ETAF Statement

Proposal for a direct taxation omnibus

The European Tax Adviser Federation (ETAF) welcomes the European Commission's tax simplification package, published on 24 June 2026. More specifically, ETAF supports in principle the proposal for a Tax Omnibus and its overarching objective of, "*simplifying the EU direct tax framework in order to strengthen the competitiveness of the internal market, while maintaining high standards of tax protection*".[1] ETAF is convinced of the need to simplify direct taxation for businesses and public administrations. This will send an important signal to the European Economy and will strengthen Europe's position as a business location. It will act as a catalyst for further investment, generating growth, safeguarding jobs and thereby contributing to the maintenance of prosperity in Europe. In this context, a stated in its joint statement of 28 October 2026, ETAF would like to encourage the Council to adopt the proposal as soon as possible. ETAF strongly believes that any potential financial losses for Member States resulting from the simplification of the rules could be offset by economic growth.

To achieve the goal, the Commission proposes a comprehensive Directive that amends the following EU direct taxation Directives, namely the Interest and Royalties Directive (IRD), the Parent-Subsidiary Directive (PSD), the Tax Merger Directive (TMD), the Anti-Tax Avoidance Directive (ATAD), the Tax Dispute Resolution Mechanisms Directive (DRM Directive), and the Directive on faster and safer relief of excess withholding taxes (FASTER Directive). The idea is to reduce complexity and overlaps, improve legal certainty and ensure a more coherent and uniform application of the existing EU direct tax framework.[2]

ETAF is pleased to see that several of the recommendations during the Commission's initial consultation on 30 March 2026 have been reflected in the Tax Omnibus proposal. The Tax Omnibus is a step in the right direction, but the legislative process provides an opportunity to ensure that the remaining scope for divergent national implementation or gold-plating are addressed. It is essential that the Tax Omnibus genuinely streamlines the existing framework, rather than creating an additional layer of EU rules and the interpretation on top of the existing Directives and national legislation.

ETAF also notes that certain substantive changes, namely the introduction of an EU-wide R&D allowance under the ATAD, were not expressly identified in the initial Call for Evidence, which focuses principally on the streamlining of existing EU direct tax framework. Greater clarity on such changes at the consultation phase would help ensure that stakeholders have sufficient opportunity to assess and provide input on their practical implications.

Considering the above, ETAF sets out in the following sections its position on the proposed amendments.

[1] Proposal for a Council Directive amending Directives 2003/49/EC, 2009/133/EC, 2011/96/EU, (EU) 2016/1164, (EU) 2017/1852 and (EU) 2025/50 as regards the simplification of the Union framework on direct taxation and supporting growth and competitiveness of the EU, COM (2026) 560 final (Tax Omnibus proposal), p.8.
[2] Tax Omnibus proposal, recital (5).

The Parent-Subsidiary, Interest and Royalties and Tax Merger Directives

1. Removing the minimum shareholding thresholds for WHT relief on intra-EU dividends, interest and royalties

Currently, the Interest and Royalties Directive (IRD) exempts qualifying intra-group interest and royalty payments from withholding tax (WHT) where there is at least a 25% direct holding.[3] Similarly, the Parent-Subsidiary Directive (PSD) exempts qualifying dividend distributions from WHT and relieves double taxation at parent level through an exemption or tax credit, where the parent holds at least 10% of the subsidiary.[4] Both Directives allow Member States to require a minimum holding period of up to two years and to apply prior authorisation procedures to verify eligibility before granting relief.[5]

The proposal would remove both thresholds,[6] and Member States would be required to provide WHT exemptions for intra-EU dividends, interest and royalties, irrespective of the level or duration of the participation. It would also prevent Member States from requiring ex-ante authorisation or administrative verification before granting the exemption, with eligibility instead subject to ex post controls.[7] For publicly traded securities, in situations where eligibility for a WHT exemption cannot be determined at the time of payment, the FASTER Directive's fast-track procedures for relief at source or quick refund would apply.[8] There is also an accompanying "subject-to-tax" clause in the IRD, whereby the source Member State must either apply a WHT or deny the deductibility of interest or royalty payments when they are not subject to WHT in its jurisdiction and the recipient is in a third-country jurisdiction with no CIT or a zero CIT rate on such income.[9]

ETAF welcomes the removal of minimum holding requirements and upfront procedures and the alignment with the FASTER Directive. Additionally, ETAF supports the objective of the new "subject-to-tax" clause in the IRD to prevent double non-taxation of interest and royalties to recipients in third countries. Also, although ETAF recognises the current political constraints of removing minimum holding requirements, ETAF would, as a fallback, recommend keeping only the minimum holding period and removing minimum holding threshold under the PSD.

