

EC Tax Package addresses fair and simple tax, administrative cooperation and good governance

July 29, 2020

In brief

The European Commission (EC) adopted a new Tax Package on 15 July and, at the European Council meeting 17-21 July, leaders agreed elements of the wider agenda that included other key tax measures. In this Alert we summarise the three separate but related initiatives of the Tax Package and note the Council's conclusions on recent discussions.

- The **Tax Action Plan** presents 25 distinct actions aimed at making tax “simpler, fairer and better attuned to the modern economy.” It addresses aspects of taxpayer registration, reporting, payment, verification, and dispute resolution. The Plan also supports Member States with combining data and new technologies and measures to fight tax fraud, improve compliance, and reduce administrative burdens.
- The **Proposal on Administrative Cooperation (DAC 7)** strengthens and clarifies the existing rules on sharing tax information between Member States. It also extends those rules to data that digital platforms will gather on sellers of certain goods and services. Further it establishes an explicit and clear legal framework for the conduct of joint audits between two or more Member States .
- The **Communication on Tax Good Governance** focuses on “promoting fair taxation and clamping down on unfair tax competition, in the EU and internationally.” It suggests reforming the Code of Conduct for Business Taxation that restrains the tax regimes of Member States, including by qualified majority voting. It also sets out proposed changes to the EU ‘blacklist’ of non-cooperative jurisdictions, as regards the criteria and geographic scope.
- In the agreement on the **Next Generation EU** recovery plan, the European Council on 21 July agreed on a plastic waste tax, a carbon border-adjustment mechanism, an emissions trading scheme, a digital levy, and a financial transactions tax. The revenues are new ‘own resources’ for the European Union.

In detail

Background

At the request of Member State leaders, the EC presented at the end of May the future Multiannual Financial Framework (MFF) and a specific recovery effort under Next Generation EU (NGEU). In a European Council meeting, the leaders endorsed most of the tax work proposed. The [conclusions](#) from the meeting note that NGEU and MFF will help transform the European Union through its major policies, particularly the European Green Deal, the digital revolution, and resilience.

In transitioning to a greener and more digital world, a [press release](#) to the EC's new Tax Package suggests that fair, efficient, and sustainable taxation is critical to help:

- Member States secure tax revenues, particularly in the light of the COVID-19 pandemic, so they can invest in the people and businesses who need it most, and
- EU companies innovate, invest, and grow.

In a [memo](#) that includes a series of FAQs, the main problems highlighted are:



The European Council concludes direction on MFF and recovery

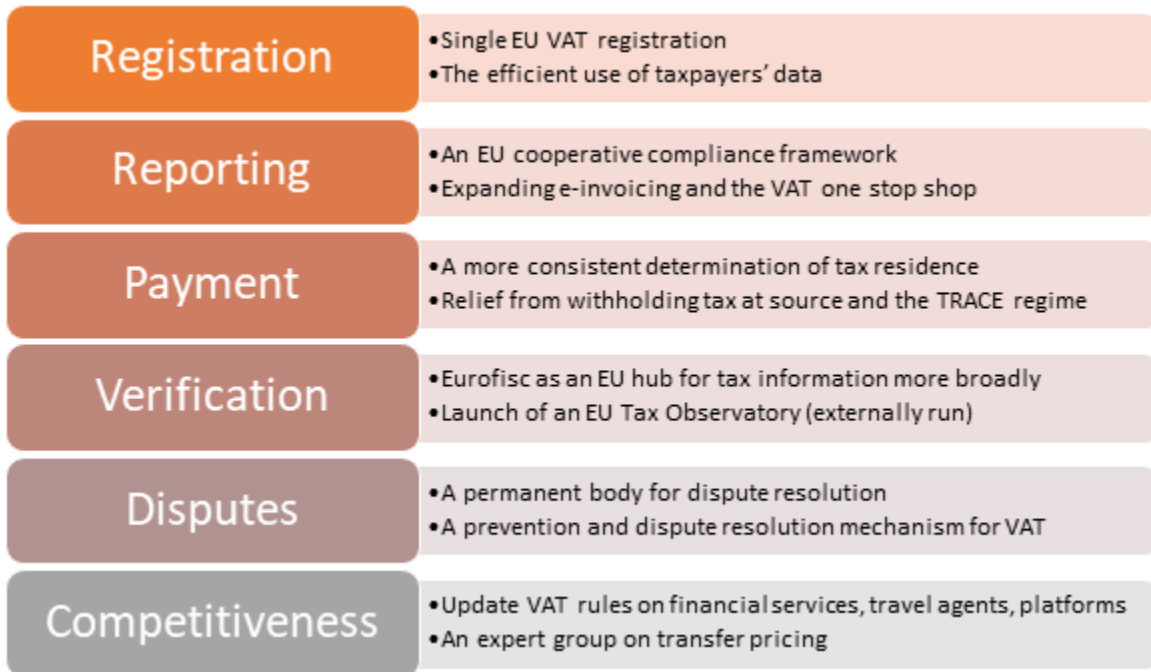
In its conclusions, the European Council made specific reference to measures that had been discussed in [our Alert of 29 June, 2020](#). In particular, it refers in those conclusions (at A29) to:

- the introduction of a non-recycled plastic waste levy, applicable effective 1 January, 2021
- a carbon border-adjustment mechanism, with proposals to come in the first semester of 2021 with a view to introducing them no later than 1 January, 2023
- a digital levy, with proposals expected in the first semester of 2021 with a view to introducing them no later than 1 January, 2023
- a revised emissions trading scheme (ETS), possibly extending it to aviation and maritime, and
- in the course of the next MFF, possibly a Financial Transaction Tax.

