

Euro Tax Flash
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Euro Tax Flash from KPMG's EU Tax Centre



European Commission adopts Action Plan on corporate tax reform to tackle tax avoidance

European Commission – Action Plan on corporate taxation – Tax evasion and avoidance – Tax transparency

On June 17, 2015, the European Commission unveiled its Action Plan on corporation taxation. As foreseen, this includes a proposal to re-launch the Common Consolidated Corporate Tax Base (CCCTB), as well as suggestions to improve transparency and ensure a fair and effective taxation of economic activities within the EU. As part of the Commission's agenda to tackle tax evasion and avoidance, the Action Plan aims at addressing tax abuse, ensuring sustainable revenues and fostering a better business environment in the internal market.

Background

The idea of a more comprehensive approach to improve corporate taxation in the EU was launched in December 2014 as part of the Commission's [Work Programme 2015](#). It was followed in March 2015 by a 'Tax Transparency Package', which included a proposal for automatic exchange of information on tax rulings, investigation into the possibilities of public disclosure of tax information by multinationals, and a review of the Code of Conduct to make it more effective in addressing harmful tax regimes (see [ETF 247](#)). The proposed Action Plan builds on these initiatives with a view to achieving fairer and more

growth-friendly tax systems in Europe (see [ETF 249](#), on the orientation debate held by the Commission on May 27, 2015).

Proposed Action Plan: highlights

In a legal framework made of what Taxation Commissioner Moscovici referred to as outdated tools and unilateral measures, the Action Plan aims at developing common rules designed to the specific needs of the European Single Market, while taking into account ongoing international reforms and the 2014/2015 OECD/G20 BEPS actions at the EU level. The Action Plan may be divided into three main areas.

CCCTB

A key feature of the Action Plan is the re-launch of the CCCTB proposal which the Commission sees as a holistic solution to corporate tax reform. While recognizing that the initial proposal may have been too ambitious to reach broad consensus among Member States, the Commission advocates a step-by-step implementation of a new C(C)CTB, leaving the consolidation elements for an implementation at a later stage. Building on discussions with the European Parliament, and in contrast to the 2011 proposal, the Commission will push for a mandatory implementation of a C(C)CTB, at least for multinationals. Pending the introduction of the consolidated part of the proposal the Commission is proposing to allow relief for foreign subsidiaries' losses. The relief would be recaptured once the subsidiaries became profit making.

Effective taxation

The promotion of measures ensuring an effective taxation where profits are generated by multinationals constitutes the second main goal of the Action Plan. The Commission expressly rejects the idea of harmonized corporate tax rates, while underlining the need to reconcile the level of taxes paid with the amount of profits generated, in a given jurisdiction. This should be achieved by reinforcing anti-abuse rules at EU level, and revising European tax rules, especially on transfer pricing and IP box regimes. With regard to Patent Boxes, the Commission will provide guidance on application of the agreed 'modified nexus' approach and has indicated that if this is not applied consistently within the next 12 months, it will put forward binding rules. In addition, the Commission will push for revisions to the Interest and Royalties Directive, as well as to the Parent-Subsidiary Directive, in order to prevent EU tax legislation aimed at eliminating double taxation, resulting in situations of double non-taxation. Pending introduction of C(C)CTB, the Commission also proposes introducing certain measures linked to the OECD's BEPS project, such as a legally binding, coherent EU-wide definition of permanent establishments and a similar approach for improved controlled foreign company rules.

Tax transparency and coordination

Finally, the Action Plan recognizes the need for greater tax transparency and sets out the steps taken by the Commission in this respect– within the EU and towards third countries. Two areas of focus are identified. First a public consultation on country-by-country

reporting has been launched, to receive feedback on whether companies should publicly disclose certain tax information. Second, the Commission published a pan-EU list of third-country non-cooperative tax jurisdictions, based on the blacklists established by the Member States since 2010. The Action Plan proposes developing an EU-wide approach to such jurisdictions.

Additional proposals in the Action Plan include improvements to double tax dispute resolution and administrative cooperation procedures, including joint audits, and a review of the Code of Conduct Group and Platform on Tax Good Governance to make them more effective.

Next steps

The Action Plan indicates a number of milestones for achieving the various elements, in particular:

- Work on a revised proposal for a CCCTB is due to start immediately, with a view to a concrete proposal in 2016.
- Screening of black-listed jurisdictions is due to be completed within the next 24 months.
- The public consultation on country-by-country reporting will end on September 9, 2015 and an impact assessment should be concluded by the first quarter of 2016.
- The new EU rules on permanent establishments and controlled foreign companies should be agreed within the next 12 months.
- The Commission will propose improvements to the double taxation dispute mechanisms by summer 2016.

In addition, the proposal for automatic exchange of rulings – presented earlier this year with agreement being aimed for by the end of 2015 - will be discussed at the next ECOFIN meeting on Friday June 19, 2015. At this occasion, the Council will be called on to agree on an amendment to the Interest and Royalties Directive, to prevent it being used for tax avoidance.

EU Tax Centre Comment

This package of proposals forms part of the various international initiatives aimed at aggressive tax planning and transparency and should also be seen in light of the public debate on tax morality. Although Commissioner Moscovici has indicated that he believes all proposed measures are realistic and may obtain consensus in the Council, the measures planned are clearly ambitious and it may be questioned whether unanimity can be reached especially on the CCCTB and the cross-border loss relief proposals.

Should you require further assistance in this matter, please contact the EU Tax Centre or, as appropriate, your local KPMG tax advisor.

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