State of Tax, Legal & People

EU Tax Policy Developments

7 November 2023

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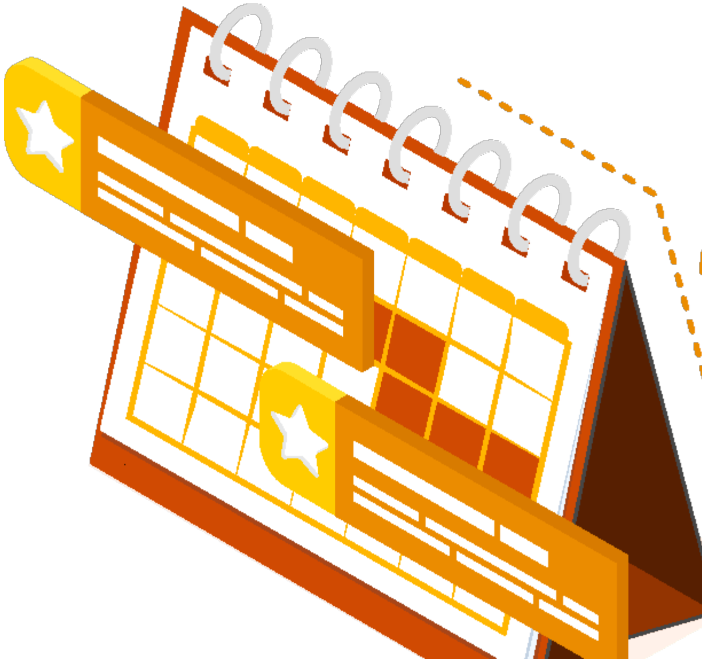
Agenda

1. Functioning of the EU
2. European elections
3. Global Tax Policy Developments
4. European Tax Policy Developments



01

Functioning of the EU

Institutions

European Parliament

Located in Brussels,Strasbourg, Luxembourg | Currently the Parliament has 705 Members. after the elections the Parliament will have 720 Members | 27 Committees | 7 Political Groups | 45 Delegations

European Council (EU heads of state government)

Located in Brussels | Defines the EU's overall political direction and priorities and sets the EU's Policy Agenda

Composition & Function

Council of the European Union

Located in Brussels, Luxembourg | negotiates and adopts EU laws | Coordinates Member States' Policies | Develops the EU's common foreign & security policy | concludes international agreements' | adopts the EU budget

European Commission

Located in Brussels, Luxembourg | Has representations across the EU | 26 Commissioners (collegs)

Decision-making

Legal Base Articles 289(2) TFEU		
Phase	**Process description**	**Application to tax**
Proposal	**The European Commission submits legislative proposals to the Council of the European Union**	**Working Parties on Taxation** 1. Working Party on Tax Questions Indirect Taxation- Direct Taxation 2. Code of Conduct Group (Business Taxation)
Opinion	**The Council of the European Union submits the proposal to the European Parliament to receive an opinion** ● The Parliament has the power to approve, reject or propose amendments to the legislative proposal ● The Council is not legally obliged to take the Parliament's opinion into account, but according to the case-law of the Court of justice, it must not take a decision without having received it.	**European Parliament bodies on taxation** Subcommittee on Tax Matters (FISC) consulted on tax proposals, but has no formal power.* * FISC is a subcommittee of the Committee on Economic and Monetary affairs (ECON)
Adoption	**The Council of the European Union adopts or rejects the legislative proposal** ● After the Parliament has provided an opinion, the Council can adopt the legislative proposal	**ECOFIN adopts by unanimity or rejects the legislative proposal**

02 European elections

Poll

When are the next elections for the European Parliament?

1. 20-23 March 2024
2. 6-9 June 2024
3. 10-13 July 2024

Poll

When are the next elections for the European Parliament?

1. 20-23 March 2024
2. **6-9 June 2024**
3. 10-13 July 2024

2024 elections

December 2023 + January & February 2024

National Parties choose their candidates for the European elections

End April 2024

Deadline for submitting lists of candidates

6-9 June 2024

European Parliament elections

June 2024

European Council – acting by a qualified majority – proposes to the EP a candidate for President of the European Commission

July 2024

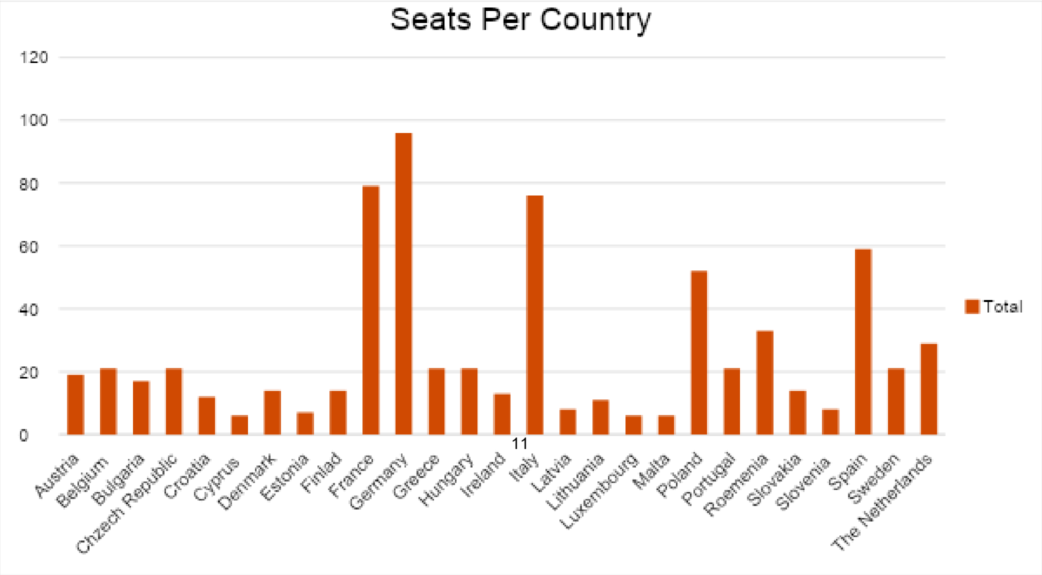
EP – acting by majority – approves or rejects the President of the European Commission

