BRIEFING

EU policies – Delivering for citizens

The fight against tax fraud

SUMMARY

Tax policy, and the fight against tax fraud, have gained particular exposure over the five past years as a result of the light shed by repeated tax leaks and the related journalistic investigations. This has added to the increasing lack of acceptance of damaging tax practices, especially since the recession and the resulting budget constraints. The fight against tax fraud aims at recovering revenue not paid to the public authorities. It also aims at ensuring that fraudsters do not have an advantage over compliant taxpayers, thus ensuring tax fairness between taxpayers. Unpaid taxes result in reduced resources for national and European Union (EU) budgets. Though the scale of unpaid taxes is by nature difficult to estimate, available assessments hint at large amounts of resources lost to public finances.

Citizens' evaluation of the EU's current involvement in the fight against tax fraud has improved, but the majority of citizens in each Member State still share expectations for even more intensive involvement. Despite this, there is still a considerable gap between citizens' evaluations and expectations of EU involvement. There is still room for improvement in addressing the preferences and expectations of EU citizens.

The fight against tax fraud is shared between Member States and the EU. Coming under tax policy, it has remained closely linked to Member State sovereignty, protected by the requirement for unanimity and a special legislative procedure which keeps tax matters firmly under the Council's control. This has been the case since the Union's beginnings, in spite of the proposed limited changes to the tax framework. As shortcomings have been more clearly identified, the discussion has been opened anew in the latest speeches on the State of the Union delivered by the President of the European Commission before the European Parliament.

Fighting tax fraud covers not only actions against illegal behaviour, but also the deterrence of fraud and measures to foster compliance. As a result it involves a large reboot of tax provisions, to upgrade them for the scale and features of tax fraud as it is and as it evolves. Yet in spite of the notable deliveries during the current parliamentary term, there remains work ahead, namely because all provisions need to be implemented, enforced, monitored and, if need be, updated, to keep up with the versatility of tax fraud, as well as the need to keep pace with digital evolution globally.

In this Briefing

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State of play

Fight against tax fraud under the glare of the spotlight

Tax policy and the fight against tax fraud have **gained particular exposure** over the past five years as a result of several elements:

- Starting with the worldwide revelations by journalists and whistle-blowers, in the Luxleaks, Panama papers and Paradise papers among others, of information that has exposed schemes to escape tax obligations, sometimes marketed as 'tax maximisation' or 'tax planning' (often aggressively) by tax intermediaries.
- A time of budget constraints for a number of Member States and countries, rendering lost resources as a result of tax fraud more damaging.
- The consensus built progressively after the great recession, that there is a need to develop a 'more sustainable tax policy', in particular a sustainable tax base reform capable of addressing the economic, social, cultural and environmental dimensions of taxation.
- The demonstration that the fight against tax fraud is part of the fight against opaque (or hidden) transactions routed globally via non-cooperative tax jurisdictions (referred to as tax havens, offshore financial centres, secrecy jurisdictions or offshore centres) and the schemes that rely on them (not only relating to tax, but also connected with money laundering and terrorist financing).
- The resulting action initiated within international fora, namely the IMF, the G20, and the OECD (with coordination).
- The consequences of tax fraud on a number of elements, ranging from financing terrorism to real estate used for laundering money resulting in booming prices on some cities, including on the population at large.[1]
- The work of the European Parliament's TAXE and TAX2 special committees and the PANA inquiry committee, that have identified a number of flaws in tax provisions needing addressed.

Taxes and lost resources

Tax rules are adopted by a tax jurisdiction (usually a country, but sometimes a different entity). Taxes provide **revenue** for use by national governments and public authorities, including in particular local authorities (hereafter, public authorities refers to all of these).

Tax revenue accounts for the main share of public resources. It serves to finance public authorities' actions[2] (e.g. roads, defence, education, etc...). The latest statistics, covering 2016, show that EU-28 taxes and compulsory social contributions accounted on average for 38.9 % of GDP.[3] Taxes apply to capital, labour and consumption, three types of tax bases.

