

Corporate taxation reform: What comes next?

If implemented in the EU and globally in 2024, the two-pillar agreement reached in 2021 by 137 countries as part of the OECD Inclusive Framework will change international corporate tax rules significantly. In the meantime, the European Commission is preparing to relaunch the idea of an EU common consolidated corporate tax base (BEFIT), which should build on the foundation laid by the OECD agreement.

BEFIT and the future of the common consolidated corporate tax base

With the aim of significantly reducing compliance costs for companies and closing loopholes for aggressive tax planning, in 2016 the European Commission launched proposals for a **common consolidated corporate tax base** (CCCTB). Such a tax base would serve as a single rulebook on how companies should calculate their overall profit (for instance, by applying common rules to the treatment of losses). After calculating a **common tax base**, a company active in more than one Member State could add up all the profits and losses of its entities in the different Member States, to work out its total net profit or loss for the entire EU ('consolidation'). The company's taxable profits would then be allocated between the respective Member States, using an apportionment formula (**formulary apportionment**), with the profits being divided according to three equally weighted factors (labour, tangible assets and sales). Each Member State would then tax its allocated share of the company's profits at its own national corporate tax rate. More than five years later, no agreement has been reached in the Council, but the Member States have [stated](#) that work on the CCCTB 'could continue, once there is more clarity' regarding the reform of the international corporate tax rules, which was broadly [finalised](#) in October 2021 by the OECD's Inclusive Framework.

The relationship between the CCCTB and the international [OECD agreement](#) requires explanation. The OECD agreement rests on two pillars. Pillar One applies to a select number of large multinationals, whereby 25 % of their profits above a 10 % profit margin are reallocated to the country where the consumers are located. This is similar to the concept of formulary apportionment in the CCCTB, where profits are reallocated according to sales (although the CCCTB formula applies to the entire profit and includes labour and tangible assets, in addition to sales). Pillar Two introduces a per country minimum effective corporate tax rate of 15 %. In order to calculate whether a company should pay the minimum tax in each country where they operate, Pillar Two establishes a common tax base. While both the CCCTB and Pillar Two rely on the use of a common tax base, Pillar Two uses (adjusted) data from financial accounting, while the CCCTB envisages deep harmonisation of Member States' corporate tax provisions.

In May 2021, the European Commission announced, in its [communication on business taxation for the 21st century](#), that it would withdraw the CCCTB proposal and launch a proposal in 2023 on '**business in Europe: framework for income taxation (BEFIT)**'. According to the Commission, BEFIT would contain the key features of both a common tax base and the formulary allocation of profits but would also build on the OECD agreement '**where these concepts are already present**'. It remains to be seen how and to what extent elements of the OECD agreement will be incorporated into the new framework. The Commission has specified that the BEFIT apportionment formula would be different from the CCCTB's and that it would need to consider 'how to give appropriate weight to sales ... as well as how assets (including intangibles) and labour (personnel and salaries) should be reflected' in BEFIT. Under the 2016 proposal, multinationals' participation was mandatory, while SMEs were free to follow the CCCTB method or not. In her 2022 [State of the Union address](#), Commission President von der Leyen announced that BEFIT would be part of an SME relief package, implying that BEFIT would aim to support SMEs in particular.

