

European Commission launches consultation on EU digital levy

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Executive summary

On 14 January 2021, the European Commission (the Commission) published a [roadmap](#) including a public consultation for the introduction of a digital levy. In July 2020, European Union (EU) leaders requested the Commission to propose such levy as a new EU-own resource to support the EU's borrowing and repayment capacity in the context of the EU's recovery package, the Next Generation EU.

The roadmap informs citizens and stakeholders about the Commission's plans and invites feedback on the intended initiative. The first feedback period for the initiative ends on 11 February 2021, and a 12-week public consultation period will follow. The Commission expects to put forth a proposal for a Directive during the first half of 2021.

The roadmap highlights that the EU is still committed to reaching a global agreement, and that the roadmap and consultation should be seen as supplementing ongoing work at the G20 and Organisation for Economic Co-operation and Development (OECD) level on a reform of the international corporate tax framework.¹

Detailed discussion

Background

On 21 July 2020, the European Council agreed on a recovery plan and the EU budget for 2021 - 2027.² The agreement also includes the introduction of EU-wide taxes and levies to complement the existing own resources and to support the recovery. Part of this is also a digital levy that the Commission has committed to publish in June 2021 at the latest in view of its introduction on 1 January 2023.

In the meantime, work is ongoing at the G20 and OECD level to find a global solution that can support a reform of the international corporate tax framework in order to address the challenges related to the digitalization of the economy. On 12 October 2020, the Inclusive Framework on Base Erosion and Profit Shifting (BEPS) members announced that they will not reach a consensus agreement in 2020, which had been the target, but have agreed to keep working to swiftly address the remaining issues with a view to bringing the process to a successful conclusion by mid-2021.³

EU roadmap

On 14 January 2021, the Commission released a roadmap announcing its plans for the introduction of a digital levy. The main objective of the initiative is to come forward with a measure that allows for a fairer contribution from companies that operate in the digital sphere for the purposes of the recovery and to support a more stable medium-term outlook.

According to the roadmap, the initiative will be designed in a way that is compatible with the international agreement to be reached in the OECD as well as broader international obligations. To supplement the analysis being undertaken at the OECD/G20 level, the Commission wants to explore additional policy options, such as:

- ▶ A corporate income tax top-up to be applied to all companies conducting certain digital activities in the EU
- ▶ A tax on revenues created by certain digital activities conducted in the EU
- ▶ A tax on digital transactions conducted business-to-business in the EU

The Commission will have to develop the policy options, and design the central scenario, and the roadmap indicates it will do so on the basis of several building blocks, including:

- ▶ **Scope** - taking into consideration the different business models of companies present in the digital economy
- ▶ **International obligations** - including the interaction with Double Taxation Conventions
- ▶ **Fairness** - taking into account the possible impact on companies irrespective of size, type, activities
- ▶ **Potential behavioral reactions** - including the mitigation of incentives to avoid payment of the new tax/levy that will be established
- ▶ **Forward-looking design** - taking into consideration the future evolution of the digital economy and providing tax certainty for businesses

Next steps

The roadmap is open for feedback from 14 January 2021 to 11 February 2021. Interested parties are invited to submit their input through the [Commission page](#). The Commission will take into account the feedback for further development of the initiative.

Following that, a public consultation will be launched to allow all stakeholders to give their views on all the aspects of a digital levy, as well as on the potential impact of the different options under consideration. The consultation will be based on a questionnaire and it will run for a period of 12 weeks.

The Commission expects to put forth a proposal for a Directive for the introduction of a digital levy during the first half of 2021.

Implications

The roadmap does not prejudice the final decision of the Commission on the design of a digital levy initiative to be pursued or on any other policy proposals. Nonetheless, it is the first step in the process towards the publication of draft legislation for a digital levy by mid-2021, as committed by the Commission.

Even though EU officials have indicated during the past months that the EU has accepted the OECD/G20 postponement to mid-2021 for a global solution, the publication of the roadmap reflects that the Commission is also considering non-agreement on a global level as a realistic option, and is already working on its own plan B to address the challenges arising from digitalization. With the consultation, the Commission shows that in exploring the different options for either implementation of the global agreement in the EU, or development of an EU solution if no global agreement is reached, it is taking account of concerns that have been expressed on the design of the

OECD BEPS Pillar One in the context of the global digital tax project, such as the fact that consideration should be given to differences in business models. Moreover, if there is no coordinated global agreement, either at OECD or EU level, it is expected that many countries will introduce digital services taxes leading to a rise in double taxation and controversy.

It is important for businesses to follow these developments and evaluate the potential impact of the proposed initiative. Given the potential impact of an EU digital levy and the Commission's interest in understanding different business models, businesses should consider engaging with the policymakers at EU and national levels.

Endnotes

1. See EY Global Tax Alert, [OECD's Inclusive Framework releases BEPS 2.0 documents and agrees to continue work with target of conclusion by mid-2021](#), dated 13 October 2020.
2. See EY Global Tax Alert, [European Council adopts conclusions on recovery plan and EU budget for 2021-2027, including agreement on introduction of new taxes](#), dated 22 July 2020.
3. See EY Global Tax Alert, [OECD's Inclusive Framework releases BEPS 2.0 documents and agrees to continue work with target of conclusion by mid-2021](#), dated 13 October 2020.

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