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COMMISSION STAFF WORKING DOCUMENT

Subsidiarity Grid

Accompanying the document

Proposal for a COUNCIL DIRECTIVE

amending Directives 2003/49/EC, 2009/133/EC, 2011/96/EU, (EU) 2016/1164, (EU)2017/1852, (EU) 2025/50 as regards the simplification of the Union framework on direct taxation and supporting growth and competitiveness of the EU

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Subsidiarity Grid

1. Can the Union act? What is the legal basis and competence of the Unions' intended action?
1.1 Which article(s) of the Treaty are used to support the legislative proposal or policy initiative?
Article 115 of the Treaty on the Functioning of the European Union (TFEU) constitutes the legal base for legislative initiatives in the field of direct taxation. Although there is no explicit mention of direct taxation, Article 115 refers to issuing directives for the approximation of national laws as those that directly affect the establishment or functioning of the internal market. This is why it is essential that all initiatives proposed under this legal base bear a cross-border element and have an impact on the functioning of the internal market. The form of the current initiative as an Omnibus legal instrument, which amends existing rules laid down in Directives proposed under the legal base of Article 115 TFEU, does not leave a doubt that the legal base should be the one that was also used for the directives under amendment.
1.2 Is the Union competence represented by this Treaty article exclusive, shared or supporting in nature?
In the case of direct taxation and, as far as the proposals relate to the establishment or functioning of the internal market, the Union's competence is shared.
*Subsidiarity does not apply for policy areas where the Union has **exclusive** competence as defined in Article 3 TFEU[1]. It is the specific legal basis which determines whether the proposal falls under the subsidiarity control mechanism. Article 4 TFEU[2] sets out the areas where competence is shared between the Union and the Member States. Article 6 TFEU[3] sets out the areas for which the Unions has competence only to support the actions of the Member States.*
2. Subsidiarity Principle: Why should the EU act?
2.1 Does the proposal fulfil the procedural requirements of Protocol No. 2[4]: - Has there been a wide consultation before proposing the act? - Is there a detailed statement with qualitative and, where possible, quantitative indicators allowing an appraisal of whether the action can best be achieved at Union level?
The proposal fulfils the procedural requirement of Protocol No. 2, as shown below. In general, there has been an extensive consultation in preparation of the proposal. The following steps have been pursued in order to determine the best way forward: - **Call for Evidence**, published on 16 February 2026, open for consultation until 30 March 2026, which received 117 contributions, from business associations and companies, citizens, academic institutions, non-governmental organisations, and trade unions; - **Numerous consultations of all EU Member States**, through bilateral meetings, joint dedicated meetings of the Commission Working Party IV (direct taxation) and within the Council High-Level Working Party (HLWP); - **Bilateral consultations in the form of interviews** were conducted with over 75 key stakeholders, including businesses of different sizes operating in different sectors;

[1] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E003&from=EN
[2] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12008E004&from=EN
[3] https://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=CELEX:12008E006:EN:HTML
[4] https://eur-lex.europa.eu/legal-content/EN/TXT/HTML/?uri=CELEX:12016E/PRO/02&from=EN

- The **Platform on Tax Good Governance** was used for discussions in an expert group composed of Member States, business and the civil society;
- **Input from various other sources**. Among others, the Commission has relied on publicly available information and OECD reports and on the expertise of its Joint Research Centre, which used the CORTAX model to study the possible impacts of the initiative.

Stakeholders converged on the necessity for EU action during the consultations. Overall, stakeholders fully supported the initiative to simplify existing EU tax rules with a view to improving the functioning of the internal market and ensuring Europe's attractiveness as a place to invest and do business. There is some divergence of views on how simplification could best be achieved in terms of specific initiatives.

The **Impact Assessment** report accompanying the proposal considers all contributions received. It includes a synopsis report of the stakeholder consultation in Annex 2, which details the profiles of the respondents and the input received.

