AMENDMENTS
49 - 263

Draft report
Aurore Lalucq
(PE719.752v01-00)

Ensuring a global minimum level of taxation for multinational groups in the Union

Proposal for a directive
(COM(2021)0823 – C9-0040/2022 – 2021/0433(CNS))
Amendment 49  
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive  
Recital 2

Text proposed by the Commission

(2) In a continued effort to put an end to tax practices of MNEs which allow them to shift profits to jurisdictions where they are subject to no or very low taxation, the OECD has further developed a set of international tax rules to ensure that MNEs pay a fair share of tax wherever they operate. This major reform aims to put a floor on competition over corporate income tax rates through the establishment of a global minimum level of taxation. By removing a substantial part of the advantages of shifting profits to jurisdictions with no or very low taxation, the global minimum tax reform will level the playing field for businesses worldwide and allow jurisdictions to better protect their tax bases.

Amendment

(2) In a continued effort to put an end to tax practices of MNEs which allow them to shift profits to jurisdictions where they are subject to no or very low taxation, the OECD has further developed a set of international tax rules to ensure that MNEs pay a fair share of tax wherever they operate. This major reform aims to put a floor on competition over corporate income tax rates through the establishment of a global minimum level of taxation. By removing a substantial part of the advantages of shifting profits to jurisdictions with no or very low taxation, the global minimum tax reform will level the playing field for businesses worldwide and allow jurisdictions to better protect their tax bases. However, a wide scope for tax competition between Member States will remain. The minimum tax should not be regarded as an optimal level of corporate taxation and Member States should not use this opportunity to lower their corporate taxation levels, either through the nominal rate as increasing allowances.

Or. en

Amendment 50  
Claude Gruffat  
on behalf of the Greens/EFA Group

Proposal for a directive  
Recital 2

Text proposed by the Commission

(2) In a continued effort to put an end

Amendment

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to tax practices of MNEs which allow them to shift profits to jurisdictions where they are subject to no or very low taxation, the OECD has further developed a set of international tax rules to ensure that MNEs pay a fair share of tax wherever they operate. This major reform aims to put a floor on competition over corporate income tax rates through the establishment of a global minimum level of taxation. By removing a substantial part of the advantages of shifting profits to jurisdictions with no or very low taxation, the global minimum tax reform will level the playing field for businesses worldwide and allow jurisdictions to better protect their tax bases.

Or. en

Amendment 51
Luděk Niedermayer

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) In a continued effort to put an end to tax practices of MNEs which allow them to shift profits to jurisdictions where they are subject to no or very low taxation, the OECD has further developed a set of international tax rules to ensure that MNEs pay a fair share of tax wherever they operate. This major reform aims to put a floor on competition over corporate income tax rates through the establishment of a global minimum level of taxation. By removing a substantial part of the advantages of shifting profits to jurisdictions with no or very low taxation, the global minimum tax reform will level the playing field for businesses worldwide and allow jurisdictions to better protect their tax bases.

Amendment

(2) In a continued effort to put an end to tax practices of MNEs which allow them to shift profits to jurisdictions where they are subject to no or very low taxation, the OECD has further developed a set of international tax rules to ensure that MNEs pay a fair share of tax wherever they operate. This major reform aims to put a floor on competition over corporate income tax rates through the establishment of a global minimum level of taxation, and not eliminate tax competition overall. By removing a substantial part of the advantages of shifting profits to jurisdictions with no or very low taxation, the global minimum tax reform will level the playing field for businesses worldwide and allow jurisdictions to better protect their tax bases.
(3) This political objective has been translated into the Global Anti-Base Erosion Model Rules (GloBE Model Rules) approved on 14 December 2021 by the OECD/G20 Inclusive Framework on BEPS to which Member States have committed. In the Council Conclusions of 7 December 2021, the Council reiterated its firm support of the global minimum tax reform and committed to a swift implementation of the agreement by means of Union legislation. In this context, it is essential that Member States effectively implement their commitment to achieve a global minimum level of taxation.

It is furthermore essential to avoid deviations on substantive matters from the OECD agreement, to confirm the EU support for the compromise negotiated under the OECD umbrella.

8 Council Conclusions 14767/21 of 7 December 2021
(3) This political objective has been translated into the Global Anti-Base Erosion Model Rules (GloBE Model Rules) approved on 14 December 2021 by the OECD/G20 Inclusive Framework on BEPS to which Member States have committed. In the Council Conclusions of 7 December 2021\(^8\), the Council reiterated its firm support of the global minimum tax reform and committed to a swift implementation of the agreement by means of Union legislation. In this context, it is essential that Member States effectively implement their commitment to achieve a global minimum level of taxation, in order to ensure a fair tax competition in the international framework.

\(^8\) Council Conclusions 14767/21 of 7 December 2021

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**Amendment**

Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 3

(3) This political objective has been translated into the Global Anti-Base Erosion Model Rules (GloBE Model Rules) approved on 14 December 2021 by the OECD/G20 Inclusive Framework on BEPS to which Member States have committed. In the Council Conclusions of 7 December 2021\(^1a\), the Council reiterated its firm support of the global minimum tax reform and committed to a swift implementation of the agreement by means of Union legislation under article 20 TEU, articles 115 or 116 TFEU. In this context,

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\(^1a\) the Council reiterated its firm support of the global minimum tax reform and committed to a swift implementation of the agreement by means of Union legislation under article 20 TEU, articles 115 or 116 TFEU. In this context,
implement their commitment to achieve a global minimum level of taxation.

it is essential that Member States effectively implement their commitment to achieve a global minimum level of taxation.

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8 Council Conclusions 14767/21 of 7 December 2021

Amendment 55
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

(3 a) It is neither possible, nor indeed desirable, to enforce uniformity in the interpretation and application of the GloBE worldwide. Divergences are inevitable, and can and should be tolerated, as long as they do not detract from the effectiveness of the GloBE in achieving its intended outcomes. This applies in particular to the agreed minimum rate of 15%. The average global statutory corporate tax rate is now 25%, and it remains higher in regions such as Africa and South America. The global average has declined steadily from a rate of 46% in 1980. The proposed minimum ETR of 15%, even if effectively implemented, will continue to provide a strong incentive for businesses to shift profits. The 15% rate now agreed should be regarded as the absolute floor, and not a ceiling. It is therefore that the Union is setting a higher rate.

Amendment

Or. en
Amendment 56
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 4

**Text proposed by the Commission**

(4) In a Union of closely integrated economies, it is crucial that the global minimum tax reform is implemented in a sufficiently coherent and coordinated fashion. Considering the scale, detail and technicalities of those new international tax rules, **only** a common Union framework would prevent a fragmentation of the internal market in the implementation of them. Moreover, a common framework, designed to be compatible with the fundamental freedoms guaranteed by the Treaty, would provide taxpayers with legal certainty when implementing the rules.

**Amendment**

(4) In a Union of closely integrated economies, it is crucial that the global minimum tax reform is implemented in a sufficiently coherent and coordinated fashion. Considering the scale, detail and technicalities of those new international tax rules, only a common Union framework would prevent a fragmentation of the internal market in the implementation of them. Moreover, a common framework, designed to be compatible with the fundamental freedoms guaranteed by the Treaty, would provide taxpayers with legal certainty when implementing the rules and provides the opportunity to apply the rules differently and more ambitiously within the EU.

Or. en

Amendment 57
Lídia Pereira

Proposal for a directive
Recital 4

**Text proposed by the Commission**

(4) In a Union of closely integrated economies, it is crucial that the global minimum tax reform is implemented in a sufficiently coherent and coordinated fashion. Considering the scale, detail and technicalities of those new international tax rules, only a common Union framework would prevent a fragmentation of the internal market in the implementation of

**Amendment**

(4) In a Union of closely integrated economies, it is crucial that the global minimum tax reform is implemented in a sufficiently coherent and coordinated fashion. Considering the scale, detail and technicalities of those new international tax rules, only a common Union framework would prevent a fragmentation of the internal market in the implementation of
them. Moreover, a common framework, designed to be compatible with the fundamental freedoms guaranteed by the Treaty, would provide taxpayers with legal certainty when implementing the rules. It is, therefore, essential to guarantee that Member States apply these provisions in an effective way and that the corporate taxation systems, after the necessary changes, can remain stable and certain, providing companies and taxpayers with certainty and long-term perspectives to promote investment, growth and jobs creation.

Amendment 58
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) It is necessary to lay down rules in order to establish an efficient and coherent framework for the global minimum level of taxation at Union level. The framework creates a system of two interlocked rules, together referred to as the GloBE rules, through which an additional amount of tax called a top-up tax should be collected each time that the effective tax rate (ETR) of an MNE in a given jurisdiction is below the 15%. In such case, the jurisdiction is considered to be low-taxed. Those two rules are called the Income Inclusion Rule (IIR) and the Undertaxed Payment Rule (UTPR). Under this system, the parent entity of an MNE located in a Member State has the obligation to apply the IIR to its share of top-up tax relating to any entity of the group that is low-taxed, whether this is located within or outside the Union. The UTPR should act as a backstop to the IIR through a reallocation of any residual

Amendment

(5) It is necessary to lay down rules in order to establish an efficient and coherent framework for the global minimum level of taxation at Union level. The framework creates a system of two interlocked rules, together referred to as the GloBE rules, through which an additional amount of tax called a top-up tax should be collected each time that the effective tax rate (ETR) of an MNE in a given jurisdiction is below 21%. In such case, the jurisdiction is considered to be low-taxed. Those two rules are called the Income Inclusion Rule (IIR) and the Undertaxed Payment Rule(UTPR). Under this system, the parent entity of an MNE located in a Member State has the obligation to apply the IIR to its share of top-up tax relating to any entity of the group that is low-taxed, whether this is located within or outside the Union. The UTPR should act as a backstop to the IIR through a reallocation of any residual
amount of top-up tax in cases where not the entire amount of top-up tax relating to low-taxed entities could be collected by parent entities through the application of the IIR.
(5) It is necessary to lay down rules in order to establish an efficient and coherent framework for the global minimum level of taxation at Union level. The framework creates a system of two interlocked rules, together referred to as the GloBE rules, through which an additional amount of tax called a top-up tax should be collected each time that the effective tax rate (ETR) of an MNE in a given jurisdiction is below the 15%. In such case, the jurisdiction is considered to be low-taxed. Those two rules are called the Income Inclusion Rule (IIR) and the Undertaxed Payment Rule (UTPR). Under this system, the parent entity of an MNE located in a Member State has the obligation to apply the IIR to its share of top-up tax relating to any entity of the group that is low-taxed, whether this is located within or outside the Union. The UTPR should act as a backstop to the IIR through a reallocation of any residual amount of top-up tax in cases where not the entire amount of top-up tax relating to low-taxed entities could be collected by parent entities through the application of the IIR.

