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## **TAXES IN THE EU AND THEIR HARMONISATION IN THE CONTEXT OF THE REFORM OF THE EU'S OWN RESOURCES SYSTEM**

### **Abstract**

The main aim of this text is to explain the tax aspects of the reform of the EU's own resources system. Own resources are the most important source of financing for the EU. The existing own resources system has been criticised on several occasions, and in the coming years, the EU wants to reform it and introduce new sources of own resources. According to the adopted research thesis, this reform, while aiming to fulfil its fiscal function, clearly also seeks to use financial instruments, in particular taxes, to implement the EU's main policies in accordance with certain fundamental principles, especially the principle of sustainable development and the principle of fairness in its tax aspect. The text begins with a general overview of the reform of the EU's own resources, outlining the reasons for the reform and its key objectives. It then proceeds to an analysis of specific tax-related measures introduced by the reform, including the so-called plastic tax, cross-border carbon tax, digital tax, financial transaction tax, and harmonised CIT, with particular attention given to the most comprehensive tax project of central importance in this context – BEFIT. The text concludes with a synthetic evaluation of the tax aspects of the reform. For the purposes of the analysis, the primary method used was the doctrinal-legal method, drawing on sources of EU law, domestic and international literature, as well as numerous EU documents and studies, and reports from other international organisations (OECD, UN).

## SŁOWA KLUCZOWE

podatki, harmonizacja, system zasobów własnych UE

## KEYWORDS

taxes, harmonisation, EU's own resources system

## I. INTRODUCTION

Own resources are the most important source of financing for the EU; in addition to these, EU expenditure may be financed by any surplus revenue (remaining from payments in the previous year) and other sources: mainly fines imposed on entrepreneurs infringing EU competition law, recoveries and payroll taxes.<sup>1</sup>

The existing own resources system<sup>2</sup> has been criticised on several occasions by the European Court of Auditors, the European Parliament and the Member States as too complex; the European Council of July 2020<sup>3</sup> concluded that it should be simplified.<sup>4</sup> In addition, it pointed out that there is a need for a better alignment of EU funding instruments with the EU's political priorities to ensure that the relevance of the EU's general budget (hereinafter EU budget)<sup>5</sup> for the functioning of the harmonised market is better reflected, and to reduce Member States' contributions based on their gross national income (GNI). Based on these assumptions, in the coming years, the EU wants to reform its own resources system and introduce

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<sup>1</sup> European Council, Council of the European Union, 'Financing the EU budget' <<https://www.consilium.europa.eu/en/policies/financing-the-eu-budget/>> accessed 2 September 2025.

<sup>2</sup> See more, e.g., Leokadia Oręziak, *Finanse Unii Europejskiej* (Warsaw: Wydawnictwo Naukowe PWN 2009) 109–222; Oręziak, *Finanse Unii Europejskiej i strefy euro* (Warsaw: Oficyna Wydawnicza SGH 2020) 139–152.

<sup>3</sup> See European Council, *Conclusions*, EUCO 10/20 CO EUR 8 CONCL 4, Brussels, 21 July 2020.

<sup>4</sup> Recital 5 of Council Decision (EU, Euratom) 2020/2053 of 14 December 2020 on the system of own resources of the European Union and repealing Decision 2014/335/EU, Euratom (OJ EU No L 424/1, 15 December 2020, 1–10), hereinafter Decision 2020/2053.

<sup>5</sup> See more, e.g., Katarzyna Żukrowska, *Budżet ogólny Unii Europejskiej* (Warsaw: Wydawnictwa Akademickie i Profesjonalne 2009); Żukrowska, 'Budżet ogólny Unii Europejskiej w 2020 r.: co z niego można wyczytać o przyszłości UE?' in Adam A Ambroziak, Alina D Szypulewska-Porczyńska (eds), *Polska w Unii Europejskiej - od stowarzyszenia do piętnastolecia członkostwa: monografia jubileuszowa dedykowana Profesor Elżbiecie Kaweckiej-Wyrzykowskiej* (Warsaw: Oficyna Wydawnicza SGH 2020); Katarzyna Stabryła-Chudzio, *Rola budżetu Unii Europejskiej w integracji społeczno-gospodarczej* (Kraków: Wydawnictwo Uniwersytetu Ekonomicznego w Krakowie 2011).

new sources of its own resources.<sup>6</sup> The main aim of this text is to explain the tax aspects of the EU's own resources reform in question. According to the adopted research thesis, this reform, while aiming to fulfil its fiscal function, clearly also seeks to use financial instruments, in particular taxes, to implement the EU's main policies in accordance with certain fundamental principles, especially the principle of sustainable development and the principle of fairness in its tax aspect. For the purposes of the analysis, the primary method used was the doctrinal-legal method, drawing on the sources of EU law, domestic and international literature, as well as numerous EU documents and studies, and reports from other international organisations (OECD, UN).

## II. THE EU'S OWN RESOURCES SYSTEM FOR THE PERIOD 2021–2027

The EU's own resources system for the 2021–2027 programming period is set out in Decision 2020/2053.<sup>7</sup> In accordance with Article 2 of Decision 2020/2053, the own resources entered in the EU budget shall consist of revenue from the following sources:

- traditional own resources consisting of levies, premiums, additional or compensatory amounts, additional amounts or factors, customs duties levied on the basis of the CCT and other duties established or to be established by the EU institutions in respect of trade with non-member countries, customs duties on products under the expired ECSC as well as contributions and other payments provided for within the framework of the common organisation of the markets in sugar;
- the application of a uniform call rate of 0.30% for all Member States to the total amount of VAT receipts collected for all taxable supplies divided by the weighted average VAT rate calculated for the calendar year concerned, as provided for in Council Regulation (EEC, Euratom) No 1553/89;<sup>8</sup> for each Member State, the VAT base to be taken into account for this purpose may not exceed 50% of GNI;

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<sup>6</sup> Recital 6 of Decision 2020/2053.

