

# Strengthen the exchange of information framework in the field of taxation

Fields marked with \* are mandatory.

## 1

### Introduction

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Having an economy that works for people, while making Europe greener and more digital, are clear political priorities for this Commission. In terms of Union tax policy, this translates into fair taxation where everybody pays their fair share, as stressed by President von der Leyen in the political guidelines for the European Commission. This Commission is committed to step up the fight against tax avoidance, fraud and evasion, while improving the business taxation environment in the single market.

The [Directive on Administrative Cooperation in Direct Taxation](#) establishes a common approach for the mutual assistance and exchange of information in the field of direct taxation. The Directive supports the Member States by providing tax authorities a legal framework for cooperation, as well as procedures for the safe and secure exchange of information. Since its adoption in 2011, the Directive has been expanded five times, to encompass additional types of income and information. This continuous update in accordance with new challenges as they arise has enabled the directive to maintain its relevance and effectiveness.

This public consultation is the first step to prepare a potential initiative which the Commission is considering in the context of further improving cooperation between tax authorities of the Member States. In addition to addressing some identified shortcomings to existing elements of the Directive on Administrative Cooperation in Direct Taxation, this initiative should provide tax administrations with information on taxpayers who generate income (revenues) through digital platforms.

For the purposes of this consultation, the expression “digital platform” is to be interpreted as encompassing a wide range of activities whereby digital platforms facilitate transactions between individuals and/or entities. This includes for example rental or transportation services. This aims at ensuring the adequate taxation of such revenues while streamlining and updating exchange of information more generally. It builds upon the recently completed [evaluation of the Directive](#). It also will ensure consistency with ongoing work at EU and international level on taxation of the digital platform economy.

### 2 About the consultation

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In line with [Better Regulation principles](#), the Commission has decided to launch an open public consultation designed to gather stakeholders’ views on the possible enhancements to the EU administrative cooperation in the field of taxation. This consultation document contains two separate sections. You can choose to

answer only one or both of the sections, depending on your interest and knowledge.

Responding to the full questionnaire should take about 15 minutes. The questionnaire is available in English only.

Some questions are hidden. This means they will only appear if you chose a certain answer previously. So do not worry if the numbering seems to indicate a missing question.

The first section aims to capture views from all stakeholders on the provision of services through digital platforms, that currently fall outside the scope of the EU legislation on administrative cooperation. In that first section, stakeholders' responses will help the Commission determine whether an EU legislative initiative to target income obtained through digital platforms is needed. The replies will also help identify the main risks as perceived by stakeholders, as well as the priorities for policy actions.

The second section will seek views of stakeholders on the strengthening of the EU framework on administrative cooperation, in particular as regards joint tax audits.

### **Important notice**

Contributions received are intended for publication "as submitted" on the Commission's websites. In the next section, you have the possibility to indicate whether you agree to the publication of your individual responses under your name or anonymously. In addition to answering the questions, you may upload a brief document (e.g. a position paper) at the end of the questionnaire. The document can be in any official EU language.

## **3 About you**

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### **\* 3.1 Language of my contribution**

- Bulgarian
- Croatian
- Czech
- Danish
- Dutch
- English
- Estonian
- Finnish
- French
- Gaelic
- German
- Greek
- Hungarian
- Italian
- Latvian
- Lithuanian
- Maltese
- Polish
- Portuguese

- Romanian
- Slovak
- Slovenian
- Spanish
- Swedish

\* 3.2 I am giving my contribution as

- Academic/research institution
- Business association
- Company/business organisation
- Consumer organisation
- EU citizen
- Environmental organisation
- Non-EU citizen
- Non-governmental organisation (NGO)
- Public authority
- Trade union
- Other

\* 3.3 First name

Anthony Paul

\* 3.4 Surname

Gisby

\* 3.5 Email (this won't be published)

paul@accountancyeurope.eu

\* 3.7 Organisation name

*255 character(s) maximum*

Accountancy Europe

\* 3.8 Organisation size

- Micro (1 to 9 employees)
- Small (10 to 49 employees)
- Medium (50 to 249 employees)
- Large (250 or more)

3.9 Transparency register number

*255 character(s) maximum*

Check if your organisation is on the [transparency register](#). It's a voluntary database for organisations seeking to influence EU decision-making.