It must be noted that the proposed self-assessment with ex-post controls shifts verification and liability risks to the payer. ETAF therefore recommends providing for a clear and harmonised framework for ex post verification across Member States, especially in terms of application of the remaining conditions. This should include clear and unbureaucratic criteria for assessing beneficial ownership, and the evidence taxpayers are expected to retain to substantiate their entitlement to relief. In this view, ETAF considers that a recipient should generally be regarded as the beneficial owner where it receives the payment for its own account. Additional proof of beneficial ownership should only be required where the tax administration has reason to doubt the recipient's entitlement to the income. ETAF also recommends that a payer should not be held liable or be subject to penalties where it has relied on valid standardised evidence and plausible information from the recipient, has fulfilled the prescribed verification obligations and neither knew nor, through gross negligence, failed to recognise that the recipient was not entitled to the exemption. Where an ex post control reveals that the conditions for the WHT exemption were not met, the tax should

[3] Council Directive 2003/49/EC of 3 June 2003 on a common system of taxation applicable to interest and royalty payments made between associated companies of different Member States, art.1(1) in conjunction with art.3(b).
[4] Council Directive 2011/96/EU of 30 November 2011 on the common systems of taxation applicable in the case of parent companies and subsidiaries of different member States (Parent-Subsidiary Directive), art.5 in conjunction with art3(1)(a)(i).
[5] Parent-Subsidiary Directive, art.3(2)(b); Interest and Royalties Directive, arts.1(10)-(12).
[6] Tax Omnibus proposal, articles 1 and 3.
[7] Tax Omnibus proposal, recitals (9) and (12).
[8] Ibid, articles 1(2)(h), 3(8) and 6 in conjunction with recital (13).
[9] ibid, article 1(5).

primarily be recovered from the recipient, provided that the payer has complied with its evidence and due diligence obligations.

2. Updating the company forms under the PSD, IRD and TMD by delegated act

The IRD, PSD and Tax Merger Directive (TMD) each contain an Annex listing the national company forms eligible to fall within their scope. A company must, among other conditions, take one of the listed legal forms to benefit from the respective Directive.

The Tax Omnibus proposes to empower the Commission to update the lists of eligible company forms by delegated acts, allowing the Annexes to be updated quickly to reflect new company forms introduced under national or EU law.[10] The delegated power is intended to allow the Annexes to keep pace with future changes in company forms at the national and EU-level, rather than requiring the Directives themselves to be amended whenever a new legal form is introduced.[11]

ETAF welcomes in principle the proposed mechanism to enable faster updates of the annexes through delegated acts. This goes in the direction of ETAF's previous recommendation to avoid lengthy legislative amendments when new company forms are introduced.

ETAF nevertheless regrets that its preferred approach, namely the deletion of the exhaustive lists and automatic eligibility for companies subject to corporate income tax, was not retained, as this would have allowed new company forms to be accommodated even more quickly. ETAF recommends replacing the Annex-based approach entirely with a functional criterion. Companies that are subject to corporate income tax in a Member State should automatically qualify for the application of the Directive, regardless of their legal form. This would eliminate the need for recurring amendments to the annexes, reduce the administrative burden on taxpayers and administrations, and prevent situations in which newly introduced company forms temporarily fall outside the scope of the directive.