_In order to honour the OECD agreement, the European Union should transpose it faithfully and should not attempt to materially go beyond it._

Or. en
(5) It is necessary to lay down rules in order to establish an efficient and coherent framework for the global minimum level of taxation at Union level. The framework creates a system of two interlocked rules, together referred to as the GloBE rules, through which an additional amount of tax called a top-up tax should be collected each time that the effective tax rate (ETR) of an MNE in a given jurisdiction is below the 15%. In such case, the jurisdiction is considered to be low-taxed. Those two rules are called the Income Inclusion Rule (IIR) and the Undertaxed Payment Rule (UTPR). Under this system, the parent entity of an MNE located in a Member State has the obligation to apply the IIR to its share of top-up tax relating to any entity of the group that is low-taxed, whether this is located within or outside the Union. The UTPR should act as a backstop to the IIR through a reallocation of any residual amount of top-up tax in cases where not the entire amount of top-up tax relating to low-taxed entities could be collected by parent entities through the application of the IIR.

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

 Amendment 63
 Claude Gruffat
 on behalf of the Greens/EFA Group

 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

Amendment

(6) It is necessary to implement the GloBE Model Rules agreed by the Member States in a way that it remains coherent to the global agreement. This Directive generally follows the content and structure of the GloBE Model Rules but diverges in certain aspects, amongst others for 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
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.

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 64
Luděk Niedermayer

Proposal for a directive
Recital 6

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

Or. en
to the top-up tax.

Amendment 65
José Gusmão, Manon Aubry, Martin Schirdewan

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 rules. 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 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.

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 at least EUR 40 000 000 of consolidated revenue. 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 and non-profit organisations.
(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 existing international tax rules such as the country-by-country reporting rules. 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 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.


Amendment 67
Luděk Niedermayer
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 rules. 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

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 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 rules. The European Commission should monitor if and how Member States are applying the GloBE Model Rules to smaller entities, and take appropriate measures, should the implementation be in conflict with the principles of the EU law or where it undermines internal market coherence. 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
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.


Amendment 68
Aurore Lalucq
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-

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 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 rules\(^9\). 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 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.

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 rules\(^9\). 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 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.

Recital 12

**Text proposed by the Commission**

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or of a large-scale domestic group should be compared to the agreed minimum tax rate of 15% in order to determine whether the MNE group or large-scale domestic group is liable to pay a top-up tax and consequently should apply the IIR or the UTPR. The minimum tax rate of 15% agreed by the OECD/G20 Inclusive Framework on BEPS reflects a balance amongst corporate tax rates worldwide. In cases where the ETR of an MNE group falls below the minimum tax rate in a given jurisdiction, the top-up tax should be allocated to the entities in the MNE group that are liable to pay the tax in accordance with the application of the IIR and the UTPR, in order to comply with the globally agreed minimum effective rate of 15%. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed constituent entities, in order to ensure that such group is liable to pay tax at an effective minimum rate of 15%.

**Amendment**

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or of a large-scale domestic group should be compared to the minimum tax rate of at least 21% in order to determine whether the MNE group or large-scale domestic group is liable to pay a top-up tax and consequently should apply the IIR or the UTPR. The minimum tax rate of 15% agreed by the OECD/G20 Inclusive Framework on BEPS is a minimum standard. Opting for a higher rate does not undermine the coherence of the Union’s legislation with the international agreement. In cases where the ETR of an MNE group falls below the minimum tax rate in a given jurisdiction, the top-up tax should be allocated to the entities in the MNE group that are liable to pay the tax in accordance with the application of the IIR and the UTPR, in order to comply with the minimum effective rate of at least 21%. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed constituent entities, in order to ensure that such group is liable to pay tax at an effective minimum rate as defined by the relevant jurisdiction.

Or. en

Amendment 71
Pedro Marques, Aurore Lalucq, Pedro Silva Pereira, Jonás Fernández, Niels Fuglsang, Paul Tang, Evelyn Regner

Proposal for a directive
Recital 12

**Text proposed by the Commission**

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or

**Amendment**

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or
of a large-scale domestic group should be compared to **the agreed** minimum tax rate of 15 % in order to determine whether the MNE group or large-scale domestic group is liable to pay a top-up tax and consequently should apply the IIR or the UTPR. **The** minimum tax rate of 15 % **agreed by the OECD/G20 Inclusive Framework on BEPS** reflects a balance amongst corporate tax rates worldwide. In cases where the ETR of an MNE group falls below the minimum tax rate in a given jurisdiction, the top-up tax should be allocated to the entities in the MNE group that are liable to pay the tax in accordance with the application of the IIR and the UTPR, in order to comply with **the globally agreed** minimum effective rate of 15 %. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed constituent entities, in order to ensure that such group is liable to pay tax at an effective minimum rate of 15 %.

Amendment 72
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Recital 12

_text proposed by the Commission_

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or of a large-scale domestic group should be compared to the agreed minimum tax rate of 15 % in order to determine whether the MNE group or large-scale domestic group is liable to pay a top-up tax and consequently should apply the IIR or the UTPR. The minimum tax rate of 15 % agreed by the OECD/G20 Inclusive Framework on BEPS reflects a balance.

**Amendment**

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or of a large-scale domestic group should be compared to a minimum tax rate of **at least** 15 % in order to determine whether the MNE group or large-scale domestic group is liable to pay a top-up tax and consequently should apply the IIR or the UTPR. A minimum tax rate of **at least** 15 % reflects a balance amongst corporate tax rates worldwide. In cases where the ETR of an MNE group falls below the minimum tax rate in a given jurisdiction, the top-up tax should be allocated to the entities in the MNE group that are liable to pay the tax in accordance with the application of the IIR and the UTPR, in order to comply with a minimum effective rate of **at least** 15 %. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed constituent entities, in order to ensure that such group is liable to pay tax at an effective minimum rate of **at least** 15 %.
amongst corporate tax rates worldwide. In cases where the ETR of an MNE group falls below the minimum tax rate in a given jurisdiction, the top-up tax should be allocated to the entities in the MNE group that are liable to pay the tax in accordance with the application of the IIR and the UTPR, in order to comply with the globally agreed minimum effective rate of 15%. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed constituent entities, in order to ensure that such group is liable to pay tax at an effective minimum rate of 15%.

Amendment 73
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Recital 12

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or of a large-scale domestic group should be compared to the agreed minimum tax rate of 15% in order to determine whether the MNE group or large-scale domestic group is liable to pay a top-up tax and consequently should apply the IIR or the UTPR. The minimum tax rate of 15% agreed by the OECD/G20 Inclusive Framework on BEPS reflects a balance amongst corporate tax rates worldwide. In cases where the ETR of an MNE group falls below the minimum tax rate in a given jurisdiction, the top-up tax should be allocated to the entities in the MNE group that are liable to pay the tax in accordance with the application of the IIR and the UTPR, in order to comply with the
globally agreed minimum effective rate of 15 %. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed constituent entities, in order to ensure that such group is liable to pay tax at an effective minimum rate of 15 %.

UTPR, in order to comply with the globally agreed minimum effective rate of 15 % or the minimum effective rate of 25% agreed at Union level. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed constituent entities, in order to ensure that such group is liable to pay tax at an effective minimum rate of 15 % as defined by the relevant jurisdiction.

Amendment 74
Luděk Niedermayer

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or of a large-scale domestic group should be compared to the agreed minimum tax rate of 15 % in order to determine whether the MNE group or large-scale domestic group is liable to pay a top-up tax and consequently should apply the IIR or the UTPR. The minimum tax rate of 15 % agreed by the OECD/G20 Inclusive Framework on BEPS reflects a balance amongst corporate tax rates worldwide. In cases where the ETR of an MNE group falls below the minimum tax rate in a given jurisdiction, the top-up tax should be allocated to the entities in the MNE group that are liable to pay the tax in accordance with the application of the IIR and the UTPR, in order to comply with the globally agreed minimum effective rate of 15 %. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed

Amendment

(12) The ETR of an MNE group in each jurisdiction where it carries out activities or of a large-scale domestic group should be compared to the agreed minimum tax rate of 15 % in order to determine whether the MNE group or large-scale domestic group is liable to pay a top-up tax and consequently should apply the IIR or the UTPR. The minimum tax rate of 15 % agreed by the OECD/G20 Inclusive Framework on BEPS reflects a balanced compromise amongst corporate tax rates worldwide. In cases where the ETR of an MNE group falls below the minimum tax rate in a given jurisdiction, the top-up tax should be allocated to the entities in the MNE group that are liable to pay the tax in accordance with the application of the IIR and the UTPR, in order to comply with the globally agreed minimum effective rate of 15 %. In cases where the ETR of a large-scale domestic group falls below the minimum tax rate, the UPE at the top of the large-scale domestic group should apply the IIR in respect of its low-taxed
constituent entities, in order to ensure that such group is liable to pay tax at an effective minimum rate of 15 %.

Or. en

Amendment 75
Claude Gruffat
on behalf of the Greens/EFA Group

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 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 coherent to the IIR and the UTPR as designed in this directive in their own domestic tax system should pay the top-up tax to this Member State. Given the risks of circumvention related to the effective collection of the domestic top-up tax, the Code of Conduct Group on Business Taxation should monitor its application carefully. The Commission should provide assistance in that regard.

Or. en

Amendment 76
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) In order to allow Member States to

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 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.

Stresses that the creation of the national top-up tax ensures an automatic floor on the Total Tax paid by the companies covered by the current directive and simultaneously places a floor on competition over Corporate Taxation collected by the source country. However, it does not create a floor on tax competition for companies under the proposed threshold. Member States should work with the European institutions in order to establish a roadmap for the upward convergence on corporate taxation in the internal market. Furthermore, calls on the European Commission to monitor possible national measures that aim to compensate for the potential increase in corporate income tax, making sure that effective taxation level is not lowered.

Amendment 77
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Recital 14

Text proposed by the Commission

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 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 78
Claude Gruffat
on behalf of the Greens/EFA Group

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 includes 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.
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.

Or. en

Amendment 79
Markus Ferber
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 with employees and the value of tangible assets for jurisdictions outside of the Union. This to remain in coherence and respect the OECD/G20 Inclusive Framework agreement.

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 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.

Or. en

Amendment 80
Luděk Niedermayer

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 81
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 15

Text proposed by the Commission
(15) Due to its highly volatile nature and the long economic cycle of this industry, the shipping sector is traditionally subject to alternative or supplementary taxation regimes in Member States. To avoid undermining that policy rationale and allow Member States to continue applying a specific tax treatment to the shipping sector in line with international practice and State aid rules, shipping income should be excluded from the system.

Amendment
(15) deleted

Or. en
Amendment 82
José Gusmão, Manon Aubry, Martin Schirdewan
Proposal for a directive
Recital 15

Text proposed by the Commission

Amendment

(15) Due to its highly volatile nature and the long economic cycle of this industry, the shipping sector is traditionally subject to alternative or supplementary taxation regimes in Member States. To avoid undermining that policy rationale and allow Member States to continue applying a specific tax treatment to the shipping sector in line with international practice and State aid rules, shipping income should be excluded from the system.

Amendment 83
José Gusmão, Manon Aubry, Martin Schirdewan
Proposal for a directive
Recital 16

Text proposed by the Commission

Amendment

(16) In order to achieve a balance between the objectives of the global 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 84
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 16

Text proposed by the Commission

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

(16) To respect and in coherence with the OECD/G20 Inclusive Framework agreement 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 outside of the Union. 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 outside of the Union.