### \* 3.10 Country of origin

Please add your country of origin, or that of your organisation.

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| <input type="radio"/> Afghanistan         | <input type="radio"/> Djibouti                            | <input type="radio"/> Libya            | <input type="radio"/> Saint Martin                                 |
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| <input type="radio"/> Barbados            | <input type="radio"/> Gabon                               | <input type="radio"/> Monaco           | <input type="radio"/> South Korea                                  |
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| <input checked="" type="radio"/> Belgium  | <input type="radio"/> Germany                             | <input type="radio"/> Montenegro       | <input type="radio"/> Spain  |
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| <input type="radio"/> Bhutan              | <input type="radio"/> Greenland                           | <input type="radio"/> Myanmar /Burma   | <input type="radio"/> Svalbard and Jan Mayen                       |
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- Bonaire Saint Eustatius and Saba
- Bosnia and Herzegovina
- Botswana
- Bouvet Island
- Brazil
- British Indian Ocean Territory
- British Virgin Islands
- Brunei
- Bulgaria
  
- Burkina Faso
- Burundi
  
- Cambodia
  
- Cameroon
  
- Canada
- Cape Verde
- Cayman Islands
  
- Central African Republic
- Chad
- Chile
- China
  
- Christmas Island
- Clipperton
- Cocos (Keeling) Islands
  
- Colombia
- Comoros
  
- Congo
- Cook Islands
- Costa Rica
- Côte d'Ivoire
- Croatia
  
- Guadeloupe
- Guam
- Guatemala
- Guernsey
- Guinea
- Guinea-Bissau
- Guyana
- Haiti
- Heard Island and McDonald Islands
- Honduras
- Hong Kong
- Hungary
- Iceland
- India
- Indonesia
- Iran
- Iraq
- Ireland
- Isle of Man
- Israel
- Italy
- Jamaica
- Japan
- Jersey
- Jordan
- Kazakhstan
- Kenya
- Kiribati
- Kosovo
- Kuwait
  
- Nauru
- Nepal
- Netherlands
- New Caledonia
- New Zealand
- Nicaragua
- Niger
- Nigeria
- Niue
- Norfolk Island
- Northern Mariana Islands
- North Korea
- North Macedonia
- Norway
- Oman
- Pakistan
- Palau
- Palestine
- Panama
- Papua New Guinea
- Paraguay
- Peru
- Philippines
- Pitcairn Islands
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- Portugal
- Puerto Rico
- Qatar
- Réunion
- Romania
  
- Switzerland
- Syria
- Taiwan
- Tajikistan
- Tanzania
- Thailand
- The Gambia
- Timor-Leste
- Togo
- Tokelau
- Tonga
- Trinidad and Tobago
- Tunisia
- Turkey
- Turkmenistan
- Turks and Caicos Islands
- Tuvalu
- Uganda
- Ukraine
- United Arab Emirates
- United Kingdom
- United States
- United States Minor Outlying Islands
- Uruguay
- US Virgin Islands
- Uzbekistan
- Vanuatu
- Vatican City
- Venezuela
- Vietnam

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| <input type="radio"/> Democratic Republic of the Congo | <input type="radio"/> Lesotho    | <input type="radio"/> Saint Kitts and Nevis                       | <input type="radio"/> Zimbabwe          |
| <input type="radio"/> Denmark                          | <input type="radio"/> Liberia    | <input type="radio"/> Saint Lucia                                 |   |

### \* 3.11 Publication privacy settings

The Commission will publish the responses to this public consultation. You can choose whether you would like your details to be made public or to remain anonymous.

**Anonymous**

Only your type of respondent, country of origin and contribution will be published. All other personal details (name, organisation name and size, transparency register number) will not be published.

**Public**

Your personal details (name, organisation name and size, transparency register number, country of origin) will be published with your contribution.

3.12 I agree with the [personal data protection provisions](#)

### \* 3.13 Once the consultation period is over, the European Commission will prepare a report summarizing the responses.

Would you like to be informed when the report is published?

