



EUROPEAN COMMISSION  
DIRECTORATE-GENERAL  
TAXATION AND CUSTOMS UNION

Direct taxation, Tax Coordination,  
Economic Analysis and Evaluation  
Company taxation initiatives

22 February 2011

## Consultation paper

### Note

This document is being circulated for consultation to all interested parties concerned by an initiative on the taxation of the financial sector. The purpose of this consultation is to invite stakeholders to test the assumptions and collect related evidence as regards the definition of the problems to be addressed by the initiative, to assess the impacts of the set of policy options and to consult on more detailed aspects of the design of the policy options.

This document does not necessarily reflect the views of the European Commission.

Each contribution received will be acknowledged.

Contributions received, together with the identity of the contributor, will be published on the Internet, unless the contributor objects to publication of personal data on the grounds that such publication would harm his or her legitimate interest. In that case, the contribution may be published anonymously. Otherwise the contribution will not be published and its content will not, in principle, be taken into account. For more detailed information on how your personal data and contribution will be treated, we recommend that you read the specific privacy statement.

In the interests of transparency, organisations responding to this consultation are invited to provide the public with relevant information about themselves by registering in the Interest Representative Register and by subscribing to its Code of Conduct

(see <https://webgate.ec.europa.eu/transparency/regrin/welcome.do?locale=en>).

If the organisation is not registered, its submission will be published separately from those of registered organisations.

The parties concerned are invited to submit their comments no later than **19/04/2011**

## IDENTIFICATION OF THE STAKEHOLDER

The Commission services would be interested in receiving contributions from all interested parties. In order to correctly assess the responses, it will be useful to group the answers by type of respondent. Therefore, respondents are requested to provide the following information:

- Name and address of the respondent, relevant contact details (including email address for contact)

LITHUANIAN FREE MARKET INSTITUTE  
JASINSKIO 16 A  
VILNIUS  
LITHUANIA

- If you are registered with the Commission as an "interest representative"<sup>1</sup> your identification number

---

- Are you a recognised European social partner organisation or a representative of a European (sectoral) social dialogue committee

NO

- Field of activity of the respondent. Please specify your field of activity. Please indicate if you are directly affected by any of the measures and if so, which one and to what extent:

PRIVATE NON-PROFIT NON-PARTISAN ORGANIZATION

- If the respondent is an association of stakeholders, how many members do you represent and what is your membership structure?

---

- Do you object to publication of personal data on the grounds that such publication would harm your legitimate interests?

NO

- Do you agree to having your response to the consultation published along with other responses?

YES

---

<sup>1</sup> <https://webgate.ec.europa.eu/transparency/regrin/welcome.do?locale=en>

## **1. What is the aim of this consultation?**

The Commission is launching this public consultation in order to receive feedback from market participants, regulators, social partners, NGOs and other stakeholders on its initiative for the taxation of the financial sector. In particular, the Commission would like to (i) test its assumptions and collect related evidence as regards the definition of the problems to be addressed by the initiative, (ii) to assess the impacts of the set of policy options and (iii) to consult on more detailed aspects of the feasibility and design of the policy options. Comments that address the issues from an EU-wide perspective would be most useful, although important country-specific comments are welcome too.

Due to the nature of taxes as revenue for the general budget, the issues on the government spending of the potential revenues derived from the (additional) taxation of the financial sector under the initiative are not addressed at this stage. The Commission believes that it is important to first determine whether such a new financial sector tax should be introduced, which potential impacts it has and, if so, how it should be designed and implemented in order to maximise its benefits. Any debate on the use of the revenue would be held at a later stage.

## **2. Who is consulted?**

All citizens and organisations are welcome to contribute to this consultation. Contributions are particularly sought from market participants, investors, consulting firms, national governments or their agencies, regulatory authorities, academics, and other professional organisations in the financial sector as well as social partners and NGOs.

## **3. Background**

### *Reasons for addressing the issue*

On 7 October 2010, in its Communication "Taxation of the Financial Sector"<sup>2</sup> the European Commission has set out the possible reasons and first ideas for future (additional) taxation of the financial sector. The reasons for addressing the issue and the resulting broad features of the policy responses are outlined below.

<b>Reasons for addressing the issue</b>	<b>Broad features of the policy responses</b>
Substantial public financing support during the crisis, need for fiscal consolidation and possible under-taxation of the financial sector.	Fair and substantial contribution to public finances by the financial sector.
Undesirable behaviours for the society as a whole (systemic risks), e.g. excessive risk taking.	The features of the measures would need (complementary to financial institutions regulation) to correct the undesirable behaviours.
Uncoordinated patch-work of national measures may: - create incentives for tax-driven relocation either within the EU or outside the EU and distortion of competition; - create situations of unrelieved juridical double taxation	The EU approach would tackle the issues of relocation within the EU while a global approach would tackle the relocation outside the EU. A coordinated approach to the taxation of the financial sector would prevent any juridical double taxation or non-taxation arising from those new taxes and avoid distortion of competition.

### *Policy measures*

<sup>2</sup>

[http://ec.europa.eu/taxation\\_customs/taxation/other\\_taxes/financial\\_sector/index\\_en.htm](http://ec.europa.eu/taxation_customs/taxation/other_taxes/financial_sector/index_en.htm)

In its Communication of 7 October 2010 the Commission already provided a preliminary analysis of possible measures for the taxation of the financial sector. Amongst other things, the Communication distinguished between two approaches.

- At global level, a Financial Transactions Tax (FTT) could help fund international challenges. The FTT could tax every transaction generally speaking based on its transaction value. If the FTT is well-implemented and globally-applied, it could be a way to raise large funds. The Commission will support further exploration and development of the FTT within the G20.
- At EU level, the Commission considered that there is greater potential for a Financial Activities Tax (FAT), in principle a tax on profits and wages. If carefully designed and implemented, an EU FAT could generate significant revenues, without posing an undue risk of relocation.