The proceeds of the new own resources introduced after 2021 will be used for early repayment of NGEU borrowing.

The Tax Action Plan presents 25 distinct actions

The [Action Plan](#) comprises 25 actions that the Commission will propose and implement by the end of 2023. The actions follow a taxpayer through the tax compliance process, but are also set out in an [Annex](#) by year of intended implementation. Of the actions, around 15 relate to VAT, which is also reflected in some of the highlights included below. The Action Plan underscores the urgency to combat tax fraud and evasion by sharing estimates of lost revenues that amount to EUR183bn.



Proposal on Administrative Cooperation (DAC 7) clarifies and extends

The communications on DAC7 include both a [draft proposed directive](#) to adjust some elements of the DAC and an [Annex](#) that includes draft reporting rules for various platforms. In brief, they relate to the following:

- **Foreseeable relevance** (Exchange of information on request). A request can relate to one or more taxpayers, as long as they are individually identified. But it must be foreseeably relevant to the requesting authorities investigations and they must have exhausted all of the usual sources of information and pursued all available means. These terms have been further clarified.
- **Group requests** (Exchange of information on request). The requesting authority has to provide to the requested authority a set of information including a comprehensive description of the characteristics of the group, along with an explanation of the applicable law and of the facts and circumstances that led to the request.
- **Categories of income (Automatic exchange of information)**. Royalties are added to the categories of income that are subject to exchange of information.
- **Presence of officials, simultaneous controls and joint audits**. Administrative changes are added to facilitate cooperation in the form and timing of inquiries.
- **Use of exchanged information, communication of evaluation results, and suspension of exchange**. Clarification is provided regarding use of exchanged information for VAT and indirect taxes, and potential follow up actions on taxpayers resulting from the exchange and in the event of data breaches in a Member State.
- **Reporting rules for platform operators**. Reporting platform operators are required to collect and verify information on reportable sellers in line with due diligence procedures, before reporting it annually to the relevant tax authority (which would share it with the other appropriate tax authorities). This proposal is wider than the OECD Model Rules and would cover the sale of goods, provision of services or investment and lending in the context of crowdfunding. It would be shared with the tax authority for where the reportable seller is a resident or where the immovable property is located.

Tax Good Governance changes for the EU and internationally

The [Communication on Tax Good Governance in the EU and beyond](#) states that it focuses “primarily on the soft law measures and external actions, taking stock of the experience so far and identifying changes that are needed in this field.”

The main actions can be summarised as pursuing the possibilities in four different categories, as illustrated below. The Code of Conduct category deals with measures within the EU, even though the Code of Conduct Group is also responsible for the other relationships, etc. with third countries in this area.

Code of Conduct Group	EU Blacklist	Defensive measures	Supporting partners
<ul style="list-style-type: none"> • Inclusion of minimum tax requirement • Revised scope including taxes other than corporate tax • Applying to EU similar standards to third countries • Use of qualified majority voting 	<ul style="list-style-type: none"> • Broader geographic scope, revised scoreboard • More targeted application of criteria • Up-to-date and adequately ambitious criteria • Increased dialogue, including on environmental tax 	<ul style="list-style-type: none"> • Member States should mirror the EU efforts when it comes to the use of their own funds • Bring other donors on board in preventing tax avoidance in the use of all public funds • Coordinated measures if the Member State toolbox fails 	<ul style="list-style-type: none"> • Strong collaboration with the OECD, the UN, the IMF and other international actors • Integrating developing countries into the global tax framework • Integrating wider tax priorities in the EU's relations with developing countries

The takeaway

The European Commission has a comprehensive and ambitious EU tax agenda for the coming years. The 25 point action plan, enhanced reporting, and administrative cooperation and tax good governance will be supported by other key initiatives, such as:

- the use of taxation as a policy instrument to help to reach environmental objectives and address employment issues
- reform of the corporate tax system to fit our modern and increasingly digitalised economy to support growth and generate needed revenues, realigning taxing rights with value creation and setting a minimum level of effective taxation of business profits (to be included in an Action Plan for Business Taxation for the 21st century, which is expected before the end of 2020)
- a recommendation that Member States make their financial support to undertakings conditional on the absence of links between those undertakings and jurisdictions that feature on the EU blacklist of non-cooperative tax countries
- a proposal to fully deliver on the EU's fair tax agenda by exploring how to make full use of the provisions of the Treaty on the functioning of the EU (TFEU) that allow proposals on taxation to be adopted by ordinary legislative procedure, including article 116 TFEU
- a plan to present legislative proposals for modernising VAT reporting obligations, for further extending the scope of the One Stop Shop and for adapting the VAT framework to the platform economy.

Let's talk

For a deeper discussion of how this issue might affect you, please get in touch with your usual PwC contact or one of the following:

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