

15 December 2016

Reasoned opinion from the Riksdag (2016/17:SkU18)

The Riksdag has examined the application of the principle of subsidiarity in the Proposal for a COUNCIL DIRECTIVE on Double Taxation Dispute Resolution Mechanisms in the European Union COM(2016) 686.

The Riksdag notes that double taxation is a major problem for companies with cross-border activities, and that there is a need to improve the existing dispute resolution mechanism regarding double taxation in the European Union. This would be an important step towards increased legal certainty and a fair and efficient tax system. Dealing with this problem is therefore an issue of high priority.

Direct taxation matters belong to an area which is normally part of the member states' sovereignty, and which is only regulated at Union level in exceptional cases. Double taxation disputes are normally resolved through agreements which are based on intergovernmental double taxation agreements or, in matters relating to transfer pricing, through the EU Arbitration Convention. This Convention is an intergovernmental agreement dealing with the elimination of double taxation in connection with the adjustment of profits of associated enterprises. The Commission has pointed out that the Convention contains shortcomings which are to the detriment of companies that are subject to double taxation in the EU.

The Riksdag notes that the proposal is largely based on the existing EU Arbitration Convention. In the opinion of the Riksdag, the Commission's statement does not clarify why a solution to the identified problems in the field of dispute resolution need to be addressed by means of a Directive. In light of this, the Riksdag considers that the proposal as it is currently designed, is not compliant with the principle of subsidiarity.