



2023/0321(CNS)

18.1.2024

AMENDMENTS

73-386

Draft report

Evelyn Regner

(PE756.215v01-00)

Proposal for a Council Directive on Business in Europe: Framework for
Income Taxation (BEFIT)

Proposal for a directive

(COM(2023)0532 – C9-0341/2023 – 2023/0321(CNS))

Amendment 73
Chris MacManus

Proposal for a directive
Title 1 a (new)

Text proposed by the Commission

Amendment

***The European Parliament rejects the
Commission Proposal***

Or. en

Amendment 74
Manon Aubry, José Gusmão

Proposal for a directive
Recital 1

Text proposed by the Commission

Amendment

(1) Within the Union there is currently no common approach to the computation of the taxable base for businesses. Therefore, Union businesses are obliged to comply with a different corporate tax system in each Member State in which they operate.

(1) ***Despite all the proposals listed in 1a, 1b and 1c,*** within the Union there is currently no common approach to the computation of the taxable base for businesses. Therefore, Union businesses are obliged to comply with a different corporate tax system in each Member State in which they operate.

Or. en

Amendment 75
Manon Aubry, José Gusmão

Proposal for a directive
Recital 1 a (new)

Text proposed by the Commission

Amendment

(1a) In 1975, the European Commission tabled a proposal^{1a} to minimize the differences between Member States' corporate tax rates. Under the proposal, Member States could still

choose their own corporate tax rate, but this rate could “not be lower than 45 % nor higher than 55 %”. Due to a lack of support from Member States, the proposal was withdrawn.

^{1a} <http://aei.pitt.edu/5570/1/5570.pdf>

Or. en

Amendment 76
Manon Aubry, José Gusmão

Proposal for a directive
Recital 1 b (new)

Text proposed by the Commission

Amendment

(1b) In 2011, the Commission made a proposal^{1b} for a common consolidated corporate tax base, better known under the acronym CCCTB. After four years of technical discussions, negotiations faltered in Council and the proposal was withdrawn.

^{1b} <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:52011PC0121>

Or. en

Amendment 77
Manon Aubry, José Gusmão

Proposal for a directive
Recital 1 c (new)

Text proposed by the Commission

Amendment

(1c) In 2016, the European Commission tabled an altered 'rebooted' CCCTB^{1c}. A common European corporate

tax base would serve as a single rulebook on how companies should calculate their overall profit in the EU. After calculating a common tax base, a company active in more than one Member State could add up all the profits and losses of its entities in the different Member States, to work out its total net profit or loss for the entire EU (consolidation). The company's taxable profits would then be allocated between the respective company entities, using an apportionment formula (formulary apportionment), with the profits being divided according to three equally weighted factors (labour, tangible assets and sales). Each Member State would then tax the allocated shares of the company's profits at its own national corporate tax rate. The 2016 CCCTB proposal eventually met the same fate as its 2011 predecessor. The Council was not able to reach unanimous support and while Council had initially paused negotiations to provide room for the Organisation for Economic Co-operation and Development (OECD)/Inclusive Framework's reform of corporate tax rules (see next paragraph), the 2016 CCCTB proposal was withdrawn in September 2023.

^{1c} <https://eur-lex.europa.eu/legal-content/en/TXT/?uri=CELEX:52016PC0683>

Or. en

Amendment 78
Andżelika Anna Możdżanowska
on behalf of the ECR Group

Proposal for a directive
Recital 2

Text proposed by the Commission

Amendment

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance ***and leads to unfair competition for businesses.*** That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. ***As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs.***

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models.

Or. pl

Amendment 79

Gilles Boyer, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance ***and*** leads to unfair competition for businesses. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and

Amendment

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance, leads to unfair competition for businesses, ***can allow for cross-border aggressive tax planning, as well as double taxation and double non-taxation.*** That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices

inconsistency along with high compliance costs.

across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs. ***Because this complexity can hinder businesses' expansion in the single market, with further negative impacts on innovation, competitiveness and jobs, companies need a workable single tax framework for developing their commercial activity across the single market.***

Or. en

Amendment 80
Manon Aubry, José Gusmão

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance and leads to unfair competition for businesses. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs.

Amendment

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance and leads to unfair competition for businesses, ***especially because MNEs could use the different tax system in order to engage in aggressive tax planning, leading to SMEs having to pay a higher amount of taxes proportionally to their profits.*** That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs. ***Most importantly, it leads to tax***

Amendment 81
Laurence Sailliet

Proposal for a directive
Recital 2

Text proposed by the Commission

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance and leads to unfair competition for businesses. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs.

Amendment

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance and leads to unfair competition for businesses. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs ***which undermine the competitiveness of our enterprises and the liberation of energy.***

Amendment 82
Isabel Benjumea Benjumea

Proposal for a directive
Recital 2

Text proposed by the Commission

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Amendment

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corporate income tax systems in the Union gives rise to complexity in tax compliance **and leads to unfair competition for businesses**. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs.

corporate income tax systems in the Union gives rise to complexity in tax compliance. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs, **which discourages cross-border investments**.

Or. es

Amendment 83
Eva Maria Poptcheva

Proposal for a directive
Recital 2 a (new)

Text proposed by the Commission

Amendment

(2a) The lack of a common corporate tax system hinders competitiveness and creates a disadvantage compare to other markets. This initiative would combat tax avoidance while supporting growth, investment, innovation and job creation.

Or. en

Amendment 84
Gilles Boyer, Martin Hlaváček, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Albeit different in their design, the fundamental features of corporate income tax systems are similar as they lay down rules aiming towards the same objective, i.e., to arrive at a taxable base for businesses. In this vein, it would be important for businesses which operate on the internal market that Member States introduce a common legal framework to harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules and ensuring a fair competition.

Amendment

(3) Albeit different in their design, the fundamental features of corporate income tax systems are similar as they lay down rules aiming towards the same objective, i.e., to arrive at a taxable base for businesses. In this vein, ***to support the proper functioning of the internal market, the corporate tax environment in the Union should be shaped in accordance with the principle that companies pay their fair share of tax in the jurisdiction(s) where their profits are generated.*** *Therefore*, it would be important for businesses which operate on the internal market that Member States introduce a common legal framework to harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules and ensuring a fair competition.

Or. en

Amendment 85
Manon Aubry, José Gusmão

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Albeit different in their design, the fundamental features of corporate income tax systems are similar as they lay down rules aiming towards the same objective, i.e., to arrive at a taxable base for businesses. In this vein, it would be important for businesses which operate on the internal market that Member States introduce a common legal framework to harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules ***and*** ensuring a fair competition.

Amendment

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Amendment 86
Laurence Salliet

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Albeit different in their design, the fundamental features of corporate income tax systems are similar as they lay down rules aiming towards the same objective, i.e., to arrive at a taxable base for businesses. In this vein, it would be important for businesses which operate on the internal market that Member States introduce a common legal framework to harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules and ensuring a fair competition.

Amendment

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Or. fr

Amendment 87
Andżelika Anna Możdżanowska
on behalf of the ECR Group

Proposal for a directive
Recital 3

Text proposed by the Commission

(3) Albeit different in their design, the fundamental features of corporate income tax systems are similar as they lay down rules aiming towards the same objective, i.e., to arrive at a taxable base for businesses. In this vein, it would be important for businesses which operate on the internal market that Member States introduce a common legal framework to

Amendment

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harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules *and ensuring a fair competition*.

harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules.

Or. pl

Amendment 88
Isabel Benjumea Benjumea

Proposal for a directive
Recital 3 a (new)

Text proposed by the Commission

Amendment

(3a) *Harmonisation should not be understood as unification of Member States' tax systems. Every Member State should be able to compete on tax. It is thus important to establish a range of tax rates that allows Member States to set their own tax rates to drive up competitiveness and attract investment in their countries.*

Or. es

Amendment 89
Manon Aubry, José Gusmão

Proposal for a directive
Recital 5

Text proposed by the Commission

Amendment

(5) The environment for doing business in the internal market should be made more attractive with the aim to stimulate growth and investment in the Union. For this purpose, the enactment of a common framework of corporate tax rules should be prioritised, in order to make it easier for businesses to comply with such rules when they operate across borders and also to encourage those who wish to further

(5) The environment for doing business in the internal market should be made more attractive with the aim to stimulate growth and investment in the Union. For this purpose, the enactment of a common framework of corporate tax rules should be prioritised, in order to make it easier for businesses to comply with such rules when they operate across borders and also to encourage those who wish to further

expand abroad to do so. A single set of corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double and over-taxation.

Furthermore, as tax revenue sustainability is key to Member States' budgets, including to invest in infrastructure, research and development and to deliver public services, it would be critical to ensure for the future that the allocation of revenues is performed in accordance with a tool based on solid parameters that cannot be abused.

expand abroad to do so. A single set of corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double and over-taxation. ***Most importantly, harmonisation of rules implies less opportunities for tax avoidance. With an allocation of the taxable base, which is based on tangible factors such as labour, assets and sales, the common framework of corporate tax rules will mitigate aggressive tax planning. Due to the critical importance of sustainable tax revenue for Member States' budgets, for instance for the provision of public services, especially for the most vulnerable households, it is essential to ensure that the harmonisation of profit determination rules in the Union will lead to higher effective tax rates and higher revenues for Member States. In addition*** it would be critical to ensure for the future that the allocation of revenues is performed in accordance with a tool based on solid parameters that cannot be abused.

Or. en

Amendment 90

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) The environment for doing business in the internal market should be made more attractive with the aim to stimulate growth and investment in the Union. For this purpose, the enactment of a common framework of corporate tax rules should be prioritised, in order to make it easier for businesses to comply with such rules when they operate across borders and also to encourage those who wish to further

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expand abroad to do so. A single set of corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double *and over-taxation*.

Furthermore, as tax revenue sustainability is key to Member States' budgets, including to invest in infrastructure, research and development and to deliver public services, it would be critical to ensure for the future that the allocation of revenues is performed in accordance with a tool based on solid parameters that cannot be abused.

expand abroad to do so. A single set of corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double *(non) taxation*.

Harmonisation of rules also implies less opportunities to abuse some specific national tax provisions in a pan-European context. With an allocation of the taxable base, which is based on two factors the common framework of corporate tax rules will mitigate tax avoidance and aggressive tax planning. Due to the critical importance of sustainable tax revenue for Member States' budgets, including investment in the digital, green and social transitions, in research and development and for the provision of public services, especially for the most vulnerable households, it is essential to ensure that the harmonisation of profit determination rules in the Union will not lead to lower effective tax rates and lower revenues for Member States.

Or. en

Amendment 91 **Laurence Sailliet**

Proposal for a directive **Recital 5**

Text proposed by the Commission

(5) The environment for doing business in the internal market should be made more attractive with the aim to stimulate growth and investment in the Union. For this purpose, the enactment of a common framework of corporate tax rules should be prioritised, in order to make it easier for businesses to comply with such rules when they operate across borders and also to encourage those who wish to further expand abroad to do so. A single set of

Amendment

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corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double and over-taxation. Furthermore, as tax revenue sustainability is key to Member States' budgets, including to invest in infrastructure, research and development and to deliver public services, it would be critical to ensure for the future that the allocation of revenues is performed in accordance with a tool based on solid parameters that cannot be abused.

corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double and over-taxation. ***The harmonisation of rules should aim at reducing tax avoidance practices by creating a business-friendly environment, reducing aggressive tax policies and implementing investment-friendly and innovation-friendly tax policies.*** Furthermore, as tax revenue sustainability is key to Member States' budgets, including to invest in infrastructure, research and development and to deliver public services, it would be critical to ensure for the future that the allocation of revenues is performed in accordance with a tool based on solid parameters that cannot be abused.

Or. fr

Amendment 92
Isabel Benjumea Benjumea

Proposal for a directive
Recital 5

Text proposed by the Commission

(5) The environment for doing business in the internal market should be made more attractive with the aim to stimulate growth and investment in the Union. For this purpose, the enactment of a common framework of corporate tax rules should be prioritised, in order to make it easier for businesses to comply with such rules when they operate across borders and also to encourage those who wish to further expand abroad to do so. A single set of corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double and over-taxation.

Amendment

(5) The environment for doing business in the internal market should be made more attractive with the aim to stimulate growth and investment in the Union, ***creating an even more competitive environment.*** For this purpose, the enactment of a common framework of corporate tax rules should be prioritised, in order to make it easier for businesses to comply with such rules when they operate across borders and also to encourage those who wish to further expand abroad to do so ***and encourage entrepreneurship in the single market, which is currently undermined by the bureaucratic burden and tax pressure.*** A single set of corporate tax rules for

Furthermore, as tax revenue sustainability is key to Member States' budgets, including to invest in infrastructure, research and development and to deliver public services, it would be critical to ensure for the future that the allocation of revenues is performed in accordance with a tool based on solid parameters that cannot be abused.

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Or. es

Amendment 93
Manon Aubry, José Gusmão

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should be mandatory for groups with a taxable presence in the Union provided that they have annual combined revenues of **more than EUR 750 000 000** based on their consolidated financial statements. In this way, the scope would thus be targeted at businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a

Amendment

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should be mandatory for groups with a taxable presence in the Union provided that they have annual combined revenues of **40 000 000 or more, in line with the definition of large groups within the meaning of Directive 2013/34/EU of the European Parliament and of the Council^{6a}** based on their consolidated financial statements. In this way, the scope

common legal framework would offer. The threshold would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union.

would thus be targeted at businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union.

^{6a} Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC (OJ L 182 29.6.2013, p. 19).

Or. en

Amendment 94
Isabel Benjumea Benjumea

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should be mandatory for groups with a taxable presence in the Union provided that

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they have annual combined revenues of more than EUR **750 000 000** based on their consolidated financial statements. In this way, the scope would thus be targeted at businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union.

they have annual combined revenues of more than EUR **1 billion** based on their consolidated financial statements. In this way, the scope would thus be targeted at businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union.

Or. es

Amendment 95
Eva Maria Poptcheva

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should **be** mandatory for groups with a taxable presence in the Union provided that they have annual combined revenues of more than EUR 750 000 000 based on their consolidated financial statements. In this way, the scope would **thus be targeted at** businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold would also provide alignment

Amendment

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should **begin by being** mandatory for groups with a taxable presence in the Union provided that they have annual combined revenues of more than EUR 750 000 000 based on their consolidated financial statements. In this way, the scope would **target from the start** businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold

with Directive (EU) 2022/2523 for a consistent approach in the Union.

would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union. ***Adherence to BEFIT should remain voluntary for the rest of the cross-border groups and it should be promoted. The Commission should review the benefits of expanding the scope to cover all cross-border groups.***

Or. en

Amendment 96
Markus Ferber

Proposal for a directive
Recital 6

Text proposed by the Commission

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should be mandatory for groups with a taxable presence in the Union provided that they have annual combined revenues of more than EUR 750 000 000 based on their consolidated financial statements. In this way, the scope would thus be targeted at businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union.

Amendment

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should be mandatory for groups with a taxable presence in the Union provided that they have annual combined revenues of more than EUR 750 000 000 based on their consolidated financial statements. In this way, the scope would thus be targeted at businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union. ***In order to ensure a certain degree of***

predictability, the scope should be maintained for a considerable period of time.

Or. en

Justification

The scope proposed by the Commission should be maintained.

Amendment 97

Manon Aubry, José Gusmão

Proposal for a directive

Recital 7

Text proposed by the Commission

Amendment

(7) Although the threshold would be determined on the basis of the combined revenues of the group on a global basis, the remit of the provisions should be limited to members of the group operating on the internal market as Union law only applies within the Union and does not bind non-Member States. Only the Union sub-set of such a group should therefore be captured. This would include companies which are resident for tax purposes in a Member State and their permanent establishments operating in a Member State as well as the permanent establishments in the Union of third country companies of the same group. Considering that the concept of a permanent establishment is dealt with within bilateral tax treaties and national law and although the definition features some common principles, there is still a degree of divergence worldwide. Consequently, it would be a pragmatic approach to rely on the existing double taxation treaties and national rules of the Member States, rather than attempt full harmonisation through secondary Union law.

deleted

Amendment 98**Kira Marie Peter-Hansen, Claude Gruffat****Proposal for a directive****Recital 7***Text proposed by the Commission*

(7) Although the threshold would be determined on the basis of the combined revenues of the group on a global basis, the remit of the provisions should be limited to members of the group operating on the internal market as Union law only applies within the Union and does not bind non-Member States. Only the Union sub-set of such a group should therefore be captured. This would include companies which are resident for tax purposes in a Member State and their permanent establishments operating in a Member State as well as the permanent establishments in the Union of third country companies of the same group. ***Considering that the concept of a permanent establishment is dealt with within bilateral tax treaties and national law and although the definition features some common principles, there is still a degree of divergence worldwide. Consequently, it would be a pragmatic approach to rely on the existing double taxation treaties and national rules of the Member States, rather than attempt full harmonisation through secondary Union law.***

Amendment

(7) Although the threshold would be determined on the basis of the combined revenues of the group on a global basis, the remit of the provisions should be limited to members of the group operating on the internal market as Union law only applies within the Union and does not bind non-Member States. Only the Union sub-set of such a group should therefore be captured. This would include companies which are resident for tax purposes in a Member State and their permanent establishments, ***including a significant economic presence***, operating in a Member State as well as the permanent establishments in the Union of third country companies of the same group.

Amendment 99**Manon Aubry, José Gusmão****Proposal for a directive****Recital 7 a (new)**

Text proposed by the Commission

Amendment

(7a) *The European Union should engage in international negotiations, in order to generalize this harmonisation of rules and allocation of the taxable base (with a formula based on tangible factors such as labour, assets and sales).*

Or. en

Amendment 100
Manon Aubry, José Gusmão

Proposal for a directive
Recital 7 b (new)

Text proposed by the Commission

Amendment

(7b) *In order to avoid delocalisation of profits outside of the EU by MNEs, BEFIT groups should also declare their global profit at the international level. Then, the formula used in this Directive would also be used to compare the profits originally declared in the EU and the ones which would have been declared if the formula was applied on the global profit of the BEFIT group. If the corrected profits are higher than the declared one, the EU will tax those corrected profits thanks to the formula approach included in this Directive.*

Or. en

Amendment 101
Manon Aubry, José Gusmão

Proposal for a directive
Recital 7 c (new)

Text proposed by the Commission

Amendment

(7c) To fight against global tax avoidance, Member States could also unilaterally collect the tax deficit of multinationals: the difference between what a corporation pays in taxes globally and what it would have to pay if all of its profits were subject to a minimum tax rate in each of the countries in which it operates. Such a solution could encourage other states to follow this move and progressively lead to an ambitious global solution.

Or. en

Amendment 102
Manon Aubry, José Gusmão

Proposal for a directive
Recital 8

Text proposed by the Commission

Amendment

(8) To ensure proportionality and the well-functioning of the common framework, group members, including companies resident in a Member State, their permanent establishments and permanent establishments in the Union which are members of a group headquartered outside the Union, with limited activity in the internal market should be excluded from the scope through a materiality threshold.

deleted

Or. en

Amendment 103
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) This Directive also lays down rules extending the concept of a permanent establishment, as to include a significant economic presence through which a business is wholly or partly carried on. The underlying objective is to improve the resilience of the internal market as a whole in order to address the challenges of taxation of the digitalised economy. The increased importance of services, accelerated by the digitalisation of the economy, has led to recent proposals, as embedded in the OECD/G20 Pillar One proposal, to define a 'significant economic presence' as a taxable nexus based on a purely quantitative threshold of sales in any given country in order to capture all sectors and ensure simplicity. This objective cannot be sufficiently achieved by the Member States acting individually because digital businesses are able to operate cross-border without having any physical presence in a jurisdiction and rules are therefore needed to ensure that they pay taxes in the jurisdictions where they make profits, by providing services or selling products (henceforth "sales")

Or. en

Amendment 104

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) In order to provide for a robust definition of a taxable nexus of a business in a Member State whether the business is digital or not, it is necessary that such a definition is based on the revenues from any sales, including from the supplied digitalised services. The definition included in this Directive is equal to

definition agreed in the framework of the OECD/G20 Pillar One proposal. This is to ensure coherence between the Directive and the international framework. The Union should lead by example in international tax reform to provide certainty to tax payers.

Or. en

Amendment 105
Isabel Benjumea Benjumea

Proposal for a directive
Recital 9

Text proposed by the Commission

(9) The objective of simplifying the current rules underscores the envisaged initiative. Therefore, the rules on the computation of the tax base should be built by applying a limited series of tax adjustments to the financial statements of each group member. These limited adjustments would represent common adjustments that are necessary to convert the financial accounting statements into a tax base. Considering the need for alignment with Directive (EU) 2022/2523, the adjustments should resonate with that framework, which should also facilitate implementation for Member States and businesses that would already be familiar with the general principles.

Amendment

(9) The objective of simplifying the current rules underscores the envisaged initiative, ***improving the efficiency and competitiveness of our single market.*** Therefore, the rules on the computation of the tax base should be built by applying a limited series of tax adjustments to the financial statements of each group member. These limited adjustments would represent common adjustments that are necessary to convert the financial accounting statements into a tax base. Considering the need for alignment with Directive (EU) 2022/2523, the adjustments should resonate with that framework, which should also facilitate implementation for Member States and businesses that would already be familiar with the general principles.

Or. es

Amendment 106
Isabel Benjumea Benjumea

Proposal for a directive
Recital 9 a (new)

Text proposed by the Commission

Amendment

(9a) *The ultimate aim of this Directive should be to simplify regulatory compliance in order to lessen the bureaucratic and tax burden companies face. This is an even bigger problem for European SMEs, which allocate more of their resources to meeting those obligations. What is more, the system should be voluntary so companies can decide whether or not to adopt it.*

Or. es

Amendment 107

Eleni Stavrou

Proposal for a directive

Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) *In order to achieve the objective of a simplified tax framework and of this Directive adequately complementing the Directive (EU) 20XX/XX/EU on laying down rules on a debt-equity bias reduction allowance and on limiting the deductibility of interest for corporate income tax purposes, the rules laid down in this Directive should align with the ones provided in Directive (EU) 20XX/XX/EU on laying down rules on a debt-equity bias reduction allowance and on limiting the deductibility of interest for corporate income tax purposes, where applicable.*

Or. en

Amendment 108

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) A fair taxation of passive income such as interest is required. It is therefore appropriate to lay down an interest limitation rule applicable to BEFIT group members in such a way as to reduce the debt-equity bias that can occur via an over-reliance to intra-group debt financing and to reduce the scope for base erosion and profit shifting through excessive interest payments.