It must be stressed that the policy options are not limited to those outlined in this document and additional policy options may be proposed by the respondents to this public consultation. In particular, this public consultation includes additional questions on the cumulative effects of other measures like bank levies<sup>3</sup>.

#### **4. Further details and questions submitted to the public**

Please answer the questions below adding any evidence to support your opinion. It is possible to give more than one answer per question. Please include any further comments not covered already at the end of the questionnaire.

##### 4.1 Problem definition

The initial analysis of the Commission has shown that the financial sector has benefited from substantial public support during the crisis and shall therefore make a fair and substantial contribution to fiscal consolidation efforts. The crisis has revealed some shortcomings in the governance or behaviour of financial markets or financial institutions that may be addressed by tax measures as a complement to new regulation and supervision. Since several Member States are already imposing additional taxes on the financial sector, there are growing concerns that an uncoordinated approach may lead to tax-driven relocation, distortions of competition and juridical double taxation or non-taxation.

##### *Fiscal consolidation efforts*

*Q1: Do you consider it justifiable that the revenue side of fiscal consolidation efforts of Member States are targeting the financial sector?*

1. Yes, because \_\_\_\_\_
2. No, because fiscal consolidation should primarily consist of reducing expenditure rather than increasing revenues. As a region, the EU already has the highest tax burden and it should not be increased any further. Tax revenues will start increasing once the economies recover and any increases in the tax burden may stall the coming recovery and thus contradict the goal of increasing tax revenues.
3. Cannot decide
4. Other \_\_\_\_\_

<sup>3</sup> The term levy is used in a more general term that can encompass both taxes and fees, without prejudging the use made of the collected revenue.

Please explain further and provide evidence, if you have any.

*Q2: Do you find it problematic that Member States introduce patch-work national measures without coordination?*

1. Yes, because \_\_\_\_\_
2. No, because \_\_\_\_\_
3. Cannot decide
4. **Other**

Member states should not be introducing measures to tax the financial sector at all. There should neither be patch-work national nor pan-European measures targeting this area.

Please explain further and provide evidence, if you have any.

*Responsibility for the crisis*

*Q3: Do you consider that shortcomings in the governance or behaviour of financial markets or financial institutions were one of the major reasons for the financial and economic crisis?*

1. Yes, entirely
2. Yes, to a great extent
3. No, just as much as the other sectors
4. No, it was due to government policies mostly
5. Cannot decide
6. **Other**

The main reason for the economic crisis was low interest rate policy pursued by the Federal Reserve System and the European Central Bank, among others.

Government policies that increased public expenditure are also to blame. For years, governments ran budgetary deficits and once their tax revenues fell sharply, were faced with a risk of default.

Please explain further and provide evidence, if you have any.

*Q4: Which sectors and activities within the financial sector had to do most with the crisis?*

1. Investment banking
2. Insurance sector
3. Investment and pension funds
4. Alternative investment funds
6. Traditional (commercial and retail) banking
7. Cannot decide
7. **Other**

Central banks, because they pursued the policy of low interest rates which distorted incentives and encouraged malinvestment.

Please explain further and provide evidence, if you have any.

*Q5: Do you consider those shortcomings in the governance or behaviour of financial markets or financial institutions to be an EU-wide problem?*

1. Yes, it affected all EU Member States
2. Yes, it affected most EU Member States
3. No, it only affected some/very few EU Member States
4. No, it only affected some/very few EU Member States and spilt over to others
5. Cannot decide
6. **Other**

This problem arises in the countries where central banks pursue independent monetary policy and it also affects other countries. Central banks pursue the policy of low interest rates which distorts incentives and encourages malinvestment.

Please explain further and provide evidence, if you have any.

#### *Under/over-taxation*

*Q6: Do you consider the financial sector in the EU to be under-taxed (e.g. because of VAT exemption, exemption from thin capitalization rules, higher economic rent i.e. excess profits) or overtaxed (e.g. because of special additional taxes already implemented) with respect to other sectors of economic activity?*

1. It is under-taxed, because it enjoys the following benefits \_\_\_\_\_
3. It is not under-taxed compared to other sectors
4. It is over-taxed, because it suffers the following additional taxation \_\_\_\_\_
5. Cannot decide
6. **Other**

It is impossible to define the criteria of under taxation. Taxation as such always distorts and harms markets, therefore it has to be lowered. Relatively lower taxes in a sector cannot be the reason for introduction of new taxes.

Please explain further and provide evidence, if you have any.

*Q7: Which sectors and/or activities within the financial sector do you think are most under-taxed/over-taxed?*

1. Investment banking is under-taxed
2. Insurance sector is under-taxed
3. Alternative investment funds are under-taxed
4. Investment and pension funds are under-taxed
5. Traditional (commercial and retail) banking is under-taxed
6. Investment banking is over-taxed
7. Insurance sector is over-taxed
8. Alternative investment funds are over-taxed
9. Investment and pension funds are over-taxed
10. Traditional (commercial and retail) banking is over-taxed
11. Cannot decide

**11. Other**

There is no under or over taxation.

Please explain further and provide evidence, if you have any.

#### 4.2. Taxation as a relevant measure

*Q8: What do you think of tax measures, versus regulatory measures and levies (connected to the financing of funds to ensure the proper resolution of financial institutions)?*

1. Tax measures are sufficient on their own
2. Tax measures may be used for policy aspects not tackled by other measures
3. Tax measures may be used cumulatively with other measures
4. Tax measures must not be used when other measures are in place, the cumulative cost of taxes and regulation is too high
5. Tax measures shall be left to the discretion of Member States due to subsidiarity concerns
6. Taxes would extract cash flow from the financial sector and reduce the ability to increase loss absorbing equity as foreseen by regulatory reforms
7. Cannot decide
8. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q9: Do you consider that an FTT or an FAT could lead to cumulative social and economic effects in combination with any of the ongoing regulatory reforms in the financial sector, including the banking levy (see COM 2010(301)final)<sup>4</sup>?*

1. Yes, because \_\_\_\_\_
2. No, because \_\_\_\_\_
3. Cannot decide
4. Other

An FAT would have a harmful cumulative effect with various new regulations that affect the remuneration practices of the financial sector: Commission recommendations on remuneration policies SEC(2009) 580 and SEC(2009) 581, Capital Requirements Directive (CRD III) SEC(2009) 975.

