment*

*(17) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission (i) to adopt annually a list of third country company forms that are similar to the company forms listed in Annex I; (ii) to lay down detailed rules on the calculation of the labour, asset and sales factors, the allocation of employees and payroll, assets and sales to the respective factor and the valuation of assets; (iii) to adopt an act establishing a standard form of the notice to create a group; and (iv) to lay down rules on the electronic filing of the consolidated tax return, the form of the consolidated tax return, the form of the single taxpayer's tax return and the supporting documentation required. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>12</sup>.*

*deleted*

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<sup>12</sup> *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 128**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Recital 17**

*Text proposed by the Commission*

(17) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission (i) to adopt annually a list of third country company forms that are similar to the company forms listed in Annex I; (ii) to lay down detailed rules on the calculation of the labour, *asset* and sales factors, the allocation of employees and payroll, *assets* and sales to the respective factor and the valuation of assets; (iii) to adopt an act establishing a standard form of the notice to create a group; and (iv) to lay down rules on the electronic filing of the consolidated tax return, the form of the consolidated tax return, the form of the single taxpayer's tax return and the supporting documentation required. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>12</sup>.

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<sup>12</sup> 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

*Amendment*

(17) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission (i) to adopt annually a list of third country company forms that are similar to the company forms listed in Annex I; (ii) to lay down detailed rules on the calculation of the labour and sales factors, the allocation of employees and payroll and sales to the respective factor and the valuation of assets; (iii) to adopt an act establishing a standard form of the notice to create a group; and (iv) to lay down rules on the electronic filing of the consolidated tax return, the form of the consolidated tax return, the form of the single taxpayer's tax return and the supporting documentation required. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council<sup>12</sup>.

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<sup>12</sup> 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).

implementing powers (OJ L 55, 28.2.2011, p. 13).

Or. en

### **Amendment 129**

**Lieve Wierinck, Ramon Tremosa i Balcells**

#### **Proposal for a directive**

##### **Recital 17 a (new)**

*Text proposed by the Commission*

*Amendment*

***(17a) In order to reduce red tape, the implementation of harmonised accounting rules and administrative practices in tax matters is a prerequisite to guarantee a fully functioning common consolidated corporate taxbase system as mentioned in the European Parliament resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect(2015/2066(INI)).***

Or. en

### **Amendment 130**

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

#### **Proposal for a directive**

##### **Recital 18**

*Text proposed by the Commission*

*Amendment*

***(18) Since the objectives of this Directive, namely to improve the functioning of the internal market through countering practices of international tax avoidance and to facilitate businesses in expanding across borders within the Union, cannot be sufficiently achieved by the Member States acting individually and in a disparate fashion because coordinated action is necessary to obtain these***

***deleted***

*objectives, but can rather, by reason of the fact that the Directive targets inefficiencies of the internal market that originate in the interaction between disparate national tax rules which impact on the internal market and discourage cross-border activity, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives, especially considering that its mandatory scope is limited to groups beyond a certain size.*

Or. en

#### **Amendment 131**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Recital 18**

*Text proposed by the Commission*

(18) Since the objectives of this Directive, namely to improve the functioning of the internal market through countering practices of international tax avoidance and to facilitate businesses in expanding across borders within the Union, cannot be sufficiently achieved by the Member States acting individually and in a disparate fashion because coordinated action is necessary to obtain these objectives, but can rather, by reason of the fact that the Directive targets inefficiencies of the internal market that originate in the interaction between disparate national tax rules which impact on the internal market and discourage cross-border activity, be better achieved at Union level, the Union

*Amendment*

(18) Since the objectives of this Directive, namely to improve the functioning of the internal market through countering practices of international tax avoidance and to facilitate businesses in expanding across borders within the Union, cannot be sufficiently achieved by the Member States acting individually and in a disparate fashion because coordinated action is necessary to obtain these objectives, but can rather, by reason of the fact that the Directive targets inefficiencies of the internal market that originate in the interaction between disparate national tax rules which impact on the internal market and discourage cross-border activity, be better achieved at Union level, the Union

may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives, especially considering that its mandatory scope is limited to groups beyond a certain size.

may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives, especially considering that its mandatory scope is **currently** limited to groups beyond a certain size.

Or. en

### **Amendment 132**

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

#### **Proposal for a directive**

##### **Recital 19 a (new)**

*Text proposed by the Commission*

*Amendment*

***(19a) 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 133**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Recital 20**

*Text proposed by the Commission*

*Amendment*

(20) The Commission should be required to review the application of the Directive five years after its entry into force and report to Council on its operation. Member States should be required to communicate to the

(20) The Commission should be required to review the application of the Directive five years after its entry into force and report to Council ***and European Parliament*** on its operation. Member States should be required to communicate



Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

Or. en

#### **Amendment 134**

**Marco Valli, Laura Agea**

#### **Proposal for a directive**

#### **Recital 20 a (new)**

*Text proposed by the Commission*

*Amendment*

***(20a) In order to achieve a full and consistent consolidation and prevent new opportunities for arbitrage arising from accounting inconsistencies between Member States, it is necessary to adopt clear, consistent and objective criteria for calculating the consolidated tax base; to this effect, the Commission should propose the necessary adjustments to the relevant provisions of this Directive concerning the definition and calculation of the consolidated tax base.***

Or. en

#### **Amendment 135**

**Lieve Wierinck, Ramon Tremosa i Balcells**

#### **Proposal for a directive**

#### **Recital 20 a (new)**

*Text proposed by the Commission*

*Amendment*

***(20a) The Commission shall consider additional studies that analyse the potential impact of the CCCTB on the corporate tax revenues of individual Member States, and potential competitive disadvantages for the EU in relation to third countries.***

### Amendment 136

Brian Hayes, Frank Engel, Gunnar Hökmark

#### Proposal for a directive

##### Article 1 – paragraph 1

###### *Text proposed by the Commission*

1. This Directive establishes *a* system for the consolidation of the tax bases, as referred to in Council Directive 2016/xx/EU,<sup>14</sup> of companies that are members of a group and lays down rules on how a common consolidated corporate tax base shall be allocated to Member States and administered by the national tax authorities.

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<sup>14</sup> [full title of the Directive (OJ L [ ], [ ], p. [ ])].

###### *Amendment*

1. This Directive establishes *an optional* system for the consolidation of the tax bases, as referred to in Council Directive 2016/xx/EU,<sup>14</sup> of companies that are members of a group and lays down rules on how a common consolidated corporate tax base shall be allocated to Member States and administered by the national tax authorities.

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<sup>14</sup> [full title of the Directive (OJ L [ ], [ ], p. [ ])].

### Amendment 137

Bernard Monot

#### 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*

###### *Justification*

*This article is both legally erroneous and politically unacceptable. What the Commission is*

*proposing here is a directive: this directive will thus be transposed into Member States' national law, which will continue to apply, contrary to what this article – the deletion of which we would recommend – seeks to achieve. What is more, the principle of Member States' fiscal autonomy must of course continue to apply, including after possible adoption of this text by the Council.*

#### **Amendment 138**

**Barbara Kappel**

#### **Proposal for a directive**

#### **Article 1 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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.* **deleted**

Or. de

#### **Amendment 139**

**Tom Vandenkendelaere**

#### **Proposal for a directive**

#### **Article 1 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

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.***

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

Or. nl

#### **Amendment 140**

**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 141**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Alfred Sant, Neena Gill, Paul Tang**

**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 establishments **and digital business** in other Member States, where the company meets all of the following conditions:

Or. en

**Amendment 142**

**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

*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:

meets all of the following conditions:

Or. en

#### **Amendment 143**

**Brian Hayes, Frank Engel, Gunnar Hökmark**

#### **Proposal for a directive**

#### **Article 2 – paragraph 1 – point c**

*Text proposed by the Commission*

*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;**

**deleted**

Or. en

#### **Amendment 144**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang**

#### **Proposal for a directive**

#### **Article 2 – paragraph 1 – point c**

*Text proposed by the Commission*

*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;***

**(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue *corresponding to the amount laid down point (c) of Article 2(1) of Council Directive ... on a Common Corporate Tax Base<sup>1a+</sup>;***

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<sup>1a</sup> *Council Directive ... on a Common Corporate Tax Base (OJ L ..., .., p. ...).*

<sup>+</sup> *OJ: Please insert the serial number of the document 2016/0337(CNS) into the title and complete footnote 1 with regard*

*to the same document.*

Or. en

**Amendment 145**

**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 146**

**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 147**

**Marco Valli, Laura Agea**

**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;

Or. en

**Amendment 148**  
**Marco Valli, Laura Agea**

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

*Text proposed by the Commission*

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

*Amendment*

This Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent ***or digital business*** establishments situated in one or more Member States, ***and in respect of the revenues generated from operations and business activity carried out in one or more Member States***, where the company meets the conditions laid down in points (b) to (d) of paragraph 1.

Or. en

**Amendment 149**  
**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang**

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

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 150**

**Brian Hayes, Frank Engel, Gunnar Hökmark**

**Proposal for a directive**

**Article 2 – paragraph 2 – subparagraph 1**

*Text proposed by the Commission*

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

*Amendment*

This Directive ***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 States where the company meets the conditions laid down in points (b) ***and*** (d) of paragraph 1.

