"Digital Change and Taxation - Demands from the Viewpoint of Taxpayers"

Together with the OECD, the EU is starting a new attempt at creating a separate tax for digital services. This plan is reasoned with the explanation that existing tax systems are to be made fit for the digital age, and that large digital service providers supposedly pay close to no business tax.

It is alleged that major digital corporations like Google, Apple, Facebook and Amazon (GAFA) as well as the internet giant Alibaba (China) pay no or almost no taxes. By introducing a digital service tax (DST), supposedly the digital big players are to finally be forced to pay taxes and render their fair tax contribution, so the argument of the advocates of tax fairness. For this, the assessment basis for corporate entities will have to be harmonised in order to create transparency of tax structuring. And, in order to ensure the payment of taxes and duties, EU-wide minimum taxes in business taxation and a EU digital tax will have to be introduced. This is the only way to get the giants to pay taxes. And so on and so forth....

A trusting outside observant should not object to that, right? But so he/she should! For the facts tell a different story!

Comparison of the average taxation of large enterprises		
	Digital Enterprises	**Non-Digital Enterprises**
EU-Kommission Behauptung	9.5%	23.2%
ECIPE	**26.8%**	**27.7%**
Ifo	**20.9%**	**26.7**

Because the EU Commission invokes as purely hypothetical calculation from a ZEW study (2017) when alleging a difference in taxation. In this calculation, a fictitious investment project with an assumed return before tax and a hypothetical structure of capital goods was examined. Then a hypothetical tax burden was calculated for this project. But this has nothing to do with reality. Digital enterprises have expenses and fairly distinct margins. They pay taxes and duties, directly through business taxation (see above) and indirectly through the creation of jobs liable for income tax (see below).

The tax law of a country applies to digital enterprises just as much as to analogue businesses. Profits are taxed. But the actual situation of the business is also considered. Thus, in most countries losses that are incurred in particular during the development phase can be calculated as loss carried forward against surpluses of the following years. Whether a business therefore pays direct taxes depends on the lawful tax conditions and its economic success.

Digital enterprises have disproportional growth. That is undisputable. But what is forgotten in the discussion about taxes is the fact that this growth also has direct effects on the number of employees, and that digitalisation has created many new jobs. The GAFA alone have directly enabled more than 1.6 million people to make a living.

When looking at other corporations that also offer and sell digital goods and services, but are not in the focus yet, for example Microsoft or Nike, one quickly realises the dimensions of what all of this is really about. Because in principle, every enterprise that sells via the internet is also a digital enterprise. All people employed there pay their normal taxes and duties. Therefore, there is much more at issue when discussing tougher taxation of digital enterprises.

Development of Employment Numbers 2007 to 2020

	GAFA				Further US Corporations	
	Google	Apple	Facebook	amazon	Microsoft	Nike
2007	16,805	21,600	450	17,000	78,565	34,300*)
2011	32,467	60,400	3,200	56,200	90,412	38,000
2015	61,814	110,000	12,691	230,800	117,354	62,600
2016	72,053	116,000	17,048	341,400	114,074	70,700
2017	80,110	123,000	25,105	566,000	124,000	74,400
2018	98,771	132,000	35,587	647,500	131,000	73,100
2019	118,899	137,000	44,492	798,000	144,000	76,700
2020	135,301	147,000	58,604	1,298,000	163,000	75,400

Sources: https://de.statista.com and https://www.statista.com
*) Numbers only available from 2009 on
Summary/Layout Taxpayers Association of Europe (TAE), April 2021
Logos and pictures according to the official web representations by respective companies

Those alleging that GAFA and other big players do not pay taxes are either not well informed or are lying!

The often-cited deficit of transparency in tax structuring also does not bite.

Actually, in Europe today there are already more transparency and tougher rules when it comes to the taxation of enterprises. No legal tax structuring remains concealed, for if it is systematic and suitable for legal tax reduction it has to be reported. This even goes as far as tax consultants having to report potential tax-saving schemes by law.

Instead of provisional regulations it should be ensured within the settings of the G20 and the OECD that the digital economy fully fulfils its normal tax obligations.

If the thought of tax fairness applies it must really be about making sure that taxes are paid, that no taxes are evaded, and that the tax competition is not circumvented.

