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EU States Block Plan for Public Multinational Tax Reporting

By Joe Kirwin
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- Opponents insist proposal must be agreed unanimously

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EU plans to require large companies to publicly report their taxes and profits earned on a country-by-country basis stalled again Nov. 28 after 13 EU member states opposed the legislation.

If the legislation had been approved negotiations with the European Parliament would start to finalize the bill. The EP approved its version of the legislation in 2017.

Despite the efforts of EU presidency holder Finland to push the legislation through more than three years after it was proposed, a narrow 'blocking minority' of countries rejected the plan—many of them because of the legal mechanism the EU used.

"There seems to be broad support for the idea of increased transparency for company tax reporting but it is clear that there are strong opinions opposing the legal base of this proposal,'' Finnish Minister of Labour Timmo Harakka stated at the end of a parliamentary debate. "Therefore more work is required on this proposal.''

Luxembourg, Ireland, Sweden, Austria, Cyprus, Malta and others the opponents insist the legislation should be considered as tax law and not as EU single market law. The EU used single market law as the 'legal base' of the legislation partly because, unlike tax law, single market law does not require unanimous approval by member states.

Ten of the opposing countries signed a statement when the Council of Ministers meeting began insisting that because the proposal involves "disclosure of income tax information" it must be approved by EU finance ministers in the Council of Economic and Financial Affairs.

This was the first vote since the legislation was proposed more than three years ago. According to Finnish presidency officials, if one more member state approved the plan it would have gone through. Thirteen countries opposed in total, said Finnish presidency spokesperson Eeva Laavakari.

Harakka and other member states led by France, Italy, Spain, Poland, the Netherlands, Denmark, Belgium and others argued during the debate that the core of the legislation dealt with transparency and not taxation.

"This legislation does not impose a tax nor does it affect the tax base of corporations," Harakka said. "Therefore it does not impact national tax sovereignty of member states."

The Organization for Economic Cooperation and Development adopted country-by-country tax reporting for large multinational companies as part of the ambitious project to prevent companies from shifting profits to low- or no-tax jurisdictions.

The reports give tax authorities a clearer picture of the worldwide business activities of multinationals. The rules require large multinational companies with an annual turnover of $750 million or more to provide country-by-country tax and profit reports to national tax authorities. But the information isn't made public.

Multiple concerns

The European Commission proposed in 2016 to make such reports publicly available—a move opponents say would undermine the OECD's base erosion and profit shifting rules.

Besides concerns about the legal base and the impact on the OECD process, a few countries including Germany worry that revealing companies' tax and profit information publicly will give a competitive advantage to companies outside the EU that don't have to report the information. Germany abstained during the Nov. 28 vote because the coalition government was still considering the proposal.

Large financial institutions based in the EU already have to publicly report their taxes and profits in each country under a law enacted in the aftermath of the 2008 financial crisis that required massive bailouts for European banks. Large EU-based mining and logging companies are also required to publicly report their taxes and profits on a country-by-country basis.

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