*Please explain further and provide evidence, if you have any.*

#### 4.3. Financial transaction tax (FTT)

The FTT would tax transactions based on their transaction value, regardless of the nature of the parties involved. Such a tax would be applied to financial transactions in particular those carried out on organised markets such as the trade of equity, bonds, derivatives, currencies, etc. However, to avoid distortions it should also be envisaged to include over-the-counter-trade of financial products. Therefore, its impact is not limited to the financial sector *per se*. It may be levied at a relatively low statutory rate and would in principle apply each time the asset is traded. The tax collection would in general be via the trading system (where possible) which executes the transfer.

*Q10: At what level do you think that the FTT will be most effective?*

1. EU level, because there may never be a G20 agreement and the EU must lead by example
2. Global level, because otherwise the trade relocation incentives would be rather big
3. The FTT will not be effective at any level because \_\_\_\_\_
4. Cannot decide
5. Other

First of all, it is no clear what “effective” refers to. It must be stressed that there is no case for an FTT. This tax should not be introduced.

<sup>4</sup> [http://ec.europa.eu/internal\\_market/finances/docs/general/com2010\\_en.pdf](http://ec.europa.eu/internal_market/finances/docs/general/com2010_en.pdf)

Please explain further and provide evidence, if you have any.

Two alternatives have been discussed so far - broad based FTT, and a narrow based FTT.

The *broad based FTT's* product scope is to tax stock (including units in investment/pension funds), bond, currency and derivative transactions on exchanges as well as over-the-counter (OTC) traded instruments. The tax base for spot transactions is the price paid or to be paid, while the one for derivative transactions is in principle the value set for the underlying.

The *narrow based FTT* would be limited to stocks and bonds.

*Q11: Do you think that a broad based financial transaction tax is a viable instrument?*

1. Yes, because it has the potential to provide substantial revenues (fair and substantial contribution)
2. Yes, but a broad based financial transaction tax must exclude (certain) currency transactions in order to comply with the free movement of capital
3. No, because in case of an FTT implemented at EU level only the transactions will simply move outside the EU, hurting EU competitiveness
4. No, because the impacts on markets (e.g. liquidity, volatility) are not predictable
5. No, because this shall be addressed by changing the VAT rules for the financial sector
6. Cannot decide
7. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q12: What do you consider as an appropriate connecting factor for the place of levying of the tax?*

1. The place of trading, because it is easy to collect (but with potential for relocation issues)
2. The place where the seller of the instrument is established (but with collection issues)
3. The place where the buyer of the instrument is established (but with collection issues)
4. The places where the buyer and the seller of the instrument are established would tax each by ½ of the rate (somewhat complicated, but addressing issues of swaps for example)
5. The place where the initial issuer is established (not always disposing of the info)
6. The place where the financial intermediary of the buyer/seller is established
7. Cannot decide
8. Other (including a combination of the above)

There is no case for bank levies and they should not be introduced.

Please explain further and provide evidence, if you have any.

*Q13: Do you think that the value set for the underlying is (in general) a correct tax base for derivatives?*

1. Yes, because the investors' returns are based on it allowing substantial leverage
2. Yes, because the great part of/all such derivatives are speculative transactions and shall bear substantially higher tax.
3. Yes, because there is no other reference value for some derivatives (e.g. forwards, swaps, etc.)
4. No, because the tax as related to the investment is disproportionate and will close that legitimate business without producing the revenues expected.
5. No, because derivatives are often used for risk hedging purposes and that does not deserve a disproportionate tax burden

6. Cannot decide
7. Other (including a combination of the above) \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q14: Do you consider that there would be a risk of financial engineering around the broad-based or narrow-based FTT that would undermine the objectives of the measure?*

1. Yes, there is such a risk to the narrow-based FTT and it relates to the following \_\_\_\_\_
2. Yes, there is such a risk to the broad-based FTT and it relates to the following \_\_\_\_\_
3. No, there is no such a risk, because \_\_\_\_\_
4. Cannot decide
5. Other (including a combination of the above) \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q15: What do you think of the FTT designed as a cumulative tax, i.e. every subsequent sale is taxed at the full amount of the transaction without any deduction of previously paid FTT?*

1. It is justified, because this will target exactly the short-term speculative trading
2. It is justified, because it is an easy approach (less administrative burden) and the rate of the tax is very low
3. It is *not* justified, because not all short-term trading is speculative
4. It is *not* justified, because this will hinder the liquidity of the markets
5. Cannot decide
6. Other

There is no case for an FTT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q16: Would there be a need for specific exemption of certain transactions from the FTT or an exemption threshold?*

1. Yes, the FTT must exempt the following transactions \_\_\_\_\_
2. Yes, the FTT must exempt transactions below the following threshold \_\_\_\_\_
3. There is no need to exempt any transactions
4. Cannot decide
5. Other

There is no case for an FTT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q17: Do you think FTT rates should be differentiated depending on the type of product traded?*

1. Yes, because \_\_\_\_\_
2. No, because \_\_\_\_\_
3. Cannot decide
4. Other

There is no case for an FTT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q18: Do you think that the tax incidence of the tax will fall on the financial sector, or will it be shifted to the customers?*

1. It will fall on the financial sector because \_\_\_\_\_
2. It will be shifted to the middle class customers because \_\_\_\_\_
3. It will be shifted to the high net worth customers because \_\_\_\_\_
4. Cannot decide
5. Other

It is likely that the tax would fall on all customers and increase the final price of the product.

Please explain further and provide evidence, if you have any.

