



**2016/0337(CNS)**

29.9.2017

# **AMENDMENTS**

## **329 - 414**

**Draft report**

**Paul Tang**

(PE608.050v01-00)

Common Corporate Tax Base

Proposal for a directive

(COM(2016)0685 – C8-0472/2016 – 2016/0337(CNS))



**Amendment 329**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 41**

*Text proposed by the Commission*

*Amendment*

**Article 41**

**deleted**

**Losses**

- 1. Losses incurred in a tax year by a resident taxpayer or a permanent establishment of a non-resident taxpayer may be carried forward and deducted in subsequent tax years, unless otherwise provided by this Directive.**
- 2. A reduction of the tax base as a result of considering losses from previous tax years shall not result in a negative amount.**
- 3. Losses incurred by a resident taxpayer or by a permanent establishment of a non-resident taxpayer in previous years shall not be deducted where all of the following conditions are met:**
  - (a) another company acquires a participation in the taxpayer as a result of which the acquired taxpayer becomes a qualifying subsidiary of the acquirer as referred to in Article 3;**
  - (b) there is a major change of activity of the acquired taxpayer, which means that the acquired taxpayer discontinues a certain activity which accounted for more than [60 %] of its turnover in the previous tax year or embarks on new activities which amount to more than [60 %] of its turnover in the tax year of their introduction or the following tax year.**
- 4. The oldest losses shall be deducted first.**

Or. en

**Amendment 330**  
**Markus Ferber**

**Proposal for a directive**  
**Article 41 – paragraph 1**

*Text proposed by the Commission*

1. Losses *incurred in a tax year by a resident taxpayer or a permanent establishment of a non-resident taxpayer may be carried forward and deducted in subsequent tax years, unless otherwise provided by this Directive.*

*Amendment*

1. Losses of *up to EUR 1 000 000 shall be deducted from profits made in the tax year immediately preceding.*

Or. de

**Amendment 331**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 41 – paragraph 1**

*Text proposed by the Commission*

1. Losses incurred in a tax year by a resident taxpayer or a permanent establishment of a non-resident taxpayer may be carried forward and deducted in subsequent tax years, *unless otherwise provided by this Directive.*

*Amendment*

1. Losses incurred in a tax year by a resident taxpayer or a permanent establishment of a non-resident taxpayer may be carried forward and deducted in subsequent tax years, *during a maximum of five years.*

Or. en

**Amendment 332**  
**Markus Ferber**

**Proposal for a directive**  
**Article 41 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

2. *A reduction of the tax base as a result of considering losses from previous tax years shall not result in a negative amount.*

2. *Losses suffered in a tax year by a resident taxpayer or the permanent establishment of a non-resident taxpayer which have not been deducted in accordance with paragraph 1 can be carried forward and deducted in later tax years up to a total profit of EUR 1 000 000 with no restriction and beyond that up to 60% of the profit which is in excess of the EUR 1 000 000, unless otherwise specified by this directive.*

Or. de

### **Amendment 333**

**Ramón Jáuregui Atondo, Jonás Fernández**

### **Proposal for a directive**

### **Article 42**

*Text proposed by the Commission*

*Amendment*

#### **Article 42**

**deleted**

#### **Loss relief and recapture**

1. *A resident taxpayer that is still profitable after having deducted its own losses pursuant to Article 41 may additionally deduct losses incurred, in the same tax year, by its immediate qualifying subsidiaries, as referred to in Article 3(1), or by permanent establishment(s) situated in other Member States. This loss relief shall be given for a limited period of time in accordance with paragraphs 3 and 4 of this Article.*

2. *The deduction shall be in proportion to the holding of the resident taxpayer in its qualifying subsidiaries as referred to in Article 3(1) and full for permanent establishments. In no case shall the reduction of the tax base of the resident taxpayer result in a negative*

*amount.*

**3.** *The resident taxpayer shall add back to its tax base, up to the amount previously deducted as a loss, any subsequent profits made by its qualifying subsidiaries as referred to in Article 3(1) or by its permanent establishments.*

**4.** *Losses deducted pursuant to paragraphs 1 and 2 shall automatically be reincorporated into the tax base of the resident taxpayer in any of the following circumstances:*

*(a) where, at the end of the fifth tax year after the losses became deductible, no profit has been reincorporated or the reincorporated profits do not correspond to the full amount of losses deducted;*

*(b) where the qualifying subsidiary as referred to in Article 3(1) is sold, wound up or transformed into a permanent establishment;*

*(c) where the permanent establishment is sold, wound up or transformed into a subsidiary;*

*(d) where the parent company no longer fulfils the requirements of Article 3(1).*

Or. es

## **Amendment 334**

**Markus Ferber**

### **Proposal for a directive**

#### **Article 42**

*Text proposed by the Commission*

*Amendment*

#### **Article 42**

*deleted*

#### **Loss relief and recapture**

**1.** *A resident taxpayer that is still profitable after having deducted its own losses pursuant to Article 41 may additionally deduct losses incurred, in the*

*same tax year, by its immediate qualifying subsidiaries, as referred to in Article 3(1), or by permanent establishment(s) situated in other Member States. This loss relief shall be given for a limited period of time in accordance with paragraphs 3 and 4 of this Article.*

*2. The deduction shall be in proportion to the holding of the resident taxpayer in its qualifying subsidiaries as referred to in Article 3(1) and full for permanent establishments. In no case shall the reduction of the tax base of the resident taxpayer result in a negative amount.*

*3. The resident taxpayer shall add back to its tax base, up to the amount previously deducted as a loss, any subsequent profits made by its qualifying subsidiaries as referred to in Article 3(1) or by its permanent establishments.*

*4. Losses deducted pursuant to paragraphs 1 and 2 shall automatically be reincorporated into the tax base of the resident taxpayer in any of the following circumstances:*

*(a) where, at the end of the fifth tax year after the losses became deductible, no profit has been reincorporated or the reincorporated profits do not correspond to the full amount of losses deducted;*

*(b) where the qualifying subsidiary as referred to in Article 3(1) is sold, wound up or transformed into a permanent establishment;*

*(c) where the permanent establishment is sold, wound up or transformed into a subsidiary;*

*(d) where the parent company no longer fulfils the requirements of Article 3(1).*

Or. de

## *Justification*

*Article 42 represents an advanced consolidation, which should only be applied when the CCCTB comes into force.*

