



Council of the
European Union

**Brussels, 6 November 2017
(OR. en)**

13925/17

FISC 247

COVER NOTE

From:	General Secretariat of the Council
To:	Delegations
Subject:	OPINION of the European Economic and Social Committee – Taxation of the collaborative economy - analysis of possible tax policies faced with the growth of the collaborative economy (exploratory opinion requested by the Estonian Presidency)

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European Economic and Social Committee

ECO/434

Taxation of the collaborative economy

OPINION

European Economic and Social Committee

Taxation of the collaborative economy - analysis of possible tax policies faced with the growth of the collaborative economy

(exploratory opinion requested by the Estonian presidency)

Rapporteur: **Giuseppe Guerini**

Co-rapporteur: **Krister Andersson**

Referral	Exploratory opinion (requested by the Estonian Presidency), 17/03/2017
Legal basis	Article 304 of the Treaty on the Functioning of the European Union
Section responsible	Economic and Monetary Union and Economic and Social Cohesion
Adopted in section	05/10/2017
Adopted at plenary	19/10/2017
Plenary session No	529
Outcome of vote (for/against/abstentions)	168/0/1

1. **Conclusions and recommendations**

- 1.1 The EESC believes that the collaborative economy, by generating social value in the digital economy environment, may offer a new opportunity for growth and development for the countries of the European Union, as it allows untapped resources to be mobilised and gives the initiative to individual people. The EESC distinguishes clearly between the collaborative economy, the digital economy and the platform economy due to the different scope and degree of their collaborative and inclusive dimension.
- 1.2 While the expansion of the collaborative economy is facilitated and boosted by the spread of the new information and communication technologies, with digital platforms and the wide use of smartphones serving as a powerful vehicle, the EESC considers it important to assess the collaborative economy in its entirety and not to equate it completely with the digital economy.
- 1.3 The EESC is of the view that the EU must not miss the opportunity provided by the collaborative economy to bring innovation to bear on the system of relations between businesses, individuals and markets. However, given the particularly fluid and rapid nature of change in this sector, it is crucial for fiscal regulatory systems and tax regimes to be adapted in an intelligent and flexible way to the new context of the collaborative economy and, more broadly, of the digital economy.
- 1.4 The EESC does not judge a new, specific tax system for collaborative economy businesses to be necessary. It does however consider it essential to step up cooperation and coordination between the Member States and the various internal Member State administrations involved, so that the public authorities can keep up with the speed and dynamism of the digital economy and the collaborative economy.
- 1.5 The EESC recommends that the tax system for the collaborative economy comply with the principle of neutrality (i.e. it must not interfere with market development), identifying appropriate tax mechanisms that are fair to the different types of business operating within the collaborative economy or in conventional forms.
- 1.6 The EESC advocates the rapid construction of a uniform, integrated European system that ensures common rules for the different Member States regarding the digital economy, in the light of the natural tendency for digital networks to operate in a cross-border setting. It would consequently be counterproductive for different forms of regulation to develop in each of the Member States: a genuinely European approach is needed.

- 1.7 The EESC calls on the European authorities to make every effort to establish channels of cooperation beyond Europe in order to lay down some ground rules for the digital economy, since the power of digital networks already makes it possible to manage services and exchange goods anywhere in the world, via a digital platform in a single geographic location.
- 1.8 Rather, existing rules and principles should be adjusted in line with new situations that differ from the past due in part to the opportunities created by the new technologies, in order to ensure uniform and proportionate treatment of all economic operators carrying out certain activities in conventional form or within the digital economy.
- 1.9 The EESC urges the Commission and the Member States to work together to adopt an overall legal framework for the digital economy that can coordinate and standardise the tax rules that apply to these new forms of economic activity.
- 1.10 Moreover, the EESC considers that, in order to make the tax system simpler and, in particular, to make it easier to apply VAT, it could be helpful to test a "stable virtual organisation" in the increasingly cross-border and ever less territorially-bound environment in which the digital economy and the collaborative economy are developing.
- 1.11 The EESC also considers it important to point out that, in addition to an appropriate tax system, protection and respect must be guaranteed for: (i) consumer rights, (ii) privacy and the rules on processing personal data, and (iii) workers and service providers involved in the new business models and in the work of collaborative platforms.