2.2 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the conformity with the principle of subsidiarity?

The explanatory memorandum and the impact assessment contain adequate justification regarding the conformity of the proposal with the principle of subsidiarity.

The proposal complies with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union (TEU). The proposal amends existing EU directives in the field of EU direct taxation, which apply to intra-EU cross-border activity. The cross-border nature of the problems at stake calls for common initiatives across the internal market, which requires amending existing EU direct tax directives. By definition, this is only possible by way of a Commission proposal for a Council directive.

In addition, by reason of the scale or effects of the proposed action, the objective pursued can be better achieved at an EU level. The proposal will remove overlapping or superfluous EU rules, streamline and simplify procedures, further reduce instances of double taxation and mitigate market distortions, enhance legal certainty, eliminate outdated provisions, and address the inconsistent or divergent application of rules across Member States. It will thus be less costly for businesses to operate across multiple Member States. This will boost EU competitiveness, by making it a more attractive place to establish businesses and invest. For tax administrations, clearer EU-wide rules would simplify compliance checks and tax audits, reduce disputes and lower administrative burden.

2.3 Based on the answers to the questions below, can the objectives of the proposed action be achieved sufficiently by the Member States acting alone (necessity for EU action)?

The objectives of the proposal cannot sufficiently be achieved by the Member States acting alone because the initiative aims to simplify and clarify existing EU directives, in order address identified challenges, and in accordance with the Treaties only an EU legislative proposal can amend the EU direct tax acquis. Beyond the purely legal aspect which is a direct reflection of the supremacy of EU law, individual action by Member States at national level would not only fail to meet the objectives of the initiative but would additionally compromise what has so far been achieved through initiatives at EU level, as it would fragment the landscape and give rise to inconsistencies.

These initiatives are therefore in line with the principle of subsidiarity, as laid down in Article 5(3) TEU, considering that their objectives cannot be achieved by each Member State alone, and a common approach for all Member States would have the highest chances for a successful outcome.

(a) Are there significant/appreciable transnational/cross-border aspects to the problems being tackled? Have these been quantified?

All Member States have their own domestic tax systems which are determined by different economic approaches, financial needs and policy choices. However, today's business models increasingly involve economically integrated groups that operate globally, including across more than one Member State within the EU.

Consequently, groups have to comply with (up to) 27 different corporate tax systems in the EU. This often creates impediments to business activity in the internal market, as compliance with different country-specific rules implies costs for businesses that operate cross-border. This may involve a large administrative burden coupled with tax uncertainty, which can discourage cross-border commercial activity, in particular for SMEs, which are more acutely affected by tax compliance costs in proportion to other businesses.

Accordingly, in some cases, it has become apparent that EU action is necessary to ensure the functioning of the internal market and the effectiveness of the fundamental freedoms. This is, for example, the case with the Interest & Royalties Directive (IRD) and the Parent-Subsidiary Directive (PSD) which were adopted to ensure equal tax treatment of dividends, royalties and interests when these payments are carried out between taxpayers in different Member States. In the same vein, the Tax Merger Directive (TMD) provides for a tax deferral and thereby ensures that tax rules applicable to cross-border intra-EU business operations, like mergers, divisions, transfers of assets, and exchange of shares, concerning taxpayers of different Member States are neutral to business decisions in the internal market. The Anti-Tax Avoidance Directive (ATAD) introduced a set of common anti-tax avoidance rules to address certain aggressive tax planning practices leading to base erosion and profit shifting. These are often caused or aggravated by mismatches or fragmentation between the tax systems of the Member States. The Directive on Dispute Resolution Mechanisms (DRM) establishes rules for resolving disputes that arise from the interpretation and application of double tax treaties among EU Member States.

The impact assessment report attempts to quantify and describe this. For instance, reference is made to a comprehensive survey-based study which presents extensive analysis of the administrative costs for compliance with tax obligations (tax compliance costs). The study has been carried out on behalf the European Commission (2022, see Impact Assessment): on average, EU businesses incur annual costs in meeting their tax compliance obligations equivalent to almost 2% of their total turnover.