Or. en

**Amendment 151**

**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 152**

**Brian Hayes, Frank Engel, Gunnar Hökmark**

#### **Proposal for a directive**

#### **Article 2 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

**3.** *A company that meets the conditions of points (a), (b) and (d) of paragraph 1, but does not meet the conditions of point (c) 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 the second subparagraph of Article 47. The conditions under points (a), (b) and (d) of paragraph 1 shall be met each time the extension takes place.*

*deleted*

Or. en

#### **Amendment 153**

**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 Articles 5 and 6.*

*deleted*

Or. en

#### **Amendment 154**

**Marco Valli, Laura Agea**

#### **Proposal for a directive**

**Article 3 – paragraph 1 – point 11 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

*(da) an entity where the group's highest tier of management related to the operations and business activity within the EU is located;*

Or. en

#### **Amendment 155**

**Fabio De Masi, Matt Carthy**

#### **Proposal for a directive**

**Article 3 – paragraph 1 – point 23**

*Text proposed by the Commission*

*Amendment*

(23) 'consolidated tax base' means the *result of adding up the tax bases of all* group members, as calculated in accordance with Directive 2016/xx/EU;

(23) 'consolidated tax base' means the *consolidated net taxable revenue of the* group members, as calculated *on a consistent accounting basis applicable to all group members* in accordance with Directive 2016/xx/EU;

Or. en

## Amendment 156

Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang

### Proposal for a directive

#### Article 3 – paragraph 1 – point 23

*Text proposed by the Commission*

(23) 'consolidated tax base' means the **result of adding up the tax bases of all** group members, as calculated in accordance with **Directive 2016/xx/EU**;

*Amendment*

(23) 'consolidated tax base' means the **consolidated net taxable revenue of the** group members, as calculated **on a consistent accounting basis applicable to all group members** in accordance with **Directive 2016/xx/EU**;

Or. en

## Amendment 157

Eva Joly

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 3 – paragraph 1 – point 23

*Text proposed by the Commission*

(23) 'consolidated tax base' means the result of **adding up the tax bases of all** group members, as calculated **in accordance with** Directive 2016/xx/EU;

*Amendment*

(23) 'consolidated tax base' means the result of **the consolidated net taxable revenue of the** group members, as calculated **on an accounting basis applicable to all group members according to** Directive 2016/xx/EU;

Or. en

## Amendment 158

Ramon Tremosa i Balcells

### Proposal for a directive

#### Article 3 – paragraph 1 – point 26

*Text proposed by the Commission*

(26) 'competent authority' means the *authority designated by* each Member State *to* administer *all* matters related to the implementation of this Directive;

*Amendment*

(26) 'competent authority' means the *regional and national tax authorities from* each Member State *that* administer matters related to the implementation of this Directive;

Or. en

**Amendment 159**

**Hugues Bayet, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Peter Simon, Neena Gill, Paul Tang**

**Proposal for a directive**

**Article 3 – paragraph 1 – point 28 a (new)**

*Text proposed by the Commission*

*Amendment*

*(28a) 'royalty cost' means costs arising from payments of any kind made as a consideration for the use of, or the right to use, any copyright of literary, artistic or scientific work, including cinematograph films and software, any patent, trademark, design or model, plan, secret formula or process, or for information concerning industrial, commercial or scientific experience, or any other intangible asset; payments for the use of, or the right to use, industrial, commercial or scientific equipment shall be regarded as royalty costs;*

Or. en

**Amendment 160**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 3 – paragraph 1 – point 28 a (new)**

*Text proposed by the Commission*

*Amendment*

*(28a) 'permanent and virtual permanent establishment' as defined in point (X) of Article 4 of Directive 2016/xx/EU;*

Or. en

**Amendment 161**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Peter Simon, Neena Gill, Paul Tang**

**Proposal for a directive**

**Article 3 – paragraph 1 – point 28 b (new)**

*Text proposed by the Commission*

*Amendment*

*(28b) 'transfer prices' means the prices at which an undertaking transfers tangible goods or intangible assets or provides services to associated undertakings;*

Or. en

**Amendment 162**

**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Peter Simon, Neena Gill, Paul Tang**

**Proposal for a directive**

**Article 3 – paragraph 1 – point 28 c (new)**

*Text proposed by the Commission*

*Amendment*

*(28c) 'patent box' means a system used to calculate the income deriving from intellectual property (IP) which is eligible for tax benefits by establishing a link between the eligible expenditure effected when the IP assets were created (expressed as a proportion of the overall expenditure linked to the creation of the IP assets) and the income deriving from those IP assets; this system restricts the IP*

*assets to patents or intangible goods with an equivalent function and provides the basis for the definition of 'eligible expenditure', 'overall expenditure' and 'income deriving from IP assets';*

Or. en

### **Amendment 163**

**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Peter Simon, Neena Gill, Paul Tang**

#### **Proposal for a directive**

**Article 3 – paragraph 1 – point 28 d (new)**

*Text proposed by the Commission*

*Amendment*

*(28d) ‘Digital business establishment’ means an establishment which is specifically directed towards consumers or businesses in a Member State regard shall be had to the fact that the business establishment is conducting its business under the top level domain of the Member State or of the EU, or in relation to mobile application based business, distributing its application via the Member State specific part of a mobile application distribution centre;*

Or. en

### **Amendment 164**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Neena Gill, Paul Tang**

#### **Proposal for a directive**

**Article 3 – paragraph 1 – point 28 e (new)**

*Text proposed by the Commission*

*Amendment*

*(28e) An effective corporate tax rate means corporate tax paid in relation to earnings and profits in financial statements of the corporation.*

### **Amendment 165**

**Marco Valli, Laura Agea**

#### **Proposal for a directive**

##### **Article 4 – paragraph 1**

###### *Text proposed by the Commission*

1. A company that has its registered office, place of incorporation or place of effective management in a Member State ***and is not, under the terms of an agreement concluded by that Member State with a third country, regarded as tax resident in that third country*** shall be considered resident in that Member State for tax purposes.

###### *Amendment*

1. A company that has its registered office, place of incorporation or place of effective management in a Member State shall be considered resident in that Member State for tax purposes.

### **Amendment 166**

**Fabio De Masi, Matt Carthy**

#### **Proposal for a directive**

##### **Article 4 – paragraph 1**

###### *Text proposed by the Commission*

1. A company that has its registered office, place of incorporation or place of effective management in a Member State and is not, under the terms of an agreement concluded by that Member State with a third country, regarded as tax resident in that third country shall be considered resident in that Member State for tax purposes.

###### *Amendment*

1. A company that has its registered office, place of incorporation, ***virtual presence as laid down in Article 5 of Directive 2016/xx/EU*** or place of effective management in a Member State and is not, under the terms of an agreement concluded by that Member State with a third country, regarded as tax resident in that third country shall be considered resident in that Member State for tax purposes.

**Amendment 167**  
**Ramón Jáuregui Atondo**

**Proposal for a directive**  
**Article 4 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

***2a. A company with digital presence collecting or exploiting personal data from online platform and service users for commercial purposes shall be considered to be resident in the Member State of residence of the users whose personal data it collects and exploits. The distribution between Member States of taxing rights on digital assets shall take account of the contribution of users to the increase in the added value of the intangible asset. In particular, consideration shall be given to the number of users and the intensity of use in each country. The digital presence shall be determined in accordance with the conditions and criteria listed in Article 5 of Directive ... [the directive adopted on the basis of Commission proposal COM(2016)0685]. The Commission shall be empowered to adopt delegated acts in accordance with Article 75 to lay down technical standards for the following factors: (a) the number of registered individual users per month that are domiciled in the non-resident jurisdiction 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 DATA collected by a company in a taxable year in each Member State.***

Or. es

**Amendment 168**  
**Marco Valli, Laura Agea**



**Proposal for a directive**  
**Article 4 – paragraph 5**

*Text proposed by the Commission*

5. A non-resident taxpayer shall be subject to corporate tax on all income from an activity carried on through a permanent establishment in a Member State.

*Amendment*

5. A non-resident taxpayer shall be subject to corporate tax on all income from an activity carried on through a permanent establishment in a Member State ***or through an entity located in a Member State that can be considered 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 169**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 4 – paragraph 5**

*Text proposed by the Commission*

5. A non-resident taxpayer shall be subject to corporate tax on all income from an activity carried on through a permanent establishment in a Member State.

*Amendment*

5. A non-resident taxpayer shall be subject to corporate tax on all income from an activity carried on through a permanent ***or virtual permanent*** establishment in a Member State.

Or. en

**Amendment 170**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 4 – paragraph 5**

*Text proposed by the Commission*

5. A non-resident taxpayer shall be subject to corporate tax on all income *from an activity carried on through a permanent establishment in a Member State*.

*Amendment*

5. A non-resident taxpayer shall be subject to corporate tax on all income *derived from any source, whether inside or outside of the Union*.

Or. en

**Amendment 171**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 5 – paragraph 1 – point a**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 172**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 5 – paragraph 1 – point a**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 173**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 5 – paragraph 1 – point b**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 174**  
**Barbara Kappel**

**Proposal for a directive**  
**Article 5 – paragraph 1 – point b**

*Text proposed by the Commission*

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

*Amendment*

(b) it has an ownership right amounting to more than **75%** of the subsidiary's capital or it owns more than **50%** of the rights giving entitlement to profit.

Or. de

**Amendment 175**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 5 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) entitlement to profit and ownership of capital shall be calculated by multiplying the interests held, directly and indirectly, in subsidiaries at each tier. Ownership rights amounting to **75 %** or less held directly or indirectly by the parent company, including rights in companies resident in a third country, shall also be taken into account in the calculation.

*Amendment*

(b) entitlement to profit and ownership of capital shall be calculated by multiplying the interests held, directly and indirectly, in subsidiaries at each tier. Ownership rights amounting to **50 %** or less held directly or indirectly by the parent company, including rights in companies resident in a third country, shall also be taken into account in the calculation.

Or. en

**Amendment 176**  
**Barbara Kappel**

**Proposal for a directive**  
**Article 5 – paragraph 2 – point b**

*Text proposed by the Commission*

(b) entitlement to profit and ownership of capital shall be calculated by multiplying the interests held, directly and indirectly, in subsidiaries at each tier. Ownership rights amounting to **75%** or less held directly or indirectly by the parent company, including rights in companies resident in a third country, shall also be taken into account in the calculation.

*Amendment*

(b) entitlement to profit and ownership of capital shall be calculated by multiplying the interests held, directly and indirectly, in subsidiaries at each tier. Ownership rights amounting to **50%** or less held directly or indirectly by the parent company, including rights in companies resident in a third country, shall also be taken into account in the calculation.

Or. de

**Amendment 177**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 5 – 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 178**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 6 – paragraph 1 – point a**

*Text proposed by the Commission*

(a) all its permanent establishments that are situated in a Member State;

*Amendment*

(a) all its ***permanent and virtual*** permanent establishments that are situated in a Member State;

Or. en

**Amendment 179**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 6 – paragraph 1 – point b**

*Text proposed by the Commission*

(b) all permanent establishments that are situated in a Member State and belong to its qualifying subsidiaries that are resident in a third country for tax purposes;

*Amendment*

(b) all ***permanent and virtual*** permanent establishments that are situated in a Member State and belong to its qualifying subsidiaries that are resident in a third country for tax purposes;

Or. en

**Amendment 180**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 6 – paragraph 1 – point c**

*Text proposed by the Commission*

(c) all its qualifying subsidiaries that are resident in a Member State for tax purposes, including the permanent establishments of those subsidiaries where such permanent establishments are situated in a Member State;

*Amendment*

(c) all its qualifying subsidiaries that are resident in a Member State for tax purposes, including the ***permanent and virtual*** permanent establishments of those subsidiaries where such permanent establishments are situated in a Member State;

**Amendment 181**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 6 – paragraph 2**

*Text proposed by the Commission*

2. A non-resident taxpayer shall form a group in respect of all of its permanent establishments that are situated in one or more Member States and with all of its qualifying subsidiaries that are resident in a Member State for tax purposes, including the permanent establishments of those subsidiaries where such *permanent* establishments are also situated in one or more Member States.

