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*Plenary sitting*

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**A9-0103/2021**

30.3.2021

## REPORT

on digital taxation: OECD negotiations, tax residency of digital companies and a possible European Digital Tax  
(2021/2010(INI))

Committee on Economic and Monetary Affairs

Rapporteurs: Andreas Schwab, Martin Hlaváček

Rapporteurs for the opinion (\*):  
José Manuel Fernandes, Valérie Hayer, Committee on Budgets

(\*) Associated committees – Rule 57 of the Rules of Procedure

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## MOTION FOR A EUROPEAN PARLIAMENT RESOLUTION

### **on digital taxation: OECD negotiations, tax residency of digital companies and a possible European Digital Tax (2021/2010(INI))**

*The European Parliament,*

- having regard to Articles 113 and 115 of the Treaty on the Functioning of the European Union (TFEU),
- having regard to the European Council conclusions of 1-2 October 2020<sup>1</sup> and of 21 July 2020<sup>2</sup>,
- having regard to the Ecofin Council conclusions of 27 November 2020<sup>3</sup>,
- having regard to the Commission proposals pending for adoption, in particular on the Common Corporate Tax Base (CCTB), the Common Consolidated Corporate Tax Base (CCCTB)<sup>4</sup>, and the digital taxation package<sup>5</sup>, as well as Parliament's positions on these proposals,
- having regard to the Commission communication of 15 January 2019 entitled 'Towards a more efficient and democratic decision making in EU tax policy' (COM(2019)0008),
- having regard to the Commission communication of 19 February 2020 entitled 'Shaping Europe's digital future' (COM(2020)0067),
- having regard to the Commission communication of 15 July 2020 on an Action Plan for Fair and Simple Taxation supporting the recovery strategy (COM(2020)0312),
- having regard to its resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect<sup>6</sup>, proposed by its Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE Committee),
- having regard to its resolution of 6 July 2016 on tax rulings and other measures similar

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<sup>1</sup> <https://www.consilium.europa.eu/media/45910/021020-euco-final-conclusions.pdf>

<sup>2</sup> <https://www.consilium.europa.eu/media/45109/210720-euco-final-conclusions-en.pdf>

<sup>3</sup> <https://data.consilium.europa.eu/doc/document/ST-13350-2020-INIT/en/pdf>

<sup>4</sup> Proposal of 25 October 2016 for a Council Directive on a Common Corporate Tax Base (CCTB), COM(2016)0685 and of 25 October 2016 on a Common Consolidated Corporate Tax Base (CCCTB), COM(2016)0683.

<sup>5</sup> The package consists of the Commission communication of 21 March 2018 entitled 'Time to establish a modern, fair and efficient taxation standard for the digital economy' (COM(2018)0146), the proposal of 21 March 2018 for a Council directive laying down rules relating to the corporate taxation of a significant digital presence (COM(2018)0147), the proposal of 21 March 2018 for a Council directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services (COM(2018)0148) and the Commission recommendation of 21 March 2018 relating to the corporate taxation of a significant digital presence (C(2018)1650).

<sup>6</sup> OJ C 366, 27.10.2017, p. 51.

in nature or effect<sup>7</sup>, proposed by its second Special Committee on Tax Rulings and Other Measures Similar in Nature or Effect (TAXE2 Committee),

- having regard to its recommendation of 13 December 2017 to the Council and the Commission following the inquiry into money laundering, tax avoidance and tax evasion conducted by its 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 Committee)<sup>8</sup>,
- having regard to its resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance<sup>9</sup>, proposed by its Special Committee on financial crimes, tax evasion and tax avoidance (TAX3),
- having regard to the Commission’s follow-up to each of the above-mentioned Parliament resolutions<sup>10</sup>,
- having regard to its study entitled ‘Impact of Digitalisation on International Tax Matters: Challenges and Remedies’<sup>11</sup>,
- having regard to the G20/OECD Inclusive Framework (IF) on the Base Erosion and Profit Shifting (BEPS) Action Plan of October 2015, and in particular Action 1 thereof regarding the Tax Challenges Arising from Digitalisation,
- having regard to the G20/OECD IF interim report entitled ‘Tax Challenges Arising from Digitalisation’ adopted in 2018, and its Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy adopted in May 2019,
- having regard to the Cover Statement and the Reports on the Pillar One and Pillar Two Blueprints adopted by the G20/OECD IF in October 2020, as well as the results of an economic analysis and impact assessment carried out by the OECD Secretariat attached thereto,
- having regard to the outcomes of the various G7, G8 and G20 summits held on international tax issues,
- having regard for the ongoing work of the United Nations Committee of Experts on International Cooperation in Tax Matters on the tax challenges related to the digitalisation of the economy,
- having regard to the Commission Inception impact assessment on a Digital Levy of 14

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<sup>7</sup> OJ C 101, 16.3.2018, p. 79.

<sup>8</sup> OJ C 369, 11.10.2018, p. 123.

<sup>9</sup> Texts adopted: P8\_TA(2019)0240.

<sup>10</sup> The joint follow-up of 16 March 2016 on bringing transparency, coordination and convergence to corporate tax policies in the Union and TAXE resolutions, the follow-up of 16 November 2016 to the TAXE2 resolution, the follow-up of April 2018 to the PANA recommendation, and the follow-up of 27 August 2019 to the TAX3 resolution.

<sup>11</sup> Hadzhieva, E., ‘Impact of Digitalisation on International Tax Matters: Challenges and Remedies’, European Parliament, Directorate-General for Internal Policies, Policy Department A - Economic, Scientific and Quality of Life Policies, February 2019.

