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PROPOSAL

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To:	Ms Thérèse BLANCHET, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2023) 528 final
Subject:	Proposal for a COUNCIL DIRECTIVE establishing a Head Office Tax system for micro, small and medium sized enterprises, and amending Directive 2011/16/EU

Delegations will find attached document COM(2023) 528 final.

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Proposal for a

COUNCIL DIRECTIVE

establishing a Head Office Tax system for micro, small and medium sized enterprises, and amending Directive 2011/16/EU

{SEC(2023) 308 final} - {SWD(2023) 301 final} - {SWD(2023) 302 final} - {SWD(2023) 303 final}

EXPLANATORY MEMORANDUM

1. CONTEXT OF THE PROPOSAL

• Reasons for and objectives of the proposal

In her 2022 State of the European Union Address, Commission President Ursula von der Leyen acknowledged the importance of taking further action for making it easier for small and medium-sized enterprises (SME) to do business in the internal market and announced an SME 'Relief Package'. The SME Relief Package, which the Commission adopted today, delivers much-needed support for SMEs to secure cash flow, to simplify and to invest and grow. The present initiative is part of the package.

The current systems of business taxation in the EU give rise to a significant degree of complexity. This translates into businesses facing high compliance costs, barriers to cross-border operations, risks of double and/or over-taxation leading to tax uncertainty and frequent, time-consuming legal disputes. These setbacks constitute a proportionately higher burden for SMEs than they do for large groups of companies. SMEs spend approximately 2.5% of their turnover on compliance with their tax obligations (e.g. CIT, VAT, and income taxes) while large enterprises spend 0.7%, as the latter are able to leverage economies of scale[1]. If SMEs wish to operate cross-border, they become taxable in more than one Member State as soon as their activity abroad creates a permanent establishment (PE). Compliance with those obligations comes with fixed costs, which creates a barrier that can prevent SMEs from developing their business cross-border. This is especially the case at the inception stage of expansion, when the extent of activities carried out abroad would mainly be ancillary to the primary business operations in the state of origin.

It is thus important that SMEs, which envisage to grow and expand across the border, through PEs, can continue to apply the tax rules that they are familiar with to calculate the taxable result of their PEs in other Member States. This will give these SMEs the opportunity to take a business decision that suits best, either to continue applying different sets of tax rules to their business operations or opt in for the head office taxation rules, after having taken into account the size of the compliance costs and administrative complexity that can arise from dealing with distinct tax rules.

• Consistency with existing policy provisions in the policy area

In 2005, the European Commission adopted a Communication that set out a possible solution to the compliance costs and other tax obstacles faced by SMEs[2]. It presented a 'Home State Taxation' system based on the idea of voluntary mutual recognition and acceptance of tax rules by EU Member States. The system was designed to be voluntary for both Member States and companies and would have run for a five-year pilot phase. Its scope was wider. It covered both PEs and subsidiaries and provided for a more complex tax framework, such as consolidated tax base and allocation of the tax base based on objective factors. Yet, Member States never implemented the recommended solutions of the pilot project.

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[1] European Commission. (2022). Tax compliance costs for SMEs. An update and a complement : final report https://op.europa.eu/en/publication-detail/-/publication/70a486a9-b61d-11ec-b6f4-01aa75ed71a1

[2] COM (2005) 702: Communication from the Commission to the Council, the European Parliament and the Economic and Social Committee - Tackling the corporation tax obstacles of small and medium-sized enterprises in the Internal Market - outline of a possible Home State Taxation pilot scheme […] {SEC(2005)1785

- **Consistency with other Union policies**

The proposal is fully consistent with the Commission's policy to support SMEs. In 2020, the Commission launched an SME Strategy for a sustainable and digital Europe[3], which put forward actions based on three pillars: ·capacity-building and support for the transition to sustainability and digitalisation; reducing regulatory burden and improving market access; and ·improving access to financing.

In September 2022, the Commission President Ursula von der Leyen announced in her State of the European Union Address additional actions, such as the SME Relief Package[4], which the Commission adopted today and of which this initiative is part. This should deliver much-needed support for SMEs to securing cash flow, complying with regulatory obligations and investing and growing. The Communication on the SME Relief package also addresses access for SMEs to finance and skills and the enabling regulatory framework. Finally, the Package includes the reviewed rules on late payments[5] aimed at improving the payment discipline and protecting companies from the negative effects of payment delays in commercial transactions.

The proposed Directive, through its centralised filing, assessment and tax collection procedures and one-stop-shop, is also fully in line with the Commission's objective to rationalise and simplify reporting requirements for companies and administration, as outlined in the Communication on the long-term competitiveness of the EU of March 2023 (COM(2023) 168 final).

In addition, the Capital Markets Union mobilises cross-border private investment in companies of all sizes, complementing public support and leading to reduced dependency of SMEs on single sources or single providers of funding.

Last but not least, in order to allow SME businesses to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, Regulation (EU) 2018/1724 of the European Parliament and the Council[6], which established the Single Digital Gateway, provides for general rules for the online provision of information, procedures and assistance services relevant to the functioning of the internal market. Information on the tax provisions set out in this Directive should also be made accessible to cross-border users through the Single Digital Gateway in accordance with Regulation (EU) 2018/1724, under category L.5.

Thus, the proposed Directive is consistent with this approach, as it encourages SMEs to expand across borders and aims to achieve that tax compliance costs do not hinder SMEs from fully taking advantage of the internal market, while making public and accessible useful information.

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3 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, An SME Strategy for a sustainable and digital Europe, COM/2020/103 final.

4 Late Payment Directive will be replaced by a Regulation, to provide SMEs with a European standard on responsible business conduct across the Single Market.

5 The Late Payment Directive will be replaced by a Regulation to provide SMEs with a European standard on responsible business conduct across the Single Market

6 Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

• Legal basis

This proposal falls within the ambit of Article 115 of the Treaty on the Functioning of the EU (TFEU). The rules of the proposal aim to approximate the laws, regulations or administrative practices of the Member States as these directly affect the establishment or functioning of the internal market. It shall therefore be adopted under a special legislative procedure in accordance with this article and in the form of a Directive. The competence of the Union in this area is shared with the Member States.

• Subsidiarity (for non-exclusive competence)

EU businesses increasingly operate across borders in the internal market, but the current tax framework in the EU consists of 27 different corporate tax systems. This multiplicity of rules results in fragmentation and presents a serious impediment to business activity. Indeed, cross-border businesses face high tax compliance costs in the internal market, as they must comply with various legal frameworks. This is particularly the case for SMEs, for whom these costs are proportionately much higher[7]. Moreover, the existing disparities between Member States create mismatches that can lead to double (non-)taxation.

These problems are common to all Member States and cannot be effectively addressed through individual national actions. As they are the result of operating different tax systems in the first place, national disparate action would produce insufficient and uncoordinated effects. Similarly, while better cooperation may also be beneficial, this approach has mainly been bilateral and is limited.

In this context, only an EU-wide initiative providing for simplification can be effective and is the only suitable legal instrument. The complexity and its consequences would be significantly reduced if there were a simplification framework for SMEs allowing them to apply one set of tax rules should they wish to develop abroad.

If action were taken at EU level, it would have a clear added value. For SMEs, simplification can only effectively work on the basis of the recognition that for the purpose of taxing permanent establishments, being only an extension of the legal personality of the head office, the taxation rules in the origin (headquarters) Member State can be applied for computing the tax base in the Member States of 'expansion', i.e. where the permanent establishments are situated. In addition, instead of filing in each Member State where an SME has a taxable presence by way of PE, SMEs would be able to comply with all requirements through the head office and only in the Member State of the head office (one-stop-shop). For tax administrations, which currently assess the tax liabilities of the same cross-border businesses separately but each only with their own resources, this is also more efficient.

This initiative is therefore in line with the principle of subsidiarity laid down in Article 5(3) TFEU, considering that the objectives cannot be sufficiently achieved through individual national action and that a common approach for all Member States would have the highest chances of achieving the intended objectives.

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[7] European Commission. (2022). Tax compliance costs for SMEs. An update and a complement : final report https://op.europa.eu/en/publication-detail/-/publication/70a486a9-b61d-11ec-b6f4-01aa75ed71a1

- **Proportionality**

The envisaged measures do not go beyond the minimum necessary to facilitate cross-border activities by the SMEs and thus ensure the proper functioning of the internal market. They are therefore compliant with the principles of proportionality. The scope of the proposed measure only concerns the computation of the taxable result in limited situations, without harmonising the taxation rules in the Member States. PEs do not have a separate legal personality from the Head Office itself. They are a taxable presence of an SME in another Member State which however creates taxing rights for the Member State where such PE is situated. The proposal does not prescribe harmonisation of corporate tax systems but only sets out a possibility for SMEs to use one single set of tax rules (i.e. rules of the Member State of the Head Office) for computing the taxable result in respect of activities performed through a PE. The system relies on a mutual recognition and acceptance among Member States of each other's taxation rules for SMEs with PEs. Moreover, such simplification is optional for all eligible SMEs. The tax rate and enforcement policies will remain with the competence of the PEs' Member States. Consequently, this initiative is also in line with the principle of proportionality laid down in Article 5(3) TFEU, as its content and form does not exceed what is necessary and commensurate with the intended objectives.

- **Choice of the instrument**

The proposal is for a Directive, which is the only permissible legal instrument under the legal basis (Article 115 TFEU).