Amendment 85
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) The application of the rules of this Directive to MNE groups and large-scale domestic groups that fall within its scope for the first time could give rise to distortions resulting from the existence of tax attributes, including losses from prior

Amendment

deleted
fiscal years, or from timing differences, and require transitional rules to eliminate such distortions. A gradual decrease of the rates for the payroll and the tangible assets carve-outs over ten years should also apply to allow a smooth transition to the new tax system.

Or. en

Amendment 86
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) The application of the rules of this Directive to MNE groups and large-scale domestic groups that fall within its scope for the first time could give rise to distortions resulting from the existence of tax attributes, including losses from prior fiscal years, or from timing differences, and require transitional rules to eliminate such distortions. A gradual decrease of the rates for the payroll and the tangible assets carve-outs over ten years should also apply to allow a smooth transition to the new tax system.

Or. en

Amendment 87
Lídia Pereira

Proposal for a directive
Recital 17 a (new)

Text proposed by the Commission

(17 a) The significant changes on tax systems within the EU require the provision of a review clause that
guarantees that the application of this Directive is subject to a proper evaluation after five years of enforcement.

Or. en

Amendment 88
Claude Gruffat
on behalf of the Greens/EFA Group

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

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

Or. en
Amendment 89
José Gusmão, Manon Aubry, Martin Schirdewan

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

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

Or. en

Amendment 90
Claude Gruffat
on behalf of the Greens/EFA Group

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 administration and more tax certainty for taxpayers. In that context, Council Directive 2011/16/EU\(^2a\) 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.


Or. en

Amendment 91
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 19 a (new)

Text proposed by the Commission

(19 a) The monitoring of potentially harmful and distortive measures that aim to compensate for the potential increase
in corporate income tax should be ensured via an update of the state aid rules.

Amendment 92
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 19 b (new)

Text proposed by the Commission

(19 b) The Code of Conduct Group should continuously monitor the development of the accounting standards and their application for minimum tax purposes. If necessary, it shall make proposals to adjust the profit determination rules.

Or. en

Amendment 93
Martin Hlaváček, Ondřej Kovařík

Proposal for a directive
Recital 20

Text proposed by the Commission

(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

Or. en
global agreement 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.

The implementation of the Pillar II Directive will require an increased exchange of information between Member States and third country jurisdictions. To this end, the Directive on administrative cooperation (DAC) should be reviewed in accordance with the future OECD work on a competent authority agreement to be developed by the end of 2022.

Amendment 94
Gilles Boyer, Olivier Chastel, Nicola Beer, Billy Kelleher, Caroline Nagtegaal, Stéphanie Yon-Courtin

Proposal for a directive
Recital 20

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 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. The implementation of the Pillar II Directive will require an increased exchange of information between Member States and third country jurisdictions. To this end, the Directive on administrative cooperation (DAC) should be reviewed in accordance with the future OECD work on a competent authority agreement to be developed by the end of 2022.
global agreement 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.

The implementation of the Pillar II Directive will require an increased exchange of information between Member States and third country jurisdictions. To this end, the Directive on administrative cooperation (DAC) should be reviewed in accordance with the future OECD work on a competent authority agreement to be developed by the end of 2022.

Or. en

Amendment 95
Luděk Niedermayer

Proposal for a directive
Recital 20

Text proposed by the Commission

(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 can be granted

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 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.

Amendment 96
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 20

Text proposed by the Commission

(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 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.

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 minimum rules of the global agreement 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.
third country jurisdiction in its domestic law.

Amendment 97
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

(21 a) 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, for which this Directive should ensure the adequate safeguard for control. 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

Or. en

Amendment 98
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

(21 a) 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, for which this Directive should ensure the adequate safeguard for control. 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 99
Lídia Pereira
Proposal for a directive
Recital 22

Text proposed by the Commission

(22) The rules for the application of the UTPR should apply as of 1 January 2024 to allow third country jurisdictions to apply the IIR in the first phase of the implementation of the GloBE Model Rules.

Amendment

(22) The rules for the application of the UTPR should apply as of 1 January 2025 to allow third country jurisdictions to apply the IIR in the first phase of the implementation of the GloBE Model Rules.

Amendment 100
Claude Gruffat on behalf of the Greens/EFA Group
Proposal for a directive
Recital 23

Text proposed by the Commission

(23) The objective of this Directive, to create a common framework for a global minimum level of taxation within the Union on the basis of the common approach contained in the GloBE Model Rules, cannot sufficiently be achieved by each Member State acting alone. Independent action by Member States would further risk creating a fragmentation of the internal market. As it

Amendment

(23) To avoid fragmentation of the internal market it is critical to adopt solutions that function for the internal market as a whole, this objective can, by reason of the scale of the global minimum tax reform, be better achieved at Union level. The Union may therefore adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.
is critical to adopt solutions that function for the internal market as a whole, this objective can, by reason of the scale of the global minimum tax reform, be better achieved at Union level. The Union may therefore adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union.

Amendment 101
Luděk Niedermayer
Proposal for a directive
Recital 23 a (new)

Text proposed by the Commission

Amendment

(23 a) A review clause is introduced in this Directive to assess the application of the Directive in the EU after five years. This assessment should reflect progress in the global implementation of the OECD agreement/GloBE Model Rules, as well as analysing the harmonised application of the Directive in the EU Member States. It should focus on the use of exemptions and derogations and its impact on internal market coherence. A review could be used as an opportunity to integrate further modification of the GloBE Model rules into EU law if necessary.

Amendment 102
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Recital 23 a (new)
(23 a) A review clause is introduced in this Directive in order to assess and reconsider certain exemptions and derogations, in particular regarding 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. A review clause would be an opportunity to integrate further modification of the GloBE Model rules into EU law if necessary.

Amendment 103
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Recital 24 a (new)

(24 a) The Pillar 2, besides the national domestic laws introduced by the current directive, consists of the treaty-based rule 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 European Commission should recommend Member-States to change their bilateral tax agreements with low-income countries in order to duly include it.

Amendment 104
Eugen Jurzyca

Proposal for a directive
Recital 24 a (new)
(24 a) The proposal lacks a comprehensive impact assessment that shall be carried out before this directive enters into force; Impact assessment needs to take into account a scenario that USA and other major trading partners do not implement OECD Model Rules or implement them with a significant delay.

Or. en

Amendment 105
Eugen Jurzyca

Proposal for a directive
Recital 24 b (new)

(24 b) The growing importance of intangible assets in value creation highlights further flaws in the new international CIT rules.

Or. en

Amendment 106
Eugen Jurzyca

Proposal for a directive
Recital 24 c (new)

(24 c) It is of the utmost importance that the final version of the OECD Model Rules is transposed into this directive without any unnecessary additions which could render the Member States and EU companies not competitive with the rest of the world.

Or. en
Amendment 107
Eugen Jurzyca

Proposal for a directive
Recital 24 d (new)

*Text proposed by the Commission*

(24 d) The directive shall be interpreted in line with the OECD Commentary to the GloBE Model Rules, provided that these are in compliance with EU law.

*Amendment*

Or. en

Amendment 108
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 2 – paragraph 1

*Text proposed by the Commission*

1. This Directive shall apply to constituent entities located in the Union that are members of an MNE group or a large-scale domestic group which has an annual revenue of EUR 750 000 000 or more in its consolidated financial statements in at least two of the last four consecutive fiscal years.

*Amendment*

1. This Directive shall apply to constituent entities located in the Union that are members of an MNE group or a large-scale domestic group which has an annual revenue of EUR 750 000 000 or more in its consolidated financial statement of the last fiscal year. Each Member State may apply an income inclusion rule in accordance with this Directive also to MNE groups which have annual revenues above a nationally defined lower threshold if the ultimate parent entity is tax resident in this Member State. The same threshold shall then apply to large-scale domestic groups of this Member State.

*Or. en*

Amendment 109
Markus Ferber

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to constituent entities located in the Union that are members of an MNE group or a large-scale domestic group which has an annual revenue of EUR 750 000 000 or more in its consolidated financial statements in at least two of the last four consecutive fiscal years.

Amendment

1. This Directive shall apply to constituent entities located in the Union that are members of an MNE group which has an annual revenue of EUR 750 000 000 or more in its consolidated financial statements in at least two of the last four consecutive fiscal years.

Justification

Deletion brings directive in line with OECD scope.

Amendment 110
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission

1. This Directive shall apply to constituent entities located in the Union that are members of an MNE group or a large-scale domestic group which has an annual revenue of EUR 750 000 000 or more in its consolidated financial statements in at least two of the last four consecutive fiscal years.

Amendment

1. This Directive shall apply to constituent entities located in the Union that are members of an MNE group or a large-scale domestic group which has an annual revenue of EUR 40 000 000 or more in its consolidated financial statements in at least two of the last four consecutive fiscal years. Each Member State may apply an income inclusion rule in accordance with this Directive also to MNE groups which have annual revenues above a nationally defined lower threshold if the ultimate parent entity is tax resident in this Member State. The same threshold shall then apply to large-scale domestic groups of this Member State.
Amendment 111
Fabio Massimo Castaldo

Proposal for a directive
Article 2 – paragraph 1

Text proposed by the Commission
1. This Directive shall apply to constituent entities located in the Union that are members of an MNE group or a large-scale domestic group which has an annual revenue of EUR 750 000 000 or more in its consolidated financial statements in at least two of the last four consecutive fiscal years.

Amendment
1. This Directive shall apply to constituent entities located in the Union that are members of an MNE group or a large-scale domestic group which has an annual revenue of EUR 750 000 000 or more in its consolidated financial statements in at least two of the last four consecutive fiscal years. Each Member State may apply an income inclusion rule in accordance with this Directive also to MNE groups which have annual revenues above a nationally defined lower threshold if the ultimate parent entity is tax resident in this Member State. The same threshold shall then apply to large-scale domestic groups of this Member State.

Amendment 112
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission
2. Where one or more of the four fiscal years referred to in paragraph 1 is longer or shorter than 12 months, the annual revenue referred to in that paragraph shall be adjusted proportionally for each of those fiscal years.

Amendment
2. Where the fiscal year referred to in paragraph 1 is longer or shorter than 12 months, the annual revenue referred to in that paragraph shall be adjusted proportionally.
**Amendment 113**
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 2 – paragraph 3 – point a

*Text proposed by the Commission*  
(a) a governmental entity, an international organisation, a non-profit organisation, a pension fund, *an investment entity that is an ultimate parent entity and a real estate investment vehicle that is an ultimate parent entity; or*

*Amendment*
(a) a governmental entity, an international organisation, a non-profit organisation, a pension fund;

**Or. en**

**Amendment 114**
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 2 – paragraph 3 – point a

*Text proposed by the Commission*  
(a) a governmental entity, an international organisation, a non-profit organisation, *a pension fund, an investment entity that is an ultimate parent entity and a real estate investment vehicle that is an ultimate parent entity; or*

*Amendment*
(a) a governmental entity, an international organisation and a non-profit organisation that is an ultimate parent entity;

**Or. en**

**Amendment 115**
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 2 – paragraph 3 – point b

*Text proposed by the Commission*  

*Amendment*
(b) an entity that is owned at a minimum of 95 % by one or more entities referred to in point (a), directly or through several such entities, except pension services entities, and that:

(i) operates exclusively, or almost exclusively, to hold assets or invest funds for the benefit of the entity or entities referred to in point (a); or

(ii) exclusively carries out activities ancillary to those performed by the entity or entities referred to in point (a); or

Or. en

Amendment 116
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 2 – paragraph 3 – point c

Text proposed by the Commission Amendment

(c) an entity that is owned at a minimum of 85 % by one or more entities referred to in point (a), directly or through one or several such entities, provided that substantially all of its income is derived from dividends or equity gains or losses that are excluded from the computation of the qualifying income in accordance with point (b) of Article 15(2).

