



GENERAL TAX POLICY

The power to tax is in the hands of the Member States, with the EU having only limited EU competences. As EU tax policy is geared towards the smooth running of the single market, the harmonisation of indirect taxation was addressed before direct taxation. The fight against harmful tax evasion and tax avoidance has become a recent policy priority. Tax measures must be adopted unanimously by the Member States. The European Parliament has the right to be consulted on tax matters, except on budgetary-related issues, for which it is co-legislator.

LEGAL BASIS

The tax provisions chapter (Articles 110-113) of the Treaty on the Functioning of the European Union ([TFEU](#)), which relates to the harmonisation of legislation concerning turnover taxes, excise duties and other forms of indirect taxation; the chapter on the approximation of laws (Articles 114-118 TFEU), which covers taxes that have an indirect effect on the establishment of the internal market, with fiscal provisions not subject to the ordinary legislative procedure; other provisions relevant to tax policy, referring to the free movement of persons, services and capital (Articles 45-66 TFEU), the environment (Articles 191-192 TFEU) and competition (Articles 107-109 TFEU).

Enhanced cooperation (Articles 326-334 TFEU) can be applied in respect of tax matters. The main feature of EU tax provisions with regard to the adoption of acts is the fact that the Council decides on a Commission proposal by unanimity, with Parliament being consulted. Provisions adopted in the tax field include directives approximating national provisions, and Council decisions. Firm in the conviction that retaining unanimity for all taxation decisions makes it difficult to achieve the level of tax coordination that Europe requires, the Commission submitted proposals for a move to [qualified majority voting](#) in certain tax areas. However, these were rejected by the Member States.

Direct taxation denotes taxes levied on income, wealth and capital, whether personal or corporate. Personal income tax (PIT) is not covered as such by EU provisions (rather, EU activity in this field is based on European Court of Justice case law). EU action on corporate income tax (CIT) is more developed, although it focuses only on measures linked to the principles of the single market. Indirect taxation consists of taxes that are not levied on income or property. It includes value-added tax (VAT), excise duties, import levies, and energy and other environmental taxes. As the development of EU tax provisions is geared towards the smooth running of the single market, the



harmonisation of indirect taxation was addressed at an earlier stage and in greater depth than that of direct taxation.

OBJECTIVES

The EU's strategy on tax policy is explained in the Commission communication '[Tax policy in the European Union – Priorities for the years ahead](#)'. The power to introduce, remove or adjust taxes remains in the hands of the Member States. Provided it complies with EU rules, each Member State is free to choose the tax system it deems most appropriate. Within this framework, the main priorities for EU tax policy are the elimination of tax obstacles to cross-border economic activity, the fight against harmful tax competition and tax evasion, and the promotion of greater cooperation between tax administrations in ensuring control and combating fraud. Increased tax policy coordination would ensure that the Member States' tax policies support wider EU policy objectives, as set out in the [Europe 2020 strategy](#) for smart, sustainable and inclusive growth and in the [Single Market Act](#).

INITIATIVES AND PROGRESS

The Commission's [annual activity report on taxation](#) presents the EU's achievements and the tax issues that are still to be addressed. In the light of press revelations on the sheer size of the phenomenon, the fight against tax fraud and aggressive tax planning has been a policy priority of the current legislative term (2014-2019). Elsewhere, work has continued on reform of the corporate tax framework to make corporate taxation in the EU fairer and better adapted to a modern digital economy in the internal market, and the design of a definitive VAT regime has emerged as another policy priority. Key initiatives have included:

A [Tax Transparency Package](#) (18 March 2015), which aims to improve transparency and cooperation between Member States as regards their cross-border tax rulings, by repealing the Savings Tax Directive to streamline legislation on the automatic exchange of information, by assessing further potential transparency initiatives, in conjunction with country-by-country-reporting for multinationals, by reviewing the code of conduct on business taxation to make it more functional and effective, by better quantifying the tax gap (which cannot be attributed to tax avoidance and evasion alone), and by acting as a forerunner for the promotion of greater tax transparency worldwide.

