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**COMMISSION STAFF WORKING DOCUMENT**

**IMPACT ASSESSMENT**

**Tax fraud and evasion – better cooperation between national tax authorities on  
exchanging information**

*Accompanying the document*

**Proposal for a Council Directive**

**amending Directive 2011/16/EU on administrative cooperation in the field of taxation**

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## TABLE OF CONTENTS

1 INTRODUCTION: POLITICAL AND LEGAL CONTEXT .....	4
2 PROBLEM DEFINITION.....	9
2.1. What are the problems? .....	9
2.2. What are the problem drivers? .....	13
2.2. How will the problem evolve? .....	16
3 WHY SHOULD THE EU ACT? .....	18
3.1 Legal basis .....	18
3.2 Subsidiarity: Necessity of EU action.....	18
3.3 Proportionality: Added value of EU action .....	19
4 OBJECTIVES: WHAT IS TO BE ACHIEVED? .....	20
4.1 General objectives .....	20
4.2 Specific objectives.....	21
5 WHAT ARE THE AVAILABLE POLICY OPTIONS? .....	22
5.1 - Baseline .....	22
5.2 - EU non legislative intervention to recommend the implementation of a global standard.....	22
5.3 – EU legislative intervention .....	22
5.4 – Follow up to the DAC evaluation: Strengthening administrative cooperation .....	27
5.5 - Options discarded at an early stage.....	28
6 WHAT ARE THE IMPACTS OF THE POLICY OPTIONS? .....	30
6.1 Overview of options .....	30
6.2 Economic impacts .....	31
6.3 Social and environmental impacts.....	50
7 HOW DO THE OPTIONS COMPARE? .....	53
8 PREFERRED OPTION.....	55
9 HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED? .....	59
9.1 Indicators for monitoring and evaluation .....	59
9.2 Monitoring and reporting .....	59
ANNEX 1: PROCEDURAL INFORMATION .....	61
ANNEX 2: STAKEHOLDER CONSULTATION .....	64
ANNEX 3: WHO IS AFFECTED AND HOW?.....	78
ANNEX 4: ANALYTICAL METHODS .....	81

ANNEX 5: THE OECD MODEL RULES FOR SELLERS IN THE SHARING AND GIG ECONOMY .....	90
ANNEX 6: OVERVIEW OF PLATFORM REPORTING OBLIGATIONS AT NATIONAL LEVEL.....	94
ANNEX 7: BIBLIOGRAPHY .....	97
ANNEX 8: 2019 EVALUATION OF THE DIRECTIVE ON ADMINISTRATIVE COOPERATION (DAC).....	100

## Glossary

<i>Term or acronym</i>	<i>Meaning or definition</i>
BEPS	Base Erosion and Profit Shifting
CCN	Common Communication Network
COVID-19	New coronavirus disease
CRS	The Common Reporting Standard (CRS), developed by the OECD, calls on financial institutions to report information to tax administrations and on the latter to exchange automatically that information with each other. It has been implemented in the EU through the first amendment to the Directive on Administrative Cooperation, in 2014, the so-called DAC2 Directive.
DAC	Directive on Administrative Cooperation, Council Directive 2011/16 EU  Consolidated version: <a href="https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02011L0016-20170605">https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX:02011L0016-20170605</a>
E-commerce	Electronic commerce, the activity of electronically buying or selling products on online services or over the Internet.
FPG	Fiscalis Project Group: a cooperation activity between tax administrations to develop common projects, supported by the Fiscalis 2020 programme.
FPG/097	The Fiscalis Project Group on ‘Digital and Data’: a cooperation activity between 18 Member States who worked together to prepare a report (not public) on a common EU model for exchanging data, gathered from platforms.
G20	The Group of Twenty
GDPR	General Data Protection Regulation
OECD	Organisation for Economic Co-operation and Development
SMEs	Small and medium-sized enterprises
TADEUS	Tax Administration EU Summit
TFEU	Treaty on the Functioning of the European Union
TIN	Tax Identification Number

## 1 INTRODUCTION: POLITICAL AND LEGAL CONTEXT

A tax system where everybody pays their fair share is essential in order to ensure an economy that works for people, as stressed by President von der Leyen in the political guidelines for the European Commission.<sup>1</sup> Fair and efficient taxation promotes social justice and a business level playing field in the European Union (EU). Fair taxation is an important priority of the Commission and "one of the key foundations of our social market economy".<sup>2</sup> The COVID-19 pandemic adds urgency to the need to protect public finances and ensure fair-burden sharing.

Fair taxation requires on the one hand to step up the fight against fraud, and on the other hand to simplify tax rules in order to facilitate compliance. To translate this high-level political commitment into action, the Commission has put forward a set of actions to fight tax evasion, not only within the EU but on a global scale, and make taxation simple and easy.<sup>3</sup> This initiative is part of it. It is linked to the objective to fight against tax avoidance and evasion<sup>4</sup> and to ensure everyone pays their fair share and fits within the overarching EU strategy for recovery<sup>5</sup>

Fair taxation is not only a Commission priority, it is also shared by the Council and the European Parliament. In 2014, the European Council affirmed the urgency of fighting tax avoidance, stressing the importance of transparency.<sup>6</sup> The European Parliament has in several occasions stressed the political importance of fair taxation and of fighting tax fraud, evasion and avoidance. In 2019, the Parliament pointed out that "existing tax rules are often unable to keep up with the increasing speed of the economy" and that it is urgent to act to make sure tax systems are fit for the technological challenges of the 21<sup>st</sup> century to "ensure that all market participants pay their fair share of taxes".<sup>7</sup> Previously, the Parliament overall had supported the Commission's taxation agenda, putting forward several recommendations to stimulate further progress and action.<sup>8</sup> Furthermore, also the European Economic and Social Committee has actively contributed to the debate on policy solutions for fair taxation, including in the area of digital platforms.<sup>9</sup>

Thanks to the support of the European Parliament and the unanimous adoption of Commission proposals in Council, in the past ten years major progress has already been made in the fight against tax avoidance and evasion, especially to expand tax transparency and cooperation. Better cooperation and a greater exchange of information between tax administrations are essential in the fight against tax avoidance and evasion.

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<sup>1</sup> [Political guidelines for the next European Commission 2019-2024](#)

<sup>2</sup> European Commission. (2019). Political guidelines for the next European Commission 2019-2024, p. 12.

<sup>3</sup> European Commission. (2020). Commission Work Programme 2020: A Union that strives for more. (COM(2020) 37 final)

<sup>4</sup> European Commission (2020). Communication on an action plan for fair and simple taxation supporting the recovery strategy; and European Commission (2020). Communication on Tax Good Governance.

<sup>5</sup> European Commission (2020). 'Europe's moment: Repair and Prepare for the Next Generation'.

<sup>6</sup> European Council (2014). Conclusions of the European Council of 18 December 2014.

<sup>7</sup> European Parliament (2019). European Parliament resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance (2018/2121(INI)).

<sup>8</sup> This European Parliament factsheet provides a comprehensive, up to date overview of the European Parliament's role and recent achievements in EU tax policy:

<https://www.europarl.europa.eu/factsheets/en/sheet/92/general-tax-policy>

<sup>9</sup> European Economic and Social Committee. (2020). Taxation of the collaborative economy – reporting requirements (additional opinion). ECO/500-EESC-2019.

The Directive on Administrative Cooperation<sup>10</sup> (DAC) frames this cooperation within the EU for the purposes of direct taxation and has been amended several times over the last years to meet new challenges.<sup>11</sup>

It is important to ensure that it remains fit for purpose, in an economy where new business models emerge and challenge the existing rules on administrative cooperation. This impact assessment presents policy actions to expand the exchange of information within the EU to cover income or revenue<sup>12</sup> generated through digital platforms; and to further strengthen administrative cooperation between tax authorities.

First, we will focus on the exchange of information in relation to money earned by users of digital platforms, either private individuals or entities. Digital platforms can be defined as providers of multi-sided digital interfaces that allow users to find other users and interact with them. The platforms facilitate the provision of underlying supplies of goods or services against monetary consideration directly between the users.<sup>13</sup> Digital platforms can play a positive role for our economies. They provide opportunities for better services for consumers and suppliers alike. They also represent a significant, and growing, share of our economies.<sup>14</sup>

From the perspective of tax administration, digital platforms represent also an opportunity for reporting data. It has been observed that there is underreporting in the new business models and that there is space for more support from digital platforms in addressing non-compliance.

Digital platform operators typically do not inform tax administrations about the income or other forms of revenues that individuals and entities providing services or selling goods via online platforms (hereinafter designated as “platform sellers” or simply as “sellers”) earn.<sup>15</sup> They also generally do not collect any tax on behalf of tax authorities, as it is customary in other sectors. Often, employers provide information to tax authorities about the wages they pay to their employees. But the definition of employment status is more blurred and contentious when it comes to platform sellers. Therefore, tax administrations currently have little tools available in order to verify whether the income earned by platform sellers is declared and, if so, whether the amount is right. This is problematic. As pointed out by the European Parliament, “defining tax bases requires being in possession of a full picture of a taxpayer’s situation”.<sup>16</sup>

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<sup>10</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, OJ L 64/1.

<sup>11</sup> Directive 2014/107/EU (DAC2), Directive 2015/2376/EU (DAC3), Directive 2016/881/EU (DAC4), Directive 2016/2258/EU (DAC5), Directive 2018/822/EU (DAC6).

<sup>12</sup> The expression “income or revenues” intends to cater for both the situations where the taxpayer engages in a business activity (revenues) or receives other income (such as a wage/salary).

<sup>13</sup> We understand the issue of defining a platform may be sensitive, as definitions may differ depending the policy context. In the context of this initiative, we clarify the following: “The concept of a Platform does not include software exclusively allowing the (i) processing of payments, (ii) listing or advertising, or (iii) redirecting or transferring of users to a Platform”.

<sup>14</sup> More information on digital platforms can be found in Vaughan, R., & Daverio, R. (2016).

<sup>15</sup> The term is used for the purposes of this impact assessment and is meant here to cover also workers who do their job via the intermediation of platforms, or platform workers, for instance delivery workers or drivers etc.

<sup>16</sup> European Parliament (2019). European Parliament resolution of 26 March 2019 on financial crimes, tax evasion and tax avoidance (2018/2121(INI)).

The main issue policymakers are being asked is whether or not to require digital platforms to report – in a standardised manner throughout the EU – to tax administrations how much those who use these platforms to rent an apartment, or provide transport or other services, sell goods etc. earn. The public policy objective of this reporting of information from platforms to tax administrations, and the subsequent exchange of information across tax administrations to the Member State where the seller is resident (or where his/her immovable property is located), is to check that those who earn money via platforms pay tax as they are supposed to or, to put it differently, do not evade tax.

It is important to clarify that this initiative is focused on the reporting of income and revenues earned by platform sellers and the transfer of that information to the use of the Member State where the platform seller is resident. It does not cover the actual taxation of such income and revenues, which will be based on each Member State's national rules. It does not cover either the taxation of the profit made by the platforms themselves. However, the question of fair taxation of digital platforms is not forgotten: the Commission is conducting in parallel work to ensure fair taxation of the platforms themselves, as part of the Business Taxation for the 21<sup>st</sup> century initiative.<sup>17</sup>

For the purposes of this report, the main features of a digital platform business model are typically considered to be:

- A platform brings together sellers and seekers and facilitates all processes between them, usually charging a fee for the facilitation of the transaction.
- A platform usually does not possess any of the assets on offer and does not provide the services via its own staff.
- For services, access instead of ownership: rather than buying an asset, the customer rents it from someone else, or engages a service via the platform. Other platforms, usually designated “marketplaces”, facilitate the sale of goods.

Tax administrators have, for some time already, looked into this challenging question, trying to come up with effective and efficient solution. The aim is to reach a “win-win” solution, on the one hand being able to satisfy the information needs of tax administrations and ultimately to ensure fair taxation; on the other hand, keeping any possible, additional administrative burden for platform operators as limited as possible.

The intervention logic is similar to the one underpinning the reporting and the automatic exchange of financial account information. To address underreporting of such income, policymakers agreed first, within the EU, on the Savings Directive<sup>18</sup> and secondly on a global Common Reporting Standard (CRS)<sup>19</sup>, implemented in the EU by the first amendment to the Directive on Administrative Cooperation (the so-called DAC2).<sup>20</sup> As the evaluation of the Directive shows,<sup>21</sup> initial costs to put in place this automatic

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<sup>17</sup> European Commission. (2020). Commission Work Programme 2020: A Union that strives for more. (COM(2020) 37final), p. 6.

<sup>18</sup> Council Directive 2003/48/EC of 3 June 2003 on taxation of savings income in the form of interest payments (OJ L 157, 26.6.2003, p. 38).

<sup>19</sup> <http://www.oecd.org/tax/automatic-exchange/common-reporting-standard/>

<sup>20</sup> Council Directive 2014/107/EU of 9 December 2014 amending Directive 2011/16/EU as regards mandatory automatic exchange of information in the field of taxation (OJ L 359, 16.12.2014, p. 1).

<sup>21</sup> European Commission. (2019). Commission staff working document Evaluation of the Council Directive (EU) no 2011/16/EU on administrative cooperation in the field of direct taxation and repealing Directive

reporting by financial institutions to tax authorities and the subsequent exchanges were significant. Yet, the intervention addressed the challenge of underreporting of financial accounts and put in place one single standard instead of several different national approaches. The introduction of new measures to strengthen the exchange of information framework, by extending reporting obligations to digital platforms, gathers a broad support among Member States, as was reflected both in the discussions at a Working Party IV meeting, which met in February 2020, and at the High Level Working Party meeting of March 2020. It was also supported by stakeholders, as expressed during a targeted consultation of platforms' representatives.

Tax administrations have worked on this challenge already both at the EU and at the OECD level. On the EU side, representatives of eighteen Member States' tax administrations worked on a "Digital and data" project and delivered in 2019 a technical report (the "digital and data report"), which provides a sound basis for the options put forward in this impact assessment.<sup>22</sup> The heads of the EU tax administrations welcomed this report at their meeting of September 2019 in Helsinki.<sup>23</sup> On the OECD side, work is ongoing to deliver by mid-2020 model rules for the reporting of information by digital platforms.<sup>24</sup> Commission staff, as well as Member States representatives, are attending relevant OECD meetings and contributing to the preparation of the final deliverable of this project, a set of model rules for platform reporting. This initiative takes into account the discussions both at EU and international levels. It is important to bear in mind that the key challenge at stake in this impact assessment is one of tax administration and of proper reporting of income and revenue generated through digital platforms.

This impact assessment does not address the issue of whether platforms, as companies themselves pay their fair share, in relation to the profits they make. The Commission is however actively contributing to international discussions, led by the OECD and G20, on the reform of the international corporate tax system to make it fit for today's increasingly digitalised and globalised economy. This initiative aims at tackling the problem of having a significant amount of money earned by people and businesses selling through platforms which has the potential of not being reported and remains un-taxed, therefore fostering the shadow economy. The issues at stake are also separate from broader policy initiatives aimed at upgrading the EU legal framework of the digital sector, in particular the forthcoming Digital Services Act, or an initiative aimed at improving the labour conditions of platform workers.<sup>25</sup>

Secondly, the aim is to touch upon the question of improving tax administrative cooperation more generally. In 2019, the Commission services concluded the first evaluation of the effectiveness, efficiency, relevance, coherence and EU added value of

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77/799/EEC (SWD(2019)328 final). Annex 8 provides additional information on how to access this staff working document, its executive summary as well as the supporting study.

<sup>22</sup> "The 'Digital and data' project –on reporting requirements for the sharing and gig economy -led by Finland provides a sound technical basis for possible future policy and technical initiatives.", quoted from TADEUS 2019 Outcomes statement. The final project report is not public.

<sup>23</sup> TADEUS 2019 Outcomes Statement:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/tadeus\\_2019\\_outcomes\\_statement\\_-\\_1st\\_plenary\\_meeting\\_helsinki\\_finland.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/tadeus_2019_outcomes_statement_-_1st_plenary_meeting_helsinki_finland.pdf)

<sup>24</sup> At the time of writing, OECD discussions are ongoing. They are expected to close by mid-2020 but delays cannot be excluded, in particular taking into account the effect of the COVID-19 crisis on the operations of tax administrations.

<sup>25</sup> For more information on these initiatives, please refer to the EU Commission Work Programme 2020, 2.2.A Europe fit for the digital age and Commission Communication on "Shaping Europe's digital future".



administrative cooperation in the field of direct taxation.<sup>26</sup> The evaluation pointed out that cooperation brings about important benefits, yet there remains scope for improvement. For example, differences remain in the way Member States exploit the available tools. The information could be used more efficiently and the benefits of cooperation could be analysed in a more comprehensive manner. Building upon the evaluation, this impact assessment presents ideas for a limited set of precise interventions to improve the functioning of administrative cooperation.

At the time of writing this impact assessment, the European Union and the world are facing the COVID-19 pandemic, an “unprecedented situation” and crisis putting strains on citizens’ way of life, on society and economy.<sup>27</sup> It matters to underline first, that the objectives of this intervention and in particular fair taxation will remain fully valid in a post-COVID world and second, that its estimates costs and efforts would not be unreasonable to impose in a world focused primarily on recovery.

Finally, a remark on the approach taken by this impact assessment: this document attempts to quantify the economic impacts as much as possible. When it comes to the estimation of benefits - in particular the additional tax revenues - the method relies on four key variables: the estimated total value of transactions facilitated by platforms, the percentage of those transactions that represents taxable revenue, the average tax rate and the percentage of revenue that is currently not reported, but would be as a result of the implementation of the option. Concerning costs, the method is based on the Standard Cost Model, whereby cost estimates depend on how often a certain activity is undertaken and the price of such activity.<sup>28</sup> The key results of the analysis are presented in chapter 6, while annex 4 gives more information on the methodology and assumptions used.

This document is divided into the following chapters: after the introduction in chapter 1, chapter 2 defines the problems at stake. Chapter 3 looks at the case for EU intervention; chapter 4 spells out the objectives of the intervention. Chapter 5 describes the policy options, while chapter 6 analyses their impacts and chapter 7 briefly compares them. As a result of the comparative analysis of impacts, one option is chosen as “preferred” one, described in chapter 8. Chapter 9 answers the question of how the impact of the intervention will be monitored and evaluated. Several annexes provide additional procedural and contextual information, as well as, a summary of the stakeholders’ consultation.

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<sup>26</sup> European Commission. (2019). Commission staff working document Evaluation of the Council Directive (EU) no 2011/16/EU on administrative cooperation in the field of direct taxation and repealing Directive 77/799/EEC (SWD(2019)328 final).

<sup>27</sup> Speech by President von der Leyen at the European Parliament Plenary on the European coordinated response to the COVID-19 outbreak, 26 March 2019:

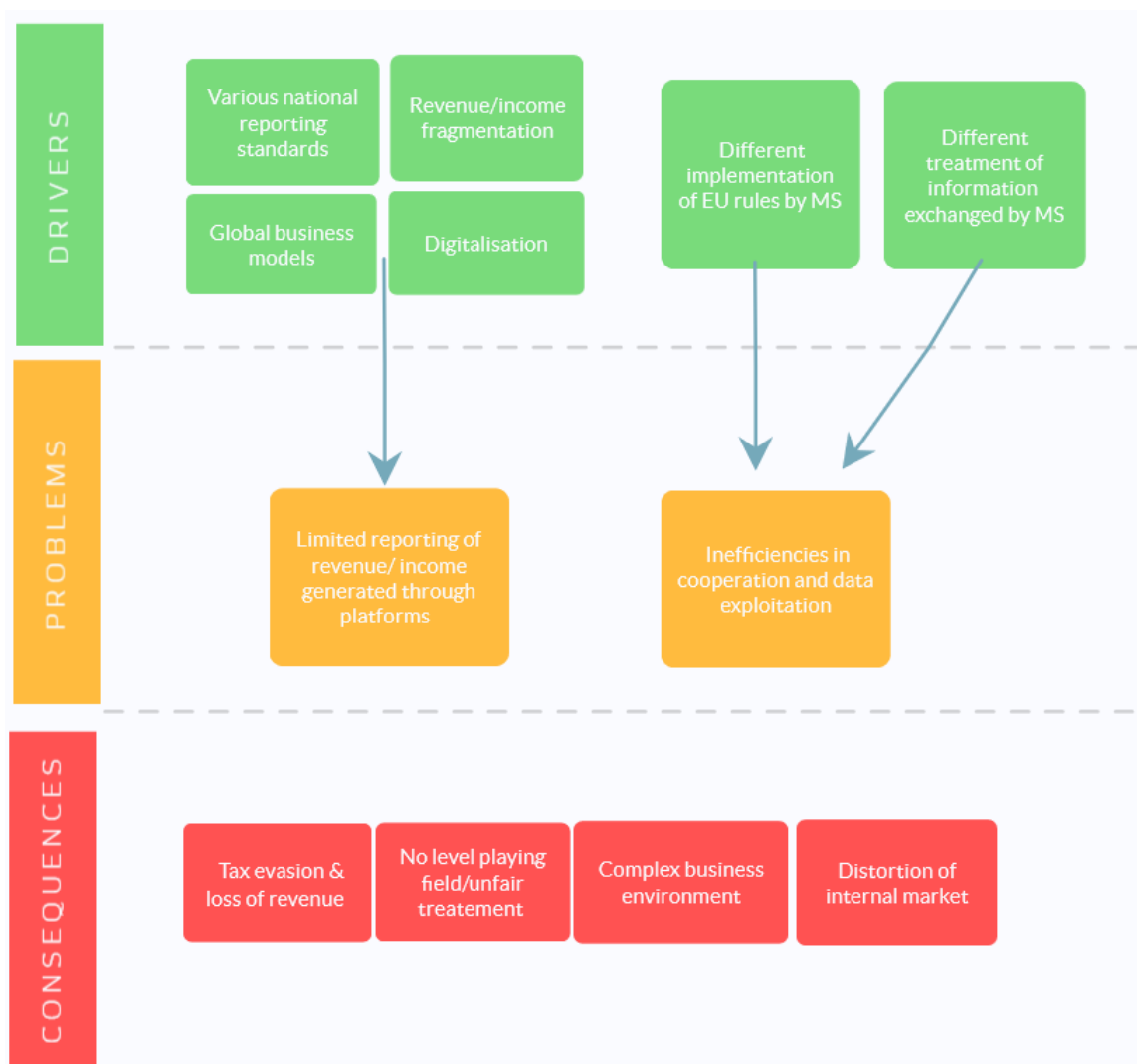
[https://ec.europa.eu/commission/presscorner/detail/en/speech\\_20\\_532](https://ec.europa.eu/commission/presscorner/detail/en/speech_20_532)

<sup>28</sup> [https://ec.europa.eu/info/sites/info/files/file\\_import/better-regulation-toolbox-60\\_en\\_0.pdf](https://ec.europa.eu/info/sites/info/files/file_import/better-regulation-toolbox-60_en_0.pdf)

## 2 PROBLEM DEFINITION

The definition of the problem at hand is complex and its analysis made more challenging due to the fact that available data is scarce. An attempt has been made at estimating how significant the problems are. The problem drivers are also examined and the evolution of the problem - in the absence of EU policy intervention – is assessed. A problem tree chart presents visually the problems, their drivers and consequences.

Figure 1 Problem Tree



### 2.1. What are the problems?

This impact assessment focuses on two key problems:

1. Limited reporting of income and revenues gained via digital platforms;
2. Inefficiencies in the current EU framework for cooperation between tax administrations.

The first problem which needs to be addressed is **under-reporting (or lack of reporting overall) by platform sellers**. At present, a sizeable amount of earnings obtained via digital platforms remain unknown to tax administrations and untaxed. It is important to

clarify that digital platforms do not play a direct role in underreporting. However, because of their digitalised and global business model, accompanied by a fragmentation of a sellers' activities across various platforms, it is difficult for tax administrations to trace how much income is earned through these platforms.

The targeted consultation of Member States that was run in the context of this initiative confirmed that platform sellers often do not report as they should. Nineteen out of twenty-two respondents (EU Member States) consider that there is a significant lack of reporting of revenues obtained through digital platforms. In addition, eighteen out of twenty-two Member States perceive activities carried out through a digital platform as high risk in terms of tax avoidance, evasion or fraud (especially accommodation and transportation activities). Regarding the rate of compliance by platform sellers, it was estimated by most Member States as low or very low, both when it comes to sales of goods and provision of services. However, no Member State could provide an overall estimation of the non-compliance rate or was able to estimate the size of such a gap.

The outcome of the public consultation, which includes the feedback from some platforms, also reflects such perception of under-reporting in the platform sector. The majority of the respondents to the public consultation agree with the statement that there is a significant lack of reporting, for taxation purposes, of revenues obtained through digital platforms. Similarly, they consider that there is a risk of tax avoidance, evasion or fraud as regards activities carried out through a digital platform. Finally, most of them believe that individual EU countries are not sufficiently equipped to track revenues generated through digital platforms. As part of the TADEUS project on 'Digital and Data',<sup>29</sup> which gathers the Heads of tax administrations from across the EU, some Member States provided information on their national experience with given sectors. It suggests significant amounts of unreported income for tax purposes:

- In one Member State, an audit on transportation service drivers showed that only 3 out of 1 195 (less than 1%) drivers had reported correct information to the tax authorities (audit done in 2018).
- In another Member State, a study showed that 2 400 out of 8 400 (~29%) individuals who received income from short-term rentals did not completely fulfil reporting obligations (study done in 2018).
- In another Member State, the tax administration issued letters reminding taxpayers of the duty to report income gained through platforms. This action resulted in a 35% increase in reported income from property rental (campaign done in 2016).
- In another Member State, audits of users of a specific platform have resulted in an adjustment of their income taxes and/or value added taxes in 40% of the cases (audits done in 2017).

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<sup>29</sup> FPG/097 "Digital and data" was a Fiscalis project group that brought together 18 Member States, from February until September 2019. Participants mapped their respective legislation in the area of reporting by digital platform operators, and found considerable difficulties especially for extending the national rules to actors abroad. Therefore the project group suggested the Commission to look into a common format for reporting nationally and thereafter applying administrative cooperation via a swift and safe automatic exchange of the reported tax information towards the relevant Member State.

Overall, the survey launched among Member States showed that twenty-one Member States have conducted compliance activities targeting transactions facilitated by platforms, such as audits, letters or information campaigns.

- In another Member State, tax authorities have observed a significant correlation between growth in the use of digital platforms and the tax gap.<sup>30</sup>

Digital platforms have become important players in various sectors of the economy. While it is difficult to give a precise estimation of the size of the digital platform economy (i.e. the total size of transactions occurring on digital platforms), it is significant and likely to grow. As further detailed in chapter 6 (and based on own computations), the total value of services transacted on digital platforms in 2018 in the EU-27 can be estimated at EUR 34.3 billion, while the total value of goods transacted on online peer-to-peer platforms is estimated at EUR20.7 billion. The largest service sectors are short-term accommodation, transportation and collaborative finance, and they are expected to continue growing in the next years.

