

# **SUMMARY REPORT**

**OF THE RESPONSES RECEIVED**

**COMMISSION'S CONSULTATION ON  
DOUBLE TAXATION CONVENTIONS AND  
THE INTERNAL MARKET: FACTUAL EXAMPLES  
OF DOUBLE TAXATION CASES**

**DIRECTORATE-GENERAL FOR  
TAXATION AND CUSTOMS UNION**

**JANUARY 2011**

## MAIN CONCLUSIONS

### BACKGROUND

As EU law currently stands, Member States remain largely free to design their direct tax systems. A taxpayer in a cross-border situation being subject to more than one tax jurisdiction may suffer tax obstacles such as double taxation and discrimination. Such problems are only partly addressed through unilateral action or bilateral tax conventions between Member States.

The Commission has indicated in the past that double taxation was an obstacle to cross-border activity and investment in the EU, and its removal should therefore be an objective of coordinated solutions<sup>1</sup>.

In addition, the Monti report<sup>2</sup> recommends further work on the elimination of tax barriers within the Single market notably by introducing a binding dispute settlement mechanism covering double taxation.

In 2001, the following obstacles were already identified:

- Numerous problems on the fiscal treatment of intra-group transfer pricing;
- Cross-border flows of income between associated companies are often subject to additional tax;
- Limits on cross-border loss relief;
- Cross-border restructuring operations give rise to substantial tax charges;
- As a result of conflicting taxing rights, there is considerable potential for double taxation;
- Certain tax systems contain a bias toward domestic investment;
- The multiplicity of tax laws, conventions and practices entails substantial compliance costs and represents in itself a barrier to cross-border economic activity.

### SOME HIGHLIGHTS FROM THE CONSULTATION

The Annex provides comments and a detailed graphical representation of the answers received.

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<sup>1</sup> Commission (EC), 'Towards an Internal Market without Tax Obstacles' (Communication) COM (2001) 582 final, 23 October 2001 and Commission (EC), 'Co-ordinating Member-States' direct tax systems in the Internal Market (COM(2006)823 final, 19.12.2006).

<sup>2</sup> Report to the President of the European Commission by Mario Monti 'A New Strategy for the Single Market at the Service of Europe's Economy and Society'. 9 May 2010.

In addition, the following points are worth stressing:

- Only 6% of the corporate taxpayers which participated in the consultation indicated that they had never encountered a dispute concerning double taxation in cross-border situations;
- Although all Member States seem to be involved, the participants from France and Germany outnumber the rest of Member States according to the statistics;
- Disputes of double taxation are not limited to EU borders: in 47 cases, a non-EU country was involved in the case registered for consultation.
- Disputes of double taxation related to the absence of a tax convention are very limited in numbers (practically, they only concern the recent denunciation of double tax convention between Denmark and France). It is clear that the presence of a tax convention contributes to developing an economic relationship, although it is not sufficient in itself to ensure a complete elimination of double taxation and disputes in that regard.
- Transfer pricing is the most frequent reason for disputes according to corporate taxpayers (98 cases reported out of 290, almost 34%). Conflicts of qualification of income and withholding taxes are common problems for corporate taxpayers and individuals. Further, tax residence related conflicts and inheritance taxes are serious concerns for individual taxpayers.
- The scale of tax involved is significant<sup>3</sup>: by average, more than 20% of the cases are above 1 million € for corporate taxpayers and more than 35% of the cases are above 100.000 € for individuals.

#### SUMMARY ANALYSIS

The results of the Public Consultation seem to confirm that, notwithstanding several planned and ongoing initiatives e.g. the possible CCCTB, the Joint Transfer Pricing Forum, the obstacles identified in 2001 remain and there are also some additional problems to be addressed such as:

- Insufficiency of existing instruments to address double taxation situations. In particular:
  - The scope of the interest and royalties directive does not cover indirect holdings;
  - The MAP provided for by the Arbitration Convention and double tax conventions does not allow a timely resolution of disputes;
  - Double tax conventions do not cover triangular situations;
  - The scope of double tax conventions is too narrow (e.g. inheritance and gift taxes are not covered);
- Improper functioning of existing instruments to relieve double taxation. In particular:

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<sup>3</sup> See tables on pages 19 and 35

- The lack of a consistent interpretation of double tax conventions between Member States result in conflicts of qualification (mainly, the concept of royalties, business income, dividends, permanent establishments);
- The implementation at Member States' level of double tax conventions may lead to the adoption of procedural requirements which are in practice inconsistent and deprive the taxpayers of the rights provided by the conventions;

More generally, it seems that these difficulties also create a general impression that cross-border tax issues are overall complex.

#### **FOLLOW-UP**

The Commission will consider the results of the Consultation and plans to issue a Communication during the 2<sup>nd</sup> quarter 2011.

Possible policy options to resolve these instances of double taxation will be evaluated as part of the preparatory work. Both legislative or 'soft law' instruments could in principle be considered, but the final decision on the format of the solutions to be proposed will depend on the outcome of the Impact Assessment. They could include a soft law instrument (coordinated unilateral actions, best practices, recommendation to amend Member States' double tax conventions), addressing interest and royalty payments, or considering how to improve dispute resolution mechanisms within the EU.

**ANNEX**  
**to the summary report**

**of the responses received to the Commission's consultation on  
double taxation conventions and the Internal Market: factual  
examples of double taxation cases**

**DIRECTORATE-GENERAL FOR  
TAXATION AND CUSTOMS UNION**

**JANUARY 2011**

## INTRODUCTION

The "Public consultation on Double Tax Conventions and the Internal Market: factual examples of double taxation cases" took place between 27 April 2010 and 30 June 2010<sup>4</sup>, although later answers were also taken into account.

It was launched with a view to encouraging members of the public to provide factual examples of cases of double taxation that they had encountered in their cross-border activities.

This report summarises the comments received, which will assist DG Taxation and Customs Union in its analysis of double taxation within the European Union and its impact on the Internal Market.

The consultation document consisted of 3 separate papers:

- one for representatives and experts, consisting in 8 questions referring to the identification and activity of the representatives and experts;
- one for corporate taxpayers, split in two parts, one related to the identification of the stakeholder (5 questions) and the second (11 questions) intended for corporate taxpayers who had encountered double taxation arising in a cross-border situation.
- and one for individual taxpayers also split in two analogue parts.

The Commission services received 185 responses from 26 EU Member States (MS) and 1 response from a non-EU country. There were 6 responses from lobbyists registered in the European Register of Interest Representatives<sup>5</sup>. There were 114 responses online and 72 responses by e-mail, fax or post.

There were 33 responses from representatives and experts, 75 responses from corporate taxpayers and 78 responses from individual taxpayers.

Some of the answers referring to corporate and individual taxpayers also contain information about representatives and experts, and have been included for these purposes in the statistics referring to representatives and experts.

The number of factual cases referred to in the responses was 388: 280 for corporate taxpayers and 108 for individual taxpayers.

Contributors have agreed to publish 119 of the responses and have also agreed that their name is published in 89 cases.

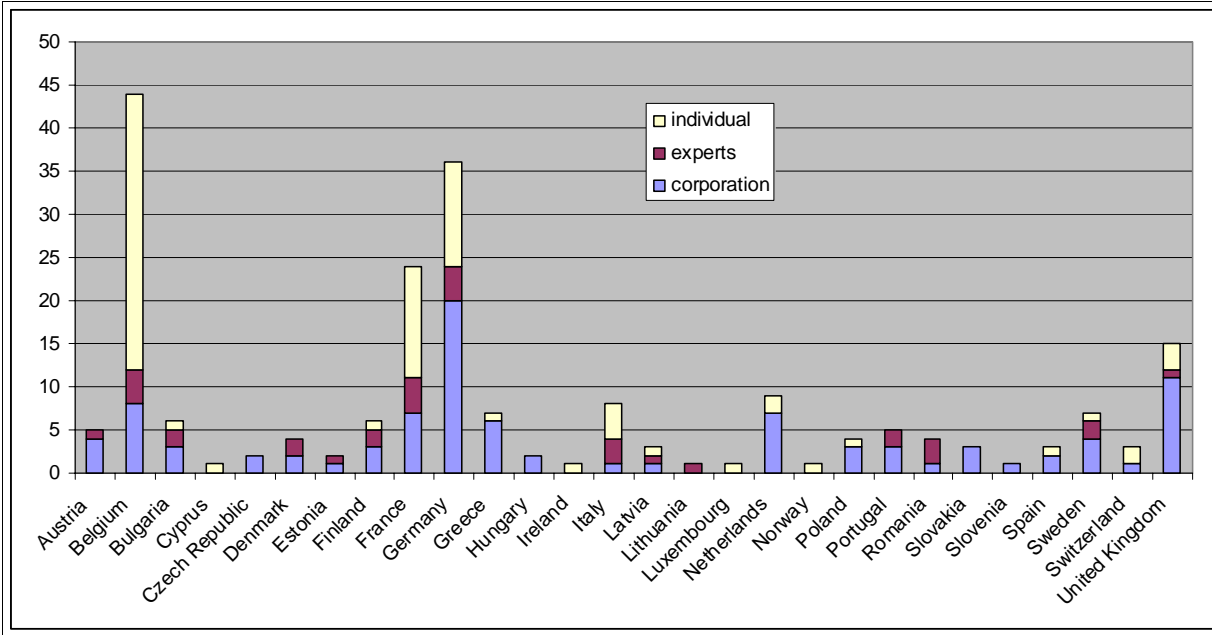
Only responses with an explicit agreement by the contributor are published. According to the Commission rules, responses from registered lobbyists are presented separately from other responses.

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<sup>4</sup> The consultation document can be found at [http://ec.europa.eu/taxation\\_customs/resources/documents/common/consultations/tax/2010/04/doubletax\\_2010\\_04\\_consultation\\_paper\\_en.pdf](http://ec.europa.eu/taxation_customs/resources/documents/common/consultations/tax/2010/04/doubletax_2010_04_consultation_paper_en.pdf)

<sup>5</sup> European Commission, Register of Interest Representatives.  
Homepage: <https://webgate.ec.europa.eu/transparency/regrin/welcome.do>

**Overview responses per residence of the supplier<sup>6</sup>**



The report is structured as follows:

- **First Part: representatives and experts**
- **Second Part: corporate taxpayers (identification)**
- **Third Part: corporate taxpayers (factual cases of double taxation)**
- **Fourth Part: individuals (identification)**
- **Fifth Part: individual taxpayers (factual cases of double taxation)**

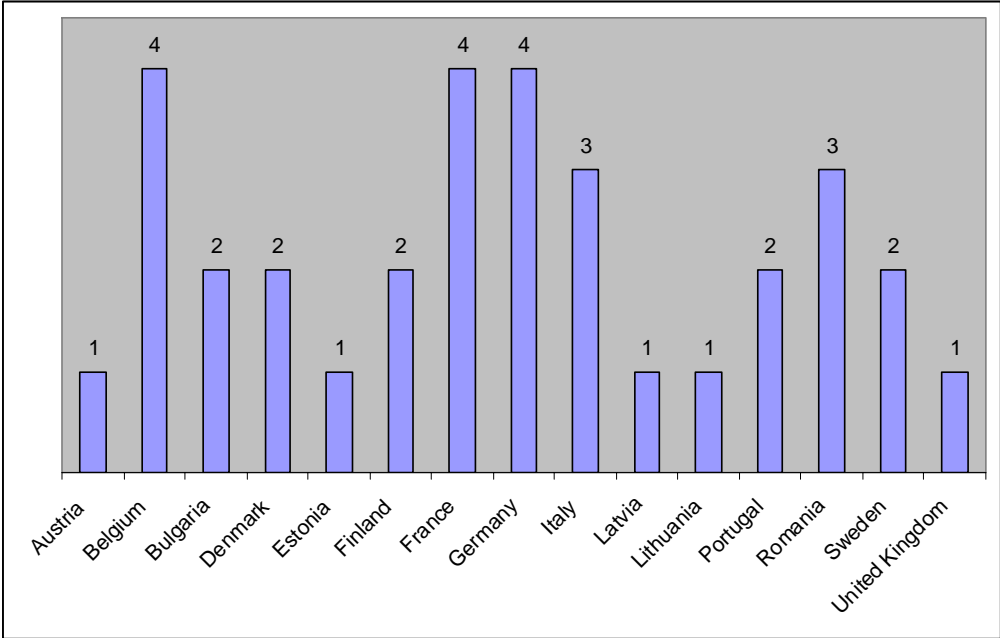
<sup>6</sup> There are some cases of double or multiple residences.

**FIRST PART**  
**Questions for representatives and experts**  
**(e.g. tax consultants, lobbyists, firms, etc)<sup>7</sup>**

**Question 1: Name**

33 contributors have identified themselves.

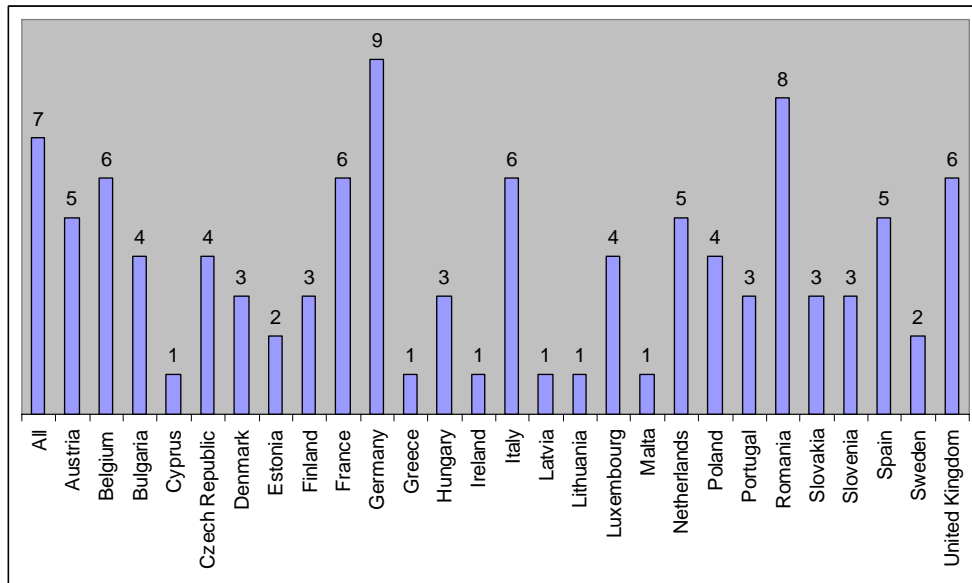
**Question 2: Country of residence**



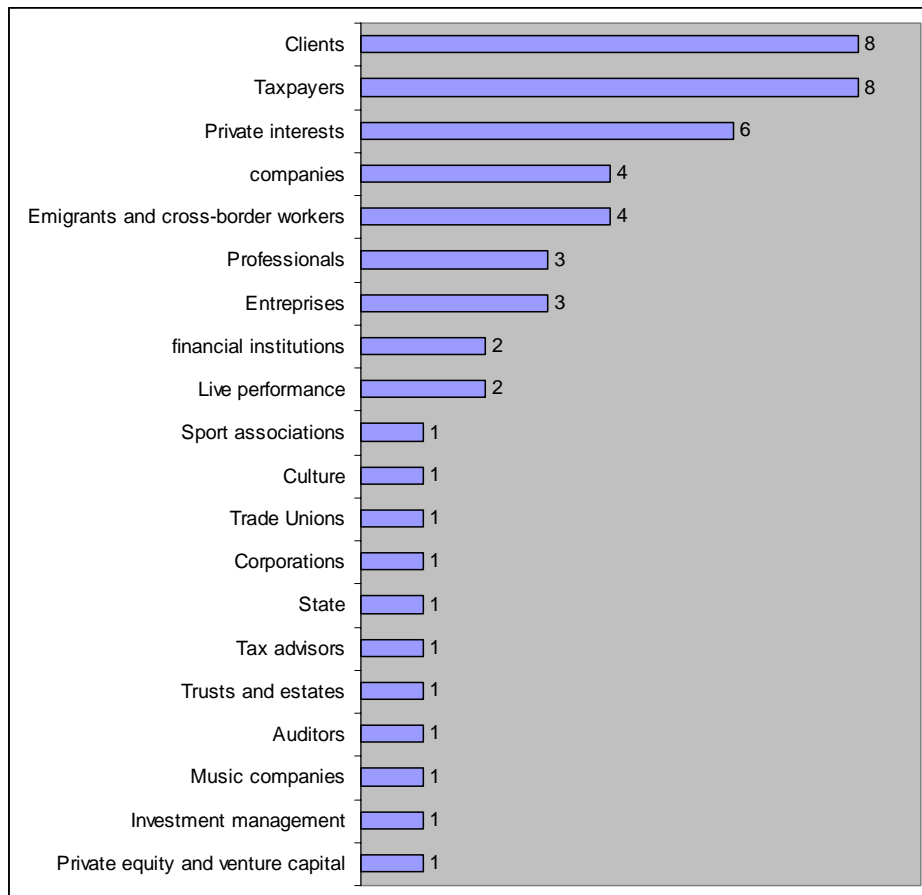
<sup>7</sup> Only experts and representatives that have completed this part of the Public Consultation are considered for statistic purposes. However, some experts and representatives have also submitted answers to the other parts of the public consultation, and their answers have also been analysed and taken into account.



