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DRAFT REPORT

on the proposal for a Council directive on Business in Europe: Framework for
Income Taxation (BEFIT)
(COM(2023)0532 – C9-0341/2023 – 2023/0321(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Evelyn Regner

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the ***■*** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

**on the proposal for a Council directive on Business in Europe: Framework for Income Taxation (BEFIT)
(COM(2023)0532 – C9-0341/2023 – 2023/0321(CNS))**

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2023)0532),
 - having regard to Article 115 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C9-0341/2023),
 - having regard to the budgetary assessment by the Committee on Budgets,
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Swedish Parliament, the Maltese Parliament, and the Irish Houses of the Oireachtas, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rules 84 and 58 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A10-0000/2025)
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance and leads to unfair competition for businesses. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs.

Amendment

(2) The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance and leads to unfair competition for businesses, ***and can lead to cross-border aggressive tax planning as well as double taxation and double non-taxation.*** That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs, ***which can impact cross-border investments. That complexity can hinder businesses' expansion in the internal market, with a negative impact on innovation, competitiveness and jobs. Companies need a workable single tax framework in order to be able to develop their commercial activity across the internal market.***

Or. en

Amendment 2

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) Albeit different in their design, the

Amendment

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fundamental features of corporate income tax systems are similar as they lay down rules aiming towards the same objective, i.e., to arrive at a taxable base for businesses. In this vein, it would be important for businesses which operate on the internal market that Member States introduce a common legal framework to harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules and ensuring a fair competition.

fundamental features of corporate income tax systems are similar as they lay down rules aiming towards the same objective, i.e., to arrive at a taxable base for businesses. In this vein, ***to support the proper functioning of the internal market, the corporate tax environment in the Union should be shaped according to the principle that companies pay their fair share of tax in the jurisdictions where their profits are generated. Therefore***, it would be important for businesses which operate on the internal market that Member States introduce a common legal framework to harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules, ***fighting against tax avoidance, reducing administrative burden*** and ensuring a fair competition. ***Provisions regarding the corporate income tax rate should, however, remain at the discretion of Member States within the framework of Council Directive (EU) 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union.***

Or. en

Amendment 3

Proposal for a directive Recital 5

Text proposed by the Commission

(5) The environment for doing business in the internal market should be made more attractive with the aim to stimulate growth and investment in the Union. For this purpose, the enactment of a common framework of corporate tax rules should be prioritised, in order to make it easier for businesses to comply with such rules when they operate across borders and also to

Amendment

(5) The environment for doing business in the internal market should be made more attractive with the aim to stimulate growth and investment in the Union. For this purpose, the enactment of a common framework of corporate tax rules should be prioritised, in order to make it easier for businesses to comply with such rules when they operate across borders and also to

encourage those who wish to further expand abroad to do so. A single set of corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double and over-taxation. Furthermore, as tax revenue sustainability is key to Member States' budgets, including to invest in infrastructure, research and development and to deliver public services, it would be critical to ensure for the future that the allocation of revenues is performed in accordance with a tool based on solid parameters that cannot be abused.

encourage those who wish to further expand abroad to do so. A single set of corporate tax rules for international activity is expected to result in enhanced tax certainty and less tax disputes, as it would tackle distortions and decrease the number of cases of double and over-taxation. Furthermore, as tax revenue sustainability is key to Member States' budgets, including to invest in infrastructure, research and development ***and green and social transitions*** and to deliver public services, ***it is essential to design profit determination rules in the Union that will not result in lower revenues for Member States. In addition,*** it would be critical to ensure for the future that the allocation of revenues is performed in accordance with a tool based on solid parameters that cannot be abused.

Or. en

Amendment 4

Proposal for a directive Recital 6

Text proposed by the Commission

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should be mandatory for groups with a taxable presence in the Union provided that they have annual combined revenues of

Amendment

(6) It is indeed critical to create a system that achieves a degree of uniformity across the Union, at least amongst the taxpayers that it is chiefly addressed to. Accordingly, and considering the efforts that both tax administrations and businesses have made in order to implement the framework of a global minimum level of taxation, it would be important to capitalise on this achievement and design rules that remain as close as possible to the OECD/G20 Model Rules and Directive (EU) 2022/2523. On this basis, the common framework of rules should be mandatory for groups with a taxable presence in the Union provided that they have annual combined revenues of

more than EUR 750 000 000 based on their consolidated financial statements. In this way, the scope would thus be targeted at businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union.

more than EUR 750 000 000 based on their consolidated financial statements. In this way, the scope would thus be targeted at businesses that are most likely to have cross-border activities and, thereby, can benefit from the simplification which a common legal framework would offer. The threshold would also provide alignment with Directive (EU) 2022/2523 for a consistent approach in the Union. ***An enlargement of the scope of this Directive should be assessed a few years after the BEFIT framework has entered into force.***

Or. en

Amendment 5

Proposal for a directive Recital 7

Text proposed by the Commission

(7) Although the threshold would be determined on the basis of the combined revenues of the group on a global basis, the remit of the provisions should be limited to members of the group operating on the internal market as Union law only applies within the Union and does not bind non-Member States. Only the Union sub-set of such a group should therefore be captured. This would include companies which are resident for tax purposes in a Member State and their permanent establishments operating in a Member State as well as the permanent establishments in the Union of third country companies of the same group. Considering that the concept of a permanent establishment is dealt with within bilateral tax treaties and national law and although the definition features some common principles, there is still a degree of divergence worldwide. ***Consequently, it would be a pragmatic approach to rely on the existing double taxation treaties and national rules of the***

Amendment

(7) Although the threshold would be determined on the basis of the combined revenues of the group on a global basis, the remit of the provisions should be limited to members of the group operating on the internal market as Union law only applies within the Union and does not bind non-Member States. Only the Union sub-set of such a group should therefore be captured. This would include companies which are resident for tax purposes in a Member State and their permanent establishments, ***including any significant economic presence,*** operating in a Member State as well as the permanent establishments in the Union of third country companies of the same group. Considering that the concept of a permanent establishment is dealt with within bilateral tax treaties and national law and although the definition features some common principles, there is still a degree of divergence worldwide.

Member States, rather than attempt full harmonisation through secondary Union law.

Or. en

Amendment 6

Proposal for a directive Recital 7 a (new)

Text proposed by the Commission

Amendment

(7a) The Union should lead international discussions on making international corporate taxation fit for the future including by promoting a form of harmonisation of rules and an allocation of the taxable base for large multinationals.

Or. en

Amendment 7

Proposal for a directive Recital 8 a (new)

Text proposed by the Commission

Amendment

(8a) This Directive should lay down rules extending the concept of a permanent establishment so as to include a significant economic presence through which a business is wholly or partly carried on. The underlying objective is to improve the resilience of the internal market as a whole in order to address the challenges of taxation of the digital economy. The increased importance of services, accelerated by the digitalisation of the economy, has led to recent proposals, as embedded in the OECD/G20 Pillar One proposal, to define significant economic presence as a taxable nexus

based on a purely quantitative threshold of sales in any given country in order to capture all sectors and ensure simplicity. That objective cannot be sufficiently achieved by the Member States acting individually because digital businesses are able to operate cross-border without having any physical presence in a jurisdiction and rules are therefore needed to ensure that digital businesses pay taxes in the jurisdictions where they make profits, whether by providing services or selling products (‘sales’).

Or. en

Amendment 8

Proposal for a directive Recital 8 b (new)

Text proposed by the Commission

Amendment

(8b) In order to provide for a robust definition of a taxable nexus of a business in a Member State, whether or not the business is digital, it is necessary that such a definition is based on the revenues from any sales, including from the supplied digital services. The definition included in this Directive is identical to the definition agreed upon in the framework of the OECD/G20 Pillar One proposal, in order to ensure coherence between this Directive and that international framework. The Union should lead by example in the international tax reform discourse, in order to provide certainty to taxpayers.

Or. en

Amendment 9

Proposal for a directive Recital 9

Text proposed by the Commission

(9) The objective of simplifying the current rules underscores the envisaged initiative. Therefore, the rules on the computation of the tax base should be built by applying a limited series of tax adjustments to the financial statements of each group member. These limited adjustments would represent common adjustments that are necessary to convert the financial accounting statements into a tax base. Considering the need for alignment with Directive (EU) 2022/2523, the adjustments should resonate with that framework, which should also facilitate implementation for Member States and businesses that would already be familiar with the general principles.

