CEA-PME
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# Position Paper

## The European Union and the insatiable drive for higher tax revenues and ever new taxes

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**Even the latest defeats on the EU Financial Transaction Tax and the Carbon Tax have not discouraged the European Commission from extolling the virtues of ever new tax burdens. At present it is pushing for a digital tax, but an initial proposal for a Robot Tax is also in the offing. Over the past 20 years the general tax revenue has grown by more than 100%, corporate taxes by almost 150%. Thus, no "erosion" of tax revenues can be claimed to justify the introduction of ever new taxes.**

SMEs strongly oppose any attempt to increase the tax burden even more.

As a matter of fact, the European Union has no competence in tax matters. However, we should not lower our guard. In the past, thanks to the shared position of the Member States, similar attempts floundered. But despite this, the Commission continues to put these matters on the agenda.

The planned digital tax would amount to 3% of sales without any possibility to deduct business expenses. This means that the digital tax would be similar to a customs duty. There are fears that this would mean pouring petrol on the raging fire of Donald Trump's trade war.

***Common Consolidated Corporate Tax Base - CCCTB***

Although the first attempt failed, the revision of the CCCTB is now on the table – this tax would be binding on large corporate groups, while it would not be binding on all the other companies. This would mean that in the future accountants would have to grapple with two different tax systems.

The fight against tax avoidance and tax evasion is the main reason behind this measure. Accounting records and financial reports in countries where a company has its subsidiaries would become comparable and thus easier to understand. However, it is doubtful that such a measure would suffice to curb tax dodging by multinationals. Indeed, it is far easier for large multinationals, compared to other companies, to take advantage of the international tax divide. After Brexit they might simply transfer their tax domicile to the UK or to another country outside the EU. Even the best EU regulations become inapplicable beyond the EU borders.

And many companies would risk paying even higher taxes if the changes foreseen in establishing the tax base make it necessary to apply the laws of high-tax jurisdictions.

Harmonisation of the tax base would be a first step towards tax harmonisation. This would reduce the tax competition which generates low taxes.

However, even in this respect, the competence of the EU is not at all clear.

A common tax base might help to simplify the tax system, but we should not delude ourselves that rules that were created over more than a century can now easily be thrown overboard. There are different rules regarding profit determination, deduction of operating expenses, provisions, loss deduction and representation expenses. In countries such as France and Belgium, for example, the rules on the deductibility of hospitality costs are simply more generous than elsewhere.

Therefore, it can be foreseen that for this proposal too, no consensus will be reached. Luxembourg and Ireland are not the only countries that have announced their opposition.

**BEPS (Base Erosion and Profit Shifting)**

The BEPS actions are a set of OECD measures combating **profit reduction and profit transfer** in the 36 OECD Member States. Taxpayers demand fair taxation. Therefore, many measures aim at more tax discipline for global players like Google, Facebook, Amazon, Starbucks etc. This is no coincidence. These names guarantee a high media impact. The European Union not only implemented the whole catalogue of OECD measures, but went even further.

This package comprises, for example, automatic information exchange on all foreign bank accounts and the capital income of taxpayers. But it also includes the so-called “tax rulings” between individual companies and tax authorities of foreign countries which are deemed to be too advantageous. Furthermore, it requires tax intermediaries to inform the authorities about their clients’ cross-border tax avoidance and evasion schemes.

The aim is to combat any attempt to save taxes in a cross-border context. But saving taxes was in the past one of the main objectives of Europe.

The Anti-Tax Avoidance Directive, for example, aims at corporate groups that grant loans to group members in high-tax jurisdictions against high interest payments in order to reduce their profits in that country.

The so-called Exit Taxation aims at preventing transactions through which assets such as intellectual property and patents are transferred to a low-tax jurisdiction.

The Controlled Foreign Corporation Rules aim at avoiding profit transfer to low-tax jurisdictions. They foresee that profits continue to be taxed in the country of origin.

Dividends and capital gains originated in a third country are often completely tax-exempt in the country of origin and not taxed in the country in which the economic owner resides. This can give rise to tax advantages depending on whether a company is considered in a different country to be a partnership or a corporation. The plan is to abolish all these benefits.

Yet, according to the rulings of European Court of Justice, freedom of establishment has to be ensured. But what if the only reason is the attempt to pay lower taxes? Then it is hard to see why it should no longer be possible to take advantage of the difference in tax treatment.

Very often, the measures are targeted at the wrong people. The provisions regarding automatic information exchange have frightened many pensioners. Many of them have invested their retirement money in Luxembourg. In many cases, the banks in that country have already made a tax deduction of 30%. Nevertheless because of automatic information exchange the pensioners then received letters by the offices of the tax authority fighting money laundering and terrorism financing. Firstly, the tax authority wanted to know more about the origin of the retirement money in Luxembourg. They suspected it was black money. The tax authority then taxed the interest payments a second time in the country of residence. Of course one has to pay taxes where one lives.

But this is in contrast with the fact that the EU has failed to combat the so-called “cum ex” fraud schemes, which have been known for quite some time. Many tax authorities in Europe have been cheated by rich investors in the Member States. The loss for public finances amounts to about EUR 55 billion. The interest payments received by pensioners are peanuts compared to this.

## VAT

The measures that were proposed to improve and modernise the VAT system at EU level aim at avoiding VAT fraud and at simplifying the system for enterprises. It is estimated that EUR 50 billion of tax income are avoided every year through cross-border VAT fraud.

VAT fraud becomes possible because exporters selling goods to a foreign dealer are VAT exempt.

Without VAT exemption, the exporter would be obliged to charge VAT. In this case the exporter would need to make sure that the invoice is paid as soon as possible because he or she would need to pay the VAT at the foreseen deadline. This would mean that the exporter becomes a tax collector acting on behalf of the foreign tax authority.

If high numbers of mobile phones, tablets or automotive components would be sold for example from Germany to Italy, the Italian tax authorities might not immediately be informed about the sales. The importer of the goods could then sell the goods charging VAT in Italy, keep the VAT and close his company. If the final client that purchases the goods is a company it can then deduct the VAT paid from its own input tax. Subsequent, these cunning schemers simply create a new company and start the same mechanism all over again.

But if the exporter in Germany were obliged to pay the Italian VAT to the Italian tax authorities, those authorities would receive their money very quickly. The fraudster would go away empty handed.

That is what the new EU-rules would foresee. The question is, why should retailers carry out this task? Furthermore, they would have to pre-finance VAT for the foreign Tax Authorities. Debt collection agencies usually charge high fees. Why should an exporter not be allowed to withhold a part of the VAT to be paid to the foreign tax authorities for this great disservice?

It is bad enough as it is now that traders constantly assist the tax authorities. One cannot repeat this often enough.