### **Amendment 335**

**Esther de Lange, Gunnar Hökmark**

#### **Proposal for a directive**

#### **Article 42**

*Text proposed by the Commission*

*Amendment*

#### *Article 42*

*deleted*

#### *Loss relief and recapture*

*1. A resident taxpayer that is still profitable after having deducted its own losses pursuant to Article 41 may additionally deduct losses incurred, in the same tax year, by its immediate qualifying subsidiaries, as referred to in Article 3(1), or by permanent establishment(s) situated in other Member States. This loss relief shall be given for a limited period of time in accordance with paragraphs 3 and 4 of this Article.*

*2. The deduction shall be in proportion to the holding of the resident taxpayer in its qualifying subsidiaries as referred to in Article 3(1) and full for permanent establishments. In no case shall the reduction of the tax base of the resident taxpayer result in a negative amount.*

*3. The resident taxpayer shall add back to its tax base, up to the amount previously deducted as a loss, any subsequent profits made by its qualifying subsidiaries as referred to in Article 3(1) or by its permanent establishments.*

*4. Losses deducted pursuant to paragraphs 1 and 2 shall automatically be reincorporated into the tax base of the resident taxpayer in any of the following circumstances:*



- (a) where, at the end of the fifth tax year after the losses became deductible, no profit has been reincorporated or the reincorporated profits do not correspond to the full amount of losses deducted;*
- (b) where the qualifying subsidiary as referred to in Article 3(1) is sold, wound up or transformed into a permanent establishment;*
- (c) where the permanent establishment is sold, wound up or transformed into a subsidiary;*
- (d) where the parent company no longer fulfils the requirements of Article 3(1).*

Or. en

**Amendment 336**  
**Marco Valli**

**Proposal for a directive**  
**Article 42**

*Text proposed by the Commission*

*Amendment*

**Article 42**

*deleted*

**Loss relief and recapture**

**1. A resident taxpayer that is still profitable after having deducted its own losses pursuant to Article 41 may additionally deduct losses incurred, in the same tax year, by its immediate qualifying subsidiaries, as referred to in Article 3(1), or by permanent establishment(s) situated in other Member States. This loss relief shall be given for a limited period of time in accordance with paragraphs 3 and 4 of this Article.**

**2. The deduction shall be in proportion to the holding of the resident taxpayer in its qualifying subsidiaries as referred to in Article 3(1) and full for permanent establishments. In no case**

*shall the reduction of the tax base of the resident taxpayer result in a negative amount.*

*3. The resident taxpayer shall add back to its tax base, up to the amount previously deducted as a loss, any subsequent profits made by its qualifying subsidiaries as referred to in Article 3(1) or by its permanent establishments.*

*4. Losses deducted pursuant to paragraphs 1 and 2 shall automatically be reincorporated into the tax base of the resident taxpayer in any of the following circumstances:*

*(a) where, at the end of the fifth tax year after the losses became deductible, no profit has been reincorporated or the reincorporated profits do not correspond to the full amount of losses deducted;*

*(b) where the qualifying subsidiary as referred to in Article 3(1) is sold, wound up or transformed into a permanent establishment;*

*(c) where the permanent establishment is sold, wound up or transformed into a subsidiary;*

*(d) where the parent company no longer fulfils the requirements of Article 3(1).*

Or. en

#### **Amendment 337**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 42**

*Text proposed by the Commission*

*Amendment*

*Article 42*

*deleted*

*Loss relief and recapture*

**1. A resident taxpayer that is still profitable after having deducted its own losses pursuant to Article 41 may additionally deduct losses incurred, in the same tax year, by its immediate qualifying subsidiaries, as referred to in Article 3(1), or by permanent establishment(s) situated in other Member States. This loss relief shall be given for a limited period of time in accordance with paragraphs 3 and 4 of this Article.**

**2. The deduction shall be in proportion to the holding of the resident taxpayer in its qualifying subsidiaries as referred to in Article 3(1) and full for permanent establishments. In no case shall the reduction of the tax base of the resident taxpayer result in a negative amount.**

**3. The resident taxpayer shall add back to its tax base, up to the amount previously deducted as a loss, any subsequent profits made by its qualifying subsidiaries as referred to in Article 3(1) or by its permanent establishments.**

**4. Losses deducted pursuant to paragraphs 1 and 2 shall automatically be reincorporated into the tax base of the resident taxpayer in any of the following circumstances:**

**(a) where, at the end of the fifth tax year after the losses became deductible, no profit has been reincorporated or the reincorporated profits do not correspond to the full amount of losses deducted;**

**(b) where the qualifying subsidiary as referred to in Article 3(1) is sold, wound up or transformed into a permanent establishment;**

**(c) where the permanent establishment is sold, wound up or transformed into a subsidiary;**

**(d) where the parent company no longer fulfils the requirements of Article 3(1).**

**Amendment 338****Fabio De Masi, Matt Carthy****Proposal for a directive****Article 42***Text proposed by the Commission**Amendment***Article 42****deleted*****Loss relief and recapture***

***1. A resident taxpayer that is still profitable after having deducted its own losses pursuant to Article 41 may additionally deduct losses incurred, in the same tax year, by its immediate qualifying subsidiaries, as referred to in Article 3(1), or by permanent establishment(s) situated in other Member States. This loss relief shall be given for a limited period of time in accordance with paragraphs 3 and 4 of this Article.***

***2. The deduction shall be in proportion to the holding of the resident taxpayer in its qualifying subsidiaries as referred to in Article 3(1) and full for permanent establishments. In no case shall the reduction of the tax base of the resident taxpayer result in a negative amount.***

***3. The resident taxpayer shall add back to its tax base, up to the amount previously deducted as a loss, any subsequent profits made by its qualifying subsidiaries as referred to in Article 3(1) or by its permanent establishments.***

***4. Losses deducted pursuant to paragraphs 1 and 2 shall automatically be reincorporated into the tax base of the resident taxpayer in any of the following circumstances:***

***(a) where, at the end of the fifth tax year after the losses became deductible, no profit has been reincorporated or the***

*reincorporated profits do not correspond to the full amount of losses deducted;*

*(b) where the qualifying subsidiary as referred to in Article 3(1) is sold, wound up or transformed into a permanent establishment;*

