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ON CERTAIN ISSUES OF DIGITAL SERVICES TAXES¹

Abstract

The article deals with some of the consequences of the digital economy in general. The authors focus on digital services, specifically the tax law aspects of digital services. Some states' tax systems already regulate certain partial issues of the digital economy, such as taxation of virtual currencies or taxation of digital platforms, but now legislators are focusing on taxation of digital services. This paper highlights ongoing initiatives at international and national level to provide the reader with a relatively comprehensive view of the current (legal) situation. "Digital giants" are already taxed in some countries, and therefore it is possible to assess how effective some legislation is, even if it has been too short to evaluate it objectively.

Key words: digital economy, digital services, tax, law.

JEL Classification: K34

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1. Introduction

Globalization is a phenomenon that penetrates all areas of life. Along with the enormous technological advancement, globalization affects the law and raises a number of issues to be addressed by national legislators. New digital phenomena such as virtual currencies and digital platform business are significant for the 21st century. The standard view on currencies or traditional business models is irreversibly overcome.

Tax law is no exception and these material sources of law have a significant impact on it. In view of this, the existence of tax law science has a place among the legal sciences and its importance continues to grow. The knowledge that the science of tax law acquires and generalizes is thus an aid to national parliaments in the normative process and is also helpful in the application practice.

We believe that the phenomenon, that digitalization undoubtedly is, creates a new set of issues that the science of tax law must address. Of course, tax evasion, its scope and budgetary consequences are one of the most intense and pervasive problems, but it is precisely in the digital economy that for states new opportunities and new potential public revenues are coming.

There are still large disparities between countries in terms of GDP per capita, high population mortality, low development index and others, but the digitalization may further widen these disparities. Currently, the digital economy is the benefit only for certain groups of states, international corporations or individuals.

Thus, taxes can serve not only as revenue for national (public) budgets, but by them could be also achieved other objectives. For example, the declared "straightening" of the business environment by a digital service tax.

The aim of the paper is to analyze selected aspects of the digital economy, especially the taxation of digital services, and to outline possible further trends and developments in this area while verifying the hypotheses.

In this paper we will try to verify the hypothesis that digital services should be taxed. If the above hypothesis is confirmed, we will continue to verify the partial hypotheses:

- Existing taxation tools are sufficient to tax digital services.
- New taxes need to be introduced for the taxation of digital services.

In case of positive verification of the second partial hypothesis, we verify the following partial hypotheses:

- When introducing new taxes on digital services, an international or EU-level model of taxation needs to be found.
- Taxation of digital services should be left to national level.

In the following, we will limit our interpretation to digital services and their taxation, highlighting existing initiatives in this area.

2. Digital services

Businesses are increasingly using digital business models globally. This is related to the continuing expansion in the provision of digital services in the business environment. What digital services themselves are, what they are, as well as their place in the digital economy, will be described below.

2.1 "Digital Service" - Terminological notes

Before we focus our attention on the tax-law aspects of digital services, we need to proceed to a conceptual definition. The concept of **digital service** can be understood in theory:

- in the narrow sense - the concept of digital service and digital advertising is essentially identical, and
- in a broader sense - this approach is based on proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence {SWD(2018) 81 final} - {SWD(2018) 82 final} of 21 March 2018 (hereinafter referred to as "*DST Proposal*"), according to which "(...) '*digital services*' means services which are delivered over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention, and impossible to ensure in the absence of information technology (...)", Article 3, section 5. DST Proposal also includes a non-exhaustive list of services that can be labeled 'digital' (eg the provision of digitized products in general, including software and its modifications or innovations, services providing or supporting the presence of businesses or individuals on the electronic network, site, services automatically generated by a computer via the Internet or electronic network in response to specific data entered by the customer, etc.).

Thus, the legal definition of the digital service is an immanent part of the legislation proposed at international or national level. However, it should be noted that the proposals for unilateral legislation are largely based on proposals from international organizations (in particular the European Union), including the terminology.

