

15 December 2016

### **Reasoned opinion from the Riksdag 2016/17:SkU17**

The Riksdag has examined the application of the principle of subsidiarity in the Proposal for a COUNCIL DIRECTIVE on a Common Consolidated Corporate Tax Base (CCCTB) COM (2016) 683.

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 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 definitive profit and loss relief and on allocation of profits. 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, makes it more difficult 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 design of the proposed allocation key, the Riksdag notes that the outcome of the allocation of profits is highly dependent on national conditions in each member state and will therefore differ significantly between the member states. The Riksdag further shares the Government's assessment that the proposal in many regards is vaguely and imprecisely formulated, difficult to overview and that it also lacks clarity, for example, how the proposal relates to already concluded double taxation agreements and the impact of the fact that the provisions on accounting are disconnected from the tax system.

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