Or. en

Amendment 117
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 3 – paragraph 1 – point 12

Text proposed by the Commission Amendment

(12) ‘minimum tax rate’ means fifteen (12) ‘minimum tax rate’ means at least
percent (15 %); twenty-one percent (21%);

Or. en

Amendment 118
Pedro Marques, Aurore Lalucq, Pedro Silva Pereira, Jonás Fernández, Niels Fuglsang, Paul Tang, Evelyn Regner

Proposal for a directive
Article 3 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘minimum tax rate’ means fifteen percent (15 %);

Amendment

(12) ‘minimum tax rate’ means at least fifteen percent (15 %);

Or. en

Amendment 119
Markus Ferber

Proposal for a directive
Article 3 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘minimum tax rate’ means fifteen percent (15 %);

Amendment

(12) ‘minimum tax rate’ means fifteen percent (15 %) as defined in the OECD agreement;

Or. en

Amendment 120
Luděk Niedermayer

Proposal for a directive
Article 3 – paragraph 1 – point 12

Text proposed by the Commission

(12) ‘minimum tax rate’ means fifteen percent (15 %);

Amendment

(12) ‘minimum tax rate’ means fifteen percent (15 %) hereinafter;

Or. en
Amendment 121
Eugen Jurzyca

Proposal for a directive
Article 3 – paragraph 1 – point 18 – introductory part

Text proposed by the Commission

(18) ‘controlling interest’ means an ownership interest in an entity whereby the interest holder is required, or would have been required, to consolidate the assets, liabilities, income, expenses and cash flows of the entity on a line-by-line basis, in accordance with an acceptable financial accounting standard;

Amendment

(18) ‘controlling interest’ means an Ownership Interest in an Entity such that the interest holder:

(a) is required to consolidate the assets, liabilities, income, expenses and cash flows of the Entity on a line-by-line basis in accordance with an Acceptable Financial Accounting Standard; or

(b) would have been required to consolidate the assets, liabilities, income, expenses and cash flows of the Entity on a line-by-line basis if the interest holder had prepared Consolidated Financial Statements;

Or. en

Amendment 122
Eugen Jurzyca

Proposal for a directive
Article 3 – paragraph 1 – point 20

Text proposed by the Commission

(20) ‘ownership interest’ means any rights to the profits, capital or reserves of an entity, or a permanent establishment;

Amendment

(20) ‘ownership interest’ means any equity interest that carries rights to the profits, capital or reserves of an Entity, including the profits, capital or reserves of a Main Entity’s Permanent Establishment;

Or. en
Amendment 123
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 3 – paragraph 1 – point 23 – point a

Text proposed by the Commission

(a) provides for the determination of the excess profits of the constituent entities located in that jurisdiction in accordance with the rules laid down in this Directive and the application of the minimum tax rate to those excess profits for the jurisdiction and the constituent entities in accordance with the rules laid down in this Directive; and

Amendment

(a) provides for the determination of the excess profits of the constituent entities located in that jurisdiction and the application of the minimum tax rate to those excess profits for the jurisdiction and the constituent entities.

Amendment 124
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 3 – paragraph 1 – point 23 – point b

Text proposed by the Commission

(b) is implemented and administered in a way that is consistent with the rules laid down in this Directive and does not allow the jurisdiction to provide any benefits that are related to those rules;

Amendment

deleted

(b) is implemented and administered in a way that is consistent with the rules laid down in this Directive and does not allow the jurisdiction to provide any benefits that are related to those rules;

Amendment 125
Eugen Jurzyca

Proposal for a directive
Article 3 – paragraph 1 – point 25 – point a
Text proposed by the Commission

(a) it is designed to pool financial or non-financial assets from a number of mostly non-related investors;

Amendment

(a) it is designed to pool assets which may be financial and non-financial, from a number of investors some of which are not connected;

Or. en

Amendment 126
Eugen Jurzyca

Proposal for a directive
Article 3 – paragraph 1 – point 25 – point e

Text proposed by the Commission

(e) its investors have a right to return from the assets of the fund or income earned on those assets, based on the contribution they made;

Amendment

(e) its investors have a right to return from the assets of the fund or income earned on those assets, based on the contributions made by those investors;

Or. en

Amendment 127
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 3 – paragraph 1 – point 32

Text proposed by the Commission

(32) ‘qualified refundable tax credit’
deleted

Amendment

means:

(a) a refundable tax credit designed in such a way that it is payable as a cash payment or a cash equivalent to a constituent entity within four years from the date when the constituent entity is entitled to receive the refundable tax credit under the laws of the jurisdiction granting the credit; or

(b) if the tax credit is refundable in part, the portion of the refundable tax credit
that is payable as a cash payment or a cash equivalent to a constituent entity within four years from the date when the constituent entity is entitled to receive the partial refundable tax credit;

Amendment 128
Eugen Jurzyca

Proposal for a directive
Article 3 – paragraph 1 – point 32 – point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) a refundable tax credit designed in such a way that it is payable as a cash payment or a cash equivalent to a constituent entity within four years from the date when the constituent entity is entitled to receive the refundable tax credit; or</td>
<td>(a) a refundable tax credit designed in a way such that it must be paid as cash or available as cash equivalents within four years from when a Constituent Entity satisfies the conditions for receiving the credit under the laws of the jurisdiction granting the credit; or</td>
</tr>
</tbody>
</table>

Or. en

Amendment 129
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 3 – paragraph 1 – point 32 – point a

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a) a refundable tax credit designed in such a way that it is payable as a cash payment or a cash equivalent to a constituent entity within four years from the date when the constituent entity is entitled to receive the refundable tax credit under the laws of the jurisdiction granting the credit; or</td>
<td>(a) a refundable tax credit designed in such a way that it is payable as a cash payment or a cash equivalent to a constituent entity within two years from the date when the constituent entity is entitled to receive the refundable tax credit under the laws of the jurisdiction granting the credit; or</td>
</tr>
</tbody>
</table>

Or. en
Amendment 130
Markus Ferber

Proposal for a directive
Article 3 – paragraph 1 – point 32 – point a

Text proposed by the Commission

(a) a refundable tax credit designed in such a way that it is payable as a cash payment or a cash equivalent to a constituent entity within four years from the date when the constituent entity is entitled to receive the refundable tax credit under the laws of the jurisdiction granting the credit; or

Amendment

(a) a refundable tax credit designed in such a way that it is payable as a cash payment or a cash equivalent to a constituent entity within five years from the date when the constituent entity is entitled to receive the refundable tax credit under the laws of the jurisdiction granting the credit; or

Or. en

Amendment 131
Eugen Jurzyca

Proposal for a directive
Article 3 – paragraph 1 – point 32 – point b

Text proposed by the Commission

(b) if the tax credit is refundable in part, the portion of the refundable tax credit that is payable as a cash payment or a cash equivalent to a constituent entity within four years from the date when the constituent entity is entitled to receive the partial refundable tax credit;

Amendment

(b) A tax credit that is refundable in part is a Qualified Refundable Tax Credit to the extent it must be paid as cash or available as cash equivalents within four years from when a Constituent Entity satisfies the conditions for receiving the credit under the laws of the jurisdiction granting the credit.

A Qualified Refundable Tax Credit does not include any amount of tax creditable or refundable pursuant to a Qualified Imputation Tax or a Disqualified Refundable Imputation Tax.

Or. en

Amendment 132
Markus Ferber

Proposal for a directive
Article 3 – paragraph 1 – point 32 – point b

Text proposed by the Commission

(b) if the tax credit is refundable in part, the portion of the refundable tax credit that is payable as a cash payment or a cash equivalent to a constituent entity within four years from the date when the constituent entity is entitled to receive the partial refundable tax credit;

Amendment

(b) if the tax credit is refundable in part, the portion of the refundable tax credit that is payable as a cash payment or a cash equivalent to a constituent entity within five years from the date when the constituent entity is entitled to receive the partial refundable tax credit;

Or. en

Amendment 133
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 3 – paragraph 1 – point 38 a (new)

Text proposed by the Commission

(38 a) The Commission may adopt implementing acts in accordance with Article 52 in order to laydown definitions of more concepts, or to modify any of the above definitions other than the one for the ‘minimum tax rate’, especially in the light of future refinements or clarification of the GloBE Model Rules.

Amendment

Or. en

Amendment 134
José Gusmão, Manon Aubry, Martin Schirdewan

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

Text proposed by the Commission

The Commission may adopt delegated acts
in accordance with Article 52 in order to lay down definitions of more concepts, or to modify any of the above definitions other than the one for the ‘minimum tax rate’, especially in the light of future refinements of the GloBE Model Rules.

Or. en

Amendment 135
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 4 – paragraph 1 – introductory part

**Text proposed by the Commission**

1. 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**

1. 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 **in that jurisdiction** are taken, or similar criteria reflecting real economic activities.

Or. en

Amendment 136
Lídia Pereira

Proposal for a directive
Article 4 – paragraph 1 – introductory part

**Text proposed by the Commission**

1. 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**

1. 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, its place of creation or similar criteria **that must be systematically coherent with this Directive**
and the GloBE rules.

Amendment 137
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 4 a (new)

Text proposed by the Commission

Article 4 a

Anti-avoidance rules

1. For the purposes of calculating the top-up tax to be levied under the rules of this Directive, a Member State shall disregard an arrangement or a 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, are 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 they are not put in place for valid commercial reasons that reflect economic reality.

3. Arrangements or a series of arrangements that are disregarded in accordance with paragraph 1 shall be treated, for the purpose of calculating the tax base, by reference to their economic substance.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 52 in order to lay down more detailed rules against tax avoidance, especially in the light of future refinements of the GloBE Model Rules.
Amendment 138
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4 a

Anti Avoidance Rules

1. For the purposes of calculating the top-up tax to be levied under the rules of this Directive, a Member State shall disregard an arrangement or a 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, are 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 thereof shall be regarded as non-genuine to the extent that they are not put in place for valid commercial reasons that reflect economic reality.

3. Arrangements or a series thereof that are disregarded in accordance with paragraph 1 shall be treated, for the purpose of calculating the tax base, by reference to their economic substance.

4. The Commission shall be empowered to adopt delegated acts in accordance with Article 52 in order to lay down more detailed rules against tax avoidance, especially in the light of future refinements of the GloBE Model Rules.

