

Tuesday 4 October 2022

P9_TA(2022)0335

Impact of new technologies on taxation: crypto and blockchain**European Parliament resolution of 4 October 2022 on the impact of new technologies on taxation: crypto and blockchain (2021/2201(INI))**

(2023/C 132/02)

The European Parliament,

- having regard to the Commission communication on 15 July 2020 entitled ‘An action plan for fair and simple taxation supporting the recovery strategy’ (COM(2020)0312),
 - having regard to the Commission proposal of 24 September 2020 for a regulation of the European Parliament and of the Council on markets in crypto-assets (COM(2020)0593),
 - having regard to the Commission communication of 24 September 2020 on a digital finance strategy for the EU (COM(2020)0591),
 - having regard to the report of the Organisation for Economic Co-operation and Development (OECD) of 12 October 2020 entitled ‘Taxing Virtual Currencies: An Overview of Tax Treatments and Emerging Tax Policy Issues’,
 - having regard to the Commission communication of 18 May 2021 entitled ‘Business Taxation for the 21st Century’ (COM(2021)0251),
 - having regard to the 2021 working paper on taxation and structural reforms by the Joint Research Centre of the Commission entitled ‘Cryptocurrencies: an empirical view from a tax perspective’,
 - having regard to the Commission proposal of 20 July 2021 for a regulation of the European Parliament and of the Council on information accompanying transfers of funds and certain crypto-assets (COM(2021)0422),
 - having regard to the World Bank’s working paper entitled ‘Crypto-Assets Activity around the World: Evolution and Macro-Financial Drivers’ published on 8 March 2022,
 - having regard to the public consultation document of the OECD released on 22 March 2022 entitled ‘Crypto-Asset Reporting Framework and Amendments to the Common Reporting Standard’,
 - having regard to its study of 15 October 2018 entitled ‘VAT fraud: economic impact, challenges and policy issues’, its study of July 2018 entitled ‘Cryptocurrencies and blockchain — Legal context and implications for financial crime, money laundering and tax evasion’ and its study of 15 February 2018 entitled ‘Impact of Digitalisation on International Tax Matters’,
 - having regard to its study of 21 October 2021 entitled ‘Exploring the opportunities and challenges of new technologies for EU tax administration and policy’,
 - having regard to Rule 54 of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs (A9-0204/2022),
- A. whereas the use of new technologies in the EU single market and the digitalisation of tax administrations across Europe are transforming relations between taxpayers, namely citizens and companies, on the one hand, and national tax authorities on the other; whereas the EU could play a leading role in ensuring that the procedural and technical aspects of the digitalisation of tax administrations are coordinated to avoid barriers to the interoperability of national technical platforms;

