



## **Package for fair and simple taxation -**

# **The European Union tax package of 15 July 2020**

COM (2020) 312 final

COM (2020) 313 final

COM (2020) 314 final

# Executive summary

With the tax package of 15.7.2020, the Commission adopted three initiatives which, although independent of each other, but complementary:

- The Tax Action Plan (COM(2020) 312 final)
- The Proposal on administrative cooperation (COM(2020) 314 final)
- The Communication on tax good governance (COM(2020) 313 final)

The Tax Action Plan contains 25 measures, most of them fairly technical, to improve cooperation between tax authorities. On one hand, this strives to increase the competitiveness of businesses and contribute to economic growth and on the other, improve the exchange of information between tax authorities to combat tax fraud and evasion more effectively and to secure tax revenues.

The Directive on Administrative Cooperation amends the Mutual Assistance Directive and extends the automatic exchange of information on transactions mediated by online platforms.

The Communication on tax good governance aims at reforming the Code of Conduct for business taxation. In the future, it should also be possible to classify general tax arrangements, such as very low overall levels of taxation or zero taxation, as harmful measures under the Code of Conduct.

The measures presented are going in the right direction – even if the big success failed to materialise. However, what is important now – from the point of view of the Austrian Chamber of Labour – are bold measures in addition to the rapid implementation of the steps announced in the package above. This includes the following initiatives:

- For reasons of transparency and fiscal fairness, the Commission proposal for **public country-by-country reporting (pCbCR)** needs to be implemented rapidly.
- Further steps are needed to combat VAT fraud, e.g. a genuine opportunity for Member States to switch to the **reverse charge system**.
- In addition to the amendments to the Code of Conduct and building on the plans at an OECD level, concrete steps towards an **EU-wide minimum tax rate on company profits** are needed. Along with a **Common Consolidated Corporate Tax Base (CCCTB)**, this must be the core content of the Action Plan on company taxation to be announced by the end of 2020.

# The AK's position

## 1. The tax package in detail

On 15 July 2020, the Commission adopted a new tax package entitled "Fair and Simple Taxation Package", consisting of three initiatives:

- The Tax Action Plan (COM(2020) 312 final)
- The Proposal on administrative cooperation (COM(2020) 314 final)
- The Communication on tax good governance (COM(2020) 313 final)

Although the three initiatives are independent of each other, they are designed to complement each other to make taxation in the European Union simpler, fairer and better adapted to the demands of the modern world. The tax package is intended to form the starting point of the European Commission's comprehensive and indeed ambitious tax policy plans for the coming years.

### 1.1. The Tax Action Plan

The action plan for fair and simple taxation to support the development strategy consists of 25 distinct actions to be implemented by 2023.

| #                     | Measure  | Resources   | Implementation |
|-----------------------|--|---|----------------|
| A1<br>A4<br>A5<br>A23 | "VAT in the digital age" package: update VAT rules for the sharing economy, move to a single EU VAT registration, modernise VAT reporting obligations and facilitate e-invoicing | Impact assessment possibly leading to an amendment of the VAT Directive and/or an amendment of the Regulation on administrative cooperation in the field of VAT | 2022           |
| A2                    | Better quality and use of tax data   | Non-legislative initiative: pilot project to be followed by a Commission staff working document presenting the key findings and recommendations                 | 2022           |
| A3                    | "Cooperative compliance framework" for a preventive dialogue between tax administrations and businesses to resolve cross-border tax issues                                       | Non-legislative initiative. Pilot project   | 2021 Q1-Q2     |
| A6                    | Good practice recommendations for improving tax collection in the EU   | Report from the European Commission to Parliament and Council   | 2020, Q4       |

