Towards a Taxation System for the Digitalised Economy

Executive Summary

Innovation has always been a driving force in the retail and wholesale sector. It has made shopping more convenient, more enjoyable and more cost-effective. The rapid spread of digitalisation has transformed the face of the industry, with physical and digital components of the shopping experience no longer easily separated. Against this background, there is a consensus that international tax rules are no longer fully fit for purpose and that the current tax rulebook has created unfair outcomes in a number of areas. This contributes to a sense of distrust and is damaging business confidence, which we consider vital to the success of the economy and wider society.

EuroCommerce wants to engage in the discussion and make a positive contribution to the international tax reform debate, to move it forward and deliver actionable results.

To make the tax system suitable for the digitalised economy, EuroCommerce calls for the modernisation of existing international tax rules, consistent with the following principles:

- **Fair** - A modern taxation system should be channel-neutral and operate equitably across industries and between different forms of business activities and business models. A neutral tax system will contribute to efficiency by ensuring an optimal distribution of fiscal liabilities. Any form of corporate tax should be based on economic profits generated and not on its revenues. Tax systems and rules should also seek to avoid double taxation and non-taxation arising from uncoordinated government decisions. Taxes particularly targeted at specific retail and wholesale business models should be abolished and avoided.
- **Simple** - Tax rules should be clear, simple to understand and predictable. A reform of the taxation system should not lead to higher compliance costs.
- **Proportional** - Administrative burdens for retailers and wholesalers should be in adequate proportion with the tax revenues generated.
- **Enforceable** - Rules should be globally enforceable, especially in respect of non-EU businesses, thus ensuring EU businesses are not at a competitive disadvantage.
- **International** - The OECD and the G20 are the best platforms to deliver the most effective and fairest outcome. National stand-alone measures risk fragmenting the market further and should be avoided.

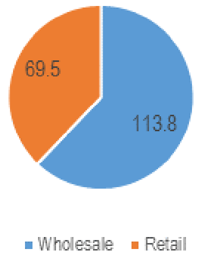
EuroCommerce has identified three key areas in which taxation rules need modernisation in the digital age:

1. **Corporate Taxation**: What, where and at which rate to tax? An international agreement addressing these questions should be sought.
2. **More action for improving VAT compliance and fighting VAT fraud.**
3. **Removal of unilateral taxes** that weigh inordinately on the retail and wholesale sector.

Background

Digitalisation, innovation and changing consumer demands have made shopping more convenient, more enjoyable and more cost-effective. The retail and wholesale sector have adapted to this new environment in many areas. International tax rules, however, are no longer fully fit for the digital age.

The retail and wholesale sector is not only among the biggest tax collectors, but also a major taxpayer in the EU. European wholesalers and retailers contributed to an estimated EUR 183 billion in labour, profit and other direct taxes in 2016; EUR 114 billion for wholesale and EUR 70 billion for retail.[1]



Retail and wholesale tax collection across the European Union (bn, euro)

Retailers and wholesalers, whether selling online or offline, operate with large turnover and very low margins. Thus, their business model will be inordinately affected by any tax targeting their sector if it would be focused on turnover. Furthermore, they rely essentially on the sale of physical goods, which makes corporations fiscally less flexible to establish their tax basis in most favourable locations.

Fiscal policy is a key determinant of the business climate in which companies operate. Companies need a stable and predictable fiscal regime. Any change to existing tax policies need to be considered very carefully, as change in one area can have far-reaching and potentially damaging implications for business in another area. Their impact needs to take account of all areas of taxation and the resulting effective tax take from the companies affected.

EuroCommerce believes that the following key principles need to apply for a proper revision of the legislative framework on taxation.

[1] Calculation done by EuroCommerce based on Eurostat (Gross Operating Surplus) and World Bank data (total tax burden as % of GDP), updating the 2010 SAID Business School and University of Oxford study "Retail and Wholesale: Key sectors for the European Economy: Understanding"; https://www.eurocommerce.eu/media/87967/eurocommerce_study_v2_hd.pdf.

Key Principles

Fair

A fair taxation system has to be channel-neutral. All businesses should be treated equally, regardless of their business model and distribution channel. National taxes targeted at specific retail and wholesale business models prevail in certain Member States (e.g. Tascom in France or Business Rates in the UK, taxes on large retail outlets in Spain as well as taxes specifically targeted at foreign retail chains in Poland, Slovakia and Hungary). These levies lead to over- and double taxation, and distort competition. Any ring-fencing of economic activities has to be avoided.

The only decisive factor for any form of corporate taxation should be on the basis of profits generated. Any new tax measure should only target untaxed earnings to avoid double taxation.

