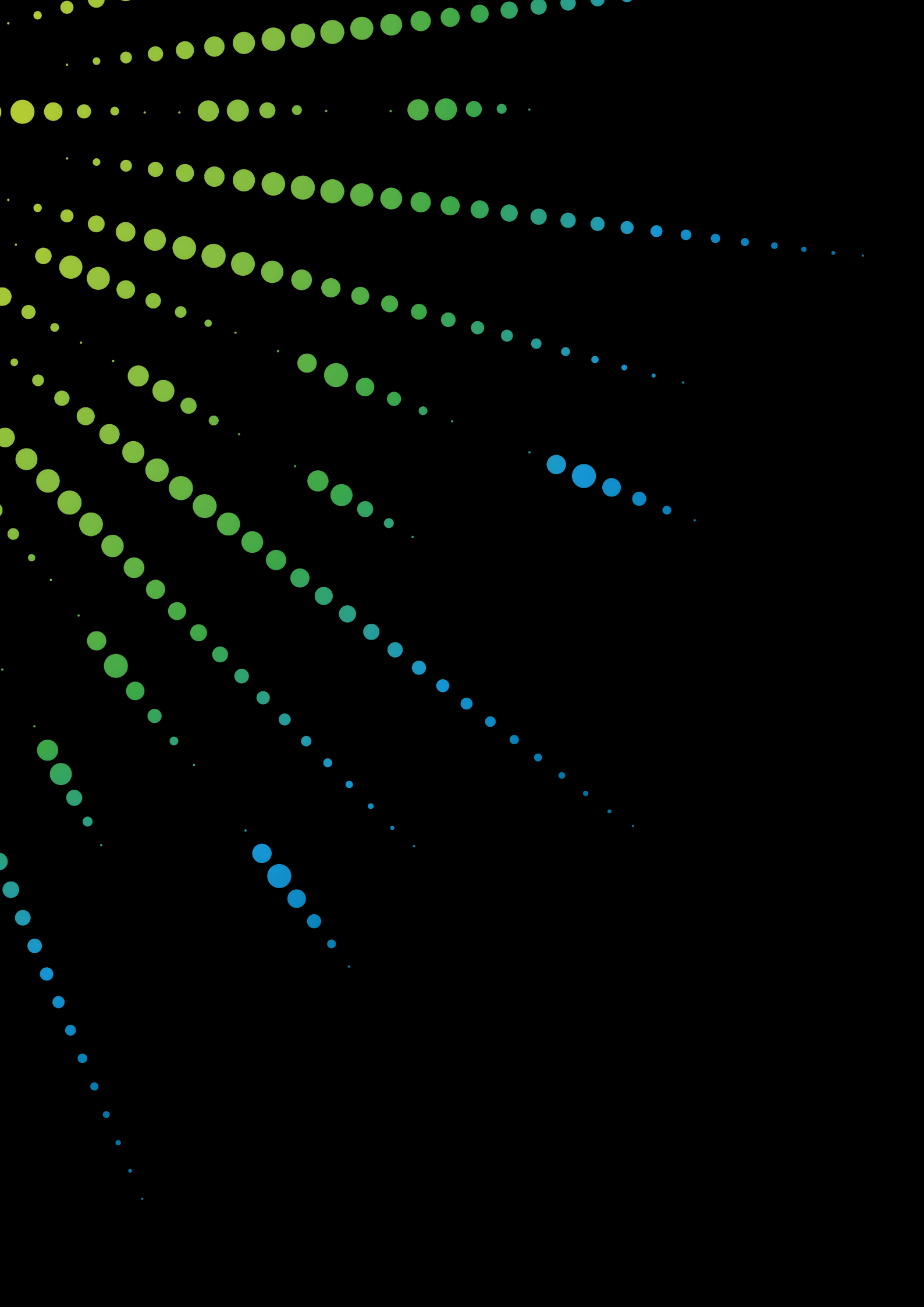


Impact of the COVID-19 pandemic on the domestic tax treatment of losses within the EU

October 2021



Scope

This document provides insights on the basic tax rules on corporate loss relief in each member state and whether the COVID-19 pandemic – and the recommendation of the European Commission on the tax treatment of losses during this pandemic - has had any impact on these rules. This document is **a high-level overview of the rules** provided for general information only. Users should not rely on it as being complete or comprehensive and should undertake their own research and analysis taking into account the facts and circumstances of their particular case.

The questionnaire used to gather the information in this document was framed in the context of the choices individual EU Member States have already announced or are widely expected to make. The information reflects the views of Deloitte tax professionals to the extent they are aware of relevant legislation and developments in their jurisdictions as at October 2021.

The UK withdrew from the EU on 31 January 2020 and following the end of the EU-UK withdrawal agreement's transition period on 31 December 2020, EU law generally no longer applies to the UK. However, this document continues to comment on the domestic tax treatment of losses under UK domestic law.