Tuesday 4 October 2022

- B. whereas the different characteristics of different types of crypto-assets and the boundaries between different kinds of crypto-assets might be relevant for determining their tax treatment;
- C. whereas the market dynamic of crypto-assets shows that there is a need to create a clear, stable and transparent legal framework;
- D. whereas tax authorities today face many challenges regarding effective tax enforcement and in particular cross-border cooperation, given the acceleration of digital transactions, the increasing mobility of taxpayers, the number of cross-border transactions and the internationalisation of economic operations and business models, as well as the risks of double taxation or complex aggressive tax schemes;
- E. whereas tax authorities need to keep up with potential risks for the sustainability of tax systems and their ability to enforce national and European legal frameworks regarding taxation;
- F. whereas new technological solutions, such as blockchain, can be used by tax administrations to better serve the needs of tax payers, to exchange information between jurisdictions, for various types of record-keeping, and to deter and/or address corruption, while such technologies can also be abused and serve as vehicles for illicit activities, with the criminal intent to avoid paying taxes; whereas the increased visibility of blockchain transactions, in particular, might facilitate tax administrations' efforts to combat tax fraud;
- G. whereas several tax administrations across Europe are already taking important steps towards the digitalisation of processes, although to varying degrees, making tax compliance easier, faster and more effective; whereas the use of new technologies still varies considerably between Member States; whereas national tax administrations, in general, need a further push for more incentives and awareness-raising measures to realise the potential in the field of technological and digital transformation; whereas technology can help facilitate cooperation between different government bodies, namely on matters related to taxation;
- H. whereas the increasing use of crypto-assets is forcing tax administrations to adapt current tax practices within the single market; whereas within the crypto-assets market, the identification of tax-relevant activities is complex, as it relies less on traditional financial intermediaries, who typically provide information for tax purposes;
- I. whereas five of the 27 Member States have specific legal provisions on the taxation of crypto-assets; whereas 19 Member States have administrative guidance on the taxation of crypto-assets;
- J. whereas the OECD Common Reporting Standard (CRS) has improved international tax transparency by requiring jurisdictions to obtain information on offshore assets held with financial institutions and automatically exchange that information with the jurisdictions of residence of taxpayers on an annual basis; whereas in most instances, however, crypto-assets will not fall within the scope of the CRS, which applies to traditional financial assets and fiat currencies;
- K. whereas there is an international effort and commitment to better regulate the fair taxation of the digital economy; whereas crypto-assets could be exploited to undermine existing international tax transparency initiatives, as recognised by the OECD; whereas, in this context, it is crucial for the EU to take a leading role, in particular through close cooperation between Member States to tax crypto-assets in a fair and transparent way;
- L. whereas the global economy is changing and becoming progressively digitalised, and whereas the principles underpinning the current international tax framework are progressively being outdated and can no longer ensure that profits are taxed where the economic activities generating those profits are performed and where value is created;
- M. whereas there is no international instrument regarding the taxation of crypto-assets and there is a wide spectrum of approaches to this matter taken by different countries; whereas the EU must lead the way to more inclusive financial participation of citizens, both within and outside its borders, in the relevant international platforms;
- N. whereas the OECD identifies, in its 2020 report on the taxation of virtual currencies, a number of material points to address, namely the definition of taxable events, the forms of income that are associated with virtual currencies, and how taxation can be adjusted to the nature and dynamics of crypto-assets in order to capture profits in a fair and efficient manner, among other aspects;

Tuesday 4 October 2022

- O. whereas the Union has already taken important steps towards a clear definition of certain crypto-assets and crypto-asset service providers and, more broadly, towards establishing a suitable regulatory framework for crypto-assets — the Markets in Crypto-Assets (MiCA) Regulation; whereas this framework and these definitions will facilitate the fair and simple taxation of these assets; whereas definitions of such crypto-assets must be aligned with international standards, namely those developed by the OECD and the Financial Action Task Force;
- P. whereas definitions of crypto-assets need to be uniform across the EU and aligned with international standards; whereas the same crypto-asset may be categorised as a 'tax object' in a number of different ways across the EU, resulting in different tax treatment;
- Q. whereas certain fields of tax policy are a national competence and cooperation between Member States remains essential and necessary to respond to the challenges posed to the integrity of the single market and the sustainability of tax systems, inter alia the increasing use of crypto-assets; whereas a framework of 27 significantly different approaches to crypto-asset taxation could lead to significant obstacles to the fulfilment of the objectives of the digital single market; whereas there is therefore a clear case for coordination and cooperation at EU level;
- R. whereas the EU and its single market must ensure an innovation-friendly environment for companies (in particular for small and medium-sized enterprises (SMEs) and start-ups) regarding new technologies in the area of financial services and crypto-assets; whereas this main goal requires a strong commitment from Member States with policies, namely on taxation, to ensure a stable, clear and secure regulatory framework for businesses to thrive and contribute to economic growth; whereas, finally, this effort requires strong commitment to safeguard citizens' rights, as taxpayers and consumers of financial services;
- S. whereas clear guidelines are essential for a fair and efficient taxation system that, if efficiently implemented by the Member States, could achieve beneficial reforms through reducing administrative costs and time, lowering barriers to entry and ensuring certainty and stability, which are prerequisites for competitiveness, as well as for bridging gaps among companies, especially for SMEs;
- T. whereas crypto-assets are a fast moving environment and policymakers need to deliver on equal terms; whereas the tax policy and tax evasion implications still need to be looked at closely, as they form an important aspect of the overall regulatory framework;
- U. whereas Parliament has already underlined that 'current international corporate tax rules are no longer suitable in the context of digitalisation and globalisation of the economy', and that 'developments in digitalisation and a stronger reliance on intangible assets and their increase in value chains create prospects and challenges in terms of traceability of economic operations and taxable events, including enabling of tax avoidance practices, especially when these operations are cross-border or take place outside the Union' ⁽¹⁾;
- V. whereas, unlike in traditional finance, the crypto world is sometimes organised in a decentralised way, making it more difficult to draw on intermediaries to assist tax authorities; whereas such intermediaries often serve as relevant information providers in traditional third-party tax reporting regimes; whereas on the intersection between the crypto sector and the traditional financial system, an intermediary such as an exchange is usually involved;