On the basis of these pieces of evidence, it is possible to estimate the tax gap (i.e. the difference between the taxes that should have been collected based on existing tax rules and the taxes actually collected) in the digital platform economy for the whole EU. This document estimates the tax gap in all sectors (goods and services) in 2018 to be between EUR2.7 billion (lower bound) and EUR7.1 billion (upper bound). These values are expected to triple by 2025. The calculations rely on several assumptions, among which the most important are: the applicable tax rate (20% in the low case, 40% in the high case), the fraction of income that is taxable (65% for most sectors), the fraction of taxes not currently paid (50%) and the total value of observable transactions.

Similarly, within the “Digital and Data” project, the tax gap for services performed on digital platforms was estimated in a range from EUR1.1 to EUR2.7 billion for tax year 2015. Taking a 2016 study as starting point,<sup>31</sup> the group reached an estimate of the tax gap by making the following four key assumptions:

1. EUR28 billion worth of transactions (services only) via digital platforms (for 2015);
2. Between 50 and up to 80% of these transactions are deemed taxable income, resulting in a total amount of taxable income between EUR 14.0 and 22.4 billion.
3. Between 40 and 60% of that income is assumed not to be reported, resulting in unreported income between EUR5.6 and up to EUR13.4 billion.
4. Assumption of a flat income tax rate of 20% on this basis, leading to a tax gap between EUR1.1 - 2.7 billion (for 2015).

The chart below illustrates these estimates.

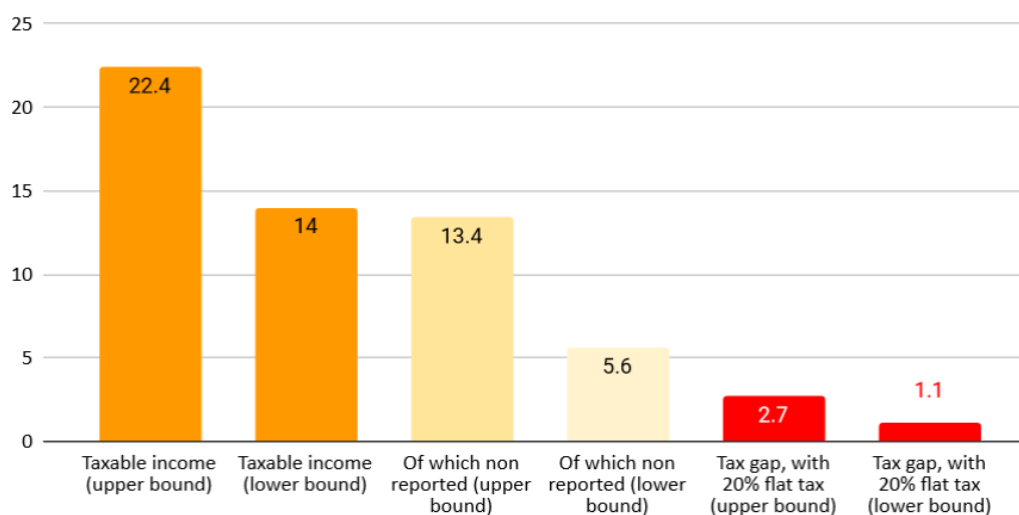
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<sup>30</sup> Remarks by Latvian participant at European Economic and Social Committee hearing on “The collaborative economy - data exchange with tax authorities”, 13 February 2020, Tallinn.

<sup>31</sup> Assessing the size and presence of the collaborative economy in Europe, written by: Robert Vaughan and Raphael Daverio, PwC UK, April 2016.

Figure 2. Estimates on taxable income, unreported income and tax gap for 2015

Estimates (€ billion) of taxable income, unreported income and tax gap (upper and lower bound) for a total value of transactions of €28 billion



Source: Figure based on the 'Digital and data' project – on reporting requirements for the sharing and gig economy

The reasons for the lack of reporting (or under-reporting) by sellers active on these platforms are diverse. In some cases, those earning income or revenues via platforms may not know they have to report their earnings. In other cases, platform sellers may deliberately choose not to report the revenues obtained. Acting to tackle this problem is in line with the objectives of the Commission.

The lack of reporting indirectly affects all EU citizens and businesses. Tax avoidance and evasion lead to fewer resources to fund social services of public utility, such as education, healthcare, pensions and infrastructure. More specifically, the problem affects compliant taxpayers "who do the right thing" and pay their fair share of taxes. Cost reduction achieved by not paying taxes is not an acceptable practice in the EU or elsewhere.

Within the EU, for years, there has been a robust mechanism in place to ensure that tax administrations cooperate with each other to tackle, underreporting of income and tax evasion: the Directive on Administrative Cooperation in direct taxation (DAC).<sup>32</sup> This mechanism has been recently evaluated. One of the findings is that it is important to adapt this framework to ensure it remains relevant in the context of a changing economy, including the growth of digitalisation and platforms active in what is sometimes called the "gig economy".<sup>33</sup>

The second problem that this initiative aims to tackle are the **inefficiencies with the existing framework for cooperation and exchange of information** between EU tax administrations. On the one hand, there is lack of clarity concerning some provisions of the legal text underpinning this framework, in particular when it comes to the concepts of foreseeable relevance, group requests and joint audits. On the other hand, there are issues

<sup>32</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, OJ L 64/1.

<sup>33</sup> DAC evaluation, p. 75.

of lack of effective monitoring and evaluation by tax administrations on whether the framework delivers and what its benefits are.

To illustrate the need for clarification of some concepts: the Directive is built upon the concept of foreseeable relevance.<sup>34</sup> However, such concept is not defined in the Directive and therefore its interpretation is left to each individual Member State, which gives rise to some differences in the application of the Directive. The evaluation also shows some uncertainty concerning whether the framework permits and if so how to conduct a joint audit (i.e. two or more tax administrations auditing together) of a taxpayer. As said above, another issue which emerged from the evaluation is the need to improve the reporting of cooperation activities, so that the effects of the rules can be monitored: this means systematically gathering information from the Member States on how they use the information they obtain via cooperation and what they use it for.

In relation to joint audits, the public consultation clearly reflects the call from the respondents to revise the EU legal framework to include some more specific details, in particular 27 out of 37 answers received in the consultation to the general public confirm this support. Furthermore, 21 out of 27 valid replies consider that each joint audit should finish with a single agreed report and the vast majority also deem 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).

These problems directly affect tax officials involved with administrative cooperation, making the latter not as effective and efficient as it should be. The lack of clarity and certainty regarding some of the provisions of the Directive likely increase the administrative costs of making use of some of the provisions of the Directive. There are also possible opportunity costs. If tax officials, lacking clarity or being unsure concerning some aspects of the framework, refrain for instance from asking tax information to another tax administration, it may be that they miss the opportunity of gaining some intelligence relevant and useful for tax controls. Indirectly, inefficiencies in EU tax cooperation may have broader negative effects, putting at risk tax compliance within the EU Single Market.

The evaluation of the existing framework for cooperation looked into this problem. Foreseeable relevance and requests for information for a group of taxpayers emerged as among the most problematic elements of the framework. The evaluation showed that there is a need to generate better quantitative evidence of the benefits of the intervention.

## **2.2. What are the problem drivers?**

The problems have various drivers or causes. Limited reporting of income or other earnings gained by third party sellers via digital platforms is the problem. Taxpayers fail to "do the right thing" in part because they lack incentives to do so.<sup>35</sup> In particular, there

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<sup>34</sup> Art. 1 of the Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC sets out: "This Directive lays down the rules and procedures under which the Member States shall cooperate with each other with a view to exchanging information that is foreseeably relevant to the administration and enforcement of the domestic laws of the Member States concerning the taxes referred to in Article 2." The concept of foreseeably relevance is not defined in the text of the Directive.

<sup>35</sup> Jonathan Shaw, Joel Slemrod, and John Whiting in the Mirrlees review, administration and compliance, chapter 12, p. 1126.

is evidence that the probability of being caught has a positive effect on reporting of income<sup>36</sup>. In many cases, it can be assumed such probability is or is perceived to be very low. In other words, it seems that, as noted by the Member States' experience described previously, those who earn income via platforms perceive as unlikely that tax administrations will find out about such income and therefore do not necessarily report it.

At the same time, in the digital platform economy, it is not uncommon for sellers to be active on various platforms, leading to **income fragmentation**, whereby such income and revenues remain unreported and undetected by tax administrations.

The platform economy is by nature **digital**, and it connects sellers and consumers across borders throughout the entire Single Market and **worldwide**. A platform operator can connect sellers and consumers located in different countries, even outside the EU. While this brings substantial benefits in the Single Market, it also makes it more challenging for tax administrations to access the relevant information and might negatively impact on the reporting of income. This is because tax administrations have data access powers mainly in their own Member State. The word “mainly” is used because, at the EU level, there are in place procedures and tools for cooperation and exchange of information between tax administrations.<sup>37</sup> Yet, these procedures and tools today do not allow for an effective and efficient access by a tax administration to information held by platforms located outside the Member State of the tax administration.

Tax administrations have in several cases decided to act, on their own, to try to tackle this problem by introducing **national requirements** for platforms to report to tax administrations about the income made by sellers on these platforms. Fragmentation may result in unnecessary burdens on digital platforms. The business environment becomes more complicated, with various national reporting models, higher compliance and administrative costs, without sufficiently tackling the issue.

According to platforms' opinion gathered during the 27 February meeting, it is advisable to introduce a single EU framework regarding reporting requirements in order to avoid the heavy administrative burden and compliance costs that economic agents such as platforms have to bear due to this fragmentation across Member States. Both targeted consultation with Member States and public consultation confirm that such fragmentation of the reporting obligations would lead to an undue burden.

#### **Examples of third party reporting obligations related to platform operators**

Italy: The intermediaries that facilitate accommodation for less than 30 days are obliged to report information on sales lessors have gained. In addition to that, the intermediaries that intervene in the payment shall withhold a tax of 21 % from rent payments.

Denmark: Companies that facilitate rentals of housing, cars and boats are required to report information on sellers' income to the tax authorities. In return the customers of a compliant platform gain a higher deductible amount in their income taxation. The foreign platforms are allowed to report as well and thus earn a higher deductible amount for their customers.

<sup>36</sup> O'Reilly, P and al., OECD PAPERS 46 – “EOI and bank deposits in international financial centres”, OECD, 2019.

<sup>37</sup> In particular in the context of this impact assessment: Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, OJ L 64/1.

Spain: A reporting obligation is in force since 2018 regarding tourist rentals. It affects persons, whether resident or not, including collaborative platforms, that provide the service of intermediation between landlords and tenants of properties located in Spain. Since January 2019, data are being received on the identity of the participants and the income obtained. Some non-resident entities are filing the return.

France: Platform operators are obliged to send information on the income generated and transactions carried out by their users to the tax authorities. The obligation applies to income recorded as from 1 January 2019 with the platforms having to send this information to the tax authorities in 2020.

In addition to legislative initiatives, some Member States have entered into one-to-one agreements with digital platform operators. This is the case for example of Estonia. In the current Estonian model, the income receiver has to grant approval to the platform to transmit information on their income to the tax administration, which may impact on the extent of the reporting.

Based on the results of the targeted consultation of Member States, twelve of them have legislation and/or administrative guidance in place, differing in scope, whereby platform operators would have to report information to tax administrations on sellers active on their platform. Four more are planning to introduce such legislation or administrative guidance<sup>38</sup>.

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<sup>38</sup> Further information on an overview of national platforms reporting systems is detailed in Annex 6.



Inefficiencies in the current EU framework for cooperation between tax administrations are fostered by **different implementation** by Member States of what ideally should be one single EU-wide rulebook and by **different use and treatment of information** exchanged. Any Directive leaves some flexibility to Member States. Yet, this flexibility should not lead to ambiguity or lack of clarity. For instance, tax administrations have to cooperate to exchange information that is “foreseeably relevant” to the administration and enforcement of taxes.<sup>39</sup> Different tax administrations may understand the concept of foreseeable relevance differently. The concept is not included in the definitions listed by the Directive.<sup>40</sup> Lack of clarity on this important concept poses a risk of misunderstanding, of delays in exchanges of information and, more generally, of inefficiencies in cooperation. Similarly, group requests, although allowed by the framework and carried out by Member States, are not explicitly mentioned in the Directive. To ensure legal certainty, an explicit mention should be included in the text of the Directive.

It may even be the case that due to lack of clarity some tax officers refrain from making use of some of the tools of the Directive. In addition to that, today not all Member States make full use of the information they gain via administrative cooperation. The recent evaluation of the functioning of the Directive showed that only a few Member States are capable of assessing the benefits of the cooperation under the Directive. Yet, most Member States are not.

## **2.2. How will the problem evolve?**

In the absence of EU intervention, the underreporting of income and revenues will continue to exist, especially in those Member States not introducing reporting requirements for income and revenue earned via platforms. This leads to **tax evasion and loss of tax revenues** for the national treasuries. As discussed above, it is estimated that several billions are lost every year due to tax evasion by sellers in the digital platform economy. Sellers’ income and revenues generated through platforms are expected to increase over time, due to more digitalisation of economic activity. The size of the tax gap will therefore further increase.

Tax evasion also provides an unfair financial advantage compared to those who play by the rules and pay their fair share of tax. This issue was highlighted in the consultation of Member States, where more than 80% (18 answers out of 22) confirmed that the **lack of a level playing field** was an issue. The public consultation confirmed this point, with three quarters of the valid respondents<sup>41</sup> who consider that the underreporting of revenues obtained through digital platforms negatively impacts fair competition between the traditional economy and the digital platform economy. At the meeting held in February, platform operators, as key stakeholders of this initiative, stressed the importance of avoiding distortions of competition by including all platforms, regardless of where they are based.

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<sup>39</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation and repealing Directive 77/799/EEC, OJ L 64/1, article 1(1).

<sup>40</sup> Ibid., article 3.

<sup>41</sup> Note that for each question is computed as valid all replies except from “no answer” ones.

Several Member States have already introduced some form of reporting requirements or they are considering doing so. In case of several divergent reporting requirements, however, the scale of the problem will develop and result in a **more complex business environment**: for a hypothetical platform operating across 27 Member States, the costs of compliance with 27 diverse requirements would be higher than having to face one standard for reporting. Eventually, this will also create **distortions in the Single Market**. If a platform is based in a Member State without any requirement for reporting yet it operates in several other Member States, it may have a competitive advantage vis-à-vis a platform which provides the same services, but based in a Member State with a requirement for reporting. More subtly, distortions may exist when the regulatory frameworks differ among them, leading to a different compliance burden, depending on the Member State.

The public consultation reflects this concern, with more than 70 % of the respondents stating that different national approaches bring undue administrative burden to platforms and/or sellers due to such differences between countries. The platforms have also highlighted this point during the meeting held with them.

Inefficiencies in the current EU framework for cooperation between tax administrations will persist without EU intervention. This can result in a risk of missed opportunities for effective administrative cooperation and exchange of information, with a negative effect on tax administration and ultimately on tax compliance in the EU.

### **3 WHY SHOULD THE EU ACT?**

#### **3.1 Legal basis**

The legal basis of DAC relies on Articles 113 and 115 of the Treaty on the Functioning of the European Union (TFEU), which aim at ensuring the proper functioning of the Internal Market. Article 113 TFEU provides a legal basis for the harmonisation of indirect tax systems of Member States, as far as it is needed to ensure the functioning of the internal market and to avoid distortion of competition. Article 115 TFEU provides for the approximation of such laws, regulations or administrative provisions of the Member States which directly affect the establishment or functioning of the internal market and make the approximation of laws necessary.

The aim is to ensure a legal instrument of high quality for enhancing administrative cooperation in the field of taxation, in order to allow a smooth functioning of the internal market by circumventing the negative effects of tax avoidance and evasion. Applying the same conditions, the same methods and the same practices for administrative cooperation facilitates the work and efficiency of the authorities in the fight against tax avoidance and evasion.

#### **3.2 Subsidiarity: Necessity of EU action**

As shown through the consultation of Member States and in the “Digital and Data report”, some Member States have introduced provisions that create an obligation for platforms to report periodically information on the income generated by sellers through their platforms. Such reporting obligations often cover a selected set of activities, e.g. platforms that facilitate short-term accommodation or transportation services, etc.<sup>42</sup> Other Member States have introduced provisions that allow tax authority to issue a notice for information to a specific platform to have access to information on the income that sellers have earned through the platform. In some of the countries, this request can be made without performing an audit while in some of the countries such request can only be made during an audit. The exact details of information gathering rights vary.

Based on their current national legislations, some Member States may not be in a position to collect information about sellers that are not resident in the said Member State. This is typically relevant for the taxation of the accommodation industry, where taxation rights are usually based on the location of the property (while the owner may be resident of different jurisdiction).

Furthermore, there are uncertainties as to whether domestic legislation applies to, and can be enforced upon, businesses resident outside the jurisdiction, and whether reporting obligations based on domestic legislation can be enforced to platforms that are not registered nor have a permanent establishment in the regulating jurisdiction.

The “Digital and Data report” concluded that the legal basis is insufficient for effective collection of third party information from platforms within the Member States. In some

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<sup>42</sup> Chapter 6 analyses the impact of the intervention and provides more specific information on the sectors covered.

countries, there is no legislation for self-initiated third party reporting while in other countries the current state of legislation does not cover all the platforms from where their residents gain their income. A platform resident in a country can facilitate the transactions that are relevant in another country, and there is a risk of non-reporting to that country. This is also one of the main concerns expressed by platform operators, as this makes the level playing field in the digital platform sector uneven.

### **3.3 Proportionality: Added value of EU action**

Given that there is a necessity to act in response to the problems set out in chapter 2, it appears preferable to avoid a patchwork of reporting requirements, unilaterally implemented by some or all Member States and across different taxes. The information needs to reach the country where the income and revenues are due to be taxed. It is questionable if this could be achieved by reviewing 27 different national reporting obligations and possible subsequent alignments. Moreover, as there is a need for a similar scope at least concerning (i) resident and non-resident digital platform operators, (ii) resident and non-resident sellers, (iii) content of the information, and (iv) timing of collection of the data, a coherent and comprehensive solution at EU level is likely to imply a relatively lower administrative burden for both tax administrations and companies. The preferred option has to respect the principle of proportionality, achieving the objectives yet minimizing negative consequences on platform operators and sellers on these platforms.

The added value of EU action is broadly confirmed in the public consultation where the vast majority of respondents stated that digital platforms should have the same reporting obligations for tax purposes throughout the EU in terms of laying down a single set of rules.

## 4 OBJECTIVES: WHAT IS TO BE ACHIEVED?

### 4.1 General objectives

The initiative aims at ensuring a fair and consistent functioning of the **internal market**, where everyone pays his or her fair share of tax. In recent years, obtaining income or revenue through platforms that facilitate the buying and selling of goods and services – from online marketplaces to rental platforms – has become commonplace. However, most platforms operate cross-border without physical presence in the market they serve, while tax administrations remain confined by their territorial borders. This new business model brings with it benefits but also some challenges, in particular when it comes to taxation. **Non-compliance with tax obligations** by platform sellers may be deliberate or simply result from a lack of knowledge on the applicable tax rules.

To address this challenge, several Member States have implemented or are planning to implement domestic legislation requiring digital platforms to report on income obtained by their users. Lack of a level playing field and different reporting requirements imposed by Member States at national level may distort the market allocation of services and goods provided via digital platforms and generate substantial costs for tax enforcement.

Enforcing legislative requirements in a highly digitalised context without international cooperation is close to impossible. In the absence of cooperation, any tax administration would have difficulties learning about the income earned by local taxpayers through foreign platforms. In the digital platform economy, the platform operators, the seller and the consumer can all be located in different countries. Absent an exchange of information across tax authorities, tax administrations will have an incomplete access to information, as shown by the experience of some Member States who have introduced domestic reporting requirements. It may also have the perverse effect of encouraging domestic sellers to provide services or sell goods through platforms established in another country.

Most platforms operate cross-border with possibly no physical presence in the market they serve, and it is costly and time-consuming for tax administrations to request information on the large and growing number of transactions facilitated by platforms. This impact assessment aims to assess the need to develop a common solution that would ensure all tax administrations in the EU receive the information they need to **enforce their tax laws** and address tax evasion and fraud at lower costs than in a baseline scenario. This would **simplify compliance** as businesses would only need to comply with one set of reporting obligations across different taxations fields within the EU while the relevant taxpayers would be alerted to the existence of tax obligations.

Secondly, this initiative aims to contribute to **make EU tax systems fairer, safeguarding Member States' tax revenues**. Fighting tax fraud and evasion to help secure national and EU revenues is one of the priorities of the Commission. The political

guidelines of the current Commission calls for stepping up the fight against tax evasion to make taxation fairer.<sup>43</sup> As it emerges from the mission letter to Commissioner Gentiloni, improving cooperation between national tax authorities is considered a key way to do so.<sup>44</sup> Cooperation is particularly relevant in the context of this initiative, as sellers, users and digital platforms can all be located in different countries.

Tax fairness lies at the core of this initiative, which is also meant to strengthen citizens' **trust** that everyone pays their fair share, as it would address the public concern that income obtained or revenue generated through goods and services offered through digital platforms would not be subject to taxation.

## 4.2 Specific objectives

This intervention would aim at ensuring tax administrations have **access to the relevant information** that would allow them to tax their tax residents and/or, where applicable, relevant sources of income and/or turnover (e.g. property income “sourced” from a certain Member State), in accordance with the applicable national rules. This would enable them to reduce the risk of non-compliance linked with the provision of services or sales of goods through digital platforms and combat the perception that the inherent income is out of scope of tax rules.

More specifically, the initiative is meant to improve the **ability** of Member States to **detect and counter cross-border tax avoidance and evasion**. As the evaluation of the current framework shows, cooperation should be revised, clarified and/or strengthened to enhance such ability. The ability is dependent on the extent of quality, relevant, timely information Member State have at their disposal. If tax officers have the information they need, at the right time, to check that platform sellers declare what they earn, it will be possible for them to control that tax due is actually paid. Not all EU tax officers today do have access to such information. Platforms have this information. The intervention would require platforms to provide this information to tax administrations. Hence, it would serve the goal of having a correct administration and enforcement of tax rules across the Union.

In addition to the ability of detecting and countering cross-border tax evasion or fraud, this initiative aims also at specifically having a **deterrent effect**. There is evidence that taxpayers respond to the probability of being caught cheating on their taxes,<sup>45</sup> and that automatic exchange is the most effective tool to **foster voluntary compliance**<sup>46</sup>. The initiative is meant to deter EU taxpayers from not paying the taxes due, and preventing the test and trial approach – not declaring and see what will happen. By increasing the probability of detecting non-compliance, the initiative is meant to provide an incentive to “do the right thing” and declare and pay taxes owed.

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<sup>43</sup> See: [A Union that strives for more](#), - Political guidelines for the next European Commission 2019-2024

<sup>44</sup> See: [Mission letter to the Commissioner-designate for Economy](#), 10 September 2019

<sup>45</sup> Jonathan Shaw, Joel Slemrod, and John Whiting in the Mirrless review, administration and compliance, chapter 12, p. 1126.

<sup>46</sup> Beer, S, Coelho, M. and Leduc, S., “*Hidden Treasures: the impact of automatic exchange of information on cross-border tax evasion*”, IMF working paper, WP/19/286

O'Reilly, P, Parra Ramirez, K, Stemmer, Michael, “*Exchange of information and bank deposits in international financial centres*”, OECD working papers no.46, 2019

## **5 WHAT ARE THE AVAILABLE POLICY OPTIONS?**

Designing an effective and efficient solution to the problem is challenging. There are different options. At the highest level of analysis, a choice is due between the status quo or baseline and a scenario where the Commission would act, either in a non-regulatory or a legislative manner. The legislative option in itself opens up several sub-options, depending on the design choices, not mutually exclusive, for the instrument. This chapter describes the options identified, one by one.

### **5.1 - Baseline**

Under this option, the EU would not act. However, other actors, namely Member States as well as the OECD, would still act. As discussed in chapter 2 above, some Member States have already acted to address the problem, by implementing national measures, which vary in scope and administrative requirements.

The OECD is working on the development of model rules intended to impose reporting obligations on digital platforms. At a first stage, this framework will only encompass certain services intermediated by platforms, but there is a strong commitment to expand the scope of the model rules to encompass other services and the sales of goods. More precisely, the services currently in scope are: rental of immovable income; personal services, which are meant to include services involving personally-performed time or task based activities for the benefit of a user, including transportation and delivery services. The model rules include an obligation for platform operators to collect and verify certain information, with a view to correctly identify the seller, the jurisdiction of tax residence and ensure that tax administrations are able to match the seller to a taxpayer.

The decision on the implementation of such rules will however be left to each individual country, as they will not be considered as a minimum standard, i.e. their implementation will not be deemed as mandatory.

### **5.2 - EU non legislative intervention to recommend the implementation of a global standard**

Under this option, the Commission could propose a Recommendation to Member States to implement consistent rules addressing the challenge presented by the taxation of income or revenue generated by third party sellers through digital platforms. Such Recommendation would call on Member States to implement the international rules as developed by the OECD and – to the extent needed – be complemented by guidance adapting such rules for the internal market.

### **5.3 – EU legislative intervention**

A legislative option implies a legally-binding framework to encompass reporting by digital platform operators and the exchange of such information. This would be made possible through a legislative modification of the existing administrative cooperation framework. This option would make digital platform operators subject to reporting obligations under the DAC, requesting them to collect information on registered sellers and report such information to the tax authority.

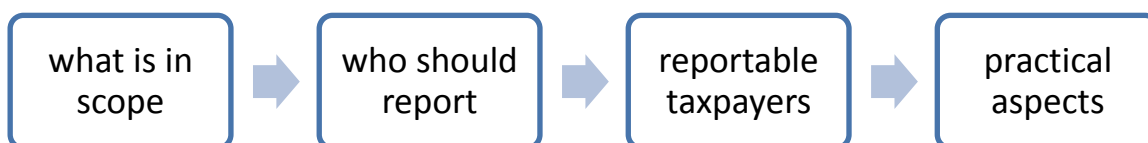
In practice, the obligations that would fall on digital platforms under the DAC would, in general, be similar, albeit simplified, to the ones imposed on EU financial institutions under the same directive. Those would mainly consist in identifying the relevant taxpayer and respective Member State of tax residence, on the basis of relevant pre-established information as prescribed in the legal text<sup>47</sup>, and collect and report information on the income obtained by each taxpayer through the platform.

Figure 3 Overview of Reporting Mechanism



Under this option, the EU would intervene to regulate the adoption of the international approach to exchange of information on income and revenue generated through digital platforms, building on the work of the OECD. The analysis will focus on the following building blocks when determining the possible approach:

Figure 4 Building Blocks



### 5.3.1 - Relevant activities

The activities facilitated by digital platforms vary significantly. They include a whole range of activities from rental of immovable property, professional and other on-demand services, to transportation services and online marketplaces. To ensure that any reporting requirements are efficient and applied consistently throughout the EU, a clear definition of the activities in scope is needed.

<sup>47</sup> The identification and tax residence of each seller is established based on standardised processes for gathering and reporting information, set forth in the legislation, with a view to ensure that all platforms follow broadly the same procedures. In particular, the legislation would signal the pieces of information that would be relevant e.g. for the establishment of the tax residence of the seller. In case the legislative approach is taken, this procedure would build on the procedure adopted at international level, to minimise the administrative burden for both economic operators and administrations.