*Amendment*

2. A non-resident taxpayer shall form a group in respect of all of its *permanent and virtual* permanent establishments that are situated in one or more Member States and with all of its qualifying subsidiaries that are resident in a Member State for tax purposes, including the permanent *and virtual permanent* establishments of those subsidiaries where such establishments are also situated in one or more Member States.

Or. en

**Amendment 182**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 7 – paragraph 1**

*Text proposed by the Commission*

1. *The tax bases of all members of a group shall be added together into a consolidated tax base.*

*Amendment*

*deleted*

Or. en

**Amendment 183**

**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Neena Gill, Paul Tang**

**Proposal for a directive**  
**Article 7 – paragraph 1**

*Text proposed by the Commission*

1. The *tax bases of all* members of a group shall be *added together into a consolidated tax base*.

*Amendment*

1. The *net taxable revenue of* members of a group shall be *based on their financial statements that shall be adjusted so that taxable revenues shall be all cash, exchange or barter receipts arising during or due for the period less those accounted for in previous periods, those of a capital nature and those explicitly exempted from charge; less those cash, barter or exchange payments made or due for the period that were incurred for the purposes of the trade of the corporation less those accounted for in previous periods, those that represent loan or equity capital repayment and those that are explicitly exempted from deduction; less those allowances and reliefs specifically permitted and those excesses of deductions over revenues brought forward from previous periods*.

Or. en

**Amendment 184**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 7 – paragraph 1**

*Text proposed by the Commission*

1. The *tax bases of all* members of a group shall be *added together into a consolidated tax base*.

*Amendment*

1. The *net taxable revenue of a group's* members shall be *based on their financial statements which are to be adjusted so that taxable revenues include all cash and exchange or barter receipts - arising during or due for the period - less those accounted for in previous periods, those of a capital nature and those explicitly exempted from charge*.

**Amendment 185**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 7 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The net taxable revenue of members of a group shall be based on their financial statements that shall be adjusted so that taxable revenues shall be all cash, exchange or barter receipts arising during or due for the period less those accounted for in previous periods, those of a capital nature and those explicitly exempted from charge; less those cash, barter or exchange payments made or due for the period that were incurred for the purposes of the trade of the corporation less those accounted for in previous periods, those that represent loan or equity capital repayment and those that are explicitly exempted from deduction; less those allowances and reliefs specifically permitted and those excesses of deductions over revenues brought forward from previous periods.***

Or. en

**Amendment 186**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 7 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The net taxable revenue shall not include cash, barter or exchange payments made or due which were***



*accounted for in previous periods for the purposes of the trade of the corporation, as well as loan or equity capital repayment and expenses that are explicitly exempted from deduction.*

Or. en

**Amendment 187**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 7 – paragraph 2**

*Text proposed by the Commission*

2. Where the consolidated tax base is negative, the loss shall be carried forward and be set off against the next positive consolidated tax base. Where the consolidated tax base is positive, it shall be apportioned in accordance with Chapter VIII.

*Amendment*

2. Where the consolidated tax base is negative, the loss shall be carried forward and be set off against the next positive consolidated tax base *during a maximum of five years*. Where the consolidated tax base is positive, it shall be apportioned in accordance with Chapter VIII.

Or. en

**Amendment 188**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 7 – paragraph 2**

*Text proposed by the Commission*

2. Where the consolidated tax base is negative, the loss shall be carried forward and be set off against the next positive consolidated tax base. Where the consolidated tax base is positive, it shall be apportioned in accordance with Chapter VIII.

*Amendment*

2. Where the consolidated tax base is negative, the loss shall be carried forward, *for a maximum of five years*, and be set off against the next positive consolidated tax base. Where the consolidated tax base is positive, it shall be apportioned in accordance with Chapter VIII.

Or. en

**Amendment 189**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

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

*Text proposed by the Commission*

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. Groups may change the method only for valid commercial reasons and only at the beginning of a tax year.

*Amendment*

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. Groups may change the method only for valid commercial reasons and only at the beginning of a tax year. ***The Commission shall provide guidelines on what an adequate and consistent documentation method entails.***

Or. en

**Amendment 190**  
**Marco Valli, Laura Agea**

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

*Text proposed by the Commission*

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. ***Groups may change the method only for valid commercial reasons and only at the beginning of a tax year.***

*Amendment*

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. ***All such transactions shall be eliminated from the tax base as a result of the consolidation required by this Directive.***

Or. en

**Amendment 191**  
**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Neena Gill, Paul Tang**

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

*Text proposed by the Commission*

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. ***Groups may change the method only for valid commercial reasons and only at the beginning of a tax year.***

*Amendment*

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. ***All such transactions shall be eliminated from the tax base as a result of the consolidation required by Article 7 (1).***

Or. en

**Amendment 192**

**Fabio De Masi, Matt Carthy**

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

*Text proposed by the Commission*

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. ***Groups may change the method only for valid commercial reasons and only at the beginning of a tax year.***

*Amendment*

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. ***All such transactions shall be eliminated from the tax base as a result of the consolidation required by Article 7 (1).***

Or. en

**Amendment 193**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive  
Article 9 – paragraph 3**

*Text proposed by the Commission*

3. ***The method for recording intra-group transactions shall enable all intra-group transfers and sales to be identified at the lowest cost for assets not subject to depreciation or the value for tax purposes for depreciable assets.***

*Amendment*

***deleted***

Or. en



*intangible assets.*

Or. en

**Amendment 197**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 9 – paragraph 4 a (new)**

*Text proposed by the Commission*

*Amendment*

**4a.** *All such intra-group transactions shall be eliminated from the tax base as a result of the consolidation required by Article 7 (1).*

Or. en

**Amendment 198**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 11 – paragraph 4**

*Text proposed by the Commission*

*Amendment*

4. The taxpayer that, as a result of a business reorganisation, no longer exists or no longer has a permanent establishment in the Member State in which it was resident for tax purposes on the date that it joined the group, shall be considered to have a permanent establishment in that Member State for the purpose of applying this Article.

4. The taxpayer that, as a result of a business reorganisation, no longer exists or no longer has a ***permanent or virtual*** permanent establishment in the Member State in which it was resident for tax purposes on the date that it joined the group, shall be considered to have a permanent ***or virtual permanent*** establishment in that Member State for the purpose of applying this Article.

Or. en

## Amendment 199

Eva Joly

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 15

*Text proposed by the Commission*

*Amendment*

#### *Article 15*

*deleted*

#### *Pre-entry losses*

*Unrelieved losses that have been incurred by a group member in accordance with national corporate tax law or Directive 2016/xx/EU before the rules of this Directive became applicable to that group member may be set off against the apportioned share of that group member if and to the extent that this is provided for under the national corporate tax law or Directive 2016/xx/EU.*

Or. en

## Amendment 200

Eva Joly

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 22 – paragraph 3

*Text proposed by the Commission*

*Amendment*

3. For the purpose of applying this Article, the transferring taxpayer referred to in paragraph 2 that no longer exists or no longer has a permanent establishment in the Member State from which the assets were transferred shall be considered to have a permanent establishment in that Member State.

3. For the purpose of applying this Article, the transferring taxpayer referred to in paragraph 2 that no longer exists or no longer has a permanent *or virtual permanent* establishment in the Member State from which the assets were transferred shall be considered to have a permanent *or virtual permanent* establishment in that Member State.

Or. en

## Amendment 201

**Eva Joly**

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 23 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

Where, as a result of a business reorganisation, one or more groups, or two or more group members, become part of another group, any unrelieved losses of the previously existing group or groups shall be allocated to each of the group members in accordance with Chapter VIII and on the basis of the factors as they stand at the end of the tax year in which the business reorganisation takes place. Unrelieved losses of the previously existing group or groups shall be carried forward *for future* years.

*Amendment*

Where, as a result of a business reorganisation, one or more groups, or two or more group members, become part of another group, any unrelieved losses of the previously existing group or groups shall be allocated to each of the group members in accordance with Chapter VIII and on the basis of the factors as they stand at the end of the tax year in which the business reorganisation takes place. Unrelieved losses of the previously existing group or groups shall be carried forward *during a maximum of five* years.

Or. en

## Amendment 202

**Fabio De Masi, Matt Carthy**

### Proposal for a directive

#### Article 23 – paragraph 1 – subparagraph 1

*Text proposed by the Commission*

Where, as a result of a business reorganisation, one or more groups, or two or more group members, become part of another group, any unrelieved losses of the previously existing group or groups shall be allocated to each of the group members in accordance with Chapter VIII and on the basis of the factors as they stand at the end of the tax year in which the business reorganisation takes place. Unrelieved losses of the previously existing group or groups shall be carried forward for *future* years.

*Amendment*

Where, as a result of a business reorganisation, one or more groups, or two or more group members, become part of another group, any unrelieved losses of the previously existing group or groups shall be allocated to each of the group members in accordance with Chapter VIII and on the basis of the factors as they stand at the end of the tax year in which the business reorganisation takes place. Unrelieved losses of the previously existing group or groups shall be carried forward for *no more than five* years.

**Amendment 203****Fabio De Masi, Matt Carthy****Proposal for a directive****Article 23 – paragraph 1 – subparagraph 2***Text proposed by the Commission*

Where two or more group members become part of another group, no unrelieved losses of the first group shall be allocated as referred to in subparagraph 1, ***provided that the joint value of the asset and labour factors of the departing group members amounts to less than 20 % of the value of these two factors for the entire first group.***

*Amendment*

Where two or more group members become part of another group, no unrelieved losses of the first group shall be allocated as referred to in subparagraph 1.

Or. en

**Amendment 204****Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive****Article 23 – paragraph 2***Text proposed by the Commission*

2. Where two or more principal taxpayers merge within the meaning of points (i) and (ii) of Article 2(a) of Council Directive 2009/133/EC<sup>15</sup>, any unrelieved losses of a group shall be allocated to its members in accordance with Chapter VIII, on the basis of the factors as they stand at the end of the tax year in which the merger takes place. Unrelieved losses shall be carried forward ***for future*** years.

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<sup>15</sup> Council Directive 2009/133/EC of 19

*Amendment*

2. Where two or more principal taxpayers merge within the meaning of points (i) and (ii) of Article 2(a) of Council Directive 2009/133/EC<sup>15</sup>, any unrelieved losses of a group shall be allocated to its members in accordance with Chapter VIII, on the basis of the factors as they stand at the end of the tax year in which the merger takes place. Unrelieved losses shall be carried forward ***during a maximum of five*** years.

