Digital levy (tax)

The project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No. FairTax 649439

FairTax

Introduction

- two directives proposed in 2018:

  1. Significant digital presence (taxation based on digital footprint)
  2. Common system of digital service tax (3 % levy on gross revenue, if worldwide revenue exceeds EUR 750 mil)

The Fair Tax project is funded by the European Union’s Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

FairTax

SDP proposal

- Long-term solution
- Targeted at significant digital presence (SDP)
- Extends the concept of a permanent establishment (PE) for the purposes of corporate taxation **new nexus rule via SDP**

SDP through a digital interface include:

- The collection, storage, processing, analysis, deployment and sale of user-level data
- The collection, storage, processing and display of user-generated content
- The sale of online advertising space
- The making available of third-party created content on a digital marketplace
- The supply of any other digital service

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

SDP Proposal

SDP is established and PE is deemed to exist if:

• the proportion of total revenues obtained in a tax period and resulting from the supply of digital services to users located in the Member State in that period exceeds EUR7 million ☐ **Revenue-based threshold**

user-based factors are fulfilled:

• the number of users of one or more digital services, located in a particular Member State, exceeds 100,000 in a tax period, or

• the number of B2B contracts for supply of any digital service that are concluded in a tax period by users located in Member States exceeds 3,000

• each factors- and revenue-based threshold is applied alternatively and on a group-wide basis in the case of the associated enterprises

FairTax

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

FairTax

SDP Proposal

Place of taxation:

- The Member State where a user's device is used shall be determined by reference to the Internet Protocol (IP) address or by other methods of geolocation

Chargeability, profits attributable to the SDP:

- It is built on the current framework applicable to the PE, i.e. arm's length principle and analysis of functions performed, risks assumed, and assets used

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

DST Proposal

- Short-term solution
- Targeted scope of digital services with the user involvement

Taxable revenues:

- Online advertising services
- Digital intermediation services
- Data transmission
- Tax revenues are the gross revenue obtained by a taxable entity, net of the VAT and other similar taxes

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

DST Proposal

Taxable person is an entity if it meets both the following conditions:

- Global revenue threshold exceeds EUR 750 million, and
- Domestic revenue threshold exceeds EUR 50 million within the Union

Place of taxation:

- Taxable revenues obtained by the taxable entity in a tax period in a Member State in that period if users with respect to the taxable services are located in that Member State
- The Member State where a user's device is used shall be determined by reference to the Internet Protocol (IP) address or by other method of geolocation

FairTax

The Fair Tax project is funded by the European Union’s Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

FairTax

DST Proposal

Chargeability and tax rate:

- Tax is chargeable in a Member State on the proportion of taxable revenues obtained by a taxable entity in a tax period in that Member State.
- Tax rate shall be 3%.

Estimates of tax revenues:

EUR1.3 billion annually

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

FairTax

January 2021

- Road map on „fair and competitive digital economy – digital levy"
- Digital levy proposal by June 2021
- Introductiony by January 2023 at the latest
- Two potential solutions:
    1. A corporate income tax top-up (minimum tax rate)
    2. Tax on revenues created by certain digital activities (tax on digital transactions conducted B2B), turnover tax)

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

Minimum Tax

- to be applied to all MNE conducting certain digital activities in the EU, and allowing for taxation again of profit that is currently taxed below the minimum tax rate. It is based on the OECD suggestion

FairTax

The Fair Tax project is funded by the European Union’s Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

Tax on digital transactions

- Both proposed measures would be a continuation of work on DST and SDP Proposals, which cover certain digital services and B2B digital transactions. There are further options:
- **as a turnover tax**, which taxes gross revenues regardless of whether the taxable entity is loss-making or not.
- **as a corporate income tax** where the profits are taxed (i.e. a profit-based tax), which allows deduction of related costs. It can be a part of the current corporate income tax or be considered as a separate tax.