The potential of new technologies such as blockchain to better serve taxpayers, deter corrupt practices, empower tax administrations and tackle tax fraud and evasion

1. Considers that national tax administrations should be better equipped with the adequate resources to facilitate efficient tax collection, enforce rules, better serve taxpayers and ensure compliance; calls on the Member States to commit, in the light of the increased challenges of the digital transition, to making sufficient investments in human resources, including training, digital infrastructures and specialised personnel and equipment;

⁽¹⁾ European Parliament resolution of 10 March 2022 with recommendations to the Commission on fair and simple taxation supporting the recovery strategy (EP follow-up to the July Commission's Action Plan and its 25 initiatives in the area of VAT, business and individual taxation) (OJ C 347, 9.9.2022, p. 211).

Tuesday 4 October 2022

2. Calls on the Commission to explore in future legislative proposals how to ensure that the technology underpinning newly adopted legislation is intrinsically linked to the correct implementation of the legislation;
3. Points out that adapting the IT capacities of tax authorities through new emerging technologies, such as distributed ledger technologies like blockchain or artificial intelligence, promises to foster intelligent, effective and efficient tax and administrative procedures, deter and limit corruption, facilitate tax compliance by citizens and businesses, and increase the traceability and identification of taxable transactions and ownership of tangible and intangible assets in a globalised environment where cross-border transactions have increased, thus creating opportunities for better and more fairly designed tax systems to tax both mobile taxpayers and assets; asks the Commission to analyse and evaluate the effects on data protection and revenue of implementing a possible tax on personal data storage;
4. Stresses that emerging technologies such as distributed ledger technology and blockchain, through their unique features such as traceability and their capacity for storing immutable and reliable data, protecting that data's integrity, could offer a new way to automate tax collection; believes that this would ensure that people pay what they owe, assure efficient tax compliance and facilitate the collection of tax revenues at the source of the different stages of the lifecycle of a product or service in a timely manner, while protecting the personal data of citizens and guaranteeing a high standard of data protection;
5. Highlights the need to identify the best ways to use technology to strengthen the analytical capacity of tax administrations (through better data analysis), to standardise data to facilitate tax compliance for SMEs and taxpayers (including through common reporting standards), and to ensure that taxation better reflects the business environment in the digital age and at the same time guarantees high levels of data protection;
6. Takes note of the launch of the EU Advanced International Administrative Cooperation Community (EU AIAC Community) and the valuable contribution of the Tax Administrations EU Summit (TADEUS) to the debate on the impact of new technologies on the work of national tax authorities; calls on the Commission, therefore, to involve these forums in the design of a special training programme for tax administration staff on the use of new technologies in the fight against tax fraud and tax evasion as well as to build on their role in the improvement of the interoperability of tax systems as regards the standardisation of data and automatic real-time data sharing in a cross-border context; recalls that such a programme must be integrated in the activity of the Fiscalis programme;
7. Highlights, however, that the use of blockchain, AI and other digital tools by tax administrations has its merits and risks, which must be properly mitigated, notably to prevent violations of privacy and biased and discriminatory treatment of taxpayers;
8. Highlights in particular the risks associated with data quality; notes in this regard that a permissioned blockchain, with restricted permissions granted to intermediaries, is crucial in the context of tax administrations and may help improve the integrity of the system as it allows tax information, among other data, to be shared in a secure environment;
9. Calls on the Commission to assess the ways in which different Member States tax crypto-assets and the different national policies regarding the fight against tax fraud and tax evasion in the field of crypto-assets, underlining best practices and potential loopholes, and taking advantage of cooperation platforms in the field of taxation, namely the Fiscalis programme; calls on the Commission, with the support of the Code of Conduct Group on business taxation, to tackle harmful tax practices in the area of crypto-assets in the EU;
10. Recognises that the impact of new technologies such as blockchain on tax matters can be viewed differently depending on whether the focus is on direct taxation (withholding tax, for example), indirect taxation (VAT or customs duties) or compliance; underlines the potential of distributed ledger technology to make the withholding tax system more efficient in each country, but also to facilitate seamless cross-border procedures and prevent fraudulent activity; advises the Commission to take into consideration the specific characteristics of each dimension; calls on the Commission to take account of existing digital solutions in the Member States and evaluate the opportunity to integrate blockchain-based solutions on information exchange platforms in order to promote real-time auditing and exchange of information while fully respecting EU data protection rules;