<sup>7</sup> In addition, on the basis of Article 311(4) TFEU, the Council issued a regulation laying down implementing measures for the EU's own resources system: Council Regulation (EU, Euratom) 2021/768 of 30 April 2021 laying down implementing measures for the system of own resources of the European Union and repealing Regulation (EU, Euratom) No 608/2014 (OJ EU No L 165, 11 May 2021, 1–8).

<sup>8</sup> Council Regulation (EEC, Euratom) No 1553/89 of 29 May 1989 on the definitive uniform arrangements for the collection of own resources accruing from value added tax (OJ EU No L 155, 7 June 1989, 9–13).

- the application of a uniform call rate to the weight of plastic packaging waste generated in each Member State that has not been recycled;
- the application of a uniform call rate, to be determined in accordance with the budgetary procedure, taking into account the total of all other revenue, to the sum of all the Member States' GNIs.

Decision 2020/2053 entered into force in 2021 and from this year onwards, a new source of own resources – compared to previous programming periods<sup>9</sup> – is in place, based on national contributions set in relation to the weight of plastic packaging waste not recycled (the so-called plastic tax). Further new categories of own resources are to include the so-called cross-border carbon tax (Carbon Border Adjustment Mechanism, hereinafter CBAM), revenues from the revised European Union's Emissions Trading System (hereinafter EU ETS), the so-called digital tax (on digital services), a financial transaction tax and a (partially) harmonised CIT.<sup>10</sup> As can be noted, an essential part of the new categories of own resources is of a tax nature; hence, the question of their reform is closely linked to issues of tax harmonisation in the EU. The plastic tax has already been in place since 2021; in December 2021 of this year, the European Commission indicated that revenues from CBAM, the revised EU ETS and CIT are expected to be fully operational between 2026 and 2030 and to reach an average of up to €17 billion per year for the EU budget.<sup>11</sup>

### III. PLASTIC AND CROSS-BORDER CARBON TAXES AND A REVISED EU ETS

Based on Article 2(2) of Decision 2020/2053, the plastic tax is set with reference to the weight of plastic packaging waste not recycled. The weight of this waste is calculated as the difference between the weight of plastic packaging waste generated in a Member State in a given year and the weight of waste recycled in that Member State in that year, as determined in accordance with the Packaging

<sup>9</sup> Cf Council Decision 2000/597/EC, Euratom of 29 September 2000 on the system of the European Communities' own resources (OJ EU No L 253, 7 October 2000, 42–46); Council Decision 2007/436/EC, Euratom of 7 June 2007 on the system of the European Communities' own resources (OJ EU No L 163, 23 June 2007, 17–21); Council Decision 2014/335/EU, Euratom of 26 May 2014 on the system of the European Union's own resources (OJ EU No L 168, 7 June 2014, 105–111).

<sup>10</sup> See Annex II of the Interinstitutional Agreement of 16 December 2020 between the European Parliament, the Council of the European Union and the European Commission on budgetary discipline, on cooperation in budgetary matters and on sound financial management, as well as on new own resources, including a roadmap towards the introduction of new own resources (OJ EU No L 4331, 22 December 2020, 28–46) and Decision 2020/2053.

<sup>11</sup> European Commission, 'The Commission proposes the next generation of EU own resources' <[https://ec.europa.eu/commission/presscorner/detail/en/ip\\_21\\_7025](https://ec.europa.eu/commission/presscorner/detail/en/ip_21_7025)> accessed 2 September 2025.

and Packaging Waste Directive.<sup>12</sup> A uniform rate of call of €0.80 per kilogram shall apply to the weight so determined.<sup>13</sup> Contributions shall be calculated based on the data to be collected and reported to Eurostat by the Member States under the reporting obligations of Directive 94/62/EC and its implementing decision.<sup>14</sup> The new own resource thus defined, in addition to ensuring the fulfilment of the fiscal function, is expected to contribute to reducing environmental pollution from plastic packaging waste, promoting recycling and realising the objectives of a circular economy,<sup>15</sup> and, more broadly, a sustainable development policy.<sup>16</sup>

In 2021, the Commission presented a proposal on CBAM;<sup>17</sup> the relevant regulation was adopted in 2023.<sup>18</sup> CBAM applies to imports into the EU from third countries of products manufactured in high-emission industries; it is intended to prevent

<sup>12</sup> Directive 94/62/EC of the European Parliament and of the Council of 20 December 1994 on packaging and packaging waste (OJ EU No L 365, 31 December 1994, 10–23, hereinafter Directive 94/62/EC).

<sup>13</sup> An annual lump sum reduction shall be applied for certain Member States.

<sup>14</sup> Implementing Decision of the Commission (EU) 2019/665 of 17 April 2019 amending Decision 2005/270/EC establishing the formats with regard to the database system pursuant to Directive 94/62/EC of the European Parliament and of the Council on packaging and packaging waste (OJ EU No L 112, 26 April 2019, 26–46).

<sup>15</sup> In line with the ‘A European Strategy for Plastics in a Circular Economy’ (see Communication from the Commission to the European Parliament, the Council, European Economic and Social Committee and the Committee of the Regions, ‘A European Strategy for Plastics in a Circular Economy’, COM (2018) 28 final, Strasbourg, 16 January 2018). See also Grégory De Boe, Marie CS Lamensch, Valérie Swaen, ‘EU Plastic Packaging Levy and National Tax Strategies Toward Circularity: Complementarity or Redundancy?’ (2025) 12 Bulletin for International Taxation.

