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Digital Taxation – Delivering a successful implementation of the global agreement for Governments and Businesses

Introduction & Background

In October 2021, political agreement was reached by 136 members of the G20/OECD Inclusive Framework on a two-pillar approach to revise the international tax rules for large multinational enterprises.

Under Pillar One of the agreement, taxing rights over 25% of residual profits of large enterprises would be re-allocated to market jurisdictions (i.e where the customers and users of those businesses are located). For these purposes, large enterprises are those with revenues in excess of Euro 20bn and residual profits are those in excess of a 10% margin.

Pillar Two provides a global minimum effective tax rate of 15% on all businesses with global annual revenues over Euro 750m. There is an ambitious plan that envisages implementation of the new rules by 2023.

The debate surrounding taxation of the digitalizing economy has been on-going for many years. Recently, a number of countries in the EU and elsewhere have enacted and implemented unilateral Digital Services Taxes “DSTs” (or similar provisions), which impose a flat percentage tax on gross revenues from certain digital activities. As part of its “own resources” the European Commission has suggested an EU wide digital levy.

The G20/OECD Inclusive Framework Agreement includes the removal and standstill of Digital Services Taxes (or similar unilateral measures) with a view to bring an end to trade tensions resulting from instability of the tax system.



Considerations for a successful implementation

- ▶▶ DigitalEurope welcomes the tax agreement reached at global level and applauds the OECD and all countries involved for their leadership in reaching this historic achievement.
- ▶▶ Now that a global agreement has been reached attention should focus on a complete and successful implementation of both Pillars. In the EU, implementation needs to be consistent across Member States and congruent with the fundamental freedoms and EU law.
- ▶▶ All businesses are digitalizing and it's not possible to ring-fence the digital economy for tax purposes.
- ▶▶ Commitments to remove DSTs should be honored and no additional taxes or levies targeted at digital activities should be introduced.
- ▶▶ Whilst political agreement has been reached, many important technical details remain to be resolved. We urge the Inclusive Framework to ensure the detailed rules are based on sound principles, are clear in scope, application and result in ease of administration and certainty for tax authorities and taxpayers alike.
- ▶▶ We welcome the simplifications introduced for both Pillars. However, the rules remain complex and further simplification would be helpful.
- ▶▶ Key outstanding technical design features of Pillar One include:
 - *Entity / jurisdiction surrendering taxing rights* – to avoid double taxation the rules need to specify a clear methodology to identify which entity/ jurisdiction is surrendering taxing rights and the mechanism through which that is achieved.
 - *Sourcing* – rules to allow for the clear sourcing of revenues to jurisdictions should be developed. Businesses should not be burdened with a requirement to collect new data from third parties simply to comply with Amount A. A pragmatic approach flexible for different business models should be developed, utilizing data businesses already hold. Any requirement to collect or retain data should be consistent with data privacy requirements.
 - *Marketing and distribution safe-harbour* – This mechanism must ensure that the Amount A reallocation does not result in a jurisdiction being over-compensated and double taxation arising in cases in which a business already has a taxable presence in a jurisdiction.

- *Treatment of withholding taxes* – withholding taxes incurred should be offset against the Amount A allocation to the particular jurisdiction
 - *Definition of relevant unilateral measures* – a broad definition should be adopted including not only DSTs but other unilateral measures (e.g Equalization levies, Diverted Profits Taxes, withholding taxes on offshore receipts in respect of IP etc)
 - *Compliance mechanism* – a simplified compliance mechanism (e.g a “one-stop-shop”) should be adopted to ease the administrative burden of complying with Pillar 1
 - *Dispute prevention and resolution mechanism* – Further work is needed to ensure the binding dispute prevention and resolution mechanism provides the certainty required by tax authorities and taxpayers alike. Such tax certainty should not be limited to the Amount A determination but also cover other activities a business may have in the jurisdiction.
- ▶▶ Introducing an Amount B would provide an important additional level of tax certainty for tax authorities and taxpayers. We would encourage the Inclusive Framework to continue to advance its work in this area bringing forward a proposal as soon as possible. Development of Amount B should not however hold up implementation of the existing agreement.
- ▶▶ Key outstanding technical design features of Pillar 2 include:
- *Deferred tax accounting* – deferred tax accounting should be adopted to avoid double taxation particularly for businesses with long-life cycles
 - *GILTI co-existence* – so that double taxation does not arise, the Undertaxed Payment rule should not apply to businesses that are already subject to a minimum tax which imposes tax on the relevant income (e.g the US GILTI tax).
 - *Research & development* – given the importance of innovation to economic recovery and growth, R&D activities, and R&D tax credits should be excluded from the minimum tax calculation.

FOR MORE INFORMATION, PLEASE CONTACT:



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National Trade Associations

Austria: IOÖ

Belarus: INFOPARK

Belgium: AGORIA

Croatia: Croatian Chamber of Economy

Cyprus: CITEA

Denmark: DI Digital, IT BRANCHEN, Dansk Erhverv

Estonia: ITL

Finland: TIF

France: AFNUM, SECIMAVI, numeum

Germany: bitkom, ZVEI

Greece: SEPE

Hungary: IVSZ

Ireland: Technology Ireland

Italy: Anitec-Assinform

Lithuania: INFOBALT

Luxembourg: APSI

Moldova: ATIC

Netherlands: NLdigital, FIAR

Norway: Abelia

Poland: KIGEIT, PIIT, ZIPSEE

Portugal: AGEFE

Romania: ANIS

Slovakia: ITAS

Slovenia: ICT Association of Slovenia at CCIS

Spain: AMETIC

Sweden: TechSverige, Teknikföretagen

Switzerland: SWICO

Turkey: Digital Turkey Platform, ECID

United Kingdom: techUK