Or. en

Amendment 109
Manon Aubry, José Gusmão

Proposal for a directive
Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) A fair taxation of passive income such as interest is required. It is therefore appropriate to lay down an interest limitation rule applicable to BEFIT group members in such a way as to reduce the debt-equity bias that can occur via an over-reliance to intra-group debt financing and to reduce the scope for base erosion and profit shifting through excessive interest payments.

Or. en

Amendment 110
Manon Aubry, José Gusmão

Proposal for a directive
Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) To guarantee a minimal level of taxation of royalties, a royalties limitation rule for BEFIT group members should be introduced in accordance with the Subject to Tax Rule^{10a} as proposed by the OECD/G20 Inclusive Framework in Pillar II.

^{10a} OECD (2023). Tax Challenges Arising from the Digitalisation of the Economy – Subject to Tax Rule (Pillar Two): Inclusive Framework on BEPS, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris, <https://doi.org/10.1787/9afd6856-en>

Or. en

Amendment 111

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Recital 10 b (new)

Text proposed by the Commission

Amendment

(10b) To guarantee a minimal level of taxation of royalties, a royalties limitation rule for BEFIT group members should be introduced in accordance with the Subject to Tax Rule as proposed by the OECD/G20 Inclusive Framework in Pillar II.

Or. en

Amendment 112

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Recital 10 c (new)

Text proposed by the Commission

Amendment

(10c) A fairer taxation of passive income also requires robust Controlled Foreign Company (CFC) rules for BEFIT group members in order to make them more resilient against profit shifting.

Or. en

Amendment 113

Manon Aubry, José Gusmão

Proposal for a directive

Recital 10 c (new)

Text proposed by the Commission

Amendment

(10c) A fairer taxation of passive income also requires robust Controlled Foreign Company (CFC) rules for BEFIT group members in order to make them more resilient against profit shifting.

Or. en

Amendment 114

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) Accordingly, it is essential to address specific sectors of activity, notably international shipping, that require certain sector-specific adjustments. For group members in this sector, the financial accounts would have to be adjusted, in order to exclude an amount (profit or loss) covered by a tonnage tax regime. Special tax regimes for international shipping, often referred to as ‘Tonnage tax regimes’ would normally

deleted

allow for taxation on the basis of the tonnage (i.e., the carrying capacity) of ships operated by a group member rather than the actual profits or losses incurred by the group member through activities eligible for tonnage tax. An exclusion of such an amount would, therefore, build on the different acknowledged approaches for the computation of the tax base and would ensure a suitable consistency with the different policy objectives of the internal market.

Or. en

Amendment 115

Manon Aubry, José Gusmão

Proposal for a directive

Recital 11

Text proposed by the Commission

Amendment

(11) Accordingly, it is essential to address specific sectors of activity, notably international shipping, that require certain sector-specific adjustments. For group members in this sector, the financial accounts would have to be adjusted, in order to exclude an amount (profit or loss) covered by a tonnage tax regime. Special tax regimes for international shipping, often referred to as ‘Tonnage tax regimes’ would normally allow for taxation on the basis of the tonnage (i.e., the carrying capacity) of ships operated by a group member rather than the actual profits or losses incurred by the group member through activities eligible for tonnage tax. An exclusion of such an amount would, therefore, build on the different acknowledged approaches for the computation of the tax base and would ensure a suitable consistency with the different policy objectives of the internal market.

deleted

Amendment 116
Manon Aubry, José Gusmão

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a ***transition allocation rule; this would pave the way towards a permanent mechanism. That permanent mechanism could be based on a*** formulary apportionment ***and would*** render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. ***It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the information gathered during the transition period. This will also allow for a more thorough assessment of the impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and over-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.***

Amendment

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a formulary apportionment ***including three sets of tangible factors: labour, assets, and sales.*** ***It will*** render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant.

Amendment 117
Eva Maria Poptcheva

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a ***transition allocation rule; this would pave the way towards a permanent mechanism. That permanent mechanism could be based on a*** formulary apportionment ***and*** would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. ***It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the information gathered during the transition period. This will also allow for a more thorough assessment of the impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and over-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.***

Amendment

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a formulary apportionment. ***This formula would weight sales by destination and the location of assets and labour. This formula*** would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant.

Amendment 118**Kira Marie Peter-Hansen, Claude Gruffat****Proposal for a directive****Recital 12***Text proposed by the Commission*

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a ***transition allocation rule; this would pave the way towards a permanent mechanism. That permanent mechanism could be based on a*** formulary apportionment ***and would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the information gathered during the transition period.*** This will ***also allow for a more thorough assessment of the impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases. In this way, it would still become possible to*** materialise the key objective of tax neutrality in the internal market, which would reduce instances of double ***and over-taxation*** and enhance tax certainty with the aim of reducing the number of tax

Amendment

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, ***limited to five years,*** and subsequently, the aggregated tax base would be allocated to group members based on a formulary apportionment. This will materialise the key objective of tax neutrality in the internal market, ***render the arm's length principle redundant*** which would reduce instances of double ***non taxation*** and enhance tax certainty with the aim of reducing the number of tax disputes

disputes.

Or. en

Amendment 119

Eleni Stavrou

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a transition allocation rule; this would pave the way towards a permanent mechanism. ***That*** permanent mechanism ***could be*** based on a formulary apportionment and would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the information gathered during the transition period. This will also allow for a more thorough assessment of the impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and over-taxation and enhance tax certainty with the

Amendment

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a transition allocation rule; this would pave the way towards a permanent mechanism. ***One year before the end of the transitional period, the Commission shall present a thorough comprehensive review and an impact assessment, especially regarding the interaction of this Directive with Directive (EU) 2022/2523 of 14 December 2022, and suggest, if deemed necessary, a new legislative proposal that could establish a permanent mechanism based on a formulary apportionment and that would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the information gathered during the transition period. This will also allow for a more thorough assessment of the***

aim of reducing the number of tax disputes.

impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and over-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.

Or. en

Amendment 120
Isabel Benjumea Benjumea

Proposal for a directive
Recital 12

Text proposed by the Commission

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a transition allocation rule; this would pave the way towards a permanent mechanism. That permanent mechanism could be based on a formulary apportionment and would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the information gathered during the transition period. This will also allow for a more thorough assessment of the

Amendment

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. ***That framework should be designed to be simple and intuitive for businesses and avoid being a new burden for them.*** The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a transition allocation rule; this would pave the way towards a permanent mechanism. That permanent mechanism could be based on a formulary apportionment and would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the

impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and over-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.

information gathered during the transition period. This will also allow for a more thorough assessment of the impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and over-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.

Or. es

Amendment 121

Gilles Boyer, Martin Hlaváček, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive

Recital 12

Text proposed by the Commission

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a transition allocation rule; ***this would*** pave the way towards a permanent mechanism. ***That permanent mechanism could be based on a formulary apportionment*** and would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. It ***would have the advantage of using more*** recent country-by-country reporting ('CbCR')

Amendment

(12) To achieve the key objective of creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a transition allocation rule ***until Pillar One of the OECD agreement on corporate taxation enters into force in all Member States; this should*** pave the way towards a permanent mechanism ***in accordance with profit allocation rules defined in the OECD Pillar One Multilateral Convention*** and would render the need for intra-BEFIT group transactions to be

data and the information gathered during the transition period. This will *also* allow for a more *thorough assessment of the impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases*. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and over-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.

consistent with the arm's length principle redundant. It *should use most* recent country-by-country reporting ('CbCR') data and the information gathered during the transition period. This will allow for a more *consistent approach between BEFIT and the OECD two pillar approach and therefore reduce tax compliance costs for companies*. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and over-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.

Or. en

Amendment 122
Kira Marie Peter-Hansen

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) The importance of simplicity also suggests minimising the factors used for apportionment. Based on international experiences, such as the United States and Canada, the allocation formula consists of two factors: employment and unrelated third party revenues. Tangible and intangible assets have been excluded as there are significant variations between businesses in their need for physical assets. Economists have argued that including assets in the formula would particularly deter capital investment in assets. The growth of services and the increased importance of skilled and intellectual work in many sectors have widened the gap between these and businesses still highly invested in physical assets. In some sectors even expensive physical assets are mobile, for example transportation and construction, which

would make it difficult to tie such investments to specific geographical locations. There are also significant difficulties in valuing fixed assets. These considerations, together with the need for simplicity, support the argument for a two-factor formula based on employees and revenues.

Or. en

Amendment 123
Eva Maria Poptcheva

Proposal for a directive
Recital 12 a (new)

Text proposed by the Commission

Amendment

(12a) That Commission would review the allocation formula after its implementation to benefit from more recent country-by-country reporting ('CbCR') data and a thorough assessment of the impact of the two-pillar approach on national tax bases and the BEFIT group tax bases. The formula would also aim to reflect the importance of the market where the company conducts its business and it would include intangible assets.

Or. en

Amendment 124
Kira Marie Peter-Hansen

Proposal for a directive
Recital 12 b (new)

Text proposed by the Commission

Amendment

(12b) During a three year 'test' phase, the Commission should carry out a comprehensive review of the allocation

rule as part of which it shall prepare a study on the composition and weight of the formula and submit a report to the Council by the end of the third fiscal year. If the Commission deems it appropriate, taking into account the conclusions of this report, it could adopt a legislative proposal to amend this Directive by introducing a different method for the allocation of the BEFIT tax base.

Or. en

Amendment 125
Kira Marie Peter-Hansen

Proposal for a directive
Recital 13

Text proposed by the Commission

Amendment

(13) The aggregation of the tax results amongst group members would not be a suitable measure for certain sectors, such as extractive activities as well as international shipping, inland waterways transport and air transport. It would therefore be important to exclude those from the aggregation as their characteristics do not fit in such context. Any amount of the profit or loss of companies that operate in the field of international traffic which is not covered by a tonnage tax regime (and thus excluded from the preliminary tax results), would have to be kept out of the aggregation while it would be computed by applying the common corporate tax rules.

deleted

Or. en

Amendment 126
Manon Aubry, José Gusmão

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The aggregation of the tax results amongst group members would not be a suitable measure for certain sectors, such as extractive activities *as well as international shipping, inland waterways transport and air transport*. It would therefore be important to exclude those from the aggregation as their characteristics do not fit in such context. *Any amount of the profit or loss of companies that operate in the field of international traffic which is not covered by a tonnage tax regime (and thus excluded from the preliminary tax results), would have to be kept out of the aggregation while it would be computed by applying the common corporate tax rules.*

Amendment

(13) The aggregation of the tax results amongst group members would not be a suitable measure for certain sectors, such as extractive activities. It would therefore be important to exclude those from the aggregation as their characteristics do not fit in such context.

Or. en

Amendment 127
Isabel Benjumea Benjumea

Proposal for a directive
Recital 13

Text proposed by the Commission

(13) The aggregation of the tax results amongst group members would not be a suitable measure for certain sectors, such as extractive activities as well as international shipping, inland waterways transport and air transport. It would therefore be important to exclude those from the aggregation as their characteristics do not fit in such context. Any amount of the profit or loss of companies that operate in the field of international traffic which is not covered by a tonnage tax regime (and thus excluded

Amendment

(13) The aggregation of the tax results amongst group members would not be a suitable measure for certain sectors, such as extractive activities as well as international shipping, inland waterways transport and air transport *and financial services*. It would therefore be important to exclude those from the aggregation as their characteristics do not fit in such context. Any amount of the profit or loss of companies that operate in the field of international traffic which is not covered by a tonnage tax regime (and thus excluded

from the preliminary tax results), would have to be kept out of the aggregation while it would be computed by applying the common corporate tax rules.

from the preliminary tax results), would have to be kept out of the aggregation while it would be computed by applying the common corporate tax rules.

Or. es

Amendment 128

Manon Aubry, José Gusmão

Proposal for a directive

Recital 14

Text proposed by the Commission

Amendment

(14) To provide space for growth and investment, Member States would also be allowed to individually apply additional post-allocation adjustments (e.g. tax treatment of pension contributions) in areas not covered by the common framework. Member States would also be free to further adjust their allocated share without a ceiling in order to ensure that Member States can make their national policy choices in this area. Most importantly, Directive (EU) 2022/2523 would effectively set a ceiling which would effectively ensure that the effective tax rate is at least 15%.

deleted

Or. en

Amendment 129

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Recital 14

Text proposed by the Commission

Amendment

(14) To provide space for growth and investment, Member States would also be allowed to individually apply additional post-allocation adjustments (e.g. tax

(14) Member States would also be allowed to individually apply additional post-allocation adjustments (e.g. tax treatment of pension contributions) in areas

treatment of pension contributions) in areas not covered by the common framework. Member States would also be free to further adjust their allocated share without a ceiling in order to ensure that Member States can make their national policy choices in this area. Most importantly, Directive (EU) 2022/2523 would effectively set a ceiling which would effectively ensure that the effective tax rate is at least 15%.

not covered by the common framework. Member States would also be free to further adjust their allocated share without a ceiling in order to ensure that Member States can make their national policy choices in this area. Most importantly, Directive (EU) 2022/2523 would effectively set a ceiling which would effectively ensure that the effective tax rate is at least 15%. ***The post-allocation adjustments should focus on input-based tax incentives. Member States should refrain from offering output-based tax incentives such as patent boxes and other intellectual property regimes. In addition, each Member State should publish detailed information on the impact of tax expenditures on revenues as obliged under Directive (EU) 2011/84, article 14. At a minimum, each tax expenditure should be associated with one or more policy objectives, state its targeted beneficiaries, and estimate how much revenue has been forgone. Furthermore, it is recommended for Member States, in the context of the green transition, to introduce a qualitative component to ensure minimal coherence with the Sustainable Development Goals. For instance, Member States could carry-on sustainability evaluations on adjustments that apply to their allocated share.***

Or. en

Amendment 130
Isabel Benjumea Benjumea

Proposal for a directive
Recital 14

Text proposed by the Commission

(14) To provide space for growth and investment, Member States would also be allowed to individually apply additional post-allocation adjustments (e.g. tax

Amendment

(14) To provide space for growth and investment, Member States would also be allowed to individually apply additional post-allocation adjustments (e.g. tax

treatment of pension contributions) in areas not covered by the common framework. Member States would also be free to further adjust their allocated share without a ceiling in order to ensure that Member States can make their national policy choices in this area. Most importantly, Directive (EU) 2022/2523 would effectively set a ceiling which would effectively ensure that the effective tax rate is at least 15%.

treatment of pension contributions) in areas not covered by the common framework. Member States would also be free to further adjust their allocated share without a ceiling in order to ensure that Member States can make their national policy choices in this area. Most importantly, Directive (EU) 2022/2523 would effectively set a ceiling which would effectively ensure that the effective tax rate is at least 15%, ***as stipulated in the OECD framework. Member States should be allowed to set some legal ranges so they compete with each other on tax, thus generating resource efficiency, stimulating investment and creating jobs.***

Or. es

Amendment 131
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) To spur investments to achieve the UN Sustainable Development Goals and to respond to the climate emergency, Member States are incentivised to adopt targeted accelerated depreciation rules at the national level. These rules are vital for a swift green transition, aligning economic incentives with environmental goals whilst addressing social inequalities and alleviating poverty. They stimulate economic growth, create jobs and foster innovation in sustainable technologies. By encouraging green investments, it accelerates progress towards clean energy, restoring biodiversity and water supplies, and resilient infrastructure. By encouraging such investments in low-income countries, green energy supply chains can be strengthened. The Member States should lead in sustainability which

will ultimately increase the resilience and competitiveness of the internal market. At the same time, this Directive aims at disincentivising further investments in fixed assets in fossil-fuel related activities and those fixed assets with a high carbon content, both in their production and use. To operationalise these incentives and disincentives the Commission is tasked to adopt implementing acts.

Or. en

Amendment 132

Evelyn Regner, Jonás Fernández, Aurore Lalucq, Joachim Schuster, Pedro Silva Pereira, René Repasi

**Proposal for a directive
Recital 14 a (new)**

Text proposed by the Commission

Amendment

(14a) Considering that the BEFIT proposal would allow for cross-border loss relief between BEFIT group members, the Commission and the Member States should ensure the coherence and alignment with the OECD/G20 Model Rules and the Directive (EU) 2022/2523, notably concerning the calculation of the effective tax rate on a country-by-country basis, which could be undermined by the cross-border loss relief. This dimension should be assessed in the revision of the directive as foreseen in Article 77.

Or. en

Amendment 133

Isabel Benjumea Benjumea

**Proposal for a directive
Recital 15**

Text proposed by the Commission

(15) Some Member States operate corporate tax systems which are built on principles that differ from the most common approach, such as distribution-based tax systems. It is therefore of prime importance to put in place the necessary adjustments, in order to ensure a workable interaction with those systems. The solution could be sought in certain post-allocation adjustments. These would entail that the part which would be allocated to a group member under a distribution-based system has to be modified in proportion to the distributions made during the fiscal year. The essence of a distribution-based tax system would be fully retained, considering that the distribution marks a timing point for taxing the allocated part and accordingly determine how much of this would need to be taxed. In this regard, it should be envisaged to operate a carry-forward mechanism, to ensure that the allocated part which is not taxed in the current year would be taxable in the following years.

Amendment

(15) Some Member States operate corporate tax systems which are built on principles that differ from the most common approach, such as distribution-based tax systems. It is therefore of prime importance to put in place the necessary adjustments, in order to ensure a workable interaction with those systems ***and not introduce a contradiction between the two systems which discourages business creation as a result of the bureaucratic burden it creates***. The solution could be sought in certain post-allocation adjustments. These would entail that the part which would be allocated to a group member under a distribution-based system has to be modified in proportion to the distributions made during the fiscal year. The essence of a distribution-based tax system would be fully retained, considering that the distribution marks a timing point for taxing the allocated part and accordingly determine how much of this would need to be taxed. In this regard, it should be envisaged to operate a carry-forward mechanism, to ensure that the allocated part which is not taxed in the current year would be taxable in the following years.

Or. es

Amendment 134

Andżelika Anna Możdżanowska
on behalf of the ECR Group

Proposal for a directive
Recital 16

Text proposed by the Commission

(16) As relations within a group represent only part of the commercial activity of a group of companies, the transactions between members of a group

Amendment

deleted

and associated enterprises outside the group constitute another essential aspect to look at. To address this external aspect and as the number of transfer pricing disputes has lately risen considerably, especially with respect to the pricing considerations for routine activities, it would be very useful to provide for a simplified approach to transfer pricing compliance which would decrease compliance costs for the businesses and improve the efficiency of tax administrations in the use of human capital. To this aim, it would be important to enact a common risk assessment framework for transfer pricing based on a commonly accepted benchmark analysis. This assessment would investigate the margins of Earnings Before Interest and Tax for entities operating independently within the internal market. The profit markers so obtained should then be published, to be used as a self-assessment risk tool, and enable groups operating in the internal market to know in advance the arm's length returns (market based) that they are expected to achieve in transactions with associated enterprises. Each transaction within the scope of the system should be assessed as being of low, medium or high risk, depending on how this compares to the profit markers, which will be set through an implementing act and published on the website of the Commission.

Or. pl

Amendment 135
Manon Aubry, José Gusmão

Proposal for a directive
Recital 16

Text proposed by the Commission

Amendment

(16) As relations within a group represent only part of the commercial activity of a group of companies, the transactions between members of a group and associated enterprises outside the group constitute another essential aspect to look at. To address this external aspect and as the number of transfer pricing disputes has lately risen considerably, especially with respect to the pricing considerations for routine activities, it would be very useful to provide for a simplified approach to transfer pricing compliance which would decrease compliance costs for the businesses and improve the efficiency of tax administrations in the use of human capital. To this aim, it would be important to enact a common risk assessment framework for transfer pricing based on a commonly accepted benchmark analysis. This assessment would investigate the margins of Earnings Before Interest and Tax for entities operating independently within the internal market. The profit markers so obtained should then be published, to be used as a self-assessment risk tool, and enable groups operating in the internal market to know in advance the arm's length returns (market based) that they are expected to achieve in transactions with associated enterprises. Each transaction within the scope of the system should be assessed as being of low, medium or high risk, depending on how this compares to the profit markers, which will be set through an implementing act and published on the website of the Commission.

deleted

Or. en

Amendment 136

Manon Aubry, José Gusmão

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) A common framework for corporate taxation would necessarily feature an administration system, which should ideally provide for a degree of tax certainty and simplification. To promote uniformity, the administration system would have to build on the importance of operating a centralised point of reference for dealing with a number of common issues, such as an Information Return for the entire group, and ensuring an adequate degree of coordination and collaboration amongst national tax administrations. ***At the same time, the administration system should fully respect national tax sovereignty as local tax returns, audits and dispute settlement would have to remain primarily at the level of the Member States.***

Amendment

(17) A common framework for corporate taxation would necessarily feature an administration system, which should ideally provide for a degree of tax certainty and simplification. To promote uniformity, the administration system would have to build on the importance of operating a centralised point of reference for dealing with a number of common issues, such as an Information Return for the entire group, and ensuring an adequate degree of coordination and collaboration amongst national tax administrations.

Or. en

Amendment 137

Isabel Benjumea Benjumea

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) A common framework for corporate taxation would necessarily feature an administration system, which should ideally provide for a degree of tax certainty and simplification. To promote uniformity, the administration system would have to build on the importance of operating a centralised point of reference for dealing with a number of common issues, such as an Information Return for the entire group, and ensuring an adequate degree of coordination and collaboration amongst national tax administrations. At the same time, the administration system

Amendment

(17) A common framework for corporate taxation would necessarily feature an administration system, which should ideally provide for a degree of tax certainty and simplification. To promote uniformity, the administration system would have to build on the importance of operating a centralised point of reference for dealing with a number of common issues, such as an Information Return for the entire group, and ensuring an adequate degree of coordination and collaboration amongst national tax administrations. At the same time, the administration system

should fully respect national tax sovereignty as local tax returns, audits and dispute settlement would have to remain primarily at the level of the Member States.

should fully respect national tax sovereignty as local tax returns, *the possibility to compete on tax*, audits and dispute settlement would have to remain primarily at the level of the Member States.