<sup>16</sup> Sustainable development, understood as ‘promoting a more resource efficient, greener and more competitive economy’ (Commission Communication, ‘EUROPE 2020 A strategy for smart, sustainable, and inclusive growth’, COM (2010) 2020 final, Brussels, 3 March 2010, 5) was identified as one of the EU’s priorities as early as 2010. In the EU’s 2019 development strategy entitled ‘The European Green Deal’ (Communication from the Commission to the European Parliament, the European Council, the Council, the European Economic and Social Committee, and the Committee of the Regions, The European Green Deal, COM (2019) 640 final, Brussels, 11 December 2019, hereinafter ‘European Green Deal’) sets out as its objective ‘to transform the EU into a fair and prosperous society, with a modern, resource-efficient and competitive economy where there are no net emissions of greenhouse gases in 2050 and where economic growth is decoupled from resource use’ (‘European Green Deal’ 2). ‘The European Green Deal’ is intended to be an integral part of the strategy for implementing the United Nations 2030 Agenda for Sustainable Development (United Nations, ‘Transforming our world: the 2030 Agenda for Sustainable Development’ <<https://documents-dds-ny.un.org/doc/UNDOC/GEN/N15/291/89/PDF/N1529189.pdf?OpenElement>> accessed 2 September 2025) – see ‘European Green Deal’ 3.

<sup>17</sup> European Commission, Proposal for a Regulation of the European Parliament and of the Council establishing a carbon border adjustment mechanism, COM (2021) 564 final, Brussels, 14 July 2021.

<sup>18</sup> Regulation (EU) 2023/956 of the European Parliament and of the Council of May 10 2023 establishing a carbon border adjustment mechanism (OJ EU No L 130, 16 May 2023, 52–104).

the EU's efforts<sup>19</sup> to reduce greenhouse gas emissions<sup>20</sup> from being undermined by increased emissions outside its borders caused by the relocation of production to third countries (where policies to combat climate change are less ambitious than those of the EU) or increased imports of high-emission products into the EU. The literature highlights the following potential problems in connection with the implementation of CBAM: the issue of proof (determining emission levels), the problem of ensuring compliance with World Trade Organisation standards in the context of non-discrimination, and the risk of shifting the burden onto the 'weakest' (workers from countries where companies in high-emission industries operate);<sup>21</sup> there are even voices saying that CBAM is unfair.<sup>22</sup> On 1 October 2023, a transition period began during which importers of goods covered by CBAM are only required to submit quarterly reports, without having to make any payments. The CBAM is designed to operate in parallel with the reformed EU ETS,<sup>23</sup> reflecting and complementing its functioning in the case of imported goods. Both CBAM and revenues from EU ETS would not only generate new EU own resources, but would also serve to implement EU climate policy objectives. These instruments, like the plastic tax, are essentially a manifestation of the 'polluter pays'<sup>24</sup> principle and are part of the concept of taxes related to the environ-

<sup>19</sup> See recital 18 of Regulation (EU) 2021/1119 of the European Parliament and of the Council of 30 June 2021 establishing the framework for achieving climate neutrality and amending Regulations (EC) No 401/2009 and (EU) 2018/1999 (OJ EU No L 243, 9 July 2021, 1–17), hereinafter Regulation 2021/1119.

<sup>20</sup> See also, among others, Susana Aldeia, 'The European Union Carbon Border Adjustment Mechanism as a Green Tax Policy Instrument' (2025) 12 Central European Economic Journal.

<sup>21</sup> See Victoria Selma Penalva, 'Una aproximación al impuesto transfronterizo al carbono como forma de luchar contra el cambio climático' in Maria Supera-Markowska (ed), *Problemas actuales de las finanzas públicas y novedades de políticas fiscales: punto de vista hispano y polaco* (Warsaw: CH Beck 2022).

<sup>22</sup> See Arvind Ravikumar, 'Por qué el impuesto fronterizo al carbono de la UE es injusto e imperialista', MIT Technology Review <<https://www.technologyreview.es/s/12465/por-que-el-impuesto-fronterizo-al-carbono-de-la-ue-es-injusto-e-imperialista>> accessed 30 December 2022.

<sup>23</sup> Regulation 2021/1119 states that 'Union-wide greenhouse gas emissions and removals regulated in Union law shall be balanced within the Union at the latest by 2050, thus reducing emissions to net zero by that date, and the Union shall aim to achieve negative emissions thereafter' ('climate neutrality objective' – Article 2(1) of Regulation 2021/1119). In turn, the amended Regulation (EU) 2018/842 of the European Parliament and of the Council of 30 May 2018 on binding annual greenhouse gas emission reductions by Member States from 2021 to 2030 contributing to climate action to meet commitments under the Paris Agreement and amending Regulation (EU) No 525/2013 (OJ EU No L 15, 19 June 2018, 26–42) introduced national targets for reducing greenhouse gas emissions by 2030 in order to meet the EU's binding commitment to reduce greenhouse gas emissions by at least 55% by 2030, compared to 1990 levels. These issues are also being addressed by the UN (among the UN's sustainable development goals is Goal 13, which covers climate action): <<https://sdgs.un.org/goals/goal13>> accessed 30 December 2022.

