

AMENDMENTS 001-043

by the Committee on Economic and Monetary Affairs

Report**Aurore Lalucq****A9-0140/2022**

Minimum level of taxation for multinational groups

Proposal for a directive (COM(2021)0823 – C9-0040/2022 – 2021/0433(CNS))

Amendment 1**Proposal for a directive****Recital 6***Text proposed by the Commission*

(6) It is necessary to implement the GloBE Model Rules agreed by the Member States in a way that it remains as close as possible to the global agreement. This Directive *closely* follows the content and structure of the GloBE Model Rules. To ensure compatibility with primary Union law, and more precisely with the freedom of establishment, the rules of this Directive should apply to entities resident in a Member State as well as non-resident entities of a parent entity located in that Member State. This Directive should also apply to very large-scale, purely domestic groups. In this way, the legal framework would be designed to avoid any risk of discrimination between cross-border and domestic situations. All entities, including the parent entity that applies the IIR, which are located in a Member State that is low-taxed, would be subject to the top-up tax. Equally, constituent entities of the same

Amendment

(6) It is necessary to implement the GloBE Model Rules agreed by the Member States in a way that it remains as close as possible to the global agreement. ***The success of the agreement will depend entirely on transparent and consistent implementation within the Union and globally.*** This Directive *generally* follows the content and structure of the GloBE Model Rules ***but diverges in certain aspects, including regarding the application of certain rules in the Union.*** To ensure compatibility with primary Union law, and more precisely with the freedom of establishment, the rules of this Directive should apply to entities resident in a Member State as well as non-resident entities of a parent entity located in that Member State. This Directive should also apply to very large-scale, purely domestic groups. In this way, the legal framework would be designed to avoid any risk of

parent entity that are located in another Member State, which is low-taxed, would be subject to the top-up tax.

discrimination between cross-border and domestic situations. All entities, including the parent entity that applies the IIR, which are located in a Member State that is low-taxed, would be subject to the top-up tax. Equally, constituent entities of the same parent entity that are located in another Member State, which is low-taxed, would be subject to the top-up tax.

Amendment 2

Proposal for a directive

Recital 7

Text proposed by the Commission

(7) While it is necessary to ensure that tax avoidance practices are discouraged, adverse impacts on smaller MNEs in the internal market should be avoided. For this purpose, this Directive should only apply to entities located in the Union that are members of MNE groups or large-scale domestic groups that meet the annual threshold of **at least** EUR 750 000 000 of consolidated revenue. This threshold would be consistent with the threshold of existing international tax rules such as the country-by-country reporting rules⁹. Entities within the scope of this Directive are referred to as constituent entities. Certain entities should be excluded from the scope based on their particular purpose and status. Excluded entities would be those that are not profit-driven and perform activities in the general interest and which are, for these reasons, not likely to be subject to tax in the Member State in which they are located. In order to protect those specific interests, it is necessary to exclude from the scope of the Directive governmental entities, international organisations, non-profit organisations and pension funds from the scope of this Directive. Investment funds and real estate investment vehicles should also be excluded from the scope when they are at

Amendment

(7) While it is necessary to ensure that tax avoidance practices are discouraged, adverse impacts on smaller MNEs in the internal market should be avoided. For this purpose, this Directive should only apply to entities located in the Union that are members of MNE groups or large-scale domestic groups that meet the annual threshold of EUR 750 000 000 of consolidated revenue. This threshold would be consistent with the threshold of existing international tax rules such as the country-by-country reporting rules⁹ **and should therefore be respected by all Member States. The Commission should monitor how and to what extent Member States are applying the GloBE Model Rules to smaller entities and take appropriate measures if they are applying them in a way that conflicts with the principles of Union law or undermines the integrity of the internal market.** Entities within the scope of this Directive are referred to as constituent entities. Certain entities should be excluded from the scope based on their particular purpose and status. Excluded entities would be those that are not profit-driven and perform activities in the general interest and which are, for these reasons, not likely to be subject to tax in the Member State in which they are located. In

the top of the ownership chain, since, for those so-called flow-through entities, the income earned is taxed at the level of the owners.

order to protect those specific interests, it is necessary to exclude from the scope of the Directive governmental entities, international organisations, non-profit organisations and pension funds from the scope of this Directive. Investment funds and real estate investment vehicles should also be excluded from the scope when they are at the top of the ownership chain, since, for those so-called flow-through entities, the income earned is taxed at the level of the owners.