January 2021 (Ares(2021)312667),

- having regard to its resolution of 18 December 2019 entitled ‘Fair Taxation in a Digitalised and Globalised Economy: BEPS 2.0’<sup>12</sup>,
  - having regard to Rule 54 of its Rules of Procedure,
  - having regard to the opinion of the Committee on Budgets,
  - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0103/2021),
- A. whereas current international corporate tax rules are based on principles which were developed in the early 20th century and are no longer suited to an increasingly globalised and digitalised economy, thus enabling numerous harmful tax practices that undermine public finances and fair competition;
- B. whereas the proportionality and practicability of these international tax rules are now the subject of a review in the context of the OECD negotiations with a view to ensuring the competitiveness of European companies in an increasingly globalised and digitalised economy;
- C. whereas the digitalising economy has exacerbated existing problems caused by the over-reliance of multinational companies on intangibles such as intellectual property;
- D. whereas following the 2008-2009 financial crisis and a series of revelations of tax evasion practices, aggressive tax planning, tax avoidance and money laundering, the G20 countries agreed to address these issues globally at OECD level through the Base Erosion and Profit Shifting (BEPS) project, leading to the BEPS Action Plan;
- E. whereas the BEPS Action Plan managed to establish a global consensus on many issues in order to fight tax evasion, aggressive tax planning and tax avoidance; whereas, however, there was no agreement on addressing the tax challenges arising from the digitalisation of the economy, which led to the adoption of the separate BEPS Action 1 – 2015 Final Report;
- F. whereas Parliament has repeatedly called for a reform of the international corporate tax system with a view to tackling tax evasion, tax avoidance and the challenges of taxing the digital economy;
- G. whereas the Commission put forward two proposals on the taxation of the digital economy in 2018, including a temporary short-term solution introducing a digital services tax (DST), and a long-term solution defining a significant digital presence (SDP) as a nexus for corporate taxation which should replace the DST; whereas the Commission put forward a proposal on 25 October 2016 for a Council Directive on a common consolidated corporate tax base (CCCTB) (COM(2016)0683); whereas Parliament supported all these proposals, but they were not adopted in the Council,

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<sup>12</sup> Texts adopted: P9\_TA(2019)0102.

which forced some Member States to introduce a DST unilaterally;

- H. whereas the introduction of uncoordinated and separate DSTs by Member States, with different taxation rules and criteria, increases fragmentation within the single market, creates more tax uncertainty and is less efficient when compared with a common solution at European level;
- I. whereas measures taken unilaterally by the Member States risk increasing international trade disputes, which can affect both digital and non-digital businesses within the single market;
- J. whereas, in accordance with a mandate given by G20 Finance Ministers in March 2017 and following the adoption of a Programme of Work (PoW) in May 2019, the OECD/G20 Inclusive Framework on BEPS (IF), through its Task Force on the Digital Economy, has been working on a consensus-based global solution based on two pillars: Pillar One on the allocation of taxing rights through new profit allocation and nexus rules and Pillar Two on addressing the remaining BEPS issues and introducing measures to ensure a minimum level of tax;
- K. whereas on 12 October 2020, the G20/OECD IF published a package consisting of a cover statement and reports on the Pillar One and Pillar Two Blueprints, which reflects convergent views on a number of policy features, principles and parameters in both Pillars, while identifying remaining political and technical issues to be addressed;
- L. whereas the profits of leading multinational companies in the digital sphere have significantly increased over recent years; whereas the lockdowns in response to the COVID-19 pandemic have further accelerated this trend of the transition to an economy based on digital services, putting physical businesses, and especially small and medium-sized enterprises (SMEs), at a further disadvantage; whereas there is an urgent need to act swiftly, taking into account the aim of the G20/OECD IF to conclude its negotiations in July 2021 as a good first step towards a more equitable distribution of tax burdens;
- M. whereas adequate international tax laws are key to preventing tax evasion and tax avoidance practices, and to designing a fair and efficient taxation system that addresses inequality and ensures certainty and stability, which are prerequisites for competitiveness, as well as for a level playing field between companies, especially for SMEs;
- N. whereas the digitalisation of the economy has enabled small companies across the board and from different sectors to become more competitive and to reach out to new clients; whereas smaller start-ups and scale-up businesses should remain unburdened by EU measures for digital taxation;
- O. whereas digital businesses rely heavily on intangible assets to create content, particularly through the use and monetisation of user data, and this creation of value is not captured by current tax systems; whereas this phenomena misaligns the place of value creation with the place of taxation;
- P. whereas the lack of an international agreement or EU regulation on digital taxation is an

obstacle to a more competitive and growth-friendly business environment within the digital single market;

- Q. whereas the severe economic crisis that the Union is facing requires modern tax policies that allow Member States to collect, in a more efficient and effective way, taxes due for activities pursued within the single market;
- R. whereas Member States should closely collaborate and take a united, strong and ambitious position in international tax negotiations;
- S. whereas the Council conclusions of 27 November state that the European Council will ‘assess the situation regarding the work on the important issue of digital taxation’ in March 2021;
- T. whereas G20 finance ministers will meet on 7-8 April 2021 and 9-10 July 2021 and take stock of both pillars of the negotiations on the Inclusive Framework;

***Addressing challenges arising from the digitalisation of the economy***

1. Notes that the current international tax rules date back to the early 20th century, and that taxing rights are mainly based on the physical presence of companies; points out that digitalisation and a heavy reliance on intangible assets have greatly increased the ability of companies to engage in significant business activities in a jurisdiction without physical presence there, and therefore taxes paid in one jurisdiction no longer reflect the value and profits created there, which can lead to base erosion and profit shifting;
2. Calls for new and fairer allocation of taxing rights for highly digitalised multinationals and a revision of the traditional concept of permanent establishment, as it fails to cover the digitalised economy; recalls Parliament’s position on the C(C)CTB to create a virtual permanent establishment, bearing in mind where value is captured and on the basis of value and profits generated by users; stresses that users of online platforms and consumers of digital services are now central elements in value creation by highly digitalised businesses, and that they cannot be shifted outside a jurisdiction in the same way as capital and labour, and should therefore be taken into account when defining a new tax nexus to provide an effective remedy against aggressive tax planning and tax avoidance;
3. Shares the concern that a narrow definition of the problems at stake would result in targeted rules being designed only for certain businesses; points out that transfer prices, the definition of permanent establishment and taxation gaps resulting from various overly complex tax systems must be reviewed, in particular with regard to double taxation agreements;
4. Stresses that new solutions to taxing the digital economy should preferably tax profits, not revenues;
5. Takes note of the significant evolution of our economies that has been caused by digitalisation and globalisation; takes note of the positive effects of digitalisation on our society and our economies as well as the great potential of digitalisation for tax administration, serving as a tool to deliver better service to citizens, increase public trust

in the tax authorities and improve competitiveness; regrets the shortcomings of the international tax system, which is not always suited to properly addressing the challenges of globalisation and digitalisation; calls for an agreement aiming for a fair and effective tax system, while respecting national sovereignty in the field of taxation;