**Question 3: EU Member States in which your organisation is represented.<sup>8</sup>**

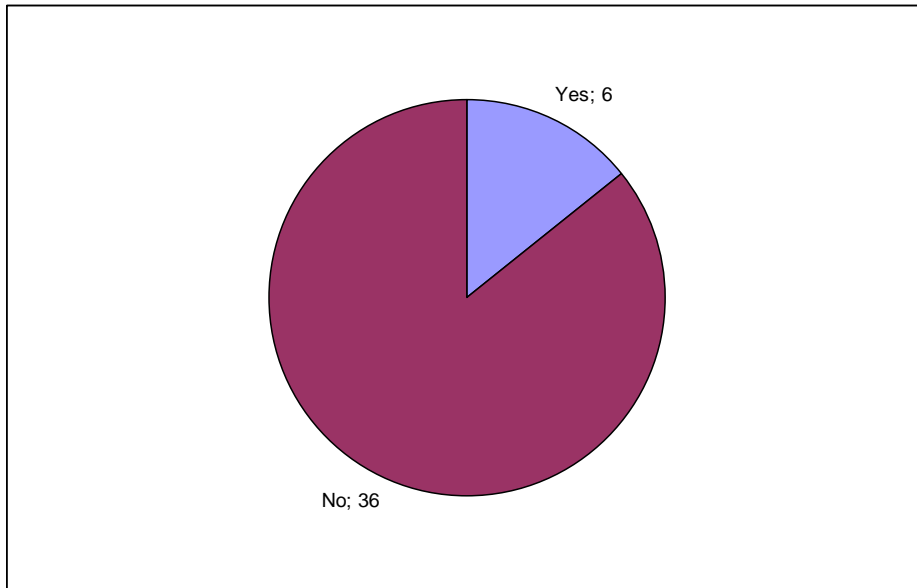


**Question 4: Whose interests do you represent?**

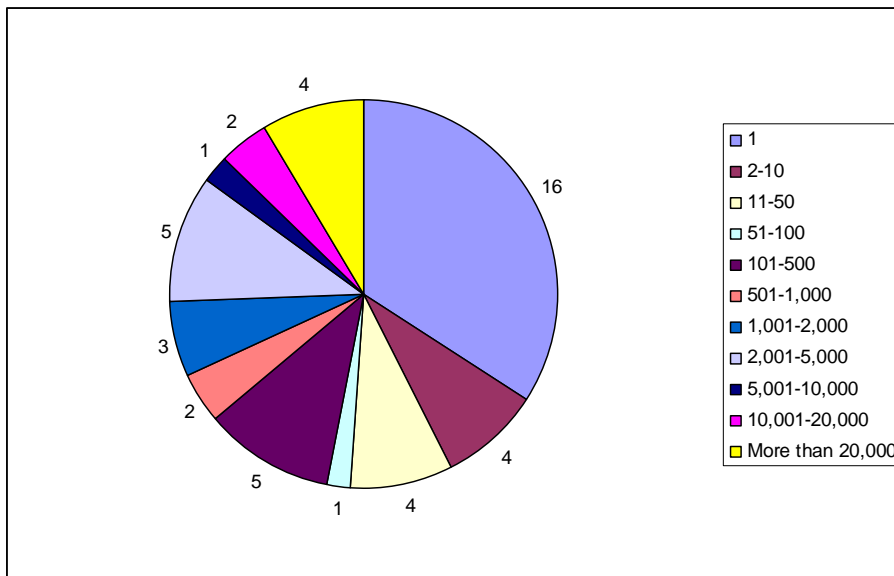


<sup>8</sup> 7 of the contributors state they are represented in all EU Member States

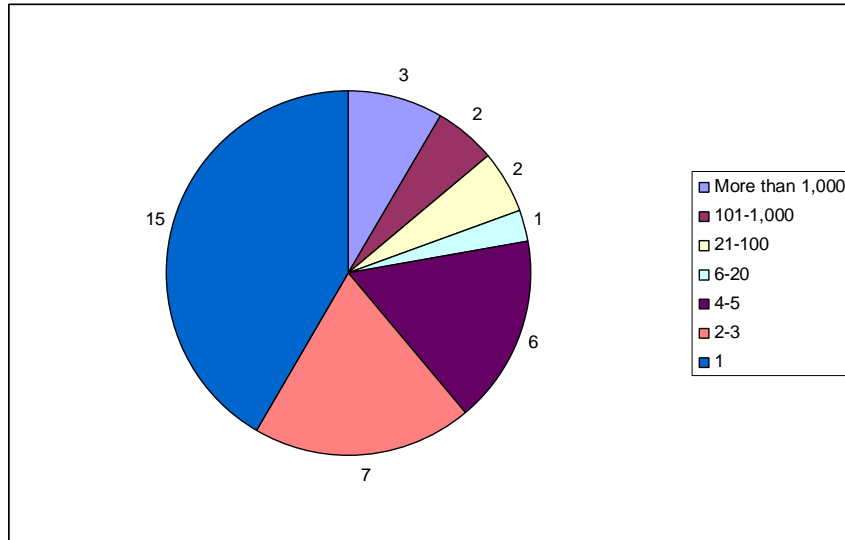
### Question 5: Are you registered in the Commission's register of Interest Representatives?



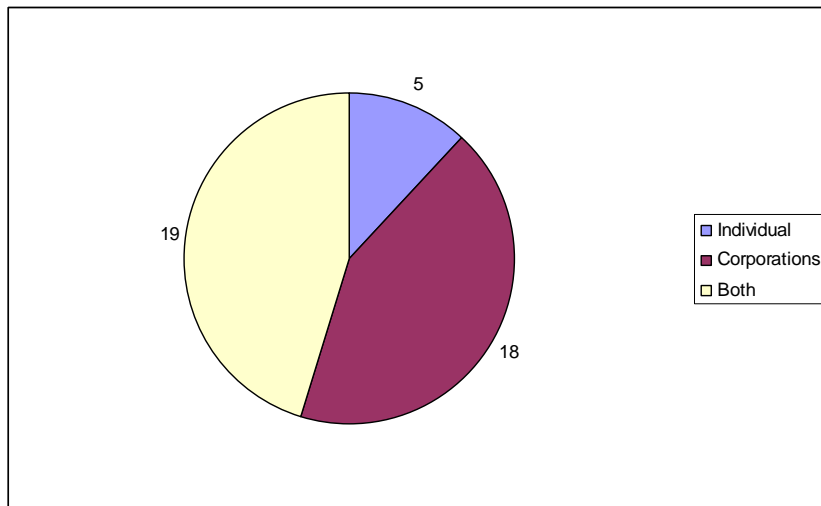
### Question 6: Number of members



**Question 7: Please indicate the number of cases to which you are referring in your response:<sup>9</sup>**



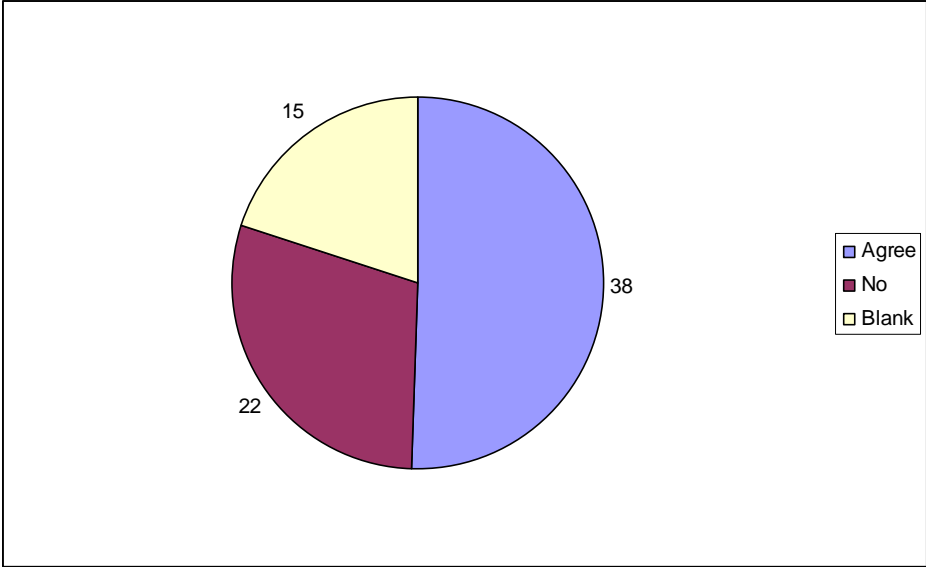
**Question 8: Do you represent individuals or corporate taxpayers or both?**



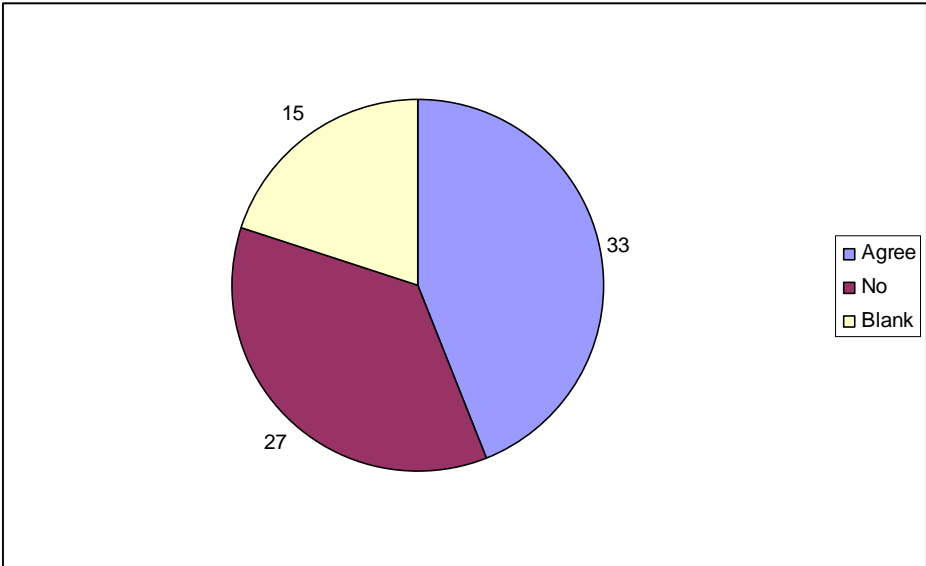
<sup>9</sup> Some answers are not consistent with the factual number of cases explained.

**SECOND PART**  
**Questions for corporate taxpayers**  
**Identification of stakeholders**

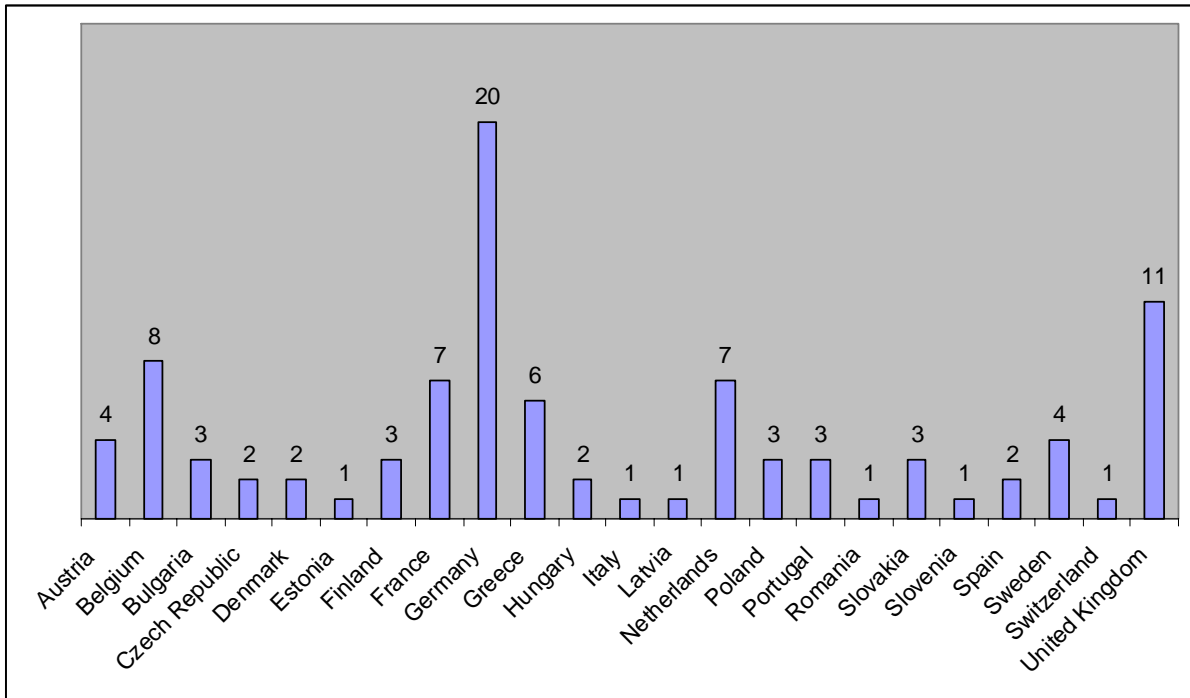
**Question 1: Do you agree to have your response to the consultation published along with other responses?**