## Options under consideration:

*Table 1 Options under Consideration: Scope*

<p><b>Limited scope - Selected services</b></p> <ul style="list-style-type: none"><li>•The following services would be in scope:<ul style="list-style-type: none"><li>•Rental of immovable property</li><li>•Transportation</li><li>•Other personal services, which are meant to include services involving personally-performed time or task based activities for the benefit of a user, including delivery services.</li></ul></li><li>•If such an approach is taken, the set of services in scope would correspond to the international approach as currently being discussed at OECD level</li></ul>
<p><b>Intermediate scope - All services provided via platforms</b></p> <ul style="list-style-type: none"><li>•Besides the services listed in a), there are other types of services being provided which may prove relevant for tax authorities, such as crowdfunding (e.g. peer-to-peer lending services delivered digitally)</li><li>•Including all services prevents reclassification of one service into another, given the blurred lines between some types of services and their definition.</li></ul>
<p><b>Full scope - All services and sale of goods</b></p> <ul style="list-style-type: none"><li>•The final option would be to include also sales of goods in the scope of the exchange framework.</li><li>•Different considerations may impact the information to be reported by the "goods" sector. Nevertheless, it is a sector which has presented a rapid growth in the last few years, which requires its analysis for the purposes of this cooperation framework.</li><li>•It should be clarified that, within this option, only digital platforms facilitating the connection between sellers of goods and services and users looking to purchase such goods and services (digital marketplaces) are included. It does not include platforms which sell such goods and services in their own name.</li></ul>

At the OECD level, various options have been considered for the scope of activities that the international standard would need to cover. It is expected that the activities in scope will in a first stage be limited to some categories of services provided via platforms (see “limited scope” option above) but might be expanded in a second stage.

### *5.3.2 - Who should report: Reporting Platforms*

This section aims at determining upon whom shall befall the obligation to report to EU tax authorities. The determination of the platforms in scope is intrinsically linked with the scope of reporting, discussed in 5.3.1. Beyond such considerations, two other questions arise in connection to the obligation to report to the tax authorities. The first

sub-options allow to take into account the fact that reporting requirements may have a different impact (in terms of administrative burden), depending on the size and the years of operations of the platforms. The second set of sub-options focus on the extra-territoriality, i.e. the fact that platforms do not need to be based in the EU to connect sellers and users in the EU.

*Table 2 Considerations on Platforms*

Inclusion of possible exemptions from reporting obligations for platforms	No exemption - all platforms which facilitate the transactions within the scope should report
	Exemption based on threshold – platforms with revenues and years of existence below a certain threshold would be exempted from reporting. This is the option put forward for public consultation by the OECD for the model rules – reporting exemption for platforms the revenue of which does not exceed € 100.000, for a period of 3 years.
Territorial scope of the obligation.	Only platforms established in the EU should be subject to reporting obligations
	All platforms active in the EU should report, regardless of whether they are EU-based or operating from outside the EU.

OECD countries are expected to reach an agreement on a relatively broad scope of reporting platforms, for the activities covered. The public consultation raised questions about some possible exclusions, but discussions are ongoing at the time of writing.

### *5.3.3 - Platform sellers (reportable taxpayers)*

As for the platforms in scope, the determination of the sellers in scope (i.e. taxpayers on whom information will be collected and reported by the relevant platforms) will be intrinsically linked with the scope of reporting.

Similarly, beyond these consideration, the extent of the reporting requirements is also influenced by the number of sellers upon which platform operators need to report. In that respect, the first option deals with possible exclusions based on the limited tax revenue impact, while the second set of options looks at the territorial dimension of the reporting. The following options therefore need to be considered when designing reporting obligations:

Table 3 Possible Exemptions for sellers

Possible exemptions for sellers	No exemption – digital platforms should report on all sellers regardless of the number and value of the transactions
	Exemption linked to a monetary threshold for each of the sellers, so that platforms would not have to report on those registered sellers falling below that threshold
	Exemption linked to a combined monetary and transaction threshold
Transactions to be reported	Only cross-border transactions would fall in scope of the rules, i.e. transactions involving 2 or more Member States.
	All transactions taking place within the EU, which would imply that platform operators would report on all transactions linked to a reportable seller, regardless of whether they involve different Member States or were purely domestic.

At the OECD level, discussions are ongoing at the time of writing on possible exclusions for certain sellers, on the basis of certain criteria. While the content of these discussions is confidential and a conclusion still to be reached, it should be noted that the version of the OECD standard published on 19 February 2020 envisaged exclusions for large lessors, sellers the stock of which is traded in securities market as well as for government entities.<sup>48</sup>

#### 5.3.4 - Practical aspects – how the exchanges should take place

Three considerations are in order when designing an exchange framework:

- i. How the exchanges should take place
  - a. Spontaneous exchanges.
  - b. Automatic exchange of information (once a year).<sup>49</sup>
- ii. Dataset
- iii. Data checks

Within the framework of the ‘Digital and Data’ group led by Member States, later complemented by the discussions at Working Party IV, consensus has been reached that the following set of data would be indispensable to ensure the effectiveness of the system and that the information could reliably be used for taxation purposes:

<sup>48</sup> OECD. (2020). Public Consultation document on the “Model Reporting Rules For Sellers In The Sharing And Gig Economy”, retrieved from: <http://www.oecd.org/tax/exchange-of-tax-information/public-consultation-document-model-rules-reporting-platform-operators-with-respect-sellers-sharing-gig-economy.pdf> , p. 15.

<sup>49</sup> Automatic exchange means the systematic communication of predefined information to another Member State, without prior request, at pre-established regular intervals. Reference: Council Directive 2011/16/EU.

Table 4 Dataset

<p>Platform data</p> <ul style="list-style-type: none"><li>• name,</li><li>• registered office address</li><li>• TIN</li><li>• business name</li></ul>
<p>seller information</p> <ul style="list-style-type: none"><li>• individual<ul style="list-style-type: none"><li>• the first and last name;</li><li>• the Primary Address;</li><li>• any TIN issued to the Seller, including each jurisdiction of issuance;</li><li>• the VAT identification number of the Seller, when available;</li><li>• place of birth</li><li>• the date of birth.</li></ul></li><li>• entity<ul style="list-style-type: none"><li>• the legal name;</li><li>• the Primary Address;</li><li>• the VAT identification number of the Seller, when available;</li><li>• any TIN issued to the Seller, including each jurisdiction of issuance; and</li><li>• in absence of the TIN, the business registration number.</li></ul></li><li>• jurisdiction of tax residence</li><li>• account number or equivalent to which the amount was paid</li><li>• the name of the holder of the financial account to which payments are made, if available</li></ul>
<p>transaction information</p> <ul style="list-style-type: none"><li>• total amount paid (aggregated - note: the reason for aggregation lies in the fact that direct tax operates typically on the basis of annual income, hence transaction-level reporting of amount is not needed)</li><li>• fees, commissions or taxes withheld or charged (aggregated)</li><li>• number of transactions</li><li>• for rental income:<ul style="list-style-type: none"><li>• address and land registration number of each Property Listing</li><li>• number of days each property was rented and the type of property (availability)</li></ul></li></ul>

In practice, under this option, the EU would expand the scope of automatic exchange of information to cover income or revenues earned through digital platforms.

The effectiveness of any system for exchange of information is dependent on the quality of the information which is passed through it. Data supplied by platforms should be of high quality: accurate, valid and reliable. However, it is important to apply the basic principle of proportionality in designing the rules that platforms would have to follow for checking data, to avoid imposing an excessive, unreasonable burden on economic operators. The option of the EU legislative intervention will include a due diligence procedure.

#### **5.4 – Follow up to the DAC evaluation: Strengthening administrative cooperation**

To contribute to the achievement of the objectives, and building upon the findings of the DAC evaluation, the legislative option would also cover minor fixes to the current administrative cooperation framework to ensure it becomes more effective. These changes to the framework mainly concern: a clarification of the concept of foreseeable relevance; explicitly mentioning that group requests for information are in scope of the directive and joint tax audits are possible under the directive.

Foreseeable relevance is an overarching concept in administrative cooperation for tax purposes, which imposes that any information requested under this directive must be

directly or indirectly linked with the tax affairs of a given taxpayer. Although the reference is made explicitly in article 1 of the Directive, there is no explanation of further clarification of the concept at this stage.

Group requests are requests for information concerning more than one taxpayer. This means that tax authorities are able to ask for information on a group of taxpayers, without naming them individually. A detailed description of the group of affected taxpayers with a clear and fact based justification on the grounds that the taxpayers falling in the group are generally deemed not tax compliant is required.

### 5.5 - Options discarded at an early stage

Some of the options highlighted above were considered as not a viable way forward, either because there was no deemed added value or because experience with similar approaches has proven ineffective in the past:

*Table 5 Options Discarded*

Option discarded	Section	Explanation
Non-legislative approach	5.2	This option would bring no added value as the OECD framework would be developed and Member States that would wish to do so would implement the framework. A Commission Recommendation would bring no added value as it would not be legally binding, hence it would not address the issue of fragmentation of reporting requirements across the EU. In particular, it would still be for each Member State to decide on the introduction of such requirements and on their precise scope. In addition, the difficulty of enforcing domestic legislation vis-à-vis platforms resident in another jurisdiction would not be addressed.
Monetary-based exemption for sellers	5.2	Excluding sellers from the scope of the initiative based solely on a monetary threshold would lead to an easy circumvention of the rules. There exist different platforms that allow sellers to provide a given service or sell goods. Sellers who do not want to see their revenues and income reported could easily split transactions and activities across several platforms to remain under the threshold. This would clearly defeat the objective of such reporting requirements.
Method and timing for the	5.3.4	Past experience shows that spontaneous exchanges (i.e., situations where each Member State sends without prior

exchanges – Spontaneous exchanges		request information to another Member State which could be of relevance to the latter) are not effective. <sup>50</sup> The lack of enforcement of such an approach led to the development of the automatic exchange of tax rulings. More recently, automatic exchange was also chosen as the preferred option for the exchange of country-by-country reports and exchange of potentially aggressive tax schemes.
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<sup>50</sup> As put by one Member State replying to the targeted consultation: “(...) Spontaneous exchange of information and/or exchange of information on request are not suitable for mass-scale annual exchange of information.”

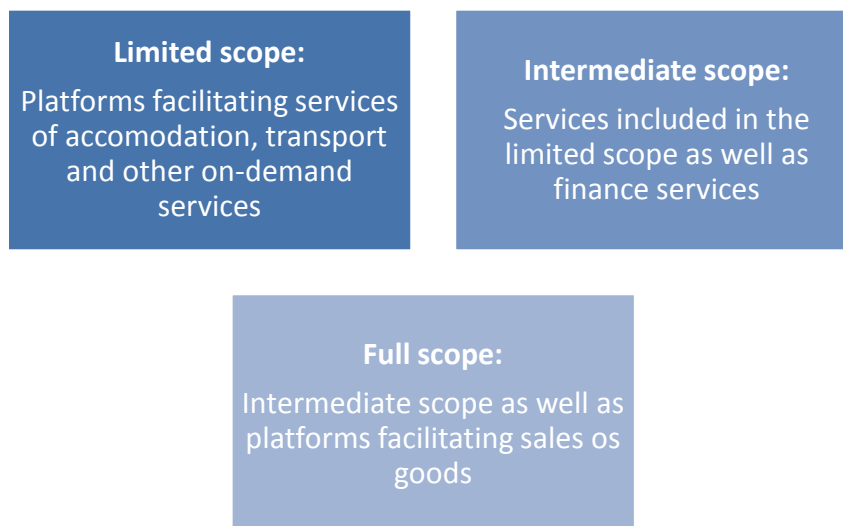
## 6 WHAT ARE THE IMPACTS OF THE POLICY OPTIONS?

### 6.1 Overview of options

As a result of the analysis above, the following two options have been shortlisted:

- A. **Baseline scenario.** In a baseline scenario, the EU would not intervene. The Member States which have already introduced measures to have an exchange of data from platforms to tax administrations will keep those measures. It is unlikely, however, that the regulatory landscape would remain fixed as it is today. It is expected that the OECD would adopt model rules for data exchange by mid-2020. The scope of the OECD work is limited to rental of immovable property and “personal services”. These rules are not expected to become a minimum standard and therefore implementation by jurisdictions is not mandatory. Based on the forthcoming OECD model rules,<sup>51</sup> some Member States would probably adapt their national measures to align with the OECD model or introduce measures. However, they are likely to differ in terms of scope and requirements.
- B. **EU legislative intervention.** Choosing this option, the EU would introduce a legal instrument to implement in a common manner across the Member States a system to set up: first, reporting from platforms to tax administrations and, secondly, communication / exchange of these reports between tax administrations. The design of the intervention may differ mainly in terms of relevant activities, as well as reportable platforms and reportable sellers. The figure below recalls the various relevant activities considered.

*Figure 5 Scope of Options*



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<sup>51</sup> OECD, 2019, Model Rules for Reporting by Platform Operators with respect to Sellers in the Sharing and Gig Economy. The draft standard (model rules) is online at : <http://www.oecd.org/tax/exchange-of-tax-information/public-consultation-document-model-rules-reporting-platform-operators-with-respect-sellers-sharing-gig-economy.pdf>

Any intervention would, at a minimum, take into account the framework being discussed at international level, as developed by the OECD. The other options under analysis build on the international approach but extend the scope of activities (and as a consequence of platforms and sellers) covered. In addition, with this option there would also be a strengthening of administrative cooperation more broadly.

## **6.2 Economic impacts**

There is a lack of official statistics on platforms and on transactions facilitated through these platforms. This prevents us to reliably estimate the economic impacts of the intervention. However, we try to estimate as much as possible both the benefits and the costs of the measure on the basis of sound assumptions and extrapolations from available data. These estimates should be taken as a best effort by Commission services to try to assess the most significant impacts of the initiative.

### *6.2.1 Benefits*

#### **Reduced costs of enforcing tax laws**

The initiative addresses the high cost of gathering information useful to enforce tax laws in a baseline scenario. The latter is characterised by limited cooperation and lack of a common EU standard for information gathering and exchange. The assumption is that, for a tax administration, there is a cost involved in obtaining information. Following the Standard Cost Model, such cost can be thought as being dependent on two main variables: the cost of performing a certain activity (price, or P), and the frequency of such activity (quantity, or Q), dependent on the number of sellers (s) for which information is needed. The costs for gathering information in a baseline scenario can be defined as:

$$Costs_{(baseline)} = Qs * P_{(baseline)}$$

The costs in a baseline scenario are assumed to be higher than the recurrent costs of gathering information for tax enforcement, once the intervention is implemented. As will be shown in section 6.2.2, estimating the costs of the intervention is feasible, on the basis of extrapolations of cost estimates for automatic exchange of information of financial accounts. Taking the estimates of recurrent costs of the intervention as starting point, it is possible to illustrate the fundamental point that the initiative aims to achieve a situation where:

$$Costs_{(intervention)} < Costs_{(baseline)}$$

This is due to a lower cost of gathering information per seller (P), due to: first, the introduction of a requirement for platforms to report certain tax-related information about sellers' transactions. Second, a mechanism for cooperation between national tax authorities so that information can reach the tax administration where the seller(s) have to pay taxes.

Taking into account uncertainty on the actual size of the benefits due to lower costs of obtaining information under the intervention, no quantification of these benefits is provided. The key message is that one benefit of the initiative will be lowering the high cost of enforcing tax law compared to a baseline scenario, thanks to standardisation,



reporting by platforms and cooperation (automatic exchange of information) between tax administrations. Reducing the costs of gathering information is a clear expected benefit which should be taken into consideration by decision-makers.

### **Impact on tax revenues**

A key aim of the initiative is preventing tax evasion on transactions through digital platforms. Income and revenues earned through the digital platform economy are currently under-reported, as discussed in chapter 2. Better reporting and exchange of information should therefore have a positive impact on the revenues collected by tax administrations.

#### **Methodology to estimate the impact of the intervention on tax revenues**

Currently, there is no publicly available administrative data on the size and distribution of the revenues and transactions occurring on digital platforms. There are several reasons for this lack of data. First, there are different reporting requirements across jurisdictions, with several jurisdictions imposing little to no such requirements. Second, many digital platforms are privately held, so they do not have to make public their annual financial reports. Even among listed companies, there is no requirement to make the amount of transactions and revenues publicly available on a country-by-country basis, which further limits the ability to estimate the size of the platform economy and the size of the tax base currently escaping taxation.

With these caveats in mind, we can calculate bounds of the effect of the initiative on tax revenues.

Under the regulatory option, the additional tax revenues can be estimated by multiplying the following terms: the total value of the European transactions facilitated in each sector (**V**), the percentage of those transactions that represents taxable revenue (**y**), the average tax rate (**t**) and the percentage of revenue that is currently not reported, but would be as a result of the implementation of the option (**p**):

$$\text{Additional tax revenue} = V * y * t * p$$

Five main sectors are considered in the calculation of tax revenues arising from each option under study. Four are service sectors - accommodation, transport, (peer-to-peer) finance, other on-demand services (professional and household services) - and one is the goods sector<sup>52</sup>. This scope is also in line with other studies commissioned by international organisations, such as European Commission (2017)<sup>53</sup>, European Commission (2018)<sup>54</sup>, Vaughan and Daverio (2016) and OECD (2019).

Table 6 offers an overview of the policy options included in the calculation of tax revenues and the sectors covered by each option. The last column of Table 7 includes the

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<sup>52</sup> For goods, the computations cover platforms which enable peer-to-peer transactions.

<sup>53</sup> European Commission (2017). *Exploratory Study of Consumer Issues in Online Peer-to-Peer Platform Markets*. Retrieved from: [https://ec.europa.eu/info/sites/info/files/annex1\\_task1\\_reportmay2017.pdf](https://ec.europa.eu/info/sites/info/files/annex1_task1_reportmay2017.pdf)

<sup>54</sup> European Commission (2018). *Study to Monitor the Economic Development of the Collaborative Economy at Sector Level in the 28 Member States*. Retrieved from: <https://op.europa.eu/en/publication-detail/-/publication/0cc9aab6-7501-11e8-9483-01aa75ed71a1/language-en/format-PDF>

methodology used to estimate the value of transactions in each sector. These computations assume that there is no exclusion in terms of reportable sellers and reportable platforms.

Table 6 Overview of options covered, in terms of scope of reporting

Sector	Included in which option?			Method to estimate additional tax revenues (V, own estimate)
	Limited scope	Intermediate scope	Full scope	
1. Accommodation	+	+	+	Extrapolate V from largest platform on the market
2. Transport	+	+	+	
3. Other on-demand services	+	+	+	Midpoint of updated Vaughan and Daverio (2016) and European Commission (2018)
4. Finance		+	+	Updated Zhang et. al. (2016) <sup>55</sup>
5. Goods			+	Updated European Commission (2017)

#### Total transaction value (V)

The table below compares the estimates of V, the total value of platform transactions in each sector, using various methodologies. Column 1 shows the estimates obtained using the own methodology (explained in more detail in Annex 4), while columns 3-4 show the updated values in previous studies from the European Commission.<sup>56</sup>

<sup>55</sup> Zhang, Bryan, Ziegler, Tania, Burton, John, Garvey, Kieran, Wardrop, Lui, Alexis, and James Alexander (2016). *Sustaining Momentum – The 2<sup>nd</sup> European Alternative Market Finance Industry Report*. Cambridge Centre for Alternative Finance. Retrieved from: [https://www.jbs.cam.ac.uk/fileadmin/user\\_upload/research/centres/alternative-finance/downloads/2016-european-alternative-finance-report-sustaining-momentum.pdf](https://www.jbs.cam.ac.uk/fileadmin/user_upload/research/centres/alternative-finance/downloads/2016-european-alternative-finance-report-sustaining-momentum.pdf)

<sup>56</sup> Note that for accommodation, the upper bound is set to € 15.3 billion, the estimate using the methodology in this report, rather than €23.2 billion as in our updated calculations using Vaughan and Daverio (2016). The latter value was considered implausibly high, as it is almost 150% of the lower bound and the report does not include a detailed description of the methodology.

Table 7 Estimated total value of transactions facilitated by platforms in the EU-27 in 2018, by sector (€ million)

Sector	Estimates of transaction values (V), by sector <sup>57</sup>			
	Own estimate	Vaughan and Daverio (2016)*	European Commission (2018)*	European Commission (2017)**
<b>Accommodation</b>	15 272	23 223	9 356	.
<b>Transport</b>	6 303	5 124	3 600	.
<b>Other on-demand services</b>	6 137	4 499	7 776	.
<b>Finance</b>	6 638	7 301	11 232	.
Total services	34 351	40 146	31 964	.
<b>Goods</b>	20 713	.	.	17 155
Total goods and services	55 064	.	.	.

Note: \* = values have been updated to reflect 2018 values, assuming an annual growth rate of 20%. Also, original values were updated to calculate EU-27 aggregates rather than EU-28. \*\* = The estimate includes only goods transacted in a peer-to-peer regime and it has been updated assuming a growth rate of 12%.

**It is estimated that the total value of services transacted on digital platforms in 2018 in the EU-27 was EUR34.4 billion, while the total value of goods transacted on online peer to peer platforms was EUR 20.7 billion.** The value for transactions in the service sector is the sum of four components: accommodation, transport, finance and other on-demand services. For the first two, the total size of transactions was estimated using the methodology described in Annex IV. For the last two sectors, an assumed yearly growth rate<sup>58</sup> of 20% was used to update the values found in Vaughan and Daverio (2016) and European Commission (2018) to represent the year 2018. Then, the two estimates were averaged to obtain the value shown in column 1 of Table 7. The total value of goods transacted on peer-to-peer digital platforms was found by updating the value found in European Commission (2017) with a 12% yearly growth rate<sup>59</sup>.

<sup>57</sup> Each column in Table 8 uses a different methodology and relies on unofficial data. Second, the studies from Vaughan and Daverio (2016) and European Commission (2018) refer to data from 2015 and 2016. Given the rapid growth of these sectors, the growth rate of 20% could underestimate the total value of transactions that occurred in 2018, explaining some of the discrepancies between our estimate and European Commission (2018). Third, these studies cover different service sectors, so the total service market will vary accordingly. Fourth, the estimates of European Commission (2018) use very low estimates of the average daily rate in peer-to-peer accommodation.

<sup>58</sup> The 20% growth rate could be a significant under-estimation, as the compound average growth rate implied by Vaughan and Daverio (2016) for 2013-2015 is 62%. However, such growth rates usually occur only in very young industries: as the industry matures, the growth rates decrease. For instance, Statista (2019b) expects the European ride hailing market is expected to increase by 13.5% per year in 2018-2023 in Europe, compared to global year-on-year gross bookings growth rate of 30.5% for Uber in 2018-2019. For this reason, we assumed a conservative rate of 20% before 2015 and a smaller rate after 2015.

<sup>59</sup> This is the medium-growth scenario used in European Commission (2015). Source: European Commission (2015). *VAT Aspects of Cross-border E-commerce - Options for Modernisation*. Retrieved from:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/vat\\_aspects\\_cross-border\\_e-commerce\\_final\\_report\\_lot1.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/vat_aspects_cross-border_e-commerce_final_report_lot1.pdf)

Accommodation, transport and finance are the largest service sectors of the digital platform economy, within the limitations considered in the estimates made here, with total EU-27 transactions in 2018 amounting to EUR 15.3 billion, EUR 6.3 billion and EUR 6.6 billion, respectively. There are however large differences in the estimates for the value of transactions, especially for accommodation, which stem from different methodologies.

While not being directly related to this impact assessment, the discrepancies in estimating the size of the platform economy confirms the importance of improving statistical analysis of the platform economy.<sup>60</sup> Given the double-digit growth rates in some of the sectors, goods and services provided by sectors are expected to become an increasingly important source of value-creation and employment. This could warrant monitoring by national governments for administrative reasons other than taxation, such as assessing participants' labour market status, or for assessing social security requirements.

### Effects on tax revenues: Summary of Analysis

In order to calculate the total tax revenues resulting from the application of the regulatory option to various scopes of activities, we need to estimate  $y$ , the total percentage of transactions that represents taxable income, the average tax rate  $t$  and  $p$ , the fraction of income currently not reported to tax authorities.

Table 8 Estimate of unreported tax revenues in EU-27, per sector

	Sector	Value of tax revenues resulting from AEOI				y (taxable income, percent)
		Low transaction estimate V		High transaction estimate V		
		t = 20%	t = 40%	t = 20%	t = 40%	
1	Accommodation	608	12 16	993	1 985	65%
2	Transport	234	468	410	819	65%
3	Other on-demand services	292	585	505	1 011	65%
4	Finance	166	332	281	562	25%
5	Sale of goods	1 346	26 93	1 346	2 693	65%

By its very nature, it is difficult to estimate the level of underreporting. It is therefore assumed that the percentage of income not reported ( $p$ ), is 50% for all sectors. This is in line with the insights from the “Digital and Data” report<sup>61</sup> and Kleven, Khan and Kaul (2016)<sup>62</sup>, who estimate that as the fraction of self-employed individuals “approaches 1

<sup>60</sup> To improve statistical analysis of platforms, in March 2020 the European Commission reached a landmark agreement with four collaborative economy platform on data sharing: <https://ec.europa.eu/eurostat/web/products-eurostat-news/-/CN-20200305-1>

<sup>61</sup> Tax Administration EU Summit - TADEUS [https://ec.europa.eu/taxation\\_customs/business/vat/tax-administration-eu-summit-tadeus\\_en](https://ec.europa.eu/taxation_customs/business/vat/tax-administration-eu-summit-tadeus_en)

<sup>62</sup> Kleven, Henrik, Khan, Adnan and Kaul, Upaasna (2016). Taxing to Develop: When Third-Best is Best. International Growth Centre, retrieved from: <https://www.theigc.org/reader/taxing-to-develop-when-third-best-is-best/overcoming-barriers-to-tax-policy-enforcement-requires-greater-access-to-information/>

(...) evasion rates could be as high as 50%”. In these sectors, the percentage of self-employed is very high, so non-reporting could also be very significant.

The fraction of transactions that represent taxable income,  $y$ , is taken to be 65% for the following sectors: accommodation, transport, on-demand household and professional services and goods. This is the mid-point of the range considered by the “Digital and Data” project. The rest of the income could be fees paid to the platform itself, or other deductible operating costs. For (collaborative) finance,  $y$  is taken to be 25%, as the income in this sector is represented by interest payments, rather than the principal<sup>63</sup>.

The tax rate,  $t$ , is calculated using a lower bound of 20%, which is in line with the average EU effective average corporate income tax rate in 2018 (European Commission, 2019f)<sup>64</sup> and an upper bound of 40%, which is closer to the EU implicit tax rate on labour in 2017 (European Commission, 2019b).

