Basic information

2018/0073(CNS) CNS - Consultation procedure Directive	Awaiting final decision
Common system of a digital services tax on revenues resulting from the provision of certain digital services **Subject** 2.40 Free movement of services, freedom to provide 3.30.06 Information and communication technologies, digital technologies 3.45.04 Company taxation	

Key players

European Parliament

Committee responsible	Rapporteur	Appointed
ECON Economic and Monetary Affairs	TANG Paul (S&D)	31/05/2018
	Shadow rapporteur MATO Gabriel (PPE) FOX Ashley (ECR) JEŽEK Petr (ALDE) SCHIRDEWAN Martin (GUE/NGL) JOLY Eva (Verts/ALE) VALLI Marco (EFDD) KAPPEL Barbara (ENF)	

Committee for opinion	Rapporteur for opinion	Appointed
IMCO Internal Market and Consumer Protection	The committee decided not to give an opinion.	
JURI Legal Affairs	The committee decided not to give an opinion.	

Council of the European Union

Council configuration	Meetings	Date
Economic and Financial Affairs ECOFIN	3646	2018-11-06

European

Commission DG	Commissioner

Commission	Taxation and Customs Union	MOSCOVICI Pierre

Key events

Date	Event	Reference	Summary
21/03/2018	Legislative proposal published	COM(2018)0148	Summary
19/04/2018	Committee referral announced in Parliament		
06/11/2018	Debate in Council		
03/12/2018	Vote in committee		
05/12/2018	Committee report tabled for plenary, 1st reading/single reading	A8-0428/2018	Summary
12/12/2018	Debate in Parliament		
13/12/2018	Decision by Parliament	T8-0523/2018	Summary
13/12/2018	Results of vote in Parliament		

Technical information

Procedure reference	2018/0073(CNS)
Procedure type	CNS - Consultation procedure
Procedure subtype	Legislation
Legislative instrument	Directive
Legal basis	Treaty on the Functioning of the European Union TFEU 113
Other legal basis	Rules of Procedure EP 165
Stage reached in procedure	Awaiting final decision
Committee dossier	ECON/8/12610

Documentation gateway

European Parliament

Document type	Committee	Reference	Date	Summary
Committee draft report		PE627.911	21/09/2018	
Amendments tabled in committee		PE629.512	22/10/2018	
Committee report tabled for plenary, 1st reading/single reading		A8-0428/2018	05/12/2018	Summary
Text adopted by Parliament, 1st reading/single reading		T8-0523/2018	13/12/2018	Summary

European Commission

Document type	Reference	Date	Summary

Legislative proposal	COM(2018)0148	21/03/2018	Summary
Commission response to text adopted in plenary	SP(2019)44	23/01/2019	

National parliaments

Document type	Parliament /Chamber	Reference	Date	Summary
Contribution	ES_CONGRESS	COM(2018)0148	14/05/2018	
Contribution	PT_PARLIAMENT	COM(2018)0148	18/05/2018	
Contribution	FR_SENATE	COM(2018)0148	04/06/2018	
Contribution	BE_CHAMBER	COM(2018)0148	28/06/2018	
Contribution	CZ_SENATE	COM(2018)0148	02/08/2018	
Contribution	FR_ASSEMBLY	COM(2018)0148	11/01/2019	
Reasoned opinion	DK_PARLIAMENT	PE638.490	17/04/2019	
Reasoned opinion	NL_CHAMBER	PE638.491	17/04/2019	
Reasoned opinion	MT_PARLIAMENT	PE638.492	17/04/2019	

Additional information

Source	Document	Date
European Parliament	Briefing	
European Commission	EUR-Lex	

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.

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.

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

2018/0073(CNS) - 05/12/2018 - Committee report tabled for plenary, 1st reading/single reading

The Committee on Economic and Monetary Affairs adopted, 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.

The committee recommended that the European Parliament approve 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.

The report pointed out that, on average, digital businesses face an effective tax rate of only 9.5%, compared to 23.2% for traditional business models.

This system is not fair and it is important to **close the gap between the taxation of digital revenues and that of traditional revenues**. Members considered that a single DST rate at Union level constitutes a first step towards further harmonisation of corporate taxation at Union level.

Taxable products: Members proposed broadening the tax base by including in the scope of taxable revenue the supply of digital content such as **video, audio or text** using a digital interface. If no revenue is derived 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 conditional on permanent measures: 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.

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.