Procedure file

Basic information

CNS - Consultation procedure Directive	2023/0321(CNS)	Awaiting committee decision
Business in Europe: Framework for Income Taxation (BEFIT) Subject 3.45.04 Company taxation Legislative priorities Joint Declaration 2023-24		

Key players

European Parliament	Committee responsible	Rapporteur	Appointed
	ECON Economic and Monetary Affairs		19/09/2023
		S&D REGNER Evelyn	
		Shadow rapporteur	
		STAVROU Eleni	
		BOYER Gilles	
		PETER-HANSEN Kira Marie	
		BECK Gunnar	
		MOŻDŻANOWSKA Andżelika Anna	
		AUBRY Manon	
	Committee for opinion	Rapporteur for opinion	Appointed
	BUDG Budgets		20/09/2023
		VAN OVERTVELDT Johan	
	JURI Legal Affairs	The committee decided not to give an opinion.	
Council of the European Union			
European Commission	Commission DG	Commissioner	
	Taxation and Customs Union	GENTILONI Paolo	

Key events

12/09/2023	Legislative proposal published	COM(2023)0532	Summary
15/01/2024	Committee referral announced in Parliament		

Technical information

Procedure reference	2023/0321(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/9/13229

Documentation gateway

Legislative proposal		COM(2023)0532	12/09/2023	EC	Summary
Document attached to the procedure		SWD(2023)0308	13/09/2023	EC	
Document attached to the procedure		SWD(2023)0309	13/09/2023	EC	
Committee draft report		PE756.215	21/11/2023	EP	
Amendments tabled in committee		PE758.135	24/01/2024	EP	
Specific opinion	BUDG	PE757.846	29/01/2024	EP	

Additional information

Research document	Briefing	04/12/2023

Business in Europe: Framework for Income Taxation (BEFIT)

PURPOSE: to introduce a common framework for tax-base determination and aggregated corporate income taxation in the European Union for in-scope multinationals (Business in Europe: Framework for Income Taxation (BEFIT)).

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: with the EU there is currently no common approach to the computation of the taxable base for businesses. Therefore, Union businesses are obliged to comply with a different corporate tax system in each Member State in which they operate.

The existence of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance and leads to unfair competition for businesses. That has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of land borders and business models. As governments have tried to adapt to that new reality, a fragmented response among Member States has led to further distortions in the internal market. The various legal frameworks inevitably lead to different tax administration practices across the Member States as well. This often entails long procedures characterised by unpredictability and inconsistency along with high compliance costs.

In this vein, it would be important for businesses which operate on the internal market that Member States introduce a common legal framework to harmonise the fundamental features of corporate income tax systems with a view to simplifying tax rules and ensuring a fair competition.

Together with this proposal, the Commission adopted a separate proposal on transfer pricing.

CONTENT: the Commission proposes this draft Council Directive on Business in Europe: Framework for Income Taxation (BEFIT). It aims at providing rules for a common EU corporate tax system. The common framework will simplify the tax environment in the internal market as it will replace the current 27 different ways for determining the taxable base for groups of companies which have annual combined revenues exceeding EUR 750 million. It will also replace the Commissions Common Corporate Tax Base and Common Consolidated Corporate Tax Base proposals, which are withdrawn. BEFIT will reflect the insights gained and the changes in modern economy characterised by increasing globalisation and digitalisation.

The main aspects include:

Scope

The new rules will be mandatory for groups operating in the EU with an annual combined revenue of at least EUR 750 million, and where the ultimate parent entity holds, directly or indirectly, at least 75% of the ownership rights or of the rights giving entitlement to profit. For groups headquartered in third countries, their EU group members would need to have raised at least EUR 50 million of annual combined revenues in at least two of the last four fiscal years or at least 5% of the total revenues of the group. This ensures that the requirements of the proposal are proportionate to its benefits.

In addition, the rules will be optional for smaller groups which may choose to opt in as long as they prepare consolidated financial statements. This optional scope could be of particular interest to SME groups that operate cross-border, as they may have less resources to dedicate to compliance with multiple national corporate tax systems.

For certain sectors, sector-specific characteristics are reflected in relevant parts of the proposal. This is, notably, the case for international transport, shipping activities and extractive industries.

BEFIT will mean that:

- all companies that are members of the same group will calculate their tax base in accordance with a common set of tax adjustments to their financial accounting statements;

- the bases of all members of the group will be aggregated into one single tax base;

- each member of the BEFIT group will have a percentage of the aggregated tax base calculated on the basis of the average of the taxable results in the previous three fiscal years.

A traffic light system is proposed to measure the transfer pricing compliance of entities outside the BEFIT group. This system would apply to low-risk activities for which the distributor uses a method based on the OECD transfer pricing guidelines.

Administration of the system: a One-Stop-Shop and a BEFIT team

A one-stop-shop will allow businesses to deal with one single authority in the Union for filing obligations, whenever feasible. The filing entity, which is in principle the ultimate parent entity, will file one information return for the whole BEFIT group with only its own tax administration (the filing authority), which will share this with the other Member States where the group operates. Each BEFIT group member will also file an individual tax return to their local tax administration to be able to apply domestically set adjustments to their allocated part. For each BEFIT group, there will also be a so-called BEFIT Team which will bring together representatives of each relevant tax administration from the Member States where the group operates.

Lastly, tax audits and dispute settlement will remain at the level of each Member State. In some cases, audits may need to be carried out jointly under the existing legislative framework.

Transparency

BENJUMEA BENJUMEA Isabel	Member	14/12/2023	CEOE
FERBER Markus	Member	07/11/2023	WirtschaftsVereinigung Metalle e.V.
SCHIRDEWAN Martin	Member	11/09/2023	OXFAM INTERNATIONAL EU ADVOCACY OFFICE