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From: The Danish Parliament
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Subject: Proposal for a COUNCIL DIRECTIVE laying down rules relating to the corporate taxation of a significant digital presence
[7419/18 - COM(2018) 147 final]
Proposal for a COUNCIL DIRECTIVE on the common system of a digital services tax on revenues resulting from the provision of certain digital services
[7420/18 - COM(2018) 148 final]
- Reasoned opinion on the application of the Principles of Subsidiarity and Proportionality¹

Delegations will find attached the above-mentioned document followed by a courtesy English translation.

¹ Translation(s) of the opinion may be available at the Interparliamentary EU information exchange site IPEX at the following address: <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20180147.do> and <http://www.ipex.eu/IPEXL-WEB/dossier/document/COM20180148.do>

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Begrundet udtalelse om Kommissionens forslag til beskatning af den digitale økonomi 23. maj 2018

Folketingets Europaudvalg har behandlet Kommissionens forslag til direktiv om regler vedrørende selskabsbeskatning af en væsentlig digital tilstedeværelse KOM (2018) 0147 og direktivforslaget om et fælles system for en skat på indtægter fra levering af visse digitale tjenester KOM (2018) 0148.

Et flertal af udvalgets medlemmer (Dansk Folkeparti, Venstre, Liberal Alliance og Det Konservative Folkeparti) mener, at forslag af denne karakter er et brud på nærhedsprincippet.

Flertallet bemærker, at de i forhold til direktivforslagenes overensstemmelse med nærhedsprincippet i EU-traktatens artikel 5 er skeptiske over for Kommissionens begrundelse for, at disse tiltag bedst gennemføres på EU-plan i forhold til på nationalt plan. Partierne mener, at Danmark bør holde fast i princippet om, at skattepolitik ligger uden for EU's kompetence.

Et mindretal af udvalgets medlemmer (Socialdemokratiet, Enhedslisten, Alternativet og Socialistisk Folkeparti) mener, at forslagene er i overensstemmelse med nærheds- og proportionalprincippet.

Politisk udtalelse

Socialdemokratiets, Alternativets og Socialistisk Folkepartis medlemmer af udvalget bemærker, at de digitale selskaber, trods milliardstore overskud, har forbløffende lave skattebetalinger. Eksempelvis viser et tidligere udvalgsvar, at 25 af de allerstørste selskaber kun betaler 109 mio. kr. i dansk selskabsskat. Det er det samme, som Aalborg Portland alene betaler i selskabsskat. Situationen er således den, at selv om selskaberne er underlagt samme skattelovgivning, forskelsbehandles de i praksis, alt efter om de primært har valgt at etablere sig som digitale selskaber eller ej. Det skyldes, at selskabsskattelovgivningen, hvis grundlæggende principper snart er 100 år gamle, ikke i tilstrækkelig grad kan indfange de værdier, der genereres i vores stadigt mere digitale tidsalder. På den baggrund vurderer Socialdemokratiet, Alternativet og Socialistisk Folkeparti, at det er begrundet at se på nye beskatningsformer for den digitaliserede økonomi.

Socialdemokratiet, Alternativet og Socialistisk Folkeparti deler endvidere Kommissionens vurdering af, at det er nødvendigt med et fælles initiativ i hele det indre marked, så reglerne om væsentlig digital tilstedeværelse direkte og harmoniseret anvendes i EU med henblik på at sikre lige vilkår for alle medlemsstater og retssikkerhed for skatteyderne. Det er således ikke realistisk, at enkeltlande alene kan løse de skattemæssige udfordringer, som den stadig stigende digitalisering af økonomien medfører.

Endelig kan Socialdemokratiet, Alternativet og Socialistisk Folkeparti tilslutte sig det bærende princip i forslaget; at beskatning i større eller mindre omfang skal flyttes fra overskud til omsætning, hvis den digitaliserede økonomi skal beskattes mere fair.