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<sup>15</sup> Council Directive 2009/133/EC of 19



October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310, 25.11.2009, p. 34).

October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310, 25.11.2009, p. 34).

Or. en

## **Amendment 205**

**Fabio De Masi, Matt Carthy**

### **Proposal for a directive**

#### **Article 23 – paragraph 2**

##### *Text proposed by the Commission*

2. Where two or more principal taxpayers merge within the meaning of points (i) and (ii) of Article 2(a) of Council Directive 2009/133/EC<sup>15</sup>, any unrelieved losses of a group shall be allocated to its members in accordance with Chapter VIII, on the basis of the factors as they stand at the end of the tax year in which the merger takes place. Unrelieved losses shall be carried forward for *future* years.

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<sup>15</sup> Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310, 25.11.2009, p. 34).

##### *Amendment*

2. Where two or more principal taxpayers merge within the meaning of points (i) and (ii) of Article 2(a) of Council Directive 2009/133/EC<sup>15</sup>, any unrelieved losses of a group shall be allocated to its members in accordance with Chapter VIII, on the basis of the factors as they stand at the end of the tax year in which the merger takes place. Unrelieved losses shall be carried forward for *no more than five* years.

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<sup>15</sup> Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310, 25.11.2009, p. 34).

Or. en

## Amendment 206

Eva Joly

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 24 – paragraph 3

*Text proposed by the Commission*

3. Where the beneficial owner of the shares that were disposed of is a non-taxpayer or a non-resident taxpayer with those shares attributed to its head office or permanent establishment in a third country, the market value of the asset or assets at the time of the disposal of the shares, less the value for tax purposes, shall be deemed to have been received by the taxpayer that held the assets prior to the intra-group transaction referred to in the first paragraph.

*Amendment*

3. Where the beneficial owner of the shares that were disposed of is a non-taxpayer or a non-resident taxpayer with those shares attributed to its head office or ***permanent or virtual*** permanent establishment in a third country, the market value of the asset or assets at the time of the disposal of the shares, less the value for tax purposes, shall be deemed to have been received by the taxpayer that held the assets prior to the intra-group transaction referred to in the first paragraph.

Or. en

## Amendment 207

Eva Joly

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 25 – paragraph 2

*Text proposed by the Commission*

2. The tax credit referred to in paragraph 1 shall be calculated separately for each Member State or third country as well as for each type of income. It shall not exceed the amount resulting from subjecting the income attributed to a taxpayer or to a permanent establishment to the corporate tax rate of the Member State where the taxpayer is resident for tax purposes or where ***the permanent*** establishment is situated.

*Amendment*

2. The tax credit referred to in paragraph 1 shall be calculated separately for each Member State or third country as well as for each type of income. It shall not exceed the amount resulting from subjecting the income attributed to a taxpayer or to a permanent ***or virtual permanent*** establishment to the corporate tax rate of the Member State where the taxpayer is resident for tax purposes or where ***such*** establishment is situated.

Or. en

**Amendment 208**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 26 – paragraph 1**

*Text proposed by the Commission*

Interest *and* royalties paid by a group member to a recipient outside the group may be subject to a withholding tax, in accordance with the applicable rules of national law and any applicable double tax convention, in the Member State where the group member is resident for tax purposes or situated, as the case may be. The withholding tax shall be shared amongst the Member States, in accordance with Chapter VIII, using the formula applicable in the tax year in which the tax is charged.

*Amendment*

Interest, royalties *and other financial flows* paid by a group member to a recipient outside the group may be subject to a withholding tax, in accordance with the applicable rules of national law and any applicable double tax convention, in the Member State where the group member is resident for tax purposes or situated, as the case may be. The withholding tax shall be shared amongst the Member States, in accordance with Chapter VIII, using the formula applicable in the tax year in which the tax is charged.

Or. en

**Amendment 209**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 27 – paragraph 1**

*Text proposed by the Commission*

The treatment of an entity located in a third country in which at least two group members hold an interest shall be determined by an agreement between the relevant Member States. *The principal tax authority shall decide* where there is no agreement.

*Amendment*

The treatment of an entity located in a third country in which at least two group members hold an interest shall be determined by an agreement between the relevant Member States. Where there is no agreement, *the disagreement will be considered to be a dispute and be brought before the Dispute Settlement Mechanism for resolution, as set out in Article 65.*

Or. en

## **Amendment 210**

**Barbara Kappel**

### **Proposal for a directive**

#### **Article 28**

*Text proposed by the Commission*

*Amendment*

#### **Article 28**

*deleted*

##### **General rules**

**1. The consolidated tax base shall be shared between the group members in each tax year on the basis of a formula for apportionment. In determining the apportioned share of a group member A, the formula shall take the following form, giving equal weight to the factors of sales, labour and assets:**

##### **Formula**

**2. The consolidated tax base of a group shall be shared only where it is positive.**

**3. The calculations for sharing the consolidated tax base shall be done at the end of the tax year of the group.**

**4. A period of 15 days or more in a calendar month shall be considered as a whole month.**

**5. When determining the apportioned share of a group member, equal weight shall be given to the factors of sales, labour and assets.**

Or. de

## **Amendment 211**

**Esther de Lange, Gunnar Hökmark**

### **Proposal for a directive**

#### **Article 28 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

The consolidated tax base shall be shared

The consolidated tax base shall be shared

between the group members in each tax year on the basis of a formula for apportionment. In determining the apportioned share of a group member A, the formula shall take the following form, giving *equal* weight to the factors of sales, labour and assets:

between the group members in each tax year on the basis of a formula for apportionment. In determining the apportioned share of a group member A, the formula shall take the following form, giving weight to *at least, but not limited to*, the factors of sales, labour and (*tangible and intangible*) assets *and with a maximum total weighting of labour of 25%*.

Or. en

### **Amendment 212**

**Eva Joly**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 28 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

The consolidated tax base shall be shared between the group members in each tax year on the basis of a formula for apportionment. *In determining the apportioned share of a group member A*, the formula shall *take the following form, giving equal weight to the factors of sales, labour and assets*:

##### *Amendment*

The consolidated tax base shall be shared between the group members in each tax year on the basis of a formula for apportionment. The formula *for apportionment to be used* shall *depend on whether or not the company has virtual permanent establishments, as defined in Directive 2016/xx/EU*.

Or. en

### **Amendment 213**

**Fabio De Masi, Matt Carthy**

### **Proposal for a directive**

#### **Article 28 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

The consolidated tax base shall be shared between the group members in each tax year on the basis of a formula for apportionment. In determining the

##### *Amendment*

The consolidated tax base shall be shared between the group members in each tax year on the basis of a formula for apportionment. In determining the

apportioned share of a group member A, the formula shall take the following form, giving equal weight to the factors of sales, labour *and assets*:

apportioned share of a group member A, the formula shall take the following form, giving equal weight to the factors of sales *and* labour:

Or. en

#### **Amendment 214**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 28 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*As far as non-digital activities are concerned, , the formula for determining the apportioned share of a group member A shall take the following form, giving equal weight to the factors of sales, labour and assets:*

Or. en

#### **Amendment 215**

**Esther de Lange, Gunnar Hökmark**

#### **Proposal for a directive**

#### **Article 28 – paragraph 1 – formula**

*Text proposed by the Commission*

$$\text{ShareA} = \left( \frac{1}{3} \frac{\text{Sales}^A}{\text{Sales}^{\text{Group}}} + \frac{1}{3} \left( \frac{1}{2} \frac{\text{Payroll}^A}{\text{Payroll}^{\text{Group}}} + \frac{1}{2} \frac{\text{No of employees}^A}{\text{No of employees}^{\text{Group}}} \right) + \frac{1}{3} \frac{\text{Assets}^A}{\text{Assets}^{\text{Group}}} \right) * \text{Con'd Tax Base}$$

*Amendment*

*deleted*

Or. en

## Amendment 216

Bernd Lucke

### Proposal for a directive

#### Article 28 – paragraph 1 – formula

*Text proposed by the Commission*

$$\text{ShareA} = \left( \frac{1}{3} \frac{\text{Sales}^{\text{A}}}{\text{Sales}^{\text{Group}}} + \frac{1}{3} \left( \frac{1}{2} \frac{\text{Payroll}^{\text{A}}}{\text{Payroll}^{\text{Group}}} + \frac{1}{2} \frac{\text{No of employees}^{\text{A}}}{\text{No of employees}^{\text{Group}}} \right) + \frac{1}{3} \frac{\text{Assets}^{\text{A}}}{\text{Assets}^{\text{Group}}} \right) * \text{Con'd Tax Base}$$

*Amendment*

*deleted*

Or. en

*Justification*

*Delete formula.*

## Amendment 217

Fabio De Masi, Matt Carthy

### Proposal for a directive

#### Article 28 – paragraph 1 – formula

*Text proposed by the Commission*

$$\text{ShareA} = \left( \frac{1}{3} \frac{\text{Sales}^{\text{A}}}{\text{Sales}^{\text{Group}}} + \frac{1}{3} \left( \frac{1}{2} \frac{\text{Payroll}^{\text{A}}}{\text{Payroll}^{\text{Group}}} + \frac{1}{2} \frac{\text{No of employees}^{\text{A}}}{\text{No of employees}^{\text{Group}}} \right) + \frac{1}{3} \frac{\text{Assets}^{\text{A}}}{\text{Assets}^{\text{Group}}} \right) * \text{Con'd Tax Base}$$

*Amendment*

*deleted*

Or. en

## Amendment 218

Eva Joly

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 28 – paragraph 1 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*As far as digital activities are concerned, the formula for determining the apportioned share of a group member A shall take the following form, giving equal weight to the factors of revenues, labour, assets, and users:*

Or. en

**Amendment 219**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 28 – paragraph 1 – subparagraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*Share A = (1/2 (Sales<sup>A</sup>/Sales<sup>Group</sup>) + 1/2 (1/2(Payroll<sup>A</sup>/Payroll<sup>Group</sup>) + 1/2(No of employees<sup>A</sup>/No of employees<sup>Group</sup>))) \* Con'd Tax Base*

Or. en

**Amendment 220**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 28 – paragraph 1 – subparagraph 2 b (new)**



*Text proposed by the Commission*

*Amendment*

***Share A = [1/4 (Revenues generated from data collected by A)/(Revenues of the Group) + 1/4 (No of users A)/(No of users of the Group)) + 1/4 (1/2 (Payroll A)/(Payroll Group) + 1/2 (No of employees A)/(No of employees Group)) + 1/4 (Assets A)/(Assets Group)***

Or. en

**Amendment 221**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 28 – paragraph 1 – subparagraph 2 c (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall adopt delegated acts in accordance with Article XX to lay down the detailed rules on how the revenues generated from collected data as well as how the number of user shall be defined and calculated depending on the type of digital business concerned.***

Or. en

**Amendment 222**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 28 – paragraph 5**

*Text proposed by the Commission*

*Amendment*

***5. When determining the apportioned share of a group member, equal weight shall be given to the factors of sales,*** ***deleted***

*labour and assets.*

Or. en

**Amendment 223**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive  
Article 28 – paragraph 5**

*Text proposed by the Commission*

5. When determining the apportioned share of a group member, equal weight shall be given to the factors of sales, labour *and assets*.