**Question 2: Do you agree to have your name mentioned as one of the contributors to the consultation**

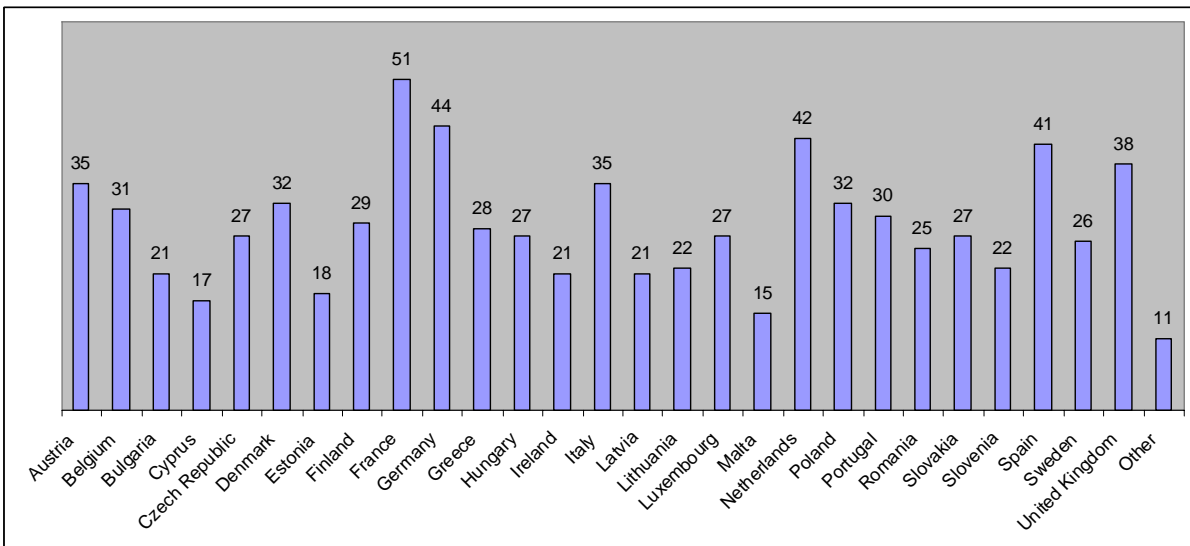


**Question 3: In which country are you resident? If you were resident in a different country when the double taxation occurred, please specify in which one**



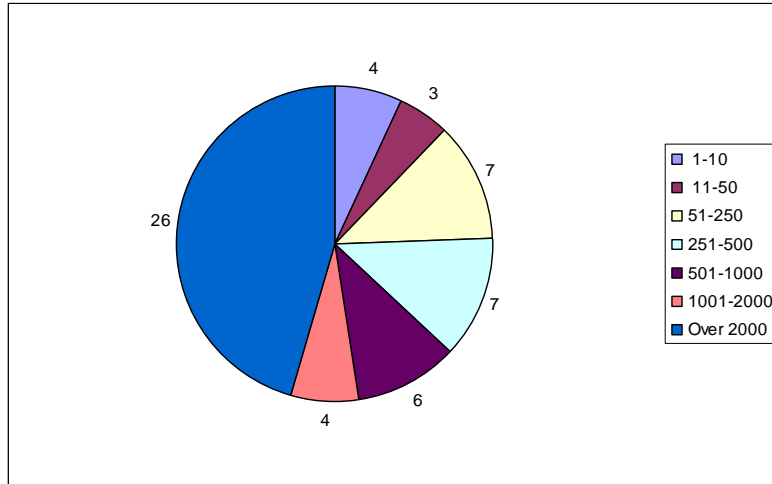
In four cases, 2 for Germany, 1 for Czech Republic and 1 for the Netherlands, a different residence was specified when the double taxation occurred.

**Question 4: Name the country(ies) where your group/company is active**

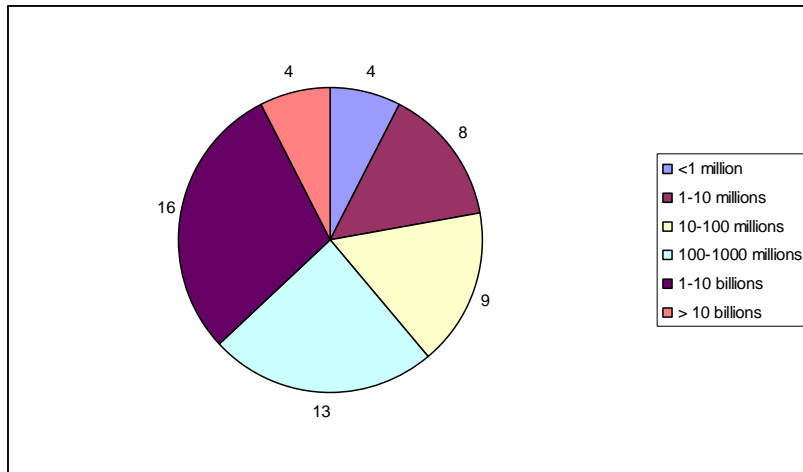


### Question 5: What is the size of your group/company within the EU?

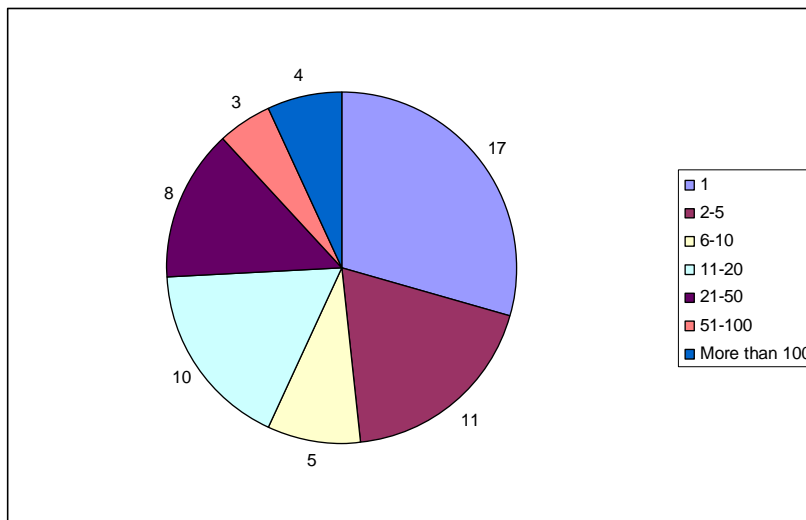
#### *Number of employees*



#### *Turnover*



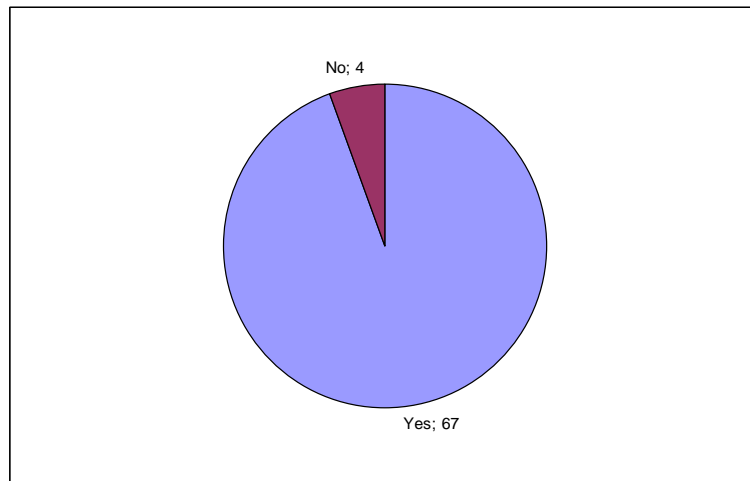
#### *Number of entities within the EU*



### THIRD PART

#### Questions for corporate taxpayers who have encountered double taxation which has arisen in a cross-border situation<sup>10</sup>

**Question 1: Has your company/company within a group encountered any disputes concerning double taxation which has arisen in a cross-border situation?**



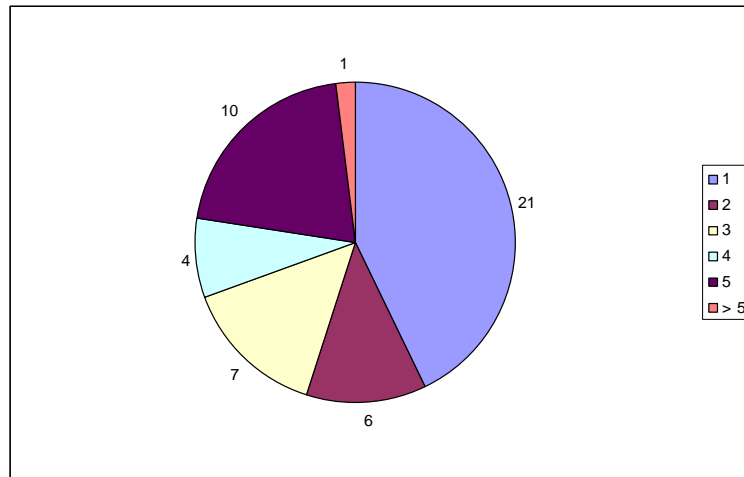
It should be stressed that this paper for corporate taxpayers was intended for companies who had encountered disputes concerning double taxation which arose in a cross-border situation.

Therefore, the answers do not give any information referring to the percentage of companies within the EU actually encountering double taxation that did not lead to a dispute (as a result of the taxpayer's decision, or because double taxation is partially - and clearly - admitted by double tax treaties) or that did not occur in a cross-border situation .

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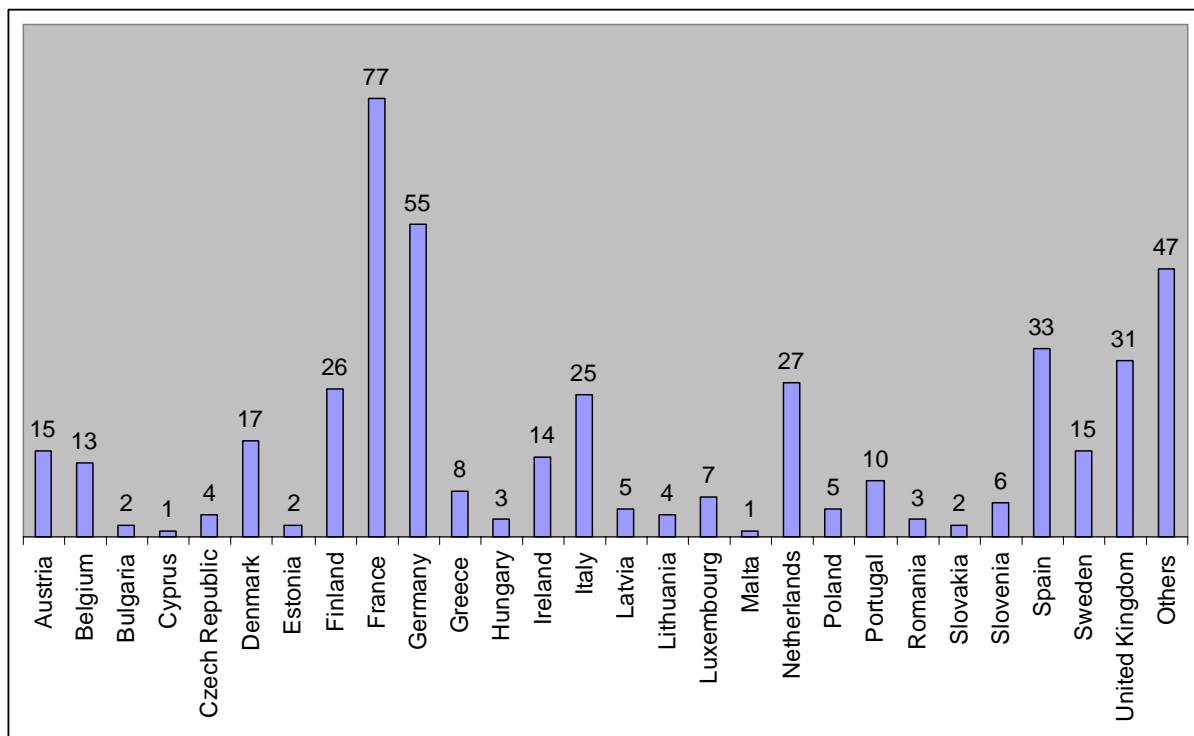
<sup>10</sup> It should be stressed that some contributors answer on behalf of their representatives.

**If yes, please indicate how many cases of disputes concerning double taxation in a cross-border situation you have experienced from January 2000 to date?**



The number of cases referred by each individual contributor ranged between 1 and 21.

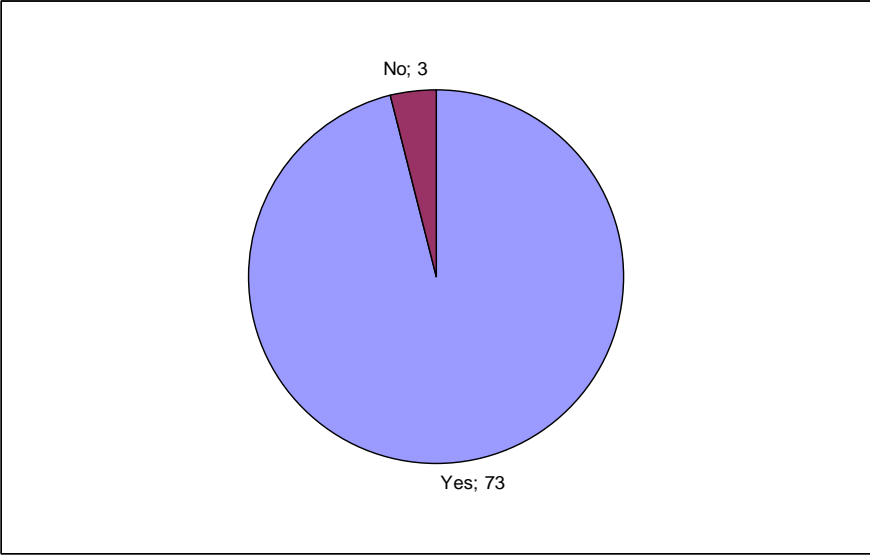
**Question 2: Which Member States were involved?**



Non EU-Member States are aggregated in the Category *Others*.



**Question 3: Is there a Double Tax Convention in force between the States involved?**



All negative answers referred to situations between France and Denmark. Double Tax Convention was terminated in 2009 and not replaced by a new one.

