

European  
Foundation  
for Public  
Policies

**EZAI**

# EUROPEAN POLICY ON THE TAX TREATMENT OF COOPERATIVES: BASES FOR A STRATEGY

## Position Paper



**EZAI FOUNDATION**

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BASES FOR A STRATEGY

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## Summary

EZAI's strategy in connection to the European Policy on the tax treatment of cooperatives can be based on the following premises:

1. In view of the current confusion as to the status of the tax system dealing with cooperatives in the Member States, and the uncertainty surrounding its future evolution, it is necessary to begin defining goals and lines of action in that area.
2. EZAI accepts the principle by which equal circumstances should be given equal tax treatment and, therefore, understands that a mere change in the legal type of business organization may not constitute a valid reason to breach that principle.

Regardless of that, it is a fact that the legal status of cooperatives is quite unique: by putting business ownership in the hands of workers, suppliers or consumers, cooperatives lead business activity and results towards a significantly different direction as compared to corporations. It is this issue that needs to be acknowledged and specifically addressed by tax legislation, which does not preclude the acceptance of equal treatment for other legal types of business organizations that, by executing statutory agreements, "cooperativise" business ownership, by handing it over to workers, suppliers or users.

3. The reason behind the tax treatment of cooperatives should be based on the recognition and promotion of:
  - a) their role in social issues
  - b) their role in budget-related issues

In short, it is essential that we recognise and promote the role of cooperatives in contributing to government actions, and in particular, their



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role in fostering cohesion, monitoring the social spending policy, and providing social services.

4. When considering tax measures in relation to the recognition and promotion of cooperatives, we should not take into account one specific tax, but the total fiscal contribution that is generated by the business activity carried out by the cooperative and, in particular, the corporate income tax, the income tax paid by workers and members, and the value-added tax.
  
5. Acknowledging and promoting the social role of cooperatives and their contribution to government actions or to the restriction of public spending should result in an adequate tax system, based on the following six principles:
  - 5.1. Good technical adaptation to the specific characteristics of the economic system governing cooperatives.
  - 5.2. A reduction in the tax burden in exchange for the contribution of cooperatives to the management of public spending.
  - 5.3. A tax incentive policy promoting reinvestment among cooperatives of the financial resources generated, resulting in the increase of reserve funds or capital funds.
  - 5.4. A tax incentive policy promoting investment in the cooperative's own funds/capital funds.
  - 5.5. Recognizing the “parafiscal contribution” nature of all allocation of resources made by cooperatives to social welfare funds and the cooperatives' direct contribution towards public administration, with the resulting decrease in taxes due by such cooperatives.
  - 5.6. Putting cooperatives with no profit distribution on the same footing as foundations as regards tax treatment in each Member State.



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6. In order to achieve the abovementioned goals, we believe that the Cooperative Movement as a whole (companies, groups and associations) should adopt the following policies:

### ANALYSIS POLICY

The aim of this policy is to guarantee the availability of the necessary information regarding the topics mentioned below:

- .. Present and future evolution of public budgets and, in particular, regarding the role of cooperatives in contributing to the development of public spending policies.
- .. Public policies aimed at promoting different kinds of activities, together with an explanation of the grounds for the promotion of the activity carried out by cooperatives.
- .. Clarification of the current status and comparison of the tax system dealing with cooperatives among different Member States.

### REGULATORY ADJUSTMENT POLICY

Aimed at achieving the following basic goals:

- A. To establish and promote fundamental objectives for the purpose of encouraging a tax incentive policy; including the definition of the taxable base and the tax rate to be applied in relation to the corporate tax (and, if that is the case, to the value-added tax).
- B. To establish and promote specific objectives in connection to deductions in the corporate tax due to reinvestment.
- C. To establish and promote specific objectives concerning the treatment of personal income tax in cases of investment in cooperatives.
- D. To recognize in all Member States the “parafiscal” nature of the allocation of resources made to social welfare funds.



- E. To put social or not-for-profit cooperatives on the same footing as foundations as regards tax treatment.
- F. To improve regulations through technical adjustments.

## IMAGE, PROMOTION AND LOBBYING POLICIES IN THE EUROPEAN UNION AND IN MEMBER STATES

# 0. Introduction

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There is little doubt as regards the importance of public policy on taxation for the cooperative movement.

