ETAF statement on Business in Europe: Framework for Income Taxation (BEFIT)

The European Tax Adviser Federation (ETAF), which represents 215 000 regulated tax advisers, would like to thank the Commission for the opportunity to comment on the future proposal for a common EU corporate tax base, called Business in Europe: Framework for Income Taxation (BEFIT), expected for the third quarter 2023.

Even if the key features of BEFIT are not yet known, ETAF acknowledges the potential of this initiative to address the complexity and the high compliance costs that businesses with cross-border activities face as a result of having to comply with 27 different corporate tax systems. Any reduction of administrative burden, especially in the areas of filing simplification, interaction with tax authorities and dispute resolution would be very welcomed.

I. Scope

The European Commission proposes to draw inspiration from provisions of Pillar 2 of the OECD agreement for the scope of BEFIT. Accordingly, only companies or groups of companies above a certain turnover threshold would fall within the scope of application of the uniform corporate tax base.

ETAF would in principle support the approach of not obliging all companies to apply the new BEFIT framework. A fundamental change in the system would pose great challenges, in particular for smaller companies. For non-internationally oriented companies, it would possibly also bring only minor benefits. A mandatory system without a threshold could therefore be disproportionate. For this reason, we would support a compulsory system for groups with over EUR 750 million of consolidated global revenue, with a possibility for groups or companies below this threshold to opt in. Additionally, from our point of view, an exclusion of certain branches of the economy would not be favourable.

In the case of a change of system only for companies or groups of companies above a certain threshold, however, we would like to point out that this would lead to the coexistence of two different corporate tax systems in the EU (BEFIT tax rules for BEFIT group companies and local corporate tax rules for the majority of corporate taxpayers not meeting the BEFIT threshold).

II. Calculation of the tax base

The Commission is considering several options for calculating the BEFIT tax base. One of them is to draw inspiration from Pillar 2 of the OECD agreement, i.e. start from companies' financial accounting statements and make limited adjustments for taxation.

ETAF would in principle support this approach. However, we fear that if not all company group members use the EU accepted accounting standards, it will result either in a substantially increase of tax burden for the corporate taxpayers concerned or in complicated adjustments to avoid such effect, which will trigger material compliance costs.

III. Distribution of the tax base across EU countries

It is envisaged that the consolidated tax base for the different EU countries in which a group operates will be apportioned using a formula. The Commission considers that the international consensus about the use of a profit allocation formula within the framework of Pillar 1 of the OECD agreement could help pave the way for the use of a formula in BEFIT.

First, it has to be recalled that the Pillar 1 only allocates a small part of extra profits based on a formula. This is very different from what the Commission is proposing here, i.e. to allocate all consolidated profits in the EU based on a formula.

Moreover, we believe that finding an acceptable apportionment formula which accurately reflects the added value creation factors and the contribution of the market jurisdictions for all industries might be difficult.

How exactly the formula is composed and how the individual factors are to be weighted is, in our opinion, primarily a political decision. Furthermore, as it is not clear how Pillar 1 will be implemented, we would strongly recommend that any formula in BEFIT should be finalized only after practical implementation of Pillar 1 in the EU has been decided.

IV. Other general comments

As this initiative will be based on some key features of Pillars 1 and 2 of the OECD agreement, we would highly recommend to first learn the lessons from their implementation before deciding on any further step to implement a common corporate tax framework in the EU.

Moreover, we would like to point out that tax advisers will need to learn this new corporate tax system and that its application will require a new set of professional knowledge and skills. We can already predict that it will take time to acquire such new skills and knowledge for the professionals before being able to correctly apply the new system.

Notes
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About ETAF
The European Tax Adviser Federation is a European umbrella organisation for tax professionals whose activities are regulated by law. It is set as an international not-for-profit organisation (AISBL) governed by Belgian law, based in Brussels and was launched on 15th December 2015. ETAF represents more than 215,000 tax professionals from France, Germany, Belgium, Romania, Hungary and Austria.