



Commissioner Pierre Moscovici

MEETING WITH REPRESENTATIVES OF AMAZON

Thursday 01 February 2018 11:30 - 12:00

INTERLOCUTORS

[REDACTED]
[REDACTED]
[REDACTED]

For TAXUD: [REDACTED] (C1) and [REDACTED] (D4)

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SCENE SETTER

Amazon has requested a meeting with you to discuss the taxation of the digital economy taxation and the simplification of VAT regulations for movements of goods within the single market (Proposal for a VAT definitive regime).

If time allows they would also like to discuss:

- e-publications reduced VAT rates
- VAT compliance for online marketplaces.

Amazon will be represented by [REDACTED] (directly reporting [REDACTED] He will be accompanied by Mr [REDACTED] a French national, [REDACTED] (heading the EU retail business of Amazon), and [REDACTED] Both met the Commissioner in November 2016. [REDACTED] will attend the working lunch on digital taxation which you're organising with CEOs on 7 March.

Taxation of the digital economy

The Commission will adopt proposals on the taxation of the digital economy this spring.

The Commission and Member States' first preference is for a strong, workable and effective international solution to digital taxation. We are working closely with the OECD, to remain as aligned as possible to any global developments in this area. The Commission will also look into possible temporary measures.

At the moment, it is not possible to indicate any details with regard to these proposals which are in the preparation stage.

VAT compliance for online marketplaces

On 5 December 2017, the Council adopted the VAT e-commerce package. The most important change is the extension of the use of the Mini One-Stop Shop (MOSS) to Business to Consumer distance sales of goods, both intra-EU and from third countries, allowing vendors to declare and pay VAT for each Member State to which supplies are made in a single VAT return in the Member State of identification for VAT. This will apply as from 2021.

Member States also added specific provisions for distance sales facilitated by marketplaces or platforms, such as Amazon. These platforms will be considered as suppliers for the Business to Consumer distance sales of goods in certain situations, meaning they will be liable for the VAT on such sales. In addition, new record keeping obligations have been introduced relating to all Business to Consumer sales facilitated by marketplaces or platforms. The aim of these

provisions is to tackle VAT evasion. Discussions are taking place with Member States and stakeholders on the relevant implementing measures.

VAT rates and e-publications

The Commission adopted a proposal in January 2018 on the reform of the VAT reduced rates. The scope of this proposal is broader than the scope of the VAT e-publications proposal presented in 2016. This is why the Bulgarian Presidency does not intend pursuing the negotiations on e-publications.

VAT reforms

In the context of the definitive regime proposal, the Commission is in the process of changing the rules for Business to Business supplies of goods in the EU between suppliers in different Member States. The new Business to Consumer rules (which mainly concern Amazon) have already been agreed by Finance Minister last December.

OBJECTIVES

Taxation of the digital economy

- **Listen** to the views of Amazon on the taxation of the digital economy.
- **Encourage** Amazon to engage constructively with Commission services on this issue.
- **Acknowledge** Amazon's attendance at the working lunch on digital taxation on 07/03.

VAT reforms

- VAT Definitive system: **Recall** that on 4 October 2017, the Commission adopted a first proposal of the definitive VAT system package and is due to adopt the detailed technical provisions needed for the operation of this definitive VAT system before the summer.
- VAT e-commerce: **Explain** that discussions are taking place with Member States and stakeholders to produce the relevant implementing measures.
- VAT reduced rates: **Explain** that the Commission presented a proposal in January 2018 to reshape the way Member States can decide on reduced rates.

VAT Compliance for online marketplaces

- **Explain** that detailed implementing provisions will have to be agreed with Member States on the specific provisions on marketplaces and platforms included in the e-commerce package of last December;
- **Re-assure** Amazon that all interested stakeholders will be consulted during the preparation of these implementing provisions;
- **Inform** that meetings with business representatives are scheduled throughout February to ensure that Amazon is consulted in this process.