*(c) where the permanent establishment is sold, wound up or transformed into a subsidiary;*

*(d) where the parent company no longer fulfils the requirements of Article 3(1).*

Or. en

#### **Amendment 339**

**Paul Tang, Neena Gill, Emmanuel Maurel, Nessa Childers, Hugues Bayet, Peter Simon, Pervenche Berès**

#### **Proposal for a directive Article 45 a (new)**

*Text proposed by the Commission*

*Amendment*

#### **Article 45a**

#### **Effective Tax Contribution**

*As long as the threshold laid down in point (c) of Article 2(1) of this directive still is in place, Member States shall monitor and publish the effective tax contribution of SMEs and MNEs across the Member States, as to ensure a level playing field.*

Or. en

#### **Amendment 340**

**Eva Joly**  
on behalf of the Verts/ALE Group

#### **Proposal for a directive Article 47**

*Text proposed by the Commission*

*Amendment*

**Article 47**

**deleted**

***Pre-entry losses***

***A taxpayer bringing forward unrelieved losses incurred before the rules of this Directive became applicable to him or her, may deduct those losses from its tax base if and to the extent that the national legislation applicable to the taxpayer and according to which those losses were incurred, allow for such deduction.***

Or. en

**Amendment 341**

**Esther de Lange, Gunnar Hökmark**

**Proposal for a directive**

**Article 53**

*Text proposed by the Commission*

*Amendment*

**Article 53**

**deleted**

***Switch-over***

***1. By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to a statutory corporate tax rate lower than half of the statutory tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.***

***The first subparagraph shall not apply where a convention for the avoidance of double taxation between the Member State in which the taxpayer is resident for tax purposes and the third country where***

*that entity is resident for tax purposes does not allow switching over from a tax exemption to taxing the designated categories of foreign income.*

*2. Where paragraph 1 applies, the taxpayer shall be subject to tax on the foreign income with a deduction of the tax paid in the third country from its tax liability in the Member State where it is resident for tax purposes. The deduction shall not exceed the amount of tax, as computed before the deduction, which is attributable to the income that may be taxed.*

*3. Member States shall exclude losses from the scope of this Article in the event of a disposal of shares in an entity that has its residence for tax purposes in a third country.*

Or. en

#### Amendment 342

Fabio De Masi, Stelios Kouloglou

#### Proposal for a directive

#### Article 53 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to **a statutory** corporate tax rate lower than **half** of the **statutory** tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

##### *Amendment*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a **different Member State or a** third country or as proceeds from the disposal of shares held in an entity in a third country **or another Member State** where that entity in its country of tax residence is subject to **an effective** corporate tax rate lower than **90 %** of the **effective** tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

### Amendment 343

Eva Joly

on behalf of the Verts/ALE Group

#### Proposal for a directive

#### Article 53 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to **a statutory** corporate tax rate lower than **half** of the statutory tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

##### *Amendment*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to **an effective** corporate tax rate lower than **75%** of the statutory tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

Or. en

### Amendment 344

Bernd Lucke

#### Proposal for a directive

#### Article 53 – paragraph 1 – subparagraph 1

##### *Text proposed by the Commission*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to a statutory corporate tax rate

##### *Amendment*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to a statutory corporate tax rate



lower than *half of* the statutory tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

lower than the statutory tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

Or. en

#### **Amendment 345**

**Marco Valli**

#### **Proposal for a directive**

#### **Article 53 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to *a statutory* corporate tax rate lower than *half of* the *statutory* tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

##### *Amendment*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to *an effective* corporate tax rate lower than *95%* of the *effective* tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

Or. en

#### **Amendment 346**

**Tom Vandenkendelaere**

#### **Proposal for a directive**

#### **Article 53 – paragraph 1 – subparagraph 1**

##### *Text proposed by the Commission*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution

##### *Amendment*

By way of derogation from points (c) and (d) of Article 8, a taxpayer shall not be exempt from tax on foreign income that the taxpayer received as a profit distribution

from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to a **statutory** corporate tax rate lower than half of the **statutory** tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

from an entity in a third country or as proceeds from the disposal of shares held in an entity in a third country where that entity in its country of tax residence is subject to a **nominal** corporate tax rate lower than half of the **nominal** tax rate that the taxpayer would have been subject to, in connection with such foreign income, in the Member State of its residence for tax purposes.

Or. nl

**Amendment 347**  
**Fabio De Masi**

**Proposal for a directive**  
**Article 53 – paragraph 1 – subparagraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***In order to ensure the effectiveness of the measures laid down in the first subparagraph, the Commission shall by no later than 31 December 2018 put forward a legislative proposal for a minimum effective tax rate of 25% across Member States.***

Or. en

**Amendment 348**  
**Tom Vandenkendelaere**

**Proposal for a directive**  
**Article 53 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***The first subparagraph shall not apply where a convention for the avoidance of double taxation between the Member State in which the taxpayer is resident for tax purposes and the third country where that entity is resident for tax purposes***

***deleted***

*does not allow switching over from a tax exemption to taxing the designated categories of foreign income.*

Or. nl

*Justification*

*This paragraph runs counter to the rationale of the article.*

**Amendment 349**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 53 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*The first subparagraph shall not apply where a convention for the avoidance of double taxation between the Member State in which the taxpayer is resident for tax purposes and the third country where that entity is resident for tax purposes does not allow switching over from a tax exemption to taxing the designated categories of foreign income.*

*deleted*

Or. en

**Amendment 350**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 53 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

*The first subparagraph shall not apply where a convention for the avoidance of double taxation between the Member State in which the taxpayer is resident for tax purposes and the third country where that*

*Member States' conventions for the avoidance of double taxation between the Member State in which the taxpayer is resident for tax purposes and the third country where that entity is resident for tax*

entity is resident for tax purposes *does not allow switching over from a tax exemption to taxing the designated categories of foreign income.*

purposes *shall be amended accordingly.*

Or. en

#### **Amendment 351**

**Fabio De Masi, Matt Carthy**

#### **Proposal for a directive**

#### **Article 55 – paragraph 1**

##### *Text proposed by the Commission*

1. A deduction from the tax liability ('tax credit') of a taxpayer shall be allowed where that taxpayer derives income that has been taxed in another Member State or in a third country, *other than income that is exempt under points (c), (d) or (e) of Article 8.*

##### *Amendment*

1. A deduction from the tax liability ('tax credit') of a taxpayer shall be allowed where that taxpayer derives income that has been taxed in another Member State or in a third country.

