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COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	COMMUNICATION FROM THE COMMISSION TO THE EUROPEAN PARLIAMENT, THE EUROPEAN COUNCIL AND THE COUNCIL Towards a more efficient and democratic decision making in EU tax <ul style="list-style-type: none">• Opinion of the European Committee of the Regions

Delegations will find attached the abovementioned opinion. Other language versions are available on the following website:

<https://memportal.cor.europa.eu/Agenda/Documents?meetingId=2152270&meetingSessionId=2188793&AspxAutoDetectCookieSupport=1>



**European Committee
of the Regions**

ECON-VI/045

135th plenary session, 26-27 June 2019

OPINION

Towards a more efficient and democratic decision making in EU tax policy

THE EUROPEAN COMMITTEE OF THE REGIONS

- points out that it has already encouraged the Commission to use the passerelle clause to apply qualified majority voting, particularly in tax matters;
- notes the intrinsic link between taxation and democracy insofar as the history of liberal democracies is closely linked to the quest for taxpayers' consent for submitting resources and fiscal expenditure to democratic control, as illustrated by the old adage "*No taxation without representation*";
- points out that according to a recent study, many firms' tax avoidance strategies have generated revenue losses in the EU estimated at between 50 and 70 billion euros, which includes only loss of revenue due to profit shifting and is equivalent to at least 17% of taxes on corporate income levied in 2013, or between 160 and 190 billion euros if the estimated loss from the individual tax arrangements of the big multinationals is included;
- notes that local and regional authorities are also victims of tax avoidance insofar as local and regional taxes are levied on the basis of the national tax base and in most Member States these authorities receive part of the revenue from national corporate taxes;
- believes that abolishing the unanimity requirement in tax matters would enable the EU to move beyond defending the position of the lowest European common denominator and so to be more ambitious with regard to the international debate on taxation, particularly as regards the OECD's work on digital taxation and profit shifting measures (BEPS);
- supports the principle of the step-by-step approach proposed by the Commission;
- suggests that the Commission propose using the passerelle clause for environmental taxation from the initial stage. It is particularly urgent to introduce a coordinated European approach to taxation in the aviation sector, which does not currently come under any European tax regime, for example with the introduction of VAT on air tickets or a kerosene tax.

Rapporteur:

Christophe Rouillon (FR/PES), Mayor of Coulaines

Reference document

Communication from the Commission to the European Parliament, the European Council and the Council: *Towards a more efficient and democratic decision making in EU tax policy*, 15 January 2019
COM(2019) 8 final

Opinion of the European Committee of the Regions – Towards a more efficient and democratic decision making in EU tax policy

I. POLICY RECOMMENDATIONS

THE EUROPEAN COMMITTEE OF THE REGIONS,

1. agrees with the Commission that globalisation, digitalisation and the development of the service economy are bringing about dynamic changes in taxation;
2. points out that it has already encouraged the Commission to use the passerelle clause to apply qualified majority voting, particularly in tax matters¹; in this context, welcomes the European Parliament resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance (report by the TAX3 committee) which calls on the Commission to use, if appropriate, the procedure laid down in Article 116 TFEU;
3. underlines that, in accordance with TFEU Article 4(2), internal market is a shared competence area between the EU and the Member States, and TFEU Article 113 provides for mechanisms to enable to the harmonisation of legislation concerning tax policies between Member States to ensure the functioning of the internal market and avoiding distortion of competition. It considers that the proposal to introduce Qualified Majority Voting on this basis, which, the Commission has pledged, should not interfere with Member States' prerogatives for setting direct individual or corporate tax rates, should go hand in hand with greater involvement of the European Parliament and national and regional parliaments - bearing in mind that some regions have legislative powers in the area of tax policy;
4. notes that the Commission proposal does not aim to allocate new competences to the EU; neither is the Commission proposing to interfere in Member States' prerogatives for setting direct individual or corporate tax rates;
5. points out that enhanced cooperation (Articles 326 to 334 of the TFEU) can be applied to tax matters, allowing a minimum of nine Member States to agree on common legislation, as was the case for the proposed financial transaction tax. Nonetheless, enhanced cooperation should be used only as a last resort once all of the options available in the normal operation of the institutions have been exhausted, as it may result in fragmentation of the internal market and is based on an essentially inter-governmental approach;
6. is pleased that, during its current term of office, the Commission has submitted 26 legislative proposals which aim to step up the fight against financial crimes and aggressive tax planning², as well as to improve tax collection and tax fairness; highlights that the Council has made some