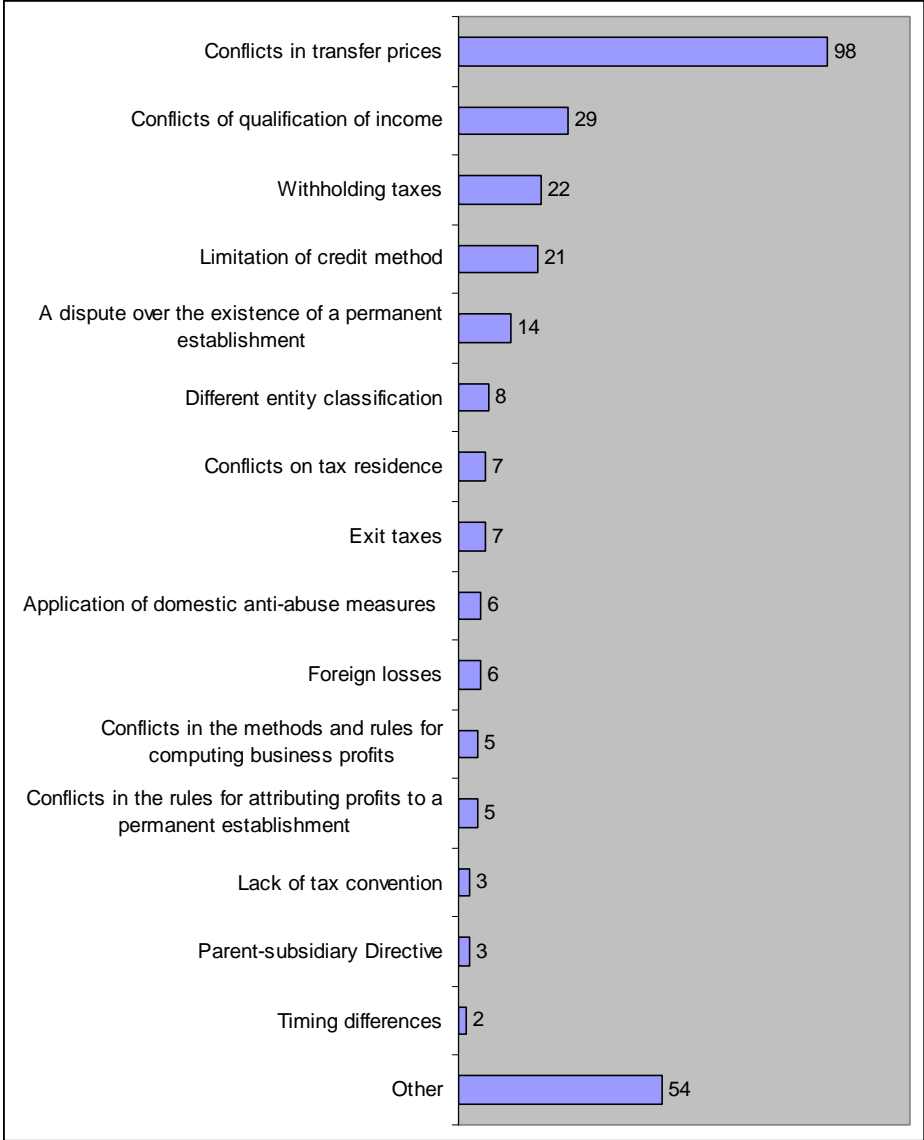
Whilst the situation is identical between Spain and Denmark, no cases of double taxation have been referred.

**Question 4: Please state the reason(s) for the double taxation and the approximate amounts of income, tax, interest and penalties involved**

The following statistics take into account the qualification given by the contributor to the case. In some cases, however, it is arguable, whether the qualification given is exact or not.

Up to 54 cases were included in the category *Others*.

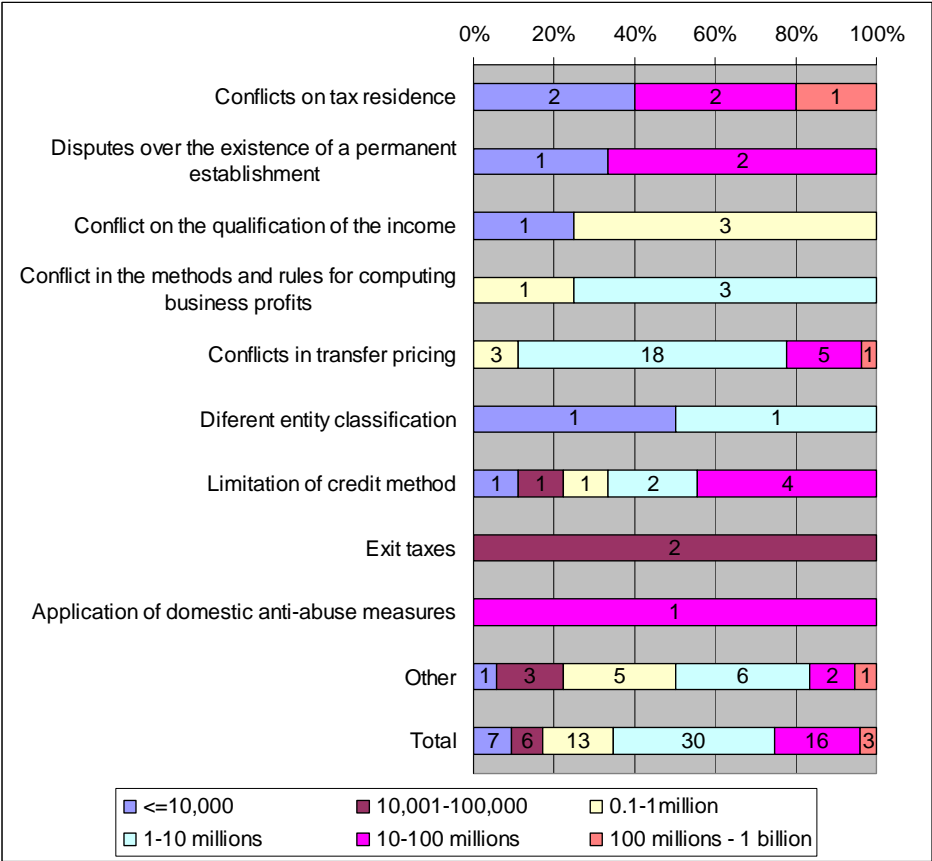
These are the results:



Regarding to the amount of income, taxes and penalties involved, statistics are based on the information provided by the contributors.

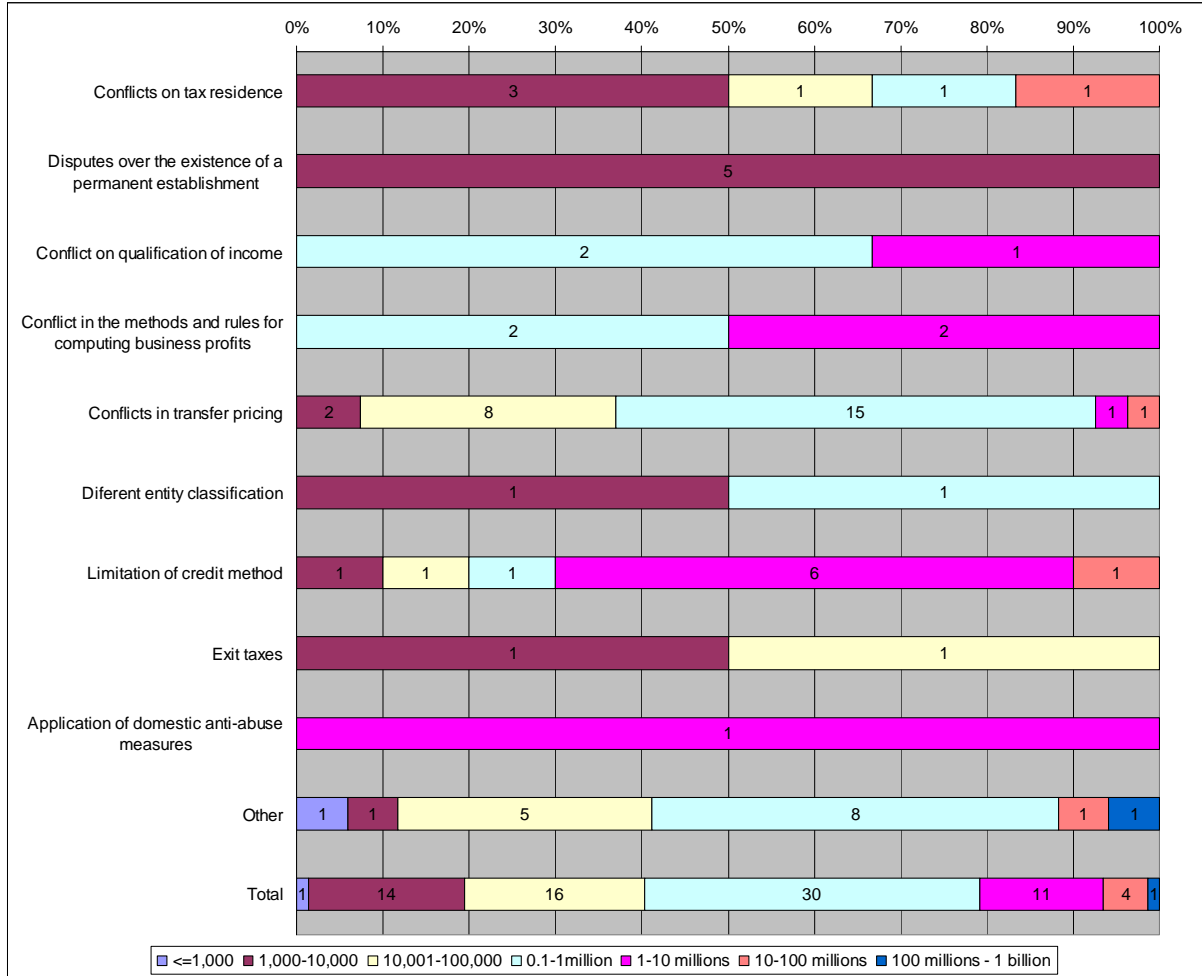
In some cases, however, contributors were not able to accurately estimate the amounts involved or they just decided not to answer to the question.

*Amount of income involved<sup>11</sup>*

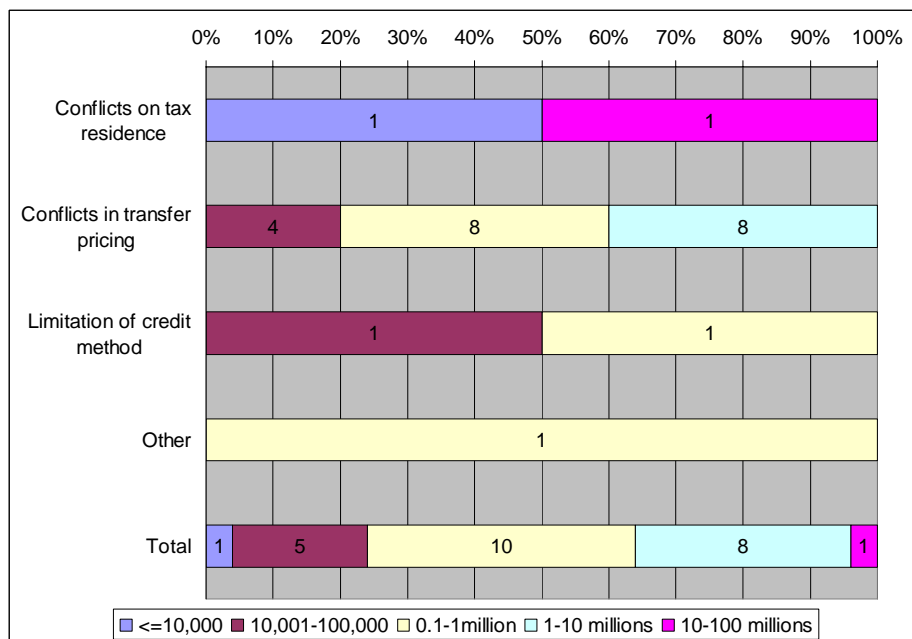


<sup>11</sup> If not specified otherwise, currency unit is EUR.

**Amount of tax**



**Amount of penalties and interests**



## **Question 5: Please give any other relevant details about the cross-border double taxation case(s) and the way it (they) arose**

The answers given by contributors include the following cases.

The examples included are just a sample of the heterogenic picture of the answers received.

### ***Tax residence***

- *A company is located in Denmark, but administrates the author's rights for many Nordic/Baltic author's associations. As members of these associations are mostly tax resident in their home country (e.g.: Latvia or Finland), the company, which is not the beneficial owner, has encountered major problems with the tax authorities, outside the Nordic/Baltic countries, concerning the residence criteria of the authors, who are the real beneficial owners, for the application of tax treaties.*

*(For further details, see answer of NCB – Nordisk Copyright Bureau)*

### ***Partnerships and Collective Investment Vehicles***

- *Some British banks provide investors with tax services and in particular services related to claiming tax benefits on cross border portfolio investment income. Uncertainty in treaty entitlement (specifically collective investments funds but also some pension fund structures) can be issues for potential eligible investors.*

*(For further details, see answer of BBA – British Bankers Association)*

### ***Transfer pricing***

- *A French subsidiary and its German parent company was facing a case of double taxation due to a tax adjustment made by the French administration, at the level of the French company. French tax authorities rejected the deducibility for tax purposes of management fees paid to the German parent company. These management fees have constituted taxable income for corporate tax in Germany, so there was a situation of double taxation.*

*(For further details, see answer of BBA – British Bankers Association)*

### ***Qualification of income***

- *An intra-group payment was considered by French tax authorities a deemed distribution because it was held excessive and the French withholding tax on dividends applied. The Parent-Subsidiary directive was disallowed because the recipient was not directly a shareholder of the payor. Finally, any foreign tax credit was given in Germany.*

*(For further details, see answer of Leclerq)*

- *Under certain circumstances, a transfer of rights could be qualified as business profits, capital gains, or royalties. For example, this could be the case in the exclusive*

*granting of all intellectual property rights for a limited period or in a limited geographical area, in a transaction structured as a sale.*

*(For further details, see answer of Confindustria)*

#### **Withholding tax**

- *25% withholding tax levied for the French dividends, only 10% will be refunded. The remaining 15% will be withheld without justification for tax-exempt German funds.*

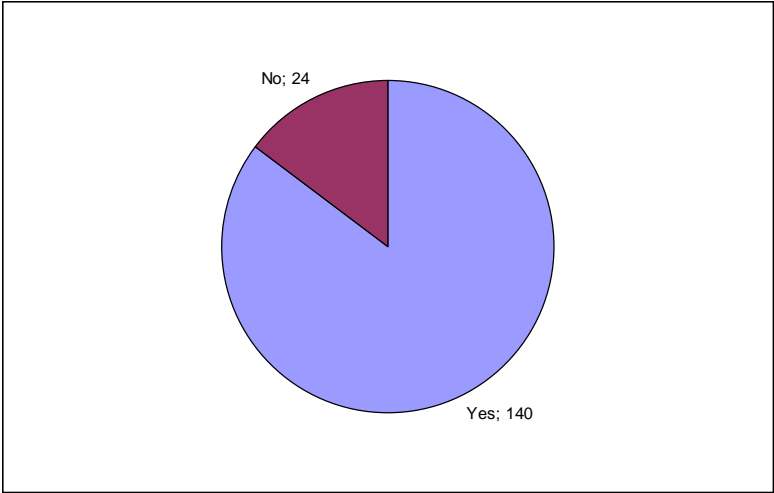
*(For further details, see answer of various Sparkasse)*

#### **Lack of tax convention**

- *The tax convention between France and Denmark is no longer valid as of 31st December 2008. Until now France has not adopted domestic measures to avoid double taxation that such situation can generate, in particular, due to the concurrent and uncoordinated application of different tax sovereignty. This can result in high effective tax rates. The concurrent application of the domestic concept of "residence or "permanent establishment" may also pose problems in the near future.*

*(For further details, see answer of MEDEF)*

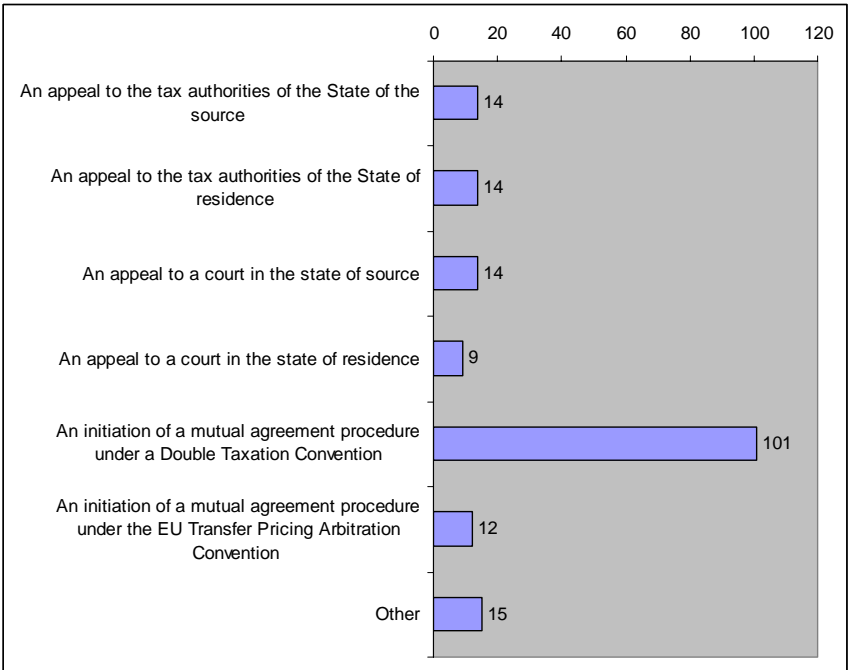
**Question 6: Have you sought any remedies to eliminate the cross-border double taxation.**



In 85.4% of the cases, companies have reacted to the situation of double taxation. This is a substantially higher percentage than in the case of individuals (69.0%).