Tax revenues come from direct taxes, indirect taxes and social security contributions, which are the three major statistical types. **Direct** taxes are paid directly to authorities by the taxpayer (persons or organisations – such as a company) on income, wealth and capital. They include income tax (personal or corporate income tax), tax on property (namely on real estate) and tax on assets. **Indirect** taxes are paid by the consumer as part of the purchase price of a good or service. They are collected by an intermediary (usually a producer or retailer) which pays them to the competent public authorities. They include, in particular, value added tax (VAT), excise duties – as on alcohol and tobacco products, import levies, and energy and other environmental taxes.[4]

Unpaid taxes result in reduced resources for national and EU budgets. Quantifying unpaid taxes is not simple, because the assessment is made by comparing distinct flows of economic activities and estimating the missing portion of economic activity. This is described as the 'non-observed economy' (NOE), which includes underground (also referred as shadow or black economy), informal and illegal activities as well as other activities that have not been included owing to deficiencies in the data collection system. There are several public assessments at both EU and global level, as well as some academic research, which give proxy assessments. [5] None provides more than a conservative estimate, based on a range of indicators, giving an idea of the scale of the problem.

Scale of unpaid taxes assessments

- In 2012 the Commission referred to an academic paper that assessed that, every year, an estimated €1 trillion in public money is lost in the EU due to tax evasion and avoidance.
- In 2015, a study for the TAXE special committee provided an empirical assessment of the magnitude of **annual revenue losses due to aggressive corporate-tax-planning in the EU.** The assessment ranges from €50-70 billion (sum of lost profit-shifting only, equivalent to at least 17 % of corporate income tax (CIT) revenue in 2013) to €160-190 billion (adding individualised tax arrangements of major multinational enterprises (MNEs), and inefficiencies in collection).
- The Commission's 2017 Survey Tax Policies in the European Union provides available data on the **NOE per country**. Yet, there is no synthetic data at the EU level, as the methodologies and the periods covered are not statistically comparable.
- **Tax gap** is a concept which aims at quantifying the taxes that should have been collected but could not be, due to not only tax fraud but also to other phenomena such as taxes that are awaiting collection (e.g. due to bankruptcies, financial insolvencies or miscalculations). The concept does not exist for all tax revenue, though tax gap methodologies have been developed for the corporate income tax (CIT) tax gap and are being considered for both personal income tax and social security contributions in the framework of the Fiscalis programme within the Tax Gap project group.[6] However, the VAT tax gap provides information for this indirect tax, which accounts for 7 % of GDP at EU-28 level. The latest estimates, based on the 2016 figures, assess the lost amount across the EU at €147.1 billion, representing a loss of 12 % of the total expected VAT revenue. In comparison, VAT collected in the same year in France amounted to €154.2 billion and in Germany to €218.8 billion.

Fight against fraud: where does it start and how far does it go?

The fight against tax fraud aims at recuperating the revenues not paid to the public authorities. It also aims at ensuring that fraudsters do not have an advantage compared to compliant taxpayers, so ensuring tax fairness between taxpayers (also referred to as a level playing field).

The **fight** against tax fraud, in a broad sense, combats not only tax evasion and fraud (both are illegal, with fraud requiring intentional wrongdoing – referred to hereafter as tax evasion), but also tax avoidance (in particular aggressive tax planning).[7] In a broader sense (including tax avoidance), the fight also involves fixing mismatches loopholes, keeping pace with the latest schemes and technologies, by way of ensuring clarity, certainty and consistency of the provisions, taking into account the single market. The separation between at-first-sight-legal avoidance and illegal evasion can only be determined after a case-by-case analysis of the facts and provisions at stake, performed after detection of a situation. Tax authorities, and ultimately courts, assess them and determine whether they are legal or illegal (stating whether it is contrary to the letter or spirit of the law, or an abuse of law). The fight against tax fraud covers actions tackling illegal behaviour, actions to deter tax non-compliance and actions to address tax loopholes and mismatches that can be taken advantage of by taxpayers.

Tax fraud is not new, yet globalisation and digitalisation have rendered many international and national tax provisions outdated. Economic flows are global, and the tax bases of some taxpayers (namely multinational enterprises, MNEs, and high-net-worth individuals, HNWI) cover several countries (in some cases a substantial number) whereas tax collection and enforcement are done at national level. The difference of scale between those taxpayers and tax jurisdictions has created several specific challenges related to the possibilities for taxpayers who are large enough to organise their business around tax rules.[8] International tax law sets provisions on how national tax codes relate to each other and interact bilaterally or multilaterally. However, it is not tailored to tackle adequately the challenges that impact all types of activities, despite the recent action at global level, much of which still needs to be implemented and assessed.