*Q19: What do you think of the administrative costs related to the broad-based FTT?*

1. They will be comparatively low, because \_\_\_\_\_
2. They will be comparatively high, because the broad-based FTT would require an introduction of a whole new administrative tax system on the EU level.
3. Cannot decide
4. Other \_\_\_\_\_

*Do you think that it would be the same for a narrow-based FTT?*

1. Yes, because the narrow-based FTT would also require an introduction of a whole new administrative tax system on the EU level.
2. No, because \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q20: What do you think of the effect on employment from broad-based FTT?*

1. It will have an overall negative effect on employment and/or remuneration in the financial sector and the economy as a whole
2. It will have a negligible effect on employment and/or remuneration in the financial sector and no effect on the economy as a whole
3. It will have an overall negative effect on employment and/or remuneration in the financial sector, but the financial sector is already bigger than it should be and the qualified workforce will benefit the non-financial sector
4. It will have an overall positive effect on employment because \_\_\_\_\_
5. In case the FTT is not globally implemented, qualified workforce will benefit companies/branches in non-taxing countries
6. Cannot decide
7. Other \_\_\_\_\_

*Do you think that it would be the same for a narrow-based FTT?*

1. Yes, because a narrow-based FTT would reduce demand for taxed products
2. No, because \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q21: What do you think of the effect on small and medium enterprises (SMEs) from broad-based FTT?*

1. It will have an overall negative effect SMEs because \_\_\_\_\_
2. It will have a negligible effect on SMEs because \_\_\_\_\_
3. It will have an overall positive effect on SMEs because \_\_\_\_\_

3. Cannot decide

4. Other

The FTT would eventually be shifted on the customers and increase the price of services in the financial sector, and thus it would increase the costs of running SME's.

*Do you think that it would be the same for a narrow-based FTT?*

1. Yes, because narrow based FTT would also be shifted on the the customers, and increase prices of financial services.

2. No, because \_\_\_\_\_

Please explain further and provide evidence, if you have any.

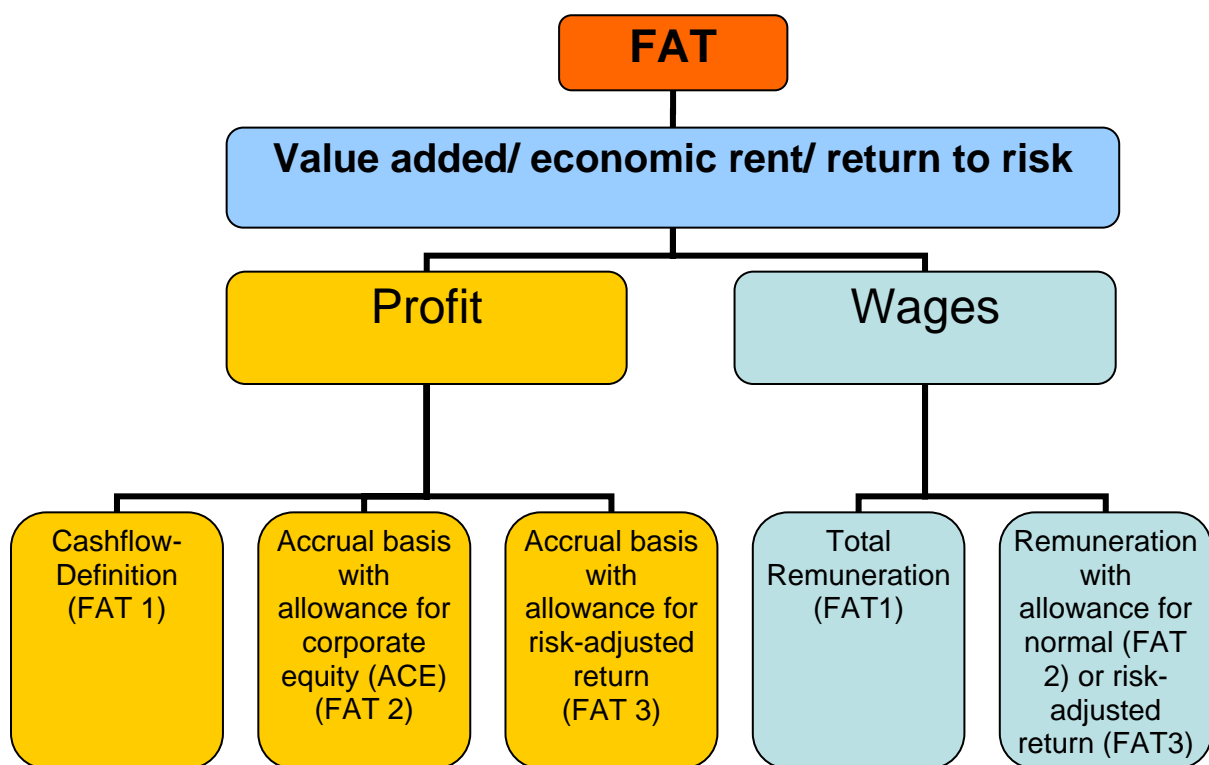
#### 4.4. Financial activities tax (FAT)

All forms of Financial Activities Taxes (FAT) are levied on the sum of profit and remuneration (wages)<sup>5</sup>. The FAT necessitates the definition of the scope of entities that it covers. In the case of an FAT on the financial sector, the latter would include banks and similar credit and savings institutions, credit card companies, insurance companies, consumer finance companies, stock brokerages, alternative investment funds, investment/pension funds and some government sponsored enterprises.

There are several policy goals that may be pursued through a FAT, e.g. compensation for the VAT exemption in the financial sector, taxing economic rents (excess profits) and taxation of profits derived through risky activities. Depending on the policy goals, three alternative approaches may be highlighted – addition method FAT, rent-taxing FAT and risk-taxing FAT. Their elements are defined in the figure below.

---

<sup>5</sup> Therefore, wages are effectively disallowed as a deduction to profits, which means that the tax is by its design labour neutral.