<sup>24</sup> See Article 191(2) TFEU. In secondary law, this principle is regulated by Directive 2004/35/EC of the European Parliament and of the Council of 21 April 2004 on environmental liability with

ment.<sup>25</sup> At the same time, it should be emphasised that these are undoubtedly legal and financial instruments, some of which are commonly referred to as taxes, although in fact they are rather specific fees, and their implementation does not generally take place through directives and harmonisation but through EU regulations and decisions. The appropriate new tax categories of EU own resources would be the digital tax, the financial transaction tax, and CIT.

#### IV. DIGITAL TAX AND FINANCIAL TRANSACTION TAX

Discussions on digital and financial transaction taxes have been taking place at the EU level for quite some time; moreover, they have already been included in certain legislative proposals. The origins of the digital tax are linked to the tax challenges of the digital economy; a draft directive regulating it was presented in 2018.<sup>26</sup> This tax was intended to be a temporary (until comprehensive and definitive solutions were introduced) response to the tax challenges of the digital economy, but it was not adopted. Similarly, subsequent draft directives on the Financial Transaction Tax (hereinafter FTT) were not adopted. The first relevant draft directive<sup>27</sup> was presented in 2011, justifying it with the aim of complementing the EU regulatory framework for safer financial services by addressing particularly risky behaviour in some segments of financial markets.<sup>28</sup> Taxation would apply to financial transactions on the capital market, money market (excluding payment instruments), as well as transactions involving units or shares in collective investment undertakings and derivative instruments. However, no agreement was reached on the adoption of the directive, so efforts were made to implement the FTT within the framework of enhanced cooperation between certain EU countries, with another draft directive being presented in 2013<sup>29</sup> (essentially

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regard to the prevention and remedying of environmental damage (OJ EU No L 143, 30 April 2004, 56–75).

<sup>25</sup> For more details, see Supera-Markowska, ‘Instrumenty podatkowego wspierania założeń zrównoważonego rozwoju w prowadzeniu działalności gospodarczej’ in Maciej Pisz, Remigiusz Chęciński (eds), *Implementacja zasady zrównoważonego rozwoju do gospodarki i sektora instytucji publicznych* (Poznań: UAM 2021) and the literature cited therein.

<sup>26</sup> European Commission, Proposal for a Council Directive on a common system of digital services tax on revenues resulting from the provision of certain digital services, COM (2018) 148 final, Brussels, 21 March 2018.

<sup>27</sup> European Commission, Proposal for a Council Directive on a common system of financial transaction tax and amending Directive 2008/7/EC, COM (2011) 594 final, Brussels, 28 September 2011, hereinafter COM (2011) 594.

<sup>28</sup> COM (2011) 594, 2.

<sup>29</sup> European Commission, Proposal for a Council Directive implementing enhanced cooperation in the area of financial transaction tax, COM (2013) 71 final, Brussels, 14 February 2013.

modelled on the 2011 draft<sup>30</sup>), which, however, was also not adopted. As a result, some countries have introduced this tax unilaterally<sup>31</sup> (similarly, some countries have introduced a digital tax unilaterally<sup>32</sup>). However, while the concept of a digital tax is losing its *raison d'être* in view of the implementation of a comprehensive reform of business taxation under the BEPS project,<sup>33</sup> the issue of a financial transaction tax has actually been 'revived' in the context of the planned reform of the EU's own resources system.<sup>34</sup>

The financial transaction tax, inspired by the so-called Tobin tax,<sup>35</sup> is intended to have strong non-fiscal functions. The objectives of its introduction in the EU were identified as follows: avoiding fragmentation of the internal market for financial services as a result of an increasing number of uncoordinated national tax measures, ensuring that financial institutions contribute fairly to the costs of the recent crisis and ensuring that the sector is on an equal footing with other sectors from a tax perspective, as well as creating appropriate disincentives for transactions that do not increase the efficiency of financial markets, thereby complementing regulatory measures aimed at preventing future crises.<sup>36</sup>

<sup>30</sup> See José M Domínguez Martínez, José M López Jiménez, 'El impuesto sobre transacciones financieras en la Unión Europea: aspectos jurídicos y económicos' (2017) 1 Documentos de Trabajo 28 and José A Gómez Requena, 'El papel del impuesto sobre las transmisiones financieras en una economía globalizada (digitalizada)', in Miguel Á Collado Yurrita, Luis M Romero Flor (eds), *Tributación de la economía digital* (Barcelona: Atelier 2020) 111.

<sup>31</sup> For more details, see, Supera-Markowska, 'Hiszpański podatek od transakcji finansowych – odejście od harmonizacji na rzecz jednostronnych działań podatkowych o znaczeniu fiskalnym i pozafiskalnym' (2021) 3 Doradztwo Podatkowe – Biuletyn Instytutu Studiów Podatkowych and the literature cited therein. See also Elke Asen, 'Financial Transaction Taxes in Europe' <<https://taxfoundation.org/data/all/eu/financial-transaction-taxes-europe-2021/>> accessed on 2 September 2025.

<sup>32</sup> For more details, see Supera-Markowska, 'Podatek od usług cyfrowych – geneza, założenia i dalsze wyzwania' in Michał Bitner (ed), *Problemy finansów i prawa finansowego. Księga jubileuszowa dedykowana profesor Elżbiecie Chojna-Duch* (Wrocław: Presscom Sp. z o.o. 2021) and the literature cited therein. See also Cristina Enache, 'Digital Services Taxes in Europe, 2024' <<https://taxfoundation.org/data/all/eu/digital-tax-europe-2024/>> accessed 2 September 2025.

<sup>33</sup> See <<https://www.oecd.org/en/topics/base-erosion-and-profit-shifting-beps.html>> accessed 2 September 2025.