3. RESULTS OF STAKEHOLDERS CONSULTATIONS AND IMPACT ASSESSMENT

- **Results of stakeholders' consultations**

In the context of the wider Business in Europe: Framework for Income Taxation (BEFIT) package, the Commission services launched a public consultation that also covered aspects relevant to SMEs. All contributions received were duly considered, including with respect to SMEs.

SMEs stakeholders were consulted, and views were exchanged regarding the options envisaged specifically for SMEs operating cross-border during a meeting with the SME Envoy Network, which is an expert group consulted regularly by the Commission.

- **Impact assessment**

The impact assessment report accompanying this proposal is based on the draft impact assessment report that was scrutinised by the Regulatory Scrutiny Board and discussed in the relevant meeting on 24 May 2022. In the opinion dated 2605/2023, the Regulatory Scrutiny Board outlined recommendations.

It was found necessary that the initiatives assessed in the report that received the positive opinion with reservation from the Regulatory Scrutiny Board will be presented as separate proposals. For this reason, the said impact assessment report only assesses the impact of this proposal.

The impact assessment report to this proposal represents faithfully the analysis on SMEs contained in the scrutinised draft impact assessment and integrates the recommendations of the Regulatory Scrutiny Board in that regard.

The report examines the impact of the proposal on the basis of several policy options of which three are assessed:
Under the **baseline option (status quo)**, the existing policy framework would be maintained. This means that the EU would continue with 27 different corporate tax systems and no administrative simplification offered for SMEs with taxable presence in (an)other Member State(s). This would result in continued barriers to the good functioning of the internal market, as SMEs will continue to be faced with disproportionately higher compliance costs and an uneven level playing field. Compared to the policy options, this would imply an economic loss due to continued under-participation of SMEs in the internal market.

Option 1: Optional Head Office Tax system for SMEs with PEs

An option is to include only SMEs with PEs in other Member States within the scope of the proposal, and not SMEs with subsidiaries. Such SMEs would have a taxable presence in one or more other Member States through PEs. This option proposes that the taxable results of each PE of the SME would be calculated in accordance with the applicable rules of the state of the head office if the SME chooses to opt for this system. SMEs would have to explicitly opt-in. In order to prevent circumvention, the rules would be coupled with the requirement that an opting-in SME would be under the obligation to apply the rules of the state of the head office for a minimum period of time, for example five years. In addition, SMEs will be entitled to renew their choice every five years without limit as long as they continue to meet the eligibility requirements. The eligibility, but also the termination provisions are designed to discourage abuse and potential tax planning practices, such as the deliberate transfer of the Head Office to a low-tax country.

Option 2: Optional Head Office Tax system for SMEs with PEs and subsidiaries

Alternatively, a second option is to allow eligible SMEs to apply the same set of rules to computing the taxable results of both PEs and subsidiaries. Similarly, this would then be computed using the rules that are applicable in the Member State of its head office or headquarter. This would extend the scope of the proposal to also include groups of entities. The analysis of the technical elements is the same as under the first option, but the implications are different, depending on whether the common rules are applied to subsidiaries or PEs, as the former are separate legal persons whilst PEs are part of the same legal entity as the head office.

The impact assessment concludes that option 1 is the preferred one. It not only proves effective in achieving the specific objectives of the initiative, but in addition, demonstrates efficiency, as its limited scope is delineated to include solely those SMEs with PEs in another Member State, which effectively are at their initial stage of expansion.

For SMEs that may be planning to expand across the border and may have been held back by the perspective of high compliance costs, the simplification would broadly address the objectives. The rules are optional for the SMEs in scope and therefore, can be used by those who can benefit, which should bring effectiveness for those SMEs.

It can be expected that SMEs wishing to expand across borders would most likely do so in first instance through PE, rather than by already setting up a separate legal entity under the company laws of the other Member States. The latter would also come with an additional

compliance cost. For this reason, this option would also be efficient in encouraging cross-border expansion and specifically, removing tax obstacles that may hinder SMEs from fully participating in the internal market.

The impact assessment includes a cost-benefit analysis of the initiative, which is expected to be positive. Among the **benefits** for SMEs under this option, the simplifications that the initiative would introduce have the potential to reduce current tax compliance costs per firm and it is expected that they stimulate investment and growth through more cross-border activities. Benefits are also expected on the tax administration side, first by dealing with the tax returns, tax assessments and collection through a one-stop-shop, and second, by reducing risks of fraud or abuse through the existence of a single system. At the moment, the possibility of irregularities and fraud for a taxpayer with PEs in several Member States is higher than if that taxpayer were to deal with one single tax administration; audits and controls would be easier and tighter.

The **costs of the proposal** cannot be estimated with precision because the proposal does not have a precedent and there is no dedicated data that can be used reliably to produce precise estimates. Nonetheless, the report describes the potential costs for SMEs and tax administrations and indicates some estimates. The costs are estimated to be small compared to the estimated benefits derived from the simplification. These estimates can be found in Annex 3 to the impact assessment report.

- **Regulatory fitness and simplification**

The proposal is aimed at reducing regulatory burdens for both taxpayers and tax administrations. Thus, tax compliance costs are a burden for SMEs and their reduction will be a major advantage in the implementation of the initiative. The estimated reduction in compliance costs features in the impact assessment report.

To meet the objectives of the initiative in a proportionate manner, the preferred option of the initiative is option 1. SMEs with PEs in (an)other Member State(s) will have the option to apply their Head Office tax rules to compute the taxable result of their PEs. This discretion which is left to the taxpayer should effectively reduce regulatory burdens. SMEs are likely to opt in when they can benefit from the simplification that the rules offer. If this is not the case, they will continue to apply the existing rules. In this way, the scope of the proposal ensures that compliance costs for SMEs are kept low. Finally, as the proposal is primarily aimed to address the needs for cross-border businesses which have taxable presence in more than one Member State, many micro-enterprises will, effectively, be out of scope.
Tax administrations, in particular of the host Member States, should also benefit from the expected decrease in workload, as the filing, assessment and tax collection will be centralised in the head office Member State. This additional workload for the latter will to some extent be compensated by a reduced number of disputes and procedures which currently arise from the application of different sets of rules to the same income or transactions.

- **Fundamental rights**

It is not expected that this proposal has a considerable effect on fundamental rights. The proposed measures are compatible with the rights, freedoms and principles in the Charter of fundamental rights of the EU.[15] Article 18 of the proposal will specifically ensure that personal data be protected. By levelling the playing field, removing cross-border barriers, and providing more tax certainty, the proposal will also contribute to preventing any discrimination or unjustified restrictions on the freedoms related to conducting a business.

4. BUDGETARY IMPLICATIONS

For details, see the Legislative Financial Statement accompanying the proposal. Please note that there are no major budgetary implications anticipated to be incurred as a result of this proposal, as these implications are limited to exchanges of information between the head office and host Member States.

5. OTHER ELEMENTS

- **Implementation plans and monitoring, evaluation and reporting arrangements**

The Commission will review the situation in the Member States 5 years after the rules of the Directive start to apply and publish a report.

For the purpose of monitoring and evaluating the implementation of the Directive, it will initially be necessary to give Member States time and all necessary assistance, in order to properly implement the EU rules. The Commission will evaluate the application of the Directive five years after its entry into force and report to Council on its operation. If appropriate, such report may eventually be accompanied by a proposal to amend the Directive. Member States should provide the Commission with any relevant information they have which may be required for evaluation purposes.

In addition to an evaluation, the effectiveness and efficiency of the initiative will be regularly and continuously monitored using the following pre-defined indicators: compliance costs for SMEs, relative to their turnover and to comparable SMEs that do not apply the proposed simplification; number of SMEs that opted in ; number of SMEs that expanded cross-border by setting up a PE ; number of SMEs leaving the scope by setting up a subsidiary; turnover of SMEs that are in scope, relative to comparable SMEs that do not apply the proposed simplification.

- **Detailed explanation of the specific provisions of the proposal**

Subject matter

The Directive provides for a simplified approach to subjecting standalone SMEs operating cross-border in the EU to taxation in respect of their PE(s) in other Member States. This simplified approach is referred to as 'Head Office Taxation' (Article 1). Such solution is limited to the taxation rules for the computation of the taxable result of PEs and does not touch upon the social security rules applied in the Member State of the PE, nor does it affect the existing bilateral conventions on the avoidance of double taxation.

Scope

The scope of the rules is limited to standalone SMEs that operate exclusively through PEs in one or more Member State (Article 2).

Eligibility requirements, option and exclusions

Eligible SMEs will have the option to calculate the taxable result(s) of their PE(s) based only on the taxation rules of the Member State of their head office, while the applicable tax rate(s) will remain that/those of the Member State(s) where the PE(s) is/are located. The option, and its renewal, are however strictly confined by eligibility requirements aimed to address potential risks of circumvention of the rules (Articles 3 and 9). Such option shall last for five

years (Article 7), unless the Head Office changes residence in the meantime or the joint turnover of the PEs becomes at least triple of the head office's turnover (Article 8), in which case the HOT rules will cease to apply.

At the end of each five-year period, SMEs will be entitled to renew their choice for another five years without limit as long as they continue to meet the eligibility requirements (Article 9).

The eligibility and termination provisions are designed to discourage abuse and potential tax planning practices, such as the deliberate transfer of the Head Office to a Member State with attractive features in its tax system that ensure low taxation. When a standalone SME decides to set up a subsidiary, or the joint turnover of its PEs becomes at least double of the head office's turnover, or when it ceases to qualify as an SME altogether, it cannot renew the HOT rules when the five-year period expires (Article 10).

