



European Commission Expert Group on Taxation of the Digital Economy

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Overview

- *Background & Format*
- *General Issues*
- *Direct Tax issues (BEPS)*
- *Indirect Tax issues*

Digital Expert Group

Background & Format

- *European Council May 2013:*
"efforts are required to respond to the challenges of taxation in the digital economy, taking full account of ongoing work in the OECD. The Commission intends to assess these issues further (...)"
- *European Council October 2013 "Digital Agenda" announced establishment of Expert Group, C(2013)7082*
- *Mandate: identify possible solutions to address the most important issues related to taxation of the digital economy.*
- *Composition: Chair (Vitor Gaspar) and 6 experts*
- *Working methods: four 2-day meetings (December, January, March , April)*
- *28 May 2014 final report presented to President Barroso*

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General Issues

- *No separate sector*
- *Digitalisation is a general purpose technology*
- *Digitalisation facilitates cross border business*
- *Urgency to improve the EU (Digital) Single Market. SMEs.*
 - Simple
 - Stable
 - Predictable
- *Depart from neutrality and simplicity only in exceptional cases (proven market failure)*
- *Increased "borderlessness" caused by digitalization provides challenges for CIT and VAT systems*
- *Digitalisation also provides opportunities and solutions for tax administrations*

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Direct Tax Issues – Short term

- *Political concern under taxation of (digital) multinationals requires urgent action → support for BEPS work*
- *EU priorities:*
 - 1. Common MS positions in BEPS and follow-up**
 - 2. Harmful tax practices**

Hybrids, CFCs and treaty shopping;
 - 3. Transfer pricing rules**

Transfer of IP and risk allocation
 - 4. Taxable nexus**

Not for collection of data, but review dependent agent and auxiliary activities provisions

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Direct Tax Issues – Medium and long term

- *More fundamental review of profit allocation. From profit split to formula apportionment (in the EU)*
- *Promote research towards alternative ways of taxing multinational businesses (cash flow taxation) and simpler ways of allocating the right to tax (destination basis)*

Digital Expert Group - Indirect Tax Issues

Overview

- Policy developments to date
 - 2003 Changes
 - 2015 Place of Supply Rules and the MOSS
- Recommendations of the Commission Expert Group
- Commission Response to the Report
- Compatibility with the work at OECD
- Conclusions

2003 – Non-EU to EU supplies of electronic services

- Place of supply for B2C supplies of electronic services taxed at the place of consumption, i.e. the residence state of the customer. EU was first jurisdiction to apply the OECD Ottawa principles
- Vender Registration and Remittance - Non-EU business can account for VAT (at the applicable rate for the MS of consumption) through 1 MS. That MS then distributes the revenues to the other MS.
- Approximately 1000 businesses are registered for this scheme – although largest players have a presence within the EU.
- 2003 changes ensured taxation in the EU - reasonable assumption would be that failure to have brought in these rules would have led to significant tax and employment losses.
- 2003 changes highlighted that reform of the EU place of taxation rules was needed.

2015 Place of Supply Rules and MOSS

- Agreed by Council in 2008 as part of a phased reform to place of supply rules.
- From 1 January 2015 - B2C supplies of electronic services, broadcasting and telecommunications will be taxed where the customer is established (Destination Principle).
- Mini One Stop Shop (MOSS) to support the 2015 POS Rules. Business will be able to account in one MS in respect of supplies to other MS (where they don't have an establishment).
- MOSS will be a simple web interface with quarterly tax returns.
- There will be revenue sharing in initial stages.

Indirect Tax Issues - Recommendations of the Expert Group

- The Group has recommended that the Commission incrementally moves towards applying the Destination principle to all goods and services.
- This will deliver a neutral VAT system which ensures that revenues accrue to the Member State of the Consumer.
- Support the Destination principle at a global level through the OECD.
- As a priority, the Commission should:
 1. Extend the Mini One Stop Shop to goods and other services
 2. Remove registration thresholds for cross border sales
 3. Consider home country controls and revenue sharing
 4. Remove the small consignment exemption with VAT paid through the One Stop Shop, provide for a fast track customs procedure and also include consignments below the Customs thresholds.

Indirect Tax Issues

Commission Response to the Expert Group Report

- An excellent analysis of the VAT questions linked to the digital economy.
- The vision for a destination-based VAT system, in which taxation reflects where consumption takes place reflects the direction we are heading in the EU.
- Removing the small consignment exemption for B2C supplies of goods will ensure a level playing field for EU business.
- Commission supports the Group's recommendation that the One Stop Shop approach should eventually be extended to all goods and services.
- The digital economy, as well as SMEs, would benefit greatly from this move – positive benefits for growth and competitiveness.

Indirect Tax Issues

Compatibility with the work at OECD

- OECD Task Force on Taxation of the Digital Economy has identified VAT as helping to ensure taxation from the digital economy.
- The experience of the EU feeds into the work at OECD on applying the destination principle for B2C transactions.
- Experience with vendor registration and remittance and customer identification will also be helpful.
- Compliance needs to be part of these discussions.

General consensus on VAT

- VAT is part of the solution to ensure taxation from the Digital Economy in Europe and elsewhere.
- VAT at destination ensures neutrality and that tax revenues accrue to the country of consumption.
- Vendor registration/remittance through a simplified (web-enabled) mechanism is a proven means by which business can account for the taxes due.

Thank you for your attention!