

Fair taxation of the digital economy

Fields marked with * are mandatory.

1 Introduction

The objective of the initiative is to define an approach to the taxation of the digital economy. The approach should meet the goals of fairer and more effective taxation, supporting public revenue and a level playing field across businesses. It should also facilitate an efficient taxation, supporting EU growth and competitiveness through the Digital Single Market.

The questionnaire takes about **20 minutes to complete**. The questionnaire is accessible in all official EU languages (please note that due to the translation process, with the exception of the English version, all language versions will be available online 2 weeks later, from the moment the consultation is launched). You can submit your reply in any of the official EU languages.

In addition to this **introduction**, the consultation is structured as follows:

The **second part** presents some general background information on the digital economy.

The **third part** of the questionnaire asks for some background information about you, the respondent. This is in order to better understand your perspective.

The **fourth part** covers the current international taxation framework and its shortcomings. This section has two sub-parts: one that includes general questions suitable for all type of respondents and a second sub-part with more specific questions which require more in-depth knowledge of the current international taxation framework. You can choose to reply to the general questions only or to the whole section.

The **fifth part** covers possible solutions to address those shortcomings. This section has two sub-parts: one that includes general questions suitable for all type of respondents and a second sub-part with more specific questions which require more in-depth knowledge of the current international taxation framework. You can choose to reply only to the general questions or reply to the whole section.

The **final section** allows you to upload a position paper or any kind of document that you think is relevant to better explain your views.

2 Background

The digitalisation of the global economy is happening fast. Businesses of all kinds now derive much of their value from intangible assets, information and data. Close to a third of the growth of Europe's industrial output is due to the uptake of digital technologies.

There is no well-defined digital sector, notably the Information and Communication Technology (ICT) sector is not synonym for the digital economy. Rather, one might consider the ICT sector as the backbone of the digital economy and the driving force behind the digitalisation of more traditional industries. There are different business models that can be commonly applied in the digital economy:

The digital platform model granting access to a market place: typically it involves 2 services - first the platform offers access to users in exchange for a fee (on transaction or subscription); and then users offer services among themselves.

The digital platform model granting access to content: it offers access to a platform and to content (music or video, for example) for users in exchange for a fee.

The social media and advertising model: typically it involves two services - first the platform offers access (to a service that can be a network, a search engine etc.) to users for free; and then the personal data obtained from such users is sold, either to advertising companies or to others businesses.

The distant sales model: goods sold via a website, and physically transferred afterwards. Revenues are generated from the sales of goods.

Corporate taxation is based on the principle that profits should be taxed where the value is created. In the case of the digitalised economy the link between value creation and taxation is not well captured by today's rules. Tax rules need to determine what triggers a country's right to tax. Today's residence and permanent establishment rules that determine when a business becomes taxable in a country are largely based on legal concepts and physical presence. The challenge is how to establish and protect taxing rights in a country where businesses can provide services digitally with little or no significant physical presence.

Tax rules also need to determine how much profit is taxable and then how much of that profit is allocated to a certain country, which is done mainly via transfer pricing rules. These are rules that are used to determine the price for transactions that take place between companies in the same multinational group based on an analysis of the functions performed, assets used and risks assumed. However, profits derived from digitalised business models are heavily driven by intangible assets, data and knowledge, which are difficult to identify and value. Moreover, intangible assets can be easily shifted around, which opens significant tax planning opportunities to some multinational businesses, especially those with more digitalised business models.

Together, the current rules and the high mobility of intangible assets push down the tax contribution of more digitalised businesses, creating competitive distortions. In its [Communication of 21 September 2017](#), the Commission sets out an ambitious and common EU agenda to ensure that the digital economy is taxed in a fair and efficient way. The international tax framework needs reform, but agreeing on solutions at global level has proved to be difficult, as is evident from the [OECD report](#) in October 2015.

Without EU action there is a risk of unilateral measures fragmenting the single market and hampering the EU's competitiveness. There is a risk that Member States' tax bases will gradually erode if there is no EU action to address this. This and the unfairness of the situation increase pressure on policy makers to act.