3. Aligning the TMD with recent EU company law reforms

The Tax Omnibus proposes to align the TMD with recent developments in EU company law introduced by Directive (EU) 2017/1132, as amended by Directive (EU) 2019/2121. More specifically, the proposal would extend the TMD to additional forms of restructuring, including simplified mergers, where certain mergers can take place without the issue of new shares, and divisions by separation, where part of a company's assets and liabilities is transferred to another company in exchange for shares issued to the transferring company itself. Additionally, the proposal would also introduce specific rules for cross-border conversions, whereby a company converts from a legal form of one Member State into a legal form of another Member State and transfers at least its registered office while retaining its legal personality. The TMD currently only contains comparable rules for transfers of the registered office of an SE or SCE. The proposed new Chapter Va would extend the principle of tax neutrality to such conversions, by deferring taxation of capital gains where the relevant assets remain within the taxing jurisdiction of the departure Member State.[12]

ETAF welcomes the proposed alignment of the TMD with recent developments in EU company law. As highlighted by the Commission in recitals 16-17, the current mismatch means that certain cross-border restructuring operations permitted under EU company law are not yet expressly covered by the TMD's tax-neutral treatment, creating legal uncertainty and potential tax obstacles

10 Tax Omnibus proposal, articles 1(3)(b)(2), 2(2) and 3(3).
11 Tax Omnibus proposal, recital (55).
12 Tax Omnibus proposal, article 2.

for businesses. Bringing the TMD into line with the existing company-law framework should therefore simplify cross-border restructurings.

Additionally, ETAF recommends clarifying the concept of a "branch of activity" that is currently defined as "*all the assets and liabilities of a division of a company which from an organisational point of view constitute an independent business, that is to say an entity capable of functioning by its own means*".[13] This concept is interpreted differently across Member States, leading to legal uncertainty. Differences exist, for example, regarding the degree of independence required of a branch of activity or the extent of the branch of activity.[14] It is also unclear which concept of branch of activity is to be applied where the national and the EU concept of branch of activity differ.

The Anti-Tax Avoidance Directive

4. Introduction of an EU-wide R&D incentive

The Tax Omnibus proposes to insert a new EU-wide minimum R&D allowance under the ATAD,[15] whereby Member States would provide that taxpayers could deduction from their tax base 100% of qualifying capital expenditure on plant, machinery and other tangible assets used for R&D or R&D facilities, either in the year incurred or in any of the following four tax periods.

The assets must generally be used wholly and exclusively for R&D for at least three years, otherwise the allowance is withdrawn, while disposals may trigger a balancing adjustment. Member States remain free to retain more favourable domestic rules.

The recitals of the proposal explain that the measure is proposed due to the existing fragmentation of national R&D tax regimes and the lack of common minimal level of support, which is considered detrimental to EU competitiveness. The overall aim is understood to create a more level playing field and encourage R&D investment.[16]

ETAF supports in principle a more harmonised EU approach to the tax treatment of R&D investment and welcomes measures that improve the cost recovery of genuine R&D expenditure. However, ETAF regrets that the introduction of an EU-wide R&D allowance was not identified as a policy option in the initial Call for Evidence, which focused on adjustments to the existing ATAD anti-avoidance rules. Stakeholders therefore had no meaningful opportunity to comment on the design of this specific measure before the proposal was presented.

In ETAF's view, the incentive should be modified in the following manner:

Firstly, its scope is limited to capital expenditure on plant, machinery and other tangible R&D assets, leaving capitalised intangible investments outside the common minimum framework and potentially creating different treatment depending on the form of R&D investment. ETAF therefore recommends considering the extension of the allowance to intangible assets.

Secondly, a research grant that is available regardless of tax liability would be the preferable option. This is because the proposed R&D allowance is a deduction from the taxable base and only benefits taxpayers with taxable profits. Thus, start-ups or businesses facing difficulties that are loss-making, would not benefit even though they may need support the most. For in-scope Pillar-Two groups, any extra deduction could also be cancelled out by a top-up tax.

13 TMD, art.2(j)
14 For e.g., whether in addition to the transfer of essential operating assets, the transfer of further assets is also required.
15 Tax Omnibus proposal, articles 3a-3c.
16 Tax Omnibus proposal, recitals (20)-(23)5.

Thirdly, as Member States are allowed to keep “more favourable” domestic incentives, it is unclear how these national R&D incentives will interact with the new EU-wide R&D allowance. To prevent unnecessary overlap with well-functioning national systems, the Directive should clearly state that Member States retain the possibility to maintain or adopt more favourable domestic measures, including when they provide equivalent or more favourable support through other mechanisms.