2.2 The place of digital services in the digital economy

The digital economy is a subcategory of the economy itself and "*... is related to the rapid take-up and penetration of information and communication technologies in all areas of human activity, which also requires new insights into factors affecting the development and success of the economy.*" [Puchala 2017: 22].

The growth of information and communication technologies, by which is characterized the digital economy, is manifested in different ways. First of all, there is a development of new business opportunities and user benefits, the provision of previously unknown, respectively underutilized services that actually compete with the 'classic' forms of business and the provision of services to end consumers.

In view of the abovementioned, the digital economy can be characterized in particular by a group of the following emerging technologies that have the greatest impact on and affect the economies of States:

1. development of technologies supporting and developing a shared economy² (or even a collaborative economy, collective consumption, or peer-to-peer economy) [Kwong 2017: 62] - the main principle of this way of realizing the digital economy is borrowing existing resources between people implementing a shared economy so that the outcome of this process is a profit for them. A shared economy brings indisputable benefits and assets to both consumers and business. Its implementation promotes economic growth, creates new jobs [Arbex, O´Dea 2014: 1683-1712], increases competition between business entities and, in the end, can lead to the provision of new services while lowering their price. The realization of a shared economy also disrupts traditional business models, and this represents the beginning of giving priority to *sharing* (making things accessible) *before ownership*, which inevitably contributes to rational consumption and use of resources and

² The European Commission defines a shared economy as business models in which business activities are supported by collaborative platforms creating an open market for the temporary use of goods and services often provided by private individuals. See: Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions. COM(2016) 356 final.

helps the sustainable development of society as such. These include well-known services based on shared economy, such as Uber, Airbnb, BlaBlaCar, etc. This development is undoubtedly closely linked to the issue of taxation of these sharing processes, which will have to be subject to further examination and regulation at least at national level. [Mak 2018: 87-102]

2. development of technologies in the field of virtual currency, respectively called cryptocurrency, whose use in the global economy causes complications in the economy with respect to the classical forms of the traditional payment system. By their nature, virtual currencies are a unit of value that is captured in cryptographic form (the so-called "token"). In the case of virtual currency, such a notation is referred to as a cryptocurrency token. The use of virtual currencies is essentially concerned with value added tax and income tax [Aisworth, Alwoihaibi, Cheetham 2017; Deloitte 2017: 11 - 18]. The urgency of these questions is underlined by the fact that at present is a widely used virtual currency Bitcoin [Schollin 2018: 237-260] and the entry of "big players" can be observed in the virtual currency segment - the most significant is the introduction of the Libra virtual currency based on the Libra Blockchain technology company Facebook [Nakamoto 2008; McJohn, McJohn 2016];
3. development of advanced digital technologies and digitized business models (digital services) - the main features of advanced digitalized businesses are mainly the cross-border scope of a business without physical presence in individual jurisdictions, a strong link to intangible assets (especially intellectual property), the importance of data use and strong user participation with intellectual property [OECD 2018: 24] These include, for example: social networks, web search engine and online stores. [OECD 2018: 29] The digital services provided on these platforms in the context of their taxation will be discussed below.

The enormous development of digital services is directly proportional to the development of the digital economy as a whole, which is related to the increase in the volume of digital data. This can be illustrated by the information contained in the United Nations Organization document (hereinafter referred to as the "UNO"), designated "*Digital Economy Report 2019*". According to this document, the volume of data increased from 100 GB per day in 1992 to more than 45 000 GB per second in 2017. The growth curve is expected to continue in the coming years and the data volume should climb in 2022 to 150,700 GB per second [Digital Economy Report 2019: 2].

The use of the so-called “*data-driven business model*” is the stimulus affecting the increase of the amount of data used by digital platforms. Up to 7 out of 8 global companies use this model, underlining its strength and great potential in the near future [Digital Economy Report 2019: 2].