3 Your contribution

*3.1 Your reply:

(Note that, whatever option chosen, your answers may be subject to a request for public access to documents under [Regulation \(EC\) N°1049/2001](#))

- can be published with your personal information** (I consent to the publication of all information in my contribution in whole or in part including my name or my organisation's name, and I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent publication)
- can be published provided that you remain anonymous** (I consent to the publication of any information in my contribution in whole or in part (which may include quotes or opinions I express) provided that it is done anonymously. I declare that nothing within my response is unlawful or would infringe the rights of any third party in a manner that would prevent the publication.

3.2 Are you responding on behalf of an organisation or as an individual?

- individual
- a business
- a business organisation (e.g. a trade association) or advisory body (e.g. law firm, consultancy)
- a civil society organisation
- an academic/research institution
- a public authority
- an international organisation
- other (please specify)

3.4 Please indicate your name, the name of your business, organisation, or institution for which you respond to this consultation.

Irish Tax Institute

3.7 Is your organisation included in the [Transparency Register](#)?

If your organisation is not registered, we invite you to register [here](#), although it is not compulsory to be registered to reply to this consultation.

- Yes
- No
- Not applicable

3.8 If yes, please indicate your Register ID number.

EU Transparency Register No. 08421509356-44

3.9 Where do you live, where is the headquarters of your organisation (main headquarters in the case of multinational companies) or where is your public authority located?

- Austria
- Belgium
- Bulgaria
- Croatia
- Cyprus

- Czech Republic
- Denmark
- Estonia
- Finland
- France
- Germany
- Greece
- Hungary
- Ireland
- Italy
- Latvia
- Lithuania
- Luxembourg
- Malta
- Netherlands
- Poland
- Portugal
- Romania
- Slovak Republic
- Slovenia
- Spain
- Sweden
- United Kingdom
- other (please specify)

4 Current problems

The digitalisation of the global economy is happening fast. Corporate taxation is based on the principle that profits should be taxed where the value is created. However, for the digitalised economy, today's rules result in misalignment between taxation and value creation, since many digital business models do not result in a taxable presence or attribute profits to where the digital activities of these businesses takes place.

General questions

4.1 To what extent do you believe that the current international tax rules are adapted to the digital economy?

- To a great extent
- To some extent
- To a little extent
- Not at all
- Don't know

4.2 To which extent do you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	I don't know
The current international taxation rules do not allow for fair competition between traditional and digital companies.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The current situation could push some Member States toward adopting uncoordinated measures that would lead to the fragmentation of the Single Market.	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The current international taxation rules allow digital companies to benefit from certain tax regimes and push down their tax contributions.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
States are not able to collect taxes on the value that some digital companies create on their territory.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Social fairness is impacted because some digital companies do not pay their fair share of taxes.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4.3 Is there any need for action regarding the current international rules for the taxation of the digital economy?

- Yes
- No
- Don't know

4.4 What is the best level to address the current problems related to the taxation of the digital economy?

- International level
- European Union level
- National level
- Other (please specify)

Specific questions

4.6 What are the 3 main taxation challenges that digitalisation brings for businesses? (Multiple choices possible)

at most 3 choice(s)

- Valuation of data / exploitation of data (i.e. quantifying how much the information that a company has about its clients is worth).
- Increased competition from global players.

- Uncertainty related to tax obligations when operating in different countries.
- Uncertainty related to future taxation solutions for new business models.
- Uncertainty on the exact allocation per jurisdiction of the business' value creation.
- Other (please specify)

4.7 Please specify

100 character(s) maximum

Uncertainty will exist if countries unilaterally tax digital companies without global consensus

4.8 What are the 3 main challenges that digitalisation brings for national tax systems? (Multiple choices possible)

at most 3 choice(s)

- Companies can access customers in national markets without being effectively taxed in the market country.
- Businesses acquire new sources of revenue (e.g. through exploitation of data) which are not properly taxed.
- Unfair advantage of companies operating cross-border over local companies, due to lower taxation.
- Difficulties to establish the tax liability of a company due to the complex value chain.
- Other (please specify)

4.9 Please specify

100 character(s) maximum

We cannot comment on the validity of these statements without evidence

4.10 The European Commission has identified a set of objectives that could be considered when designing future legislative proposals for the digital economy. In your opinion, which are the most important objectives that should be pursued?