Or. es

Amendment 138
Laurence Salliet

Proposal for a directive
Recital 17

Text proposed by the Commission

(17) A common framework for corporate taxation would necessarily feature an administration system, which should ideally provide for a degree of tax certainty and simplification. To promote uniformity, the administration system would have to build on the importance of operating a centralised point of reference for dealing with a number of common issues, such as an Information Return for the entire group, and ensuring an adequate degree of coordination and collaboration amongst national tax administrations. At the same time, the administration system should fully respect national tax sovereignty as local tax returns, audits and dispute settlement *would have to* remain primarily at the level of the Member States.

Amendment

(17) A common framework for corporate taxation would necessarily feature an administration system, which should ideally provide for a degree of tax certainty and simplification. To promote uniformity, the administration system would have to build on the importance of operating a centralised point of reference for dealing with a number of common issues, such as an Information Return for the entire group, and ensuring an adequate degree of coordination, *security, confidentiality* and collaboration amongst national tax administrations. At the same time, the administration system should fully respect national tax sovereignty as local tax returns, audits and dispute settlement *will* remain primarily at the level of the Member States.

Or. fr

Amendment 139
Manon Aubry, José Gusmão

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) To ensure that the rules of the common framework are implemented and enforced correctly, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive. Such penalties should be effective, proportionate and dissuasive.

Amendment

(18) To ensure that the rules of the common framework are implemented and enforced correctly, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive. Such penalties should be effective, proportionate and dissuasive. ***Those penalties should be set at a minimum rate of 0,5 % of the turnover of the BEFIT group in case of failure to file the BEFIT information return accordingly.***

Or. en

Amendment 140

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) To ensure that the rules of the common framework are implemented and enforced correctly, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive. Such penalties should be effective, proportionate and dissuasive.

Amendment

(18) To ensure that the rules of the common framework are implemented and enforced correctly, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive. Such penalties should be effective, proportionate and dissuasive. ***Those penalties should be set at a minimum rate of 0,1 % of the turnover of the BEFIT group in case of failure to file the BEFIT information return accordingly and in case of confirmed intentional misreporting of filing information return***

Or. en

Amendment 141

Isabel Benjumea Benjumea

Proposal for a directive
Recital 18

Text proposed by the Commission

(18) To ensure that the rules of the common framework are implemented and enforced correctly, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive. Such penalties should be effective, proportionate and dissuasive.

Amendment

(18) To ensure that the rules of the common framework are implemented and enforced correctly, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive. Such penalties should be effective, proportionate and dissuasive. ***Any changes to penalties should be disclosed to corporate groups in a timely and appropriate manner.***

Or. es

Amendment 142
Manon Aubry, José Gusmão

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR **750 000 000** as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers.

Amendment

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR **40 000 000** as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers.

Or. en

Amendment 143

Isabel Benjumea Benjumea

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR **750 000 000** as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers.

Amendment

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR **1 billion** as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers.

Or. es

Amendment 144

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR 750 000 000 as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework

Amendment

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR 750 000 000 as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework

offers.

offers. *After three years this Directive starts to apply, the Commission should issue a legislative proposal to amend this Directive to make this system mandatory for companies with annual combined revenues of EUR 40 000 000 or more in at least two of the last four fiscal years.*

Or. en

Amendment 145

Eleni Stavrou

Proposal for a directive

Recital 19

Text proposed by the Commission

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR 750 000 000 as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers.

Amendment

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR 750 000 000 as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers. *The mandatory nature will be for MNE Groups, who earn an annual combined revenues of EUR 750 000 000 or more as defined in the scope of Directive (EU) 2022/2523 of 14 December 2022 and meet the 75% ownership threshold introduced in this Directive.*

Or. en

Amendment 146

Gilles Boyer, Martin Hlaváček, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive
Recital 19

Text proposed by the Commission

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR 750 000 000 as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers.

Amendment

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR 750 000 000 as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers. ***Companies choosing to be covered by this Directive should easily benefit from Member States' and the European Commission's technical assistance to comply with the new rules and therefore foster their cross-border activities.***

Or. en

Amendment 147
Laurence Sailliet

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Each BEFIT group should have a filing entity, which should determine the country of the filing authority and the competent tax authority which will lead the BEFIT team. For the sake of consistency, the filing authority should be based in the Member State where the parent company of the BEFIT group is resident for tax purposes. When the BEFIT group is owned by a firm

headquartered in a third country, the filing entity should be the European intermediate parent undertaking, where there is one.

Or. fr

Amendment 148
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Each BEFIT group should have a filing entity, which should determine the country of the filing authority and the competent tax authority which will lead the BEFIT team. As a matter of principle, the filing authority should be based in the Member State where the parent company of the BEFIT group is resident for tax purposes. When the BEFIT group is owned by a firm headquartered in a third country, the filing entity should be the European intermediate parent undertaking, where there is one.

Or. en

Amendment 149
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Recital 21 b (new)

Text proposed by the Commission

Amendment

(21b) By 31 December 2026, the Commission should, where appropriate, submit a legislative proposal for a harmonised, common European taxpayer identification number. This will in turn not only facilitate the communication

between the representatives of Member States and the BEFIT team, but also increase the efficiency of tax information exchange within the Union.

Or. en

Amendment 150
Isabel Benjumea Benjumea

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) To allow businesses to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, information on the tax provisions set out in this Directive should be made accessible through the Single Digital Gateway ('SDG') in accordance with Regulation (EU) 2018/1724⁸. The SDG provides a one-stop-shop for cross-border users for the online provision of information, procedures and assistance services relevant to the functioning of the internal market.

Amendment

(24) To allow businesses to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, information on the tax provisions set out in this Directive should be made accessible through the Single Digital Gateway ('SDG') in accordance with Regulation (EU) 2018/1724⁸. The SDG provides a one-stop-shop for cross-border users for the online provision of information, procedures and assistance services relevant to the functioning of the internal market. ***That one-stop-shop should be designed to reduce the burden on businesses, on the basis of the tax base to allow consolidated calculations, doing away with the need to file by country and in consolidated form. The good experience with the VAT one-stop-shop show how this one-stop-shop should be developed in order for it to operate properly. Businesses should be able to calculate a European tax base and should then file a return broken down by country. Each business will file a country-by-country breakdown only in a single Member State of its choice, thereby avoiding having to file one return per country and then a consolidated return.***

⁸ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

⁸ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

Or. es

Amendment 151
Laurence Sailliet

Proposal for a directive
Recital 24

Text proposed by the Commission

(24) To allow businesses to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, information on the tax provisions set out in this Directive should be made accessible through the Single Digital Gateway ('SDG') in accordance with Regulation (EU) 2018/1724⁸. The SDG provides a one-stop-shop for cross-border users for the online provision of information, procedures and assistance services relevant to the functioning of the internal market.

⁸ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

Amendment

(24) To allow businesses to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, information on the tax provisions set out in this Directive should be made accessible through the Single Digital Gateway ('SDG') in accordance with Regulation (EU) 2018/1724⁸. The SDG provides a one-stop-shop for cross-border users for the online provision of information, procedures and assistance services relevant to the *smooth* functioning of the internal market.

⁸ Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

Or. fr

Amendment 152
Gilles Boyer, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive
Recital 26 a (new)

Text proposed by the Commission

Amendment

(26a) This Directive is also relevant from an EU own resources perspective, as set out in the 2021 Communication on the next generation of own resources for the Union budget. A BEFIT-based own resource should link the financing of the EU budget to the benefits enjoyed by companies operating in the Single Market and create a strong and stable resource over time. Under a BEFIT-based own resource, Member States should transfer part of their corporate income tax revenues to the EU budget.

Or. en

Amendment 153
Manon Aubry, José Gusmão

Proposal for a directive
Article 1 – paragraph 2 – point c

Text proposed by the Commission

Amendment

(c) for allocating the BEFIT tax base to eligible BEFIT group members;

(c) for allocating the BEFIT tax base to eligible BEFIT group members ***based on a formulary apportionment described in article 45a*** ;

Or. en

Amendment 154
Andżelika Anna Możdżanowska
on behalf of the ECR Group

Proposal for a directive
Article 1 – paragraph 2 – point d

Text proposed by the Commission

Amendment

d) *simplifying transfer pricing risk assessments for transactions with associated enterprises outside the group;* ***deleted***

Or. pl

Amendment 155

Kira Marie Peter-Hansen

Proposal for a directive

Article 1 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. *This Directive also lays down rules extending the concept of a permanent establishment, as it applies for the purposes of corporate tax in each Member State, so as to include a significant economic presence through which a business is wholly or partly carried on.*

Or. en

Amendment 156

Andżelika Anna Możdżanowska

on behalf of the ECR Group

Proposal for a directive

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. *A company or a permanent establishment which is subject to this Directive shall cease to be subject to the national corporate tax law in all Member States where it is established in respect of all matters regulated by this Directive, unless otherwise stated in this Directive.* ***deleted***

Or. pl

Amendment 157
Martin Hlaváček

Proposal for a directive
Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

1. This Directive **applies** to companies resident for tax purposes in **a** Member State, including their permanent establishments located in other Member States, and to permanent establishments located in Member States of entities resident for tax purposes in a third country ('third-country entities'), which comply with the following criteria:

Amendment

1. **A Member State may decide to apply** this Directive to companies resident for tax purposes in **that** Member State, including their permanent establishments located in other Member States, and to permanent establishments located in Member States of entities resident for tax purposes in a third country ('third-country entities'), which comply with the following criteria:

Or. en

Amendment 158
Manon Aubry, José Gusmão

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

Text proposed by the Commission

(a) they belong to a domestic group or to a multinational enterprise group ('MNE group) which prepares consolidated financial statements and had annual combined revenues of EUR **750 000 000** or more in at least two of the last four fiscal years;

Amendment

(a) they belong to a domestic group or to a multinational enterprise group ('MNE group) which prepares consolidated financial statements and had annual combined revenues of EUR **40 000 000** or more in at least two of the last four fiscal years;

Or. en

Amendment 159
Isabel Benjumea Benjumea

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) they belong to a domestic group or to a multinational enterprise group ('MNE group) which prepares consolidated financial statements and had annual combined revenues of EUR **750 000 000** or more in at least two of the last four fiscal years;

Amendment

(a) they belong to a domestic group or to a multinational enterprise group ('MNE group) which prepares consolidated financial statements and had annual combined revenues of EUR **1 billion** or more in at least two of the last four fiscal years;

Or. es

Amendment 160 Markus Ferber

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

Text proposed by the Commission

(a) they belong to a domestic group or to a multinational enterprise group ('MNE group) which prepares consolidated financial statements and had annual combined revenues of EUR 750 000 000 **or more** in at least two of the last four fiscal years;

Amendment

(a) they belong to a domestic group or to a multinational enterprise group ('MNE group) which prepares consolidated financial statements and had annual combined revenues of **at least** EUR 750 000 000 in at least two of the last four fiscal years;

Or. en

Justification

The scope proposed by the Commission should be maintained.

Amendment 161 Eleni Stavrou

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

Text proposed by the Commission

(a) they belong to a domestic group or to a multinational enterprise group ('MNE

Amendment

(a) they belong to a domestic group or to a multinational enterprise group ('MNE

group) which prepares consolidated financial statements and had annual combined revenues of EUR 750 000 000 or more in at least two of the last four fiscal years;

group) which prepares consolidated financial statements and had annual combined revenues of EUR 750 000 000 or more in at least two of the last four fiscal years *as defined in the scope of Directive (EU) 2022/2523 of 14 December 2022*;

Or. en

Amendment 162
Isabel Benjumea Benjumea

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

Text proposed by the Commission

Amendment

1a. Companies shall have the possibility to leave the BEFIT system, making it voluntary. The system shall be attractive enough for businesses to request it for the benefits it offers, not because it is imposed.

Or. es

Amendment 163
Manon Aubry, José Gusmão

Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission

Amendment

2. By way of derogation from paragraph 1, this Directive shall not apply to companies or permanent establishments with an ultimate parent entity outside the Union where the combined revenues of the group in the Union either do not exceed **5%** of the total revenues for the group based on its consolidated financial statements or the amount of EUR **50** million in at least two of the last four fiscal years. This shall be without prejudice to

2. By way of derogation from paragraph 1, this Directive shall not apply to companies or permanent establishments with an ultimate parent entity outside the Union where the combined revenues of the group in the Union either do not exceed **2%** of the total revenues for the group based on its consolidated financial statements or the amount of EUR **20** million in at least two of the last four fiscal years. This shall be without prejudice to

the right of opting in under paragraph 7.

the right of opting in under paragraph 7.

Or. en

Amendment 164
Markus Ferber

Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission

2. By way of derogation from paragraph 1, this Directive shall not apply to companies or permanent establishments with an ultimate parent entity outside the Union where the combined revenues of the group in the Union either do not exceed **5%** of the total revenues for the group based on its consolidated financial statements or the amount of EUR **50** million in at least two of the last four fiscal years. This shall be without prejudice to the right of opting in under paragraph 7.

Amendment

2. By way of derogation from paragraph 1, this Directive shall not apply to companies or permanent establishments with an ultimate parent entity outside the Union where the combined revenues of the group in the Union either do not exceed **7%** of the total revenues for the group based on its consolidated financial statements or the amount of EUR **60** million in at least two of the last four fiscal years. This shall be without prejudice to the right of opting in under paragraph 7.

Or. en

Amendment 165
Eleni Stavrou

Proposal for a directive
Article 2 – paragraph 2

Text proposed by the Commission

2. By way of derogation from paragraph 1, this Directive shall not apply to companies or permanent establishments with an ultimate parent entity outside the Union where the combined revenues of the group in the Union either do not exceed 5% of the total revenues for the group based on its consolidated financial statements or the amount of EUR 50 million in at least two of the last four fiscal

Amendment

2. By way of derogation from paragraph 1, this Directive shall not apply to companies or permanent establishments with an ultimate parent entity outside the Union where the combined revenues of the group in the Union either do not exceed 5% of the total revenues for the group based on its consolidated financial statements or the amount of EUR 50 million in at least two of the last four fiscal

years. This shall be without prejudice to the right of opting in under paragraph 7.

years. This shall be without prejudice to the right of opting in under paragraph 7.

The Commission in its review and report in accordance with Article 77 shall particularly take into account bilateral pre-accession tax treaties and assess their interaction with this derogation.

Or. en

Amendment 166

Manon Aubry, José Gusmão

Proposal for a directive

Article 2 – paragraph 3

Text proposed by the Commission

3. Where two or more groups merge to form a single group, the threshold of EUR **750 000 000** referred to in paragraph 1 shall be deemed to be met for any fiscal year prior to the merger if the sum of the combined revenues of the merging groups for that fiscal year, as included in each of their consolidated financial statements, is EUR **750 000 000** or more. The companies and permanent establishments members of that newly formed group shall become subject to this Directive if that threshold was met in at least two of the last four fiscal years.

Amendment

3. Where two or more groups merge to form a single group, the threshold of EUR **40 000 000** referred to in paragraph 1 shall be deemed to be met for any fiscal year prior to the merger if the sum of the combined revenues of the merging groups for that fiscal year, as included in each of their consolidated financial statements, is EUR **40 000 000** or more. The companies and permanent establishments members of that newly formed group shall become subject to this Directive if that threshold was met in at least two of the last four fiscal years.

Or. en

Amendment 167

Isabel Benjumea Benjumea

Proposal for a directive

Article 2 – paragraph 3

Text proposed by the Commission

3. Where two or more groups merge to form a single group, the threshold of

Amendment

3. Where two or more groups merge to form a single group, the threshold of

EUR **750 000 000** referred to in paragraph 1 shall be deemed to be met for any fiscal year prior to the merger if the sum of the combined revenues of the merging groups for that fiscal year, as included in each of their consolidated financial statements, is EUR **750 000 000** or more. The companies and permanent establishments members of that newly formed group shall become subject to this Directive if that threshold was met in at least two of the last four fiscal years.

EUR **1 billion** referred to in paragraph 1 shall be deemed to be met for any fiscal year prior to the merger if the sum of the combined revenues of the merging groups for that fiscal year, as included in each of their consolidated financial statements, is EUR **1 billion** or more. The companies and permanent establishments members of that newly formed group shall become subject to this Directive if that threshold was met in at least two of the last four fiscal years.

Or. es

Amendment 168

Eleni Stavrou

Proposal for a directive

Article 2 – paragraph 3

Text proposed by the Commission

3. Where two or more groups merge to form a single group, the threshold of EUR 750 000 000 referred to in paragraph 1 shall be deemed to be met for any fiscal year prior to the merger if the sum of the combined revenues of the merging groups for that fiscal year, as included in each of their consolidated financial statements, is EUR 750 000 000 or more. The companies and permanent establishments members of that newly formed group shall become subject to this Directive if that threshold was met in at least two of the last four fiscal years.

Amendment

3. Where two or more groups merge to form a single group, the threshold of EUR 750 000 000 referred to in paragraph 1 shall be deemed to be met for any fiscal year prior to the merger if the sum of the combined revenues of the merging groups for that fiscal year, as included in each of their consolidated financial statements, is EUR 750 000 000 or more. The companies and permanent establishments members of that newly formed group shall become subject to this Directive if that threshold ***as defined in the scope of Directive (EU) 2022/2523 of 14 December 2022*** was met in at least two of the last four fiscal years.

Or. en

Amendment 169

Manon Aubry, José Gusmão

Proposal for a directive

Article 2 – paragraph 4

Text proposed by the Commission

4. Where a company that is not a member of a group (the ‘target’) is acquired by another company or a group (the ‘acquiring entity’) and either the target or the acquiring entity did not have consolidated financial statements in any of the four fiscal years immediately preceding the fiscal year of the acquisition, the threshold of annual combined revenues of EUR **750 000 000** referred to in paragraph 1 shall be deemed to be met for that year if the sum of the revenues included in the financial statements or consolidated financial statements of the target and the acquiring entity for that fiscal year is EUR **750 000 000** or more. The acquiring entity shall become subject to this Directive if that threshold was met in at least two of the four fiscal years immediately preceding the fiscal year in which this Directive started to apply to the acquiring entity.

Amendment

4. Where a company that is not a member of a group (the ‘target’) is acquired by another company or a group (the ‘acquiring entity’) and either the target or the acquiring entity did not have consolidated financial statements in any of the four fiscal years immediately preceding the fiscal year of the acquisition, the threshold of annual combined revenues of EUR **40 000 000** referred to in paragraph 1 shall be deemed to be met for that year if the sum of the revenues included in the financial statements or consolidated financial statements of the target and the acquiring entity for that fiscal year is EUR **40 000 000** or more. The acquiring entity shall become subject to this Directive if that threshold was met in at least two of the four fiscal years immediately preceding the fiscal year in which this Directive started to apply to the acquiring entity.

Or. en

Amendment 170

Isabel Benjumea Benjumea

Proposal for a directive

Article 2 – paragraph 4

Text proposed by the Commission

4. Where a company that is not a member of a group (the ‘target’) is acquired by another company or a group (the ‘acquiring entity’) and either the target or the acquiring entity did not have consolidated financial statements in any of the four fiscal years immediately preceding the fiscal year of the acquisition, the threshold of annual combined revenues of EUR **750 000 000** referred to in paragraph 1 shall be deemed to be met for that year if

Amendment

4. Where a company that is not a member of a group (the ‘target’) is acquired by another company or a group (the ‘acquiring entity’) and either the target or the acquiring entity did not have consolidated financial statements in any of the four fiscal years immediately preceding the fiscal year of the acquisition, the threshold of annual combined revenues of EUR **1 billion** referred to in paragraph 1 shall be deemed to be met for that year if

the sum of the revenues included in the financial statements or consolidated financial statements of the target and the acquiring entity for that fiscal year is EUR **750 000 000** or more. The acquiring entity shall become subject to this Directive if that threshold was met in at least two of the four fiscal years immediately preceding the fiscal year in which this Directive started to apply to the acquiring entity.

the sum of the revenues included in the financial statements or consolidated financial statements of the target and the acquiring entity for that fiscal year is EUR **1 billion** or more. The acquiring entity shall become subject to this Directive if that threshold was met in at least two of the four fiscal years immediately preceding the fiscal year in which this Directive started to apply to the acquiring entity.

Or. es

Amendment 171
Eleni Stavrou

Proposal for a directive
Article 2 – paragraph 4

Text proposed by the Commission

4. Where a company that is not a member of a group (the ‘target’) is acquired by another company or a group (the ‘acquiring entity’) and either the target or the acquiring entity did not have consolidated financial statements in any of the four fiscal years immediately preceding the fiscal year of the acquisition, the threshold of annual combined revenues of EUR 750 000 000 referred to in paragraph 1 shall be deemed to be met for that year if the sum of the revenues included in the financial statements or consolidated financial statements of the target and the acquiring entity for that fiscal year is EUR 750 000 000 or more. The acquiring entity shall become subject to this Directive if that threshold was met in at least two of the four fiscal years immediately preceding the fiscal year in which this Directive started to apply to the acquiring entity.

Amendment

4. Where a company that is not a member of a group (the ‘target’) is acquired by another company or a group (the ‘acquiring entity’) and either the target or the acquiring entity did not have consolidated financial statements in any of the four fiscal years immediately preceding the fiscal year of the acquisition, the threshold of annual combined revenues of EUR 750 000 000 referred to in paragraph 1 **and as defined in the scope of Directive (EU) 2022/2523 of 14 December 2022** shall be deemed to be met for that year if the sum of the revenues included in the financial statements or consolidated financial statements of the target and the acquiring entity for that fiscal year is EUR 750 000 000 or more. The acquiring entity shall become subject to this Directive if that threshold was met in at least two of the four fiscal years immediately preceding the fiscal year in which this Directive started to apply to the acquiring entity.

