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REPORT

on taxation of undertakings in the European Union: a common consolidated
corporate tax base
(2005/2120(INI))

Committee on Economic and Monetary Affairs

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MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

on taxation of undertakings in the European Union: a common consolidated corporate tax base (2005/2120(INI))

The European Parliament,

- having regard to the Commission non-papers 'A Common Consolidated EU Corporate Tax Base' and 'Home State Taxation for Small and Medium-Sized Enterprises', issued on 7 July 2004 and presented to the informal Ecofin Council of 10 and 11 September 2004,
- having regard to the informal Ecofin Council of 10 and 11 September 2004 in Scheveningen,
- having regard to the communication from the Commission to the Council, the European Parliament and the Economic and Social Committee 'Towards an Internal Market without tax obstacles. A strategy for providing companies with a consolidated corporate tax base for their EU-wide activities' (COM(2001)0582),
- having regard to the communication from the Commission to the Council, the European Parliament and the Economic and Social Committee 'An Internal Market without company tax obstacles: achievements, ongoing initiatives and remaining challenges' (COM(2003)0726),
- having regard to the communication from the Commission to the Spring European Council: 'Working Together for Growth and Jobs, A New Start for the Lisbon Strategy' (COM(2005)0024),
- having regard to the Commission communication of 12 April 2005 on Integrated Guidelines for Growth and Jobs (2005-2008), including a Commission recommendation on the broad guidelines for the economic policies of the Member States and the Community and a proposal for a Council decision on guidelines for the employment policies of the Member States (COM(2005)0141 - 2005/0057(CNS)),
- having regard to its resolution of 14 March 2002 on the Commission communication to the Council, the European Parliament and the Economic and Social Committee on tax policy in the European Union¹,
- having regard to its position of 16 December 2003 on the proposal for a Council directive amending Directive 90/435/EEC on the common system of taxation applicable in the case of parent companies and subsidiaries of different Member States²,

¹ OJ C 47 E, 27.2.2003, p. 591.

² OJ C 91 E, 15.4.2004, p. 84.

- having regard to its position of 10 March 2004 on the proposal for a Council directive amending Directive 90/434/EEC of 23 July 1990 on the common system of taxation applicable to mergers, divisions, transfers of assets and exchanges of shares concerning companies of different Member States¹,
 - having regard to Council Regulation (EC) No 2157/2001 of 8 October 2001 on the Statute for a European Company²,
 - having regard to Council Directive 2001/86/EC of 8 October 2001 complementing the Statute for a European Company with regard to the involvement of employees in the European company³,
 - having regard to the study on an analysis of potential competition and discrimination issues relating to a pilot project for an EU tax consolidation scheme for the European Company Statute by the Deloitte EU Tax Group of 18 August 2004 (Taxud/2003/DE/305),
 - having regard to the Commission's European Tax Survey of 10 September 2004⁴,
 - having regard to the study 'Effects of the proposed Directive on Services in the Internal Market on Tax Collection and Tax Revenue in the EU Member States', a research study by the Austrian Institute of Economics commissioned by the European Parliament's Directorate-General for Internal Policies of the Union, Directorate A – Economic and Scientific Policy (Project No IP/A/ECON/ST/2004-33),
 - having regard to Rule 45 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A6-0386/2005),
- A. whereas the Treaty establishing the European Community provides in Article 94 for the approximation of laws, regulations and administrative provisions of the Member States which affect the functioning of the internal market,
- B. whereas, at the Spring Summit in March 2005, the European Union laid down the fundamental lines for the re-launch of the Lisbon Strategy, based on knowledge, competitiveness, growth and employment,
- C. whereas the removal of any obstacles which hamper the proper functioning of the internal market in the bases of company taxation is an important element in the competitiveness of European enterprises according to the new 'integrated guidelines',
- D. whereas phenomena such as economic integration, restructuring, cross-border mergers and increased international competition make it necessary to overcome any tax

¹ OJ C 102 E, 28.4.2004, p. 569.

² OJ L 294, 10.11.2001, p. 1.

³ OJ L 294, 10.11.2001, p. 22.