**Implementing the limited scope would logically yield the smallest tax revenues (between EUR 1.1 and 3.8 billion), as it would be applied to a subset of activities, whereas the full scope option (goods + all services) would yield the largest tax revenues (between EUR 2.7 billion and EUR 7.1 billion).** By comparison, the total tax revenue arising from direct taxes was **EUR 1.7 trillion** in 2017 in the EU-27, which means that the additional tax benefits would vary between 0.07% (limited scope, lowest estimate) and 0.41% (full scope, highest estimate) of total direct taxes. The table below offers an estimate of the lower and upper bounds of the effects that each option could have on tax revenues in the EU.

*Table 9 Estimate of EU-27 tax revenue effects of each option, 2018 vs 2025 (yearly, million €)*

Scope	Sector Covered	Yearly tax revenues - bounds (€ million)			
		2018		2025	
		Low	High	Low	High
Limited	1+2+3	1 135	3 816	3 018	10 150
Intermediate	1+2+3+4	1 300	4 377	8 543	28 849
Full	1+2+3+4+5	2 647	7 070	10 973	33 708

**The estimation suggests that by 2025, the effects of the various options on tax revenue would be significantly higher, as the platform economy grows in importance across the EU.** Peer to peer lending is expected to grow at 68% per year between 2015 and 2025 (Nunatak Group, 2015)<sup>65</sup>, while Mastercard (2019) predicts that the gig economy will grow 17.4% per year between 2018 and 2023. The current

<sup>63</sup> Some crowdfunding platforms, such as Seedrs (2018), report platform-wide internal rates of return (IRR) of 12 to 15%, and tax-adjusted IRR between 22% and 28%. Source: [https://learn-cdn.seedrs.com/wp-content/uploads/2018/09/21134223/Seedrs\\_-\\_PortfolioUpdate\\_Autumn2018.pdf](https://learn-cdn.seedrs.com/wp-content/uploads/2018/09/21134223/Seedrs_-_PortfolioUpdate_Autumn2018.pdf)

<sup>64</sup> European Commission (2019f). *Taxation Trends in the European Union*.

<sup>65</sup> Nunatak Group (2015). Update Financial Technology. Issue 5. Retrieved from: <https://www.nunatak.com/app/uploads/2018/11/Nunatak-FinTech.pdf>

estimates took a conservative approach, assuming a compound average growth rate of 15% per year for services in the EU and 8.8% for goods<sup>66</sup>.

**Automatic and standardized reporting of incomes gained through platforms would allow Member States to properly collect taxes due (with a clear positive effect on public finance), while limiting compliance costs incurred by economic agents.** A single reporting standard at the EU level would limit the compliance costs of cross-border platforms, which would avoid having to report using different standards in each jurisdiction. This could also improve the functioning of the Single Market and encourage cross-border trade, as the cost of platforms expanding to a different Member State would be lower than the case with different reporting standards. Furthermore, a single reporting standard could decrease the Member States' tax administrations costs of cooperation, as discussed above.

**Regardless of methodology, the benefits derived from implementing automatic EU-wide reporting seem to be in the order of billions of euros per year.** This is the case even in for a limited scope (accommodation, transport, professional and household services). The estimation of tax revenues involves significant uncertainty regarding each parameter (value of transactions  $V$ , rate of unreported tax revenues  $p$ , proportion of transactions which represent taxable income  $y$ ), but overall, it would seem that the fiscal benefits of the options are significant and positive. **The fiscal benefits of an EU intervention are much larger in case of reporting obligation applying to all services and sale of goods.** In 2025, additional tax revenues are estimated to range approximately between EUR 11 and 33 billion while they would range between EUR 3 and 10 billion if only a subset of services were covered by the initiative.

**Since the digital platform economy is highly concentrated, limiting the scope to medium/large platforms (i.e., those with turnovers above EUR 100,000) would in principle not affect the estimations of the tax revenues significantly.** Data on the distribution of transactions by platform size is not available, but, as shown in the study by European Commission (2017), the majority of transactions occur on medium-to large platforms.

**Limiting the scope solely to EU-based platforms could significantly decrease the tax revenues of each option.** In order to preserve a level playing field, all sellers based in the EU and operating on digital platforms should be covered by the taxation requirements, regardless of where the platform is based. Studies such as European Commission (2017) have shown that the largest players in most sectors of the platform economy originate from outside Europe<sup>67</sup>. Given the highly mobile nature of their businesses, digital platforms could easily relocate outside Europe, while offering services and goods to European consumers through European sellers. This concern was voiced both by businesses and by Member States' representatives during the meetings held with them (see Annex 2 for a summary of the consultation). Furthermore, platforms which

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<sup>66</sup> This assumes that the compound average growth rate of 8.8% for e-commerce will be maintained between 2018 and 2025. Source: Statista (2019). *E-commerce Report 2019*. Retrieved from: <https://www.statista.com/study/42335/e-commerce-report/>

<sup>67</sup> See Table 13, page 92 in European Commission (2017).

originated abroad have significant market shares in the EU, so it is likely that the revenue estimates could therefore be significantly smaller in case of relocation.

**Limiting the scope to exclude domestic sellers would negatively impact the revenues benefits and the level playing field.** Excluding domestic sellers from the scope could have a large effect on the revenues benefits of the EU intervention. Although experience with DAC2 shows that many Member States would introduce national provisions to expand the reporting requirements to domestic taxpayers, this would create clear concerns in terms of level playing field, as it would no longer be ensured that all sellers are subject to the same reporting. This could translate in underreporting and undue reduction of the tax liability for some sellers. In that context, it is noted that the initiative will not impact on the level of taxes due by the sellers and on whether or not a sellers should pay tax, but simply ensure that tax administrations are better equipped to enforce the collection of taxes.

**A wide scope in terms of sellers would limit the risks of circumvention, while not creating extensive additional costs for sellers.** An exemption for some sellers is likely to trigger attempts at circumventing the rules to “meet” the exemption criteria, in particular criteria defining transaction and monetary values. At the same time, it is useful to recall that the initiative does not create any costs for sellers, beyond the time needed to provide a limited set of data. As most of these data are requested from sellers when signing up to sell services or goods via a platform, it is expected that any negative impact on sellers’ willingness to use the platform economy would be limited. Improved income information would also allow tax authorities to better target possible tax incentives, such as exemptions or credits, as all income gained on platforms would be observable. The wide scope in terms of reportable sellers is also supported by the consultation: more than 60% of Member States’ replies to the targeted consultation supported that all providers of services or sellers of goods through digital platforms should be reported to the relevant tax administrations, without exemption.

Furthermore, **other benefits will derive from the use of the information exchanged.** The DAC allows for exchange of information regarding “all taxes of any kind”, but specifically excludes VAT, customs duties, and excise duties covered by other EU legislation. However, although these limitations limit the purpose for the exchanges, the directive broadens the use of the information to other purposes. In practice, despite these limitations when considering a request or otherwise making an initial exchange under the Directive, once held, the information exchanged can be used in the administration or enforcement of “taxes and duties of any kind”, including VAT.<sup>68</sup>

### 6.2.2 Costs

Requirements for platforms to report data and for tax administrations to exchange them will entail costs for both. These costs fall under two main categories:

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<sup>68</sup> For the use of information for other purposes and to the benefit of other authorities, for instance customs authorities, refer to: Council Directive 2011/16/EU, article 16 ‘Disclosure of information and documents’ and in particular article 16(2).



- one-off, substantive compliance costs, incurred when the new system is introduced, mainly for development;
- recurrent administrative and, for tax administrations, enforcement costs, to operate the systems once it has been set up and to ensure it works as expected.

The assessment of costs is based on assumptions and extrapolations derived from the costs of setting up and operating DAC2. These estimates are therefore indirect and as such, fragile. Annex 4 provides additional information on the categories of costs and benefits and on the assumptions made.

In the case of a legislative option, a certain number of platforms will have to gather a certain amount of data about a certain number of sellers, and then provide these data to tax administrations. The latter would then have to exchange these data with each other and exploit in some manner these data.

It is important to underline that sellers are not assumed to bear any particular burden or cost. One-off and recurrent compliance costs fall on digital platforms, which will have to report seller information, and on tax administrations, which will have to gather, store safely and use the information collected from platforms about sellers. Sellers (either individuals or businesses) would need to fill in their details once and update them when their details change. As it can be seen in Table 4, most of the required information (with the exception of the TIN) is already routinely asked when signing-up to most websites, so the additional reporting costs for sellers would be negligible.

The following needs to be estimated in order to quantify costs for platforms and tax administrations:

1. The estimated number of sellers about which information is reported (“reportable sellers”). The number of reportable sellers is expected to vary depending on the scope of reporting: if the scope is broad (i.e., covering both services and goods), the number of reportable sellers will be higher than if the scope were more limited. The number of sellers is also going to vary depending on whether there are exemptions and thresholds. If the overall scope is broad, yet some exemptions are introduced, the number of reportable sellers will be lower than if the scope were broad and without exemptions.
2. The cost of complying with the intervention, ideally per seller. The hypothesis is that, the more sellers use a certain platform, the higher the costs will be for that platform. Therefore, small(er) platforms, used by a relatively low number of sellers, will bear lower costs than larger, widely used platforms. For instance, if a platform has 1000 sellers to report, we expect its costs both upfront and then once the system is operational to be higher than a platform which would have to report 100. At the same time, we would expect the costs, one-off and recurrent, for one tax administration running controls on 1000 reported sellers to be higher than for an administration running controls on only 100 of them.



## Methodology to estimate costs

The total costs of each option can be estimated and monetised by multiplying the total quantity (estimate) of reportable sellers (**Qs**) under each option by a cost (**P**), which varies depending on whether costs are one-off or recurrent.<sup>69</sup>

$$Costs = Qs * P$$

The average costs per platform are obtained by dividing the total estimated costs by an estimate of the number of platforms that would have to comply. The average costs per tax administrations are obtained by dividing the total costs for tax administration by twenty-seven. These are simplifying assumptions given that the costs will vary given the size of the platform and of the tax administration, but we lack data for a more granular estimation. Annex 4 gives more information on the methodology, assumptions and references.

The number of platforms matters for estimating the costs per platform, on average, of the intervention, as follows:

$$\frac{Costs}{Platforms}$$

Trying to quantify the number of platforms is challenging in the absence of official statistics. At the targeted consultation of Member States, four respondents provided estimates of platforms active in their country. On this basis, and generalising from the findings of Vaughan and Daverio (2016), we estimate that there are hundreds of platforms in the scope of the intervention, both EU-based as well as platforms established in third countries but operating in the EU. Our estimates put the number of platforms affected by the intervention in a range between 500-600 hundreds in a limited scope to almost 2000, if both services and goods are covered, without exemptions. A table in annex 4 provide more information on these estimates.

### One-off substantive compliance costs

According to our estimates, the one-off, substantive compliance costs for platforms EU-wide vary between circa EUR250 million in the case of a limited scope to EUR875 million in case of a full scope. These costs are estimated for the whole estimated population of sellers. The cost estimates per platform, on average, are circa EUR400 000. It should be stressed that these are average estimates, based on several assumptions. They do not necessarily reflect the actual costs incurred by platforms, especially of those having to report a relatively low number of sellers. There are also likely economies of scale involved in the definition of costs.<sup>70</sup>

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<sup>69</sup> This formula is coherent with the basic equation of the Standard Cost Model, according to which: “Administrative costs should be assessed on the basis of the average cost of the required administrative activity (Price) multiplied by the total number of activities performed per year (Quantity).”

<sup>70</sup> Decreasing marginal costs, so that as more sellers are covered, the price per seller for setting up the system decreases.

One-off costs for all tax administrations are estimated at between EUR54 million to EUR189 million, depending on the scope of reporting. That means EUR2 million to EUR7 million per tax administration, on average. Annex 4 provides additional information on these estimates.

The Commission would also bear costs. In any legislative option, on the basis of current and past experience, it is likely that the Commission would incur also development costs, for defining the common, EU specifications of the new system of data collection and for setting up / adapting the existing EU systems to enable the exchange of information to take place. More specifically, the Commission would invest mainly for the development and operation of the Common Communication Network (CCN), the central IT infrastructure for the safe exchange of information among tax and customs authorities in the EU.<sup>71</sup> Having one single network is much less burdensome than if tax administrations had to exchange on a bilateral basis with each other and more secure than if exchanges took place solely via the internet. It is important to clarify that the Commission would not be actively part of the exchanges: it would not gather data, nor exchange them, nor use/exploit them. With this disclaimer in mind, on the basis of costs incurred in the past for DAC2, the one-off costs for the Commission are estimated at EUR 0.8 million for the development and first five years of operations of the system. As said, the Commission would not play an active part in gathering or exploiting data but rather it would only facilitate them.

### **Recurrent administrative and enforcement costs**

Looking at recurrent administrative costs for platforms, it should be borne in mind that, in a baseline scenario, tax administrations would ask them for data in different ways and formats, leading to substantial work to comply with these requests, especially for platforms operating in several Member States. This is arguably the main reason why the targeted consultation of platforms indicates a clear preference for a common EU solution,<sup>72</sup> expected to be less expensive than the current baseline patchwork of loosely coordinated or not-coordinated reporting obligations. Overall, an EU standardised reporting model for platforms would result in lower costs than a continuation of the baseline scenario.

According to our estimates, the recurrent administrative costs for platforms would vary between EUR30 million in the case of a limited scope to about EUR100 million in case of a full scope. These costs are estimated for the whole population of sellers. The administrative costs per platform, on average, would range at 50 000 per year.

For tax administrations, the recurrent costs of the system are estimated approximately between EUR6 million (limited scope) and EUR21 million (full scope) per year, or circa EUR200 000 to EUR800 000 per Member State. These estimates are extrapolated from

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<sup>71</sup> CCN is the secure intranet used by EU tax and customs administrations. It includes telecommunications network infrastructure, security equipment (e.g. encryption devices, firewalls), communications gateways in the Member States, the software linking them together as well as the central management services (e.g. central help desk and support).

<sup>72</sup> See Annex 2 on stakeholders' consultation.

the costs incurred by Member States for operating the system for automatic exchange of information of financial accounts (DAC2).

In addition to the costs of running the system and keeping it operational (i.e. ensuring the actual exchange of data), tax administrations would incur (labour) costs for sorting and exploiting the data, which can be referred to as enforcement costs.

Sorting sellers' information has a cost. Some sellers may indeed be active only occasionally, and obtain low incomes. In this case, information is less relevant for tax administration than information concerning large(r), high-revenue, taxable sellers. To keep the administrative burden for platforms as limited as possible, a choice is made to pass these costs onto tax administrations, asking platforms to send information about all the sellers, without exemption or threshold. Tax administrations will have to sort the information received, as they already do in other areas of administrative cooperation (e.g., financial accounts). As all data will be in a standardized electronic format, the costs for tax administrations to sort and filter relevant information are not expected to be substantial.

Enforcement costs depend on: the number of controls or other uses done by tax administrations of the data they receive; the time each control takes; a monetary value of time, which depends on the average wage of a tax officer in charge of controls or other forms of data exploitations. On the basis of assumptions, overall, recurrent enforcement costs would vary between EUR3 million to more than EUR10 million, or about EUR100 000 to EUR400 000 per tax administration.

For the Commission, the recurrent, administrative costs are estimated at about EUR0.1 million per year. Annex 4 provides additional information on the estimates of recurrent costs.

### Costs: Summary of Analysis

*Table 10 Overview of estimated costs (in € million) for the legislative option, with different scopes envisaged in terms of activities.*

	Platforms (for all platforms)		EU27 tax administrations			Commission	
	One-off SSC	Recurrent AC (yearly)	One-off SSC	Recurrent AC (yearly)	Recurrent EC (yearly)	One-off SSC	Recurr ent AC
<b>Limited scope (Services other than finance)</b>	250	30	54	6	3	0.8	0.1
<b>Intermediate scope (Services including finance)</b>	500	60	108	12	6	0.8	0.1
<b>Full scope (All services + Goods)</b>	875	105	189	21	10.5	0.8	0.1

*Legend: SSC stands for substantive compliance costs, AC for administrative costs and EC for enforcement costs. Annex 4 on analytical methods gives information on the assumptions, formulas and values used for reaching these estimates.*

**One-off costs are in the order of hundreds of millions of euros. Irrespective of the scope chosen, the recurrent costs derived from implementing automatic EU-wide reporting seem to be in the order of millions or tens of million euro of euros per year for the totality of the platform operators and of tax administrations.** Even with the widest scope (all services as well as goods), the costs remain in order of tens of million euro per year.

The estimation of costs involves significant uncertainty regarding each parameter (number of reportable sellers, costs of compliance per seller), yet recurrent costs overall would seem to be in the order of tens of millions of euro. Considering the number of reporting platforms, on average, this would result in estimated average recurrent costs for businesses of tens of thousands of euro. This is an average value. For a platform reporting relatively few sellers, however, costs could be lower.

The estimations capture costs for the three different scope of reporting, without considering possible exemptions or thresholds in terms of reportable sellers and platforms. If exemptions were introduced, how would the impact change? The answer to this question depends on the design of the exemption. Chapter 5 identifies two main types of possible exemptions: for platforms, based on the number of years that the enterprise has been in operation and turnover, or based on location; and for sellers, based on the amount and value of transaction, or based on location.

From a cost perspective, exemptions from reporting, be it for platforms not having to report in the first place or for certain sellers not to be reported, mean essentially lower (if any) one-off and recurrent costs. If a platform does not have to report, it will not bear one-off costs for setting up a system to collect and transmit information to tax authorities. If a platform does not have to report for certain sellers, part of its one-off and recurrent costs will be lower. However, excluding certain sellers would also be costly, at least upfront, as a platform would have to sort / filter its database of sellers to identify precisely which sellers to report about and which not. If not all platforms were subject to the reporting obligations, for example if non-EU based platforms were not subject to the reporting obligations, this would also create an uneven playing field across platforms interacting with EU sellers. The scenario with no exemption either for platforms or for sellers has been widely supported by the targeted consultation of Member States and by about half of the respondents to the public consultation. Namely, in the public consultation, 18 and 19 out of 37 respondents deem that all platforms (18/37) and all providers of services or seller of goods (19/37) should be subject to the same reporting obligations in order to avoid potential loopholes. The results of the targeted consultation of Member States indicate instead a clear preference for no exemptions.<sup>73</sup>

The one-off costs for tax administrations are likely to be lower for tax administration in case exemptions are introduced in terms of reportable sellers and/or platforms. However,

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<sup>73</sup> Annex 2 provides additional information on the consultation results.

such exemptions mean that tax administration would only access information on those through an exchange of information on request, thereby increasing their recurrent administrative and enforcement costs. Exemption from reporting for platforms and/or for sellers would lead to lower benefits: as said above in section 6.2.1, exempting for instance non-EU based platforms would result in a significant reduction of expected benefits (in terms of tax revenues). In addition, it would maintain an uneven playing field as some platforms or sellers would not be subject to the reporting.

**Avoiding exemptions maximises expected benefits, while ensuring the broadest possible level playing field and avoiding the risk that platforms and/or sellers put in place avoidance strategies which unduly benefit from exemptions.** This also takes into account the preference expressed by the majority of the respondents to the targeted consultation.

### *6.2.3 Impact on sector's competitiveness*

The growth of the digital platform economy suggests that the economic role of platforms as facilitators of transactions in services and goods is likely to become increasingly relevant. In other words, the sector targeted by the intervention is a digital area of business that is growing and expanding. Consumers appreciate the convenience of having a wide range of services and goods at their immediate disposal. On a major platform facilitating goods' transactions, once users have set up a profile and chosen what to buy, it can take less than ten seconds to pass the order.

The digital platforms sector is characterised by traditional features required by most market places: price competitiveness and trust. It cannot be excluded that a legislative intervention may affect the price competitiveness of certain sellers, who in a baseline scenario do not follow the rules and are able to provide services/sell goods for less because they do not pay taxes. Yet, having a level playing field requires all sellers to pay their fair share of tax, so competition should be fair and not based on "cheating". Moreover, a wide intervention would prevent competitive disadvantages that could arise from the passing on of compliance costs. As far as platform operators are concerned, they would have to deal with the same regulatory setting, avoiding possible issues of differentiated requirements across Member States and thus contributing to establishing fair competition and a level playing field for all businesses active in the EU. An intervention that would cover all platforms operating in the Single Market (for example, not excluding platforms based outside the EU but active in the EU) would best ensure a level playing field across platform operators, avoiding a situation whereby only some platforms have to face compliance costs and others do not. Platforms' representatives made such point clearly during the stakeholder consultation.

Moreover, the intervention could increase trust in the system, as consumers prefer buying from sellers of good reputation, on trusted platforms. As in the case of e-commerce in a larger sense, consumers value trust: some platforms' business models actually are based on trust towards strangers.<sup>74</sup> Trust matters for sellers and platforms too: a reliable platform or seller is likely to be more successful than one which is not trusted. The effect

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<sup>74</sup> This is the case for accommodation platforms for instance. Yet, trust matter for markets in a general sense.

of the EU intervention, especially in case of a broad scope, is expected to increase trust and possibly attract even more users and sellers towards platforms. The key mechanism through which trust will increase is a reduction of compliance risks for platforms and sellers. For instance, ensuring “fair play” will reduce the risks of damages to the reputation of platforms as well as promote a more positive, less conflictual (and costly) relationship between sellers and tax administrations, which will have the information they need to ensure that the former comply as expected.

#### *6.2.4 Impact on SMEs*

The impact of the intervention on SMEs can be analysed from two perspectives: on the one hand, it can be asked whether the intervention will impact SMEs as reporting platforms. On the other hand, there is the issue of SMEs affected as sellers. Both questions can be approached in a qualitative and/or in a quantitative manner, asking for instance how many platforms having to report are SMEs or how many sellers will be SMEs.

**Firstly, we consider the impact on small and medium-sized platforms as reporting platforms.** It is argued that, irrespective of how large the actual cost of compliance will be, SMEs having to report will be particularly affected.

There is evidence that due to their relatively small size and limited resources available, SMEs face a disproportionate compliance burden as tax compliance costs are regressive.<sup>75</sup> The introduction of a specific threshold dependent on the size of a platform, for instance excluding platforms with relatively low turnover, could therefore be considered as a way of addressing the issue of compliance costs. However, such thresholds are likely to act as a disincentive to the scaling-up of small and medium sized platforms and is not recommended. Tax incentives targeted at SMEs, be they in the form of a different tax rate or a special administrative or compliance treatment may prevent SMEs from growing by creating a so-called bunching effect.<sup>76</sup> This ultimately has a negative impact on economic growth.

Even if the incentive to stay below the threshold may be somehow mitigated by platforms’ incentives to grow (in particular due to network effects), going back to users to ask for information could prove more difficult than asking it upfront. SME platforms that cross the reporting threshold could face difficulties when asking their users for more information later rather than during the on boarding process, when users are more likely to cooperate. As noted before, many of the fields in Table 4 (such as identification and

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<sup>75</sup> On SMEs tax compliance costs please see:

<https://op.europa.eu/en/publication-detail/-/publication/0ed32649-fe8e-11e8-a96d-01aa75ed71a1/language-en>

On the regressivity of compliance costs for SMEs, please see:

<https://www.ifs.org.uk/uploads/mirrleesreview/dimensions/ch11.pdf>

<sup>76</sup> This is evidenced in e.g. Almunia, Miguel and Lopez Rodriguez, David, Heterogeneous Responses to Effective Tax Enforcement: Evidence from Spanish Firms (July 18, 2014). Retrieved from SSRN: <https://ssrn.com/abstract=2469288> or <http://dx.doi.org/10.2139/ssrn.2469288>, or Brockmeyer, Anne. “The Investment Effect of Taxation: Evidence from a Corporate Tax Kink.” *Fiscal Studies*, vol. 35, no. 4, 2014, pp. 477–509. JSTOR, [www.jstor.org/stable/24440325](http://www.jstor.org/stable/24440325). Additional evidence of bunching behaviour: Onji, K. (2009). The response of firms to eligibility thresholds: Evidence from the Japanese value-added tax. *Journal of Public Economics*, 93(5-6), 766-775.

contact data) are already a part of the on boarding process of numerous websites, so the marginal cost of asking for more information from the beginning should be relatively small.

Standardizing reporting requirements across the Member States would benefit SMEs which intend to expand their activity across the border, compared to a case with multiple standards across the EU. Since compliance costs impact SMEs in particular, they would be significant beneficiaries of such standardization. Moreover, as presented in section 6.2.3, the intervention is expected to improve trust in the sector and to even the level playing field. This is a positive impact of the intervention. Overall, the intervention is expected to have a mixed effect on small and medium-sized platforms. However, it is preferable to a baseline scenario. In the latter, regulatory divergence between Member States leads to both higher compliance costs, disproportionate for SMEs active across the EU, and limits the EU expansion of a SME active in one Member State, as this company would have, potentially for each new market, to face a new, different reporting requirement. Moreover, the baseline scenario does not ensure a level playing field, resulting in a purely negative effect for SMEs.

**Secondly, the intervention would also impact SMEs as sellers.** Platforms play a positive role for small businesses as they serve as marketplaces through which SMEs can sell their products and services. There is evidence that platforms enable digital trade within the EU Single Market and beyond.<sup>77</sup> In a baseline scenario, however, there is unfair competition and a lack of level playing field between a majority of SMEs playing by the rules and fulfilling their tax compliance obligations and those not doing so. The intervention aims at addressing this challenge, and restoring a level playing field among sellers, irrespective of their size. As discussed in section 6.2.2, sellers, be they individuals or businesses, including SMEs, not have to bear any significant compliance cost or administrative burden.

**The direct impact of the intervention on SME sellers should be relatively small.** As previously mentioned, the initiative brings little costs to the sellers as they only have to share data, which they would most likely have shared to register on the website. This is even more true for SMEs that already need to register with the tax authorities and have a TIN. While their effective tax burden could change due to improved reporting to the tax authorities, it should be noted that this would already be a part of their tax obligation and not an additional obligation directly imposed by the intervention. Any threshold could be also in this case possibly a barrier to scale up, in an ecosystem already characterized by a relative ease, for a business, of starting up but not of growing.<sup>78</sup>

In sum, the impact on small and medium-sized entities selling their products or services via platforms is expected to be positive, promoting fair competition and a level playing field.

How to assess the impact of the intervention on SMEs in a quantitative manner? The share of SMEs having to report out of the totality of reporting platforms is probably high.

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<sup>77</sup> <https://ec.europa.eu/digital-single-market/en/news/surveys-online-platforms-show-their-key-role-consumers-and-small-businesses-internet-activities>

<sup>78</sup> [https://publications.jrc.ec.europa.eu/repository/bitstream/JRC115240/jrc115240\\_digital\\_platforms.pdf](https://publications.jrc.ec.europa.eu/repository/bitstream/JRC115240/jrc115240_digital_platforms.pdf)

Overall, in the EU, the greatest majority of businesses are SMEs. There are several relatively small start-up platforms in the EU. Yet, a relatively large number of small and medium sized platforms will report on a relatively small number of sellers. Platforms are characterized by network effects, whereby the more incumbent users a platform has, and the more added value it brings to new users. The largest platforms account for a very large share of the market and arguably of transactions and sellers as well.<sup>79</sup> As said, it is expected that small and medium sized platforms will have to report on a relatively small number of sellers, compared with what large and especially the largest platforms will have to report. This means the impact in terms of compliance costs, both one-off and recurrent, for small and medium sized platforms should be only a fraction of the overall compliance costs generated by the intervention.