2024 elections

European Parliament

- Proportional representation: The number of seats is divided in a way that every country is represented, based on the number of inhabitants.
- Countries with a high representation are: Germany, France, Italy, Spain and Poland
- After the 2024 election, the Parliament will consist of 720 (currently 705) members. Member States that have been allocated more seats are

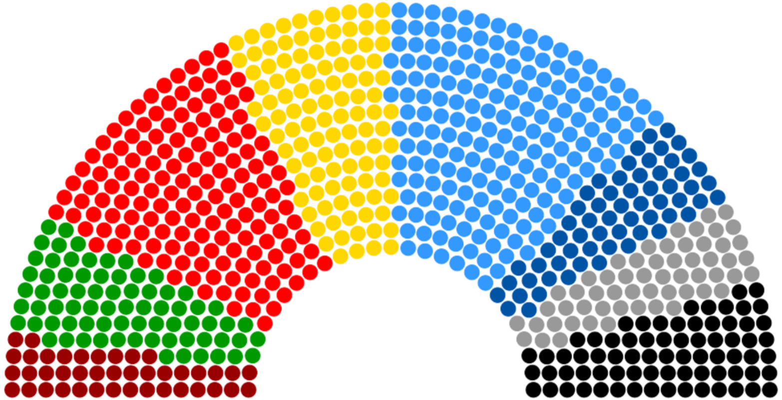
- Belgium + 1 (22)
- Denmark + 1 (15)
- Ireland +1 (14)
- Spain + 2 (61)
- France + 2 (81)
- Latvia +1 (9)
- The Netherlands +2 (31)
- Austria +1 (20)
- Poland +1 (53)
- Finland +1 (15)
- Slovenia +1 (9)
- Slovakia +1 (15)



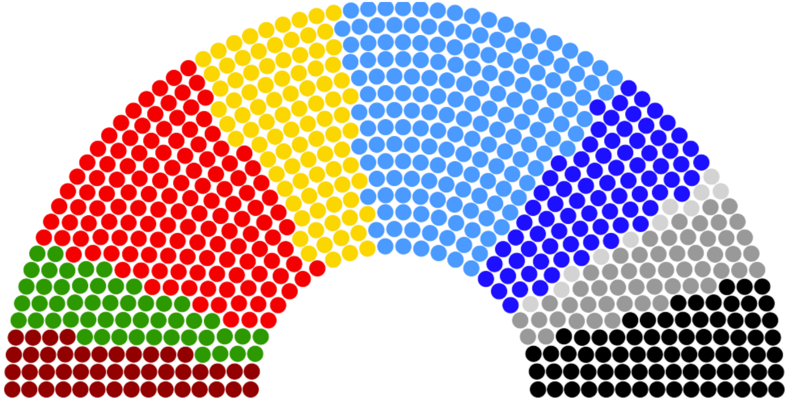
Source: European Parliament

2024 elections

European Parliament
Results of the 2019 election



European Parliament
October 2023 projection of the 2024 election



- GUE/NGL (LEFT)
- Greens/ European Free Alliance
- Progressive Alliance of Socialists and Democrats (S&D)
- Renew Europe
- European People's Party (Christian Democrats) (EPP)
- Conservatives and Reformists (ECR)
- Unaffiliated parties
- Non-Inscrits (NI)
- Identity and Democracy Group (ID)

Source: Europe elects

03

Global tax policy developments

Global tax agenda

OECD

Pillar 1 MLC Amount A

Pillar 1 Amount B consultation

Incorporation TP Guidelines January 2024

Pillar 2: Incorporation Administrative Guidance with more detailed examples in Commentary. Commentary of 2022 will be revised, scheduled for later this year.

STTR implementation from October 2023 via a multilateral treaty.

Guidance GLoBE return

OECD

Developments

UN

Publication UN Secretary-General 8 August 2023:

The options:
(1) a multilateral convention on tax (e.g., information exchange, modification of taxing rights)

(2) a framework convention on international tax cooperation, and

(3) a framework for (non-binding) international tax cooperation.

GENERAL ASSEMBLY

FINANCIAL TIMES 29-8-2023

OECD and UN tussle for control over international tax affairs

Other: Colombian - Chilean initiative

Introduction of new ministerial decision platform

Inauguration 27-28 July summit

Key areas

- Reallocation of taxing rights
- Tax Competition
- Taxation of wealth

04

European tax policy developments

Overview

Public CbCR Directive
Publication in EU's Official Journal. Requirement for large multinationals to publicly disclose paid corporate income tax.

