FTT – Will it change behaviour?

The art of taxation is like plucking a goose; to get the most feathers with the least amount of hissing"

Jean-Baptiste Colbert French Finance Minister King Louis XIV

"To tax and to please, no more than to love and to be wise, is not given to men."

Edmund Burke (1729 – 1797)

Taxes change behaviour – intended and otherwise

Swedish FTT – a real life example

Financial firms are assessing the impact of the proposal

Understanding outside of the financial sector e.g. amongst "real economy" companies is spreading

To assess the impact, we need to consider:-

- the objectives of the FTT proposal
- the fiscal incentives and disincentives the proposal presents
- its application in EU11, EU16 and non EU jurisdictions

What factors influence firm's decisions?

Some thoughts

Customers

What regulatory environment provides

Ability to offer products competitively

Cost to operate / operational risk

The behavioural objectives of FTT (I)

The 2011 proposal had three objectives:-

- Harmonise indirect taxation on financial transactions
- Ensuring a “fair and substantial contribution” from financial sector
- “Creating appropriate disincentives for transactions that do not enhance the efficiency or stability of financial markets thereby complementing regulatory measures to avoid future crises.”

The behavioural objectives of FTT (II)

In proceeding to enhanced cooperation, five principles were identified

- No (significant) double tax or double non tax
- Tax revenues from financial sector should be "fair and substantial" contribution to the cost of crisis – target 0.3 – 0.5% of EU GDP
- "Should not trigger a (significant) tax-induced geographical relocation of financial activity, neither within the FTT jurisdiction itself not at the expense of the financial centres of the FTT jurisdiction"
- "All financial instruments, actors and markets within the FTT jurisdiction should be treated similarly so as to avoid (significant) tax-induced distortion of competition or (significant) tax-induced substitution activities, such as shifting from taxed products or markets to non taxed ones. This would require a non-preferential treatment of products, actors or markets"
- "Pure rent-seeking financial intermediation, excessive risk taking and leveraging and that do not improve the efficiency or stability of the financial markets should be discouraged"

Some aspects of the design with potential to disrupt behaviour or conflict with regulatory reform:-

- Intermediaries
- Financing
- Government Debt
- Group transactions
- Derivatives
- Collateral
- Pension Funds

EU11, EU16, Non EU Implications (I)

To address the application of FTT to a limited number of jurisdictions the proposal is purposefully very wide in its design e.g.:-

- Classification of financial institutions
- Classification of financial transactions
- Issuance principal
- Depository receipts

EU11, EU16, Non EU Implications (II)

Some observations

For financial groups

- EU11 financial institutions taxed on worldwide taxable transactions
- EU16 and non EU broadly taxed on a taxable transactions
  - when dealing with EU11 customers, and
  - worldwide when dealing in “EU11 securities”
- EU16 at a disadvantage to EU11 in terms of complexity of complying – i.e. determining to whom FTT is payable?

EU11, EU16, Non EU Implications (III)

Some observations

For non financial groups

- EU11 entities' taxable transactions with financial institution will be taxed worldwide
  - Capital raising by EU11 entities will be impacted despite the primary market exemption
  - Centralising and managing risk in the EU11 may be penalised
- EU 16 and non EU entities' taxable transactions with financial institutions
  - with EU11 financial institutions - all taxed
  - with EU16 and non EU financial institutions – "EU 11 securities" taxed

EU11, EU16, Non EU Implications (IV)

Some observations

For investors

- EU11 investors' taxable transactions with financial institution will be taxed worldwide
- EU 16 and non EU investors' taxable transactions with financial institutions
  - with EU11 financial institutions - all taxed
  - with EU16 and non EU financial institutions – "EU 11 securities" taxed
- Investing in EU11 securities will be fiscally discouraged relative to EU16 and non EU securities
- Investing through EU11 investment vehicles will be fiscally discouraged
- Insuring or pension saving through EU11 vehicles will be fiscally discouraged