Or. en

Amendment 172

Manon Aubry, José Gusmão

Proposal for a directive

Article 2 – paragraph 5 – introductory part

Text proposed by the Commission

5. Where there is a demerger of a group into two or more groups (the ‘demerged groups’), the threshold of EUR **750 000 000** referred to in paragraph 1 shall be deemed to be met by each of the demerged groups where:

Amendment

5. Where there is a demerger of a group into two or more groups (the ‘demerged groups’), the threshold of EUR **40 000 000** referred to in paragraph 1 shall be deemed to be met by each of the demerged groups where:

Or. en

Amendment 173

Isabel Benjumea Benjumea

Proposal for a directive

Article 2 – paragraph 5 – introductory part

Text proposed by the Commission

5. Where there is a demerger of a group into two or more groups (the ‘demerged groups’), the threshold of EUR **750 000 000** referred to in paragraph 1 shall be deemed to be met by each of the demerged groups where:

Amendment

5. Where there is a demerger of a group into two or more groups (the ‘demerged groups’), the threshold of EUR **1 billion** referred to in paragraph 1 shall be deemed to be met by each of the demerged groups where:

Or. es

Amendment 174

Eleni Stavrou

Proposal for a directive

Article 2 – paragraph 5 – introductory part

Text proposed by the Commission

5. Where there is a demerger of a group into two or more groups (the

Amendment

5. Where there is a demerger of a group into two or more groups (the

‘demerged groups’), the threshold of EUR 750 000 000 referred to in paragraph 1 shall be deemed to be met by each of the demerged groups where:

‘demerged groups’), the threshold of EUR 750 000 000 referred to in paragraph 1 **and as defined in the scope of Directive (EU) 2022/2523 of 14 December 2022**, shall be deemed to be met by each of the demerged groups where:

Or. en

Amendment 175
Manon Aubry, José Gusmão

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

Text proposed by the Commission

(a) in the first fiscal year ending after the demerger, each of the demerged groups has annual combined revenues of EUR **750 000 000** or more in that fiscal year;

Amendment

(a) in the first fiscal year ending after the demerger, each of the demerged groups has annual combined revenues of EUR **40 000 000** or more in that fiscal year;

Or. en

Amendment 176
Isabel Benjumea Benjumea

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

Text proposed by the Commission

(a) in the first fiscal year ending after the demerger, each of the demerged groups has annual combined revenues of EUR **750 000 000** or more in that fiscal year;

Amendment

(a) in the first fiscal year ending after the demerger, each of the demerged groups has annual combined revenues of EUR **1 billion** or more in that fiscal year;

Or. es

Amendment 177
Manon Aubry, José Gusmão

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

Text proposed by the Commission

(b) in the second to fourth fiscal years ending after the demerger, each of the demerged groups has annual combined revenues of EUR **750 000 000** or more in at least two of those fiscal years.

Amendment

(b) in the second to fourth fiscal years ending after the demerger, each of the demerged groups has annual combined revenues of EUR **40 000 000** or more in at least two of those fiscal years.

Or. en

Amendment 178
Isabel Benjumea Benjumea

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

Text proposed by the Commission

(b) in the second to fourth fiscal years ending after the demerger, each of the demerged groups has annual combined revenues of EUR **750 000 000** or more in at least two of those fiscal years.

Amendment

(b) in the second to fourth fiscal years ending after the demerger, each of the demerged groups has annual combined revenues of EUR **1 billion** or more in at least two of those fiscal years.

Or. es

Amendment 179
Manon Aubry, José Gusmão

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission

7. Member States shall ensure that companies which are resident for tax purposes in a Member State and fulfil the conditions laid down in paragraph 1, point (b), including their permanent establishments located in other Member States, as well as permanent establishments, located in Member States,

Amendment

7. Member States shall ensure that companies which are resident for tax purposes in a Member State and fulfil the conditions laid down in paragraph 1, point (b), including their permanent establishments located in other Member States, as well as permanent establishments, located in Member States,

of third-country entities which fulfil the conditions of paragraph 1, point (c), may choose to be covered by this Directive if they belong to an MNE group or domestic group which prepares consolidated financial statements but does not fulfil the conditions laid down in paragraph 1, point (a) regarding the threshold of EUR **750 000 000**.

of third-country entities which fulfil the conditions of paragraph 1, point (c), may choose to be covered by this Directive if they belong to an MNE group or domestic group which prepares consolidated financial statements but does not fulfil the conditions laid down in paragraph 1, point (a) regarding the threshold of EUR **40 000 000**.

Or. en

Amendment 180
Isabel Benjumea Benjumea

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission

7. Member States shall ensure that companies which are resident for tax purposes in a Member State and fulfil the conditions laid down in paragraph 1, point (b), including their permanent establishments located in other Member States, as well as permanent establishments, located in Member States, of third-country entities which fulfil the conditions of paragraph 1, point (c), may choose to be covered by this Directive if they belong to an MNE group or domestic group which prepares consolidated financial statements but does not fulfil the conditions laid down in paragraph 1, point (a) regarding the threshold of EUR **750 000 000**.

Amendment

7. Member States shall ensure that companies which are resident for tax purposes in a Member State and fulfil the conditions laid down in paragraph 1, point (b), including their permanent establishments located in other Member States, as well as permanent establishments, located in Member States, of third-country entities which fulfil the conditions of paragraph 1, point (c), may choose to be covered by this Directive if they belong to an MNE group or domestic group which prepares consolidated financial statements but does not fulfil the conditions laid down in paragraph 1, point (a) regarding the threshold of EUR **1 billion**.

Or. es

Amendment 181
Eleni Stavrou

Proposal for a directive
Article 2 – paragraph 7

Text proposed by the Commission

7. Member States shall ensure that companies which are resident for tax purposes in a Member State and fulfil the conditions laid down in paragraph 1, point (b), including their permanent establishments located in other Member States, as well as permanent establishments, located in Member States, of third-country entities which fulfil the conditions of paragraph 1, point (c), may choose to be covered by this Directive if they belong to an MNE group or domestic group which prepares consolidated financial statements but does not fulfil the conditions laid down in paragraph 1, point (a) regarding the threshold of EUR 750 000 000.

Amendment

7. Member States shall ensure that companies which are resident for tax purposes in a Member State and fulfil the conditions laid down in paragraph 1, point (b), including their permanent establishments located in other Member States, as well as permanent establishments, located in Member States, of third-country entities which fulfil the conditions of paragraph 1, point (c), may choose to be covered by this Directive if they belong to an MNE group or domestic group which prepares consolidated financial statements but does not fulfil the conditions laid down in paragraph 1, point (a) regarding the threshold of EUR 750 000 000 ***as defined in the scope of Directive (EU) 2022/2523 of 14 December 2022.***

Or. en

Amendment 182

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 2 a (new)

Text proposed by the Commission

Amendment

Article 2a

Significant economic presence

1. For the purposes of corporate tax, a permanent establishment shall be taken to exist if a significant economic presence exists through which a business is wholly or partly carried on.

2. Paragraph 1 shall be in addition to, and shall not affect or limit the application of, any other test under Union or national law for determining the existence of a permanent establishment in a Member State for the purposes of corporate tax, whether specifically in

relation to the supply of digital services or otherwise.

3. A 'significant economic presence' shall be considered to exist in a Member State in a tax period if total revenues derived by a BEFIT group from that Member State are above EUR 1 000 000.

4. The Commission shall, by means of implementing act laying down the detailed methodology for the sourcing rules to define the revenues. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73.

Or. en

Amendment 183

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 3 – paragraph 1 – point 10 – point b

Text proposed by the Commission

(b) if the ultimate parent entity is not located in a Member State, the entity located in a Member State, that has been appointed by the BEFIT group to fulfil the obligations in relation to the BEFIT group information return set out in Article 57 on behalf of the BEFIT group.

Amendment

(b) if the ultimate parent entity is not located in a Member State, the ***intermediate parent*** entity located in a Member State, ***or, in absence of such, the entity located in a Member State and*** that has been appointed by the BEFIT group to fulfil the obligations in relation to the BEFIT group information return set out in Article 57 on behalf of the BEFIT group.

Or. en

Amendment 184

Laurence Sailliet

Proposal for a directive

Article 3 – paragraph 1 – point 15

Text proposed by the Commission

(15) ‘economic owner’ means the person who receives **substantially** all the benefits and bears **all** the risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;

Amendment

(15) ‘economic owner’ means the person who receives **in large part** all the benefits and bears **most of** the risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;

Or. fr

Amendment 185

Manon Aubry, José Gusmão

Proposal for a directive

Article 3 – paragraph 1 – point 15

Text proposed by the Commission

(15) ‘economic owner’ means the person who receives substantially **all** the benefits and bears **all** the risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;

Amendment

(15) ‘economic owner’ means the person who receives substantially **most of** the benefits and bears **most of** the risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;

Or. en

Amendment 186

Eleni Stavrou

Proposal for a directive

Article 3 – paragraph 1 – point 15

Text proposed by the Commission

(15) ‘economic owner’ means the person who receives substantially all the benefits and bears all the risks attached to a

Amendment

(15) ‘economic owner’ **has the meaning attributed to it in previous proposals and specifically**, means the person who

fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;

receives substantially all the benefits and bears all the risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;

Or. en

Amendment 187

Manon Aubry, José Gusmão

Proposal for a directive

Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) the company is either the ultimate parent entity of the group or any other company of the group in which the ultimate parent entity holds, directly or indirectly, at least **75%** of the ownership rights or of the rights giving entitlement to profit;

Amendment

(a) the company is either the ultimate parent entity of the group or any other company of the group in which the ultimate parent entity holds, directly or indirectly, at least **25%** of the ownership rights or of the rights giving entitlement to profit;

Or. en

Amendment 188

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) the company is either the ultimate parent entity of the group or any other company of the group in which the ultimate parent entity holds, directly or indirectly, at least **75%** of the ownership rights or of the rights giving entitlement to profit;

Amendment

(a) the company is either the ultimate parent entity of the group, ***the intermediate parent company of the group located in a Member State*** or any other company of the group in which the ultimate parent entity holds, directly or indirectly, at least **50%** of the ownership rights or of the rights giving entitlement to profit;

Amendment 189
Kira Marie Peter-Hansen, Claude Gruffat

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

Text proposed by the Commission

(b) the head office of the permanent establishment is either the ultimate parent entity of the group or any other member (company or entity) of the group in which the ultimate parent entity holds, directly or indirectly, at least **75%** of the ownership rights or of the rights giving entitlement to profit.

Amendment

(b) the head office of the permanent establishment is either the ultimate parent entity of the group, ***the intermediate parent company of the group located in a Member State*** or any other member (company or entity) of the group in which the ultimate parent entity holds, directly or indirectly, at least **50%** of the ownership rights or of the rights giving entitlement to profit.

Or. en

Amendment 190
Manon Aubry, José Gusmão

Proposal for a directive
Article 5 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A company or a permanent establishment shall become a BEFIT group member on the date that the thresholds referred to in (1) are reached.

Or. en

Amendment 191
Manon Aubry, José Gusmão

Proposal for a directive
Article 6

Text proposed by the Commission

Amendment

Article 6

deleted

Holding period requirements

1. A BEFIT group member shall meet the thresholds referred to in Article 5(1) without interruption, throughout the fiscal year.

2. A company or a permanent establishment shall become a BEFIT group member on the date that the thresholds referred to in Article 5(1) are reached. The thresholds shall be met for at least nine consecutive months. If a company or, as applicable, a permanent establishment fails to meet the thresholds for the required period, it shall be treated as if it has never been a BEFIT group member.

3. A company or a permanent establishment ceases to be a BEFIT group member on the day that follows the one on which it no longer meets the thresholds referred to in Article 5(1).

Or. en

Amendment 192
Martin Hlaváček

Proposal for a directive
Article 7 – paragraph 4

Text proposed by the Commission

Amendment

4. By way of derogation from paragraph 1, where a Member State applies national law which allows groups to prepare, audit and publish financial statements on a jurisdictional basis, the preliminary tax result and the allocation of the BEFIT tax base of the BEFIT group members that are resident for tax purposes in that Member State may also be computed on a jurisdictional basis,

deleted

provided that the group can identify separately, for each BEFIT group member, the data necessary to calculate such preliminary tax result and post-allocation adjustments in accordance with this Directive.

Or. en

Amendment 193
Eleni Stavrou

Proposal for a directive
Article 7 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *Where it is not reasonably practicable to determine the financial accounting net income or loss of a constituent entity based on the acceptable financial accounting standard or authorised financial accounting standard used in the preparation of the consolidated financial statements of the ultimate parent entity, the financial accounting net income or loss of the constituent entity for the fiscal year may be determined using another acceptable financial accounting standard or an authorised financial accounting standard in accordance with the provisions outlined in Article 15 paragraph 2 of Directive (EU) 2022/2523 of 14 December 2022, where applicable;*

Or. en

Amendment 194
Manon Aubry, José Gusmão

Proposal for a directive
Article 8

Text proposed by the Commission

Amendment

Article 8

deleted

Dividends and other distributions

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude 95% of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than 10% of the profits, capital, reserves or voting rights.

Or. en

Amendment 195

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

Amendment

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude 95% of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude 95% of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than

one year and this interest carries right to more than 10% of the profits, capital, reserves or voting rights.

one year and this interest carries right to more than 10% of the profits, capital, reserves or voting rights, **and the dividends or other distributions have been subject to an effective tax rate not below 9%.**

Or. en

Amendment 196

Eleni Stavrou

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude **95%** of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than 10% of the profits, capital, reserves or voting rights.

Amendment

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude **100%** of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than 10% of the profits, capital, reserves or voting rights.

Or. en

Amendment 197

Isabel Benjumea Benjumea

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

With the exception of financial assets held

Amendment

With the exception of financial assets held

for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude 95% of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than **10%** of the profits, capital, reserves or voting rights.

for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude 95% of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than **15%** of the profits, capital, reserves or voting rights.

Or. es

Amendment 198
Manon Aubry, José Gusmão

Proposal for a directive
Article 9 – paragraph 1

Text proposed by the Commission

Amendment

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude 95% of the amount of gain or loss arising from the disposition of an ownership interest, provided that at the date of disposition, the ownership interest is held by the BEFIT group member for more than one year and this interest carries a right to more than 10% of the profits, capital, reserves or voting rights.

deleted

Or. en

Amendment 199

Eleni Stavrou

Proposal for a directive

Article 9 – paragraph 1

Text proposed by the Commission

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude **95%** of the amount of gain or loss arising from the disposition of an ownership interest, provided that at the date of disposition, the ownership interest is held by the BEFIT group member for more than one year and this interest carries a right to more than 10% of the profits, capital, reserves or voting rights.

Amendment

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude **100%** of the amount of gain or loss arising from the disposition of an ownership interest, provided that at the date of disposition, the ownership interest is held by the BEFIT group member for more than one year and this interest carries a right to more than 10% of the profits, capital, reserves or voting rights.

Or. en

Amendment 200

Isabel Benjumea Benjumea

Proposal for a directive

Article 9 – paragraph 1

Text proposed by the Commission

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude

Amendment

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude

95% of the amount of gain or loss arising from the disposition of an ownership interest, provided that at the date of disposition, the ownership interest is held by the BEFIT group member for more than one year and this interest carries a right to more than **10%** of the profits, capital, reserves or voting rights.

95% of the amount of gain or loss arising from the disposition of an ownership interest, provided that at the date of disposition, the ownership interest is held by the BEFIT group member for more than one year and this interest carries a right to more than **15%** of the profits, capital, reserves or voting rights.

Or. es

Amendment 201
Isabel Benjumea Benjumea

Proposal for a directive
Article 10 – paragraph 1

Text proposed by the Commission

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude the amount of gain or loss arising from changes in the fair value of an ownership interest, provided that at the date of disposition, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than **10%** of the profits, capital, reserves or voting rights.

Amendment

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude the amount of gain or loss arising from changes in the fair value of an ownership interest, provided that at the date of disposition, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than **15%** of the profits, capital, reserves or voting rights.

Or. es

Amendment 202
Manon Aubry, José Gusmão

Proposal for a directive
Article 11

Article 11

deleted

Financial assets held for trading

1. A financial asset or liability shall be treated as being held for trading by a BEFIT group member where it meets any of the following conditions:

(a) it is acquired or incurred mainly for the purpose of selling it or repurchasing it in the short term;

(b) it is part of a portfolio of identified financial instruments, including derivatives, that are managed together and for which there is evidence of a recent actual pattern of short-term profit taking.

2. Where a financial asset or liability which is held by a BEFIT group member transitions to become an asset or liability held for trading or vice versa, the financial accounting net income or loss shall be adjusted to include any difference between the fair value calculated at the beginning of the fiscal year or at the date of purchase if later, and its fair value calculated at the end of the same fiscal year.

The fair value of a financial asset or liability at the end of the fiscal year during which it transitioned to become an asset or liability held for trading or vice versa shall also be its fair value at the beginning of the fiscal year following the transition.

3. The holding period referred to in Article 9 shall begin or be interrupted when the financial asset or liability is no longer held for trading or is transitioned to become an asset or liability held for trading respectively.

Or. en

Amendment 203
Isabel Benjumea Benjumea

Proposal for a directive
Article 11 a (new)

Text proposed by the Commission

Amendment

Article 11a

If a financial asset is to be treated as being held for trading, solid demonstrable evidence must be provided. If there is no such evidence or there are any doubts, the financial asset shall not be treated as being held for trading.

Or. es

Amendment 204
Eleni Stavrou

Proposal for a directive
Article 12 – paragraph 1 – a (new)

Text proposed by the Commission

Amendment

A qualifying loss of a permanent establishment shall be treated as an expense of the main entity for the computation of its qualifying income or loss to the extent that the loss of the permanent establishment is treated as an expense in the computation of domestic taxable income of such main entity and is not set off against an item of the domestic taxable income that is subject to tax under the laws of both the jurisdiction of the main entity and the jurisdiction of the permanent establishment.

Or. en

Amendment 205
Manon Aubry, José Gusmão

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. A BEFIT group member shall adjust its financial accounting net income or loss to include the amount of exceeding borrowing costs, *as referred to in Article 2 of Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market¹¹*, which is not deductible for tax purposes in accordance with *the interest limitation rules laid down in the national corporate tax law of the Member State where it is resident for tax purposes.*

¹¹ *Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193, 19.7.2016, p. 1)*

Amendment

1. A BEFIT group member shall adjust its financial accounting net income or loss to include the amount of exceeding borrowing costs, which is not deductible for tax purposes in accordance with *paragraph 1a.*

Or. en

Amendment 206
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 13 – paragraph 1

Text proposed by the Commission

1. A BEFIT group member shall adjust its financial accounting net income or loss to include the amount of exceeding borrowing costs, as referred to in Article 2 of Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market¹¹, which is not deductible for tax purposes in accordance with the interest limitation rules laid down in *the national corporate*

Amendment

1. A BEFIT group member shall adjust its financial accounting net income or loss to include the amount of exceeding borrowing costs, as referred to in Article 2 of Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market¹¹, which is not deductible for tax purposes in accordance with the interest limitation rules laid down in *paragraph 1a.*

tax law of the Member State where it is resident for tax purposes.

¹¹ Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193, 19.7.2016, p. 1)

¹¹ Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193, 19.7.2016, p. 1)

Or. en

Amendment 207

Manon Aubry, José Gusmão

Proposal for a directive

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purpose of this article, ‘exceeding borrowing costs’ means the amount by which the deductible borrowing costs of a taxpayer exceed taxable interest revenues and other economically equivalent taxable revenues that the taxpayer receives according to national law. Exceeding borrowing costs shall be deductible up to 75 % in the tax period in which they are incurred. If such amount is higher than 20 % of the taxpayer's earnings before interest, tax, depreciation, and amortisation (EBITDA), the taxpayer is entitled to deduct only the lower of the two amounts in the tax period. The difference between the two amounts shall not be carried forward or back.

Or. en

Amendment 208

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Exceeding borrowing costs shall be deductible up to 75 % in the tax period in which they are incurred. If such amount is higher than 10 % of the taxpayer's earnings before interest, tax, depreciation, and amortisation (EBITDA), the taxpayer is entitled to deduct only the lower of the two amounts in the tax period.

Article 4 paragraphs 2, 3, 4, point (b), 5, 7, 8 of Article 4 of Council Directive (EU) 2016/11641 apply to a BEFIT group.

Or. en

Amendment 209

Manon Aubry, José Gusmão

Proposal for a directive

Article 13 – paragraph 2

Text proposed by the Commission

Amendment

2. Paragraph 1 shall not apply to exceeding borrowing costs arising from a transaction between BEFIT group members.

deleted

Or. en

Amendment 210

Eleni Stavrou

Proposal for a directive

Article 13 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. For the purposes of this Article, 'exceeding borrowing costs' shall maintain the same treatment as per

Directive (EU) 20XX/XX/EU on laying down rules on a debt-equity bias reduction allowance and on limiting the deductibility of interest for corporate income tax purposes.

Or. en

Amendment 211

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Royalty limitation rule

A BEFIT group member shall adjust its financial accounting net income or loss to include the amount of royalty costs for which the corresponding income of the recipient of the royalty or licence fee payment by the BEFIT group is subject to an effective tax rate below 9 %.

Or. en

Amendment 212

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 15 – paragraph 1

Text proposed by the Commission

Amendment

The financial accounting net income or loss of a BEFIT group member carrying out shipping activities shall be adjusted to exclude the amount of revenues, expenses and other deductible items derived from such activities covered by a tonnage tax regime.

deleted

Amendment 213
Manon Aubry, José Gusmão

Proposal for a directive
Article 15 – paragraph 1

Text proposed by the Commission

Amendment

The financial accounting net income or loss of a BEFIT group member carrying out shipping activities shall be adjusted to exclude the amount of revenues, expenses and other deductible items derived from such activities covered by a tonnage tax regime.

deleted

Or. en

Amendment 214
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 17 – paragraph 1

Text proposed by the Commission

Amendment

The financial accounting net income or loss of a BEFIT group member shall be adjusted to include the amount of any corporate tax, similar taxes on profits and deferred taxes accrued for the fiscal year as well as any amount recorded as current taxes in the financial accounts in relation to the payment of top-up tax due in accordance with Directive (EU) 2022/2523 or in application of a Qualified Domestic Top-up Tax as referred to in Article 11 of that Directive.