Along with “*platformization*”, as some authors call this phenomenon, there are certain advantages but also disadvantages. However, the use of digital data can contribute to solving certain social problems and can contribute to the development of states. A great advantage is undoubtedly the increase in the production of goods and services, it also contributes to their higher quality and the reduction of the costs of production of goods and services.

The disadvantages of the digital economy can take different forms, but they are more on the staff side. Specifically, there is a threat of job loss due to redundancy in the use of machine work (the so-called automation) and a certain disadvantage can be considered the higher demands on employees' knowledge in the field of information technology.

The social relations that are the subject of the legal regulation of each sector of the law are dynamic and it can be stated that the law and the regulation of social relations related to the digital economy have lagged in this direction for several years or even decades. This is not only a matter of tax law, but also of labor law, civil law, and so on. In the following, we will limit our interpretation to selected aspects of the taxation of digital services.

3. Taxation of digital services

Technological development and progress have an irreplaceable role in the digital economy. It is true that technologies such as Blockchain can contribute to increasing the efficiency of tax administration, facilitating international cooperation, or reducing the number of tax evasions [Hrabčák 2019: 160].

The process of digitization is a phenomenon that also necessitates changes in the formal sources of law. Tax legislation is now outdated and contains many unsatisfactory provisions.

The same can be stated for the traditional principles of taxation, which can be “(...) considered to be certain ideas - the leading ideas that have been formed over a long historical period that should be mandatory for the legislator in tax law making and for the executive and regulatory authorities in its implementation and application.” [Babčák 2015: 51]. These include, for example, the principle of tax justice as one of the main pillars, the principle of

elimination of double taxation, the principle of tax neutrality and others. However, in our opinion, the new principle should be also stabilized, namely **the principle of taxation in the place where value and profit are actually generated**. This principle has also been emphasized in the context of the implementation of the instruments to combat against tax evasion contained in Council Directive (EU) 2016/1164 of 12 July 2016 laying down rules against tax avoidance practices that directly affect the functioning of the internal market (also known as the “ATAD Directive”). The current corporate taxation rules are based on physical presence in a country and do not take into account the value created by the participation of users in that jurisdiction.

With some delays, however, states have begun to realize this and, in this regard, work can be identified in this field at **3 levels**, namely:

1. Organization for Economic Co-operation and Development (hereinafter referred to as “OECD”),
2. EU and
3. individual states.

However, the way in which digital services should be taxed varies from one state to another, and therefore, with a certain amount of generalization and inaccuracy, there are **three options** for taxing digital services:

1. maintaining the status quo - digital services would therefore remain without any taxation,
2. taxation of digital services in the DAT version (abbreviated term for digital advertising tax) - the version of the tax in question would only be directed to a selected digital service, namely digital advertising;
3. taxation of digital services in the DST version (abbreviated term for digital services tax) - the proposed option would tax the digital services overall and would not be limited to digital advertising as a DAT version.

It is possible to point out the activities of the OECD, the EU, as well as selected countries and what versions they have worked (or are working) with, and we will also try to suggest what option would be most appropriate, also in view of the fact that some countries have experience with this tax.

3.1 International (with an emphasis on European) initiatives in the field of taxation of digital services

Intensive discussions on the taxation of digital services were initially launched internationally, with the OECD and the EU directly involved. This is a question for (tax) policymakers to deal with. It is clear that with regard to the potential tax revenue associated with it, states will have that will (at least most of them, unless it is a low tax jurisdiction to which the present situation is acceptable).

In March 2017, the 27 EU Member States, the Council of the EU, the European Parliament and the European Commission promised in a document known as the "*Rome Declaration*" that they would strive to pursue so-called technological transformation, which is an essential element in ensuring a prosperous and sustainable future.

It is true that digitization and technological transformation affect the lives of a large number of people, but especially employees in terms of job sustainability, education, but also social systems and industries. Against this background, this is indeed a major challenge for tax law.

Digital-based business models using information and communication technologies that use high volumes of data blurring the gap between goods and services.