⁹ Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation, OJ L 146/8 (3 Jun. 2016) [DAC 4].

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Amendment 3

Proposal for a directive Recital 13

Text proposed by the Commission

(13) In order to allow Member States to benefit from the top-up tax revenues collected on their low-taxed constituent entities located in their territory, Member States should ***be able to elect*** to apply a domestic top-up tax system. Constituent entities of an MNE group that are located in a Member State which has elected to implement rules equivalent to the IIR and the UTPR in their own domestic tax system should pay the top-up tax to this Member State. While leaving Member States some flexibility in the technical implementation of the domestic top-up tax ***system, such system should ensure the minimum effective taxation of the qualifying income or loss of the constituent entities in the same, or in an equivalent manner, to the IIR and UTPR of this Directive.***

Amendment

(13) In order to allow Member States to benefit from the top-up tax revenues collected on their low-taxed constituent entities located in their territory, Member States should ***have the option*** to apply a domestic top-up tax system. Constituent entities of an MNE group that are located in a Member State which has elected to implement rules equivalent to the IIR and the UTPR in their own domestic tax system should pay the top-up tax to this Member State. While leaving Member States some flexibility in the technical implementation of the domestic top-up tax, ***the Council's Code of Conduct Group (business taxation) should carefully monitor the application of that tax. The Commission should provide assistance in that regard.***

Amendment 4

Proposal for a directive Recital 14

Text proposed by the Commission

(14) To ensure a proportionate approach, this exercise should take into consideration certain specific situations in which BEPS risks are reduced. Therefore, the Directive should include a substance carve-out based on the costs associated with employees and the value of tangible assets in a given jurisdiction. This would allow to address, to a certain extent, situations where an MNE group or a large-scale domestic group carries out economic activities which require material presence in a low-taxed jurisdiction as in such case BEPS practices would be unlikely to flourish. The specific case of MNE groups that are at the first stages of their international activity should also be considered in order not to discourage the development of cross-border activities for MNE groups that benefit from low taxation in their domestic jurisdiction where they are predominantly operating. Thus, the low-taxed domestic activities of such groups should be excluded from the application of the rules for a transitional period of **five** years, and provided that the MNE group does not have constituent entities in more than six other jurisdictions. In order to ensure equal treatment for large-scale domestic groups, the income from the activities of such groups should also be excluded for a transitional period of **five** years.

Amendment 5

Proposal for a directive Recital 16

Text proposed by the Commission

(16) In **order to achieve a balance between the objectives of the global**

Amendment

(14) To ensure a proportionate approach, this exercise should take into consideration certain specific situations in which BEPS risks are reduced. Therefore, the Directive should include a substance carve-out based on the costs associated with employees and the value of tangible assets in a given jurisdiction. This would allow to address, to a certain extent, situations where an MNE group or a large-scale domestic group carries out economic activities which require material presence in a low-taxed jurisdiction as in such case BEPS practices would be unlikely to flourish. The specific case of MNE groups that are at the first stages of their international activity should also be considered in order not to discourage the development of cross-border activities for MNE groups that benefit from low taxation in their domestic jurisdiction where they are predominantly operating. Thus, the low-taxed domestic activities of such groups should be excluded from the application of the rules for a transitional period of **three** years, and provided that the MNE group does not have constituent entities in more than six other jurisdictions. In order to ensure equal treatment for large-scale domestic groups, the income from the activities of such groups should also be excluded for a transitional period of **three** years.

Amendment

(16) In **accordance with the agreement reached by the OECD/G20 Inclusive**

minimum tax reform and the administrative burden for tax administrations and taxpayers, this Directive ***should provide*** for a de minimis exclusion for MNE groups or large-scale domestic groups that have an average revenue of less than EUR 10 000 000 and an average qualifying income or loss of less than EUR 1 000 000 in a jurisdiction. Such MNE groups or large-scale domestic groups should not pay a top-up tax even if their ETR is below the minimum tax rate in that jurisdiction.

