Common system of a digital services tax on revenues resulting from the provision of certain digital services

2018/0073(CNS) - 21/03/2018 - Legislative proposal

PURPOSE: to establish the common system of a digital services tax (DST) on the revenues resulting from the provision of certain digital services.

PROPOSED ACT: Council Directive.

ROLE OF THE EUROPEAN PARLIAMENT: the Council adopts the act after consulting the European Parliament but without being obliged to follow its opinion.

BACKGROUND: the global economy is rapidly becoming digital and, as a result, new ways of doing business have emerged. The current corporate taxation rules were mainly developed during the 20th century for traditional businesses.

However, they were mainly conceived in the early 20th century for traditional "brick and mortar" businesses and **fail to capture the global reach of digital activities** where physical presence is not a requirement anymore in order to be able to supply digital services.

The Commission has acknowledged that the ideal approach would be to find multilateral, international solutions to taxing the digital economy given the global nature of this challenge. The Commission is working closely with the OECD to support the development of an international solution.

Pending a comprehensive solution, which may take time to adopt and implement, **Member States face pressure to act on this issue**, given the risk that their corporate tax bases are significantly eroded over time, and also due to the perceived unfairness of the situation.

Such uncoordinated measures taken by Member States individually risk further fragmenting the Single Market and distort competition.

This proposal addresses in an interim way the problem that the current corporate tax rules are inadequate for the digital economy.

It is part of a package of measures which also includes a proposal for a directive on a comprehensive corporate tax solution for digital activities.

IMPACT ASSESSMENT: the option chosen consists of a tax with a limited scope, levied on a company's gross revenues from the provision of certain digital services for which the creation of value by users plays a central role.

CONTENT: the proposal establishes the common system of a digital services tax (DST) on revenues resulting from the provision of certain digital services.

The specific objective of this proposal is to put forward a measure that targets the revenues stemming from the supply of certain digital services and that is easy to implement and **helps to level the playing field in the interim period** until a comprehensive solution is in place.

Taxable revenues: digital services tax (DST) is a tax with a targeted scope, levied on the revenues resulting from the supply of certain digital services characterised by **user value creation**.

In particular, taxable revenues should be those resulting from the provision of the following services:

- the placing on a digital interface of **advertising** targeted at users of that interface;
- the making available of **multi-sided digital interfaces** which allow users to find other users and to interact with them, and which may also facilitate the provision of underlying supplies of goods or services directly between users (sometimes referred to as "intermediation" services); and
- the **transmission of data collected** about users and generated from such users' activities on digital interfaces.

Taxable person: an entity above both of the following thresholds qualifies as a taxable person for the purposes of the DST:

- the total amount of worldwide revenues reported by the entity for the latest complete financial year for which a financial statement is available exceeds **EUR 750 million**;
- the total amount of taxable revenues obtained by the entity within the Union during that financial year exceeds **EUR 50 million**.

Any entity qualifying as a taxable person and obtaining taxable revenues treated as obtained in a Member State should be subject to DST in that Member State, irrespective of whether that entity is established in that Member State, in another Member State or in a non-Union jurisdiction.

Place of taxation: in line with the concept of user value creation that underpins the objective scope of DST, this provision determines that **DST is due in the Member State or Member States where the users are located**. The new tax will be chargeable in a Member State on the proportion of taxable revenues obtained by a taxable person in a tax period that is treated as obtained in that Member State. The proposal lays down the rule on how DST should be calculated.

Obligations: the proposal establishes a set of obligations to be fulfilled by taxable persons with DST liability. In particular, it provides for the establishment of a **simplification mechanism in the form of a one-stop-shop** for taxable persons with DST liability in one or more Member States, so that all their DST obligations can be fulfilled at once (identification, submission of the DST return, and payment).

The obligations should be fulfilled in a single Member State (Member State of identification), which should collect the information and the **payment of the DST on behalf of other Member States** where the DST is due, and subsequently share that relevant information and the collected DST amounts with them.