Regulation Foreign Subsidies proposal
Notification tools on mergers, acquisitions and joint ventures, public procurement

Own resources package
Announcement of a Proposal for three new resources of revenue for the EU: emissions trading, CBAM and re-allocation Pillar 1

EU Taxonomy
Identification of activities included in EU Taxonomy (eligible) - to be included in 2021 Reporting

ETR Disclosure proposal
Obligation for large companies to publish paid effective tax rates, based on Pillar 2 methodology. Expected in the first half of 2022. (DELAYED)

Directive Proposals own resources
Anticipated EC Directive proposals for three new resources of revenue. Expected in the first half of 2022. (DELAYED)

EU Withholding Tax
Reducing the administrative burdens associated with WHT and preventing abuse of mismatches. Legislative proposal expected in 7 Juni 2023.

SAFE
Tax evasion & aggressive tax planning in the EU – tackling the role of enablers
Public consultation

DAC8 Directive proposal
Tax reporting obligations for income generated from investments or payments in e-money and crypto-assets

EU Taxonomy
Identification of activities included in EU Taxonomy (aligned) - to be included in 2022 Reporting
Tax implication:
Meeting "Minimum Safeguards" refers, a.o. to OECD Guidelines for MNEs, and includes "Taxation" as one of the four substantive topics

Introduction own resources
Introduction of three new resources of revenue: emissions trading, CBAM and re-allocation Pillar 1.

Transposition deadline ATAD 3 Directive
Preventing the misuse of shell entities with no to minimal substance (DELAYED)

SAFE
Tax evasion & aggressive tax planning in the EU – tackling the role of enablers
Proposal for a directive

Proposal second basket own resources
Second basket of new resources for revenue for the EU. Expected at the end of 2023.

Application of ATAD 3 Directive in the EU
Preventing the misuse of shell entities with no to minimal substance

CSRD
Corporate Sustainability Reporting Directive to replace NFRD - 2023 Reporting
Tax implication:
Meeting "Minimum Safeguards" refers to OECD Guidelines for MNEs, and includes "Taxation" as one of the four substantive topics

2021 · 05/05 · 02/12 · 20/12 · 22/12 · 2022 · 1/1 · 1/2 · 11/05 · Q2 · 07-10 · 13/10 · Q4 · 12 · 2023 · 01/01 · 22/06 · 30/06 · Q3 · Q4 · Q4 · 31/12 · 2024 · 01/01

OECD Pillar 2 'model rules'
Framework for a global system that brings the total amount of taxes paid on multinationals excess profit to the minimum effective rate of 15%.

Pillar 2 Directive proposal
Implementation of a minimum level of corporate taxation of 15%, in line with the OECD 'model rules'.

ATAD 3 Directive proposal
Preventing the misuse of shell entities with no to minimal substance.

Final report on Social Taxonomy
Platform on Sustainable Finance published report to advise EC on extension of EU Taxonomy
Tax Implication:
Transparent and non-aggressive tax planning explicitly mentioned as "governance topic directly linked to sustainability"
Timeline TBD

DEBRA Directive proposal
Proposal for a debt-equity bias reduction allowance and a limitation of deductibility of exceeding borrowing costs.

BEFIT Public consultation
'Business in Europe: Framework for Income Taxation' will provide a single corporate tax rulebook for the EU.
Initial policy options published along with call for feedback.

Proposed - First EU Directives and EU Regulations of the EU Green Deal to come into force
Potential increased payments, reporting and compliance obligations with the main focus on the carbon intensity of products

Implementation deadline Public CbCR Directive
Requirement for large multinationals to publicly disclose paid corporate income tax

BEFIT Directive proposal
'Business in Europe: Framework for Income Taxation' will provide a single corporate tax rulebook for the EU.

Application of Pillar 2 Directive in the EU
mplementation of a minimum level of corporate taxation of 15%, in line with the OECD 'model rules'.

Application of DEBRA Directive
Debt-equity bias reduction allowance and a limitation of deductibility of exceeding borrowing costs.

Poll

Which EU Member State will hold the presidency of the Council of the EU in the first half of 2024?

1. France
2. Hungary
3. Belgium

Poll

Which EU Member State will hold the presidency of the Council of the EU in the first half of 2024?

1. France
2. Hungary
3. **Belgium**

EU tax agenda

European Commission

Pending proposals:

- Unshell (ATAD 3)
- DEBRA
- VAT digital age
- FASTER
- SAFE: on hold
- BEFIT/TP/HOT

Upcoming proposals:

- Proposal for an amendment to Council Regulation (EU) No 904/2010 on administrative cooperation and combating fraud in the field of VAT: Q2 2024

European Council

Priorities Spanish presidency
(1 July - 31 December 2023)

- reindustrialising the EU;
- making progress on ecological transition;
- social and economic justice;
- strengthening European unity.

Topics on the agenda of the ECOFIN

- 8 December: Political agreement VAT in the digital age package and Progress report FASTER

Priorities (tax) Belgian presidency

(1 January - 30 June 2024)

- Pillar 1
- FASTER;
- Framework BEFIT;
- VAT gap;
- Possible FTT.

Trio programme - Spain, Belgium, Hungary

(1 July 2023 - 31 December 2024)

“The trio will take forward the transposition into EU law of the OECD framework on the reform of international taxation.”

European Parliament FISC Subcommittee

Mid november draft report BEFIT, TP, HOT

30 November: Exchange of views with the Chair of the Code of Conduct Group on Business Taxation

Unshell (ATAD 3)

Identifying shell entities with no minimal substance and economic activity via the seven-step 'Substance Test':

1. The reporting undertakings - 'Gateway' (Article 6)

- Identifying which undertakings are subject to the reporting obligation based on relevant income, cross-border activity and outsourced administration and decision-making.