Amendment 6

Proposal for a directive Recital 18

Text proposed by the Commission

(18) For an efficient application of the system, it is crucial that procedures are coordinated at a group level. It will be necessary to operate a system ensuring the unobstructed flow of information within the MNE group and towards tax administrations where constituent entities are located. The primary responsibility of filing the information return should lie on the constituent entity itself. A waiver of such responsibility should however apply where the MNE group has designated another entity to file and share the information return. It could be either a local entity or an entity from another jurisdiction that has a competent authority agreement in place with the Member State of the constituent entity. In the first twelve-months after its entry into force, the Commission should review this Directive in line with the agreement reached by the Inclusive Framework on filing requirements under the GloBE implementation framework. Considering the compliance adjustments that this system requires, groups that fall within the scope of this Directive for the first time

Framework on BEPS, this Directive ***provides*** for a de minimis exclusion for MNE groups or large-scale domestic groups that have an average revenue of less than EUR 10 000 000 and an average qualifying income or loss of less than EUR 1 000 000 in a jurisdiction. Such MNE groups or large-scale domestic groups should not pay a top-up tax even if their ETR is below the minimum tax rate in that jurisdiction.

Amendment

(18) For an efficient application of the system, it is crucial that procedures are coordinated at a group level. It will be necessary to operate a system ensuring the unobstructed flow of information within the MNE group and towards tax administrations where constituent entities are located. The primary responsibility of filing the information return should lie on the constituent entity itself. A waiver of such responsibility should however apply where the MNE group has designated another entity to file and share the information return. It could be either a local entity or an entity from another jurisdiction that has a competent authority agreement in place with the Member State of the constituent entity. In the first twelve-months after its entry into force, the Commission should review this Directive, ***by means of relevant delegated acts***, in line with the agreement reached by the Inclusive Framework on filing requirements under the GloBE implementation framework. Considering the compliance adjustments that this system requires, groups that fall within the

should be granted a period of 18 months to comply with the information requirements.

scope of this Directive for the first time should be granted a period of 18 months to comply with the information requirements.

Amendment 7

Proposal for a directive Recital 19

Text proposed by the Commission

(19) Considering the benefits of transparency in the field of tax, it is encouraging that a significant amount of information will be filed with the tax authorities in all the participating jurisdictions. MNE groups within the scope of this Directive should be obliged to provide comprehensive and detailed information on their profits and effective tax rate in every jurisdiction where they have constituent entities. Such extensive reporting could be expected to increase transparency.

Amendment

(19) Considering the benefits of transparency in the field of tax, it is encouraging that a significant amount of information will be filed with the tax authorities in all the participating jurisdictions. MNE groups within the scope of this Directive should be obliged to provide comprehensive and detailed information on their profits and effective tax rate in every jurisdiction where they have constituent entities. Such extensive reporting could be expected to increase transparency. ***More transparency in financial disclosure results in benefits for tax administrations and more certainty for taxpayers. In that context, Council Directive 2011/16/EU^{1a} will play a role in facilitating the implementation of this Directive and the future revision of Directive 2011/16/EU will be subject to an impact assessment to be carried out before 31 December 2022.***

^{1a} Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

Amendment 8

Proposal for a directive Recital 19 a (new)

Text proposed by the Commission

Amendment

(19a) Potentially harmful and distortive measures that aim to compensate for the potential increase in corporate income tax should be monitored and the Commission notice on the application of the state aid rules to measures relating to direct business taxation should be updated as necessary.

Amendment 9

Proposal for a directive Recital 19 b (new)

Text proposed by the Commission

Amendment

(19b) The Council's Code of Conduct Group (business taxation) should continuously monitor the development of the accounting standards and their application for minimum tax purposes. If necessary, it should make proposals to adjust the profit determination rules. The Commission should provide assistance in that regard.