Centralized procedures

A one-stop shop will enable in-scope SMEs to interact only with the tax administration of the Member State of their head office both for the procedure to opt in and for filing obligations and paying taxes (Articles 6, 9, 11 and 14). The 'filing entity' for all PEs will be the head office of the SME. SMEs will thus file one single tax return with the tax administration of their head office (the 'filing authority') (Article 11). This tax administration will then transfer the resulting tax revenues¨ to each Member State where the SME maintains a PE (Article 14). Such an approach will eliminate the complexities and related costs of having to deal with multiple tax systems and tax administrations.

The Member State of the head office will apply the rates applicable in the Member State(s) where the SME maintains PEs and subsequently, transfer the resulting tax revenues to the latter (Article 12).

Timely and streamlined exchange of information between the concerned tax authorities is provided for (Articles 11 and 14), in particular by using the existing framework set up by the *Directive on administrative cooperation in the field of taxation*[8]. Such exchange shall be tailored so that it answers the needs and the simplification purpose aimed by this Directive.

Audits, appeals and disputes

Each Member State remains competent for audits of PEs in their jurisdiction and can also request joint audits which create an obligation to engage for the addressee Member State (Article 13).

Finally, it is inherent that such an optional application of the rules may, in limited instances, create risks for the distortion of competition because comparable businesses may end up being subject to different taxation rules. However, the benefits will clearly outweigh those risks, and in particular, the system compensates for the additional and significant tax compliance costs that those SMEs with PE would otherwise have incurred.

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[8] Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC.

2023/0320 (CNS)

Proposal for a

COUNCIL DIRECTIVE

establishing a Head Office Tax system for micro, small and medium sized enterprises, and amending Directive 2011/16/EU

THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 115 thereof,

Having regard to the proposal from the European Commission,

After transmission of the draft legislative act to the national parliaments,

Having regard to the opinion of the European Parliament[9],

Having regard to the opinion of the European Economic and Social Committee[10],

Acting in accordance with a special legislative procedure,

Whereas:

(1) In the Union, there is currently no common approach to the computation of the taxable base for businesses. EU businesses are therefore obliged to comply with the rules of different corporate tax systems, depending on the Member State in which they operate.

(2) The co-existence and interaction of 27 different corporate income tax systems in the Union gives rise to complexity in tax compliance and leads to an uneven level playing field for businesses. This state of play has a higher impact on SMEs than on larger taxpayers and has become more evident as globalisation and digitalisation of the economy have significantly altered the perception of borders and business models. The attempts by governments to adapt to this new reality have resulted in a fragmented response among Member States, leading to further distortions in the internal market. Furthermore, the various legal frameworks inevitably lead to different tax administration practices across Member States. This often entails lengthy procedures characterised by unpredictability and inconsistency along with high compliance costs.

(3) The variety of ways for doing business in the internal market requires different solutions for different businesses when it comes to tackling the current challenges posed by their cross-border operations. For smaller businesses which are not part of a group, it is more difficult to expand cross-border than for larger businesses. It is thus more burdensome for

[9] OJ C , , p. .
[10] OJ C , , p. .

those smaller businesses to grapple with complex procedures and high compliance costs. It is therefore evident that micro, small and medium-sized enterprises, at the initial stages of expansion, need a solution such as a simplified mechanism for the computation of their taxable result when they operate across the border exclusively by way of permanent establishments.

(4) To remedy tax uncertainty and the difficulty in complying with the rules of an unknown tax system when operating in (an)other Member State(s) (which is one of the key impeding factors for SMEs to expanding abroad), the taxable result of permanent establishments should be computed on the basis of the rules of the Member State where the Head Office (headquarters of the SME) is resident for tax purposes. This also means that the principles governing the attribution of income to a permanent establishment, set out in the applicable bilateral convention for the avoidance of double taxation between the Member State of the permanent establishment and the Member State of the Head Office, would also continue to apply. To ensure that any new rules constitute a source of simplification for SMEs, their application should be optional, and thus left to the choice of the taxpayer.

(5) To prevent abusive tax practices, specific anti-tax abuse rules are designed, for example to address the tax avoidance risks associated with transferring the tax residence of an SME, and thus to avoid that the location of the head office is determined on the basis of tax motives. Accordingly, it would be necessary to monitor the evolution of the turnover attributed to the permanent establishment(s) in order to maintain their operations as secondary to the main activity which should be carried out by the head office. In this way, the rules would not risk being misused by setting up empty head offices while the bulk of business activities takes place abroad. In the same vein, the eligibility to the tax simplification system as well as the termination and renewal of the option should be subject to strict conditions. Such conditions should be coupled with requirements relating to the turnover of the head office as compared to that of the permanent establishment(s). The aim would be to further underline that the business operated through the permanent establishment(s) can merely be an extension of the main activity of the head office. Additionally, once the option is made to apply the tax simplification framework, it should have an obligatory duration, to prevent situations where the residence of the head office is frequently moved to take advantage of occasional and short-term tax beneficial situations.

(6) International shipping is a specific sector of activity subject to special tax regimes in several Member States. Those regimes mostly consist of computing the tax base on the basis of the tonnage (i.e. the carrying capacity) of the operated ships rather than on the basis of actual profits or losses incurred by the company. On this premise, SMEs that derive income from shipping activities covered by a tonnage tax regime should be excluded from opting in the SME simplification rules in respect of such income attributed to a permanent establishment. This exclusion would avoid additional complication, which would be expected to arise from the interaction between the SME tax simplification framework and tonnage tax regimes. In addition, such a potential complication would appear disproportionate, considering the absence of such special tax regimes in some Member States. No other sectors of activity would be excluded from the scope of the Directive.

(7) The proposal aims to provide significant procedural simplification, thus a one-stop-shop should be put in place, whereby the tax filing, tax assessments and the collection of the tax due by the permanent establishment(s) would be dealt with through a single tax authority ('filing authority'), i.e. the tax authority in the Member State of the head office. In full

respect of Member States' sovereignty in tax matters, audits, appeals and dispute resolution procedures would primarily be kept domestic and in accordance with the procedural rules of the respective Member State. To support the functioning of a one-stop-shop, it would be critical to provide for joint audits, which create an obligation to the Member State of the head office to cooperate if the tax authority of the permanent establishment requests an audit covering the computation of the taxable result of its taxpayer.

(8) To avoid fragmentation of the scope that may arise from national specificities, the SMEs in scope are those defined under the Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013[11].

(9) To ensure that concerned Member States have timely access to the relevant tax information, such information should be exchanged automatically through the common communication network ('CCN') developed by the Union. Council Directive 2011/16/EU[12] should therefore be amended accordingly.

(10) In order to ensure uniform conditions for communicating and sharing the relevant information for tax purposes between Member States, for collecting and transferring taxes, and also reviewing how the tax simplification system operates, implementing powers should be conferred on the Commission. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council[13].

(11) In addition, in order to allow SME businesses to directly enjoy the benefits of the internal market without incurring an unnecessary additional administrative burden, information on the tax provisions set out in this Directive should be made accessible through the Single Digital Gateway ('SDG') in accordance with Regulation (EU) 2018/1724[14]. The SDG provides a one-stop-shop for cross-border users for the online provision of information, procedures and assistance services relevant to the functioning of the internal market.

(12) In order to amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission in respect of updating Annexes I to IV on the legal forms of SMEs and taxes on profits (that these forms of SMEs are subject to), as appropriate, in order to integrate future legal forms or taxes with similar features to those listed in Annexes I to IV. In this context, it is of particular importance that the Commission carries out appropriate consultations during its preparatory work, including at expert level, and that those consultations be conducted in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making[15]. To ensure equal participation in the preparation of delegated acts, the European Parliament and the Council receive all documents at the same time as Member States' experts, and their

[11] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC

[12] Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1).

[13] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

[14] Regulation (EU) 2018/1724 of the European Parliament and of the Council of 2 October 2018 establishing a single digital gateway to provide access to information, to procedures and to assistance and problem-solving services and amending Regulation (EU) No 1024/2012 (OJ L 295, 21.11.2018, p. 1).

[15] OJ L 123, 12.5.2016, p. 1.

experts systematically have access to meetings of Commission expert groups dealing with the preparation of delegated acts.

(13) As the proper implementation of the proposed rules in each Member State is critical for the protection of other Member States' tax base, such implementation and enforcement should be monitored by the Commission. To this effect, Member States should communicate to the Commission on a regular basis, specific information, including statistics, on the implementation and enforcement in their territory of national measures adopted pursuant to this Directive. In order to evaluate the effectiveness of the proposed new rules, the Commission should prepare an evaluation on the basis of the information provided by Member States and other available data, and where appropriate, accompany it by a proposal to amend the rules. The Commission's report should be published.

(14) Member States may process personal data under this Directive solely for the purpose of verifying the eligibility requirements or determining the tax liability of permanent establishments. Any processing of personal data carried out for this purpose should comply with Regulation (EU) 2016/679.

(15) A retention period is provided to allow Member States to comply with most of the statute of limitation rules, thus following closely such domestic rules in respect of its starting point or suspension. The retention period should not however go further than what is necessary to ensure that the competent tax authorities are able to determine the tax liabilities, thus striking a balance between the ability of the tax authority to ensure proper assessment and collection of taxes and taxpayers' right to legal certainty.

(16) This Directive respects the fundamental rights and observes the principles recognised by the Charter of Fundamental Rights of the European Union. In particular, this Directive seeks to ensure full respect for the right to the protection of personal data and freedom to conduct business.

(17) The European Data Protection Supervisor was consulted in accordance with Article 42(1) of Regulation (EU) 2018/1725 of the European Parliament and of the Council and delivered its opinion on […].

