



*Brussels, 12.04.2017  
C(2017) 2319 final*

*Dear President,*

*The Commission would like to thank the Bundesrat for its Opinion on the Commission proposals for Directives on a Common Consolidated Corporate Tax Base {COM(2016) 683 final} and a Common Corporate Tax Base {COM(2016) 685 final}.*

*With the adoption of these two proposals, the Commission is delivering on the commitment made in its Work Programme for 2016 to make further progress towards fair, efficient and growth-friendly corporate taxation, based on the principle that companies should pay taxes in the country where profits are generated. The Commission therefore welcomes the Bundesrat's support for the objectives of the proposals and its acknowledgement that action should be pursued at the level of the European Union, rather than by each Member State individually, in order to best address identified distortions in the internal market.*

*The Commission has taken note of the Bundesrat's observations on specific points and is pleased to have this opportunity to provide a number of clarifications regarding the proposals. The Commission trusts that these will allay the Bundesrat's concerns.*

*Concerning the risk of creating a heavier administrative burden as a result of operating two corporate tax systems in parallel, the Commission would like to clarify that the argument of administrative simplicity is primarily relevant to taxpayers and, in particular, to those with cross-border activity in the internal market, because they will be given the opportunity to settle their tax obligations through one single corporate tax system. When it comes to tax administrations, it is inevitable that in the first years following the introduction of the Common (Consolidated) Corporate Tax Base, they may need additional resources. However, in the mid-term, administrations should be in a position to benefit from the reduction in workload related to transfer pricing compliance within the European Union.*

*In the Commission's view, there is no risk that transparency or legal certainty could be compromised, insofar as the two systems function separately and independently and each one is sufficiently clear for taxpayers.*

*Ms Sonja LEDL-ROSSMANN  
President of the Bundesrat  
Dr Karl Renner-Ring 3  
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*The Bundesrat fears that the rules which offer advantages to the business could decrease national tax revenues, whilst citizens expect that the Common Consolidated Corporate Tax Base will raise higher tax revenues and in particular, will impose higher taxes on multinational enterprises.*

*The Commission would like to clarify that the proposed Common (Consolidated) Corporate Tax Base is built on the assumption of being revenue-neutral and was not conceived as an initiative aiming to raise tax revenues. Having said this, the main rationale behind this initiative has been to create a system that facilitates cross-border business activity and promotes economic growth whilst also tackling tax avoidance practices. The Directive is expected to discourage multinationals from engaging in aggressive tax planning that reduces their tax bills, which would naturally mean that they are left with limited chances for harmful practices to optimise their tax liability. The Common (Consolidated) Corporate Tax Base also includes measures that aim to create a growth and investment-friendly environment, such as the proposed deduction of Research and Development costs.*

*In response to the Bundesrat's call for establishing a minimum tax rate for the corporate tax base, the Commission would like to reiterate that the question of setting a minimum corporate tax rate in the European Union falls outside the scope of the proposals, which do not go beyond the calculation of the tax base, that is to say the amount of corporate profit that is subject to tax. This is a prerequisite for rectifying identified distortions in the internal market. Otherwise, Member States remain free to decide which tax rate to apply to the share of the base that they are allocated through the formula. Competing solely on tax rates against the background of a harmonised base which would eliminate opportunities for aggressive tax planning and tax avoidance, would, compared to the current situation, ensure that tax competition is more transparent and without harmful features.*

*The system of the common tax base also includes a set of anti-tax avoidance rules which build, for the internal market, a framework of defence against tax avoidance practices originating in third countries. These measures, in practice, transpose the content of the recently adopted anti-tax avoidance directive<sup>1</sup>. Provisions such as the interest limitation rule, exit taxation or controlled foreign company legislation aim to protect the EU tax base against profit shifting and erosion. Finally, the EU list of third countries is expected to provide an additional tool for curbing tax avoidance and evasion, which will operate at the political level in a complementary fashion to the Common (Consolidated) Corporate Tax Base*

*The Commission wishes to clarify that the so-called 'two-step approach' in the Common (Consolidated) Corporate Tax Base does not concern tax rates. A harmonisation or coordination of tax rates, including fixing a minimum rate, is not part of the initiative. Instead, the two steps refer to the strategy of negotiation of the proposals for the common tax base and consolidation. The idea is to first focus on the common rules for computing the tax base and then, after the first step is politically agreed, to proceed with the group-related features of consolidation and the formulary apportionment.*

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<sup>1</sup> Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market, OJ L 193, 19.7.2016, p. 1–14.

*The points made above are based on the initial proposal presented by the Commission which is currently in the legislative process involving negotiations in the Council.*

*The Commission hopes that these clarifications address the issues raised by the Bundesrat and looks forward to continuing our political dialogue in the future.*

*Yours faithfully,*

*Frans Timmermans  
First Vice-President*

*Pierre Moscovici  
Member of the Commission*