



2022/2146(INI)

16.5.2023

DRAFT REPORT

on further reform of corporate taxation rules
(2022/2146(INI))

Committee on Economic and Monetary Affairs

Rapporteur: Isabel Benjumea Benjumea

CONTENTS

	Page
MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION.....	3
EXPLANATORY STATEMENT	10

MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on further reform of corporate taxation rules (2022/2146(INI))

The European Parliament,

- having regard to Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States (the Interest and Royalties Directive)¹,
- having regard to Council Directive 2011/96/EU of 30 November 2011 on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States (the Parent Subsidiary Directive)²,
- having regard to 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 (the Anti-Tax Avoidance Directive I or ATAD I)³ and Council Directive (EU) 2017/952 of 29 May 2017 amending Directive (EU) 2016/1164 as regards hybrid mismatches with third countries (ATAD II)⁴,
- having regard to Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (the Directive on Administrative Cooperation in the Field of Taxation or DAC 1)⁵, Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (DAC 2)⁶, Council Directive (EU) 2015/2376 of 8 December 2015 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (DAC 3)⁷, Council Directive (EU) 2016/881 of 25 May 2016 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (DAC 4)⁸, Council Directive (EU) 2016/2258 of 6 December 2016 amending Directive 2011/16/EU as regards access to anti-money-laundering information by tax authorities (DAC 5)⁹, Council Directive (EU) 2018/822 of 25 May 2018 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation in relation to reportable cross-border arrangements (DAC 6)¹⁰, and Council Directive (EU) 2021/514 of 22 March 2021 amending Directive 2011/16/EU on administrative cooperation in the field of taxation

¹ OJ L 157, 26.6.2003, p. 49.

² OJ L 345, 29.12.2011, p. 8.

³ OJ L 193, 19.7.2016, p. 1.

⁴ OJ L 144, 7.6.2017, p. 1.

⁵ OJ L 64, 11.3.2011, p. 1.

⁶ OJ L 359, 16.12.2014, p. 1.

⁷ OJ L 332, 18.12.2015, p. 1.

⁸ OJ L 146, 3.6.2016, p. 8.

⁹ OJ L 342, 16.12.2016, p. 1.

¹⁰ OJ L 139, 5.6.2018, p. 1.

(DAC 7)¹¹,

- having regard to Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union (the EU Dispute Settlement Directive)¹²,
- having regard to Directive (EU) 2021/2101 of the European Parliament and of the Council of 24 November 2021 amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (the Public Country-by-Country Reporting Directive)¹³,
- having regard to Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union (the Pillar Two Directive)¹⁴,
- having regard to the Commission proposals awaiting adoption, in particular on a Common Corporate Tax Base (COM(2016)0685), a Common Consolidated Corporate Tax Base (COM(2016)0683) and a digital taxation package (COM(2018)0147 and COM(2018)0148), as well as to Parliament’s positions on these proposals,
- having regard to the Commission communication of 15 July 2020 entitled ‘An action plan for fair and simple taxation supporting the recovery strategy’ (COM(2020)0312),
- having regard to the Commission communication of 18 May 2021 entitled ‘Business Taxation for the 21st Century’ (COM(2021)0251),
- having regard to the Commission proposal of 22 December 2021 for a Council directive on ensuring a global minimum level of taxation for multinational groups in the Union (COM(2021)0823), as well as to Parliament’s position on this proposal¹⁵,
- having regard to the conclusions of the Economic and Financial Affairs Council of 6 December 2022,
- having regard to the Commission study of January 2022 entitled ‘Tax compliance costs for SMEs – An update and a complement: final report’,
- having regard to the report on the final outcome of the Conference on the Future of Europe, and to the European Parliament resolution of 4 May 2022 on the follow-up to the Conference on the Future of Europe¹⁶,
- having regard to the Commission proposal of 11 May 2022 for a Council directive on laying down rules on a debt-equity bias reduction allowance and on limiting the deductibility of interest for corporate income tax purposes (COM(2022)0216),
- having regard to the Commission’s call for evidence for an impact assessment of

¹¹ OJ L 104, 25.3.2021, p. 1.