Where those taxes are then paid really does not matter from the standpoint of tax fairness!

A critical look at the situation therefore raises the question why the digital tax initiative relates to American and Chinese enterprises in particular? Is it maybe the worry of the EU states to not get enough of the tax pie?

The Taxpayers Association stands for fair tax competition, a fact that we cannot mention enough. Everybody has to pay his/her fair share of taxes and duties. For what is not paid by some has to be paid by the others. But what is now looming for the digital enterprises has absolutely nothing to do with fair taxation!

Model Calculations

Impact of the planned digital tax Example Germany			
Revenue	**1.000**	**1.000**	**1.000**
Digital tax (3 % of the Revenue)	30	30	30
Return on Sales	**5 %**	**10 %**	**15 %**
Profit (Revenue x Return on Sales)	**50**	**100**	**150**
Profit minus Digital Tax*	20	70	120
Profit Tax Rate	30 %	30 %	30 %
Profit Tax	6	21	36
Total taxes	**36**	**51**	**66**
Total tax burden (total taxes/ profit)	**72%**	**51%**	**44%**

*Source: Welling (2018); Calculation and Account. DSi**
The digital is supposed to count as chargeable operating expense and therefore reduces the income taxable profit (corporate tax and und trade tax)
Solidarity tax not taken into account.

The planned 3 percent digital tax on gross revenue threatens to inevitable become an arbitrary multiple burden on affected businesses. How high it turns out to be depends on the respective return on sales of the particular enterprise.

Examples of calculation (see above): If the return on sales of a company amounts to 10 percent, the digital tax would put a 30 percent burden on the profits. Added to that are the usual taxes on earnings, namely income tax or corporate and trade tax. In Germany this results in a total burden of in this case more than 50 percent! If the return on sales is lower, for example 5 percent, this leads to total tax burden of 72 percent! Of course, these numbers only apply as long as the digital tax is deductible. If this is not the case, the total tax burden at 5 percent return on sales would even be 90 percent!

Result: So far, the impact at return on sales of 5 percent, 10 percent and 15 percent and under the assumption that the company is seated in Germany and declares its total revenue there. At an average tax rate of 30 percent and a low return on sales under 15 percent the digital tax leads to a total tax burden (corporate tax, business tax and digital tax) of over 44 percent. For tax systematic reasons and the purpose of being comparable the solidarity tax (SOLI) was not taken into account. In Germany this one would additionally apply!

So How is the Situation with GAFA?

In the following chart the actual returns on sales of GAFA are listed and additionally those of some other large US enterprises, which also take in a large part of their revenues via online trade.

Return on Sales 2012 to 2020						
	GAFA				Further US Corporations	
	Google		f	amazon	Microsoft	
2012	21.40%	26.67%	1.04%	- 0.06%	23.03%	9.21%
2013	21.60%	21.67%	19.05%	0.37%	28.08%	9.82%
2014	21.88%	21.61%	23.58%	- 0.27%	25.42%	9.69%
2015	21.10%	22.85%	20.57%	0.56%	13.03%	10.70%
2016	21.58%	21.19%	36.97%	1.74%	19.69%	11.61%
2017	11.42%	21.09%	39.20%	1.71%	23.57%	12.34%
2018	22.46%	22.41%	39.60%	4.33%	15.02%	5.31%
2019	21.22%	21.24%	26.15%	4.13%	31.18%	10.30%
2020	22.06%	20.91%	33.90%	5.53%	30.96%	6.79%

Source: https://www.boerse.de
Summary/Layout Taxpayers Association of Europe (TAE), April 2021
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Impact of the DST on GAFA

The following chart demonstrates the tax impact of the implementation of a 3 percent digital service tax for GAFA. In this model and for illustrative purposes it is assumed that the revenue is generated entirely outside the US and that the corporate tax must be paid in full inside the US.

Although the Corona-year 2020 lead to an increase in online revenue due to massive lock-downs, we used the year 2020 for our calculations.

In 2018, the corporate tax in the **USA** was decreased from 35 percent to 21 percent. Under consideration of the average state and local tax rates, the total burden of previously 38,9 percent decreased to **25,75 percent** and is therefore very close to the corporate tax burden in Germany.