Amendment

(9) The objective of simplifying the current rules underscores the envisaged initiative, ***improving the efficiency and competitiveness of the internal market.*** Therefore, the rules on the computation of the tax base should be built by applying a limited series of tax adjustments to the financial statements of each group member. These limited adjustments would represent common adjustments that are necessary to convert the financial accounting statements into a tax base. Considering the need for alignment with Directive (EU) 2022/2523, the adjustments should resonate with that framework, which should also facilitate implementation for Member States and businesses that would already be familiar with the general principles. ***In that framework, the payment of top-up tax due in accordance with Directive (EU) 2022/2523 or in application of a qualified domestic top-up tax as referred to in that Directive, or any other alternative minimum taxes recognised in an international forum such as the OECD or the United Nations, should be taken into consideration.***

Or. en

Amendment 10

Proposal for a directive Recital 10 a (new)

Text proposed by the Commission

Amendment

(10a) In order to achieve the objective of a simplified tax framework and in order

for this Directive to adequately complement Directive (EU) 20XX/XX^{1a} on laying down rules on a debt-equity bias reduction allowance and on limiting the deductibility of interest for corporate income tax purposes, the rules laid down in this Directive on the deductibility of interest should align with the ones provided for in Directive (EU) 20XX/XX, where applicable.

^{1a} OJ L , , p. .

Or. en

Amendment 11

Proposal for a directive Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) In order to spur investment and achieve a sustainable transition, Member States should be incentivised to adopt targeted accelerated depreciation rules. Such temporary rules should stimulate sustainable economic growth, create jobs, guarantee energy security and foster innovation in sustainable technologies. To operationalise those incentives, the Commission should be mandated to adopt implementing acts.

Or. en

Amendment 12

Proposal for a directive Recital 12

Text proposed by the Commission

Amendment

(12) To achieve the key objective of

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creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a transition allocation rule; this would pave the way towards a permanent mechanism. *That* permanent mechanism *could* be based on a formulary apportionment *and* would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the information gathered during the transition period. This will also allow for a more thorough assessment of the impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double and *over*-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.

creating a simplified corporate tax framework, the preliminary tax results for each group member should be aggregated into one single common tax base, in order to subsequently allocate this base to eligible group members. The tax adjustments to the financial statements would produce preliminary tax results for each group member. These results would then be aggregated, which would allow for *a capped* cross-border loss relief between BEFIT group members, and subsequently, the aggregated tax base would be allocated to group members based on a transition allocation rule; this would pave the way towards a permanent mechanism. *The* permanent mechanism *should* be based on a formulary apportionment *including, but not limited to, three sets of tangible factors: labour, assets and sales*. *It* would render the need for intra-BEFIT group transactions to be consistent with the arm's length principle redundant. It would have the advantage of using more recent country-by-country reporting ('CbCR') data and the information gathered during the transition period. This will also allow for a more thorough assessment of the impact that the implementation of the two-pillar approach is expected to have on national tax bases and the BEFIT group tax bases, *and therefore, reduce tax compliance costs for companies*. In this way, it would still become possible to materialise the key objective of tax neutrality in the internal market, which would reduce instances of double *taxation* and *double non*-taxation and enhance tax certainty with the aim of reducing the number of tax disputes.

Or. en

Amendment 13

Proposal for a directive Recital 14

Text proposed by the Commission

(14) To provide space for growth and investment, Member States would also be allowed to individually apply additional post-allocation adjustments (e.g. tax treatment of pension contributions) in areas not covered by the common framework. Member States would also be free to further adjust their allocated share without a ceiling in order to ensure that Member States can make their national policy choices in this area. ***Most importantly, Directive (EU) 2022/2523 would effectively set a ceiling which would effectively ensure that the effective tax rate is at least 15%.***

Amendment

(14) To provide space for growth and investment, Member States would also be allowed to individually apply additional post-allocation adjustments (e.g. tax treatment of pension contributions) in areas not covered by the common framework. Member States would also be free to further adjust their allocated share without a ceiling in order to ensure that Member States can make their national policy choices in this area. ***The post-allocation adjustment should, however, focus on input-based tax incentives. Member States should refrain from offering output-based tax incentives such as patent boxes and other intellectual property regimes.***

Or. en

Amendment 14

Proposal for a directive Recital 14 a (new)

Text proposed by the Commission

Amendment

(14a) The Commission and the Member States should ensure the coherence and alignment of this Directive with the OECD/G20 Model Rules and with Directive (EU) 2022/2523, in particular as regards the calculation of the effective tax rate on a country-by-country basis, which could be undermined by the cross-border loss relief between BEFIT group members envisaged in this Directive. That dimension should be assessed in the revision of this Directive.

Or. en

Amendment 15

Proposal for a directive Recital 15

Text proposed by the Commission

(15) Some Member States operate corporate tax systems which are built on principles that differ from the most common approach, such as distribution-based tax systems. It is therefore of prime importance to put in place the necessary adjustments, in order to ensure a workable interaction with those systems. The solution could be sought in certain post-allocation adjustments. These would entail that the part which would be allocated to a group member under a distribution-based system has to be modified in proportion to the distributions made during the fiscal year. The essence of a distribution-based tax system would be fully retained, considering that the distribution marks a timing point for taxing the allocated part and accordingly determine how much of this would need to be taxed. In this regard, it should be envisaged to operate a carry-forward mechanism, to ensure that the allocated part which is not taxed in the current year would be taxable in the following years.

Amendment

(15) Some Member States operate corporate tax systems which are built on principles that differ from the most common approach, such as distribution-based tax systems. It is therefore of prime importance to put in place the necessary adjustments, in order to ensure a workable interaction with those systems. The solution could be sought in certain post-allocation adjustments. These would entail that the part which would be allocated to a group member under a distribution-based system has to be modified in proportion to the distributions made during the fiscal year. The essence of a distribution-based tax system would be fully retained, considering that the distribution marks a timing point for taxing the allocated part and accordingly determine how much of this would need to be taxed. In this regard, it should be envisaged to operate a carry-forward mechanism, to ensure that the allocated part which is not taxed in the current year would be taxable in the following years. ***The possible inclusion of distribution-based tax systems within the scope of this Directive should be assessed after five years.***

Or. en

Amendment 16

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) A common framework for corporate taxation would necessarily feature an administration system, which should ideally provide for a degree of tax certainty and simplification. To promote uniformity, the administration system would have to build on the importance of operating a centralised point of reference for dealing with a number of common issues, such as an Information Return for the entire group, and ensuring an adequate degree of coordination and collaboration amongst national tax administrations. At the same time, the administration system should fully respect national tax sovereignty as local tax returns, audits and dispute settlement would have to remain primarily at the level of the Member States.

Amendment

(17) A common framework for corporate taxation would necessarily feature an administration system, which should ideally provide for a degree of tax certainty and simplification. To promote uniformity, the administration system would have to build on the importance of operating a centralised point of reference for dealing with a number of common issues, such as an Information Return for the entire group, and ensuring an adequate degree of ***confidentiality and security, as well as*** coordination and collaboration amongst national tax administrations. At the same time, ***during the transition***, the administration system should fully respect national tax sovereignty as local tax returns, audits and dispute settlement would have to remain primarily at the level of the Member States.

Or. en

Amendment 17

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) To ensure that the rules of the common framework are implemented and enforced correctly, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive. Such penalties should be effective, proportionate and dissuasive.

Amendment

(18) To ensure that the rules of the common framework are implemented and enforced correctly, Member States should lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive. Such penalties should be effective, proportionate and dissuasive. ***They should be set at a minimum rate of 0,1 % of the turnover of the BEFIT group in the event of a failure***

to comply with the requirements laid down in this Directive to file the BEFIT information return, and in the event of a deliberate misreporting in the BEFIT information return.

Or. en

Amendment 18

Proposal for a directive Recital 19

Text proposed by the Commission

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR 750 000 000 as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers.