¹² OJ L 265, 14.10.2017, p. 1.

¹³ OJ L 429, 1.12.2021, p. 1.

¹⁴ OJ L 328, 22.12.2022, p. 1.

¹⁵ OJ C 479, 16.12.2022, p. 89.

¹⁶ Texts adopted, P9_TA(2022)0141.

13 October 2022 on the proposal for a Council directive on Business in Europe: Framework for Income Taxation (BEFIT),

- having regard to the speech by Commission President Ursula von der Leyen at the European Parliament plenary on 19 October 2022 on the preparations for the European Council meeting of 20-21 October 2022,
- having regard to the Commission communication of 16 March 2023 entitled ‘Long-term competitiveness of the EU: looking beyond 2030’ (COM(2023)0168),
- having regard to the European Council conclusions of 23 March 2023,
- having regard to its resolution of 7 October 2021 on reforming the EU policy on harmful tax practices (including the reform of the Code of Conduct Group)¹⁷,
- having regard to its resolution of 15 February 2022 on the impact of national tax reforms on the EU economy¹⁸,
- having regard to its resolution of 10 March 2022 with recommendations to the Commission on fair and simple taxation supporting the recovery strategy (EP follow-up to the July Commission’s Action Plan and its 25 initiatives in the area of VAT, business and individual taxation)¹⁹,
- having regard to its resolution of 4 October 2022 entitled ‘Impact of new technologies on taxation: crypto and blockchain’²⁰,
- having regard to the Organisation for Economic Co-operation and Development (OECD) Action Plan of 19 July 2013 on Base Erosion and Profit Shifting (BEPS),
- having regard to the OECD/G20 BEPS final reports of October 2015,
- having regard to the statement of the OECD/G20 Inclusive Framework on BEPS of 8 October 2021 entitled ‘Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy’, which has been joined and agreed to by 138 out of 141 members as of 16 December 2022,
- having regard to the reports on the Pillar One and Pillar Two Blueprints adopted by the OECD/G20 Inclusive Framework on 14 October 2020, and to the results of the OECD economic analysis and impact assessment of 12 October 2020 entitled ‘Tax Challenges Arising from Digitalisation – Economic Impact Assessment’,
- having regard to the Pillar Two model rules of the OECD/G20 Inclusive Framework on BEPS of 20 December 2021 for domestic implementation of 15 % global minimum tax,
- having regard to United States Public Law 117-169 of 16 August 2022, known as the

¹⁷ OJ C 132, 24.3.2022, p. 167.

¹⁸ OJ C 342, 6.9.2022, p. 14.

¹⁹ OJ C 347, 9.9.2022, p. 211.

²⁰ OJ C 132, 14.4.2023, p. 15.