Amendment 10

Proposal for a directive Recital 20

Text proposed by the Commission

Amendment

(20) The effectiveness and fairness of the global minimum tax reform heavily relies on its ***worldwide*** implementation. It will thus be vital that all major trading partners of the Union apply either a qualified IIR or an equivalent set of rules on minimum taxation. In this context, and in support of legal certainty and efficiency of the global minimum tax rules, it is important to further delineate the conditions under which the rules implemented in a third country jurisdiction which will not transpose the rules of the global agreement

(20) The effectiveness and fairness of the global minimum tax reform heavily relies on its ***swift and consistent worldwide and by Member States by the end of 2023***. It will thus be vital that all major trading partners of the Union apply either a qualified IIR or an equivalent set of rules on minimum taxation. In this context, and in support of legal certainty and efficiency of the global minimum tax rules, it is important to further delineate the conditions under which the rules implemented in a third country jurisdiction

can be granted equivalence to a qualified IIR. To this end, this Directive should provide for **an** assessment, by the Commission, of the equivalence criteria based on certain parameters together with a listing of third country jurisdictions that meet the equivalence criteria. This list would be modified, through a delegated act, following any subsequent assessment of the legal framework implemented by a third country jurisdiction in its domestic law.

which will not transpose the rules of the global agreement can be granted equivalence to a qualified IIR. To this end, this Directive should provide for **a first** assessment, by the Commission, of the equivalence criteria based on certain parameters together with a listing of third country jurisdictions that meet the equivalence criteria **in a timely manner**. This list would be modified, through a delegated act, following any subsequent assessment of the legal framework implemented by a third country jurisdiction in its domestic law. ***The implementation of this Directive will require an increased exchange of information between Member States and third country jurisdictions. To that end, Directive 2011/16/EU should be reviewed in accordance with the future OECD work on a competent authority agreement to be developed by the end of 2022.***

Amendment 11

Proposal for a directive Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) The GloBE Model Rules are likely to be modified, in particular the rules relating to safe harbours that aim to simplify filing requirements for constituent entities. This Directive should ensure that adequate safeguards are in place for the control of those entities. Therefore, 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 to ensure this Directive remains aligned with the international commitments of Member States.

Amendment 12

Proposal for a directive Recital 23 a (new)

Text proposed by the Commission

Amendment

(23a) A review clause is introduced in this Directive in order to guarantee that the application of this Directive is subject to proper evaluation five years after its entry into force. That review should assess and reconsider progress in the global implementation of the OECD agreement/GloBE Model Rules, as well as certain exemptions and derogations, in particular as regards distribution tax systems and substance-based income exclusion, the relevance of the threshold for MNE Group and large-scale domestic firms in scope and the impact on tax revenues on developing countries. As part of the review, modifications to the GloBE Model Rules could also be integrated into Union law if necessary.

Amendment 13

Proposal for a directive Recital 24 a (new)

Text proposed by the Commission

Amendment

(24a) In the framework of the OECD/G20 Inclusive Framework on BEPS, in addition to two rules intended for introduction in national domestic tax laws, the so-called Pillar 2 consists of a treaty based rule, namely the Subject to Tax Rule (STTR), that allows source jurisdictions to impose limited source taxation on certain related party payments that are subject to tax below a minimum rate. The Commission should recommend that Member States modify their bilateral tax agreements with low-income countries in order to include that rule.

Amendment 14

Proposal for a directive

Article 4 – paragraph 1 – subparagraph 1

Text proposed by the Commission

A constituent entity other than a flow-through entity shall be deemed to be located in the jurisdiction where it is considered as resident for tax purposes based on its place of management, place of creation or similar criteria.

Amendment

A constituent entity other than a flow-through entity shall be deemed to be located in the jurisdiction where it is considered as resident for tax purposes based on its place of **effective** management, **namely the place where key management and commercial decisions that are necessary for the conduct of business are taken**, place of creation or similar criteria **that reflect real economic activities in accordance with this Directive and the GloBE Model Rules**.

Amendment 15

Proposal for a directive

Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

Anti-avoidance rules

- 1. For the purposes of calculating the top-up tax, Member States shall disregard any arrangement or series of arrangements which, having been put in place for the essential purpose of obtaining a tax advantage that defeats the object or purpose of this Directive, is not genuine, having regard to all relevant facts and circumstances. An arrangement may comprise more than one step or part.**
- 2. For the purposes of paragraph 1, an arrangement or a series of arrangements shall be regarded as non-genuine where it is not put in place for valid commercial reasons that reflect real economic activities.**
- 3. An arrangement or a series of arrangements that is disregarded in**

accordance with paragraph 1 shall be treated, for the purpose of calculating the tax base, by reference to its economic substance.