*Amendment*

5. When determining the apportioned share of a group member, equal weight shall be given to the factors of sales *and* labour.

Or. en

**Amendment 224**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive  
Article 29**

*Text proposed by the Commission*

*Article 29*

*Safeguard clause*

*As an exception to the rule set out in Article 28, if the principal taxpayer or a competent authority considers that the outcome of the apportionment of the consolidated tax base to a group member does not fairly represent the extent of the business activity of that group member, the principal taxpayer or competent authority may request the use of an alternative method for calculating the tax share of each group member. An alternative method can be used only if, following consultations among the competent authorities and, where*

*Amendment*

*deleted*

*applicable, discussions held in accordance with Articles 77 and 78, all these authorities agree to that alternative method. The Member State of the principal tax authority shall inform the Commission about the alternative method used.*

Or. en

**Amendment 225**  
**Barbara Kappel**

**Proposal for a directive**  
**Article 29 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

*As an exception to the rule set out in Article 28, if the principal taxpayer or a competent authority considers that the outcome of the apportionment of the consolidated tax base to a group member does not fairly represent the extent of the business activity of that group member, the principal taxpayer or competent authority may request the use of an alternative method for calculating the tax share of each group member. An alternative method can be used only if, following consultations among the competent authorities and, where applicable, discussions held in accordance with Articles 77 and 78, all these authorities agree to that alternative method. The Member State of the principal tax authority shall inform the Commission about the alternative method used.*

*deleted*

Or. de

**Amendment 226**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 29 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***In the event of no agreement between the competent authorities, the case shall be considered a dispute, that shall be resolved in accordance with article 65.***

Or. en

**Amendment 227**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 31 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

The factors used in calculating the apportioned share of a group member holding an interest in a transparent entity shall include the sales, labour ***and assets*** of the transparent entity, in proportion to the taxpayer's participation in the profits and losses of that entity.

The factors used in calculating the apportioned share of a group member holding an interest in a transparent entity shall include the sales ***and*** labour of the transparent entity, in proportion to the taxpayer's participation in the profits and losses of that entity.

Or. en

**Amendment 228**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 32 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The definition of an employee shall be determined by the ***national law of the Member State where the employment is exercised.***

3. The definition of an employee, ***which will serve only for the purposes of this proposal,*** shall be determined by the ***Commission.***

Or. en

**Amendment 229**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 34**

*Text proposed by the Commission*

*Amendment*

**Article 34**

**deleted**

**Composition of the asset factor**

**1. The asset factor shall consist of the average value of all fixed tangible assets owned, rented or leased by a group member as its numerator and the average value of all fixed tangible assets owned, rented or leased by the group as its denominator.**

**2. In the five years that follow a taxpayer joining an existing or new group, its asset factor shall also include the total amount of costs incurred for research, development, marketing and advertising by the taxpayer over the six years that preceded its joining the group.**

Or. en

**Amendment 230**  
**Esther de Lange, Gunnar Hökmark**

**Proposal for a directive**  
**Article 34 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. The asset factor shall consist of the average value of all **fixed** tangible assets owned, rented or leased by a group member as its numerator and the average value of all **fixed** tangible assets owned, rented or leased by the group as its denominator.

1. The asset factor shall consist of the average value of all tangible **and intangible** assets owned, rented or leased by a group member as its numerator and the average value of all tangible **and intangible** assets owned, rented or leased by the group as its denominator.

Or. en

**Amendment 231**  
**Ramón Jáuregui Atondo, Jonás Fernández**

**Proposal for a directive**  
**Article 34 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. *In the five years that follow a taxpayer joining an existing or new group, its asset factor shall also include the total amount of costs incurred for research, development, marketing and advertising by the taxpayer over the six years that preceded its joining the group.*

*deleted*

Or. es

**Amendment 232**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 34 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. *In the five years that follow a taxpayer joining an existing or new group, its asset factor shall also include the total amount of costs incurred for research, development, marketing and advertising by the taxpayer over the six years that preceded its joining the group.*

2. Its asset factor shall also include the total amount of costs incurred for research, development, marketing and advertising by the taxpayer over the *twenty* years that preceded its joining the group.

Or. en

**Amendment 233**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 35**

*Text proposed by the Commission*

*Amendment*

**Article 35**

**deleted**

***Allocation of assets***

***1. Without prejudice to Article 22(2) and (3), an asset shall be included in the asset factor of its economic owner. Where the economic owner cannot be identified, the asset shall be included in the asset factor of the legal owner.***

***However, an asset that is not effectively used by its economic owner shall be included in the factor of the group member that effectively uses that asset, provided that the asset represents more than 5 % of the value for tax purposes of all fixed tangible assets of the group member that effectively uses it.***

***2. Except in the case of leases between group members, leased assets shall be included in the asset factor of the group member that is the lessor or the lessee of the asset. The same shall apply to rented assets.***

Or. en

**Amendment 234**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 35 a (new)**

*Text proposed by the Commission*

*Amendment*

***Article 35a***

***Composition of the data and user factors***

***The data and users factors shall consist, as to one quarter of the formula, of the value of total revenues generated from data collected as its numerator and the total amount of revenues of the group as***

*its denominator; and as to another quarter of the formula, of the total number of user accounts as its numerator and the total number of user accounts of the group as its denominator.*

*This data factors apply only in cases where the group has virtual permanent establishments.*

Or. en

## **Amendment 235**

**Fabio De Masi, Matt Carthy**

### **Proposal for a directive**

#### **Article 36**

*Text proposed by the Commission*

*Amendment*

#### *Article 36*

*deleted*

#### *Valuation*

- 1. Land and other non-depreciable fixed tangible assets shall be valued at their original cost.*
- 2. An individually depreciable fixed tangible asset shall be valued at the average of its value for tax purposes at the beginning and at the end of a tax year.*

*Where, as a result of one or more intra-group transactions, an individually depreciable fixed tangible asset is included in the asset factor of a group member for less than a tax year, the value to be taken into account shall be calculated having regard to the number of months that the asset was included in the asset factor of that group member.*
- 3. The pool of fixed assets, as referred to in Article 37 of Directive 2016/xx/EU, shall be valued at the average of its value for tax purposes at the beginning and at the end of a tax year.*
- 4. The renter or lessee of an asset of which it is not the economic owner shall*



*value that rented or leased asset at eight times the net annual rental or lease payment due, less any amounts receivable from sub-rentals or sub-leases.*

*A group member renting out or leasing an asset of which it is not its economic owner shall value that rented or leased asset at eight times the net annual rental or lease payment due.*

*5. An asset sold by a group member to a person outside the group following an intra-group transfer in the same or the previous tax year shall be included in the asset factor of the transferring group member for the period between the intra-group transfer and the sale to the person outside the group, except where the group members concerned demonstrate that the intra-group transfer was made for genuine commercial reasons.*

Or. en

#### **Amendment 236**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 37 – paragraph 1**

##### *Text proposed by the Commission*

1. The sales factor shall consist of the total sales allocated to a group member, including permanent establishments that are considered to exist pursuant to Article 22(3), as its numerator and the total sales of the group as its denominator.

##### *Amendment*

1. The sales factor shall consist of the total sales allocated to a group member, including ***permanent and virtual*** permanent establishments that are considered to exist pursuant to Article 22(3), as its numerator and the total sales of the group as its denominator.

Or. en

#### **Amendment 237**

**Paul Tang, Hugues Bayet**

**Proposal for a directive**  
**Article 38 – paragraph 1**

*Text proposed by the Commission*

1. Sales of goods shall be included in the sales factor of the group member located in the Member State where the dispatch or transport of the goods to the person acquiring them ends. Where that place cannot be determined, the sales of goods shall be attributed to the group member located in the Member State of the last identifiable location of the goods.

*Amendment*

1. Sales of goods shall be included in the sales factor of the group member located in the Member State where the dispatch or transport of the goods to the person acquiring them ends. Where that place cannot be determined **or the group member has no taxable nexus**, the sales of goods shall be attributed to the group member located in the Member State of the last identifiable location of the goods.

Or. en

**Amendment 238**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 38 – paragraph 4**

*Text proposed by the Commission*

4. Where there is no group member in the Member State where the goods are delivered or the services are supplied, or where goods are delivered or services are supplied in a third country, the sales of goods and supplies of services shall be included in the sales factor of all group members in proportion to their labour **and asset** factors.

*Amendment*

4. Where there is no group member in the Member State where the goods are delivered or the services are supplied, or where goods are delivered or services are supplied in a third country, the sales of goods and supplies of services shall be included in the sales factor of all group members in proportion to their labour factors.

Or. en

**Amendment 239**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 38 – paragraph 5**

*Text proposed by the Commission*

5. Where there is more than one group member in the Member State where the goods are delivered or the services are supplied, the sales shall be included in the sales factor of all group members located in that Member State in proportion to their labour **and asset** factors.

*Amendment*

5. Where there is more than one group member in the Member State where the goods are delivered or the services are supplied, the sales shall be included in the sales factor of all group members located in that Member State in proportion to their labour factors.