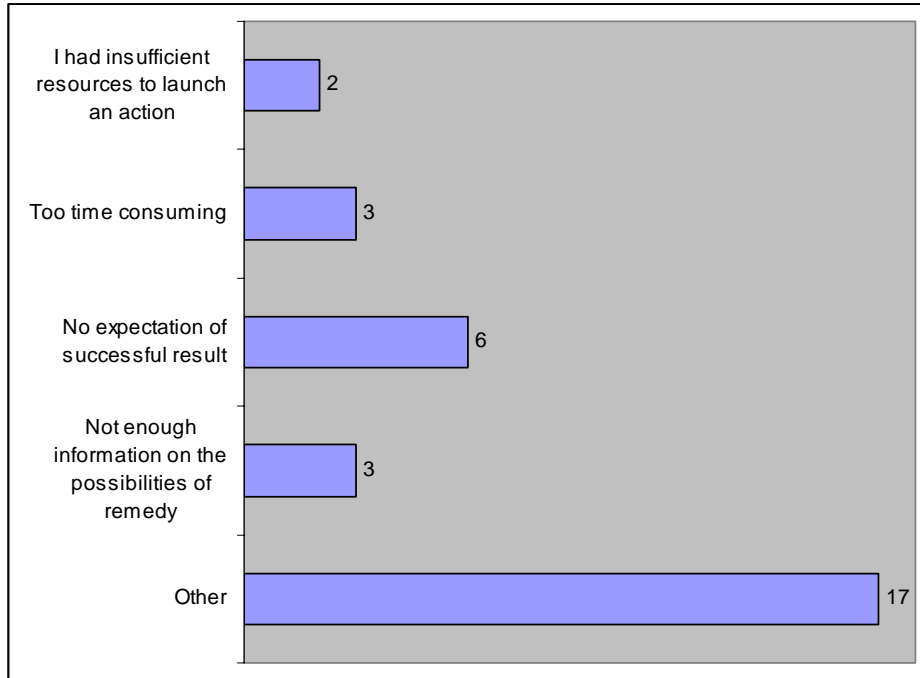
**If Yes, please specify what action you took to eliminate the cross-border double taxation. If no, please explain why you did not seek any remedies.**

*Action taken to eliminate the cross border double taxation*



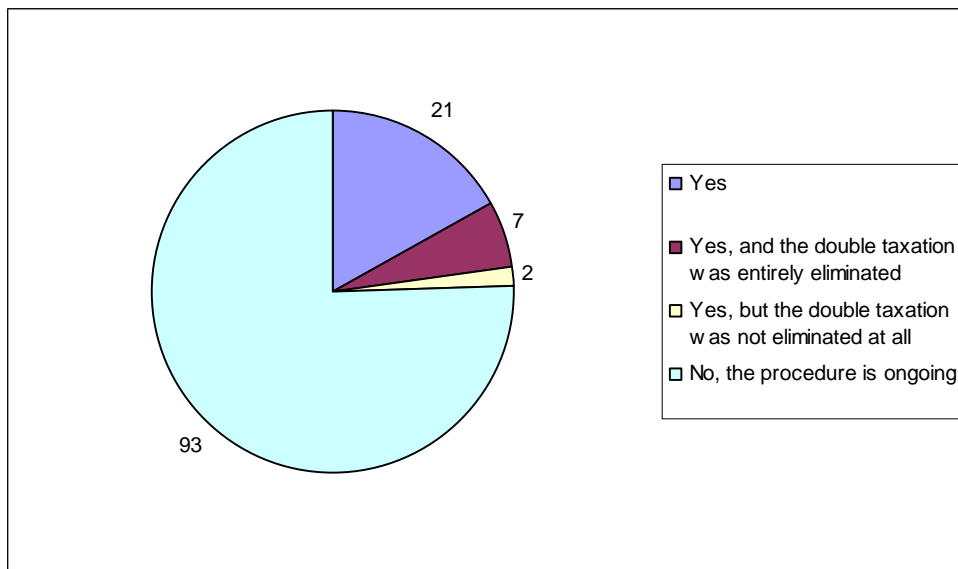
***Reasons for no taking action***

In the cases where no action was taken, the following reasons have been explained:



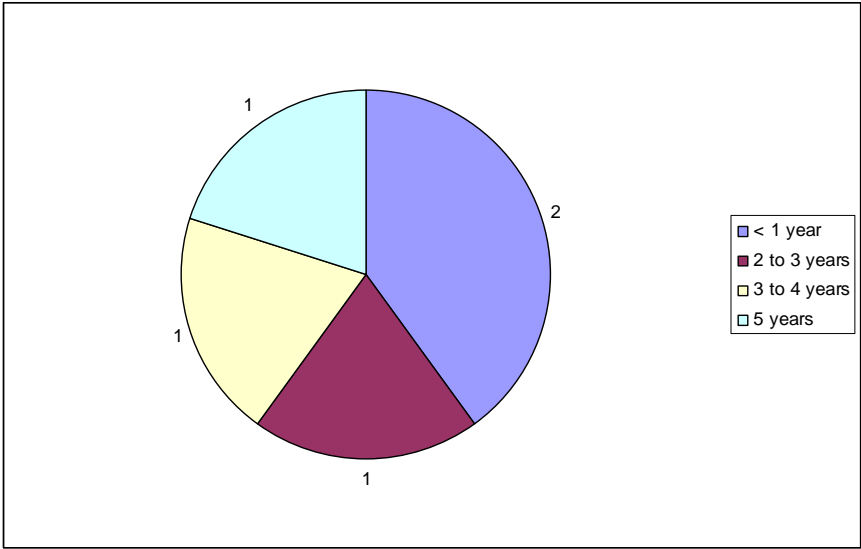
**Question 7: If Yes to question 6: Has the procedure you initiated been closed? If Yes, please the outcome in more detail.**

***Has the procedure been closed?***

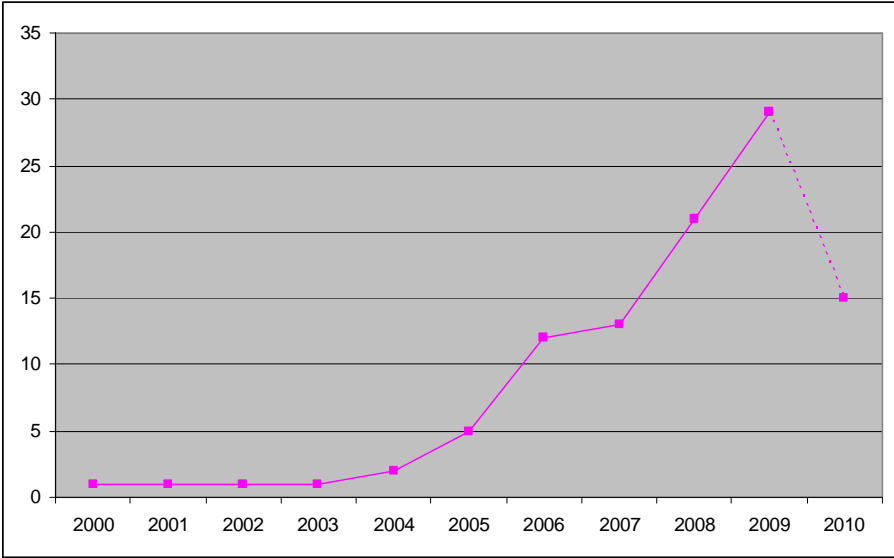




In the cases where the procedure was closed, the information received about the duration can be summarized as follows:

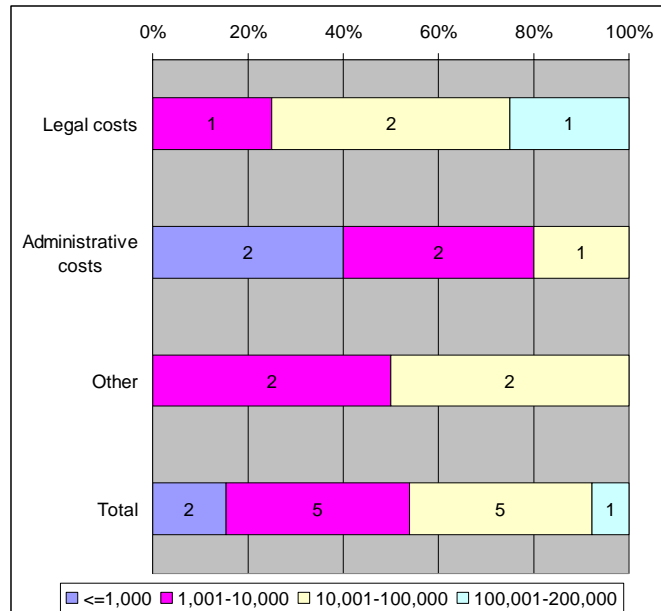


*Year of start of ongoing procedures*



Most of the ongoing procedures have been initialized in 2009 and 2010 (15 cases during the first semester of 2010).

**Question 8: What were the approximate costs involved in the elimination of the cross-border double taxation?**



**Question 9: On the basis of your practical experience, please suggests ways for the effective and rapid elimination of double taxation within the EU**

Answers include<sup>12</sup>:

***Procedural solutions***

- *More frequent, focussed meetings of Competent Authorities with an agreed timetable to settle the negotiation.*
- *Simplified procedures for SMEs (e.g.: for direct application of the reduced withholding taxes)*
- *EU support of the OECD report on the procedures for tax relief for cross-border investors.*

***Interpretation of tax treaties***

- *A coordinated approach, at EU level, of the term royalties, permanent establishment, place of effective management, beneficial owner, etc. in tax treaties.*
- *EU support of the OECD report on treaty benefits with respect to income of collective investment vehicles.*

<sup>12</sup> Answers only provided as a sample.

### ***Mutual agreement procedures (MAP)***

- *Shorter time limits for processing double taxation cases.*
- *A faster enforcement of a settlement between the tax authorities involved Make MAPs compulsory and provide in each tax treaty between EU Member States an arbitration procedure that leads to effective relief of double taxation.*

### ***New legal instruments***

- *An EU instrument to eliminate effectively and rapidly double taxation within the EU.*
- *Comprehensive double taxation agreements between all EU Member States.*
- *Broader EU instruments (e.g.: full implementation of the interest and royalties directive) to ensure free movement of capital throughout the EU in respect of cross-border lending.*
- *The elimination of all withholding taxes within the EU.*
- *An EU double taxation agreement.*

## **Question 10: Is there any other relevant information you would like to share?**

Answers include<sup>13</sup>:

### ***Limitations of current law***

- *The current EU and domestic legislative framework (including the Arbitration Convention) does not allow for an effective elimination of all cases of double taxation, even if double tax treaties are available.*
- *The ECJ currently offers little support (e.g. in the cases of Block, Damseaux and Kerkhaert-Morres) in the fight against double taxation other than as regards source taxation being on a net basis.*

### ***Transfer pricing***

- *Recent developments with regard to business restructuring can lead to de facto double taxation. New laws in some Member States contain goodwill calculations not in line with the arm's length principle.*
- *Increasing documentation requirements and lengthy procedures (8 years plus) only increase the cost of doing business available and decrease the overall result available for taxation.*

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<sup>13</sup> Answers only provided as a sample.

### ***Withholding taxes***

- *All EU Member States should be required to implement an intra-EU exemption from withholding taxes on interest payments.*
- *The European Commission's recommendation of October 2009 to simplify the procedures for investors in one EU Member State to claim withholding tax relief on dividend, interest and other securities income from issuers in other Member States is an important initiative for EU business. However, it is important for the success of this kind of proposal that they are consistent with the OECD's work in this area.*

### ***Consequences of double taxation***

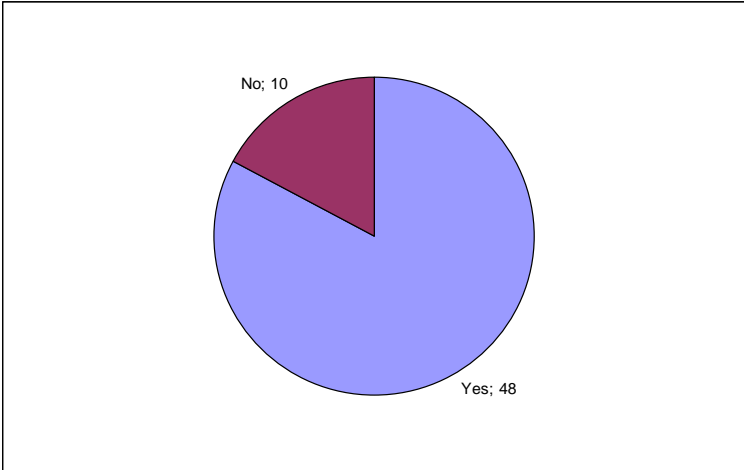
- *There is considerable evidence that the existence of double taxation can be a serious disadvantage for markets.*

### ***Cross-border venture capital investments***

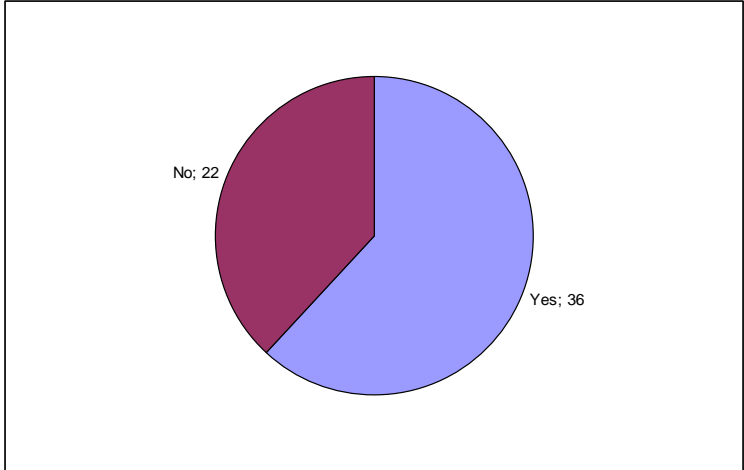
- *The implementation of the recommendations for improving the fiscal framework included in the Report on removing tax obstacles to cross-border venture capital investments of the European Commission Expert Group would ensure a level playing field for private equity and venture capital investment alike.*