Tuesday 4 October 2022

11. Invites the Commission to evaluate the creation of a new platform for training and best-practice sharing between national tax authorities in the field of combating tax fraud and tax evasion in the digital economy, notably through the use of crypto-assets; understands that this new platform could be integrated in current initiatives such the Fiscalis programme;
12. Invites the Commission to continue evaluating the operational impact and tax governance aspects of blockchain and other distributed ledger technologies, notably through the Fiscalis programme;
13. Recalls its proposal for a Commission initiative on a ‘standard for online reporting of data for (in the first instance) cross-border Union trade, preferably by using data from e-invoicing (or from an alternative, but keeping the principle that the data must be provided only once), including efficient and highly secure centralised/decentralised data processing for detection of fraud’⁽²⁾;
14. Insists on its call on the Member States ‘to continue reforming tax authorities, to speed up digitalisation and to start implementing strategic approaches to support SMEs with tax compliance as well as to identify opportunities for burden reductions’⁽³⁾;
15. Calls on the Commission to explore all the opportunities created by the European Blockchain Services Infrastructure (EBSI) — a peer-to-peer network of interconnected nodes running blockchain-based services infrastructure — for national tax authorities, mainly in the area of VAT compliance, in full respect of the highest standards of data protection and privacy, with the aim of making multiple and innovative blockchain protocols available to them, and with the mission of assisting national tax administrations in their adaptation to the use of such technologies;
16. Recalls the importance of the European Taxpayer Identification Number (TIN) and calls on the Commission to evaluate the added value of blockchain-based technologies in assuring a proper cross-border tax identity, with high standards of data protection and privacy safeguards;

Taxation challenges regarding crypto-assets

17. Considers that crypto-assets must be subject to fair, transparent and effective taxation in order to guarantee fair competition and a level playing field between the tax treatment of assets and financial products and between financial services providers; understands that decisions on the taxation of crypto-assets lie with Member States, in accordance with the Treaties; invites authorities to consider a simplified tax treatment for occasional or small traders and small transactions; stands for an innovation-friendly environment in the digital single market, where entrepreneurs, SMEs and start-ups can thrive, generate growth, create jobs and contribute to economic recovery through tax revenues under an effective regulatory framework;
18. Notes that digital economy operators can engage in significant business activities in a Member State without establishing a physical presence there, and therefore taxes paid in one jurisdiction no longer reflect the value and profits created there; underlines, therefore, the need to adapt the concept of permanent establishment, namely with a clear definition of virtual permanent establishment, in line with international standards; recalls, therefore, the importance of an effective transposition of pillar one of the OECD/G20 Inclusive Framework on Base Erosion and Profit Shifting;
19. Acknowledges that the definition of the tax base for crypto-assets is one of the core issues for tax policy; notes that there is currently no internationally-agreed standard definition of crypto-assets and the types of assets that the term should include; understands the need for such a definition as a main priority in the European legislative framework in order to guarantee a leading position for the Union at international level; understands that the OECD, mandated by the G20, is working on a new global tax transparency framework to provide for the reporting and exchange of information with respect to crypto-assets;

⁽²⁾ OJ C 347, 9.9.2022, p. 211.