Or. en

**Amendment 240**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 39 – paragraph 1**

*Text proposed by the Commission*

The Commission may adopt acts laying down detailed rules on the calculation of the labour, asset **and** sales factors, the allocation of employees and payroll, assets and sales to the respective factor and the valuation of assets. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

*Amendment*

The Commission may adopt acts laying down detailed rules on the calculation of the labour, asset, sales, **data and users** factors, the allocation of employees and payroll, assets and sales to the respective factor and the valuation of assets. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Or. en

**Amendment 241**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 39 – paragraph 1**

*Text proposed by the Commission*

The Commission may adopt acts laying down detailed rules on the calculation of the labour, **asset** and sales factors, the

*Amendment*

The Commission may adopt acts laying down detailed rules on the calculation of the labour and sales factors, the allocation

allocation of employees and payroll, assets and sales to the respective factor and the valuation of assets. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

of employees and payroll, assets and sales to the respective factor and the valuation of assets. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Or. en

#### **Amendment 242**

**Fabio De Masi, Matt Carthy**

#### **Proposal for a directive**

#### **Article 40 – paragraph 1**

*Text proposed by the Commission*

**1. The asset factor of a financial institution, as referred to in point (29)(a), (d), (e), (f), (g), (h) and (i) of Article 4 of Directive 2016/xx/EU, shall be 10 % of the value of financial assets, with the exception of own shares and of participations that give rise to tax exempt income. Financial assets shall include assets held for trading as referred to in Article 21 of Directive 2016/xx/EU. Financial assets shall be included in the asset factor of the group member that had those assets recorded in its books when it became a member of the group.**

*Amendment*

**deleted**

Or. en

#### **Amendment 243**

**Matt Carthy, Fabio De Masi**

#### **Proposal for a directive**

#### **Article 40 – paragraph 2**

*Text proposed by the Commission*

**2. The sales factor of a financial institution, as referred to in point (29)(a), (d), (e), (f), (g), (h) and (i) of Article 4 of**

*Amendment*

**2. The sales factor of a financial institution, as referred to in point (29)(a), (d), (e), (f), (g), (h) and (i) of Article 4 of**

Directive 2016/xx/EU, shall be **10 %** of its revenues in the form of interest, fees, commissions and revenues from securities, excluding value added tax, other taxes and duties. Intra-group sales shall not be included. For the purposes of Article 38(2), financial services shall be considered to be carried out, in the case of a secured loan, in the Member State in which the security is situated or, if that Member State cannot be identified, the Member State in which the security is registered. Other financial services shall be considered to be carried out in the Member State of the borrower or of the person who pays fees, commissions or other revenue. Where the borrower or the person who pays fees, commissions or other revenue cannot be identified or if the Member State in which the security is situated or registered cannot be identified, the sales shall be attributed to all group members in proportion to their labour and asset factors.

Directive 2016/xx/EU, shall be **20%** of its revenues in the form of interest, fees, commissions and revenues from securities, excluding value added tax, other taxes and duties. Intra-group sales shall not be included. For the purposes of Article 38(2), financial services shall be considered to be carried out, in the case of a secured loan, in the Member State in which the security is situated or, if that Member State cannot be identified, the Member State in which the security is registered. Other financial services shall be considered to be carried out in the Member State of the borrower or of the person who pays fees, commissions or other revenue. Where the borrower or the person who pays fees, commissions or other revenue cannot be identified or if the Member State in which the security is situated or registered cannot be identified, the sales shall be attributed to all group members in proportion to their labour and asset factors.

Or. en

**Amendment 244**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 41 – paragraph 1**

*Text proposed by the Commission*

**1. The asset factor of insurance undertakings, as referred to in point (29)(b) and (c) of Article 4 of Directive 2016/xx/EU, shall be 10 % of the value of the financial assets referred to in Article 40(1).**

*Amendment*

**deleted**

Or. en

**Amendment 245**  
**Matt Carthy, Fabio De Masi**

**Proposal for a directive**  
**Article 41 – paragraph 2**

*Text proposed by the Commission*

2. The sales factor of an insurance undertaking, as referred to in point (29)(b) and (c) of Article 4 of Directive 2016/xx/EU, shall be **10** % of all earned premiums, net of reinsurance, allocated investment returns transferred from the non-technical account, other technical revenues, net of reinsurance, and investment revenues, fees and commissions, excluding value added tax, other taxes and duties. For the purposes of Article 38(2), insurance services shall be considered to be carried out in the Member State of the policy holder. Other sales shall be attributed to all group members in proportion to their labour and asset factors.

*Amendment*

2. The sales factor of an insurance undertaking, as referred to in point (29)(b) and (c) of Article 4 of Directive 2016/xx/EU, shall be **20** % of all earned premiums, net of reinsurance, allocated investment returns transferred from the non-technical account, other technical revenues, net of reinsurance, and investment revenues, fees and commissions, excluding value added tax, other taxes and duties. For the purposes of Article 38(2), insurance services shall be considered to be carried out in the Member State of the policy holder. Other sales shall be attributed to all group members in proportion to their labour and asset factors.

Or. en

**Amendment 246**

**Hugues Bayet, Jakob von Weizsäcker, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Paul Tang**

**Proposal for a directive**  
**Article 44 – paragraph -1 (new)**

*Text proposed by the Commission*

*Amendment*

***-1. No deductions shall be allowed to the extent that they would lead to an effective corporate tax rate lower than 18% on revenues, excluding exempt revenues.***

Or. en

**Amendment 247**

**Hugues Bayet, Jakob von Weizsäcker, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Paul Tang**

**Proposal for a directive**  
**Article 45 – paragraph 1**

*Text proposed by the Commission*

The tax liability of each group member shall be the outcome of the application of the national tax rate to the apportioned share, adjusted in accordance with Article 44, and further reduced with the deductions provided for in Article 25.

*Amendment*

The tax liability of each group member shall be the outcome of the application of the national tax rate to the apportioned share, adjusted in accordance with Article 44, and further reduced with the deductions provided for in Article 25. ***A minimum effective corporate tax rate shall be set at 18%.***

Or. en

**Amendment 248**

**Hugues Bayet, Jakob von Weizsäcker, Emmanuel Maurel, Pervenche Berès, Paul Tang**

**Proposal for a directive**  
**Article 45 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The Commission shall put forward by 1 January 2019 a legislative proposal for a minimum effective corporate tax rate at 18% in each Member State, for the purpose of maximisation of tax efficiency, so as to make it possible to compare rates across the Union and which feeds into the Union own resources. This rate shall be applied after a phasing-in of five years in line with the convergence code.***

Or. en

**Amendment 249**

**Paul Tang, Hugues Bayet**

**Proposal for a directive**  
**Article 45 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 45a**

***Tax revenues generated from the common consolidated corporate tax base***

***The Commission shall by 31st of December 2019 at the latest propose a regulation on making the CCCTB-based own resource available to the EU budget. Through this regulation a common rate shall be introduced. This shall be a rate of 5% of the common consolidated corporate tax base, which shall flow into the European budget as a new genuine own resource, in order to proportionally reduce Member State contributions to the same budget.***

Or. en

**Amendment 250**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 46 – paragraph 3**

*Text proposed by the Commission*

*Amendment*

3. The principal tax authority shall transmit the notice immediately to the competent authorities of all Member States in which group members are resident for tax purposes or situated in the form of a permanent establishment. Those authorities may submit their views and any relevant information on the validity and scope of the notice to the principal tax authority within one month of its transmission.

3. The principal tax authority shall transmit the notice immediately to the competent authorities of all Member States in which group members are resident for tax purposes or situated in the form of a permanent ***or virtual permanent*** establishment. Those authorities may submit their views and any relevant information on the validity and scope of the notice to the principal tax authority within one month of its transmission.

Or. en



## **Amendment 251**

**Eva Joly**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 47 – paragraph 1**

##### *Text proposed by the Commission*

1. This Directive shall start applying to a group one month after the notice to create a group was received, as referred to in Article 46(3), by the competent authorities of all Member States in which group members are resident for tax purposes or situated in the form of a permanent establishment. The principal tax authority shall inform the principal taxpayer in this regard.

##### *Amendment*

1. This Directive shall start applying to a group one month after the notice to create a group was received, as referred to in Article 46(3), by the competent authorities of all Member States in which group members are resident for tax purposes or situated in the form of a permanent *or virtual permanent* establishment. The principal tax authority shall inform the principal taxpayer in this regard.

Or. en

## **Amendment 252**

**Eva Joly**

on behalf of the Verts/ALE Group

### **Proposal for a directive**

#### **Article 48 – paragraph 2**

##### *Text proposed by the Commission*

The Commission *may* adopt an act establishing a standard form of the notice to create a group. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).

##### *Amendment*

The Commission *shall* adopt an act establishing a standard form of the notice to create a group. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Or. en

## **Amendment 253**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 51 – paragraph 3**

*Text proposed by the Commission*

3. Where the consolidated tax return does not have the legal status of a tax assessment for the purposes of enforcing a tax debt, the competent authority of a Member State may, in respect of a group member that is resident for tax purposes or situated there in the form of a permanent establishment, issue an instrument of national law authorising enforcement in that Member State. That instrument shall incorporate the data in the consolidated tax return concerning the group member. Appeals shall be permitted against the instrument exclusively on grounds of form and not to the underlying tax assessment. The procedure shall be governed by the national law of the relevant Member State.

*Amendment*

3. Where the consolidated tax return does not have the legal status of a tax assessment for the purposes of enforcing a tax debt, the competent authority of a Member State may, in respect of a group member that is resident for tax purposes or situated there in the form of a ***permanent or virtual*** permanent establishment, issue an instrument of national law authorising enforcement in that Member State. That instrument shall incorporate the data in the consolidated tax return concerning the group member. Appeals shall be permitted against the instrument exclusively on grounds of form and not to the underlying tax assessment. The procedure shall be governed by the national law of the relevant Member State.

Or. en

**Amendment 254**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 51 – paragraph 4**

*Text proposed by the Commission*

4. The principal taxpayer shall be responsible for all procedural obligations relating to the taxation of permanent establishments as referred to in Article 11(4) or Article 22(3).

*Amendment*

4. The principal taxpayer shall be responsible for all procedural obligations relating to the taxation of permanent ***or virtual permanent*** establishments as referred to in Article 11(4) or Article 22(3).

Or. en

**Amendment 255**

**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 55 – paragraph 1**

*Text proposed by the Commission*

The Commission *may* adopt acts laying down rules on the electronic filing of the consolidated tax return, on the form of the consolidated tax return, on the form of the single taxpayer's tax return and on the supporting documentation required. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

*Amendment*

The Commission *will* adopt acts laying down rules on the electronic filing of the consolidated tax return, on the form of the consolidated tax return, on the form of the single taxpayer's tax return and on the supporting documentation required. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Or. en

**Amendment 256**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 56 – paragraph 5 – subparagraph 1**

*Text proposed by the Commission*

Prior to issuing an amended tax assessment, the principal tax authority shall consult the competent authorities of the Member States in which a group member is resident for tax purposes or situated in the form of a permanent establishment. Those authorities may express their views within one month of consultation.