(b) Would national action or the absence of the EU level action conflict with core objectives of the Treaty[5] or significantly damage the interests of other Member States?

National actions would not be sufficient to address the problems as their origin, to a significant extent, stems from individual uncoordinated implementation and interpretation of the EU direct tax acquis by the Member States, as well as outdated or overlapping rules in the EU direct tax legislation. Amending EU law which, all the more so, deals with tackling

[5] https://europa.eu/european-union/about-eu/eu-in-brief_en

	problems of cross-border nature, requires coordinated action from the EU as a whole. Only an EU legislative proposal can amend the existing EU direct tax acquis in accordance with the Treaties, to simplify and clarify the common rules as well as address identified challenges. As a result, the objectives of the Tax Omnibus cannot be achieved by the Member States acting alone.
(c)	To what extent do Member States have the ability or possibility to enact appropriate measures?
	In the first place, it is the responsibility and competence of the Member States to simplify their domestic tax rules. However, insofar as the issues are related to the existing EU direct acquis or have a cross-border nature that cannot be sufficiently addressed at national level, as explained above, only action at EU level can bring a positive outcome (through enacting appropriate measures). In such cases, the outcome of individual actions by the Member States would not be relevant or would constitute another layer in the fragmented EU tax environment and cannot improve the business tax environment in the internal market.
(d)	How does the problem and its causes (e.g. negative externalities, spill-over effects) vary across the national, regional and local levels of the EU?
	The identified problems do not bear any regional or local characteristics, which would give rise to variations within a single Member State. They arise from the transposition, interpretation and application of EU rules, which takes place at national level. Yet, while specific problems may therefore vary depending on the national approach of specific Member States, its causes are of a general nature as they are related to the state of the EU direct tax acquis, which leaves options and some uncertainty and obstacles for cross-border business activity.
(e)	Is the problem widespread across the EU or limited to a few Member States?
	By definition, as the identified problems are related to the existing common EU legislation, it is inevitable that these are widespread across the EU and albeit in different ways, affect taxpayers in all Member States.
(f)	Are Member States overstretched in achieving the objectives of the planned measure?
	The proposal only seeks to amend the existing EU direct tax acquis where this is necessary to achieve the envisaged objectives. The proposal thus simply builds on existing rules and policies. Member States will have to implement some legislative amendments, which will eventually mean that tax systems would become more efficient, and both taxpayers and tax administrations would have lighter compliance and administrative burdens respectively.
(g)	How do the views/preferred courses of action of national, regional and local authorities differ across the EU?
	Member States were consulted at a bilateral level, as well as in dedicated meetings at technical level in Working Party IV and at the High-Level Working Party (HLWP). It can be concluded that, while views differ primarily amongst Member States on the specific design of the main features of the initiative, there is a broad consensus on the problems and convergence on the need for EU action to simplify the EU direct tax environment. The

collected views reflect the state of play at national level and there is no indication that within a single Member State, there is divergence of approach, depending on the region.

2.4 Based on the answer to the questions below, can the objectives of the proposed action be better achieved at Union level by reason of scale or effects of that action (EU added value)?

Action at EU level would bring significant benefits to both businesses and tax administrations. The Omnibus on Taxation will be designed to tackle problems in the existing Directives in the field of direct taxation.

The proposal will remove overlapping or superfluous already existing EU rules, streamline and simplify procedures, further reduce instances of double taxation and mitigate market distortions, enhance legal certainty, eliminate outdated provisions, and address the inconsistent or divergent application of rules across Member States. It will thus be less costly for businesses to operate across multiple Member States. This will boost EU competitiveness, by making it a more attractive place to establish businesses and invest. For tax administrations, clearer EU-wide rules will simplify compliance checks and tax audits, reduce disputes and lower administrative burden.