6. Calls for a reform of the tax system to fight tax fraud and tax avoidance; stresses that the Union and its Member States should take the lead in responding to these shortcomings;
7. Highlights the need to tax multinational corporations on the basis of a fair and effective formula for the allocation of taxing rights between countries; recalls the Commission's proposal on a common consolidated corporate tax base (CCCTB);
8. Highlights the need to address the under-taxation of the digitalised economy; stresses the need to take into account the inherent mobility of highly digitalised multinationals, in particular with a view to value creation, and to ensure a fair distribution of taxing rights among all countries where they pursue economic activity and value creation, including R&D; notes that some existing double taxation agreements can prevent the fair allocation of taxing right and calls for them to be updated; highlights the special situation of small peripheral Member States;
9. Takes the view that further studies on the overall tax burden of different business models are needed; regrets that tax avoidance is not only detrimental to the collection of public revenues, which hampers public services and shifts the tax burden towards the average citizen, thus creating more inequalities, but also has a distorting effect on markets by putting businesses, particularly SMEs, at a disadvantage, and creating barriers for new local entrants; highlights the need to consider potential SME entry barriers in order to avoid creating a digital sector with only a few big actors;
10. Recalls that, on average, digital businesses face an effective tax rate of only 9.5 %, as opposed to 23.2 % for traditional business models;
11. Highlights that, in the meantime, the demand for digitalised services has exploded due to the obligation to operate many tasks remotely in the COVID-19 context; observes, therefore, that providers of such digitalised services have been placed in a more favourable position than traditional businesses, especially SMEs;
12. Highlights that the OECD/G20 BEPS Action 1 - 2015 Final Report concludes that the digital economy is increasingly becoming the economy itself; recognises the rapid digitalisation of most economic sectors and the need for a future-proof tax system that does not ring-fence the digital economy, but ensures a fair distribution of revenues across the different countries where value is created;
13. Notes the importance of distinguishing the role of both taxation and regulation, and that future digital tax policies should not be formulated to correct deficiencies in the digital economy, such as rents from monopoly power over information, where regulatory measures would be more appropriate instead;

*A global multilateral agreement: the preferred but not the only way forward*



14. Calls for an international agreement aiming for a fair and effective tax system; welcomes the efforts in the G20/OECD IF to reach a global consensus on a multilateral reform of the international tax system to address the challenges of continued profit shifting and the digitalised economy; regrets, however, the fact that the deadline for an agreement, fixed for the end of 2020, was missed; acknowledges the progress of discussions on the proposals at technical level, despite the delays caused by the COVID-19 pandemic, and calls for a swift agreement by mid-2021 in an inclusive negotiating process; calls on the Member States to also actively engage on tax issues in other international forums such as the UN;
15. Takes note of the fact that the two pillar approach suggested in the G20/OECD IF does not ring-fence the digitalised economy but seeks a comprehensive solution to the new challenges that it poses; takes note of divergent views among the members of the Inclusive Framework; believes, however, that both pillars should be seen as complementary and should be adopted by mid-2021;
16. Highlights that Pillar Two aims at addressing remaining BEPS challenges, notably by ensuring that large multinationals, including digitalised ones, pay a minimum effective corporate tax rate regardless of where they are located; considers that any minimum effective rate should be set at a fair and sufficient level to discourage profit shifting and prevent damaging tax competition;
17. Calls on the Commission and the Council to make sure that the future compromises of the G20/OECD IF negotiations take into account the EU's interests and avoid adding more complexity and any supplementary red tape for SMEs and citizens;
18. Welcomes the efforts of the OECD's secretariat in finding a solution to the question of how to adapt our current international tax rules to a globalised and digitalised economy; welcomes the proposal under Pillar I of a new tax nexus and new taxing rights which would create the possibility to tax multinational enterprises (MNEs) in market jurisdictions, even where they have no physical presence, based on their economic activity; underlines that interaction with users and consumers significantly contributes to value creation in highly digitalised business models, and should therefore be taken into account when allocating taxing rights; notes that some policy options remain to be determined at global level;
19. Acknowledges that the so-called 'Amount A' would create a new taxing right for market jurisdictions; stresses that the scope of these new taxing rights should cover all large MNEs which could engage in BEPS practices, and at least automated digital services and consumer-facing businesses, while not placing further and unnecessary burdens on SMEs and avoiding making services more expensive for consumers;
20. Invites the Member States to support an agreement to ensure that sufficient amounts of profits are reallocated to market jurisdictions, that should go beyond the distinction between routine and non-routine profits, which could lead to purely artificial distinctions;
21. Is concerned that an overly complex system could actually add opportunities to circumvent the newly agreed rules and calls on the OECD and negotiating Member States to work towards a simple and workable solution; calls for the consideration of

findings related to the administrative impact of the OECD/G20 BEPS Action Plan;