<sup>34</sup> Final report and recommendations of the High Level Group on Own Resources: 'Future financing of the EU' <[https://ec.europa.eu/info/sites/info/files/about\\_the\\_european\\_commission/eu\\_budget/future-financing-hlgor-final-report\\_2016\\_en.pdf](https://ec.europa.eu/info/sites/info/files/about_the_european_commission/eu_budget/future-financing-hlgor-final-report_2016_en.pdf)> accessed on 30 December 2022.

<sup>35</sup> For more details see, e.g., Małgorzata Gajda-Kantorowska, 'Podatek Tobina – kontrowersje teoretyczne i uwarunkowania praktyczne' (2014) 1 *Miscellanea Oeconomicae* and the literature cited therein.

<sup>36</sup> COM (2011) 594, 2. See also, e.g., Grzegorz Paluszak, 'Podatek od transakcji finansowych jako nowe źródło dochodu budżetu Unii Europejskiej' in Grzegorz Paluszak, Magdalena Sapała (eds), *Dylematy budżetu i wieloletnich ram finansowych Unii Europejskiej* (Poznań: Wydawnictwo Uniwersytetu Ekonomicznego w Poznaniu 2013).

In the case of both the digital tax and the financial transaction tax, their adoption at the EU level may take place through appropriate directives and involves issues of tax harmonisation. The same applies to CIT.

## V. HARMONISED CIT

Proposals to link a harmonised income tax to the EU's own resources system have been made before. As is currently the case, these concerned the corporation tax (in the case of personal income tax, no such link was envisaged and is still not being proposed<sup>37</sup>). In the concept of the European Union Corporate Income Tax (EUCIT), one of its variants assumed the introduction of EUCIT as an EU tax imposed on international entities by an EU tax authority. The tax rate would be harmonised, and the tax itself would constitute revenue exclusively for the EU budget, thus having the character of an EU tax. Another variant of EUCIT provided for a different method of allocating the common tax base, whereby Member States would be assigned an appropriate share, which they would tax at their own tax rate. In an intermediate option between the two previous ones, the common harmonised tax base would be subject to taxation at two tax rates. A harmonised EU rate would determine the amount of EU budget revenue from corporate tax levied on international entities. In contrast, national rates, set by each Member State, would determine the amount of their budgetary revenue from this source.<sup>38</sup>

Currently, the most up-to-date and comprehensive proposal for CIT harmonisation in the EU is contained in the BEFIT project,<sup>39</sup> which, however, does not provide for the harmonisation of rates or the transfer of tax collection rights to the EU level (in turn, the minimum tax<sup>40</sup> does provide for a harmonised minimum tax rate of 15%, but the resulting tax revenues are to be transferred to the relevant national tax jurisdictions). This draft, however, sets out harmonised rules for determining the income and tax base of businesses using BEFIT.

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<sup>37</sup> With the proviso that income tax revenues from the salaries of EU officials and employees do not go to the budgets of Member States, but to the EU budget.

<sup>38</sup> For more details see Supera-Markowska, *Wspólna skonsolidowana podstawa opodatkowania jako koncepcja harmonizacji opodatkowania korporacyjnego w UE* (Warsaw: CH Beck 2010) 371ff and the literature cited therein.

<sup>39</sup> See European Commission, Proposal for a Council Directive on Business in Europe: Framework for Income Taxation (BEFIT), COM (2023) 532 final, Brussels, 12 September 2023, hereinafter referred to as the BEFIT Directive.

<sup>40</sup> See Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation applicable to multinational groups and large-scale domestic groups in the Union (OJ EU No L 328, 22 December 2022, 1–58).

## VI. DIRECTIVE ON BEFIT

The EU framework for taxation of income from business activities (Business in Europe: Framework for Income Taxation – BEFIT) is intended to be a set of rules on corporate income tax in the EU based on two key features: the application of uniform rules for determining the income tax base of businesses regardless of their place of residence or business activity, and the adoption of a formula (model) for the allocation (distribution, division) of such taxable income among Member States. These are the assumptions that previously defined the essence of the CCCTB concept.<sup>41</sup> Although certain provisions concerning the common tax base and the application of the sharing formula have already been included in earlier proposals on this concept,<sup>42</sup> the BEFIT proposal is intended to take account of the significant changes that have taken place since then. In particular, in view of the increasing globalisation and digitalisation of the economy, BEFIT – compared to previous CCCTB projects – is to have a different allocation formula that better reflects contemporary realities and is based on the approach adopted in the context of the global agreement resulting from the work carried out under the BEPS project at the OECD forum.<sup>43</sup>

Based on these assumptions, the BEFIT Directive contains a set of provisions aimed at determining the tax base for businesses belonging to certain groups. Companies or permanent establishments subject to the Directive would cease to be subject to national corporate income tax legislation in respect of all matters covered by the Directive, unless otherwise specified therein.<sup>44</sup>

The Directive defines what constitutes a group for its purposes (‘BEFIT group’), the rules for calculating the BEFIT group’s tax base (‘BEFIT tax base’) and for allocating the BEFIT tax base to the members of the BEFIT group, simplifies the assessment of transfer pricing risks in relation to transactions with associated enterprises outside the BEFIT group, and contains provisions on the administration of the common legal framework.<sup>45</sup>

<sup>41</sup> For more details see Supera-Markowska, *Wspólna skonsolidowana podstawa opodatkowania jako koncepcja harmonizacji opodatkowania korporacyjnego w UE* (Warsaw: CH Beck 2010).