Taxes based on turnover have a discriminatory effect on start-ups and growing companies, who invest and often operate on a loss in their growth phase, and on companies in sectors with a high turnover and low margins, such as retail and wholesale.

EuroCommerce firmly believes that the total tax contribution of the retail and wholesale sector, comprising online and offline models, should serve as a parameter for any prospective fiscal measures. Lawmakers can only eliminate the imbalance in competition through the establishment of the fair principle: “Same profit, same profit tax contribution”. This principle must equally apply for EU and non-EU market participants.

Simple

A reform of the taxation system should not lead to higher compliance costs for businesses already paying their fair share of taxation. Hence, any future taxation rules should be designed in such a way that they are easy to comply with and simple to calculate. Against this background, EuroCommerce welcomes the introduction of the VAT One Stop Shop and attempts to simplify the calculation of the tax base.

Proportional

The proportionality between bureaucracy, administrative burdens for retailers and wholesalers, and tax revenues should be a decisive factor. Lawmakers need to ensure that further (digital) development of the economy is not hampered and SMEs in the EU are not harmed.

Enforceable

Fiscal rules should be easily enforceable and applicable across all businesses and all regions. EU-based companies should no longer be put in a disadvantageous situation compared to companies located outside the EU, which often do not face real consequences for non-compliance or fraud, especially in the field of VAT.

International

In an increasingly globalised economy, taxation is an issue of global nature and impact. The OECD and the G20 are therefore the best platforms to deliver the most effective and fairest outcome. EuroCommerce shares the European Commission’s aim of preserving the unity and integrity of the single market by harmonising tax rules and avoiding national stand-alone measures. Moreover, the EU should play a constructive role in the discussions at international level to find a global solution.

How to ensure a tax system fit for the digital age?

In order to adapt to the new business of the digital age, tax systems need to be modified in three areas: corporate taxation, indirect taxation (VAT), and local taxes.

Corporate Taxation

The digitalisation of the economy has made it easier to reach customers in other countries and helped retailers and wholesalers to take up new market opportunities. Physical presence in the country of sale is no longer needed, yet this is currently the basis for corporate taxation in any particular country. The current fiscal rules are thus no longer fit for new trading realities where physical presence in a country is not required, where businesses largely rely on hard-to-value intangible assets, and where user-generated content and data collection have become core activities for the value creation of digital businesses. The participation of a user in a digital activity constitutes an essential input for the business carrying out that activity and which enables that business to derive revenues from it.

EuroCommerce underlines the need to consider a method for allocating taxing rights through an international definition of digital permanent establishment. It is vital that we find a clear and simple formula for the calculation of profits stemming from digital services. We also need an international agreement on the allocation of such profits to ensure a fair distribution between the tax jurisdictions involved. Only a consistent global approach can avoid double taxation and any possible disputes arising from unilateral fiscal actions. Finally, these elements also need to be taken into account when discussing the harmonisation of the corporate income tax systems within the European Union.

VAT legislation and enforcement

Cross-border trade and digitalisation of the economy also have implications on VAT. Taxation should take place where the consumer is located. EuroCommerce acknowledges and welcomes measures the EU has already taken under the VAT Action Plan to improve and simplify VAT compliance and to reduce VAT fraud. The introduction of a VAT one-stop-shop for the cross-border sale of goods and services will facilitate VAT compliance for companies, in particular SMEs. However, some risks of fraud will persist, such as the common practice of the deliberate undervaluation of goods imported from third countries. In this respect, the timeline for the implementation of the abolition of the VAT threshold for small consignments imported from outside the EU is not ambitious enough, and now needs to be accelerated by the Member States. Also any misuse of existing thresholds needs to be avoided effectively.

Local and other taxes at national or regional level

Retail and wholesale contributes to the continued vitality of city centres and rural areas. EuroCommerce calls on Member States to strengthen retail and wholesale businesses by abolishing unilateral taxes that weigh inordinately on the sector. Taxes based on the area of premises such as Tascom (‘Taxes sur les surfaces commerciales’) in France, business rates in the UK or taxes on large retail outlets in Spain discriminate against specific business models. Discriminatory taxes to the disadvantage of foreign retail have also been discussed or introduced in Slovakia, Hungary and Poland. Tax burdens and other restrictions on brick-and-mortar businesses should be reduced instead of introducing new taxes on a sector which is already facing major challenges in digital transformation. EuroCommerce also opposes Member States acting unilaterally in taxing e-commerce. A harmonised approach is needed to avoid a patchwork of different national taxes which hinder the functioning of the Single Market.

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