22. Recommends that policy options defended by Member States in the negotiations should reduce complexity; supports, therefore, simplified administrative processes for MNEs subject to the new taxing rights, also with a view to lightening the burden of implementation for Member States, taking into account Member States not involved in tax arrangements that distort competition, such as so-called ‘sweetheart deals’; believes that a reform of the arm’s length principle (ALP) would be appropriate;
23. Calls on the Commission and the Council to intensify the dialogue with the new US administration on digital tax policy with the aim of finding a common approach in the framework of the G20/OECD IF negotiations before June 2021; welcomes the recent declaration of the new US administration that it will re-engage actively in OECD negotiations with a view to achieving an agreement and abandon the ‘safe harbour’ concept; calls on the Member States to oppose the ‘safe harbour’ clause, which risks seriously undermining reform efforts; calls on the Commission to pursue a proposal of its own for addressing the challenges of a digitalised economy should a ‘safe harbour’ clause be included in Pillar One of the reform; recalls, in that regard, the Commission’s long-term proposal centred on a significant digital presence;
24. Takes notes of the proposal of a dispute prevention and resolution mechanism in order to avoid double taxation and increase acceptance of the new rules; highlights the important role of the latter mechanism, especially for the transitional period until the new international tax regime is in place; underlines, however, that tax certainty is best achieved by establishing simple, clear and harmonised rules that prevent disputes in the first place; highlights that any dispute prevention and resolution mechanism should not put developing countries at a disadvantage;
25. Understands that with an international agreement, damaging trade disputes and retaliations that have potentially negative effects for other economic sectors should be avoided;
26. Calls on the Commission to complete its own impact assessment on the effects of Pillars One and Two on revenue collection for the Member States and to inform the Council and Parliament about its findings; calls on the Commission, on this basis of this impact assessment, to advise and guide Member States to take positions in the negotiations that defend the EU’s interests;
27. Calls on each Member State and the Commission to coordinate their positions in order to speak with a single voice;

#### ***A call for immediate EU action***

28. Regrets that the failure of the G20/OECD IF to find a solution in October 2020 has prolonged the under-taxation of the digitalised economy; stresses that the COVID-19 pandemic has largely benefited digitalised businesses, mostly those that were able to scale up their operations, while many other businesses, notably SMEs, have suffered, and that it has accelerated the transition to a digitalised economy, thereby further emphasising the need to find multilateral solutions to reform the current tax system in order to ensure that the digitalised economy makes a fair contribution;

29. Highlights that governments need to collect unprecedented resources in order to recover from the COVID-19 crisis and that the mobilisation of revenues from under-taxed sectors can contribute to financing the recovery;
30. Considers that tax challenges stemming from the digitalised economy are a global issue and that an agreement at the level of the G20/OECD states is urgently needed to make international coordination possible; considers that an ambitious and harmonised international solution is preferable to a patchwork of national or regional digital taxes bearing potential risks, and is significantly more likely to find unanimous support in the Council;
31. Insists, therefore, that regardless of the progress of the negotiations in the G20/OECD IF, the EU should have a fall-back position and stand ready to roll out its own proposal for taxing the digital economy by the end of 2021, especially as the OECD proposals apply only to a small group of companies and may not be sufficient; calls on the Commission to respect the interinstitutional agreement of 16 December 2020 on cooperation in budgetary matters by presenting its proposals for a digital levy by June 2021, while anticipating their compatibility with the reform by the G20/OECD IF, if there is an agreement on it; recommends that the Commission come up with a road map taking into account different scenarios, in particular with and without agreement at OECD level by mid-2021;
32. Invites the Commission to consider in particular introducing a temporary EU digital services tax as a necessary first step; stresses that if an international agreement is reached under the OECD/G20 IF, these European solutions should be adapted accordingly; recalls that an EU DST can only be envisaged as a temporary first step;
33. Calls for the EU to implement the future outcome agreement of the international negotiations in a harmonised way and invites the Commission to issue a proposal to that effect;
34. Points out that failure of the OECD negotiations would lead to further fragmentation in relation to digital taxes, which might also be harmful for European companies that aim to expand their business models into other markets; recalls the importance of reaching an agreement at OECD level in order to avoid potential trade wars; highlights that despite taxation being a Member State competence, strong coordination is needed;
35. Emphasises that EU digital companies that are headquartered in an EU Member State and are subject to EU corporate taxes are at a disadvantage compared to foreign companies that have no 'physical presence' in any Member State, and can therefore avoid paying corporate taxes in the EU even if they operate with European users; stresses the need to create a level playing field for providers of traditional services and automated digitalised services, as well as consumer-facing businesses in the EU, by ensuring that the latter are taxed where they make profits and at a fair rate;
36. Stresses that any EU DST must avoid generating unnecessary increases in compliance costs, and must provide clear definitions and transparent provisions that are simple to abide by and enforce, and promote legal and regulatory certainty;
37. Calls for the adoption of proportionate rules to avoid undermining SMEs, start-ups and

companies that are engaged in the process of digitalising their businesses; stresses that tax policy can be one of the tools to support the competitiveness of the single market in this regard; stresses that a growth-friendly tax policy aiming at strengthening the international competitiveness of the single market is needed;