Inflation Reduction Act,

- having regard to Rule 54 of its Rules of Procedure,
 - having regard to the letter from the Committee on Budgets,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0000/2023),
- A. whereas Member States are free to decide on their own economic policies, in particular their own tax policies within the boundaries of the EU Treaties; whereas, although tax policy largely remains a responsibility of the Member States, the single market requires coordination in setting tax policy in order to further single market integration;
- B. whereas European companies are battling strong headwinds as a result of the current adverse economic and social situations;
- C. whereas the BEPS action plan managed to establish a global consensus on many issues regarding the fight against aggressive tax planning;
- D. whereas the EU led by example in transposing international agreements into a high number of tax directives improving coordination and the EU's fight against aggressive tax planning;
- E. whereas as of 16 December 2022, 138 states, including all EU Member States, had agreed on the reform of the international tax system through a two-pillar solution;
- F. whereas tax policy fragmentation creates various obstacles for citizens and companies in the single market, particularly small and medium-sized enterprises (SMEs); whereas these obstacles discourage cross-border economic activity and can distort the single market;
- G. whereas the debt-equity bias in corporate taxation allows for generous tax deductions on interest payments; whereas equity financing costs cannot be deducted in a similar manner;
1. Recalls that EU Member States cooperating on corporate taxation is not a goal in itself, but rather a tool to complete, improve and further develop the single market;
 2. Welcomes the European Council conclusions of 23 March 2023 calling for the general regulatory environment to be simplified and for the administrative burden to be reduced, and the Commission communication of 16 March 2023 underlining that the EU tax framework is key in supporting growth and private investment, in particular by removing tax barriers to cross-border investment;
 3. Underlines that it is paramount to fight aggressive profit shifting while promoting fiscal fairness, transparency and certainty, and while keeping taxes at levels that support sustainable economic growth;
 4. Takes note of the numerous tax directives since 2011 that have led to fairer, simpler and more effective corporate taxation in the EU, and to a high number of tax compliance

obligations on companies within the EU²¹;

5. Deplores the fact that the Member States have implemented and applied tax directives in a divergent manner, undermining the proper functioning of the single market and leading to misalignment in tax bases, more red tape and higher compliance costs;

Reducing the burden of compliance on EU companies

6. Notes that the estimated tax compliance costs for large multinational enterprises (MNEs) amount to about 2 % of taxes paid, while for SMEs the estimate is about 30 % of taxes paid; recalls that European companies, in particular SMEs, are the main enhancers of economic growth and job creation;
7. Calls on the Commission to present an overall evaluation of actions taken on corporate taxation since 2011 and to immediately ease the burden on businesses by invoking a regulatory moratorium and delaying those tax acts that would unnecessarily increase costs for businesses already under strain; calls on the Commission to carry out competitiveness checks for new legislative tax proposals, as requested by the European Council for all new proposals on 22 March 2023;
8. Welcomes the proposal of the Conference on the Future of Europe of 9 May 2022 for a competitiveness check to analyse the impact, among other things, of new tax legislation on companies and their business environments; awaits impatiently the implementation of the announcement by Commission President Ursula von der Leyen of 19 October 2022 introducing a standard competitiveness check in EU regulation;
9. Takes note of the renewed debate on tax incentives following the US Inflation Reduction Act; calls on the Commission to allow for experimentation with tax credits; insists, nevertheless, that all decisions should be taken in a coordinated manner to preserve the functioning of the single market;
10. Calls on the Member States to engage in policies of full expensing for capital investments and to make capital allowance provisions permanent in order to improve real investments and to assist Europe's competitiveness;
11. Calls on the Member States, in the light of high inflation rates, to use the additional revenues based on higher energy prices directly to relieve the burden on companies, especially SMEs;

The Pillar Two Agreement

12. Takes note of the two-pillar solution reached at the OECD/G20 Inclusive Framework on the allocation of taxing rights and the application of a minimum effective tax rate of 15 % on the global profits of MNEs;
13. Observes that, in addition to coping with a volatile business environment and an

²¹ See notably the Anti-Tax Avoidance Directives (ATAD I and ATAD II), the amendments of the Directive on administrative cooperation in the field of taxation (DAC 1 to DAC 7), the revision of the Parent Subsidiary Directive, the EU Dispute Settlement Directive, the Public Country-by-Country Reporting Directive, or the Pillar Two Directive.

increasing number of EU tax directives, companies are focusing their financial and human resources on applying the Pillar Two rules; calls on the Commission to give companies breathing space and enough time to prepare for the possible new BEFIT rules;