<sup>42</sup> See Proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB), COM (2011) 121 final, Brussels, 16 March 2011; Proposal for a Council directive on a Common Corporate Tax Base, COM (2016) 685 final, Strasbourg, 25 October 2016; and Proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB), COM (2016) 683 final, Strasbourg, 25 October 2016.

<sup>43</sup> Communication from the Commission to the European Parliament and the Council, ‘Business taxation for the 21st century’, COM (2021) 251 final, Brussels, 18 May 2021, 13.

<sup>44</sup> See Article 1(1) and (3) of the BEFIT Directive.

<sup>45</sup> See Article 1(2) of the BEFIT Directive.

Chapter I of the Directive sets out its subject matter, scope and basic definitions for the purposes of BEFIT. The Directive applies to companies that are resident in an EU Member State for tax purposes, including their permanent establishments located in other EU countries. It also applies to permanent establishments located in EU Member States of entities that are resident in a third country for tax purposes.

The mandatory scope of application of BEFIT covers groups of companies (domestic or international) with total annual revenues of at least EUR 750 million,<sup>46</sup> meeting the condition of being linked at a level of at least 75% of ownership rights (or profit rights).<sup>47</sup> In the case of groups with a top-level parent company outside the EU, they will also have to demonstrate at least over EUR 50 million in total annual revenue in the EU and exceed 5% of the group's total revenue.<sup>48</sup> The optional scope of application of BEFIT covers smaller groups, provided that they prepare consolidated financial statements.<sup>49</sup> No sectors have been excluded from the scope of the directive, although its further relevant regulations take into account the specific nature of certain industries<sup>50</sup> (this applies in particular to the international shipping sector<sup>51</sup> and the mining sector<sup>52</sup>).

Chapter II of the BEFIT Directive contains provisions on determining the preliminary tax result of each member of a BEFIT group. Subsequently, Chapter III sets out the rules for aggregating these preliminary results into the BEFIT tax base and allocating it to the members of the BEFIT group.<sup>53</sup> This mechanism offers advantages such as broad opportunities to offset not only domestic but also cross-border losses;<sup>54</sup> no withholding taxes on transactions such as interest and

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<sup>46</sup> See Article 2(1) of the BEFIT Directive.

<sup>47</sup> See Articles 5–6 of the BEFIT Directive.

<sup>48</sup> See Article 2(2) of the BEFIT Directive.

<sup>49</sup> See Article 2(7) of the BEFIT Directive.

<sup>50</sup> For example, due to the special tax system for the international shipping sector (in the Polish system specified in the Act of 24 August 2006 on tonnage tax, consolidated text: Journal of Laws of 2021, item 985), the categories covered by it are excluded from the BEFIT tax base (see Article 15 of the BEFIT Directive).

<sup>51</sup> See Articles 15 and 47 of the BEFIT Directive.

<sup>52</sup> See Article 46 of the BEFIT Directive.

<sup>53</sup> Exceptions are provided for mining and transport activities. Revenues and costs from mining activities are not included in the BEFIT tax base, as they are always attributed to the country of origin, i.e., the place of extraction (see Article 46 of the BEFIT Directive). Revenues and costs related to international shipping that is not covered by the tonnage tax system, as well as revenues and costs related to air and boat transport, are also not added up; in accordance with the approach set out in Article 8 of the OECD Model Tax Convention, such activities are taxed only in the country where the company operating the ships or aircrafts is located (see Article 47 of the BEFIT Directive).

<sup>54</sup> Currently, this possibility is rare, which may lead to excessive taxation of the group in relation to its economic performance and discourage companies from conducting cross-border activities in the internal market.

royalty payments within the BEFIT group, provided that the beneficial owner of the payment is a member of the group;<sup>55</sup> and easier compliance with transfer pricing rules.<sup>56</sup>

After the appropriate<sup>57</sup> allocation of the BEFIT tax base, each member of the group will have to make certain adjustments to it. These adjustments mainly include technical corrections necessary to ensure the consistency of the system (e.g., settlement of losses incurred before the application of BEFIT), as well as amounts such as donations or pension benefits, which are largely dependent on the requirements of the national law and, therefore, seem most appropriate to be included in the portion of the tax base allocated to a given tax jurisdiction.<sup>58</sup> Furthermore, Member States will be free to apply deductions or increases to their allocated share other than those specified in the Directive.<sup>59</sup> The Directive also takes into account corporate income tax systems based on taxation of profit distributions, providing for the necessary adjustments to enable the companies covered by them to participate in the BEFIT group.<sup>60</sup>

With regard to transactions with related companies outside the BEFIT group, Chapter IV of the BEFIT Directive contains provisions aimed at facilitating com-

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<sup>55</sup> See Article 43 of the BEFIT Directive. Within the group, there is no need to tax these transactions individually, as they will be included in the aggregated BEFIT tax base, but it is also crucial to ensure that such payments are not used to transfer profits outside the group for the purpose of low-rate taxation; therefore, the competent national authorities are to retain the right to verify whether the recipient is the actual beneficiary.

<sup>56</sup> The requirement for them to comply with the arm's length principle will be maintained, but at the same time BEFIT group members will benefit from increased tax certainty if, as a result of intra-group transactions, their costs or revenues remain below a 10% increase compared to the average of the previous three tax years. This system is intended to provide a degree of certainty and pave the way for the possible elimination of the need to determine prices for intra-group transactions within the BEFIT group in accordance with the arm's length principle, if a formula based on factors is agreed as a fixed method of allocating the BEFIT tax base.

