

TAX2 report - good and bad

Additional GUE/NGL amendment rejected in plenary

Included in committee report but deleted/watered down by plenary

	Positive/included	Negative/missing
General and TAX2	<ul style="list-style-type: none"> • Scale and consequences of corporate tax avoidance, tax evasion and (private) offshore finance linked to criminal activities - including impact on developing countries, naming of specific offshore centres including EU Member States and role of financial and legal firms • Open questions remain after TAX2 (BF), document analysis needs to continue and hearings need to be more interrogative in PANA (84) • TAX1 recommendations not properly taken up by COM/MS (BD/Annex 4) • Problem that Regulation on CoI blocked by Council and COM (BH) • Criticism of COM for providing docs late + having lost some and of Council for not cooperating (50-51) + call for permanent doc access (58) • Urgent need for CoCG reform (52/55) • Naming and shaming of MS based on public CoCG documents (Annex 3) and recognition of systematic obstruction by some MS in Council (56) • MS breached EU law on information exchange (55) 	<ul style="list-style-type: none"> • Role of EU financial integration in facilitating profit shifting (EU directives without compensatory measures, single market principles and ECJ rulings) • Substantive questioning of political leaders by TAX2 • Specific responsibility of political leaders (e.g. Juncker) and political consequences for office holders involved • Breach of sincere and loyal cooperation principle by MS (3/57)
Information exchange	<ul style="list-style-type: none"> • More than CRS may be needed and previous (G20/OECD) transparency initiatives against tax havens were insufficient (F/27) • Concern about oral rulings in Luxembourg (81) • Problems for developing countries with CRS (reciprocity) (11) • Automatic exchange of BO information (76) 	
Transparency	<ul style="list-style-type: none"> • COM public CBCR proposal insufficient (7) • Concrete legal framework for whistleblower protection and criticism of COM for inactivity (16; 47-49) • Spill-over analyses of national and EU tax policies (on developing countries), but no wording on removing harmful policies for those countries (69) • EU-wide public BO register as basis for global initiative (77) 	<ul style="list-style-type: none"> • Exchanged tax rulings public (8) [TAX1 (and SHRD) had summary of rulings to be published in CBCR] • EIB activities linked to beneficiaries having CBCR and BO transparency (18) • WB protection includes some reference to business secrets and too strong link to public interest (16)

Patent boxes	<ul style="list-style-type: none"> Strong criticism and call for EU legislation going beyond the MNA (AL-AO; 29-31) 	<ul style="list-style-type: none"> Phase-out and replace with other forms of R&D promotion
Defence measures	<ul style="list-style-type: none"> Criticism of Council ATAD compromise and recognition that more than ATAD needed to combat BEPS as well as criticism of insufficient provisions at MS level (2-4) Recognition of problem of untaxed outbound payments (AP) and call for general withholding tax (26) Current OECD blacklisting criteria ineffective (21), COM criteria to be “sound, transparent and effective” and to be based on existence of harmful practices alongside transparency, BEPS actions and information exchange; assessment to include OECD countries (22) Sanctions against blacklisted tax havens and companies (including financial and legal advisor) acting out of these territories (23) MET clause in PSD and IRD without exemptions (32) 	<ul style="list-style-type: none"> Royalties limitation rule and comprehensive CFC rules (2) [<i>tax avoidance potential of royalties (N)</i>] Dialogue with tax havens prior to blacklisting risks rendering deterrent ineffective (22)
Double Tax Treaties	<ul style="list-style-type: none"> MS to renegotiate tax treaties with anti-abuse provisions, re-distribution of taxing rights between source and resident countries reflective of economic substance and, update of PE definition (25) 	
State aid framework	<ul style="list-style-type: none"> 	<ul style="list-style-type: none"> No explicit recognition of weaknesses of state aid framework (P/14/81)
CCCTB	<ul style="list-style-type: none"> Comprehensive CCCTB including consolidation (6) Global alternatives to ALP to be actively explored (13) 	<ul style="list-style-type: none"> Minimum tax rate floors as necessary complement to CCCTB (6)
Tax administrations & (penal) sanctions	<ul style="list-style-type: none"> Recognition of under-staffed and ill-equipped tax administrations (9) Incompatibility between tax advice to private and public sector (36) and between audit and tax advice in private firms (37) MS to establish sanctions on both individuals and companies involved directly or indirectly (advice) in tax evasion etc., including revoking licences (39) Comprehensive global asset registry accessible to tax administrations (only call for feasibility assessment) (78) 	<ul style="list-style-type: none"> MS to consider introducing corporate criminal law (39) Call for legal action to prevent simultaneous tax advice to public and private institutions (36)
Global cooperation	<ul style="list-style-type: none"> Need for UN intergovernmental forum and inclusive global tax summit (AU/67) Limitations of BEPS project recognised as regards developing countries (AW) EU/US cooperation on BEPS implementation without reference to TTIP (75/79) Use EIB (financing) as a tool to promote tax good governance (18) 	