SPEAKING POINTS

Political introduction

- Last time we met, in November 2016, I was able to say that we had achieved a lot in a very short space of time.
- **Today, I'm proud to inform you that we have made further progress in reforming EU business taxation.**
- Our actions taken to improve tax transparency and the fight against fraud keep go hand in hand with our efforts to develop a favourable tax environment for businesses in the Single Market.
- More precisely, we have adopted new VAT rules for e-commerce and we are finalising proposals to ensure a level playing field as regards the taxation of the digital economy.
- **We see Amazon as a partner in ensuring business tax compliance and I'm looking forward to hearing your views on this important issue and more specifically on the digital economy.**

1. Taxation of the digital economy

- **I'd like to thank you for your engagement with the Commission's ongoing work on the taxation of the digital economy.**
- We appreciate active input from all stakeholders on the issue of digital taxation, which is a high priority for our Member States. I

know that my services have already met with your tax experts to listen to your views.

- You are aware that EU leaders called on the Commission to present proposals for the fair and effective taxation of the digital economy and to assess thoroughly all options, including possible temporary measures.
- **Commission services are currently conducting intense assessment and consultation work and we aim to present these proposals by spring 2018.**
- Given the global nature of these challenges, our preferred approach has always been for multilateral, international solutions to taxing the digital economy.
- **That's why, together with the Member States, we are actively supporting the OECD's work in this area**, and we hope to see ambitious, effective and workable solutions in the OECD's report to the G20 next spring.
- We are also aware that we need to review our approach to taxing the digital economy, so that it can support EU growth and competitiveness through the Digital Single Market.
- **In particular, we want to create a tax environment in which digital and non-digital start-ups and SMEs can flourish across Europe.** I know that this is an issue which is particularly important for you.
- **The current tax rules are outdated and may create obstacles for businesses in our Single Market.**
- Moreover, a number of Member States are starting to explore unilateral solutions to digital taxation. This may lead to a

fragmented approach that would create administrative burdens, legal uncertainty and extra costs for cross-border companies.

- I firmly believe that a coordinated EU approach is in the interest of all businesses.
- **As you know, the Commission will be organising a high-level meeting for a number of business leaders from EU and non-EU companies on 7 March**, to exchange views on the key issues related to digital taxation. I am delighted to hear that [REDACTED] will be able to join.

2. VAT reforms

[VAT Definitive regime]

- Regarding VAT reforms, I'd like to give you an overview of our recent proposals.
- **The current VAT system has been in place since 1993 as a transitional arrangement.** This system is outdated and is no longer fit for purpose.
- We estimate that VAT fraud currently costs Member States up to €50 billion per year. This is why I decided on a fundamental review of the way VAT works on the supplies of goods between taxable persons located in different Member States.
- **I proposed this reform last October and it is now being discussed by the Finance Ministers.** Another detailed proposal will be presented before the summer and will concern Business to Business transactions.

- The Commission is not proposing any further changes to the Business to Consumer arrangements, as the new rules on the supply of services and distance sales were adopted by Member States in December 2017.

[VAT compliance for online marketplaces]

- **The most important change for a company like yours is the extension of the use of the Mini One-Stop Shop (MOSS) to the distance sales of goods, both intra-EU and from third countries.** From 2021, this change will allow vendors to declare and pay VAT for Member State to which supplies are made in a single VAT return in the Member State of identification for VAT.
- **Member States added specific provisions for distance sales facilitated by marketplaces or platforms, such as Amazon.** These platforms will be considered as suppliers for Business to Consumers' distance sales of goods in certain situations, meaning that they will be liable for the VAT on such sales.
- In addition, new record keeping obligations have been introduced relating to all Business to Consumer sales facilitated by marketplaces or platforms. The aim of these provisions is to tackle VAT evasion.
- **The detailed implementing provisions still have to be laid down and time is needed for Member States and economic operators to adapt their IT systems.** The Commission services will therefore consult businesses, including marketplaces and platforms. Meetings with business have already been planned in February and a seminar will take place in March, involving Member

States as well as business representatives. Amazon will be invited to all these events.