|            |   |  |           |
|------------|---|--|-----------|
| A7         | Consistency of tax residence rules for individuals to avoid double (non)-taxation   | Impact assessment possibly leading to a Commission proposal for a directive to harmonise tax residence criteria  | 2022      |
| A8         | Digital solutions to levy withholding taxes to facilitate tax payment/collection  | Impact assessment possibly leading to a legislative initiative in the form of a proposal for a directive introducing a system of withholding tax relief                      | 2022      |
| A9         | Eurofisc 2.0<br>("Early warning system against VAT fraud")  | More efficient combating of cross-border VAT fraud within the framework of Eurofisc and extension of the scope of Eurofisc to direct taxes by amending Regulation 904/2010   | 2022-2023 |
| A10        | Extension of the automatic exchange of information to crypto-assets/e-money   | Impact assessment possibly leading to a proposal amending the Directive on administrative cooperation in the field of direct taxation  | 2021, Q4  |
| A11        | Launch of Tax Observatory   | Non-legislative initiative, implementation of a European Parliament preparatory action   | 2020, Q4  |
| A12<br>A13 | Reinforcement of verifications of cross-border transactions by switching from exchanging to sharing of tax-related data<br><br>Making the verification process of cross-border transactions faster and more effective by leveraging new technological tools, advanced analytics and flexible data sharing at EU level | Impact assessment possibly leading to a legislative initiative in the form of a Commission proposal amending Council Regulation (EU) No 904/2010                             | 2023      |
| A14        | VAT administrative cooperation between the EU and relevant third countries  | Conclusion of agreements between the EU and relevant third countries on administrative cooperation in the field of VAT   | 2023      |
| A15        | Implementation of Standing Committee for dispute resolution   | Implementation of a permanent body for dispute resolution, a so-called Standing Committee, for which the legal basis is already provided for in the Directive (EU) 2017/1852 | 2021, Q3  |
| A16        | VAT dispute prevention and resolution   | Impact assessment possibly leading to a Commission proposal for a directive introducing a dispute resolution mechanism in the field of VAT                                   | 2022      |
| A17        | Charter on taxpayer's rights – Communication taking stock of taxpayers' existing rights under EU law together with a Recommendation to Member States to facilitate the implementation of taxpayers' rights and to simplify tax obligations  | Communication from the European Commission to the Parliament and the Council & Commission recommendation addressed to the Member States                                      | 2021, Q3  |
| A18        | Update and simplify VAT rules for financial services, to ensure a level playing field within the Union and the international competitiveness of EU companies  | Impact assessment possibly leading to a Commission proposal amending the Council VAT Directive   | 2021, Q4  |

|            |   |  |          |
|------------|---|--|----------|
| A19        | Transforming the VAT Committee into a Comitology Committee to oversee the adoption of implementing acts by the Commission by qualified majority   | Amendment of the VAT Directive   | 2020, Q4 |
| A20        | Conference on data analysis and digital solutions ("Big Tax Data Summit") with regard to the use of technologies for intelligent taxation and avoidance of unnecessary reporting by companies | Non-legislative initiative: communication event  | 2021, Q2 |
| A21        | Establishment of an expert group on transfer pricing  | Expert group to develop pragmatic, non-legislative solutions to practical problems.  |          |
| A22<br>a+b | Evaluation and revision of the special VAT scheme for travel agents   | Non-legislative initiative: commission staff working document - Evaluation of the current system and proposal to amend the VAT Directive to reduce distortions of competition and simplify the rules | 2020-22  |
| A24        | Review VAT rules on passenger transport to ensure their coherence with the taxation policy developed under the Green Deal   | Impact assessment possibly leading to a Commission proposal for a Council directive amending the Council VAT Directive   | 2022     |
| A25        | E-commerce package for excise goods: facilitating distance selling of excise goods while minimising fraud and distortions of competition  | Impact assessment possibly leading to a Commission proposal amending the Council Directive on General Arrangement for Excise Duty  | 2022     |

European Commission (2020), Own presentation and adaptation.

A glance at the planned measures clearly shows the problems of the European Union's tax policy. The majority of the planned measures are technical details without major impact, but their implementation is nevertheless necessary. However, further measures are needed for real improvements. In particular, measures are needed to improve the fight against VAT fraud, which accounts for about €50 billion a year in lost tax revenue in the European Union (IP/17/3443). One option in this direction would be the so-called "reverse charge procedure", where the VAT liability is transferred from the buyer to the seller. The fact that VAT liability and input tax deduction are then concentrated with one player makes carousel fraud technically impossible. Although [the Council Decision of October 2018](#) provides for Member States to implement the reverse charge system under certain conditions, but only for a limited period until 2022. No Member State will introduce this measure, which in itself is a sensible one and requires a considerable amount of conversion work, if it is only allowed to apply for such a short period.

An additional problem is that it is not even certain whether these technical changes can be implemented at all. Tax decisions still require unanimity at EU level, one of the few areas of law where this is still required. And the problems associated with unanimity are well known.

The Commission already presented a proposal in 2019 which provides for a gradual transition from the unanimity requirement to the normal legislative procedure of qualified majority voting, including in the tax field. No implementation of this proposal is currently expected.

The Commission's proposal to examine in future to what extent tax measures based on the general provision of Article 116 TFEU, to eliminate distortions of competition, could also be enacted in the future by means of ordinary legislative procedure, is therefore indeed noteworthy. But this idea has also been repeatedly done the rounds in the past. Ultimately, however, no Commission before actually dared to propose this provision for tax measures.