38. Emphasises the need to review existing double taxation rules to ensure that all profit that leaves the EU is taxed;
39. Notes that some Member States consider the taxation of large highly digitalised businesses an urgent issue and have therefore introduced digital services taxes at national level; notes that these national digital taxes have an impact on international trade and negotiations; points out, however, that introducing national solutions unilaterally can create a risk of fragmentation and tax uncertainty within the single market; underlines that the multiplication of national measures makes the introduction of a coordinated European solution all the more pressing; recalls that these national measures should be phased out if an effective multilateral solution is found;
40. Recalls that although taxation is primarily a Member State competence, governments must, to the greatest extent possible, exercise it in a manner that is in keeping with the common principles of EU law in order to ensure coherence between national frameworks, thereby allowing for fair competition and avoiding negative impacts on the overall coherence of EU taxation principles;
41. Notes that the Council did not agree on any of the Commission's related proposals, i.e. the digital services tax, the significant digital presence or the CCTB and CCCTB; calls on the Member States to reconsider their positions on these proposals in case the OECD negotiations fail, especially in the light of the unprecedented circumstances of the COVID-19 crisis, or to consider integrating them into a potential future implementation of OECD agreements, and to consider all options provided for by the Treaties if no unanimous agreement can be reached;
42. Calls on the Member States to relaunch a high-level political dialogue within the Council, to prepare the ground for a decision regarding digital taxation within the single market, regardless of the outcome of international negotiations; invites the Council to progress on legislative files already adopted by Parliament in order to adhere to the principle of sincere cooperation among EU institutions;
43. Welcomes the Commission inception impact assessment of 14 January 2021 on a digital levy; notes that digitalisation can increase productivity and consumer welfare, but that it is also of paramount importance to ensure that large, highly digitalised businesses contribute their fair share to society; calls on the Commission to carefully assess how the scope, definition and segmentation of digital activities, transactions, services or companies will be in line with international efforts to find a global solution;
44. Acknowledges the three tax policy options mentioned in the inception impact assessment, including:
  - a) a corporate income tax top-up (CIT) that would be compatible with international negotiations and bilateral tax agreements,
  - b) a tax based on revenues in the absence of an effective internationally agreed

solution, points however out that a digital tax should preferably tax profits,

- c) a tax on digital transactions conducted business-to-business in the EU and perceives the risk of shifting the burden of the tax payment from large digitalised businesses to smaller companies relying on those services;
45. Asks for a detailed assessment of the impacts that each option would have both on the EU's digital agenda and the single market, as well as any possible trade disputes and retaliations from other economic actors and possible spill-over effects into other economic sectors;
46. Calls for a stronger role for Parliament in legislative procedures in the area of taxation; calls on the Commission to explore all possibilities offered by the Treaties; takes note, in this respect, of the Commission's proposed roadmap to qualified majority voting in its communication of 15 January 2019 entitled 'Towards a more efficient and democratic decision making in EU tax policy';

### *A digital levy as a new EU own resource*

47. Welcomes the Interinstitutional Agreement of 16 December 2020 (IIA) between Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>13</sup>, in compliance with the principle of universality, and recalls the Commission's legally binding commitment to present a legislative proposal concerning an EU digital levy as an own resource by June 2021; stresses the legally binding commitment of Parliament, the Council and the Commission to follow, without delay, the steps set out in the roadmap, with a view to introducing it at the latest by 1 January 2023;
48. Recalls that Parliament has restated its commitment to the introduction of an EU digital levy as an own resource with large majorities in a series of reports and resolutions<sup>14</sup>;
49. Stresses that the IIA, including the roadmap towards the introduction of new own resources, binds the Council, Parliament and the Commission to irreversibly move forward with an EU digital levy that will enter the long-term EU budget in its entirety as an own resource and a long-term stable source of income; underlines that, irrespective of whether the ground rules are determined at OECD or EU level, revenues generated by digital taxation in the Member States can and must become an own resource; considers that the same approach should also be followed for any other revenues generated by any agreement at OECD level;

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<sup>13</sup> OJ L 433I, 22.12.2020, p. 28.

<sup>14</sup> Most notably its resolutions of 14 March 2018 on reform of the European Union's system of own resources (OJ C 162, 10.5.2019, p. 71), of 14 November 2018 entitled 'Interim report on the Multiannual Financial Framework 2021-2027 – Parliament's position with a view to an agreement' (OJ C 363, 28.10.2020, p. 179), of 10 October 2019 on the 2021-2027 multiannual financial framework and own resources: time to meet citizens' expectations (texts adopted, P9\_TA(2019)0032), of 15 May 2020 on the new multiannual financial framework, own resources and the recovery plan (texts adopted, P9\_TA(2020)0124), and of 23 July 2020 on the conclusions of the extraordinary European Council meeting of 17-21 July 2020 (texts adopted P9\_TA(2020)0206), and its legislative resolution of 16 September 2020 on the draft Council decision on the system of own resources of the European Union (texts adopted, P9\_TA(2020)0220).

50. Considers that the revenues of the EU digital levy would be intrinsically linked to the open borders of the single market and the ‘digital union’ and would therefore constitute a highly suitable and genuine basis for an EU own resource; stresses that dedicating this new stream of public income to the EU budget would help resolve several problematic issues linked to fiscal equivalence and fiscal coherence;
51. Calls for a tax design and implementation rules that aim to minimise the risks of any economic incidence being rolled over on EU citizens and consumers; is convinced that turning the proceeds of the digital tax into an own resource for the EU budget would help in dispersing and re-distributing such costs in an equitable manner across the Member States;
52. Recalls that own resources based on an EU digital levy and/or OECD rules are not to be formally earmarked for expenditure under any particular programme or fund, in compliance with the universality principle; recalls that they will constitute general income along with other new own resources whose overall amount should be sufficient to cover at least the costs of the repayments of the Next Generation EU Recovery Instrument; recalls that any income from new own resources that exceeds actual needs for repayments will continue to serve the EU budget as general revenue;
53. Recalls that as stated in point G of Annex II of the IIA, the institutions acknowledge that the introduction of a basket of new own resources should support the adequate financing of Union expenditure in the MFF;
54. Maintains that the revenue of the EU digital levy will be part of a basket of new own resources whose proceeds will at least be sufficient to cover, through the EU budget, the future repayment costs (principal and interest) arising from the Recovery Instrument’s grants component, expected to be around EUR 15 billion per year on average and a maximum of EUR 29.25 billion per year from 2028 until 2058, while avoiding a reduction in expenditure for EU programmes; notes that the revenue estimates range from several billions of euro to several tens of billions of euro depending on a range of factors including the exact definition of the taxable base, the taxable entity, the place of taxation, the calculation and the rate of tax, as well as economic growth rates in the sectors concerned;
55. Underlines that the introduction of a basket of new own resources, as provided for in the roadmap of the IIA, including the EU digital levy, will increase the EU’s financial autonomy and its ability to deliver on EU citizens’ expectations regarding the EU’s strategic policy objectives such as a fair and strong European single market, the European Green Deal based on a just transition, the European Pillar of Social Rights and the digital transformation, as well as the creation of EU added value with high efficiency gains compared to national spending;
56. Recalls that the revenue from the EU digital levy must contribute to the repayment of the Recovery Instrument and to the financing of expenditure for Union programmes and funds; reaffirms, in this regard, that any share of digital levy revenue retained by Member States should be strictly proportional to the collection costs they incur and should not unduly disadvantage the EU budget;
57. Urges the Commission to incorporate Parliament’s position when preparing the