2. **Introduction**

- 2.1 The collaborative economy is increasing in volume and growing rapidly, as evidenced by various data. In 2015, income related to the collaborative economy in the European Union was estimated at some EUR 28 billion (as recently as the previous year it stood at only half that amount).
 - 2.1.1 From 2015 onwards, significant investment by major platforms has further boosted the sector's development: it is estimated that in the future, the collaborative economy could entail turnover of between EUR 160 and 572 billion across the EU.
- 2.2 As shown by the figures, the collaborative economy is spreading to more and more sectors, and has the potential to generate added value, create jobs at different levels and ensure efficient services at competitive prices for European consumers.

- 2.3 At the same time however the collaborative economy sector raises a series of challenges for the European legislator, who is required to ensure principles and rules designed to establish a clear and predictable legal framework¹. Its regulatory action must however not undermine the great potential for innovation the sector has displayed so far.
- 2.4 The term "collaborative economy" is often used interchangeably with "sharing economy": in 2015 the Oxford English Dictionary included "sharing economy" among its new entries, defining it as "an economic system in which assets or services are shared between private individuals, either free or for a fee, typically by means of the Internet".
- 2.5 The present opinion will use the term "collaborative economy" as adopted by the European Commission in its Communication of 2 June 2016 to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions – *A European agenda for the collaborative economy*.
- 2.6 More specifically, "collaborative economy" refers to business models where activities are facilitated by collaborative platforms that enable the temporary use of goods or services often provided by private individuals.
- 2.6.1 The collaborative economy involves three categories of actors: (i) service providers who share assets, resources, time and/or skills – these may be private individuals or professionals; (ii) users of such services; (iii) intermediaries that, via an online platform (collaborative platforms), connect service providers with final users. Collaborative economy transactions generally do not involve a change of ownership and can be carried out for profit or not for profit.
- 2.7 More specifically, the collaborative economy opens the way to easier and more efficient access to goods and services through connecting and cooperative platforms than was the case in the past, making it easier to match consumer demand with supply of the goods and services that can be provided by either professionals or non-professionals.
- 2.8 The use of efficient technologies and connecting platforms have transformed various sectors, such as short and long distance transport, together with the hotel sector and house or room rentals management, enabling services matching demand and supply to be organised very efficiently and rapidly.
- 2.8.1 A number of large operators, mostly domiciled outside the European Union, have established themselves and are clear examples of the growing consolidation of the collaborative economy. Such examples have demonstrated the sector's great growth potential, but they have also revealed the problems that it poses for legislators from a legal point of view, in relation to the tax system and in terms of labour regulation and workers' welfare and insurance.

¹ [OJ C 303, 19.8.2016, p. 36](#), point 8.2.4.

2.9 In addition to these sectors, others such as certain financial services, personal care and health services are also increasingly falling within the sphere of the collaborative economy. More sectors will join them in the coming years, giving the collaborative economy an even more prominent place: it is consequently clear that a full debate on the regulatory and fiscal aspects of the matter is now not only useful but necessary.

3. **The collaborative economy and new business models**

3.1 The spread of information and communication technologies and of the "Internet of Things" has brought forward many new technology companies. Numerous new business models are emerging within the digital and collaborative economy sector. These models differ in their structures and the size of the businesses, as well the extent of the reference markets, the ways technologies are used, and the organisational model. Three main groups may however be identified with regard to fiscal treatment:

- the model of very large companies performing various digital functions via the web, where most revenue is yielded by selling and managing collected data and advertising (e.g. Google);
- the model of supply and demand matching and management platforms, based on connecting consumers and suppliers using digital platforms as connecting facilities, where transactions generate income both for the connecting platform and the final service providers (e.g. Airbnb, Uber);
- the model of peer-to-peer platforms where in theory there are no monetary transactions but one-to-one exchanges of goods and services can be generated between users and providers.