Amendment

(19) To optimise the benefits of having a common legal framework for computing the corporate tax base in the internal market, the application of the rules should be optional for groups, including SME groups, who earn annual combined revenues of less than EUR 750 000 000, ***and, as of 1 July 2035, of less than EUR 40 000 000***, as long as they prepare consolidated financial statements and have a taxable presence in the Union. By keeping the application of the rules open to groups of a smaller size, more groups with cross-border structures and activities may benefit from the simplification that the common framework offers. ***Companies choosing to be covered by this Directive should benefit from Member States' and the Commission's technical assistance to comply with the new rules and therefore foster their cross-border activities.***

Or. en

Amendment 19

Proposal for a directive Recital 21 a (new)

Text proposed by the Commission

Amendment

(21a) Each BEFIT group should have a filing entity, which should determine the country of the filing authority and the competent authority which will lead the BEFIT team. As a matter of principle, the filing authority should be based in the Member State where the parent company of the BEFIT group is resident for tax purposes. Where the BEFIT group is owned by a firm headquartered in a third country, the filing entity should be the Union intermediate parent entity, where there is one.

Or. en

Amendment 20

Proposal for a directive Recital 21 b (new)

Text proposed by the Commission

Amendment

(21b) Before this Directive enters into force, the Commission should, where appropriate, submit a legislative proposal for a harmonised, common European taxpayer identification number. This would not only facilitate the communication between the representatives of Member States and the BEFIT team, but also increase the efficiency of tax information exchange within the Union.

Or. en

Amendment 21

Proposal for a directive Recital 23

Text proposed by the Commission

(23) The retention period of 10 years is justified in order to allow Member States to comply with most statute of limitations.

Amendment

(23) The retention period of **at least** 10 years is justified in order to allow Member States to comply with most statute of limitations.

Or. en

Amendment 22

Proposal for a directive Recital 25 a (new)

Text proposed by the Commission

Amendment

(25a) This Directive is also relevant from a Union own resources perspective, as set out in the legally binding roadmap of 2020 on own resources^{1a}, and the 2021 Communication on the next generation of own resources for the Union budget. A BEFIT-based own resource should link the financing of the Union budget to the benefits enjoyed by companies operating in the internal market and create a strong and stable resource over time. Under a BEFIT-based own resource, Member States should transfer part of their corporate income tax revenues to the Union budget. The roadmap provided for in the Interinstitutional Agreement foresees a new own resource linked to corporate taxation as part of a basket of new revenue sources and, in that respect, the BEFIT initiative constitutes an excellent starting point for a new own resource.

^{1a} ***Interinstitutional Agreement between the European Parliament, the Council of***

the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources (OJ L 433I, 22.12.2020, p. 28, ELI: http://data.europa.eu/eli/agree_interinstit/2020/1222/oj).

Or. en

Amendment 23

Proposal for a directive

Article 1 – paragraph 2 – point e a (new)

Text proposed by the Commission

Amendment

(ea) extending the concept of a permanent establishment.

Or. en

Amendment 24

Proposal for a directive

Article 1 – paragraph 3

Text proposed by the Commission

Amendment

3. A company or a permanent establishment which is subject to this Directive shall cease to be subject to the national corporate tax law in all Member States where it is established in respect of all matters regulated by this Directive, unless otherwise stated in this Directive.

3. A company or a permanent establishment which is subject to this Directive shall cease to be subject to the national corporate tax law ***establishing a corporate income tax base*** in all Member States where it is established in respect of all matters regulated by this Directive, unless otherwise stated in this Directive.

Or. en

Amendment 25

Proposal for a directive

Article 2 – paragraph 1 – point a

Text proposed by the Commission

(a) they belong to a domestic group or to a multinational enterprise group ('MNE group') which prepares consolidated financial statements and had annual combined revenues of EUR 750 000 000 or more in at least two of the last four fiscal years;

Amendment

(a) they belong to a domestic group or to a multinational enterprise group ('MNE group') which prepares consolidated financial statements and had annual combined revenues **amounting to:**

- from 1 July 2028 to 30 June 2035: EUR 750 000 000 or more in at least two of the last four fiscal years;

- from 1 July 2035: EUR 40 000 000 or more in at least two of the last four fiscal years.

Or. en

Amendment 26

Proposal for a directive

Article 2 – paragraph 2

Text proposed by the Commission

2. By way of derogation from paragraph 1, this Directive shall not apply to companies or permanent establishments with an ultimate parent entity outside the Union where the combined revenues of the group in the Union either do not exceed **5%** of the total revenues for the group based on its consolidated financial statements or the amount of EUR **50** million in at least two of the last four fiscal years. This shall be without prejudice to the right of opting in under paragraph 7.

Amendment

2. By way of derogation from paragraph 1, this Directive shall not apply to companies or permanent establishments with an ultimate parent entity outside the Union where the combined revenues of the group in the Union either do not exceed **3%** of the total revenues for the group based on its consolidated financial statements or the amount of EUR **40** million in at least two of the last four fiscal years. This shall be without prejudice to the right of opting in under paragraph 7.

Or. en

Amendment 27

Proposal for a directive Article 2 – paragraph 3

Text proposed by the Commission

3. Where two or more groups merge to form a single group, the threshold of EUR 750 000 000 referred to in paragraph 1 shall be deemed to be met for any fiscal year prior to the merger if the sum of the combined revenues of the merging groups for that fiscal year, as included in each of their consolidated financial statements, is EUR 750 000 000 or more. The companies and permanent establishments members of that newly formed group shall become subject to this Directive if that threshold was met in at least two of the last four fiscal years.

Amendment

3. Where two or more groups merge to form a single group, the threshold of EUR 750 000 000 referred to in paragraph 1, **point (a), first indent**, shall be deemed to be met for any fiscal year prior to the merger if the sum of the combined revenues of the merging groups for that fiscal year, as included in each of their consolidated financial statements, is EUR 750 000 000 or more. The companies and permanent establishments members of that newly formed group shall become subject to this Directive if that threshold was met in at least two of the last four fiscal years. ***As from 1 July 2035, the threshold of reference is EUR 40 000 000 as referred to in paragraph 1, point (a), second indent.***

Or. en

Amendment 28

Proposal for a directive Article 2 – paragraph 4

Text proposed by the Commission

4. Where a company that is not a member of a group (the ‘target’) is acquired by another company or a group (the ‘acquiring entity’) and either the target or the acquiring entity did not have consolidated financial statements in any of the four fiscal years immediately preceding the fiscal year of the acquisition, the threshold of annual combined revenues of EUR 750 000 000 referred to in paragraph 1 shall be deemed to be met for that year if the sum of the revenues included in the

Amendment

4. Where a company that is not a member of a group (the ‘target’) is acquired by another company or a group (the ‘acquiring entity’) and either the target or the acquiring entity did not have consolidated financial statements in any of the four fiscal years immediately preceding the fiscal year of the acquisition, the threshold of annual combined revenues of EUR 750 000 000 referred to in paragraph 1 shall be deemed to be met for that year if the sum of the revenues included in the

financial statements or consolidated financial statements of the target and the acquiring entity for that fiscal year is EUR 750 000 000 or more. The acquiring entity shall become subject to this Directive if that threshold was met in at least two of the four fiscal years immediately preceding the fiscal year in which this Directive started to apply to the acquiring entity.

financial statements or consolidated financial statements of the target and the acquiring entity for that fiscal year is EUR 750 000 000 or more. The acquiring entity shall become subject to this Directive if that threshold was met in at least two of the four fiscal years immediately preceding the fiscal year in which this Directive started to apply to the acquiring entity. ***As from 1 July 2035, the threshold of reference is EUR 40 000 000 as referred to in paragraph 1, point (a), second indent.***

Or. en

Amendment 29

Proposal for a directive

Article 2 – paragraph 5 – introductory part

Text proposed by the Commission

5. Where there is a demerger of a group into two or more groups (the ‘demerged groups’), the threshold of EUR 750 000 000 referred to in paragraph 1 shall be deemed to be met by each of the demerged groups where:

Amendment

5. Where there is a demerger of a group into two or more groups (the ‘demerged groups’), the threshold of EUR 750 000 000 referred to in paragraph 1, ***point (a)***, shall be deemed to be met by each of the demerged groups where:

Or. en

Amendment 30

Proposal for a directive

Article 2 – paragraph 5 – point b

Text proposed by the Commission

(b) in the second to fourth fiscal years ending after the demerger, each of the demerged groups has annual combined revenues of EUR 750 000 000 or more in at least two of those fiscal years.