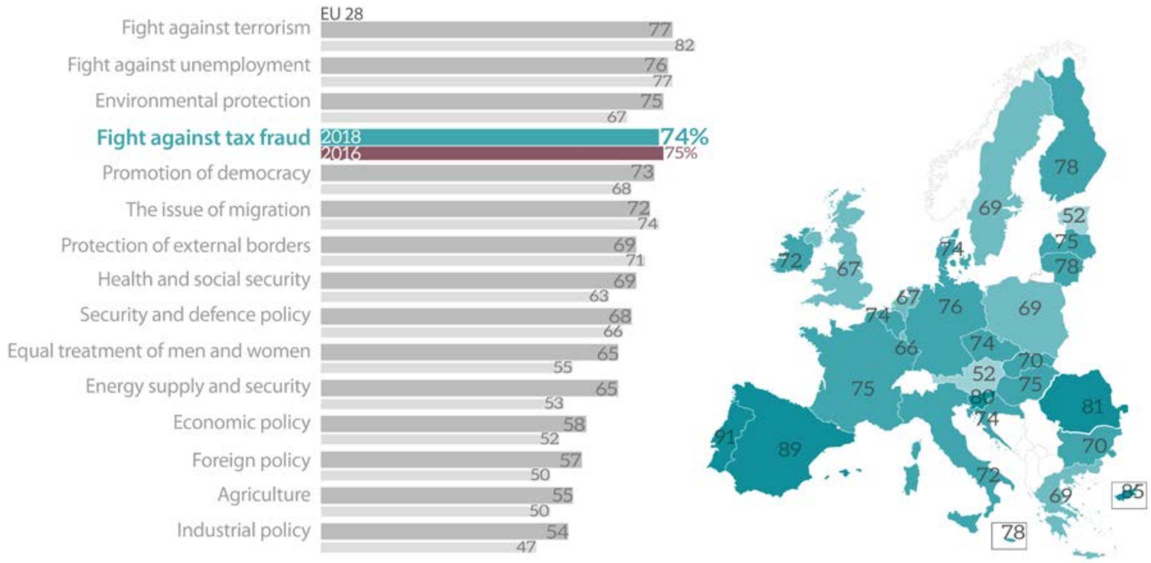
Fraud practices are adjusted to specific taxes (such as VAT carousel fraud), to specific taxpayers (like aggressive tax-planning schemes set up by some MNEs) or specific locations (income routed to places providing shelter from tax authorities through opacity resulting from use of non-transparent entities, and the use of tax havens).

The fight against tax fraud is not a matter that can be solved by the tax authorities alone without **receiving information from and sharing information** with other authorities, both in the same country and in other countries, to match the scale of frauds that are often cross-border. The fight against tax fraud needs to be global, particularly since the proceeds of fraud need to be 'laundered' before they can be used back in the legal economy (hence the importance of the identification of the ultimate beneficial owner of assets). As a result strengthened mainstreaming of action and cooperation are needed to grasp the flows that escape taxation. Linking available data (available as a result of other legal obligations or self-disclosure) as well reinforcing linkage between connected instruments (in particular measures on anti-money laundering, customs, company reporting, bank reporting) is necessary.

Public expectations and EU action[9]

A comparative Eurobarometer survey on citizens' 'perceptions and expectations', conducted for the European Parliament in 2016 and 2018, shows that the share of EU citizens who would like the EU to intervene more in the fight against tax fraud has remained almost unchanged – a marginal fall of one percentage point, from 75 % to 74 %. It also remains amongst the policy areas with strongest support for increased EU intervention, but has slipped from the third strongest for expectations of increased EU intervention (after the fight against terrorism, and against unemployment) to fourth place (due to the increased importance EU citizens attach to environmental protection).

