

## Platform on Tax Good Governance, 10 March 2021

### Corporate Social Responsibility and Tax

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#### **Introduction**

This paper aims to stimulate discussion in the Platform on tax as a key element of Corporate Social Responsibility (CSR). The views of the delegates are sought on policies the EU can and should pursue to promote tax and CSR.

#### **Background**

The actions of companies have significant impacts on the lives of citizens in the EU, and also around the world. This impact is not just in terms of the products and services that they offer or the jobs and opportunities they create, but also in terms of working conditions they provide, their respect for human rights, health, the environment, innovation, education and the taxes they pay to governments. EU citizens expect that companies should understand their positive and negative impacts on society and the environment, and prevent, manage and mitigate any negative impacts that they may cause, including in their global supply chains. Fulfilling this duty is commonly referred to as “Corporate Social Responsibility” (CSR), or “Responsible Business Conduct” (RBC), and the United Nations has developed the concept of “Business and Human Rights”.

#### **What is Corporate Social Responsibility?**

The European Commission has defined Corporate Social Responsibility as the responsibility of enterprises for their impact on society<sup>1</sup>. Responsible Business Conduct (RBC) is an alternative term introduced by the OECD in close cooperation with business, trade unions and non-governmental organisations. Normally in the EU the terms CSR and RBC are used interchangeably. Companies can become socially responsible by integrating social, environmental, ethical, consumer, and human rights concerns into their strategy and operations, and by following the law.

The OECD has articulated what constitutes RBC through the OECD Guidelines for Multinational Enterprises (OECD MNE). These cover all major areas of business responsibilities, such as: information disclosure, human rights, employment and industrial relations, environment, combatting bribery and corruption, consumer interests, science and technology, competition and **taxation**.

Although CSR should be company led, public authorities, including the EU, have an important role to support and encourage companies in their efforts to conduct their business responsibly; and, where necessary, to legislate. As an example, the Italian Constitution, article 41, states that: “Private economic enterprise is free. It may not be carried out against the

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<sup>1</sup> 4 Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of Regions: A renewed EU strategy 2011-14 for Corporate Social Responsibility, 25.10.2011 COM (2011)681 final

common good or in such a manner that could damage safety, liberty and human dignity. (...)"<sup>2</sup>.

### **What is the role of the EU?**

The EU's policy is built on its 2011 renewed strategy for CSR<sup>3</sup>, which aims to align European and global approaches to CSR. This strategy stresses the importance of enhancing the visibility of CSR and disseminating good practices, through the integration of CSR into education, training, and research. The strategy also improves self and co-regulation processes and companies' disclosure of social and environmental information.

Over the last number of years, the Commission has worked to promote Corporate Social Responsibility or Responsible Business Conduct, and to implement the UN Guiding Principles on Business and Human Rights (UNGPs), through a mix of voluntary and mandatory actions. This work has also formed part of the Commission's recent wider work on supporting implementation of the United Nations 2030 Agenda for Sustainable Development and associated Sustainable Development Goals (SDGs).

Following up on this strategy, the Commission published a staff working document<sup>4</sup> in March 2019. It gives an overview of the Commission's and the European External Action Service's (EEAS) progress implementing CSR/RBC and business and human rights.

### **CSR and Tax Policy**

This 2019 staff working document (SWD) *Corporate Social Responsibility, Responsible Business Conduct, and Business & Human Rights: Overview of Progress*<sup>5</sup> identifies tax as a key element of CSR. In the chapter *Increasing transparency and promoting sustainable finance*, the SWD goes into detail on recent EU initiatives to promote tax transparency and tax good governance including the 2015 Communication on Tax Transparency and the amendments to the Directive on Administrative Cooperation, as well as the 2015 Action Plan for Fair and Efficient Corporate Taxation. The SWD also highlights the Platform on Tax Good Governance as an important element.

### **Tax Transparency and CSR**

Transparency initiatives (in tax and related policy areas) can contribute to an increased emphasis on Corporate Social Responsibility. The proposal for a Directive on Public Country by Country Reporting<sup>6</sup> is one recent example. This proposal requires multinational groups to publish a yearly report on profits earned and taxes paid in each EU Member State where they are active. Regarding third countries the yearly report will include aggregate figures (with an exception only for EU listed jurisdictions). This report will enable citizens to inform themselves about multinationals' tax strategies. Another example of the benefits of transparency is the requirement under the fifth Anti Money Laundering Directive for Member

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<sup>2</sup> Constitution of the Italian Republic, article 41. Source: [https://www.senato.it/documenti/repository/istituzione/costituzione\\_inglese.pdf](https://www.senato.it/documenti/repository/istituzione/costituzione_inglese.pdf)

<sup>3</sup> *Ibid*

<sup>4</sup> SWD(2019) 143

<sup>5</sup> *Ibid*

<sup>6</sup> Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL amending Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches COM/2016/0198 final - 2016/0107 (COD)

States to make their registries of Beneficial Ownership information accessible to the general public. The Commission Services will announce new measures in the coming months.