Or. en

#### **Amendment 352**

**Tom Vandenkendelaere**

#### **Proposal for a directive**

#### **Article 57 – paragraph 1**

##### *Text proposed by the Commission*

1. Where conditions are made or imposed in relations between associated enterprises that differ from those that would have been made between independent enterprises, any income that would have accrued to the taxpayer but because of those conditions has not so accrued, shall be included in the income of that taxpayer and taxed accordingly.

##### *Amendment*

*(Does not affect the English version.)*

Or. nl

**Amendment 353**  
**Tom Vandenkendelaere**

**Proposal for a directive**  
**Article 58 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of calculating the tax base under the rules of this Directive, a Member State shall disregard an arrangement or a series of arrangements ***which, having been put in place for the essential purpose of obtaining a tax advantage that defeats the object or purpose of this Directive,*** are not genuine, having regard to all relevant facts and circumstances. An arrangement may comprise more than one step or part.

*Amendment*

1. For the purposes of calculating the tax base under the rules of this Directive, a Member State shall disregard an arrangement or a series of arrangements ***the main purpose or one of the main purposes of which is tax fraud or tax evasion and which*** are not genuine, having regard to all relevant facts and circumstances. An arrangement may comprise more than one step or part.

Or. nl

*Justification*

*Brought into line with Court of Justice case-law.*

**Amendment 354**  
**Marco Valli**

**Proposal for a directive**  
**Article 58 – paragraph 1**

*Text proposed by the Commission*

1. For the purposes of calculating the tax base under the rules of this Directive, a Member State shall disregard an arrangement or a series of arrangements which, having been put in place for the ***essential*** purpose of obtaining a tax advantage that defeats the object or purpose of this Directive, are not genuine, ***having regard to all relevant facts and circumstances.*** An arrangement may comprise more than one step or part.

*Amendment*

1. For the purposes of calculating the tax base under the rules of this Directive, a Member State shall disregard an arrangement or a series of arrangements which, having been put in place for the purpose of obtaining a tax advantage that defeats the object or purpose of this Directive, are not genuine ***or can be considered harmful.*** An arrangement may comprise more than one step or part.

## Amendment 355

Eva Joly

on behalf of the Verts/ALE Group

### Proposal for a directive

#### Article 58 – paragraph 1

##### *Text proposed by the Commission*

1. For the purposes of calculating the tax base under the rules of this Directive, a Member State shall disregard an arrangement or a series of arrangements which, having been put in place for the **essential purpose** of obtaining a tax advantage that defeats the object or purpose of this Directive, are not genuine, having regard to all relevant facts and circumstances. An arrangement may comprise more than one step or part.

##### *Amendment*

1. For the purposes of calculating the tax base under the rules of this Directive, a Member State shall disregard an arrangement or a series of arrangements which, having been put in place for the **one of the main purposes** of obtaining a tax advantage that defeats the object or purpose of this Directive, are not genuine, having regard to all relevant facts and circumstances. An arrangement may comprise more than one step or part.

Or. en

## Amendment 356

Marco Valli

### Proposal for a directive

#### Article 58 – paragraph 2

##### *Text proposed by the Commission*

2. For the purposes of paragraph 1, an arrangement or a series thereof shall be regarded as non-genuine to the extent that they are not put in place for valid commercial reasons that reflect economic reality.

##### *Amendment*

2. For the purposes of paragraph 1, an arrangement or a series thereof shall be regarded as non-genuine to the extent that they are not, **in whole or in part**, put in place for valid commercial reasons that reflect economic reality **and one of their main purpose is the artificial shifting of profits out of the EU**.

Or. en

**Amendment 357**  
**Marco Valli**

**Proposal for a directive**

**Article 59 – paragraph 1 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

An entity, or a permanent establishment of which the profits are not subject to tax or are exempt from tax in the Member State of its head office', shall be treated as a controlled foreign company where the following conditions are met:

*Amendment*

An entity, ***a trust, a partnership*** or a permanent establishment of which the profits are not subject to tax or are exempt from tax in the Member State of its head office', shall be treated as a controlled foreign company where the following conditions are met:

Or. en

**Amendment 358**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 59 – paragraph 1 – subparagraph 1 – point a**

*Text proposed by the Commission*

(a) in the case of an entity, the taxpayer itself, or together with its associated enterprises, holds a direct or indirect participation of more than 50 % of the voting rights, or owns directly or indirectly more than 50 % of capital or is entitled to receive more than 50 % of the profits of that entity; and

*Amendment*

(a) in the case of an entity, the taxpayer itself, or together with its associated enterprises, holds a direct or indirect participation of more than 50 % of the voting rights, or owns directly or indirectly more than 50 % of capital or is entitled to receive more than 50 % of the profits of that entity ***or can be considered the ultimate place of effective management of the entity meaning the place where key management and commercial decisions of the entity that are necessary for the conduct of the entity's business are in substance made***; and

Or. en

**Amendment 359**  
**Marco Valli**

## Proposal for a directive

### Article 59 – paragraph 1 – subparagraph 1 – point a

#### *Text proposed by the Commission*

(a) in the case of an entity, the taxpayer itself, or together with its associated enterprises, holds a direct or indirect participation of more than 50 % of the voting rights, or owns directly or indirectly more than 50 % of capital or is entitled to receive more than 50 % of the profits of that entity; **and**

#### *Amendment*

(a) in the case of an entity, the taxpayer itself, or together with its associated enterprises, holds a direct or indirect participation of more than 50 % of the voting rights, or owns directly or indirectly more than 50 % of capital or is entitled to receive more than 50 % of the profits of that entity, ***or can be considered as the place of effective management where key management and commercial decisions directing or influencing the business of that entity are implemented;***

Or. en

## Amendment 360

Fabio De Masi

## Proposal for a directive

### Article 59 – paragraph 1 – subparagraph 1 – point b

#### *Text proposed by the Commission*

(b) ***the actual corporate tax paid by the entity or permanent establishment on its profits is lower than the difference between the corporate tax that would have been charged on the profits of the entity or permanent establishment in accordance with the rules of this Directive and the actual corporate tax paid on those profits by the entity or permanent establishment.***

#### *Amendment*

(b) profits of the entity or permanent establishment are subject to a statutory tax rate which is below 90% of the statutory tax rate of the Member State of the head office.