¹ See point 6 of the resolution on the European Commission's 2019 work programme (RESOL-VI/33), adopted on 6 February 2019.

² The European Commission defines aggressive tax planning as "taking advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing tax liability."
https://ec.europa.eu/taxation_customs/sites/taxation/files/taxation_papers_71_atp.pdf p. 25

progress on the major initiatives to reform corporate taxation which have however not yet all been finalised;

7. also notes the fact that initiatives other than those relating to tax avoidance, including proposals on the financial transactions tax submitted in 2011 and on the taxation of digital services, which the CoR had supported, were blocked by a minority of Member States in the Council;

European taxation and democracy

8. notes the intrinsic link between taxation and democracy insofar as the history of liberal democracies is closely linked to the quest for taxpayers' consent for submitting resources and fiscal expenditure to democratic control, as illustrated by the old adage "*No taxation without representation*";
9. underlines that in a recent Eurobarometer survey³, three quarters of respondents felt that efforts to combat abusive tax practices constituted a matter for priority action by the EU; it considers, therefore, that the Commission has chosen the right time to publish its proposal with a view to fuelling democratic debate in the run-up to the European elections; believes, moreover, that the EU will be better able to stem anti-European populism if European tax policy is managed more transparently and democratically ("*Take back control*");
10. notes that tax avoidance by multinational companies remains an issue in the EU and believes that individual investigations should be stepped up as wrongdoing of one entity does not define the behaviour of the collective;

The cost of unanimity in tax matters

11. emphasises that, within a common economic framework, a balance needs to be found between regulating tax competition between and sometimes within Member States, and the need to avoid the national tax sovereignty of one Member State encroaching on that of another Member State, for instance where there is no appropriate maximum deviation between the respective tax rates or where there are aggressive tax schemes. The taxation decisions of one Member State may indeed significantly affect the revenues of others and their leeway for making their own political choices. Moreover, national tax sovereignty is limited as and when the tax base becomes more mobile. The CoR considers it preferable to put forward the notion of tax sovereignty which is shared at European level;
12. notes that an integration imbalance has been created in parallel to progress in European integration and the significant, rapid transformation of the economy, with capital and services moving freely in the EU while Member States set their tax rules independently. In fact, when the development of the single market was essentially limited to trade in goods, the cross-border effects of taxation were much more limited than they are today, insofar as firms rely to a large

³ <http://www.europarl.europa.eu/news/en/headlines/economy/20160707STO36204/tax-fraud-75-of-europeans-want-eu-to-do-more-to-fight-it>.

extent on intangible assets, data and automation, the added value of which is difficult to quantify;