If one considers that the US under their new Minister for Finance, Janet Yellen, wants to increase the corporate tax rate from current 21 percent to 28 percent, this will lead - without a reduction of state and local taxes - to a total tax burden for American companies of around 32,75 percent. Accordingly, the total tax burdens of GAFA listed below will increase as a result of this tax increase.

Effects of a 3% Digital Tax on the GAFA Enterprises				
	Google			amazon
Revenue in Billion US Dollars	**182,527**	**274,515**	**85,965**	**386,064**
Digital Tax 3 % of Revenue in Billion $	5,476	8,235	2,579	11,582
Return on Sales in Percent	**22.06%**	**20.91%**	**33.90%**	**5.53%**
Earning before Taxes (EBT) in Billion $	**48,082**	**67,091**	**33,18**	**24,178**
EBT minus Digital Tax* in Billion $	42,60619	58,85555	30,60105	12,59608
US Corporate Tax Rate Total	25.75%	25.75%	25.75%	25.75%
Profit Taxes in Billion $	10,971	15,155	7,880	3,243
Total Taxes in Billion $	**16,447**	**23,391**	**10,459**	**14,825**
Total Tax Burden (Total Taxes / Profit)	**34%**	**35%**	**32%**	**61%**

Sources:
Revenue and earnings before taxes (EBT): see www.boerse.de
The digital tax is supposed to be a chargeable operating expense and reduces the income taxable profits (state and local tax).
The actually paid income tax can vary/differ.
Calculation and Layout TAE, April 2021; Logos and pictures according to the official web representations by respective companies

A look at the overview on tax impact of a digital tax very clearly demonstrates the resulting burden depending on the actual return on sales.

It becomes apparent that a coupling of the digital tax to the revenue and not the profit leads to a massive distortion and overburdening. For example, in 2020 the online trade giant, Amazon, had a record revenue in the amount of over 386 billion US Dollar, but only an EBT of around 24 billion US Dollar and therefore a return on sales of about 5.5 percent. As a result, the DT would lead to a total tax burden of 61 percent for Amazon.

Export Countries are Threatened by a Massive Tax Outflow

With the discussion of a digital tax, it is absolutely necessary that there be a regulatory impact assessment. For in the end, all exported goods, analogue ones as well as digital ones, will be levied with an additional tax. With export surplus countries this leads to an outflow of tax revenue!

The effects of this are depicted by the following chart:

Revenue Impact of a 3% Digital Tax and a 3% Tax on Sales of Analogue Goods*

Trades of Goods (2019)

Country	Product Exports ¹	Product Imports	Trade Balance ¹	Tax outflow or income after a 3% tax ¹*	Total Population
Germany	1.330,20	1.102,60	227,6	-6,828	80.159.662
Netherlands	633,8	568,5	65,3	-1,959	17.280.397
Ireland	151,7	88,7	63	-1,89	5.176.569
Italy	475,8	422,9	52,9	-1,587	62.402.659
Czech Republic	177,3	159,2	18,1	-0,543	10.702.498
Belgium	397,2	380,6	16,5	-0,495	11.720.716
Denmark	99	87,3	11,7	-0,351	5.869.410
Hungary	110,4	107	3,4	-0,102	9.771.827
Poland	235,9	234	1,8	-0,054	38.282.325
Sweden	143,4	141,8	1,6	-0,048	10.202.491
Slovenia	40,1	39,3	0,8	-0,024	2.102.678
Finland	65,5	65,7	-0,2	0,006	5.571.665
Slovakia	80,1	80,5	-0,4	0,012	5.440.602
Estonia	14,4	16,1	-1,7	0,051	1.228.624
Lithuania	29,6	31,8	-2,2	0,066	2.731.464
Latvia	13,8	16,8	-2,9	0,087	1.881.232
Bulgaria	29,8	33,2	-3,5	0,105	6.966.899
Malta	2,7	6,3	-3,6	0,108	457.267
Cyprus	3,1	8,2	-5,1	0,153	1.266.676
Austria	159,9	165,2	-5,3	0,159	8.859.449
Luxembourg	14,7	21,4	-6,7	0,201	628.381
Croatia	15,5	25	-9,5	0,285	4.227.746
Romania	68,7	86,2	-17,6	0,528	21.302.893
Portugal	59,9	80,3	-20,4	0,612	10.302.674
Greece	33,8	55,6	-21,8	0,654	10.607.051
Spain	298	332,2	-34,2	1,026	50.015.792
France	508,9	581,6	-72,7	2,181	67.848.156
EU (27)	**5.193,20**	**4.938,20**	**255**	**7,65**	**605.084.803**
China	2590	1610	980	-29,4	1.394.015.977
Switzerland	280,3	246,9	33,4	-1,002	8.403.994
Norway	91,9	76,7	15,1	-0,453	5.467.439
Iceland	4,7	5,8	-1,1	0,033	350.734
North Macedonia	6,4	8,5	-2	0,06	2.125.971
Montenegro	0,4	2,6	-2,2	0,066	609.859
Albania	2,7	5,8	-3,1	0,093	3.074.579
Serbia	16,5	23,2	-6,7	0,201	7.012.165
Turkey	161,6	187,9	-26,3	0,789	82.017.514
Japan	630,3	667,9	-37,7	1,131	125.507.472
United Kingdom	419,1	616,1	-197	5,91	65.761.117
USA	1.466,00	2.231,80	-765,8	22,974	332.639.102
Overall effect: ²	10.863,10	10.621,40	241,6	8,052	2.632.070.726