National and international organizations such as the OECD and the EU are looking for the most appropriate solution to ensure fair and effective taxation. The OECD, the EU and the individual Member States have opened the "Pandora's Box", where digitization is only one of the partial problems and, even if they are aware of it, there is no consensus on the wording of the final solution.

OECD

In recent years, OECD initiatives have focused on the fight against tax evasion, resulting in the BEPS Action Plan (*Base Erosion and Profit Shifting*). Progress in this "struggle" is unquestionable, but it should be added that the problems posed by digitization were not considered at the time.

Efforts are currently being made to solve the issue and intensive discussions are starting at the OECD level. The gradual approach of individual states to the adoption of unilateral legislation underlines the urgency and the need to adopt a common model of taxation for digital services, even if consensus is difficult to find and is unlikely to be found in the foreseeable future.

OECD documents, namely the Political Note of 23 January 2019 and the Public Consultation Document of 6 March 2019, show that the efforts of this international organization focus on 2 areas, respectively pillars.

The first pillar concerns the allocation of taxation rights and seeks a coherent and parallel review of the rules on the allocation of profits and interrelationships. Under this pillar, three proposals are envisaged - the proposal "*user participation*", the proposal "*intangible marketing*" and the proposal "*significant economic presence*". All of these proposals go beyond the existing conceptual solutions of the international tax framework based on physical presence for the purposes of taxation and profit allocation, respectively losses on the principle of market independence.

The second pillar deals with the development of rules against global violations of tax bases (also referred to as GloBE of the words *Global Anti - Base Erosion*). It should address the remaining problems of the BEPS Action Plan. The rules in question should aim to regulate the rights of the State to refund if other jurisdictions have not exercised their primary tax rights or if the payment is otherwise subject to a low level of taxation [Bhagal 2019].

The policy note "Addressing the tax challenges of digitization", resulting from a consensus of 128 members of the inclusive framework, identifies concrete proposals in two pillars that need to be explored and which could form the basis for a global solution based on a consensual basis.

A very important issue is also the revision of international tax rules with regard to the impact of digitization, which the OECD will have to address in the future. Updates to the OECD's work in these areas are to be part of the tax and digitalization report, which will be prepared by an inclusive framework and presented to the G20 in 2020.

EU

One of the levels at which work is ongoing on the taxation of digital services, is the EU. The fact that a physical presence in a country is no longer a necessary condition for doing business in the EU territory is being realized by the representatives of the EU institutions, which prompted them to deal with the issue.

It is an unquestionable fact that a large part of profits of so-called digital giants operating also in the EU are not subject to any taxation, respectively only by a low tax rate. Despite the fact that in many documents this phenomenon is referred to as tax evasion or avoidance, in our opinion it is not possible to speak of tax evasion or avoidance, as it may

be the case if any tax liability arises on under applicable tax laws. In other words, if the Member States' tax systems do not impose a tax liability on digital services, there can be no tax evasion.

The first step towards the taxation of digital services at EU level was the "*Digital Summit*" in Tallinn, which took place on 29 September 2017. This summit was organized by the Presidency of the Council in cooperation with the European Commission and the President of the European Council. The summit was attended by EU Heads of State and Government of the Member States. Its aim was to create a platform for future discussions on digital innovation to ensure the EU's competitiveness with other global powers on a global scale.

Another manifestation of efforts to solve this "digital" problem was the document labeled "Conclusions of the European Council, 19.10.2017". This document was the result of a meeting of Member States' representatives, with conclusions on a number of issues, one of which was "*Digital Europe*". The EU has identified a number of priorities on this point, and one of them was "... *achieving an efficient and fair taxation system that meets the needs of the digital age.*" [European Council 2017].

Another milestone on the path of taxing digital services was 5 December 2017. On that date, the Council approved its contribution to the international debate. The issue of taxation of profits in the digital economy was discussed and the Council also called for close cooperation with the OECD and other partners at international level.

