Basic information

2021/2097(INI) INI - Own-initiative procedure	Procedure completed
A European Withholding Tax framework **Subject** 2.50 Free movement of capital 2.70 Taxation	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	MARQUES Pedro (S&D)	06/07/2021
	Shadow rapporteur BENJUMEA BENJUMEA Isabel (EPP) KELLEHER Billy (Renew) URTASUN Ernest (Greens/EFA) MODANOWSKA Andelika Anna (ECR) LAPORTE Hélène (ID) GUSMÃO José (The Left)	

European Commission

Commission DG	Commissioner
Taxation and Customs Union	GENTILONI Paolo

Key events

Date	Event	Reference	Summary
08/07/2021	Committee referral announced in Parliament		
25/01/2022	Vote in committee		
01/02/2022	Committee report tabled for plenary	A9-0011/2022	Summary
08/03/2022	Results of vote in Parliament		
09/03/2022	Results of vote in Parliament		
09/03/2022	Debate in Parliament	CRE link	
10/03/2022	Decision by Parliament	T9-0075/2022	Summary
10/03/2022	Results of vote in Parliament		

Technical information	
Procedure reference	2021/2097(INI)
Procedure type	INI - Own-initiative procedure
Procedure subtype	Initiative
Legal basis	Rules of Procedure EP 55
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Procedure completed
Committee dossier	ECON/9/06442

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE695.241	13/10/2021	
Amendments tabled in committee		PE700.464	25/11/2021	
Committee report tabled for plenary, single reading		A9-0011/2022	01/02/2022	Summary
Text adopted by Parliament, single reading		T9-0075/2022	10/03/2022	Summary

European Commission

Document type	Reference	Date	Summary
Commission response to text adopted in plenary	SP(2022)254	25/07/2022	

A European Withholding Tax framework

2021/2097(INI) - 01/02/2022 - Committee report tabled for plenary, single reading

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.

A European Withholding Tax framework

2021/2097(INI) - 10/03/2022 - Text adopted by Parliament, single reading

The European Parliament adopted by 625 votes to 38, with 28 abstentions, a resolution on a European withholding tax framework.

Member States continue to lose tax revenue due to harmful tax practices and estimates of revenue losses due to corporate tax avoidance range from EUR 36-37 billion to EUR 160-190 billion per year.

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

Parliament welcomed the progress made in recent years in tackling harmful tax practices, both at EU and international level. It stressed, however, that better enforcement of existing legislation is needed and that legislative action may be useful in parallel with efforts to remove tax obstacles to cross-border investment.

The resolution welcomed the agreement reached by the inclusive OECD/G20 framework on a two-pillar reform, including a global effective minimum tax rate, and welcomed the Commission's presentation of a **legislative proposal to implement the second pillar**. The Council is urged to adopt these proposals swiftly, while taking into account Parliament's position, so that they can be effective in 2023.

Members recalled that withholding taxes can be a defensive measure taken by Member States against countries on the EU list of countries and territories that are uncooperative for tax purposes. They asked that the Commission consider presenting a legislative proposal that strengthens coordinated defensive measures against countries on the list.

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 should include strong anti-abuse measures in this proposal.

Members regretted that tax base erosion and profit shifting continue and are facilitated by the absence of a common withholding tax on outbound payments to third countries, as well as by the absence of common rules and procedures to ensure more effective taxation of intra-EU flows of dividends, royalties and interest.

The Commission and Member States are called upon 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 arising in the EU are taxed at an effective rate.

Members called on the Commission to analyse the issue of the lack of an effective minimum tax rate on dividend payments to shareholders and to assess the best legislative options to remedy it, including the possibility of revising the Parent-Subsidiary Directive.

Stepping up the fight against dividend arbitrage

Members recalled 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. Parliament called on the Commission to assess possible solutions to combat these schemes, which continue to be exploited at the expense of European public funds.

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;

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