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# International Tax Policy Top 10 Timeline: The Events in Europe in the First Half of 2019 That Will Impact the Taxation of Us Digital Business Models

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A number of tax and political milestones in 2019 will, directly and indirectly, impact the ongoing global initiative to develop new rules for taxing the activities of cross-border business. The headline international tax controversies of the last several years have pitted US against European business interests, and that has played out at the government level as well in a very public way that is unprecedented. European-based institutions like the EU Commission and the Organization of Economic Cooperation and Development (OECD - the base erosion and profit shifting or BEPS project) have driven tax legislative innovations impacting cross-border investment and trade. Critics in the US, including both the Obama and Trump administrations, have interpreted some of this "innovation" as a European counter-punch to the widening digital innovation gap between the continents due to the unprecedented global growth of large US digital companies over the past decade.

## In the US

The US Treasury Department remains on the relatively fast track it established last year to issue detailed guidance implementing complex new concepts introduced under the Tax Cut and Jobs Act of 2017 (TCJA). Broadly, the TCJA rules for international taxation were intended (i) to start a transition of the US corporate tax system from worldwide to the international territorial standard, (ii) to encourage US corporate groups to invest more in the US with US and foreign resources (e.g., the repatriation of cash and assets to the US), and (iii) to deter "aggressive" intercompany tax planning through the introduction of favorable tax rates on certain income and the disallowance of certain deductions for intercompany transactions. These new rules have both captured the imagination and incurred the wrath of US trading partners.

## In Europe

US business groups and the US Congress are still smarting from what they see as a targeted attack by European authorities on large US multinational digital companies in the form of EU state aid investigations and, more recently, the EU Commission's initiative to launch EU-wide a "digital sales tax" (or DST). The DST is a low single-digit gross revenue tax on certain income streams of large digital companies.

The latest high profile tax policy project of the OECD, the so-called Digital Tax Task Force was much maligned by friends and foes in 2018. The Task Force grew out of Action 1 ("Taxation of the Digital Economy") of the original OECD BEPS project and picked up where the Action 1 work left off. In 2020, the Task Force will deliver to the G-20 group of nations several detailed options for a new or revised framework to tax digital business models. The Task Force has announced two interim 2019 milestones in the preparation of its 2020 report.

The G-20 recognizes that some of the current international tax norms which were established in the 1920s are no longer "fit for purpose" in ensuring that a level playing field is maintained for taxing nimble digital business models that rely on high-value intellectual property. The OECD hopes its proposals will reflect a meaningful consensus of the G-20 countries whose representatives are actively participating on the Task Force.

In addition to these tax technical and tax policy milestones, the latest 5-year EU political cycle will come to an end and a new EU Commission will be formed this year. There could be significant tax developments before and after this change that US companies will want to anticipate and manage in a way least intrusive to the growth of their business models. The formation of a new EU Commission and other known political events will influence the current tax policy debates and the quality of US-European commercial and trade relationships in the short-term. For this reason, the tax technical and tax political highlights are included together in the list.

## 1. OECD BEPS tax legislation in the EU

- The EU Anti-Tax Avoidance Directive takes effect January 1, 2019, for all 28 Member States, including the UK.

## 2. Internet platforms as tax collectors

- German legislation goes into effect January 1, 2019, imposing liability on internet platforms or marketplaces to collect and remit VAT on the sale of goods by third parties through the platform. Other Member States are following.

## 3. Significant digital presence taxation concept

- The OECD Digital Tax Task Force publishes in January an update on its 2020 project deliverable which moves it closer to committing to specific options for taxing the digital economy.

## 4. EU digital tax legislation

- This spring the EU Council of Finance Ministers (Ecofin) will once again seek to reach unanimous agreement on a Digital Services Tax on certain income streams of large digital companies doing business in the EU. The next key Ecofin meeting is February 11, 2019.

## 5. National digital tax legislation

- Parallel to the Austrian Presidency's attempt to get unanimous approval on a Digital Services Tax before the end of 2018, a growing number of individual EU Member States introduced or announced their intention to introduce, their own legislation for a Digital Services Tax: UK, France, Italy, Spain, Austria.

## 6. B-Day: Final Brexit date and UK tax reform

- The United Kingdom is scheduled to leave the EU on March 29, 2019, and has promised to create the most friendly jurisdiction for foreign direct investment in Europe.

## 7. Juncker Commission Tax Policy Legacy

- Expect a last-minute push by the Juncker Commission to solidify its legacy as the most successful and influential Commission in advancing tax practice and legislation in Europe.

## 8. Digital Tax Policy is Key Platform in EU Elections

- European Parliament elections are every five years. The next elections will take place May 23-26, 2019.

## 9. Choice of New EU Commission President and 27 Commissioners

- The campaign for the next President of the European Commission will likely begin in June on the heels of the European Parliament election results when the European party candidates emerge.

## 10. OECD Interim Report on Digital Taxation

- The OECD is committed to publishing more concrete details regarding the final options it will develop for its final report to the G-20 in June 2020. It’s last scheduled report before that deadline is due in June 2019.

We will be monitoring and analyzing the evolution of these taxation topics over the year. As these milestones take place and other factors emerge, we will focus on the practical business planning impact of these developments in broad and specific terms.