#### *Addition method FAT – compensating for the VAT exemption (FAT 1)*

A broad version of the FAT, which would be designed to compensate for the VAT exemption of the financial sector would tax the sum of wages and profits. For this purpose, profits would be defined in cash flow terms, rather than on an accrual basis as in most CIT systems, i.e. disregarding of all non-cash revenue and expenses (e.g. re-valuations, provisions, depreciation, unsettled accounts payable/receivable, etc); full expensing of investments in assets (including loans given) and taxing of all debt financing (borrowing) rather than on an accrual basis as in most CIT systems. Only dealings with shareholders would normally be excluded from the tax base. In other words, the base would be the profit, arrived at on a cash basis plus wages.

As such, this tax base would proxy value-added in an alternative way to the classical VAT tax base, i.e. by adding up the different components of the business' value added. Issues remain with regard to (i) treatment of VAT exempt supplies for FAT purposes, including zero rated supplies, (ii) cross-border elements and (iii) the interaction of the FAT with the VAT system. This FAT has been used in some countries as a surcharge applied to sectors that are fully or largely exempted from VAT. In fact, such a system is also known as the "addition method VAT".

In addition to the suitability of the addition method FAT to compensate for the VAT exemption of the financial sector, the immediate expensing of investments provides a significant cash flow advantage compared to accrual accounting and thus exempts some part of the profit, taxing only the economic rent (excess profit).

#### *Rent-taxing FAT (FAT 2)*

The FAT can also be designed, using accrual basis, specifically to tax economic rents only. In this case the tax base would be remuneration (wages) and the profit as defined for corporate

income tax purposes, but in contrast to the addition method FAT, only profits above a defined level would be taxed. The profit part of the tax base would be calculated with "Allowance for Corporate Equity" (ACE) which allows the deduction of a notional allowance for equity similar to interest paid on debt financing from the profit of the profit and loss account. The threshold for determining the excessive level of remuneration (wages) would be more arbitrary and could include a benchmarking exercise across sectors.

*Risk-taxing FAT (FAT 3)*

A third version of the FAT would tax excess return due to unduly risky activities. This version of the FAT is very similar to the rent-taxing FAT. The difference is that the rent-taxing FAT exempts the normal profit by the application of a rate that is designed to be roughly similar to the cost of debt-financing (ACE), while for the risk-taxing FAT, this threshold is set at a higher level based on what is considered as excessive return to (average) equity. Therefore, parts of the rents could theoretically be untaxed as long as the return to equity does not exceed this threshold.

The definition of the risk-free return could be based not only on equity (return on equity), but also on assets (return on assets).

The same concerns outlined above in the rent-taxing FAT would apply to the remuneration (wages) under the risk-taxing FAT.

*Other approaches*

It is also possible to define a FAT as a simple (additional) tax on the corporate income as defined for corporate income tax purposes and a payroll tax on wages. While that approach would be comparatively easy to implement, it is arguably the approach that addresses to the least extent the policy goals defined above.

*Q22: At what level do you think that the FAT will be most effective?*

1. EU level, because there may never be a G20 accord and the EU must lead by example
2. At least G20 level, because otherwise the activities/profits relocation incentives would be rather big
3. The FAT will not be effective at any level because \_\_\_\_\_
4. Cannot decide
5. Other

There is no case for the FAT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q23: What is your opinion of the industry scope of the FAT?*

1. It must encompass strictly only the banking sector since it was mainly responsible for the crisis
2. It must encompass strictly only the banking sector because \_\_\_\_\_
3. It must encompass the financial sector defined broadly in order to keep the level playing field and prevent a substitution effect
4. It must encompass the financial sector defined broadly because \_\_\_\_\_
5. Cannot decide
6. Other

There is no case for the FAT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q24: Which form of FAT do you consider most appropriate?*

1. Addition method FAT because \_\_\_\_\_
2. Rent-taxing FAT because \_\_\_\_\_
3. Risk-taxing FAT because \_\_\_\_\_
4. Cannot decide
5. Other

None.

Please explain further and provide evidence, if you have any.

*Q25: What are the major difficulties with the three forms of FAT?*

1. Addition method FAT has the following difficulties \_\_\_\_\_
2. Rent-taxing FAT has the following difficulties \_\_\_\_\_
3. Risk-taxing FAT has the following difficulties \_\_\_\_\_
4. Cannot decide
5. Other

All of the three forms would be very difficult to design and administer. If the EU wants to tax the financial sector, a cheaper and less burdensome way would be to apply VAT on financial services.

Please explain further and provide evidence, if you have any.

*Q26: What do you consider the most appropriate starting point for the addition method FAT?*

1. The net profit or loss from the income statement amended with \_\_\_\_\_
2. The cash flows of all activities amended with \_\_\_\_\_
3. The accounting rules for the different economic operators in the financial sector, even within a single Member State, are rather diverging to rely upon because \_\_\_\_\_
4. The accounting rules for the financial sector across Member States are rather diverging to rely upon because \_\_\_\_\_
5. Cannot decide
6. Other

There is no case for the FAT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q27: What do you consider the most appropriate starting point for rent-taxing and risk taxing FAT?*

1. The net profit or loss from the income statement amended with \_\_\_\_\_
2. The corporate income tax base from the income statement
3. A harmonised corporate income tax base
4. The accounting rules for the different economic operators in the financial sector, even within a single Member State, are rather diverging to rely upon because \_\_\_\_\_
5. The accounting rules for the financial sector across Member States are rather diverging to rely upon because \_\_\_\_\_

6. The corporate income tax rules for the different economic operators in the financial sector, even within a single Member State, are rather diverging to rely upon because \_\_\_\_\_
- 7 The corporate income tax rules for the financial sector across Member States are rather diverging to rely upon because \_\_\_\_\_
8. Cannot decide
9. **Other**

There is no case for the FAT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q28: Do you consider individual or consolidated statements as more appropriate?*

1. Consolidated statements (as per IAS 27) are more appropriate, because \_\_\_\_\_
2. Individual statements are more appropriate, because \_\_\_\_\_
3. Cannot decide
4. **Other**

FAT should not be introduced so this question is irrelevant.

Please explain further and provide evidence, if you have any.