Or. en

Amendment 139
Eugen Jurzyca
Proposal for a directive  
Article 8 – paragraph 1

Text proposed by the Commission

1. The IIR top-up tax due by a parent entity in respect of a low-taxed constituent entity pursuant to Articles 5, 6 and 7 shall be equal to the top-up tax of the low-taxed constituent entity, as computed in accordance with Article 26, multiplied by the parent entity’s allocable share in such top-up tax for the fiscal year.

Amendment

1. A Parent Entity’s Allocable Share of the Top-up Tax of a Low-Taxed Constituent Entity is an amount equal to the Top-up Tax of the Low-Taxed Constituent Entity multiplied by the Parent Entity’s Inclusion Ratio for the Low-Taxed Constituent Entity for the Fiscal Year.

Or. en

Proposal for a directive  
Article 8 – paragraph 2

Text proposed by the Commission

2. A parent entity’s allocable share in the top-up tax with respect to a low-taxed constituent entity shall be the proportion of the parent entity’s interest in the income of the low-taxed constituent entity.

Amendment

2. A Parent Entity’s Inclusion Ratio for a Low-Taxed Constituent Entity for a Fiscal Year is the ratio of:

(a) the GloBE Income of the Low-Taxed Constituent Entity for the Fiscal Year, reduced by the amount of such income attributable to Ownership Interests held by other owners, to
(b) the GloBE Income of the Low-Taxed Constituent Entity for the Fiscal Year.

The amount of GloBE Income attributable to Ownership Interests in a Low-Taxed Constituent Entity held by other owners is the amount that would have been treated as attributable to such owners under the principles of the Acceptable Financial Accounting Standard used in the Ultimate Parent Entity’s Consolidated Financial Statements if the Low-Taxed Constituent Entity was a direct or indirect wholly-owned subsidiary of the Ultimate Parent Entity.
Entity’s net income were equal to its GloBE Income and:

(a) the Parent Entity had prepared Consolidated Financial Statements in accordance with that accounting standard (the hypothetical Consolidated Financial Statements);

(b) the Parent Entity owned a Controlling Interest in the Low-Taxed Constituent Entity such that all of the income and expenses of the Low-Taxed Constituent Entity were consolidated on a line-by-line basis with those of the Parent Entity in the hypothetical Consolidated Financial Statements;

(c) all of the Low-Taxed Constituent Entity’s GloBE Income were attributable to transactions with persons that are not Group Entities; and

(d) all Ownership Interests not directly or indirectly held by the Parent Entity were held by persons other than Group Entities.

Or. en

Amendment 141
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 10 – paragraph 2

Text proposed by the Commission Amendment

2. Where a parent entity of an MNE Group is located in a Member State, and its directly or indirectly held low-taxed constituent entities located in another Member State or in a third country jurisdiction are subject to a qualified domestic top-up tax for the fiscal year in that jurisdiction, the amount of any top-up tax computed in accordance with Article 26 due by the parent entity pursuant to Articles 5, 6 and 7 shall be deleted
reduced, up to zero, by the amount of top-up tax due by those constituent entities.

Amendment 142
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

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 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).

Or. en

Amendment 143
Markus Ferber

Proposal for a directive
Article 10 – paragraph 3

Text proposed by the Commission

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 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).

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 five 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 144
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 10 – paragraph 4

_text proposed by the Commission_

4. Member States that elect to apply a domestic top-up tax shall notify the Commission of this election within four months following the adoption of their national laws, regulations and administrative provisions necessary to comply with this Directive.

_An amendment_

4. Member States that elect to apply a domestic top-up tax shall notify the Commission of this election within four months.

Amendment 145
Eugen Jurzyca

Proposal for a directive
Article 13 – paragraph 6 – introductory part

_text proposed by the Commission_

6. The number of employees shall be the number of employees on a full-time equivalent basis of all constituent entities located in the relevant jurisdiction, including independent contractors provided that they participate in the ordinary operating activities of the constituent entity.

_An amendment_

6. Number of Employees, for the purposes of the UTPR percentage, means the total number of employees on a full-time equivalent basis of all the Constituent Entities resident for tax purposes in the relevant tax jurisdiction. For this purpose, independent contractors participating in the ordinary operating activities of the Constituent Entity are reported as employees.

Amendment 146
José Gusmão, Manon Aubry, Martin Schirdewan
Proposal for a directive
Article 13 – paragraph 8 a (new)

**Text proposed by the Commission**

8 a. The Commission may, by means of implementing acts, further specify the meaning of the terms used in paragraphs 5 and 6. The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 53a (1).

**Amendment**

Or. en

Amendment 147
Claude Gruffat
on behalf of the Greens/EFA Group

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

**Text proposed by the Commission**

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

**Amendment**

Or. en

Amendment 148
Claude Gruffat
on behalf of the Greens/EFA Group

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

**Text proposed by the Commission**

8 b. The Commission is empowered to
adopt delegated acts in accordance with Article 52 in order to modify the formula of paragraph 5, so as to accommodate for a corresponding change of the GloBE model rules.

Amendment 149
José Gusmão, Manon Aubry, Martin Schirdewan

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

Text proposed by the Commission

8 b. The Commission may adopt delegated acts in accordance with Article 52 in order to modify the formula of paragraph 5, so as to accommodate for a corresponding change of the GloBE Model Rules.

Amendment 150
Eugen Jurzyca

Proposal for a directive
Article 15 – paragraph 1 – point a – point i

Text proposed by the Commission

(i) covered taxes accrued as an expense;

Amendment

(i) any Covered Taxes accrued as an expense and any current and deferred Covered Taxes included in the income tax expense, including Covered Taxes on income that is excluded from the GloBE Income or Loss computation;

Amendment 151
Eugen Jurzyca
Proposal for a directive
Article 15 – paragraph 1 – point b – point i

Text proposed by the Commission

(i) an ownership interest in an entity of less than 10% (a “portfolio shareholding”) in respect of which a constituent entity is entitled to all or substantially all of the rights to profits, capital or reserves, irrespective of whether the constituent entity owns the legal ownership of such portfolio, for less than one year at the date of the distribution; and

Amendment

(i) defined as Ownership Interests in an Entity that are held by the MNE Group and that carry rights to less than 10% of the profits, capital, reserves, or voting rights of that Entity at the date of the distribution or disposition; and

Or. en

Amendment 152
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 15 – paragraph 3

Text proposed by the Commission

3. At the election of the filing constituent entity, the amount of stock-based compensation expense that has been allowed as a deduction for tax purposes by a constituent entity for a fiscal year may be deducted from the financial accounting net income or loss of that constituent entity for the computation of its qualifying income or loss for the same fiscal year.

Amendment

deleted

Where the option to use the stock-options has not been exercised, the amount of stock-based compensation expense that has been deducted from the financial accounting net income or loss of the constituent entity for the computation of its qualifying income or loss for a fiscal year shall be added back in the fiscal year in which the option has expired.

Where part of the amount of stock-based
compensation expense has been accrued in the financial accounts of the constituent entity in fiscal years prior to the fiscal year in which the election is made, an amount equal to the difference between the total amount of stock-based compensation expense that has been deducted for the computation of its qualifying income or loss in those previous fiscal years and the total amount of stock-based compensation expense that would have been deducted for the computation of its qualifying income or loss in those previous fiscal years if the election had been made in such fiscal years, shall be included in the computation of the qualifying income or loss of the constituent entity for that fiscal year.

The election shall be made in accordance with Article 43(1) and shall apply consistently to all constituent entities located in the same jurisdiction for the year in which the election is made and all subsequent fiscal years.

In the fiscal year in which the election is revoked, the amount of unpaid stock-based compensation expense that exceeds the financial accounting expense accrued shall be included for the computation of the qualifying income or loss of the constituent entity.

Amendment 153
Claude Gruffat on behalf of the Greens/EFA Group

Proposal for a directive
Article 15 – paragraph 5

Text proposed by the Commission

5. Qualified refundable tax credits shall be treated as income for the computation of the qualifying income or loss of a
loss of a constituent entity. Refundable
tax credits that do not meet the definition
of a qualified refundable tax credit as set
out in Article 3, point (32) shall not be
treated as income for the computation of
the qualifying income or loss of a
constituent entity.

Or. en

Amendment 154
José Gusmão, Manon Aubry, Martin Schirdewan

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

Text proposed by the Commission

11 a. The Commission may adopt
deleagated acts in accordance with Article
52 in order to modify any of the
definitions of paragraph 1, or to amend
any of the items for which adjustments
are provided for under paragraphs 2, 3, 6,
7, 10 and 11, especially in the light of
future refinements of the GloBE Model
Rules.

Or. en

Amendment 155
Claude Gruffat
on behalf of the Greens/EFA Group

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

Text proposed by the Commission

11 a. The Commission may adopt
deleagated acts in accordance with Article
52 in order to modify any of the
definitions of paragraph 1, or to amend
any of the items for which adjustments
are provided for under paragraphs 2, 3, 6,
7, 10 and 11, especially in the light of
future refinements of the GloBE Model Rules.

Amendment 156
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 16

Text proposed by the Commission

[...]

deleted

Or. en

Amendment 157
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 16

Text proposed by the Commission

[...]

deleted

Or. en

Amendment 158
Markus Ferber

Proposal for a directive
Article 19 – paragraph 1 – point a

Text proposed by the Commission

(a) taxes **accrued** in the financial accounts of a constituent entity with respect to its income or profits, or its share of the income or profits of a constituent entity in which it owns an ownership interest;

(a) taxes **recorded** in the financial accounts of a constituent entity with respect to its income or profits, or its share of the income or profits of a constituent entity in which it owns an ownership interest;
Justification

To bring the wording more in line with the OECD agreement.

Amendment 159
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 19 – paragraph 1 – point c

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(c) taxes imposed in lieu of a generally applicable corporate income tax; and</td>
<td>(c) taxes imposed in lieu of a generally applicable corporate income tax, understood as alternatives to corporate income tax such as alternative minimum taxes; and</td>
</tr>
</tbody>
</table>

Amendment 160
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 19 – paragraph 1 – point d a (new)

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>(d a) the top-up tax accrued by a constituent entity under a qualified domestic top-up tax.</td>
<td></td>
</tr>
</tbody>
</table>

Amendment 161
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 19 – paragraph 2 – point b
(b) the top-up tax accrued by a constituent entity under a qualified domestic top-up tax;

Amendment 162
José Gusmão, Manon Aubry, Martin Schirdewan

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

3 a. The Commission may, by means of implementing acts, further specify the meaning of the terms used in paragraph 1. The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 53a (1).

Amendment 163
Claude Gruffat
on behalf of the Greens/EFA Group

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

3 a. The Commission may, by means of implementing acts, further specify the meaning of the terms used in paragraph 1. The implementing acts referred to in the first subparagraph shall be adopted in accordance with the examination procedure referred to in Article 52a.
Amendment 164
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 20 – paragraph 2 – point d

Text proposed by the Commission

(d) the amount of credit or refund in respect of a qualified refundable tax credit that was accrued as a reduction to the tax expense.