*Assumption: As a result of the 3% digital tax, all non-digital services are also subject to an additional 3% sales tax in the destination countries.

¹ including intra-EU trade in billion EUR; ² Total effect for the countries listed

Euro zone (19)

Source: EU Commission, Eurostat, Laenderdaten.de,
Own Representation (TAE)

Conclusion

A taxation of revenues and therefore not of actually generated profits without consideration of losses or depreciations as it is planned for the digital tax (DST) constitutes a frontal attack on the basic principles of the market economy and the taxation based on the ability-to-pay principle. For enterprises with low returns on sales it leads to disproportionally high tax burdens.

It is a fallacy to conclude a higher tax load capacity of enterprises based on surpluses, because this interferes directly with the substance as well as the allocation of reserves and own capital.

Additionally, the experiences of countries that have already implemented such a digital tax (for example Austria, France and Italy) show that such taxes are in the end flipped onto the consumers, who then have to foot the bill.

Tax avoidance by multinational corporations is a real problem, but it is not limited to the digital economy. In an increasingly global economy in which almost all enterprises do digital business, it is a legitimate question how this can be reflected in the existing tax systems. From the viewpoint of the Taxpayers Association, it would be more reasonable to link taxation more closely to added value. A new definition of what a permanent business establishment is would then be necessary in order to clearly assign profits (not revenues!). An example to be named here would be the allocation of trade tax yields according to business establishments in Germany.

How should a digital tax be structured? Globally, EU-wide or national-individualistically? Is a tax that is only tied to revenue even fair? How can unequal taxation of digital and non-digital enterprises be prevented in a digital tax-system? How can it be ensured that the currently principles like the principle of equivalence, the insurance principle, the principle of efficiency, the “ability-to-pay” principle, and the neutrality of taxation rulings continue to be in effect? A digital tax as it is currently conceived by the European Commission does not meet these requirements towards a modern tax system that is fair for all!

Also, what are the consequences of such a corporate tax reform for small and midsized enterprises (SME)? They cannot simply lower their cost or increase their prices on the market in order to stay competitive after such a tax reform.

In light of the EU stimulus package presented by Ursula von der Leyen and other programmes like the “Green Deal” etc. that stipulate higher EU expenditures, loans and liabilities amounting to trillions, the discussion of introducing an EU digital tax gains special significance.

The EU Commission wants the introduction of additional separate income for the EU. The digital service tax is specifically named in this context. But this is not what it is there for. The discussion of a digital tax must not be about the EU taking in revenue!

An extensive regulatory impact assessment is absolutely mandatory. Otherwise, the digital Tax will lead to massive damage and under no circumstances to the propagated benefit!

It is therefore of existential importance that we now enter into the discussion and rise to speak. It is key that the digital tax is discussed objectively and not motivated by ideology.

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