*Q29: Would there be a need for specific exemption of certain profit/remuneration from the FAT?*

1. The addition method FAT must exempt the following profit/remuneration \_\_\_\_\_
2. The rent-taxing FAT must exempt the following profit/remuneration \_\_\_\_\_
3. The risk taxing FAT must exempt the following profit/remuneration \_\_\_\_\_
4. There is no need to exempt any profit/remuneration
5. Cannot decide
6. **Other**

There is no case for the FAT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q30: The state of the head office or group headquarters may tax on the basis of consolidated statements and the state of the branches or group members may also tax those. What do you consider as a suitable solution?*

1. Bilateral specific agreements
2. A system of credits must be embedded in the provisions
3. A formulary apportionment must be embedded in the measure
4. Only domestic inflows and/or outflows must be taken into consideration
5. Cannot decide
6. **Other**

There is no case for the FAT and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q31: Due to the way the tax base in a FAT is derived (their accounting treatment and/or the subsequent adjustment), do you consider that one or more of the following items will be unduly disadvantaged/favoured:*

(i) financial instruments;

(ii) activities;

(iii) remuneration packages?

1. Certain financial instruments will be disadvantaged because \_\_\_\_\_
2. Certain activities will be disadvantaged, because \_\_\_\_\_
3. Certain remuneration packages will be disadvantaged, because \_\_\_\_\_
4. Certain financial instruments will be favoured because \_\_\_\_\_
5. Certain activities will be favoured, because \_\_\_\_\_
6. Certain remuneration packages will be favoured, because \_\_\_\_\_
7. Cannot decide
8. Other \_\_\_\_\_

Please explain further, detailing the financial instruments, activities and remuneration packages that you considered above and provide evidence, if you have any.

*Q32: Would the addition-method FAT need to be aligned with the current VAT system to avoid the cascading effect from the interaction between the two?*

1. Yes, because it is meant to compensate for the VAT exemption, but the financial sector will still bear the input VAT burden and the alignment shall be done in the following way \_\_\_\_\_
2. No, it is not practical to align it, because of the of the different nature of the taxes \_\_\_\_\_
3. No, it is not practical to align it, because of not being able to attribute the FAT per transaction and \_\_\_\_\_
4. No, it is not practical to align it, because \_\_\_\_\_
5. Cannot decide
6. Other

There is no case for the FAT and it should not be introduced. If the EU wants to tax the financial sector, a cheaper and less burdensome way would be to apply VAT on financial services.

Please explain further and provide evidence, if you have any.

*Q33: Could a FAT rate well below the current standard VAT rate reduce distortions that might arise from missing interaction between VAT and addition-method FAT?*

1. Yes, because \_\_\_\_\_
2. No, because a tax is itself a distortion, therefore introduction of a new tax cannot reduce any distortions.
3. Cannot decide
4. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q34: Do you think that the tax incidence of the tax will fall of the financial sector, or it will be shifted to the customers?*

1. It will fall on the financial sector because \_\_\_\_\_
2. It will be shifted to the middle class customers because \_\_\_\_\_
3. It will be shifted to the high net worth customers because \_\_\_\_\_
4. Cannot decide
5. Other

It is likely the FAT would fall on all customers.

Please explain further and provide evidence, if you have any.

*Q35: What do you think of the administrative costs related to the FAT?*

1. They will be comparatively low, because \_\_\_\_\_
2. They will be comparatively high, because it would require an introduction of a whole new administrative tax system on the EU level.
3. Cannot decide
4. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q36: What do you think of the effect on employment from the FAT?*

1. It will have an overall negative effect on employment and/or remuneration in the financial sector and will therefore be bad for the economy
2. It will have a negligible effect on employment and/or remuneration in the financial sector and no effect on the economy as a whole
3. It will have an overall negative effect on employment and/or remuneration in the financial sector, but the financial sector is already bigger than it should be and the qualified workforce will benefit the non-financial sector
4. It will have an overall positive effect on employment because \_\_\_\_\_
5. Qualified workforce will benefit companies/branches in non-taxing countries
6. Cannot decide
7. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q37: What do you think of the effect on small and medium enterprises (SMEs) from FAT?*

1. It will have an overall negative effect SMEs because \_\_\_\_\_
2. It will have a negligible effect on SMEs because \_\_\_\_\_
3. It will have an overall positive effect on SMEs because \_\_\_\_\_
3. Cannot decide
4. Other

The FAT would eventually be shifted on the customers and increase the price of services in the financial sector, and thus it would increase the costs of running SME's.

Please explain further and provide evidence, if you have any.

#### 4.5. Cumulative effects with other measures – especially bank levies<sup>6</sup> and regulatory measures

The proposals how the financial sector might contribute to costs of future crisis via a tax cannot be separated from the potential changes to be made to the regulatory framework, especially the possible introduction of a bank levy for the financing of a bank resolution

---

<sup>6</sup> The term levy is used in a more general term that can encompass both taxes and fees, without prejudging the use made of the collected revenue.

fund<sup>7</sup>. Several Member States proposed or already operate national systems of bank levies – Germany, France, Italy, Sweden, United Kingdom, Belgium, Austria, Hungary and Portugal. The design of those varies across Member States, concerning the tax base, industry scope and use of proceeds.

The bank levy is either asset-based or liability-based. The actual design generally depends on the perception of the risk exposure of the financial institution – either through investment in risky assets or through "risky" financing with uninsured liabilities. In either case, however, the policy considerations behind it are to discourage excessive risk taken by the financial institutions (either at the investment or the funding level) and also to make sure that they make a fair and substantial contribution to the Member State budgets and/or resolution funds.

#### *Asset-based levy*

The methodology for determining risk weighted assets and the Basel capital requirement may provide a reliable and internationally comparable base for the tax base for the banking part of the financial sector, but on the other side, investment in risky assets is already being addressed by regulations on bank investment. The Basel capital requirements are not easy to translate in terms of other economic operators in the financial sector.