An [Action Plan on Corporate Taxation](#) (17 June 2015), which sets out a series of initiatives to tackle tax avoidance, secure sustainable revenues and improve the business environment in the single market. The action plan describes four guiding objectives: a) re-establishing the link between taxation and geographical location of economic activity; b) ensuring that Member States can correctly value corporate activity in their jurisdictions; c) creating a competitive and growth-friendly corporate tax environment for the EU; d) protecting the single market and securing a strong EU approach to external corporate tax issues, including measures to implement the OECD's [base erosion and profit shifting actions](#) (BEPS), deal with non-cooperative tax jurisdictions and increase tax transparency. In October 2016, the Commission proposed a re-launch of the [common consolidated corporate tax base](#) (CCCTB).



An [Anti Tax Avoidance Package](#) (28 January 2016), which contains proposals on concrete measures to prevent aggressive tax planning, boost tax transparency and create a level playing field for all businesses in the EU. The package includes three pillars: a) ensuring effective taxation in the EU (via the anti-tax-avoidance directive and recommendation on tax treaties); b) increasing tax transparency (revising the directive for the automatic exchange of information); c) securing a level playing field (communication on an external strategy for effective taxation and a tax haven blacklist).

An [Action Plan on VAT](#) (7 April 2016), which includes a) principles for a future single European VAT system; b) measures to tackle VAT fraud; c) an update of the framework for setting VAT rates; d) plans to simplify and modernise VAT rules for e-commerce; e) a VAT package for SMEs.

The [VAT Digital Single Market Package](#) (1 December 2016), which aims to modernise VAT for cross-border e-commerce. The package seeks to reduce the VAT compliance costs incurred by business when selling across borders, to facilitate cross-border trade and ensure fair competition for EU businesses, to combat VAT fraud, and to address the specific situation of e-books, which currently do not benefit from reduced rates. One important aim of the VAT reform package(s) is to put an end to the notorious ‘carousel fraud’. New VAT rules should be simpler and more consistent, introducing a new and definitive single EU VAT area. In a nutshell, the new VAT system is designed to be more fraud-proof and in line with today’s digital and mobile economy.

The [Fair Taxation of the Digital Economy](#) initiatives (21 March 2018), which aim to ensure a fair and effective taxation system that is fit for the digital environment, to utilise legislative proposals to fully harness the digital presence by adjusting the definition of ‘permanent establishment’ and introduce a definition of ‘minimum economic substance’. The Commission proposal will also feed into international work in this area, notably by the G20 and the OECD.

As of 1 January 2018, new rules entered into force obliging Member States to give tax authorities access to data collected under anti-money laundering legislation. National tax authorities will have direct access to information on the beneficial owners of companies, trusts and other entities, as well as companies’ customer due diligence records. The new rules will enable tax authorities to react quickly and efficiently to cases of tax evasion and avoidance, and combat the types of structures highlighted in the [Paradise Papers](#).

As part of the broader objective of improving the fairness and efficiency of the EU’s tax systems, the particular challenge of how digitalisation should be taxed has been the subject of discussions, both in the EU and in international fora, including within the context of the OECD’s BEPS actions. During the 2017 State of the Union address, President Juncker announced the Commission’s ‘Proposal establishing rules at EU level allowing taxation of profits generated by multinationals through the digital economy’, while the Council adopted conclusions on the taxation of the digital economy in December 2017.



ROLE OF THE EUROPEAN PARLIAMENT

The European Parliament has generally endorsed the broad lines of the Commission's programmes in the field of taxation, with the fight against tax fraud/evasion and money laundering a policy priority of the current legislative term. Its recommendations have focused, in particular, on the role of specific tax jurisdictions and of financial institutions in aggressive tax planning.