2. Reporting of 'high-risk' undertakings (Article 7)

- Undertakings that are subject to the reporting obligation should report need to report on their substance in their tax return.

3. Presumption of minimum substance and tax abuse (Article 8)

- If evidence of minimum substance is not reported, undertakings are presumed to be a shell.

4. Possibility of rebuttal (Article 9)

- Presumed shells can rebut the presumption by providing evidence that the undertaking is no shell due to commercial rationale.

5. Exemption for lack of tax motives (Article 10)

- Presumed shells can be exempt from the obligations of the Directive if the existence of the undertaking does not reduce the tax liability of its BOs or of the group.

6. Tax consequences (Articles 11 and 12)

- Shell entities are denied tax residence certificates and tax benefits from EU Directives and tax treaties.

7. Exchange of information

- EU Member States can exchange information on entities that pass the 'Gateway'.

ATAD 3

Draft Ecofin report to the European Council on tax issues (7 June 2023) (Swedish presidency)

- Partial compromise texts
- Background notes on several aspects of the draft Directive, including a timeline on reporting deadlines, as well as a compromise text covering the whole Directive.
- Progress: scope, criteria of minimum substance, tax consequences and tax residency certificate

"Further discussions will be needed in order to find compromise solutions on outstanding issues, also with the common objective to limit administrative burdens for both taxpayers and tax administrations. Delegations stressed the interlinkages between different parts of this complex Directive, meaning that an orientation chosen in one part of the Directive might influence the solution in other parts."

SAFE

SAFE options

Due diligence procedures

- to perform a self-assessment test to demonstrate that the tax schemes do not lead to tax evasion or aggressive tax planning

EU registration

- in order to provide tax services to EU taxpayers plus due diligence procedures

Code of conduct

- that would prohibit the enablers who design, market, organise or assists in the creation of tax evasion and aggressive tax planning schemes without any complementary mandatory measures

New reporting requirement

- for EU taxpayers of participation above 25% of shares, voting rights, ownership interest, bearer shareholdings or control via other means in a non-listed company outside the EU

Background and the package of proposal of 12 September 2023

- BEFIT first announced in May 21 in the communication on Business Taxation in the 21st century
- The European Commission published a ***new package*** of 3 proposals on 12 September to put forward:

  (i) a single set of tax rules for doing business in the EU (Council Directive on Business in Europe: Framework to Income Taxation (BEFIT)),

  (ii) harmonised transfer pricing rules within the EU (Council Directive on Transfer Pricing) and

  (iii) a Head-Office Tax system for micro, small, and medium-sized enterprises (SMEs) (Council Directive establishing a Head Office Tax system for micro, small, and medium-sized enterprises, and amending Directive 2011/16/EU (the HOT proposal).

- The CCCTB proposals (that stem from 2011) will be withdrawn

BEFIT in more detail

- Mandatory for groups with annual revenues greater than 750 million euros
- BEFIT-group includes **75%** owned subsidiaries
- Non-EU headquartered groups: their EU entities will be included in the BEFIT group if EU-revenue > 50 million euro (and is at least 5% of the total revenue) in 2 out of 4 years
- Optional for smaller groups
- Applying the BEFIT rules
  - compute the BEFIT tax base at entity level
  - aggregate the tax base at EU-level
  - allocate the aggregated tax base via a transitional allocation rule (fiscal years 1 July 2028 – 1 July 2035)
  - allocation based on the average taxable results in the previous 3 years
  - EU MS can apply post-allocation adjustments
- Transitional allocation mechanism in order to first understanding the impact of P1/P2 before moving to final formulary apportionment rules)
- Cross border loss relief
- BEFIT-Information Return
- OSS for filing

Observations

- BEFIT-tax base is not fully aligned with GloBE tax-base (e.g only 95% dividends excluded)
- EU-specific rules on depreciation, bad debts, valuation of stock and provisions
- No adjustment for non arm's-length comparable with 3.2.3 Model Rules
- Traffic light system transfer pricing only for a limited number of situations
- Transitional allocation mechanism may stimulate tax administrations to maximize taxable profits (in pre-BEFIT year
- OSS, but audits and disputes remain at MS-level
- Impact assessment does not provide quantitative impacts for MS

Transfer Pricing

Aim

- Harmonising transfer pricing (TP) rules within the European Union
- Ensuring a common approach to TP problems

Scope

- Taxpayers that are registered in, or subject to tax in, one or more EU Member States, including permanent establishments (PEs) in one or more EU Member States.

Measures

- Incorporate the arm's length principle and key TP rules into EU law
- Clarify the role and status of the OECD TP Guidelines
- Create the possibility of establishing common binding rules on specific aspects of the rules within the European Union.

Application

- If adopted, the EU Member States should implement the TP rules by 1 January 2026

Faster and Safer Relief of Excess Withholding Taxes (FASTER) Directive

Benefits and challenges for investors

- It will allow investors to submit their WHT refund request digitally, making the reclaim process faster and smoother, with guaranteed timelines to process refunds.
- Unclear how some aspects will operate, *e.g.*, the beneficial owner declaration, the responsibilities for certified financial intermediaries, anti-abuse measures, etc.

