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

2018/0073(CNS) - 13/12/2018 - Text adopted by Parliament, 1st reading/single reading

The European Parliament adopted by 451 votes to 69, with 64 abstentions, in the framework of the consultation procedure, the report by Paul TANG (S&D, NL) on the proposal for a Council directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services.

Parliament approved the Commission's proposal subject to the following amendments:

Objective

The proposed Directive seeks to establish the common system of a digital services tax (DST) on revenues resulting from the provision of certain digital services.

Parliament pointed out that, on average, digital businesses face an effective tax rate of only 9.5%, compared to 23.2% for traditional business models. The objective would be to **close the gap** between the taxation of digital revenues and that of traditional revenues so that all companies operating in the Single Market may benefit from a level playing field.

Taxable products

Parliament proposed broadening the tax base by including: (i) the processing, transmission and sale of data collected about users and generated from such users' activities on digital interfaces; and (iv) the supply of digital content such as video, audio, games or texts. If no revenues are obtained from the supply of such content, goods and services, there should be no DST liability.

Taxable person

An entity shall qualify as a taxable person only if only if it meets both of the following conditions: (i) 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 and (ii) the total amount of taxable revenues obtained by the entity within the Union during that financial year exceeds **EUR 40 million**.

The DST rate shall be set at **3%**.

An amendment clarifies that the processing of personal data in the context of DST shall be carried out in accordance with Regulation (EU) 2016/679, including data that may be necessary in relation to Internet Protocol (IP) addresses or other means of geolocation.

The Commission shall analyse whether the establishment of a **dispute resolution mechanism** would further increase the effectiveness and efficiency of the settlement of disagreements between Member States. The Commission shall submit a report thereon to the European Parliament and the Council, including, if appropriate, a legislative proposal.

Fight against fraud

Member States shall adopt measures, including **penalties and sanctions**, to prevent tax evasion, avoidance and abuse with respect to DST. Members considered that total digital service tax paid by a taxable person per Member State should be a part of the system of country-by-country reporting. In addition, in case a taxable person is liable to DST in more than one Member State, the Commission shall audit, every three years the DST return filed with the Member State of identification.

Automatic and mandatory exchange of information

In order for tax authorities to assess tax due properly and to ensure the proper and uniform implementation of this Directive, the exchange of information on tax matters shall be automatic and mandatory, as laid down by Council directive 2011/16/EU. Member States shall report every year to the Commission relevant figures and information on the payment of the DST by entities.

Sunset clause

Since the DST is a temporary measure awaiting a permanent solution, Members proposed a sunset clause that would result in this Directive automatically expiring upon the establishment significant digital presence or the Common Consolidated Corporate Tax Base (CCCTB), including Parliament's position on the permanent digital establishment. The ad hoc measures contained in this Directive should not delay works on these issues.

Report and review

Two years after the date of entry into force of the Directive, the Commission shall make an assessment of the application of this Directive and present a report to the European Parliament and the Council, accompanied, where appropriate, by proposals for its review in accordance with the principles of fair taxation of the digital sector.

In particular, the Commission shall assess the increase in the DST rate from 3% to 5% together with a corresponding tax allowance in order to limit the difference in effective tax rates between traditional and digital companies.