3.2 Regarding the model of large platforms for general web search engines, such platforms enable data processing and creation of value added, which then can be adjusted to specific consumer demand and sold.

3.3 In this context the EESC would point to the specific value of the data, which has even been classified as "the new currency"². The value added is subject to VAT and the destination principle is applied. However, it may be difficult to assess the volume of value creation in various stages and therefore to allocate tax obligations.

3.4 The rapid growth of new business models requires an overall assessment of value creation and tax obligations.

² For more information please see the World Economic Forum article <https://www.weforum.org/agenda/2015/08/is-data-the-new-currency/>.

- 3.5 Regarding platforms that match demand and supply (the Uber model), an important preliminary question concerns the possibility of laying down market access rules and requirements to apply to digital platforms operating in the collaborative economy sector and, above all, to service providers using such platforms.
- 3.5.1 Market access requirements may include the need for official authorisation to operate an undertaking, a licence or minimum quality obligations (e.g. size of premises or type of vehicle, insurance or deposit requirements, etc.). Income generated is often assessed and allocated to an individual or to a business entity, liable to corporate profit tax.
- 3.6 The Services Directive stipulates that the market access requirements laid down in the different Member States must be justified and proportionate, taking account of the particular business model and innovative services involved, without preference for any one business or service management model over others (principle of neutrality).
- 3.7 The EESC agrees with the Commission's comment in its Annual Growth Survey 2016, according to which more flexible regulation of the services markets, including those in the collaborative economy, would lead to higher productivity, easing the market entry of new players, reducing the price for services and ensuring wider choices for consumers.
- 3.8 It is therefore hoped that market access requirements applying to the collaborative economy, as and when they exist in the various national legal systems, will be in line with the Services Directive and will ensure: (i) a level playing field between the various economic operators in sectors where conventional and collaborative economy operators co-exist; (ii) regulatory requirements that are clear, straightforward and capable of fostering the potential for innovation and opportunities that the collaborative economy can offer to increasing numbers of people.

4. **Institutional framework**

- 4.1 Since it consists of on-line services provided by digital platforms, the collaborative economy sector transcends, at least in part, the concept of territoriality that marks conventional economic activity. It is therefore important that an appropriate and clear regulatory framework is developed also for the collaborative economy, reflecting the European Commission's overall objective of taxing profits where they are made.

- 4.2 The EESC believes that legal certainty would be bolstered by rules under which businesses providing or promoting collaborative economy services would be considered to have a tax nexus in Europe. With regard to the particular features of digital businesses, discussions are under way on formulating a new type of virtual establishment for companies, defined as a "stable virtual organisation". This is a helpful approach, avoiding the problems of determining where this type of business is established, but it requires in-depth discussion and thorough research over the coming years. This would enable an EU location to be established for business carried out through the digital market, ensuring that the economic value of transactions is taxed in Europe or, more broadly, in the place where the value is created.
- 4.3 The collaborative economy could make some of the national tax authorities' work easier, as a result of the digitalisation of payments made through collaborative platforms and the complete traceability of such payments. The design of payments systems could make it easier for operators in the sector to fulfil their tax obligations, as is the case in Estonia, where the procedure for drivers and some service providers to declare their income has been simplified in cooperation with digital platforms.
- 4.4 Overall, the EESC hopes that the exchange of accurate and traceable information between tax authorities, operators and collaborative platforms will help to reduce the administrative burden regarding payment of taxes in the collaborative economy sector and the enforcement burden on the financial authorities, with cooperation made simpler and more certain by the technological setting in which transactions take place.

