

Taxing digital companies in users' countries would be detrimental for Austria



Huge internet companies like Facebook, Google, and Amazon pay on average less than 10% corporate tax in the EU, in spite of enormous revenues. In comparison, traditional companies pay more than double that amount. The EU wants to change this, and has put the taxation of digital companies on the agenda during Austria's EU Council presidency. WU tax expert Alexander Rust is critical of these plans, however, and warns of far-reaching consequences.

Under the current laws, companies pay corporate tax only in the country in which they have a physical presence. Taxation in other countries is only permissible if the company has production facilities in that country. Digital service providers like Facebook don't have this type of production facilities, and their seats are registered mostly in tax havens like Bermuda, the Cayman Islands, Ireland, or Cyprus, allowing multinational companies like Google, Facebook, or Amazon to keep their taxation levels extremely low. The EU is now considering a digital tax, which would make companies subject to taxation in the countries where they do business. WU tax expert Alexander Rust from the Institute for Austrian and International Tax Law thinks this legislation would be very difficult to implement, and detrimental to Austria in the long term. His research focuses on establishing a level playing field in the competition between digital and traditional companies in Austria and abroad.

Major changes to tax law necessary

Rust's studies show clearly that one of the main challenges will be defining "digital companies." The crux is article 5 of the OECD Model Convention with Respect to Taxes on Income and on Capital, which defines "permanent establishment," i.e. a company's physical or brick-and-mortar presence in a country. "The main problem is that many companies deal both in digital and physical products. From Amazon, for example, customers can buy a CD or download a digital copy of the same music, but there are much more complex situations, as well. Special regulations for digital services will result in massive problems with classification," explains Rust. In the interest of equal treatment, a "digital tax" would eventually lead to taxing traditional companies in their customers' countries, even if they don't maintain a physical presence there, according to Rust. This would mean a complete overhaul of international taxation laws.

Bad for export countries

Rust also feels that too little attention has been paid to the fact that these changes would result in massive losses in tax revenue for countries like Austria, who depend heavily on exports. Exports account for over 50% of the Austrian gross domestic product. Corporate tax should be paid in the country where the value is created, as consumption in the users' countries is already taxed through VAT. A digital tax would deviate from these principles and shift tax revenue from the country where value is created to the country where the product or service is consumed.

About Alexander Rust

Alexander Rust is professor of tax law at WU's Institute for Austrian and International Tax Law and is the head of the Tax Policy and European Tax Law Group. Previously, Rust was a professor of tax law at the University of Luxembourg, where he also acted as director of the Master's Program in European and International Tax Law. Rust studied law at the Universities of Freiburg and Geneva, and took his first state examination with a specialization in tax law at LMU Munich. Rust completed his legal studies with an LL.M. in International Taxation from New York University, where he also later gained valuable international experience as an acting assistant professor. Originally from Germany, Rust has since focused his research on international tax law, the problem of double taxation, and European tax policy. He is a co-editor of a number of journals, including the Internationale Steuer-Rundschau and INTERTAX, as well as of the commentary [Klaus Vogel on Double Taxation Conventions](#). Alexander Rust has received numerous awards for his work, including the Award of the Münchner Juristische

Gesellschaft, the Nürnberger Steuergespräche prize, the European Academic Tax Thesis Award of the European Association of Tax Law Professors, and the Faculty Award. Rust is also an adjunct professor at Georgetown University and professeur associé at the University of Luxembourg.

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