The EU's Tax Policy Towards a barrier-free area for citizens and businesses

The European Commission's tax policy **strategy** and its **priorities** are set out in a series of Communications.

In the Communication on "Tax policy in the European Union - Priorities for the years ahead" (COM/2001/260 of 23 May 2001), the Commission reiterated its belief that there is **no need for an across the board harmonisation of Member States' direct tax systems**. For tax policy, the Communication established, as a main priority, the need to address the concerns of individuals and businesses operating within the Internal Market by **focusing on the elimination of tax obstacles to all forms of cross-border economic activity**, in addition to continuing the fight against harmful tax competition. This approach was confirmed in the Communication "The contribution of taxation and customs policies to the Lisbon strategy" (COM/2005/532 of 25 October 2005).

More specific elements of the Commission's tax policy are described in other Communications. In recent years, the Commission has presented options for co-ordinated **action to tackle tax obstacles and inefficiencies** in the areas of company tax, VAT, excise duties, and car tax. The Commission has also become more pro-active in taking legal action where Member States' national tax rules or practices do not comply with the EC Treaty.

Another area where the Commission has presented proposals for an EU strategy is the **fight against tax fraud**. A recent communication (COM/2006/254 of 31 May 2006) aims to launch a debate in this respect with all parties concerned. It is generally assumed that tax fraud accounts for approximately 2 to 2.5% of GDP, i.e. between € 200 and 250 billion.

The following presents the legal framework in which tax policies are developed and implemented, as well as a brief description of some areas of the Commission's tax policy.

Taxation and the European treaties

The EC Treaty, under Article 93, specifically provides for the EU Council of Ministers, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, to adopt provisions for the harmonisation of Member States' rules in the area of **indirect taxation** (principally Value Added Tax and Excise Duties) because indirect taxes may create an immediate obstacle to the free movement of goods and the free supply of services within an

Internal Market. They may also create distortions of competition. A large number of Directives and some Regulations have been agreed in this area on the basis of that Article.

As far as **other taxes** are concerned, Article 94 provides for the Council, acting unanimously on a proposal from the Commission and after consulting the European Parliament and the Economic and Social Committee, to adopt provisions for the approximation of such laws, regulations or administrative provisions of the Member States that directly affect the establishment or functioning of the common market. Some recommendations and legislation have been adopted in the personal tax, company tax and capital duty areas. See also information on passenger car taxation on the web at:
http://ec.europa.eu/taxation_customs/taxation/other_taxes/passenger_car/index_en.htm

Member States have also adopted EU-wide legislation in the field of **mutual assistance and co-operation** in tax matters, under Articles 93 and 94 of the EC Treaty.

The Commission considers that retaining **unanimity in the EU Council of Ministers for all taxation decisions**, as is currently the case, will make it difficult to achieve any of the tax co-ordination necessary for Europe in an enlarged EU of 25 and more Member States. This is particularly the case with the operation of the internal market, the fight against fraud, and the protection of the environment. At present, however, some Member States do not believe it is desirable to extend qualified majority voting to taxation.

Therefore, where appropriate, the Commission has started to make more use of so-called non-binding legislative approaches, such as recommendations instead of legislative proposals where appropriate, as a way of making progress in the tax field. Another way is closer co-operation through a mechanism of enhanced co-operation between sub-groups of like-minded Member States.

Personal tax

As a general principle, the European Commission believes that **taxes on personal income are a matter for the Member States** to determine. At the same time, in some cases, the Commission acknowledges that **co-ordination at EU level is necessary** to safeguard the application of the Treaty freedoms and to eliminate tax obstacles to cross-border activities. There is also a need to co-ordinate personal income taxes to prevent double taxation, or unintentional non-taxation in cross-border situations, or to tackle cross-border tax evasion.

The **European Court of Justice** has consistently held that, in the absence of harmonisation, taxes on personal income fall within the competence of the Member States but they must respect the fundamental EC Treaty principles on the four freedoms (free movement of workers, services and capital, and the freedom of establishment). In particular, there must be no discrimination on the basis of nationality.

The Communication on the **taxation of pensions** of April 2001 (COM/2001/214) is one of the first examples of the Commission's new approach of achieving a co-ordinated response from Member States to important case-law of the European Court of Justice and eliminating tax obstacles to the Internal Market. The Communication stresses that Member States are free to choose their pension systems as long as they respect the four freedoms of the EC Treaty.

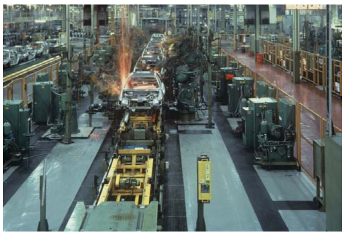
Respect for the Treaty freedoms is equally important in the area of **migrant and cross-border workers**, where the European Court of Justice has already given a number of rulings on the taxation of persons earning income in Member States other than where they live.

Double taxation agreements form an integral part of Member States' tax rules, and the personal tax rules included in these agreements must remain within the boundaries set by the EC Treaty, just like any other national laws.

Finally, the need to avoid distortions to the movement of capital and the need to ensure effective taxation of interest payments received by individuals in Member States other than the Member State of residence have led to the adoption of a Directive on the **taxation of savings income** in the form of interest payments. This Directive enables such interest payments to be made subject to effective taxation in accordance with the laws of the Member State of residence. On 1 July 2005, the provisions of the Directive started to be applied by all 25 Member States. The same measures in the Directive have also been applied, from the same date, in 10 dependent or associated territories through the implementation of bilateral agreements signed by each of the Member States with these jurisdictions; and equivalent measures are applied in five European third countries, including Switzerland.