<sup>57</sup> Based on the transitional allocation principle, which uses the percentage share of each BEFIT group member in the aggregate tax base, calculated as the average of taxable results in the previous three tax years. The advantage of this transitional solution is that it uses more recent data from country reports and information gathered in the first years of BEFIT application when developing a permanent allocation method (which could be based on a distribution formula). This should also enable a more accurate assessment of the impact that the implementation of the two-pillar approach agreed upon by the OECD as part of the BEPS project will have on national tax bases and the BEFIT tax base.

<sup>58</sup> See Article 48(1) of the BEFIT Directive.

<sup>59</sup> See Article 48(2) of the BEFIT Directive.

<sup>60</sup> In this case, income is not taxed on an annual basis, but when profits are distributed. Therefore, the allocated portion of the aggregate tax base would be transferred annually in proportion to the income not distributed in a given year (see Article 49 of the BEFIT Directive).

pliance with transfer pricing rules by providing a risk assessment tool ('traffic light system').

Issues relating to the administration of the system are regulated in Chapter V of the Directive, based on the assumption that common substantive law provisions also require a common administrative framework. Thanks to the one-stop shop, business operators will be able to contact a single tax authority in the EU to fulfil their tax reporting obligations in all cases where this is feasible. The 'reporting entity', which is generally to be the ultimate parent company, will submit a single declaration for the entire BEFIT group ('BEFIT declaration') exclusively to its own tax administration (the 'receiving authority'), which will make this declaration available to the other Member States in which the group operates.<sup>61</sup> Each member of the BEFIT group will also submit an individual tax return to their own tax administration in order to apply national adjustments to their allocated share of the tax base.<sup>62</sup> In conjunction with the BEFIT declaration, this will enable each tax administration to determine, as precisely as possible, the amount of tax liabilities of BEFIT group members.<sup>63</sup>

For each BEFIT group, the so-called 'BEFIT team' will be set up, comprising representatives of the relevant tax administration from each of the Member States in which the group operates.<sup>64</sup> Members of each BEFIT team should share information, coordinate their actions and achieve a degree of certainty at an early stage when resolving specific issues.<sup>65</sup> However, inspections will remain at the level of a Member State, which will be able to request joint inspections.<sup>66</sup>

## VII. SUMMARY AND FINAL CONCLUSIONS

The reform of the EU's own resources system includes the introduction of new tax sources and the adoption of common regulations governing them. In case of relevant taxes, this may take place as part of their harmonisation through the adoption of appropriate directives. On the one hand, this harmonisation is essential for the implementation of this aspect of the reform, which, given its necessity, may accelerate the work on harmonisation; on the other hand, achievements in harmonisation may accelerate this reform towards deeper and more effective economic

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<sup>61</sup> See Article 57 of the BEFIT Directive.

<sup>62</sup> See Article 62 of the BEFIT Directive.

<sup>63</sup> See Article 64 of the BEFIT Directive.

<sup>64</sup> See Article 60 of the BEFIT Directive.

<sup>65</sup> See Article 61 of the BEFIT Directive.

<sup>66</sup> See Article 65 of the BEFIT Directive.

and social integration of the Member States.<sup>67</sup> For the time being, the adoption of directives on digital tax and financial transaction tax has not been successful, with the former category now seemingly losing its *raison d'être*. As for CIT, the current harmonisation project in this area, i.e. the BEFIT project, shows some similarities but also differences in relation to the previous proposals. It is worth noting that in the event of a possible transfer of (part of) corporate tax revenues to the EU budget (linking the EU's own resources system to this revenue) and the resulting reduction in Member States' revenue (increase in expenditure on the so-called EU budget contribution), there should be some changes in the scope of expenditure covered by the EU budget (e.g., financing new areas from it), which is already happening to some extent. It should be noted that the need to reform own resources is justified, among other aspects, by the launch of a new EU financial instrument in the form of the Recovery and Resilience Facility<sup>68</sup> and the need to finance the debt incurred by EU countries to finance post-COVID-19 recovery.<sup>69</sup>

In addition to fulfilling its fiscal function in the context of these new and additional needs, it is also important to use the financing instruments introduced as part of the resource reform to implement the EU's main policies in accordance with certain fundamental EU principles, such as, in particular, the principle of sustainable development or the principle of fairness in its fiscal aspect. In this context, new sources of own resources in the form of a plastic tax and CBAM, closely linked to EU ETS (pro-environmental or 'pro-climate' sources), serve to implement the EU's sustainable development policy, circular economy objectives, the 'polluter pays' principle and the achievement of climate neutrality. In this regard, it should be noted that as the policy objectives to which they are intended to contribute are achieved, the implementation of the stimulus function may, in the long term, make it impossible to implement the fiscal function and necessitate the search for further new sources of own resources as part of the next reform of the EU's own resources system.

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<sup>67</sup> This is currently not possible under the existing EU budget. The fact that the existing EU budget did not allow for deeper and more effective economic and social integration of Member States was pointed out by representatives of tax law doctrine in an open letter in 2020: 'However, no draft or even outline of a common policy aimed at deeper and more effective economic and social integration of Member States has yet emerged. The current annual EU budget does not allow for this. It represents around 1% of the EU's total GDP, while the annual budget of most Member States represents between 40% and 50% of their national GDP. It is clear that, compared to the budgets of the Member States, the EU budget is far too small to have a significant impact on effective common economic and social policy at EU level' (Frans Vanistendael and others, Letter from tax law professors, 'Solidarność europejska wymaga unijnych podatków' (2020) 6 *Przegląd Podatkowy*).

<sup>68</sup> See Regulation (EU) 2021/241 of the European Parliament and of the Council of 12 February 2021 establishing the Recovery and Resilience Facility (OJ EU No L 57, 18 February 2021, 17–75).

