Procedure file

Basic information

CNS - Consultation procedure Directive	2022/0154(CNS)	Awaiting committee decision
Debt-equity bias reduction allowance and limiting the deductibility of interest for corporate income tax purposes Subject 2.70 Taxation 3.45.04 Company taxation		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		21/06/2022
		NIEDERMAYER Luděk	
		Shadow rapporteur	
		REGNER Evelyn	
		BOYER Gilles	
		GRUFFAT Claude	
		BECK Gunnar	
		HOOGEVEEN Michiel	
		GUSMÃO José	
Council of the European Union			
European Commission	Commission DG	Commissioner	
	Taxation and Customs Union	GENTILONI Paolo	

Key events

11/05/2022	Legislative proposal published	COM(2022)0216	Summary
09/06/2022	Committee referral announced in Parliament		

Forecasts

15/01/2024	Indicative plenary sitting date

Technical information

Procedure reference	2022/0154(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the EU TFEU 115
Stage reached in procedure	Awaiting committee decision
Committee dossier	ECON/9/09050

Documentation gateway

Legislative proposal		COM(2022)0216	11/05/2022	EC	Summary
Document attached to the procedure		SEC(2022)0204	12/05/2022	EC	
Document attached to the procedure		SWD(2022)0144	12/05/2022	EC	
Document attached to the procedure		SWD(2022)0145	12/05/2022	EC	
Document attached to the procedure		SWD(2022)0146	12/05/2022	EC	
Economic and Social Committee: opinion, report		CES2917/2022	26/10/2022	ESC	
Committee draft report		PE738.463	06/12/2022	EP	
Amendments tabled in committee		PE739.748	19/01/2023	EP	

Additional information

Research document	Briefing	04/10/2022

Debt-equity bias reduction allowance and limiting the deductibility of interest for corporate income tax purposes

PURPOSE: to provide tax incentives for equity to help companies grow, become stronger and more resilient.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: the current pro-debt bias of tax rules can incentivise companies to take on debt rather than increase equity to finance their growth.

Tax debt-equity bias arises from the different treatment of debt and equity financing costs for tax purposes and is a problem common to business across EU Member States. Despite this, only 6 Member States have taken tax measures to approximate the tax treatment of debt and equity.

The complete lack of relevant tax debt bias mitigating measures in 21 Member States along with the existence of significantly different measures in another six Member States may create distortions to the function of the internal market and can affect the location of investment in a significant manner.

An EU initiative would add value and ensure legal certainty and allow reducing compliance costs for business as taxpayers. It is also expected to boost competition in the single market by ensuring that all businesses, regardless of where they are located, have similar incentives towards appropriate financing.

This proposal is a follow-up to the Commission's Communication on Business Taxation for the 21st Century towards a strong, efficient and fair business tax system in the EU. It also contributes to the Capital Markets Union (CMU) Action Plan which aims to help companies raise the capital they need and improve their capital position, particularly during a period of recovery which involves higher levels of deficit and debt, as well as an increased need for equity investment.

This proposal also replies to the European Parliaments expectation that the Commission would put forth a proposal for a debt-equity bias reduction allowance, including effective anti-avoidance provisions to avoid any allowance on equity being used as a new tool for base erosion.

CONTENT: with a view to addressing the tax-induced debt-equity bias across the single market in a coordinated way, this directive lays down rules to provide, under certain conditions, for the deductibility for tax purposes of notional interest on increases in equity and to limit the tax deductibility of exceeding borrowing costs. It applies to all taxpayers that are subject to corporate tax in one or more Member State, except for financial undertakings. Since small and medium enterprises (SMEs) usually face a higher burden to obtain financing, it is proposed to grant a higher notional interest rate to SMEs.

This measure will support businesses by introducing an allowance that will grant to equity the same tax treatment as debt. The proposal stipulates that increases in a taxpayer's equity from one tax year to the next will be deductible from its taxable base, similarly to what happens to debt.

By eliminating the tax distortion in favour of debt, the proposal aims to avoid over-reliance on debt and encouraging the re-equitisation of businesses.

The Commission considers that the preferred option should have a positive economic impact. Its main direct benefit is that it will promote higher capital ratios and thus reduce insolvency risks.

By increasing equity investments across the EU, this option is expected to indirectly promote the development of innovative technology. Equity is particularly important for fast-growing innovative companies in their early stages and scale-ups willing to compete globally. The green and digital transition requires new and innovative investments that will benefit from the measure.

Transparency

GRUFFAT Claude	Shadow rapporteur	ECON	16/03/2023	OXFAM INTERNATIONAL EU ADVOCACY OFFICE