The financial accounting net income or loss of a BEFIT group member shall be adjusted to include the amount of any corporate tax, similar taxes on profits and deferred taxes accrued for the fiscal year as well as any amount recorded as current taxes in the financial accounts in relation to the payment of top-up tax due in accordance with Directive (EU) 2022/2523 or in application of a Qualified Domestic Top-up Tax as referred to in Article 11 of that Directive, ***or any other alternative minimum taxes.***

Or. en

Amendment 215
Eleni Stavrou

Proposal for a directive
Article 20 – paragraph 1 – introductory part

Text proposed by the Commission

The financial accounting net income or loss of a BEFIT group member shall be adjusted *to exclude the following*:

Amendment

The financial accounting net income or loss of a BEFIT group member shall be adjusted *in accordance with Article 16(e) of Directive (EU) 2022/2523 of 14 December 2022*:

Or. en

Amendment 216
Eleni Stavrou

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

Text proposed by the Commission

(a) the amount of any unrealised foreign currency exchange gain or loss in relation to fixed assets and liabilities;

Amendment

deleted

Or. en

Amendment 217
Eleni Stavrou

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

Text proposed by the Commission

(b) the amount of any provision recorded for unrealised foreign currency exchange loss.

Amendment

deleted

Or. en

Amendment 218
Manon Aubry, José Gusmão

Proposal for a directive
Article 21 a (new)

Text proposed by the Commission

Amendment

Article 21a

Controlled Foreign Companies

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to include:

(a) the non-distributed income of an entity or permanent establishment which is derived from the following categories:

(i) interest or any other income generated by financial assets;

(ii) royalties or any other income generated from intellectual property;

(iii) dividends and income from the disposal of shares;

(iv) income from financial leasing;

(v) income from insurance, banking, and other financial activities;

(vi) income from invoicing companies that earn sales and services income from goods and services purchased from and sold to associated enterprises, and add no or little economic value; The first subparagraph shall not apply where the controlled foreign company carries out a substantive economic activity supported by staff, equipment, assets, and premises, as evidenced by relevant facts and circumstances. Where the controlled foreign company is resident or situated in a third country that is not party to the EEA Agreement, Member States may decide to refrain from applying the first subparagraph.

(b) the non-distributed income of the entity or permanent establishment arising from non-genuine arrangements which have been put in place for the essential

purpose of obtaining a tax advantage. For the purposes of this point, an arrangement or a series thereof shall be regarded as non-genuine to the extent that the entity or permanent establishment would not own the assets or would not have undertaken the risks which generate all, or part of, its income if it were not controlled by a company where the significant people functions, which are relevant to those assets and risks, are carried out and are instrumental in generating the controlled company's income.

2. The income to be included in the tax base shall be calculated according to Article 8 of Directive (EU) 2016/1164.

Or. en

Amendment 219
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 21 a (new)

Text proposed by the Commission

Amendment

Article 21a

Controlled Foreign Companies

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to include the non-distributed income of an entity or permanent establishment, which is treated as a controlled foreign company as referred to Article 7(1) of Directive (EU) 2016/1164, which is derived from the following categories:

- (i) interest or any other income generated by financial assets;*
- (ii) royalties or any other income generated from intellectual property; (iii) dividends and income from the disposal of*

shares;

(iv) income from financial leasing;

(v) income from insurance, banking, and other financial activities;

(vi) income from invoicing companies that earn sales and services income from goods and services purchased from and sold to associated enterprises, and add no or little economic value;

The first subparagraph shall not apply where the controlled foreign company carries out a substantive economic activity supported by staff, equipment, assets, and premises, as evidenced by relevant facts and circumstances.

Where the controlled foreign company is resident or situated in a third country that is not party to the EEA Agreement, Member States may decide to refrain from applying the first subparagraph.

2. The income to be included in the tax base shall be calculated according to Article 8 of Directive (EU) 2016/1164.

Or. en

Amendment 220

Isabel Benjumea Benjumea

Proposal for a directive

Article 22 – paragraph 1

Text proposed by the Commission

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude in the fiscal year of acquisition any fixed tangible asset that has a book value before depreciation which is below EUR **5000**.

Amendment

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude in the fiscal year of acquisition any fixed tangible asset that has a book value before depreciation which is below EUR **10 000**.

Or. es

Amendment 221
Markus Ferber

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude in the fiscal year of acquisition any fixed tangible asset that has a book value before depreciation which is below EUR **5000**.

Amendment

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude in the fiscal year of acquisition any fixed tangible asset that has a book value before depreciation which is below EUR **10000**.

Or. en

Amendment 222
Manon Aubry, José Gusmão

Proposal for a directive
Article 22 – paragraph 1

Text proposed by the Commission

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude in the fiscal year of acquisition any fixed tangible asset that has a book value before depreciation which is below EUR **5000**.

Amendment

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude in the fiscal year of acquisition any fixed tangible asset that has a book value before depreciation which is below EUR **500**.

Or. en

Amendment 223
Manon Aubry, José Gusmão

Proposal for a directive
Article 22 – paragraph 2 – point a

Text proposed by the Commission

(a) all buildings as well as any other type of immovable property and structure in use for the business: **28** years;

Amendment

(a) all buildings as well as any other type of immovable property and structure in use for the business: **50** years;

Amendment 224
Eleni Stavrou

Proposal for a directive
Article 22 – paragraph 2 – point a

Text proposed by the Commission

(a) all buildings as well as any other type of immovable property and structure in use for the business: **28** years;

Amendment

(a) all buildings as well as any other type of immovable property and structure in use for the business, **including industrial buildings and structures: 20** years;

Or. en

Amendment 225
Isabel Benjumea Benjumea

Proposal for a directive
Article 22 – paragraph 2 – point a

Text proposed by the Commission

a) all buildings as well as any other type of immovable property and structure in use for the business: **28** years;

Amendment

(a) all buildings as well as any other type of immovable property and structure in use for the business: **30** years;

Or. es

Amendment 226
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 22 – paragraph 2 – point a

Text proposed by the Commission

(a) all buildings as well as any other type of immovable property and structure in use for the business: **28** years;

Amendment

(a) all buildings as well as any other type of immovable property and structure in use for the business: **30** years;

Amendment 227
Manon Aubry, José Gusmão

Proposal for a directive
Article 22 – paragraph 2 – point b

Text proposed by the Commission

(b) all other fixed tangible assets: their useful life as assessed in accordance with the acceptable accounting standard in the Union referred to in Article 7;

Amendment

(b) all other fixed tangible assets: their useful life as assessed in accordance with the acceptable accounting standard in the Union referred to in Article 7, **but not less than 5 years.**

Amendment 228
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 22 – paragraph 2 – point b

Text proposed by the Commission

(b) all other fixed tangible assets: their useful life as assessed in accordance with the acceptable accounting standard in the Union referred to in Article 7;

Amendment

(b) all other fixed tangible assets: their useful life as assessed in accordance with the acceptable accounting standard in the Union referred to in Article 7, **but not less than 10 years.**

Amendment 229
Eleni Stavrou

Proposal for a directive
Article 22 – paragraph 2 – point b

Text proposed by the Commission

(b) all other fixed tangible assets: their useful life as assessed in accordance with

Amendment

(b) all other fixed tangible assets: their useful life as assessed in accordance with

the acceptable accounting standard in the Union referred to in Article 7;

the acceptable accounting standard in the Union referred to in Article 7 *to its entirety, without providing any additional time limitations*;

Or. en

Amendment 230

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 22 – paragraph 2 – point c

Text proposed by the Commission

(c) fixed intangible assets, including acquired goodwill: the period for which the asset enjoys legal protection or for which the right has been granted and, where that period cannot be determined, **5** years.

Amendment

(c) fixed intangible assets, including acquired goodwill: the period for which the asset enjoys legal protection or for which the right has been granted and, where that period cannot be determined, **20** years.

Or. en

Amendment 231

Manon Aubry, José Gusmão

Proposal for a directive

Article 22 – paragraph 2 – point c

Text proposed by the Commission

(c) fixed intangible assets, including acquired goodwill: the period for which the asset enjoys legal protection or for which the right has been granted and, where that period cannot be determined, **5** years.

Amendment

(c) fixed intangible assets, including acquired goodwill: the period for which the asset enjoys legal protection or for which the right has been granted and, where that period cannot be determined, **20** years.

Or. en

Amendment 232

Eleni Stavrou

Proposal for a directive

Article 22 – paragraph 2 – point c

Text proposed by the Commission

(c) fixed intangible assets, including acquired goodwill: the period for which the asset enjoys legal protection or for which the right has been granted and, where that period cannot be determined, 5 years.

Amendment

(c) fixed intangible assets, including acquired goodwill: the period for which the asset enjoys legal protection or for which the right has been granted and, where that period cannot be determined, 3 years.

Or. en

Amendment 233

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 22 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. By way of derogation from the second paragraph fixed assets with a large carbon footprint, both in their production and in their use, shall be depreciated up until half their market value.

The Commission shall, by means of implementing act laying down the criteria to define the values constituting a large carbon footprint. The rules shall be updated every 3 years. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73.

Or. en

Amendment 234

Eleni Stavrou

Proposal for a directive

Article 22 – paragraph 4

Text proposed by the Commission

Amendment

4. *Depreciation shall be deducted on a monthly basis as from the month of entry into use of the fixed asset. No depreciation shall be deducted in the month of disposition of the asset.* *deleted*

Or. en

Amendment 235

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 22 – paragraph 5

Text proposed by the Commission

5. The value for tax purposes of a fixed asset that is disposed of, or damaged to an extent that it can no longer be used for the business, and the value for tax purposes of any improvement costs incurred in relation to that asset shall be deducted from the preliminary tax result in the month of the disposition or damage.

Amendment

5. The value for tax purposes of a fixed asset that is disposed of, or damaged to an extent that it can no longer be used for the business, and the value for tax purposes of any improvement costs incurred in relation to that asset shall be deducted from the preliminary tax result in the month of the disposition or damage. ***Member States are not allowed to grant further entitlement to depreciate to a BEFIT group member other than those specified in this Section.***

Or. en

Amendment 236

Evelyn Regner, Jonás Fernández, Aurore Lalucq, Joachim Schuster, Pedro Silva Pereira, René Repasi, Paul Tang

Proposal for a directive

Article 22 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission may adopt acts laying down temporary rules regarding accelerated depreciation for the cost of eligible assets and improvements to existing assets which qualifies as

environmentally sustainable within the meaning of Regulation 2020/852 on the establishment of a framework to facilitate sustainable investment. Those delegated acts shall be adopted in accordance with the examination procedure referred to in Article 74 (2).

Or. en

Amendment 237
Manon Aubry, José Gusmão

Proposal for a directive
Article 22 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States are not allowed to grant further entitlement to depreciate to a BEFIT group member other than those specified in this Section.

Or. en

Amendment 238
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 22 a (new)

Text proposed by the Commission

Amendment

Article 22a

Accelerated Green and Social depreciation rules

1. By way of derogation from Article 22, fixed assets acquired by BEFIT group members in the Union or in low-income countries that contribute significantly to the climate goals and the UN 2030 Sustainable Development Goals shall be subject to accelerated depreciation rules at Member State level.

2. *The Commission shall, by means of implementing act laying down the necessary framework and criteria to operationalize paragraph 1. The rules shall be updated every 3 years. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73.*

3. *Member States shall inform the Commission on their existing accelerated depreciation rules at national level, according to paragraph 1 and 2, three months after this Directive starts to apply and in accordance to the obligation in Article 48, paragraph 2.*

4. *When this Directive starts to apply, Member States shall inform the Commission on their new accelerated depreciation rules 6-months prior to their entry into force at national level and in accordance to the obligation in Article 48, paragraph 2.*

Or. en

Amendment 239
Eleni Stavrou

Proposal for a directive
Article 25 – paragraph 1

Text proposed by the Commission

1. Acquisition costs, construction costs or improvement costs, together with the date of entry into use after acquisition, construction or improvement, shall be recorded in *a fixed asset register for each fixed asset separately.*

Amendment

1. Acquisition costs, construction costs or improvement costs, together with the date of entry into use after acquisition, construction or improvement, shall be recorded in *accordance to the legislation of each Member State.*

Or. en

Amendment 240
Eleni Stavrou

Proposal for a directive
Article 25 – paragraph 2

Text proposed by the Commission

Amendment

2. When a fixed asset is disposed of, details of the disposition, including the date thereof, and any proceeds or compensation received as a result of such disposition, shall be recorded in the fixed asset register. *deleted*

Or. en

Amendment 241
Eleni Stavrou

Proposal for a directive
Article 25 – paragraph 3

Text proposed by the Commission

Amendment

3. The fixed asset register shall be kept in a manner that provides sufficient information, including depreciation data, to calculate the preliminary tax result and shall include at least the following information: *deleted*

- (a) identification of the asset;**
- (b) month of entry into use;**
- (c) depreciation base;**
- (d) useful life in accordance with Article 22;**
- (e) depreciation accumulated during the current tax period;**
- (f) total accumulated depreciation;**
- (g) depreciation base net of total accumulated depreciation and net of exceptional decreases in value;**
- (h) month of discontinuation or resumption of the charging of tax depreciation;**

(i) month of disposition.

Or. en

Amendment 242
Eleni Stavrou

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

Text proposed by the Commission

Amendment

(a) identification of the asset; deleted

Or. en

Amendment 243
Eleni Stavrou

Proposal for a directive
Article 25 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) month of entry into use; deleted

Or. en

Amendment 244
Eleni Stavrou

Proposal for a directive
Article 25 – paragraph 3 – point c

Text proposed by the Commission

Amendment

(c) depreciation base; deleted

Or. en

Amendment 245

Eleni Stavrou

**Proposal for a directive
Article 25 – paragraph 3 – point d**

Text proposed by the Commission

Amendment

(d) *useful life in accordance with Article 22;* ***deleted***

Or. en

**Amendment 246
Eleni Stavrou**

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

Text proposed by the Commission

Amendment

(e) *depreciation accumulated during the current tax period;* ***deleted***

Or. en

**Amendment 247
Eleni Stavrou**

**Proposal for a directive
Article 25 – paragraph 3 – point f**

Text proposed by the Commission

Amendment

(f) *total accumulated depreciation;* ***deleted***

Or. en

**Amendment 248
Eleni Stavrou**

**Proposal for a directive
Article 25 – paragraph 3 – point g**

Text proposed by the Commission

Amendment

(g) depreciation base net of total accumulated depreciation and net of exceptional decreases in value; *deleted*

Or. en

Amendment 249

Eleni Stavrou

Proposal for a directive

Article 25 – paragraph 3 – point h

Text proposed by the Commission

Amendment

(h) month of discontinuation or resumption of the charging of tax depreciation; *deleted*

Or. en

Amendment 250

Eleni Stavrou

Proposal for a directive

Article 25 – paragraph 3 – point i

Text proposed by the Commission

Amendment

(i) month of disposition. *deleted*

Or. en

Amendment 251

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 27 – paragraph 1 – point a a (new)

Text proposed by the Commission

Amendment

(aa) fixed assets used in fossil fuel-

related activities;

Or. en

Amendment 252

Isabel Benjumea Benjumea

Proposal for a directive

Article 27 – paragraph 1 c (new)

Text proposed by the Commission

Amendment

(c) all intangible assets for which the useful life cannot be defined.

Or. es

Amendment 253

Manon Aubry, José Gusmão

Proposal for a directive

Article 37 – paragraph 3 – subparagraph 4

Text proposed by the Commission

Amendment

Where the share of the BEFIT tax base that has been allocated to a BEFIT group member in a fiscal year is not sufficient to fully deduct the amounts referred to in the first and third subparagraphs, the unrelieved amounts shall be carried forward and offset by the BEFIT group member against its share of the BEFIT tax base in the following fiscal years. ***deleted***

Or. en

Amendment 254

Manon Aubry, José Gusmão

Proposal for a directive

Article 38

Text proposed by the Commission

Amendment

Article 38

deleted

Pre-entry losses

Where a company or a permanent establishment enters a BEFIT group, any unrelieved losses incurred before the entry date, in accordance with the corporate tax law of the Member State of its tax residence or location respectively, shall be deducted from its share of the BEFIT tax base as determined in accordance with Chapter III.

Or. en

Amendment 255

Eleni Stavrou

Proposal for a directive

Article 38 – paragraph 1

Text proposed by the Commission

Amendment

Where a company or a permanent establishment enters a BEFIT group, any unrelieved losses incurred before the entry date, in accordance with the corporate tax law of the Member State of its tax residence or location respectively, shall be deducted from its share of the BEFIT tax base as determined in accordance with Chapter III.

Where a company or a permanent establishment enters a BEFIT group, any unrelieved losses incurred before the entry date, in accordance with the corporate tax law of the Member State of its tax residence or location respectively, shall be deducted from its share of the BEFIT tax base as determined in accordance with Chapter III, ***to the extent that they are deductible under the corporate tax law of the Member State in which the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment.***

Or. en

Amendment 256

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 38 – paragraph 1

Text proposed by the Commission

Where a company or a permanent establishment enters a BEFIT group, any unrelieved losses incurred before the entry date, in accordance with the corporate tax law of the Member State of its tax residence or location respectively, shall be deducted from its share of the BEFIT tax base as determined in accordance with Chapter III.

Amendment

Where a company or a permanent establishment enters a BEFIT group, any unrelieved losses incurred **up until five years** before the entry date, in accordance with the corporate tax law of the Member State of its tax residence or location respectively, shall be deducted from its share of the BEFIT tax base as determined in accordance with Chapter III.

Or. en

Amendment 257
Isabel Benjumea Benjumea

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

Text proposed by the Commission

Notwithstanding Article 9, where, as a result of a disposition of shares, a BEFIT group member leaves the BEFIT group and during that or the previous fiscal year, this BEFIT group member acquired, in an intra-BEFIT group transaction, one or more fixed assets, **an** amount corresponding to the gain or loss arising from the intra-BEFIT group disposition of these fixed assets shall be included in the financial accounting net income or loss of the BEFIT group member which owned the assets prior to the intra-BEFIT group disposition.

Amendment

Notwithstanding Article 9, where, as a result of a disposition of shares, a BEFIT group member leaves the BEFIT group and during that or the previous fiscal year, this BEFIT group member acquired, in an intra-BEFIT group transaction, one or more fixed assets, **the** amount corresponding to the gain or loss arising from the intra-BEFIT group disposition of these fixed assets shall be included in the financial accounting net income or loss of the BEFIT group member which owned the assets prior to the intra-BEFIT group disposition.

Or. es

Amendment 258
Manon Aubry, José Gusmão

Proposal for a directive
Article 41 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The first subparagraph shall not apply if the BEFIT group member demonstrates that the intra-BEFIT group transaction was carried out for valid commercial reasons.

deleted

Or. en

Amendment 259
Isabel Benjumea Benjumea

Proposal for a directive
Article 41 – paragraph 1 – subparagraph 2

Text proposed by the Commission

Amendment

The first subparagraph shall not apply if the BEFIT group member demonstrates that the intra-BEFIT group transaction was carried out for valid commercial reasons.

The first subparagraph shall not apply if the BEFIT group member demonstrates that the intra-BEFIT group transaction was carried out for valid commercial reasons *and within the parameters of the free market.*

Or. es

Amendment 260
Manon Aubry, José Gusmão

Proposal for a directive
Article 42 – title

Text proposed by the Commission

Amendment

Computation of the BEFIT tax base

Computation of the BEFIT *EU* tax base

Or. en

Amendment 261

Manon Aubry, José Gusmão

**Proposal for a directive
Article 42 – paragraph 2 – introductory part**

Text proposed by the Commission

2. Where the BEFIT tax base in a given year is:

Amendment

2. Where the BEFIT **EU** tax base in a given year is:

Or. en

**Amendment 262
Manon Aubry, José Gusmão**

**Proposal for a directive
Article 42 – paragraph 2 – point a**

Text proposed by the Commission

(a) a positive amount, the profit shall be allocated in accordance with Article 45;

Amendment

(a) a positive amount, the profit shall be allocated in accordance with **the rule set under Article 45a**;

Or. en

**Amendment 263
Manon Aubry, José Gusmão**

**Proposal for a directive
Article 42 – paragraph 2 – point b**

Text proposed by the Commission

(b) **a negative amount, the loss shall be carried forward and shall be set off against the next positive BEFIT tax base.**

Amendment

deleted

Or. en

**Amendment 264
Kira Marie Peter-Hansen, Claude Gruffat**

Proposal for a directive
Article 42 – paragraph 2 – point b

Text proposed by the Commission

(b) a negative amount, the loss shall be carried forward and shall be set off against the next positive BEFIT tax base.

Amendment

(b) a negative amount, the loss shall be carried forward **for a maximum of five years** and shall be set off against the next positive BEFIT tax base.

Or. en

Amendment 265
Markus Ferber

Proposal for a directive
Article 42 – paragraph 2 – point b

Text proposed by the Commission

(b) a negative amount, the loss shall be carried forward and shall be set off against the next positive BEFIT tax base.

Amendment

(b) a negative amount, the loss shall be carried forward and shall be set off against the next positive BEFIT tax base **once it occurs**.

Or. en

Justification

There should be no time restrictions for the carry-forward.

Amendment 266
Manon Aubry, José Gusmão

Proposal for a directive
Article 42 a (new)

Text proposed by the Commission

Amendment

Article 42a

Computation of the BEFIT Global tax base

1. Where possible, all BEFIT groups shall declare a global consolidated tax base, aggregating the financial result of

all group members, located in Member States and in third-country jurisdictions.

2. The BEFIT EU tax base described under article 42 shall be corrected upward accordingly in case the amount resulting from paragraph 1 is higher.

3. Where the BEFIT tax base in a given year is a positive amount, the profit shall be allocated in accordance with the rule set under Article 45a.

Or. en

Amendment 267

Manon Aubry, José Gusmão

Proposal for a directive

Article 43 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall not impose withholding taxes or any other source taxation on intra-BEFIT group transactions unless the beneficial owner of the payment is not a BEFIT group member.

deleted

Or. en

Amendment 268

Manon Aubry, José Gusmão

Proposal for a directive

Article 44 – paragraph 1

Text proposed by the Commission

Amendment

1. Where a BEFIT group member derives income that has been taxed in another Member State or in a third country, a tax credit *shall* be granted in line with the applicable double taxation convention or its national law and shared amongst the

1. Where a BEFIT group member derives income that has been taxed in another Member State or in a third country, a tax credit *can* be granted in line with the applicable double taxation convention or its national law and shared amongst the

BEFIT group members using the baseline allocation method referred to in Article 45.

