

Invest Europe Position Paper on the Direct Tax Omnibus

Introduction

[Invest Europe](#) is the association representing Europe's private equity, venture capital and infrastructure sectors, as well as their investors. As long-term providers of capital to businesses throughout Europe, our members support effective and proportionate tax measures that contribute to the integrity of tax systems while maintaining an attractive environment for investment, innovation and economic growth.

We have actively contributed to broader EU tax policy discussions, including through the publication of [Invest Europe's Taxation White Paper: Investors' perspective on getting it right](#). Our work has consistently called for a clearer, more coherent and more proportionate EU tax environment, with better alignment across Member States and fewer overlapping compliance requirements.

The Tax Omnibus represents an important opportunity to modernise the EU framework for direct taxation by reducing unnecessary administrative burdens, improving legal certainty and ensuring that tax rules remain fit for purpose in an environment that has evolved significantly in recent years. The implementation of the Anti-Tax Avoidance Directives, the expansion of beneficial ownership and anti-money laundering frameworks, the continued evolution of DAC reporting obligations and the introduction of the OECD Pillar Two rules have substantially strengthened tax transparency and anti-abuse safeguards across the European Union.

In this context, it is appropriate to reassess whether existing EU and national direct tax obligations continue to provide meaningful value, whether they remain proportionate to their objectives and whether they can be simplified without weakening the integrity of tax systems.

We welcome the Commission's focus on simplification and support the objective of developing a more coherent and proportionate EU tax framework. At the same time, further improvements should be considered to ensure that the framework delivers genuine simplification, avoids duplicative obligations and provides greater certainty for taxpayers, intermediaries, investors and tax authorities alike. To achieve these objectives, the final framework should be guided by three principles:

- Simplification must result in tangible reductions in administrative burdens rather than merely transferring existing obligations into new formats.
- EU tax rules should be implemented consistently across Member States, supported by harmonised definitions and procedures.
- Cross-border investment should be facilitated through greater tax certainty, efficient relief procedures and proportionate anti-abuse rules.

1. Reducing Administrative Burdens Through Genuine Simplification

Invest Europe supports the Commission's objective of reducing tax compliance costs for European businesses and investors. However, any simplification should give practical effect to a genuine "*once-only*" principle, under which information already submitted under existing EU or national frameworks, including DAC, Pillar Two, CFC reporting and withholding tax procedures, is not requested again through separate processes or reporting channels unless objectively necessary.

The proposed EU digital tax environment should therefore enable taxpayers to submit essential corporate documentation, such as tax residence certificates, ownership information and financial statements, once for use across multiple tax obligations and jurisdictions. Documents should require renewal only when their validity expires or material changes occur.

Compliance obligations should be proportionate, predictable and designed around the needs of businesses operating across multiple jurisdictions. The continued proliferation of overlapping reporting requirements risks diverting capital and resources away from productive investment and economic growth.

At the same time, digitisation should not result in the multiplication of filing obligations. Experience across Member States demonstrates that transferring paper-based procedures into numerous separate electronic submissions does not necessarily reduce compliance burdens.

Taxpayers operating robust tax control frameworks or participating in cooperative compliance programmes should benefit from proportionate simplifications, including reduced documentation requirements, accelerated procedures and risk-based reviews.

Furthermore, taxpayers, intermediaries and withholding agents should not be subject to penalties or secondary liability where they have acted in good faith, relied on valid and complete documentation provided by the taxpayer or beneficial owner, verified its formal completeness and consistency with the information reasonably available to them, and identified no manifest inconsistency. Safe harbours should therefore be expressly provided for in the legal text, so that simplified procedures deliver legal certainty in practice.

2. Greater Consistency Across EU Tax Rules

A key obstacle to the Single Market remains the inconsistent interpretation of common tax concepts across Member States. The Omnibus initiative should therefore prioritise harmonised definitions of core concepts such as "*control*", "*associated enterprise*", "*permanent establishment*", "*beneficial owner*", "*tax residence*" and "*group*".