- Yes  
 No

## 4 Digital platforms

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The phenomenon of digital platforms facilitating peer-to-peer sale of goods or services between users – including the “collaborative economy” or so-called “sharing” and “gig” economy – is growing rapidly.

Many different services can be accessed through digital platforms. Some examples include:

- accommodation services ( such as renting an apartment when going on holidays);
- transportation services (such as car sharing);
- food-related services (such as home delivery);
- household services (such as gardening or babysitting);
- professional services (such as accounting or legal services);
- collaborative finance services (such as crowd-funding).

While the emergence of these digital platforms can have strong positive effects on the economy, they also raise a number of issues, including making sure that participants selling goods or services via those platforms (platform sellers) are aware of and fully comply with their tax obligations.

Given the nature of these platforms – highly mobile, operating internationally and often with no real physical presence - it can be challenging for tax administrations to gain timely access or even detect relevant information on transactions carried out or income obtained through digital platforms. These developments present risks of distorting competition with traditional businesses and leading to taxable income not being reported, and having the potential of becoming a vehicle for the shadow economy.

There are concerns that some income obtained by platform sellers is not declared to the relevant tax authorities. A number of EU countries (e.g. Italy, France, Denmark or Estonia) have already introduced unilateral reporting measures requiring platforms to communicate to the tax authorities revenues received by platform sellers, while others are planning to introduce similar measures in the near future. However, it is also recognised that unilateral measures are inefficient, as enforcement of the rules proves difficult - if not impossible - in a flexible and remotely operated business model. Additionally, each (unilateral) approach may include different registration and compliance requirements. This may lead to different regulatory models between EU countries and Single Market fragmentation, with an inherent administrative burden for both platforms and users.

#### 4.1 Have you ever used a service or bought goods through a digital platform?

	No, never	Yes, once or a few times	Yes, occasionally (once every few months)	Yes, regularly (once a month or more often)	No opinion
Services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Goods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

#### 4.2 Have you ever offered a service or sold goods through a digital platform?

	No, never	Yes, once or a few times	Yes, occasionally (once every few months)	Yes, regularly (once a month or more often)	No opinion
Services	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>
Goods	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>

4.3 Please indicate the extent to which you agree or disagree with the following statements

	Strongly agree	Agree	Neither agree, nor disagree	Disagree	Strongly disagree	No opinion
There is a significant lack of reporting, for taxation purposes, of revenues obtained through digital platforms.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
The lack of reporting/underreporting of revenues obtained through digital platforms negatively impacts fair competition between the traditional economy and the digital platform economy.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
It is easy to declare, and pay taxes due on, income earned through digital platforms.	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>
Individual EU countries are sufficiently equipped to track revenues generated through digital platforms.	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>



4.4 Do you consider that there is a risk of tax avoidance, evasion or fraud as regards activities carried out through a digital platform?

- Yes
- No
- Don't know

4.5 Which type of activities carried out through digital platforms do you consider as carrying a risk of tax avoidance, evasion or fraud?

	No risk	Small risk	Medium risk	High risk	Very high risk	No opinion
Provision of services	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Sales of goods	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4.6 Which type of services offered through digital platforms do you consider as carrying a risk of tax avoidance, evasion or fraud?

	No risk	Small risk	Medium risk	High risk	Very high risk	No opinion
Accommodation services ( such as renting an apartment when going on holidays)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Transportation services (such as car sharing)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Food-related services (such as home delivery)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Household services (such as gardening or babysitting)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Professional services (such as accounting or legal services)	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Collaborative finance services (such as crowd-funding)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>
Other services (please explain)	<input type="radio"/>	<input type="radio"/>	<input checked="" type="radio"/>	<input type="radio"/>	<input type="radio"/>	<input type="radio"/>

4.7 Other services (please explain):

*1000 character(s) maximum*

We have also identified the following additional services that carry a risk of tax avoidance, evasion or fraud:

- Tool and equipment exchange services
- Stock photography, music and other creative services platforms.

We do not consider these services to carry any more or less inherent risk that the others listed in 4.6.

#### 4.8 Please explain

*1000 character(s) maximum*

Dealing with the risks arising from platforms would be facilitated by an international definition of the 'business' models involved, and the services provided.

