Looking Back, Looking Forward: EU Tax Policy Trends

As we approach the end of the current Commission mandate and start to prepare for a new one, it is the ideal time to reflect on the next steps for EU tax policy. It is the moment to consider what we have achieved over the past five years and what we want to achieve in the next five, and beyond. Planning the next agenda for taxation in Europe is a process that must be carefully balanced. On one hand, there should be minimum disruption to the work already done or to the reforms which are still being implemented. On the other hand, procrastination is not an option in today's rapidly changing world, where globalization, digitalization and wider social change continue undermine the more traditional structures around taxation.

The past five years have undoubtedly been the most dynamic period ever in EU tax policy. There are a number of reasons for this. Taxation became an area of increasing public interest, largely due to the financial crisis and a series of high profile media leaks. This in turn fuelled a new political impetus around the agenda for fair and effective taxation, with a focus on delivering real results. In addition, Member States realized that, in the modern environment, taxation can no longer be treated in isolation. Its impact on economic, social, monetary, environmental and development policies has become increasingly apparent. So too has its influence on key priorities for Europe, such as competitiveness, job creation, social justice and sustainable resources. With this in mind, Member States gradually accepted that they have to work together on taxation if they are to face up to modern challenges and achieve their collective goals.

The result has been a number of significant and much-needed reforms in Europe – and beyond – in a very short space of time. These broadly fall into three categories.

First, we have created a robust new tax transparency framework and secured an unprecedented level of openness on tax matters across the EU. Member States have agreed to much greater administrative cooperation and information sharing – on both individuals and companies. The first two Directives on Administrative Cooperation laid the ground for automatic exchange of a wide range of information on individuals' income – from employment and pension income to financial accounts. This was

reinforced in 2017, following the Panama Papers revelations, to also cover information related to money laundering. Regarding companies' income, further amendments to the Directive ensured the automatic exchange of information on tax rulings and multinationals' accounts, which is crucial in curbing aggressive tax planning. Meanwhile, advisors will also be required to disclose key information from 2020 onwards, allowing a better overview of tax planning schemes.

Second, we have substantially reinforced Member States' defences against tax abuse. The Anti Tax Avoidance Directives (ATAD 1 & 2) contain five legally binding measures that all Member States must implement to fight aggressive tax planning. Three of these measures are already in place – Controlled Foreign Corporation (CFC) rules, interest limitation and the general anti-abuse rule. The other two – exit taxation and hybrid mismatch rules – will be progressively applied from 2020. With the ATAD, all Member States must now apply the same basic anti-abuse rules in a common manner, ensuring better protection for the Single Market and avoiding loopholes that more lapse national approaches could create. In a similar vein, newly agreed Value Added Tax (VAT) reforms will help to reduce fraud by up to 80% and reduce the VAT gap which currently stands at around EUR 150 billion. The result of all these measures will be important revenue increases for public budgets, and a boost in overall taxpayer morale.

Third, we have upped our game in the fight for fair competition and a level playing field – both within the EU and vis-à-vis our international partners. The Code of Conduct on Business Taxation reviewed all Member States' patent boxes, so that R&D incentives have to be matched with real economic activity. The Commission has also used its powers in competition policy to full force, challenging numerous unfair tax advantages granted by certain Member States, and imposing record-breaking fines in some cases. In addition, Member States have united in developing a new and highly effective tool to promote higher levels of tax good governance globally. The EU list of non-cooperative tax jurisdictions, first agreed in 2017, has led to ninety-five jurisdictions being screened against agreed criteria and over 100 harmful tax regimes being abolished worldwide. The result is an

overall increase in good governance standards globally and a fairer international environment for EU Member States and companies.

Equally important was the work done during this mandate to improve the business environment for companies across Europe. The Double Taxation Dispute Resolution Mechanism, agreed in 2017, addresses one of the biggest problems that cross-border businesses face today. Thanks to this new legislation, companies will enjoy a quicker, more definitive and more cost-effective procedure to address cases of double taxation in the Single Market. New VAT rules will also bring big improvements for businesses, by simplifying compliance procedures and ensuring that the system is better aligned to the needs of e-commerce.

Despite these success stories, the work started in this mandate is not finished yet. The Common Consolidated Corporate Tax Base (CCCTB) – the most ambitious of all tax reforms – still sits on the negotiating table. Member States have failed to reach consensus so far, even though the CCCTB offers both a powerful tool against tax abuse and the chance to make the Single Market more competitive and attractive from a tax perspective. Likewise, there is no sign of agreement yet on the VAT Definitive Regime, even though it would drastically cut down on fraud, reduce administrative burdens for businesses and simplify processes for tax administrations. The common obstacle in both cases is the need for unanimous agreement on any tax file at EU level. As set out in the Commission's Communication last January, the unanimity rule appears now to be outdated and counter-productive. In this day and age, one or two Member States should not be able to block real progress in EU tax policy, to the detriment of all the others and at a cost to the Single Market. Claims of pure national sovereignty in this area no longer hold, given the mobility of taxpayers and the spillover effects that tax decisions can have. The Commission has opened the debate on whether unanimity in taxation is still defensible in our modern climate, and Member States now need to take this issue forward.

Indeed, now is the right time for such a debate, as we enter a new period for EU tax policy. The future agenda will be shaped by many different considerations – political motivations, global developments, public demands and economic needs. However, a few major themes can already be identified, based on issues that need to be urgently addressed.

First, questions around the taxation of the digital economy will continue to grow and develop. The Commission kick-started the work in this area in 2018, with two practical proposals. Although no consensus has been reached on these proposals in Council, they put the EU

in 'first mover' position on digital taxation and injected more momentum into the international work in this area. This is now charging ahead at full speed, and the discussion has become much wider than simply a quest to solve the digital dilemma. The whole global framework for international taxation is now being examined, to make it fairer, more effective and better fit to tomorrow's world. The G20 has promised to present solutions by the end of 2020, and the EU will be at the forefront in steering this work.

The second trend that is clearly emerging is the heightened focus on energy and climate change. Taxation will be central to the wider policy decisions in these areas. The 'polluter pays' principle is more relevant than ever, and should be reflected at every level. At the same time, the social and economic consequences of new tax measures need to be carefully considered too. There is no doubt that the new Commission will need to give high priority to finding balanced and workable solutions in this area.

Finally, we cannot ignore the calls from both businesses and tax administrations for a simpler and more stable tax landscape. Tax certainty has been on the agenda for some time now, but is likely to become an even higher political priority in the years ahead. Obviously, work will continue on the level playing field and fair competition – both of which are crucial for a healthy business environment. However, greater focus may also be needed on the other challenges that companies face, whether this is double taxation, administrative complexities or high compliance costs. Likewise, tax administrations could cooperate more closely and develop common tools to improve tax certainty, reduce disputes and encourage good tax practices. If increased tax certainty can bring more investment and increased compliance, then everyone is a winner. So it is a goal we should pursue with vigour.

To conclude, the past five years have seen a paradigm shift in EU tax policy, in terms of the level of ambition, the scope of the objectives and the pace of change. This should continue in the years ahead, even if the political attention shifts to new areas. Taxation is now at the forefront of Europe's political agenda and the role it has to play in solving many of our most pressing challenges cannot be denied. A common vision, a strong political drive and increased coordination have delivered important results in EU tax policy during this Commission mandate. Our Member States and taxpayers have everything to gain from these trends continuing in the years ahead.

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