4. The Commission is empowered to adopt delegated acts in accordance with Article 52 in order to lay down more detailed rules against tax avoidance, in particular to take into account future modifications of the GloBE Model Rules.

Amendment 16

Proposal for a directive Article 10 – paragraph 3

Text proposed by the Commission

3. Where the amount of qualified domestic top-up tax taken into consideration in the computation of the jurisdictional top-up tax in accordance with Article 26 for a fiscal year has not been fully paid within the **three** following fiscal **years**, the amount of domestic top-up tax that was not paid shall be added to the jurisdictional top-up tax computed in accordance with Article 26(3).

Amendment

3. Where the amount of qualified domestic top-up tax taken into consideration in the computation of the jurisdictional top-up tax in accordance with Article 26 for a fiscal year has not been fully paid within the following fiscal **year**, the amount of domestic top-up tax that was not paid shall be added to the jurisdictional top-up tax computed in accordance with Article 26(3).

Amendment 17

Proposal for a directive Article 13 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. The Commission may, by means of implementing acts, further specify the meaning of the terms used in paragraphs 5 and 6 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52a.

Amendment 18

Proposal for a directive Article 13 – paragraph 8 b (new)

Text proposed by the Commission

Amendment

8b. The Commission is empowered to adopt delegated acts in accordance with Article 52 in order to modify the formula laid down in paragraph 5 of this Article, in order to take into account corresponding modifications of the GloBE Model Rules.

Amendment 19

Proposal for a directive Article 15 – paragraph 11 a (new)

Text proposed by the Commission

Amendment

11a. The Commission may adopt delegated acts in accordance with Article 52 in order to modify any of the definitions laid down in paragraph 1 of this Article, or to amend any of the items for which adjustments are provided for under paragraphs 2, 3, 6, 7, 10 and 11 of this Article, in particular to take into account future modifications of the GloBE Model Rules.

Amendment 20

Proposal for a directive Article 19 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The Commission may, by means of implementing acts, further specify the meaning of the terms used in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52a.

Amendment 21

Proposal for a directive

Article 21 – paragraph 7 – subparagraph 1

Text proposed by the Commission

A deferred tax liability that is not paid or reversed within the **five** subsequent fiscal years shall be recaptured to the extent it was taken into account in the total deferred tax adjustment amount of a constituent entity.

Amendment

A deferred tax liability that is not paid or reversed within the **three** subsequent fiscal years shall be recaptured to the extent it was taken into account in the total deferred tax adjustment amount of a constituent entity.

Amendment 22

Proposal for a directive

Article 21 – paragraph 7 – subparagraph 2

Text proposed by the Commission

The amount of the recaptured deferred tax liability determined for the fiscal year shall be treated as a reduction to the covered tax of the **fifth** preceding fiscal year and the effective tax rate and top-up tax of such fiscal year shall be recomputed in accordance with Article 28(1).

Amendment

The amount of the recaptured deferred tax liability determined for the fiscal year shall be treated as a reduction to the covered tax of the **third** preceding fiscal year and the effective tax rate and top-up tax of such fiscal year shall be recomputed in accordance with Article 28(1).

Amendment 23

Proposal for a directive

Article 21 – paragraph 8 a (new)

Text proposed by the Commission

Amendment

8a. The Commission is empowered to adopt delegated acts in accordance with Article 52 to amend any of the items to which an exception accrual applies under paragraph 8 of this Article, in particular to take into account future modifications of the GloBE Model Rules.

Amendment 24

Proposal for a directive Article 27 – paragraph 9 a (new)

Text proposed by the Commission

Amendment

9a. The Commission may, by means of implementing acts, further specify the meaning of the terms used in the definitions laid down in paragraph 1 of this Article. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 52a.

Amendment 25

Proposal for a directive Article 29 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission may adopt delegated acts in accordance with Article 52 in order to amend the amounts laid down in paragraph 1 of this Article, in particular to take into account future modifications of the GloBE Model Rules.