(18) Since the objective of this Directive, namely the simplification of tax rules for certain SMEs operating in the internal market through permanent establishment(s), cannot sufficiently be achieved by the Member States but can rather, by reason of the existing challenges which are caused by the interaction between 27 different corporate tax systems, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on the European Union. In accordance with the principle of proportionality as set out in that Article, this Directive does not go beyond what is necessary in order to achieve that objective;

HAS ADOPTED THIS DIRECTIVE:

CHAPTER I
GENERAL PROVISIONS

Article 1
Subject matter

This Directive lays down rules for computing the taxable result of permanent establishments of SMEs which fulfil the criteria set out in Article 2(1) ("Head Office Taxation" rules).

Article 2
Scope

1. This Directive applies to SMEs which fulfil the following criteria:

   (a) they are established under the law of a Member State and take one of the forms listed in Annexes I and II;

   (b) they are resident for tax purposes in a Member State in accordance with the tax laws of that Member State, including its bilateral conventions for the avoidance of double taxation;

   (c) they are subject, directly or at the level of their owners, to a tax on profits listed in Annexes III and IV, or to any other tax with similar characteristics;

   (d) they qualify as micro, small and medium-sized (SMEs), as defined in Directive 2013/34/EU[16];

   (e) they operate in other Member States exclusively through one or more permanent establishments;

   (f) they are not part of a consolidated group for financial accounting purposes in accordance with Directive 2013/34/EU and constitute an autonomous enterprise, that fulfils either of the following conditions:

      – it is not an associated enterprise within the meaning of Article 2(13) of Directive 2013/34/EU;

      – it is not a linked enterprise within the meaning of Article 3(3) of Commission Recommendation 2003/361/EC.

2. The Commission is empowered to adopt delegated acts in accordance with Article 16 to amend Annexes I to IV, in order to take account of changes to the laws of the Member States concerning:

[16] Directive 2013/34/EU of the European Parliament and of the Council of 26 June 2013 on the annual financial statements, consolidated financial statements and related reports of certain types of undertakings, amending Directive 2006/43/EC of the European Parliament and of the Council and repealing Council Directives 78/660/EEC and 83/349/EEC

(a) legal forms of entities established under the law of a Member State (Annexes I and II);

(b) taxes on profits or any other tax with similar characteristics to which such entities are subject directly or at the level of their owners (Annexes III and IV).

3. This Directive shall not affect the right of the Member State where a permanent establishment is situated to determine the applicable tax rate, nor the applicability of bilateral conventions for the avoidance of double taxation, or the rules on the social protection of workers in the Member State of the permanent establishment.

Article 3
Definitions

For the purposes of this Directive, the following definitions shall apply:

(1) 'permanent establishment' means a fixed place of business situated in another Member State, as defined under the relevant bilateral convention on the avoidance of double taxation or, in absence thereof, in national law;

(2) 'head office' means an SME, as referred to in Article 2(1), which operates in (an)other Member State(s) exclusively through one or more permanent establishment;

(3) 'head office Member State' means the Member State in which the SME referred to in Article 2(1) is resident for tax purposes;

(4) 'head office taxation rules' means the taxation rules of the head office Member State which are used to compute the taxable result of the head office and its permanent establishments;

(5) 'host Member State' means the Member State in which the permanent establishment of an SME referred to in Article 2(1) is situated;

(6) 'taxable result of the permanent establishment' means the taxable income or loss computed in accordance with the Head Office Taxation rules;

(7) 'filing authority' means the competent tax authority in the Head Office Member State;

(8) 'Head office taxation tax return' means the tax return filed by an SME referred to in Article 2(1) covering the taxable results of the head office and of the permanent establishment(s), as computed in accordance with the head office taxation rules.

CHAPTER II
Head Office Taxation

Article 4
Eligibility requirements

1. The head office may opt to apply the head office taxation rules in respect of its permanent establishment(s) in other Member States if it meets the following requirements:

   (a) the joint turnover of its permanent establishments did not exceed, for the last two fiscal years, an amount equal to double the turnover generated by the head office;

   (b) it has been resident for tax purposes in the head office Member State during the last two fiscal years;

   (c) it has met the conditions laid down in Article 2(1), point d) for the last two fiscal years.

2. If the head office opts to apply the head office taxation rules in accordance with paragraph 1, it shall apply those rules to all its permanent establishments in other Member States. If it creates a new permanent establishment in another Member State, it shall apply head office taxation rules to such permanent establishment from the moment of its establishment.

Article 5
Exclusion from the head office taxation rules

Where the head office derives income from shipping activities and this income is subject in the head office Member State to a tonnage tax regime, such head office shall be excluded from applying the head office taxation rules in respect of its permanent establishment(s) in other Member States to the extent that these derive income from shipping activities.

Article 6
Exercise of the option to apply Head office taxation rules

1. The head office which opts to apply the head office taxation rules to its permanent establishment(s) shall notify its choice to the filing authority, together with the name of the host Member State(s). The notification shall be made at least three months before the end of the fiscal year preceding the fiscal year in which that SME wishes to start applying the head office taxation rules.

2. The filing authority shall verify whether the eligibility requirements set out in Article 4 are met and shall inform the head office of its findings within two months of the notification referred to in paragraph 1.

3. If the eligibility requirements are met, the filing authority shall inform the tax authorities of the host Member States within two months of the notification referred to in paragraph

1 that the taxable result of the relevant permanent establishments shall be computed in accordance with the head office taxation rules as of the following fiscal year, as applied in the head office Member State. The tax authority of the host Member State(s) shall communicate to the filing Authority the applicable tax rate.

The information referred to in the first subparagraph shall be communicated by means of an automatic exchange of information referred to in Article [8ae] of Directive 2011/16/EU.

The host Member State may challenge the decision of the filing authority regarding the fulfilment of the eligibility requirements in accordance with the provisions set out in Article 13. Notwithstanding such proceedings, the SMEs may start applying the head office taxation rules.

If the filing authority concludes that the eligibility requirements are not met, it shall inform the head office within two months of the notification referred to in paragraph 1 and the head office may appeal against it in accordance with the national law.

4. Where a host Member State concludes that the presence of an SME in its territory qualifies as a permanent establishment, it shall inform the filing authority. Upon that information, the filing authority shall inform the competent tax authority of the host Member State on whether the head office applies the head office taxation rules in respect of its permanent establishments.

Article 7

Duration of the option to apply the head office taxation rules

1. The head office that has opted to apply head office taxation rules to its permanent establishments in one or more host Member States shall apply those rules for a period of five fiscal years.

2. At the end of the period referred to in paragraph 1, the head office taxation rules shall cease to apply in respect of the permanent establishments situated in the host Member States, unless the head office notifies to the filing authority its option to renew the application of the head office taxation rules, in accordance with the procedure set out in Article 9.

Article 8

Termination of the option to apply the Head Office Taxation rules

1. The option to apply the head office taxation rules shall be terminated before the end of the five-year period referred to in Article 7(1) for any of the following reasons:

   (a) the SME referred to in Article 2(1) transfers its tax residence out of the head office Member State;

   (b) for the last two fiscal years, the joint turnover of its permanent establishments exceeded an amount which is equal to triple the turnover of the head office.

2. In any of the cases referred to in paragraph 1, the head office taxation rules shall cease to apply as of the fiscal year that follows the one in which the reasons referred to in paragraph 1 occur.

3. The filing authority shall inform the host Member States of the termination referred to in paragraph 1 before the end of the fiscal year in which the reasons for that termination occurred.

4. If the SME referred in Article 2(1) transfers its tax residence to another Member State, it may opt to apply the head office taxation rules of its new Member State of tax residence in accordance with Articles 4 to 7. This shall be considered a new option.

Article 9

Renewal of the option to apply the head office taxation rules

1. If the head office wishes to renew its option, it shall notify the filing authority thereof at least six months before the end of the period referred to in Article 7(1) and shall list the names of the host Member States. The filing authority shall verify whether the SME continues to meet the eligibility requirements set out in Article 4.

2. The filing authority shall confirm the renewal of the option within two months of the receipt of the notification referred to in paragraph 1 after it has verified that the eligibility requirements set out in Article 4 are met. It shall communicate its decision to the head office, together with the information that the grounds for exclusion laid down in Article 10 do not apply. The filing authority shall also inform the tax authorities of the host Member States of the renewal within four months of the receipt of the notification referred to in paragraph 1.

Article 10

Exclusion from the renewal to apply the head office taxation rules

The head office shall not be entitled to renew the option for applying the head office taxation rules if during the five-year period when head office taxation rules initially applied, any of the following situations occurred:

(a) for any two fiscal years taken separately, the joint turnover of the permanent establishments exceeded an amount which is equal to double the turnover of the Head Office;

(b) the SME set up one or more subsidiaries within or outside the Union;

(c) the criterion set out in Article 2(1), point (d) has not been met for two consecutive fiscal years.

Article 11

Filing of the Head office taxation tax return, tax assessment and coordination between authorities

1. The head office shall file the Head office taxation tax return with the filing authority.

2. The Head office taxation tax return shall include the following information:

(a) the tax liability of the SME with regard to its taxable result in the head office Member State;

(b) the tax liability of the SME with regard to the taxable result of each permanent establishment in other Member States. The tax liability shall be computed by applying the national tax rate of the respective host Member State to the taxable result, as it was computed in accordance with the head office taxation rules.

3. Where one or more permanent establishment of the SME are not required to prepare separate financial accounting statements under the law of the host Member State, the HOT tax return shall include the following information:

(a) assets and liabilities attributed to the permanent establishment(s);

(b) profits attributable to the permanent establishment(s) in other Member States.

