

Position on Digital Taxation

In Brief

- Retail is omni-channel. Thus, there should not be any channel-specific taxation singling out eCommerce.
- The proposed Digital Services Tax (DST) on marketplace commissions should be rejected because it is directly linked to sales turnover and leads to double taxation.
- The EU should not only promote a level playing field between the online and offline world, but also a competitive, diverse and innovative online shopping environment delivered by SMEs, larger companies as well as national and international marketplaces.
- The proposal is not fit for purpose as it cannot compensate that there are different tax conditions within the EU, making it impossible to avoid unfair competitive advantages within the single market.
- The enforcement of the proposed commission-based tax in third countries is not practical and will create an unlevel playing field.
- The EU should aim for an international consensus-based solution at OECD/G20 level to update the taxation rules to cover also new digitalised business models, towards a 21st Century tax system.
- The DST is designed as an interim measure. This must be reflected in an explicit sunset clause.

Background

On 21st March 2018, the European Commission published a package of proposals on the “Fair Taxation of the Digital Economy”. The package contains two proposals: A proposal relating to the corporate taxation of significant digital presence¹ and a proposal for a gross revenue-based levy at a rate of 3% on the provision of certain digital services, called the “Digital Services Tax” (DST), applicable as of 1 January 2020². The scope of this DST proposal includes commissions earned by marketplaces for intermediary services in the sale of physical goods.

Whilst we acknowledge that the international tax framework needs to be updated to be fit for the 21st century, we believe the EU proposals and in particular the EU DST proposal will be problematic and not the right policy option.

No channel-specific taxation

The world is becoming more and more omni-channel. Consumers integrate more and more different sales channels into their purchase decisions and shops combine their physical stores with an online presence. Tens of thousands of SMEs across Europe boost the economy by selling through platforms and marketplaces. Therefore, taxes should not focus on one specific distribution channel, eCommerce, as this would:

- create an unlevel playing field between the online and the offline world
 - interfere with the free choice of consumers to select the channel they want to use
 - stifle innovation in a fast-developing sector of retail
- Marketplaces that facilitate transactions for physical goods should be excluded from the scope of the DST measure, in particular given concerns on enforceability against non-EU sellers and non-EU marketplaces selling into the EU and the high substitutability of physical goods.

¹ COM (2018) 147 final.

² COM (2018) 148 final.

No tax on turnover

Any tax on corporate activities should be **profit-based and not revenue-based**. The trade of physical goods on marketplaces is already subject to VAT and does not need an additional, channel specific, turnover-based tax. Any additional tax on commissions of sales on physical goods and services would constitute a hidden additional consumption tax for online marketplaces that will be passed on to SMEs and ultimately consumers.

Moreover, the proposal is not fit for its intended purpose. The introduction of a digital service tax cannot compensate the large disparities in form and levels of taxation in the individual EU member states and thus it will not help to avoid unfair competitive advantages within the single market.

The EU should promote a level playing field

To safeguard the principles of fairness and integrity in tax policy, any tax on the activities of companies should be channel neutral, equitable and enforceable in terms of application across all businesses and all regions.

Specifically, we are concerned that, although non-European platforms and marketplaces are covered by the scope of the DST proposal, the European countries have no legal means to secure enforceability of the tax against non-EU companies. This will create further distortions of competition between EU and non-EU based businesses as well as an unlevel playing field for goods exported outside of the EU via online marketplaces. As a result, the proposed DST would effectively act as an export tariff on European SMEs relative to non-EU businesses who would not be subject to the tax on sales to non-EU customers.

The OECD is the optimal forum to review the appropriateness of the current international tax framework. We fully support the initiative on OECD level to consider value creation and allocation of taxing rights. We need to achieve a consistent global approach to avoid double taxation. This should be a discussion about allocation of tax receipts, rather than an overall greater tax burden on business.

Need to include an explicit sunset clause

The DST is designed as an interim measure on the way to a global solution. Experience has shown that taxes, once they are introduced, tend to persist. Therefore, if it was to be introduced, the interim character of the DST should be reflected by the introduction of an explicit sunset clause for the phase out of the measure once an international system is in place.

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