*Amendment*

Prior to issuing an amended tax assessment, the principal tax authority shall consult the competent authorities of the Member States in which a group member is resident for tax purposes or situated in the form of a permanent *or virtual permanent* establishment. Those authorities may express their views within one month of consultation.

Or. en

**Amendment 257**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 56 – paragraph 5 – subparagraph 2**

*Text proposed by the Commission*

The competent authority of a Member State in which a group member is resident for tax purposes or situated in the form of a permanent establishment may call on the principal tax authority to issue an amended tax assessment. Failure of the principal tax authority to notify within three months of that call to the competent authority that it undertakes to issue that amended tax assessment shall be treated as a refusal.

*Amendment*

The competent authority of a Member State in which a group member is resident for tax purposes or situated in the form of a ***permanent or virtual*** permanent establishment may call on the principal tax authority to issue an amended tax assessment. Failure of the principal tax authority to notify within three months of that call to the competent authority that it undertakes to issue that amended tax assessment shall be treated as a refusal.

Or. en

**Amendment 258**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 58 – paragraph 2**

*Text proposed by the Commission*

In exceptional circumstances, the competent tax authorities of the Member States in which the group members are resident or in which they have a permanent establishment may, within six months of the notice referred to in Article 46 or within six months of a reorganisation involving the principal taxpayer, decide by common agreement that a taxpayer other than the taxpayer designated by the group shall be the principal taxpayer.

*Amendment*

In exceptional circumstances, the competent tax authorities of the Member States in which the group members are resident or in which they have a ***permanent or virtual*** permanent establishment may, within six months of the notice referred to in Article 46 or within six months of a reorganisation involving the principal taxpayer, decide by common agreement that a taxpayer other than the taxpayer designated by the group shall be the principal taxpayer.

Or. en

**Amendment 259**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 60 – paragraph 1**

*Text proposed by the Commission*

A taxpayer shall at the request of the competent authority of the Member State in which it is resident or in which its permanent establishment is situated provide all information foreseeably relevant to the determination of its tax liability. In addition, the principal taxpayer shall at the request of the principal tax authority provide all information foreseeably relevant to the determination of the consolidated tax base or of the tax liability of any group member.

*Amendment*

A taxpayer shall at the request of the competent authority of the Member State in which it is resident or in which its ***permanent or virtual*** permanent establishment is situated provide all information foreseeably relevant to the determination of its tax liability. In addition, the principal taxpayer shall at the request of the principal tax authority provide all information foreseeably relevant to the determination of the consolidated tax base or of the tax liability of any group member.

Or. en

**Amendment 260**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 61 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

A taxpayer may request from the competent authority of the Member State in which it is resident or in which it has a permanent establishment an opinion on the implementation of the rules of this Directive on a specific transaction or series of transactions that it plans to carry out. A taxpayer may also request an opinion on the proposed composition of a group. The competent authority shall take all possible steps to respond to the request within a reasonable time.

*Amendment*

A taxpayer may request from the competent authority of the Member State in which it is resident or in which it has a ***permanent or virtual*** permanent establishment an opinion on the implementation of the rules of this Directive on a specific transaction or series of transactions that it plans to carry out. A taxpayer may also request an opinion on the proposed composition of a group. The competent authority shall take all possible steps to respond to the request within a reasonable time.

Or. en

**Amendment 261**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 64 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*The principal tax authority and the other competent authorities concerned shall jointly determine the scope and content of an audit and the group members to be audited.*

*deleted*

Or. en

**Amendment 262**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 65 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Where the competent authority of the Member State in which a group member is resident for tax purposes or situated in the form of a permanent establishment disagrees with a decision of the principal tax authority made pursuant to Articles 49 or 56(2) or (4) or the second subparagraph of Article 56(5) may challenge that decision before the courts of the Member State of the principal tax authority within a period of three months.

1. Where the competent authority of the Member State in which a group member is resident for tax purposes or situated in the form of a ***permanent or virtual*** permanent establishment disagrees with a decision of the principal tax authority made pursuant to Articles 49 or 56(2) or (4) or the second subparagraph of Article 56(5) may challenge that decision before the courts of the Member State of the principal tax authority within a period of three months.

Or. en

**Amendment 263**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 65 – paragraph 1**

*Text proposed by the Commission*

1. Where the competent authority of the Member State in which a group member is resident for tax purposes or situated in the form of a permanent establishment disagrees with a decision of the principal tax authority made pursuant to Articles 49 or 56(2) or (4) or the second subparagraph of Article 56(5) may challenge that decision ***before the courts of the Member State of the principal tax authority*** within a period of three months.

*Amendment*

1. Where the competent authority of the Member State in which a group member is resident for tax purposes or situated in the form of a permanent establishment disagrees with a decision of the principal tax authority made pursuant to Articles 49 or 56(2) or (4) or the second subparagraph of Article 56(5) may challenge that decision ***through the Dispute Settlement Mechanism, set out in paragraph 2 of this Article***, within a period of three months.

Or. en

**Amendment 264**

**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**

**Article 65 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***1a. The Commission will consider different options for a proposal to establish a Dispute Settlement Mechanism for the purpose of this Directive.***

Or. en

**Amendment 265**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 67 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

1. Appeals against amended tax assessments or tax assessments made pursuant to Article 54 shall be heard by an

1. Appeals against amended tax assessments or tax assessments made pursuant to Article 54 shall be heard by an

administrative body that according to the law of the Member State of the principal tax authority is competent to hear appeals at first instance. That administrative body shall be independent from the tax authorities in the Member State of the principal tax authority. Where there is no such administrative body in that Member State, the principal taxpayer may lodge a judicial appeal directly.

administrative body that according to the law of the Member State of the principal tax authority is competent to hear appeals at first instance. That administrative body shall be independent from the tax authorities in the Member State of the principal tax authority. Where there is no such administrative body in that Member State *or where the principal taxpayer prefers so*, the principal taxpayer may lodge a judicial appeal directly.

Or. en

### **Amendment 266**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive Article 67 – paragraph 5**

##### *Text proposed by the Commission*

5. The administrative body referred to in paragraph 1 shall decide on the appeal within six months. If no decision is received by the principal taxpayer within that period, the decision of the principal tax authority shall be deemed to have been confirmed.

##### *Amendment*

5. *If seized of the case*, the administrative body referred to in paragraph 1 shall decide on the appeal within six months. If no decision is received by the principal taxpayer within that period, the decision of the principal tax authority shall be deemed to have been confirmed.

Or. en

### **Amendment 267**

**Fabio De Masi, Matt Carthy**

#### **Proposal for a directive Article 69 – paragraph 2**

##### *Text proposed by the Commission*

2. Where paragraph 1 applies, the exceeding borrowing costs and EBITDA shall be calculated at the level of the group

##### *Amendment*

2. Where paragraph 1 applies, the exceeding borrowing costs and EBITDA shall be calculated at the level of the group



and comprise the results of all group members. ***The amount of EUR 3 000 000 referred to in Article 13 of Directive 2016/xx/EU shall be increased to 5 000 000.***

and comprise the results of all group members.

Or. en

#### **Amendment 268**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 69 – paragraph 2**

##### *Text proposed by the Commission*

2. Where paragraph 1 applies, the exceeding borrowing costs and EBITDA shall be calculated at the level of the group and comprise the results of all group members. The amount of EUR **3 000 000** referred to in Article 13 of Directive 2016/xx/EU shall be increased to **5 000 000**.

##### *Amendment*

2. Where paragraph 1 applies, the exceeding borrowing costs and EBITDA shall be calculated at the level of the group and comprise the results of all group members. The amount of EUR **1 000 000** referred to in Article 13 of Directive 2016/xx/EU shall be increased to **3 000 000 while respecting the time conditions set out in article 13 of Directive 2016/xx/EU**.

Or. en

#### **Amendment 269**

**Marco Valli, Laura Agea**

#### **Proposal for a directive**

#### **Article 69 – paragraph 2**

##### *Text proposed by the Commission*

2. Where paragraph 1 applies, the exceeding borrowing costs and EBITDA shall be calculated at the level of the group and comprise the results of all group members. ***The amount of EUR 3 000 000 referred to in Article 13 of Directive 2016/xx/EU shall be increased to 5 000***

##### *Amendment*

2. Where paragraph 1 applies, the exceeding borrowing costs and EBITDA shall be calculated at the level of the group and comprise the results of all group members, ***in line with*** Article 13 of Directive 2016/xx/EU.

000.

Or. en

**Amendment 270**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 71**

*Text proposed by the Commission*

*Amendment*

**Article 71**

**deleted**

***Loss relief and recapture***

**1. Article 41 of Directive 2016/xx/EU on loss relief and recapture shall automatically cease to apply when this Directive comes into force.**

**2. Transferred losses which have not yet been recaptured when this Directive enters into force shall remain with the taxpayer to which they have been transferred.**

Or. en

**Amendment 271**  
**Marco Valli, Laura Agea**

**Proposal for a directive**  
**Article 71**

*Text proposed by the Commission*

*Amendment*

**Article 71**

**deleted**

***Loss relief and recapture***

**1. Article 41 of Directive 2016/xx/EU on loss relief and recapture shall automatically cease to apply when this Directive comes into force.**

**2. Transferred losses which have not yet been recaptured when this Directive**

*enters into force shall remain with the taxpayer to which they have been transferred.*

Or. en

**Amendment 272**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 71**

*Text proposed by the Commission*

*Amendment*

*Article 71*

*deleted*

*Loss relief and recapture*

*1. Article 41 of Directive 2016/xx/EU on loss relief and recapture shall automatically cease to apply when this Directive comes into force.*

*2. Transferred losses which have not yet been recaptured when this Directive enters into force shall remain with the taxpayer to which they have been transferred.*

Or. en

**Amendment 273**

**Esther de Lange, Gunnar Hökmark**

**Proposal for a directive**

**Article 72**

*Text proposed by the Commission*

*Amendment*

*Article 72*

*deleted*

*Switch-over*

*For the purposes of this Directive, the reference to the statutory corporate tax rate that the taxpayer would have been subject to in the first subparagraph of*

*Article 53(1) of Directive 2016/xx/EU shall not apply and shall be replaced by the average statutory corporate tax rate applicable amongst all Member States instead.*

Or. en

#### **Amendment 274**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 72 – paragraph 1**

*Text proposed by the Commission*

*For the purposes of this Directive, the reference to the statutory corporate tax rate that the taxpayer would have been subject to in the first subparagraph of Article 53(1) of Directive 2016/xx/EU shall not apply and shall be replaced by the average statutory corporate tax rate applicable amongst all Member States instead.*

