



**U.S. CHAMBER OF COMMERCE**

**U.S. Chamber of Commerce Comments concerning the  
European Commission Consultation on a Proposed Digital Levy  
Submitted April 12, 2021**

The U.S. Chamber of Commerce (“the Chamber”) welcomes the opportunity to submit the following comments in response to the European Commission’s consultation regarding a proposed digital levy.

The U.S. Chamber is the world’s largest business association, representing the interests of more than three million enterprises of all sizes across all sectors of the economy. The Chamber is a longtime advocate for robust commercial ties between the United States and the European Union, and we support trade, tax and investment policies on both sides of the Atlantic that are transparent, non-discriminatory, consistent with international obligations, and do not unduly restrict the free flow of goods, services, data, people, and capital.

The European Council has tasked the Commission with putting forward proposals for additional “own resources” to support the EU’s financial capacity, specifically to respond to the impacts of COVID-19 on member state economies. According to the Commission, a proposed digital levy “will help address the issue of fair taxation related to digitization of the global economy but will not interfere with the ongoing work at the G20 and OECD level on a reform of the international corporate tax framework.” We understand the Commission’s intention is to advance a proposal as soon as June 2021, with an eye towards introduction not later than January 2023.

The OECD is currently seeking to forge consensus among its member countries to reform global tax rules to respond to implications of the digitization of the economy. The objective is to develop a coherent set of rules at a multilateral level to supersede unilateral measures such as those that have been enacted by some EU member states and have been contemplated at the EU level. The Chamber continues to believe that the OECD is the appropriate venue for these discussions.

Digital services taxes adopted by various EU member states and other countries have been premised on the notion that certain companies are not paying enough in taxes. While that apparently continues to be an important motivation, the Commission now

seems to be indicating that, in its drive to secure new revenues to support its post-pandemic recovery efforts, it will proceed with this measure regardless of the outcome at the OECD.

We are concerned that the Commission's digital levy proposal may undermine and distract from the ongoing work at the OECD, particularly when the new U.S. Administration has recently expressed interest in and commitment to re-engaging in multilateral discussions while also acknowledging time is needed for countries to achieve consensus. Such a proposal is exactly the type of measure the OECD effort is meant to curb. Notwithstanding the Commission's assertion that its intent is not to interfere with work at the OECD, adoption of such a measure would indeed undermine the aim and the spirit of the negotiations, especially if other countries believe the EU will go ahead with its digital levy regardless of an OECD solution.

Country or region-specific mechanisms cause fragmentation, translating into increased burdens for taxpayers and tax administrators alike. They create legal uncertainty, administrative complexity, and increase the risk of double taxation. They also threaten to prompt damaging trade disputes. As the Chamber and many other organizations have noted, the DSTs introduced by several EU member states to date plainly violate national treatment obligations those countries and the EU have undertaken as members of the World Trade Organization.

The Commission's current consultation articulates three possible approaches to a digital levy – a corporate income tax top-up, a tax on revenues, and a tax on business-to-business digital transactions – but does not articulate how any of these proposals might work, even in principle. In the absence of additional detail, it is difficult to offer comments other than general observations. The Chamber has previously articulated a series of principles that we believe should govern any discussion of taxation in the context of a digitalizing economy. These include -

- Direct taxes should be levied on net income, not revenues. Proposals to tax revenues improperly ignore the costs associated with sales and would raise costs for consumers.
- The scope of any measures should be based on a thorough economic impact analysis, and any tax-related legislation must provide simple, predictable, and easy to understand rules to improve compliance and reduce the cost of administration.

- Tax legislation should ensure industry neutrality and avoid special tax benefits or penalties targeted to one industry versus another. A fundamental tenet of pro-growth tax policy is that the marketplace, not the tax system, should allocate capital and resources. Principles of non-discrimination and national treatment must be rigorously respected.
- Any measures should promote certainty through effective dispute resolution mechanisms, including mandatory binding arbitration, and appropriate safe harbors applicable to both businesses and governments.
- Any changes to tax law should include realistic transition rules to provide adequate time for implementation and help minimize economic hardships businesses may face during transition to changes in tax systems.
- Finally, all parties must uphold their international commitments, including tax treaty obligations that guard against double taxation and the nondiscrimination and national treatment obligations included in trade agreements. Any changes to tax rules must be accompanied by changes to tax and trade agreements to minimize the risk of double taxation.

The Chamber appreciates the Commission's commitment to robust economic recovery efforts. We believe, however, that any measures contemplated should not run directly counter to the aim of a multilateral negotiation to which the EU has committed itself. We therefore strongly encourage the EU to focus its efforts on reaching a consensus at OECD level, to refrain from pursuing any such a measure while those negotiations are ongoing, and to avoid adopting any additional levy above and beyond what is agreed at the OECD.

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