Many SMEs use platforms to sell their services and goods and this means that a share of reportable sellers will qualify as SMEs. However, data from one Member State having introduced reporting for platforms already, indicates that two thirds of sellers are individuals, and one third enterprises. Out of the latter, the share of SMEs is not known; yet is likely to be high. In other words, it can be tentatively estimated that about one third of reportable sellers may qualify as small and medium sized businesses.

To conclude, in a baseline scenario, compliance costs for small and medium sized platforms are high, especially for those platforms operating cross-border. Different requirements may act as barrier to expansion of business across the EU. They may also lead to a different regulatory framework for two platform operators competing for the same market. Small and medium sized enterprises selling their services and products are in some cases subject to reporting, in others they are not. The level playing field is not even. It is expected that the EU intervention would lead to fairer competition, a level playing field among both platforms and sellers, and to fewer costs for cross-border small and medium sized platforms, compared with a baseline scenario. The intervention would also generate costs for small and medium sized platforms. Yet, due to the fact that reporting small and medium sized platforms will report most likely only a relatively small number of sellers, the costs should be limited and expected to be lower than in a baseline scenario for platforms operating cross-border. However, the benefits of a level playing, fairer competition and of standardisation, removing regulatory barriers to expansion across markets, are expected to offset the costs and to contribute to a better business environment for SMEs overall.

#### *6.2.5 Impact of strengthening administrative cooperation*

The initiative also includes minor fixes to the current administrative cooperation framework to ensure it becomes more effective. As emerged from the DAC evaluation, there are certain aspects of cooperation which would benefit from clarifications, namely: definition of the concept of foreseeable relevance, explicit reference to requests for information concerning a group of taxpayers having characteristics in common and explicit reference to the possibility for tax administrations to organise joint audits of

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<sup>79</sup> <https://ec.europa.eu/digital-single-market/en/news/how-do-online-platforms-shape-our-lives-and-businesses-brochure>



taxpayers.<sup>80</sup> Clarifications of these concepts will improve the effectiveness, efficiency and coherence of administrative cooperation. Another aspect will be to ask Member States to provide for more information on the benefits of the Directive, which would allow to better monitor its effectiveness. Coupled with the introduction of exchange of information on income earned through platforms, the “tidying up” will contribute to tackling the problems of inefficiencies in administrative cooperation and data exploitation.

### **Defining foreseeable relevance**

Today, tax administrations have to cooperate with each other with a view to exchanging information that is foreseeably relevant for tax administration and enforcement.<sup>81</sup> Yet, the Directive does not include a definition of foreseeable relevance. In practice, there are cases when a tax administration may request to another tax administration information which the former considers foreseeably relevant, but not the latter. This results in a longer time to obtain a reply to a request for information or even in partial or no replies. For instance, in the past a Member State asked five follow-up questions on a request coming from another Member State to ascertain whether such request was foreseeably relevant or not. There has been at least one case when one Member State provided a partial reply to a request for information, due to issue with foreseeable relevance.

### **Group requests**

Delays with the exchange of information on request happen also when a Member State puts forward a “group request” (i.e. a request for information concerning a group of taxpayers sharing certain characteristics), but the receiving Member State considers the request inappropriate, invalid or unclear. There has been a case of a group request sent by one Member State to a second Member State which was still unanswered 2.5 years after the initial request, despite two follow-up questions from the receiving Member State. There is evidence of other cases when group request led to extended dialogue for clarifications between Member States.<sup>82</sup> Group requests may admittedly be more complex than request concerning only one taxpayer, yet making it explicit that the Directive enables them and providing more clarity can make exchange of information on request more efficient and effective.

In light of the above, we expect that the main benefits of the tidying up will result in a quicker exchange of information on request. Today, out of circa 9 000 requests for information made every year, circa 45% are answered later than six months, the deadline for replying to requests for information according to the Directive.<sup>83</sup> It is also likely the

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<sup>80</sup> Commission staff working document Evaluation of the Council Directive (EU) no 2011/16/EU on administrative cooperation in the field of direct taxation and repealing Directive 77/799/EEC SWD(2019)328 final, in particular page 62, as well as Report from the Commission to the European Parliament and Council on the application of Council Directive (EU) 2011/16/EU on administrative cooperation in the field of direct taxation COM/2017/0781 final, page 6.

<sup>81</sup> Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation (OJ L 64, 11.3.2011, p. 1), article 1(1).

<sup>82</sup> Examples taken from Member States’ replies to the questionnaire on the functioning of the Directive.

<sup>83</sup> On statistics concerning the number of exchanges on request and their timeliness, see Commission staff working document Evaluation of the Council Directive (EU) no 2011/16/EU on administrative cooperation

volume of exchanges on request, and especially of group requests, will grow thanks to the tidying up. It would be important to keep track of these two indicators (share of late replies to requests for information and number of group requests) to be able to monitor and evaluate the effect of the tidying up. While the effect is expected to be positive, it is not possible to monetise it, also bearing in mind that evaluation of the Directive on administrative cooperation shows that forms of administrative cooperation other than automatic exchange of information do not involve significant costs for tax administrations.<sup>84</sup>

### **Joint audits**

Administrative cooperation would also be strengthened by adding explicitly joint tax audits to the toolbox. This has been requested by several Member States<sup>85</sup> and by stakeholders via public consultation. Joint audits are expected to be beneficial for tax administrations and taxpayers, saving time (and money) for both. For tax administrations, joint audits can lead to quicker and better audit results. Taxpayers can benefit chiefly by sharing the same information with more than one tax administration, resulting in lower costs of compliance.<sup>86</sup> Depending on what the audit finds, increase in the efficiency and effectiveness of a tax audit may result in lower double taxation (a benefit for taxpayers) or in additional tax assessed, in case avoidance or evasion is detected. It is not possible to monetise the effect of joint audits but it is likely it will be in order of millions of euro per year: during the period 2014 to 2017 (4 years), on average a Member State benefited circa 5 million every year thanks to administrative cooperation other than automatic exchange of information.<sup>87</sup> It is important that the benefits of joint audits are monitored (also benefits for taxpayers) to ensure a comprehensive evaluation of administrative cooperation.

### **Summary**

To sum up, strengthening administrative cooperation, mainly by streamlining exchange of information on request, is expected to make cooperation more effective and efficient. It should lead to a quicker exchange of information on request and to quicker and better tax audits. The costs for tax administrations are expected to be minimal. Benefits are expected to be higher than costs. While it is not possible to quantify them, they will likely be in the order of millions of euro per year, per Member State, on average.

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in the field of direct taxation and repealing Directive 77/799/EEC SWD(2019)328 final, page 23. On the deadline of six months, the reference is Council Directive (EU) no 2011/16/EU on administrative cooperation in the field of direct taxation, article 7(1).

<sup>84</sup> Commission staff working document Evaluation of the Council Directive (EU) no 2011/16/EU on administrative cooperation in the field of direct taxation and repealing Directive 77/799/EEC SWD(2019)328 final, pp. 37-38.

<sup>85</sup> Targeted consultation and Member States' replies to the yearly questionnaire on the functioning of the directive.

<sup>86</sup> For the benefits of joint audits, see OECD, 2010, Joint Audit Report, pp. 23-24.

<sup>87</sup> For statistics on the benefits of administrative cooperation other than automatic exchange of information, see Commission staff working document Evaluation of the Council Directive (EU) no 2011/16/EU on administrative cooperation in the field of direct taxation and repealing Directive 77/799/EEC SWD(2019)328 final, page 46.

In addition, substantial benefits of these clarification measures are to achieve a greater internal coherence within the DAC provisions and to achieve a higher level of legal certainty. Introducing a clear definition of foreseeable relevance makes clear the rules of engagement for a secure and swift exchange of information while keeping the protection against ‘fishing expeditions’. The proposed clarifications on the “group request” concept in a Directive provision brings legal certainty to tax authorities and taxpayers alike whilst encouraging its use, which have been proved especially useful for large scale investigations.

#### *6.2.6 Coherence with the VAT E-commerce package*

The VAT E-commerce package that will enter into force on 1 January 2021 lays down the obligation for platforms to keep records of business to consumers’ supplies of goods and services that they have facilitated. Those records shall be sufficiently detailed to enable the tax authorities of the Member State where those supplies are taxable to verify that VAT has been accounted for correctly. These records must be made available electronically on request to the Member States concerned.

The proposed intervention and the VAT E-commerce package differ but present several synergies, complementing each other. The VAT E-commerce provisions put an obligation on the platforms to keep records and to make them available to the tax authorities on request. They target entities that are subject to VAT and data concern mainly information about transactions. The proposed intervention provides for the reporting of the information to tax authorities and then, as a second step, to exchange information automatically between tax administrations. It has a more comprehensive coverage, including reporting about individuals and information about income.

In sum, the intervention presented in this impact assessment and the VAT E-commerce package mutually reinforce each other and provide a comprehensive step forward towards more transparency of digital platforms for the benefit of fair taxation.

### **6.3 Social and environmental impacts**

#### *6.3.1 Social impacts and impact on fundamental rights*

Having a single EU mandatory instrument to introduce a common system for data reporting from platforms would have positive social impacts. As discussed above, the intervention is expected to lead to an increase in tax revenues, which can be used to fund the economic and social policies of Member states. Furthermore, the intervention would contribute to a positive perception of tax fairness and to a fair-burden sharing across taxpayers, while at the same time it would result in more trust and transparency from the side of platforms.

The EU would be acting to tackle the challenge that unreported income earned via platforms poses to tax systems of all its Member States. The issue of tax evasion matters

to a vast majority of EU citizen.<sup>88</sup> It is assumed that perception of tax fairness, and of the EU role in shaping it, would be the strongest, the broadest the scope of the intervention, given that there are issues of underreporting across all types of activities. The same reasoning applies to benefits in terms of fair-burden sharing: the wider the scope of the intervention, the better Member States can ensure that taxes due are effectively collected.

The intervention may also affect two fundamental rights: the protection of personal data<sup>89</sup> and the freedom to conduct a business.

Personal data are protected under the General Data Protection Regulation (GDPR). Under the baseline scenario, some tax authorities already collect personal data for the purpose of monitoring tax compliance of platforms' sellers. Taxation can be regarded as a general objective of public interest that is capable to justify the processing of personal data. Such processing must comply with the applicable data protection legislation (including with principles such as legality, data minimisation and purpose limitation, security etc.)

In line with the GDPR, the existing DAC includes specific provisions and safeguards on data protection. Any legal intervention based on further amendments to this Directive will then continue to follow and respect these safeguards and will have to comply with GDPR from the start.

Admittedly, any collection of personal data poses a risk that these data may be illegally disclosed or of a data leak. Yet, there are means to reduce such risk, striking a balance between the public policy objective of fair taxation and the imperative to protect personal data. One such means is to reduce as much as possible the personal data to be collected. As shown in the data set presented in chapter 5, personal data requested are the only ones necessary for identifying sellers and their income and revenues. They account for less than ten data fields, for both individual and entity sellers. They are proportionate to what is strictly necessary for the purpose(s) of ensuring the administration and enforcement of the relevant tax laws of Member States. This means being able to link a certain amount with a specific, clearly identified taxpayer. Data which would go beyond such basic function, for instance data on who consumes services and goods, are excluded, as are all data regarding sellers which would not have a taxation purpose.

On the other hand, taxpayers' identification numbers (TIN) will be collected and passed to tax administrations. There is evidence that TIN are, together with personal names and surnames, the most important data item to ensure that data exchanged can be used for the purpose of tax control.<sup>90</sup> Tax administrations consider TIN as the most useful identification elements for automatically matching data received from abroad with

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<sup>88</sup> "Tax fraud: 75% of Europeans want EU to do more to fight it", European Parliament News, 29-07-2016. <https://www.europarl.europa.eu/news/en/headlines/economy/20160707STO36204/tax-fraud-75-of-europeans-want-eu-to-do-more-to-fight-it>

<sup>89</sup> Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407, article 8.

<sup>90</sup> European Commission. (2018). Report from the Commission to the European Parliament and the Council on overview and assessment of the statistics and information on the automatic exchanges in the field of direct taxation COM/2018/844 final.

national taxpayers' registries.<sup>91</sup> The systematic inclusion of TIN of the taxpayer allows to avoid several issues with identification, the most recurrent ones being misspelling or problems caused by translation/transliterations, as well as homonymies.

It is also important to stress however that reporting does not equal having to pay tax. Not every transaction is subject to direct tax, as this may depend on how much a seller earns over a tax year and/or the frequency of transactions. In some cases, occasional sellers will have their income reported but still will not have to pay any tax on it. On a more technical level, any possible negative impact on personal data will be minimised by IT and procedural measures. The exchange of the data will pass through a secured electronic system that encrypts and decrypts the data and, in every tax administrations, only authorised officials should access the information. Member States will have to apply the GDPR for the process of data, in their national systems. As data controllers, they will have to ensure secure and proportionate data storage.

To sum up, irrespective of the precise scope and possible exemptions, any EU intervention on the basis of which personal data will be processed will be compliant with GDPR and any possible impact justified.

According to the Charter of Fundamental Rights of the European Union, the freedom to conduct a business is recognised, as long as business is conducted in accordance with EU and national laws.<sup>92</sup> The intervention does not impact negatively such freedom, rather it will contribute to ensure that such freedom is exercised in respect of the law, in particular applicable tax laws of the Member States.

### *6.3.2 Environmental impacts*

By clarifying their taxation requirements, platforms would start competing on a more level playing field with more traditional businesses, which could decrease their relative appeal to consumers. The total environmental effects are unclear but likely to be minor. On the one hand, some platforms encourage the more efficient use of resources, so substitution towards less sustainable alternatives, if any, could have some negative environmental effects. On the other hand, other platform providers currently encourage the use of common resources such as public spaces, roads etc., without contributing to the public finances through taxation.

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<sup>91</sup> Ibid.

<sup>92</sup> Charter of Fundamental Rights of the European Union, OJ C 326, 26.10.2012, p. 391–407, article 16.

## 7 HOW DO THE OPTIONS COMPARE?

This section compares the impacts of the options. The options are assessed against the criteria of effectiveness in reaching the policy objectives, efficiency, costs and benefits as well as coherence with other EU policies, namely GDPR. For each category, the options are marked with “minuses or plusses”.<sup>93</sup>

For the sake of clarity, a colour scheme is also applied, with yellow/green indicating positive and orange/red negative impact. The baseline is used as point of comparison against which the other options are assessed, and scored as zero in the table.

Table 11 How to Options Compare

Effectiveness, efficiency and coherence	Baseline	Limited scope	Intermediate scope	Full scope - with exemptions for certain platforms/sellers	Full scope
<b>Effectiveness of the option</b>					
Consistent functioning of the internal market	0	1	2	1	3
Contribute to safeguard Member States' tax revenues and make tax systems fairer	0	1	2	1	3
Improve the ability of Member States to detect and counter cross-border tax evasion	0	1	2	1	3
Deterrent effect	0	1	2	1	3
<b>Efficiency of the options</b>					
Impact on tax compliance costs for business (a positive sign indicates a reduction of costs)	0	1	0,5	1	0,5
Impact on enforcement costs for administrations	0	1	1	1	1
Impact on tax collection	0	1	2	1	3
Impact on SMEs	0	1	1	1	1
<b>Coherence with other EU policies</b>					
Coherence with the General Data Protection regulation	0	2	2	2	2
Legend: 0: negligible impact; 0,5 very limited positive impact; 1/-1: limited positive (negative) impact; 2/-2: sizeable positive (negative) impact; 3/-3 strong positive (negative) impact					

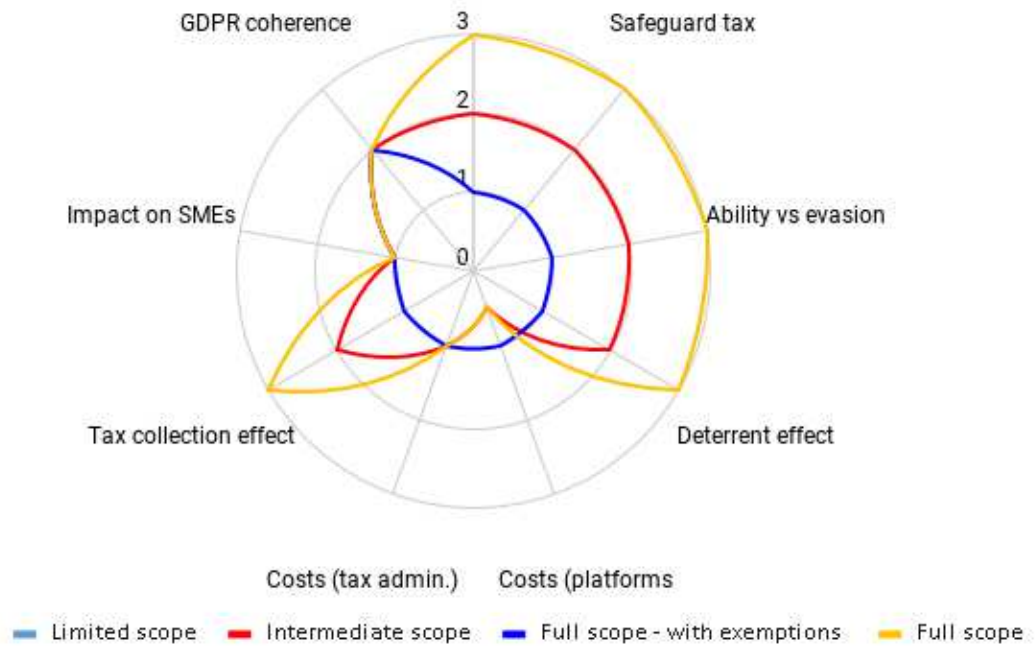
All retained options would increase tax transparency and be effective in achieving the objectives of the intervention (presented in chapter 4). The key difference in terms of effectiveness lies in the breadth of the scope of application of the option. The option having the broadest scope scores highest in terms of effectiveness. When it comes to efficiency, the impacts of the retained options differ. Taking the baseline as point of comparison, the most efficient options overall, for the different actors involved, are those having an intermediate and a full scope, the latter being considered the one having the best cost-benefit ratio as a whole. It is acknowledged that the introduction of a requirement to collect information and to report it to tax administrations has an impact on digital platforms (the costs of the options are presented in section 6.2.2). However, compliance costs for businesses are expected to be lower in any of the retained options than in a baseline scenario. Also the impact on enforcement costs of tax administrations is deemed positive, under any of the retained options (more information on the impact on costs for tax enforcement is presented in section 6.2.1). It should be noted that the key difference in terms of efficiency lies in the impact on tax revenues, with the assumption of a positive correlation between breadth of the scope and impact on tax revenues

<sup>93</sup> -3 indicates a strong negative impact, -2: sizeable negative impact, -1: limited negative impact, 0: baseline scenario, 0,5: very limited positive impact, 1: limited positive impact, 2: sizeable positive impact, 3: strong positive impact.

(section 6.2.2 gives estimates of the impacts in terms of tax revenues). Concerning coherence with other EU policies, the focus is put on data protection. As indicated in section 6.3.1, compared with a baseline, having a standardised and secure system for data collection and exchange is considered a better option, from a data protection perspective.

To sum up, while all options share some similarities, the comparison of the options on the basis of their effects against the baseline is mainly influenced by the extent of the scope of the transparency obligation under each option and its overall effectiveness and impact on tax revenues.

Figure 6 A visual comparison of options (the limited scope overlaps with the full scope with exemptions)



## 8 PREFERRED OPTION

The above analysis indicates that the legislative option is the most appropriate to meet the objectives of the intervention. The *status quo* baseline scenario is the least effective, efficient and coherent option. When compared with the baseline scenario, having an EU mandatory common standard would ensure that all EU tax administrations have access to the same type of data. In other words, an EU legislative intervention would put all tax authorities on an equal footing. A legal intervention is also the only one which allows for automatic exchange of information at the EU level, on the basis of common standards and specifications. The EU legislative intervention, once implemented, is the only scenario in which the tax authorities where a seller is tax resident can verify that sellers have accurately reported their income earned via platforms, without the need for ad hoc, time consuming requests and inquiries.

**In particular, the legislative option should be designed as to have the widest reporting scope and include all platforms operators and sellers active in the EU.** Introducing reporting for all platforms active in both services and goods leads to the highest expected benefits in terms of additional tax revenues. As expected, this sub-option also has a better impact on sector competitiveness and the best social impact: the high degree of tax fairness generated by the intervention would increase trust in the sector and lead to a situation where sellers and platforms can be confident that their other peers and competitors are “doing the right thing” too.

Overall, compliance costs for platforms are considered the highest in a baseline scenario. One EU standard for the collection, transmission and exchange of data reduce the compliance costs of platforms, compared to a patchwork of national measures. This expected, positive effect on platforms’ compliance costs of an EU legislative intervention is confirmed by the outcome of the public and targeted consultation.<sup>94</sup> This is especially likely to be the case when platforms operating cross-border are SMEs, which, due to their relatively small size and limited resources, tend to face a disproportionate administrative burden when it comes to fulfilling tax requirements.<sup>95</sup>

The best cost-benefit ratio is achieved by choosing the widest scope, with no exclusion either in terms of reportable sellers or platform operators. Excluding SME platforms from the reporting requirements could indeed ease their compliance costs at first, but is likely to significantly increase the compliance costs once the platform crosses the reporting threshold. The reason for the latter effect is that the platform would have to require its sellers to fill in information after on boarding, which, according to the public consultation, is burdensome and in some cases impossible. Platforms could also be incentivised to stay below the reporting threshold, but this effect could be at least partially mitigated by their incentives to grow in order to enjoy economies of scale and network effects. Sellers could also use exempt platforms in order to avoid reporting their income to tax authorities, switching platforms whenever they are required to start reporting. A broad application to all platforms removes such incentives, levelling the playing field between platforms.

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<sup>94</sup> Opinions expressed by certain platform operators at the EESC public hearing on "The collaborative economy - data exchange with tax authorities", Tallinn, 13 February 2020. Similar views were reiterated at the stakeholders’ meeting of 27 February 2020.

<sup>95</sup> Study on tax compliance costs for SMEs, Final report - Study (Published: 2018-12-12).



Reporting requirements that would include small or occasional sellers would also limit the possibilities for avoiding reporting, while not causing significant costs to sellers. Sellers only need to provide the identification information to the platforms, with no extra reporting requirements. If the small sellers are companies, they should already have tax requirements and TIN's, so the additional burden of passing the information to the platforms should be minimal. Similarly, occasional individual sellers should have a low additional burden, as they would only need to update their information. It should be noted, again, that the reporting requirement do not need to lead to an increase in the tax burden of those small sellers. Member States may have a threshold below which income earned by sellers is not taxed. Reporting by platform operators would have no tax consequences for these sellers. Including all sellers would significantly ease the detection of sellers who evade taxes through non-reporting, while not hindering very small sellers.

Furthermore, the broadest reporting scope is also the preferred option of the main stakeholders involved in the initiative, mainly Member States, platforms and users, as it has been reflected in the targeted and public consultation.

Tax administrations as well bear lower development and running costs under the preferred option than the baseline, where they would bear the full investment and running cost of any new IT solution and continue to face costs for handling uncoordinated, divergent requests for information. According to one Member State's tax administration, an EU legislative intervention would lead to 20 % cost savings due to less workload to deal with requests for information, when compared to the baseline.<sup>96</sup>

The legislative option satisfies the principle of proportionality. The data requested of sellers is, according to the experience with previous DAC, the minimum required in order to ensure that tax administrations can adequately match taxpayers with the data received from digital platforms.

As far as clarifications of the Directive are concerned, they aim precisely at clarifying concepts, which had been identified in the evaluation of the Directive as undermining its effectiveness and efficiency.

In terms of data protection, although the intervention increases the amount of personal data processed, and therefore impacts the protection of taxpayers' personal data, it is justified to ensure fair taxation and limited to what is necessary to achieve this objective. EU intervention also ensures a common EU approach (instead of a possible piecemeal method in a baseline scenario) and explicit safeguards for data protection in EU law.

This respects the principle of subsidiarity, as the main problem – which is lack of reporting by sellers of income and revenues earned through platforms and weaknesses in administrative cooperation – requires EU solutions, providing on the hand one new tools to tax administrations to do their job efficiently and on the other hand improving existing tools. In the absence of cooperation, a Member State on its own would not be able to ensure the correct compliance of its tax residents who earn income from other countries. The preferred option, that is amending the Directive on Administrative Cooperation to

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<sup>96</sup> Source: TAXUD call with a Member State' tax administration on 6 March 2020.

introduce a common EU reporting standard for platforms and subsequent automatic exchange among tax administrations, clearly offers EU added value, over and above what can be achieved at Member State level.

It is also important to emphasize that the preferred option is proportionate and does not go beyond what is needed to achieve the goals. The cost-benefit ratio is positive: the expected return in terms of additional tax revenues are higher than estimated costs. The administrative burdens for businesses and tax administrations are overall reduced compared to the baseline, the impact on personal data protection is justified, and the expected effect on sector's competitiveness and the overall social impact is deemed positive. A further element of proportionality lies in the principle of data minimisation, whereby platforms will have to provide only the data which is considered necessary for tax collection purposes.