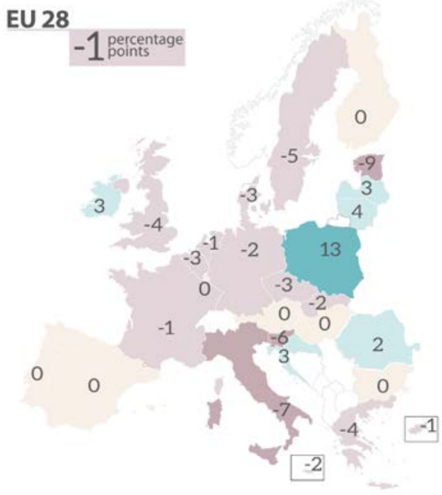
Figure 1 – Percentage of respondents who would like the EU to intervene more than at present



Source: EPRS based on Eurobarometer 85.1 - 2016; 89.2 - 2018.

There are differences across Member States. The strongest support for increased EU action is registered in Portugal (91 %), and Spain (89 %). The weakest support for more EU action is expressed by citizens in Estonia and Austria (52 % in each). Despite the differences, a majority of citizens in every Member State see it as necessary for the EU to step up its involvement with fighting tax fraud.

Figure 2 – Expectations for more EU action than at present: percentage points difference between 2016 and 2018

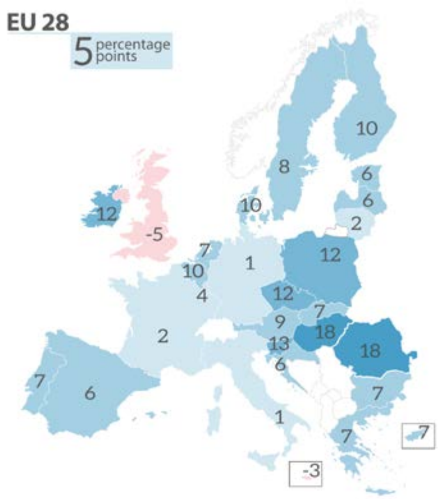


Source: EPRS based on Eurobarometer 85.1 - 2016; 89.2 - 2018.

The overall support for increased EU involvement in the fight against tax fraud has declined marginally, by one percentage point. The most prominent changes are registered in Poland (increase of 13 percentage points) and Estonia (decrease of 9 percentage points). In 14 Member States the change is below two percentage points, which can be considered a marginal change or as a rather stable perception.

Looking in particular at EU action in the field of the fight against tax fraud, 27 % of Europeans evaluate it as adequate. The support for this positive evaluation of the EU's involvement in this policy area has increased by five percentage points. The share of people who consider EU involvement to be insufficient has decreased from 66 % to 57 % – a drop of nine percentage points. Nevertheless, the share of people who are not satisfied with the current level of EU involvement is still considerably larger than those who evaluate it as sufficient. The trend of improved perception of EU involvement is almost universal. It is seen to the largest degree in Romania and Hungary (an increase of 18 percentage points in each of the countries). The opposite trend is registered in only two Member States – the UK (decrease of five percentage points) and Malta (decrease of three percentage points).

Figure 3 – Perception of EU action as adequate at present: percentage points difference between 2016 and 2018



Source: EPRS based on Eurobarometer 85.1 - 2016; 89.2 - 2018.

Despite the decreasing gap between citizens' expectations for increased EU involvement and their evaluation of its current involvement, this gap still exists and is considerable. There is still room for improvement in addressing the preferences and expectations of EU citizens.

EU Framework

Tax in the EU Treaties

Tax matters have been included in the Treaties since the Union's beginnings, as one of the policies of the Economic European Community (EEC). They are currently found in the chapters on tax provisions and approximation of laws of the Treaty on the Functioning of the European Union (TFEU).[10] Tax policy is a shared competence of the EU and Member States, as part of the internal market that is the first area listed in Article 4(2) TFEU, on shared competences.

However, tax matters enjoy a specific status and have remained governed by a special legislative procedure closely linked to Member States, whereas other policies have been brought within the remit of the ordinary legislative procedure through the Treaty changes agreed since 1992.

