Tax dispute resolution mechanisms in the European Union

2016/0338(CNS) - 06/07/2017 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 535 votes to 73, with 25 abstentions, following the consultation procedure, a legislative resolution on the proposal for a Council directive on double taxation dispute resolution mechanisms in the European Union.

Double taxation represents **one of the biggest obstacles to the Single Market** as it creates barriers for cross-border investments.

Members noted that attempts to eliminate double taxation have often led to "double non-taxation", where, through the practice of base erosion and profit shifting, companies have managed to have their profits taxed in those Member States which have corporate taxes of close to zero. That ongoing practice distorts competition.

Furthermore, current dispute resolution procedures are too long, costly and often do not result in an agreement, with some cases receiving no acknowledgement at all.

For this reason, Parliament considered it essential that mechanisms available in the Union ensure an effective, rapid and **enforceable resolution** of double taxation disputes and the **effective and timely elimination of the double taxation** at stake, with regular and effective communication to the taxpayer.

Parliament approved the Commission proposal subject to the following amendments:

Complaints (time delays and procedure): any taxpayer subject to double taxation shall be entitled to submit a complaint to each of the competent authorities of the Member States concerned:

- each competent authority shall **acknowledge receipt of the complaint in writing** and notify the competent authorities of the other Member States concerned within **two weeks** of receipt of the complaint;
- the competent authorities of the Member States concerned shall take a **decision on the acceptance and admissibility of the complaint of a taxpayer within three months** of the receipt of the complaint (compared to six months) and inform that taxpayer and the competent authorities of the other Member States in writing of their decision within **two weeks**;
- where the competent authorities of the Member States concerned decide to accept the complaint, they shall endeavour to **eliminate the double taxation by mutual agreement procedure within one year** starting from the last notification of one of the Member States' decision on the acceptance of the complaint. The period of one year may be extended by up to three months.

The competent authorities shall **inform the taxpayer of the reasons for the rejection** of the complaint. In the event of rejection of the complaint, the taxpayer shall be entitled to make an appeal to either competent authority.

Central contact point: in order to create a harmonised and transparent framework of the double taxation dispute resolution mechanisms, Parliament proposed that the Commission shall host a central contact point in all official languages of the Union, which is easily accessible to the public with up-to-date contact information for each competent authority and a full overview of applicable Union legislation and tax treaties.

Advisory committee: the Advisory Committee shall consist of a chairman, two representatives from each competent authority concerned and one or two independent persons appointed by each competent authority.

Members suggested that the Commission **check the information concerning the independent persons** of standing nominated by Member States. Where the Commission has doubts as to the independence of the nominated persons, it can request a Member State to provide additional information and, if doubts remain, it may ask the Member State to remove that person from the list and appoint someone else.

Review: the Commission shall review the application of this Directive after five years with regard to the possible extension of its scope to cover all cross-border double taxation situations and double non-taxation, and if appropriate, an amending legislative proposal.

Lastly, Parliament stated that the introduction of a **common consolidated corporate tax base** (CCCTB) as proposed by the Commission is the most effective way of eliminating the risk of double corporate taxation.