Debt equity bias reduction allowance - public consultation

Fields marked with * are mandatory.

Introduction

The objective of the initiative is to introduce an allowance system for equity financing in order to mitigate the debt-equity bias induced by taxation, thereby reducing overall debt-leverage of companies and supporting the economic recovery from the COVID-19 crisis. The Commission services will explore different ways in which such an allowance could be designed and implemented as well as possible alternative options to achieve the same objectives. It will also explore how anti-tax avoidance rules linked to such allowance can be designed to ensure tax fairness and prevent the use of the allowance for unintended purposes.
The questionnaire should take about 30 minutes to complete. The questionnaire is accessible in English in the first instance, but will be made available in all official EU languages within two weeks. You can submit your reply in any of the official EU languages.

In addition to the introduction, the consultation is structured as follows:

The second part presents some general background information on the initiative.

The third part of the questionnaire asks for some background information about you, the respondent.

The fourth part covers the causes and consequences related to the tax based debt-equity bias.

The fifth part covers possible solutions to address those shortcomings.

The final section allows you to upload a position paper or any kind of document that you think is relevant to better explain your views.

Context

In the Communication Business Taxation for the 21st Century[1], the Commission announced a proposal to address the debt-equity bias in corporate taxation. The initiative would support the action plan for the Capital Market Union, which acknowledges that the corporate sector will enter the post-COVID recovery period with higher need for equity investment.[2]

Most current tax systems across the EU accept interest payments on debt as a deductible expense, reducing the tax base for the purpose of corporate income taxation. At the same time, the costs related to equity financing are mostly not tax deductible. This asymmetric tax treatment of the costs induces a bias in investment decisions towards debt financing. This debt bias of taxation is a long-standing issue.

The tax induced debt-equity bias can contribute to an excessive accumulation of debt for non-financial corporations. Excessive debt levels make companies vulnerable to unforeseen changes in the business environment and increase their risk of insolvency. Necessary business restructuring following insolvency procedures often comes with considerable social costs in the form of mass layoffs. A large number of related non-performing loans can negatively affect financial stability. Total indebtedness of non-financial corporations amounted to almost EUR 14 trillion in 2019 or 99.8% of GDP in the EU-27.

Within the single market, excessive insolvencies and financial instability have the potential to spill over to other Member States and affect the EU as a whole. Following the COVID-19 health crisis and in the framework of the transition to a greener and digitalised economy, substantial equity financing is of central importance for a fast and sound recovery. Companies with a solid capital structure are less vulnerable to shocks and more prone to make investments and to take risks. This can positively affect competitiveness, growth and ultimately employment.
Six Member States (Belgium, Cyprus, Italy, Malta, Poland and Portugal) already have legislative measures in place to tackle the tax induced debt-equity bias. The measures differ in policy design but all provide for a tax allowance on equity.

[1] COM(2021) 251 final
[2] COM(2020) 590 final: https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=COM:2020:590:FIN

About you

* Language of my contribution

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- German
- Greek
- Hungarian
- Irish
- Italian
- Latvian
- Lithuanian
- Maltese

- Polish
- Portuguese
- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

* I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

* First name

* Surname

* Email (this won't be published)

* Scope

- International
- Local
- National
- Regional

* Level of governance

- Local Authority
- Local Agency

* Level of governance

- Parliament
- Authority
- Agency

* Organisation name

255 character(s) maximum

* Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

Transparency register number

255 character(s) maximum

Check if your organisation is on the transparency register. It's a voluntary database for organisations seeking to influence EU decision-making.

* Country of origin

Please add your country of origin, or that of your organisation.