BEFIT group members using the baseline allocation method referred to in Article 45, *as long as a minimum level of effective taxation is guaranteed.*

Or. en

Amendment 269
Manon Aubry, José Gusmão

Proposal for a directive
Article 45

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 270
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 45 – title

Text proposed by the Commission

Amendment

Transition allocation rule

Formulary allocation rule

Or. en

Amendment 271
Eva Maria Poptcheva

Proposal for a directive
Article 45 – title

Text proposed by the Commission

Amendment

Transition allocation rule

Allocation rule

Or. en

Amendment 272
Eva Maria Poptcheva

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

Text proposed by the Commission

For each fiscal year between 1 July 2028 and 30 June 2035 at the latest (the ‘transition period’), the BEFIT tax base shall be allocated to the BEFIT group members in accordance with the baseline allocation percentage.

Amendment

The BEFIT tax base shall be allocated to the BEFIT group members in ***each tax year on the basis of a formula that gives equal weight to the factors of sales, labour, and assets according to the following Articles:***

Share A = [SalesA / 3*SalesGroup + 1/3 * (PayrollA / 2*PayrollGroup + No.employeesA / 2*No.employeesGroup) + AssetsA / 3*AssetsGroup] * Con'd Tax Base

Or. en

Amendment 273
Gilles Boyer, Martin Hlaváček, Olivier Chastel, Stéphanie Yon-Courtin

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

Text proposed by the Commission

For each fiscal year ***between 1 July 2028 and 30 June 2035 at the latest*** (the ‘transition period’), the BEFIT tax base shall be allocated to the BEFIT group members in accordance with the baseline allocation percentage.

Amendment

For each fiscal year ***until the Multilateral Convention to implement amount A of Pillar One of the OECD agreement enters into force in all EU Member States*** (the ‘transition period’), the BEFIT tax base shall be allocated to the BEFIT group members in accordance with the baseline allocation percentage.

Or. en

Amendment 274
Kira Marie Peter-Hansen, Claude Gruffat

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

Text proposed by the Commission

For each fiscal year **between 1 July 2028 and 30 June 2035 at the latest (the ‘transition period’)**, the BEFIT tax base shall be allocated to the BEFIT group members **in accordance with the baseline allocation percentage**.

Amendment

For each fiscal year, the BEFIT tax base shall be allocated to the BEFIT group members **on the basis of a formula that gives equal weight to two factors: number of employees and unrelated third party revenues**.

Or. en

Amendment 275
Eleni Stavrou

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

Text proposed by the Commission

For each fiscal year between 1 July **2028** and 30 June 2035 at the latest (the ‘transition period’), the BEFIT tax base shall be allocated to the BEFIT group members in accordance with the baseline allocation percentage.

Amendment

For each fiscal year between 1 July **2030** and 30 June 2035 at the latest (the ‘transition period’), the BEFIT tax base shall be allocated to the BEFIT group members in accordance with the baseline allocation percentage.

Or. en

Amendment 276
Kira Marie Peter-Hansen

Proposal for a directive
Article 45 – paragraph 1 – subparagraph 2

Text proposed by the Commission

For groups that become subject to this Directive after the end of the first fiscal year when this Directive starts to apply, the transition period referred to in the first subparagraph shall be terminated by

Amendment

deleted

30 June 2035 at the latest.

Or. en

Amendment 277

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 1 – subparagraph 2

Text proposed by the Commission

For groups that become subject to this Directive after the end of the first fiscal year when this Directive starts to apply, the transition period referred to in the first subparagraph shall be terminated by 30 June 2035 at the latest.

Amendment

The following rules shall apply:

(a) The consolidated tax base of a BEFIT group shall be shared only where it is positive.

(b) The calculations for sharing the consolidated tax base shall be done at the end of the tax year of the BEFIT group.

(c) A period of 15 days or more in a calendar month shall be considered as a whole month.

(d) When determining the apportioned share of a BEFIT group member, equal weight shall be given to the factors of sales, labour, and assets.

Or. en

Amendment 278

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 2 – introductory part

Text proposed by the Commission

2. The *baseline allocation percentage*

Amendment

2. The *labour factor shall consist, as*

for each BEFIT group member shall be *the result* of the *following computation*:

to one half, of the total amount of the payroll of a BEFIT group member as its numerator and the total amount of the payroll of the BEFIT group as its denominator, and as to the other half, of the number of employees of a BEFIT group member as its numerator and the number of employees of the BEFIT group as its denominator. Where an individual employee is included in the labour factor of a BEFIT group member, the payroll relating to that employee shall be allocated to the labour factor of the same BEFIT group member. The number of employees shall be measured at the end of the tax year and the definition of an employee shall be determined by the national law of the Member State where the employment is exercised.

Or. en

Amendment 279
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 1

Text proposed by the Commission

Amendment

Baseline allocation = $\frac{\text{Taxable result of a BEFIT group member}}{\text{Total taxable result of the BEFIT group}}$

deleted

Or. en

Amendment 280
Kira Marie Peter-Hansen

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Baseline allocation = $\frac{\text{Taxable result of a BEFIT group member}}{\text{Total taxable result of the BEFIT group}}$

Share A = $\left(\frac{1 \text{ Unrelated third party revenues}^A}{2 \text{ Unrelated third party revenues}_{Group}} + \frac{1 \text{ No.}}{2 \text{ No. E}}$

Amendment 281
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Where:

deleted

(a) the taxable result of a BEFIT group member shall be the average of the taxable results in the three previous fiscal years.

In the first fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined in accordance with the national corporate tax rules of the Member State in which the BEFIT group member is resident for tax purposes or is situated in the form of a permanent establishment.

In the second fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined, for the first fiscal year in which a BEFIT group is subject to this Directive, in accordance with Chapter II of this Directive and for the two preceding fiscal years, in accordance with the national rules of the respective Member State.

In the third fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined, for the first two fiscal years in which a BEFIT group is subject to this Directive, in accordance with Chapter II of this Directive and for the fiscal year that immediately precedes, in accordance with the national rules of the respective Member State.

As from the fourth fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined

in accordance with Chapter II of this Directive.

(b) the total taxable result of the BEFIT group shall be the addition of the average of the taxable results, as referred to in point (a), of all BEFIT group members in the three previous fiscal years.

Or. en

Amendment 282

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 2 – subparagraph 2

Text proposed by the Commission

Amendment

Where:

deleted

(a) the taxable result of a BEFIT group member shall be the average of the taxable results in the three previous fiscal years.

In the first fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined in accordance with the national corporate tax rules of the Member State in which the BEFIT group member is resident for tax purposes or is situated in the form of a permanent establishment.

In the second fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined, for the first fiscal year in which a BEFIT group is subject to this Directive, in accordance with Chapter II of this Directive and for the two preceding fiscal years, in accordance with the national rules of the respective Member State.

In the third fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined, for the first two fiscal years in which a

BEFIT group is subject to this Directive, in accordance with Chapter II of this Directive and for the fiscal year that immediately precedes, in accordance with the national rules of the respective Member State.

As from the fourth fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined in accordance with Chapter II of this Directive.

(b) the total taxable result of the BEFIT group shall be the addition of the average of the taxable results, as referred to in point (a), of all BEFIT group members in the three previous fiscal years.

Or. en

Amendment 283
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 2 – point a – paragraph 1

Text proposed by the Commission

Amendment

the taxable result of a BEFIT group member shall be the average of the taxable results in the three previous fiscal years.

deleted

Or. en

Amendment 284
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 2 – point a – paragraph 2

Text proposed by the Commission

Amendment

In the first fiscal year in which a BEFIT

deleted

group is subject to this Directive, those taxable results shall be determined in accordance with the national corporate tax rules of the Member State in which the BEFIT group member is resident for tax purposes or is situated in the form of a permanent establishment.

Or. en

Amendment 285
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 2 – point a – paragraph 3

Text proposed by the Commission

Amendment

In the second fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined, for the first fiscal year in which a BEFIT group is subject to this Directive, in accordance with Chapter II of this Directive and for the two preceding fiscal years, in accordance with the national rules of the respective Member State.

deleted

Or. en

Amendment 286
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 2 – point a – paragraph 4

Text proposed by the Commission

Amendment

In the third fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined, for the first two fiscal years in which a BEFIT group is subject to this Directive, in accordance with Chapter II of this Directive and for the fiscal year that

deleted

immediately precedes, in accordance with the national rules of the respective Member State.

Or. en

Amendment 287
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 2 – point a – paragraph 5

Text proposed by the Commission

Amendment

As from the fourth fiscal year in which a BEFIT group is subject to this Directive, those taxable results shall be determined in accordance with Chapter II of this Directive. *deleted*

Or. en

Amendment 288
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 2 – subparagraph 2 – point b

Text proposed by the Commission

Amendment

(b) the total taxable result of the BEFIT group shall be the addition of the average of the taxable results, as referred to in point (a), of all BEFIT group members in the three previous fiscal years. *deleted*

Or. en

Amendment 289
Eleni Stavrou

Proposal for a directive

Article 45 – paragraph 2 – subparagraph 2 – point b

Text proposed by the Commission

(b) the total taxable result of the BEFIT group shall be the addition of the average of the taxable results, as referred to in point (a) of all BEFIT group members in the three previous fiscal years.

Amendment

(b) the total taxable result of the BEFIT group shall be the addition of the average of the taxable results, as referred to in point (a) of all BEFIT group members in the three previous fiscal years, ***excluding the taxable results of BEFIT group members whose average taxable result for the three previous fiscal years is negative.***

Or. en

Amendment 290

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 2 – subparagraph 3

Text proposed by the Commission

For the purpose of this paragraph, a BEFIT group member with a taxable result that is negative shall have a baseline allocation percentage set at zero.

Amendment

deleted

Or. en

Amendment 291

Gilles Boyer, Martin Hlaváček, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive

Article 45 – paragraph 2 – subparagraph 3 – point 1 (new)

Text proposed by the Commission

Amendment

(1) Once the Multilateral Convention implementing amount A of Pillar One of the OECD agreement enters into force in all EU Member States, the BEFIT tax base should be allocated to the BEFIT group members in each tax year in accordance with the profit allocation rules

defined in the Multilateral Convention on Pillar one.

Or. en

Amendment 292

Kira Marie Peter-Hansen

Proposal for a directive

Article 45 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission shall, by means of delegated acts laying down the necessary criteria identifying the two factors, including detailed rules on the calculation of these factors taking into account specific sectors such as digital service providers and international transport. Those delegated acts shall be adopted in accordance with the examination procedure referred to in Article 74.

Or. en

Amendment 293

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 45 – paragraph 3

Text proposed by the Commission

Amendment

3. For the purpose of paragraph 2, Member States shall structure their risk assessment framework for the pricing of intra-BEFIT group transactions as follows:

deleted

(a) low-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by less than 10% compared to the

average expense or income of the previous three fiscal years from intra-BEFIT group transactions;

(b) high-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by 10% or more compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions.

Or. en

Amendment 294

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 3 – introductory part

Text proposed by the Commission

3. *For the purpose of paragraph 2, Member States shall structure their risk assessment framework for the pricing of intra-BEFIT group transactions as follows:*

Amendment

3. *Employees shall be included in the labour factor of the group member from which they receive remuneration. By way of derogation, where employees physically exercise their employment under the control and responsibility of an entity other than that from which they receive remuneration, those employees as well as the amount of payroll related to them shall be included in the labour factor of the former entity.*

This rule shall only apply where all of the following conditions are met:

(a) the employment lasts for an uninterrupted period of at least three months;

(b) those employees represent at least 5 % of the overall number of employees of the group member from which they receive remuneration.

Employees shall include persons who, although not employed directly by a BEFIT group member, perform tasks

similar to those performed by employees.

Payroll shall include all costs of salaries, wages, bonuses and all other employee compensation, including related pension and social security costs borne by the employer as well as expenses of the employer corresponding to the cost of persons as referred to in this paragraph. Payroll costs shall be valued at the amount of expenses that are treated as deductible by the employer in a tax year.

Or. en

Amendment 295
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) low-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by less than 10% compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions;

deleted

Or. en

Amendment 296
Markus Ferber

Proposal for a directive
Article 45 – paragraph 3 – point a

Text proposed by the Commission

Amendment

(a) low-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by less

(a) low-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by less

than **10%** compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions;

than **15%** compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions;

Or. en

Amendment 297

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) high-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by 10% or more compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions.

deleted

Or. en

Amendment 298

Markus Ferber

Proposal for a directive

Article 45 – paragraph 3 – point b

Text proposed by the Commission

Amendment

(b) high-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by 10% or more compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions.

(b) high-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by 15% or more compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions.

Or. en

Amendment 299

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 45 – paragraph 4

Text proposed by the Commission

Amendment

4. Member States shall take the appropriate measures in order to structure their approach to risk compliance in accordance with the following principles:

deleted

(a) low-risk zone: the competent authorities of the Member States concerned shall presume that the pricing of intra-BEFIT group transactions of a specific BEFIT group member is consistent with the arm's length principle;

(b) high-risk zone: the competent authorities of the Member States concerned shall presume that the pricing of intra-BEFIT group transactions of a specific BEFIT group member does not comply with the arm's length principle and the part of the increase which goes beyond 10% shall not be recognized for the purpose of computing the baseline allocation percentage of that BEFIT group member.

Notwithstanding the rule set out in the first sub-paragraph of point (b), a BEFIT group member shall be entitled to provide evidence to the competent authority of the Member State in which it is resident for tax purposes or situated in the form of a permanent establishment that the pricing of the relevant intra-BEFIT group transactions is set in accordance with the arm's length principle. In such case, the full amount of expense from the intra-BEFIT group transactions in question, as evidenced, shall be recognized for the purpose of computing the baseline allocation percentage of that BEFIT group member.

Or. en

Amendment 300
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 4 – subparagraph 1 – introductory part

Text proposed by the Commission

Amendment

Member States shall take the appropriate measures in order to structure their approach to risk compliance in accordance with the following principles:

The asset factor shall consist of the average value of all fixed tangible assets owned, rented or leased by a BEFIT group member as its numerator and the average value of all fixed tangible assets owned, rented or leased by the group as its denominator. In the five years that follow a taxpayer joining an existing or new BEFIT group, its asset factor shall also include the total amount of costs incurred for research, development, marketing, and advertising by the taxpayer over the six years that preceded its joining the group.

Or. en

Amendment 301
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 4 – subparagraph 1 – point a

Text proposed by the Commission

Amendment

(a) low-risk zone: the competent authorities of the Member States concerned shall presume that the pricing of intra-BEFIT group transactions of a specific BEFIT group member is consistent with the arm's length principle;

deleted

Or. en

Amendment 302
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 4 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) high-risk zone: the competent authorities of the Member States concerned shall presume that the pricing of intra-BEFIT group transactions of a specific BEFIT group member does not comply with the arm's length principle and the part of the increase which goes beyond 10% shall not be recognized for the purpose of computing the baseline allocation percentage of that BEFIT group member. **deleted**

Or. en

Amendment 303
Markus Ferber

Proposal for a directive
Article 45 – paragraph 4 – subparagraph 1 – point b

Text proposed by the Commission

Amendment

(b) high-risk zone: the competent authorities of the Member States concerned shall presume that the pricing of intra-BEFIT group transactions of a specific BEFIT group member does not comply with the arm's length principle and the part of the increase which goes beyond **10%** shall not be recognized for the purpose of computing the baseline allocation percentage of that BEFIT group member.

(b) high-risk zone: the competent authorities of the Member States concerned shall presume that the pricing of intra-BEFIT group transactions of a specific BEFIT group member does not comply with the arm's length principle and the part of the increase which goes beyond **15%** shall not be recognized for the purpose of computing the baseline allocation percentage of that BEFIT group member.

Or. en

Amendment 304
Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 4 – subparagraph 2

Text proposed by the Commission

Notwithstanding the rule set out in the first sub-paragraph of point (b), a BEFIT group member shall be entitled to provide evidence to the competent authority of the Member State in which it is resident for tax purposes or situated in the form of a permanent establishment that the pricing of the relevant intra-BEFIT group transactions is set in accordance with the arm's length principle. In such case, the full amount of expense from the intra-BEFIT group transactions in question, as evidenced, shall be recognized for the purpose of computing the baseline allocation percentage of that BEFIT group member.

Amendment

Without prejudice to Article 22(2) and (3), an asset shall be included in the asset factor of its economic owner. Where the economic owner cannot be identified, the asset shall be included in the asset factor of the legal owner. However, an asset that is not effectively used by its economic owner shall be included in the factor of the BEFIT group member that effectively uses that asset, provided that the asset represents more than 5 % of the value for tax purposes of all fixed tangible assets of the BEFIT group member that effectively uses it. Except in the case of leases between BEFIT group members, leased assets shall be included in the asset factor of the BEFIT group member that is the lessor or the lessee of the asset. The same shall apply to rented assets.

Or. en

Amendment 305

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 4 – subparagraph 2 a (new)

Text proposed by the Commission

Amendment

Regarding valuation, the following rules shall apply:

(a) Land and other non-depreciable fixed tangible assets shall be valued at their original cost.

(b) An individually depreciable fixed tangible asset shall be valued at the average of its value for tax purposes at the beginning and at the end of a tax year. Where, as a result of one or more intra-group transactions, an individually depreciable fixed tangible asset is

included in the asset factor of a BEFIT group member for less than a tax year, the value to be taken into account shall be calculated having regard to the number of months that the asset was included in the asset factor of that BEFIT group member.

(c) The renter or lessee of an asset of which it is not the economic owner shall value that rented or leased asset at eight times the net annual rental or lease payment due, less any amounts receivable from sub-rentals or sub-leases. A BEFIT group member renting out or leasing an asset of which it is not its economic owner shall value that rented or leased asset at eight times the net annual rental or lease payment due.

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

Or. en

Amendment 306
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 5

Text proposed by the Commission

5. Notwithstanding Article 13(2), the exceeding borrowing costs as referred to in Article 2 of Council Directive (EU) 2016/1164 which arise from a transaction between BEFIT group members shall not

Amendment

5. The sales factor shall consist of the total sales allocated to a BEFIT group member as its numerator and the total sales of the BEFIT group as its denominator.

be recognized for the purpose of computing the baseline allocation percentage of the BEFIT group member which incurs such costs.

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

Supplies of services shall be included in the sales factor of the BEFIT group member located in the Member State where the services are physically carried out or actually supplied.

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

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

Or. en

Amendment 307
Isabel Benjumea Benjumea

Proposal for a directive
Article 45 – paragraph 5

Text proposed by the Commission

5. Notwithstanding Article 13(2), the exceeding borrowing costs as referred to in Article 2 of Council Directive (EU) 2016/1164 which arise from a transaction between BEFIT group members shall not be recognized for the purpose of computing the baseline allocation percentage of the BEFIT group member which incurs such costs.

Amendment

5. Notwithstanding Article 13(2), the exceeding borrowing costs as referred to in Article 2 of Council Directive (EU) 2016/1164 which arise from a transaction between BEFIT group members shall not be recognized for the purpose of computing the baseline allocation percentage of the BEFIT group member which incurs such costs. ***Member States shall take appropriate measures to encourage undertakings to reduce these risks.***

Or. es

Amendment 308

Kira Marie Peter-Hansen, Claude Gruffat

**Proposal for a directive
Article 45 – paragraph 6**

Text proposed by the Commission

6. If the structure of the BEFIT group changes during the transition period referred to in paragraph 1 due to new members joining the group or members leaving the group, the baseline allocation percentage shall be re-computed in accordance with paragraph 2. For each BEFIT group member, the BEFIT tax base shall be allocated in accordance with the new baseline allocation percentage for the time that remains until the end of this period, unless subsequent changes in the structure of the BEFIT group require a new re-computation of the baseline allocation percentage.

Amendment

deleted

Or. en

Amendment 309

Eva Maria Poptcheva

**Proposal for a directive
Article 45 – paragraph 6**

Text proposed by the Commission

6. If the structure of the BEFIT group changes during the transition period referred to in paragraph 1 due to new members joining the group or members leaving the group, the baseline allocation percentage shall be re-computed in accordance with paragraph 2. For each BEFIT group member, the BEFIT tax base shall be allocated in accordance with the new baseline allocation percentage for the time that remains until the end of this period, unless subsequent changes in the structure of the BEFIT group require a new re-computation of the baseline allocation percentage.

Amendment

6. The Commission is empowered to adopt delegated acts in accordance with Article 74 to supplement this Directive by laying down detailed rules on the calculation of the labour, asset and sales factors, the allocation of employees and payroll, assets and sales to the respective factor and the valuation of assets.

Or. en

Amendment 310

Kira Marie Peter-Hansen, Claude Gruffat

**Proposal for a directive
Article 45 – paragraph 7**

Text proposed by the Commission

7. If the structure of the BEFIT group changes during the transition period referred to in paragraph 1 due to the creation of one or more new companies which qualify as BEFIT group members, the rules for allocating the BEFIT tax base, as laid down in paragraph 2, shall not apply to the new BEFIT group members in the first fiscal year. For subsequent fiscal years until the end of that transition period, the baseline allocation percentage of the new BEFIT group members shall be computed in

Amendment

deleted

accordance with paragraph 2.

Or. en

Amendment 311

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 7

Text proposed by the Commission

Amendment

7. *If the structure of the BEFIT group changes during the transition period referred to in paragraph 1 due to the creation of one or more new companies which qualify as BEFIT group members, the rules for allocating the BEFIT tax base, as laid down in paragraph 2, shall not apply to the new BEFIT group members in the first fiscal year. For subsequent fiscal years until the end of that transition period, the baseline allocation percentage of the new BEFIT group members shall be computed in accordance with paragraph 2.* *deleted*

Or. en

Amendment 312

Eva Maria Poptcheva

Proposal for a directive

Article 45 – paragraph 8

Text proposed by the Commission

Amendment

8. *If a group becomes subject to the rules of this Directive later than 1 July 2028, the baseline allocation shall be computed in accordance with paragraph 2. By way of derogation from paragraphs 1 and 2, the BEFIT tax base shall be allocated to the BEFIT group members over the remaining part of the transition* *deleted*

period referred to in paragraph 1.