The high degree of sensitivity towards this issue on the part of cooperative enterprises and associations, both in each Member State and in the European Union as a whole, is also quite clear.

This sensitivity affects certain technical aspects of the tax system that cooperatives are subject to, but in essence, it is quantitatively reflected on the tax burden generated.

In addition to this great sensitivity, there is a context of overwhelming confusion, not only as to the actual status of the current tax system dealing with cooperatives in the Member States, but also regarding its expected evolution, and the steps that need to be taken by the cooperative movement in this respect.

In an effort to clarify the situation, this report essentially aims to contribute to the development of the basic guidelines of “qualitative” strategies dealing with the tax treatment of cooperatives in Europe, covering the following areas:

.. Guidelines in relation to the goal/vision regarding the “desirable” evolution of the tax system applicable to cooperatives.

.. Guidelines in relation to the policies of the Cooperative Movement aimed at achieving such goal/vision



It should be advisable that in future documents we also establish certain criteria on the specific actions to be carried out by EZAI on this subject, and the resources required for such purpose.

## I. Basic guidelines to achieve the desirable goal

### I.1. Accepting the principle by which equal circumstances should receive equal treatment

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There is one first conceptual challenge that the cooperative tax system needs to address in Europe; one that has been generating a certain degree of conceptual confusion over the past few years. There is an often-heard argument among technical and administrative circles in the European Union and in some Member States, that maintains that it is not right to establish discriminatory tax policies based on the legal type of business organization, since that would result in a distorted allocation of resources.

This is an argument of very questionable applicability to the tax system dealing with cooperatives. As long as it is well understood that equal circumstances are not to be treated differently, accepting this principle does not pose any kind of problem in itself. In other words, two organizations pursuing the same objectives and conducting the same kind of business, that only differ in mere legal formalities, should not be accorded different tax treatments.

But, of course, this does not apply to cooperatives, since the type of business organization has a direct effect on issues such as business ownership, internal organization, purpose and resource allocation.

In the worst of cases, a strict application of this equal treatment principle would result in granting cooperative tax treatment to other organizations different from cooperatives which -through statutory mechanisms of capital redistribution- constitute a kind of business ownership equal to that of cooperatives.



## 1.2. Recognising the role of cooperatives in social and budget-related issues

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It is essential that Member States and the European Union expressly recognise the social role of cooperatives. This is a permanent goal of the cooperative movement, that has been expressed over the time in different ways and in different political environments.

But, from a practical point of view, it is particularly important to recognise that this social role also serves (although not exclusively) a purpose of great significance as it contributes to public budget management in Member States.

This is reflected basically on the following areas:

- .. The role of cooperatives in creating cohesion, which contributes to reduce the budgetary burden placed on the States aimed at strengthening social cohesion.
- .. The role of many cooperatives in relation to the provision of social services complements or supports government actions in that area. This is done through procedures that are less costly and achieve a higher level of social effectiveness than those provided directly by the State and, on the other hand, that generate greater social cohesion as compared to those offered by private companies owned by investors.

## 1.3. Technical adjustments

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It is essential that we define a series of technical adjustments to the corporate tax in order to adapt it to the specific reality of cooperatives.

In particular, it is important to clarify the concept of taxable base and, specifically, to determine whether income from capital and returns should be included in the taxable base or considered deductible expenses.





## 1.4. Policy aimed at fostering/promoting the social role of cooperatives

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A logical tax policy applicable to cooperatives that recognises their role in social and budget-related issues should take into account the effect of tax regulations on the cooperatives' ability to efficiently carry out that purpose and, therefore, take the necessary steps aimed at promoting that social role.

Those steps are basically the following:

- a) Promoting the allocation of resources to social welfare funds
  - .. Recognising the special nature of social welfare funds in their contribution to Public Administration, which would result in:
    - 1. a deduction in the corporate tax equal to the amount (or to 50% of the amount) assigned by cooperatives to social welfare funds.
    - 2. a deduction in members' income tax equal to the amount (or to 50% of the amount) assigned by cooperatives to social welfare funds, when such amount is calculated in relation to the volume of member operations.
- b) Fostering increased investment
  - .. Fifty percent deduction in the corporate tax of all amounts assigned to non-distributable reserve funds for a period of more than 10 years.
  - .. Deduction in the taxable base of the income tax of all contributions to the capital of cooperatives.