**FOURTH PART**  
**Questions for individual taxpayers**  
**Identification of stakeholders**

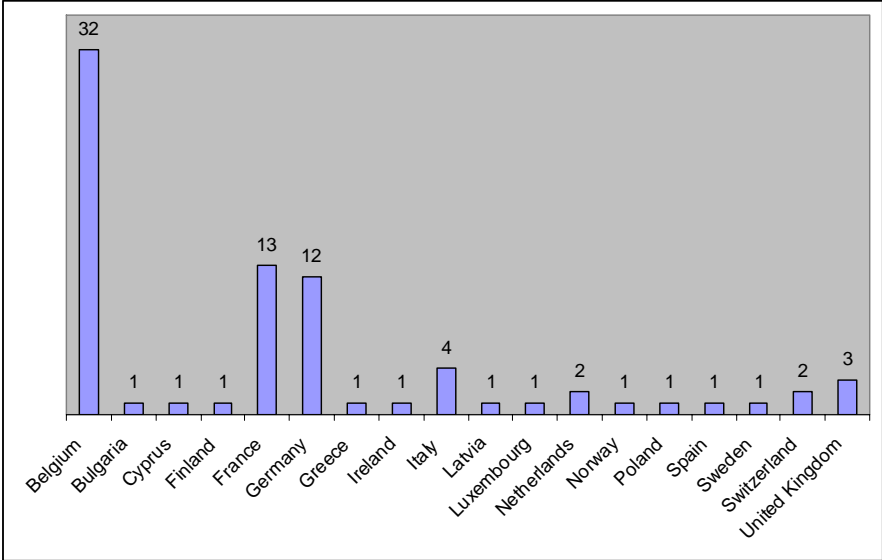
**Question 1: Do you agree to have your response to the consultation published along with other responses?**



**Question 2: Do you agree to have your name mentioned as one of the contributors to the consultation**

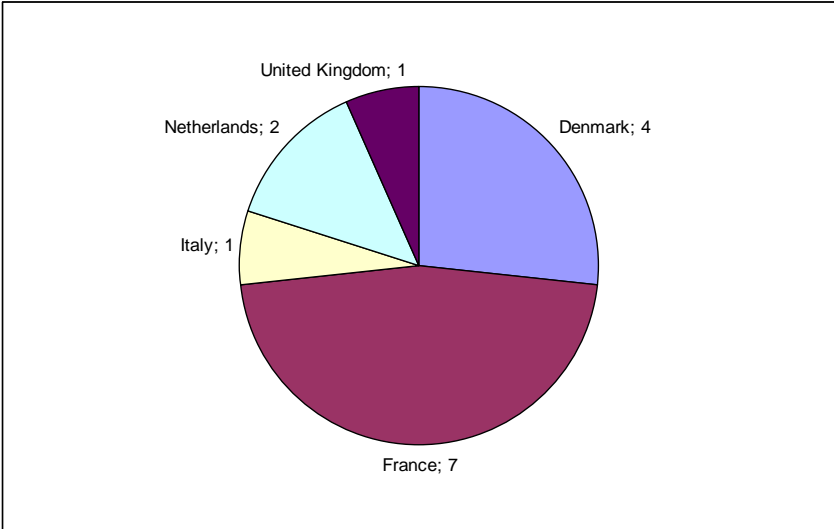


**Question 3: In which country are you resident? Please also specify the country of tax residence if different. If you were resident in a different county when the double taxation occurred, please specify in which one**

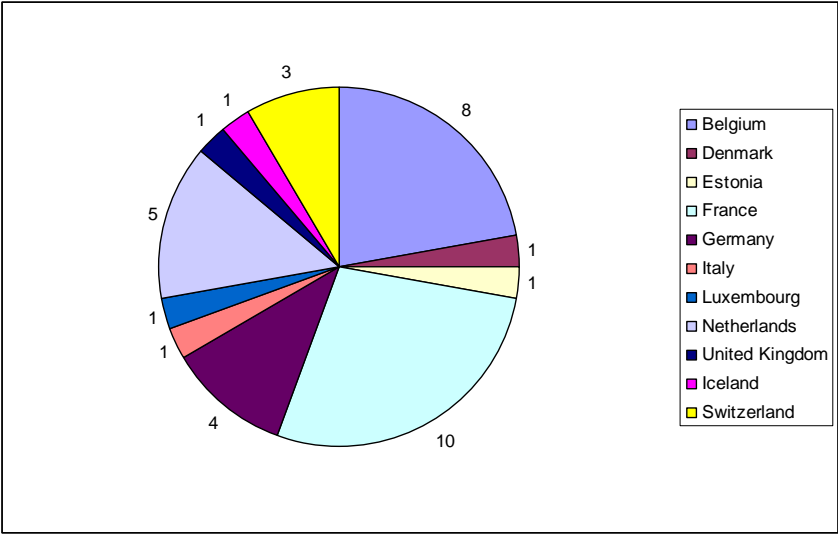


It is outstanding that 40.5% have been submitted by residents in Belgium, 16.5% by residents in France and 15.2% by residents in Germany.

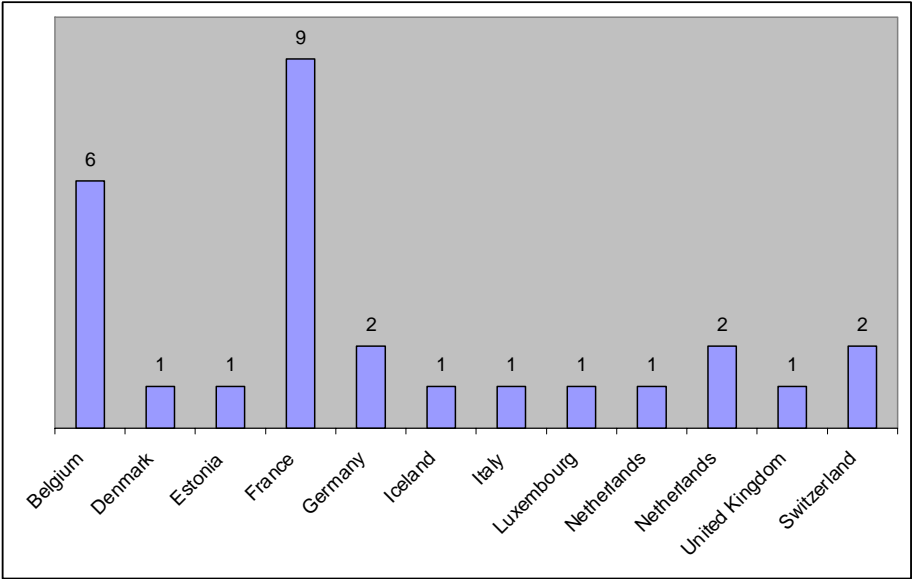
*Different tax residence*



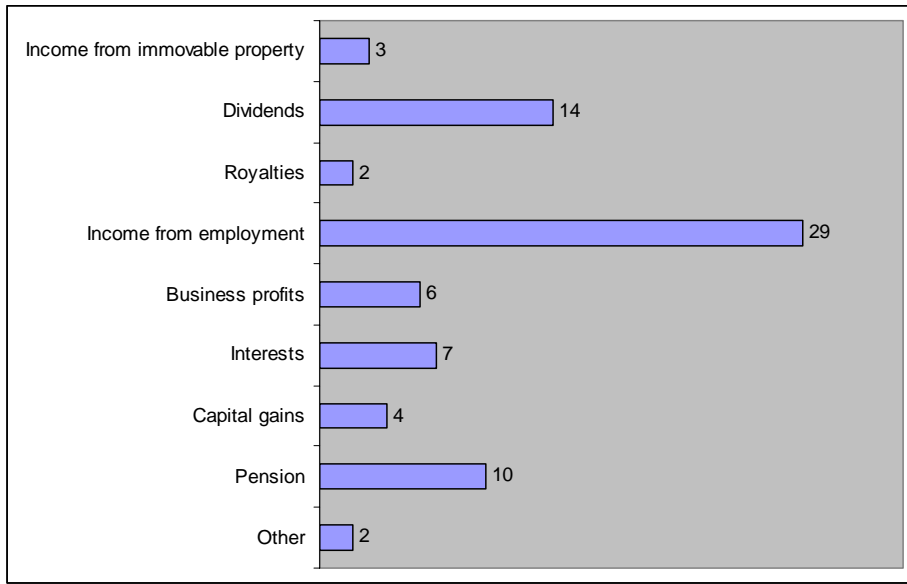
***Tax Resident in a different country when double taxation occurred***



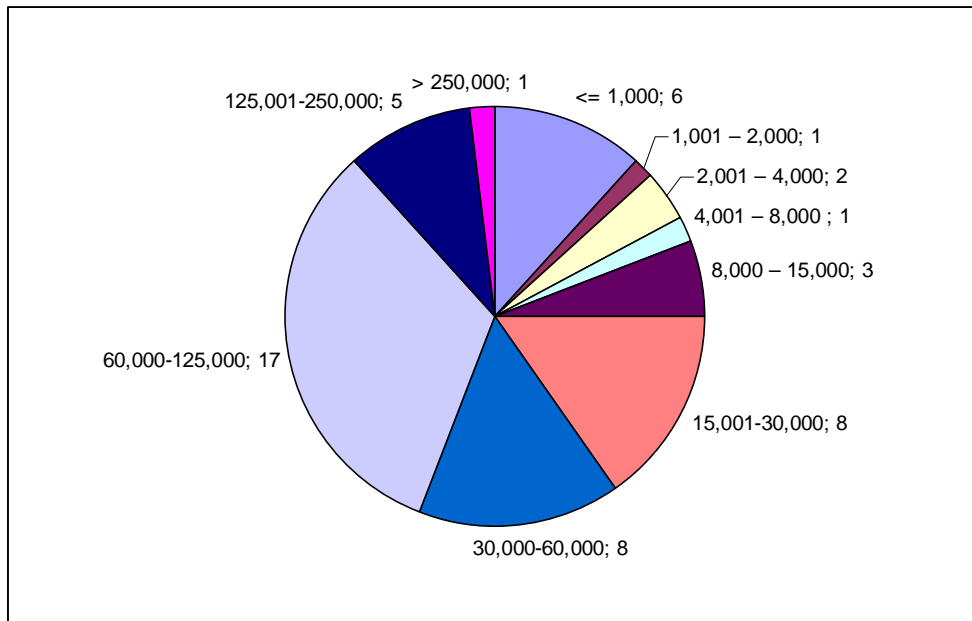
**Question 4: In which country(ies) are/were you active professionally?**



**Question 5: What is the nature of your cross-border income(s)?**

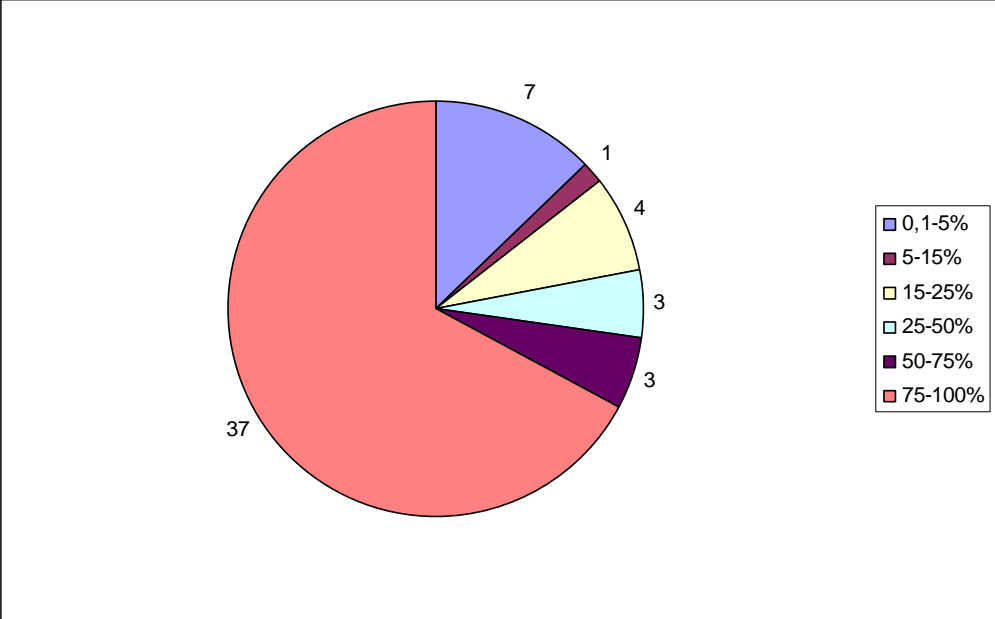


**Question 6: Please specify the approximate amount of your cross-border income.**





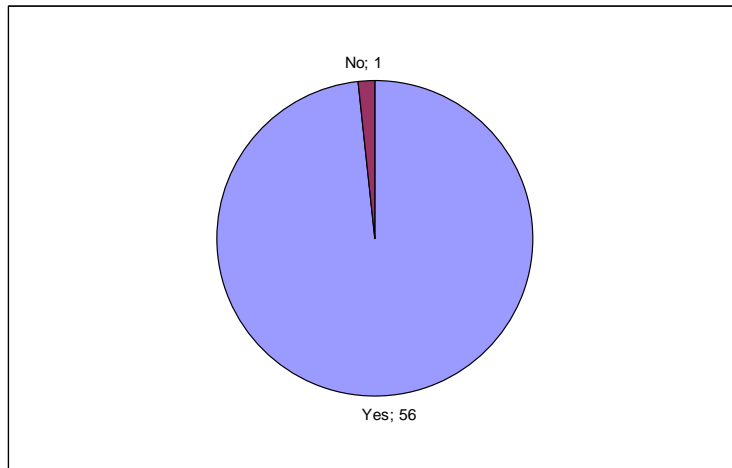
**Question 7: What percentage of your total income is derived from cross-border activities?**



## FIFTH PART

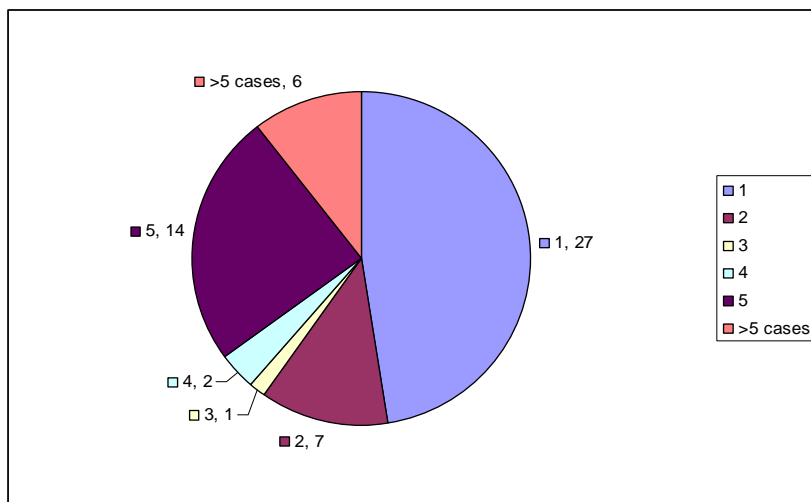
### Questions for individual taxpayers who have encountered double taxation which has arisen in a cross-border situation