Or. en

Amendment 313

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 45 – paragraph 8

Text proposed by the Commission

Amendment

8. If a group becomes subject to the rules of this Directive later than 1 July 2028, the baseline allocation shall be computed in accordance with paragraph 2. By way of derogation from paragraphs 1 and 2, the BEFIT tax base shall be allocated to the BEFIT group members over the remaining part of the transition period referred to in paragraph 1.

deleted

Or. en

Amendment 314

Eleni Stavrou

Proposal for a directive

Article 45 – paragraph 8

Text proposed by the Commission

Amendment

8. If a group becomes subject to the rules of this Directive later than 1 July **2028**, the baseline allocation shall be computed in accordance with paragraph 2. By way of derogation from paragraphs 1 and 2, the BEFIT tax base shall be allocated to the BEFIT group members over the remaining part of the transition period referred to in paragraph 1.

8. If a group becomes subject to the rules of this Directive later than 1 July **2030**, the baseline allocation shall be computed in accordance with paragraph 2. By way of derogation from paragraphs 1 and 2, the BEFIT tax base shall be allocated to the BEFIT group members over the remaining part of the transition period referred to in paragraph 1.

Or. en

Amendment 315
Eva Maria Poptcheva

Proposal for a directive
Article 45 – paragraph 9

Text proposed by the Commission

9. The Commission shall carry out a comprehensive review of the **transition** rule as part of which it shall prepare a study on the possible **composition and weight of selected** formula factors and submit a report to the Council by the end of the third fiscal year **during the transition period referred to in paragraph 1**. If the Commission deems it appropriate, taking into account the conclusions of this report, it may adopt a legislative proposal **during the transition period**, to amend this Directive **by introducing a method for the allocation of the BEFIT tax base using formulary apportionment and based on factors**.

Amendment

9. The Commission shall carry out a comprehensive review of the **allocation** rule as part of which it shall prepare a study on the possible **inclusion of elements such as intangible assets and the presence in a market as** formula factors and submit a report to the Council by the end of the third fiscal year **after the approval of this Directive**. If the Commission deems it appropriate, taking into account the conclusions of this report, it may adopt a legislative proposal, to amend this Directive.

Or. en

Amendment 316
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 45 – paragraph 9

Text proposed by the Commission

9. The Commission shall carry out a comprehensive review of the **transition** rule as part of which it shall prepare a study on the **possible** composition and weight of **selected** formula **factors** and submit a report to the Council by the end of the third fiscal year **during the transition period referred to in paragraph 1**. If the Commission deems it appropriate, taking into account the conclusions of this report, it may adopt a legislative proposal **during the transition period**, to amend this

Amendment

9. The Commission shall carry out a comprehensive review of the **allocation** rule as part of which it shall prepare a study on the composition and weight of **the** formula and submit a report to the Council by the end of the third fiscal year. If the Commission deems it appropriate, taking into account the conclusions of this report, it may adopt a legislative proposal to amend this Directive by introducing a **different** method for the allocation of the BEFIT tax base **and include where needed**

Directive by introducing a method for the allocation of the BEFIT tax base *using formulary apportionment and based on factors*.

sector-specific allocation rules.

Or. en

Amendment 317

Eleni Stavrou

Proposal for a directive

Article 45 – paragraph 9

Text proposed by the Commission

9. The Commission shall carry out a comprehensive review of the transition rule as part of which it shall prepare a study on the possible composition and weight of selected formula factors and submit a report to the Council by the end of the third fiscal year during the transition period referred to in paragraph 1. If the Commission deems it appropriate, taking into account the conclusions of this report, it may adopt a legislative proposal during the transition period, to amend this Directive by introducing a method for the allocation of the BEFIT tax base using formulary apportionment and based on factors.

Amendment

9. *A year before the last year of the transitional period* the Commission shall carry out a comprehensive review of the transition rule as part of which it shall prepare *a study on the interaction with Directive (EU) 2022/2523 of 14 December 2022 and on* a study on the possible composition and weight of selected formula factors and submit a report to the Council by the end of the third fiscal year during the transition period referred to in paragraph 1. If the Commission deems it appropriate, taking into account the conclusions of this report, it may adopt a legislative proposal during the transition period, to amend this Directive by introducing a method for the allocation of the BEFIT tax base using formulary apportionment and based on factors.

Or. en

Amendment 318

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 45 – paragraph 10

Text proposed by the Commission

Amendment

10. The rules laid down in paragraphs 1 to 8 shall continue to apply until any amendment thereof has come into effect. *deleted*

Or. en

Justification

The authors believe that BEFIT should be adopted including formulary apportionment, including a test phase, but without a transition period. There is no justification to not include formulary apportionment from the start onwards besides political motives. Technically, several formulas have already been tested by academia and the Commission in earlier proposals. However, if no Parliamentary majority shares this view, we believe that the transition period should be shortened, and the formula should already be agreed to kick in after the transition period unless the collected data and impact assessment indicate a different formula is needed. Most importantly, no cross-border loss relief should be allowed during the transition period, or at the very least this should be limited, as this would potentially impact severely the tax revenues of certain Member States. Finally, the risk assessment framework as proposed by the Commission should be stricter in its application if the transition period were to remain.

Amendment 319
Manon Aubry, José Gusmão

Proposal for a directive
Article 45 a (new)

Text proposed by the Commission

Amendment

Article 45a

Allocation rule based on tangible factors

1. As of 1 July 2026, the BEFIT tax base shall be allocated to the BEFIT group members in each tax year on the basis of a formula that gives equal weight to the factors of sales, labour, and assets according to Articles 45b to 45i:

$$\text{Share } A = (\text{Sales}^A / (3 * \text{Sales}^{\text{Group}}) + \text{Payroll}^A / (6 * \text{Payroll}^{\text{Group}}) + \text{No. Employees}^A / (6 * \text{No. Employees}^{\text{Group}}) + \text{Assets}^A / (3 * \text{Assets}^{\text{Group}})) * \text{Con'dTaxBase}$$

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

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

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

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

Or. en

Amendment 320
Manon Aubry, José Gusmão

Proposal for a directive
Article 45 b (new)

Text proposed by the Commission

Amendment

Article 45b

Composition of the labour factor

1. *The labour factor shall consist, as to one half, of the total amount of the payroll of a BEFIT group member as its numerator and the total amount of the payroll of the BEFIT group as its denominator, and as to the other half, of the number of employees of a BEFIT group member as its numerator and the number of employees of the BEFIT group as its denominator. Where an individual employee is included in the labour factor of a BEFIT group member, the payroll relating to that employee shall be allocated to the labour factor of the same BEFIT group member.*

2. *The number of employees shall be measured at the end of the tax year.*

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

Amendment 321
Manon Aubry, José Gusmão

Proposal for a directive
Article 45 c (new)

Text proposed by the Commission

Amendment

Article 45c

Allocation of employees and payroll

- 1. Employees shall be included in the labour factor of the group member from which they receive remuneration. Employees with all types of contracts should be included.***
- 2. By way of derogation from paragraph 1, where employees physically exercise their employment under the control and responsibility of an entity other than that from which they receive remuneration, those employees as well as the amount of payroll related to them shall be included in the labour factor of the former entity. This rule shall only apply where all of the following conditions are met:***
 - (a) the employment lasts for an uninterrupted period of at least three months;***
 - (b) those employees represent at least 5 % of the overall number of employees of the group member from which they receive remuneration.***
- 3. Employees shall include persons who, although not employed directly by a BEFIT group member, perform tasks similar to those performed by employees.***
- 4. Payroll shall include all costs of salaries, wages, bonuses and all other employee compensation, including related pension and social security costs borne by the employer as well as expenses of the***

employer corresponding to the cost of persons as referred to in paragraph 3.

5. Payroll costs shall be valued at the amount of expenses that are treated as deductible by the employer in a tax year.

Or. en

Amendment 322

Manon Aubry, José Gusmão

Proposal for a directive

Article 45 d (new)

Text proposed by the Commission

Amendment

Article 45d

Composition of the asset factor

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

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

Or. en

Amendment 323

Manon Aubry, José Gusmão

Proposal for a directive

Article 45 e (new)

Text proposed by the Commission

Amendment

Article 45e

Allocation of assets

1. Without prejudice to Article 22(2) and (3), an asset shall be included in the asset factor of its economic owner. Where the economic owner cannot be identified, the asset shall be included in the asset factor of the legal owner. However, an asset that is not effectively used by its economic owner shall be included in the factor of the BEFIT group member that effectively uses that asset, provided that the asset represents more than 5 % of the value for tax purposes of all fixed tangible assets of the BEFIT group member that effectively uses it.

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

Or. en

Amendment 324
Manon Aubry, José Gusmão

Proposal for a directive
Article 45 f (new)

Text proposed by the Commission

Amendment

Article 45f

Valuation

- 1. Land and other non-depreciable fixed tangible assets shall be valued at their original cost.*
- 2. An individually depreciable fixed tangible asset shall be valued at the average of its value for tax purposes at the beginning and at the end of a tax year. Where, as a result of one or more intra-group transactions, an individually*

depreciable fixed tangible asset is included in the asset factor of a BEFIT group member for less than a tax year, the value to be taken into account shall be calculated having regard to the number of months that the asset was included in the asset factor of that BEFIT group member.

3. The renter or lessee of an asset of which it is not the economic owner shall value that rented or leased asset at eight times the net annual rental or lease payment due, less any amounts receivable from sub-rentals or sub-leases.

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

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

Or. en

Amendment 325
Manon Aubry, José Gusmão

Proposal for a directive
Article 45 g (new)

Text proposed by the Commission

Amendment

Article 45g

Composition of the sales factor

1. The sales factor shall consist of the total sales allocated to a BEFIT group member as its numerator and the total sales of the BEFIT group as its denominator.

Or. en

Amendment 326
Manon Aubry, José Gusmão

Proposal for a directive
Article 45 h (new)

Text proposed by the Commission

Amendment

Article 45h

Sales by destination

- 1. Sales of goods shall be included in the sales factor of the BEFIT group member located in the Member State where the dispatch or transport of the goods to the person acquiring them ends. Where that place cannot be determined, the sales of goods shall be attributed to the BEFIT group member located in the Member State of the last identifiable location of the goods.**
- 2. Supplies of services shall be included in the sales factor of the BEFIT group member located in the Member State where the services are physically carried out or actually supplied.**
- 3. Where there is no BEFIT group member in the Member State where the goods are delivered or the services are supplied, or where goods are delivered or services are supplied in a third country, the sales of goods and supplies of services shall be included in the sales factor of all BEFIT group members in proportion to their labour and asset factors.**
- 4. Where there is more than one BEFIT group member in the Member State where the goods are delivered or the**

services are supplied, the sales shall be included in the sales factor of all BEFIT group members located in that Member State in proportion to their labour and asset factors.

Or. en

Amendment 327

Manon Aubry, José Gusmão

Proposal for a directive

Article 46 – paragraph 1 – subparagraph 1

Text proposed by the Commission

By way of derogation from Articles 42 to **45**, where a BEFIT group member conducts its principal business in the field of extractive activities, its revenues, expenses and other deductible items which stem from such activities shall be attributed to the BEFIT group member located in the Member State where the extraction takes place.

Amendment

By way of derogation from Articles 42 to **45a**, where a BEFIT group member conducts its principal business in the field of extractive activities, its revenues, expenses and other deductible items which stem from such activities shall be attributed to the BEFIT group member located in the Member State where the extraction takes place.

Or. en

Amendment 328

Manon Aubry, José Gusmão

Proposal for a directive

Article 46 – paragraph 2

Text proposed by the Commission

2. By way of derogation from Article 42 to **45**, where there is no BEFIT group member in the Member State of extraction, or where the extraction takes place in a third country jurisdiction, the revenues, expenses and other deductible items which stem from such activities shall be attributed to the BEFIT group member to which they accrued.

Amendment

2. By way of derogation from Article 42 to **45a**, where there is no BEFIT group member in the Member State of extraction, or where the extraction takes place in a third country jurisdiction, the revenues, expenses and other deductible items which stem from such activities shall be attributed to the BEFIT group member to which they accrued.

Amendment 329
Kira Marie Peter-Hansen

Proposal for a directive
Article 47

Text proposed by the Commission

Amendment

Article 47

deleted

Exception for shipping not covered by a tonnage tax regime, inland waterways transport and air transport

1. By way of derogation from Article 42 to 45 and without prejudice to Article 15, the revenues, expenses and other deductible items which stem from the following activities shall be excluded from the BEFIT tax base in any of the following cases:

(a) the operation of ships in international traffic where the taxable result is not covered by a tonnage tax regime;

(b) the operation of aircraft in international traffic;

(c) the operation of boats engaged in inland waterways transport.

The revenues, expenses and other deductible items as referred to in the first subparagraph shall be attributed to that BEFIT group member on a transaction-by-transaction basis and be subject to adjustments for pricing in accordance with the arm's length principle.

2. Any participation in and by the BEFIT group member as referred to in paragraph 1 shall be taken into account for the purpose of Article 5.

Amendment 330
Manon Aubry, José Gusmão

Proposal for a directive
Article 47

Text proposed by the Commission

Amendment

Article 47

deleted

Exception for shipping not covered by a tonnage tax regime, inland waterways transport and air transport

1. By way of derogation from Article 42 to 45 and without prejudice to Article 15, the revenues, expenses and other deductible items which stem from the following activities shall be excluded from the BEFIT tax base in any of the following cases:

(a) the operation of ships in international traffic where the taxable result is not covered by a tonnage tax regime;

(b) the operation of aircraft in international traffic;

(c) the operation of boats engaged in inland waterways transport.

The revenues, expenses and other deductible items as referred to in the first subparagraph shall be attributed to that BEFIT group member on a transaction-by-transaction basis and be subject to adjustments for pricing in accordance with the arm's length principle.

2. Any participation in and by the BEFIT group member as referred to in paragraph 1 shall be taken into account for the purpose of Article 5.

Or. en

Amendment 331
Isabel Benjumea Benjumea

Proposal for a directive
Article 47 – title

Text proposed by the Commission

Exception for shipping not covered by a tonnage tax regime, inland waterways transport *and* air transport

Amendment

Exception for shipping not covered by a tonnage tax regime, inland waterways transport, air transport *and financial services*

Or. es

Amendment 332
Isabel Benjumea Benjumea

Proposal for a directive
Article 47 – paragraph 1 – subparagraph 1 – point c a (new)

Text proposed by the Commission

Amendment

(ca) financial services.

Or. es

Amendment 333
Manon Aubry, José Gusmão

Proposal for a directive
Article 48

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 334
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 48 – paragraph 2

Text proposed by the Commission

Amendment

2. In addition to the adjustments listed in paragraph 1, a Member State may allow for increasing or decreasing, through additional items, the allocated part of BEFIT group members that are resident for tax purposes or situated in the form of a permanent establishment in that Member State.

2. In addition to the adjustments listed in paragraph 1, a Member State may allow for increasing or decreasing, through additional items, ***subject to the provisions of Directive (EU) 2022/2523***, the allocated part of BEFIT group members that are resident for tax purposes or situated in the form of a permanent establishment in that Member State. ***Adjustments that effectively result in revenue forgone must be made public annually as set forth in Directive 2011/85 in the form of a tax expenditure report.***

Or. en

Amendment 335
Kira Marie Peter-Hansen

Proposal for a directive
Article 48 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall prepare a detailed annual report on adjustments, as referred to in paragraph 2, applied in the Member States. The report shall be made publicly available.

Or. en

Amendment 336
Kira Marie Peter-Hansen

Proposal for a directive
Article 48 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. By 6 months after the entry into force of this Directive, the Commission shall issue guidelines on the annual publication of revenue foregone according to Directive 2011/85 as set forth

in paragraph 2.

Or. en

Amendment 337

Manon Aubry, José Gusmão

Proposal for a directive

Article 48 a (new)

Text proposed by the Commission

Amendment

Article 48a

Output-based incentives

A Member State providing incentives for research and development should not offer output-based incentives, such as patent boxes, which would decrease the allocated part of BEFIT group members that are resident for tax purposes or situated in the form of a permanent establishment in that Member State.

Or. en

Amendment 338

Andżelika Anna Możdżanowska

on behalf of the ECR Group

Proposal for a directive

Article 50

Text proposed by the Commission

Amendment

[...]

deleted

Or. pl

Amendment 339

Manon Aubry, José Gusmão

Proposal for a directive

Article 50

Text proposed by the Commission

Amendment

[...]

deleted

Or. en

Amendment 340

Andżelika Anna Możdżanowska
on behalf of the ECR Group

Proposal for a directive

Article 51

Text proposed by the Commission

Amendment

Article 51

deleted

Compliance framework

1. Member States shall structure their risk assessment framework for the activities mentioned in Article 50 in such a way as to consist of three transfer pricing risk zones.

2. The risk zones shall be determined using the interquartile range of the profit performance resulting from the Union public benchmarks referred to in Article 53.

3. The activities mentioned in Article 50 shall be risk assessed as being of low, medium or high risk, depending on how their profit performance in a given year, determined under Article 52, compares to the interquartile range of the most recent set of public benchmarks prepared before the end of that year.

4. Member States shall apply the following risk framework:

[...]

5. Member States shall take the appropriate measures, in order to structure their approach to risk compliance in accordance with the

following principles:

a) Low-risk zone: the competent authorities of the Member States may not dedicate additional compliance resources to further review the transfer pricing results. Notwithstanding this, the competent authorities of the Member States shall retain the right to perform transfer pricing adjustments of the profit margins of the taxpayer that falls within the low-risk zone.

b) Medium-risk zone: the competent authorities of the Member States may monitor the results, using available data, and contact the taxpayer, to seek a better understanding of its circumstances before deciding whether to allocate compliance resources to carrying out risk assessments and audits.

c) High-risk zone: the competent authorities of the Member States may recommend that the taxpayer reviews its transfer pricing policies and may decide to initiate a review or audit.

Or. pl

Amendment 341

Manon Aubry, José Gusmão

Proposal for a directive

Article 51

Text proposed by the Commission

Amendment

Article 51

deleted

Compliance framework

1. Member States shall structure their risk assessment framework for the activities mentioned in Article 50 in such a way as to consist of three transfer pricing risk zones.

2. The risk zones shall be determined using the interquartile range of the profit

performance resulting from the Union public benchmarks referred to in Article 53.

3. The activities mentioned in Article 50 shall be risk assessed as being of low, medium or high risk, depending on how their profit performance in a given year, determined under Article 52, compares to the interquartile range of the most recent set of public benchmarks prepared before the end of that year.

4. Member States shall apply the following risk framework:

[...]

5. Member States shall take the appropriate measures, in order to structure their approach to risk compliance in accordance with the following principles:

(a) Low-risk zone: the competent authorities of the Member States may not dedicate additional compliance resources to further review the transfer pricing results. Notwithstanding this, the competent authorities of the Member States shall retain the right to perform transfer pricing adjustments of the profit margins of the taxpayer that falls within the low-risk zone.

(b) Medium-risk zone: the competent authorities of the Member States may monitor the results, using available data, and contact the taxpayer, to seek a better understanding of its circumstances before deciding whether to allocate compliance resources to carrying out risk assessments and audits.

(c) High-risk zone: the competent authorities of the Member States may recommend that the taxpayer reviews its transfer pricing policies and may decide to initiate a review or audit.

Or. en

Amendment 342

Andżelika Anna Mozdżanowska
on behalf of the ECR Group

Proposal for a directive
Article 52

Text proposed by the Commission

Amendment

Article 52

deleted

Measure of the performance

1. Member States shall lay down the appropriate legal framework, so that their competent authorities measure the profitability of the distribution activity mentioned in Article 50(2) using Earnings Before Interest and Tax relative to sales as a profit level indicator.

2. Member States shall lay down the appropriate legal framework, so that their competent authorities measure the profitability of the manufacturing activity mentioned in Article 50(3) using Earnings before Interest and Tax relative to total costs as profit level indicator.

Or. pl

Amendment 343

Manon Aubry, José Gusmão

Proposal for a directive
Article 52

Text proposed by the Commission

Amendment

Article 52

deleted

Measure of the performance

1. Member States shall lay down the appropriate legal framework, so that their competent authorities measure the profitability of the distribution activity mentioned in Article 50(2) using Earnings

Before Interest and Tax relative to sales as a profit level indicator.

2. Member States shall lay down the appropriate legal framework, so that their competent authorities measure the profitability of the manufacturing activity mentioned in Article 50(3) using Earnings before Interest and Tax relative to total costs as profit level indicator.

Or. en

Amendment 344

Andżelika Anna Mozdżanowska
on behalf of the ECR Group

Proposal for a directive **Article 53**

Text proposed by the Commission

Amendment

Article 53

deleted

Public Benchmarks

1. The risk zone for the activities referred to in Article 50 shall be determined respectively via public benchmarks for distribution and manufacturing activities.

2. The public benchmarks for distribution activity shall be representative of the profit performance of independent entities operating in the internal market and performing predominantly distribution activity with similar characteristics to the activity described in Article 50(2).

3. The public benchmark for manufacturing activity shall be representative of the profit performance of independent entities operating in the internal market and performing predominantly manufacturing activity with similar characteristics to the activity described in Article 50(3).

4. The risk zone shall be determined using the interquartile range of the 5-year average profit performance of independent entities resulting from the public benchmarks.

5. The Commission shall, by means of implementing act laying down the necessary practical arrangements, set the search criteria to identify comparables for establishing the appropriate benchmarks for low-risk distribution and contract manufacturing activities. The results of the benchmarks shall be published on the Commission website, for the purpose of allowing taxpayers to determine the risk zone of their activities. The benchmarks shall be updated every 3 years. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73.

Or. pl

Amendment 345

Manon Aubry, José Gusmão

Proposal for a directive

Article 53

Text proposed by the Commission

Amendment

Article 53

deleted

Public Benchmarks

1. The risk zone for the activities referred to in Article 50 shall be determined respectively via public benchmarks for distribution and manufacturing activities.

2. The public benchmarks for distribution activity shall be representative of the profit performance of independent entities operating in the internal market and performing predominantly distribution activity with similar characteristics to the activity described in

Article 50(2).

3. The public benchmark for manufacturing activity shall be representative of the profit performance of independent entities operating in the internal market and performing predominantly manufacturing activity with similar characteristics to the activity described in Article 50(3).