Amendment

(b) in the second to fourth fiscal years ending after the demerger, each of the demerged groups has annual combined revenues of EUR 750 000 000 or more in at least two of those fiscal years. ***From 1 July 2035, the threshold of reference is EUR 40 000 000 as referred to in***

paragraph 1, point (a), second indent.

Or. en

Amendment 31

Proposal for a directive Article 2 – paragraph 7

Text proposed by the Commission

7. Member States shall ensure that companies which are resident for tax purposes in a Member State and fulfil the conditions laid down in paragraph 1, point (b), including their permanent establishments located in other Member States, as well as permanent establishments, located in Member States, of third-country entities which fulfil the conditions of paragraph 1, point (c), may choose to be covered by this Directive if they belong to an MNE group or domestic group which prepares consolidated financial statements but does not fulfil the conditions laid down in paragraph 1, **point (a)** regarding the threshold of EUR 750 000 000.

Amendment

7. Member States shall ensure that companies which are resident for tax purposes in a Member State and fulfil the conditions laid down in paragraph 1, point (b), including their permanent establishments located in other Member States, as well as permanent establishments, located in Member States, of third-country entities which fulfil the conditions of paragraph 1, point (c), may choose to be covered by this Directive if they belong to an MNE group or domestic group which prepares consolidated financial statements but does not fulfil the conditions laid down in paragraph 1, **point (a), first indent**, regarding the threshold of EUR 750 000 000 **or paragraph 1, point (a), second indent, regarding the threshold of EUR 40 000 000.**

Or. en

Amendment 32

Proposal for a directive Article 3 – paragraph 10 – point b

Text proposed by the Commission

(b) if the ultimate parent entity is not located in a Member State, the entity located in a Member State, that has been appointed by the BEFIT group to fulfil the obligations in relation to the BEFIT group

Amendment

(b) if the ultimate parent entity is not located in a Member State **or, in absence of such**, the **intermediate parent** entity located in a Member State that has been appointed by the BEFIT group to fulfil the

information return set out in Article 57 on behalf of the BEFIT group.

obligations in relation to the BEFIT group information return set out in Article 57 on behalf of the BEFIT group.

Or. en

Amendment 33

Proposal for a directive Article 3 – paragraph 15

Text proposed by the Commission

(15) ‘economic owner’ means the person who receives substantially ***all the*** benefits and bears ***all the*** risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;

Amendment

(15) ‘economic owner’ means the person who receives substantially ***the most*** benefits and bears ***the most*** risks attached to a fixed asset, regardless of whether that person is the legal owner. A taxpayer who has the right to possess, use and dispose of a fixed asset and bears the risk of its loss or destruction shall in any event be considered the economic owner;

Or. en

Amendment 34

Proposal for a directive Article 4 a (new)

Text proposed by the Commission

Amendment

Article 4a

Significant economic presence

1. For the purposes of corporate tax, a permanent establishment shall be deemed to exist if a significant economic presence exists through which a business is wholly or partly carried on.

2. Paragraph 1 shall be in addition to, and shall not affect or limit the application of, any other test under Union

or national law for determining the existence of a permanent establishment in a Member State for the purposes of corporate tax, whether specifically in relation to the supply of digital services or otherwise.

3. A significant economic presence shall be considered to exist in a Member State in a tax period if total revenues derived by a BEFIT group from that Member State exceed EUR 1 000 000.

4. The Commission shall, by means of implementing acts, lay down a detailed methodology for the sourcing rules to define the revenues. Those implementing acts shall be adopted in accordance with the examination procedure.

Or. en

Amendment 35

Proposal for a directive

Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) the company is either the ultimate parent entity of the group or any other company of the group in which the ultimate parent entity holds, directly or indirectly, at least **75%** of the ownership rights or of the rights giving entitlement to profit;

Amendment

(a) the company is either the ultimate parent entity of the group, ***the intermediate parent entity of the group located in a Member State*** or any other company of the group, in which the ultimate parent entity holds, directly or indirectly, at least **50%** of the ownership rights or of the rights giving entitlement to profit;

Or. en

Amendment 36

Proposal for a directive

Article 5 – paragraph 1 – point b

Text proposed by the Commission

(b) the head office of the permanent establishment is either the ultimate parent entity of the group or any other member (company or entity) of the group in which the ultimate parent entity holds, directly or indirectly, at least 75% of the ownership rights or of the rights giving entitlement to profit.

Amendment

(b) the head office of the permanent establishment is either the ultimate parent entity of the group, ***the intermediate parent entity of the group located in a Member State*** or any other member (company or entity) of the group in which the ultimate parent entity holds, directly or indirectly, at least 50% of the ownership rights or of the rights giving entitlement to profit.

Or. en

Amendment 37

Proposal for a directive

Article 8 – paragraph 1

Text proposed by the Commission

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude 95% of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than 10% of the profits, capital, reserves or voting rights.

Amendment

With the exception of financial assets held for trading, as referred to in Article 11(1), and investments made for the benefit of life insurance policyholders bearing the investment risk in the context of a unit-linked/index-linked life insurance policy, as referred to in Article 14, the financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude 95% of the amount of dividends or other distributions received or accrued during the fiscal year, provided that at the date of distribution, the ownership interest is held by the BEFIT group member for more than one year and this interest carries right to more than 10% of the profits, capital, reserves or voting rights, ***and the dividends or other distributions have been subject to an effective tax rate not below 9%.***

Amendment 38

Proposal for a directive Article 13 – paragraph 1

Text proposed by the Commission

1. A BEFIT group member shall adjust its financial accounting net income or loss to include the amount of exceeding borrowing costs, ***as referred to in Article 2 of Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market***³², which is not deductible for tax purposes in accordance with ***the interest limitation rules laid down in the national corporate tax law of the Member State where it is resident for tax purposes.***

³² ***Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193, 19.7.2016, p. 1)***

Amendment

1. A BEFIT group member shall adjust its financial accounting net income or loss to include the amount of exceeding borrowing costs, which is not deductible for tax purposes in accordance with ***paragraph 1a.***

Amendment 39

Proposal for a directive Article 13 – paragraph 1 a (new)

Text proposed by the Commission

Amendment

1a. For the purpose of this Article, ‘exceeding borrowing costs’ means the amount by which the deductible borrowing costs of a taxpayer exceed taxable interest revenues and other economically equivalent taxable revenues that the taxpayer receives pursuant to

national law.

Exceeding borrowing costs shall be deductible up to 75 % in the tax period in which they are incurred. If such amount is higher than 20 % of the taxpayer's earnings before interest, tax, depreciation and amortisation (EBITDA), the deduction shall be limited to 20 % of the taxpayer's EBITDA.

Article 4(2), Article 4(3), Article 4(4), point (b), Article 4(5), Article 4(7) and Article 4(8) of Council Directive (EU) 2016/1164^{1a} shall apply to a BEFIT group.

^{1a} Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (OJ L 193, 19.7.2016, p. 1).

Or. en

Amendment 40

Proposal for a directive Article 13 a (new)

Text proposed by the Commission

Amendment

Article 13a

Royalties limitation rule

The financial accounting net income or loss of a BEFIT group member shall be adjusted to include any amounts of royalty costs and licence fee payments for which the corresponding income derived by the recipient BEFIT group member is subject to an effective tax rate below 9%.

Or. en

Amendment 41

Proposal for a directive Article 16 a (new)

Text proposed by the Commission

Amendment

Article 16a

Entertainment costs

The financial accounting net income or loss of a BEFIT group member shall be adjusted to include 50% of the amount of expenses accrued for entertainment costs.

Or. en

Amendment 42

Proposal for a directive Article 21 a (new)

Text proposed by the Commission

Amendment

Article 21a

Controlled foreign companies

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to include the non-distributed income of an entity or permanent establishment treated as a controlled foreign company as referred to in Article 7(1) of Council Directive (EU) 2016/1164, which is derived from the following categories:

- (i) interest or any other income generated by financial assets;***
- (ii) royalties or any other income generated from intellectual property;***
- (iii) dividends and income from the disposal of shares;***
- (iv) income from financial leasing;***
- (v) income from insurance, banking and other financial activities;***

(vi) income from invoicing companies that earn sales and services income from goods and services purchased from and sold to associated enterprises, and add no or little economic value.