⁴ European Tax Survey, Working Paper No 3/2004.

- obstacles which impede the completion of the internal market and economic growth,
- E. whereas the continuing existence of differing bases of company tax systems produces obstacles to companies' cross-border activities, with administrative and economic inefficiencies ,
 - F. whereas the existence of 25 different tax systems entails not only costs and inefficiencies for European companies which have cross-border activities but also losses for the Member States, owing to fraud, transfer pricing for tax purposes and tax evasion, as well as a number of problems relating to tax law,
 - G. whereas factors giving rise to distortions of competition must be countered and whereas a properly functioning internal market must create the conditions for enterprises to enjoy a level playing field,
 - H. whereas the issue of company taxation within the internal market is also important in legal terms, as is shown by the increasing scale of legal disputes and proceedings in this field, whereas the judgments of the Court of Justice of the European Communities concerning the Member States' arrangements with regard to company taxation have always reaffirmed the prohibition on discrimination and restriction and whereas it is necessary to address the legal uncertainties arising from the fact that the common consolidated corporate tax base (CCCTB) (as possibly adopted hereafter in the framework of enhanced cooperation) could apply to companies and branches established in countries which do not wish to adopt the CCCTB,
 - I. whereas the approach adopted by the Commission regarding the introduction of a common consolidated corporate tax base is utterly balanced, provides the most appropriate solution for large companies, and must be treated as the priority measure to implement at European level in the area of company taxation; whereas the home State taxation option for SMEs could constitute a form of simplification for entrepreneurs, provided that the Member States conclude the necessary bilateral or multilateral conventions, not least to avert unfair tax competition,
 - J. whereas the purpose of the common consolidated corporate tax base should be to create a common tax base at European level for companies which have cross-border activities and which are established in at least two Member States, a common tax base which will be more efficient, transparent and conducive to investment in the context of an effective single European Market,
 - K. whereas the Commission proposal for a pilot project based on the system of home State taxation could be a realistic and effective instrument for reducing compliance costs and removing the fiscal and administrative obstacles affecting the activities of SMEs in areas with comparable levels of effective taxation in the respective Member States, and whereas such a system introduces substantial simplification, whereby the owner of a small or medium-sized enterprise is required to know and apply only national tax rules in order to be able to operate throughout the internal market,
 - L. whereas the creation of a common consolidated tax base can be of no value if it is not efficient, transparent and competitive,

1. Notes that European companies operating in the internal market are hampered by tax obstacles, problems of double taxation and high compliance costs when they invest or operate in another Member State;
2. Notes that the current lack of clarity concerning the effective tax pressure and the trend towards tax rate competition may lead to a drop in tax income, thus leading to pressure on other forms of taxation;
3. Points out that the obstacles created by very divergent national bases of company taxation applying to enterprises which have cross-border activities in the European Union have a negative effect on economic growth and corporate competitiveness in both the internal market and the international market;
4. Reiterates that closer cooperation between the Member States is needed with regard to the bases of company taxation, in order to remove the tax obstacles linked to specific issues such as:
 - cross-border offsetting of profits and losses,
 - transfer pricing for tax purposes,
 - merger and acquisition operations,
 - cross-border restructuring operations and the payment of dividends between affiliated companies;
5. Affirms the need for reform of the bases of company tax for companies operating in the internal market, in furtherance of the new Lisbon Strategy, so as to ensure equal treatment for enterprises, administrative simplification and cost reduction and to promote greater investment, corporate competitiveness, growth and job creation;
6. Welcomes the Commission's new proposals concerning the introduction of a common consolidated corporate tax base at European level for large companies and the experimental and considered introduction of the system of home State taxation for SMEs, and notes the creation of the CCCTB Working Group;
7. Regrets that some Member States still reject the need for greater cooperation on tax matters, in particular with regard to the tax bases applicable to companies, bearing in mind the fact that coordination between the Member States with regard to company taxation is one of the instruments laid down in the integrated guidelines for implementing the new Lisbon Strategy;

