Position Paper

Response to EC consultation on digital levy roadmap

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Insurance Europe welcomes the possibility to comment on the roadmap for the introduction of a digital tax to address the issue of fair taxation of the digital economy.

Key points

- While data is important for insurers and reinsurers, and they use data from different sources, (re)insurance is not a highly digitalised business model.
- The distribution of taxing rights between countries is an issue that should be tackled globally, otherwise third countries may impose tariffs as a countermeasure against the EU. Insurance Europe views favourably the reference to the work that is currently ongoing at the OECD on the issues of profit allocation and nexus. In view of that, the timetable foreseen seems very ambitious. Any rushed proposals that could lead to overlapping with the OECD outcome and to double taxation should be avoided. To be compatible and to avoid layering additional taxes, the proposed options should be based on the OECD solution agreed.

Scope

The industry believes that the definition of the scope is very important for an accurate assessment of the tax base. A possible taxation of digital businesses and/or activities should not hinder the ongoing digitalisation of the economy. It is necessary to limit the scope of the new tax rules, as well as the administrative burdens companies must bear. Insurance Europe would like to point out that most of the problems identified by the inception impact assessment and which the initiative aims to tackle do not affect (re)insurance. Insurance is a well-developed, diversified market with intensive competition rather than one or two dominant players, making market concentration highly unlikely.

Regulation and capital

The insurance and reinsurance business models have specific characteristics that already make possible taxation in the location in which the value of the business is created. Each risk-bearing entity within a (re)insurance group operates as a separate legal entity and is regulated by the home state regulator in order to be able to operate throughout the EU using EU passporting.

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For insurance, most of the business is local and where there is cross-border insurance and reinsurance, regulation requires capital to be located with the risk. In most cases the business model is based on companies with a local physical presence, as companies need a local market presence for market access, to enable them to be close to customers and brokers and meet the regulatory requirements to sell insurance. Therefore, it would not be possible for (re)insurers to benefit from "scale without mass" and not pay corporate taxes in all jurisdictions in which they have a significant economic presence.

Consequently, when it comes to insurance business taxing rights are already fine-tuned to the jurisdictions of the consumers.

Premium taxes

The purchase of insurance is already subject to indirect taxes based on location of risk (which often coincides with the location of the user), such as premium taxes. While these are levied on insureds, the economic costs of premium taxes are significant for the whole industry. Insurers are also one of the main payers of stamp duties or financial transaction taxes that arise on their asset portfolios in many EU member states. The digital levy would add just another layer of revenue-based taxes.

Generally speaking, the underlying policy rationale of making certain digital companies pay their "fair share" of taxes is understandable, however there may be doubts about whether the use of a revenue-based tax that is not necessarily linked to the profit or income of the digital company can be viewed as "fair".

Impacts

Insurance Europe would also like to highlight that any additional taxation is likely to result in increased costs for end-consumers.