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# Update on EU Tax Proposals and what to expect

Dennis Weber - Loyens & Loeff Webcademy Session 4

- Communication from European Commission
- 18 May 2021
- In the EU the European Commission submits law proposals(Directives/Regulations)
- **All** EU Member States (MS) have to approve them (every MS has a veto right)

- EU Member States
  - Cyprus/Ireland/Estonia/Hungary: still no commitment
  - In the EU they have veto-right and can block EU-proposals
  - Is this a problem?



## Market jurisdiction can levy part of large multinationals profits

- Idea was to implement in EU-directive
- Now: ‘will consider whether there is a need to table a Directive for the implementation of Pillar one’
- If not in EU-Law but in national law/tax treaties:
  - State Aid risk for exclusions?
    - Extractives?
    - Regulated Financial Services?

## Global Minimum Taxation

- Floor to excessive tax competition
- There could be a problem under EU-law when not all MS approve
  - Enhanced cooperation possible (small group of Member States)?
- Top-up tax (Income Inclusion Rule) compensates (top-up) lower level of tax in other State
  - This could breach the tax sovereignty of other Member States
  - No breach when all EU-Member States approve

- Proposal: first expected in June 2021 – currently on hold
- Part of the EU own resources
- Entry into force no later than 1 January 2023
- Not linked to OECD pillar 1 discussion

- **Corporate income tax top-up** to be applied to all companies conducting certain digital activities in the EU
- Tax on **digital transactions** conducted **business-to-business** in the EU
- Often confused with Digital Services Tax (DST)

- Rules approved by EU Council
- Entry into force 1 January 2023
- Information of platform users



- Digital platform which connects sellers and users
  - Rental of immovable property
  - Personal service
  - Sale of goods
  - Rental of any mode of transport
- Single registration: non-EU Platform operator can select Member State
- If agreement with non-EU State (equivalent information exchange)
  - Non-EU platform can report to non-EU Country
    - There will be a list of non-EU States

- Q4 2021

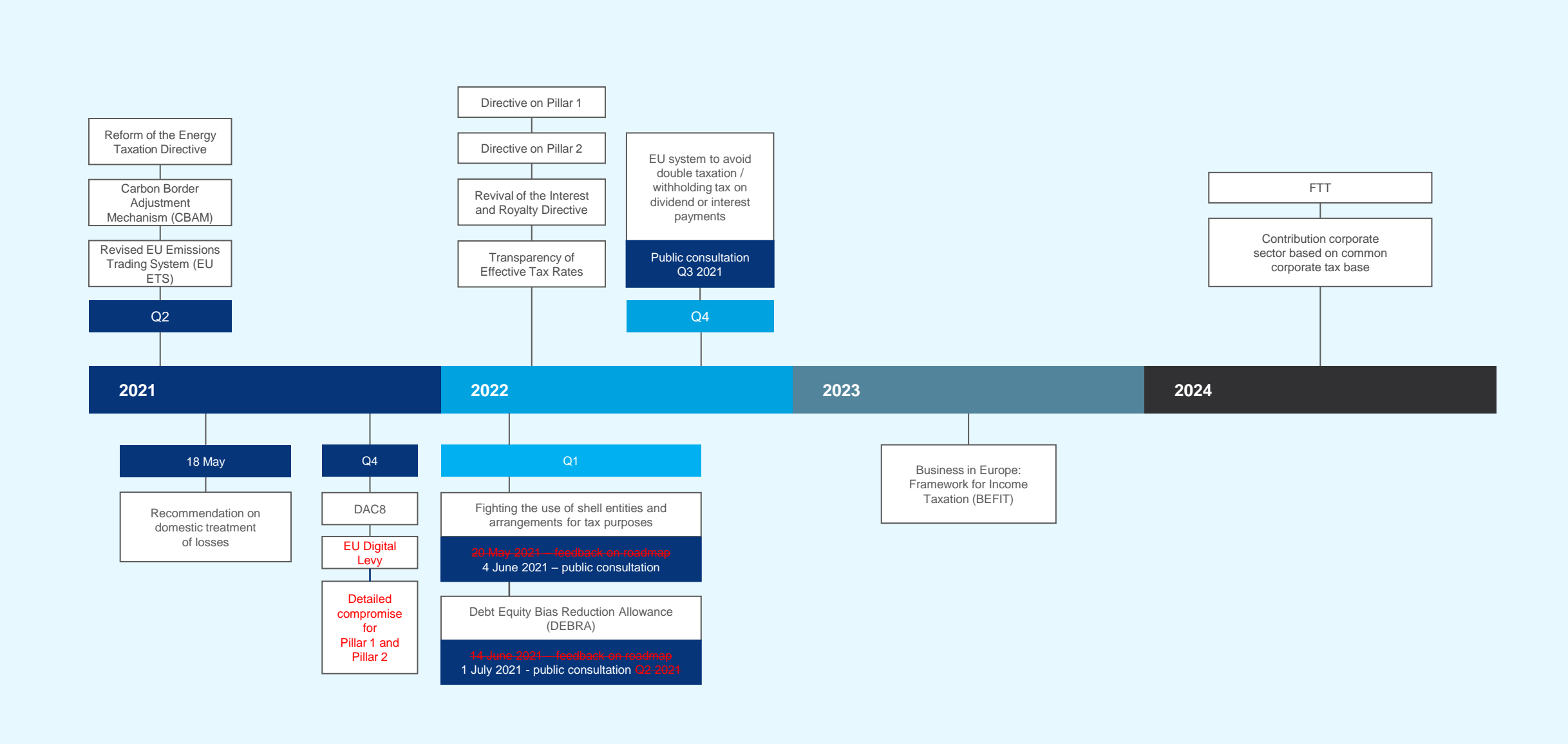
- Q4 2021
- Companies with no or minimum substance and no real economic activities
  - Report information to tax authorities
  - Deny tax benefits
  - Creating new tax information/monitoring/tax transparency requirements
  - Action against: double non-taxation with regard to EU outbound interest & royalties

- Q1 2022
- Take away difference between debt and equity financing
- **Options**
  - No interest deduction
  - Deduction of \*% of all equity?
  - Deduction of \*% of new equity?
  - Deduction of \*% of equity+debt?
  - Special rules for SME's?
  - Anti-abuse measures

## Business in Europe: Framework for Income Taxation

- 2023
- Single corporate tax rule book for the EU
- Allocation of profits between MS based in formula (formulary apportionment)
- No transfer pricing rules in the EU

# Timeline expected proposals



# Timeline of expected entry into force



Expected date of entry into force still unknown for:

- Reform of the Energy Taxation Directive
- Carbon Border Adjustment Mechanism (CBAM)
- Revised EU Emissions Trading System (EU ETS)
- Revival of the Interest and Royalty Directive
- Transparency of Effective Tax Rates
- DAC8
- EU Digital Levy
- Fighting the use of shell entities and arrangements for tax purposes
- Debt Equity Bias Reduction Allowance (DEBRA)
- EU system to avoid double taxation / withholding tax on dividend or interest payments
- Business in Europe Framework for Income Taxation (BEFIT)
- FTT
- Contribution corporate sector based on common corporate tax base