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Reasoned opinion on the Commission proposals for a Common Corporate Tax base - COM (2016)0685 (CCTB) and COM (2016)0683 (CCCTB)

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Dear Frans Timmermans,

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On 25 October 2016, the Commission presented proposals for directives on a Common Corporate Tax Base, COM (2016)0685 (CCTB) and a Common Consolidated Corporate Tax Base COM (2016)0683 (CCCTB). The purpose of the proposals is to establish common rules for corporate taxes and to make it possible for corporations to submit one consolidated tax declaration for the corporation's activities to the tax authority in only one EU Member State.

In a letter of 4 November 2016, the European Affairs Committee asked the Fiscal Affairs Committee for its opinion on the two proposals. At its meeting on 8 November 2016, the Fiscal Affairs Committee decided to give an opinion to the European Affairs Committee. The Fiscal Affairs Committee posed one question on the proposals' economic consequences for Denmark to the Minister for Taxation, cf. SAU alm. del — question 116, to which the Minister for Taxation responded on 7 December 2016.

In these circumstances and in light of the fact that discussions regarding the draft directives are in an initial phase, the Fiscal Affairs Committee adopted a recommendation for the following reasoned opinion on 15 December, which the European Affairs Committee adopted on 16 December 2016.

Reasoned Opinion

A majority of the Committee (Danish People's Party, the Liberal Party, the Red-Green Alliance and the Conservative Party) are of the opinion that proposals of this kind are contrary to the principle of subsidiarity. With regard to the conformity of the proposals for directive with the principle of subsidiarity in article 5 of the EU Treaty, the majority is skeptical of the Commission's reasoning that these measures are better implemented at EU level as compared to national level. The majority view is that this legislation can be introduced as

effectively through national legislation, and that Denmark should hold on to the principle that tax policy lies outside of the scope of EU competence.

Besides, there is considerable uncertainty about the financial consequences for Denmark of the proposed directives. The majority therefore does not consider the Commission's justification for the proposed directives as being consistent with the principles of subsidiarity and proportionality meets the requirement of article 5 in the EU Treaty, and that the justification should include information, which makes it possible to assess the financial impact of the proposal.

Minority opinion to the reasoned opinion

A minority of the Committee (the Social Democratic Party and the Alternative) believe that the proposals are in line with the principles of subsidiarity and proportionality.

Minority opinions on the political substance of the proposals

As a starting point, a minority of the Committee (the Social Democratic Party and the Alternative) are positive towards measures that can curb tax avoidance and the dilution of the individual countries' tax bases as well as ensure fair corporate taxation and a level playing field for companies within the EU. The determination of taxes and duties should be maintained as a national matter and one ought, at EU level, to be reluctant with harmonization of how tax legislation is organized in the Member States. This particularly applies to measures that are beyond what is necessary to fight tax avoidance and tax evasion effectively.

The minority is however attentive to the draft distribution key in the CCCTB proposal, which will favor countries with large domestic markets, while smaller export economies - like Denmark – can expect a loss in revenue in respect of income from corporate taxation. The majority will therefore emphasize that efforts are made in negotiations to reach a fairer distribution key as well as a floor on the effective corporate tax in the EU's Member States.

Another minority of the Committee (Danish People's Party and the Red-Green Alliance) are of the opinion that it is difficult at present to settle on a final position on the CCTB proposal for directive because, inter alia, the scope of the proposal including the revenue impact is not sufficiently clarified.

Furthermore, the Red-Green Alliance states that it wishes to fight tax evasion but that the Red-Green Alliance wants a model for cooperation that does not undermine national tax bases or create unduly rigid and inflexible rules. To

that end, the Red-Green Alliance wants to maintain the starting point that tax policy falls under the competence of the individual Member States.

The Red-Green Alliance is however opposed to the proposed introduction of a deduction for returns on equity (the so-called ACE-deduction) and a super deduction of over 100 per cent. for private corporations' research.

A third minority of the Committee (the Liberal Party and the Conservative Party) generally supports measures that are aimed at creating a maximum amount of transparency regarding the tax payments of large corporations, ensuring fair and equal competition between corporations and preventing tax avoidance, tax evasion and aggressive tax planning. On this background, the Liberal Party and the Conservative Party are positive to the overall purpose of the two directives.

Nevertheless, the Liberal Party and the Conservative Party are skeptical of a common consolidated corporate tax base. There are many indications that Denmark, which has a very broad tax base, will have its tax base eroded considerably since the directive foresees a much narrower tax base than the current Danish one.

A common consolidated corporate tax base may prove to have far-reaching economic consequences for small export-oriented countries such as Denmark that can risk business flight and job losses. This is particularly true for companies operating in manufacturing, research and development because, following the introduction of the directives, they will place an increasing amount of their costly activities in countries where their revenue is generated.

The Confederation of Danish Enterprise has previously estimated that the Danish treasury face a loss of over 10 billion. DKK, if the common consolidated corporate tax base (CCCTB) is introduced globally. The latest estimate from the Confederation of Danish Enterprise is that the Danish treasury stands to lose between 5-10 billion DKK if the Danish corporate tax base becomes 35 percent lower as proposed by the Commission.

Finally, the Liberal Party and the Conservative Party are of the opinion that the introduction of common corporate tax base is just the first step towards further delivery of competences to the EU in an area that is otherwise national competence. Even though the proposal for directive relates only to the calculation of the corporate tax base and the Member States still maintain the right to set a corporate tax rate, it is inevitable that this will also become a competitive parameter, that will result in corporations shopping between Member States and moving jobs and activities around from a taxation point of view.

As such, the Liberal Party and the Conservative Party are positive towards the purpose of the proposed directives but want a model that does not undermine

the countries' tax bases. At the same time, the Liberal Party and the Conservative Party want a model that to a greater extent than the current proposed directives provides for a more equitable distribution of revenues between countries with due regard to countries with a high proportion of knowledge-based companies.

Yours sincerely,

Erik Christensen
Chair of the European Affairs Committee