As highlighted in our White Paper, tax fragmentation remains one of the principal barriers to the development of a truly integrated European capital market. Greater alignment of definitions and administrative practices would reduce compliance costs, minimise disputes and improve Europe's attractiveness as an investment destination.

Similarly, a harmonised definition of "*tax advantage*" and a common interpretation of the DAC6 Main Benefit Test would materially improve legal certainty and reduce divergent administrative practice across the Union. Such simplifications should be reflected in binding legal provisions and, where appropriate, statutory safe harbours, rather than being left solely to non-binding administrative guidance.

The harmonisation of existing anti-tax avoidance measures should respect legitimate tax positions accrued under previous legislation. Existing tax losses, excess interest capacity, tax credits and other recognised tax attributes should continue to be available after the introduction of new rules to avoid unintended economic distortions.

Tax neutrality should apply broadly to cross-border reorganisations and transactions, including not only capital gains but also shareholders' tax positions, tax values, tax losses, excess interest expense, tax credits and previously taxed CFC income. Changes in the allocation of assets or activities between Member States should not result in the loss or duplication of legitimate tax attributes.

Invest Europe welcomes the proposed extension of the Tax Merger Directive to cross-border conversions, simplified mergers and divisions by separation. The final text should ensure that tax neutrality applies at both company and shareholder level, preserves tax bases, losses, excess interest capacity, tax credits and previously taxed CFC income, and requires consistent opening tax values in the Member State of destination.

Greater consistency is also needed in the allocation of assets and liabilities to permanent establishments, in the interaction between cross-border transfers and exit taxation, and in the recognition of tax values by the Member State of destination. Common principles in these areas would reduce the risk of unintended taxation and improve certainty for cross-border investment structures.

Any further harmonisation of anti-abuse measures should comply with the principles of proportionality, legal certainty and respect for legitimate expectations. In particular, reforms should avoid duplicative taxation outcomes, cascading income inclusions or disproportionate compliance obligations for cross-border investment structures operating across multiple jurisdictions.

For complex cross-border structures, taxpayers should have access to greater advance certainty through coordinated multilateral rulings or European advance pricing agreements, based on a single set of documentation, common procedural requirements and, where appropriate, binding effects for all tax authorities involved. Similar coordination should apply to joint audits and requests for documentation, avoiding parallel audits of the same transaction or repeated requests for substantially identical information.

Invest Europe supports the proposed amendments to the EU Dispute Resolution Mechanism Directive, including the clarification that each taxpayer directly affected by the same question

in dispute is an “*affected person*” and the requirement for competent authorities to notify taxpayers without delay where they conclude that agreement cannot be reached, rather than waiting for the two-year mutual agreement procedure period to expire. The Omnibus should also prescribe a period within which Member States must implement a final decision, repay unduly collected tax and associated interest, and provide an effective enforcement mechanism where a competent authority fails to do so.

3. Facilitating Cross-Border Investment

Tax systems should facilitate, rather than impede, cross-border investment. Unnecessary withholding tax burdens, inconsistent interpretations of tax rules and duplicative administrative procedures continue to hinder the efficient allocation of capital across Europe. The Omnibus package provides a valuable opportunity to improve withholding tax relief systems, remove longstanding barriers to cross-border investment and, consistent with the objectives of the FASTER initiative, make procedures more efficient, predictable and accessible.

The Omnibus should introduce harmonised evidentiary standards and a common EU interpretation of beneficial ownership. Without such alignment, divergent national interpretations will continue to undermine the effectiveness of simplified relief procedures and may give rise to inconsistent outcomes for comparable cross-border investments.

Invest Europe supports the proposal to remove the current minimum participation thresholds from the Parent-Subsidiary Directive and Interest and Royalties Directive, where the other substantive requirements and anti-abuse safeguards remain applicable. This would facilitate minority and growth investments across the Union while reducing compliance costs associated with verifying participation requirements.