5. **Taxation of the collaborative economy**

- 5.1 With regard to the taxation of the collaborative economy, it should be pointed out that in its report of 28 May 2014, the Expert Group on Taxation of the Digital Economy set up by the European Commission concluded that there should not be a special tax regime for the digital economy or companies: it is considered more appropriate to bring existing tax rules and models into line with the new situation, making use of the high level of traceability of transactions carried out on collaborative economy platforms to manage tax compliance.
- 5.2 In practical terms, new business models need particular attention from the EU Commission and national tax authorities, especially when the platforms are domiciled outside the EU, with a view to a fair and proportionate distribution of the tax burden on the economic value generated by the various players: suppliers, beneficiaries and intermediary platforms.
- 5.3 The EESC considers that a reasonable and proportionate approach needs to be taken when adapting the general rules and principles governing tax matters in the collaborative economy sector. This approach should provide clear and predictable rules for the sector's operators, so as not to generate excessive compliance costs that could jeopardise the growth of a recently-developed sector with future prospects that are extensive, but not yet entirely predictable or measurable.

- 5.4 Any future European initiative on taxation of digital economy business models should take account of the various anti-avoidance initiatives launched in recent years by the European Commission in the tax field, to ensure that all regulatory steps taken are closely coordinated as part of a comprehensive, consistent framework for action.
- 5.5 A concerted initiative on taxing the digital economy is needed in order to strengthen Europe's internal market and boost its growth, as this is a sector which already forms a significant part of the European economy and is set to play an even greater role in the coming years.
- 5.5.1 In this regard, Articles 113 and 115 of the Treaty offer a solid legal basis for drawing up both direct and indirect tax rules for the collaborative economy, geared to consolidating the internal market and improving the way it functions.
- 5.6 Some Member States have decided to take action on taxing the digital economy sector through new, binding legislation, while other have approved guidelines addressed to the sector's operators. As pointed out previously, a European-level initiative on the taxation of the digital economy would however be needed.
- 5.7 The EESC therefore hopes that legislative action can be taken at European level on taxing the digital economy, with arrangements for appropriate coordination with and involvement of the Member States in order to strengthen the internal market and take full advantage of the opportunities arising from the digital economy.
- 5.8 Service providers in the collaborative economy are of course subject to tax obligations. but there are difficulties in identifying taxpayers, not least due to the fact that they may be operating in a professional capacity (e.g. offering service provision on a continuing basis) or in an occasional capacity (as a means of supplementing income without taking it up as an occupation). In addition to this difficulty in identifying taxpayers, it is often a difficult task to precisely measure the taxable income.
- 5.9 In this respect, the EESC sees the fixing of minimum income thresholds as a useful way of deciding if a particular activity is to be considered as professional or otherwise. It hopes however that the choice of such thresholds is justified by proper evidence or reasons.
- 5.10 Regarding the new business models there is a need for EU-wide coordination in order to prevent double taxation or tax abuse. Best practices regarding taxation models, in particular for businesses that bring demand and supply together through digital platforms, should be introduced and applied by the Member States. The European Commission must coordinate the legislation, identifying a set of common, shared rules by means of a directive.

- 5.11 At the same time, the EESC urges national financial administrations to publish guidelines in order to provide clear indications for service providers operating within the collaborative economy. As service providers are often private individuals, there is indeed a need to provide information about taxation obligations, since they are often not aware that they are liable to pay tax.
- 5.12 The EESC hopes that European and national rules establish mechanisms to facilitate cooperation between collaborative economy operators and the tax authorities. Due to the widespread use of accurate and traceable data, such cooperation could foster fiscal simplification and transparency, with digital platforms perhaps even acting as tax withholding agents in cooperation with the tax authorities.
- 5.12.1 In this respect, the EESC underlines that tax certainty needs particular attention during the rapid evolution and growth of new business models, which heightens concern about uncertainty in tax matters and its impact on cross-border trade and investment, especially in the context of international taxation³.
- 5.13 The EESC points out that the collaborative economy could potentially expand the national tax base by bringing jobs and new resources to the economy. With a view to tapping into this new base, competent national authorities should develop more efficient intra-authority information exchange systems. These data, combined with new technological opportunities, could create greater tax certainty at lower cost for both service providers and the tax authorities. Since the digital platform, the service provider and the client may be in different Member States, this question should be subsequently examined at EU level so that proper attention is focused on protection of cross-border data.

