Brussels, 22 September 2015

FICHE 8
DIGITAL SECTOR BASED OWN RESOURCE

1. CONTEXT

The current strategy to develop and implement a Digital Single Market in the EU addresses the remarkable progress of the digital economy in the EU and over the world and the questions stemming from it. It should be noted that there is no agreed definition of 'digital sector' or 'digital companies', and that digital technologies are increasingly used by all sectors of the economy. In short, the 'digital economy' is rather a new marketplace across all sectors of the economy than a sector per se.

The objectives of the Digital Single Market are to guarantee a better access for consumers and businesses to online goods and services across the Union, and to create the conditions for the development of digital networks and services in order to maximise the growth potential of the EU digital economy. Current estimates point at a figure of EUR 250 billion of additional growth that could be generated from the digital economy in Europe in the course of the current Commission's mandate. Regulation in this context would address the particular characteristics supporting the growth of the digital economy, such as mobility, network effects and use of data.

As concerns taxation, recent expertise[1] has clearly supported the inclusion of digital companies in a reformed or adapted regime applicable to all companies, and this is one the objectives of the Commission communication 'A Digital Single Market Strategy for Europe'[2]: "as regards direct taxation, the Commission will shortly present an Action Plan on a renewed approach for corporate taxation in the Single Market, under which profits should be taxed where the value is generated, including in the digital economy." The implementation of such a tax system should significantly reduce opportunities for tax planning and evasion and it will also create a fairer, simpler and less distortive corporation tax environment in the EU while improving the Single Market. It is guided by the principles of international taxation: economic efficiency, distributional equity, efficiency and effectiveness in tax administration.

2. ASSESSMENT IN RELATION WITH THE CRITERIA IDENTIFIED BY THE GROUP

1. Equity/Fairness: common direct taxation of digital companies and digital activities of traditional companies, in the context of the Digital Single Market strategy and the action plan on corporate taxation, should tend to fairness because it would ensure that profits are taxed where the economic activities are taking place and value is created. In principle the most developed economies are the ones that

1 Report of the Commission expert Group on taxation of the digital economy, 28 May 2014, p. 5: "there should not be a special tax regime for digital companies. Rather the general rules should be applied or adapted so that "digital" companies are treated in the same way as others." http://ec.europa.eu/taxation_customs/resources/documents/taxation/gen_info/good_governance_matters/digital/report_digital_economy.pdf

2 COM(2015) 192 final, 6 May 2015, p.8. http://ec.europa.eu/priorities/digital-single-market/docs/dsm-communication_en.pdf

demonstrate a better and more intense use of the digital economy so that taxation (as far as attributable per MS) would be close to GNI share and thus 'fair' from a point of view of Member States' ability to pay. An own resource based on such taxation would have the same quality.

2. Efficiency: the implementation of the EU Digital Single Market as outlined in the communication of May 2015 would lead to a common regulatory framework and common corporate taxation for companies, including in the digital sector. This would reduce opportunities for tax planning and distortive corporation taxes in the EU. A fragmented landscape of individual national schemes would perpetuate current inefficiencies.

3. Sufficiency and Stability: although not as high as revenue from taxation on labour, revenue from direct corporate taxation represents a very large source (on average in 2014, corporate income is taxed at around 23%, with important differences between Member States, i.e. 10% in BG and above 30% in BE, DE, ES, FR, IT, MT and PT). Such source would increase if the digital economy was included and cover a large part of the European economy. As for an own resource based on such tax, sufficiency and stability would depend on the design of the own resource: the rate could be calibrated so as to cover a desired share of the budget revenue (e.g. around 30% or 40%).

4. Transparency and Simplicity: these criteria depend on the design of the tax. An own resource based on common corporate taxation which would include digital companies should be straightforward and avoid the multiplication of exemptions. To be noted, a simplification of the VAT and an increased harmonisation of its base (single rate for example) would also achieve such objective.

5. Democratic accountability and budgetary discipline: it will depend on the type of collection decided for taxation. As a reminder, the budgetary discipline at EU level is mainly ensured via the MFF and the annual decisions on the expenditure side – regardless of the revenue composition.

6. Focus on European added value and constrain narrow self-interest: the EU is currently leading an effort to implement and complete the Digital Single Market by 2016. A common market regulatory framework will ensure a better access for consumers and businesses to online goods and services across the EU, create conditions for the development of digital networks and services and support the growth potential of the EU digital economy. Both companies and consumers would benefit from the conditions under the Single Market.

7. Subsidiarity principle and fiscal sovereignty of Member States: Member States currently cooperate at OECD level to identify the challenges stemming from digital technologies, within the project Base Erosion and Profit Shifting (BEPS). There is a strong case in favour of a common EU position that could influence the debate at the OECD level (at the minimum). Moreover, given the nature and speed of the changes in the international business environment, the EU action plan on renewed corporate taxation is naturally more ambitious and aims at defining a common legal framework and new rules of taxation, security, competition and cooperation at EU level. The potential own resource based on such revenue would probably depend on the collection method and, as with all own resources, would have to be foreseen in the Own Resources Decision (unanimity, ratification requirement).

8. Limit political transactions costs: the re-launch of harmonisation efforts in taxation is a highly sensitive issue, whether it includes the digital economy or not.

3. ADVANTAGES AND WEAKNESSES OF THE DIGITAL SECTOR BASED OWN RESOURCE

The digital economy poses new challenges to which the tax system will need to be adapted. The fact that some multinationals currently succeed in paying very little corporate income tax in the EU, while generating a very large share of their profits, has been exposed to the public through the examples of Apple, Google or Amazon, which all carry out aggressive tax planning strategies. Increased mobility through digitalisation merely exacerbates the scale of it for purely digital companies. This is one aspect that the Digital Market Single will try to regulate, notably through its action plan on a renewed corporate taxation which would include digital companies.

One difficulty that the Digital Single Market would have to address in terms of transparency and stability, is the fact that enterprises which mainly or exclusively operate on the web have no or limited need for physical presence in the countries of their users. As a result, such enterprises often have no taxable presence in the EU countries to which any profit could theoretically be allocated. This characteristic however, which makes it extremely difficult to attribute revenue to any particular national jurisdiction with accuracy ("footloose tax-base"), would plead in favour of assigning any such revenue to the EU budget.

Another argument in favour of a common set of rules applicable to the digital economy, including the destination of tax revenue as own resources for the EU budget, is to mitigate tax competition between economic operators and countries, and avoid that some Member States take unilateral action by introducing special taxes on the digital sector which would hinder the development of the Digital Single Market.