ITALIAN DIGITAL SERVICE TAX

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INTRODUCTION

Addressing tax challenges raised by the digitalization of the economy is a priority both for the OECD and the EU

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OECD and EU are looking for a

common solution

INDIVIDUAL MEASURES

Some countries have adopted
individual measures

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Austria, France, Hungary, Italy, Poland, Turkey, and the United Kingdom

ITALIAN INDIVIDUAL MEASURES

- Change in the definition of PE;

- Enactment of a digital service tax (DST) at the end of 2018 (in force since the beginning of 2020).

SUNSET CLAUSE

The Italian DST will be repealed once measures agreed at international level to tax the digital economy will enter into force

TAXPAYERS

- Anyone with a business activity;

- Thresholds (in the previous calendar year):
  - total amount of revenue ≥ 750 million Euros;
  - Italian revenue from qualified digital services ≥ 5,5 million Euros.

FACTS THAT TRIGGER THE TAX (1)

- Revenue deriving from qualified digital services:
  - advertising on a digital interface targeted to users of the same interface;
  - provision of a digital multilateral interface aimed at allowing users to interact (also in order to facilitate the direct exchange of good and services);
  - transmission of data collected from users and generated by the use of a digital interface;
- Exclusions:
  - direct supply of goods and services, as part of a digital intermediation service;
  - supply of goods or services ordered through the website of the supplier, if the supplier does not perform intermediary functions;
  - communication or payment services;
  - trading and banking platforms;
  - organization and management of platforms for the exchange of electricity, gas, environment certificates, …;

FACTS THAT TRIGGER THE TAX (2)

territoriality

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users located in Italy

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internet protocol or other geolocation tools

QUANTIFICATION OF THE TAX

- Tax rate: 3%

- Taxable base: turnover related to the qualified digital services rendered in Italy:
  - fees related to the provision of a digital multilateral interface that facilitates the sale of specific products subject to excise duties are not taxable;
  - intercompany revenue is not taxable;
  - no deductions of costs;
  - deduction of indirect taxes;
  - no cash method.

ADMINISTRATIVE RULES

- Payment: February 16
- Tax return: March 31
- Accounting: monthly
- Tax responsibility

PRACTICAL PROBLEMS

- Compliance costs
- Administrative costs
- Double taxation?

CONSTITUTIONAL ISSUES

- Reasonableness: is there a direct and clear link in Italy between big corporations and value creation?

- Vertical equity and discrimination: is it possible to impose different taxes and different rates for different sectors or different taxpayers?

EU LAW ISSUES

- Compatibility with VAT

- Compatibility with fundamental freedoms

- State aids?

INTERNATIONAL TAX ISSUES

- Application of tax treaties

- Application of foreign tax credit

CONCLUSION

- The Italian DST raises too many issues;
- Italy already changed the definition of PE;
- Is the Italian DST really solving the problem?

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Looking forward to a common solution!