Parliament's resolution [Tax rulings and other measures similar in nature or effect](#) (25 November 2015) was the product of the work of its Special Committee on Tax Rulings ([TAXE 1](#)). The text draws attention to a conspicuous paradox: that free competition in tax matters and a lack of cooperation between Member States has led to disconnects between the places where value is created and where profits are taxed, resulting in corporate tax base erosion and revenue losses. With this resolution, Parliament called for:

- Greater transparency, through the systematic sharing of rulings and tax information and the submission of information to the Commission, and the introduction of public country-by-country reporting (CBCR) by multinationals on profits made, taxes paid and subsidies received;
- An end to preferential regimes and discrepancies between national tax systems, with agreement on how transactions are valued within the same company (transfer prices) and a clear definition of 'economic substance';
- A compulsory EU-wide common consolidated corporate tax base (CCCTB), as a comprehensive response to corporate tax base issues;
- A framework for tax-related state aid and guidelines to define appropriate transfer pricing; the recovery of illegal state aid to be made an effective deterrent against illegal tax-related state aid;
- Reform of the Code of Conduct on business taxation in order to increase transparency, accountability and the involvement of both the European and national parliaments;
- The incorporation of the fight against tax avoidance into other policies and business conduct, including by multinational corporations (MNCs), banks, financial service providers and tax advisors;
- Better protection for whistle-blowers.

Against the backdrop of the Panama Papers and Lux Leaks revelations, which had laid bare the need for greater cooperation and transparency, not only within the EU but worldwide, the product of the TAXE 1 Committee's activities were to constitute the basis for the work of the [TAXE 2](#) Committee. Citing TAXE 2's findings, Parliament's [resolution](#) of 6 July 2016:

- Calls for sanctions against non-cooperative tax jurisdictions included on a blacklist of tax havens to also be applied to companies, banks, and accountancy and law firms, with the possibility of revoking their business licences;



- Stresses the negative consequences of patent boxes, which in most cases are used by multinational companies for tax avoidance purposes;
- Reiterates the proposals on a common corporate consolidated tax base (CCCTB) and on transfer pricing, which plays an important role in profit-shifting.

The resolution concluded that state aid provisions have not always been complied with and called for action to remedy the situation.

The European Parliament's Committee of Inquiry to investigate alleged contraventions and maladministration in the application of Union law in relation to money laundering, tax avoidance and tax evasion ([PANA](#)) built on the work on taxation that came to prominence earlier in the current legislature, not least on resolutions adopted by Parliament and prepared by the TAXE 1 and TAXE 2 committees, and on the resolution on [bringing transparency, coordination and convergence to corporate tax policies](#), which identified regulatory and monitoring challenges when addressing tax issues. Parliament's [recommendation of 13 December 2017](#), based on a report by the PANA Committee, stressed the need for:

- Thorough implementation, effective enforcement and effective monitoring mechanisms, reinforcement of legal tools, and a leading role for the Commission in the global fight against tax avoidance, tax evasion and money-laundering;
- Increased and effective transparency, consolidating the standardised information of and links between authorities, access to and the creation of registers;
- Concerted efforts to adopt an effective and credible list of secretive jurisdictions;
- Measures to ensure the compliance of tax jurisdictions, taxpayers and intermediaries;
- The prevention of tax avoidance and evasion and the shielding of beneficial owners;
- The use of international leverage tools (positive list principle) in tandem with support for developing countries in the fight against tax dodging and money laundering;
- Whistle-blower protection instruments;
- Streamlining how the EU operates with regard to the adoption of tax provisions; and
- Strengthening of Parliament's rights of inquiry and swift follow-up of recommendations.

On 1 March 2018, Parliament established a Special Committee on Financial Crimes, Tax Evasion and Tax Avoidance ([TAX3](#)). Building on the work of its predecessors (TAXE 1, TAXE 2 and PANA), the committee will investigate key issues, including digital taxation, national citizenship programmes and VAT fraud.

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10/2018