[VAT rates and e-publications]

- **Two weeks ago, I presented a specific proposal on reduced VAT rates.** The objective is to allow Member States more flexibility in setting VAT rates. When adopted by the Finance Ministers, Member States will be allowed to fix reduced rates for e-publications.
- However, the Bulgarian Presidency does not intend pursuing the negotiations on the VAT e-publications proposal of December 2016 to focus on the proposal on VAT rates. I think both negotiations can run in parallel.

3. If raised - WCO Framework of Standards on E-Commerce]

- As far as Customs is concerned, the Commission takes a leading role in the development of an "E-commerce Framework of Standards" at the World Customs Organisation. The objective is to ensure a harmonised approach on Cross-border E-Commerce worldwide to bring benefits for both Customs administrations and businesses.
- I appreciate that Amazon is committed to this important endeavour.

DEFENSIVES

1. Taxation of the digital economy

Shouldn't your digital taxation agenda be targeted at US multinationals / internet giants like [REDACTED]

[REDACTED] Isn't there a risk that this will negatively impact on EU businesses [REDACTED] and not on the intended targets [REDACTED]

- We are not targeting any individual companies, any sector or any nationality.
- In fact, our goal is to ensure a level playing for all businesses, whether EU or non-EU based, large or small, more or less digitalised.
- In order to achieve this goal, it is clear that we need to find effective solutions to taxation in an increasingly digitalised economy.
- Our first preference is always for multilateral, international solutions, given the global nature of this problem.
- We will actively contribute to the OECD's work, to try to achieve this and we look forward to the report on taxing the digital economy that has been promised for spring 2018.
- But we also need to consider what approach is best for the EU: one that protects our single market and promotes growth, competitiveness and fairness in our Union.
- The EU must be prepared to lead by example to tackle this issue. When we have led before (e.g. on transparency), others have followed.

What characteristics would international work at the OECD need to have for you to accept that proposal rather than a purely Commission proposal?

- The Commission wants to see a reform of the international tax rules, to better reflect where the value of businesses is created and how it should be attributed for tax purposes.
- Issues such as permanent establishment, transfer pricing and profit attribution need to be looked at together, and reformed, in order to ensure that profits earned in the EU are taxed in the EU.
- For example, the challenge of identifying and valuing intangible assets, and determining their contribution to value creation, requires alternative methods for attributing profit that better capture value creation in the new business models.

Won't a turnover tax/new digital tax just increase the tax burden on companies?

- No decision has been taken on the measures we will propose to ensure fair and efficient taxation of the digital economy.
- Should we propose a new tax, it will be to provide an interim solution, to alleviate pressure on Member States while they develop a common long-term approach.
- By nature, a new tax would increase the tax burden, but not across the board. To the contrary, the target should be those that are currently taxed at very low rates compared to other businesses, to achieve a more level playing field.

Do you have estimates on the revenue such a tax is expected to generate?

- The revenue generated will depend on the exact design of the tax – and this is still an unknown which we are working on.
- The idea is that the scope of such a tax should provide for a more level playing field between different types of companies and alleviate pressure on Member States to introduce new unilateral taxes to protect their budgets in the short term.

Won't the tax burden ending up falling on consumers rather than companies?

- Of course we do not aim at higher consumer prices.
- Our goal is to ensure that all companies contribute their fair share to public revenue.
- We also want to secure a level playing field between different types of companies – which is important for fair competition.
- If a company is currently pushing out competitors by offering low prices that are compensated through tax dumping, this is not a sustainable situation.

***Do we really need a short-term solution, as well as a long-term one?
Is it worth all the effort of designing, negotiating and implementing
a new short-term tax if it is just meant as a temporary solution?***

- Ideally we want a comprehensive global solution that is sustainable for the long-term.
- However, arriving at a meaningful solution to capture and allocate the value created in the digital economy across countries can take time.
- The longer it takes to find a comprehensive solution, the bigger the losses in tax revenues will be.
- Therefore, alongside the work on this longer-term strategy, we think it is important to consider more immediate, supplementary and short-term measures to protect the direct and indirect tax bases of Member States.
- The Commission will continue to analyse the policy options and consult with relevant stakeholders and industry representatives on this important and pressing issue ahead of possible proposals by spring 2018.