#### *Liabilities-based levy*

The tax base for that version of the levy would generally consist of all liabilities (therefore excluding Tier 1 capital for banks for example) with further deductions for insured/guaranteed liabilities e.g. guaranteed (retail) deposits, subordinated debt, government-guaranteed debt, intra-group debt not affected by consolidation, etc.

#### *Industry scope*

Depending on the personal scope, levies may be constructed as either narrow (e.g. only on banks and similar deposit/credit institutions) or broad impacting all financial institutions, including insurance companies for example.

*Q38: At what level do you think that the levy will be most effective?*

1. EU level, because there may never be a G20 accord and the EU must lead by example
2. At least G20 level, because otherwise the relocation incentives would be rather big
3. The levy will not be effective at any level because \_\_\_\_\_
4. Cannot decide
5. Other

There is no case for the levy and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q39: What is your opinion of the industry scope of the levy?*

1. It must encompass strictly only the banking sector since it was mainly responsible for the crisis
2. It must encompass strictly only the banking sector since the balance sheet concepts for risk-weighted assets and Tier 1 capital are not applicable to other parts of the financial sector
3. It must encompass strictly only the banking sector because \_\_\_\_\_

<sup>7</sup> Cf. [COM\(2010\)254 final](#) and [COM\(2010\)579 final](#).

4. It must encompass the financial sector defined broadly in order to keep the level playing field and prevent a substitution effect
5. It must encompass the financial sector defined broadly because \_\_\_\_\_
6. Cannot decide
7. **Other**

There is no case for the levy and it should not be introduced

Please explain further and provide evidence, if you have any.

*Q40: What is your perception of the risk exposure for the financial sector?*

1. It mostly referred to investment in risky assets and \_\_\_\_\_
2. It mostly referred to financing by "risky" (uninsured) liabilities and \_\_\_\_\_
3. Cannot decide
4. **Other**

Risk in the financial sector is a potential that a firm might not be able to fulfil its obligations currently or in the future. Risk emerges from both, the structure of firm's assets and liabilities. In the fractional reserve system there is systematic risk when banks holding only partial reserves to their liabilities are in a vulnerable position of not being able to fulfil all their current obligations, if they arose altogether.

Please explain further and provide evidence, if you have any.

*Q41: Therefore, which form of levy do you consider most appropriate?*

1. Asset-based FST because \_\_\_\_\_
2. Liabilities-based FST because \_\_\_\_\_
3. A combination of asset-based and liabilities-based FST because \_\_\_\_\_
3. Cannot decide
4. **Other**

The levy is not an appropriate way to manage the excessive risk taking behaviour. The most appropriate way to manage it is to end implicit and explicit government bail-out guarantees that allow financial institutions to take risks without suffering consequences.

Please explain further and provide evidence, if you have any.

*Q42: What are the major difficulties with the two forms of levy?*

1. An asset-based levy has the following difficulties \_\_\_\_\_
2. A liabilities-based levy has the following difficulties \_\_\_\_\_
3. Cannot decide
4. **Other**

There is no case for the levy and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q43: What do you consider the most appropriate starting point for the asset-based levy?*

1. The balance sheet assets side amended with \_\_\_\_\_
2. The accounting rules for the different economic operators in the financial sector, even within a single Member State, are rather diverging to rely upon because \_\_\_\_\_
3. The accounting rules for the financial sector across Member States are rather diverging to rely upon because \_\_\_\_\_
4. Cannot decide

5. Other

There is no case for the levy and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q44: What do you consider the most appropriate starting point for the liabilities-based levy?*

1. The balance sheet liabilities side amended with \_\_\_\_\_
2. The accounting rules for the different economic operators in the financial sector, even within a single Member State, are rather diverging to rely upon because \_\_\_\_\_
3. The accounting rules for the financial sector across Member States are rather diverging to rely upon because \_\_\_\_\_
4. Cannot decide
5. Other

There is no case for the levy and it should not be introduced.

Please explain further and provide evidence, if you have any.

*Q45: Would there be a need for specific exemption of certain assets/liabilities from the FST?*

1. The asset-based levy must exempt the following assets \_\_\_\_\_
2. The liabilities-based levy must exempt the following liabilities \_\_\_\_\_
3. There is no need to exempt any assets
4. There is no need to exempt any liabilities
5. Cannot decide
6. Other

Since the levy should not be introduced, the question of specific exemption is irrelevant.

Please explain further and provide evidence, if you have any.

*Q46: Would there be a need for a threshold (i.e. the levy is levied only on financial institutions with large balance sheets) or allowance (i.e. for all financial institutions there would be a "tax-free" allowance for a certain amount of assets/liabilities) from the levy?*

1. Yes, there must be a threshold for the levy \_\_\_\_\_
2. Yes, there must be an allowance for the levy \_\_\_\_\_
3. There is no need for a threshold or an allowance
4. Cannot decide
5. Other

Since the levy should not be introduced, the questions of a threshold or allowance are irrelevant.

Please explain further and provide evidence, if you have any.

*Q47: Do you consider individual or consolidated statements as more appropriate?*

1. Consolidated statements (as per IAS 27) are more appropriate, because \_\_\_\_\_
2. Individual statements are more appropriate, because \_\_\_\_\_
3. Cannot decide
4. Other

Since the levy should not be introduced, the question is irrelevant.

Please explain further and provide evidence, if you have any.

*Q48: The state of the head office or group headquarters may tax on the basis of consolidated statements and the state of the branches or group members may also tax those. What do you consider as a suitable solution?*

1. Bilateral specific agreements
2. A system of credits by the Member State of the group/head office must be embedded in the provisions (credit method in the home Member State, because the risk is borne by the host market)
3. A system of credits by the Member State of the branch/subsidiary must be embedded in the provisions (reverse credit method in the host Member State, because the risk is borne by the home market)
4. A system of exemption by the Member State of the group/head office must be embedded in the provisions (exemption method in the home Member State, because the risk is borne by the host market)
5. A system of exemption by the Member State of the branch/subsidiary must be embedded in the provisions (reverse exemption method in the host Member State, because the risk is borne by the home market)
6. A formulary apportionment must be embedded in the measure
7. Cannot decide
8. Other

Since the levy should not be introduced, this question is irrelevant.