4. The risk zone shall be determined using the interquartile range of the 5-year average profit performance of independent entities resulting from the public benchmarks.

5. The Commission shall, by means of implementing act laying down the necessary practical arrangements, set the search criteria to identify comparables for establishing the appropriate benchmarks for low-risk distribution and contract manufacturing activities. The results of the benchmarks shall be published on the Commission website, for the purpose of allowing taxpayers to determine the risk zone of their activities. The benchmarks shall be updated every 3 years. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73.

Or. en

**Amendment 346
Isabel Benjumea Benjumea**

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

Text proposed by the Commission

The filing entity may **not** be changed, **unless it ceases to meet the conditions as referred to in Article 3(10)**. A new filing entity shall **then** be designated by the group in accordance with the conditions of Article 3(10). If the group fails to designate

Amendment

The filing entity may be changed **when the group considers it appropriate, giving two months' notice to the competent authorities, and for well-founded reasons**. A new filing entity shall be designated by the group in accordance with the

a filing entity within two months after the previous filing entity ceased to meet the conditions, the BEFIT team as referred to in Article 60 shall then designate a filing entity for the BEFIT group.

conditions of Article 3(10). If the group fails to designate a filing entity within two months after the previous filing entity ceased to meet the conditions *or of its own accord*, the BEFIT team as referred to in Article 60 shall then designate a filing entity for the BEFIT group.

Or. es

Amendment 347
Eleni Stavrou

Proposal for a directive
Article 57 – paragraph 2

Text proposed by the Commission

2. The BEFIT information return shall be submitted to the filing authority no later than **four** months after the end of the fiscal year.

Amendment

2. The BEFIT information return shall be submitted to the filing authority no later than **ten** months after the end of the fiscal year.

Or. en

Amendment 348
Isabel Benjumea Benjumea

Proposal for a directive
Article 57 – paragraph 2

Text proposed by the Commission

2. The BEFIT information return shall be submitted to the filing authority no later than **four** months after the end of the fiscal year.

Amendment

2. The BEFIT information return shall be submitted to the filing authority no later than **six** months after the end of the fiscal year.

Or. es

Amendment 349
Manon Aubry, José Gusmão

Proposal for a directive
Article 57 – paragraph 3 – point d – point ii

Text proposed by the Commission

(ii) the BEFIT tax base;

Amendment

(ii) the BEFIT *EU tax base and the BEFIT global* tax base;

Or. en

Amendment 350
Manon Aubry, José Gusmão

Proposal for a directive
Article 57 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. *All supporting documentation that was used to build the BEFIT tax base referred to in paragraph 3, point (d)(ii) shall be kept for at least ten years to be made available to the competent authorities of all Member States in which the BEFIT group members are resident for tax purposes or situated in the form of a permanent establishment.*

Or. en

Amendment 351
Gilles Boyer, Martin Hlaváček, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive
Article 57 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. *BEFIT teams should use all the existing procedures and arrangements offered by the Directive on Administration Cooperation (DAC) to ensure an efficient cooperation and exchange of information between national tax administrations.*

Amendment 352
Isabel Benjumea Benjumea

Proposal for a directive
Article 58 – paragraph 1

Text proposed by the Commission

1. The filing entity shall notify the filing authority of errors in the BEFIT information return within **two** months of the timely submission of such return.

Amendment

1. The filing entity shall notify the filing authority of errors in the BEFIT information return within **three** months of the timely submission of such return.

Or. es

Amendment 353
Isabel Benjumea Benjumea

Proposal for a directive
Article 60 – paragraph 1

Text proposed by the Commission

1. A BEFIT team shall be convened within **one month** after filing the BEFIT information return, as referred to in Article 57, in order to perform the tasks set out in Article 61. In addition, the BEFIT team shall provide a framework for communication and consultation amongst the competent authorities of the Member States where members of the same BEFIT group are resident for tax purposes or situated in the form of a permanent establishment. When a member of a BEFIT team consults other members, it shall receive a response within a reasonable time.

Amendment

1. A BEFIT team shall be convened within **three months** after filing the BEFIT information return, as referred to in Article 57, in order to perform the tasks set out in Article 61. In addition, the BEFIT team shall provide a framework for communication and consultation amongst the competent authorities of the Member States where members of the same BEFIT group are resident for tax purposes or situated in the form of a permanent establishment. When a member of a BEFIT team consults other members, it shall receive a response within a reasonable time.

Or. es

Amendment 354
Isabel Benjumea Benjumea

Proposal for a directive
Article 61 – paragraph 4

Text proposed by the Commission

4. If the BEFIT team is unable to achieve consensus pursuant to paragraph 2 within **four** months of the date when all information required under Article 57 was reported, such consensus shall be deemed to be achieved if the members of the BEFIT team give their consent, by the simple majority of the present members in accordance with paragraph 5, to the BEFIT information return at the end of the fifth month from the date when the information was reported. The filing authority to which the BEFIT information return has been submitted shall notify the BEFIT information return to the filing entity.

Amendment

4. If the BEFIT team is unable to achieve consensus pursuant to paragraph 2 within **six** months of the date when all information required under Article 57 was reported, such consensus shall be deemed to be achieved if the members of the BEFIT team give their consent, by the simple majority of the present members in accordance with paragraph 5, to the BEFIT information return at the end of the fifth month from the date when the information was reported. The filing authority to which the BEFIT information return has been submitted shall notify the BEFIT information return to the filing entity.

Or. es

Amendment 355
Manon Aubry, José Gusmão

Proposal for a directive
Chapter V – Section 4

Text proposed by the Commission

[...]

Amendment

deleted

Or. en

Amendment 356
Isabel Benjumea Benjumea

Proposal for a directive
Article 62 – paragraph 1

Text proposed by the Commission

1. ***Each BEFIT group member shall file its individual tax return with the competent authority of the Member State in which that BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment no later than three months after receipt of the notice from the filing authority pursuant to Article 61(3), (4) or (5), or in case of a domestic group, no later than eight months from the end of the fiscal year.***

Amendment

1. ***The group shall decide in which State to submit the consolidated return no later than five months after receipt from the filing authority pursuant to Article 61 (3), (4) or (5) or, in case of a domestic group, no later than ten months after the fiscal year.***

Or. es

Amendment 357

Isabel Benjumea Benjumea

Proposal for a directive

Article 62 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. To avoid increasing bureaucratic burden, groups should be excluded from submitting a declaration in each country and in turn a consolidated declaration. Returns shall be submitted via the one-stop shop, consolidating all group corporate taxes in a single tax return.

Or. es

Amendment 358

Isabel Benjumea Benjumea

Proposal for a directive

Article 63 – paragraph 1

Text proposed by the Commission

Amendment

1. A BEFIT group member shall notify the competent authority of the Member State in which it is resident for tax

1. A BEFIT group member shall notify the competent authority of the Member State in which it is resident for tax

purposes or situated in the form of a permanent establishment of errors in the individual tax return within *two* months of the timely submission of such return.

purposes or situated in the form of a permanent establishment of errors in the individual tax return within *four* months of the timely submission of such return.

Or. es

Amendment 359

Manon Aubry, José Gusmão

Proposal for a directive

Article 65 – paragraph 6

Text proposed by the Commission

6. Notwithstanding paragraph 5, no amended tax assessment shall be issued, in order to adjust the BEFIT tax base, where the difference between the initially declared BEFIT tax base and the revised BEFIT tax base does not exceed the lower of EUR *10 000 or 1%* of the BEFIT tax base.

Amendment

6. Notwithstanding paragraph 5, no amended tax assessment shall be issued, in order to adjust the BEFIT tax base, where the difference between the initially declared BEFIT tax base and the revised BEFIT tax base does not exceed the lower of EUR *2 000 or 0,5%* of the BEFIT tax base.

Or. en

Amendment 360

Isabel Benjumea Benjumea

Proposal for a directive

Article 66 – paragraph 1

Text proposed by the Commission

1. The filing entity may appeal against the content of the BEFIT information return, in accordance with Article 59, within *two* months after the return was issued or notified. The appeal shall be heard by an administrative body that, in accordance with the law of the Member State of the filing authority, is competent to hear appeals at first instance. The administrative appeal shall be governed by the law of the Member State of the filing

Amendment

1. The filing entity may appeal against the content of the BEFIT information return, in accordance with Article 59, within *four* months after the return was issued or notified. The appeal shall be heard by an administrative body that, in accordance with the law of the Member State of the filing authority, is competent to hear appeals at first instance. The administrative appeal shall be governed by the law of the Member State of the filing

authority. Where there is no such administrative body in the Member State of the filing authority, the BEFIT group member may lodge a judicial appeal directly.

authority. Where there is no such administrative body in the Member State of the filing authority, the BEFIT group member may lodge a judicial appeal directly.

Or. es

Amendment 361
Isabel Benjumea Benjumea

Proposal for a directive
Article 67 – paragraph 1

Text proposed by the Commission

1. A BEFIT group member may appeal against the content of the individual tax assessment made pursuant to Article 64 before the competent authority of the Member State where that BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment within *two* months after the assessment was notified to it. The administrative appeal shall be heard by an administrative body that, in accordance with the law of the Member State of the BEFIT group member, is competent to hear appeals at first instance. The administrative appeal shall be governed by the law of the Member State in which the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment. Where there is no such administrative body in the Member State where the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment, the BEFIT group member may lodge a judicial appeal directly.

Amendment

1. A BEFIT group member may appeal against the content of the individual tax assessment made pursuant to Article 64 before the competent authority of the Member State where that BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment within *four* months after the assessment was notified to it. The administrative appeal shall be heard by an administrative body that, in accordance with the law of the Member State of the BEFIT group member, is competent to hear appeals at first instance. The administrative appeal shall be governed by the law of the Member State in which the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment. Where there is no such administrative body in the Member State where the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment, the BEFIT group member may lodge a judicial appeal directly.

Or. es

Amendment 362

Isabel Benjumea Benjumea

Proposal for a directive Article 68 – paragraph 1

Text proposed by the Commission

1. Where the decision pursuant to Article 66 has been confirmed or varied, the filing entity shall have the right to appeal directly to the courts of the Member State where it is resident for tax purposes or situated in the form of a permanent establishment within *two* months of the receipt of the decision of the administrative appeals body. A judicial appeal shall be governed by the law of the Member State where the filing entity is resident for tax purposes or situated in the form of a permanent establishment.

Amendment

1. Where the decision pursuant to Article 66 has been confirmed or varied, the filing entity shall have the right to appeal directly to the courts of the Member State where it is resident for tax purposes or situated in the form of a permanent establishment within *four* months of the receipt of the decision of the administrative appeals body. A judicial appeal shall be governed by the law of the Member State where the filing entity is resident for tax purposes or situated in the form of a permanent establishment.

Or. es

Amendment 363 Manon Aubry, José Gusmão

Proposal for a directive Article 68 – paragraph 4

Text proposed by the Commission

4. Notwithstanding paragraph 3, no amended tax assessment shall be issued in order to adjust the BEFIT tax base, where the difference between the initially declared BEFIT tax base and the revised BEFIT tax base does not exceed the lower of EUR *10,000 or 1%* of the BEFIT tax base.

Amendment

4. Notwithstanding paragraph 3, no amended tax assessment shall be issued in order to adjust the BEFIT tax base, where the difference between the initially declared BEFIT tax base and the revised BEFIT tax base does not exceed the lower of EUR *2,000 or 0,5%* of the BEFIT tax base.

Or. en

Amendment 364 Isabel Benjumea Benjumea

Proposal for a directive
Article 69 – paragraph 1

Text proposed by the Commission

1. Where the decision pursuant to Article 67 has been confirmed or varied, a BEFIT group member shall have the right to appeal to the courts of the Member State where it is resident for tax purposes or situated in the form of a permanent establishment within *two* months after the decision of the administrative appeals body referred to in Article 67 was notified to it. The judicial appeal shall be governed by the law of the Member State in which the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment.

Amendment

1. Where the decision pursuant to Article 67 has been confirmed or varied, a BEFIT group member shall have the right to appeal to the courts of the Member State where it is resident for tax purposes or situated in the form of a permanent establishment within *four* months after the decision of the administrative appeals body referred to in Article 67 was notified to it. The judicial appeal shall be governed by the law of the Member State in which the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment.

Or. es

Amendment 365
Isabel Benjumea Benjumea

Proposal for a directive
Article 70 – paragraph 1

Text proposed by the Commission

Where the outcome of an administrative or judicial appeal requires amendments to the individual tax assessment of one or more member of a BEFIT group, Member States shall take the appropriate measures to ensure that such amendments remain possible, notwithstanding any time limits in the domestic laws of Member States.

Amendment

Where the outcome of an administrative or judicial appeal requires amendments to the individual tax assessment of one or more member of a BEFIT group, Member States shall take the appropriate measures to ensure that such amendments remain possible, notwithstanding any time limits in the domestic laws of Member States, *with the administrative or judicial appeal taking precedence over those limits.*

Or. es

Amendment 366
Manon Aubry, José Gusmão

Proposal for a directive
Article 70 – paragraph 1

Text proposed by the Commission

Where the outcome of an administrative or judicial appeal requires amendments to the *individual* tax assessment of *one or more member of a* BEFIT group, Member States shall take the appropriate measures to ensure that such amendments remain possible, *notwithstanding any time limits in the domestic laws of Member States.*

Amendment

Where the outcome of an administrative or judicial appeal requires amendments to the tax assessment of *the* BEFIT group, Member States shall take the appropriate measures to ensure that such amendments remain possible *in a time frame of 10 years.*

Or. en

Amendment 367
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 72 – paragraph 1

Text proposed by the Commission

Member States shall lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all necessary measures to ensure that they are implemented and enforced. Penalties and compliance measures provided for shall be effective, proportionate and dissuasive.

Amendment

Member States shall lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all necessary measures to ensure that they are implemented and enforced. Penalties and compliance measures provided for shall be effective, proportionate and dissuasive. *Penalties shall be set at a minimum of 0,1 % of the turnover of the BEFIT group in case of failure to file the BEFIT information return in accordance with Article 59 and in case of confirmed intentional misreporting when filing the information return.*

Or. en

Amendment 368
Isabel Benjumea Benjumea

Proposal for a directive
Article 72 – paragraph 1

Text proposed by the Commission

Member States shall lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all necessary measures to ensure that they are implemented and enforced. Penalties and compliance measures provided for shall be effective, proportionate and dissuasive.

Amendment

Member States shall lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all necessary measures to ensure that they are implemented and enforced. Penalties and compliance measures provided for shall be effective, proportionate and dissuasive. ***Any changes to those penalties should be disclosed to groups operating in the Member States in a timely and appropriate manner.***

Or. es

Amendment 369
Manon Aubry, José Gusmão

Proposal for a directive
Article 72 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

Penalties shall be set at a minimum of 0,5 % of the turnover of the BEFIT group in case of failure to file the BEFIT information return in accordance with Article 59.

Or. en

Amendment 370
Evelyn Regner, Jonás Fernández, Aurore Lalucq, Joachim Schuster, Pedro Silva Pereira, René Repasi, Paul Tang

Proposal for a directive
Article 74 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Articles 2(8) **and 14(3)** shall be conferred on the Commission for an indeterminate period starting on [the date of entry into force of this Directive].

Amendment

2. The power to adopt delegated acts referred to in Articles 2(8), **14(3) and 22 (5a)** shall be conferred on the Commission for an indeterminate period starting on [the date of entry into force of this Directive].

Or. en

Amendment 371
Kira Marie Peter-Hansen

Proposal for a directive
Article 74 – paragraph 2

Text proposed by the Commission

2. The power to adopt delegated acts referred to in Articles 2(8) **and 14(3)** shall be conferred on the Commission for an indeterminate period starting on [the date of entry into force of this Directive].

Amendment

2. The power to adopt delegated acts referred to in Articles 2(8), **14(3) and 45(2a)** shall be conferred on the Commission for an indeterminate period starting on [the date of entry into force of this Directive].

Or. en

Amendment 372
Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive
Article 77 – paragraph -1 (new)

Text proposed by the Commission

Amendment

-1 Three years after this Directive starts to apply, the Commission shall issue a legislative proposal to amend this Directive to make this system mandatory for companies with annual combined revenues of EUR 40 000 000 or more in at least two of the last four fiscal years, in line with the definition of large groups within the meaning of Directive 2013/34/EU of the European Parliament

and of the Council.

Or. en

Amendment 373

Gilles Boyer, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive

Article 77 – paragraph 1

Text proposed by the Commission

1. Five years after this Directive starts to apply, the Commission shall examine and evaluate its functioning and report to the European Parliament and the Council to that effect. The report shall, where appropriate, be accompanied by a proposal to amend this Directive.

Amendment

1. Five years after this Directive starts to apply, the Commission shall examine and evaluate its functioning and report to the European Parliament and the Council to that effect. The report shall, where appropriate, be accompanied by a proposal to amend this Directive. ***That review shall in particular include an assessment of the impact of the allocation of the tax base on Member States' revenues, of the evolution of the compliance costs for companies covered by the Directive, as well as whether the scope of the Directive should be extended to those companies meeting the criteria laid down in article 2 paragraph 1 point (b) and (c) but who do not fulfil the conditions laid down in paragraph 1 point (a) regarding the current threshold of EUR 750 000 000.***

Or. en

Amendment 374

Martin Hlaváček

Proposal for a directive

Article 77 – paragraph 1

Text proposed by the Commission

1. Five years after this Directive starts to apply, the Commission shall examine and evaluate its functioning and report to

Amendment

1. Five years after this Directive starts to apply, the Commission shall examine and evaluate its functioning and report to

the European Parliament and the Council to that effect. The report shall, where appropriate, be accompanied by a proposal to amend this Directive.

the European Parliament and the Council to that effect. The report shall, where appropriate, be accompanied by a proposal to amend this Directive ***and to propose its mandatory application for the Member States.***

Or. en

Amendment 375

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 77 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. Eight years after this Directive starts to apply, the Commission shall assess the impact of making this system mandatory for all companies with cross-border activities and, if appropriate, issue a legislative proposal to amend this Directive accordingly.

Or. en

Amendment 376

Martin Hlaváček

Proposal for a directive

Article 77 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess the impact of the transition allocation rule ***and of*** Directive

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess

(EU) 2022/2523 as well as assessing the situation regarding Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021.

- the impact of the transition allocation rule;
- ***linkage with other legislative acts in the area of corporate taxation, namely Directive (EU) 2022/2523 as well as assessing the situation regarding Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021;***
- ***the impact on double tax treaties;***
- ***co-existence of two tax systems, at the national and EU level;***
- ***administrative burden for entrepreneurs and tax administrations resulting from application of Section 5 of Chapter II;***
- ***the impact of the allocation of the tax base on the Member States revenues.***

Or. en

Amendment 377
Eleni Stavrou

Proposal for a directive
Article 77 – paragraph 2

Text proposed by the Commission

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their

Amendment

2. Member States shall communicate to the Commission ***and the European Parliament*** relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are

jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess the impact of the transition allocation rule and of Directive (EU) 2022/2523 as well as assessing the situation regarding Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021.

resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess the impact of the transition allocation rule and of Directive (EU) 2022/2523 **and present an assessment of the additional costs that were incurred by companies falling under both Directives** as well as assessing the situation regarding Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021.

Or. en

Amendment 378

Gilles Boyer, Martin Hlaváček, Olivier Chastel, Stéphanie Yon-Courtin

Proposal for a directive

Article 77 – paragraph 2

Text proposed by the Commission

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess the **impact of the transition allocation rule and of Directive (EU) 2022/2523 as well as assessing the situation regarding** Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021.

Amendment

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess the **articulation with** Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021.

Or. en

Amendment 379

Kira Marie Peter-Hansen, Claude Gruffat

Proposal for a directive

Article 77 – paragraph 2

Text proposed by the Commission

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess the impact of ***the transition allocation rule and of*** Directive (EU) 2022/2523 as well as assessing the situation regarding Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021.

Amendment

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess the impact of Directive (EU) 2022/2523 as well as assessing the situation regarding Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021.

Or. en

Amendment 380

Eleni Stavrou

Proposal for a directive

Article 77 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall include in its report an evaluation of the scope as laid down in Article 2 paragraph 1 point (a) of this Directive in view of international tax agreements and the transformation into EU Directives;

Or. en

Amendment 381
Eleni Stavrou

Proposal for a directive
Article 77 – paragraph 2 b (new)

Text proposed by the Commission

Amendment

2b. The Commission in its review and report shall particularly take into account bilateral pre-accession tax treaties and assess their interaction with this Directive as well as specifically with the derogation introduced in Article 2 paragraph 2 of this Directive. In regards to this, the report shall, where appropriate, be accompanied by a proposal to amend this Directive.

Or. en

Amendment 382
Manon Aubry, José Gusmão

Proposal for a directive
Article 78 – paragraph 1

Text proposed by the Commission

Amendment

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January **2028**. They shall forthwith communicate to the Commission the text of those provisions.

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January **2026**. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

Amendment 383
Eleni Stavrou

Proposal for a directive
Article 78 – paragraph 1

Text proposed by the Commission

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January **2028**. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

1. Member States shall adopt and publish the laws, regulations and administrative provisions necessary to comply with this Directive by 1 January **2030**. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

Amendment 384

Eleni Stavrou

**Proposal for a directive
Article 78 – paragraph 2**

Text proposed by the Commission

2. They shall apply those provisions from 1 July **2028**.

Amendment

2. They shall apply those provisions from 1 July **2030**.

Or. en

Amendment 385

Manon Aubry, José Gusmão

**Proposal for a directive
Article 78 – paragraph 2**

Text proposed by the Commission

2. They shall apply those provisions from 1 July **2028**.

Amendment

2. They shall apply those provisions from 1 July **2026**.

Or. en

Amendment 386

Gilles Boyer, Olivier Chastel, Stéphanie Yon-Courtin

**Proposal for a directive
Article 78 a (new)**

Text proposed by the Commission

Amendment

Article 78a

Revenue potential

In line with the legally binding roadmap of 2020 on own resources^{1a} and the 2021 European Commission’s communication “An adjusted package for the next generation of own resources”, part of the fiscal revenues generated by the new rules laid down in this Directive shall be allocated to the general budget of the Union.

^{1a} Interinstitutional Agreement between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources.

Or. en