The European Commission is an equally active EU institution. In March 2018, this institution also submitted 2 legislative proposals on the tax on digital services with some modifications, namely:

- proposal for a Council Directive (EU) laying down rules relating to the corporate taxation of a significant digital presence,
- proposal for a Council Directive (EU) on the common system of a digital services tax on revenues resulting from the provision of certain digital services.

Where the first case is envisaged as a "permanent" solution, the latter is intended to be a temporary solution and a compromise towards a lasting regulation of tax law in the area.

However, none of these proposals for directives has found sufficient support from Member States to date.³ The same is true of the compromise proposal initiated by France

³ The authors point out that the article reflects the situation as of January 2020 and the situation may be different at the time of publication.

and Germany, which was based solely on the taxation of one digital service, namely digital advertising (DAT).

However, the European Commission did not target its proposals to any person, in line with the definition of the taxable person. This would be only "digital giants" (eg Google, Facebook, Amazon, etc.), which have a worldwide turnover of over 750 million € and, at the same time, taxable income in the EU exceeds 50 million €. The tax rate, which should be applied to the tax base is established at 3%.

There are several issues linked to the proposed digital services tax contained in EU legal acts. One of the most topical issues and perhaps an obstacle preventing Member States from accepting the above proposals is also the issue of harmonization of corporate taxation, as a tax on digital services harmonized at EU level could suffer their tax sovereignty in direct tax matters and the EU thus, it could (indirectly) establish a good starting position for the harmonization of corporate tax.

Another question is what model would be most appropriate, taking into account the double taxation phenomenon of the same income from taxable services and how to set up mechanisms to avoid this. These are just some of the issues we have outlined above and the discussion in the scientific forums is likely to open up further unanswered questions.

3.2 Unilateral legal regulations of taxation of digital services in selected countries

Individual states approach to their own proposals for legislation on the taxation of digital services, which is also due to the lack of consensus at international level. Some countries have already introduced their digital services tax and others, on the contrary, are waiting to adopt a certain model of taxation at EU or international level. By the examples of selected countries we will point out the state of their conditions and the approach taken by individual states (based on current and available information).

The first country to start with is the **Slovak Republic**. In the Slovak Republic, the law reflects only certain phenomena in the digital economy, such as taxation of virtual currencies [Hrabčák 2019: 99 - 110] and taxation of the shared economy [Bonk 2018: 1342 - 1356]. The legislation on the taxation of digital services should therefore be the next step on the part of the legislator. For now, however, no unilateral solution can be expected.

Even with reference to the tax - legal regulation of some elements in the digital economy, it can be stated that not very precise thought - out legislation may not have the desired

effect. Taxation of the virtual currencies and the digital economy is not trouble-free and the legislation is not comprehensive. In essence, this was only due to the adoption of further amendments to Act No. 595/2003 Coll. on Income Tax as amended.

At present, the Ministry of Finance of the Slovak Republic declares that it does not consider submitting a draft legislation on national digital services tax, arguing that the Ministry is waiting for a comprehensive and harmonized solution at the EU level. This applies not only to the DST version but also to the DAT compromise proposal [EURACTIV 2019].

In our opinion, the attitude of the Slovak Republic can be evaluated positively in the present situation. The point is that the "digital tax"⁴ in its unilateral form is confronted with the single internal market and with the freedoms guaranteed by EU primary law. Given that some Member States have already introduced this tax, it can be expected that the European Court of Justice will determine certain limits for this institute to be consistent with EU law.

Another example is the **Czech Republic**. Although together with the Slovak Republic formed a single state during a long historical period, the development is to some extent different (also in the tax system). This is also reflected in the issue of approach to digital services tax.

The Ministry of Finance of the Czech Republic submitted a "*Bill on the tax on selected digital services*". It is already apparent from the title of the draft that only selected digital services should be taxed by this tax, even though the submitter states in his explanatory memorandum that he is in favor of the DST variant.