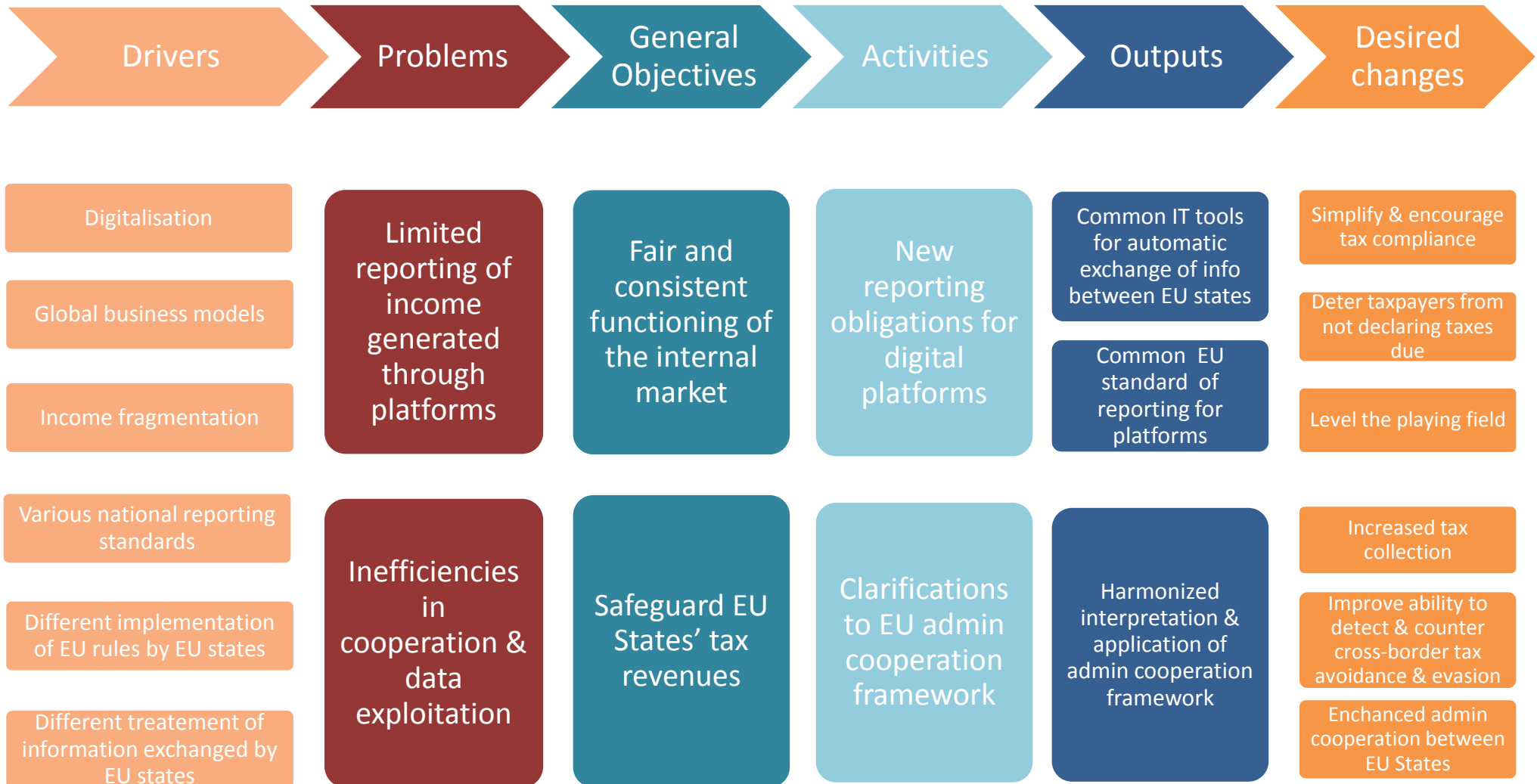
### **Intervention logic of the preferred option**

The intervention logic presents in a simplified way how the EU intervention is expected to work. Building on the previous sections, the figure below starts from the drivers of the problems, which influence and cause the problems in the first place. The figure presents the problems which are considered significant enough and need to be addressed at EU level, thus requiring an EU solution.

Once the problems have been clearly defined, it is time to identify the main objectives which will frame the possible solutions. The next step is to define the preferred solution and the activities and outputs/actions which are covered.

The final step shows how the different activities and outputs/actions triggered by the EU intervention are expected to interact to deliver the desired changes over time and to achieve the objectives.

Figure 7. Intervention logic



## 9 HOW WILL ACTUAL IMPACTS BE MONITORED AND EVALUATED?

### 9.1 Indicators for monitoring and evaluation

The table below gives an overview of the objectives, the indicators to measure whether they will be achieved, the tool for monitoring them and the operational objective. In the medium term, the initiative is expected to generate a positive impact with respect to the general objectives presented in chapter 4.

*Table 12 Indicators for Monitoring*

Specific objectives	Indicators	Measurement tools
Improve the ability of Member States to detect and contrast cross-border tax evasion	Number of controls carried out based on data tax administrations gather via the intervention (either only or including these data)	Yearly assessment of automatic exchange of information (source: Member States' tax administrations)
	Additional tax revenues secured thanks to the intervention, measured either as increase in tax base and/or increase in tax assessed	Yearly assessment of automatic exchange of information (source: Member States' tax administrations)
	Number of replies received later than six months after the request; number of group requests sent; number of joint audits; benefits of joint audits	Statistics on administrative cooperation other than AEOI and yearly questionnaire on the functioning of the directive
Deterrent effect	Qualitative assessment of the rate of sellers' compliance in the digital platforms' sector	Yearly assessment of automatic exchange of information (source: Member States' tax administrations)

### 9.2 Monitoring and reporting

The results of the yearly assessment by Member States are presented and discussed in the Administrative Cooperation in Direct Taxation Commission expert group. The yearly assessment is conducted on the basis of the relevant provisions of the Directive on Administrative Cooperation and its implementing regulation.

Assuming implementation of the intervention will have started by then, the Commission will report to the European Parliament and the Council on the effectiveness and efficiency of this intervention as part of the second report on the application of the Directive on administrative cooperation, due by 1 January 2023.<sup>97</sup> As such, the evaluation of the current initiative will probably be after the evaluation of the VAT E-commerce Directive and will therefore take into account its findings. In case the implementation of the intervention started after 2022, the Commission will report about it as part of the third report on the application of the Directive, currently due by 1 January 2028.

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<sup>97</sup> The first report on the application of the Directive on administrative cooperation was due by 1 January 2018. Report from the Commission to the European Parliament and the Council on the application of Council Directive (EU) 2011/16/EU on administrative cooperation in the field of direct taxation. COM/2017/0781 final

## ANNEX 1: PROCEDURAL INFORMATION

### Lead DG, Decide Planning/CWP references

DG TAXUD, PLAN/2019/6239.

The initiative is part of the - Action plan for fair and simple taxation supporting the recovery strategy (PLAN/2019/6238) and listed in the Commission Work Programme 2020, Annex I, priority: “An economy that works for people”, initiative number 22.

### Organisation and timing

An interservice steering group was set up to steer and provide input to this impact assessment report. The steering group met 4 times before the report was submitted to the Regulatory Scrutiny Report.

### Consultation of the Regulatory Scrutiny Board

On 29 April 2020, a draft version of the impact assessment was presented to the Regulatory Scrutiny Board. On 5 May, the RSB issued a positive opinion with reservations. Afterwards, the draft report has been revised in order to take into account the recommendations for improvement, as explained in more detail in the table below.

<b>RSB recommendations</b>	<b>How have the recommendations led to changes to the report?</b>
<b>What to improve:</b>  (1) The report should make clear that the initiative addresses the high cost of enforcing tax law and of preventing tax evasion on transactions through digital platforms. The report should better explain that the initiative aims to reduce these costs by requiring digital platforms to report certain information about their customers' transactions. Reducing such costs and containing tax evasion are clear benefits that should be further highlighted in the report. The report should argue clearly that this cost reduction depends on the cooperation of national tax authorities because digital platforms can locate anywhere.	<p>To make clear that the initiative addresses the high cost of tax enforcement in the absence of automatic exchange of information, the report has been expanded with a new, dedicated section titled: ‘Reduced costs of enforcing tax law’, introduced in Chapter 6, part 6.2.1. (benefits).</p> <p>The new section puts forward the argument that the efficiency in gathering tax relevant information would be higher once the initiative was implemented than in a baseline scenario. The cost reduction is clearly linked with the extent of cooperation between national tax administrations.</p>
(2)The report should better specify the objectives and adjust them to the problem analysis. It could clarify that it aims to improve national and local tax administration through EU wide co-	To better specify the objectives and adjust them to the problem analysis, changes have been made in Chapter 4 ‘Objectives’, to stress the importance of EU wide cooperation; an intervention logic diagram

<p>operation, rather than cross-border transactions.</p>	<p>has been added in Chapter 8, to clearly link and show visually the connection between problems and objectives.</p>
<p>(3)The report should deepen the analysis of the proportionality of the options. It should strengthen the assessment of impacts on small platforms and occasional sellers. This should include administrative reporting requirements, consistency with the GDPR and incentives for these groups to enter this market. The report should expand its analysis of the pros and cons of exempting small platforms or occasional sellers from the new obligations and better justify its preferred option.</p>	<p>Several amendments have been made to deepen the analysis of proportionality of the options and in particular reinforce the assessment of impacts on small platforms and occasional sellers.</p> <p>Changes have been made to: section 6.2.4 ‘Impact on SMEs’, where the analysis has been expanded on the impact on small platforms of the intervention, to section 6.3.1 ‘Social impacts and impact on fundamental rights’, to clarify the impact on personal data in particular of occasional sellers; to section 6.2.2., to expand the analysis of the costs for occasional sellers.</p> <p>Chapter 8 has been revised to better justify the preferred option, in particular the rationale for not introducing exemptions as well as to clarify the consistency with GDPR.</p>
<p>(4)The baseline should consistently be used as point of comparison against which the other options are assessed. When comparing the options, it should therefore score as zero.</p>	<p>The report has been extensively amended in Chapter 7 ‘Comparison of options’, where the baseline, used as point of comparison for assessing other options, has been scored as zero. To clarify the comparison between options and between the baseline and the various options, new paragraphs have been added to Chapter 7 as well as a new chart to visually illustrate the comparison.</p>
<p>(5)The report should better justify and examine any material impacts of clarifications to the Directive resulting from the evaluation.</p>	<p>To better justify and examine the impact of the clarifications of the Directive resulting from the evaluation, section 6.2.5 ‘Impact of strengthening administrative cooperation’ has been revised and expanded. In addition, to better link the impact assessment with the evaluation, a new annex (annex 8) was added where precise reference information on the evaluation, its executive summary and its supporting study is made available.</p>

## **Evidence, sources and quality**

The evidence for the impact assessment report was gathered through various activities and from different sources:

- Consultation with the Working Party IV Commission Expert group on direct taxation
- The evaluation of Council Directive 2011/16/EU
- Targeted consultation with representatives of the platforms' sector
- A targeted consultation addressed to tax authorities on the problems covered by the initiative and possible solutions
- A public consultation
- Feedback on the inception impact assessment
- Desk research
- Project group led by Member States on “digital and data” and endorsed by TADEUS



## ANNEX 2: STAKEHOLDER CONSULTATION

### Introduction

For the preparation of this initiative, the Commission designed a stakeholder’s consultation strategy, which is summarized in this synopsis report. The aim of the synopsis report is to present the outcome of the consultation activities and to show how the input has been taken into account.

The consultation strategy encompasses both public and targeted consultations. Further details are given in the chart below:

Methods of consultation		Stakeholder group	Consultation period	Objective/Scope of consultation
Inception Impact Assessment (feedback mechanism)		Academic/research institution Business association Company EU citizen Non-EU citizen Trade union	7 Feb-6 March 2020	Collect feedback on the inception impact assessment outlining the initial structure of the project
Targeted Consultation	Member States	Public authorities	18 Feb-9 March 2020	Gather data about size of platform digital economy sector and tax gap due to underreporting Investigate the need of EU action Define possible scope of an EU initiative
	TADEUS forum	Public authorities	17/18 Sept 2019 20 February 2020	Analyze the issue and policy response in relation to platform sellers Seek head of tax administrations support for strengthening the administrative cooperation framework in direct taxation
	Expert group for Member States	Public authorities	26 February 2020	Gather views of experts from national authorities on the need for EU action and on possible policy design
	High Level Working Party on Taxation	Public authorities	3 March 2020	Gather views of Member States and gather views to policy design
	Stakeholder’s meetings	Businesses involved (platforms)	27 February 2020	Gather experience from platform operators on their current reporting requirements Gather views on a possible EU initiative
Public Consultation		Academic/research institutions Business association Company EU citizen Non-EU citizen NGOs Trade union	10 Feb-6 April 2020	Ascertain the views of a broad range of stakeholders mainly on the added value of a European action and the potential scope of the initiative

The main objectives of the different consultation streams are:

- Provide stakeholders and the wider public with the opportunity to express their views on all relevant elements.
- Gather specialised input to support the analysis of the impact of the initiative.
- Contribute to design the technical aspects of the future initiative.
- Satisfy transparency principles and help to define priorities for the future initiative.

As reflected above by the different methods of consultation used and stakeholders groups reached, the stakeholder consultation strategy has formed an integral part of the policy development process. The consultation began with the launch of the Inception Impact Assessment published on 7 February 2020 and continued until 6 April 2020 when the public consultation ended.

## **Consultation participation**

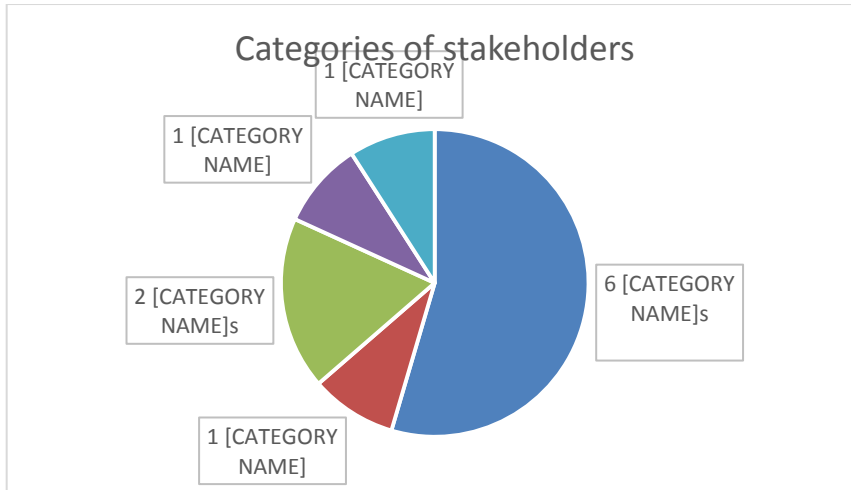
### **1. Feedback on the inception impact assessment feedback**

The consultation period through this feedback mechanism took place between 7 February and 6 March 2020 via the Commission website<sup>98</sup>. The period started when the inception impact assessment was published outlining the initial structure and options of the project. Eleven comments were submitted during this consultation period by the following categories of stakeholders:

### **Annex figure 1: categories of stakeholders commenting on the inception impact assessment**

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<sup>98</sup> <https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/12157-Strengthen-the-exchange-of-information-framework-in-the-field-of-taxation->



## 2. Targeted consultation

### a. Targeted consultation of Member States via EU survey

The targeted consultation of Member States focused on the possibility to introduce reporting requirements for platform operators. Its purpose was to outline the context of the problem, gather data about the size and compliance of the platform digital economy and check Member States' views regarding policy options, and possible evidence to support policy options. The questionnaire (made of 34 questions) was published on 10 February 2020 and it covers all impact assessment elements as regards to the problem identification, subsidiarity check, different options and impacts. Member States were able to provide feedback until 9 March 2020. However, the late answers have also been taken into account.

22 contributions were received on this targeted consultation from:

Austria	Ireland
Belgium	Italy
Croatia	Lithuania
Cyprus	Luxembourg
Czechia	Malta
Denmark	Netherlands
Estonia	Poland
Finland	Slovak Republic
France	Slovenia
Germany	Spain
Greece	Sweden

In addition to the answers provided in the questionnaire, respondents had the possibility to upload a position paper or document. Position papers were submitted by Austria,

Estonia, Poland and Sweden. These documents complemented their answers and gave more details on their submissions.

#### **b. TADEUS forum**

The Tax Administration EU Summit (TADEUS)<sup>99</sup>, as a cooperation network for the EU Member States' heads of tax administrations and the Commission, met in Helsinki, on 17-18 September 2019, for the first TADEUS Plenary meeting with the presence of the head of tax administrations of the 27 EU Member States.

The Heads of tax administrations endorsed the findings of the 'Digital and data' project – on reporting requirements for the sharing and gig economy - led by Finland, which provided a sound technical basis for possible future policy and technical initiatives.

#### **c. Targeted consultation via an expert group (Working Party IV)**

On 26 February 2020, the Working Party IV expert group met in Brussels to discuss a possible proposal for an amendment to Directive 2011/16/EU as regards measures to strengthen the exchange of information framework in the field of direct taxation. The meeting focused on the reporting and exchange of information on income and made through digital platforms. The meeting benefitted from the participation of delegates of the 27 Member States.

#### **d. High Level Working Party on Taxation**

The High Level Working Party on Taxation met on 3 March 2020 and discussed the future of the Directive on Administrative Cooperation, on the basis of a discussion paper prepared by the Presidency. 19 Member States took the floor and all expressed their strong support to an expansion of the existing Directive to encompass the sharing of information reported by platform operators. They also emphasised the importance of advancing quickly on this file. While Member States value an alignment with OECD work, they also saw scope for going beyond OECD work, for example in terms of activities in the scope of the proposal. Several Member States also mentioned the importance of clarifying/working further on existing aspects of the Directive (e.g. definition of foreseeable relevance, or group requests) in order to improve its effectiveness.

#### **e. Targeted consultation via a stakeholders' meeting**

On 27 February 2020, a meeting with platforms representatives was held in Brussels. Platforms operators active in different sectors were represented: accommodation,

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<sup>99</sup> [https://ec.europa.eu/taxation\\_customs/news/tadeus-%E2%80%93-tax-administration-eu-summit\\_en](https://ec.europa.eu/taxation_customs/news/tadeus-%E2%80%93-tax-administration-eu-summit_en)

transportation, on-demand labour and sale of goods. Large but also small platforms were represented.

The objective of the meeting was to gather views from stakeholders on their current experience with reporting requirements based on national provisions, as well as to gather their views on a possible EU initiative to provide tax administrations with information on taxpayers who generate income and revenues through the digital platform economy.

### **3. Public Consultation**

The public consultation was launched on 10 February 2020. It remained open until 6 April 2020 for a total of 8 weeks. An exemption from the usual 12 week limit has been granted, due to the need to respect the overall political timeline of the initiative<sup>100</sup>. To this purpose, it is worth highlighting that OECD routinely relies on shorter deadlines for even more widespread tax reform proposals and, nevertheless, receives quality input.

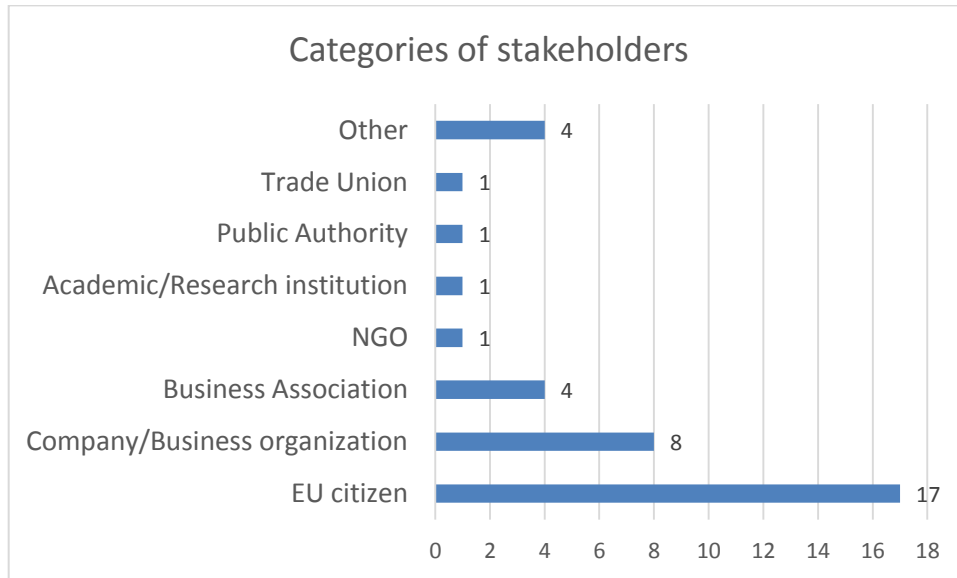
In addition to the general identification questions, the questionnaire of the public consultation consisted of 22 questions which cover all impact assessment elements in terms of problem, subsidiarity, options and impacts of the initiative. They were divided into two sections: one regarding digital platforms (16 questions) and one concerning joint tax audits (6 questions). Stakeholders could also upload additional contributions. In order to increase the visibility of the public consultation, the Commission promoted this consultation on social media. Despite the diversity of channels used, the number of contributions received remained small. Such a limited response to the public consultation could be explained by the rather widespread support and non-contentious character of the initiative at stake.

In total, 37 responses were received (16 of them chose to attach position papers in addition to the replies to the standardized questions), coming from the following respondents:

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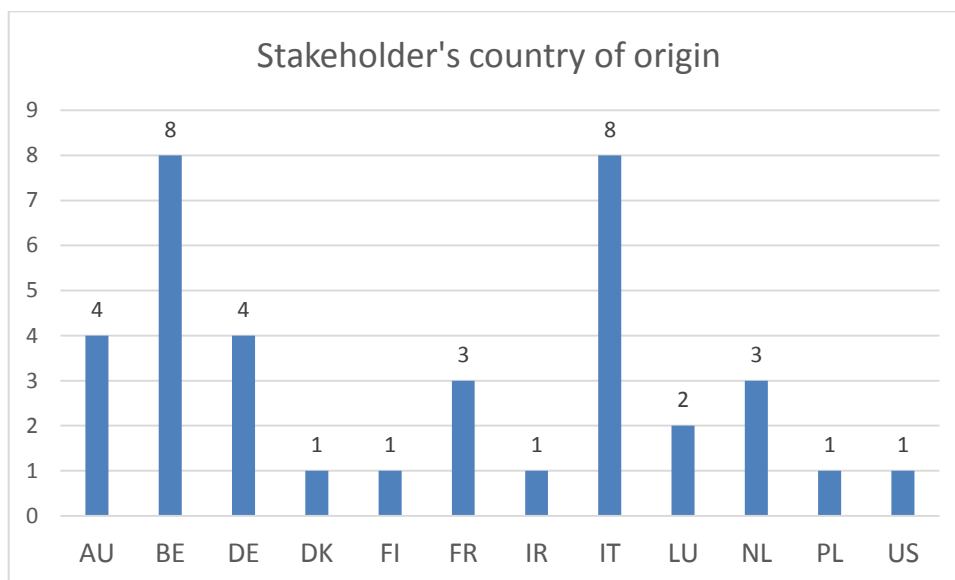
<sup>100</sup><https://ec.europa.eu/info/sites/info/files/better-regulation-guidelines-stakeholder-consultation.pdf>

**Annex figure 2: categories of stakeholders commenting on the public consultation**



In terms of breakdown among origin countries of the respondents, the chart below shows a diverse representation:

**Annex figure 3: stakeholders' origin country**



In terms of publication privacy settings, 18 respondents agreed to transparency regarding their personal details and 19 answered as anonymous participants. From the point of view of the size of the organizations involved, 5 are micro (1 to 9 employees), 4 small (10 to 49 employees), 3 medium (50 to 249 employees) and 8 large (more than 250 employees).

From the replies received, at least 9 of them acknowledged being occasional or regular sellers on platforms (selling goods or offering services).

Sixteen position papers were submitted by stakeholders in addition to the answers provided by them to the standardized questionnaire. Position papers were submitted, mainly, by platforms and business associations.

### **Methodology and tools for processing the data**

The consultation activities allowed for the collection of data of both qualitative and quantitative nature, which were processed and analysed systematically. Qualitative data was structured according to key themes. Quantitative data (including survey responses and figures provided by stakeholders) was processed using Excel spreadsheet, and analysed using statistical methods, ensuring the appropriate protection of personal data without publishing the information of the respondents that did not give their consent.

## **Consultation results**

### **1. Inception impact assessment feedback**

Overall, the initiative to create a unified EU framework for reporting obligations was welcomed by all the stakeholders involved. Several comments concerned the significant exposure of digital economy to fraud and the need of harmonizing the direct and indirect taxation reporting obligations for platforms.

In more specific terms, two respondents supported the possibility of carving out from the scope of the initiative several platforms for reason of low turnover or recently creation (such as start-ups) and 2 were in favour of including non-EU based platforms under scope. One feedback was received regarding the need of reinforcing the joint audit regulation in order for them to be concluded with a single fact finding report and to set out a harmonized framework for both direct and indirect taxation on joint audits field.

### **2. Targeted consultation**

#### **a. Targeted consultation of Member States via EU survey**

As an overview of all the feedbacks received, Member States considered a unified EU framework for reporting obligations by platforms as an important simplification measure that would contribute to the well-functioning of the single market.

Going through the specific questions, overall, 19 Member States perceived that there is a significant lack of reporting, for taxation purposes, of revenues obtained through digital platforms which negatively impacts fair competition between the traditional economy and the digital platform economy. Therefore, the vast majority of respondents (19 out of 22) agreed on the fact that there is a significant risk of tax avoidance, evasion or fraud as regards activities carried out through a digital platform.

Concerning the type of activities carried out through digital platforms, higher risk of tax avoidance was attributed to accommodation services, while other sectors such as transportation and delivery were also perceived as high risk in terms of tax evasion. Member States also considered sales of good as a type of activity carried out through digital platforms that may carry a medium-high risk of tax misconduct.

Most of Member States reported facing difficulties in providing factual data on the size of the problem (extent of underreporting of income and revenues generated through platforms) and the size of the digital platform sector itself. The reason for this lack of evidence is that there are no methodologies in place to make overall estimates in the field of platforms.

12 Member States stated having a legislation and or administrative guidance in place whereby platform operators would have to report information to tax administrations on sellers active on their platform, while other 4 are planning to introduce such legislation or administrative guidance. Besides this, most Member States have conducted compliance activities targeting transactions facilitated by platforms such as audits, letters or information campaigns.

14 Member States supported that both providing a service or selling goods should be subject to reporting by the platform operators to the relevant tax administration and all the Member States considered that digital platform operators should have the same reporting obligations for tax purposes throughout the EU (i.e. single set of rules). There also was unanimity in recognizing that EU-wide approach will be more effective to tackle tax evasion (Member States generally agreed on the fact that, individually, they are not sufficiently equipped to track revenues generated through digital platforms).

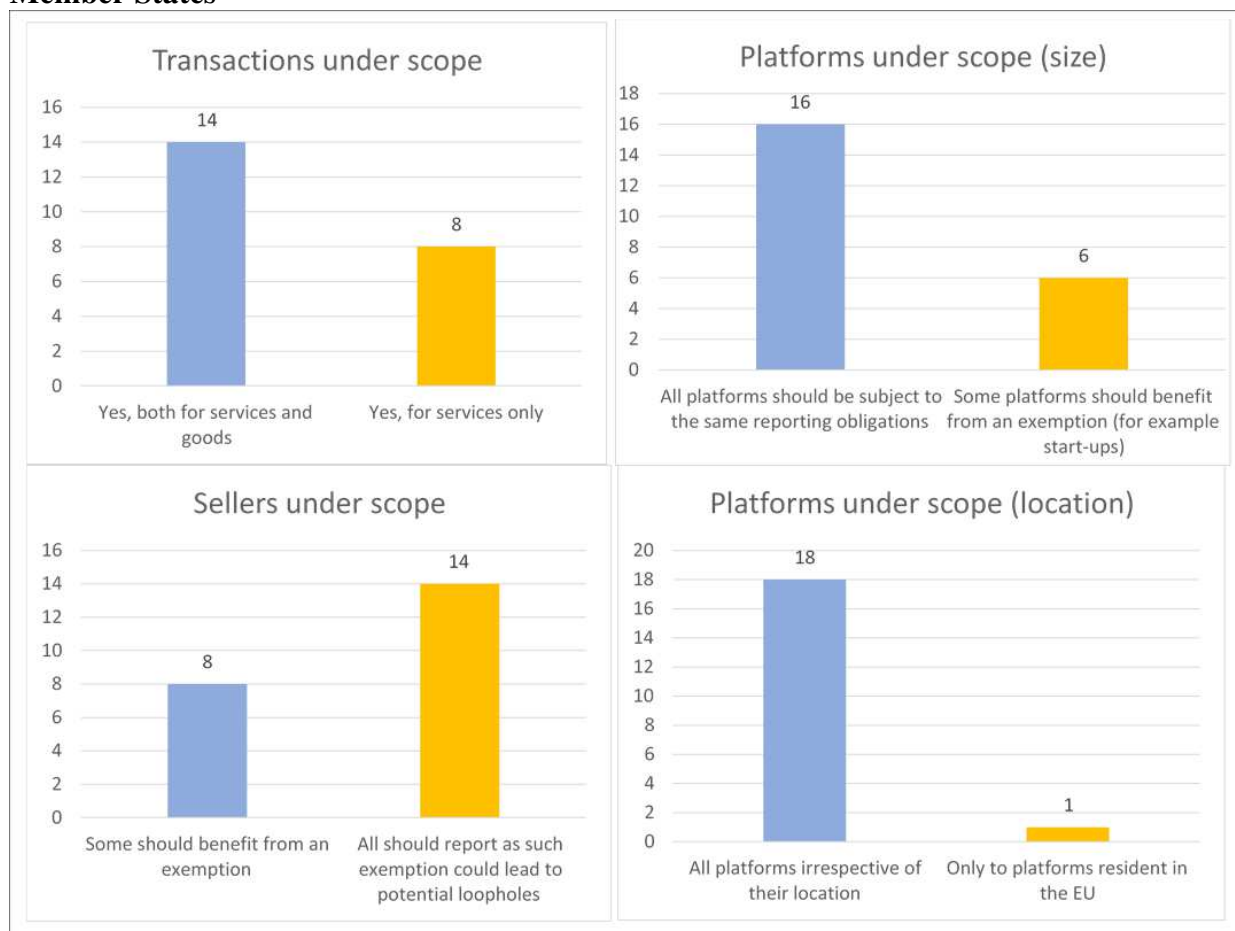
16 Member States considered that all platforms should be subject to the same reporting obligations (to avoid potential loopholes) and 19 Members States remarked that if EU rules were adopted, they should apply to all platform operators, including those resident outside the EU.