**Question 1: Have you encountered double taxation which has arisen in a cross-border situation?**

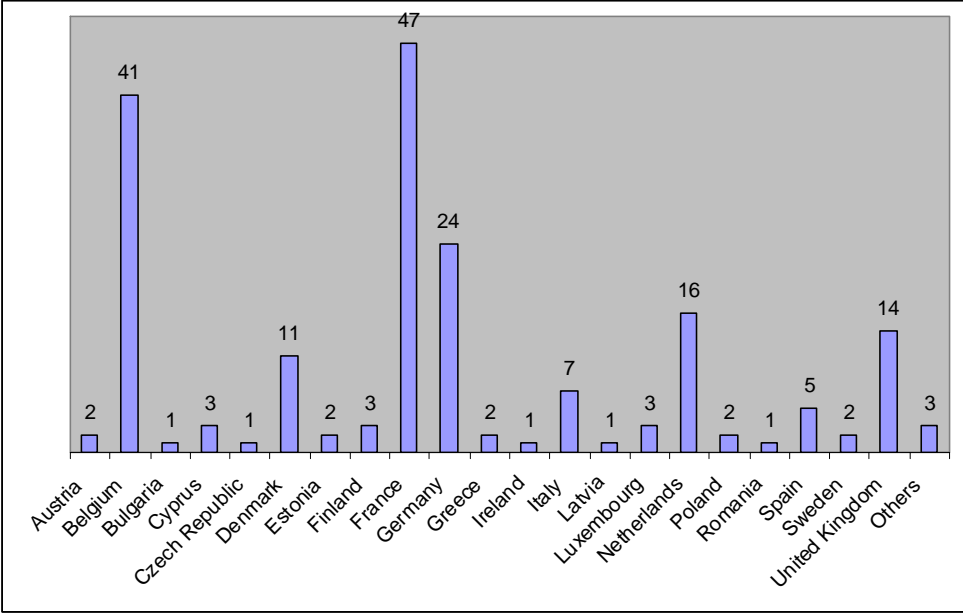


**If yes, please indicate how many cases of disputes concerning double taxation in a cross-border situation you have experienced from January 2000 to date?**

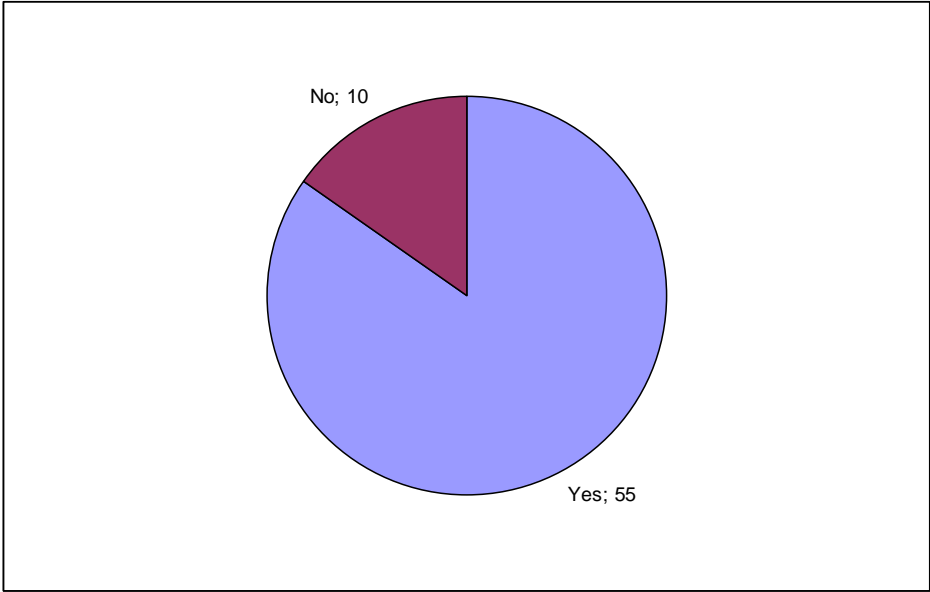
*Number of cases*



**Question 2: Which Member States were involved?**

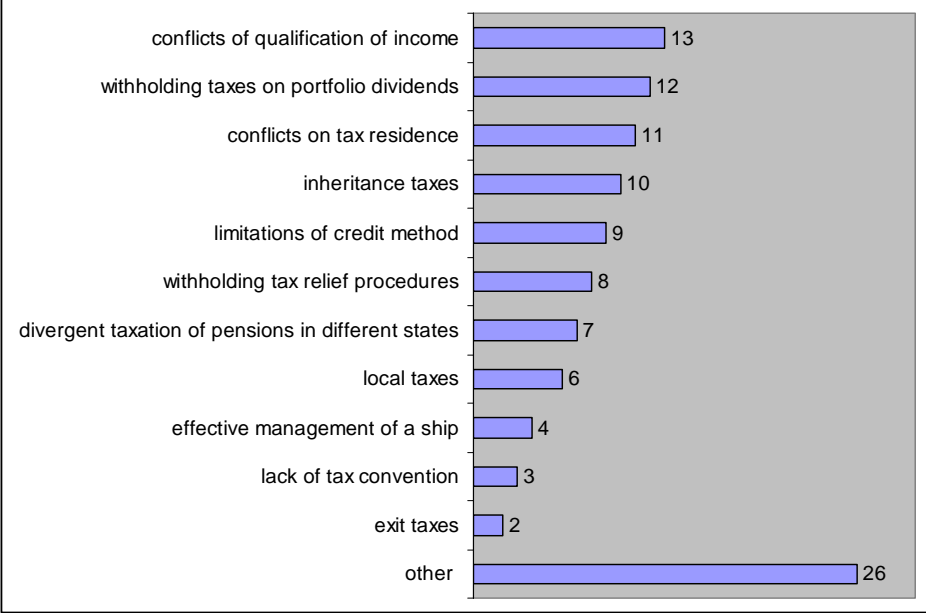


**Question 3: Is there a Double Tax Convention in force between the States involved?**

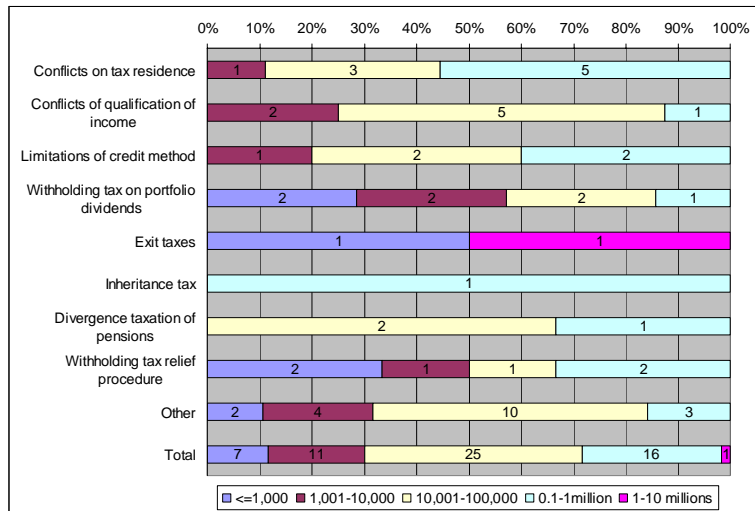


The cases where the answer was "No" are explained by the lack of Convention between Denmark and France and by the rarity of Inheritance Tax Conventions.

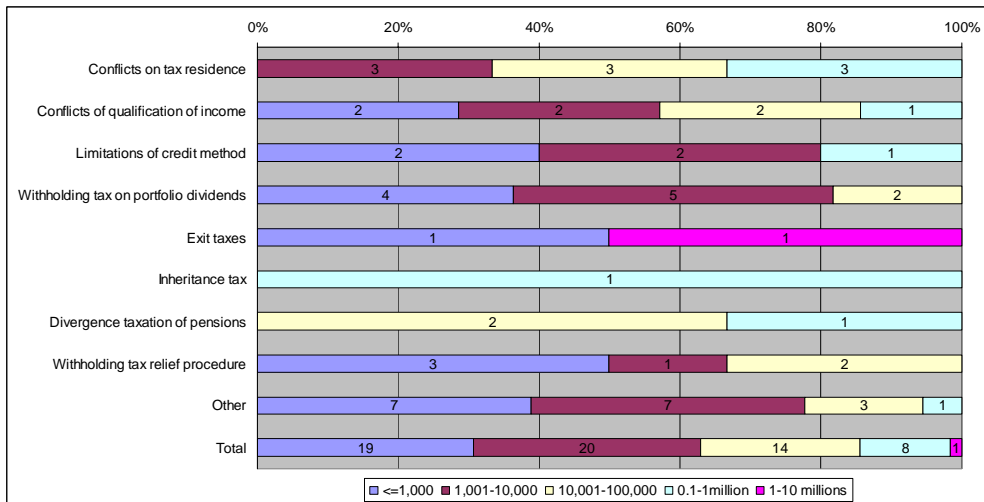
**Question 4: Please state the reason(s) for the double taxation and the approximate amounts of income, tax, interest and penalties involved**



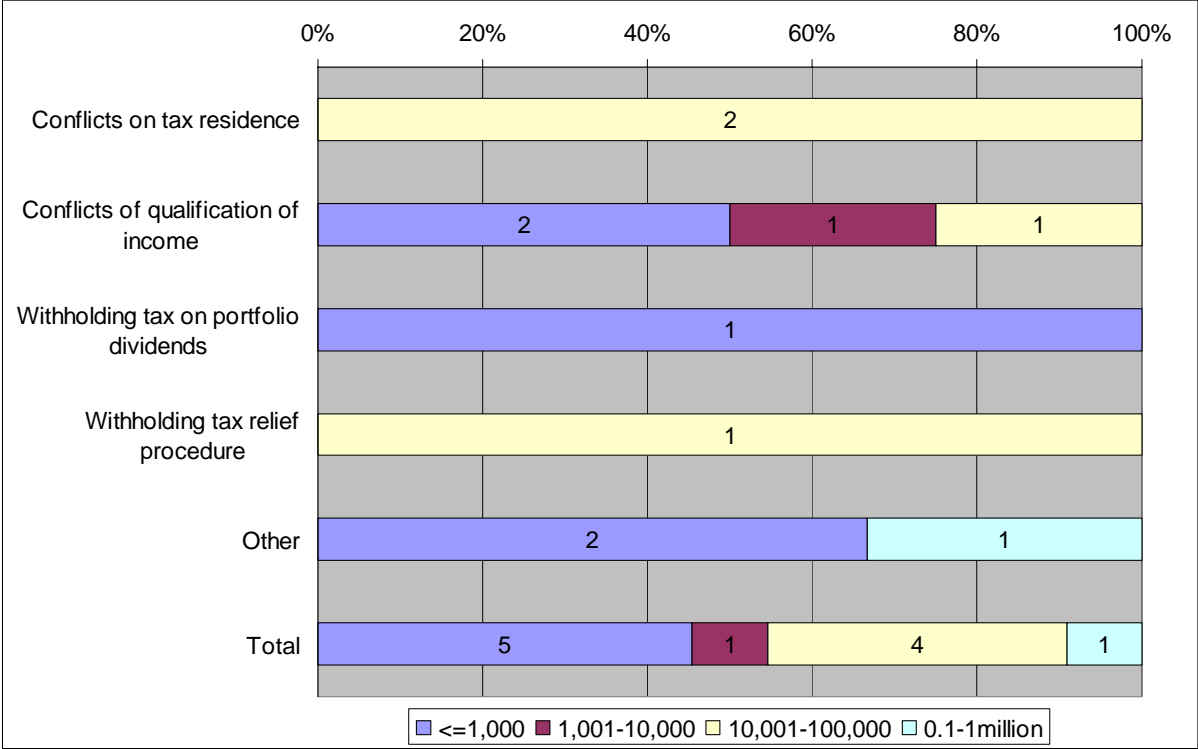
*Amount of income involved*



*Amount of tax*



**Amount of interest & penalties**



**Question 5: Please give any other relevant details about the cross-border double taxation case(s) and the way it (they) arose**

Some of the answers include the following<sup>14</sup>.

**Artistes and sportsmen**

- *Across the EU, sports people and entertainers who are not resident in the jurisdiction in which they are competing are subject to income tax on prize money earned or direct appearance fees associated with their performance in that jurisdiction. In addition, the individuals are subject to income tax on their worldwide income in the jurisdiction in which they are resident, and typically double taxation relief is available in relation to taxation suffered overseas. However, the United Kingdom treats non-resident sports people differently. In addition to taking prize money, the UK tax authorities seek to tax*

<sup>14</sup> Answers only provided as a sample.

*the sportsperson on a proportion of their global endorsement income. In addition, against the players domestic tax liability, a foreign tax credit is typically only available for “creditable foreign tax”. To the extent that the endorsement income which was taxed in the United Kingdom has been earned in a corporate entity, and is not therefore subject to income tax in the territory of residence, no credit will be available for this element of UK tax.*

*(For further details, see answer of CCPR)*

#### **Double tax convention**

- *Because of the Double taxation agreement I pay tax in the United Kingdom - if I paid it in France it would be much less. Because I was a state employee (teacher) I have to pay tax on my pension in the UK, although I am resident in France.*

*(For further details, see answer of Mr. C. Sabine)*

- *I am taxed by the Belgian tax administration on my salary earned in Luxembourg, despite my contract and withholding tax already paid in Luxembourg.*

*(For further details, see answer of Mr. S. Debroise)*

#### **Credit tax relief**

- *Spain requires withholding tax at 18% on dividends. The United Kingdom only grants relief for the withholding tax at 15%, which is the rate permitted under the Double tax convention. It is in theory possible to reclaim the 3% excess tax from Spain, but in practice the procedure for doing this makes it completely uneconomic.*

*(For further details, see answer of Mr. M. Hockey)*

#### **Registration tax**

- *Belgian tax authorities have claimed a Belgian car registration tax on our second car registered at our second home in France and therefore we have to pay supplemental insurance. If not, we are not allowed to drive in Belgium, the country of our main home, with this car.*

*(For further detail, see answer of Mr. J. Tiberghien)*

#### **Interpretation of tax treaties**

- *The interpretation of article 10 (income from public sources) of the French-Belgian tax agreement, for those with an exclusive nationality and residence of the other State is unclear. Belgium considers that the individual is subject to article 11, therefore taxable in the country of activity. France believes the contrary, that the person is taxable in its country of residence.*

*(For further detail, see answer of Mr. C. Henriprez)*

- *I work for a company with Swedish headquarter but I work in Denmark and live in France. Both countries require tax and no one will give up.*