5. Substantive and procedural amendments to the ILR

The interest limitation rule (ILR), which currently limits the deductibility of exceeding borrowing costs to 30% of EBITDA while allowing Member States a range of thresholds, exclusions and escape clauses. The Commission considers that this optionality has resulted in fragmentation and higher compliance costs, while the rule may disproportionately affect capital-intensive businesses and SMEs.[17]

The proposal therefore proposes to reduce optionality in several ways:[18]

The 30% EBITDA threshold becomes mandatory, preventing Member States from applying a lower percentage; the EUR 3 million safe harbour becomes mandatory and annually indexed; and borrowing costs on “low-risk” third-party loans are excluded where the financing is used exclusively for the borrower’s own activities and is not on-lent within the group. The stand-alone entity exemption is consequently deleted. The proposal also introduces a safeguard allowing full deductibility where a taxpayer’s EBITDA falls by at least 50% compared with the previous tax period, broadens the public-benefit project exclusion and introduces a temporary mandatory exclusion for certain defence financing. Finally, the group escape rule and a carry-forward mechanism become mandatory, although Member States retain certain choices as to their implementation and carry-back remains optional.

The Commission’s justification closely reflects ETAF’s previous concerns. Recital 29 recognises that the BEPS risks targeted by the ILR arise primarily from excessive interest payments between associated enterprises, while genuine third-party borrowing generally presents limited risk. Recital 30 justifies the mandatory safe harbour as a means of reducing compliance burdens, particularly for smaller taxpayers, while Recital 32 acknowledges the rule’s procyclical effect during economic downturns.

ETAF strongly supports the overall direction of these amendments, which respond closely to its previous recommendations. In particular, the exclusion for low-risk third-party financing, the mandatory and indexed EUR 3 million safe harbour and the economic safeguard address ETAF’s concerns regarding the overbroad scope of the ILR, divergent national implementation and its pro-cyclical effects.

Nevertheless, a couple of points should be further improved:

First, ETAF had recommended limiting the ILR to intra-group financing altogether, since the principal abuse scenarios targeted by the rule, such as debt loading and the use of intra-group loans to shift profits, arise within group structures. The proposed third-party financing exclusion is therefore welcome but narrower than ETAF’s preferred approach. Also, while the proposed economic safeguard addresses ETAF’s concerns about the ILR's pro-cyclical effects, the 50% year-on-year EBITDA decline sets a high threshold; a 25% or 30% decline would already be appropriate.

17 Tax Omnibus proposal, recitals (25)-(26).
18 See Tax Omnibus proposal, article 4(5) on the ILR.

Moreover, the safeguard applies only to the tax period in which the decline occurs, so the ILR applies the following year again unless EBITDA falls by a further 50%, even if the taxpayer's economic situation has not improved. ETAF therefore recommends a more flexible mechanism that reduces the ILR's pro-cyclical effect while avoiding broad Member State discretion that could reintroduce divergent implementation.

6. Clarification of the GAAR

Member States are currently required, for the purposes of calculating the CIT liability, to disregard "*non-genuine arrangements put in place for the main purpose, or one of the main purposes, of obtaining a tax advantage that defeats the object or purpose of the applicable tax law*".[19]

The Tax Omnibus proposes to broaden this wording to replace the reference to "*corporate tax liability*" with "*tax liability*", while leaving the substantive GAAR test otherwise unchanged.[20]The explanatory memorandum notes that the amendment is intended to apply to all direct taxes to which companies are subject, WHT and top-up taxes arising under the Pillar Two Directive.[21]The Commission explains that this amendment is intended to ensure that the GAAR applies to all direct taxes to which companies are subject, especially for WHT and top-up taxes arising under the Pillar Two Directive.

ETAF supports consistent application of the GAAR but cautions against extending its scope to WHT and Pillar Two top-up taxes. The GAAR was designed as a catch-all clause for corporate tax, whilst WHT relief under the PSD and IRD is already subject to specific anti-abuse rules and, under the proposal, to ex post controls. Subjecting relief from WHT to an additional purpose-based abuse test would simply add an additional layer of legal uncertainty for taxpayers and their advisers. ETAF therefore recommends retaining the current reference to "corporate tax liability" in Article 6(1) ATAD.