Afghanistan	Djibouti	Libya	Saint Martin
Åland Islands	Dominica	Liechtenstein	Saint Pierre and Miquelon
Albania	Dominican Republic	Lithuania	Saint Vincent and the Grenadines
Algeria	Ecuador	Luxembourg	Samoa
American Samoa	Egypt	Macau	San Marino

- Andorra
- Angola
- Anguilla
- Antarctica
- Antigua and Barbuda
- Argentina
- Armenia
- Aruba
- Australia
- Austria
- Azerbaijan
- Bahamas
- Bahrain
- Bangladesh
- Barbados
- Belarus
- Belgium
- Belize
- Benin
- Bermuda
- Bhutan
- Bolivia
- Bonaire Saint Eustatius and Saba
- El Salvador
- Equatorial Guinea
- Eritrea
- Estonia
- Eswatini
- Ethiopia
- Falkland Islands
- Faroe Islands
- Fiji
- Finland
- France
- French Guiana
- French Polynesia
- French Southern and Antarctic Lands
- Gabon
- Georgia
- Germany
- Ghana
- Gibraltar
- Greece
- Greenland
- Grenada
- Guadeloupe
- Madagascar
- Malawi
- Malaysia
- Maldives
- Mali
- Malta
- Marshall Islands
- Martinique
- Mauritania
- Mauritius
- Mayotte
- Mexico
- Micronesia
- Moldova
- Monaco
- Mongolia
- Montenegro
- Montserrat
- Morocco
- Mozambique
- Myanmar /Burma
- Namibia
- Nauru
- São Tomé and Príncipe
- Saudi Arabia
- Senegal
- Serbia
- Seychelles
- Sierra Leone
- Singapore
- Sint Maarten
- Slovakia
- Slovenia
- Solomon Islands
- Somalia
- South Africa
- South Georgia and the South Sandwich Islands
- South Korea
- South Sudan
- Spain
- Sri Lanka
- Sudan
- Suriname
- Svalbard and Jan Mayen
- Sweden
- Switzerland

- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
- Burkina Faso
- Burundi
- Cambodia
- Cameroon
- Canada
- Cape Verde
- Cayman Islands
- Central African Republic
- Chad
- Chile
- China
- Christmas Island
- Clipperton

- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica

- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru

- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States

- Cocos (Keeling) Islands
- Colombia
- Comoros
- Congo
- Cook Islands
- Costa Rica
- Côte d’Ivoire
- Croatia
- Cuba
- Curaçao
- Cyprus
- Czechia
- Democratic Republic of the Congo
- Denmark
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
- Kyrgyzstan
- Laos
- Latvia
- Lebanon
- Lesotho
- Liberia
- Philippines
- Pitcairn Islands
- Poland
- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
- Russia
- Rwanda
- Saint Barthélemy
- Saint Helena Ascension and Tristan da Cunha
- Saint Kitts and Nevis
- Saint Lucia
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam
- Wallis and Futuna
- Western Sahara
- Yemen
- Zambia
- Zimbabwe

The Commission will publish all contributions to this public consultation. You can choose whether you would prefer to have your details published or to remain anonymous when your contribution is published. **For the purpose of transparency, the type of respondent (for example, ‘business association, ‘consumer association’, ‘EU citizen’) country of origin, organisation name and size, and its transparency register number, are always published. Your e-mail address will never be published.** Opt in to select the privacy option that best suits you. Privacy options default based on the type of respondent selected

* Contribution publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- **Anonymous**
  The type of respondent that you responded to this consultation as, your country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself.
- **Public**
  Your name, the type of respondent that you responded to this consultation as, your country of origin and your contribution will be published.

*** Contribution publication privacy settings**

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

- **Anonymous**
  Only organisation details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published as received. Your name will not be published. Please do not include any personal data in the contribution itself if you want to remain anonymous.
- **Public**
  Organisation details and respondent details are published: The type of respondent that you responded to this consultation as, the name of the organisation on whose behalf you reply as well as its transparency number, its size, its country of origin and your contribution will be published. Your name will also be published.

- [ ] I agree with the personal data protection provisions

Would be willing to take part in a possible follow-up interview related to this project?
[Or something similar, just to allow you to get in touch with the respondents in case of questions or need for follow up.]

