

15 December 2016

Reasoned opinion from the Riksdag 2016/17:SkU16

The Riksdag has examined the application of the principle of subsidiarity in the Proposal for a COUNCIL DIRECTIVE on a Common Corporate Tax Base COM 82016) 685.

The Riksdag would like to emphasise that the underlying principle of the member states' sovereignty in taxation matters must be safeguarded as regards direct taxes. It falls within each member state's national competence to secure welfare by levying and using tax revenues in an appropriate manner. An excessively extensive application of the rules providing the EU with legislative competence will eventually lead to an erosion of member states' sovereignty as regards levying and maintaining sufficient tax revenue in order to finance welfare.

The Commission has asserted that it is unlikely that the proposal for a common consolidated corporate tax base will be adopted in its entirety, and that the proposal therefore must be implemented in two stages. Thus, the Commission has proposed that the second stage of the proposal concerning consolidation should be postponed until a political agreement has been reached on a mandatory set of rules on the first stage of the common corporate tax base. Consequently, the Commission has presented two different proposals for directives; one on a common corporate tax base and another on a common consolidated corporate tax base.

This part of the proposal mainly contains provisions on a common corporate tax base, on temporary loss relief and on tax avoidance. The Commission, which has carried out a joint subsidiarity assessment of both proposals on a common corporate tax base and on a common consolidated corporate tax base, has stated that the proposals aim, among other things, to promote growth and investments, to facilitate cross-border trade, to achieve simplified administrative procedures and to counteract tax avoidance.

The Riksdag notes, firstly, that the fact that the objectives stated by the Commission concern the entire corporate package i.e., both the presented proposals for directives, makes it more difficult for the Riksdag to assess whether the objectives of each proposal can be sufficiently achieved by the member states or whether they are better achieved at Union level.

Corporate taxation is closely integrated with other aspects of taxation and with the member states' specific political and economic conditions. In the opinion of the Riksdag, the design of the corporate taxation must take place in such a way that there is scope for each member state to take into account specific conditions as regards the structure of the business sector. The Riksdag therefore shares the Government's assessment that the member states are initially better suited to determine the design of the corporate taxation.

As regards the possibilities of combating tax avoidance and tax evasion, the Riksdag notes that these issues can be dealt with within the framework of the recently adopted Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market. The Riksdag further notes that tax avoidance aspects are closely associated with internal group transactions in the case of cross-border trade and that measures to combat tax evasion and tax avoidance therefore cannot primarily be successfully achieved only by means of common provisions on corporate taxation.

Furthermore, the Riksdag notes that the recently adopted Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market contains minimum standards with an opportunity for member states to design provisions based on national conditions, which would be lost with the introduction of absolute rules to combat tax avoidance.

Based on the above, the Riksdag considers that the Commission's proposal on a common corporate tax base cannot be considered to be compliant with the principle of subsidiarity.