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TAX NEWS

New package of EU tax initiatives

On 12 September the European Commission adopted a key package of initiatives aiming at:

i. reducing tax compliance costs for large cross-border companies in the EU; and

ii. harmonising transfer pricing rules within the EU and ensuring a common approach to transfer pricing problems.

BEFIT Proposal (Business in Europe: Framework for income taxation)

This proposal aims to address the complexity and high costs faced by multinational companies in their European operations due to compliance with 27 different national tax systems.

It seeks to simplify corporate tax practice and management by introducing a new single set of rules to determine the tax base of groups of companies. This is intended to reduce tax compliance costs for large companies operating in more than one Member State and to make it easier for national tax authorities to determine the taxes applicable to them.

The proposal builds on the OECD/G20 international tax agreement on a global minimum level of taxation, and the Pillar Two Directive adopted at the end of 2022. It replaces the Commission's CCTB (common corporate tax base) and CCCTB (common consolidated corporate tax base) proposals, which are withdrawn.

The proposal includes:

- **Common rules to compute the tax base at entity level**

  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.

- **Aggregation of the tax base at EU group level**

  The tax bases of all members of the group will be aggregated into one single tax base. This will entail cross-border loss relief, as losses will automatically be set off against profits across borders, as well as increased tax certainty in transfer pricing compliance.

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- **Allocation of the aggregated 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.

The new rules will be mandatory for groups operating in the EU with an annual combined revenue of at least €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.

The rules will be optional for smaller groups which may choose to opt in as long as they prepare consolidated financial statements. This could be of particular interest to SMEs.

Once adopted by the Council, the proposal should enter into force on **1 July 2028.**

Proposal for a Directive on Transfer Pricing

The aim of this proposal is to harmonise transfer pricing rules within the EU and to ensure a common approach to transfer pricing problems (profit shifting and tax avoidance, litigation and double taxation and high compliance costs).

It incorporates the arm's length principle and key transfer pricing rules into EU law, clarifies the role and status of the OECD Transfer Pricing Guidelines and creates the possibility to establish common binding rules on specific aspects of the rules within the Union.

The proposal will increase tax certainty and mitigate the risk of litigation and double taxation. Moreover, it will also reduce the opportunities for companies to use transfer pricing for aggressive tax planning purposes.

Once adopted by the Council, this proposal should enter into force as of **1 January 2026.**

Please note that we just wanted to briefly highlight the change that BEFIT proposal represents in relation to the proposals it replaces; we will provide more details on the content of this new proposal as well as on the transfer pricing proposal in future mailings due to its relevance for international groups.