A common consolidated corporate tax base at European level

8. Stresses the importance of adopting a common consolidated tax base which will fulfil the requirement of greater integration in the internal market; supports the Commission proposal and is convinced that the introduction of a common consolidated tax base for companies established in at least two Member States - a base which will make it

possible to determine the taxable revenue according to a set of common rules defined at European level and applicable to an individual group of companies - is the best way of tackling effectively the tax obstacles hampering companies' cross-border activities;

9. Reaffirms that the introduction of a common consolidated corporate tax base will not in any way prejudice the fundamental prerogatives of the Member States regarding tax matters, and in particular their right to set the rates of national corporation tax; believes, however, that harmonisation of the corporate tax base will create the conditions for more transparent public and fiscal policies and enable capital to be put to the best possible use, thereby helping to attain the Lisbon goals;
10. Reiterates that the objectives of the creation of a common consolidated corporate tax base at European Union level are:
 - the removal of the barriers set up by different national tax systems,
 - administrative simplification and a reduction in the burden of bureaucracy and in compliance costs,
 - the creation of common conditions of equal treatment for companies which are established in various Member States,
 - the removal of the mirror-image problems of double taxation and tax evasion;
11. Believes that the best way of ensuring the creation of a common consolidated corporate tax base at European level is to define a framework of common standards via a regulation based on two key, complementary elements: the creation of a common tax base in accordance with European rules and the development of a method of consolidation, as well as the method of tax base apportionment among the Member States concerned, which will allow companies to offset and consolidate profits and losses globally throughout the European Union;
12. Considers that the objective of introducing a CCCTB at European level could also be achieved through the mechanism of enhanced cooperation if Member States are unable to reach unanimous agreement; underlines that the mechanism of enhanced cooperation - though representing a second-best option compared to the unanimous agreement of Member States - will, at the same time, allow the great majority of European countries to progress in the field of a common framework for company taxation in the internal market while affording the other Member States the possibility of joining in at a later stage;
13. Advocates a step-by-step approach, with the initial introduction of an optional common consolidated tax base - which will leave enterprises the choice between existing national tax bases and a European tax base - followed by an assessment in the medium term to examine the advisability of moving to a compulsory common consolidated tax base;
14. Considers that legislation by the European Union to introduce a common consolidated tax base must at least lay down:

- the common tax principles used as a reference point at European level,
 - all the rules and mechanisms needed to define a common European tax base,
 - the rules relating to the procedures for implementing consolidation for groups of companies,
 - the link between companies' legal and tax accounting operations, that is the accounting principles underlying the determination of taxable revenue for tax purposes,
 - the mechanism for apportioning the tax yield derived from the common consolidated tax base chosen by groups of companies among the Member States which must be governed by the principle of transparency and good administration;
15. Urges the Member States to step up their cooperation on tax matters, and acknowledges the importance of the goal of providing adequate safeguards for the legitimate financial interests of the Member States, and in particular the capacity to collect tax revenue, by means of an equitable, transparent, proportionate and accepted apportionment mechanism;
 16. Asks the Commission to assess at a later stage, and after an analysis of the consequences, the advisability of applying tax arrangements based on a common consolidated tax base to the Statute for a European Company;
 17. Urges the Commission, the Member States and the CCCTB Working Group to ensure that the timetable needed to reach a technical and political agreement on the introduction of a common consolidated tax base is a strict one, geared to having a legislative proposal from the Commission by 2007;

The system of home State taxation for SMEs

18. Notes that SMEs are not succeeding in taking full advantage of the internal market, and that their potential for growth, in terms of markets, cross-border activities and the capacity to establish themselves in other Member States, falls foul of obstacles arising from administrative complexity and the high costs of compliance with the different national tax systems, which have proportionately a far greater impact on SMEs than on large companies;
19. Considers that the system of home State taxation could, subject to the conclusion of bilateral or multilateral agreements among Member States dealing with all technical issues and establishing a mechanism for sharing the tax revenue among the different national tax administrations involved in order to avoid harmful tax competition, constitute a considerable simplification for the cross-border activities of SMEs; supports the Commission proposal for a pilot project based on this system, which will make it possible for SMEs to calculate the taxable revenue of the parent company and of all the branches and subsidiaries established in other Member States participating in the project by applying the tax rules in force in their home States;

