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**PLATFORM FOR TAX GOOD GOVERNANCE**

**Reflection Paper on the future of corporation tax policy in the EU,  
post-implementation of Pillar 1 and Pillar 2**

*This is a Commission services working paper prepared by DG TAXUD for discussion purposes. It does not represent a formal Commission or Commission services position or policy. The paper is therefore without prejudice to any position which may be taken by the Commission in the future.*

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## **Introduction**

The purpose of this paper is to stimulate reflection and open discussion in the Platform on Tax Good Governance on the future of EU corporate tax policy, looking beyond the current OECD discussions. The high-level objective of the Commission is to have a system for business taxation which is both fair and efficient, yet the question is how to match fairness and efficiency?<sup>1</sup> The paper takes as its baseline the assumption that both pillars of the OECD reforms are agreed and implemented in full in the EU. This will have a number of knock-on effects on EU policy and we invite delegates to consider what these may be, and what further policy responses could be required. Delegates may also wish to consider what will be the opportunities and risks for the EU in the event of a policy landscape where both Pillar 1 and Pillar 2 are operational. In what direction should EU corporate tax policy go next? To stimulate discussion, we have elaborated on some possible developments below, without prejudice to any formal position that the Commission may adopt in the future in these areas.

## **Background**

Mandated by the G20, the Organization for Economic Co-operation and Development (OECD) is working on a global consensus-based solution to address the tax challenges of the digitalisation of the economy. The discussion is organised around two broad work streams: Pillar 1 (realignment of taxing rights with value creation) and Pillar 2 (minimum effective taxation of multinationals' profits). The blueprints approved by the G20 in November 2020 are expected to form the basis for the final compromise agreement by the amended deadline of mid-2021 for both pillars. An EU-wide implementation of the two pillars will help to create a level playing field in the Single Market for multinational companies (MNEs) and it would ensure that MNEs pay their fair share of tax in all the jurisdictions where they operate.

## **Potential developments - within the EU**

Agreement and implementation of both pillars within the EU could have a number of consequences. It will ensure that large MNEs with extensive digital activity be subject to tax in the jurisdictions where their value is created. In addition, large MNEs (regardless of business activity) will effectively be taxed at a minimum level in every EU Member State they operate. This should make the system fairer, putting a floor on tax competition throughout the EU and a significant reduction in the opportunities for base erosion and profit shifting. Delegates may wish to reflect to what extent opportunities for aggressive tax planning may remain. In addition, the agreement on a global minimum rate could lead to a certain convergence of statutory corporate tax rates within the EU as any MS that continues to impose corporate tax below the new global minimum would cede revenue to other jurisdictions. The OECD estimates that revenue gains from Pillar 2 are to be significant across all jurisdictions regardless of the income levels. However, the introduction of new

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<sup>1</sup> As put in the Platform's Draft Work Programme 2020-2024 "SHAPING FUTURE TAX POLICIES TOGETHER".

and complex rules could lead to an increased compliance and administrative burden for taxpayers and tax administrations respectively, in particular during the initial adjustment period. The members of the Platform might therefore contemplate on how the EU could implement rules on a minimum effective rate without excessive compliance costs. In the context of the wider exercise of revising its mandate, the Code of Conduct on Business Taxation Group may also consider how to address the new global consensus on a minimum effective rate of corporate tax.

### **Potential Impacts on EU Secondary Legislation**

We expect that the implementation of Pillar 2 is likely to have an impact on some of the existing EU rules in the field of direct taxation. The Interest & Royalties (IRD) and the Anti Tax Avoidance Directive (ATAD) are likely to be affected.

The ATAD is relevant due to the interaction between the Controlled Foreign Company (CFC) rule and the Pillar 2 Income Inclusion Rule (IIR). When the IIR is implemented, we will need to explore how to best accommodate this interaction, in order to ensure a new balance in the single market after integrating Pillar 2.

Finally, the consensus on how to determine certain key elements of the tax base for the purposes of calculating an effective tax rate may also increase the impetus for working further towards a common corporate tax base (CCTB) within the EU. Lessons learned and compromises made in the OECD discussions may also be relevant for the CCTB. Building on this progress, a Common Consolidated Corporate Tax Base could present an achievable and long-term sustainable solution to the challenges that remain following the implementation of the two pillar reforms.

The Members of the Platform are invited to share their views on the appropriate way to implement a possible OECD agreement.

### **External Aspects**

Outside the EU, the results will depend on how extensive the implementation is. Consideration may be given to amending the criteria of the EU list of non-cooperative jurisdictions in tax matters, in particular criteria 2.1 and 2.2, to ensure that they remain consistent with the new global standards.<sup>2</sup>

Defensive measures such as withholding taxes will continue play a role in ensuring minimum effective taxation under the new rules, for example in situations where jurisdictions do not implement the global minimum rate, or maintain preferential regimes with effective rates below the minimum.

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<sup>2</sup> For additional information about these criteria: <https://data.consilium.europa.eu/doc/document/ST-14166-2016-INIT/en/pdf>

Finally, the competitiveness of European businesses may be impacted in a scenario where there is EU but not global implementation of the OECD reforms. Delegates may have ideas that would ensure that EU businesses continue to thrive globally, while the EU continues to be a world leader in tax good governance.

## **Conclusion and Questions**

This is a short summary of just some possible future developments that we have identified. No preference for a particular course of action is intended, instead we seek the views of the Platform members. The topics selected are intended to structure the conversation. It is also not intended to be exhaustive but rather should encourage debate and reflection and we welcome ideas not elaborated in the paper.

The questions below may help structure the discussion.

### ***Assuming the implementation of both Pillars of the OECD reforms:***

- 1. Will the implementation of Pillar 2 result in a convergence of statutory corporate tax rates and a limit to tax competition across the EU and worldwide?***
- 2. What aggressive tax planning risks will remain and what further policy actions should the EU take to deal with these?***
- 3. What impact could the implementation of the two pillars of the OECD reforms have on existing (ATAD/IRD) and proposed (CCTB/CCCTB) EU Directives?***
- 4. Does agreement on the methodology for calculating an effective tax rate further strengthen the argument for a common EU corporate tax base?***
- 5. What is the role of the CCCTB in light of the new global standards?***
- 6. What could the future for withholding taxes be?***
- 7. How should the EU approach jurisdictions that do not apply the new rules?***
- 8. What will be the impact on EU business if the EU is front-runner in implementing the new rules?***
- 9. What measures should be taken to maintain the competitiveness of European business?***
- 10. What simplification measures could be considered to assist implementation?***