
European Commission – proposal for common EU solution for taxation of the digital economy

March 2018

In brief

On 21st March 2018 the European Commission has proposed new rules to ensure that digital business activities are taxed in a fair and growth-friendly way in the EU. The legislative proposals will be submitted to the Council for adoption and to the European Parliament for consultation.

In detail

According to the European Commission two legislative proposals announced on 21st March will lead to a fairer taxation of digital activities in the EU.

The first initiative aims to reform corporate tax rules so that profits are registered and taxed where businesses have significant interaction with users through digital channels. This forms the Commission's preferred long-term solution.

The second proposal responds to calls from several Member States for an interim tax which covers the main digital activities that currently escape tax altogether in the EU.

Proposal 1: A common reform of the EU's corporate tax rules for digital activities

This proposal would enable Member States to tax profits that are generated in their territory, even if a company does not have a physical presence there. The new rules would ensure that online businesses contribute to public finances at the same level as traditional 'brick-and-mortar' companies.

A digital platform will be deemed to have a taxable 'digital presence' or a virtual permanent establishment in a Member State if it fulfils one of the following criteria:

- It exceeds a threshold of €7 million in annual revenues in a Member State

- It has more than 100,000 users in a Member State in a taxable year
- Over 3,000 business contracts for digital services are created between the company and business users in a taxable year.

The new rules will also change how profits are allocated to Member States in a way which better reflects how companies can create value online: for example, depending on where the user is based at the time of consumption.

Ultimately, the new system secures a real link between where digital profits are made and where they are taxed. The measure could eventually be integrated into the scope of the Common

Consolidated Corporate Tax Base (CCCTB).

Proposal 2: An interim tax on certain revenue from digital activities

This interim tax ensures that those activities which are currently not effectively taxed would begin to generate immediate revenues for Member States. It would also help to avoid unilateral measures to tax digital activities in certain Member States which could lead to a patchwork of national responses which would be damaging for our Single Market.

Unlike the common EU reform of the underlying tax rules, this indirect tax would apply to revenues created from certain digital activities which escape the current tax

framework entirely. This system will apply only as an interim measure, until the comprehensive reform has been implemented and has inbuilt mechanisms to alleviate the possibility of double taxation.

The tax will apply to revenues created from activities where users play a major role in value creation and which are the hardest to capture with current tax rules, such as those revenues:

- created from selling online advertising space
- created from digital intermediary activities which allow users to interact with other users and which can facilitate the sale of goods and services between them

- created from the sale of data generated from user-provided information.

Tax revenues would be collected by the Member States where the users are located, and will only apply to companies with total annual worldwide revenues of €750 million and EU revenues of €50 million. This will help to ensure that smaller start-ups and scale-up businesses remain unburdened.

What's in it for me?

Upcoming changes will revolutionize the way of taxing revenues obtained by legal persons. Entrepreneurs conducting digital business should monitor the process with caution and prepare itself for an increase of tax burdens.

Contact:

Rafał Dróbka
Partner
+48 502 18 4994
rafal.drobka@pwc.com

Agata Oktawiec
Director
+48 519 50 4864
agata.oktawiec@pwc.com

Michał Malkiewicz
Manager
+48 519 50 4605
michal.malkiewicz@pwc.com