⁽³⁾ European Parliament resolution of 15 February 2022 on the impact of national tax reforms on the EU economy (OJ C 342, 6.9.2022, p. 14).

Tuesday 4 October 2022

20. Considers that it is necessary to have a clear, broadly accepted definition of crypto-assets for tax purposes; underlines that this definition should be aligned with that of the MiCA Regulation; insists on the need to guarantee systematic coherence between the several legal instruments that regulate or will regulate crypto assets (for example the MiCA Regulation, the Transfer of Funds Regulation⁽⁴⁾, the Administrative Cooperation Directive⁽⁵⁾ and other anti-money laundering-related initiatives) and, most importantly, to safeguard legal certainty and stability;
21. Points out that with crypto assets, there may be different options to define a relevant taxable event such as the creation of coins via mining, the exchange of crypto-assets into fiat currency or other crypto-assets, a hard fork or the staking of crypto-assets; notes that a coherent definition of a taxable event needs to be found in order to ensure a proper level of taxation, while avoiding instances of double taxation;
22. Calls on the Commission to present an assessment on the conversion of one type of crypto-asset into a different kind of crypto-asset and present options on defining the taxable event, bearing in mind the risk of increasing the number of taxable events considerably while creating significant valuation problems; calls on the Commission to check the option that the conversion of a crypto-asset into fiat currency might be a more appropriate choice for a taxable event, if gains have been made;
23. Notes that each country tends to use their own terminology when designing their national regulatory solutions to crypto-assets, which could cause legal uncertainty for citizens and companies, be a threat to the integrity of the EU single market as cross-border cooperation could be significantly impaired, inadvertently create loopholes providing opportunities for tax abuse and avoidance and be exploited to undermine existing international tax transparency standards such as the CRS;
24. Emphasises that the dynamic of the markets in crypto-assets⁽⁶⁾ makes it urgent to have rules in place defining the type of taxation to be applied, the definition of the taxable event, the timing of when and where a taxable event occurs and its valuation;
25. Points out that the taxation of crypto-assets in cross-border situations is linked to several dimensions of tax policy such as income tax and VAT and that currently such dimensions are distributed between national and European competences, but that the benefits of a common European approach might be most marked in areas linked, among others, to administrative cooperation, exchange of information and corporate taxation;
26. Calls on the Commission to consider the dimension of crypto-assets, digitalisation and new technologies in all its planned and future legislative proposals on tax matters, in particular the upcoming proposal entitled 'Business in Europe: Framework for Income Taxation' (BEFIT); calls on the Member States, in this context, to be ambitious and lead the international debate;
27. Calls on the Member States to consider the specificities of the use of crypto-assets in their national tax reforms, and to consider implementing more effective systems that ensure lower compliance costs and administrative burdens, but that guarantee, at the same time, the fair, transparent, proportionate and effective taxation of crypto-assets; highlights that temporary and justified tax incentives may be appropriate for promoting technological innovation and development, particularly of the blockchain technology sector; highlights the key importance of common reporting standards for crypto-asset service providers as well as individuals and entities;
28. Calls on Member States to treat different types of crypto-assets in a manner that is consistent with the tax treatment of similar non-crypto assets;
29. Calls on the Member States to consider the EU policy objectives as enshrined in Article 3 of the Treaty of European Union, especially a highly competitive social market economy and a high level of protection and improvement of the quality of the environment, in the framework of their legislative options regarding the tax treatment of crypto-assets;
30. Asks the Commission to evaluate whether the tax treatment of crypto-assets compared to the tax treatment of other assets is consistent and fair, especially regarding the VAT treatment of those assets;

⁽⁴⁾ Regulation (EU) 2015/847 of the European Parliament and of the Council of 20 May 2015 on information accompanying transfers of funds (OJ L 141, 5.6.2015, p. 1).

⁽⁵⁾ Council Directive 2011/16/EU of 15 February 2011 on administrative cooperation in the field of taxation (OJ L 64, 11.3.2011, p. 1).

⁽⁶⁾ The economic size of the cryptocurrencies market was valued at EUR 2,2 trillion in May 2021, with a peak of EUR 2,5 trillion in October 2021 (Joint Research Centre of the Commission, 2021).