As far as sellers are concerned, 16 replies supported that all providers of services or sellers of goods through digital platforms should be reported to the relevant tax administrations without exemption. A broad majority of Member States considered that digital platform operators should report information on cross-border transactions and also on transactions where the seller is resident in the same Member State as the platform operator.

On how the information should be exchanged, 11 out of 22 responses considered bilateral exchanges across tax administrations (similar to DAC1 and DAC2) as the preferred way for a satisfactory outcome. 8 respondents out of the 22 expressed their preference for a central repository (for example, the current exchanges under article 8a of Directive 2011/16, as is currently done for DAC3 exchanges). 3 respondents said that it was too early at this stage to be able to say which technical solution would be most appropriate.



**Annex figure 4: Results from selected questions from the targeted consultation for Member States**



The four separate contributions (position papers) submitted during the targeted consultation focused on more generic comments. One of them stressed the link that, according to its view, must be made between direct and indirect taxation platforms reporting obligations. This contribution asked for extending the scope of the indirect tax measures to cover also direct taxation purposes. Another Member State provided some data available about the size of platforms sector and the tax gap existing in its own territory.

On a more specific basis, the other two countries expressly highlighted the importance of the compulsory requirement of sharing the Tax Identification Number and the preference of other Member States on imposing reporting obligations over the platforms where underlying services are supplied and not where platforms have their residence.

**b. Targeted consultation via expert group (Working Party IV)<sup>101</sup>**

<sup>101</sup> Information on this Commission expert group is available at:

<https://ec.europa.eu/transparency/regexpert/index.cfm?do=groupDetail.groupDetail&groupID=953&NewSearch=1&NewSearch=1>

Several countries mentioned that they have legislation/administrative guidance in place whereby platform operators should report information on sellers (although with different scopes) while some of them have concluded agreement with platforms to report information on voluntary basis.

The Member States raised concerns about tax gaps and underreporting, however limited data were available about the size/profile or tax gap estimation of digital platform economy.

Overall, broad support was laid down for a possible EU initiative for a common EU framework on reporting obligations for income earned by sellers via digital platforms and a general call for alignment with OECD model rules for reporting by platforms operators. Regarding activities in scope, a vast majority of Member States supported leveraging the new initiative to achieve a broad scope including provision of services and sale of goods (going beyond the OECD proposal).

Regarding platforms in scope, some Member States were favourable to an exemption for start-ups. The majority of them supported that platforms based outside the EU should also be included in order not to distort competition. On the area of potential exemptions for sellers, a few countries supported the setting up of reasonable, minimum threshold of revenues for sellers to be reported.

About the information to be collected, overall support was set out to include the same requirements than under OECD approach, without excluding however some possible additional data fields. There was general support for including account numbers to the information to share for really identifying the beneficial owner of the operation and place of birth was also acknowledged as important to ensure a matching of the data.

### **c. Targeted consultation via stakeholder's meeting**

There was general consensus on the benefits of having a standardised EU legal framework for gathering information from platforms compared to several, different, national reporting rules. There was a preference for following a similar approach to the OECD model rules.

On the other hand, no opposition was expressed about including platforms active in the sale of goods in the activities in scope. Regarding platforms in scope, participants claimed that the platforms based outside the EU should be in the scope to avoid unfair competition and a shift of platforms outside of Europe (uneven playing field).

About the possibility of setting up an exemption for start-ups (e.g. for the first 3 years of existence), it was remarked that this may trigger difficulty to report data on all sellers after 3 years of exemption. Some participants supported a reasonable and clear threshold above which the requirement to report sellers would apply. Their main concern was the fact that reporting (thus, collecting data) from the beginning might discourage sellers to

use the platforms. Other participants stated that it is easier for them to report about all sellers without any exemption.

Regarding the information to be collected and reported, commitment with proportionality principle was raised as important to all participants (no more data than strictly needed for tax purposes). Some platforms requested that the information that should be required by this potential new initiative should be adapted to each sector given the different nature of the activities carried out in each of them.

The participants asked for more alignment between direct and indirect taxation information gathering obligations. In particular, they advocated for one stop shop solution (to report the information just to the tax administration where the platform is resident in Europe). Finally, some concerns were raised about being compliant with taxation obligations and GDPR to make them compatible.

### **3. Public Consultation**

A concerted effort was made to ensure that the views and concerns of all affected stakeholders were carefully considered throughout the impact assessment exercise. In particular, it was the case in the analysis of the policy options.

Overall, there has been a strong support to lay down a single set of rules across the EU for digital platforms to have the same reporting obligations for tax purposes throughout the EU (28 affirmative responses out of 37). The reason might be that most of the respondents consider that common reporting obligations in the EU would reduce the administrative burden for platforms and/or sellers, while, at the same time, ensuring a level playing field with traditional service providers (25 out of 37 confirm this statement).

In relation to the digital platforms and sellers in scope, 18 and 19 respondents out of 33 and 23 valid answers respectively deem that all platforms and all providers of services or sellers of goods should be subject to the same reporting obligations in order to avoid potential loopholes. Although still representing the majority, it shows a slightly lower support for a broad scope both in relation to platforms and sellers than in the targeted consultation of Member States.

In relation to the perception of the problem, the majority of the respondents (20 out of 33 valid answers<sup>102</sup> to this question) agree with the statement that there is a significant lack of reporting, for taxation purposes, of revenues obtained through digital platforms. 20 out of 32 valid replies consider that this underreporting of revenues obtained through digital platforms negatively impacts fair competition between the traditional economy and the

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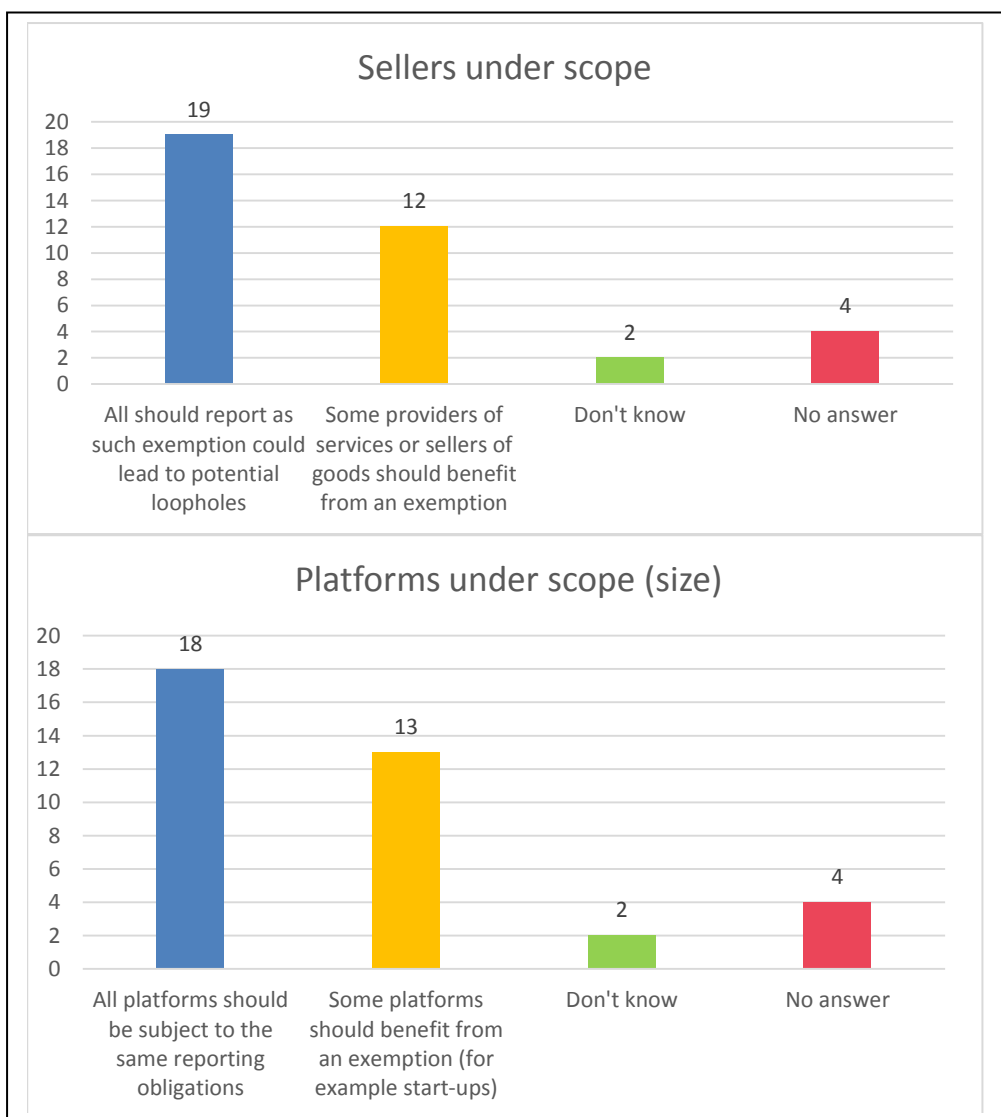
<sup>102</sup> Note that for each question, all replies are considered valid except for “no answer” ones.

digital platform economy. Similarly, most of them believe that individual EU countries are not sufficiently equipped to track revenues generated through digital platforms

As result of the above perception, 25 out of 37 respondents consider that there is a risk of tax avoidance, evasion or fraud as regards activities carried out through a digital platform, which is especially high in the provision of services. Regarding the type of services offered through digital platforms that are considered as carrying a more significant risk of tax avoidance, evasion or fraud: accommodation services score the highest, followed by household and transportation services.

These graphics show the feedback of the respondents to the public consultation regarding the main policy options:

**Annex figure 5: Public consultation results – respondents’ opinions on main policy options**



In the field of joint audits, there is an agreement among the respondents on the need to revise the EU legal framework to include some more specific details, in particular 27 out of 37 answers confirm this support.

Furthermore, 21 out of 27 valid replies consider that each joint audit should finish with a single agreed report and the vast majority also deem 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).

Finally 23 participants in the public consultation stress 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, while 27 of them affirm that the taxpayer should be granted the right to request a joint audit.

From the inputs received as position papers by stakeholders, it is worth to stress the general support to both parts of the initiative addressed by the public consultation: platforms sharing information requirements and a stronger joint audit legal framework.

On platforms reporting obligations, the most recurrent comments from stakeholders (mainly, platforms and business associations) are: the need of alignment between direct and indirect taxation obligations and with the OECD model rules; keeping the information requirements as easy and as costless as possible; setting out a reasonable timeframe that make it possible for platforms to implement the new rules; and establishing a streamlined mechanism to facilitate information sharing within the home country instead of with each tax administration where platforms are based.

Broad agreement is also achieved regarding the necessity of being respectful of GDPR rules. Some statements are supportive of the idea of adapting the information requirements to the specific sector involved. One participant requests a fully automated system provided by tax authorities to verify information gathered from sellers; otherwise, the platforms should not be accountable for data accuracy.

Overall, a broad scope approach is preferred by the respondents whereas some of them support exemptions on small platforms, to avoid entry barriers in the digital sector, or exemptions on small sellers, to prevent tax administrations from being overloaded with big amount of data.

When it comes to joint audit, general consensus is reached about the need of strengthening the current EU framework. It is suggested by one respondent to follow a two-step approach in its implementation and making it applicable to third countries. Alleviating duplication of work should be one of the main goals according to several stakeholders. Furthermore, the more limited capacity of some countries to deal with compulsory joint audits is raised by one position paper.

The importance of monitoring the transposition of EU rules at national level was flagged as important in order to ensure consistency across Member States.

## **Conclusions**

The results of the public and targeted consultations allowed the Commission to collect a significant number of views and opinions on the initiative.

Both public and targeted consultations showed wide agreement about the existence of the problems identified in the impact assessment: underreporting of income and revenues earned through the digital platform economy and inefficiencies in the current EU administrative cooperation framework, such as in the area of joint audits.

Regarding the reporting and sharing of information gathered by digital platforms, a broad majority of stakeholders (Member States, private entities and citizens) agreed on the need for a European framework for reporting obligations in favour of achieving a sound level playing field and a true single market.

Concerning joint audits, the public consultation stressed the need to step up their role on the administrative cooperation framework at European level.

Finally, it is worth noting that the feedback received throughout the public and the targeted consultations has been used to inform the choice of the preferred policy options/sub-options.

### ANNEX 3: WHO IS AFFECTED AND HOW?

#### Practical implications of the initiative

Under the preferred option, the initiative is meant to provide a EU legal basis for setting up an information system whereby: a) platforms will collect and transmit periodically to tax administrations tax relevant information about income and revenues earned by sellers through platforms; b) tax administrations will then exchange this information with each other to use it for the administration and enforcement of relevant tax laws in the Member States (e.g. personal income tax code).

#### Summary of costs and benefits

In the table below, the benefits of each option are calculated as the lower bound of the 2018 estimate. This is a conservative estimate, but should be informative for policy-making purposes.

<b><i>I. Overview of Benefits (total for all provisions) – B1 Limited Scope (€ million)</i></b>		
<b><i>Description</i></b>	<b><i>Amount</i></b>	<b><i>Comments</i></b>
<b><i>Direct benefits</i></b>		
Tax Revenues	1 135	Lower bound, including 20% tax rate and all platforms.
<b><i>Indirect benefits</i></b>		
Tax fairness	n/a	Improvement in tax fairness perception, resulting from taxpayers paying their fair share.
Strengthening the EU social market economy	n/a	European businesses would benefit from having lower overall compliance costs through having homogeneous requirements, rather than having multiple standards across each Member States. This would make it easier to comply with existing tax rules and would improve tax morale.
Improving the level playing field	n/a	European providers of goods and services that are currently compliant with the tax rules would benefit from ensuring their competitors also pay their fair share.

<b><i>I. Overview of Benefits (total for all provisions) – Intermediate Scope (€ million)</i></b>		
<b><i>Description</i></b>	<b><i>Amount</i></b>	<b><i>Comments</i></b>
<b><i>Direct benefits</i></b>		
Tax Revenues	1 300	Lower bound, including 20% tax rate and all platforms.
<b><i>Indirect benefits</i></b>		
Tax fairness	n/a	Improvement in tax fairness perception, resulting from taxpayers paying their fair share.

Strengthening the EU social market economy	n/a	European businesses would benefit from having lower overall compliance costs through having homogeneous requirements, rather than having multiple standards across each Member States. This would make it easier to comply with existing tax rules and would improve tax morale.
Improving the level playing field	n/a	European providers of goods and services that are currently compliant with the tax rules would benefit from ensuring their competitors also pay their fair share.

<b>I. Overview of Benefits (total for all provisions) – Full Scope (€ million)</b>		
<b>Description</b>	<b>Amount</b>	<b>Comments</b>
<b>Direct benefits</b>		
Tax Revenues	2 647	Lower bound, including 20% tax rate and all platforms.
<b>Indirect benefits</b>		
Tax fairness	n/a	Improvement in tax fairness perception, resulting from taxpayers paying their fair share.
Strengthening the EU social market economy	n/a	European businesses would benefit from having lower overall compliance costs through having homogeneous requirements, rather than having multiple standards across each Member States. This would make it easier to comply with existing tax rules and would improve tax morale.
Improving the level playing field	n/a	European providers of goods and services that are currently compliant with the tax rules would benefit from ensuring their competitors also pay their fair share.

(1) Estimates are relative to the baseline for the preferred option as a whole (i.e. the impact of individual actions/obligations of the preferred option are aggregated together); (2) Please indicate which stakeholder group is the main recipient of the benefit in the comment section; (3) For reductions in regulatory costs, please describe details as to how the saving arises (e.g. reductions in compliance costs, administrative costs, regulatory charges, enforcement costs, etc.; see section 6 of the attached guidance).

<b>Overview of costs – B1 limited scope</b>							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
<b>Administrative costs</b>	Direct			250	30	56	10
	Indirect						

<b>Overview of costs – B2 intermediate scope</b>
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		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
<b>Administrative costs</b>	Direct			500	60	110	19
	Indirect						

<b>Overview of costs – B3 full scope</b>							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
<b>Administrative costs</b>	Direct			875	105	110	19
	Indirect						

<b>II. Overview of costs – Preferred option</b>							
		Citizens/Consumers		Businesses		Administrations	
		One-off	Recurrent	One-off	Recurrent	One-off	Recurrent
<b>Full scope (services and goods)</b>	Direct costs	-	-	875	105	189	31,5
	Indirect costs	-	-				

(1) Estimates to be provided with respect to the baseline; (2) costs are provided for each identifiable action/obligation of the preferred option otherwise for all retained options when no preferred option is specified; (3) If relevant and available, please present information on costs according to the standard typology of costs (compliance costs, regulatory charges, hassle costs, administrative costs, enforcement costs, indirect costs; see section 6 of the attached guidance).

In addition to economic costs and benefits, there are social benefits, that is non-monetisable benefits, in particular tax fairness perception and strengthening of the EU way of life / social market economy.

## ANNEX 4: ANALYTICAL METHODS

### Calculating the total value of transactions on platforms in EU-27

In this section, we elaborate on the choices and alternatives for each option in terms of scope of reporting.

In order to estimate the total value of EU transactions occurring on all **platforms in the accommodation-sharing sector and the transport sector**, we divide the total value of EU transactions of the market leader (**T**) by their European market share (**M**):

$$V = T / M$$

The total value of European transactions in 2018 of the market leader (**T**) in the accommodation sector was estimated at € 10.3 billion. This was obtained by multiplying the following terms: the total number of overnight stays in the United States and Europe in 2018 (156 million, according to Zhang et al., 2016, assuming a 17% yearly growth rate), the share of those stays that occurred in Europe (60%)<sup>103</sup> and the average EU daily rate (which we take to be € 110)<sup>104</sup>. The European market share of the main player in the European P2P accommodation transacted on platforms (**M**) was taken to be 60%. While there is no definitive data on the market share of each player, our approximation is relatively conservative. The value represents the total market share of the main player, as a share of the market share of all players in the online short-term accommodation sector.<sup>105,106</sup> Dividing 10.3 by 0.6 gives the total value of transactions on the European market, estimated at EUR 17.2 billion.

**According to our estimates, the total value of transactions occurring on platforms in 2018 in the EU-27 peer-to-peer transport sector was approximately € 6.3 billion. We**

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<sup>103</sup> This value was estimated as the fraction of the direct economic impact of the market leader (host earnings + guest spending) attributable to EU countries, which was estimated by Airbnb (2019) at almost 50%. Our number represents an approximation of the economic impact coming from EU countries not included in the original data, taking into account that a large share of listings are in Western Europe. Source: Airbnb (2019). Airbnb Estimated Economic Impact Exceeds \$100 Billion in One Year. Retrieved from: <https://news.airbnb.com/airbnb-estimated-direct-economic-impact-exceeds-100-billion-in-one-year/>.

<sup>104</sup> The average daily rate of hotels in Europe in 2018 was € 118 (STR, 2020). Following iPropertyManagement (2020), we assumed Airbnb was 10% cheaper than hotels, thus approximating the average daily rate to be 110 €. Source: Source: STR (2020). Global Hotel Review – Constant Currency Edition. Retrieved from: [http://www.hotelnewsnow.com/Media/Default/PDFs/GlobalHotelReviewMediaVersionConstantCurrencyEdition\\_December\\_2019.pdf](http://www.hotelnewsnow.com/Media/Default/PDFs/GlobalHotelReviewMediaVersionConstantCurrencyEdition_December_2019.pdf) ). Source: iPropertyManagement (2020). Airbnb Statistics. Available from: <https://ipropertymanagement.com/research/airbnb-statistics>.

<sup>105</sup> The market shares comes from DBS Group Research (2019). The 60% market share is the result of dividing the largest share of the largest platform by the sum of the two largest. We ignored smaller platforms from the calculation, as they were only present in Asia. Source: DBS Group Research (2019). *The Rise of the Home Sharing Platforms. Friend, Foe, Frenemy?* Sector Briefing 79, DBS Asian Insights. Available at: [https://www.dbs.com/aics/templatedata/article/generic/data/en/GR/082019/190802\\_insights\\_HSP.xml](https://www.dbs.com/aics/templatedata/article/generic/data/en/GR/082019/190802_insights_HSP.xml)

<sup>106</sup> The 60% market share is also in line with European Commission (2018). *Study to Monitor the Economic Development of the Collaborative Economy at sector level in the 28 EU Member States*.

used information on gross bookings and revenues from the annual reports of the market leader to approximate T, then divided that value by the market share in Europe to obtain an estimate of the size of the peer-to-peer transactions occurring in the EU on platforms in the transport sector. The value of gross bookings in the EU was not directly reported by the market leader, so we used the global value of gross bookings (42.4 billion in 2018<sup>107</sup>), multiplied by the share of the EMEA region (Europe, Middle East and Africa) in the total revenue of the company, which was 15% in 2018.<sup>108</sup> The final result was multiplied by 58%, the share of transactions occurring outside the United Kingdom in the EU-28.

**We estimate the total value of transactions occurring on peer-to-peer platforms in the finance sector in the EU-27 to be € 6.6 billion.** We updated the sectoral estimates for the EU-27 in Zhang et al. (2016) to 2018, by assuming the sector experienced the same yearly growth rates between 2013 and 2015 and 2015 and 2018.

**We estimate the total value of transactions occurring on peer-to-peer platforms in the on-demand services sector to be € 6.1 billion in 2018 in the EU-27.** This value is the average of the estimates in Vaughan and Daverio (2016) and European Commission (2018), which have been updated to represent 2018. For Vaughan and Daverio (2016), we took on-demand services to be the sum of the sectors “other professional services” and “other household services” and assumed they continued growing at 20% per year between 2015 and 2018. This resulted in a total value of transactions of € 4.6 billion in this sector in 2018, which was corrected for the EU-27 share of 96%, resulting in the € 4.5 billion value seen in the third column of Table 2 in the main text. For the estimates in European Commission (2018), we used the sector “online skills”, also updated with a 20% growth rate and the EU-27 share, which resulted in a total of € 7.8 billion. We then averaged the two measures to obtain our own estimate, of € 6.1 billion.

**We estimate the total value of transactions occurring on peer-to-peer platforms in the goods sector to be € 25 billion.** This is the estimate of European Commission (2017), updated to 2018 by assuming a 12% yearly growth rate, the average scenario used in the report. The value for EU-28 was transformed to EU-27 by removing the 17% represented by the United Kingdom. The weight of the United Kingdom was obtained by taking the average of the other sectors, weighted by the size of the transactions.

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<sup>107</sup> Source: Uber (2020). Financial Report 2019 Press Release. Available from: <https://investor.uber.com/news-events/news/press-release-details/2020/Uber-Announces-Results-for-Fourth-Quarter-and-Full-Year-2019/>

<sup>108</sup> This estimation implies assuming that the distribution of the leader’s revenue is the same as the distribution of the gross bookings. We believe it is likely that the gross bookings in the EU represent a larger proportion of the total revenue, which we approximated by taking the entire value for gross bookings, uncorrected for the fact that the share quoted represented the EMEA region.

## Estimating the number of platforms potentially impacted

Annex table 2 Estimates of the number of reporting platforms

	Estimates of the number of reporting platforms		
	Own estimate	Vaughan and Daverio (2016)	Member States' estimates (2020)
Number of platforms: intermediate and full scope	<p>Average number of platforms founded per MS: <math>187/8 = \text{circa } 25</math> (on the basis of Vaughan and Daverio (2016))</p> <p>Average number of "services" platforms founded in the EU: 630 (based on a generalisation to the whole EU: <math>25 \times 27</math>)</p> <p>To take into account both non-EU founded and "goods" platforms, we assume an increase to about up to 1000 in an intermediate scope and 2000 platforms in a full scope.</p> <p><b>Own estimate of the total number of platforms in the EU:</b></p> <ul style="list-style-type: none"> <li>- intermediate scope: 1000 platforms</li> <li>- full scope: 2000 platforms</li> </ul> <p><b>Own estimate of the average number of platforms per MS</b></p> <ul style="list-style-type: none"> <li>- intermediate scope: circa 38 (<math>1000/27</math>)</li> <li>- full scope: circa 75 (<math>2000/27</math>)</li> </ul> <p>This value is broadly consistent with the Member States' estimates.</p>	<p><math>187^{109}</math> collaborative economy platforms founded in 8 MS (FR, BE, DE, PL, ES, IT, SE and NL in 2015).</p> <p>The study does not cover platforms in the "goods" sector.</p>	<p>Four Member States taking part to the targeted consultation provided an estimate of the number of platforms active in their jurisdiction, across all sectors.</p> <p>The average number of platforms out of these four respondents is 85 platforms / MS.</p> <p>If this average value is multiplied for the EU27, the result is circa 2300 platforms (<math>85 \times 27 = 2295</math>).</p>

<sup>109</sup> The study covered the UK as well. Including the UK, the number of platforms would be 275, and the average circa 30 per Member State.

Number of platforms: limited scope, (i.e. all services except finance)	<p>We consider that circa 60 % of the platforms active in the services sector, are not active in finance-related services (lending and crowdfunding), based on Vaughan and Daverio 2016).</p> <p><b>Own estimate of the total number of platforms in the EU:</b></p> <ul style="list-style-type: none"> <li>- Limited scope: 600 platforms (1000*60%)</li> </ul>	<p>105 out of 187 platforms are active in the services sector, other than finance. The ratio of these platforms is: <math>(105/187)*100 = \text{circa } 60\%</math>.</p>	n/a
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The number of platforms potentially affected may be higher than the own estimates. According to data extracted from Dealroom.co database, more than 10,000 platforms could be impacted by the intervention, in its full scope. However, in particular taking into account the information collected from Member States' targeted consultation and especially information from one case, a large Member State already operating a measure similar in scope to the one envisaged by this intervention, chapter 6 uses the more cautious, own estimates.

