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COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	OPINION of the European Economic and Social Committee – A favourable tax system for fair competition and growth (own-initiative opinion)

Delegations will find attached the abovementioned opinion. Please note that other language versions should be available at :

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European Economic and Social Committee

ECO/430
Tax system for competition/growth

OPINION

European Economic and Social Committee

A favourable tax system for fair competition and growth
(own-initiative opinion)

Rapporteur: **Petru Sorin DANDEA**

Plenary Assembly decision	26/01/2017
Legal basis	Rule 29(2) of the Rules of Procedure Own-initiative opinion
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	07/09/2017
Adopted at plenary	20/09/2017
Plenary session No	528
Outcome of vote (for/against/abstentions)	149/6/18

1. Conclusions and recommendations

1.1 The aggressive tax planning carried out by certain companies, along with tax avoidance, causes significant losses of revenue for Member States' budgets. The Committee calls on the Member States to step up their efforts to combat this extremely damaging phenomenon by introducing the necessary tax rules as soon as possible.

1.2 The Committee is aware of the fact that efforts to combat aggressive tax planning can only be successful if they are global in scale, and so it recommends that the Commission and the Member States continue and step up negotiations in the framework of international institutions, such as the OECD and G20, to develop effective rules for combating tax avoidance.

1.3 The EESC welcomes the Council decision approving the criteria proposed by the Commission for evaluating jurisdictions known to be tax havens. The Committee believes that this will be an important step in the fight against aggressive tax planning only insofar as the list is backed up by sanctions on those jurisdictions as well as on the companies that continue to engage in aggressive tax planning in their financial operations. These sanctions could include denying those companies access to public funds.

1.4 The Committee calls on the Member States to avoid further promoting tax competition by using numerous tax rulings that are not justified by the economic substance of the transactions, but constitute an unjustified advantage to certain companies in relation to their competitors.

1.5 The EESC believes that the harmonisation and simplification of tax rules should be a priority for the Member States. Furthermore, the complete elimination of tax barriers should go hand in hand with these harmonisation efforts.

1.6 The shift of the tax burden onto capital in the labour market brought about by globalisation has led to increased labour costs and the deepening of inequalities. The EESC recommends that, when carrying out tax reforms, Member States shift the tax burden from labour to harmful financial or environmental practices.

1.7 The EESC proposes that the common consolidated corporate tax base (CCCTB) be extended across the single market and even beyond. This would create a more predictable, business-friendly tax system, reducing compliance costs for cross-border investment.

1.8 The EESC calls for the formula for apportioning the taxable profit, as part of the CCCTB consolidation, to be based as far as possible on the principle of taxing profits where they are generated. In this way, the consensus required for approving this system would be easier to achieve. If the recent European anti-tax avoidance measures do not lead to any result and the CCCTB does not achieve its objectives, a minimum corporate tax rate could be considered in order to avoid a race to the bottom.

1.9 Regarding the EU's own budgetary resources, the EESC recommends that Member States to look for solutions to implement the recommendations of the High Level Group on Own Resources. Increasing the EU's own resources will allow for stronger support for development and cohesion policies in the Member States.

1.10 The single currency is one of the EU's most remarkable achievements. Nonetheless, it has not achieved its full potential owing to the fragmentation of the European tax system. The EESC reiterates its proposal to introduce a "tax snake", along the lines of the "currency snake"[1] which operated in the run-up to the introduction of the single currency. The EESC considers that this could initially cover the three types of tax revenue that generate 90% of government revenue in the Member States: VAT, income tax and social security contributions.

1.11 The EESC feels that efforts to harmonise the rules[2] on establishing the tax base for the main taxes might be better supported by the introduction of qualified majority voting in the field of direct taxation. Progress in advancing tax policies could be made more quickly, and this would benefit the internal market and generate significant growth potential, given that a harmonised system would significantly reduce compliance costs for companies and create a more predictable tax system in the EU.

2. Background

2.1 Taxation plays a fundamental role in the fight for social justice and a fair economy. Thus, tax also has a social, gender and intergenerational dimension. Governments collect revenue in order to have sufficient and sustainable funding for social security and protection systems and for public services that benefit individuals and businesses. At the same time, taxation is a key instrument for redistributing income and wealth more fairly in society, thereby reducing social inequalities.

2.2 Tax fraud and tax evasion, along with tax avoidance through aggressive tax planning, which is used by certain corporations with cross-border activities, and black market activities are fuelling the growing inequalities generated by the economic crisis and austerity programmes, and constitute a major threat. Even the most conservative estimation of ensuing financial losses suffered by the Member States as a result of base erosion and profit shifting are measured in hundreds of billion euros.