legislative proposals for an EU digital levy as an own resource and the revised own resources decision and calls on the Council to swiftly adopt the proposal in line with the roadmap; encourages the institutions to engage swiftly and constructively in the ‘regular dialogue’ provided for in the agreed own resources roadmap; urges the European Council to endorse a resolute leadership role for the EU in the worldwide endeavour towards fairer taxation by taking swift and determined steps towards introducing a digital levy as an own resource in the course of 2021;

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58. Instructs its President to forward this resolution to the Council and the Commission.

## EXPLANATORY STATEMENT

We are facing an important evolution in our economies due to digitalisation and globalisation. It has been carrying out positive effects on our society and our economies, like cheaper, more powerful, and widely standardised technologies. At the same time, this process creates new challenges to the existing international tax system, which can lead to no or low taxation, market distortions, and tax uncertainty.

In this regards, the established international tax system needs an overhaul in order to be up to the new digital challenges. The objective in the end is to arrive at a fair and effective international tax system covering also the specific features of a globalised digital economy.

The current COVID-19 pandemic and its impact on domestic tax bases revealed the urgency to finalize quickly on-going negotiations at the G20/OECD within the Inclusive Framework. Within the EU, past initiatives of Commission and Parliament have not succeeded within the Council. Following the establishment of the current multi-annual financial framework the Commission has been tasked to work on a proposal taxing digital businesses.

The co-rapporteurs are of the opinion that:

- Digital businesses and services have to pay their fair share of taxes in consumer markets as much as traditional ones. We need to overcome the known limits of the definition of a permanent establishment which need to cover virtual aspects as well.
- Negotiations within the IF need to be finalized as quickly as possible till mid-2021 in order to create a consensus among the 137 participating states for having a fair share of taxing the digital economy (pillar 1) and to agree on a global minimum tax that would address the remaining issues of base erosion and profit shifting (BEPS) (pillar 2).
- It is necessary to embrace a broader definition of the scope but at the same time not harming “bricks and mortar” types of businesses including SMEs: It is necessary to cover not only highly digital business models but also, more broadly, large consumer-facing businesses. The aim is to create a new ‘tax nexus’ model, which is predominantly based on sales instead of physical presence.
- The Commission and Council shall prioritize tax matters towards the new US administration in order to reach multilateral solutions at the G20/OECD level.
- As a matter of urgency the European Council and the Council shall proceed on the Commission`s initiatives addressing the loss of tax revenue deriving from not taxing digital business models.



17.3.2021

## OPINION OF THE COMMITTEE ON BUDGETS

for the Committee on Economic and Monetary Affairs

on Digital taxation: OECD negotiations, tax residency of digital companies and a possible European Digital Tax  
(2021/2010(INI))

Rapporteurs for opinion (\*): José Manuel Fernandes, Valérie Hayerç

(\*): Associated committee – Rule 57 of the Rules of Procedure

### SUGGESTIONS

The Committee on Budgets calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to incorporate the following suggestions into its motion for a resolution:

1. Welcomes the Interinstitutional Agreement of 16 December 2020 (IIA) between Parliament, the Council and the Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources<sup>1</sup>, in compliance with the principle of universality, and recalls the Commission's legally binding commitment to present a legislative proposal concerning an EU digital levy as an own resource by June 2021; stresses the legally binding commitment of Parliament, the Council and the Commission to follow, without delay, the steps set out in the roadmap, with a view to introducing it at the latest by 1 January 2023;
2. Recalls that Parliament has restated its commitment to the introduction of an EU digital levy as an own resource with large majorities in a series of reports and resolutions<sup>2</sup>;
3. Stresses that the IIA, including the roadmap towards the introduction of new own resources, binds the Council, Parliament and the Commission to irreversibly move forward with an EU digital levy that will enter the long-term EU budget in its entirety as

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<sup>1</sup> OJ L 433I, 22.12.2020, p. 28.

<sup>2</sup> Most notably its resolutions of 14 March 2018 on reform of the European Union's system of own resources (OJ C 162, 10.5.2019, p. 71), of 14 November 2018 entitled 'Interim report on the Multiannual Financial Framework 2021-2027 – Parliament's position with a view to an agreement' (OJ C 363, 28.10.2020, p. 179), of 10 October 2019 on the 2021-2027 multiannual financial framework and own resources: time to meet citizens' expectations (texts adopted, P9\_TA(2019)0032), of 15 May 2020 on the new multiannual financial framework, own resources and the recovery plan (texts adopted, P9\_TA(2020)0124), and of 23 July 2020 on the conclusions of the extraordinary European Council meeting of 17-21 July 2020 (texts adopted P9\_TA(2020)0206), and its legislative resolution of 16 September 2020 on the draft Council decision on the system of own resources of the European Union (texts adopted, P9\_TA(2020)0220) ;

an own resource and a long-term stable source of income; underlines that, irrespective of whether the ground rules are determined at OECD or EU level, revenues generated by digital taxation in the Member States can and must become an own resource; considers that the same approach should also be followed for any other revenues generated by any agreement at OECD level;