Treaty basis, legislative procedure and European Parliament competence

In the 'Tax provisions' chapter of the TFEU (Articles 110 to 113), **Article 113** on indirect taxes provides that a special legislative procedure applies: the Council, acting unanimously 'after consulting the European Parliament and the Economic and Social Committee adopt(s) provisions for the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation to the extent that such harmonisation necessary to ensure the establishment and the functioning of the internal market and to avoid distortion of competition.'

In the 'Approximation of laws' chapter of the TFEU (Articles 114 to 118), **Article 115 TFEU** for other taxes provides for the Council, acting unanimously in accordance with the same special legislative procedure to 'issue directives for the approximation of such laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market'.

However, **Article 116 TFEU** provides for a mechanism to overcome distortions in conditions for competition in the internal market when consultation of the Member States does not result in an agreement eliminating the distortion in question. In this case, 'the European Parliament and the Council, acting in accordance with the ordinary legislative procedure, shall issue the necessary directives. Any other appropriate measures provided for in the Treaties may be adopted.'

As regards the latter possibility, this has not been used yet, in spite of calls for use of this provision as the legal basis for tax proposals.[11] Tax policy is at a crossroads: it remains largely a national matter, but requires increasing cooperation and coordination at EU and international level to address specific issues and challenges, since there are limits to what national regulators can achieve on their own.

An EU funding programme is devoted entirely to tax, the Fiscalis 2020 programme, adopted by Regulation (EU) No 1286/2013 of 11 December 2013. It aims at facilitating and enhancing cooperation between tax authorities within the Union during the 2014-2020 period, between Member States, acceding countries and partner countries of the European neighbourhood policy. The programme has a budget of €234.3 million and aims in particular to support the fight against tax fraud, tax evasion and aggressive tax planning, and the implementation of administrative cooperation and exchange of information.

... a sub-optimal situation (?)

Tax policy has been kept outside the evolution most EU policies have undergone, since it remains the subject of decisions with limited involvement of the European Parliament and taken unanimously within the Council. The close link between tax and national sovereignty is the standard explanation for what is now an exception compared to the general use of the ordinary legislative procedure and adoption of decisions by qualified majority within the Council. The situation has not, however, completely blocked the adoption of legislation, as is apparent in particular since 2014.

However, what is equally evident is that the current situation does not allow to go beyond what can be seen as the minimum agreeable, and does not allow any strong move towards ending tax competition within the EU, since unanimity means that any one Member State can block (veto) the adoption of a piece of legislation. Such stalemates have recently led to the withdrawal of the 2011 common consolidated corporate tax base (CCCTB) proposal, relaunched in two phases, and the change from a legislative proposal on the financial transaction tax (FTT) for the whole EU into an enhanced cooperation proposal (for a smaller number of Member States). The latter has not yet proved to be more successful, since one concern is precisely that the measure would not apply evenly across the EU by its nature.

Triggering (old) proposed fixes

The fact that tax policy has not undergone such changes results from the opposition of Member States to allowing such changes during past Treaty revisions, in particular during the 2003 discussions on Treaty changes. The reasoning behind proposed adaptation of the tax provisions, along the lines of the procedural evolution applied in other policies, was not to bring tax issues fully under the ordinary legislative procedure and thus qualified majority voting, but instead to draw a 'more precise demarcation' of the tax aspects related to the functioning of the single market.

This approach was not accepted by Member States. Yet that reluctance was subsequently slightly balanced with the inclusion of a 'passerelle clause' allowing the possibility to agree on an adaptation (not specific to the tax area). Passerelle clauses, be they general or specific, apply only to the allocation of powers provided in the Treaties. In other words, they do not change competences.

'Passerelle clause' applicable to tax policy

Article 48 of the Treaty on European Union provides for a simplified revision procedure. This is what is often referred to as the 'general passerelle clause'.

In particular, Article 48(7) second subparagraph provides for a change from special to ordinary legislative procedure for the adoption of legislative acts by the Council, by means of a European Council decision acting by unanimity after obtaining the consent of the European Parliament (by a majority of its component members). The provision also provides for the notification of the national Parliaments, which can oppose such changes, within six months of such notification.

During the two most recent speeches on the State of the Union, in September 2017 and in September 2018, the President of the European Commission referred to the use of such possibilities.