- yes
- no

Current issues

To what extent do you agree or disagree with the following statements on the indebtedness of non-financial corporations in the EU?

	strongly agree	agree	neutral	disagree	strongly disagree	don't know
High levels of debt make enterprises more vulnerable to insolvency.	○	○	○	○	○	○
High levels of debt make enterprises more profitable.	○	○	○	○	○	○
High levels of debt are due to lack of other financing options.	○	○	○	○	○	○
Debt levels of large non-financial enterprises are too high.	○	○	○	○	○	○
Debt levels of small and medium sized enterprises (SMEs) are too high.	○	○	○	○	○	○

In your view, how high **is** the proportion of debt compared to equity for non-financial corporations in your country?

- ○ Not more than 25%
- ○ 25% - 50%
- ○ 50% - 75%
- ○ 75% - 100%
- ○ 100% - 125%
- ○ 125% - 150%
- ○ 150% - 200%
- ○ More than 200%

In your view, how high **should** the proportion of debt compared to equity be for non-financial corporations in your country?

- ○ Not more than 25%
- ○ 25% - 50%
- ○ 50% - 75%
- ○ 75% - 100%
- ○ 100% - 125%
- ○ 125% - 150%
- ○ 150% - 200%
- ○

More than 200%

How much do you agree or disagree with the following reasons for enterprises to finance their investments through debt rather than equity.
Enterprises use debt to finance investments …

	strongly agree	agree	neutral	disagree	strongly disagree	don't know
… to increase the return on equity.						
… because they have no or only limited access to equity financing.						
… because interest levels are low and thus debt financing is cheap.						
… to diversify risk.						
… to reduce their tax liabilities.						
… to avoid the dilution of voting rights of their main shareholders.						
… for other reasons (dialog box with free text will open)						

Please specify the other reasons.

500 character(s) maximum

Do you think that enterprises in the EU should be encouraged to use less debt financing and more equity financing?

- strongly agree
- agree
- neutral
- disagree
- strongly disagree
- don't know

Do you have further points you would like to raise in relation to the indebtedness of the business sector in general or on the ratio of debt to equity specifically?

1000 character(s) maximum

Possible Solutions

Several Member States have introduced measures to limit the ratio of debt to equity by limiting the deductibility of interest payments. Other countries have introduced a tax allowance on equity to counter the debt-equity bias. This is often done by allowing the deduction of a notional interest rate on equity.

How much do you agree or disagree with the following statements about existing Member State measures to support equity financing?

National initiatives which tackle the tax debt-equity bias …

	strongly agree	agree	neutral	disagree	strongly disagree	don't know
… are preferable to an initiative at the EU level since they can be better targeted to the needs.	○	○	○	○	○	○
… are creating difficulties for enterprises operating in the single market across countries.	○	○	○	○	○	○
… are a form of tax competition among countries.	○	○	○	○	○	○

How much do you agree or disagree with the following statements about an EU initiative to mitigate the debt-equity bias?
An EU-wide initiative which tackles the tax debt-equity bias …

	strongly agree	agree	neutral	disagree	strongly disagree	don't know
… would be a useful tool to support the recovery of companies from the COVID-19 crisis and incentivise investment through equity in the transition to a greener digitalised economy without creating distortions in the single market.	○	○	○	○	○	○
…would reduce tax competition among Member States.	○	○	○	○	○	○
…would be beneficial for enterprises operating in the single market across countries.	○	○	○	○	○	○

…is not necessary: the tax debt equity bias should be addressed at Member State level.						
…is not necessary: there is no such thing as a tax debt-equity bias.						

The tax debt bias could be addressed via several possible policy options. When considering the options below, the respondent should assume that the overall impact on the tax costs for corporations and tax revenues for Member States will be neutral, even though the possible offsetting measures remain at the discretion of each Member State. As an example, the policy option to mitigate the debt equity bias could be combined with a change in the corporate tax rate to ensure that the global impact on tax revenues of Member States and on tax costs for corporations is neutral.

In your view, which option would be best suited to address the debt-equity bias? Please rank the options from 1 (most suited option) to 4 (least suited option).

	1 (most suited option)	2	3	4 (least suited option)
Option 1: Disallow any financing costs as deductible expense.				
Option 2: An allowance on equity that provides for the deductibility of a notional interest on all equity (maintaining the existing interest deductibility).				
Option 3: An allowance that provides for the deductibility of a notional interest on new equity (maintaining the existing interest deductibility).				
Option 4: An allowance on corporate financial capital (financial debt+equity) that would replace the tax deduction of interests.				
Option 5: other				

If other, please explain shortly which type of measure should be envisaged and how it should be designed?