Amendment

deleted

Or. en

Amendment 165
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 20 – paragraph 3 – point b

Text proposed by the Commission

(b) the amount of credit or refund in respect of a refundable tax credit that was not accrued as a reduction to the tax expense;

Amendment

(b) the amount of credit or refund in respect of a refundable tax credit that was not accrued as a reduction to the tax expense;

Or. en

Amendment 166
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 20 – paragraph 3 – point c

Text proposed by the Commission

(c) the amount of covered taxes refunded or credited to a constituent entity that was not treated as an adjustment to tax expense, unless it relates to a qualified

Amendment

(c) the amount of covered taxes refunded or credited to a constituent entity that was not treated as an adjustment to tax expense;
refundable tax credit;

Amendment 167
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 21 – paragraph 7 – introductory part

Text proposed by the Commission

7. 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

7. 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.

Or. en

Amendment 168
Markus Ferber

Proposal for a directive
Article 21 – paragraph 7 – introductory part

Text proposed by the Commission

7. 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

7. A deferred tax liability that is not paid or reversed within the six 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.

Or. en

Amendment 169
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 21 – paragraph 7 – subparagraph 1
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).

Or. en

Amendment 170
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 21 – paragraph 8 – point c

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).

Or. en

Amendment 171
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 21 – paragraph 8 – point c

Or. en

Amendment 172
Markus Ferber

Proposal for a directive
Article 21 – paragraph 8 – point c
(c) research and development expenses;

(c) expenses for research and development;

Proposal for a directive
Article 21 – paragraph 8 – point e

Text proposed by the Commission
(e) fair value accounting on unrealized net gains;

deleted

Proposal for a directive
Article 21 – paragraph 8 a (new)

Text proposed by the Commission
8 a. 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, especially in the light of future refinements of the GloBE Model Rules.

Amendment 175
Markus Ferber
Proposal for a directive
Article 24 – paragraph 1 – subparagraph 2

Text proposed by the Commission

At the election of the filing constituent entity, a decrease in covered taxes which is immaterial may be treated as an adjustment to covered taxes in the fiscal year in which the adjustment is made. An immaterial decrease in covered taxes shall be a decrease of less than EUR 1,000,000 in the adjusted covered taxes determined for the jurisdiction for the fiscal year.

 Amendment

At the election of the filing constituent entity, a decrease in covered taxes which is immaterial may be treated as an adjustment to covered taxes in the fiscal year in which the adjustment is made. An immaterial decrease in covered taxes shall be a decrease of less than EUR 2,500,000 in the adjusted covered taxes determined for the jurisdiction for the fiscal year.

Or. en

Amendment 176
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 25 – paragraph 2 – subparagraph 2 – point a

Text proposed by the Commission

(a) the qualifying income of the constituent entities is the sum of the qualifying income of all constituent entities located in the jurisdiction determined in accordance with Chapter III, taking into account, where applicable, the international shipping income exclusion in accordance with Article 16;

 Amendment

(a) the qualifying income of the constituent entities is the sum of the qualifying income of all constituent entities located in the jurisdiction determined in accordance with Chapter III, taking into account;

Or. en

Amendment 177
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 25 – paragraph 2 – subparagraph 2 – point a

Text proposed by the Commission

(a) the qualifying income of the

 Amendment

(a) the qualifying income of the
constituent entities is the sum of the qualifying income of all constituent entities located in the jurisdiction determined in accordance with Chapter III, taking into account, where applicable, the international shipping income exclusion in accordance with Article 16;

Amendment 178
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 26 – paragraph 3 – introductory part

Text proposed by the Commission
3. The jurisdictional top-up tax for a fiscal year shall be computed in accordance with the following formula:

Amendment
3. The jurisdictional top-up tax for a fiscal year shall be computed in accordance with the following formula:

Jurisdictional top – up tax = (top up tax percentage x excess profit) + additional top – up tax

Or. en

Justification
Deletes "– domestic top – up tax" from the formula.

Amendment 179
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 26 – paragraph 3 – subparagraph 2 – point b

Text proposed by the Commission
(b) the domestic top-up tax is the amount of tax as determined in accordance with Article 10.

Amendment
deleted

(b) the domestic top-up tax is the amount of tax as determined in accordance with Article 10.

Or. en
Amendment 180
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 27

Text proposed by the Commission

[...]  

Amendment

deleted

Or. en

Amendment 181
Claude Gruffat
on behalf of the Greens/EFA Group

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

Text proposed by the Commission

(a) ‘eligible employees’ means full-time or part-time employees of a constituent entity and independent contractors participating in the ordinary operating activities of the MNE group under the direction and control of the MNE Group;

Amendment

(a) ‘eligible employees’ means full-time or part-time employees of a constituent entity;

Or. en

Amendment 182
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 27 – paragraph 2

Text proposed by the Commission

2. Unless a filing entity of an MNE group elects not to apply the substance-based income exclusion, the net qualifying income for a jurisdiction shall be reduced, for the purpose of calculating the top-up

Amendment

2. Unless a non-European filing entity of an MNE group elects not to apply the substance-based income exclusion, the net qualifying income for a jurisdiction shall be reduced, for the purpose of
tax, by an amount equal to the sum of the payroll carve-out and the tangible asset carve-out for each constituent entity located in the jurisdiction.

calculating the top-up tax, by an amount equal to the sum of the payroll carve-out and the tangible asset carve-out for each constituent entity located in the jurisdiction.

Amendment 183
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 27 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. The substance-based income exclusion does not apply for constituent entities in the European Union.

Or. en

Amendment 184
Markus Ferber

Proposal for a directive
Article 27 – paragraph 3 – introductory part

Text proposed by the Commission

Amendment

3. The payroll carve-out of a constituent entity located in a jurisdiction shall be equal to 5 % of its eligible payroll costs of eligible employees who perform activities for the MNE group in such jurisdiction, with the exception of eligible payroll costs that are:

3. The payroll carve-out of a constituent entity located in a jurisdiction shall be equal to 10 % of its eligible payroll costs of eligible employees who perform activities for the MNE group in such jurisdiction, with the exception of eligible payroll costs that are:

Or. en

Amendment 185
Claude Gruffat
on behalf of the Greens/EFA Group
Proposal for a directive
Article 27 – paragraph 3 – introductory part

Text proposed by the Commission

3. The payroll carve-out of a constituent entity located in a jurisdiction shall be equal to 5 % of its eligible payroll costs of eligible employees who perform activities for the MNE group in such jurisdiction, with the exception of eligible payroll costs that are:

3. The payroll carve-out of a constituent entity located in a jurisdiction outside of the European Union shall be equal to 5 % of its eligible payroll costs of eligible employees who perform activities for the MNE group in such jurisdiction, with the exception of eligible payroll costs that are:

Amendment 186
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 27 – paragraph 3 – point a

Text proposed by the Commission

(a) capitalised and included in the eligible tangible asset carve-out base; and

(a) capitalised and included in the eligible tangible asset carve-out base;

Amendment

Or. en

Amendment 187
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 27 – paragraph 3 – point b

Text proposed by the Commission

(b) attributable to income that is excluded in accordance with Article 16.

(b) deleted

Amendment

Or. en
Amendment 188
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 27 – paragraph 4 – point b

Text proposed by the Commission

(b) the carrying value of tangible assets used to derive income that is excluded in accordance with Article 16.

Amendment
(deleted)

Or. en

Amendment 189
Claude Gruffat
on behalf of the Greens/EFA Group

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

Text proposed by the Commission

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

Amendment

Or. en

Amendment 190
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 29

Text proposed by the Commission

De minimis exclusion

1. By way of derogation from Articles 25 to 28, at the election of the filing
The top-up tax due for the constituent entities located in a jurisdiction shall be equal to zero for a fiscal year if, for such fiscal year:

(a) the average qualifying revenue of the constituent entities located in that jurisdiction is less than EUR 10 000 000; and

(b) the average qualifying income or loss of that jurisdiction is a loss or is less than EUR 1 000 000.

The election shall be made annually in accordance with Article 43(2).

2. The average qualifying revenue or average qualifying income or loss referred to in paragraph 1 shall be the average of the qualifying revenue or qualifying income or loss of the constituent entities located in the jurisdiction for the fiscal year and the two preceding fiscal years.

If there are no constituent entities with qualifying revenue or qualifying loss located in the jurisdiction in the first or second preceding fiscal years, such fiscal years shall be excluded from the calculation of the average qualifying revenue or qualifying income or loss of that jurisdiction.

3. The qualifying revenue of the constituent entities located in a jurisdiction for a fiscal year shall be the sum of the revenues of the constituent entities located in that jurisdiction, reduced or increased by any adjustment carried out in accordance with Chapter III.

4. The qualifying income or loss of a jurisdiction located in a jurisdiction for a fiscal year shall be the net qualifying income or loss of that jurisdiction as computed in accordance with Article 25(2).

5. The de minimis exclusion shall not be applicable to stateless entities and investment entities. The revenue and qualifying income of such entities shall be
excluded from the computation of the de minimis exclusion.

Amendment 191
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 29 – paragraph 1 – introductory part

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. By way of derogation from Articles 25 to 28, at the election of the filing constituent entity, the top-up tax due for the constituent entities located in a jurisdiction shall be equal to zero for a fiscal year if, for such fiscal year:</td>
<td>1. By way of derogation from Articles 25 to 28, at the election of the filing constituent entity, the top-up tax due for the constituent entities located in a jurisdiction outside of the European Union shall be equal to zero for a fiscal year if, for such fiscal year:</td>
</tr>
</tbody>
</table>

Amendment 192
Markus Ferber

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

<table>
<thead>
<tr>
<th>Text proposed by the Commission</th>
<th>Amendment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1 a. The thresholds in paragraph 1 of this article shall be adjusted on 31 December of every year in order reflect changes in the Harmonised Index of Consumer Prices.</td>
<td></td>
</tr>
</tbody>
</table>

Justification

The de-minimis thresholds should be regularly adjusted for inflation in order to stay relevant.
Amendment 193
Claude Gruffat
on behalf of the Greens/EFA Group

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

Text proposed by the Commission

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:

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 under all circumstances for at least six years following the demerger and if it reports:

Or. en

Amendment 194
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 35 – paragraph 1 – point c – introductory part

Text proposed by the Commission

(c) ‘dual-listed arrangement’ means an arrangement entered into by two or more ultimate parent entities of separate groups

Amendment

(c) 'dual-listed arrangement’ means an arrangement entered into by two or more ultimate parent entities of separate groups for which any one or more of the following apply:

Or. en

Amendment 195
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 38 – paragraph 5

Text proposed by the Commission

5. The outstanding balance, if any, of the deemed distribution tax recapture

Amendment

5. The outstanding balance, if any, of the deemed distribution tax recapture
account at the end of the fourth fiscal year after such account was established, shall be treated as a reduction to the adjusted covered taxes in accordance with Article 28(1) for the fiscal year in which such account was established.

account at the end of the second fiscal year after such account was established, shall be treated as a reduction to the adjusted covered taxes in accordance with Article 28(1) for the fiscal year in which such account was established.