This also applies to Pillar Two top-up taxes. This is in line with ETAF's longstanding position that overlaps between Pillar Two and existing EU tax legislation should be avoided wherever possible. GloBE rules are intended to operate as a coordinated common approach and already contain targeted integrity and anti-arbitrage mechanisms. Overlaying a broad, purpose-based ATAD GAAR could therefore create additional compliance layers and interpretative differences between Member States, while undermining the consistent application of the Pillar Two framework. Any remaining avoidance risks should preferably be addressed in a coordinated manner at OECD/G20 Inclusive Framework level rather than through an additional EU GAAR.

7. Substantive and procedural amendments to the CFC rule

The proposal introduces two main changes to the Controlled Foreign Corporation (CFC) rules.

Firstly, a mandatory exemption from CFC taxation for taxpayers within the scope of the Pillar Two Directive is introduced or, for third-country groups, the OECD Model Rules.[22] Where the ultimate parent entity (UPE) is located in a jurisdiction operating a qualified side-by-side regime, the exemption applies only where the CFC is subject to a qualified domestic top-up tax (QDMTT) and no refund or direct or indirect financial benefit is granted in relation to that tax.

[19] 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 (ATAD), art.6.
[20] Tax Omnibus proposal, article 4(6).
[21] ibid, p.13, and recital (38).
[22] Tax Omnibus proposal, article 4(7)

The Commission explains that the CFC rules and the Pillar Two income inclusion rule overlap to a significant extent, and that their parallel application may result in economic double taxation as well as duplicative calculations and compliance obligations. For side-by-side groups, it similarly recognises that the combination of CFC taxation and a domestic top-up tax may lead to comparable overlap and therefore provides for a targeted exemption.[23]

Second, the proposal would make Model A mandatory and abolish Model B, thereby basing the CFC regime on the common catalogue of income categories in Article 7(2)(a) of the ATAD. The Commission considers that the current choice between the two models has contributed to fragmentation, higher compliance costs and reduced legal certainty, while Model B overlaps significantly with transfer pricing rules and provides limited additional value. A single Model A approach is therefore intended to simplify the framework and ensure more consistent application across the Union.[24]

ETAF supports these changes in principle, which respond directly to its previous recommendations to avoid unnecessary overlaps between CFC rules and Pillar Two and to move towards a single, more harmonised CFC model. However, groups that are still subject to CFC rules can face a much higher tax burden than in-scope Pillar Two groups, especially when extra national taxes apply to CFC income.[25] To prevent these groups from being unfairly disadvantaged, ETAF suggests capping the overall tax burden on CFC income at 15% to match the effective tax rate of the GMT under Pillar Two.

ETAF also reiterates its recommendation that the passive-income catalogue in article 7(2)(a) is reviewed to avoid over-inclusive outcomes, where dividends or capital gains derive from an underlying company carrying on a genuine active business, or where the underlying income has already been subject to CFC taxation at a lower tier. Finally, Member States should not be permitted to replace the common passive-income catalogue with divergent national active-income catalogues, as this would reintroduce the very fragmentation and compliance complexity that the move to a single Model A is intended to eliminate.

8. Deletion of the imported mismatch rule

The proposal suggests removing the imported mismatch rule in full,[26] as the rule is difficult to implement in practice, due to its complex definitions and multi-layered compliance obligations, which has created significant administrative burdens for taxpayers and tax authorities. The Commission also states that these burdens have not been accompanied by the intended positive results and therefore considers deletion appropriate on the grounds of simplification and proportionality. [27]

ETAF strongly supports the proposed deletion of Article 9(3) ATAD. This directly addresses concerns previously raised by ETAF regarding the disproportionate national implementation of the imported mismatch rule, including interpretations extending deduction denials beyond situations where there is a genuine economic link to the underlying hybrid mismatch.

[23] See Tax Omnibus proposal, recital 39.
[24] Tax Omnibus proposal, recital 40.
[25] See e.g. Germany, where CFC income is included under § 10 AStG and is also subject to municipal trade tax pursuant to § 7 sentence 7 GewStG. This can result in a combined German tax burden of around 30% before foreign tax credits, compared with the 15% minimum effective taxation level under Pillar Two.
[26] Tax Omnibus proposal, article 4(9).
[27] See Tax Omnibus proposal, recital (43), also see explanatory memorandum, p.14.