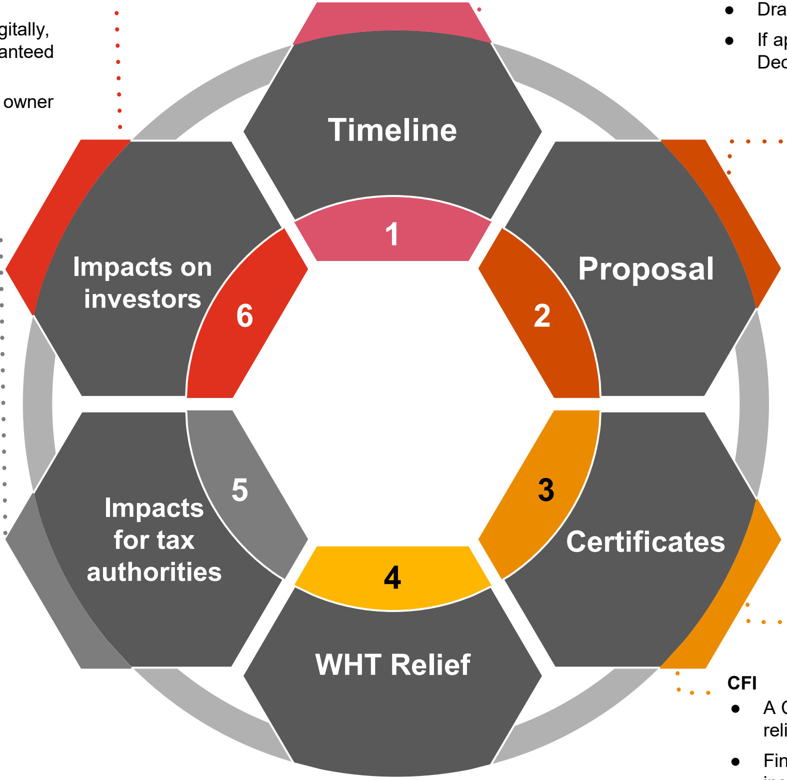
Benefits and challenges for tax authorities

- Tax Authorities will have full visibility of the financial chain to check which investors are eligible for reduced rates and to ensure that a WHT relief at source or refund is correctly granted.
- Timelines to process digital certificates and refunds may prove a challenge for tax administrations.

Proposed system for WHT relief

Member States would be required to introduce at least one of the two fast-track procedures:

1. a <u>relief at source system</u>, applying the WHT rate established by relevant tax treaty for that payment; and/or
2. a <u>quick refund system</u>, resulting in the refund of the excess WHT within a maximum of 25 days from:
   (i) the date of the request; or
   (ii) the date when the required reporting is fulfilled,
   whichever is latest. This should take place within 50 calendar days from the payment date.



Key dates

- Draft Directive published on 19 June 2023.
- If approved, Member States shall implement the Directive by 31 December 2026 and apply its provisions from <u>**1 January 2027**</u>.

Objective

Facilitate cross-border investments in the EU and ensure fair taxation by introducing a more efficient WHT procedure, and providing Member States with tools to effectively fight tax fraud and abuse.

To achieve these objectives, the Directive proposes:

1. Creation of a common EU digital tax residence certificate ('eTRC'),
2. Establishment of national registers for the Certified Financial Intermediaries ('CFI'),
3. Setting-up a common standard for reporting obligation for the CFI's, and
4. The obligation for Member States to set up a relief at source system or quick refund system (or a combination of both) to provide for relief from WHT.

eTRC

- Digital certificate with a common content issued by the Member State of residency within 1 working day.

CFI

- A CFI would be required for investors to have access to the WHT reliefs proposed by FASTER.
- Financial intermediaries would be certified on a compulsory (large institutions) or voluntary basis (others, including 3rd countries).

Poll

What new own resources did the Commission not propose?

1. Emissions Trading System (ETS)
2. Carbon Adjustment mechanism
3. Plastic own resource (non-recycled plastic packaging waste)

Poll

What **new** own resources did the Commission **not** propose?

1. Emissions Trading System (ETS)
2. Carbon Adjustment mechanism
3. **Plastic own resource (non-recycled plastic packaging waste)**

New Resources

Current own resources

Main sources of revenue for the 2021-2027 EU:

- National contributions by EU Member States
- Custom duties
- Value Added Tax (VAT) collected by Member States
- Plastic own resource (non-recycled plastic packaging waste)

New own resources

On 22 June 2023, the Commission completed its proposal for a next generation of own resources. Proposed new own resources:

- Emissions Trading System (ETS)
- Carbon adjustment mechanism (CBAM)
- A temporary statistical based own resource on company profits
  According to the proposal the own resource will be calculated as 0,5% of the notional EU company profit base, and indicator calculated by Eurostat on the basis of the national accounts statistics

Link with Pillar 1

- European Parliament urges Commission to submit a legislative proposal to introduce a digital levy in the absence of progress on the implementation of Pillar 1.
- In any case, such a legislative proposal should be tabled in the absence of the ratification of a Multilateral Convention implementing Pillar 1 by a critical mass of countries by 31 December 2025. Such digital levy should then be considered an own resource of the Union. (22 August 2022, draft opinion proposal own resources)
- Possible revival DST?

Link with BEFIT

- The new statistical own resource based on company proifts will be temporary, to be replaced by a possible contribution from Business in Europe: Framework for Income Taxation (BEFIT), once proposed and unanimously agreed by all Member States

Public CbCR

Proposal to amend the Accounting Directive (Directive 2013/34/EU) in order to:

- Provide an essential element to further foster corporate transparency and responsibility, thereby contributing to the welfare of EU societies
- Promote a better-informed public debate on the level of tax compliance of MNEs and the impact of this on the economy
- Serve the general economic interest by providing for safeguards for the protection of investors, creditors and other third parties generally

Interaction with DAC/BEPS Action 13

- It would be permissible for the data to correspond to the reporting specifications for the CbCR covered by DAC (Directive 2011/16/EU) - and thereby effectively BEPS Action 13 if this is published.