Or. en

## Amendment 361

Marco Valli



**Proposal for a directive**

**Article 59 – paragraph 1 – subparagraph 1 – point b**

*Text proposed by the Commission*

(b) the actual corporate tax paid by the entity or permanent establishment on its profits is lower than *the difference between the corporate tax that would have been charged on the profits of the entity or permanent establishment in accordance with the rules of this Directive and the actual corporate tax paid on those profits* by the entity or permanent establishment.

*Amendment*

(b) the actual corporate tax *rate* paid by the entity, *trust, partnership* or permanent establishment on its profits is lower than *95% of the effective tax rate that the taxpayer would have been subject to in the Member State; that rate shall be calculated on the basis of the profits before the implementation of operations introduced by the countries in question to reduce the tax base subject to the rate and revised each year.*

Or. en

**Amendment 362**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 59 – paragraph 1 – subparagraph 1 – point b**

*Text proposed by the Commission*

(b) *the actual corporate tax paid by the entity or permanent establishment on its profits is lower than the difference between the corporate tax that would have been charged on the profits of the entity or permanent establishment in accordance with the rules of this Directive and the actual corporate tax paid on those profits by the entity or permanent establishment.*

*Amendment*

(b) *profits of the entity or the permanent establishment are subject to an effective corporate tax rate lower than 75 percent of the effective tax rate that would have been charged under the applicable corporate tax system in the Member State of the taxpayer.*

Or. en

**Amendment 363**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 59 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

*Amendment*

***For the purposes of point (b) of the first subparagraph, in computing the corporate tax that would have been charged on the profits of the entity according to the rules of the Directive in the Member State of the taxpayer, the income of any permanent establishment of the entity that is not subject to tax or is exempt from tax in the jurisdiction of the controlled foreign company shall not be taken into account.***

***deleted***

Or. en

#### **Amendment 364**

**Marco Valli**

#### **Proposal for a directive**

#### **Article 59 – paragraph 2 – subparagraph 1 – introductory part**

*Text proposed by the Commission*

*Amendment*

Where an entity or permanent establishment is treated as a controlled foreign company under paragraph 1, ***non-distributed*** income of the entity or permanent establishment shall be subject to tax ***to the extent that it is derived from the following categories:***

Where an entity or permanent establishment is treated as a controlled foreign company under paragraph 1, ***all the foreign*** income of the entity or permanent establishment shall be subject to tax.

Or. en

#### **Amendment 365**

**Marco Valli**

#### **Proposal for a directive**

#### **Article 59 – paragraph 2 – subparagraph 1 – point a**

*Text proposed by the Commission*

*Amendment*

***(a) interest or any other income generated by financial assets;***

***deleted***

**Amendment 366**

**Marco Valli**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 1 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) royalties or any other income generated from intellectual property;** **deleted**

**Amendment 367**

**Marco Valli**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 1 – point c**

*Text proposed by the Commission*

*Amendment*

**(c) dividends and income from the disposal of shares;** **deleted**

**Amendment 368**

**Marco Valli**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 1 – point d**

*Text proposed by the Commission*

*Amendment*

**(d) income from financial leasing;** **deleted**

**Amendment 369**  
**Fabio De Masi, Matt Carthy**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 1 – point d a (new)**

*Text proposed by the Commission*

*Amendment*

***(da) income from immovable property, unless the Member State of the taxpayer would not have been entitled to tax the income under an agreement concluded with a third country;***

Or. en

**Amendment 370**  
**Marco Valli**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 1 – point e**

*Text proposed by the Commission*

*Amendment*

***(e) income from insurance, banking and other financial activities;*** ***deleted***

Or. en

**Amendment 371**  
**Marco Valli**

**Proposal for a directive**  
**Article 59 – paragraph 2 – subparagraph 1 – point f**

*Text proposed by the Commission*

*Amendment*

***(f) income from invoicing companies that earn sales and services income from goods and services purchased from and sold to associated enterprises and add no or little economic value.*** ***deleted***

Or. en

**Amendment 372**

**Fabio De Masi, Matt Carthy**

**Proposal for a directive**

**Article 59 – paragraph 2 – subparagraph 1 – point f**

*Text proposed by the Commission*

(f) income from ***invoicing companies that earn sales and services income from goods and services purchased from and sold to*** associated enterprises ***and add no or little economic value.***

*Amendment*

(f) income from services ***rendered to or goods traded with the taxpayer or its*** associated enterprises .

Or. en

**Amendment 373**

**Marco Valli**

**Proposal for a directive**

**Article 59 – paragraph 3**

*Text proposed by the Commission*

**3. An entity or permanent establishment shall not be treated as a controlled foreign company as referred to in paragraph 1 where not more than one third of the income accruing to the entity or permanent establishment falls within categories (a) to (f) of paragraph 2.**

**Financial undertakings shall not be treated as controlled foreign companies under paragraph 1 where not more than one third of the income accruing to the entity or permanent establishment from categories (a) to (f) of paragraph 2 comes from transactions with the taxpayer or its associated enterprises.**

*Amendment*

***deleted***

Or. en

#### Amendment 374

Eva Joly

on behalf of the Verts/ALE Group

#### Proposal for a directive

#### Article 59 – paragraph 3

*Text proposed by the Commission*

*Amendment*

**3. An entity or permanent establishment shall not be treated as a controlled foreign company as referred to in paragraph 1 where not more than one third of the income accruing to the entity or permanent establishment falls within categories (a) to (f) of paragraph 2.**

**deleted**

**Financial undertakings shall not be treated as controlled foreign companies under paragraph 1 where not more than one third of the income accruing to the entity or permanent establishment from categories (a) to (f) of paragraph 2 comes from transactions with the taxpayer or its associated enterprises.**

Or. en

#### Amendment 375

Fabio De Masi, Matt Carthy

#### Proposal for a directive

#### Article 59 – paragraph 3 – subparagraph 1

*Text proposed by the Commission*

*Amendment*

An entity or permanent establishment shall not be treated as a controlled foreign company as referred to in paragraph 1 where not more than **one third** of the income accruing to the entity or permanent establishment falls within categories (a) to (f) of paragraph 2.

