

## Statement by the Committee on Taxation

2015/16:SkU28

Subsidiarity check of proposal for a Council Directive laying down rules against tax avoidance practices that directly affect the functioning of the internal market (COM(2016) 26)

### APPENDIX 2

#### Reasoned opinion from the Swedish Parliament

The Riksdag considers it a high political priority to combat tax evasion and tax avoidance. The Riksdag is therefore positive to the objective of the proposal, i.e. to combat tax evasion methods that may directly influence the functioning of the internal market.

The Riksdag, however, wishes to emphasise that the fundamental principle of taxation sovereignty for the member states must be safeguarded in the case of direct taxation. It falls within the national competency of each member state to safeguard welfare by levying and using tax revenues in an appropriate way. 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.

One of the Commission's arguments has been that the proposed regulatory framework is intended to combat cross-border tax evasion methods and provide a common framework for implementing the results of BEPS in the national legislation of member states in a coordinated manner. The Commission has further argued that these objectives cannot be achieved to a sufficient extent through measures undertaken by the member states individually.

The Commission has omitted to carry out an impact analysis with arguments such as the fact that there is a strong connection to the OECD's work with BEPS. However, the Riksdag finds that the Commission's proposal to a great extent goes further than or does not correspond to the OECD's BEPS proposal.

The Riksdag notes that the proposal was produced in a very short period of time, and that it is very extensive and is burdened with a distinct lack of clarity. In light of the fact that issues falling within the area of direct taxation are, in principle, restricted to the national competency of the member states, high demands are placed on ensuring that the EU's legislative proposals are formulated in such a way that the member states can determine whether the objective of the proposed measures cannot to a sufficient extent be achieved by the member states and therefore, as a result of the scope and effects of the measures, can better be achieved at EU level.

In the light of this, the Riksdag considers that the Commission does not provide sufficient justification to support the fact that the proposal does not exceed what is necessary to attain the set objectives.

The Riksdag's overall view is that the Commission's proposal in its current form must be considered to be incompatible with the principle of subsidiarity.