

Reasoned opinion from the Swedish Parliament

The Riksdag has examined the application of the principle of subsidiarity in the Proposal for a Directive of the European Parliament and of the Council amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches (COM(2016) 198).

The Riksdag considers it is a high political priority to combat tax evasion and tax avoidance, both at EU level and at the global level. The Riksdag would therefore like to express its support for the objective of the proposed directive, which includes attempting to achieve a more equitable distribution of tax payments from multinational companies by strengthening the connection between value creation and tax burdens.

The Riksdag considers that the drawing up of a list of jurisdictions that do not follow good governance standards of taxation is a measure in the area of taxation that is so far-reaching that a decision on this matter should be taken by the member states in the Council. This part of the proposal exceeds what is necessary to achieve the given objectives and should therefore be regarded as violating the principle of proportionality.

In the opinion of the Riksdag, the Commission's proposal should be seen as one of a number of measures in a coherent EU strategy to ensure that profits are taxed where they originate and that it should not be possible for multinational enterprises to avoid paying their proportion of tax through aggressive tax planning and tax evasion. The Riksdag notes further that in its impact assessment the Commission also considers the proposal to be part of the Commission's efforts to ensure that the country where a company's profits are created is also the country where they are taxed. In the light of the above, the Riksdag therefore considers that the proposal entails a harmonisation of tax regulations and from this it follows that the legal basis for the proposal should be changed. In this context, the Riksdag wishes to stress that the responsibility for taxation policy is primarily a national responsibility and points out that a transfer of competence from the member states to EU level would at the same time entail a restriction of freedom of action on the part of the member states in this area. The Commission should therefore give special consideration and exercise caution when it proposes measures that affect an area so sensitive to the member states.

In conclusion, the Riksdag notes that the Government in its explanatory memorandum on the proposal considers that there is a risk that implementation of the proposal on open country-by-country reporting could jeopardise the important exchange of country-by-country reporting between tax authorities which was negotiated in the OECD.

In the light of what is presented above, the Riksdag has made the overall assessment that the proposal in all its parts cannot be regarded as being compatible with the principle of subsidiarity.