All three variants were analyzed in the legislative work, and the DST version should be the ideal one, taking into account all the anticipated advantages and disadvantages. The bill is largely based on the proposals of the European Commission, which corresponds to a tax rate of 3 %. The author of the Act has established certain evaluation criteria, namely:

- "straightening" the business environment,
- tax revenue, and
- administrative costs.

In relation to the first criterion – "straightening" the business environment - it states that this is the primary objective. This means that the tax on digital services is intended to reconcile the status of entrepreneurs using traditional business models with those using

⁴ An abbreviated term for a digital service tax, although there may be some proviso about this name.

modern, digital ways of doing business. However, this step (if the law will be enacted) will create unequal positions among entrepreneurs using the digital base. This is because there will continue to be States that do not have a digital tax, which will bring entrepreneurs operating in such countries a considerable advantage. This is also why we believe that although the budget revenue of the digital service tax is represented as the secondary goal, but it is in fact the primary goal, albeit obscured by the "straightening" of the business environment.

Another criterion is tax revenue. According to the explanatory memorandum, it should be the highest in the DST version, which is understandable given that this tax would cover a wide range of digital services. The estimated yield is in the range of approx. 2.4 billion CZK up to 6.6 billion CZK annually. However, it is calculated with the value at the middle of the interval in question, so the expected yield should be approx. 5 billion CZK per year. This should place the digital services tax among the most important public revenue.

Administrative costs are also a very important criterion. These should be reasonable and, of course, lower than the expected tax revenue of the administered tax. Administrative costs need to be assessed in two ways, not only in relation to the State, but also to taxpayers. For the State, the costs amount to approximately 23.5 mil. CZK. Of course, there are also certain requirements in terms of staffing of tax collection. For taxpayers, this will also entail certain costs in relation to the study of legislation, the establishment of the compliance office and so on. The Ministry of Finance of the Czech Republic also commented on the administrative costs borne by taxpayers, according to which the new legislation will only affect large companies with sufficient personnel and material equipment and therefore no additional costs should be incurred.

The proposed legislation also presents a number of risks, at least some of which are mentioned. The first is the increase of the price of taxable services, which ultimately means the transfer of the tax burden to the final consumer. However, it should be noted that a digital service tax may also be reflected in the price of a taxable service (eg digital advertising) in relation to its customer.

The first EU Member State which introduced a real tax on digital services is **France**. This happened with effect from 1 January 2019. The tax is also commonly referred to as

"GAFA".⁵ The tax applies not only to US entities but also to various other international conglomerates from China, Germany, Spain or France.⁶

GAFA covers 2 categories of digital services, digital advertising and digital interfaces. As it is based on the EU's initiatives, it is not surprising that the 3% tax rate also corresponds to this. Only the income received from the providing of the aforementioned digital services in France is taxed. The legislature also modified some guidance on the calculation of the share of the global revenue attributable to France.

The digital service tax will not apply to all companies, but only to those that meet the set limits globally and within France itself. [Office of the United States Trade Representative Ambassador Robert E. Lighthizer 2019] Worldwide turnover is set at 750 million € per year and "domestic" turnover is set at 25 million €. The taxable person is therefore the company which earns the revenue from the provision of the aforementioned digital services. The tax base depends on how much revenue is generated from the provision of digital services in France, as well as the type of digital service or the digital platform itself.

It is also very important that the GAFA does not apply to digital platforms whose primary purpose is not to collect user data. If the digital interface is used to provide digital content, such as e-commerce, video services, music on demand, communication services and regulated payment services, they should not be taxed [Dorin 2019].

As in the case of the Czech Republic, it can be stated that this tax has great budgetary and legal importance. A tax revenue up to 600 mil. € per year. Since it is still a relatively new tax, it is not possible to assess to what extent the estimates were realistic.