Penalties

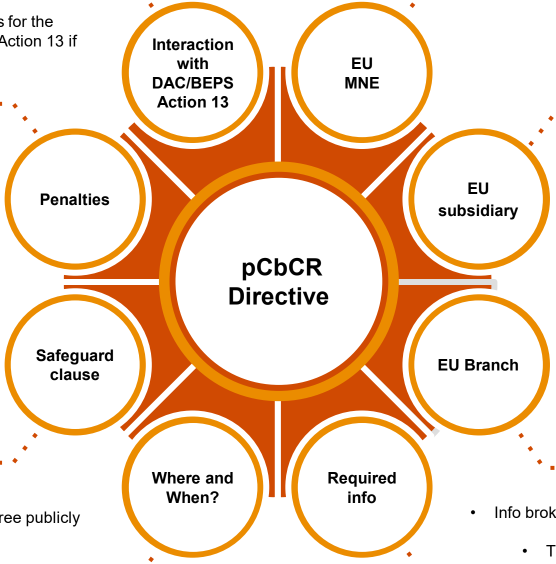
- Penalties to be set by each Member State in accordance with Article 51 of the Directive.
- The penalties provided are to be effective, proportionate and dissuasive.
- Would apply to the detailed components of the report, timing, and other requirements.
- Excludes "comply or explain" subsidiaries and branches for consolidated group info reporting

Safeguard clause

- Possibility to defer disclosing certain commercially sensitive information for a number of years if deferral disclosed and includes a reasoned explanation for it in the report.

Where and When?

- Parent company, EU subsidiary or EU branch website or that of an affiliate, or free publicly available Member State's corporate register (referenced at the website).
- Within 12 months from balance sheet date for 5 years



Ultimate EU parent company

- EU MNE with >€750m consolidated revenues in the last 2 financial years if there is at least one large or medium-sized entity in the EU
- Exclusion for single jurisdiction operations undertakings

An EU subsidiary of a non-EU MNE

- EU subsidiary of a non-EU MNE with group consolidated revenue >€750M and the report was not suitably published elsewhere (including identifying any EU presence), OR
- explain the reasons for the omission and publish its own report if its revenues are >€750M

An EU branch, if non-EU MNE & no EU subsidiary

- An EU branch, if non-EU MNE & no EU subsidiary if group consolidated revenues >€750M and the report was not suitably published elsewhere (including identifying any EU presence OR
  - explain the reasons for the omission.
- "Small branches" are excluded, i.e., where (2 of 3): balance sheet ≤4.4M, turnover ≤€8M, average number of employees ≤50

Required info

- Info broken down by each Member State & EU "Blacklisted" countries; aggregate number for all other 3rd countries
- Total revenue, PBT, tax paid & accrued, average # of employees, total accumulated earnings.

2016	**Commission pCbCR proposal**
2019	**COMPET meeting with no QMV support + 10 MS joint statement against QMV**
Feb/March 2021	**QMV mandate agreed by Council and the "Coreper"**
Nov/Dec 2021	**Adoption + entry into force**
22 June 2023	**Transposition deadline**
1 Jan 2025	**pCbCR effective**
31 Dec 2026	**Publication of report** (depending on transposition, may be earlier)

Green Deal/ Fit for 55

Review Initiatives

Carbon pricing and impose taxes on **imported** products will increase CO² costs and hence promote **clean energy**

- Emissions Trading System (ETS)
- Energy Tax Directive (ETD)
- Carbon Border Adjustment Mechanism (CBAM)

Increased ambitions for renewable energy and environmental friendly solutions will positively contribute towards **net zero**

- Renewable Energy Directive (RED)
- Energy Efficiency Directive (EED)
- Energy Performance of Buildings Directive (EPBD)
- Effort Sharing Regulation (ESR)

Sector specific regulations and H² infrastructure are becoming key elements

- CO² emission performance standards for cars and vans
- Alternative Fuels Infrastructure
- ReFuelEU - Aviation - Maritime