2. VAT reforms

2.1. Simplification of VAT regulations for movements of goods within the single market

Why is the Commission looking to fundamentally reform the current VAT system?

- VAT is a major and growing source of tax revenue in the EU. And the current VAT system is too vulnerable to fraud when it comes to cross-border trade.
- Missing Trader Intra-Community Fraud which is directly related to the concept of exemption for Intra-Community supplies of goods is estimated to be responsible for revenue losses of up to €50 billion annually in the EU.
- The current VAT rules for cross-border supplies of goods between businesses in EU Member States date back to 1993. At that time, the rules were meant to be transitional. They do not take into account technological developments, changes in business models or the globalisation of the economy.
- They need to be rebooted, not just to make the VAT system simpler and fraud-proof, but also in order for businesses to be able to reap all the benefits of the Single Market.

Will the destination-based system complicate VAT compliance and collection?

- For the suppliers, the new system is a simplification of what their obligations would otherwise be, because of the extended use of a One Stop Shop system. This will mean that they will be able to fulfil

all their VAT-related obligations in the EU in the Member State where they are established and in their own language.

- It is true that tax administrations need to adapt, but the gains are higher than the costs associated with the adaptation.

How much will the new system cost for Member States and companies?

- The impact assessment carried out for this initiative has shown that the definitive VAT system proposed by the Commission would result in the following:
 - For businesses: Compliance costs would be reduced by about EUR 1 billion.
 - For Member States: Cross-border VAT fraud will shrink to an estimated EUR 8.2 billion, a reduction of up to EUR 41 billion (83%). This is equivalent to 4.5% of the total VAT revenues and 0.31% of the GDP in the EU. Administrative costs will increase by EUR 385 million in the year of implementation and EUR 311 million in the years after in the EU.

2.2. e-publications reduced VAT rates

Does the proposal include the possibility of applying super-reduced and zero VAT rates to e-publications?

- Indeed, the proposal would grant Member States the option of applying super-reduced and zero VAT rates to both printed publications and e-publications.

- This is the only way to allow Member States that currently apply zero- or super-reduced rates to printed publications to align the rates on e-publications with those.

Are digital news services covered by the proposal?

- Reduced VAT rates aim at lowering prices for the benefit of final consumers.
- In case digital news services are addressed to final consumers in the future, Member States could assess which of these digital news services fall under their national definitions of a "newspaper" and can thus benefit from a reduced VAT rate.

Why does the proposal abstain from providing definitions?

- The proposal abstains from providing definitions in order to grant Member States the flexibility to keep their current national definitions and to allow a timely update of such definitions in an evolving digital economy.
- A definition at EU level would not comply with the subsidiarity principle and would risk failing, because it would need unanimous support in the Council not only for its adoption but also every time it would need to be updated.

Do we still need a proposal on reduced rates for e-publications, after the recent adoption by the Commission of a proposal on VAT rates?

- The proposal on VAT rates adopted by the Commission the 18 January 2018 will allow Member States more flexibility in setting VAT rates and will allow them to apply reduced rates to any goods or services not included in a negative list of goods and services to which a standard rate of 15% or above would always have to be applied.
- Since e-publications are not part of that negative list, it is true that they could be subject to reduced rates under the new proposed legislation.
- However, we still believe that a Council agreement on the specific proposal on reduced rates for e-publications is necessary and would serve its purpose.
- The negotiation of the general VAT rates proposal in the Council is expected to be complex and long and the outcome is uncertain, whereas an agreement by the Council on the e-publications file would allow an immediate solution to the distortions created by the current VAT treatment of e-publications.
- It would be unfortunate that a limited solution is not agreed, in the wait of a general (and much more ambitious) solution which will not be available immediately.

2.3. VAT compliance for online marketplaces

On 5 December 2017, the Council adopted the VAT e-commerce package including new, burdensome obligations for marketplaces and platforms. Why?