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

OECD approach

- **Pillar I**

    - connects taxing rights more closely with local market involvement

- **Pillar II**

    - Introduces a corporate income top-up tax, where MNEs are undertaxed as regards a global minimum tax rate

FairTax

The Fair Tax project is funded by the European Union’s Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

OECD Pillar I

- introduces tax allocation rules and a new nexus rule for market jurisdictions i.e. **new taxing rights not depending on the physical presence of businesses in the jurisdiction**
- applied to **Automated Digital Services** (ADS) businesses and **Consumer-Facing Businesses** (CFD) sectors using significant and sustained interaction with customers and users in the market
- **considers MNE groups** (having the global revenue threshold of EUR750 million) as a whole rather than single-entity approach as is usual
- **includes almost 2,300 MNE groups** in-scope of Pillar I

FairTax

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

FairTax

OECD Pillar I

- **allocates tax base to market jurisdictions based on the formula**, it is a departure from the arm's length principle
- the allocated **tax base** will be **affected** by both the selected (via international consensus) **profitability threshold** (i.e. Amount B – standard arm's length remuneration for routine marketing and distribution activities) and the **selected** (via international consensus) **allocation percentage** (i.e. Amount A) which allows the transfer of X % of the global non-routine profit (**residual profit**) of MNE groups to the **market jurisdictions**

The Fair Tax project is funded by the European Union’s Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

OECD Pillar II

- focuses on MNE groups having the **global revenue threshold of EUR 750 million**
- gives countries the **right to tax again profit that is currently taxed below the minimum tax rate** to reach the global minimum tax rate
- the global minimum tax rate is the subject of international consensus – **15 % ?**
- can be levied on the global MNE profit or jurisdiction-by-jurisdiction

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

US proposal

- focuses on MNE with annual **global revenues of around USD 20 billion**, broader approach, i.e., **not just the digital sector**
- focuses on the 100 largest MNEs on the globe
- global minimum tax rate at 21% similar to their GILTI regime

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

15 % minimum tax

Parent Country	Tax deficit in bn EUR (2021) for a minimum tax rate of....			
	15%	21%	25%	30%
Austria	3.0	5.4	7.0	8.9
Belgium	10.5	15.6	19.0	23.3
Bulgaria	.	.	.	.
Cyprus	0.3	0.4	0.9	1.7
Czech Republic	0.1	0.3	1.1	2.1
Germany	5.7	6.6	29.1	69.0
Denmark	0.7	2.3	3.5	4.9
Estonia	0.1	0.3	0.4	0.5
Spain	0.7	5.3	12.4	21.2
Finland	1.7	3.5	4.7	6.2
France	4.3	16.0	26.1	39.2
Greece	0.1	0.6	1.6	2.9
Croatia	.	.	.	.
Hungary	0.6	1.3	1.9	2.6
Ireland	7.2	11.3	14.0	17.3
Italy	2.7	7.6	11.1	15.7
Lithuania	.	.	.	.
Luxembourg	4.1	6.3	7.9	9.9
Latvia	0.1	0.3	0.5	0.6
Malta	0.1	0.2	0.3	0.5
Netherlands	0.9	4.9	9.3	14.9
Poland	3.7	8.0	11.0	14.8
Portugal	0.1	0.1	0.6	1.9
Romania	.	.	.	.
Sweden	1.5	1.7	5.3	10.8
Slovenia	0.0	0.0	0.1	0.1
Slovakia	0.0	0.0	0.0	0.4
EU total	**48.3**	**97.9**	**167.7**	**269.5**

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

FairTax

Latest developments

- 5 June 2021, the G7 finance ministers reached an agreement on global tax reform - minimum effective tax rate in each country in which a business operates of at least 15%. – **US proposal**
- 10 July 2021, the G20 finance ministers reaffirmed their support for a global minimum tax, and the key elements of Pillar One and Pillar Two. The G20 also asked the Inclusive Framework to finalize the design elements and the implementation plan until their next meeting in **October 2021**

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439

Latest developments

- European Commission announced that it will **delay** its own proposals **until October** to facilitate the global agreement. If the design of global rules will be finalised in October 2021, it will have to be approved by more than 130 national parliaments
- OECD proposal has not been signed by **Ireland**, **Estonia** and **Hungary** so far.

The Fair Tax project is funded by the European Union's Horizon 2020 research and innovation programme 2014-2018, grant agreement No FairTax 649439