4. The filing authority shall issue the following notices:

(a) a tax assessment notice for the head office;

(b) a draft tax assessment notice for each permanent establishment.

5. The filing authority shall communicate to the tax authorities of the host Member States the following documents and information, in accordance with the rules set out in Article 14:

(a) the Head office taxation tax return, accompanied by copies of the financial accounting statements and of any other relevant documents, as required and prepared under the law of the head office Member State;

(b) a draft tax assessment notice for the relevant permanent establishment(s);

(c) where necessary, any other information to allow the assessment of additional national or regional non-profit or profit-based taxes or surcharges or other inter-related features of personal income tax, in accordance with the tax rules of the host Member State.

The information referred to in this paragraph shall be communicated by means of an automatic exchange of information referred to in Article [8ae] of Directive 2011/16/EU.

6. The tax authority of the host Member State shall accept or reject the draft tax assessment notice referred to in paragraph 5, point (b), within two months of its receipt and shall inform the filing authority accordingly.

7. If the tax authority of the host Member State accepts the draft tax assessment notice or does not react within the deadline referred to in paragraph 6, the draft tax assessment notice becomes final and may be appealed against by the head office before the filing authority and in accordance with the national rules of the head office Member State.

8. If the tax authority of the host Member State rejects the draft tax assessment notice, it shall revise this draft tax assessment in connection with the attribution of profits to the

permanent establishment in accordance with the provisions laid down in the applicable bilateral convention for the avoidance of double taxation between the host and head office Member States. After the attribution of profits to the permanent establishment has been revised and communicated to the filing authority in accordance with Article 8ae of Directive 2011/16/EU, the filing authority shall re-compute the taxable result in accordance with the taxation rules of the head office Member State, and a revised tax assessment shall be issued by this Member State. The taxpayer shall be entitled to appeal against this revised tax assessment before the courts of the head office Member State. Any dispute concerning the amount of profits attributable to the permanent establishment shall be settled in accordance with the applicable bilateral convention for the avoidance of double taxation, or the provisions set out in Council Directive (EU) 2017/1852 of 10 October 2017[17].

8. 9. Where, under the tax rules of the host Member State, certain expenses associated with the employees of the permanent establishment are deductible for tax purposes insofar as the respective amounts are taxed at the level of the employee or are subject to social security charges, and there is no similar tax treatment in the head office Member State allowing for such deduction, the head office and host Member States shall take appropriate measures to prevent possible mismatches.

Article 12

Collection of tax due by the permanent establishment(s) in the host Member State(s)

1. The head office shall settle, through the filing authority, the income tax liabilities with regard to both its taxable result and the taxable result of its permanent establishment(s) in the host Member State(s).

2. The filing authority shall collect the tax corresponding to the tax liability of each permanent establishment of the head office in the Union, apply the tax rate the respective host Member State and transfer the relevant amount to the competent authority of the respective host Member State.

3. The Commission shall, by means of implementing acts, lay down the practical arrangements necessary to ensure the collection and transfer of the tax corresponding to the tax liability of the permanent establishment(s) from the head office Member State to the host Member State. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 15.

Article 13

Audits, legal remedies and dispute resolution

1. Unless specified otherwise, the rules of this Directive shall not affect the national rules of Member States that govern local tax audits, legal remedies and proceedings, or the dispute resolution mechanisms available at the level of the Union or provided for in the applicable bilateral tax conventions on the avoidance of double taxation.

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[17] Council Directive (EU) 2017/1852 of 10 October 2017 on tax dispute resolution mechanisms in the European Union (*OJ L 265, 14.10.2017, p. 1–14).*

2. The tax authority of the host Member State may request that an audit be carried out jointly with the filing authority covering the computation of the taxable result of the permanent establishment in accordance with the head office taxation rules, the attribution of profits to the permanent establishment and/or the applicable tax rate. Joint audits shall be conducted in accordance with Council Directive 2011/16/EU[18]. Notwithstanding the provisions in the aforementioned Directive, the requested competent authority shall accept such request by the authorities of the host Member State.

Article 14
Amendments to Directive 2011/16/EU

1. Directive 2011/16/EU of 15 February 2011[19]is amended as follows:

(1) in Article 3, point (9) is amended as follows:

(a) point (a) is replaced by the following: '(a) for the purposes of Article 8(1) and Articles 8a to 8ae, the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals. For the purposes of Article 8(1), reference to available information relates to information in the tax files of the Member State communicating the information, which is retrievable in accordance with the procedures for gathering and processing information in that Member State.';

(b) point (c) is replaced by the following: '(c) for the purposes of provisions of this Directive other than Article 8(1) and (3a) and Articles 8a to 8ae, the systematic communication of predefined information provided in points (a) and (b).';

(2) The following Article 8ae is added:

'Article 8ae

Scope and conditions of mandatory automatic exchange of information on election following the option to apply head office taxation rules, Head office taxation tax returns and draft tax assessments

1. If a head office as defined in Article 3, point (2), of Directive on establishing a Head Office taxation rules for micro, small and medium sized enterprises[20], which opts to apply the head office taxation rules to its permanent establishment(s) in accordance with Article 6 of that, meets the eligibility requirements for applying such rules, the competent authority of the Member State of the head office shall by means of automatic exchange of information communicate to the competent authority of the Member State of the permanent establishment that the taxable result of the relevant permanent establishment is to be computed in accordance with the head office taxation rules. Such communication

[18] Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1)

[19] Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC (OJ L 64, 11.3.2011, p. 1)

[20] Directive…[OJ: Please insert the number, date, title and OJ reference of that Directive].

shall take place within two months from the notification by the Head Office of its option to apply head office taxation rules.

2. The competent authority of the Member State of the permanent establishment shall communicate to the competent authority of the Member State of the head office the tax rate applicable for the purpose of determining the tax liability of the permanent establishment(s) situated on its territory, within three months from the notification by the competent authority of the Member State of the head office of the decision on the application of the head office taxation rules.

3. The competent authority of the Member State of the head office shall by means of automatic exchange of information communicate the information specified in paragraph 2 of this Article to the competent authority(ies) of the Member State(s) of the permanent establishment(s) in accordance with the practical arrangements adopted pursuant to Article 21.

4. The information to be communicated by the competent authority of a Member State under paragraph 1 shall contain the following:

   (i) the Head office taxation tax return;

   (ii) copies of the financial accounting statements and of any other relevant documents, as were required and prepared under the law of the head office state;

   (iii) a draft tax assessment notice for the relevant permanent establishment(s);

   (iv) where necessary, any other information to allow the assessment of additional national or regional non-profit or profit-based taxes or surcharges or other inter-related features of personal income tax, in accordance with the tax rules of the host Member State.

5. The exchange of information shall take place immediately after the issuance of the draft tax assessment, and no later than one month following such issuance.

6. Where the tax authority of the Member State of the permanent establishment(s) revises the draft tax assessment notice in connection with the attribution of profits to the permanent establishment in accordance with the provisions laid down in the applicable bilateral convention for the avoidance of double taxation between the host and head office Member States, after rejection of the draft tax assessment notice issued by the head office Member State, the competent authority of the Member State of the permanent establishment(s) shall communicate such revised tax assessment notice to the competent authority of the Member State of the head office, within one month from its issuance, for the purpose of re-computing the taxable result of the permanent establishment, issuance of a revised tax assessment and collecting the tax.

7. The Commission shall, by means of implementing acts, lay down the practical arrangements necessary to determine the form, content and language requirements of the communication referred to this Article 8. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 26(2).

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2. In article 20, paragraph 4 is replaced by the following:

4. The automatic exchange of information pursuant to Articles 8, 8ac and 8ae shall be carried out using a standard computerised format aimed at facilitating such automatic exchange, adopted by the Commission in accordance with the procedure referred to in Article 26(2).'

CHAPTER III
FINAL PROVISIONS

Article 15
Committee procedure

1. The Commission shall be assisted by a committee. That committee shall be a committee within the meaning of Regulation (EU No 182/2011[21].

2. Where reference is made to this paragraph, Article 5 of Regulation (EU) No 182/2011 shall apply.

Article 16
Exercise of the delegation

1. The power to adopt delegated acts is conferred on the Commission subject to the conditions laid down in this Article.

2. The power to adopt delegated acts referred to in Article 2(2) shall be conferred on the Commission for an indeterminate period of time from [the date of entry into force of this Directive].

3. The delegation of power referred to in Article 2(2) may be revoked at any time by the Council. A decision to revoke shall put an end to the delegation of the power specified in that decision. It shall take effect the day following the publication of the decision in the *Official Journal of the European Union* or at a later date specified therein. It shall not affect the validity of any delegated acts already in force.

4. Before adopting a delegated act, the Commission shall consult experts designated by each Member State in accordance with the principles laid down in the Interinstitutional Agreement of 13 April 2016 on Better Law-Making.

5. As soon as it adopts a delegated act, the Commission shall notify it to the Council.

6. A delegated act pursuant to Article 2(2) shall enter into force only if no objection has been expressed by the Council within a period of two months of notification of that act to the Council or if, before the expiry of that period, the Council has informed the

[21] Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by the Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Commission that it will not object. That period shall be extended by two months at the initiative of the Council.

Article 17
Informing the European Parliament

The European Parliament shall be informed by the Commission of the adoption of delegated acts, of any objection formulated to them, and of the revocation of the delegation of powers by the Council.