Please rank the objectives according to your preference, starting from the most important (1st place) to the least important (6th place)

	1st place	2nd place	3rd place	4th place	5th place
Integrity and proper functioning of the Single Market.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sustainability of the corporation tax system and the tax bases of EU Member States.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring a level playing field so that all companies pay their fair share of taxes (whether large/small, more/less digitalised, EU/non-EU based).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Ensuring a competitive tax environment in the EU for the scaling-up of start-ups and all business to flourish.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other, please specify	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4.11 Please specify

100 character(s) maximum

We don't agree with above. The Ottawa taxation framework principles should guide the objectives.

5 Possible solutions

The European Commission is exploring possible options to solve some of the taxation problems that digitalisation brings. In order to properly address the challenges ahead, the Commission believes that a two-step approach might be needed: first a targeted, temporary solution followed by a comprehensive, long term one. Please look at the options below and tell us what you think.

General question

5.1 The long term solution might take some time until it is implemented. Do you believe that a targeted, temporary solution should be adopted until a more comprehensive solution is reached?

- Yes
 No
 Don't know

Specific questions

5.2 Several targeted, temporary solutions have so far been identified. In case a two-step approach would be favoured, to what extent would each of these options solve the current problems related to the international taxation rules for the digital economy?

	To a great extent	Somehow	To a little extent	Not at all	Don't know
Tax on revenues from digital activities: Introduce a tax based on revenues generated from "digital activities".	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Withholding tax on certain types of digital transactions: Introduce a withholding tax based on payments to non-resident providers of goods /services ordered online.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tax on revenues from certain digital services: Introduce a tax based on the revenue from digital transactions concluded remotely with a non-resident entity that has a significant economic presence (e.g. revenue from the sale of online advertising).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Digital transaction tax: Introduce a tax that applies early in the value creation process (collection of personal and other data).	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

Other (please specify)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
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5.3 Please specify

200 character(s) maximum

We do not agree with a two-step approach. Need to adopt a long-term solution which works for both the digital and wider economy.

5.4 Several long term, comprehensive solutions have so far been identified. To what extent would each of these options solve the current problems related to the international taxation rules for the digital economy?

	To a great extent	Somehow	To a little extent	Not at all	Don't know
Modify the Common Consolidated Corporate Tax Base proposal: Implement new permanent establishment and profit attribution rules through modifications to the CCCTB proposal.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
"Digital presence in the EU" proposal: Implement new EU rules for permanent establishment and profit attribution to capture digital activities of businesses in a stand-alone EU Directive.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Destination-based corporate tax: Introduce the destination-principle to corporate taxation, according to which the jurisdiction to tax is based on the location of the consumer.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Unitary tax: Introduce a tax on a share of the world profit of digital companies which would be attributed to each country on the basis of the percentage of revenue earned in that country.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Residence tax base with destination tax rate: Introduce a system where profits of a company are declared and taxed in the Member State of establishment (as is the case today), but the applicable rate is the turnover-weighted average of the tax rates of the countries where the turnover is generated.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other (please specify)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

5.5 Please specify

200 character(s) maximum

We agree with the EU Expert Group on the Digital Economy and OECD BEPS Action 1 that there should not be a special regime for digital companies.

5.6 From a business perspective, if a digital tax were adopted, to what extent would you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	I don't know
It would increase legal certainty for businesses.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
It would improve the competitiveness of EU digital companies.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
It would level the playing field for businesses operating in the EU.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
It would allow more digital companies (start-ups, SMEs etc) to enter the digital market.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>
It would increase the tax burden for businesses.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It would increase the compliance costs for businesses.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It would slow down the development of digital technologies in the EU.	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

5.7 From the perspective of a tax administration, if a digital tax were adopted, to what extent would you agree with the following statements?

	Strongly agree	Agree	Neutral	Disagree	Strongly disagree	I don't know
The revenue collected by each Member State would increase.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The revenue collected by some Member State would increase, the revenue collected by some other Member State would fall.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The administrative burden from collecting the tax would increase.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Tax disputes would increase.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

5.8 Should Small and Medium Enterprises (SMEs) be exempt from a possible digital tax?

- Yes
- No
- Don't know

6 Final remarks

6.1

Please feel free to upload a concise document, such as a position paper. The maximal file size is 1MB. Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.

In case you have chosen to remain anonymous, please make sure you remove any personal identification data from the document.

Please upload your file

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/2017_12_20_ITI_position_paper_to_EU_consultation_on_the_fair_taxation_of_the_digital_economy__Final.pdf

Contact

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