Volatility of corporate tax revenues

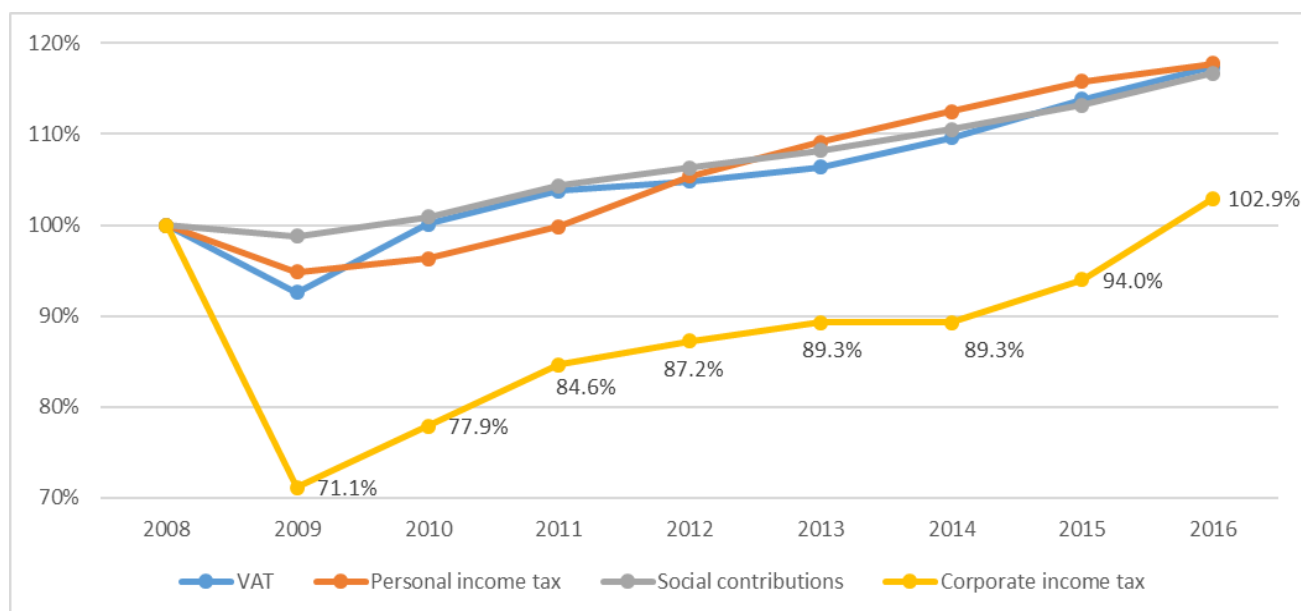
Corporate income tax revenue is generally **heavily reliant on the business cycle**. As the graph below shows, corporate tax revenue fell sharply (-28.9 %) following the financial crisis of 2008, far more than any



other major tax. While other main sources of revenue (VAT, personal income tax and social contributions) returned to their pre-crisis levels two years later, it took the corporate tax until 2016 to rebound fully.

Lower levels of corporate tax payments following a recession can last a long time, depending on how effectively companies respond to the crisis and how much government support they get while it is ongoing. The slow rebound of corporate tax revenue is certainly partly due to the way companies can treat losses: companies are usually able to **carry their operating losses forward** (thereby reducing tax liability on future profits) or **carry them back** (thereby generating a refund of tax previously paid). This approach allows companies to smoothen and stabilise their tax burden by averaging their payments over the business cycle, while also ensuring that they are not strongly discouraged from [investing](#) in innovative but risky projects. The treatment of losses is not harmonised at EU level (with Member States setting varying time limits and other restrictions on the carry forward/carry back provisions). In 2021, the Commission issued a [recommendation](#) to the Member States on the tax treatment of corporate losses.

Figure 1 – Revenue from main taxes (index 2008 = 100), EU-27, 2008-2016



Source: [Eurostat](#). Corporate tax revenue includes holding gains.

In 2020, owing to the economic fallout from the coronavirus pandemic, corporate tax revenue decreased by more than 12 % compared to a year earlier. VAT revenue fell by 7 %, while both personal income tax and social contributions remained relatively stable (-1 %). Revenue data for 2021 are not yet available.

Remaining corporate tax challenges in the EU single market

As well as developing BEFIT and bringing forward the implementation of the OECD agreement, the European Commission has adopted (or will soon adopt) several corporate tax-related measures, among them [Unshell](#) – aimed at preventing the misuse of shell entities – and [DEBRA](#) – aimed at introducing a tax allowance on equity. In early 2022, the European Commission launched a pilot project – the [European trust and Cooperation approach \(ETACA\)](#) – to encourage closer cooperation between Member States' tax administrations so as to prevent the **double taxation of (large) cross-border trading EU companies**.

A recent study on the [removal of taxation-based obstacles and distortions in the single market](#), prepared for the European Parliament's FISC committee, stated that the multiple EU anti-avoidance rules had given rise to a 'complexity explosion' for businesses. Following the implementation of the OECD pillars, the study argued that the Commission should therefore verify whether **interactions with existing anti-avoidance legislation** are not leading to further complexity, and take remedial action where possible.