European Green Deal

2019 · 2020 · 2021 · 2023 · 2024 · 2025 · 2026 · 2027 · 2030 · 2034

Dec. 2019 EU Green Deal

Dec. 2020 2023 goal of 55% reduction

Jun. 2021 EU Climate Law

Jul. 2021 Fit for 55 package

ETD Initial implementation date missed

CBAM Transition period

ETS Maritime Phase in

ETS Aviation Revised

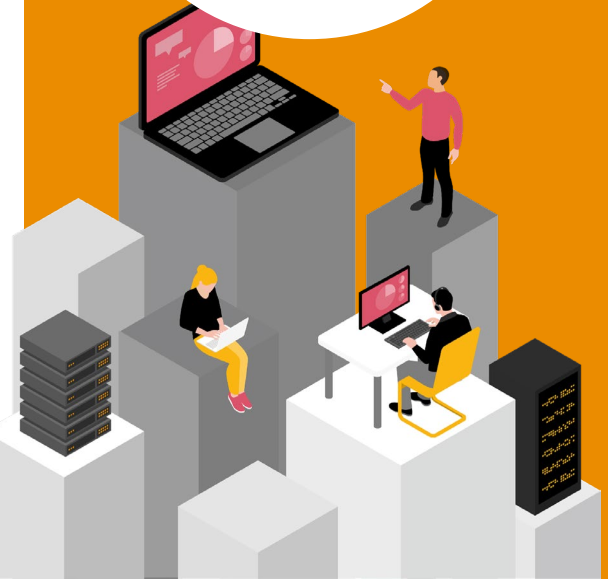
EU ETS Revised

CBAM Start Phase-in

Phase-in CBAM

EU ETS Road Transport and built environment

05 Foreign Subsidies



FSR

- State Aid is prohibited unless justified. European Union has exclusive power to regulate which state support is allowed, to ensure equal level playing field between EU Member States.
- State aid law gives European Commission far reaching powers to review and potentially block state aid if state aid law is infringed
- As a result of the Green Deal Industrial Plan and other new EU policies (such as for the creation of large European projects or companies), these EU rules have become less stringent.
- At the same time, the European Commission wants to tackle state aid provided by non-EU governments. FSR establishes equal level playing field “between EU and non EU state aid”.

Key dates

12 January 2023
FSR entered into force

12 July 2023
FSR starts to apply

12 October 2023
FSR notification requirements in force

Taxonomy Reg
creates dictionary what constitutes "renewable energy"

SUPD
Regulates and reduces use disposable plastics

CORSIA
implements carbon offsetting requirements scheme aviation

Env crime Dir
defines environmental crime offences.

Elec Reg & Dir
transform Electricity Markets

ETD
aligns taxation energy products with EU climate policies

Deforestation Reg
sets mandatory dd rules de-forestation-free commodities

CSRD
introduces detailed reporting on sustainability

Forced Labor Reg
bans products linked to forced labor

MSR Decision
amends market stability reserve

ReFuelEU aviation Reg
decarbonizes aviation sector

GBER
allows state aid for sustainability goals without approval European Commission

EPBD
requires new buildings zero-emission 2030, existing buildings zero-emission by 2050.

RED
defines 'renewable sets binding targets

ETS Dir
amends and extends EU's ETS

Gas Reg & Dir
transform Gas Markets

EU GREEN DEAL LAWS

CBAM
sets carbon tariffs carbon intensive products

EMD Dir
transforms electricity market design

ESPR
Improves environmental performance of energy-related products

LULUCF Reg
sets objective 310 Mt CO2 equivalent of net removal for land use, land use change and forestry

SCF Reg
establishes Social Climate Fund

MRV Reg
brings emissions shipping within ETS

FuelEU Mar Reg
decarbonises maritime sector

CSDD
introduces corporate dd duty

ETS Aviation Dir
phases out emission allowances

REMIT
combats market manipulation

AFIR
creates more recharging and refueling stations in EU

NZIA
accelerates use of clean technologies

CRMA
strengthen EU's critical raw materials capacities

SFDR
creates reporting framework fin products and entities

EEAG
allows state aid for sustainability goals after approval European Commission

TCTF
allows state aid to speed up transition to net-zero economy

LDV Reg
imposes 100% CO2 emission reduction for passenger cars and LCV

Methane Emiss. Reg
reduces methane emissions energy sector

NFRD
requires companies to publish a non-financial report on their ESG performance

Batteries Reg
Regulates sustainable practices lifecycle of batteries

PWDD
sets targets for sustainable packaging waste management and recycling

EED
reduces energy consumption by 11.7% in 2030

ESR
emission reduction target 40% 2030 for agri, transport, buildings waste

Taxonomy Reg
creates dictionary what constitutes "renewable energy"

SUPD
Regulates and reduces use disposable plastics

CORSIA
implements carbon offsetting requirements scheme aviation

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defines environmental crime offences.

Elec Reg & Dir
transform Electricity Markets

ETD
aligns taxation energy products with EU climate policies

Deforestation Reg
sets mandatory dd rules for de-forestation-free commodities

CSRD
introduces detailed reporting on sustainability

Forced Labor Reg
bans products linked to forced labor

MSR Decision
amends market stability reserve

ReFuelEU aviation Reg
decarbonizes aviation sector

GBER
allows state aid for sustainability goals without approval European Commission

EPBD
requires new buildings zero-emission 2030, existing buildings zero-emission by 2050.

RED
defines 'renewable sets binding targets

ETS Dir
amends and extends EU's ETS

Gas Reg & Dir
transform Gas Markets

EU GREEN DEAL LAWS

CBAM
sets carbon tariffs carbon intensive products

EMD Dir
transforms electricity market design

ESPR
Improves environmental performance of energy-related products

LULUCF Reg
sets objective 310 Mt CO2 equivalent of net removal for land use, land use change and forestry

SCF Reg
establishes Social Climate Fund

MRV Reg
brings emissions shipping within ETS

FuelEU Mar Reg
decarbonises maritime sector

CSDD
introduces corporate dd duty

ETS Aviation Dir
phases out emission allowances

REMIT
combats market manipulation

AFIR
creates more recharging and refueling stations in EU

NZIA
accelerates use of clean technologies

CRMA
strengthen EU's critical raw materials capacities

SFDR
creates reporting framework fin products and entities

EEAG
allows state aid for sustainability goals after approval European Commission

TCTF
allows state aid to speed up transition to net-zero economy

LDV Reg
imposes 100% CO2 emission reduction for passenger cars and LCV

Methane Emiss. Reg
reduces methane emissions energy sector

NFRD
requires companies to publish a non-financial report on their ESG performance