20. Points out that, in the new Lisbon Strategy and in the framework programme for innovation and competitiveness (2007-2013), support for SMEs is a priority objective, and is convinced that the pilot project can have a positive effect on the survival rate of SMEs and on their competitiveness at European and international level;
21. Deplores the fact that the Member States are not showing the requisite interest in and commitment to getting rid of tax obstacles which hamper the activities of SMEs, and that they are making no effort to implement the pilot project proposed by the Commission; urges the Member States, and in particular those with economically integrated cross-border regions, to join the pilot project and thus supply worthwhile, reproducible experience;
22. Instructs its President to forward this resolution to the Council and the Commission.

EXPLANATORY STATEMENT

I. Current situation - stimuli for changes

In October 2001, the European Commission presented a new plan for an Internal Market without tax obstacles¹ considering that the issue of the reform of EU company taxation is crucial for achieving the Lisbon-goals. In the Community context tax policy must support and reinforce other EU policy objectives and company taxation should play an important role in achieving these objectives and creating a level-playing field for businesses in the EU.

The study "Company Taxation in the Internal Market" shows that current application of company taxation creates inefficiencies and prevents operators from exploiting full benefits. Differences in national tax provisions leads to obstacles for cross-border economic activity, especially due to high compliance costs, transfer pricing problems, preferential treatment, cross-border restructuring operations and many cases of double taxation. This implies a loss of EU welfare, undermines the EU competitiveness and thus is counter to the Lisbon objectives.

The communications reveals that the range of differences in domestic effective corporate taxation is around 37 percentage points for marginal investment and around 30 percentage points for more profitable investment. Although divergence in between the countries is lower when measuring effective rates, these differentials have significant impact on the location of economic activity. Even though they contribute to competitiveness within the EU, they may cause an undesirable "race-to-the-bottom" of tax rates.

Emergence of electronic commerce, increased mobility of economic factors (wave of international mergers and acquisitions) and progressing pressure on non-fiscal economic, technological and institutional barriers to cross-border trade to pull down, make defining and safeguarding the company tax base far more difficult.

In order to adapt EU company taxation to the new economic framework and achieve a more efficient Internal Market without tax obstacles, the Commission confirms that the introduction of a common consolidated corporate tax base (CCCTB) for the EU-wide activities of companies is the most appropriate solution as leading to greater efficiency, transparency and simplicity of corporate taxation. The CCCTB will be accompanied by an appropriate apportionment mechanism, developed in agreement with the Member States that will continue to determine the applicable national corporate tax rates.

In November 2003, the Commission presented a follow-up communication² assessing progress in development of CCCTB and introducing new proposal of a pilot scheme in the field of taxation and the SMEs. The two projects are complementing and they do not overlap or interfere with each other. While the former provides for short term assistance for SMEs, the latter is to contribute to the Internal Market company taxation.

In July 2004 the Commission issued two Non-Papers presented to the informal Ecofin Council of 10-11 September 2004, concerning "A Common Consolidated EU Corporate Tax Base" and "Home State Taxation for Small and Medium-Sized Enterprises". The informal

¹ COM(2001)0582.

² COM(2003)0726.

Ecofin in Scheveningen decided upon creation of a CCCTB working group in the aim of examining a technical definition of a CCCTB and providing assistance to the Commission.

II. Commission's proposals

a) Common Consolidated Corporate Tax Base (CCCTB)

Given the current economic developments in UE and in the world, the relevance of the impact of the company tax systems on economic activities, we need then to consider the issue in terms of economic efficiency where company taxation in the Internal Market should: contribute to the international competitiveness of EU businesses in line with the goals of the Lisbon strategy; ensure that tax considerations distort as little as possible economic decisions by operators; avoid unnecessary or unduly high compliance costs and tax obstacles to cross-border economic activity; create the conditions for a level-playing field for all the companies operating in the Internal Market; promote investment; not hinder the possibility of general tax competition while tackling its all harmful or economically undesirable forms. To achieve all these objectives the introduction of a CCCTB at EU level will be the best solution.

