



EUROPEAN COMMISSION

*Brussels, 22.08.2016  
C(2016) 5409 final*

*Dear President,*

*The Commission would like to thank the Camera Deputaților for its Opinions on the Communication from the Commission on 'Anti-Tax Avoidance Package: Next Steps towards delivering effective taxation and greater transparency in the EU' {COM(2016) 23 final}, the Communication on 'An External Strategy for Effective Taxation' {COM(2016) 24 final} and the proposal for a Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market {COM(2016) 26 final}, and for its general support for these initiatives.*

*These initiatives form part of the so-called Anti-Tax Avoidance Package which is an integral part of the Action Plan of June 2015 on Corporate Taxation that aims to create a fairer corporate tax environment. The objective of the initiatives in the package is to ensure effective taxation where profits are generated and create a better tax landscape for businesses as well as ensure further progress on tax transparency.*

*The Commission's proposals are designed to ensure that Member States take a stronger and more coordinated stance against companies that seek to avoid paying their fair share of tax. Collectively, these measures will hamper aggressive tax planning, boost transparency between Member States and ensure fair and effective competition for all businesses in the Single Market.*

*In response to the more specific comments in the Opinions the Commission would like to refer the Camera Deputaților to the attached annex.*

*The Commission hopes that the clarifications provided in this reply address the issues raised by the Camera Deputaților and looks forward to continuing the political dialogue in the future.*

*Yours faithfully,*

*Member of the Commission*

*Mr Florin IORDACHE  
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## ANNEX

*The Commission has carefully considered each of the issues raised by the Camera Deputaților in its Opinions and is pleased to offer the following clarifications.*

### ***Opinion on the Communication on the 'Anti-Tax Avoidance Package: Next Steps towards delivering effective taxation and greater transparency in the EU' {COM(2016) 23 final}***

*The Commission is pleased to note the Camera Deputaților's support for continuing discussions on the harmonised corporate tax base, which would help combat aggressive tax planning in the EU while reducing administrative burdens for companies operating cross-border in Europe. However, the Commission would also like to stress that once the common tax base has been adopted, Member States must similarly work to secure agreement on consolidating the tax base. Consolidation is critical for ensuring that companies within the common consolidated corporate tax base (CCCTB) pay their fair share of tax, as it would eliminate both transfer pricing and loss manipulation within the EU. In addition to combatting aggressive tax planning, consolidation would benefit businesses, as it would reduce their administrative burdens and ensure that they benefit fully from losses incurred in different Member States.*

*The CCCTB is expected to include rules on a temporary cross-border recovery of losses, as this should help support cross-border investment in the Single Market. The final decision on its inclusion in the directive will however depend on the outcome of the impact assessment for the CCCTB, which is currently being prepared.*

### ***Opinion on the Communication on 'An External Strategy for Effective Taxation' {COM(2016) 24 final}***

*The Commission welcomes the Camera Deputaților's strong support for the External Strategy for Effective Taxation, and the wider objectives of ensuring fair and effective taxation within the EU and in its relations with third countries. Good progress has already been made on many of the actions within the External Strategy, including a common EU list of non-cooperative jurisdictions, examining the impact of EU and national tax policies on developing countries and reviewing the tax good governance criteria to be used in the EU's relations with third countries. The Commission fully agrees with the Camera Deputaților on the importance of tax transparency in ensuring effective corporate taxation and promoting fair tax competition. The Commission is pleased that Member States have now agreed on two major proposals to increase cooperation and transparency within the EU, on tax rulings and on multinationals' tax information. The Commission has also proposed public country-by-country reporting {COM(2016) 198 final}, to facilitate public access to key information on the tax paid on profits by large multinationals. Romania can make an important contribution in supporting this proposal and pushing for an ambitious outcome in the ongoing negotiations between the European Parliament and the Council.*

***Opinion on the proposal for a Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market {COM(2016) 26 final}***

*The Commission is pleased that the Camera Deputaților shares its view on laying down principle-based rules, which create equal conditions for a minimum standard across national corporate tax systems. The Commission also agrees that this initiative would contribute to re-shaping corporate tax laws in the EU and counter tax evasion. Since the Camera Deputaților adopted its Opinion, the Council has reached an agreement on the Anti-Tax Avoidance Directive.<sup>1</sup> The Commission believes that this is an important step to eliminating the most common corporate tax avoidance practices.*

*The Commission notes the Camera Deputaților's concerns relating to the need for a uniform application of the agreed rules and shares the view that inconsistencies and gaps in implementation should be eliminated. In this regard, the Commission would like to clarify that the costs 'equivalent to interest' refer to items listed in the final report of the OECD on interest limitation rules. It should be recalled that the Finance Ministers at the Economic and Financial Affairs Council of February 2016 confirmed that the Anti-Tax Avoidance Directive should stay as close as possible to what was agreed by the OECD in the context of the initiative to limit tax base erosion and profit shifting (anti-BEPS initiative).*

*As far as the possibility of providing a numerical example for the interest limitation rule is concerned, the Commission would like to inform the Camera Deputaților that the Presidency provided Member States with such an example in the course of the negotiations in the Council.*

*As regards the fixing of the periods of carry-forward and back for unrelieved net interest costs, the Commission wishes to remind the Camera Deputaților that the anti-tax avoidance Directive sets out minimum standards, which implies that Member States remain free to enact more restrictive rules.*

*The Commission would also like to thank the Camera Deputaților for its position on the switch-over clause and the general anti-abuse rule. The Camera Deputaților may have noted that the switch-over clause has not been included in the final Directive adopted on 12 July 2016.*

*The prospect for considering the results of the Code of Conduct group in hybrids was rejected by the majority of Member States during the negotiations in the Council. Having said this, Member States were also explicit in their wish to follow the OECD rules in resolving double non-taxation in hybrid mismatches.*

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<sup>1</sup> Council Directive 2016/1164 of 12 July 2016, OJ L 193, 19.7.2016, p. 1.