Batteries Reg
Regulates sustainable practices lifecycle of batteries

PWDD
sets targets for sustainable packaging waste management and recycling

EED
reduces energy consumption by 11.7% in 2030

ESR
emission reduction target 40% 2030 for agri, transport, buildings waste

FSR

"Foreign Financial Contributions"

- *Any* form of direct or indirect financial contributions from non-EU governments or any public or private company attributable to a third country.
- A 'financial contribution' is an extremely **wide concept** and can include direct grants, interest-free or low interest loans, state guarantees, tax exemptions or incentives and grants of exclusive rights.
- All companies active on an EU market and which receive or have received governmental support from non-EU governments, in whatever form (grants, guarantees, fiscal advantages).
- Covers any form of **direct or indirect** financial contributions from non-EU governments, including contributions from public companies or even from private companies which actions are in one way or another attributable to a foreign state

Since 12 July

Since 12 October

1. Investments in the EU

EC can examine on own-initiative several elements of investment projects, for instance when EU subsidiary sets up factories in EU which crowd out competitors.

- Contributions defined very broadly to includes grants, capital injections, loans, guarantees, debt forgiveness and preferential tax treatment.
- Commission to look into any financial support given by other countries to companies up to 10 years before the investigation begins

2. Deals

Companies must report to EC all financial contributions of more than €50 million in the last three years in case MA deal > €500 mln

- All financial contributions received from outside the EU must be aggregated
- Risks of fines or periodic penalty payments of up to 10% of the worldwide turnover in case of non compliance, e.g. if incorrect, incomplete, or misleading information is provided during the approval process.

3. Public Procurement

Bidders must report to contracting authoriy all financial contributions where the estimated contract value is at least €250 million and the bid involves a foreign financial contribution of at least €4 million per third country.

- Crucial for main companies often participating in public tenders to prepare themselves in advance to meet requirements of the FSR.
- Same applies to contracting authorities, e.g. in their choice and design of procedure and timeframes.

! For companies too late when triggered: essential to start establishing foreign subsidy monitoring programs today !

High risk

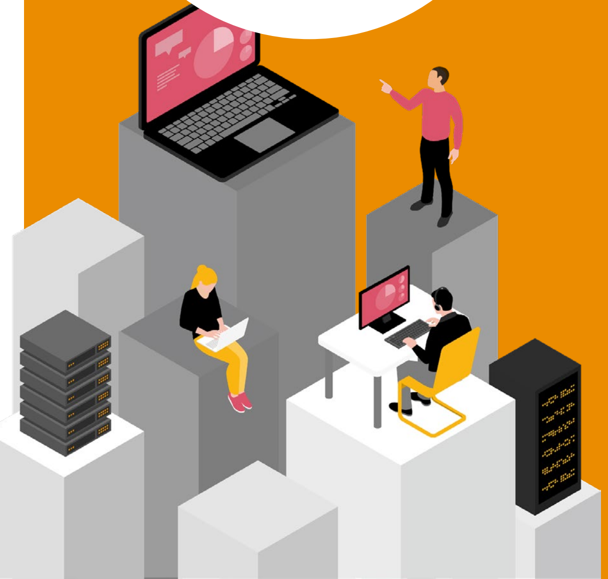
A foreign subsidy is most **likely to distort the internal market** where it falls under one of the following categories:

- a foreign subsidy enabling an companies to submit an unduly advantageous tender on the basis of which the companies could be awarded the relevant contract.
- a foreign subsidy directly facilitating a concentration;
- a foreign subsidy in the form of an unlimited guarantee for the debts or liabilities of the companies, namely without any limitation as to the amount or the duration of such guarantee;
- an export financing measure that is not in line with the OECD Arrangement on officially supported export credits;
- a foreign subsidy granted to an ailing companies, namely an companies which will likely go out of business in the short or medium term in the absence of any subsidy, unless there is a restructuring plan that is capable of leading to the long-term viability of that companies and that plan includes a significant own contribution by the companies;

Summary

1. Is there a foreign contribution?	2. Provided (in) directly by non EU country?	3. Selective and not on market terms	4. When triggered?	Remedy of distortion
• Interest-free loans • Unlimited guarantees • Capital injections • Preferential tax treatment • Tax credits • Grants • Foregone revenue	• Central or local government bodies, • Other foreign entities • Private entities) whose actions can be attributed to a third country.	• Is it selective - limited to specific companies, sectors or industries? • Certain forms of state aid high risk	• Ex officio, including below thresholds • M&A Deal above EUR 500 mln • Public Tender above EUR 250 mln • Too late when triggered. Start establishing foreign subsidy monitoring programs today	• Redressive measures or commitments • Prohibition of concentration or award of public procurement. • In ex officio cases potentially, order to repay the subsidy! • Fines up to 10 procent of global turnover

06 Closing



Key takeaways

Keep track of the European elections

A number of EU initiatives have global impact (FSR, CSRD, CBAM)

Data management (P2, BEFIT-IR, DAC's, FSR, CBAM, CSRD) is pivotal and requires involvement of the board and non-tax functions

Questions

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- ‘State of Tax’ webcast series continues on pwc.nl/evenementen
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Evaluation

- How would you rate this webinar on a scale from 1 to 10?
- The content was relevant. (Totally agree/Agree/Neutral/Disagree/Totally agree)
- Do you have any suggestions and/or comments?
- Do you have specific questions and would you like us to contact you?

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Thank you!