Tuesday 4 October 2022

Moving forward with the development of an effective regulatory/legal framework

31. Points out that the crypto-asset landscape is global and that the tax treatment of crypto-assets requires a coordinated international approach; understands, in this regard, the need to further negotiate international instruments on the matter; considers that the OECD, which has already done substantial work on both taxation and the treatment of crypto-assets, could be a suitable forum in this regard, notably for the revision of the CRS;
32. Notes that the OECD has already commenced work on a new crypto-asset reporting framework;
33. Considers that the absence of an international agreement on the taxation of crypto-assets leaves the EU and its Member States without a foundation on which to build an intelligent and future-driven approach;
34. Calls on the Commission to present an assessment of major taxable events and forms of income associated with crypto-assets, focusing on the tax consequences of a number of key operations such as the issuance of crypto-assets, the exchange of crypto-assets for fiat currencies, goods or services, and bestowal via gift or inheritance, as well as loss or theft, etc.;
35. Asks the Commission to conduct an impact assessment on the best practices identified to fairly and effectively tax crypto-assets, respecting the set of EU competences in tax matters, to look into the role of crypto-asset services providers and to determine to what extent crypto-assets fit within the existing tax framework; takes the view that tax policy should be integrated within a sound regulatory framework for crypto-assets and that it should be coherent with other policy aspects including tax transparency and legal, financial and consumer protection requirements;
36. Recalls that a fully integrated EU single market requires a common approach on the taxation of crypto-assets, respecting competences defined by the Treaties; calls on the Council, therefore, in its Economic and Financial Affairs Council formation, to initiate a structured dialogue with Parliament on this matter; calls also on the president of the Eurogroup to put forward a debate on the taxation of crypto-assets with the finance ministers of the euro area;
37. Believes that it is necessary to amend the scope of the Administrative Cooperation Directive so that the exchange of information framework in the field of taxation includes crypto-assets and e-money; calls on the OECD to adopt without any further delay a new definition of a reporting standard for the exchange of information; considers that the revision of the Administrative cooperation Directive is a priority in the field of taxation; calls on the Commission to include in its future revision of the Directive, without any delay, the future OECD recommendations on crypto-asset reporting and revisions of the CRS as well as Parliament's recommendations as laid out in its resolution on the implementation of the EU requirements for exchange of tax information⁽⁷⁾; calls on the Council to swiftly adopt these proposed changes;
38. Stresses the importance of guaranteeing that a future revision of the Administrative Cooperation Directive will complement reporting obligations under other legal instruments, by helping authorities to automatically exchange data about crypto-assets and e-money so that they can assess income and revenue from investments and payments using crypto-assets and e-money; underlines the need to safeguard a systematic coherence that provides legal certainty to operators and technical guidance to national tax authorities;
39. Calls on the Commission and national public authorities to ensure that blockchain technology that is used to enforce rules or provide public services complies with fundamental rights, as well as standards related to cybersecurity and anti-money laundering and combating the financing of terrorism;
40. Encourages the Commission to take account of existing digital solutions, legal provisions and administrative guidance used in Member States in order to assess how to leverage blockchain and other distributed ledger technologies to prevent tax fraud and tax avoidance and to address corruption; supports the development of a European blockchain services infrastructure;
41. Asks the Commission to evaluate how to support improved tax compliance, taking into account the fast moving values of crypto-assets and the lack of obvious translation into fiat currency in some cases, but also the challenge for tax administrations to obtain reliable and timely information on these transactions;

(7) European Parliament resolution of 16 September 2021 on the implementation of the EU requirements for exchange of tax information: progress, lessons learnt and obstacles to overcome (OJ C 117, 11.3.2022, p. 120).

Tuesday 4 October 2022

42. Considers that, insofar as the crypto sector is currently in transition and is not expected to stabilise in the near future, the need to assess the situation should not prevent the EU institutions from legislating on better supervision and better taxation of crypto-assets;

43. Points out the need for frequent review and adaptation of tax policy in order to be able to respond to the evolutions of the sector and to ensure that it remains relevant in the face of technological and market developments related to virtual currencies and other emerging asset types;

o

o o

44. Instructs its President to forward this resolution to the Council and the Commission.