Article 18
Data Protection

1. The Member States may process personal data under this Directive for the purpose of verifying the eligibility requirements or to determine the tax liability as referred to in Articles 4, 9 and 11 of this Directive. When processing personal data, for the purpose of verifying the eligibility requirements or to determine the tax liability in accordance with this Directive, the competent authorities of Member States shall be considered as controllers, in the meaning of Article 4, paragraph 7 of Regulation (EU) 2016/679, within the scope of their respective activities under this Directive.

2. Information, including personal data, processed in accordance with this Directive shall be retained only as long as necessary to achieve the purposes of this Directive, in particular, verification of eligibility requirements and determination of the tax liability of the taxpayers, in accordance with each data controller's domestic rules on the statute of limitations, but in any case no longer than ten years.

Article 19
Review by the Commission of the operation of this Directive

1. Five years after this Directive starts to apply, the Commission shall examine and evaluate its functioning and report to the European Parliament and the Council to that effect. The report shall, where appropriate, be accompanied by a proposal to amend this Directive.

2. Member States shall communicate to the Commission relevant information for the evaluation of the Directive, in accordance with paragraph 3, including aggregated data regarding the number of eligible SMEs compared to SMEs that opted in, their turnover and compliance costs relative to turnover; data on the number of SMEs that expanded cross-border by setting up a permanent establishment and the number of SMEs that disqualified due to creating a subsidiary, or the compliance costs for SMEs that apply the option.

3. The Commission shall, by means of implementing acts, specify the information to be provided by Member States for the purposes of evaluation, as referred to in paragraph 2, as well as the format and the conditions for the communication of such information.

4. Information communicated to the Commission in accordance with paragraph 2 shall be kept confidential by the Commission in accordance with the provisions applicable to Union institutions and Article 18 of this Directive.

5. Information communicated to the Commission by a Member State under paragraph 2, as well as any report or document produced by the Commission using such information, may be transmitted to other Member States. The transmitted information shall be covered by the obligation of official secrecy, as laid down regarding similar information in the national law of the Member State(s) which received it.

Article 20
Transposition

1. By 31.12.2025, the Member States shall adopt and publish the measures necessary to comply with this Directive. They shall immediately inform the Commission thereof.

   They shall apply those measures from 1.1.2026.

   When the Member States adopt those measures, they shall include a reference to this Directive or accompany them with such a reference on the occasion of their official publication. The methods of making such reference shall be laid down by Member States.

2. As soon as this Directive has entered into force, Member States shall ensure that the Commission is informed, in sufficient time for it to submit its comments on any draft laws, regulations or administrative provisions which they intend to adopt in the field covered by this Directive.

Article 21
Entry into force

This Directive shall enter into force on the twentieth day following that of its publication in the Official Journal of the European Union.

Article 22
Addressees

This Directive is addressed to the Member States.

Done at Strasbourg,

For the Council
The President

LEGISLATIVE FINANCIAL STATEMENT

1. FRAMEWORK OF THE PROPOSAL/INITIATIVE

1.1. Title of the proposal/initiative

Council Directive (EU) 2023/XXX of XX on establishing a Head Office Tax system for micro, small and medium-sized enterprises, and amending Directive 2011/16/EU

1.2. Policy area(s) concerned

Tax policy.

1.3. The proposal/initiative relates to:

X a new action

☐ a new action following a pilot project/preparatory action[22]

☐ the extension of an existing action

☐ a merger or redirection of one or more actions towards another/a new action

1.4. Objective(s)

1.4.1. General objective(s)

The Proposal aims to set a tax framework in support of the internal market, in particular for SMEs. There is currently no common corporate tax system for computing the taxable income of EU businesses, but 27 different national systems, making it difficult and costly for companies to do business across the internal market. The Proposal accommodates the need for, and provides tax certainty and easier tax compliance with, for certain SMEs that are at their incipient stage of expansion and thus have taxable presence in other Member States than their Member State of origin (Head Office State). For this, the proposal notably builds on a mutual recognition framework, whereby Member States of the expansion (where the permanent establishment is located) accept that the taxation rules of the Head Office State apply when computing the taxable results of the PE in their territories.

1.4.2. Specific objective(s)

Specific objective 1) The first specific objective of the proposal is to reduce compliance costs for SMEs. As the proposal will provide the EU businesses with a a common framework allowing to apply one single set of tax rules when operating in another Member State by way of a permanent establishment, compared to the current environment, it should take less resources for businesses to comply.

[22] As referred to in Article 58(2)(a) or (b) of the Financial Regulation.

2) Secondly, the proposal aims to encourage cross-border expansion, in particular, of SMEs at their incipient stage of expansion.

3) Third, the proposal will contribute to ensuring a level playing field for the participation of SMEs in the internal market, given that SMEs tend to bear disproportionately the costs related to tax compliance and thus their business decision is significantly influenced in comparison to other larger business operators.

1.4.3. *Expected result(s) and impact*

Specify the effects which the proposal/initiative should have on the beneficiaries/groups targeted.

The Proposal introduces a common framework of tax rules that will allow SMEs in scope to opt for continuing to apply the tax rules that they are familiar with (the tax rules of their Member State of origin: Head Office taxation rules) even when they operate in another Member State through a permanent establishment. It will chiefly aim to bring simplification for taxpayers and encourage growth and investment in the internal market while levelling the playing field in which businesses operate.

1.4.4. *Indicators of performance*

Specify the indicators for monitoring progress and achievements.

Specific Objectives	**Indicators**	**Measurement Tools**
Reduce tax compliance costs for SMEs	• Compliance costs for SMEs, relative to their turnover and to comparable SMEs that do not apply the proposed simplification	• Survey on tax-related issues for SMEs, carried out by DG TAXUD, possibly with external assistance, in cooperation with Member State tax authorities; • Using an updated version of the Study on SMEs Performance conducted for the European Commission to include questions that deliver data on these indicators • Survey on aggregated data circulated by DG TAXUD to Member State tax authorities, which would have this information available • • Data received by DG TAXUD from Member State tax authorities • Using various EU for a to obtain feedback from national authorities and SMEs representatives •
Encourage cross-border expansion of SMEs	• Number of SMEs that opted in • Number of SMEs that expanded cross-border by setting up a PE • Number of SMEs leaving the scope by setting up a subsidiary • Feedback from stakeholders on the practical use and effects of the HOT rules	
Ensure a level playing field for the participation of SMEs in the internal market	• Number of SMEs that expanded cross-border by setting up a PE • Turnover of SMEs that are in scope, relative to comparable SMEs that do not apply the proposed simplification	

	• Feedback from stakeholders on the practical use and effects of the HOT rules	

1.5. Grounds for the proposal/initiative

1.5.1. Requirement(s) to be met in the short or long-term including a detailed timeline for roll-out of the implementation of the initiative

The system is optional for SMEs with cross-border activities through permanent establishment(s). It is this difficult to anticipate the size / number of taxpayers that will opt for the system.

The exchange of information is targeted and only among the Member States concerned (Head Office Member State and Host Member States).

When a Head Office meets the requirements and opts to apply Head Office Taxation rules, the relevant documents, such as tax returns, tax assessments, financial statements, shall be exchanged among the Member States concerned. Limited exchanges from the Host Member State to the Head Office Member State will also cover the tax rate applicable.

To facilitate the operation and communication of the officials among the Member States concerned, the Commission will have to adopt the necessary practical arrangements, including measures to standardise the communication of the information between the Member States.

For the purpose of the automatic exchange of information, the Head Office Member States will have to exchange the information required by this proposal with other Host Member States, and the other way around, through a bilateral network between the Member States concerned, by electronic means using the EU common communication network (CCN), accessible to all Member States. The schema to be used shall be subsequently developed by the Commission. The Commission will have the task to provide Member States with the platform for exchange of information CCN and remains data processor with limited access. In general, the proposal will use the practical arrangements currently used under DAC.

In terms of timing for setting up the format to be used to exchange of information, Member States and the Commission would require some time after the adoption of the proposal to be able to put the systems in place to allow the exchange of information to occur between Member States. Added value of Union involvement (it may result from different factors, e.g. coordination gains, legal certainty, greater effectiveness or complementarities). For the purposes of this point 'added value of Union involvement' is the value resulting from Union intervention which is additional to the value that would have been otherwise created by Member States alone.

Individual actions by Member States would not provide any efficient and effective solution to ensuring a feasible common tax framework for SMEs operating cross-border. Instead of each Member State separately dedicating human resources to assessing the tax liabilities of the same taxpayer operating cross-border, these available resources will now

be used collectively in a more effective and targeted manner through the exchange of information between the concerned tax authorities. An EU approach appears preferable, as it can facilitate the operation and communication of this network and have more coherence and a reduction of administrative burden for taxpayers and tax authorities.

1.5.2. Lessons learned from similar experiences in the past

The initiative is a new mechanism. The preferred option in the Impact Assessment is a full One Stop Shop. This option means that the Head Office Tax (HOT) tax return would be dealt with centrally via the Filing Authority, and the same for the separate tax assessments for the Head Office and for the Permanent establishments, whereas audits, appeals and dispute settlement would remain primarily local in conformity with national tax sovereignty. This option prioritises simplicity and maintains the administrative burden for tax administrations to a reasonable low whereas also creates the best possible balance between the simplicity of an One Stop Shop and the role played by Member States' national authorities. This should decrease compliance costs for SMEs and tax authorities, at least gradually, and foster the internal market as an environment of growth and investment.

The bilateral network between the Head Office Member State and Host Member State will play an important role in this balance. They will aim to ensure a smooth communication and adequate and timely exchange of information.