## 1.5. Treatment of social cooperatives

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An important sector of the cooperative movement is constituted by those cooperatives aimed at providing social services with no profit distribution,



which are given different names according to each country (social cooperatives, public interest cooperatives, and so on).

In order to guarantee fairness in the regulation of this kind of cooperatives, it is essential that they be given equal tax treatment to that accorded to foundations.

## 2. Cooperative movement policies to be implemented

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In order to achieve the goals described, we believe that the Cooperative Movement as a whole (companies, groups and associations) should adopt the following policies:

### 2.1. Analysis policies

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PRESENT AND FUTURE EVOLUTION OF PUBLIC BUDGETS AND, IN PARTICULAR, THE ROLE OF COOPERATIVES IN CONTRIBUTING TO THE DEVELOPMENT OF PUBLIC SPENDING POLICIES.

Specifically, it is necessary to conduct the required analyses in order to provide evidence on the role of cooperatives in social and budget-related issues for the purpose of:

- a) Consolidating the relationship between the cooperative's activity and public policies that constitute State priority (cohesion, education, social services, and so on).
- b) Clearly stating the effect of the cooperative's activity in reducing public spending.

PUBLIC POLICIES AIMED AT PROMOTING DIFFERENT KINDS OF ACTIVITIES, AND AN EXPLANATION OF THE GROUNDS FOR THE PROMOTION OF THE ACTIVITY CARRIED OUT BY COOPERATIVES.



We need to analyse and present public policies dealing with the promotion of different kinds of activities and, in that context, define and explain the reasons behind the tax incentives given to the activity carried out by cooperatives.

#### CLARIFICATION OF REGULATORY ISSUES

Clarification of the current status and comparison of the tax system dealing with cooperatives in the different Member States.

## 2.2. Regulatory adjustment policies

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A. TO ESTABLISH AND PROMOTE FUNDAMENTAL OBJECTIVES FOR THE PURPOSE OF ENCOURAGING A TAX INCENTIVE POLICY CONCERNING:

- .. The definition of the taxable base in relation to the corporate tax
- .. The establishment of the tax rate to be applied in connection to the corporate tax
- .. If applicable, the value-added tax

B. TO ESTABLISH AND PROMOTE SPECIFIC OBJECTIVES IN CONNECTION TO DEDUCTIONS IN THE CORPORATE TAX DUE TO REINVESTMENT.

C. TO ESTABLISH AND PROMOTE SPECIFIC OBJECTIVES CONCERNING THE TREATMENT OF PERSONAL INCOME TAX IN CASES OF INVESTMENT IN COOPERATIVES.

D. POLICY AIMED AT MAKING ALL MEMBER STATES RECOGNISE THE “PARAFISCAL” NATURE OF THE ALLOCATION OF RESOURCES MADE TO SOCIAL WELFARE FUNDS.

- .. by introducing the necessary changes in terminology
- .. by ensuring they are used either in the promotion of cooperatives or in contributing to public administration (preferably through cooperative associations or social cooperatives).



E. POLICIES INTENDED TO PUT NOT-FOR-PROFIT COOPERATIVES  
ON THE SAME FOOTING AS FOUNDATIONS

F. TECHNICAL ADJUSTMENT POLICIES

To ensure good technical adaptation of the different taxes to the specific features of cooperatives as legal entities.

### 2.3. Image and promotion policy

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Fundamentally aimed at giving publicity to the results of the analyses conducted by the cooperative movement, in particular, focusing on certain circles that are able to influence the future evolution of the tax treatment of cooperatives.

### 2.4. Lobbying policy in the European Union

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Intended to influence the position adopted and the agreements signed by public authorities in Europe and, in particular, to achieve, in the reports issued by European organizations, greater recognition of the contribution of cooperatives to improvements in public administration.

### 2.5. Lobbying policy in Member States

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- .. Consolidation of the tax incentives granted to cooperatives in exchange for their role in social and budget-related issues
- .. Gradual evolution of Member State regulations in accordance with the objectives derived from the analyses conducted.