Invest Europe also supports the proposal to prohibit Member States from requiring prior authorisation or administrative procedures as a condition of exemption under the Parent-Subsidiary Directive and Interest and Royalties Directive. However, the Omnibus should clearly specify, in exhaustive terms, the documentation that withholding agents are required to obtain in advance. Where standardised European documentation is complete and appears regular on its face, the withholding agent or intermediary should benefit from a statutory safe harbour and should not be held liable for inaccuracies attributable to the beneficiary, unless it knew or could reasonably be expected to have known that the information was incorrect.

Special consideration should also be given to investment funds and tax-transparent vehicles. Relief-at-source and fast-refund procedures should accommodate the operational realities of collective investment structures.

Regulated opaque investment funds should be able to access withholding tax exemptions or rapid refunds directly where they have legal and economic entitlement to, and disposal of, the relevant income. Regulatory requirements or distribution policies should not, by themselves,

prevent such funds from qualifying as beneficial owners where the relevant substantive conditions are met.

For tax-transparent vehicles, entitlement to exemption or reduction of withholding tax should be determined by reference to the individual investors. The fund manager or intermediary should nevertheless be able to submit a single aggregated application on behalf of the vehicle, identifying the proportion of income attributable to investors entitled to the relevant benefit, on the basis of standardised documentation.

Common EU criteria are also needed to determine whether an entity is regarded as fiscally transparent or opaque. Divergent classifications continue to create uncertainty, increase administrative burdens and risk multiple layers of taxation for cross-border investors. The Omnibus initiative should therefore recognise the role that regulated investment funds and intermediary investment structures play in channelling capital to businesses across Europe and should ensure that tax-neutral vehicles are not treated less favourably than direct investments solely because they aggregate capital from multiple investors or operate through commonly used cross-border structures.

Particular attention should be given to ensuring that withholding tax relief procedures, treaty benefits and Directive entitlements remain accessible for collective investment structures, including where investors participate through regulated funds or tax-transparent vehicles. Simplified and standardised investor verification procedures would reduce administrative burdens while preserving effective tax compliance safeguards.

Invest Europe welcomes the proposed extension of the Parent-Subsidiary Directive to pension institutions, irrespective of their legal form, and the accompanying derogation from the subject-to-tax condition. The Commission should also consider equivalent treatment for other regulated collective investment vehicles and alternative investment funds where exemption or transparency is intended to preserve investor-level tax neutrality.

Invest Europe does not support the proposal regarding interest and royalty payments to recipients in third-country jurisdictions that do not impose corporate income tax, or that apply a zero nominal rate to the relevant income, in its current form. A nominal-rate test is an imprecise proxy for avoidance and may adversely affect commercially justified fund, financing and investment structures that use tax-transparent, tax-exempt or tax-neutral vehicles. Requiring the source Member State either to impose withholding tax or deny a deduction may create economic double taxation and undermine the intended simplification of the Interest and Royalties Directive. The safeguard should therefore be deleted or substantially narrowed. At a minimum, it should contain clear exclusions for regulated investment funds and alternative investment funds, pension institutions, tax-transparent vehicles and entities wholly owned by such vehicles, together with a look-through approach where the underlying investors are identifiable. Any residual rule should require an identifiable avoidance risk and should take account of the recipient's effective taxation, substantive activity and the taxation of underlying

investors. Inclusion of a jurisdiction on the EU list of non-cooperative jurisdictions may be relevant, but should not be the sole trigger, and the rule should be coordinated with existing national defensive measures. Invest Europe is concerned that the principal amendments to the Interest and Royalties Directive and Parent-Subsidiary Directive, including the removal of participation and holding-period requirements, the extension of relief to pension institutions and the streamlined relief procedures, would not apply until 1 January 2037. A delay of this length would postpone the measures expected to deliver the greatest reduction in cross-border tax friction and would be inconsistent with the urgency of the European Union's objectives. These measures should therefore apply after a substantially shorter transitional period.

4. Aligning EU Rules with Pillar Two

Invest Europe supports efforts to ensure that the Omnibus initiative operates coherently with the OECD Pillar Two framework. The interaction between the two systems should avoid duplication, minimise reporting burdens and provide legal certainty for businesses operating internationally.

