Digital taxation: OECD negotiations, tax residency of digital companies and a possible European Digital Tax

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The European Parliament adopted by 549 votes to 70, with 75 abstentions, a resolution on digital taxation: OECD negotiations, tax residency of digital companies and a possible European Digital Tax.

Challenges arising from the digitalisation of the economy

The resolution highlighted that current international corporate tax rules are based on principles which were developed in the early 20th century and that taxing rights are mainly based on the physical presence of companies. These rights are no longer suited to an increasingly globalised and digitalised economy, thus enabling numerous harmful tax practices that undermine public finances and fair competition.

Parliament has repeatedly called for a reform of the international corporate tax system in order to combat tax evasion, tax avoidance and the challenges of taxing the digital economy.

A fairer allocation

On average, digital businesses face an effective tax rate of only 9.5 %, as opposed to 23.2 % for traditional business models. Given that the demand for digitalised services has exploded due to the obligation to operate many tasks remotely in the COVID-19 context, providers of such digitalised services have been placed in a more favourable position than traditional businesses, especially SMEs.

Stressing the need to address the under-taxation of the digitalised economy, Members called for a new and fairer distribution of taxing rights for highly digitalised multinationals and a review of the traditional concept of permanent establishment.

Parliament recalled in this respect its position on the Common Consolidated Corporate Tax Base (CCCTB) aimed at creating a virtual permanent establishment, taking into account where value is created and based on the value and profits generated by users of online platforms. These should be taken into account when defining a new tax nexus to provide an effective remedy against aggressive tax planning and tax evasion.

According to Members, new solutions for taxing the digital economy should preferably tax profits, not revenues.

A global multilateral agreement

Parliament called for an international agreement aiming for a fair and effective tax system. They welcomed the efforts in the G20/OECD Inclusive Framework (IF) to reach a global consensus on a multilateral reform of the international tax system to address the challenges of continued profit shifting and the digitalised economy.

Regretting, however, that the original deadline of the end of 2020 for the conclusion of the international agreement was not met, Parliament called for an early agreement by mid-2021.

Members welcomed the new momentum given to the negotiations by the US administration's recent proposals on a ‘strong incentive for nations to join a global agreement that implements minimum tax rules worldwide’. These proposals include an increase in the minimum tax on global intangible low-taxed income (GILTI) to 21 %.

Parliament called on the Commission and the Council to intensify the dialogue with the new US administration on digital tax policy with the aim of finding a common approach in the framework of the G20/OECD IF negotiations before June 2021.

A call for immediate EU action

Members considered that the tax challenges stemming from the digitalised economy are a global issue and that an agreement at the level of the G20/OECD states is urgently needed to make international coordination possible. An ambitious and harmonised international solution is preferable to a patchwork of national or regional digital taxes bearing potential risks and is significantly more likely to find unanimous support in the Council.

The resolution insisted therefore, that regardless of the progress of the negotiations in the G20/OECD IF, the EU should have a fall-back position and stand ready to roll out its own proposal for taxing the digital economy by the end of 2021.

A digital levy as a new EU own resource

Parliament welcomed the Interinstitutional Agreement of 16 December 2020 (IIA) between Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, including a roadmap towards the introduction of new own resources.

Members recalled the Commission's legally binding commitment to present a legislative proposal for a European digital levy as an own resource by June 2021. They also recalled the commitment by Parliament, the Council and the Commission to follow the steps set out in the roadmap for its introduction by 1 January 2023.

Parliament affirmed that the revenue from the EU digital levy will be part of a basket of new own resources whose proceeds will at least be sufficient to cover, through the EU budget, the future repayment costs (principal and interest) arising from the Recovery Instrument’s grants component.