1000 character(s) maximum

Following the European System of Accounts 2010, the working definition of equity is: "equity is a financial asset that is a claim on the residual value of a corporation, after all other claims have been met”. Do you consider this definition useful or would you propose an alternative definition?

- Definition useful
- Definition not useful, I would propose an alternative.

What alternative definition of 'equity' would you suggest? Ideally explain your proposal.

1500 character(s) maximum

When a tax allowance for corporate equity is granted (as in policy options 2, 3 and 4), a notional interest rate needs to be determined. The notional interest rate will be determined based on a risk free market interest rate in order to take annual interest rates variations into account. In addition a risk premium can be added to the risk free rate for calculating the notional interest rate. How high do you think the notional interest rate should be?

The notional interest rate for an equity allowance should be:

- equal to the risk free interest rate + 0.5%
- equal to the risk free interest rate + 1%
- equal to the risk free interest rate + 1.5%
- equal to the risk free interest rate + 2%
- equal to the risk free interest rate + 2.5%
- equal to the risk free interest rate + 3%
- higher

What notional interest rate would you suggest?

50 character(s) maximum

Please explain your response and/or provide further comments.

500 character(s) maximum

In view of better addressing financing issues for Small and Medium Enterprises (SMEs), do you think that a more generous notional interest rate should be granted to SMEs?

- strongly agree
- agree
- neutral
- disagree
- strongly disagree
- don’t know

Please explain your response and/or provide further comments.

500 character(s) maximum

How much higher do you think the notional interest rate should be for SME compared to the notional interest rate applied to larger enterprises?

- +0.5 percentage points
- +1 percentage point
- +1.5 percentage points
- +2 percentage points
- +2.5 percentage points
- +3 percentage points
- higher

How much higher do you think the notional interest rate for SMEs should be compared to larger companies?

100 character(s) maximum

For a tax allowance for corporate equity (options 2, 3 and 4 above), do you agree that such a proposal should include robust rules to protect it against being used for aggressive tax planning?

- strongly agree
- agree
- neutral
- disagree

- strongly disagree
- don’t know

You indicate that you disagree with rules against aggressive tax planning. Could you please explain?

1000 character(s) maximum

Please evaluate the following elements in terms of effectiveness to make an allowance for equity more resilient to tax avoidance by expressing you (dis-) agreement with the following statements.

In order to prevent abuse of an allowance for equity for aggressive tax planning purposes, it is necessary to …

	strongly agree	agree	neutral	disagree	strongly disagree	don’t know
… add a general anti-abuse provision that would deny notional deduction for operations carried out without any substantial economic purpose or carried out with related parties and that have the main purpose of converting old equity into new equity with the aim of benefiting from the notional deduction.						
… exclude cascading through intra-group loans and loans involving associated enterprises;						
… exclude cash contributions and contributions in kind;						
… exclude capital increase subscribed by the company or one of its subsidiaries (own shares);						
… exclude intra-group transfer of participations;						
… prevent re-categorisation of old capital as new capital through liquidations and the creation of new companies;						

… exclude acquisitions of businesses held by associated enterprises						
… exclude assets not linked to the activity						
Other (please specify)						

Please explain which anti-abuse provision you would include in the proposal to make the EU level equity remuneration allowance more resilient to tax avoidance.

1000 character(s) maximum

Final remarks

You have the option to upload a brief document, such as a position paper in case you think additional background information is needed to better explain your position or to share information about data, studies, papers etc. that the European Commission could consider to prepare its initiative.

Please note that the uploaded document will be published alongside your response to the questionnaire, the latter being the essential input to this public consultation.

In case you have chosen in the section "About you" that your contribution shall remain anonymous, please make sure you remove any personal information (name, email) from the document and also from the document properties.

Please upload your file

Only files of the type pdf,doc,docx,odt,txt,rtf are allowed