On 15 January 2019, the Commission adopted a communication, towards a more efficient and democratic decision making in EU tax policy, focused on the adaptation of the decision-making process. The communication reviews the obstacles resulting from decision by unanimity in the Council and lists possible options to overcome them, in particular Article 116 TFEU and use of the passerelle clause.[12]

The communication proposes a way forward in the form of a roadmap for a progressive and targeted step-by-step transition towards qualified majority voting under the ordinary legislative procedure for EU tax policy. Four steps are defined: first, measures that have no direct impact on Member States' taxing rights, bases or rates; second, measures primarily of a fiscal nature designed to support other policy goals; third, areas that are largely harmonised and need to keep pace with new circumstances: and fourth, other initiatives in the taxation area which are necessary for the single market and for fair and competitive taxation in Europe.

Deliveries of the current parliamentary term

There have been a substantial number of actions both legislative and non-legislative to address the situation over the past five years, together with action towards international developments in tax cooperation and third countries, such as tax jurisdictions sheltering avoided or evaded tax. **Actions** aim in particular at addressing the following issues and challenges:

- New ways of doing business which do not necessarily require a physical presence in the territory where the activity or transaction takes places (including digitalisation).
- Ensuring that the rules are able to catch the reality (substance), in particular of the underlying financial flows that have grown mobile, as opposed to the tax rules.
- Keeping pace with technological changes (including crypto-assets).
- Ensuring the ability of the rules to grasp schemes designed to adapt so as to still minimise tax obligations (versatility).

Fighting tax fraud as an EU action priority

As from the beginning of the term of the current Commission, tax issues have been part of the 10 priorities presented in September 2014 under priority 4, 'A deeper and fairer internal market'. The Commission's approach to taxation (point 4(e)) was to cover the following elements

> *We need* ***more fairness*** *in our internal market. While recognising the competence of Member States for their taxation systems, we should step up our efforts to* ***combat tax evasion and tax fraud****, so that all contribute their fair share. I will notably press ahead with* ***administrative cooperation*** *between tax authorities and work for the adoption at EU level of a* ***Common Consolidated Corporate Tax Base*** *and a* ***Financial Transaction Tax****. The proposed* ***reinforced Union rules against money laundering*** *should be adopted swiftly, and with an ambitious content, notably when it comes to the* ***identification of beneficial owners*** *and* ***improving customer due diligence****'* (bold added)

The implementation of the commitments spans the five year of the Commission mandate. Each year's work plan programmed actions and legislative proposals. As a result the Commission put forward a number of action plans further elaborating on the actions and means to achieve the objective. Action plans are not all of the same nature, the older being more programmatic and the most recent including proposals and decisions, grouped in the action plan explained in accompanying communications. Some proposals have not been part of any action plan. Below is the chronological list of action plans and separate proposals since 2014, to date:

- Tax Transparency Package (18 March 2015),
- Action Plan on Corporate Taxation (17 June 2015),
- Anti-tax-avoidance Package (28 January 2016),
- Action Plan on VAT (7 April 2016),
- Corporate Tax Reform Package (25 October 2016),
- VAT Digital Single Market Package (1 December 2016),
- Temporary application of a generalised reverse charge mechanism (21 December 2016),
- Single VAT area (in October 2017 and November 2017 instalments),
- January 2018 package on VAT rates and rules for SMEs,
- Fair Taxation of the Digital Economy (21 March 2018),
- 25 May 2018 VAT proposals (technical amendments for a definitive VAT system and reverse charge mechanism),
- The 11 December 2018 legislative proposal providing additional rules for the setting up of the One Stop Shop (as established by the adoption of the proposals of the VAT Digital Single Market Package),
- Two 12 December 2018 legislative proposals providing for access for tax authorities to relevant information related to payment, bridging the information gap to fight VAT lost from e-commerce activities (two proposals, respectively amending the VAT Directive and amendment to the VAT Cooperation Regulation).

Rebooting tax policy

Since September 2014, more than 25 legislative proposals relating to tax matters were put forward. More than half of them had been adopted by the end of 2018. Work is going on with a view to reaching agreement on the pending proposals.