*Amendment*

*1. By way of derogation from points (c) and (d) of Article 8 of Directive 2016/xx/EU, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to an effective corporate tax rate lower than 75% of the statutory tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes. Member States' conventions for the avoidance of double taxation between the Member State in which the taxpayer is resident for tax purposes and the third country where that entity is resident for tax purposes shall be amended accordingly.*

*2. Where paragraph 1 applies, the taxpayer shall be subject to tax on the foreign income with a deduction of the tax paid in the third country from its tax liability in the Member State where it is resident for tax purposes. The deduction shall not exceed the amount of tax, as computed before the deduction, which is*

*attributable to the income that may be taxed.*

3. Member States *shall exclude losses from the scope of this Article in the event of a disposal of shares in an entity that has its residence for tax purposes in a third country.*

Or. en

## **Amendment 275**

**Fabio De Masi**

### **Proposal for a directive Article 72 – paragraph 1**

#### *Text proposed by the Commission*

For the purposes of this Directive, the reference to the statutory corporate tax rate that the taxpayer would have been subject to in the first subparagraph of Article 53(1) of Directive 2016/xx/EU shall not apply and shall be replaced by *the average statutory corporate tax rate applicable amongst all Member States instead.*

#### *Amendment*

For the purposes of this Directive, the reference to the statutory corporate tax rate that the taxpayer would have been subject to in the first subparagraph of Article 53(1) of Directive 2016/xx/EU shall not apply and shall be replaced by *an effective tax rate of 25%.*

Or. en

## **Amendment 276**

**Marco Valli, Laura Agea**

### **Proposal for a directive Article 72 – paragraph 1**

#### *Text proposed by the Commission*

For the purposes of this Directive, the reference to the *statutory* corporate tax rate that the taxpayer would have been subject to in the first subparagraph of Article 53(1) of Directive 2016/xx/EU shall not apply and shall be replaced by the average *statutory* corporate tax rate applicable

#### *Amendment*

For the purposes of this Directive, the reference to the *effective* corporate tax rate that the taxpayer would have been subject to in the first subparagraph of Article 53(1) of Directive 2016/xx/EU shall not apply and shall be replaced by the average *effective* corporate tax rate applicable

amongst all Member States instead.

amongst all Member States instead.

Or. en

#### **Amendment 277**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

##### **Article 73 – paragraph 1**

###### *Text proposed by the Commission*

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU ***shall be limited to relations between group members and entities that are resident for tax purposes, or permanent establishments that are situated, in a third country.***

###### *Amendment*

For the purposes of this Directive, the scope of controlled foreign company legislation ***applies as defined*** under Article 59 of Directive 2016/xx/EU.

Or. en

#### **Amendment 278**

**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Peter Simon, Alfred Sant, Neena Gill, Paul Tang**

#### **Proposal for a directive**

##### **Article 73 – paragraph 1**

###### *Text proposed by the Commission*

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU shall be limited to relations between group members and entities that are resident for tax purposes, or permanent establishments that are situated, in a third country.

###### *Amendment*

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU shall be limited to relations between group members and entities that are resident for tax purposes, or permanent establishments ***or digital business establishments*** that are situated, in a third country.

Or. en

**Amendment 279**

**Marco Valli, Laura Agea**

**Proposal for a directive**

**Article 73 – paragraph 1**

*Text proposed by the Commission*

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU shall be limited to relations between group members and entities that are resident for tax purposes, or permanent establishments that are situated, in a third country.

*Amendment*

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU shall be limited to relations between group members and entities that are resident for tax purposes, or ***trust, partnership and*** permanent establishments that are situated, in a third country.

Or. en

**Amendment 280**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 74 – paragraph 1**

*Text proposed by the Commission*

For the purposes of this Directive, the scope of the rules on hybrid mismatches under Article 61 of Directive 2016/xx/EU ***shall be limited to relations between group members and non-group members that are associated enterprises, as referred to in Article 56 of Directive 2016/xx/EU.***

*Amendment*

For the purposes of this Directive, the scope of the rules on hybrid mismatches ***and related arrangements applies as defined*** under Article 61 of Directive 2016/xx/EU.

Or. en

**Amendment 281**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 75 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 75a**

***Minimum effective tax rate and  
contribution to the Union budget***

- 1. Two years after the date of implementation of this Directive, Member States shall not be allowed to set an effective corporate tax rate below 20%, whilst no upper limit is set by this Directive.***
- 2. By way of derogation of paragraph 1, Member States may request an extended deadline to the European Commission, so as to keep an effective corporate tax rate below 20% for longer than two years after the implementation of this Directive, but for no longer than seven years after its implementation. The derogation request shall be motivated and authorised by the European Commission. When deciding on a possible extension of the phasing-in period for a particular Member State, due account shall be taken of the specific situation of that Member State, the objective reasons for the request, and the impact of such a derogation on other Member States.***
- 3. The Commission shall put forward by [two years after the entry into application of this Directive] a legislative proposal for the allocation of a part of the fiscal revenues generated from the common consolidated corporate tax base to the budget of the European Union in order to increase its own resources.***

Or. en

**Amendment 282**  
**Eva Joly**  
on behalf of the Verts/ALE Group



**Proposal for a directive**  
**Article 75 b (new)**

*Text proposed by the Commission*

*Amendment*

**Article 75b**  
**CCCTB forum**

***The Commission shall establish a CCCTB forum to which companies and Member States may refer questions and general disputes relating to the CCCTB. That forum shall provide guidance to companies and Member States and shall be coordinated and chaired by Commission services.***

Or. en

**Amendment 283**

**Hugues Bayet, Cătălin Sorin Ivan, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Neena Gill, Paul Tang**

**Proposal for a directive**  
**Article 76 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, and of the revocation of that delegation of powers by the Council.

The European Parliament shall ***assess and*** be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, and of the revocation of that delegation of powers by the Council.

Or. en

**Amendment 284**

**Ramón Jáuregui Atondo, Jonás Fernández**

**Proposal for a directive**  
**Article 76 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The European Parliament shall produce an assessment of the CCCTB regime, once it has been adopted, by the end of every tax year. That assessment shall take into account the views of national parliaments and the outcomes of the tax policy discussions held under the procedure of the European Semester, which shall include tax indicators such as action to control harmful tax practices in the Member States, particularly during inter-parliamentary conferences. The European Parliament shall send its opinion and conclusions through a resolution to the Commission and the Council by the end of every tax year.***

Or. es

#### **Amendment 285**

**Marco Valli, Laura Agea**

#### **Proposal for a directive**

#### **Article 79 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

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

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

Or. en

#### **Amendment 286**

**Hugues Bayet, Cătălin Sorin Ivan, Emmanuel Maurel, Pervenche Berès, Udo Bullmann, Peter Simon, Luigi Morgano, Paul Tang**

**Proposal for a directive**  
**Article 79 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council on the operation of this Directive. The report shall in particular include an analysis of the impact of the mechanism set up in Chapter VIII of this Directive on the apportionment of the tax bases between the Member States. ***In drawing the conclusions of such a review, the Commission shall propose the terms and conditions to allocate a part of the tax revenues generated from the common consolidated corporate tax base to the budget of the European Union in order to proportionally reduce Member States contributions to the same budget.***

Or. en

**Amendment 287**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 79 – paragraph 1**

*Text proposed by the Commission*

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

*Amendment*

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

Or. en

**Amendment 288**  
**Marco Valli, Laura Agea**

**Proposal for a directive**  
**Article 79 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

*The report by the Commission shall be accompanied by a legislative proposal to revise the provisions of this Directive concerning the definition and the method to calculate the consolidated tax base, in order to ensure a full consolidation. Such consolidated tax base shall in particular be based on one consistent set of accounting rules and be related to the group members adjusted cash flows.*

Or. en

**Amendment 289**  
**Marco Valli, Laura Agea**

**Proposal for a directive**  
**Article 79 – paragraph 1 b (new)**

*Text proposed by the Commission*

*Amendment*

*Within 6 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 national effective tax rates.*

Or. en

**Amendment 290**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

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

*Text proposed by the Commission*

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

*Amendment*

Member States shall adopt and publish, by ***the date that is stated in the first paragraph of Article 70 of Council Directive 2016/xx/EU*** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

**Amendment 291**

**Marco Valli, Laura Agea**

**Proposal for a directive**

**Article 80 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

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

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> December **2018** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

**Amendment 292**

**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Neena Gill, Paul Tang**

**Proposal for a directive**

**Article 80 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall adopt and publish, by 31<sup>st</sup> December **2020** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive.

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> December **2019** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive.

They shall forthwith communicate to the Commission the text of those provisions.

They shall forthwith communicate to the Commission the text of those provisions.

Or. en

**Amendment 293**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 80 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

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

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> December **2019** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

**Amendment 294**

**Marco Zanni**

**Proposal for a directive**

**Article 80 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

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

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> December **2019** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. it

**Amendment 295**

**Brian Hayes, Frank Engel, Gunnar Hökmark**

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

*Text proposed by the Commission*

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

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> December **2025** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

**Amendment 296**  
**Lieve Wierinck, Ramon Tremosa i Balcells**

**Proposal for a directive**  
**Article 80 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from *1<sup>st</sup> January 2021*.

*Amendment*

They shall apply those provisions from *the date that is stated in the second paragraph of Article 70 of Council Directive 2016/xx/EU*.

Or. en

**Amendment 297**  
**Marco Valli, Laura Agea**

**Proposal for a directive**  
**Article 80 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1<sup>st</sup> January **2021**.

*Amendment*

They shall apply those provisions from 1<sup>st</sup> January **2019**.

Or. en

**Amendment 298**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 80 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1<sup>st</sup> January **2021**.

*Amendment*

They shall apply those provisions from 1<sup>st</sup> January **2020**.

Or. en

**Amendment 299**

**Hugues Bayet, Jeppe Kofod, Emmanuel Maurel, Pervenche Berès, Neena Gill, Paul Tang**

**Proposal for a directive**

**Article 80 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1<sup>st</sup> January **2021**.

*Amendment*

They shall apply those provisions from 1<sup>st</sup> January **2020**.

Or. en

**Amendment 300**

**Marco Zanni**

**Proposal for a directive**

**Article 80 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1st January **2021**.

*Amendment*

They shall apply those provisions from 1st January **2020**.

Or. it

**Amendment 301**

**Brian Hayes, Frank Engel, Gunnar Hökmark**



**Proposal for a directive**  
**Article 80 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1<sup>st</sup>  
January **2021**.

*Amendment*

They shall apply those provisions from 1<sup>st</sup>  
January **2026**.

Or. en