Paragraph 1 shall not apply where the controlled foreign company carries out a substantive economic activity supported by staff, equipment, assets and premises, as evidenced by relevant facts and circumstances.

Where the controlled foreign company is resident or situated in a third country that is not an EEA Member State, Member States may decide to refrain from applying this paragraph.

2. The income to be included in the tax base shall be calculated in accordance with Article 8 of Council Directive (EU) 2016/1164.

Or. en

Amendment 43

Proposal for a directive Article 22 – paragraph 1

Text proposed by the Commission

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude in the fiscal year of acquisition any fixed tangible asset that has a book value before depreciation which is below EUR **5000**.

Amendment

1. The financial accounting net income or loss of a BEFIT group member shall be adjusted to exclude in the fiscal year of acquisition any fixed tangible asset that has a book value before depreciation which is below EUR **1 000**.

Or. en

Amendment 44

Proposal for a directive

Article 22 – paragraph 2 – point a

Text proposed by the Commission

(a) all buildings as well as any other type of immovable property and structure in use for the business: **28** years;

Amendment

(a) all buildings as well as any other type of immovable property and structure in use for the business, ***with the exception of industrial buildings and structures: 40*** years;

Or. en

Amendment 45

Proposal for a directive

Article 22 – paragraph 2 – point a a (new)

Text proposed by the Commission

Amendment

(aa) industrial buildings and structures: 25 years;

Or. en

Amendment 46

Proposal for a directive

Article 22 – paragraph 2 – point b

Text proposed by the Commission

(b) all other fixed tangible assets: their useful life as assessed in accordance with the acceptable accounting standard in the Union referred to in Article 7;

Amendment

(b) all other fixed tangible assets: their useful life as assessed in accordance with the acceptable accounting standard in the Union referred to in Article 7, ***but with a minimum of 10 years;***

Or. en

Amendment 47

Proposal for a directive

Article 22 – paragraph 2 – point c

Text proposed by the Commission

(c) fixed intangible assets, including acquired goodwill: the period for which the asset enjoys legal protection or for which the right has been granted and, where that period cannot be determined, **5** years.

Amendment

(c) fixed intangible assets, including acquired goodwill: the period for which the asset enjoys legal protection or for which the right has been granted and, where that period cannot be determined, **15** years.

Or. en

Amendment 48

Proposal for a directive

Article 22 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. The Commission is empowered to adopt delegated acts to supplement this Directive by laying down temporary rules regarding accelerated depreciation for the cost of eligible assets and improvements to existing assets which qualify as environmentally sustainable within the meaning of Regulation 2020/852 on the establishment of a framework to facilitate sustainable investment^{1a}. Those delegated acts shall be adopted in accordance with the examination procedure referred to in Article 74(2).

^{1a} Regulation (EU) 2020/852 of the European Parliament and of the Council of 18 June 2020 on the establishment of a framework to facilitate sustainable investment, and amending Regulation (EU) 2019/2088 (OJ L 198, 22.6.2020, p. 13; ELI: <http://data.europa.eu/eli/reg/2020/852/oj>).

Or. en

Amendment 49

Proposal for a directive Article 23 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. Member States shall not grant further entitlements to depreciate to a BEFIT group member other than those specified in this Section.

Or. en

Amendment 50

Proposal for a directive Article 25 – paragraph 1

Text proposed by the Commission

Amendment

1. Acquisition costs, construction costs or improvement costs, together with the date of entry into use after acquisition, construction or improvement, shall be recorded in a fixed asset register for each fixed asset separately.

1. Acquisition costs, construction costs or improvement costs, together with the date of entry into use after acquisition, construction or improvement, shall be recorded in a fixed asset register ***within the BEFIT group*** for each fixed asset separately.

Or. en

Amendment 51

Proposal for a directive Article 25 – paragraph 3

Text proposed by the Commission

Amendment

3. The fixed asset register shall be kept in a manner that provides sufficient information, including depreciation data, to calculate the preliminary tax result ***and*** shall include at least the following

3. The fixed asset register shall be kept in a manner that provides sufficient information, including depreciation data, to calculate the preliminary tax result. ***A copy of the fixed asset register shall be kept by the BEFIT group for five years from the***

information:

date that the depreciation of such asset ceased. The fixed asset register shall include at least the following information:

Or. en

Amendment 52

Proposal for a directive

Article 41 – paragraph 1 – subparagraph 2

Text proposed by the Commission

The first subparagraph shall not apply if the BEFIT group member demonstrates that the intra-BEFIT group transaction was carried out for valid commercial reasons.

Amendment

The first subparagraph shall not apply if the BEFIT group member demonstrates that the intra-BEFIT group transaction was carried out for valid commercial reasons *within the meaning of Article 15(1), point (a), of Directive 2009/133/EC.*

Or. en

Amendment 53

Proposal for a directive

Article 42 – paragraph 2 – point b

Text proposed by the Commission

(b) a negative amount, the loss shall be carried forward and shall be set off against the next positive BEFIT tax base.

Amendment

(b) a negative amount, the loss shall *be set off against the taxable income of the ultimate parent entity and shall* be carried forward *for a maximum of five years* and shall be set off against the next positive BEFIT tax base. *The deduction shall be in proportion to the holding of the ultimate parent entity in its qualifying subsidiaries as referred to in Article 3(1) and in full for permanent establishments. The reduction of the tax base of the resident taxpayer shall not result in a negative amount.*

Or. en

Amendment 54

Proposal for a directive

Article 45 – paragraph 3 – point a

Text proposed by the Commission

(a) low-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by less than **10%** compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions;

Amendment

(a) low-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by less than **5 %** compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions;

Or. en

Amendment 55

Proposal for a directive

Article 45 – paragraph 3 – point b

Text proposed by the Commission

(b) high-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by **10%** or more compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions.

Amendment

(b) high-risk zone: where the expense incurred, or the income earned, by a BEFIT group member from intra-BEFIT group transactions increase in a fiscal year by **5 %** or more compared to the average expense or income of the previous three fiscal years from intra-BEFIT group transactions.

Or. en

Amendment 56

Proposal for a directive

Article 45 – paragraph 3 a (new)

Text proposed by the Commission

Amendment

3a. The 5 % benchmark referred to in paragraph 3 is raised to 10 % for fiscal years during which the indices of

consumer prices increase by 4% or more in the Member State of the BEFIT group member.

Or. en

Amendment 57

Proposal for a directive Article 45 – paragraph 4 – point b

Text proposed by the Commission

(b) high-risk zone: the competent authorities of the Member States concerned shall presume that the pricing of intra-BEFIT group transactions of a specific BEFIT group member does not comply with the arm's length principle and the part of the increase which goes beyond 10% shall not be recognized for the purpose of computing the baseline allocation percentage of that BEFIT group member.

Amendment

(b) high-risk zone: the competent authorities of the Member States concerned shall presume that the pricing of intra-BEFIT group transactions of a specific BEFIT group member does not comply with the arm's length principle and the part of the increase which goes beyond **5 %, as referred to in paragraph 3, or 10 %, as referred to in paragraph 3a**, shall not be recognized for the purpose of computing the baseline allocation percentage of that BEFIT group member.

Or. en

Amendment 58

Proposal for a directive Article 45 – paragraph 9

Text proposed by the Commission

9. The Commission shall carry out a comprehensive review of the transition rule ***as part of which it shall prepare a study on the possible composition and weight of selected formula factors*** and submit a report to the Council by the end of the third fiscal year during the transition period referred to in paragraph 1. ***If the Commission deems it appropriate, taking into account the conclusions of this***

Amendment

9. The Commission shall carry out a comprehensive review of the transition rule and ***shall*** submit a report to the ***European Parliament and to the*** Council by the end of the third fiscal year during the transition period referred to in paragraph 1.

report, it may adopt a legislative proposal during the transition period, to amend this Directive by introducing a method for the allocation of the BEFIT tax base using formulaary apportionment and based on factors.