2.3 Globalisation has increased the speed and volume of capital movements. The trend of moving capital to areas in which it can have a higher leverage rate, due to more favourable tax rules, has caused problems for governments which have been obliged to take more account of these international movements of capital in designing their fiscal policies than of their own domestic economic and social priorities.

2.4 In recent years, the tax competition pursued by Member States[3] has resulted in a permanent loss of tax revenue for funding both essential public services and public investment, which is one of the main drivers of growth. While in the short term, lowering taxation may bring some benefits to the States that pursue tax competition in this way, in the long term, the reduction in government revenues has proven to be harmful for economic growth in general[4]. Tax competition is encouraged by Member

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1 OJ C 230, 14.7.2015, p. 24, point 1.11

2 OJ C 198, 10.7.2013, p. 34, points 3.4 and 3.6

3 Business and Economics Research Journal, volume 6 number 2, 2015, p. 52-53.

4 COM(2009) 201 final, p. 5-6.

States by means of numerous exemptions on consumption or income tax as well as tax rulings favouring multinational corporations.

2.5 The regulatory fragmentation in tax matters that currently pertains in the EU (with practically every Member State having its own tax system) makes the Member States, in general, more vulnerable to aggressive tax planning. Consequently, the loss of revenue to national budgets may be significant. Moreover, excessive tax fragmentation is also undermining the single market and reducing the EU's competitiveness in relation to its main global competitors. Harmonisation of tax policies at EU level could increase government revenues in all Member States, on the one hand, and, on the other, could create a more business-friendly environment by simplifying the rules and thus reducing compliance costs. Harmonisation would eliminate loopholes and mismatches both within and between Member States' tax systems.

2.6 The general public has been outraged by the scandals that have emerged in recent years relating to tax avoidance by very wealthy individuals and multinational corporations. The Panama Papers, LuxLeaks and Apple scandals have revealed financial transactions amounting to tens or even hundreds of billions of euros, specifically intended to avoid paying taxes in the Member States.

2.7 The elimination of exemptions on consumption and income taxes and better harmonisation of tax bases would significantly increase government revenue and encourage investment in the single market. It is well known that, owing to high compliance costs, small and medium-sized enterprises have limited access and opportunities as regards developing cross-border investment.

2.8 Against this backdrop, the European Commission, at the request of the Council, has been putting forward a series of legislative proposals aimed at achieving both a significant reduction in tax avoidance and aggressive tax planning and the avoidance of double taxation for companies in the EU. However, given that direct taxation remains an exclusive competence of the Member States, there has been limited progress, with some of the measures proposed by the Commission failing to find a consensus in the Council.

2.9 The most important measures put forward by the European Commission to combat tax avoidance and aggressive tax planning include: improving the automatic exchange of information (AEOI) between tax administrations, the introduction of a general anti-abuse clause in rules relating to companies, establishing a reporting requirement regarding profits made and the related taxes paid on a country-by-country basis (CBCR) for multinational corporations, and the re-launch of the project aimed at establishing a common consolidated corporate tax base (CCCTB). Furthermore, many measures have been introduced to reduce VAT fraud and the 15% loss of revenue (VAT gap).

2.10 The Commission has also taken an active part in the negotiations conducted at OECD level, which led, in 2015, to the signing of the BEPS agreement. This is a standard aimed at introducing more stringent tax rules in cross-border operations, and is aimed, in particular, at combating aggressive tax planning. The Member States are currently implementing the measures proposed by the standard and have also undertaken further measures in this field.

3. The Committee's proposals

3.1 Combating tax avoidance and aggressive tax planning

3.1.1 The aggressive tax planning carried out by certain businesses causes significant losses of revenue for Member States' budgets. Given that it erodes the tax base and thus obliges Member States to increase taxes, the Committee believes that aggressive tax planning is an inherently immoral practice that significantly affects the functioning of the internal market and distorts the fairness of tax systems vis-à-vis taxpayers. Thus, in many cases, individuals and small businesses, in absolute terms, end up paying more in taxes than big businesses. The Committee calls on the Member States to step up efforts to introduce rules as soon as possible aimed at combating this extremely damaging phenomenon.

3.1.2 The OECD negotiations that led to the drawing-up of the package of measures contained in the BEPS standard involved more than one hundred countries. Efforts to combat tax avoidance and aggressive tax planning cannot fully succeed unless they are globally accepted standards. The EESC recommends that the Commission and the Member States continue and step up negotiations in the framework of international institutions to develop effective and properly implemented rules for combating tax avoidance and aggressive tax planning.