Efforts to introduce a tax on digital services have also been and are ongoing in **Poland**. Currently, the tax has not yet been successfully introduced, which is due to several facts. According to the announcement of the Office of the Prime Minister of March 2019, the Polish budget (in terms of revenue) should improve by about 1 billion PLN per year. In July 2019, the Treasury announced that was working on a bill introducing a tax on certain digital services - online advertising, the sale of data obtained from user information and other digital services, based on the proposal Council Directive from the same year. The tax rate should be 3 % [Sikora 2019]. Although DST has not been introduced and has not become part of the Polish tax system, it is planned to be adopted in the near future.

⁵ These are the initial letters of the main entities in relation to which the digital service tax is targeted. Specifically Google, Apple, Facebook and Amazon.

⁶ It is estimated that there should be up to 30 international groups that would be subject to the tax in question.

Meanwhile, Poland plans to participate in discussions in international fora such as the OECD and the EU.

Spain is another country which plans to act at least temporarily on its own. The estimated amount of DST tax revenue is up to 1.2 billion € per year. Specifically, the Spanish version of DST is considered to be an indirect tax and will therefore not be subject to international double taxation treaties. According to the bill, the taxable person should be the person whose income for the previous calendar year exceeded 750 million € and also fulfills another cumulative condition, namely that the total value of proceeds from the development of activities subject to DST exceeded 3 million €. Digital services that should be subject to taxation include digital (online) advertising, data transmission services and, finally, brokering services. A rate of 3 % should apply as in most other cases.

One of the countries in which DST should apply from April 2020 is the **United Kingdom**. The rate that should be applied to selected digital services (search engines, social media platforms and online marketplaces, with financial and payment services exempted) will be 2%. The only taxable person should be those who generate income on a global scale over 500 million GBP and within the UK over 25 million GBP. The first 25 million GBP representing income from UK users will not be subject to digital services tax [Gough 2019]. The tax revenues are expected to increase by 275 million GBP in the first year up to 370 million GBP in subsequent years.

4. Conclusion

The aim, which we set out in this paper, was to analyze selected aspects of the digital economy, especially the taxation of digital services and to outline possible future tendencies while simultaneously verifying the hypotheses.

The paper should serve as a brief excursion to selected aspects of digital services in the conditions of the Slovak Republic and other countries. In order to give the broadest possible picture of the current legal situation, we have also highlighted international tendencies, with an emphasis on the OECD and the EU, which are most active in this field.

The main hypothesis we set out to verify at the beginning of the article was whether digital services should be taxed. With reference to the budgetary - legal potential, the hypothesis was confirmed. The European Commission estimates that Member States should generate tax revenues of up to 5 billion € EUR per year, which is not a negligible amount. However,

the answer to the question of how to achieve this is more difficult and therefore we continued to verify further, partial hypotheses.

The hypothesis - existing taxation tools are sufficient for the taxation of digital services - has not been confirmed, but the hypothesis that new taxes have to be introduced for the taxation of digital services has been confirmed. Even with reference to the already tax-regulated elements of the digital economy, which are not complex in nature, it is necessary to look for new solutions that would bring the desired effect. Existing taxation instruments based on the physical presence of entities in a given state are already inadequate in the field of digital services, and the principle of taxation in the state where value and profit is actually generated comes to the forefront.

Another hypothesis that has been confirmed to us is that when introducing new taxes on digital services it is necessary to find an international or EU model of taxation. However, if there is no consensus at international level, it would be preferable to leave the issue unilaterally unregulated.

However, the opposite is true, and the practice of the Member States shows us that, as a temporary solution, they will enact new regulation and introduce new, national digital services taxes in various modifications compared to EU legislative proposals. It will therefore also be interesting to follow the decision-making work of the European Court of Justice, which is unlikely to avoid assessing compliance with the freedoms guaranteed by EU primary law on which the single internal market is built. This should create basic limits for the compliance of this institute with EU law.

The authors emphasize that the article and the opinions expressed therein are merely an introduction to the discussion and do not claim to be complete. Only time will show how countries will deal with the outlined issues such as avoiding double taxation and concerns about harmonizing direct taxation in the EU.

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