1.5.3. Compatibility with the Multiannual Financial Framework and possible synergies with other appropriate instruments

In the Commission Communication on Business Taxation in the 21st Century, and further confirmed in President Ursula von der Leyen's 2022 State of the Union Address, the Commission committed to table a legislative proposal setting out simplified taxation for SMEs. To the extent possible, the Proposal will make use of the procedures, arrangements and IT tools already established or under development in the framework of the DAC.

1.5.4. Assessment of the different available financing options, including scope for redeployment

Implementation costs for the initiative will be financed by the EU budget concerning only the central components for the system of automatic exchange of information. Otherwise, it will be for Member States to implement the envisaged measures.

1.6. Duration and financial impact of the proposal/initiative

☐ **limited duration**

– ☐ in effect from [DD/MM]YYYY to [DD/MM]YYYY

– ☐ Financial impact from YYYY to YYYY for commitment appropriations and from YYYY to YYYY for payment appropriations.

X **unlimited duration**

– Implementation with a start-up period from YYYY to YYYY,

– followed by full-scale operation.

1.7. Management mode(s) planned[23]

X **Direct management** by the Commission

– ☒ by its departments, including by its staff in the Union delegations;

– ☐ by the executive agencies

☐ **Shared management** with the Member States

☐ **Indirect management** by entrusting budget implementation tasks to:

– ☐ third countries or the bodies they have designated;

– ☐ international organisations and their agencies (to be specified);

– ☐ the EIB and the European Investment Fund;

– ☐ bodies referred to in Articles 70 and 71 of the Financial Regulation;

– ☐ public law bodies;

– ☐ bodies governed by private law with a public service mission to the extent that they are provided with adequate financial guarantees;

– ☐ bodies governed by the private law of a Member State that are entrusted with the implementation of a public-private partnership and that are provided with adequate financial guarantees;

– ☐ persons entrusted with the implementation of specific actions in the CFSP pursuant to Title V of the TEU, and identified in the relevant basic act.

– *If more than one management mode is indicated, please provide details in the 'Comments' section.*

Comments

[23] Details of management modes and references to the Financial Regulation may be found on the BudgWeb site: https://myintracomm.ec.europa.eu/budgweb/EN/man/budgmanag/Pages/budgmanag.aspx

This proposal builds on the existing framework and systems for the automatic exchange of information using the CCN. The Commission, in conjunction with Member States, shall develop standardised computerised forms and formats for information exchange through implementing measures. As regards the CCN network which will permit the exchange of information between Member States, the Commission is responsible for the development and operation of such a network and Member States will undertake to create the appropriate domestic infrastructure that will enable the exchange of information via the CCN network.

2. MANAGEMENT MEASURES

2.1. Monitoring and reporting rules

Specify frequency and conditions.

For the purpose of monitoring and evaluating the implementation of the Directive, it will initially be necessary to give Member States time and all necessary assistance, in order to properly implement the EU rules.

Member States should communicate to the Commission the text of the provisions of national law which they will adopt in the field covered by this Directive and should also provide any relevant information they have that the Commission may require for evaluation purposes.

In addition to an evaluation, the effectiveness and efficiency of the initiative will be regularly monitored using some pre-defined indicators:

- Compliance costs for SMEs, relative to their turnover and to comparable SMEs that do not apply the proposed simplification;

- Number of SMEs that opted in;

- Number of SMEs that expanded cross-border by setting up a PE;

-Number of SMEs leaving the scope by setting up a subsidiary;

-Turnover of SMEs that are in scope, relative to comparable SMEs that do not apply the proposed simplification.

The Member States will have to report this data to the Commission for evaluation purposes.

The Commission will review the situation in the Member States after 5 years and publish a report.

The results will be included in the report to the European Parliament and to the Council that will be issued by 31 December 2031, where appropriate accompanied by a proposal for an amendment.

2.2. Management and control system(s)

2.2.1. Justification of the management mode(s), the funding implementation mechanism(s), the payment modalities and the control strategy proposed

The implementation of the initiative will rely on the competent authorities (tax administrations) of the Member States. They will be responsible for financing their own national systems and adaptations necessary for the exchanges to take place through the CCN for the purposes of the proposal.

The Commission will provide the infrastructure that will allow exchanges to be made between Member States' tax authorities. The Commission will finance the systems needed to allow exchanges to take place which will undergo the main elements of control being that for procurement contracts, technical verification of the procurement, ex-ante verification of commitments, and ex-ante verification of payments.

2.2.2. *Information concerning the risks identified and the internal control system(s) set up to mitigate them*

The proposed intervention will at its origin be based on a declarative system, as the tax information to be exchanged relies on information reported by the taxpayer itself in the tax returns and financial statements. This entails the risk of non-declaration or misdeclaration by SMEs in scope that are required to self-assess against the substance criteria under the Proposal. Member States are afterwards issuing tax assessments, thus can audit such self-assessments. When such audits take place, Member States will be required to share statistics with the Commission on an annual basis, including the number of entities that have been audited and sanctions for non-compliance.

To address the risk of non-compliance of entities and arrangements, the Proposal does not include a sanctioning framework, as this relies on the sanctioning framework already in place in each Member State for tax matters. National tax authorities are already in charge of enforcing sanctions and more generally of ensuring compliance with the proposal. Sanctions are set up domestically. Furthermore, national tax administrations will be able to perform audits to detect and deter non-compliance.

Procurement contracts

The control procedures for procurement defined in the Financial Regulation: any procurement contract is established following the established procedure of verification by the services of the Commission for payment, taking into account contractual obligations and sound financial and general management. Anti-fraud measures (controls, reports, etc.) are foreseen in all contracts concluded between the Commission and the beneficiaries. Detailed terms of reference are drafted and form the basis of each specific contract. The acceptance process follows strictly the TAXUD TEMPO methodology: deliverables are reviewed, amended if necessary and finally explicitly accepted (or rejected). No invoice can be paid without an "acceptance letter".

Technical verification of procurement

DG TAXUD performs controls of deliverables and supervises operations and services carried out by contractors. It also conducts quality and security audits of their contractors on a regular basis. Quality audits verify the compliance of the contractors' actual processes against the rules and procedures defined in their quality plans. Security audits focus on the specific processes, procedures and set-up.

In addition to the above controls, DG TAXUD performs the traditional financial controls:

Ex-ante verification of commitments

All commitments in DG TAXUD are verified by the Head of the Finances, Public Procurement and Compliance Unit. Consequently, 100% of the committed amounts are covered by the ex-ante verification. This procedure gives a high level of assurance as to the legality and regularity of transactions.

Ex-ante verification of payments

100% of payments are verified ex-ante. Moreover, some payments are randomly selected for additional ex-ante verification performed by the Head of the Head of the Finances, Public Procurement and Compliance Unit. There is no target concerning the coverage, as the purpose of this verification is to check payments "randomly" in order to verify that all payments were prepared in line with the requirements. The remaining payments are processed according to the rules in force on a daily basis.

Declarations of the Authorising Officers by Sub-Delegations (AOSD)

All the AOSD sign declarations supporting the Annual Activity Report for the year concerned. These declarations cover the operations under the programme. The AOSD declare that the operations connected with the implementation of the budget have been executed in accordance with the principles of the sound financial management, that the management and control systems in place provided satisfactory assurance concerning the legality and regularity of the transactions and that the risks associated to these operations have been properly identified, reported and that mitigating actions have been implemented.

2.2.3. Estimation and justification of the cost-effectiveness of the controls (ratio of "control costs ÷ value of the related funds managed"), and assessment of the expected levels of risk of error (at payment & at closure)

The controls established enable DG TAXUD to have sufficient assurance of the quality and regularity of the expenditure and to reduce the risk of non-compliance. The above control strategy measures reduce the potential risks below the target of 2% and reach all beneficiaries. Any additional measures for further risk reduction would result in disproportionately high costs and are therefore not envisaged. The overall costs linked to implementing the above control strategy – for all expenditures under Fiscalis 2027 programme – are limited to 1.6% of the total payments made. It is expected to remain at the same ratio for this initiative. The programme control strategy limits the risk of non-compliance to virtually zero and remains proportionate to the risks entailed.

2.3. Measures to prevent fraud and irregularities

Specify existing or envisaged prevention and protection measures, e.g. from the Anti-Fraud Strategy.

The European Anti-fraud Office (OLAF) may carry out investigations, including on-the-spot checks and inspections, in accordance with the provisions and procedures

laid down in Regulation (EC) No 1073/1999 of the European Parliament and of the Council[24] and Council Regulation (Euratom, EC) No 2185/96[25] with a view to establishing whether there has been fraud, corruption or any other illegal activity affecting the financial interests of the Union in connection with a grant agreement or grant decision or a contract funded under this Regulation.

[24] Regulation (EC) No 1073/1999 of the European Parliament and of the Council of 25 May 1999 concerning investigations conducted by the European Anti-Fraud Office (OLAF), OJ L 136 p. 1, 31.5.1999.

[25] Council Regulation (Euratom, EC) No 2185/96 of 11 November 1996 concerning on-the-spot checks and inspections carried out by the Commission in order to protect the European Communities' financial interests against fraud and other irregularities, OJ L 292 p. 2, 15.11.96.

3. ESTIMATED FINANCIAL IMPACT OF THE PROPOSAL

3.1. Heading(s) of the multiannual financial framework and expenditure budget line(s) affected

- Existing budget lines

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number: 03 04 0100	Diff./Non-diff.[26]	from EFTA countries [27]	from candidate countries[28]	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
1 - Single Market, Innovation and Digital	Improving the proper functioning of the taxation systems	Diff.	NO	NO	NO	NO

- New budget lines requested

In order of multiannual financial framework headings and budget lines.