- It's true that marketplaces and platforms will be liable for the VAT on for Business to Consumer distance sales of goods, and that new record keeping obligations have been introduced for all Business to Consumer sales facilitated by marketplaces or platforms.

These obligations aim at fighting VAT evasion in e-commerce, more specifically the undervaluation of imported goods and the non-payment of VAT on intra-EU distance sales by third country vendors via marketplaces or platforms using 'fulfilment houses' in the EU.

These measures were not proposed by the Commission and were not evaluated in the Impact Assessment accompanying the Commission proposal. Hence, was there a legal basis for the Council to adopt these provisions?

- The fight against VAT avoidance in e-commerce was a main objective in the Commission proposals. This priority comes in addition to the need for simplified VAT procedures for declaring and paying VAT on B2C distance sales.
- So the provisions added by the Council fitted well with the objectives of our proposal.

BACKGROUND

Taxation of the digital economy - Debrief from meeting Amazon – TAXUD on 12 January 2018

Participants: Amazon: [REDACTED]
[REDACTED]

TAXUD: Valere Moutarlier, [REDACTED]

Amazon business

Amazon presented their business, which is very diverse. They are active B2B and B2C, selling and delivering physical goods as well as digital content (which they also create) directly to consumers. They also offer marketplace services and cloud computing services. **They have only small advertisement revenues, but use user data to improve the targeting of products.**

They stress that almost 1 million "companies and creative professionals" build their businesses through Amazon services, many of them are SMEs.

They have very low margins (though this differs across their business segments) and have "internationally lost money over the past 3 years".

Originally, their EU business was very centralised. Since 2015 they are established in 5 EU countries (those where they have a website). They serve customers in all the EU.

Work on the taxation of the digital economy

Their main concern is with hurting the EU digital sector, which they feel is lagging behind, and their SME business customers.

A revenue tax targeting the digital would not be able to take into account different degrees of profitability.

Enforceability: a) Any new tax would be difficult to enforce vis-à-vis companies not established in the EU. b) User statistics may not be verifiable for tax administrations.

Their idea for a solution revolves around allocation a fraction of profits to the market jurisdiction. In the short-term, they prefer anti-abuse measures (such as UK withholding tax on deemed royalties)

Other

They see positively the CCCTB in principle, but think that the formula could introduce distortions. They feel it disregards important factors such as intangible assets and executive decision-making.

They see the US tax reform as a step in the right direction, but it is complex and there is uncertainty about the ultimate effect.

We invited them to have a look at our study on collaborative economy and entrepreneurship.

FURTHER INFORMATION ON AMAZON



Amazon.com, Inc. (NASDAQ : AMZN) est une entreprise de commerce électronique américaine basée à Seattle. Sa spécialité initiale est la vente de livres, mais elle s'est diversifiée dans d'autres produits, notamment dans la vente de tous types de produits culturels : disques CD, musique en téléchargement, DVD, appareils photos numériques, informatique et dans l'équipement de la maison, cloud, elle s'est aussi lancée dans la téléphonie ("Fire phone") et la livraison par drone (projet "Prime Air").

Créée par Jeff Bezos en juillet 1994, elle a été introduite en bourse au Nasdaq en juin 1997. La filiale française a ouvert en 2000. Amazon fait partie avec Apple, Google et Facebook des « quatre grands d'Internet », qu'on appelle les GAFAs.

En 2014, la société employait 132 600 personnes dans le monde et a établi des sites spécifiques pour l'Europe en Allemagne, au Royaume-Uni, en France, en Italie, en Espagne et aux Pays-Bas. De nouveaux sites sont en projet pour la Pologne et la Suède.

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| <u>Capitalisation</u> | 243,5 milliards <u>USD</u> (2015) |
| <u>Chiffre d'affaires</u> | 74,452 milliards <u>USD</u> (2013) |
| <u>Résultat net</u> | 275 millions <u>USD</u> (2013) |

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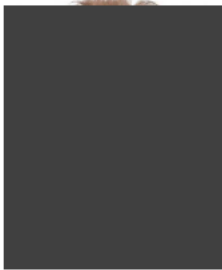
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