The upgrading of the **cooperation mechanisms** between tax administrations has addressed shortcomings identified in the different leaks regarding direct taxes, some of which are also addressed in the broader OECD framework. The directive on administrative cooperation (DAC) was amended five times since its adoption in 2011 so as to provide automatic exchange of information relating to financial accounts (as in the common reporting standard, CRS),[13] to ensure automatic exchange of tax rulings between Member States, to ensure that country-by-country information be provided by large multinational enterprises and shared between Member States, to ensure access to money-laundering information by tax authorities and to establish the obligation for intermediaries to communicate schemes likely to constitute aggressive tax planning to tax authorities prior to their application. Not all of the amendments have yet implemented and thus cannot yet be assessed. A connected proposal is still pending which aims at establishing public country-by-country reporting.

Seven legislative proposals were put forward relating to **corporate taxation**. They relate to anti-tax-avoidance (with two anti-tax-avoidance directives adopted respectively in 2016 and 2017), and the double-taxation dispute-resolution mechanism in the EU directive, also adopted in 2017. The two proposals relating to the common consolidated corporate tax base are still being discussed by the co-legislators, as are the proposals on the corporate taxation of a significant digital presence and the common system of a digital services tax on revenues resulting from the provision of certain digital services.

More than ten legislative proposals were made regarding the **VAT** framework,[14] covering the four pillars of the VAT action plan, i.e. removing VAT obstacles to e-commerce, adapting rules for SMEs, improving cooperation within the EU and with third countries, and improving tax collection to address the VAT tax gap, establishing a definitive VAT system for cross-border trade and modernising the VAT rate policy so as to provide more freedom to Member States The proposals cover both the update of the VAT framework and of administrative cooperation between Member States in this area. More than half had been adopted by the end of 2018.

Legislation is supplemented by **other acts (**binding and non-binding**),** that have been adopted by the institutions in tax matters, in particular:

- The list of non-cooperative jurisdictions adopted by the Council on 5 December 2017 and regularly updated, based on the preparatory analysis provided by the Commission. The list is based on the commitments made by third countries and the monitoring of their implementation. (Black)listing is a way to bring about regulatory compliance.
- State aid investigations relating to tax measures providing favourable treatment to certain undertakings (in particular via tax rulings), which is not, as such, new.[15] The high profile of the undertakings involved brought much increased attention to this EU competence.
- Ensuring that the treatment of tax situations with regard to third countries is consistent with provisions applied within the EU. The recommendation to Member States on the implementation of measures against tax treaty abuse, adopted on 28 January 2016, addresses this concern.
- Active participation in international fora, and adoption of interim provisions to address issues while there is no coordinated action at global level, as set out in the External strategy for effective taxation adopted by the Commission on 28 January 2016.

Potential for the future

In the European Parliament, standing, special and inquiry committees have between them analysed, surveyed and monitored the actions needed to address the challenges identified, especially those that have gained particular prominence since 2014. They have also addressed specific issues revealed by revelations since then. The TAXE resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect, the legislative resolution of 16 December 2015 'Bringing transparency, coordination and convergence to corporate tax policies in the Union', the TAX2 resolution of 6 July 2016 on tax rulings and other measures similar in nature or effect, and the resolution of 13 December 2017 on recommendations prepared by the PANA committee of inquiry have drawn up an inventory of situations to be remedied together with a catalogue of proposed remedies. Together, the resolutions show that progress has been achieved since the beginning of the parliamentary term, but that still needs to be implemented, monitored and then assessed.[16] The TAX3 special committee, set up on 1 March 2018[17] builds on the work of the previous committees, and its report updates and complements both the inventory and the catalogue of remedies (taking into account those adopted, of which some still need to be implemented).[18]

The main salient issues relate to providing enough **transparency** to tax authorities in order to enable them to fight against tax fraud, which can be complemented by broader transparency given the fact that significant tax fraud has been uncovered by individuals (whistle-blowers) or journalistic investigations. Substantial progress in the field has been achieved. The **corporate tax** framework is also under pressure, with a need to address the changes that flow from regulatory and technological evolution. In order to better fight against tax fraud and money laundering, there is a need to improve measures and ensure effective implementation as well as strengthening provisions to fight against money laundering. Similarly, specific attention must be paid to certain stakeholders which play a particular role in tax fraud and the laundering of its proceeds, namely a number of **intermediaries** and **financial institutions** through which money resulting from such practices can be routed. Finally, action needs to be global as tax fraud is global, implying an active and consistent international approach. All of these measures need to be monitored and updated on the basis of regulatory and technological evolution, which is rapidly taken into account and taken advantage of in tax frauds. Yet in spite of the notable deliveries under the current parliamentary term, there remains work ahead, since all provisions need to be implemented, enforced, monitored and, if need be, updated, given the versatility those carrying out tax fraud versatility as well as the need to keep pace with global digital evolution.