Or. en

Amendment 196
Markus Ferber

Proposal for a directive
Article 38 – paragraph 5

Text proposed by the Commission

5. The outstanding balance, if any, of the deemed distribution tax recapture account at the end of the fourth fiscal year after such account was established, shall be treated as a reduction to the adjusted covered taxes in accordance with Article 28(1) for the fiscal year in which such account was established.

Amendment

5. The outstanding balance, if any, of the deemed distribution tax recapture account at the end of the fifth fiscal year after such account was established, shall be treated as a reduction to the adjusted covered taxes in accordance with Article 28(1) for the fiscal year in which such account was established.

Or. en

Amendment 197
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 38 – paragraph 5

Text proposed by the Commission

5. The outstanding balance, if any, of the deemed distribution tax recapture account at the end of the fourth fiscal year after such account was established, shall be treated as a reduction to the adjusted covered taxes in accordance with Article 28(1) for the fiscal year in which such account was established.

Amendment

5. The outstanding balance, if any, of the deemed distribution tax recapture account at the end of the third fiscal year after such account was established, shall be treated as a reduction to the adjusted covered taxes in accordance with Article 28(1) for the fiscal year in which such account was established.
Amendment 198
Markus Ferber

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 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*

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.

*Justification*

Brings the scope in line with Art. 40.

Amendment 199
Claude Gruffat
on behalf of the Greens/EFA Group

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

*Text proposed by the Commission*

7 a. When 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 200
José Gusmão, Manon Aubry, Martin Schirdewan

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

Text proposed by the Commission

Amendment

7 a. The Council, acting unanimously on a proposal from the Commission, shall adopt the measures necessary to implement the filing obligations under this Directive.

Amendment 201
Claude Gruffat
on behalf of the Greens/EFA Group

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

Text proposed by the Commission

Amendment

7 b. The Commission shall by means of a delegated act, and if necessary a legislative proposal, propose the measures necessary to implement the filing obligations under this Directive and ensure the necessary exchange of information.

Amendment 202
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 43 – paragraph 1

Text proposed by the Commission

1. The election referred to in Articles 2(3), 15(3), 15(6), 15(9), 40(4) and 41(5) shall be valid for a period of five years, starting from the year in which the election is made. The election shall be renewed automatically unless the filing constituent entity revokes the election at the end of the five-year period. A revocation of the election shall be valid for a period of five years, starting from the year in which the revocation is made.

Amendment

1. The election referred to in Articles 2(3), 15(6), 15(9), 40(4) and 41(5) shall be permanent, starting from the year in which the election is made.

Or. en

Amendment 203
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 44 – paragraph 1

Text proposed by the Commission

1. Member States shall lay down rules on penalties applicable to breaches of national rules adopted pursuant to this Directive, and shall take all necessary measures to ensure that they are effectively applied. The penalties provided for shall be effective, proportionate and dissuasive.

Amendment

1. Member States shall lay down rules on penalties applicable to breaches of national rules adopted pursuant to this Directive, and shall take all necessary measures to ensure that they are effectively applied. The penalties provided for shall be effective and dissuasive.

Or. en

Amendment 204
Martin Hlaváček, Ondřej Kovařík

Proposal for a directive
Article 44 – paragraph 2

Text proposed by the Commission

2. A constituent entity that does not

Amendment

deleted
comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 5 % of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Amendment 205
Eugen Jurzyca

Proposal for a directive
Article 44 – paragraph 2

Text proposed by the Commission

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 5 % of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Amendment

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty specified by Member State in accordance with the national law. Administrative pecuniary penalties shall be effective, proportionate and dissuasive. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Amendment 206
Markus Ferber
Proposal for a directive
Article 44 – paragraph 2

Text proposed by the Commission

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 5% of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Amendment

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 10% of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Or. en

Amendment 207
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 44 – paragraph 2

Text proposed by the Commission

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 5% of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Amendment

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 2.5% of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Or. en
Amendment 208
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 44 – paragraph 2

Text proposed by the Commission

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 5% of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Amendment

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 10% of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Or. en

Amendment 209
Lídia Pereira

Proposal for a directive
Article 44 – paragraph 2

Text proposed by the Commission

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 5% of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.

Amendment

2. A constituent entity that does not comply with the requirement to file a top-up tax information return pursuant to Article 42 for a tax year within the prescribed deadline or makes a false declaration shall be charged an administrative pecuniary penalty amounting to 5% of its turnover in the relevant fiscal year. This penalty shall only apply after the constituent entity has not provided the top-up tax information return pursuant to Article 42, following any reminder issued, within a period of 6 months.
National tax authorities can provide, under request from the constituent entity, presented until the end of the 6 months period, a grace period of no more than 2 months to file the top-up tax information return, when justified.

Amendment 210
Markus Ferber

Proposal for a directive
Article 44 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2 a. For the first three years of application, the penalties laid down in paragraph 2 shall be suspended.

Justification

A suspension would allow for companies to get used to the complex new regime, without risking excessive penalties due to honest mistakes.

Amendment 211
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 46

Text proposed by the Commission

Amendment

Article 46 deleted

Transitional relief for the substance-based income exclusion

1. For the purpose of Article 27(3), the value of 5 % shall be replaced with the values set out in the following table:

[...]

2. For the purpose of applying Article 27(4), the value of 5 % shall be replaced
the values set out in the following table:
[...]

Amendment 212
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 46

Text proposed by the Commission Amendment

Article 46 deleted

Transitional relief for the substance-based income exclusion

1. For the purpose of Article 27(3), the value of 5 % shall be replaced with the values set out in the following table:
[...]  
2. For the purpose of applying Article 27(4), the value of 5 % shall be replaced with the values set out in the following table:
[...]  

Amendment 213
Markus Ferber

Proposal for a directive
Article 46

Text proposed by the Commission Amendment

Article 46 deleted

Transitional relief for the substance-based income exclusion

1. For the purpose of Article 27(3), the value of 5 % shall be replaced with the values set out in the following table:
2. For the purpose of applying Article 27(4), the value of 5 % shall be replaced by the values set out in the following table:

 [...]
activity if:

(a) it has constituent entities in no more than six jurisdictions; and

(b) the sum of the net book value of the tangible assets of all the constituent entities of the MNE group other than the constituent entities located in the reference jurisdiction does not exceed EUR 50 000 000.

For the purpose of point (b), reference jurisdiction means the jurisdiction in which the constituent entities of the MNE group have the highest sum of the net book value of tangible assets in the fiscal year in which the MNE group falls within the scope of this Directive for the first time.

4. The period of five 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.

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.

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.

5. The ultimate parent entity shall inform the tax administration of the Member State in which it is located of the start of the initial phase of its international activity.

Amendment 215
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 47
Article 47

Exclusion from the IIR and UTPR of MNE groups in the initial phase of their international activity

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.

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.

3. An MNE group shall be considered to be in the initial phase of its international activity if:

(a) it has constituent entities in no more than six jurisdictions; and

(b) the sum of the net book value of the tangible assets of all the constituent entities of the MNE group other than the constituent entities located in the reference jurisdiction does not exceed EUR 50 000 000.

For the purpose of point (b), reference jurisdiction means the jurisdiction in which the constituent entities of the MNE group have the highest sum of the net book value of tangible assets in the fiscal year in which the MNE group falls within the scope of this Directive for the first time.

4. The period of five 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.

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.

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.

5. The ultimate parent entity shall inform the tax administration of the Member State in which it is located of the start of the initial phase of its international activity.

Amendment 216
Markus Ferber

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 six years of the initial phase of the international activity of the MNE group notwithstanding the requirements laid down in Chapter V.

Amendment 217
Markus Ferber

Proposal for a directive
Article 47 – paragraph 2
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 six years of the initial phase of the international activity of that MNE group notwithstanding the requirements laid down in Chapter V.

Amendment 218
Markus Ferber
Proposal for a directive
Article 47 – paragraph 3 – point a

Text proposed by the Commission
(a) it has constituent entities in no more than six jurisdictions; and

Amendment
(a) it has constituent entities in no more than eight jurisdictions; and

Or. en

Amendment 219
Markus Ferber
Proposal for a directive
Article 47 – paragraph 3 – point b

Text proposed by the Commission
(b) the sum of the net book value of the tangible assets of all the constituent entities of the MNE group other than the constituent entities located in the reference jurisdiction does not exceed EUR 50 000 000.

Amendment
(b) the sum of the net book value of the tangible assets of all the constituent entities of the MNE group other than the constituent entities located in the reference jurisdiction does not exceed EUR 75 000 000.

Or. en
Amendment 220
Markus Ferber

Proposal for a directive
Article 47 – paragraph 4 – introductory part

**Text proposed by the Commission**

4. The period of *five* 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.

**Amendment**

4. The period of *six* 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.

Or. en

Amendment 221
Markus Ferber

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

**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 *six-year* period referred to in paragraph 1 shall start on 1 January 2025.

Or. en

Amendment 222
Eugen Jurzyca

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

**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 five-year period referred to in paragraph 1 shall start on 1 January 2024.

Or. en
Amendment 223
Lídia Pereira

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

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 five-year period referred to in paragraph 1 shall start on 1 January 2024.

Or. en

Amendment 224
Markus Ferber

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 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 six-year period referred to in paragraph 2 shall start on 1 January 2026.

Or. en

Amendment 225
Lídia Pereira

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 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 five-year period referred to in paragraph 2 shall start on 1 January 2025.

Or. en
Amendment 226
Eugen Jurzyca

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

Text proposed by the Commission

Amendment

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.

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 2025.

Or. en

Amendment 227
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 48

Text proposed by the Commission

Amendment

Article 48 deleted

Transitional relief for filing obligations

Notwithstanding Article 42(7), the top-up tax information return and the notifications referred to in Article 42 shall be filed with the tax administration of the Member States no later than 18 months after the last day of the fiscal year that is the transitional year.

Or. en

Amendment 228
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 50

Text proposed by the Commission

Amendment

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**Article 50**

Transitional rules

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.

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.

Or. en

Amendment 229
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 50

Text proposed by the Commission

**Article 50**

Transitional rules

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.

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.

Or. en
Amendment 230
Markus Ferber

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 six 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.

Or. en

Amendment 231
Markus Ferber

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

2. For large-scale domestic groups that are in scope of this Directive when it enters into force, the six-year period abovementioned shall start on 1 January 2025.

Or. en

Amendment 232
Lídia Pereira

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

Amendment

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.

enters into force, the five-year period abovementioned shall start on 1 January 2024.

Amendment 233
Eugen Jurzyca

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

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 2024.

Amendment 234
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 51 – paragraph 1 – point b

Text proposed by the Commission

(b) it establishes a minimum effective tax rate of at least 15 % below which a constituent entity is considered as low-taxed;

Amendment

(b) it establishes a minimum effective tax rate of at least 21 % below which a constituent entity is considered as low-taxed;

Amendment 235
Eugen Jurzyca

Proposal for a directive
Article 51 – paragraph 3 a (new)
3 a. Before 01.01.2027, and then every 4 years, the Commission shall present a report to the European Parliament and the Council on the application of this Directive.