6. VAT

- 6.1 Regarding collaborative economy activities and whether they are subject to VAT, an initial distinction must be made between activities conducted by different new business models, e.g. directly by collaborative platforms and those of individual service providers registered with such platforms, and models that use platforms to carry out different activities, such as selling user spaces or data to place advertisements.
- 6.2 Regarding the latter examples, companies are already subject to corporate income tax. They gather information from users - every time a user enters a search, companies collect information which they can then sell to advertisers and other interested parties and if value is created, VAT should be levied on the exchange of the data (the collection and selling of the information).
- 6.3 Regarding models that work on matching supply and demand, it can be considered that they create "added value" by providing a service and allowing a transaction/exchange between customers and drivers; this added value should therefore be liable for VAT.

³ For further information, see [Tax Certainty - IMF/OECD Report for the G20 Finance Ministers](#).

- 6.4 In general terms, for VAT purposes, a distinction must be made between different situations concerning payment methods for services rendered in the collaborative economy: (i) situations where services are rendered against payment of a sum of money; (ii) situations in which remuneration for the service is made not in money but in the form of another service or non-monetary remuneration; and (iii) situations in which the service is rendered freely with no return.
- 6.5 The VAT rules applicable to situation (i) above can be deduced from the rules and principles of existing law as set out by the Court of Justice of the EU, while situation (ii) may not fall within the scope of the current VAT rules.
- 6.5.1 With respect to practical circumstances possibly coming under point (ii), the EESC calls for close examination of whether or not the activities of collaborative platforms are subject to VAT obligations. The legal framework in this area is indeed at present unclear, especially concerning services that, as has been mentioned before do not require monetary payment, but use data on consumers, their preferences and habits for commercial purposes.
- 6.6 In the EESC's view, it is important for the Commission to address and regulate the issue of VAT in the collaborative economy as part of its Action Plan, possibly by applying simplified rules and principles below certain turnover thresholds — as has already been done in some countries — in order to limit compliance costs, especially for SMEs and occasional service providers.
- 6.7 The European Commission and the national tax authorities should promote cooperation and coordination in the application of VAT rules to the collaborative economy sector.

7. **Final comments**

- 7.1 The EESC backs the opinion of the European Parliament's concerning the European Agenda for the collaborative economy, where the EP notes that "European entrepreneurs show a strong propensity for creating collaborative platforms for social purposes, and acknowledges a growing interest in the collaborative economy based on cooperative business models⁴.
- 7.2 The specific features of the collaborative economy, its innovative potential and the need to bring tax rules into line with the sector's exponential growth argue in favour of including organised civil society in the consultations and analyses led by the European Commission, the purpose of which is to bring together the sector's stakeholders, representatives of the EU institutions and national financial administrations, together with academic specialists, to launch a joint debate on issues relating to taxation of the collaborative economy.

⁴ [Report on a European Agenda for the collaborative economy](#), 11 May 2017 (2017/2003(INI)).

7.3 The EESC calls on the European Commission to propose further recommendations for better information exchange between national taxation authorities and for equal tax treatment of service providers. The Committee considers that a follow-up opinion would be necessary in order to further assess tax policy requirements, as well as the impact and outcomes of taxation of the digital economy.

7.4 With regard to the rights of workers and consumers involved in the collaborative economy, the EESC would refer to the opinion on the *Sharing economy and self-regulation*⁵. It is however important in this context to point out that the impact of the collaborative economy on the labour market is so powerful as to require a special focus on worker protection, particularly regarding social security, health and welfare contributions.

7.4.1 In this respect, the EESC underlines once again the need to consider the impact of the collaborative economy on the labour market and points out that the full protection of workers and service suppliers is an objective that should be constantly borne in mind by EU and national legislators.

Brussels, 19 October 2017

Georges Dassis

The president of the European Economic and Social Committee

⁵ [OJ C 303, 19.8.2016, p. 36](#), point 8.2.4.