The Commission has proposed a new Fiscalis programme for the 2021-2027 period, as part of the package on the next multiannual financial framework it adopted on 2 May 2018.

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Remeur C., Tax policy in the EU - Issues and challenges, EPRS, European Parliament, February 2015.

Remeur C., Tax transparency: Openness, disclosure and exchange of information, EPRS, European Parliament, September 2015.

Remeur C., The collaborative economy and taxation: Taxing the value created in the collaborative economy, EPRS, European Parliament, February 2018.

ENDNOTES

1 The issue was analysed by the OECD in a 2007 report.

2 They are referred to as 'public goods' which are consumed not necessarily by an individual consumer but by society as a whole; the public goods are financed by tax revenues.

3 There are important difference between the Member States; see Taxation Trends 2018 for data per Member State and comparison with third countries.

4 The list is not complete; see for instance those related to accommodation adopted by towns – tourist taxes.

5 In 2016 the International Monetary Fund (IMF) estimated worldwide losses due to BEPS and related to tax havens. See also Tørsløv, Wier and Zucman 'The missing profits of nations', NBER Working Paper 24701, 2018.

6 For more information on tax gaps see the October 2018 article Before We Close Tax Gaps, We Have to Understand Them Tomasz Tratkiewicz, CASE. The project is an answer to the EP recommendation included in recommendation A6 of the European Parliament legislative resolution of 16 December 2015. Ongoing work can be accessed on the dedicated page active at the date of this briefing.

7 The word 'evasion' happens to be a *faux-ami* in several languages, where it refers instead to avoidance.

[8] This can be done by shifting profits from high to low-tax jurisdictions, using intra-group transactions, the financial structure of a group, or the location of intangible assets. In other words, it sets the conditions to engage in tax planning ('treaty shopping').

[9] This section has been drafted by Alina Dobreva, with graphics by Nadejda Kresnichka-Nikolchova.

[10] Other relevant provisions are the free movement of persons, services and capital (Articles 45-48 TFEU for workers, 49-55 for the right of establishment, 56-62 for services and 63-66 for capital and payments). Environment provisions (Articles 191-192 TFEU) also include tax components. Competition provisions, in particular the prohibition of state aid enshrined in Articles 107 to 109 TFEU, are relevant to tax policy. The non-discriminatory principle is also of particular importance. Enhanced cooperation (Articles 326 to 334 TFEU) can be used in tax policy.

[11] See the 16 February 2017 resolution.

[12] The communication refers both to the general passerelle clause and the environmental one in relation to fiscal measures (Article 192 TFEU) concerning the fight against climate change. Among the tools providing flexibility given adoption by unanimity it also refers to enhanced cooperation.

[13] The proposals were made on 12 June 2013.

[14] VAT packages also proposed implementing acts which are not legislative acts (Article 290 TFEU).

[15] Notice on the notion of state aid 16.5.2016 which provides guidance on the application of the 'arm's length' principle under state aid rules and Working paper on state aid and tax rulings.

[16] A joint follow-up for the 'Bringing transparency, coordination and convergence to corporate tax policies in the Union' and TAXE resolutions was provided by the European Commission in March 2016, follow-up regarding TAX2 (in November 2016) and follow-up regarding PANA (April 2018) resolutions.

[17] European Parliament decision of 1 March 2018 on setting up a special committee on financial crimes, tax evasion and tax avoidance (TAX3), and defining its responsibilities, numerical strength and term of office (2018/2574(RSO)).

[18] Report on financial crimes, tax evasion and tax avoidance (2018/2121(INI)), co-rapporteurs: Jeppe Kofod (S&D, Denmark) and Luděk Niedermayer (EPP, Czech Republic).

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