An entity or permanent establishment shall not be treated as a controlled foreign company as referred to in paragraph 1 where not more than **25%** of the income accruing to the entity or permanent establishment falls within categories (a) to (f) of paragraph 2.

Or. en

**Amendment 376**  
**Markus Ferber**

**Proposal for a directive**  
**Article 61**

*Text proposed by the Commission*

*Amendment*

**[...]**

***deleted***

Or. de

*Justification*

*Council Directive 2017/952 amending Directive (EU) 2016/1164 on hybrid mismatches with third countries already contains rules on dealing with hybrid mismatches.*

**Amendment 377**

**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 61 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

To the extent that a hybrid mismatch between Member States results in a double deduction of the same payment, expenses or losses, the deduction shall be ***given only*** in the Member State ***where such payment has its source, the expenses are incurred or the losses are suffered.***

To the extent that a hybrid mismatch between Member States results in a double deduction of the same payment, expenses or losses, the deduction shall be ***denied*** in the Member State ***which is the investor jurisdiction.***

Or. en

**Amendment 378**

**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 61 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

To the extent that a hybrid mismatch involving a third country results in a double deduction of the same payment, expenses or losses, the Member State concerned shall deny the deduction of such payment, expenses or losses, unless the third country has already done so.

*Amendment*

To the extent that a hybrid mismatch involving a third country results in a double deduction of the same payment, expenses or losses, the Member State concerned shall deny the deduction of such payment, expenses or losses, unless the third country has already done so. ***The burden of proof to demonstrate that a third country has denied the deduction lies on the taxpayer.***

Or. en

**Amendment 379**

**Fabio De Masi, Matt Carthy, Stelios Kouloglou**

**Proposal for a directive**

**Article 61 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

To the extent that a hybrid mismatch involving a third country results in a double deduction of the same payment, expenses or losses, the Member State concerned shall deny the deduction of such payment, expenses or losses, unless the third country has already done so.

*Amendment*

To the extent that a hybrid mismatch involving a third country results in a double deduction of the same payment, expenses or losses, the Member State concerned shall deny the deduction of such payment, expenses or losses, unless the third country has already done so. ***The burden of proof of this denial shall be on the taxpayer.***

Or. en

**Amendment 380**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 61 – paragraph 2 – subparagraph 1**



*Text proposed by the Commission*

To the extent that a hybrid mismatch between Member States results in a deduction without inclusion, the Member State *of* the payer shall deny the deduction of such payment.

*Amendment*

To the extent that a hybrid mismatch between Member States results in a deduction without inclusion, the Member State ***which is*** the payer ***jurisdiction*** shall deny the deduction of such payment. ***Where the deduction is not denied in the payer jurisdiction, the Member State concerned shall require the taxpayer to include the amount of the payment that would otherwise give rise to a mismatch in the income of the payee jurisdiction.***

Or. en

**Amendment 381**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 61 – paragraph 2 – subparagraph 2 – introductory part**

*Text proposed by the Commission*

To the extent that a hybrid mismatch that involves a third country results in a deduction without inclusion:

*Amendment*

To the extent that a hybrid mismatch that involves a third country results in a deduction without inclusion, ***the deduction shall be denied in the Member State which is the payer jurisdiction of such payment. Where the deduction is not denied in the payer jurisdiction, the Member State concerned shall require the taxpayer to include the amount of the payment that would otherwise give rise to a mismatch in the income in the payee jurisdiction.***

Or. en

**Amendment 382**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 61 – paragraph 2 – subparagraph 2 – point a**

*Text proposed by the Commission*

*Amendment*

**(a) if the payment has its source in a Member State, that Member State shall deny the deduction, or** **deleted**

Or. en

**Amendment 383**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 61 – paragraph 2 – subparagraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) if the payment has its source in a third country, the Member State concerned shall require the taxpayer to include such payment in the taxable base, unless the third country has already denied the deduction or has required that payment to be included.** **deleted**

Or. en

**Amendment 384**

**Fabio De Masi, Matt Carthy, Stelios Kouloglou**

**Proposal for a directive**  
**Article 61 – paragraph 2 – subparagraph 2 – point b**

*Text proposed by the Commission*

*Amendment*

**(b) if the payment has its source in a third country, the Member State concerned shall require the taxpayer to include such payment in the taxable base, unless the third country has already denied the deduction or has required that payment to be included.**

**(b) if the payment has its source in a third country, the Member State concerned shall require the taxpayer to include such payment in the taxable base, unless the third country has already denied the deduction or has required that payment to be included. *The burden of proof of this***

*denial of deduction or requirement of inclusion shall be on the taxpayer.*

Or. en

**Amendment 385**

**Fabio De Masi, Matt Carthy, Stelios Kouloglou**

**Proposal for a directive**

**Article 61 – paragraph 4**

*Text proposed by the Commission*

4. To the extent that a payment by a taxpayer to an associated enterprise in a third country is set off directly or indirectly against a payment, expenses or losses which due to a hybrid mismatch are deductible in two different jurisdictions outside the Union, the Member State of the taxpayer shall deny the deduction of the payment by the taxpayer to an associated enterprise in a third country from the taxable base, unless one of the third countries involved has already denied the deduction of the payment, expenses or losses that would be deductible in two different jurisdictions.

*Amendment*

4. To the extent that a payment by a taxpayer to an associated enterprise in a third country is set off directly or indirectly against a payment, expenses or losses which due to a hybrid mismatch are deductible in two different jurisdictions outside the Union, the Member State of the taxpayer shall deny the deduction of the payment by the taxpayer to an associated enterprise in a third country from the taxable base, unless one of the third countries involved has already denied the deduction of the payment, expenses or losses that would be deductible in two different jurisdictions. ***The burden of proof of this denial shall be on the taxpayer.***

Or. en

**Amendment 386**

**Fabio De Masi, Matt Carthy, Stelios Kouloglou**

**Proposal for a directive**

**Article 61 – paragraph 5**

*Text proposed by the Commission*

5. To the extent that the corresponding inclusion of a deductible payment by a taxpayer to an associated enterprise in a third country is set off directly or indirectly

*Amendment*

5. To the extent that the corresponding inclusion of a deductible payment by a taxpayer to an associated enterprise in a third country is set off directly or indirectly

against a payment which, due to a hybrid mismatch, is not included by the payee in its taxable base, the Member State of the taxpayer shall deny the deduction of the payment by the taxpayer to an associated enterprise in a third country from the taxable base, unless one of the third countries involved has already denied the deduction of the non-included payment.

against a payment which, due to a hybrid mismatch, is not included by the payee in its taxable base, the Member State of the taxpayer shall deny the deduction of the payment by the taxpayer to an associated enterprise in a third country from the taxable base, unless one of the third countries involved has already denied the deduction of the non-included payment.