Towards a simplified corporate tax regime

14. Calls on the Commission to guide all the Member States towards a simplified tax system to reduce the administrative burden for companies, especially SMEs; acknowledges that simplifying refund procedures, deductions and litigation are other solutions to reduce the administrative burden, especially for SMEs;
15. Recalls that simplifying the complexity of the legal framework for corporate tax systems helps to attract foreign direct investment and reduces the risk of companies relocating to non-EU countries;
16. Welcomes the Commission's plan to work on a BEFIT proposal, expected in the third quarter of 2023, with a view to designing a new and single EU corporate tax rulebook, based on a fair, comprehensive and effective formulary apportionment and a common tax base of income taxation for businesses, which will provide clarity and predictability for companies;
17. Reiterates its consideration that the BEFIT initiative should be supported by the political process in building political support for change and that the initiative should be accompanied by a thorough impact assessment;
18. Takes note of the BEFIT objectives, as addressed in the Commission's call for evidence for an impact assessment, to increase businesses' resilience by reducing the complexity of tax rules and the compliance costs faced by EU businesses with cross-border operations, to remove obstacles to cross-border investment and make the single market a more attractive location for international investment, to create an environment conducive to fair and sustainable growth by paving the way for administrative simplification, and to provide sustainable tax revenue, which is particularly important in the current challenging economic climate;
19. Highlights the idea of a one-stop-shop allowing for the filing of one consolidated tax return; calls on the Commission to introduce a one-stop-shop for the application of the BEFIT rules in a test phase and to incorporate it as a permanent feature of BEFIT if the test phase is successful;
20. Takes note of the Commission proposal of 11 May 2022 addressing the debt-equity bias; deplores the Council decision of 6 December 2022 to suspend the examination of the proposal; calls on the Council to relaunch negotiations on this proposal;
21. Highlights that tax incentives applied in a fiscally responsible manner for private research and development (e.g. via tax credits, enhanced allowances or adjusted depreciation schedules) can help lift an economy's overall spending towards research and development, which often comes with positive externalities; recalls that corporate spending on research and development was equal to 1.5 % of EU GDP in 2020, compared to 2.6 % in the US and Japan, according to the European Investment Bank's

2022/2023 investment report; calls on the Commission to present an assessment of tax incentives for private research and development;

◦

◦ ◦

22. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

The COVID-19 pandemic followed by the Russian aggression on Ukraine have put an immense strain on European businesses in the form of high inflation, the side-effects of lockdowns, supply chain problems and scarcity of raw materials. These hurdles are an additional burden for the EU private sector, which was already facing high compliance costs following past EU tax legislations.

The fallout from these two crises has been particularly detrimental for European SMEs, while accounting for almost all European Union (EU-28) non-financial business sector enterprises (99.8%) and two-thirds of total EU-28 employment (66.6%) are in a competitive disadvantage due to higher compliance costs compared to MNEs and the debt equity biased.

To support the competitiveness of European companies, especially SMEs, the rapporteur is of the opinion that:

- The regulatory burden on European businesses should be immediately eased by enforcing a regulatory moratorium and assessing the impact of past actions on corporate taxation before suggesting new legislation. It is important to take on board the “competitiveness check” as proposed by the plenary of the Conference on the Future of Europe and followed up by the Commission President and the European Council. The additional tax revenue generated from inflated energy prices could relieve the impact of current high inflation rates.
- The use of tax breaks and other incentives should be considered to support present and future competitiveness of European businesses. However, the decision on the introduction of such support measures should be taken in a coordinated manner among the Member States not to jeopardize the functioning of the single market.
- The key to decreasing administrative burden on European businesses, especially SMEs, is to move towards a simplified tax regime. The Commission should guide Member States towards a simplification of the refund procedures, deductions and litigation. The reduction of the regulatory burden will increase the resilience of European companies, encourage international investments, and create an environment conducive to fair and sustainable growth.
- In light of the upcoming BEFIT proposal and the implementation of the OECD Pillar II rules, the Commission should sequence the implementation of these regulatory packages to provide European businesses the necessary breathing space and time to prepare for the changing regulatory landscape.