<sup>69</sup> See the preamble to Decision 2020/2053, in particular recitals 14, 15 and 16.

In turn, appropriate taxes, i.e., digital tax, FTT or harmonised CIT (sources of ‘pro-fair taxation’), are intended to ensure fair taxation. The most comprehensive of these projects, i.e., BEFIT, is intended not only to prevent tax avoidance but also to support the development of economic activity in the EU internal market by removing tax obstacles to its conduct, while allowing economic activity to be conducted in the EU single market without unjustified tax barriers. Tax harmonisation in this area is closely linked to the reform of own resources, but at the same time, has a broader significance than purely fiscal. However, it remains difficult to determine whether the political agreement necessary for its implementation will ultimately be achieved.

## REFERENCES

Aldeia S, ‘The European Union Carbon Border Adjustment Mechanism as a Green Tax Policy Instrument’ (2025) 12 Central European Economic Journal

Asen E, ‘Financial Transaction Taxes in Europe’ <<https://taxfoundation.org/data/all/eu/financial-transaction-taxes-europe-2021/>> accessed on 2 September 2025

De Boe G, Lamensch MCS, Swaen V, ‘EU Plastic Packaging Levy and National Tax Strategies Toward Circularity: Complementarity or Redundancy?’ (2015) 12 Bulletin for International Taxation

Domínguez Martínez JM, López Jiménez JM, ‘El impuesto sobre transacciones financieras en la Unión Europea: aspectos jurídicos y económicos’ (2017) 1 Documentos de Trabajo

Enache C, ‘Digital Services Taxes in Europe, 2024’ <<https://tax-foundation.org/data/all/eu/digital-tax-europe-2024/>> accessed 2 September 2025

Gajda-Kantorowska M, ‘Podatek Tobina – kontrowersje teoretyczne i uwarunkowania praktyczne’ (2014) 1 Miscellanea Oeconomicae

Gómez Requena JA, ‘El papel del impuesto sobre las transmisiones financieras en una economía globalizada (digitalizada)’ in MÁ Collado Yurrita, LM Romero Flor (eds), *Tributación de la economía digital* (Barcelona: Atelier 2020)

Oręziak L, *Finanse Unii Europejskiej* (Warsaw: Wydawnictwo Naukowe PWN 2009)

—, *Finanse Unii Europejskiej i strefy euro* (Warsaw: Oficyna Wydawnicza SGH 2020)

Paluszak G, ‘Podatek od transakcji finansowych jako nowe źródło dochodu budżetu Unii Europejskiej’ in G Paluszak, M Sapała (eds), *Dylematy budżetu i wieloletnich ram finansowych Unii Europejskiej* (Poznań: Wydawnictwo Uniwersytetu Ekonomicznego w Poznaniu 2013)

Ravikumar A, ‘Por qué el impuesto fronterizo al carbono de la UE es injusto e imperialista’, MIT Technology Review <<https://www.technologyreview.es/s/12465/por->

[-que-el-impuesto-fronterizo-al-carbono-de-la-ue-es-injusto-e-imperialista](#)> accessed 30 December 2022

Selma Penalva V, 'Una aproximación al impuesto transfronterizo al carbono como forma de luchar contra el cambio climático' in M Supera-Markowska (ed), *Problemas actuales de las finanzas públicas y novedades de políticas fiscales: punto de vista hispano y polaco* (Warsaw: CH Beck 2022)

Stabryła-Chudzio K, *Rola budżetu Unii Europejskiej w integracji społeczno-gospodarczej* (Kraków: Wydawnictwo Uniwersytetu Ekonomicznego w Krakowie 2011)

Supera-Markowska M, 'Instrumenty podatkowego wspierania założeń zrównoważonego rozwoju w prowadzeniu działalności gospodarczej' in M Pisz, R Chęciński (eds), *Implementacja zasady zrównoważonego rozwoju do gospodarki i sektora instytucji publicznych* (Poznań: UAM 2021)

—, 'Hiszpański podatek od transakcji finansowych - odejście od harmonizacji na rzecz jednostronnych działań podatkowych o znaczeniu fiskalnym i pozafiskalnym' (2021) 3 Doradztwo Podatkowe – Biuletyn Instytutu Studiów Podatkowych

—, 'Podatek od usług cyfrowych – geneza, założenia i dalsze wyzwania', in M Bitner (ed), *Problemy finansów i prawa finansowego. Księga jubileuszowa dedykowana profesor Elżbiecie Chojna-Duch* (Wrocław: Presscom Sp. z o.o. 2021)

—, *Wspólna skonsolidowana podstawa opodatkowania jako koncepcja harmonizacji opodatkowania korporacyjnego w UE* (Warsaw: CH Beck 2010)

Vanistendael F and others, Letter from tax law professors, 'Solidarność europejska wymaga unijnych podatków' (2020) 6 Przegląd Podatkowy

Żukrowska K, *Budżet ogólny Unii Europejskiej* (Warsaw: Wydawnictwa Akademickie i Profesjonalne Warsaw 2009)

—, 'Budżet ogólny Unii Europejskiej w 2020 r.: co z niego można wyczytać o przyszłości UE?', in AA Ambroziak, AD Szypulewska-Porczyńska (eds), *Polska w Unii Europejskiej – od stowarzyszenia do piętnastolecia członkostwa: monografia jubileuszowa dedykowana Profesor Elżbiecie Kaweckiej-Wyrzykowskiej* (Warsaw: Oficyna Wydawnicza SGH 2020)