Or. en

Amendment 59

Proposal for a directive Article 45 a (new)

Text proposed by the Commission

Amendment

Article 45a

Allocation rule based on tangible factors

1. *As of 1 July 2035, the BEFIT tax base shall be allocated to the BEFIT group member in jurisdiction 'A' of a BEFIT group in each tax year on the basis of a formula that gives equal weight to the factors of sales, labour and assets according to Articles 45b to 45i:*

Share A

$$= \left(\frac{1}{3} \frac{\text{Sales}^A}{\text{Sales}^{\text{Group}}} + \frac{1}{3} \left(\frac{1}{2} \frac{\text{Payroll}^A}{\text{Payroll}^{\text{Group}}} + \frac{1}{2} \frac{\text{no. employees}^A}{\text{no. employees}^{\text{Group}}} \right) \right) \times \text{Consolidated Tax Base}$$

2. *The consolidated tax base of a BEFIT group shall be shared only where it is positive.*

3. *The calculations for sharing the consolidated tax base shall be done at the end of the tax year of the BEFIT group.*

4. *A period of 15 days or more in a calendar month shall be considered a whole month.*

5. *When determining the apportioned share of a BEFIT group member, equal weight shall be given to the factors of sales, labour and assets.*

Amendment 60

Proposal for a directive Article 45 b (new)

Text proposed by the Commission

Amendment

Article 45b

Composition of the labour factor

- 1. The labour factor shall consist, as to one half, of the total amount of the payroll of a BEFIT group member as its numerator and the total amount of the payroll of the BEFIT group as its denominator, and, as to the other half, of the number of employees of a BEFIT group member as its numerator and the number of employees of the BEFIT group as its denominator. Where an individual employee is included in the labour factor of a BEFIT group member, the payroll relating to that employee shall be allocated to the labour factor of the same BEFIT group member.***
- 2. The number of employees shall be counted at the end of the tax year.***
- 3. The definition of an employee shall be determined by the national law of the Member State where the employment is exercised.***

Or. en

Amendment 61

Proposal for a directive Article 45 c (new)

Text proposed by the Commission

Amendment

Article 45c

Allocation of employees and payroll

1. Employees shall be included in the labour factor of the group member from which they receive remuneration.

2. By way of derogation from paragraph 1, where employees physically exercise their employment under the control and responsibility of an entity other than that from which they receive remuneration, those employees as well as the amount of payroll related to them shall be included in the labour factor of the former entity. This rule shall only apply where all of the following conditions are met:

(a) the employment lasts for an uninterrupted period of at least three months;

(b) those employees represent at least 5% of the overall number of employees of the group member from which they receive remuneration.

3. Employees shall include persons who, although not employed directly by a BEFIT group member, perform tasks similar to those performed by employees.

4. Payroll shall include all costs of salaries, wages, bonuses and all other employee compensation, including related pension and social security costs borne by the employer.

5. Payroll costs shall be valued at the amount of expenses that are treated as deductible by the employer in a tax year.

Or. en

Amendment 62

Proposal for a directive Article 45 d (new)

Text proposed by the Commission

Amendment

Article 45d

Composition of the asset factor

- 1. The asset factor shall consist of the average value of all fixed tangible assets owned, rented or leased by a BEFIT group member as its numerator and the average value of all fixed tangible assets owned, rented or leased by the BEFIT group as its denominator.*
- 2. In the five years that follow a taxpayer joining an existing or new BEFIT group, its asset factor shall also include the total amount of costs incurred for research, development, marketing and advertising by the taxpayer over the six years that preceded its joining the group.*

Or. en

Amendment 63

Proposal for a directive Article 45 e (new)

Text proposed by the Commission

Amendment

Article 45e

Allocation of assets

- 1. Without prejudice to Article 22(2) and (3), an asset shall be included in the asset factor of its economic owner. Where the economic owner cannot be identified, the asset shall be included in the asset factor of the legal owner.*

However, an asset that is not effectively used by its economic owner shall be included in the factor of the BEFIT group member that effectively uses that asset,

provided that the asset represents more than 5 % of the value for tax purposes of all fixed tangible assets of the BEFIT group member that effectively uses it.

2. Except in the case of leases between BEFIT group members, leased assets shall be included in the asset factor of the BEFIT group member that is the lessor or the lessee of the asset. The same shall apply to rented assets.

Or. en

Amendment 64

Proposal for a directive Article 45 f (new)

Text proposed by the Commission

Amendment

Article 45f

Valuation

Regarding valuation, the following rules shall apply:

(a) land and other non-depreciable fixed tangible assets shall be valued at their original cost;

(b) an individually depreciable fixed tangible asset shall be valued at the average of its value for tax purposes at the beginning and at the end of a tax year. Where, as a result of one or more intra-group transactions, an individually depreciable fixed tangible asset is included in the asset factor of a BEFIT group member for less than a tax year, the value to be taken into account shall be calculated having regard to the number of months that the asset was included in the asset factor of that BEFIT group member;

(c) the renter or lessee of an asset of which it is not the economic owner shall value that rented or leased asset at eight

times the net annual rental or lease payment due, less any amounts receivable from sub-rentals or sub-leases. A BEFIT group member renting out or leasing an asset of which it is not the economic owner shall value that rented or leased asset at eight times the net annual rental or lease payment due;

(d) an asset sold by a BEFIT group member to a person outside the BEFIT group following an intra-group transfer in the same or the previous tax year shall be included in the asset factor of the transferring BEFIT group member for the period between the intra-group transfer and the sale to the person outside the BEFIT group, except where the BEFIT group members concerned demonstrate that the intra-group transfer was made for genuine commercial reasons.

Or. en

Amendment 65

Proposal for a directive Article 45 g (new)

Text proposed by the Commission

Amendment

Article 45g

Composition of the sales factor

The sales factor shall consist of the total sales allocated to a BEFIT group member, as its numerator, and the total sales of the BEFIT group, as its denominator.

Or. en

Amendment 66

Proposal for a directive Article 45 h (new)

Text proposed by the Commission

Amendment

Article 45h

Sales by destination

- 1. Sales of goods shall be included in the sales factor of the BEFIT group member located in the Member State where the dispatch or transport of the goods to the person acquiring them ends. Where that place cannot be determined, the sales of goods shall be attributed to the BEFIT group member located in the Member State of the last identifiable location of the goods.***
- 2. Supplies of services shall be included in the sales factor of the BEFIT group member located in the Member State where the services are physically carried out or actually supplied.***
- 3. Where there is no BEFIT group member in the Member State where the goods are delivered or the services are supplied, or where goods are delivered or services are supplied in a third country, the sales of goods and supplies of services shall be included in the sales factor of all BEFIT group members in proportion to their labour and asset factors.***
- 4. Where there is more than one BEFIT group member in the Member State where the goods are delivered or the services are supplied, the sales shall be included in the sales factor of all BEFIT group members located in that Member State in proportion to their labour and asset factors.***

Or. en

Amendment 67

Proposal for a directive Article 45 i (new)

Text proposed by the Commission

Amendment

Article 45i

Detailed rules on the calculation of factors

The Commission is empowered to adopt delegated acts to supplement this Directive by laying down detailed rules on the calculation of the labour, asset and sales factors, the allocation of employees and payroll, assets and sales to the respective factor and the valuation of assets. Those delegated acts shall be adopted in accordance with the examination procedure referred to in Article 74(2).

Or. en

Amendment 68

Proposal for a directive Article 46 – paragraph 1

Text proposed by the Commission

Amendment

1. By way of derogation from Articles 42 to **45**, where a BEFIT group member conducts its principal business in the field of extractive activities, its revenues, expenses and other deductible items which stem from such activities shall be attributed to the BEFIT group member located in the Member State where the extraction takes place.

1. By way of derogation from Articles 42 to **45a**, where a BEFIT group member conducts its principal business in the field of extractive activities, its revenues, expenses and other deductible items which stem from such activities shall be attributed to the BEFIT group member located in the Member State where the extraction takes place.

Or. en

Amendment 69

Proposal for a directive Article 46 – paragraph 2

Text proposed by the Commission

2. By way of derogation from Article 42 to **45**, where there is no BEFIT group member in the Member State of extraction, or where the extraction takes place in a third country jurisdiction, the revenues, expenses and other deductible items which stem from such activities shall be attributed to the BEFIT group member to which they accrued.

Amendment

2. By way of derogation from Article 42 to **45a**, where there is no BEFIT group member in the Member State of extraction, or where the extraction takes place in a third country jurisdiction, the revenues, expenses and other deductible items which stem from such activities shall be attributed to the BEFIT group member to which they accrued.

