A European Withholding Tax framework

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The Committee on Economic and Monetary Affairs adopted an own-initiative report by Pedro MARQUES (S&D, PT) on a European withholding tax framework.

Withholding taxes can reduce the risk of tax fraud and evasion. They represent a source of revenue for Member States to finance public expenditure and are an effective tool to ensure a domestic tax base and to combat profit shifting to low-tax jurisdictions.

Despite efforts, the withholding tax system has remained largely fragmented between Member States in terms of rates and relief procedures, which has created loopholes and legal uncertainty. Moreover, the current system is abused to shift profits, allows aggressive tax planning and creates the undesirable effect of double taxation.

Putting an end to profit shifting practices

Members recalled that withholding taxes can be a defensive measure taken by Member States against countries on the EU list of non-cooperative countries and territories for tax purposes. They called on the Commission consider presenting a legislative proposal that strengthens coordinated defensive measures against countries on the list. In this respect, they stressed that consideration should also be given to the implementation of the G20/OECD agreement on a two-pillar reform, including a global effective minimum tax rate.

The Commission is invited to present a legislative proposal to apply an EU-wide withholding tax to ensure that profits generated within the EU are taxed at least once before they leave its territory.

The Commission and the Members are called on to put in place a **common, standardised withholding tax framework** that reduces complexity for investors, curbs treaty shopping and ensures that all relevant dividends, interest, capital gains, royalty payments, professional service payments and contractual payments generated within the EU are taxed at an effective rate.

Members noted that the absence of an effective minimum tax rate on dividend payments to shareholders has created an environment that may encourage tax evasion. They called on the Commission to analyse this issue and assess the best legislative options to address it, including the possibility of revising the Parent-Subsidiary Directive.

Stepping up the fight against dividend arbitrage

Members pointed out that the **cum-ex and cum-cum schemes** both involve reclaims of dividend withholding tax to which the beneficiaries were not entitled and are estimated to have imposed a total cost to taxpayers of about EUR 140 billion between 2000 and 2020.

The report called on the Commission to assess possible solutions to **tackle such schemes**, in particular the possibility of linking tax reclaims to the underlying dividend distribution, including by means of a unique identifier and/or by making a single entity in each Member State responsible for collecting the withholding tax and issuing the corresponding tax certificate in order to ensure that multiple tax reclaims cannot be made for the same distribution and that tax administrations can easily detect any abuse of refund procedures.

The Commission is called on to:

- analyse whether the Market Abuse Regulation has been breached and consider whether it needs to be amended;

- propose measures to strengthen cooperation and mutual assistance between tax authorities, financial market supervisors and, where appropriate, law enforcement bodies in detecting and prosecuting withholding tax reclaim schemes;

- develop appropriate measures to prevent the role of intermediaries in facilitating tax abuse and tax evasion;

- extend the mandatory exchange of information to dividend arbitrage schemes and all information on capital gains, including the granting of dividend and capital gains tax refunds.

Removing barriers to cross-border investments in the single market

Members welcomed the Commission's intention to present, by the end of 2022, a proposal establishing a **common and standardised system for withholding taxes**, accompanied by a mechanism for the exchange of information and cooperation among tax administrations of Member States. They urged the Commission, with full respect for EU competences, to strive also to tackle divergences in withholding taxes in the EU.

The Commission is called on to:

- come forward with a **common and standardised EU procedure** for withholding tax refunds for all Member States;

- introduce as part of this harmonisation, rules on exemptions and deductions and a standardised format and process for reclaim requests, and to address the current lack of a uniform definition of 'beneficial owner', the lack of alignment of time periods for request and reclaim, and language barriers;

- take account of existing digital solutions in Member States, to assess how to leverage blockchain technologies to prevent tax evasion and avoidance, while fully respecting EU data protection rules, and to consider the establishment of a pilot project.

Members welcomed the Commission's proposed option to establish a fully fledged common EU relief-at-source system, which could be a reliable solution in the long term.