Invest Europe supports the proposed exemption from CFC rules for taxpayers within the scope of Pillar Two. The final text should preserve the proposed protection for groups headed in a qualified side-by-side jurisdiction where the relevant CFC is subject to a qualified domestic top-up tax without any refund or related financial benefit. Where the exemption is unavailable, clear ordering and credit rules are needed to avoid duplicative application of rules pursuing the same policy objective. Information already reported through the GloBE Information Return should, wherever possible, satisfy corresponding EU and national reporting obligations. Tax authorities should only request additional information that is not already available through Pillar Two reporting frameworks.

The European Union should also ensure the uniform and timely implementation of OECD agreed administrative guidance and safe harbours across all Member States. Divergent implementation dates or interpretations would undermine the objective of simplification.

Invest Europe understands the importance of a consistent framework at OECD level but considers that the European Union should advocate at OECD level for the adoption of permanent safe harbours where it is demonstrably clear that no top-up tax can arise based on simplified calculations or Country-by-Country Reporting information. The interaction between Pillar Two and existing EU anti-abuse measures should also be carefully reviewed to prevent unnecessary duplication of compliance obligations and reporting requirements. Taxpayers should not be required to provide substantially similar information through multiple EU and national frameworks where such information is already available to tax authorities. Excessive compliance obligations in low-risk situations should be avoided.

Finally, additional clarification is needed both at OECD level and in the European Union's implementation of these rules regarding the treatment of investment fund structures under Pillar Two, including feeder funds, aggregators, blocking entities, carried interest vehicles and

intermediate holding companies that exclusively perform investment-related functions. These vehicles should be appropriately covered by the investment fund rules where they are held by the fund and perform investment or holding functions, while operating companies within the portfolio should remain outside the scope of the fund-specific benefit.

A coordinated and predictable implementation approach is essential to support cross-border investment and maintain the competitiveness of European capital markets. Clarification should also ensure that genuine investment fund structures are not exposed to unintended multiple taxation outcomes resulting from differing classifications or interpretations across Member States.

Common rules should also be established for acquisitions, disposals and reorganisations involving the entry or exit of companies from groups subject to Pillar Two. These rules should clearly identify which group bears compliance responsibility and what relevant tax and Pillar Two information must be transferred to an acquiring group when a company changes ownership.

5. Ensuring Proportionate Anti-Abuse Rules

CFC rules

Anti-abuse measures must remain effective but should be designed and applied in accordance with the principles of proportionality, legal certainty and economic reality. Greater consistency in the calculation of effective tax rates, control thresholds, exemptions and double-tax relief would improve the operation of CFC rules without requiring Member States to abandon Model B or imposing a single income-attribution model. Such rules should target genuinely artificial arrangements and should not rely on broad presumptions or purely formal criteria where the taxpayer can demonstrate substantive commercial or economic justification.

Invest Europe supports the proposal to exempt SMEs from the CFC rules. However, the treatment of SMEs under the CFC framework should also be based on clear and consistent thresholds calculated at group level. This would prevent the artificial fragmentation of activities across multiple entities in order to remain below applicable thresholds. The framework should also clarify the consequences where a group subsequently exceeds the relevant thresholds.

Invest Europe supports the retention of the substantive economic activity exemption. However, this exemption should reflect commercial reality and the functional profile of the relevant entity. For investment holding and acquisition structures, the absence of employees or dedicated premises should not automatically indicate artificiality where decision-making, risk management and oversight functions are demonstrably exercised. Functions may be outsourced, provided that they are effectively supervised by the relevant entity. This is particularly important for private equity investment structures, where holding companies and acquisition vehicles may perform genuine commercial and governance functions while operating with lean organisational structures.

In addition, concepts such as "*acting in concert*" should be applied proportionately. Participation in the same investment fund should not, by itself, give rise to a presumption of coordination among investors where no control rights, voting arrangements or coordinated actions exist. Investors in a fund should not automatically be regarded as acting together solely by virtue of a common investment platform.