## 1.2. The Proposal on administrative cooperation

The second cornerstone of the EU Tax Package is an extension of the existing tax transparency regulations within the framework of the Mutual Assistance Directive to online platforms. It is planned to extend the automatic exchange of information to include sales made via online platforms and the players behind them. The Commission is rightly aware that it is becoming increasingly difficult for the tax authorities to verify the tax obligations relating to transactions carried out through platforms. For the

tax authorities, it is hardly comprehensible anymore who is actually making tax-relevant transactions and whether all tax obligations are observed. For this reason, platform operators should be required to provide information on the players operating on the platforms (name, address, VAT number, etc.) and their sales to the tax authority of the Member State in which the seller is established. This includes sellers who offer their goods or services, rent out real estate or means of transport of all kinds or invest/provide money within the framework of crowdfunding. Austria already implemented a similar regulation in 2018. Under the provisions of Section 18 (11) and (12) of the UStG (Austrian Value Added Tax Act), online platforms that act as agents for the supply of goods or other services in Austria are already obliged to keep records of the generated turnover and to submit them to the tax authorities by 31 January of the following year. The regulation was an important step towards more tax compliance and fairness in Austria. It is therefore good, if Europe follows suit.

### 1.3. Notice of Tax Good Governance

The problems of tax competition between states and the aggressive tax avoidance strategies of multinational corporations are already well known. Due to the COVID-19 crisis and the associated economic problems and the need to quickly overcome this crisis, the need to take action become even more urgent.

The Commission links tax good governance to certain criteria: transparency, "fair tax competition", the absence of harmful tax measures and the application of internationally agreed standards. In the light of developments in recent years, a far-reaching reform of the Code of Conduct for Business Taxation is urgently needed. According to current principles, a tax provision is harmful only if it provides a special advantage for foreign investors, i.e. if it derogates from the general tax rules of a Member State. A very low level of taxation or even zero taxation is not a problem as long as it is a general rule. This differentiation between good tax competition (generally low taxes) and bad tax competition (special privileges for corporations) has been repeatedly criticised by NGOs and trade unions because it opens the door to a tax race to the bottom. Now it is at least implied that this mantra is up for discussion. In the Communication on good governance, the Commission even speaks unusually clearly of an escalation of tax competition that is pushing the limits of fairness (COM(2020) 313 final, 4f.).

The reform proposal now presented on the criteria for tax good governance is intended to ensure that in future general tax rules, such as very low overall levels of taxation or cases of zero taxation, can also

qualify as harmful measures within the meaning of the Code of Conduct. In future, this principle should also be automatically taken into account when drawing up the list of non-cooperative states or territories ("tax haven list"). There, low taxation levels (including zero taxation) were considered unproblematic if states could demonstrate that they were not creating incentives for artificial offshore structures without real economic activity (MEMO/17/5122 of 5.12.2017).

## 2. Assessment of the tax package

The measures presented are basically positive and a step in the right direction. However, this is not a resounding success, because most of the time it is about important but technical details. This is aggravated by the fact that the majority of the measures – especially when considering the 25 of the Action Plan – are announcements which may lead to Commission proposals. As such Commission proposals usually have to pass the unanimity of ECOFIN, their implementation is uncertain.

The long time horizon for implementing the proposals must also be viewed critically. In the case of anti-fraud measures in particular, implementation is often not planned until 2023. This is clearly too late – also in view of the current COVID-19 crisis. Due to the crisis, very soon there will be a need for employment-friendly consolidation, for which EU-wide conditions must be created now.

To this end – from the point of view of the Chamber of Labour – the following measures are of particular importance in addition to the steps announced in the package of measures:

- For reasons of transparency and fiscal fairness, the Commission proposal for **public country-by-country reporting** (pCbCR) needs to be implemented rapidly.
- Further steps are needed to combat VAT fraud, e.g. a genuine opportunity for Member States to switch to the **reverse charge system**.
- In addition to the amendments to the Code of Conduct and building on the plans at an OECD level, concrete steps towards an **EU-wide minimum tax rate on company profits** are needed. This, together with the **Common Consolidated Corporate Tax Base (CCCTB)**, must be a core content of the Action Plan on Corporate Taxation announced for the end of 2020.



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## About us

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The Austrian Federal Chamber of Labour (AK) is by law representing the interests of about 3.8 million employees and consumers in Austria. It acts for the interests of its members in fields of social-, educational-, economical-, and consumer issues both on the national and on the EU-level in Brussels. Furthermore the Austrian Federal Chamber of Labour is a part of the Austrian social partnership. The Austrian Federal Chamber of Labour is registered at the EU Transparency Register under the number 23869471911-54.

The main objectives of the 1991 established AK EUROPA Office in Brussels are the representation of AK vis-à-vis the European Institutions and interest groups, the monitoring of EU policies and to transfer relevant information from Brussels to Austria, as well as to lobby the in Austria developed expertise and positions of the Austrian Federal Chamber of Labour in Brussels.