It follows that if such action had to be undertaken independently by each Member State, the outcome would not fully achieve the objective, as individual action would not effectively tackle the identified problems of fragmentation and divergent interpretation/application.

The Omnibus on Taxation proposal should also be seen in conjunction with the DAC Recast, which entails simplification of certain reporting obligations and procedures. Altogether, the initiatives would entail coordinated and comprehensive actions ensuring that both material tax rules and the exchange of information framework are up-to-date and fit for purpose.

(a) Are there clear benefits from EU level action?

The impact assessment includes a cost-benefit analysis of the initiative, which is expected to be positive. The benefits mainly arise from the simplifications that the initiative will introduce which can significantly reduce tax compliance costs for EU taxpayers. Concretely, as explained in the impact assessment report, this involves a direct reduction of tax-related compliance costs for cross-border operating companies, cost savings in legal advice and litigation procedures concerning dispute resolution and business reorganisations, EU competitiveness through exemption from WHT on intra-EU cross-border interest, royalty and dividend payments and through simpler, common and more beneficial tax depreciation treatment for investments in the area of research and development (R&D).

The impact assessment report sets out the potential cost savings for businesses and the economy in the EU as a result of potential reductions of current tax compliance costs, as well as in the context of the broader, longer-term macro-economic impact. It concludes that the preferred option is the Comprehensive Omnibus. This option is roughly estimated to reduce compliance and financial costs by about EUR 6.6 billion per year, out of which recurrent costs related to cutting down on administrative burden is EUR 2 billion per year. Some of its individual measures are estimated to increase EU GDP by roughly 0.04% (exemption from withholding tax) and 0.2% (immediate expensing of certain R&D assets) in the long run.

(b) Are there economies of scale? Can the objectives be met more efficiently at EU level (larger benefits per unit cost)? Will the functioning of the internal market be improved?

By decreasing compliance costs and tax obstacles, the initiatives will in turn foster foreign and domestic investment as well as capital mobility in the EU, both for large groups and SMEs with cross-border presence or plans to expand abroad. Thus, businesses operating in different Member States will be able fully benefit from the freedom of establishment and the free movement of capital without being hindered by tax regulatory obstacles.

In addition, as explained as part of the impact assessment, studies show that investment within the EU internal market is usually more efficient than purely domestic investment because market integration improves capital allocation, increases competition, enables economies of scale, and facilitates knowledge spillovers, thereby raising productivity and returns on investment. The proposal specifically aims to support such investments across EU borders and cross-border business activity across the internal market, by simplifying and improving the applicable EU-wide tax framework.

Hence, it is expected that there will be economies of scale and that the objectives can be met more efficiently at EU level.

(c) What are the benefits in replacing different national policies and rules with a more homogenous policy approach?

Overall, the proposal does not replace different national policies and rules with a more homogenous policy approach, given that the proposal amends existing EU law. Instead, the proposal aims to materialise a more consistent interpretation and application of the common rules as well as provide legal certainty to taxpayers across the internal market. The envisaged revisions will facilitate cross-border investment by increasing tax certainty and reducing compliance costs and disputes both for taxpayers and tax administrations. This will allow the EU's economy to grow and be more competitive vis-à-vis other big markets, while maintaining high tax standards and continuing the fully respect national tax sovereignty.

(d) Do the benefits of EU-level action outweigh the loss of competence of the Member States and the local and regional authorities (beyond the costs and benefits of acting at national, regional and local levels)?

The proposal aims to amend the EU direct tax acquis by simplifying or clarifying existing tax rules at EU level. There is no aim of adding new fields to the EU acquis in direct taxation. It therefore follows that Member States' (or local/regional) competences are not affected as a matter of principle.

(e) Will there be improved legal clarity for those having to implement the legislation?