Enhedslistens medlemmer af udvalget bemærker, at de ønsker, at de eksisterende skatteregler i forhold til den digitale økonomi, herunder vedrørende fast driftssted, moderniseres, så de tager højde for udviklingen inden for den digitale økonomi. Enhedslisten er derfor som udgangspunkt positiv over for tiltag, herunder i OECD og EU, der arbejder i denne retning. Enhedslisten mener, at der kan findes en model for beskatning af den digitale økonomi, der respekterer nærhedsprincippet, men at det i sidste ende vil være noget, der skal vurderes i forhold til den konkrete model, der vedtages. For Enhedslisten vil det være centralt, at der ikke kommer til at være tale om en EU-skat, der skaber øget provensu til EU, men at midlerne fra beskatning tilfalder de enkelte medlemsstater. Enhedslisten mangler endnu at forholde sig til de enkelte elementer i forslagene i detaljen, men som udgangspunkt er det Enhedslistens opfattelse, at de to forslag ikke strider mod nærhedsprincippet.

Med venlig hilsen



Erik Christensen

Formand for Folketingets Europaudvalg

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9 May 2018

**Reasoned opinion regarding the Commission's proposed measures
regarding taxation of the digital economy**

The European Affairs Committee of the Danish Parliament has examined the Commission's Proposal for a Council Directive laying down rules relating to the corporate taxation of a significant digital presence COM (2018) 0147 and its Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services COM (2018) 0148.

A majority of the committee's members (representatives of the Danish People's Party, Liberal Party, Liberal Alliance and Conservative Party) believes that proposals of this kind are not compatible with the subsidiarity principle.

With regard to the issue of whether the Commission's proposals uphold the subsidiarity principle as it is laid down in Article 5 of the Treaty on the European Union, the majority questions the Commission's justification of why such measures can be achieved better at the European than at the national level. These parties believe that Denmark should insist on the principle that tax policies lie outside the EU remit.

A minority of the committee's members (the Social Democratic Party, Unity List, Alternative and Socialist People's Party) believe that the proposals in question are in line with the subsidiarity and proportionality principles.

Political statement

Members of the committee representing the Social Democratic Party, Alternative and Socialist People's Party note that the digital companies, despite generating profits running to billions, pay astonishingly little tax. For example, a previous committee response revealed that 25 of the largest companies pay only DKK 109 million corporate tax to Denmark. This is no more than the corporate tax paid by a single company, e.g. Aalborg Portland. We find ourselves in a situation in which, although subject to the same tax legislative requirements, companies are in practice treated differently depending on whether they chose to establish themselves as companies whose primary sphere of activity is digital or not. This anomaly is due to the fact that corporate tax legislation, the basic principles of which are almost 100 years old, does not adequately encompass the values generated in our increasingly digital era. On this basis, the Social Democratic Party, Alternative and Socialist People's Party believe that there is every good reason to look for new ways of levying tax on the digitised economy.

Moreover, the Social Democratic Party, Alternative and Socialist People's Party share the Commission's assessment that a common initiative throughout the internal market is required to ensure that the regulations regarding significant digital presence are applied directly by and harmonised in the European Union with a view to securing not only fair conditions for all the Member States but also taxpayers' legal certainty. It is therefore not realistic to expect individual Member States to resolve the fiscal challenges presented by steadily increasing digitisation of the economy.

Finally, the Social Democratic Party, Alternative and Socialist People's Party agree with the central principle in the proposal, i.e. that, if the digital economy is to be taxed more fairly, taxation should, to some extent, be shifted from profit to turnover.

The committee members who represent the Unity List note that they wish to see existing tax instruments modernised with regard to the digital economy, including measures regarding permanent domicile, so that they take developments in the digital economy into account. The Unity List is therefore essentially positive about initiatives taken in this direction, including those under the auspices of the OECD and EU. The Unity List believes that it is possible to develop a model for taxation of the digital economy that conforms with the subsidiarity principle but that this is ultimately a matter they wish to address in the light of the specific model adopted. For the Unity List, it is imperative that the solution does not create an EU tax yielded to the EU, but digital tax revenues that will be paid into individual Member States' coffers. The Unity List has yet to address separate aspects of these proposals in detail. However, the Unity List essentially believes that these two proposals do not contravene the subsidiarity principle.

Yours sincerely,

A handwritten signature in blue ink, appearing to read 'Erik Christensen', with a long horizontal flourish extending to the right.

Erik Christensen

Chairman, The European Affairs Committee of the Danish Parliament