Amendment 26

Proposal for a directive Article 31 – paragraph 4 – introductory part

Text proposed by the Commission

Amendment

4. Where a single MNE group demerges into two or more groups (each a “demerged group”), the consolidated revenue threshold shall be deemed to be met by each demerged group if it reports:

4. Where a single MNE group demerges into two or more groups (each a “demerged group”), the consolidated revenue threshold shall be deemed to be met by each demerged group **for at least six years following the demerger** if it reports:

Amendment 27

Proposal for a directive
Article 41 – paragraph 1

Text proposed by the Commission

1. At the election of the filing constituent entity, a constituent entity-owner of an investment entity may apply a taxable distribution method with respect to its ownership interest in the investment entity, provided that the constituent entity-owner is not an investment entity and can be reasonably expected to be subject to tax on distributions from the investment entity at a tax rate that equals or exceeds the minimum tax rate.

Amendment

1. At the election of the filing constituent entity, a constituent entity-owner of an ***investment entity or an insurance*** investment entity may apply a taxable distribution method with respect to its ownership interest in the investment entity, provided that the constituent entity-owner is not an investment entity and can be reasonably expected to be subject to tax on distributions from the investment entity at a tax rate that equals or exceeds the minimum tax rate.

Amendment 28

Proposal for a directive
Article 42 – paragraph 2 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Where no constituent entity has been appointed by other constituent entities of the MNE group, the designated local entity in charge of filing the top-up tax information shall be the largest entity of the MNE group located in the same Member State in terms of annual revenues for the last two consecutive years.

Amendment 29

Proposal for a directive
Article 42 – paragraph 7 a (new)

Text proposed by the Commission

Amendment

7a. The Council, acting unanimously on a proposal from the Commission and after obtaining the opinion of the European Parliament, shall adopt the measures necessary to implement the

filing obligations under this Directive and ensure the necessary exchange of information.

Amendment 30

Proposal for a directive Article 47 – paragraph 1

Text proposed by the Commission

1. The top-up tax due by an ultimate parent entity located in a Member State in accordance with Article 5(2) shall be reduced to zero in the first **five** years of the initial phase of the international activity of the MNE group notwithstanding the requirements laid down in Chapter V.

Amendment

1. The top-up tax due by an ultimate parent entity located in a Member State in accordance with Article 5(2) shall be reduced to zero in the first **three** years of the initial phase of the international activity of the MNE group notwithstanding the requirements laid down in Chapter V.

Amendment 31

Proposal for a directive Article 47 – paragraph 2

Text proposed by the Commission

2. Where the ultimate parent entity of an MNE group is located in a third country jurisdiction, the top-up tax due by a constituent entity located in a Member State in accordance with Article 13(2) shall be reduced to zero in the first **five** years of the initial phase of the international activity of that MNE group notwithstanding the requirements laid down in Chapter V.

Amendment

2. Where the ultimate parent entity of an MNE group is located in a third country jurisdiction, the top-up tax due by a constituent entity located in a Member State in accordance with Article 13(2) shall be reduced to zero in the first **three** years of the initial phase of the international activity of that MNE group notwithstanding the requirements laid down in Chapter V.

Amendment 32

Proposal for a directive Article 47 – paragraph 4 – subparagraph 1

Text proposed by the Commission

The period of **five** fiscal years referred to in paragraphs 1 and 2 shall start from the

Amendment

The period of **three** fiscal years referred to in paragraphs 1 and 2 shall start from the

beginning of the fiscal year in which the MNE group falls within the scope of this Directive for the first time.

beginning of the fiscal year in which the MNE group falls within the scope of this Directive for the first time.

Amendment 33

Proposal for a directive Article 47 – paragraph 4 – subparagraph 2

Text proposed by the Commission

For MNE groups that are within the scope of this Directive when it enters into force, the **five-year** period referred to in paragraph 1 shall start on 1 January 2023.

Amendment

For MNE groups that are within the scope of this Directive when it enters into force, the **three-year** period referred to in paragraph 1 shall start on 1 January 2023.

Amendment 34

Proposal for a directive Article 47 – paragraph 4 – subparagraph 3

Text proposed by the Commission

For MNE groups that are within the scope of this Directive when it enters into force, the **five-year** period referred to in paragraph 2 shall start on 1 January 2024.

