

Minimum level of taxation for multinational groups

2021/0433(CNS) - 03/05/2022 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted, following a special legislative procedure (consultation), a legislative resolution on the proposal for a Council directive on ensuring a global minimum level of taxation for multinational groups in the Union.

The proposed Directive aims to transpose into EU law the reform of the rules on international corporate taxation that was agreed by the OECD and the G20 in December 2021. It sets out the method for calculating the effective tax rate by jurisdiction and includes clear and legally binding rules that will ensure that large groups operating in the EU pay a **minimum rate of 15%** for each jurisdiction in which they operate.

The Directive will apply to any large group, both domestic and international, including the financial sector, with combined financial revenues of **at least EUR 750 million** a year in its consolidated financial statements in at least two of the last four consecutive fiscal years.

The Committee approved the main elements of the Commission's proposal, including maintain the proposed timetable and the deadline of 31 December 2022 for implementation, to allow for rapid implementation of the legislation.

However, Members made some changes to the Commission's proposal.

Application to small entities

The Commission should monitor how and to what extent Member States are applying the GloBE Model Rules to smaller entities and take appropriate measures if they are applying them in a way that conflicts with the principles of Union law or undermines the integrity of the internal market.

Monitoring by the Code of Conduct Group (Business Taxation)

Although Member States have some discretion in the technical implementation of the national top-up tax, the Council's Code of Conduct Group (Business Taxation) should closely monitor the application of the tax. The Commission should assist in this regard.

Location of a constituent entity

An amendment clarifies that a constituent entity other than a flow-through entity should be deemed to be located in the jurisdiction where it is considered as resident for tax purposes based on its place of effective management, namely the place where key management and commercial decisions that are necessary for the conduct of business are taken, place of creation or similar criteria that reflect real economic activities in accordance with this Directive and the GloBE Model Rules.

Anti-avoidance rules

Members wanted to reduce some of the exemptions proposed by the Commission, and to limit the possibility of abuse by including a specific article that includes rules to combat tax avoidance schemes.

The Commission should adopt delegated acts to lay down more detailed rules to combat tax evasion, taking into account in particular future changes to the GloBE model rules.

Reporting obligations

Where no constituent entity has been appointed by other constituent entities of the MNE group, the designated local entity in charge of filing the top-up tax information shall be the largest entity of the MNE group located in the same Member State in terms of annual revenues for the last two consecutive years.

The Council, acting unanimously on a proposal from the Commission and after obtaining the opinion of the European Parliament, should adopt the measures necessary to implement the filing obligations under this Directive and ensure the necessary exchange of information.

Review clause

Members introduced a review clause in order to guarantee that the application of this Directive is subject to proper evaluation five years after its entry into force. That review should:

- assess and reconsider progress in the global implementation of the OECD agreement/GloBE Model Rules, as well as certain exemptions and derogations, in particular as regards distribution tax systems and substance-based income exclusion;
- assess the relevance of the threshold for MNE Group and large-scale domestic firms in scope and the impact on tax revenues on developing countries.

As part of the review, modifications to the GloBE Model Rules could also be integrated into Union law if necessary.

Transitional rules

The Directive would also give large-scale domestic groups a transitional period of three years (instead of five) during which their low-taxed domestic activities would be excluded from the rules

Delimitation clause

The Directive should not affect:

- the application by Member States of domestic or treaty provisions aimed at safeguarding a higher level of protection for domestic tax bases for corporate tax with regard to the controlled foreign company rule within the meaning of Council Directive (EU) 2016/1164 laying down rules to counter tax avoidance practices which have a direct impact on the functioning of the internal market;
- the application of domestic provisions on alternative forms of minimum taxation of domestic groups or companies.