4. Regrets that the OECD's failure to find consensus on digital taxation by the end of 2020 as planned has prolonged the under-taxation of the digital economy, as on average, digital businesses face an effective tax rate of only 9.5 %, compared to 23.2 % for traditional business models<sup>3</sup>, while both benefit from local non-economic factors such as infrastructure and the availability of high-skilled workers; observes that the present economic context, in which many multinational corporations specialised in digital services continue to generate profits in spite of the general recession, has led to a broad demand from the public and businesses themselves to ensure a level playing field and a fair contribution to the social and economic recovery;
5. Notes with interest, however, recent signs of progress towards a common approach in some G20 states, notably at the technical level, given that a global solution would be the most effective, including with regard to a tax fairness; calls for a swift agreement in the OECD by mid-2021; considers it nevertheless timely and necessary that the EU spearhead concrete, tangible and irreversible political and legislative action in the coming months to drive forward and incentivise international efforts, as a standard setter for greater tax fairness, through the introduction of the EU digital levy, while continuing the international negotiations at OECD level;
6. Points out that the current corporate taxation rules no longer fit the modern global, digital and societal demand for fair digital taxation; notes that while the reforms in the digital taxation are justified independently of the current crisis, it is clear that the COVID-19 social and economic crisis is boosting the digital transformation processes and that many digital and digitalised multinational companies have registered profits during the pandemic and currently do not pay the level of tax that they should owe; underlines the need to reform and modernise the current tax system to reinforce the sustainability of public finances in the long run; reiterates, therefore, that the EU digital levy will counter tax base erosion, tax avoidance, tax fraud and aggressive tax planning by capturing mobile bases, levelling the playing field, contributing to restoring tax fairness and EU citizens' trust in the system and protecting the financial interests of the EU; considers that its revenues would be intrinsically linked to the open borders of the single market and the 'digital Union' and would therefore constitute a highly suitable and genuine basis for an EU own resource; stresses that dedicating this new stream of public income to the EU budget would help resolve several problematic issues linked to fiscal equivalence and fiscal coherence;
7. Calls for an approach that will prevent the risks of double taxation and double non-taxation and that minimises compliance costs for European companies, in particular SMEs; calls for a tax design and implementation rules that aim to minimise the risks of any economic incidence being rolled over on EU citizens and consumers; is convinced that turning the proceeds of the digital tax into an own resource for the EU budget

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<sup>3</sup> Computations from the Commission impact assessment based on ZEW (2016, 2017) and ZEW et al. (2017). See staff working document SWD(2018)0081.

would help in dispersing and re-distributing such costs in an equitable manner across the Member States;

8. Stresses that a single set of harmonised rules and implementation procedures anchored in EU level legislation would result in lower administrative overhead costs for public tax collecting authorities in the Member States, as well as vastly reduced compliance costs, in particular for digital business models that are scalable across the single market;
9. Recalls that own resources based on the EU digital levy and/or OECD rules are not to be formally earmarked for expenditure under any particular programme or fund, in compliance with the universality principle; recalls that they will constitute general income along with other new own resources whose overall amount should be sufficient to cover at least the costs of the repayments of the Next Generation EU Recovery Instrument; recalls that any income from new own resources that exceeds actual needs for repayments will continue to serve the EU budget as general revenue;
10. Recalls that as stated in point G of Annex II of the IIA, the institutions acknowledge that the introduction of a basket of new own resources should support the adequate financing of Union expenditure in the MFF;
11. Maintains that the revenue of the EU digital levy will be part of a basket of new own resources whose proceeds will at least be sufficient to cover, through the EU budget, the future repayment costs (principal and interest) arising from the Recovery Instrument's grants component, expected to be around EUR 15 billion per year on average and a maximum of EUR 29.25 billion per year from 2028 until 2058, while avoiding a reduction in expenditure for EU programmes; notes that the revenue estimates range from several billions of euro to several tens of billions of euro depending on a range of factors including the exact definition of the taxable base, the taxable entity, the place of taxation, the calculation and the rate of tax, as well as economic growth rates in the sectors concerned; notes that in order to re-establish tax fairness and a level playing field between sectors, the minimum 'rate' or amount of the levy should be defined in a way that will result in an effective taxation which is commensurate with the average effective tax rate on the profits of traditional international businesses across the EU-27;
12. Underlines that the introduction of a basket of new own resources, as provided for in the roadmap of the IIA, including the EU digital levy, will increase the EU's financial autonomy and its ability to deliver on EU citizens' expectations regarding the EU's strategic policy objectives such as a fair and strong European single market, the European Green Deal based on a just transition, the European Pillar of Social Rights and the digital transformation, as well as the creation of EU added value with high efficiency gains compared to national spending;
13. Recalls that the revenue from the EU digital levy must contribute to the repayment of the Recovery Instrument and to the financing of expenditure for Union programmes and funds; reaffirms, in this regard, that any share of digital levy revenue retained by Member States should be strictly proportional to the collection costs they incur and should not unduly disadvantage the EU budget;
14. Considers that protecting and developing start-ups and SMEs offering digital services by providing them with a fair fiscal environment, and promote digital innovation and

research on digital aspects is of the utmost importance; recalls that in 2018 Parliament recommended a design for the EU digital services tax that would not target SMEs and start-ups thanks to the introduction of a high threshold of worldwide revenue and taxable revenue within the Union; supports the spirit of this approach and asks for a digital levy that will generate substantial revenue from a significant scope of digital services, such as advertising and the sale of data;

15. Urges the Commission to incorporate Parliament's position when preparing the legislative proposals for an EU digital levy as an own resource and the revised own resources decision and calls on the Council to swiftly adopt the proposal in line with the roadmap; encourages the institutions to engage swiftly and constructively in the 'regular dialogue' provided for in the agreed own resources roadmap; urges the European Council to endorse a resolute leadership role for the EU in the worldwide endeavour towards fairer taxation by taking swift and determined steps towards introducing a digital levy as an own resource in the course of 2021.

