

European Commission elects new President of the European Commission, President-elect publishes manifesto including tax focus areas

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Executive summary

On 16 July 2019, Ursula von der Leyen, Germany's most recent Defense Minister, was elected President of the European Commission for a five-year term by a secret ballot vote by the Members of the European Parliament with a margin of 383 votes to 327. Von der Leyen will take over the President's role from Jean-Claude Juncker on 1 November 2019.

Von der Leyen is a member of Germany's center-right Christian Democratic Union (CDU), party and is regularly described by the media as being an ally of Chancellor Angela Merkel.

Other Commissioners, including the European Commissioner for Taxation and Customs (a post currently held by Pierre Moscovici) will be selected in the near future. Each of the Member States will nominate a Commissioner-designate. The President then assigns particular areas of responsibility to each Commissioner-designate. Finally, the Commissioners-designate must appear before the parliamentary committees in their prospective fields of responsibility and must be approved by the Parliament before taking office on 1 November 2019.

Shortly before her election, Von der Leyen published her manifesto,¹ which includes information on her views on several tax issues.

Detailed discussion

The division of competences between the European Union (EU) and its Member States is different for different topics. The power to tax lies in the EU Member States' hands, with the EU only having limited competences with respect to tax. These competences are directed toward the functioning of the single market.

Tax measures must be adopted unanimously by the Member States through their representation in the European Council.² The European Commission drafts any legislative proposals, such as Directives, on which the Council votes. The European Parliament must be consulted, but does not have decision making powers.

Von der Leyen's manifesto outlines her views in the following tax policy areas:

- ▶ **Taxation of the digital economy:** In relation to fair taxation, she states that the "EU and international corporate tax systems are in urgent need of reform." Referring to "big tech companies," she notes that proposals are currently being discussed in the Inclusive Framework to address the taxation of the digital economy, but that if no solution is agreed by the end of 2020, the EU should act alone on a "fair digital tax."
- ▶ **Common consolidated corporate tax base (CCCTB), tax fraud and harmful tax regimes:** To allow for deeper integration of the single market and encourage growth, Von der Leyen states that she will "fight to make [the CCCTB] a reality." She also says she will "step up the fight against tax fraud and make our action against harmful tax regimes in third countries stronger."
- ▶ **Qualified majority voting:** Von der Leyen states that she "will make use of the clauses in the Treaties that allow proposals on taxation to be adopted by co-decision and decided by qualified majority voting in the Council."

- ▶ **Carbon border tax:** As part of a set of measures under a "European Green Deal," Von der Leyen supports a tax aimed at imports from certain industries in countries which are not enforcing reductions in carbon emissions, e.g., as part of the Paris climate agreement. Such a levy has periodically been suggested as a way to protect European competitiveness given lower environmental standards in some non-EU countries.
- ▶ Von der Leyen also states that she will review the **Energy Taxation Directive**.

In a speech in the European Parliament prior to her election, Von der Leyen also made several significant pledges, including that she would drive to secure "the right of initiative" for the European Parliament, meaning that the European Commission, currently the only European entity permitted to draft laws, would in the future have to legislate on resolutions by Members of the European Parliament. In the past, she has also indicated that she favors allowing a further extension of the United Kingdom's withdrawal date from the EU "should more time be required for a good reason."

Implications

Some of the views expressed by Von der Leyen in her manifesto reflect a relatively left-wing/green approach. Although the European Parliament only has a right to be heard with respect to EU direct tax legislation, it can be expected that the Parliament will push hard on her to deliver on her positions.

While many of Von der Leyen's positions as reflected in her manifesto are consistent with policy positions of the current Commission, others, such as the right of initiative and the use of qualified majority voting in the area of taxation, represent a significant departure from existing European protocols.

Companies with operations in the EU should monitor the ongoing tax work of the European Commission.

Endnotes

1. https://ec.europa.eu/commission/sites/beta-political/files/political-guidelines-next-commission_en.pdf.
2. The European Council is a collective body that defines the European Union's overall political direction and priorities. It comprises the heads of state or government of the EU Member States, and the President of the European Council and the President of the European Commission.

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