The report shall assess at least the following:

(a) whether any adjustments are needed to the definitions set out in this Directive, to ensure that the GloBE Model Rules are implemented uniformly and consistently with G20 members;

(b) the impact of this Directive on the competitiveness of European economy, particularly in comparison to those G20 members who do not implement GloBE Model Rules;

(c) the effects of this Directive on national laws, regulations and administrative provisions governing penalties;

(d) the application of the administrative penalties;

(e) the appropriateness and impact of expanding the scope of this Directive to EU based companies;

(f) the cooperation between national competent authorities and the cooperation with third countries national authorities;

(g) the total volume of top-up tax collected by each and individual Member State;

(h) the number and a character of disputes occurring in the EU and between the Member States and third countries in relation to this Directive;

(i) the administrative and economic costs of this Directive for Member States as a percentage of their GDP;

(j) types and trends of unforeseen and inappropriate behaviour occurring in relation to this Directive.
Amendment 236
Markus Ferber

Proposal for a directive
Article 51 a (new)

_text proposed by the Commission_

Amendment

Article 51 a

_Global Implementation Review_

By 30 June 2023 the European Commission shall publish a report evaluating whether a sufficient number of third countries has faithfully implemented the OECD agreement. Depending on the outcome of this evaluation, the European Commission may propose amendments to this directive safeguarding the competitiveness of European businesses.

Or. en

Amendment 237
Claude Gruffat
on behalf of the Greens/EFA Group

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 51(3), 4a(4), 13(8b), 15(11a), 21(8a), and 42(7b) shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.

Or. en

Amendment 238
Claude Gruffat
on behalf of the Greens/EFA Group
Proposal for a directive
Article 52 – paragraph 5

Amendment

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.

5. A delegated act adopted pursuant to paragraph 2 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.

Or. en

Amendment 239
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 52 a (new)

Amendment

Article 52 a
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.

Or. en

Amendment 240
Luděk Niedermayer

Proposal for a directive
Article 53 – paragraph 1
Text proposed by the Commission

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.

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 in a timely manner.

Amendment 241
Luděk Niedermayer

Proposal for a directive
Article 53 – paragraph 1 a (new)

Text proposed by the Commission

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 use of exemptions and derogations and its impact on internal market coherence.

The report shall assess the impact of the Directive on EU countries’ tax revenue, investment decisions of the companies, as well as competitiveness of the EU within the global economy. Where appropriate, the report shall be accompanied by a legislative proposal.

Such an impact assessment can support the OECD’s Inclusive Framework analysis of Pillar 2 and, if appropriate, feed into a modification of the rules at the
OECD level and, if agreed, in the OECD, changes to the EU Directive.

Or. en

Amendment 242
Fabio Massimo Castaldo

Proposal for a directive
Article 53 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU) No182/2011. Where reference is made to this paragraph, Article 5 of Regulation (EU)No 182/2011 shall apply.

Or. en

Amendment 243
Fabio Massimo Castaldo

Proposal for a directive
Article 53 – paragraph 1 b (new)

Text proposed by the Commission

Amendment

The Commission shall, three 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 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 EU and the development of other, unilateral approaches towards minimum effective taxation of MNE groups. The Commission shall submit further such reports to the Council every three years.
Where appropriate, the report shall be accompanied by a legislative proposal. In that report the Commission shall undertake a thorough analysis in particular of the effectiveness and efficiency of this Directive, including whether the scope of the Directive should be extended to cover MNE groups and large-scale domestic groups with a lower annual revenue threshold than the one laid down in Article 2(1), whether the minimum tax rate of Article 3 item (12) should be increased above fifteen percent, or whether the substance-based income inclusion of Article 27 should be partially or completely abolished.

Amendment 244
Fabio Massimo Castaldo

Proposal for a directive
Article 53 – paragraph 1 c (new)

Text proposed by the Commission

This Directive shall not affect the application of domestic or agreement-based provisions on controlled foreign company rules within the meaning of Article 7 of Council Directive (EU) 2016/1164, including the right of Member States under Article 3 of said Directive to adopt provisions aimed at safeguarding a higher level of protection for domestic corporate tax bases, especially where stricter controlled foreign company rules follow the recommendations of the 2015 Final Report on Action 3 of the OECD/G20 Base Erosion and Profit Shifting Project. This Directive shall not affect the application of domestic provisions on alternative forms of minimum taxation of domestic groups or companies.

Or. en
Amendment 245
Fabio Massimo Castaldo

Proposal for a directive
Article 53 – paragraph 1 d (new)

Text proposed by the Commission

Amendment

No earlier than five years after the entry into force of this Directive, and after consulting the committee of Article 53 (1), a Member State may derogate from the provision on the annual revenue threshold of Article 2(1), on the minimum tax rate of Article 3 item (12), or on the substance-based income inclusion of Article 27, so as to apply a lower annual revenue threshold, to apply a higher minimum tax rate, or to partially or wholly abolish the substance-based income inclusion.

Or. en

Amendment 246
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 53 a (new)

Text proposed by the Commission

Amendment

Article 53 a

Review

The Commission shall, three 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 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 EU and the development of other, unilateral
approaches towards minimum effective taxation of MNE groups. The Commission shall submit further such reports to the Council every three years. Where appropriate, the report shall be accompanied by a legislative proposal.

In that report the Commission shall undertake a thorough analysis in particular of the effectiveness and efficiency of this Directive, including whether the scope of the Directive should be extended to cover MNE groups and large-scale domestic groups with a lower annual revenue threshold than the one laid down in Article 2(1) and whether the minimum tax rate of Article 3 item (12) should be increased.

Amendment 247
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 53 b (new)

Text proposed by the Commission

Amendment

Article 53 b

Delimitation clause

1. This Directive shall not affect the application of domestic or agreement-based provisions on controlled foreign company rules within the meaning of Article 7 of Council Directive (EU) 2016/1164, including the right of Member States under Article 3 of said Directive to adopt provisions aimed at safeguarding a higher level of protection for domestic corporate tax bases, especially where stricter controlled foreign company rules follow 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.

Amendment 248
José Gusmão, Manon Aubry, Martin Schirdewan

Proposal for a directive
Article 53 c (new)

Text proposed by the Commission

Amendment

Article 53 c

Derogations

After the entry into force of this Directive a Member State may derogate from the provision on the annual revenue threshold of Article 2(1) or on the minimum tax rate of Article 3 item (12) so as to apply a lower annual revenue threshold or to apply a higher minimum tax rate.

Amendment 249
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 54 a (new)

Text proposed by the Commission

Amendment

Article 54 a

Delimitation clause

1. This Directive shall not affect the application of domestic or agreement-based provisions on controlled foreign company rules within the meaning of Article 7 of Council Directive (EU)2016/1164, including the right of
Member States under Article 3 of said Directive to adopt provisions aimed at safeguarding a higher level of protection for domestic corporate tax bases, especially where stricter controlled foreign company rules follow 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.

Amendment 250
Claude Gruffat
on behalf of the Greens/EFA Group

Proposal for a directive
Article 54 b (new)

Text proposed by the Commission

Amendment

Article 54 b

Review

1. By [three 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.

2. The report shall assess the impact of the substance-based income exclusion 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 member states and low income countries and 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 251
Eugen Jurzyca

Proposal for a directive
Article 55 – paragraph 1

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2022.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2023 provided that GloBE Model Rules were implemented by at least ten G20 members, including the USA.

Or. en

Amendment 252
Markus Ferber

Proposal for a directive
Article 55 – paragraph 1

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2022.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2024.

Or. en
Amendment 253
Martin Hlaváček, Ondřej Kovařík

Proposal for a directive
Article 55 – paragraph 1

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2022.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2023.

Or. en

Amendment 254
Lídia Pereira

Proposal for a directive
Article 55 – paragraph 1

Text proposed by the Commission

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2022.

Amendment

Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with this Directive by 31 December 2023.

Or. en

Amendment 255
Eugen Jurzyca

Proposal for a directive
Article 55 – paragraph 3

Text proposed by the Commission

They shall apply those provisions from 1 January 2023.

Amendment

They shall apply those provisions in respect of the fiscal years beginning as from 31 December 2023.

Or. en
Amendment 256
Markus Ferber

Proposal for a directive
Article 55 – paragraph 3

Text proposed by the Commission
They shall apply those provisions from 1 January 2023.

Amendment
They shall apply those provisions from 1 January 2025.

Or. en

Amendment 257
Lídia Pereira

Proposal for a directive
Article 55 – paragraph 3

Text proposed by the Commission
They shall apply those provisions from 1 January 2023.

Amendment
They shall apply those provisions from 1 January 2024.

Or. en

Amendment 258
Martin Hlaváček, Ondřej Kovařík

Proposal for a directive
Article 55 – paragraph 3

Text proposed by the Commission
They shall apply those provisions from 1 January 2023.

Amendment
They shall apply those provisions from 1 January 2024.

Or. en

Amendment 259
Lídia Pereira
Proposal for a directive
Article 55 – paragraph 4

Text proposed by the Commission

Amendment

However, they shall apply the provisions necessary to comply with Articles 11, 12 and 13 from 1 January 2024.

Or. en

Justification

In coherence with the approach to guarantee that this Directive enters in force in 1 January 2024, this provision is not necessary.

Amendment 260
Eugen Jurzyca

Proposal for a directive
Article 55 – paragraph 4

Text proposed by the Commission

Amendment

However, they shall apply the provisions necessary to comply with Articles 11, 12 and 13 from 1 January 2024.

However, they shall apply the provisions necessary to comply with Articles 11, 12 and 13 in respect of the fiscal years beginning as from 31 December 2024.

Or. en

Amendment 261
Martin Hlaváček, Ondřej Kovařík

Proposal for a directive
Article 55 – paragraph 4

Text proposed by the Commission

Amendment

However, they shall apply the provisions necessary to comply with Articles 11, 12 and 13 from 1 January 2024.

However, they shall apply the provisions necessary to comply with Articles 11, 12 and 13 from 1 January 2025.

Or. en
Amendment 262
Lídia Pereira

Proposal for a directive
Article 55 a (new)

Text proposed by the Commission

Amendment

Article 55 a

Review Clayse

By … [five years after the entry into force of this Directive], the Commission shall report to the Council and the Parliament on its application by Member States. The report must perform a general evaluation of the implementation of the rules provisioned in this Directive and refer, concretely:

a) an assessment on the impact of the directive on Member States tax revenue;

b) an assessment on the impact of the rules on the European companies competitiveness, mainly on investment strategies, possible relocations, compliance costs, administrative burden and double taxation issues;

c) an evaluation on the international tax context on corporate taxation matters, in particular regarding the implementation of the GloBE Model Rules by third jurisdictions, namely on the implementation of qualified income inclusion rules in accordance with article 51 criteria;

d) an evaluation on the need to propose negotiations to change specific GloBE Moder Rules, having the EU Member States experience and the global context in regard.

Or. en

Amendment 263
Claude Gruffat
on behalf of the Greens/EFA Group
Proposal for a directive
Annex I

Text proposed by the Commission

Amendment

The following third country jurisdictions have been assessed to accommodate a legal framework which can be considered as equivalent to a qualified income inclusion rule:

1. [The United States of America]