*(For further detail, see answer of Mr. O. Hakala)*

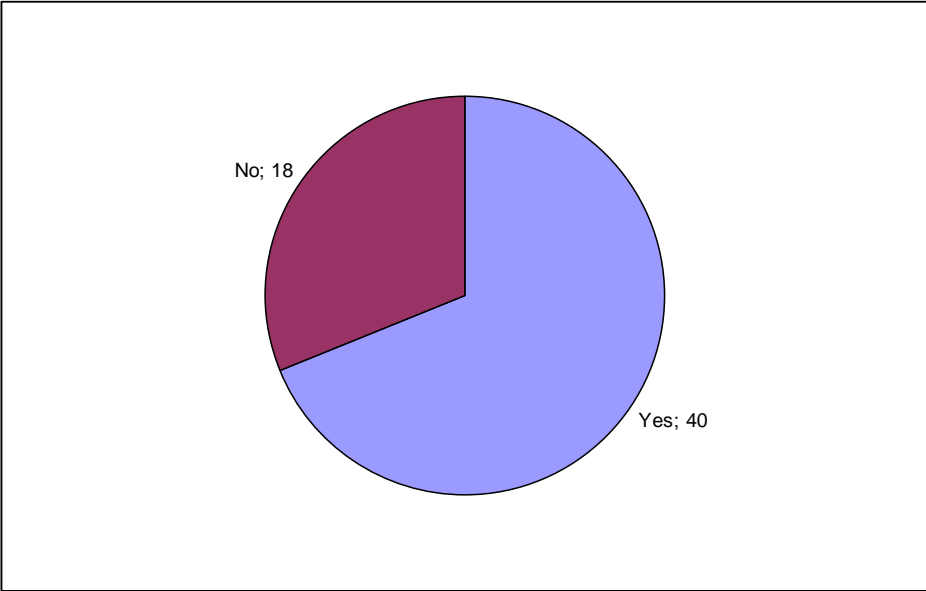
***Inheritance taxes***

*Inheritance taxes are not covered by the tax convention between Poland and the United Kingdom. I inherited a legacy from an aunt. All tax obligations on the estate were paid in the United Kingdom before disbursement took place. In Poland all inheritances are taxed personally according to the degree of kinship, making me liable for a tax of 20% of the legacy remaining in the United Kingdom.*

*(Contribution of Ms. T., Polish citizen)*

**Question 6: Have you sought any remedies to eliminate the cross-border double taxation.**

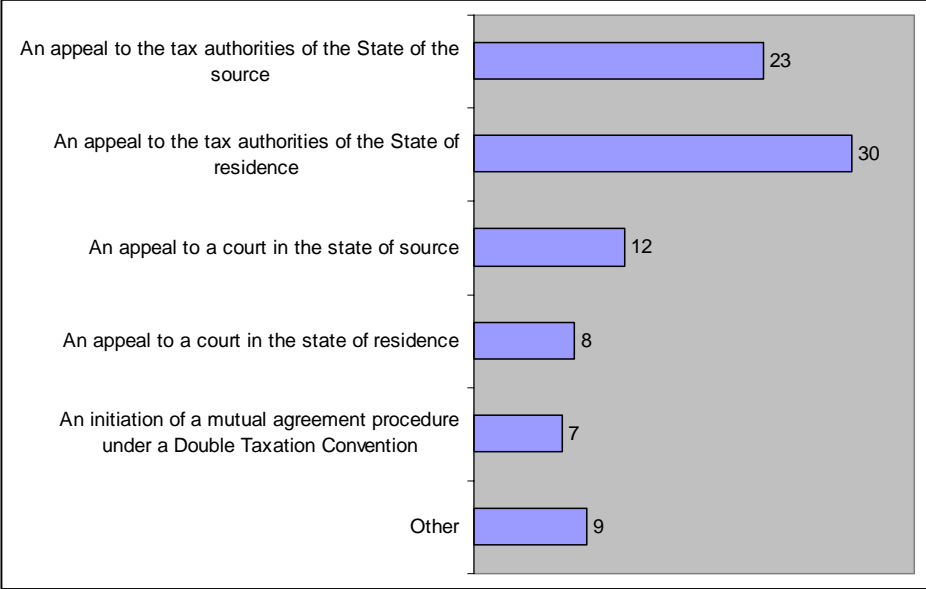
In a 69.0% of the cases, individuals have reacted to the situation of double taxation. As explained above, this is a substantially lower percentage as in the case of corporations. (85.40%)





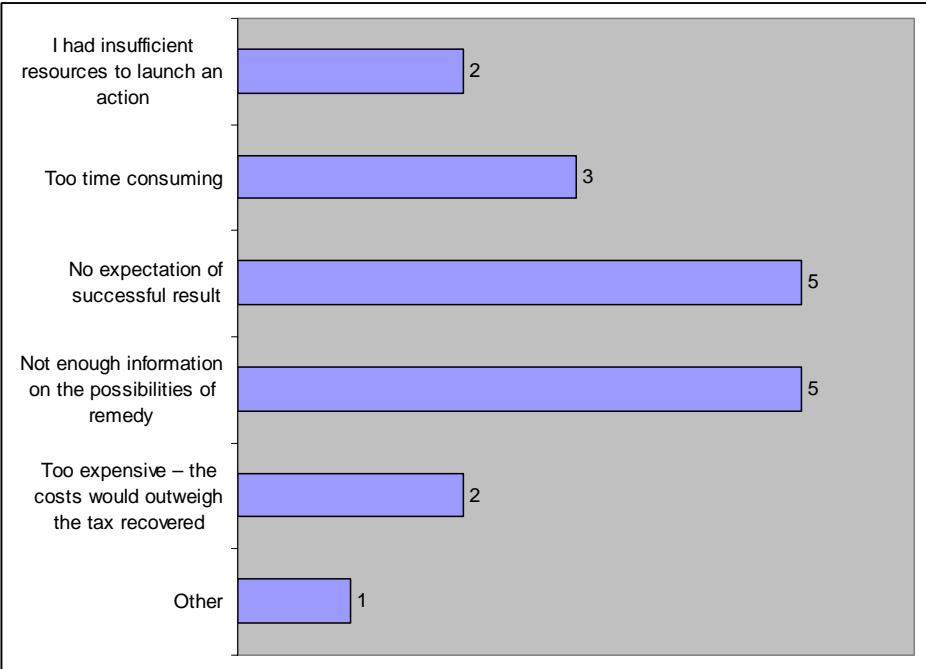
**If Yes, please specify what action you took to eliminate the cross-border double taxation. If no, please explain why you did not seek any remedies.**

*Action took*



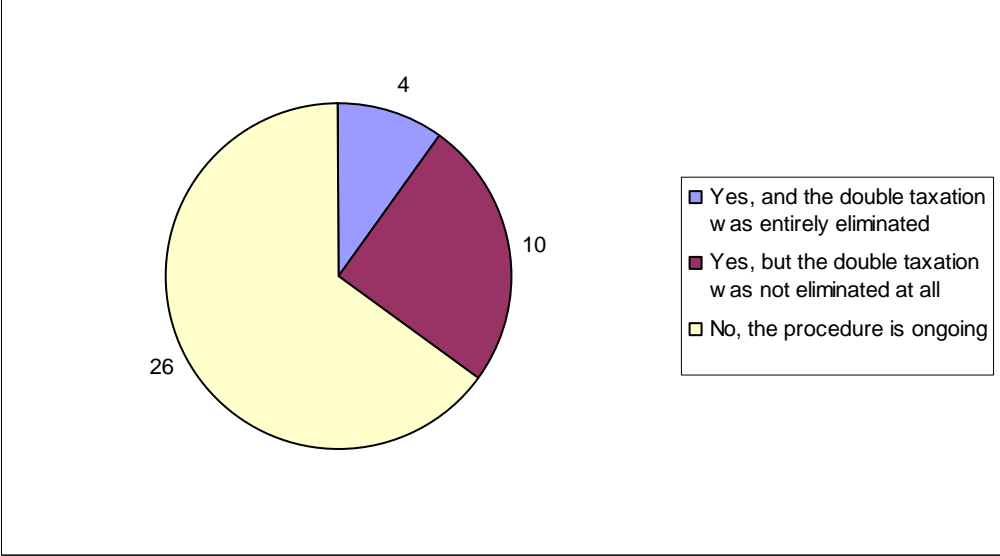
So, the most common action has been an appeal to tax authorities.

**In the cases where no action was taken, the following reasons have been provided:**



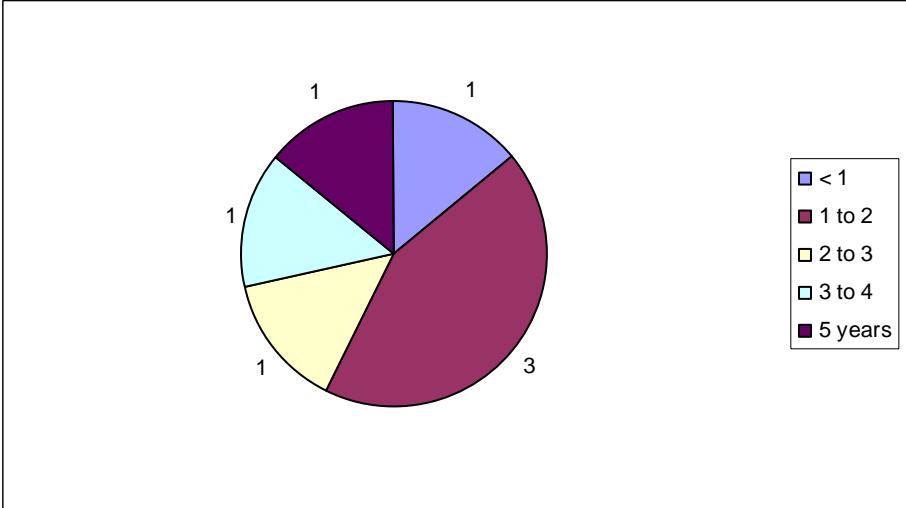
**Question 7: If Yes to question 6: Has the procedure you initiated been closed?**

*Has the procedure been closed?*

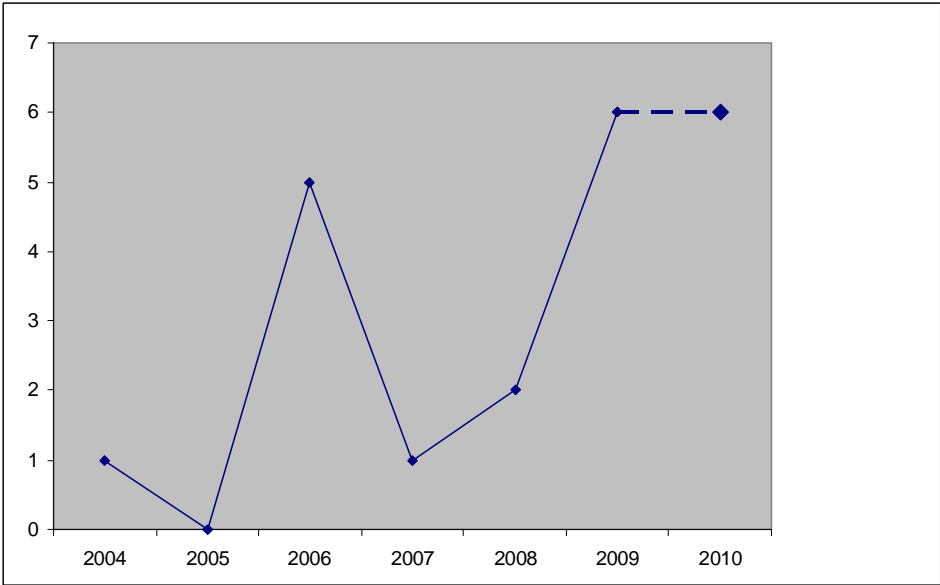


**If Yes, please the outcome in more detail.**

*Length in years for closed procedures*

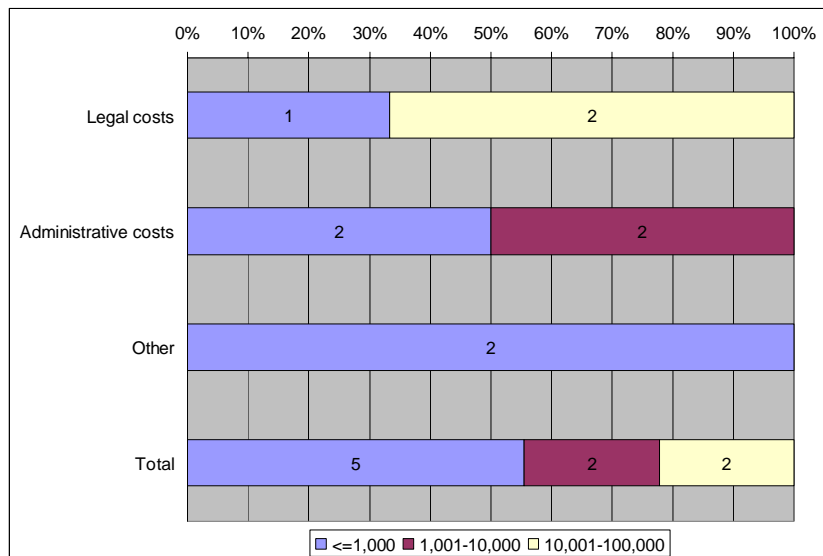


*Year of start of ongoing procedures*



NB: the data for 2010 (6 cases) cover the first semester only.

**Question 8: What were the approximate costs involved in the elimination of the cross-border double taxation?**



**Question 9: On the basis of your practical experience, please suggests ways for the effective and rapid elimination of double taxation within the EU**

The proposals include<sup>15</sup>:

***Internal law amendments***

- *Removal of taxation on endorsement income for foreign sports players in the United Kingdom like in the system introduced by the Netherlands.*
- *Avoid changing often the internal administrative interpretation of tax treaties articles when the legislative text has not been changed.*

***EU Legislation***

- *Remove double taxation by directives or another EU instrument.*
- *Make the OECD guidelines to prevent double taxation of inheritance taxes mandatory inside the EU.*
- *An EU law that establishes that in the absence of a tax convention, taxes should only be paid in the State of residence.*
- *To consider the creation of an EU tax transparent corporate vehicle such as an EU LLP that would be recognised as tax transparent throughout the EU.*

<sup>15</sup> Answers only provided as a sample.

### ***Tax Conventions***

- *Cross border artistes under a labour contract should be taxed under the rules of article 15 of the Model Convention of the OECD, as usual cross border workers.*
- *Tax treaties must clearly identify, for each type of income, the right to tax of only one contracting State.*
- *In the absence of a tax harmonisation between EU Member States, the only reasonable solution is to tax all workers, regardless of their nationality or residence, in the country of employment.*

### ***Procedural***

- *Better information and knowledge between the Tax Administrations.*

### ***European Commission***

- *Initialisation of infringement procedures against Member States that do not eliminate double taxation*

## **Question 10: Is there any other relevant information you would like to share?**

Answers include<sup>16</sup>:

### ***Economic effects***

- *The double taxation of sports people not only has a direct effect on the individual, but also on sports organisations in the United Kingdom as it often prevents appearances by top level stars as taxation on endorsement income can exceed prize money. In certain circumstances, this prevents sports organisations winning bids to host international events.*

*(Contribution of CCPR)*

### ***Denunciation of a double tax convention***

- *I would like to share a feeling, a feeling of betrayal, a feeling of being mistaken about what the word Europe would represent. Open borders are not only an economic act but also a human experience, and let it act as my Country was not part of that Europe is totally outrageous and horrible for a bi-national family.*

*(Contribution of Mr. T.C., Danish citizen)*

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<sup>16</sup> Answers only provided as a sample.