ETAF strongly recommends that Member States are required to repeal their national rules on imported mismatches instead of retaining them based of the minimum level of protection under Article 3 ATAD.

9. SME exemption

The Tax Omnibus would introduce a de jure SME exemption from the CFC rules.[28] The rationale is that 99.8% of EU businesses are SMEs, while only 10% have cross-border activities and only 2% have subsidiaries outside the EU, and that Member States have reported almost no CFC cases involving SMEs. It therefore considers that an SME exemption would reduce disproportionate compliance and administrative burdens without undermining the anti-avoidance objective.[29]

For the ILR, the proposal does not provide an equivalent SME exemption. Instead, the EUR 3 million de minimis safe harbour is made mandatory and subject to annual indexation.[30] It is explained that such a measure is intended to reduce administrative and compliance burdens, particularly for smaller taxpayers, while the Commission describes the measure as resulting in a de facto exclusion of most SMEs from the ILR.[31]

ETAF fully supports the SME exemption from the CFC rules and the de facto exemption from the ILR resulting from the mandatory safe harbour. Specifically, the SME exemption for CFC rules would provide meaningful simplification, as cases involving SMEs are limited. ETAF acknowledges that the SME exemption might lead to businesses splitting into smaller companies to stay below the thresholds. However, in ETAF's view, this risk is limited since if the new entities are part of the same group, the eligibility is assessed for the group, meaning that splitting does not change access to the exemption. In any case, for entities that are artificially split outside a group structure for the main purpose of benefiting from the SME exemption under the CFC rules, the general anti-abuse rule (GAAR) in article 6 of the ATAD would apply.

Additionally, in terms of the de facto SME exemption for the ILR, ETAF recommends raising the mandatory safe harbour above EUR 3 million to ensure that SMEs are more effectively excluded, including innovative start-ups that rely on debt financing.

10. Non-divergence clauses

The proposal introduces new "non-divergence clauses" for ILR and CFC provisions.

For the ILR, Member States would not be allowed to keep or introduce national provisions falling within the scope of the ILR that diverge from the rules laid down therein.[32] Member States would nevertheless retain the choices expressly provided for in article 4 of the ATAD itself, including certain optional exclusions, the method for applying the group escape rule and the design of the carry-forward mechanism and optional carry-back.

Additionally, in relation to the CFC rule, Member States would be prohibited from keeping or introducing divergent national provisions that fall within the scope of article 7(5)-(7), which covers

[28] Tax Omnibus proposal, article 4(7)(d.
[29] Tax Omnibus proposal, recital (41).
[30] ibid, article 4(5)(d).
[31] ibid, recital 30.
[32] Ibid, article 4(5)(j).

the relevant CFC definitions, the CFC SME carve-out and the Pillar two carve-out.[33] However, the clause does not extend to the CFC framework as a whole.

According to the recitals, these clauses are intended to "*reduce fragmentation within the internal market and ensure that the simplification objectives of this Directive are achieved consistently across the Union, the rules… should apply in a uniform manner in all Member States*".[34]

This approach responds partially to ETAF's previous recommendation on the minimum harmonisation standard under article 3 ATAD. ETAF had called for priority to be given to exhaustive rules to increase the level of harmonisation, with optionality limited to cases where they are politically justified and technically necessary.

ETAF therefore supports the introduction of the non-divergence clauses. However, for the CFC rules ETAF would be in favour of extending the non-divergence clauses to further parts of the CFC framework and retaining national options where technically necessary. It should also be clarified that Article 3(2) ATAD does not apply to the ILR, so that Member States cannot rely on it to maintain or introduce stricter national interest limitation rules contrary to the non-divergence clause in Article 4(9).