### **Selected National initiatives (1) - Publication of MNEs Tax Strategy (UK)**

The UK Finance Act 2016 included a requirement for certain businesses to publish their tax strategy online, as it relates to UK taxation. This strategy must be published on the internet before the end of the financial year to which it relates. The strategy must be freely available to the public free of charge. The strategy may be published either as a separate document or as a self-contained part of a wider document. Many organisations see this as part of existing CSR statements and publish it within their annual financial statements. A tax strategy must set out the following: the approach of the group to risk management and governance in relation to UK taxation; the attitude of the group towards tax planning affecting UK taxation; the level of risk in relation to UK taxation that the group is prepared to accept; and the approach of the group towards its dealings with the tax authority.

### **Selected National initiatives (2) – “Tech for Good” (France)**

The CEOs of the major digital companies attended the “Tech for Good” summit hosted by the French president at the Élysée Palace in 2018. This summit gave birth to working groups on issues that have become sources of tension between governments and “Big Tech”. These CEOs have chosen to sign a common pledge. This initiative is not legally binding. Signatories to the “Tech for Good Call” commit to “contribute fairly to the taxes in countries where (they) operate”; prevent the dissemination of “child sexual abuse material, terrorist or extreme violence online contents”; and “support the ecological transition”, among other things.

### **Selected National initiatives (3) – Expert Group on CSR (Finland)**

In December 2020, Finland set up a new expert group to provide input on possible new policies obliging companies to take action to prevent adverse effects on human rights and the environment. The group’s mandate will last until 1 February 2022. The group will be composed of representatives of both private and public sector and will remain open to other stakeholders as well. The establishment of the expert group follows the Finnish government’s commitment to promote corporate social responsibility both in Finland and within the EU.<sup>7</sup>

### **Selected Stakeholder Initiatives (1) – NGO discussion paper on responsible corporate tax behaviour**

In November 2015, the NGOs Action Aid, Christian Aid, and Oxfam, published a discussion paper titled Getting to Good – Towards Responsible Corporate Tax Behaviour<sup>8</sup>. This paper aims to consider how the concept of tax responsibility, beyond a focus just on legal compliance, can benefit both companies and the developing countries in which they operate. The first part of the paper describes why corporate tax is important for developing countries. The second part proposes examples of “tax responsible behaviour” across a number of areas of corporate tax responsibility.

### **Selected Stakeholder Initiatives (2) – Responsible Tax – CSR Europe**

In 2016, CSR Europe, a European business network for corporate social responsibility, launched a project on “Tax Transparency and Responsible Tax Behaviour”. The aim of this project is to improve corporate tax transparency and establish responsible tax behaviour as one of the main pillars of corporate social responsibility. In 2020 CSR Europe published a

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<sup>7</sup> For more information on the group: <https://tem.fi/en/-/ministry-of-economic-affairs-and-employment-to-appoint-a-working-group-to-support-the-drafting-of-legislation-on-responsible-business-conduct>

<sup>8</sup> [https://www-cdn.oxfam.org/s3fs-public/file\\_attachments/dp-getting-to-good-corporate-tax-171115-en.pdf](https://www-cdn.oxfam.org/s3fs-public/file_attachments/dp-getting-to-good-corporate-tax-171115-en.pdf)

*Blueprint for Responsible and Transparent Corporate Tax Behaviour*<sup>9</sup>. The blueprint aims to contribute to the debate and help companies embed tax in their sustainability strategy. The blueprint clarifies the concept of responsible and transparent tax behaviour in a number of key areas.

### **Conclusion**

The evolution of international norms has led to issues such as respect for human rights, environmental sustainability and other issues to become core parts of corporate social responsibility. In addition, investors are increasingly considering the stance of companies on wider CSR issues such as sustainability when making their investment decisions. However, tax has received less attention than the other elements of CSR. Should fair taxation be established as a core element of CSR? If so delegates are invited to consider what policies should the EU pursue.

### **Questions**

- 1. Do you agree that tax should form a part of company's Corporate Social Responsibility strategy?**
- 2. What is currently being done by companies to ensure that tax strategy is an element of their CSR strategy? What is being done by Member States?**
- 3. What elements of tax policy should feature in an effective CSR strategy?**
- 4. What could the EU do to promote tax good governance as a key element of CSR?**

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<sup>9</sup>[https://static1.squarespace.com/static/5df776f6866c14507f2df68a/t/60083da5235754419b81f226/1611152809638/A\\_Blueprint\\_for\\_Responsible\\_and\\_Transparent\\_Tax\\_Behaviour.pdf](https://static1.squarespace.com/static/5df776f6866c14507f2df68a/t/60083da5235754419b81f226/1611152809638/A_Blueprint_for_Responsible_and_Transparent_Tax_Behaviour.pdf)