Further information on Personal taxation is available on the web:
http://ec.europa.eu/taxation_customs/taxation/personal_tax/gen_overview/index_en.htm

Company tax



Proposals to harmonise corporate taxation at European level have been put forward since the 1970s. In recent years, debates on the issue gained new momentum following the adoption by the Commission of a Communication on company taxation in the European Union (COM/2001/582 of 23 October 2001) based on a detailed study. The Communication identified several actions, which could be taken to **remove individual tax obstacles to cross-border trade** in the Internal Market (transfer price complexities, absence of cross-border loss relief, business combination costs, etc.), and the Commission and Member States have agreed some of these and are currently discussing others. However, the Commission also concluded that, in the longer-term, Member States should agree to allow EU companies to use **a single consolidated base for computing tax** on their EU-wide profits. The Commission presented a follow-up Company tax Communication in November 2003 (COM (2003) 726) confirming the commitment taken in the 2001 strategy; renewing its efforts to remove obstacles affecting businesses operating within the Internal Market; and presenting ideas for a pilot scheme that would allow small and medium-sized enterprises to use the tax rules of their home state for computing their EU-wide taxable profits.

The European Commission still believes that the only systematic way to address the underlying tax obstacles, which exist for companies operating in more than one Member State in the Internal Market, is to provide companies with a **consolidated corporate tax base** for their EU-wide activities. Targeted solutions have many merits and would go a long way towards overcoming these tax obstacles. However, even if all of them were implemented, they would not address the fundamental problem of dealing with up to 25 different tax systems. The Commission Directorate-General responsible for Taxation and the Customs Union is currently working on a legislative proposal for a Common Consolidated Corporate Tax Base (CCCTB), which is planned to be presented in 2008. The Commission has also recently published a Communication concerning a possible pilot scheme for Home State Taxation (HST) for Small and Medium Sized Enterprises.

For further information see the website:
http://ec.europa.eu/taxation_customs/taxation/company_tax/gen_overview/index_en.htm

Value Added Tax (VAT)

Value Added Tax, or VAT, in the European Union is a general, broadly based consumption tax assessed on the value added to goods and services. It applies more or less to all goods and services that are bought and sold for use or consumption in the Community.

VAT is a **general tax**, and a **consumption tax** charged as a percentage of price. It is **collected fractionally**, via a system of partial payments, and **neutral** regardless of how many transactions are involved. It is paid **to** the revenue authorities by the seller of the goods (the "taxable person"), but it is actually paid **by** the buyer to the seller as part of the price. It is thus an indirect tax. The most important piece of EU legislation on VAT is the **6th VAT Directive** of 17 May 1977 (Official Journal No L 145 of 13 June 1977), which established a uniform coverage in the then European Community. It was amended and updated several times since then. Further information on the nature of VAT and how it works is available from the following website:
http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/index_en.htm

VAT rates vary between Member States and between types of products because EU law only requires that the **standard VAT rate must be at least 15%** and the **reduced rate at least 5%** (for certain goods and services). The most reliable source of information on current VAT rates for a specified product in a particular Member State is that country's VAT authority. Further information on VAT rates and VAT obligations can be found on this website:
http://ec.europa.eu/taxation_customs/taxation/vat/how_vat_works/rates/index_en.htm

A **strategy to improve the VAT system** was proposed by the European Commission in 2000 (COM/2000/348), its main aims being to

- simplify existing arrangements;

- standardise implementing rules in the EU Member States; and

- ensure closer co-operation between national administrations to combat fraud.

The strategy was reviewed and updated in 2003 (COM/2003/614), when the Commission announced its intention to promote a "**one stop shop**" system allowing trader to fulfil their VAT obligations for their EU-wide activities in a single Member State. European business was consulted by the Commission on such a system in the course of 2004. The summary report of that consultation is available from the website: http://ec.europa.eu/taxation_customs/resources/documents/common/consultations/tax/rep_one_stop_en.pdf

The strategy put forward in 2003 also included promoting taxation at the place of destination for services, and stepping up the fight against carousel fraud. This and other types of **VAT fraud** are at the heart of the 2006 initiative by the Commission to launch a debate about combating tax fraud more efficiently (see page 1). http://ec.europa.eu/taxation_customs/taxation/tax_cooperation/reports/index_en.htm

Excise duties on alcohol, tobacco and energy

Excise duties are indirect taxes on the consumption or the use of certain products. In contrast to Value Added Tax (VAT), they are mainly specific taxes, i.e. expressed as **a monetary amount per quantity of the product**. The most commonly applied excise duties are those on

- alcoholic beverages,

- manufactured tobacco products and

- energy products (motor fuels and heating fuels, such as petrol and gasoline, electricity, natural gas, coal and coke).

All EU Member States apply excise duties to these three product categories.
The revenue from excise duties accrues entirely to the Member States.

EU legislation in the area of excise duties on these products was mainly adopted in the context of the establishment of the Internal Market on 1 January 1993 , which involved the abolition of controls of a fiscal nature at internal borders between Member States.

This legislation, which has been further developed since, can be divided into three main categories:

- The structure of the tax to be applied to a particular group of products. The structure of taxation means the definition of the product categories, the way in which the excise duty is calculated (e.g. per hl; per degree alcohol; per 1000 pieces, etc.), the scope of possible exemptions, etc.

- The minimum rates of duty that Member States have to respect for each type of product. Above those minimum rates, Member States can freely fix their own rate levels.

- General provisions that apply across the product categories. These provisions concern in particular the production, storage and movement between Member States of excise products.

Further information can be found on the web at:
http://ec.europa.eu/comm/taxation_customs/index_en.htm