A CCCTB would provide companies with establishments in at least two MS with the possibility to compute their group taxable income according to one set of rules - those of the new EU tax base. It would be independent of national corporate tax laws (parallel existence) and allocated to individual MS according to a specific formula. Each country would then apply its own corporate tax rate to its share of the tax base. The sharing mechanism should be kept as straightforward as possible not to 'claw back' the benefits stemming from consolidated provisions. Developing appropriate, proportionate and fair formula for sharing mechanisms should remain one of the top positions on the agenda.

Since having the same tax rules in each state but without consolidation would provide companies with fewer benefits (issues such as transfer pricing would remain), development of a common tax base should therefore be followed by development of an accounting consolidation method, as the ones provided for in the International Accounting Standards (IAS) are agreed not to be suitable for tax purposes (many of consolidated accounts include the results of non-EU subsidiaries, financial accounting is never going to fully meet the requirements of the tax base, despite recent standardisation of national accounting standards) although compulsory use of International Financial Reporting Standards (IFRS) for consolidated accounts from 2005 onwards (former IAS¹), could represent a neutral starting point for considering a common tax base. The Commission would however prefer to develop tax specific methods of consolidating group companies' accounts rather than using the IFRS.

Although the new approach would go some way to abolition of the current system of separate accounting for EU cross-border transactions within a group of companies and thus deprive MS of the impression of being able to exercise full sovereignty in deciding which tax rule to apply, it should be noticed that in reality their decisions regarding tax bases have long been dependant on each other. It must be therefore clearly stated that idea of developing common tax base is rather to create more efficient set of rule for taxation rather than reduce its level in any way. Tax rates would remain a matter for the individual MS and establishing common, even minimum corporate tax rate is not under question here.

¹ Regulation (EC) No. 1606/2002.

There is question of parliamentary scrutiny both at the national and European level in the field of auditing and taxation of companies. Since IAS/IFRS board is a private body, there might be a better way for enhancing parliamentary scrutiny with further development of EU accounting directives with extension to taxation, rather than simply endorsing the rules of IAS/IFRS.

b) Pilot project: Home Tax Based Scheme for SMEs¹ (2007-11)

More than ten years after its creation, the Internal Market is still far from being exploited to its full extent by Europe's SMEs. Taxation and in particular tax-driven compliance costs are one of the main reasons for this collective failure.

Economic research shows that the costs for complying with the tax laws of another Member State are drastically and disproportionately higher for SMEs than for larger companies. Thus, it is no surprise that SMEs hesitate to create establishments abroad, even when this would be otherwise economically sensible.

In order to help SMEs to expand in the Internal Market, the Commission intends to issue a recommendation for a Home State Taxation (HST) pilot scheme for SMEs based on the idea of voluntary mutual recognition of tax rules. On the basis of this recommendation, the MS will conclude multi- or bilateral agreements. The proposal does not entail any form of tax harmonisation.

The Commission's recommendation will propose to small enterprises of participating MS to calculate their taxable income (tax base) according to the rules of their home country (where the seat of the parent company is located). The taxable income will then be divided among all MS where a company has business activities in proportion of its payroll and/or turnover in each country. This share will be taxed in accordance with each country's own corporate tax rate. Therefore, the loss of the sovereignty for MS would be limited and required political effort relatively small.

The initiative is limited in time and scope including only corporate tax. It also does not include sectors that are subject to specific tax rules (financial services, oil and gas, shipping, agricultural activities).

The HST scheme is expected to reveal specific tax compliance problems of SMEs hampering them most in their cross-border business, test potential benefits stemming from the project rather than permanently overhaul existing taxation practices.

III. Tax competition vs. consolidation

The claim that tax competition may be harmful is contentious. While many economists tend to regard tax competition as harmful, empirical evidence of a 'race to the bottom' is limited. The latter is also mentioned in the Report of Benedetto Della Vedova², in which he stated that although there had been competition between tax systems, there was no evidence of 'race to the bottom' process and tax revenues had been rising steadily.

Contradictory statements are included in the OECD Report of 1998 on Harmful Tax Competition as a side-effect of the globalisation process that can lead to potential distortions in the patterns of trade and investment. Proliferation of such practices is likely not only to

¹ Recommendation 2003/361/EC.