Or. en

Amendment 70

Proposal for a directive Article 47 – paragraph 1

Text proposed by the Commission

1. By way of derogation from Article 42 to **45** and without prejudice to Article 15, the revenues, expenses and other deductible items which stem from the following activities shall be excluded from the BEFIT tax base in any of the following cases:

Amendment

1. By way of derogation from Article 42 to **45a** and without prejudice to Article 15, the revenues, expenses and other deductible items which stem from the following activities shall be excluded from the BEFIT tax base in any of the following cases:

Or. en

Amendment 71

Proposal for a directive Article 48 – paragraph 2

Text proposed by the Commission

2. In addition to the adjustments listed in paragraph 1, a Member State may allow

Amendment

2. In addition to the adjustments listed in paragraph 1, a Member State may,

for increasing or decreasing, through additional items, the allocated part of BEFIT group members that are resident for tax purposes or situated in the form of a permanent establishment in that Member State.

subject to Directive (EU) 2022/2523, allow for increasing or decreasing, through additional items, the allocated part of BEFIT group members that are resident for tax purposes or situated in the form of a permanent establishment in that Member State.

Or. en

Amendment 72

Proposal for a directive

Article 48 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. A Member State providing incentives for research and development shall refrain from offering output-based incentives, such as patent boxes, which would decrease the allocated part of BEFIT group members that are resident for tax purposes or situated in the form of a permanent establishment in that Member State.

Or. en

Amendment 73

Proposal for a directive

Article 57 – paragraph 3 – subparagraph 2 (new)

Text proposed by the Commission

Amendment

For the purposes of point (d)(ii), all supporting documentation that was used to build the BEFIT tax base referred to in that provision shall be kept for 10 years in order to be made available to the competent authorities of all Member States in which the BEFIT group members are resident for tax purposes or situated in the form of a permanent

establishment.

Or. en

Amendment 74

Proposal for a directive Article 57 – paragraph 4 a (new)

Text proposed by the Commission

Amendment

4a. BEFIT teams shall use all existing procedures and arrangements offered by Directive 2011/16/EU on administrative cooperation in the field of taxation to ensure an efficient cooperation and exchange of information between national tax administrations.

Or. en

Amendment 75

Proposal for a directive Article 60 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Member States shall attribute adequate human resources to the BEFIT team, including by providing content and language training to the BEFIT team representatives.

Or. en

Amendment 76

Proposal for a directive Article 60 – paragraph 3

Text proposed by the Commission

3. Information communicated between the members of a BEFIT team, shall be provided by electronic means to the extent possible, through making use of a BEFIT collaborative tool.

Amendment

3. Information communicated between the members of a BEFIT team, shall be provided by electronic means to the extent possible, ***via a secure connection or a secure network***, through making use of a BEFIT collaborative tool.

Or. en

Amendment 77

Proposal for a directive Article 60 – paragraph 4

Text proposed by the Commission

4. To facilitate the operation and communication of the BEFIT team, the Commission shall, by means of implementing acts, standardise the communication of the information between the members of a BEFIT team through making use of a BEFIT collaborative tool. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73.

Amendment

4. To facilitate the operation and communication of the BEFIT team, the Commission shall, by means of implementing acts, standardise the communication of the information between the members of a BEFIT team through making use of a BEFIT collaborative tool ***and support the secure transmission of information***. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 73.

Or. en

Amendment 78

Proposal for a directive Article 62 – paragraph 1

Text proposed by the Commission

1. Each BEFIT group member shall file its individual tax return with the competent authority of the Member State in which that BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment no later than three months after receipt of the notice from the filing authority pursuant to Article 61(3), (4) or (5), or in case of a domestic group, no later than eight months from the end of the fiscal year.

Amendment

1. ***Until 30 June 2035***, each BEFIT group member shall file its individual tax return with the competent authority of the Member State in which that BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment no later than three months after receipt of the notice from the filing authority pursuant to Article 61(3), (4) or (5), or in case of a domestic group, no later than eight months from the end of the fiscal year.

Or. en

Amendment 79

Proposal for a directive Article 63 – paragraph 1

Text proposed by the Commission

1. A BEFIT group member shall notify the competent authority of the Member State in which it is resident for tax purposes or situated in the form of a permanent establishment of errors in the individual tax return within two months of the timely submission of such return.

Amendment

1. ***Until 30 June 2035***, a BEFIT group member shall notify the competent authority of the Member State in which it is resident for tax purposes or situated in the form of a permanent establishment of errors in the individual tax return within two months of the timely submission of such return.

Or. en

Amendment 80

Proposal for a directive Article 64 – paragraph 1

Text proposed by the Commission

1. The competent authority of the Member State in which a BEFIT group member filed its individual tax return shall issue an individual tax assessment in accordance with the individual tax return. The enforcement of the tax liability shall be governed by the law of that Member State.

Amendment

1. ***Until 30 June 2035***, the competent authority of the Member State in which a BEFIT group member filed its individual tax return shall issue an individual tax assessment in accordance with the individual tax return. The enforcement of the tax liability shall be governed by the law of that Member State.

Or. en

Amendment 81

Proposal for a directive Article 65 – paragraph 1

Text proposed by the Commission

1. The competent authority of a Member State may initiate and coordinate audits of BEFIT group members that are resident for tax purposes or situated in the form of a permanent establishment in that Member State.

Amendment

1. The competent authority of a Member State may initiate and coordinate audits of BEFIT group members that are resident for tax purposes or situated in the form of a permanent establishment in that Member State. ***That competent authority shall notify the other BEFIT team members within one month of the initiation of such an audit.***

Or. en

Amendment 82

Proposal for a directive Article 67 – paragraph 1

Text proposed by the Commission

1. A BEFIT group member may

Amendment

1. ***Until 30 June 2035***, a BEFIT group

appeal against the content of the individual tax assessment made pursuant to Article 64 before the competent authority of the Member State where that BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment within two months after the assessment was notified to it. The administrative appeal shall be heard by an administrative body that, in accordance with the law of the Member State of the BEFIT group member, is competent to hear appeals at first instance. The administrative appeal shall be governed by the law of the Member State in which the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment. Where there is no such administrative body in the Member State where the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment, the BEFIT group member may lodge a judicial appeal directly.

member may appeal against the content of the individual tax assessment made pursuant to Article 64 before the competent authority of the Member State where that BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment within two months after the assessment was notified to it. The administrative appeal shall be heard by an administrative body that, in accordance with the law of the Member State of the BEFIT group member, is competent to hear appeals at first instance. The administrative appeal shall be governed by the law of the Member State in which the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment. Where there is no such administrative body in the Member State where the BEFIT group member is resident for tax purposes or situated in the form of a permanent establishment, the BEFIT group member may lodge a judicial appeal directly.

Or. en

Amendment 83

Proposal for a directive Article 69 – paragraph 1

Text proposed by the Commission

1. Where the decision pursuant to Article 67 has been confirmed or varied, a BEFIT group member shall have the right to appeal to the courts of the Member State where it is resident for tax purposes or situated in the form of a permanent establishment within two months after the decision of the administrative appeals body referred to in Article 67 was notified to it. The judicial appeal shall be governed by the law of the Member State in which the BEFIT group member is resident for tax purposes or situated in the form of a

Amendment

1. ***Until 30 June 2035***, where the decision pursuant to Article 67 has been confirmed or varied, a BEFIT group member shall have the right to appeal to the courts of the Member State where it is resident for tax purposes or situated in the form of a permanent establishment within two months after the decision of the administrative appeals body referred to in Article 67 was notified to it. The judicial appeal shall be governed by the law of the Member State in which the BEFIT group member is resident for tax purposes or

permanent establishment.

situated in the form of a permanent establishment.

Or. en

Amendment 84

Proposal for a directive Article 70 – paragraph 1

Text proposed by the Commission

Where the outcome of an administrative or judicial appeal requires amendments to the individual tax assessment of one or more member of a BEFIT group, Member States shall take the appropriate measures to ensure that such amendments remain possible, ***notwithstanding any time limits in the domestic laws of Member States.***

Amendment

Where the outcome of an administrative or judicial appeal requires amendments to the ***tax assessment of the BEFIT group or to the*** individual tax assessment of one or more members of a BEFIT group, Member States shall take the appropriate measures to ensure that such amendments remain possible, ***within a timeframe of 10 years.***

Or. en

Amendment 85

Proposal for a directive Article 72 – paragraph 1

Text proposed by the Commission

Member States shall lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all necessary measures to ensure that they are implemented and enforced. Penalties and compliance measures provided for shall be effective, proportionate and dissuasive.