Contents

Introduction	1
Corporate loss relief in the EU member states	2
Domestic corporate loss relief rules	2

Introduction

Commission recommendation on the tax treatment of losses during the COVID-19 pandemic (2021/801)

Background

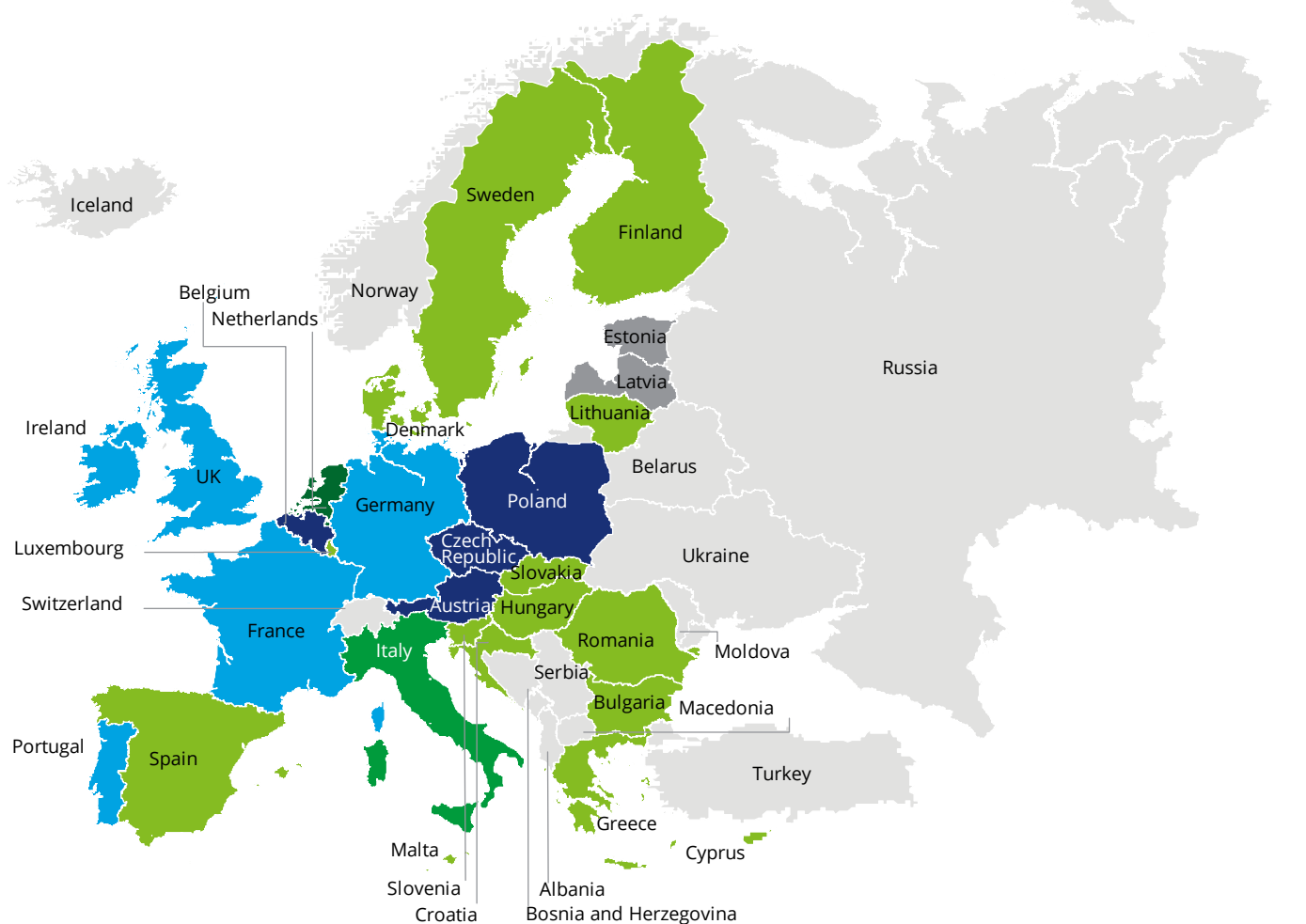
- On 18 May 2021, the European Commission (EC) adopted its long awaited [Communication on Business Taxation for the 21st century](#). The Communication sets out both a short-term and long-term vision for the EU tax policy agenda to support Europe's recovery from the COVID-19 pandemic and to ensure adequate public revenues over the coming years.
- Alongside the Communication, the EC adopted a recommendation on the tax treatment of losses during the COVID-19 pandemic (2021/801). The recommendation encourages member states to allow loss carry-back for businesses to at least the previous fiscal year, i.e., at least 2019. Member states may, however, extend that period to allow loss carry back up to the previous three years, thus allowing companies to set off their losses referring to fiscal years 2020 and 2021 against already taxed profits in the fiscal years 2019, 2018 and 2017. The EC further recommends member states to limit the amount of losses carried back to EUR 3 million per loss-making fiscal year.
- The idea behind the recommendation is that businesses that were profitable in the years before the COVID-19 pandemic, i.e., businesses that were making a profit and paying taxes in years prior to 2020, would be able to offset their 2020 and 2021 losses against the profits of the earlier year(s) and potentially recover some or all the associated taxes paid. That way, the recommendation intends to support in particular small and medium-sized enterprises in their recovery from the COVID-19 pandemic.
- As recommendations of the EU are not legally binding upon the member states, the question arises as to the extent to which member states have acted on this recommendation. This document aims to provide a high-level overview of the basic tax rules on corporate loss relief in each member state and whether the COVID-19 pandemic - and the EC's recommendation in this regard - has had any impact on these rules.