3.1.3 The Council has approved the criteria proposed by the Commission for drawing up the list of jurisdictions known to be tax havens. The EESC believes that this will be an important step in the fight against aggressive tax planning only insofar as the list is backed up by sanctions on those jurisdictions as well as on the companies that continue to engage in aggressive tax planning in their financial operations. These sanctions could include denying those companies access to public funds, including public procurement.

3.1.4 Tax rulings were included within the scope of the AEOI at the initiative of the Commission in 2015. Member States should use this system to detect tax rulings that distort the market by offering certain companies exemptions from paying taxes which might constitute unjustified State aid. The Committee calls on the Member States to avoid further promoting tax competition by using numerous tax rulings that are not justified by the economic substance of the transactions, but constitute an unjustified advantage to these corporations in relation to their competitors.

3.2 Tax reform at EU level

3.2.1 The fragmentation of the tax system in the EU affects the single market, restricting opportunities for cross-border investment, particularly for SMEs. The EESC believes that the harmonisation and simplification of tax rules should be a priority for the Member States. Furthermore, the complete elimination of tax barriers should go hand in hand with these harmonisation efforts.

3.2.2 Globalisation has resulted in a shift of the tax burden onto capital in the labour market. This has led to increased labour costs and the deepening of inequalities. The EESC recommends shifting the tax burden from labour to harmful financial or environmental practices.

3.2.3 The Commission has recently re-launched its proposal for a common consolidated tax base (CCCTB) for large corporations with a turnover of more than EUR 750 million. The Commission proposal may

lead to harmonisation of the taxation on corporate income in the EU. If this system proves effective, leading to job creation and increased investment as a result of better collection of government revenue, as well as creating a more predictable, business-friendly tax system, the EESC proposes extending it EU-wide and even beyond.

3.2.4 The EESC considers that the formula for apportioning the taxable profit, as part of the CCCTB consolidation, should be based as far as possible on the principle of taxing profits where they are generated. In this way, the consensus required for approving this system would be easier to achieve. If the recent European anti-tax avoidance measures do not lead to any result and the CCCTB does not achieve its objectives, a minimum corporate tax rate could be considered in order to avoid a race to the bottom.

3.2.5 The EESC believes that increasing the EU's own resources will allow for stronger support for development and cohesion policies in the Member States. That is why the EESC recommends to the Member States to seek out solutions for implementing the recommendations made by the High Level Group on the Own Resources..

3.2.6 As part of efforts to harmonise tax systems within the EU, the EESC reiterates its proposal to introduce a "tax snake", along the lines of the "currency snake" which operated in the run-up to the introduction of the single currency. Although this could be seen by policymakers as rather difficult to achieve, due to the complexity of the tax systems in the Member States, the EESC considers that this could initially cover the three types of tax revenue that generate 90% of government revenue in the Member States: VAT, income tax and social security contributions.

3.2.7 When it comes to direct taxation, the Member States have control, in accordance with the EU Treaty. The EESC feels that efforts to harmonise the rules on establishing the tax base for the main taxes might be better supported by the introduction of qualified majority voting in the field of direct taxation. Progress in advancing tax policies could be made more quickly, and this would benefit the internal market and generate significant growth potential, given that a harmonised system would significantly reduce compliance costs for businesses and create a more predictable tax system in the EU.

3.2.8 The existence of the euro zone, an area with a single currency which in future will include the majority of the Member States, means that tax systems and welfare systems may need to be harmonised. Experts on monetary policy consider that the fragmentation of the tax systems in the euro zone exacerbated the effects of the last economic and financial crisis. Maintaining the status quo, with a single currency operating in an economic area using a number of different tax systems, will make the single market still more fragile. Harmonising the tax base for the main types of taxes will reduce compliance costs for companies, and may generate additional resources which they can use for investment, research and innovation.

3.2.9 Introducing a differentiated profit system beneficial to companies which reinvest their profit will support growth and job creation in the EU. Similarly, eliminating any form of tax exemption offered to companies which distribute the bulk of their profit through dividends could be one means of boosting economic growth.

3.2.10 Tax harmonisation in the euro zone, based on the principle of convergence and appropriate taxation, will create the resources needed to reinvigorate public investment, thereby paving the way for private investment as well.

Brussels, 20 September 2017

George DASSIS

The president of the European Economic and Social Committee