Heading of multiannual financial framework	Budget line	Type of expenditure	Contribution			
	Number	Diff./Non-diff.	from EFTA countries	from candidate countries	from third countries	within the meaning of Article 21(2)(b) of the Financial Regulation
	[XX.YY.YY.YY]		YES/NO	YES/NO	YES/NO	YES/NO

[26] Diff. = Differentiated appropriations / Non-diff. = Non-differentiated appropriations.
[27] EFTA: European Free Trade Association.
[28] Candidate countries and, where applicable, potential candidates from the Western Balkans.

3.2. Estimated financial impact of the proposal on appropriations

3.2.1. Summary of estimated impact on operational appropriations

– ☐ The proposal/initiative does not require the use of operational appropriations

– ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

EUR million (to three decimal places)

Heading of multiannual financial framework	Number 1	Single Market, Innovation and Digital

DG: TAXUD			Year **N**[29]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			**TOTAL**
○ Operational appropriations										
Budget line[30] 03.04.01	Commitments	(1a)	0,200	0,400	0,200	0,100	0,090			**0,990**
	Payments	(2a)		0,200	0,400	0,200	0,100	0,090		**0,990**
Budget line	Commitments	(1b)								
	Payments	(2b)								
Appropriations of an administrative nature financed from the envelope of specific programmes[31]										
Budget line		(3)								

29 Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

30 According to the official budget nomenclature.

31 Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

TOTAL appropriations for DG TAXUD	Commitments	=1a+1b +3	0,200	0,400	0,200	0,100	0,090			**0,990**
	Payments	=2a+2b +3		0,200	0,400	0,200	0,100	0,090		**0,990**

Heading of multiannual financial framework	7	'Administrative expenditure'

This section should be filled in using the 'budget data of an administrative nature' to be firstly introduced in the Annex to the Legislative Financial Statement (Annex V to the internal rules), which is uploaded to DECIDE for interservice consultation purposes.

EUR million (to three decimal places)

		2023	2024	2025	2026	2027	**TOTAL 2021 -2027 MFF**
DG: TAXUD							
○ Human resources		0,170	0,170	0,080	0,080	0,040	**0,540**
○ Other administrative expenditure		0,004	0,004	0,002	0,002	0,001	**0,013**
TOTAL DG TAXUD		0,174	0,174	0,082	0,082	0,041	**0,533**

TOTAL appropriations under HEADING 7 of the multiannual financial framework	(Total commitments = Total payments)	0,174	0,174	0,082	0,082	0,041	**0,533**

EUR million (to three decimal places)

		2023	2024	2025	2026	2027	**TOTAL 2021 – 2027 MFF**
TOTAL appropriations	Commitments	0,374	0,574	0,282	0,182	0,131	**1,543**

under HEADINGS 1 to 7 of the multiannual financial framework	Payments	0,174	0,374	0,482	0,282	0,141	**1,453**

TOTAL appropriations under HEADINGS 1 to 7 of the multiannual financial framework									

3.2.2. Estimated impact on operational appropriations

– ☐ The proposal/initiative does not require the use of operational appropriations

– ☒ The proposal/initiative requires the use of operational appropriations, as explained below:

Commitment appropriations in EUR million (to three decimal places)

Indicate objectives and outputs ⇩			2023		2024		2025		2026		2027		2028		**TOTAL**	
	OUTPUTS															
	Type[32]	Average cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	No	Cost	Total No	Total cost
SPECIFIC OBJECTIVE No 1[33]…																
Specifications				0,200		0,300		0,170								**0,670**
Development						0,090				0,010						**0,100**
Maintenance										0,050		0,050		0,050		**0,150**
Support								0,010		0,030		0,030		0,030		**0,100**

32 Outputs are products and services to be supplied (e.g.: number of student exchanges financed, number of km of roads built, etc.).

33 As described in point 1.4.2. 'Specific objective(s)…'

Training								0,010								**0,010**
ITSM (Infrastructure, hosting, licences, etc.),						0,010		0,010		0,010		0,010		0,010		**0,050**
Subtotal for specific objective No 1				**0,200**		**0,400**		**0,200**		**0,090**		**0,090**		**0,090**		**1,070**
SPECIFIC OBJECTIVE No 2 ...																
- Output																
Subtotal for specific objective No 2																
TOTALS				**0,200**		**0,400**		**0,200**		**0,090**		**0,90**		**0,090**		**1,070**

3.2.3. *Summary of estimated impact on administrative appropriations*

– ☐ The proposal/initiative does not require the use of appropriations of an administrative nature

– ☒ The proposal/initiative requires the use of appropriations of an administrative nature, as explained below:

EUR million (to three decimal places)

	Year **2023**	Year **2024**	Year **2025**	Year **2026**	Year **2027**	**TOTAL**
HEADING 7 of the multiannual financial framework						
Human resources	**0,170**	**0,170**	**0,080**	**0,080**	**0,040**	**0,540**
Other administrative expenditure	**0,004**	**0,004**	**0,002**	**0,002**	**0,001**	**0,013**
Subtotal HEADING 7 of the multiannual financial framework						
TOTAL	**0,174**	**0,174**	**0,082**	**0,082**	**0,041**	**0,553**

Outside HEADING 7[34] of the multiannual financial framework						
Human resources						
Other expenditure of an administrative nature						
Subtotal outside HEADING 7 of the multiannual financial framework						

TOTAL	0,174	0,174	0,082	0,082	0,041	0,553

[34] Technical and/or administrative assistance and expenditure in support of the implementation of EU programmes and/or actions (former 'BA' lines), indirect research, direct research.

The appropriations required for human resources and other expenditure of an administrative nature will be met by appropriations from the DG that are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

3.2.3.1. Estimated requirements of human resources

– ☐ The proposal/initiative does not require the use of human resources.

– ☒ The proposal/initiative requires the use of human resources, as explained below:

		2023	2024	2025	2026	2027	**Total**
○ Establishment plan posts (officials and temporary staff)							
20 01 02 01 (Headquarters and Commission's Representation Offices)		1	1	1	0,5	0,25	**1**
20 01 02 03 (Delegations)							
01 01 01 01 (Indirect research)							
01 01 01 11 (Direct research)							
Other budget lines (specify)							
○ External staff (in Full Time Equivalent unit: FTE)[35]							
20 02 01 (AC, END, INT from the 'global envelope')							
20 02 03 (AC, AL, END, INT and JPD in the delegations)							
XX 01 xx **yy zz** [36]	- at Headquarters						
	- in Delegations						
01 01 01 02 (AC, END, INT - Indirect research)							
01 01 01 12 (AC, END, INT - Direct research)							
Other budget lines (specify)							
TOTAL		**1**	**1**	**1**	**0,5**	**0,25**	**1**

Estimate to be expressed in full time equivalent units

XX is the policy area or budget title concerned.

The human resources required will be met by staff from the DG who are already assigned to management of the action and/or have been redeployed within the DG, together if necessary with any additional allocation which may be granted to the managing DG under the annual allocation procedure and in the light of budgetary constraints.

Description of tasks to be carried out:

Officials and temporary staff	Preparation of meetings and correspondence with Member States; work on forms, IT formats and the Central Directory; Commission of external contractors to do work on the IT system.
External staff	N/A

35 AC= Contract Staff; AL = Local Staff; END= Seconded National Expert; INT = agency staff; JPD= Junior Professionals in Delegations.

36 Sub-ceiling for external staff covered by operational appropriations (former 'BA' lines).

3.2.4. Compatibility with the current multiannual financial framework

The proposal/initiative:

– ☒ can be fully financed through redeployment within the relevant heading of the Multiannual Financial Framework (MFF).

Explain what reprogramming is required, specifying the budget lines concerned and the corresponding amounts. Please provide an excel table in the case of major reprogramming.

– ☐ requires use of the unallocated margin under the relevant heading of the MFF and/or use of the special instruments as defined in the MFF Regulation.

Explain what is required, specifying the headings and budget lines concerned, the corresponding amounts, and the instruments proposed to be used.

– ☐ requires a revision of the MFF.

Explain what is required, specifying the headings and budget lines concerned and the corresponding amounts.

3.2.5. Third-party contributions

The proposal/initiative:

– ☒ does not provide for co-financing by third parties

– ☐ provides for the co-financing by third parties estimated below:

Appropriations in EUR million (to three decimal places)

	Year **N**[37]	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)			Total
Specify the co-financing body								
TOTAL appropriations co-financed								

3.3. Estimated impact on revenue

– ☐ The proposal/initiative has no financial impact on revenue.

– ☐ The proposal/initiative has the following financial impact:

(a) ☐ on own resources

(b) ☐ on other revenue

[37] Year N is the year in which implementation of the proposal/initiative starts. Please replace "N" by the expected first year of implementation (for instance: 2021). The same for the following years.

(c) please indicate, if the revenue is assigned to expenditure lines ☐

EUR million (to three decimal places)

Budget revenue line:	Appropriations available for the current financial year	Impact of the proposal/initiative[38]						
		Year **N**	Year **N+1**	Year **N+2**	Year **N+3**	Enter as many years as necessary to show the duration of the impact (see point 1.6)		
Article …….								

For assigned revenue, specify the budget expenditure line(s) affected.

[…]

Other remarks (e.g. method/formula used for calculating the impact on revenue or any other information).

[…]

[38] As regards traditional own resources (customs duties, sugar levies), the amounts indicated must be net amounts, i.e. gross amounts after deduction of 20 % for collection costs.