Corporate loss relief in the EU member states

Impact of the COVID-19 pandemic and the EC's recommendation (2021/801)

Domestic corporate loss relief rules

Preliminary responses – impact of the COVID-19 pandemic

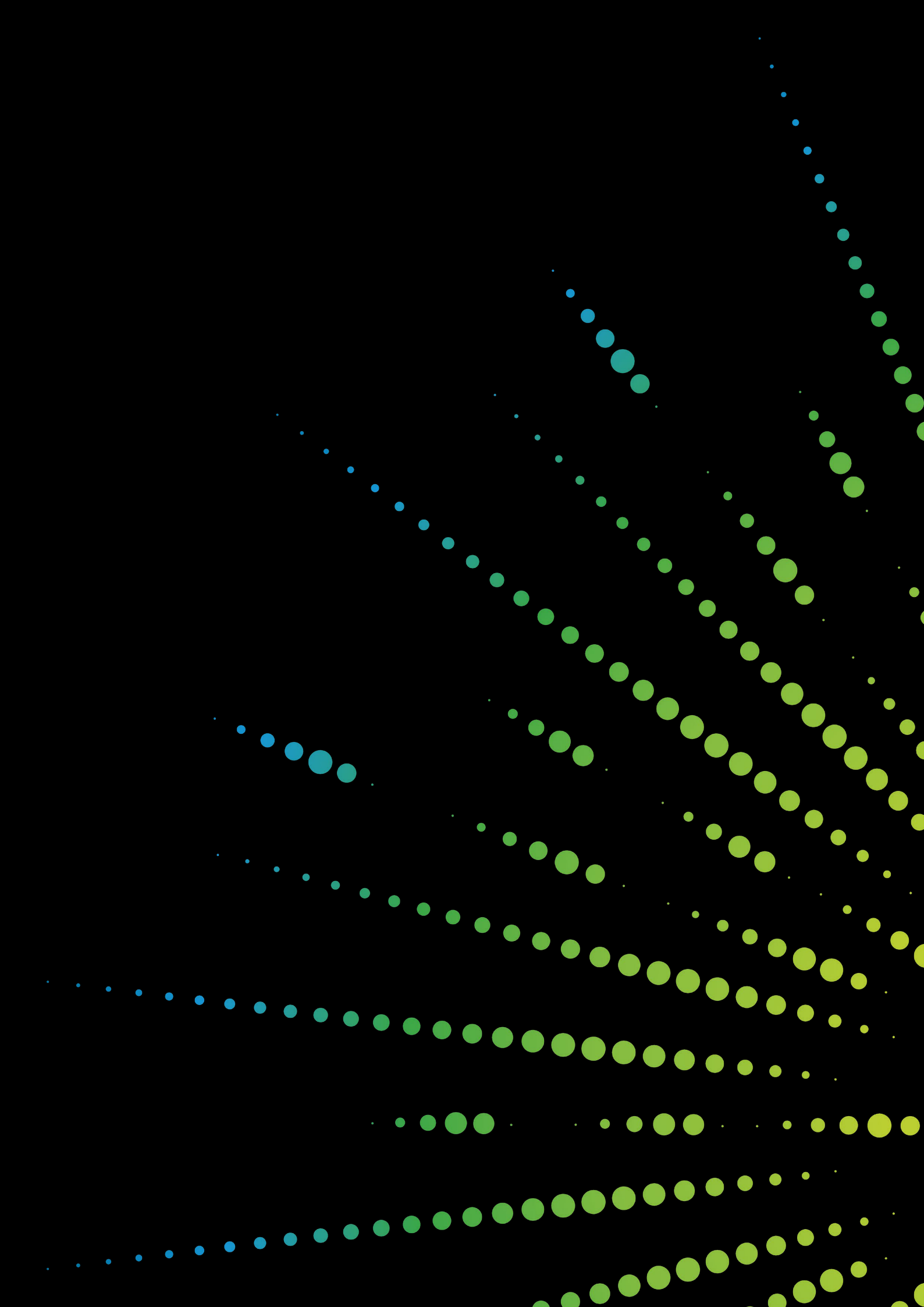


The recommendation of the EC on the domestic tax treatment of losses during the COVID-19 pandemic (2021/801) encourages member states to allow loss carry-back for businesses to at least the previous fiscal year. The EC recommends to limit the amount of losses carried back to EUR 3 million per loss-making year.

Have your domestic corporate loss relief rules changed in relation to the COVID-19 pandemic?

Legend:

- 4** Yes, carry back rules have been introduced, but not directly as a result of the EC's recommendation
- 5** Yes, already existing loss relief rules have been extended, but not directly as a result of the EC's recommendation
- 1** No, but carry back of losses already was an option
- 1** No, but following the EC's recommendation carry back rules are expected to be introduced
- 15** No, only carry forward of losses is allowed
- 2** N/A, due to the domestic CIT regime





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