In most of the cases highlighted above as medium risk, and collaborative finance services, the main difficulty is in identifying the profit element and establishing an intention to profit (where relevant in the national tax code).

In respect of professional services, we would rank the risk as small because most professionals are aware of the need to declare income from their profession and would normally have advisers to assist in this. The risk comes from barter transactions, which has always been an issue, but which have been amplified by the development of platforms. The risk is somewhat increased as the potential individual transaction amount is likely higher in this instance than in the others listed.

4.9 Several EU countries have already imposed (or are planning to impose) reporting obligations on digital platforms. Do you consider that this national approach will bring undue administrative burden to platforms and/or sellers due to the differences between countries?

- Yes, to both platforms and sellers
- Yes, but only to platforms
- Yes, but only to sellers
- No, to neither the platforms nor the sellers
- Don't know

#### 4.10 Please explain your reasoning

Diversity in reporting obligations are most burdensome on the platforms as many of the sellers will be affected by national regulations only. Larger sellers may find their burden increase, but it is still likely that the platforms would face most of the additional burden. If significant, the cost of such burden is likely to be passed on to sellers and consumers.

There is an urgent need for global standards. Divergent national solutions create cost inefficiency and limit growth in the EU. Any proposal should be based around a digital solution with international agreement on overall objectives and on data formats, deadline and content. There is also the question of whether the data to be 'pushed' or 'pulled'? At an EU level there could be scope for a 'data warehouse' solution whereby tax authorities pull what they need from a centralised database.

4.11 Do you consider that this new way of doing business through an digital platform – whether providing a service or selling goods – should be subject to reporting by the platforms to the relevant tax administration?

For example in order to ensure a level playing field with traditional service providers

- Yes
- No
- Don't know

4.12 Do you consider that digital platforms should have the same reporting obligations for tax purposes throughout the EU (i.e. single set of rules)?

- Yes
- No

- Don't know

4.13 Do you consider that common reporting obligations in the EU would reduce the administrative burden for platforms and /or sellers?

- Yes, for both platforms and sellers
- Yes, but only for platforms
- Yes, but only for sellers
- No, this would not reduce the administrative burden
- Don't know

4.14 If common EU rules were adopted, should all **digital platforms** be subject to reporting obligations or do you consider that some should benefit from an exemption (for example start-ups, platforms with low revenues, etc.)?

- All platforms should be subject to the same reporting obligations (to avoid potential loopholes)
- Some platforms should benefit from an exemption (for example start-ups, platforms with low revenues, etc.)
- Don't know

4.15 Please identify the type of digital platforms that should benefit from a reporting exemption and explain your reasoning.

*1000 character(s) maximum*

An internationally agreed, digitalised solution should be scalable to allow small and start up platforms to comply with the reporting obligations. In this case, no exemptions should be necessary. If this is not achievable, it may be necessary to (temporarily) exempt smaller platforms until they have reached a size or maturity that allows them to comply with non-digitalised and potentially fragmented reporting rules.

4.16 If common EU rules were adopted, should all **providers of services or sellers of goods** through digital platforms be reported to the relevant tax administrations or do you consider that some should benefit from an exemption?

- All providers of services or seller of goods should be subject to the same reporting obligations (to avoid potential loopholes)
- Some providers of services or sellers of goods should benefit from an exemption.
- Don't know

4.17 Please identify the type of providers of services or sellers of goods that should benefit from a reporting exemption and explain your reasoning (e.g. reduced number of transactions per year or low value of transactions per year).

*1000 character(s) maximum*

Platforms dedicated to the sharing / circular economy (and the disposal of goods by consumers superfluous to their needs) should be exempt from reporting. Reporting such transactions, and those of 'hobby' businesses, is likely to overwhelm tax authorities whilst producing very little additional tax revenues - hobby businesses are often excluded from income tax regimes because they mostly generate tax losses. Belgium has introduced a similar exemption – explained in our points under 6 below.