13. highlights that joint efforts at European and national level are vital for safeguarding the budgets of the EU and its Member States from losses due to tax evasion and unpaid taxes; notes that only tax revenue which is collected fully and efficiently will allow states and local and regional authorities, and indirectly the EU, to provide high quality and cost-efficient public services, such as affordable education, health and housing, security and crime-fighting measures, and to fund climate-protection measures, the promotion of gender equality, public transport and essential infrastructure in order to make progress towards the implementation of the Sustainable Development Goals; this could lead to an eventual decrease of the overall tax burden on European citizens and companies;
14. feels that unanimity in tax matters has also hindered the implementation of other European achievements, particularly as regards the 2030 climate and energy framework, including the review of the Energy Taxation Directive aimed at incorporating CO₂ emissions into fuel tax rates, the circular economy and the reform of the system of own resources;
15. points out that according to a recent study, many firms' tax avoidance strategies have generated revenue losses in the EU estimated at between 50 and 70 billion euros, which includes only loss of revenue due to profit shifting and is equivalent to at least 17% of taxes on corporate income levied in 2013, or between 160 and 190 billion euros if the estimated loss from the individual tax arrangements of the big multinationals is included;
16. notes that local and regional authorities are also victims of tax avoidance insofar as local and regional taxes are levied on the basis of the national tax base and in most Member States these authorities receive part of the revenue from national corporate taxes;
17. underlines that EU rules on VAT date back to 1993, although they were supposed to be transitional. The unanimity requirement has made any substantial reform impossible, despite the latest technological developments and market changes. In many cases, Member States still apply different rules for national and for cross-border transactions. The CoR stresses that this is a major obstacle to the completion of the single market and is reflected in onerous procedures for the increasing number of European firms operating across borders. Simplifying and modernising VAT rules in the EU would reduce cross-border firms' administrative costs, generating overall savings for firms of 15 billion euros a year. The current situation is particularly damaging for SMEs which do not have the financial and human resources needed to deal with the legal complexities of tax rules;
18. believes that abolishing the unanimity requirement in tax matters would enable the EU to move beyond defending the position of the lowest European common denominator and so to be more ambitious with regard to the international debate on taxation, particularly as regards the OECD's work on digital taxation and profit shifting measures (BEPS);

On the roadmap

19. supports the principle of the step-by-step approach proposed by the Commission and feels that this approach should be backed up under the European Semester and allow aggressive tax-planning schemes in particular to be tackled;
20. as a first step, would like qualified majority voting to be introduced for initiatives which do not have a direct impact on Member States' taxation rights, bases or rates, but which are necessary for improving administrative cooperation and mutual assistance between Member States in the fight against fraud and tax avoidance. The CoR also feels that the first stage should also cover initiatives intended to help EU firms comply with tax obligations;
21. wonders why the Commission is only proposing to use the specific passerelle clause set out in TFEU Article 192(2) on the environment in the second stage, when taxation is key to enabling the EU to implement the Sustainable Development Goals; it therefore suggests that the Commission propose using the passerelle clause for environmental taxation from the initial stage. It is particularly urgent to introduce a coordinated European approach to taxation in the aviation sector, which does not currently come under any European tax regime, for example with the introduction of VAT on air tickets or a kerosene tax.

Brussels, 26 June 2019

The President
of the European Committee of the Regions

Karl-Heinz Lambertz

The Secretary-General
of the European Committee of the Regions

Jiří Buriánek

II. PROCEDURE

Title	Towards a more efficient and democratic decision making in EU tax policy
Reference(s)	COM(2019) 8 final
Legal basis	Rule 41(b)(i) of the Rules of Procedure
Procedural basis	Article 307(4) TFEU
Date of Council/EP referral/Date of Commission letter	18 February 2019
Commission responsible	Commission for Economic Policy (ECON)
Rapporteur	Christophe Rouillon (FR/PES), Mayor of Coulaines
Analysis	
Discussion in commission	6 May 2019
Date adopted by commission	6 May 2019
Result of the vote in commission (majority, unanimity)	Majority
Date adopted in plenary	26 June 2019
Previous Committee opinions	<p>Opinion of the European Committee of the Regions on the <i>Fair taxation package</i> (2018/C 461/07 - ECON-VI-33) – rapporteur: Paul Lindquist (EPP/SE), October 2018</p> <p>Opinion of the European Committee of the Regions on <i>Taxation of the digital economy</i> (ECON-VI-35) – rapporteur: Jean-Luc Vanraes, December 2018</p> <p>Opinion of the European Committee of the Regions on <i>Reform of EU own resources within the next MFF post-2020</i> (COTER VI/026) – rapporteur: Isabelle Boudineau (PES/FR), October 2017</p>
Date of subsidiarity monitoring consultation	N/A