Similarly, the existence of investment holding entities, acquisition vehicles or financing platforms should not, in itself, give rise to presumptions of artificiality where such entities perform genuine governance, oversight, financing or risk-management functions within an investment structure.

Invest Europe does not support making Model A the only permitted CFC approach. Member States have adopted Model B for legitimate policy and design reasons, including to align CFC taxation with the significant people functions performed by the controlling taxpayer and to target non-genuine arrangements through which profits have been artificially diverted. They should not be required to replace those established and proportionate regimes with a categorical inclusion of passive income, which could bring genuine investment returns within scope even where no profit has been artificially diverted. Member States should therefore retain the ability to apply Model B or a combination of the two models.

If the Union nevertheless proceeds with mandatory Model A, the substantive economic activity exclusion should be mandatory for third-country CFCs as well as EU and EEA CFCs, outsourced functions should be recognised where they are effectively directed and supervised, and appropriate passive-income and financial-undertaking safe harbours, transition rules and double-tax relief should be preserved. Adequate transition rules for Member States currently applying Model B should also be included, which should not require taxpayers to reconstruct Model A calculations for periods before the revised rules take effect.

Anti-Hybrid rules

The proposed repeal of imported mismatch rules is welcome. The implications of repeal for tax periods that remain open for assessment and for audits already underway should be clarified. At a minimum, penalties should be excluded where taxpayers have adopted a reasonable and adequately documented position in relation to rules that are subsequently repealed.

This proportional approach is particularly important for reverse hybrid arrangements and mismatches involving third countries. In these cases, "*acting in concert*" should require evidence of effective coordination or a common arrangement between investors, rather than participation in the same fund alone. These concepts should be defined and applied consistently across Member States, with binding EU guidance confirming that investment through the same fund does not, without additional evidence of coordination, constitute acting

together. Appropriate materiality thresholds and manager-level certifications should also prevent disproportionate audits extending through the entire chain of investors.

Invest Europe also welcomes the proposed increase from 25% to 50% in the associated enterprise threshold for the relevant hybrid-mismatch and reverse-hybrid rules. This change should be accompanied by a consistent rule that investors are not aggregated merely because they invest through the same fund.

Interest Limitation Rule

Invest Europe welcomes the proposal to make the group escape rule mandatory. The final text should ensure that taxpayers have access to the group-ratio method, allowing a company to deduct interest in excess of the standard 30% of EBITDA where the consolidated group has a higher level of third-party debt. The calculation should be based on consolidated financial statements and harmonised rules covering the group perimeter, accounting standards, EBITDA, third-party borrowing costs, acquisition debt, leases and the elimination of intragroup amounts. In acquisition structures, the methodology should appropriately take into account both the debt incurred by the BidCo and the relevant earnings generated by controlled operating companies. Where an exemption from interest limitation rules is linked to a reduction in EBITDA of at least 50%, the assessment should not rely exclusively on a comparison with the immediately preceding financial year. A multi-year average would provide a more economically meaningful basis and should help neutralise the effects of reorganisations, start-up periods and exceptional economic items.

Invest Europe welcomes the requirement for Member States to permit the indefinite carry-forward of exceeding borrowing costs that cannot be deducted in the current period. The protection should extend to amounts generated before the revised rules take effect and should not be lost solely because of a tax-neutral merger, division, conversion or other qualifying reorganisation where the underlying economic activity continues. Member States should also retain the ability to permit carry backs and the carry-forward of unused interest capacity.

Invest Europe supports broadening the long-term public-infrastructure project exclusion so that it applies to long-term public-benefit projects. The exclusion should be mandatory rather than left to Member State discretion, and common EU criteria should confirm that qualifying projects may include affordable and social housing, renewable energy, transport, digital, healthcare, education and other assets serving the general public interest. It should be available to qualifying project companies held through investment funds on the same basis as directly held projects.