## INFORMATION ON ADOPTION IN COMMITTEE ASKED FOR OPINION

<b>Date adopted</b>	17.3.2021
<b>Result of final vote</b>	+: 34 -: 2 0: 4
<b>Members present for the final vote</b>	Rasmus Andresen, Robert Biedroń, Anna Bonfrisco, Olivier Chastel, Lefteris Christoforou, David Cormand, Paolo De Castro, José Manuel Fernandes, Eider Gardiazabal Rubial, Vlad Gheorghe, Valentino Grant, Elisabetta Gualmini, Francisco Guerreiro, Valérie Hayer, Niclas Herbst, Monika Hohlmeier, Mislav Kolakušić, Moritz Körner, Joachim Kuhs, Zbigniew Kuźmiuk, Ioannis Lagos, Hélène Laporte, Pierre Larrourou, Janusz Lewandowski, Margarida Marques, Silvia Modig, Siegfried Mureşan, Victor Negrescu, Andrey Novakov, Jan Olbrycht, Dimitrios Papadimoulis, Karlo Ressler, Bogdan Rzońca, Nicolae Ştefănuţă, Nils Torvalds, Nils Ušakovs, Johan Van Overtveldt, Rainer Wieland, Angelika Winzig
<b>Substitutes present for the final vote</b>	Henrike Hahn

## FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

34	+
ID	Anna Bonfrisco, Valentino Grant, H��l��ne Laporte
NI	Mislav KolakuŐ�ic
PPE	Lefteris Christoforou, Jos�� Manuel Fernandes, Niclas Herbst, Monika Hohlmeier, Janusz Lewandowski, Siegfried MureŐ�an, Andrey Novakov, Jan Olbrycht, Karlo Ressler, Rainer Wieland, Angelika Winzig
Renew	Olivier Chastel, Vlad Gheorghe, Val��rie Hayer, Nicolae Ő�tef��nuŐ�a, Nils Torvalds
S&D	Robert Biedro��n, Paolo De Castro, Eider Gardiazabal Rubial, Elisabetta Gualmini, Pierre Larrourou, Margarida Marques, Victor Negrescu, Nils UŐ�akovs
The Left	Silvia Modig, Dimitrios Papadimoulis
Verts/ALE	Rasmus Andresen, David Cormand, Francisco Guerreiro, Henrike Hahn

2	-
ID	Joachim Kuhs
NI	Ioannis Lagos

4	0
ECR	Zbigniew KuŐ�miuk, Bogdan Rzo��ca, Johan Van Overtveldt
Renew	Moritz K��rner

### Key to symbols:

+ : in favour

- : against

0 : abstention

## INFORMATION ON ADOPTION IN COMMITTEE RESPONSIBLE

<b>Date adopted</b>	23.3.2021
<b>Result of final vote</b>	+: 48 -: 4 0: 6
<b>Members present for the final vote</b>	Gunnar Beck, Marek Belka, Isabel Benjumea Benjumea, Stefan Berger, Gilles Boyer, Francesca Donato, Derk Jan Eppink, Engin Eroglu, Jonás Fernández, Frances Fitzgerald, José Manuel García-Margallo y Marfil, Luis Garicano, Sven Giegold, Valentino Grant, Claude Gruffat, José Gusmão, Eero Heinäluoma, Danuta Maria Hübner, Stasys Jakeliūnas, Othmar Karas, Billy Kelleher, Ondřej Kovařík, Georgios Kyrtos, Aurore Lalucq, Aušra Maldeikienė, Pedro Marques, Jörg Meuthen, Csaba Molnár, Siegfried Mureşan, Caroline Nagtegaal, Luděk Niedermayer, Lefteris Nikolaou-Alavanos, Piernicola Pedicini, Lídia Pereira, Kira Marie Peter-Hansen, Sirpa Pietikäinen, Dragoş Pîslaru, Evelyn Regner, Antonio Maria Rinaldi, Alfred Sant, Martin Schirdewan, Joachim Schuster, Ralf Seekatz, Pedro Silva Pereira, Paul Tang, Irene Tinagli, Ernest Urtasun, Inese Vaidere, Johan Van Overtveldt, Stéphanie Yon-Courtin, Marco Zanni, Roberts Zīle
<b>Substitutes present for the final vote</b>	Damien Carême, Hélène Laporte, Margarida Marques, Eva Maydell, Andreas Schwab, Mick Wallace

## FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

48	+
ID	Francesca Donato, Valentino Grant, H�el�ene Laporte, Antonio Maria Rinaldi, Marco Zanni
PPE	Isabel Benjumea Benjumea, Stefan Berger, Jos�e Manuel Garc�ıa-Margallo y Marfil, Danuta Maria H�ubner, Othmar Karas, Georgios Kyrtos, Au�ra Maldeikien�e, Eva Maydell, Siegfried Mure�an, Lud�ek Niedermayer, L�ıd�ıa Pereira, Sirpa Pietik�inen, Andreas Schwab, Ralf Seekatz, Inese Vaidere
Renew	Gilles Boyer, Engin Eroglu, Luis Garicano, Ondr�ej Kovařík, Drago� P�ıslaru, St�ephanie Yon-Courtin
S&D	Marek Belka, Jon�as Fern�andez, Eero Hein�aluoma, Aurore Lalucq, Margarida Marques, Pedro Marques, Csaba Moln�ar, Evelyn Regner, Joachim Schuster, Pedro Silva Pereira, Paul Tang, Irene Tinagli
The Left	Jos�e Gusm�ao, Martin Schirdewan, Mick Wallace
Verts/ALE	Damien Car�eme, Sven Giegold, Claude Gruffat, Stasys Jakeli�unas, Piernicola Pedicini, Kira Marie Peter-Hansen, Ernest Urtaşun

4	-
ID	Gunnar Beck, J�org Meuthen
NI	Lefteris Nikolaou-Alavanos
S&D	Alfred Sant

6	0
ECR	Derk Jan Eppink, Johan Van Overtveldt, Roberts Z�ile
PPE	Frances Fitzgerald
Renew	Billy Kelleher, Caroline Nagtegaal

### Key to symbols:

+ : in favour

- : against

0 : abstention