***The burden of proof of this denial shall be on the taxpayer.***

Or. en

## **Amendment 387**

**Markus Ferber**

### **Proposal for a directive**

#### **Article 61a**

*Text proposed by the Commission*

*Amendment*

#### **Article 61a**

***deleted***

#### ***Tax residency mismatches***

***To the extent that a payment, expenses or losses of a taxpayer who is resident for tax purposes in both a Member State and a third country, in accordance with the laws of that Member State and that third country, are deductible from the taxable base in both jurisdictions and that payment, those expenses or losses can be set-off in the Member State of the taxpayer against taxable income that is not included in the third country, the Member State of the taxpayer shall deny the deduction of the payment, expenses or losses, unless the third country has already done so.***

Or. de

#### *Justification*

*Council Directive 2017/952 amending Directive (EU) 2016/1164 on hybrid mismatches with*

*third countries already contains rules on dealing with hybrid mismatches and on incongruences concerning tax residency.*

#### **Amendment 388**

**Fabio De Masi, Matt Carthy, Stelios Kouloglou**

#### **Proposal for a directive**

#### **Article 61a – paragraph 1**

##### *Text proposed by the Commission*

To the extent that a payment, expenses or losses of a taxpayer who is resident for tax purposes in both a Member State and a third country, in accordance with the laws of that Member State and that third country, are deductible from the taxable base in both jurisdictions and that payment, those expenses or losses can be set-off in the Member State of the taxpayer against taxable income that is not included in the third country, the Member State of the taxpayer shall deny the deduction of the payment, expenses or losses, unless the third country has already done so.

##### *Amendment*

To the extent that a payment, expenses or losses of a taxpayer who is resident for tax purposes in both a Member State and a third country, in accordance with the laws of that Member State and that third country, are deductible from the taxable base in both jurisdictions and that payment, those expenses or losses can be set-off in the Member State of the taxpayer against taxable income that is not included in the third country, the Member State of the taxpayer shall deny the deduction of the payment, expenses or losses, unless the third country has already done so. ***The burden of proof of this denial shall be on the taxpayer.***

Or. en

#### **Amendment 389**

**Eva Joly**

on behalf of the Verts/ALE Group

#### **Proposal for a directive**

#### **Article 66 – paragraph 2**

##### *Text proposed by the Commission*

2. The power to adopt delegated acts referred to in Articles 2(5), 4(5), **11(6)**, 32(5) and 40 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.

##### *Amendment*

2. The power to adopt delegated acts referred to in Articles 2(5), 4(5), 32(5) and 40 shall be conferred on the Commission for an indeterminate period of time from the date of entry into force of this Directive.

**Amendment 390**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 66 – paragraph 3**

*Text proposed by the Commission*

3. The delegation of power referred to in Articles 2(5), 4(5), **11(6)**, 32(5) and 40 may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

*Amendment*

3. The delegation of power referred to in Articles 2(5), 4(5), 32(5) and 40 may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the Official Journal of the European Union or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

Or. en

**Amendment 391**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 66 – paragraph 5**

*Text proposed by the Commission*

5. A delegated act adopted pursuant to Articles 2(5), 4(5), **11(6)**, 32(5) and 40 shall enter into force only if no objection has been expressed by the Council within a period of [two months] of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by [two months] at the initiative of the Council.

*Amendment*

5. A delegated act adopted pursuant to Articles 2(5), 4(5), 32(5) and 40 shall enter into force only if no objection has been expressed by the Council within a period of [two months] of notification of that act to the Council or if, before the expiry of that period, the Council has informed the Commission that it will not object. That period shall be extended by [two months] at the initiative of the Council.

**Amendment 392**  
**Petr Ježek, Thierry Cornillet**

**Proposal for a directive**  
**Article 66 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 66a**

***Mandatory exchange of information on  
tax matters***

***In order for tax authorities to assess tax  
due properly and to ensure the proper  
implementation of this Directive, the  
exchange of information on tax matters  
shall be automatic and mandatory, as laid  
down by Council directive 2011/16/EU.***

***Member States shall allocate adequate  
staff, expertise and budget resources to  
their national tax administrations as well  
as resources for the training of tax  
administration staff focusing on cross-  
border tax cooperation and on the  
automatic exchange of information in  
order to ensure full implementation of  
this Directive.***

Or. en

**Amendment 393**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 66 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 66a**

***Minimum effective tax rate***

- 1. Two years after the date of***

*implementation of this Directive, Member States shall not be allowed to set an effective corporate tax rate below 20%, whilst no upper limit is set by this Directive.*

*2. By way of derogation of paragraph 1, Member States may request an extended deadline to the European Commission, so as to keep an effective corporate tax rate below 20% for longer than two years after the implementation of this Directive, but for no longer than seven years after its implementation. The derogation request shall be motivated and authorised by the European Commission. When deciding on a possible extension of the phasing-in period for a particular Member State, due account shall be taken of the specific situation of that Member State, the objective reasons for the request, and the impact of such a derogation on other Member States.*

Or. en

**Amendment 394**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 66 b (new)**

*Text proposed by the Commission*

*Amendment*

**Article 66b**

**Measures against tax treaty abuses**

***Member States shall amend their bilateral tax treaties according to this Directive to ensure such treaties contain:***

- (a) a clause ensuring that both parties to the treaty commit that tax will be paid where economic activities are taking place and where value is created;***
- (b) an addendum to clarify that the objective of bilateral treaties, beyond***



*avoiding double taxation is also to fight tax evasion and aggressive tax planning;*

*(c) a clause for a principal purpose test based general anti-avoidance rule.*

Or. en

**Amendment 395**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 67 a (new)**

*Text proposed by the Commission*

*Amendment*

*Article 67a*

*Monitoring*

*The Commission shall put in place a specific monitoring mechanism to ensure the proper implementation of this Directive and the homogeneous interpretation of its measures by Member States.*

Or. en

**Amendment 396**

**Markus Ferber**

**Proposal for a directive**

**Article 69 – paragraph 1**

*Text proposed by the Commission*

*Amendment*

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council on the operation of this Directive.