Dispute Resolution Mechanisms Directive (DRM)

The proposal would introduce several procedural amendments to the Dispute Resolution Mechanisms Directive (DRM), but the overall procedure structure in the Directive remains unchanged. The aim is to address unclear concepts, divergent interpretations and procedural obstacles that limit effective access to the mechanism.[35]

The Tax Omnibus proposes to clarify the definition of an "affected person", including in multi-entity disputes, and would replace the current requirement for simultaneous filing with a 30-calendar-day submission window. Where a dispute involves several affected persons, each may submit the complaint only to the competent authority of its Member State of residence. It also amends the grounds for rejecting complaints by adding three formal grounds (failure to submit the complaint to all competent authorities concerned within the 30-calendar day window, to use a required language, or to submit the same information to each competent authority), requires competent authorities to give taxpayers the possibility to remedy deficiencies within 30 days of receipt of their request and allows resubmitting within the overall three-year deadline.

ETAF supports these procedural simplifications but the new formal grounds for rejection should not undermine the goal of procedural simplification. Specifically, reinstatement should be possible when the affected person misses the 30-calendar-day submission window through no fault of their own. Small formal or language differences between the submitted complaints should not result in rejection in cases where the essential information to resolve the dispute is consistent. Additionally, the competent authority's request to remedy deficiencies should identify the specific deficiencies, so that the 30-day period can be used effectively.

ETAF also proposes a further clarification. In this view, ETAF recommends introducing a definition of the term "dispute" in article 2(1) of the DRM Directive. A dispute should be deemed to exist where two or more Member States tax, or intend to tax, the same item of income, profit or tax base in a

[33] Ibid, new proposed article 7(8).
[34] Ibid, recital 44.
[35] See Tax Omnibus proposal, recitals 45-53.

manner leading to actual or potential double taxation. A clear definition would improve legal certainty and facilitate access to dispute resolution procedures.

Also, ETAF recommends expressly recognising the right of taxpayers to be represented throughout the procedure by professionals who are authorised under national law to represent taxpayers before tax courts or tax authorities.

ETAF also continues to support a permanent independent arbitration mechanism and a fast-track procedure for straightforward transfer-pricing disputes. While the proposal allows an Alternative Dispute Resolution Commission to take the form of a permanent Standing Committee, this remains dependent on agreement between competent authorities and therefore falls short of a genuinely permanent EU-level dispute resolution body.

Finally, the Council's power to adopt implementing acts under new Article 19a should be limited to technical matters, without affecting procedural rights, and professional organisations should be consulted when such rules are drawn up.

Implementation timelines and Review Clause

The proposal requires Member States to transpose the Directive by 31 December 2028, with most provisions applying from 1 January 2029. Certain measures would apply later, notably the mandatory EUR 3 million ILR safe harbour from 1 January 2032 and several IRD and PSD amendments from 1 January 2037.[36]

ETAF recognises the need to give Member States, tax administrations and taxpayers sufficient time to adapt. However, the deferral of the main IRD and PSD amendments until 2037 would significantly delay the relief sought for businesses and tax administrations and weakens the positive signal the proposal sends to European businesses. These long periods also risk leaving measures outdated before they become applicable in a rapidly evolving EU and international tax landscape.

ETAF therefore recommends bringing the date of application of these amendments forward significantly. At the very least, the mandatory safe harbour, the abolition of prior authorisation procedures and the refund rules under the IRD and PSD should apply from the general date of application of 1 January 2029.

ETAF also welcomes the implementation of a review clause in article 21 of the proposal to examine and evaluate the functioning of this Directive, including the potential need to amend specific provision. Furthermore, ETAF believes that the evaluation should also consider whether further simplification and digitisation of procedural processes, along with a reduction in bureaucracy, would benefit businesses and public administration. The text of the legislation should therefore be amended accordingly.

Notes
For further information on this position paper, please contact: info@etaf.tax

About ETAF
The European Tax Adviser Federation (ETAF) is a European umbrella organisation for tax professionals whose activities are regulated by law. It is established as an international not-for-profit organisation (AISBL) governed by Belgian law, based in Brussels and was launched on 15 December 2015. It represents more than 280 000 tax professionals from France, Germany, Belgium, Romania, Hungary, Austria, Croatia, Portugal and Slovenia. ETAF is a registered organisation in the EU Transparency Register, with the register identification number 760084520382-92.

[36] Tax Omnibus proposal, article 7.