

Tax challenges of the digitalisation of the economy

G-24 Working Group on Tax Policy and International Tax
Cooperation

Concerns with regard the tax challenges of Digitalisation

BEPS opportunities being exacerbated by digital business models

- International standards -developed in the XIX century and reflected in existing tax treaties- require physical presence to tax business profits
- Digitalisation allows MNEs to access remote markets in the absence of physical presence.
- Tendency among MNEs to become more and more digitalised and avoid source taxation and, in many cases, not even taxed in the residence State.

Unfair taxation attempting against tax equality

- While local providers of ADS are subject to corporate taxation, non-residents benefit from the above-mentioned exemption

Preferences for tackling the tax challenges of Digitalisation

Favouring a multilateral solution

- That could ultimately be implemented by interested jurisdictions
- That seeks simplicity and administrability
- That allows jurisdictions to tax a fair portion of income derived therein

In the absence of a global solution

- Unilateral DSTs would have to be harmonized through an Article 12B type of treaty provision
 - Withholding mechanism where information is not available
 - Allowing net taxation on global profitability where CbCR is available
- Political commitment required to force tax treaty amendment

Main specific concerns on the Two-Pillar Approach of the Inclusive Framework's Project on Digitalisation

Pillar One - Amount A

- Scope
 - Activities
 - Revenue threshold
- Nexus
- Tax base determination
 - Pre-regime losses
 - Non-routine profitability ratio
 - Allocation percentage of non-routine profits
- Early tax certainty mandatory and binding mechanism

Main specific concerns on the Two-Pillar Approach of the Inclusive Framework's Project on Digitalisation

Pillar One - Amount B

- Identification of benchmarked activities
- Agreement on appropriate retribution
 - Regional differentiation
 - Revenue threshold

Pillar One – Amount C

- Unrelated to the tax challenges of the digitalisation of the economy
- Excessive as a quid pro quo requirement

Main specific concerns on the Two-Pillar Approach of the Inclusive Framework's Project on Digitalisation

Pillar Two – Income Inclusive Rule & Undertaxed Payment Rule

- Threshold
- Top up tax
- Rule Order

Pillar Two – Subject to Tax Rule

- Scope
 - Covered payments
 - Covered persons
 - Materiality threshold
- Status

Many thanks

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