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council *and to the European Parliament* on the operation of this Directive.

Or. de

**Amendment 397**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 69 – paragraph 1**

*Text proposed by the Commission*

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council on the operation of this Directive.

*Amendment*

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council **and the European Parliament** on the operation of this Directive.

Or. en

**Amendment 398**

**Marco Valli**

**Proposal for a directive**

**Article 69 – paragraph 1**

*Text proposed by the Commission*

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council on the operation of this Directive.

*Amendment*

The Commission shall, five years after the entry into force of this Directive, review its application and report to the **European Parliament and the** Council on the operation of this Directive.

Or. en

**Amendment 399**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 69 – paragraph 1 a (new)**

*Text proposed by the Commission*

*Amendment*

***The review shall include an impact assessment of an extension of the scope of this Directive to all companies.***

**Amendment 400**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 69 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***Notwithstanding the first subparagraph, the Commission shall, three years after the entry into force of this Directive, examine the functioning of Article 11 and consider adjustments to the definition and calibration of the AGI. The Commission shall undertake a thorough analysis of how the AGI can encourage companies that are entitled to opt for applying the rules of this Directive to finance their activities through equity.***

***deleted***

Or. en

**Amendment 401**

**Fabio De Masi**

**Proposal for a directive**

**Article 69 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

***Notwithstanding the first subparagraph, the Commission shall, three years after the entry into force of this Directive, examine the functioning of Article 11 and consider adjustments to the definition and calibration of the AGI. The Commission shall undertake a thorough analysis of how the AGI can encourage companies that are entitled to opt for applying the rules of this Directive to finance their activities through equity.***

***deleted***

**Amendment 402**

**Markus Ferber**

**Proposal for a directive**

**Article 69 – paragraph 2**

*Text proposed by the Commission*

*Amendment*

*Notwithstanding the first subparagraph, the Commission shall, three years after the entry into force of this Directive, examine the functioning of Article 11 and consider adjustments to the definition and calibration of the AGI. The Commission shall undertake a thorough analysis of how the AGI can encourage companies that are entitled to opt for applying the rules of this Directive to finance their activities through equity.*

*deleted*

Or. de

**Amendment 403**

**Paul Tang, Neena Gill, Emmanuel Maurel, Nessa Childers, Hugues Bayet, Peter Simon, Pervenche Berès**

**Proposal for a directive**

**Article 69 – paragraph 2 a (new)**

*Text proposed by the Commission*

*Amendment*

*The Commission shall monitor and publish its findings on the uniform implementation of this directive so as to avoid situations in which 28 competent authorities enforce 28 different regimes, and on the potential problems produced by differences in accounting regimes.*

Or. en

**Amendment 404**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 69 – paragraph 3**

*Text proposed by the Commission*

*The Commission shall communicate its findings to Member States with the aim to take those findings into account for the design and implementation of national corporate tax systems.*

*Amendment*

*deleted*

Or. en

**Amendment 405**

**Petr Ježek, Lieve Wierinck**

**Proposal for a directive**

**Article 69 – paragraph 3**

*Text proposed by the Commission*

The Commission shall communicate its findings to Member States with the aim to take those findings into account for the design and implementation of national corporate tax systems.

*Amendment*

The Commission shall communicate its findings ***in a report*** to Member States ***and the European Parliament*** with the aim to take those findings into account for the design and implementation of national corporate tax systems. ***The report shall include an analysis of the following elements : The impact of this system on Member States tax revenues, the practicability and advantages and disadvantages of making the system mandatory for SMEs, the impact on a fair tax collection between member States and the impact on the internal market as a whole, with particular regard to possible distortion of competition between companies subject to the new rules laid down in this directive;***

Or. en

**Amendment 406**  
**Marco Valli**

**Proposal for a directive**  
**Article 69 a (new)**

*Text proposed by the Commission*

*Amendment*

**Article 69a**

**Sanctions**

***Member States shall provide for sanctions for infringements of the national provisions adopted in accordance with this Directive and shall take all the measures necessary to ensure that those sanctions are enforced. The sanctions provided for shall be effective, proportionate and dissuasive.***

Or. en

**Amendment 407**  
**Brian Hayes, Gunnar Hökmark, Frank Engel**

**Proposal for a directive**  
**Article 70 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> December **2018** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Member States shall adopt and publish, by 31<sup>st</sup> December **2023** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

**Amendment 408**  
**Eva Joly**  
on behalf of the Verts/ALE Group

**Proposal for a directive**  
**Article 70 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall adopt and publish, by 31<sup>st</sup> December **2018** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> December **2019** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. en

**Amendment 409**

**Marco Zanni**

**Proposal for a directive**

**Article 70 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall adopt and publish, by 31<sup>st</sup> December **2018** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> December **2019** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. it

**Amendment 410**

**Markus Ferber**

**Proposal for a directive**

**Article 70 – paragraph 1 – subparagraph 1**

*Text proposed by the Commission*

Member States shall adopt and publish, by 31<sup>st</sup> January **2018** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

*Amendment*

Member States shall adopt and publish, by 31<sup>st</sup> January **2019** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Or. de

**Amendment 411**

**Brian Hayes, Gunnar Hökmark, Frank Engel**

**Proposal for a directive**

**Article 70 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1<sup>st</sup>  
January **2019**.

*Amendment*

They shall apply those provisions from 1<sup>st</sup>  
January **2024**.

Or. en

**Amendment 412**

**Marco Zanni**

**Proposal for a directive**

**Article 70 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1st  
January **2019**.

*Amendment*

They shall apply those provisions from 1st  
January **2020**.

Or. it

**Amendment 413**

**Eva Joly**

on behalf of the Verts/ALE Group

**Proposal for a directive**

**Article 70 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1<sup>st</sup>  
January **2019**.

*Amendment*

They shall apply those provisions from 1<sup>st</sup>  
January **2020**.

Or. en

**Amendment 414**

**Markus Ferber**



**Proposal for a directive**  
**Article 70 – paragraph 1 – subparagraph 2**

*Text proposed by the Commission*

They shall apply those provisions from 1st January **2019**.

*Amendment*

They shall apply those provisions from 1st January **2020**.

Or. de