### Estimating one-off costs

Annex table 3 Estimates of one-off costs

	Estimates of one-off costs			
	Own estimate	European Commission, 2019 (DAC evaluation) <sup>110</sup>	HMRC (CRS/DAC2 impact assessment) <sup>111</sup>	European Commission, 2019 (CESOP impact assessment)
Platforms (all)	The estimation is based on the DAC 2 data, but it is lower for two main reasons: (a) the intervention does not impose due diligence requirements as strictly as DAC2; (b) the costs for DAC2 include also costs for implementing FATCA and CRS. The one-off cost per seller is estimated at €25.	<p>The overall costs of DAC2 for financial institutions amounted to 530 € million (i.e. 10 times the costs incurred by MS for DAC2)</p> <p>Number of bank accounts reported under DAC2 (through automatic exchange of information): circa 9</p>	<p>For UK financial institutions only (around 1,000 entities)</p> <p>One-off costs: £70m -£209m</p>	n/a

<sup>110</sup>

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019\\_staff\\_working\\_document\\_evaluation\\_on\\_dac.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_staff_working_document_evaluation_on_dac.pdf)

<sup>111</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/413976/TIIN\\_8148\\_tax\\_admin\\_automatic\\_exchange.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/413976/TIIN_8148_tax_admin_automatic_exchange.pdf)

	<p>The number of sellers to be reported is assumed to be:</p> <ul style="list-style-type: none"> <li>- Limited scope: 10 million</li> <li>- Intermediate scope 20 million</li> <li>- full scope: 35 million</li> </ul> <p><b>Own estimate of the one-off costs for all platforms:</b> from circa €250 million in the case of a limited scope to €850 million in case of a full scope.</p>	<p>million</p> <p>Based on the above elements, the average cost per account is circa €58, of which we assume 90 per cent one-off and 10 per cent recurrent (based on the same breakdown between one-off and recurrent costs as for tax administrations).</p>		
EU-27 tax administrations	<p><b>Own estimate of the one-off costs for all EU tax administrations:</b> between €54 million (limited scope, or 10 million seller accounts multiplied by €5.4, the one-off cost per account) to €189 million (full scope, or 35 million seller accounts multiplied by €5.4)</p> <p>Sellers to be handled (received and exchanged):</p> <ul style="list-style-type: none"> <li>- limited scope 10 million</li> <li>- intermediate scope 20 million</li> <li>- full scope: 35 million</li> </ul>	<p>DAC2 initial costs up to 2017: 53.3 € million, of which 92% for development and 8% recurrent costs.</p> <p>DAC2 accounts: 9 million.</p> <p>Cost per account: circa €6, of which we assume 90 per cent (€5.4) one-off and 10 per cent (€0.6) recurrent.</p>	<p>For UK tax administration only: £2million (hybrid of one-off and recurrent costs; they are meant to account for HMRC costs in developing IT systems to facilitate reporting, and store and analyse data)</p>	n/a
European Commission	€ 0.8 million (one-off development costs)	n/a	n/a	€1.8 million for set-up costs

## Estimating recurrent costs

Table 16 Estimates of recurrent costs

	Estimates of recurrent costs			
	Own estimate	European Commission, 2018 (DAC evaluation) <sup>112</sup>	HMRC (CRS/DAC2 impact assessment) <sup>113</sup>	European Commission, 2018 (CESOP impact assessment)

<sup>112</sup>

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019\\_staff\\_working\\_document\\_evaluation\\_on\\_dac.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_staff_working_document_evaluation_on_dac.pdf)

<sup>113</sup>

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/413976/TIIN\\_8148\\_tax\\_admin\\_automatic\\_exchange.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/413976/TIIN_8148_tax_admin_automatic_exchange.pdf)

				nt)
Platforms (all)	<p>Between €30 million in the case of a limited scope to €105 million in case of a full scope</p> <p>Recurrent cost per seller to be reported: about €3</p> <p>The number of sellers to be reported is assumed to be:</p> <ul style="list-style-type: none"> <li>- limited scope: 10 million</li> <li>- intermediate scope: 20 million</li> <li>- full scope: 35 million</li> </ul>	<p>Overall recurrent costs of DAC2 for financial institutions were €53 million.</p> <p>Number of bank accounts reported under DAC2: circa 9 million</p> <p>Based on the above, the average recurrent cost per account: circa €6</p>	<p>For UK financial institutions only (around 1,000 entities)</p> <p>Average annual cost: £2m - £4m</p>	n/a
EU-27 tax administrations	<p>Between €6 million (limited scope) and €21 million (full scope) per year</p> <p>Recurrent cost per seller: € 0.6</p> <p>Sellers to be handled (received and exchanged):</p> <ul style="list-style-type: none"> <li>- limited scope: 10 million</li> <li>- intermediate scope: 20 million</li> <li>- full scope: 35 million</li> </ul>	<p>DAC2 costs: €5.3 million of recurrent costs</p> <p>DAC2 accounts: 9 million.</p> <p>Recurrent cost per account: € 0.6</p>	<p>For UK tax administration only:</p> <p>£2million (hybrid of one-off and recurrent costs; they are meant to account for HMRC costs in developing IT systems to facilitate reporting, and store and analyse data)</p>	n/a
European Commission	€ 0.1 million for yearly recurrent costs	n/a	n/a	€ 0.96 million, running costs

## Additional information on assumptions used to estimate costs

### *Why an estimate of 10 million sellers in case of a limited scope?*

- According to a recent Eurobarometer on the collaborative economy, 6% of “Europeans have offered services via collaborative platforms with 3% having offered them once or a few times, 2% offering them occasionally, and only 1% offering them on a regular basis.”<sup>114</sup>
- On 1 January 2019, the population of the EU was estimated at 513.5 million inhabitants. Accounting for the UK withdrawal from the Union as of 1 January 2020, the EU population is circa 447 million.
- Excluding from the count of possible sellers on platforms children (80 million) and a share of the over 65 population (overall, about 100 million people), we estimate the potential maximum number of Europeans offering services at 6 per cent of about 350 million, that is circa 20 million.
- Not all those who offer services via collaborative platforms do so for the accommodation and transportation sector. We assume about 50 per cent of the overall sellers for services (all) do provide services for transport and accommodation. **This gives the estimate of 10 million reportable sellers.** This is based on the following: the transport sector (44%) is the sector most frequently mentioned by those who have offered services via collaborative platforms, followed by the accommodation sector (35%).

### *Why the one-off cost is estimated at € 25 per seller?*

- The new reporting requirement is somehow analogous to DAC2. According to the DAC evaluation, DAC2 costs for businesses (financial institutions) were about 10 times higher than those incurred by tax administrations or circa € 530 million. We know that circa 90 per cent of the costs (447 million) were one-off, for development and setting up DAC2; the rest 10 per cent (53 million) for operations. We could divide the overall costs for the number of financial institutions affected but we do not have this number. Instead, we have the number of reported accounts under DAC2 (until 2017), which is 9 million.
- If we divide the one-off costs of DAC2 by the number of reported accounts, we obtain a substantive cost per account of  $(447/9) = €53$ .
- We estimate the substantive cost per seller under the new reporting requirement at €25, or about half of the average DAC2 substantive cost per account. This is a

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<sup>114</sup> Flash Eurobarometer 467: The use of the collaborative economy. The JRC Report (2018) “Platform workers in Europe” estimates the average ratio of platforms’ ‘sellers’ at 8% of the workforce, in a sample of 14 countries, ranging from 9.9% in UK to 4.1% in Finland, an estimate close to the findings of the Eurobarometer.



simplistic assumption, but underpinned by several factors: (a) the proposed intervention does not impose due diligence requirements on platform operators as strictly as DAC2 on financial institutions; (b) the costs for DAC2 include actually also costs for implementing FATCA and CRS. In addition, as the new reporting requirements are essentially about data collection and gathering and the core business of platforms is “data”, we assume that faced with a comparable data reporting requirement an average platform would incur a lower cost than an average financial institution. Finally, we assume that the price of IT services (especially memory) is lower in 2020 than when financial institutions had to bear the one-off costs of adapting to DAC2.

*Why the number of estimates sellers increase in the intermediate and the full scope?*

The estimated number of sellers is positively correlated to the width of the scope. In the full scope scenario, for instance, we have to account for both sellers of services and goods. We know that about 20 per cent of EU consumers (or about 70 million people) buy online. Yet, probably not all of them also sale goods online. We assume half of them does, so we obtain a potential number of sellers: 35 million. This number, we assume, includes the full range of sellers on platforms, both services and goods.

*Why a recurrent €3 cost per seller?*

- The new reporting requirement is somehow analogous to DAC2. As mentioned above and according to the DAC evaluation, DAC2 costs for businesses (financial institutions) were about € 530 million; out of which 10 % (53 million) were for operations.
- Similar to the approach taken for substantive costs, we divide the recurrent costs of DAC2 by the number of reported accounts (circa 9 million). We obtain a recurrent cost per account of  $(53/9) = \text{circa } € 6$ .
- We estimate the administrative cost per seller under the new reporting requirement at half of the average DAC2 substantive cost per account, as done for the substantive compliance costs. This is a simplistic assumption but underpinned by several factors: (a) the proposed intervention does not impose due diligence requirements on platform operators as strictly as DAC2 on financial institutions; (b) the costs for DAC2 include actually also costs for implementing FATCA and CRS. Furthermore, as the new reporting requirements are essentially about data collection and gathering and the core business of platforms is “data”, we assume that faced with a comparable data reporting requirement an average platform would incur a lower cost than an average financial institution. Second, we assume that the price of IT services is lower in 2020 and will be likely lower once the new reporting requirements will enter into application than when financial institutions had to bear the one-off costs of adapting to DAC2.

### *Why are the costs for administrations lower than for platforms?*

The substantive cost per seller is assumed to be 10 times lower than for platform operators. This assumption is based on evidence gathered as part of the DAC evaluation, which shows that DAC2 costs for businesses were about 10 times higher than those for tax administrations.

- DAC2 costs up to 2017 for tax administrations: €53.3 million, of which about 90% for development and 10% recurrent costs.
- DAC2 accounts = 9 million
- Tax administrations' cost/account =  $(53.3 / 9) =$  circa €6 of which 90% (€5.4) one off substantive costs and 10 per cent (€0.6) recurrent, administrative costs, per account.

### *How is the cost of enforcement estimated?*

- It is realistic to account for enforcement costs if we expect the intervention to actually lead to a reduction in the tax gap / indirect benefits in terms of additional tax revenues. We use an enforcement ratio, based on the number of audits for PIT taxpayers. According to the OECD<sup>115</sup> the EU average is 4.3 audit per 100 active personal income tax (PIT) taxpayers data, rounded at 5 %.
- We apply the 5% (rounded figure) ratio to the sellers; whereby we get a number of controlled sellers.
- For each control (controlled seller) we need to give a price. We put the cost per audit at €6. This an estimation of the hourly cost of an average tax auditor in the EU, based on extrapolation from OECD data.<sup>116</sup> It is assumed one audit / control would take 1 hour of an average tax auditor, as thanks to automatic exchange of information it should be relatively quick to cross-check data concerning taxpayers.
- We expect therefore enforcement costs to amount to circa €3 million under the limited scope, €6 million under the intermediate scope and €10.5 million under the full scope.

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<sup>115</sup> Figure 3.10. PIT audit coverage, 2017 Tax Administration 2019 - OECD 2019.

<sup>116</sup> Data from OECD (2019), *Tax Administration 2019: Comparative Information on OECD and other Advanced and Emerging Economies*, OECD Publishing, Paris, <https://doi.org/10.1787/74d162b6-en>.<https://doi.org/10.1787/74d162b6-en>. Main source of information: figures from Table A.31 Operating expenditures of tax administrations, EU average for year 2017, divided by number of auditors from Table A.28. Staff of the tax administration - Total and by function, per hour. It is assumed a tax auditor works 7 hours/day per 20 days/month.

## ANNEX 5: THE OECD MODEL RULES FOR SELLERS IN THE SHARING AND GIG ECONOMY

This annex builds on information that is publicly available, thanks to the Public Consultation document on the “Model Reporting Rules For Sellers In The Sharing And Gig Economy”, OECD 2020, retrieved from: <http://www.oecd.org/tax/exchange-of-tax-information/public-consultation-document-model-rules-reporting-platform-operators-with-respect-sellers-sharing-gig-economy.pdf>

### Building blocks of the model rules

11. The overall architecture of the model rules is driven by three dimensions: (i) a targeted scope of transactions to be reported, as set out above; (ii) a broad scope of platform operators and relevant sellers, to ensure that as many relevant transactions as possible are being reported; and (iii) due diligence and reporting rules that ensure that relevant information gets reported without imposing overly burdensome procedures on platform operators.

12. Against that background, the model rules are structured as follows:

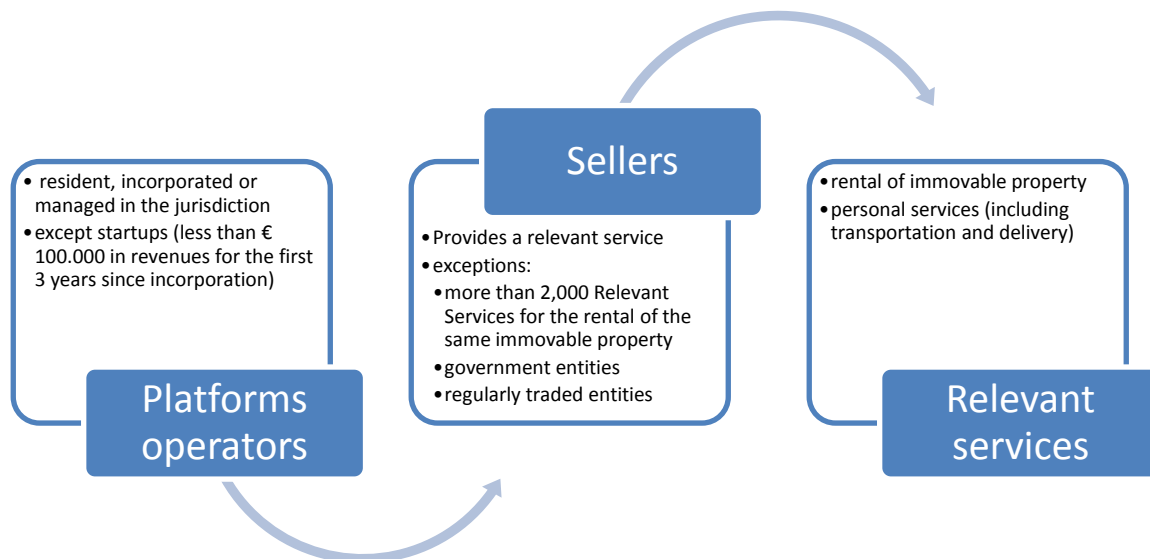
- Section I sets out the **key definitions** and is grouped around four themes:
  - The first part defines the scope of platform operators that are subject to the rules. In defining this scope, a broad and generic definition of the term platform has been chosen to cover all software products that are accessible by users and allow sellers to be connected to other users for the provision of relevant services. The term platform also includes associated services, such as payment processing services. Platform operators are defined as entities that contract with sellers to make available all or part of a platform to such sellers. They are in principle subject to the rules when they are resident, incorporated or managed in the jurisdiction adopting the rules, unless the platform operator is in its start-up phase and realises a limited amount of revenue;
  - The second part defines the services covered by the model rules and covers both the rental of immovable property, as well as the provision of personal services, including transportation and delivery services;
  - The third part defines the due diligence procedures and the reporting requirements. The scope of sellers covers both entities and individuals, although exclusions are foreseen for hotel businesses, publicly-traded entities and governmental entities; and
  - The fourth part contains a set of other definitions that are relevant for applying the model rules.
- Section II contains the **due diligence procedures** to be followed by platform operators to identify the sellers and determine the relevant tax jurisdictions for reporting purposes by means of the following steps:
  - The first part contains procedures for identifying those sellers that are not subject to the collection and verification requirements, either because they fall within one of the exclusions or because the responsibilities for identifying and reporting such sellers have been delegated to another platform operator;
  - The second and third parts set out the information items that platform operators are required to collect and, in certain instances, verify with respect to sellers. This

- includes in particular the name, address, TIN (including the jurisdiction of issuance) and, in the case of an individual seller, the seller's date of birth;
- The fourth and fifth parts set out the rules for determining the tax residence of sellers for purposes of the rules, on the basis of the information items collected; and
  - The sixth part stipulates that the due diligence procedures need to be completed by the end of each year and that documentation be updated or confirmed once each 36 months. It also provides transitional relief for sellers that are registered on the platform prior to the platform operator becoming subject to the rules.
- Section III sets out the information to be reported about the platform, its operators, its sellers and their transactions by 31 January of each year, as well as the format for reporting; and
  - Section IV contains the administration and enforcement hallmarks that jurisdictions are expected to consider when implementing the model rules.

13. As indicated above, the model rules and commentary are designed to be complemented by an international legal framework to support the annual automatic exchange of information by the residence jurisdiction of the platform operator with the jurisdictions of residence of the sellers (and, with respect to transactions involving the rental of immovable property, the jurisdictions in which such immovable property is located), as determined on the basis of the due diligence procedures. In addition, further work will be undertaken to develop a standardised IT-format for the information exchanges, as well as potential IT solutions to support the identity verification of sellers by platform operators.”

*From the Public Consultation document on the “Model Reporting Rules For Sellers In The Sharing And Gig Economy”, OECD 2020, retrieved from: <http://www.oecd.org/tax/exchange-of-tax-information/public-consultation-document-model-rules-reporting-platform-operators-with-respect-sellers-sharing-gig-economy.pdf>*

### **Key features of the OECD draft model rules:**



### **Data to be collected by the Platform operators:**

<p><b>Platform data</b></p> <ul style="list-style-type: none"> <li>• name,</li> <li>• registered office address</li> <li>• TIN</li> <li>• business name</li> </ul>
<p><b>seller information</b></p> <ul style="list-style-type: none"> <li>• individual           <ul style="list-style-type: none"> <li>• the first and last name;</li> <li>• the Primary Address;</li> <li>• any TIN issued to the Seller, including each jurisdiction of issuance;</li> <li>• the date of birth.</li> </ul> </li> <li>• entity           <ul style="list-style-type: none"> <li>• the legal name;</li> <li>• the Primary Address;</li> <li>• any TIN issued to the Seller, including each jurisdiction of issuance; and</li> <li>• in absence of the TIN, the business registration number.</li> </ul> </li> <li>• jurisdiction of tax residence</li> <li>• if different from the seller, the name of the holder of the financial account to which the amount was paid.</li> </ul>
<p><b>transaction information</b></p> <ul style="list-style-type: none"> <li>• total amount paid (aggregated)</li> <li>• fees, commissions or taxes withheld or charged (aggregated)</li> <li>• number of transactions</li> <li>• for rental income:           <ul style="list-style-type: none"> <li>• address and land registration number of each Property Listing</li> <li>• number of days each property was rented and the type of property (availability)</li> </ul> </li> </ul>



## ANNEX 6: OVERVIEW OF PLATFORM REPORTING OBLIGATIONS AT NATIONAL LEVEL

Based on the information gathered through the targeted consultation to the Member States, there are overall 12 Member States with legislation and/or administrative guidance in place for platforms operators to report information to tax administrations on sellers active on their platforms. These Member States are the following:

Austria	Greece
Belgium	Ireland
Czechia	Italy
Denmark	Lithuania
Finland	Poland
France	Spain

Likewise, in addition to the countries where these measures are already in place, four Member States have expressed their plans to introduce such legislative and/or administrative guidance concerning reporting requirements (Slovak Republic, Malta, Cyprus and Estonia).

Among Member States where reporting operations are in place, there is a diversity of activities, platforms and sellers under scope. Each reporting system across the European Union has its own characteristics and divergences in terms of how binding they are. For instance, countries such as CZ or BE lay out non-regulatory agreements with selected platforms that provide tax administration with sellers' income information. Different policies are also applied across Member States regarding the sellers in scope. Some countries include exemptions either for the large or for the small players, whereas other countries choose for a broader scope including all sellers without exemptions.

However, it is worth noting that there also are commonalities as well. The main activities covered by the scope of current reporting systems are accommodation and transportation services. Several countries are introducing these measures in subsequent phases in order to extend the scope to a larger range of activities. Regarding the information required to identify the sellers on these platforms, the tax identification number is widespread among most of the reporting systems (although in some cases, it is not compulsory as it is required only if available).

In an attempt to streamline the information gathered, the table below summarizes their main features:

MEMBER STATE	MAIN FEATURES OF THE NATIONAL REPORTING OBLIGATION SYSTEM
<b>Austria</b> <sup>117</sup>	The reporting obligations are entering into force in two phases: As of January 2020 for provision of services and as of January 2021 for sales of goods. Once the two phases are implemented, all platforms (without exemptions) are obliged to report information about the sellers involved. The information to be shared: name, address and electronic address or website of the supplier; the VAT identification number/national tax number; and account number of the supplier (if available).
<b>Belgium</b>	There is a list of certified platforms which agreed to report information to the national tax administration <sup>118</sup> without a regulatory basis.
<b>Czech Republic</b>	Agreements are put in place with selected platforms.
<b>Denmark</b> <sup>119</sup>	As of 2020, tourist rental services are in the scope of reporting obligations. As of January 2021, the scope will be extended to rental of housing in general, cars and boats. Once both stages are entered into force, accommodation and transportation services platforms (voluntary for foreign platforms and under previous agreement) must report information about the individual sellers.
<b>Finland</b>	The legislation is not yet into force at national level. First phase will cover accommodation and transportation industries. Later phases will cover broader range of services. Platforms are required by law to report income information (TIN as main mean of identification) from all sellers.
<b>France</b> <sup>120</sup>	With the widest scope, all platforms regardless of their place of establishment have reporting requirements that apply to sellers when they are French resident or making sales of goods/provision of services in France. The system relies on a broad set of information for seller's identification (including TIN).
<b>Greece</b> <sup>121</sup>	Tax administration can request information or data from any online platforms (even those based outside of Greece) if these data are needed to make a tax assessment. The failure to do so results in suspension of the platforms' access to Greek IP's plus a monetary fine.
<b>Ireland</b> <sup>122</sup>	Irish tax legislation requires automatic reporting under a self-assessment basis or on request from the tax revenue service. Although the provisions are not specifically designed for affecting sharing platforms, they may capture taxpayers operating through sharing platforms. Such provisions cover both sales of goods and provision of all services.
<b>Italy</b> <sup>123</sup>	Regulation has been put in place to cover the activity of accommodation services (short-term rentals).
<b>Lithuania</b> <sup>124</sup>	Lithuania passed amendment of Road Transport Code and the tax authority provided rules for transporting service platform operators. Under these legislations, transporting service platforms must provide information to tax authority about income and other data relating to the calculation

<sup>117</sup> [https://www.bmf.gv.at/en/topics/taxation/vat-assessment-refund/Recording-Obligations-for-Electronic-Interfaces-\(Platforms\)-.html](https://www.bmf.gv.at/en/topics/taxation/vat-assessment-refund/Recording-Obligations-for-Electronic-Interfaces-(Platforms)-.html)

<sup>118</sup> <https://finances.belgium.be/sites/default/files/downloads/127-economie-collaborative-liste-plateformes-agreees-20190509.pdf>

<sup>119</sup> <https://www.retsinformation.dk/Forms/R0710.aspx?id=203869>

<sup>120</sup>

<https://www.legifrance.gouv.fr/affichLoiPreparation.do?idDocument=JORFDOLE000036747507&type=general>

<sup>121</sup> <https://www.taxheaven.gr/law/4646/2019>

<sup>122</sup> <https://www.revenue.ie/en/companies-and-charities/corporation-tax-for-companies/third-party-returns/rental-income-sector.aspx>

<sup>123</sup> <https://www.agenziaentrate.gov.it/portale/web/guest/schede/comunicazioni/contratti-di-locazione-breve/np-contratti-di-locazioni-brevi>

<sup>124</sup> <https://www.e-tar.lt/portal/legalAct.html?documentId=180da370ee4211e99681cd81dcdca52c;>

<https://www.e-tar.lt/portal/lt/legalAct/7c1a56802b8f11eabe008ea93139d588>



	and declaration of taxes.
<b>Poland</b>	As of January 2020, the Polish Transportation Law has come into force. It aims at regulating the market of ride-hailing services. Described law imposes certain obligations on the collaborative platforms, in particular, to share information with the authorities. The records needed to be provided by the intermediaries to the Polish National Revenue Administration include, among others, name of the entrepreneur, address/place of business and tax identification number of the entrepreneur.
<b>Spain<sup>125</sup></b>	As of 2019, Spain has laid down the obligation for digital platforms that intermediate in the rental of tourist housing to communicate to the tax authority relevant information about the activity they intermediate. All platforms (foreign and resident) are obliged to report as long as the real asset is located in Spain. Exemptions in sellers have been set out such as for long-term rental of dwellings for individuals and tourist accommodations regulated by its specific provisions (hotels, hostels, etc.).

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<sup>125</sup> <https://www.boe.es/boe/dias/2018/05/30/pdfs/BOE-A-2018-7152.pdf>

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## **ANNEX 8: 2019 EVALUATION OF THE DIRECTIVE ON ADMINISTRATIVE COOPERATION (DAC)**

The Commission staff working document on the evaluation of the Directive on administrative cooperation in direct taxation was published in September 2019 on the website of the European Commission and is available online at:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019\\_staff\\_working\\_document\\_evaluation\\_on\\_dac.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_staff_working_document_evaluation_on_dac.pdf)

The executive summary of the evaluation is available in English, French and German:

English version:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019\\_staff\\_working\\_document\\_evaluation\\_on\\_dac\\_summary\\_en.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_staff_working_document_evaluation_on_dac_summary_en.pdf)

French version:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019\\_staff\\_working\\_document\\_evaluation\\_on\\_dac\\_summary\\_fr.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_staff_working_document_evaluation_on_dac_summary_fr.pdf)

German version:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019\\_staff\\_working\\_document\\_evaluation\\_on\\_dac\\_summary\\_de.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_staff_working_document_evaluation_on_dac_summary_de.pdf)

The evaluation was supported by an external study, performed by Commission's contractor. The study is online at:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019\\_evaluation\\_study\\_on\\_dac\\_kp0219284enn.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_evaluation_study_on_dac_kp0219284enn.pdf)

Study's executive summary:

[https://ec.europa.eu/taxation\\_customs/sites/taxation/files/2019\\_evaluation\\_study\\_on\\_dac\\_summary\\_en\\_kp0219285enn.pdf](https://ec.europa.eu/taxation_customs/sites/taxation/files/2019_evaluation_study_on_dac_summary_en_kp0219285enn.pdf)