² (COM(2001)0260 – C5-0597/2001 – 2001/2248(COS));

erode national tax bases of other countries but also hamper their redistributive goals. By a simple 'spill-over' effect countries may be forced to modify their tax bases.

IV. Societas Europaeae (SE)

After almost 40 years of debating, the EU has finally adopted the European Company Statute (Societas Europaeae - SE), being an optional solution for companies operating in more than one MS and granting them possibility of establishing themselves as a single European company. Although the SE is a great achievement, lack of progress in the field of taxation risks undermining its position as in corporate taxation terms the SE is treated as a multinational company and is therefore subject to the tax regime of the national legislation applicable to the company itself and its subsidiaries. The new corporate form is thus in danger of being under-used due to lack of the European tax system matching its European corporate form. This can therefore result in a situation when, without appropriate tax treatment as the application of the CCCTB most companies would most probably not see advantages of using this new legal facility. Therefore, if not coupled with measures in the area of corporate taxation, the SE Statute will not change much for cross-border business in the EU.

V. Directive on Services

Tax-relevant provisions, although indirect, can also be found in three articles of the Commission's proposal of Directive on Services, covering non-discriminatory practices for service providers, also to include fiscal discrimination. More specifically, the articles seek to guarantee free movement of services referring, on one hand, to the prohibited requirements pertaining to the freedom of establishment of service providers which cannot be imposed by a MS in which a service provider wishes to launch his activities. On the other, they focus on discriminatory requirements that may not be imposed on services recipients (like tax deductibility). They also touch upon differentiation between two legal forms of companies operating abroad, foreign subsidiaries and foreign branches, that might be considered as an obstacle to the freedom of establishment as it restricts the freedom of choice between different legal structures of operations abroad.

In this aspect introduction of CCCTB would most certainly facilitate completion of the Internal Market and go in line with Article 94 of the EC Treaty providing for approximation of the national laws on direct taxation should they impact on the functioning of the common market (free movement of goods, persons, capital and services).

PROCEDURE

Title	Taxation of undertakings in the European Union: a common consolidated corporate tax base		
Procedure number	2005/2120(INI)		
Basis in Rules of Procedure	Rule 45		
Committee responsible Date authorisation announced in plenary	ECON 4.7.2005		
Committee(s) asked for opinion(s) Date announced in plenary			
Not delivering opinion(s) Date of decision			
Enhanced cooperation Date announced in plenary			
Motion(s) for resolution(s) included in report			
Rapporteur(s) Date appointed	Pier Luigi Bersani 23.9.2004		
Previous rapporteur(s)			
Discussed in committee	29.3.2005	5.10.2005	21.11.2005
Date adopted	29.11.2005		
Result of final vote	for:	33	
	against:	5	
	abstentions:	4	
Members present for the final vote	Zsolt László Becsey, Pervenche Berès, Pier Luigi Bersani, Sharon Margaret Bowles, Udo Bullmann, Ieke van den Burg, Jan Christian Ehler, Jonathan Evans, Elisa Ferreira, José Manuel García-Margallo y Marfil, Jean-Paul Gauzès, Gunnar Hökmark, Karsten Friedrich Hoppenstedt, Ian Hudghton, Sophia in 't Veld, Pii-Noora Kauppi, Wolf Klinz, Guntars Krasts, Astrid Lulling, Gay Mitchell, Cristobal Montoro Romero, John Purvis, Alexander Radwan, Bernhard Rapkay, Dariusz Rosati, Eoin Ryan, Antolín Sánchez Presedo, Manuel António dos Santos, Peter Skinner, Margarita Starkevičiūtė, Ivo Strejček, Thomas Wise		
Substitutes present for the final vote	Mia De Vits, Harald Ettl, Ján Hudacký, Werner Langen, Thomas Mann, Tobias Pflüger, Andreas Schwab, Corien Wortmann-Kool		
Substitutes under Rule 178(2) present for the final vote	Holger Kraemer, Martine Roure		
Date tabled – A6	1.12.2005	A6-0386/2005	