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# The EU's Digital Services Tax: Lessons from 2003

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The public perception is well-established now that international rules are unfit when it comes to taxing digital companies such as Amazon, Google or Apple in Europe. In light of this consensus, the European Commission published in March three significant proposals to advance the global policy debate on this issue. Included among these proposals is the so-called Digital Services Tax (DST).

According to the proposal, the DST would be a tax on gross revenue, imposed at a 3% rate on certain categories of income earned in the EU by companies that meet fairly large revenue thresholds globally and in the EU. Brussels has said it considers the DST an "interim" solution to collect some tax revenue from the digital sector until new international rules can be proposed and adopted by members of the Organisation for Economic Co-operation and Development (OECD). Austria, which holds the rotating European Council presidency, has pledged to get EU member states to agree to the DST proposal during its term through the end of this year.

A handful of member states – including Luxembourg – have resisted this type of tax in principle, at least until global consensus can be reached on the open policy options now under OECD consideration as part of its ongoing BEPS project. The OECD will not deliver its recommendations before 2020, however, well past the end of the Juncker Commission's term. This timing may well be another reason the Juncker Commission is striving to pass some form of DST legislation before the end of this year.

Another aspect at odds with the EU proposal is the opposition of the US government, which is obliged to represent the US tech sector. The US is a meaningful stakeholder in the OECD's digital tax policy project, but it is clearly not a direct stakeholder in the EU legislative process. Some of the smaller EU states are worried the implementation and administrative costs for a digital tax would outweigh any revenues generated. Many opponents point to the possibility that it will violate treaty obligations, while others simply oppose any 'new' tax on business.

Interestingly, neither member-state tax authorities nor the Commission consider VAT revenue generated on electronically supplied services in the EU as relevant to the digital-tax policy debate. Both US and European groups began to pay VAT on electronically provided services sold to EU consumers in 2003. The few US businesses selling into the EU bloc at that time, such as AOL, were put into the position of having to absorb or 'eat' the cost of the VAT, at least initially, to remain price-competitive with their European rivals.

The percentage loss in revenue for these suppliers, due to the added cost of the VAT, was double digit. The economic impact of a VAT on digital services then was significant, especially for the US suppliers. The additional VAT cost, as much as possible, was eventually passed on to the consumer, and the real beneficiaries were member state treasuries.

In contrast, the DST, given its relatively small percentage, is unlikely to have such a disruptive impact on digital business models. As a consequence, there may be some member states – and even one or more impacted companies – that will withdraw opposition and let the DST process run its course. Indeed, there may be even some public policy benefit for those companies that decide to support the DST publicly.

A corporate first-mover on the DST could establish itself as a legitimate contributor to the greater and more significant digital tax project. There is precedent in US corporate strategy with the launch of the 2003 VAT regime on electronically supplied services. US groups were motivated to expand in the EU, and that, in turn, created a meaningful boost to member state economies, which allowed these business models to grow at a quicker pace than under a normal evolution.

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