This is precisely one of the key objectives of the Simplification initiative. The measures contained in the proposal will make the applicable EU tax rules, both substantive and related procedural requirements, simpler and clearer. Several rules will be updated or streamlined with other rules, to rectify overlaps and avoid confusion. The proposal specifically addresses issues related to diverging implementation or interpretation across EU Member States, by opting for a single EU approach. This enhanced clarity is expected to result in lower compliance and administrative burdens for taxpayers and tax administrations.

3. Proportionality: How the EU should act

3.1 Does the explanatory memorandum (and any impact assessment) accompanying the Commission's proposal contain an adequate justification regarding the proportionality of the

proposal and a statement allowing appraisal of the compliance of the proposal with the principle of proportionality?
The proposal is limited to targeted amendments necessary to simplify existing Union tax legislation and improve its coherence and effectiveness. It does not go beyond what is necessary to achieve these objectives. In particular, it preserves the core objectives and safeguards of the existing directives while updating, streamlining or simplifying specific provisions that have been identified as generating unnecessary complexity, administrative burdens, legal uncertainty or disproportionate compliance costs. It therefore strikes an appropriate balance between simplification, legal certainty and the preservation of the original objectives of the revised legal instruments. In this way, it is ensured that the initiative maintains the high degree of protection against tax avoidance in the internal market, as this was attained over the last decade.
3.2 Based on the answers to the questions below and information available from any impact assessment, the explanatory memorandum or other sources, is the proposed action an appropriate way to achieve the intended objectives?
The proposal will focus on the simplification of existing EU rules that are linked to identified problems and can only be addressed through legislative action, exclusively at EU level. The consultations and the ATAD evaluation also identified problems e.g., related to beneficial ownership or the interaction between the General-Anti Abuse Rule (GAAR) in ATAD and the specific anti-tax abuse rules in the PSD/IRD/TMD, which could be addressed by soft law initiatives, such as administrative guidance, in the future. As part of this initiative, EU action will thus be limited to what is necessary for the functioning of the internal market.
(a) Is the initiative limited to those aspects that Member States cannot achieve satisfactorily on their own, and where the Union can do better?
Yes, the initiative is limited to amending the EU direct tax acquis, which by definition relates to objectives that Member States cannot achieve on their own, whereas the Union can do better by centrally simplifying, clarifying or in cases, extending or streamlining the existing EU framework.
(b) Is the form of Union action (choice of instrument) justified, as simple as possible, and coherent with the satisfactory achievement of, and ensuring compliance with the objectives pursued (e.g. choice between regulation, (framework) directive, recommendation, or alternative regulatory methods such as co-legislation, etc.)?
Considering the legal base of the initiative (i.e. Article 115 TFEU) and the fact that the proposal will be an act amending existing EU tax directives, the only permissible legal instrument under the specific legal base is a Directive.
(c) Does the Union action leave as much scope for national decision as possible while achieving satisfactorily the objectives set? (e.g. is it possible to limit the European action to minimum standards or use a less stringent policy instrument of approach?)
Although the proposal removes some of the minimum standards and replaces them with harmonised rules, these cases are all justified by empirical evidence which arose during the extensive consultation process. Namely, their feature of minimum standard compromised the effectiveness of these rules and gave rise to a fragmented landscape, which is the result of having various available options. These eventually created a barrier to trade. This point emerges recurrently and consistently in all interactions with stakeholders.

(d) Does the initiative create financial or administrative cost for the Union, national governments, regional or local authorities, economic operators or citizens? Are these costs commensurate with the objective to be achieved?
No financial or administrative cost is expected for the Union. Regarding national authorities, the impact assessment report estimates that related financial or administrative costs will be none, marginal or not relevant. For certain measures, it is expected that these will reduce the workload for tax authorities, but quantitative projection is difficult, given that there is no empirical data to assess the potential cost implications – whether strictly from an IT or human resource (adaptation, personnel) point of view.
(e) While respecting the Union law, have special circumstances applying in individual Member States been taken into account?
n/a