However, we are aware that this is difficult to build into the system. Apart from obvious indicators, such as a VAT registration number or trading through a company, it may be very difficult to distinguish an intention to trade from what is essentially a recreational activity. However, the more established platforms undoubtedly have considerable data on their sellers and their data analytics may be of use in developing a risk-assessment model to help deal with the issue

## 5 Joint tax audits

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**Business** increasingly operate on a global basis and engage in cross-border activities while the competences of tax administrations remain largely limited to the national territory as a matter of principle.

**Tax administrations** need to engage in closer co-operation in order to ensure that taxpayers pay the right amount of taxes while, at the same time, they need to enhance tax certainty and prevent double taxation.

Contrasting the continued globalisation of the economy including its rapid digitalisation with the territorial limitations faced by tax administrations clearly suggests that the mere **exchange of information** may not be sufficient or the most efficient and effective route for achieving the best compliance outcomes for administrations and taxpayers.

Similarly, acting and **auditing unilaterally** rather than jointly in areas such as transfer pricing, not only risks missing part of the picture but also carries the risk of double taxation for taxpayers. This may then lead to disputes, which may require an additional time-consuming process through mutual agreement procedures with an uncertain outcome.

The next step towards a more enhanced co-operation between tax administrations could be to conduct joint audits, whereby two or more administrations form a single audit team in order to examine an issue/set of transactions that pertain to one or more related taxpayers (with cross-border economic activities). The aim would be to agree on a single audit report at the end and assess the related taxpayers to tax on this basis. Through this process, the tax authorities would be expected to form a more comprehensive understanding of the audited taxpayers' affairs and conclude with an assessment that does not result in double taxation or non-taxation.

**Joint audits** can play an important role in contributing to a better functioning of the internal market on two fronts: (i) they offer tax administrations a transparent and efficient tool to facilitate the allocation of taxing rights; (ii) they may prevent the occurrence of double taxation to the benefit of the taxpayers.

Within the EU framework, the Directive on Administrative Cooperation in Direct Taxation (Directive 2011/16 /EU) refers to different forms of administrative cooperation but does not explicitly foresee joint audits. In the current practice, some tax administrations already perform multilateral controls in a way that the procedure and outcome are, in essence, close to the concept of a joint audit. They thus combine the elements of a

simultaneous tax inspection (art. 12) with features of presence of tax officials abroad (art. 11).

While such joint audits may already be performed by combining existing legal instruments, certain challenges remain as identified in the evaluation of the Directive, especially in non-cooperative situations. The current legal framework could be improved.

5.1 Do you consider that there is a need to revise the EU legal framework to include some more specific details on joint audits?

- Yes
- No
- Don't know

5.2 Do you consider that each joint audit should finish with a single agreed report?

- Yes
- No
- Don't know

5.3 Do you consider that the tax administrations participating in the joint audits should be obliged to reach agreement on a report (i.e. facts and legal interpretation of facts)?

- Yes
- No
- Don't know

5.4 Do you consider that the result of a joint audit should be taken into account if the taxpayer applies for ex ante certainty by way of an Advanced Pricing Arrangement (APA) or requests a Mutual Agreement Procedure (MAP) for solving a dispute that has already arisen?

- Yes
- No
- Don't know

5.5 Do you consider that tax administrations should be obliged to participate in a joint audit when they receive a request to this end from one or more other tax administrations?

- Yes
- No
- Don't know

5.6 Do you consider that the taxpayer should be granted the right to request a joint audit?

- Yes
- No
- Don't know

5.7 Do you consider that tax administrations should be obliged to launch a joint audit if so requested by a taxpayer?

- Yes

- No
- Don't know

## 6 Final remarks

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Should you wish to provide additional information (for example a position paper) or raise specific points not covered by the questionnaire, you can upload your additional document here.

Please note that the uploaded document will be published alongside your response to the questionnaire which is the essential input to this open public consultation. The document is an optional complement and serves as additional background reading to better understand your position.

### 6.1 Please upload your file

The maximum file size is 1 MB

Only files of the type pdf,txt,doc,docx,odt,rtf are allowed

**fdb81688-da00-4253-8384-30b6a5cc5719/2020-04-01\_Accountancy\_Europe\_additional\_comments\_for\_DAC\_public\_consultation.pdf**

### Contact

taxud-d2-acdt@ec.europa.eu