Amendment

For MNE groups that are within the scope of this Directive when it enters into force, the **three-year** period referred to in paragraph 2 shall start on 1 January 2024.

Amendment 35

Proposal for a directive Article 50 – paragraph 1

Text proposed by the Commission

1. The top-up tax due by an ultimate parent entity located in a Member State in accordance with Article 49 shall be reduced to zero in the first **five** fiscal years, starting from the first day of the fiscal year in which the large-scale domestic group falls within the scope of this Directive for the first time.

Amendment

1. The top-up tax due by an ultimate parent entity located in a Member State in accordance with Article 49 shall be reduced to zero in the first **three** fiscal years, starting from the first day of the fiscal year in which the large-scale domestic group falls within the scope of this Directive for the first time.

Amendment 36

Proposal for a directive Article 50 – paragraph 2

Text proposed by the Commission

2. ***For large-scale domestic groups that are in scope of this Directive when it enters into force, the five-year period abovementioned shall start on 1 January 2023.***

Amendment

deleted

Amendment 37

Proposal for a directive Article 52 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in ***Article 51(3)*** shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.

Amendment

2. The power to adopt delegated acts referred to in ***Articles 4a(4), 13(8b), 15(11a), 21(8a), 29(5a) and 51(3)*** shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.

Amendment 38

Proposal for a directive Article 52 – paragraph 3

Text proposed by the Commission

3. The delegation of power referred to in ***Article 51(3)*** may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment

3. The delegation of power referred to in ***Articles 4a(4), 13(8b), 15(11a), 21(8a), 29(5a) and 51(3)*** may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Amendment 39

Proposal for a directive Article 52 – paragraph 5

Text proposed by the Commission

5. A delegated act adopted pursuant to **Article 51(3)** shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

Amendment

5. A delegated act adopted pursuant to **Articles 4a(4), 13(8b), 15(11a), 21(8a), 29(5a) and 51(3)** shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

Amendment 40

Proposal for a directive Article 52 a (new)

Text proposed by the Commission

Amendment

Article 52a

Committee procedure

- 1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No 182/2011.**
- 2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.**

Amendment 41

Proposal for a directive Article 53 – 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 a delegation of powers by the Council.

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 a delegation of powers by the Council *in a timely manner*.

Amendment 42

Proposal for a directive Article 53 a (new)

Text proposed by the Commission

Amendment

Article 53a

Review

By ... [five years after the entry into force of this Directive], the Commission shall review the application of this Directive and report to the Council on its operation. The report shall address whether there is a need to amend this Directive in light of changes and developments in the international tax context, in particular regarding the implementation of the GloBE Model Rules outside the Union and the development of other, unilateral approaches towards minimum effective taxation of MNE groups. It should also focus on the use of exemptions and derogations and their impact on internal market coherence.

The report shall assess the impact of the substance-based income inclusion provision, the implementation of the optional qualified domestic top-up tax and the treatment of distribution tax systems on the effectiveness of ensuring a minimum effective level of taxation.

The report shall consider the impact of the Directive on the revenues of least developed countries and on Member States' tax revenue, investment decisions of the companies, as well as competitiveness of the Union within the global economy. It shall evaluate the impact of a threshold reduction for MNE

*Groups and large-scale domestic firms.
Where appropriate, the report shall be
accompanied by a legislative proposal.*

Amendment 43

**Proposal for a directive
Article 53 b (new)**

Text proposed by the Commission

Amendment

Article 53b

Delimitation clause

- 1. This Directive shall not affect the application by Member States of domestic or agreement-based provisions, aimed at safeguarding a higher level of protection for domestic corporate tax bases, that relate to the controlled foreign company rule within the meaning of Article 7 of Council Directive (EU) 2016/1164^{1a}, in particular where the stricter controlled foreign company rule follows the recommendations of the 2015 Final Report on Action 3 of the OECD/G20 Base Erosion and Profit Shifting Project.**
- 2. This Directive shall not affect the application of domestic provisions on alternative forms of minimum taxation of domestic groups or companies.**

^{1a} Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193, 19.7.2016, p. 1).