Amendment

Member States shall lay down rules on penalties applicable to infringements of national provisions adopted pursuant to this Directive and shall take all necessary measures to ensure that they are implemented and enforced. Penalties and compliance measures provided for shall be effective, proportionate and dissuasive. ***Penalties shall be set at a minimum of 0,1 % of the turnover of the BEFIT group in the event of a failure to file the BEFIT information return in accordance with Article 59 and in the event of a deliberate misreporting in a BEFIT information return.***

Amendment 86

Proposal for a directive

Article 74 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The power to adopt delegated acts referred to in Article 45i shall be conferred on the Commission for an indeterminate period starting on 1 July 2035.

Amendment 87

Proposal for a directive

Article 77 – paragraph 2

Text proposed by the Commission

Amendment

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess the impact of the transition allocation rule and of Directive (EU) 2022/2523 as well as assessing the situation regarding Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021.

2. Member States shall communicate to **the European Parliament and to** the Commission relevant information for the evaluation of the Directive in accordance with paragraph 3, including aggregated data on BEFIT group members which are resident for tax purposes in their jurisdiction and permanent establishments thereof operating in their jurisdiction, in order to properly assess:

(i) the impact of the transition allocation rule;

(ii) **the link with other legislative acts in the area of corporate taxation, namely**

Directive (EU) 2022/2523 as well as the situation regarding Pillar One of the Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy agreed by the OECD/G20 Inclusive Framework on BEPS on 8 October 2021;

(iii) the relevance of the scope of this Directive and notably its potential extension to large groups as referred to in Article 3(7) of Directive 2013/34/EU;

(iv) the relevance of removing the exclusion of shipping income from the preliminary tax result;

(v) the impact on double tax treaties;

(vi) the impact of the co-existence of two tax systems, at Union level and at national level, on the administrative burden for entrepreneurs and tax administrations resulting from the application of Section 5 of Chapter II;

(vii) the impact of the allocation of the tax base on the Member States' revenues;

(viii) the impact of the co-existence of distribution-based tax systems, as referred to in Article 49, with traditional corporate tax systems relying on annual taxes on corporate profits.

Or. en

Amendment 88

Proposal for a directive

Article 77 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. From ... [two years after the date of application of Article 45a], the Commission shall examine and evaluate the relevance of the factors in the allocation formula and their impact on the distribution of corporate income tax

revenues in Member States, and report to the European Parliament and to the Council to that effect. The report shall, where appropriate, be accompanied by a legislative proposal to amend this Directive.

Or. en

EXPLANATORY STATEMENT

The ‘Business in Europe: Framework for Income Taxation’ (BEFIT) proposal introduces a common system for calculating the corporate tax base of large cross-border business groups in the EU and for allocating these tax bases among the members of the BEFIT groups.

Context

The BEFIT proposal aims to further coordinate and harmonise the EU's corporate tax framework, playing a key role in facilitating cross-border business and investments. The proposal will reduce the costs, complexity of administrative and tax compliance for both businesses and tax authorities, while also limiting the opportunities for corporate tax avoidance. BEFIT draws on two previous proposals made by the European Commission in 2016. The Common Corporate Tax Base (CCTB) and the Common Consolidated Corporate Tax Base (CCCTB). These proposals outlined a comprehensive set of rules for the calculation of a CCCTB base and the apportionment of this base according to a formula based on substance factors reflecting real economic activities. Despite broad support from the European Parliament, civil society, and businesses, these earlier proposals saw limited progress in the Council, mainly due to concerns over their uneven impact across the 27 Member States and a perceived lack of flexibility. Since 2016, international corporate tax rules have changed significantly. The OECD/G20 Inclusive Framework on BEPS, especially the agreement on Pillar II establishing a global minimum corporate tax rate, has set a new benchmark for tax coordination. These developments offer the EU a timely opportunity to revive discussions on a common corporate tax base and strengthen its internal alignment. At the same time, growing geopolitical tensions and the fragmentation of the global economy have made cross-border business more complex and unpredictable. In this context, corporate tax harmonisation within the EU is not just administrative efficiency, but a strategic necessity. A coordinated and stable tax framework is essential to support the Single Market and ensure policy coherence across Member States. Moreover, a transparent and consistent corporate tax system is vital for advancing the Capital Markets Union. It reduces regulatory disparities, removes investment barriers, and deepens financial and economic integration. Ultimately, BEFIT will enhance a fair and efficient EU business environment while strengthening the fight against aggressive tax planning.

The Commission Proposal

With the BEFIT proposal, the Commission seeks to integrate these international developments into a new, unified set of rules to create a common corporate tax base across the EU. Unlike the CCCTB proposal, which used taxable profits as the starting point, BEFIT begins with consolidated financial accounts and then applies adjustments to derive a taxable base. A key feature of BEFIT is its flexibility. Member States retain the ability to apply tax incentives and adjustments to their share of the allocated tax base. However, these incentives are constrained by the 15% minimum effective tax rate established in Directive (EU) 2022/2523.

BEFIT applies to large cross-border companies with an annual turnover of €750 million or more, forming the *BEFIT groups*. Smaller groups can voluntarily join and prepare

consolidated accounts. Adjustments are then made to determine provisional tax results, including items like dividends, fines, excess interest, and corporation tax paid. The draft directive also includes common rules on amortisation, timing, and quantification. In particular, the BEFIT proposal introduces an apportionment rule for calculating the BEFIT base. The allocation to Member States will be based on the average share of the BEFIT base of each national BEFIT group member in the last three tax years, thus moving away from an allocation key based on the place of economic substance. However, this is proposed as a transitional rule until 2035.

The proposal also contains innovative transfer pricing rules, which are to be maintained until the end of the transitional period:

- For intra-group transactions, a risk assessment framework that defines low and high risk zones;
- For intra-group transactions outside the EU, a "traffic light system" with zones for low, medium and high risk, as far as low-risk distribution and contract manufacturing activities are concerned;

Finally, the BEFIT proposal outlines the administration of the BEFIT system, including the establishment of joint BEFIT teams for each BEFIT group, comprising representatives of the tax administrations of the Member States where the BEFIT group operates.

Main Adjustments Proposed by the Rapporteur

The rapporteur supports the objectives of the BEFIT proposal and affirms that further harmonisation of the corporate tax base is beneficial for the stability and competitiveness of the internal market, while safeguarding sustainable tax revenues for Member States. Fragmented national tax systems currently act as barriers to cross-border investment by increasing tax uncertainty, distorting competition, and raising compliance costs for businesses. By aligning corporate tax rules across Member States, BEFIT will help remove these obstacles - making it easier for BEFIT companies to raise capital, operate and expand seamlessly across borders, and minimise their compliance costs and administrative burdens. It will also be an effective instrument against tax evasion and avoidance.

To reinforce these objectives, the rapporteur proposes to:

- **Lower the annual revenue threshold** after the transitional period so that all large groups, defined under the Accounting Directive (Directive 2013/34/EU), fall within the scope of BEFIT.
- **Adapt interest limitation rules** to reduce distortions in the debt/equity ratio caused by excessive intra-group debt financing and to curb base erosion and profit shifting, which can occur as a result from excessive interest payments
- **Strengthen Controlled Foreign Company (CFC) rules** to enhance resilience against profit shifting within BEFIT groups.
- **Refine depreciation rules** to address the potential EUR 31 billion tax base loss

highlighted in the Commission's impact assessment¹.

- **Limit tax incentives**, while giving Member States' flexibility, with a preference for input-based incentives, especially for R&D.
- **Replace the transitional apportionment rule with a material factor-based allocation formula** after 2035. The main change proposed by the rapporteur is an allocation formula based on material factors—labour, assets, and sales, equally weighted and applied after the transition period. This formula fully supports tax base harmonisation by eliminating the need for transfer pricing within BEFIT groups, reducing compliance costs and limiting base erosion and profit shifting.

¹ p.43, <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:52023SC0308>