Please explain further and provide evidence, if you have any.

*Q49: What would be the solution for attribution of assets/liabilities to bank branches (not subsidiaries)?*

1. The authorised OECD approach for attribution of assets/liabilities must be used
2. A modified approach taking into consideration only taxable assets/liabilities must be used
3. Cannot decide
4. Other

Since the levy should not be introduced, this question is irrelevant.

Please explain further and provide evidence, if you have any.

*Q50: Since some Member States have already implemented such levies, which are different in their features, what do you think the interaction should be with those levies?*

1. All individual levies/taxes based on the balance sheet must be repealed
2. All individual levies based on the balance sheet must allow for a credit for the EU-wide levy
3. The national and EU-wide levy may coexist
4. Cannot decide
5. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q51: Due to the way the tax base in a levy is derived (their accounting treatment and/or the subsequent adjustment, do you consider that one or more of the following items will be unduly disadvantaged/favoured:*

*(i) investments;*

*(ii) financing means;*

*(ii) activities in general?*

1. Certain investments will be disadvantaged, because \_\_\_\_\_
2. Certain financing means will be disadvantaged, because \_\_\_\_\_
3. Certain activities will be disadvantaged, because \_\_\_\_\_
4. Certain investments will be favoured because \_\_\_\_\_
5. Certain financing means will be favoured because \_\_\_\_\_
6. Certain activities will be favoured, because \_\_\_\_\_
7. Cannot decide
8. **Other** \_\_\_\_\_

Financial industry would suffer in general from a new tax.

Please explain further, detailing the investments, financing means, and activities that you considered above and provide evidence, if you have any.

*Q52: Some authors argue that overnight secured credit (through repos mainly) necessitates special treatment of those types of funding because of the cheap, but unstable funding leading to systemic risk. Do you agree to such an argument and if so, what treatment do you suggest?*

1. Yes, because \_\_\_\_\_
2. **No**, because there is no systematic risk coming from overnight secured credit.
7. Cannot decide
8. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q53: Would there be a necessity for a harmonization of certain accounting concepts (e.g. creation of provisions/reserves, netting of derivatives and other related positions) and to what extent?*

1. Yes, because \_\_\_\_\_
2. No, because \_\_\_\_\_
3. Cannot decide
4. **Other**

Since the levy should not be introduced, this question is irrelevant.

Please explain further and provide evidence, if you have any.

*Q54: Do you think that the incidence of the levy will fall of the financial sector, or it will be shifted to the customers?*

1. It will fall on the financial sector because \_\_\_\_\_
2. It will be shifted to the middle class customers because \_\_\_\_\_
3. It will be shifted to the high net worth customers because \_\_\_\_\_
4. Cannot decide
5. **Other**

It is likely it would be shifted to all customers.

Please explain further and provide evidence, if you have any.

*Q55: What do you think of the administrative costs related to the levy?*

1. They will be comparatively low, because \_\_\_\_\_
2. They will be comparatively high, because it would require an introduction of a whole new administrative tax system on the EU level.
3. Cannot decide
4. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q56: What do you think of the effect on employment from the levy?*

1. It will have an overall negative effect on employment and/or remuneration in the financial sector and the economy in general
2. It will have a negligible effect on employment and/or remuneration in the financial sector and no effect on the economy as a whole
3. It will have an overall negative effect on employment and/or remuneration in the financial sector, but the financial sector is already bigger than it should be and the qualified workforce will benefit the non-financial sector
4. It will have an overall positive effect on employment because \_\_\_\_\_
5. Qualified workforce will benefit companies/branches in non-taxing countries
6. Cannot decide
7. Other \_\_\_\_\_

Please explain further and provide evidence, if you have any.

*Q57: What do you think of the effect on small and medium enterprises (SMEs) from the levy?*

1. It will have an overall negative effect SMEs because \_\_\_\_\_
2. It will have a negligible effect on SMEs because \_\_\_\_\_
3. It will have an overall positive effect on SMEs because \_\_\_\_\_
3. Cannot decide
4. Other

The levy would eventually be shifted on the customers and increase the price of services in the financial sector, and thus it would increase the costs of running SME's.

Please explain further and provide evidence, if you have any.

*Please include any further comments below, in particular, but not limited to the definition of the problem, other policy options or tax design features and impacts.*

The EC does not put forward any reasons why a possible problem of under-taxation of the financial sector could not be solved by levying VAT on financial services. The question why a completely new tax should be created is left unanswered and the case for taxation of the financial sector is very weak.

The primary responsibility for the economic crisis lies with the central banks, which pursued the policy of low interest rates which distorted incentives and encouraged malinvestment.

The EC maintains that the financial sector has benefited from public support during the crisis and should make a fair and substantial contribution to fiscal consolidation efforts. It is true that bailouts of the financial sector were costly to the taxpayers, but such costs materialize

only if governments decide to bail out banks and other financial institutions. Bailouts are not a suitable solution to problems within the financial sector since they create a moral hazard problem, which only encourages excessive risk taking that the EC aims to eliminate.

Systemic risk rises not due to a possible under-taxation of the financial sector, but due to fractional reserve banking. A possibility of a bank default is always present, because banks are legally allowed to keep only a small fraction (2 percent) of deposits as reserves. A proper way to remove this risk would be to move away from fractional reserve system, rather than introduce new taxes that would not achieve their goal.

Additional taxes and levies are not an appropriate way to manage the excessive risk taking behaviour. The most appropriate way to manage it is to end implicit and explicit government bail-out guarantees that allow financial institutions to take risks without suffering consequences.

It is vital to recognize that any new taxation of the financial sector would result in relocation of financial services' to non-taxing countries. This would hurt the whole EU economy as well as contribute to public budget deficits, as new taxes would drive capital and jobs of the financial sector out of the EU.