Invest Europe supports making the 30% EBITDA ratio and the EUR 3 million safe harbour mandatory, together with annual inflation indexation of the safe-harbour amount. Member States should not be permitted to impose a lower EBITDA percentage or a narrower monetary threshold. As these changes are central to reducing fragmentation, the proposed delay in

applying the mandatory safe harbour until 2032 should be removed and the measure should apply with the other ATAD amendments from 2029.

Invest Europe strongly supports the proposed exclusion for low-risk third-party loans. However, the requirement that financing be used exclusively for the borrower's own activities, together with the prohibition on intragroup on-lending and equity contributions, is too restrictive. Investment groups commonly raise external finance through a BidCo, holding company or treasury entity and deploy the proceeds to operating or portfolio companies through loans or capital contributions. The exclusion should follow the use of genuine third-party financing within the group rather than depend on the identity of the legal borrower. Documented on-lending and equity funding should therefore be permitted, and 'own activities' should expressly include the acquisition, holding, financing and oversight of controlled investments.

6. Supporting Innovation, Growth and Competitiveness

R&D incentives

Invest Europe strongly supports measures aimed at encouraging innovation, infrastructure investment, defence capabilities and economic growth. However, incentives should reflect the realities of modern innovative businesses.

Many growth companies derive their value primarily from employees, software, intellectual property and data rather than tangible assets. Incentive regimes should therefore extend beyond physical investments and accommodate a broader range of innovation-related expenditure.

Since many innovative companies operate at a loss during their growth phase, refundable tax credits, social contribution incentives and extended carry-forward mechanisms may often prove more effective than immediate deductions alone. Particular attention should be given to growth companies and venture-backed businesses, whose financing needs and economic characteristics often differ substantially from those of mature corporates.

The design of R&D incentives should also provide stable definitions of eligible activities, proportionate technical documentation requirements and reliable ex-ante certification procedures. Experience with R&D tax incentives demonstrates that uncertainty over the classification of eligible activities can generate significant litigation and compliance costs. Greater predictability at the time an investment decision is made would improve the effectiveness of the incentive.

The benefit should not be restricted to tangible assets used exclusively for R&D activities for a fixed minimum period. Where laboratories, equipment or other assets are shared between R&D and other activities, the deduction should be available in proportion to their actual use for qualifying R&D, provided that such use can be adequately documented. The same principle should apply where R&D activities are carried out by third parties or by a research centre within the same group.

Tax incentives should also be coordinated with State Aid rules, Pillar Two and applicable rules on the cumulation of incentives. Investors should be able to determine the effective net tax benefit associated with an investment at the time the investment decision is made.

Investment management exemption

The Omnibus framework should also provide greater certainty regarding investment management activities. A foreign investment fund should not create a taxable presence solely because independent managers or advisers perform investment services within a Member State.

An EU-wide investment management exemption should establish common conditions relating to the independence of the manager, remuneration on arm's-length terms and the limited powers exercised on behalf of the fund. Such an approach would provide a consistent legal framework for determining when investment management activities do not create a permanent establishment or other taxable presence for a foreign fund.

Greater legal certainty around investment management activities would support a stronger and more competitive European investment ecosystem, facilitate the mobilisation of capital for innovation, infrastructure, defence and growth, and reinforce the objectives of the Savings and Investments Union while maintaining appropriate safeguards.

Conclusion

The Omnibus initiative offers a unique opportunity to simplify EU direct taxation, strengthen the Single Market and improve the European Union's competitiveness. To succeed, the final framework must deliver genuine simplification, reduce duplication, improve consistency across Member States and provide greater certainty for long-term investment.

This should include not only administrative simplification, but also practical mechanisms for preserving tax neutrality and existing tax attributes, providing advance certainty for complex cross-border transactions, resolving double taxation effectively, ensuring proportionate anti-abuse rules and creating a coherent treatment of investment structures under Pillar Two.

By adopting the recommendations outlined above, policymakers can support a tax environment that is simpler, more coherent and better aligned with Europe's growth objectives, while ensuring that legitimate cross-border investment structures are not subject to unnecessary taxation, compliance costs or legal uncertainty.

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