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Belt and Road Initiative Tax Journal

IMPROVING TAX ENVIRONMENT IN BRI JURISDICTIONS

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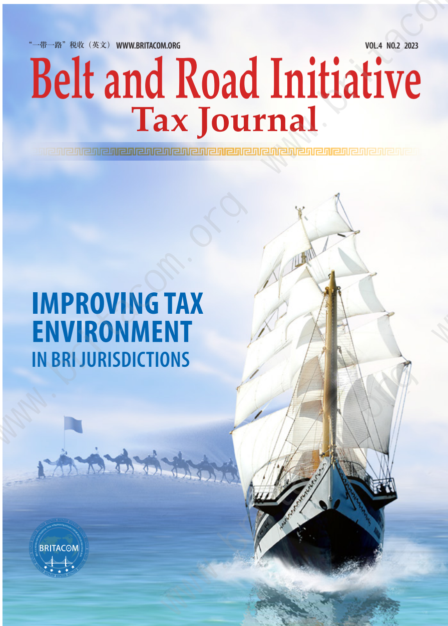

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The Practices and Experience of Improving Tax Services and Optimizing Business Environment in Georgia:

An Exclusive Interview with Mr. Levan Kakava, Head of the Revenue Service of Georgia

BRITJ Editorial Team

Business environment plays an essential role in the economic development of a country. In this connection, Mr. Levan Kakava, Head of the Revenue Service of Georgia, shares with us in this interview the practices and experience of improving tax services and optimizing business environment in Georgia in recent years.

BRITJ: In terms of optimizing business environment, what unique challenges does Georgia Revenue Service (GRS) face on its journey to create an investment-friendly business environment?

Levan Kakava: Of course, tax and investment policies, which usually are determined by relevant ministries, make a big contribution to the creation of an attractive business environment. However, there is no doubt that the proper and effective system of tax administration plays an equally important role in boosting and maintaining this environment. Though the GRS has always been proactive in terms of process simplification, and by simplification I mean process automation and digitalization, either inwardly (for employees) or outwardly (for taxpayers), COVID-19 makes simplification a single most sensible option rather than a matter of choice for ensuring business continuity and other positive consequences resulting from it. At the same time, tax administrations should ensure that there is a competitive environment, everybody pays their fair share of tax and the room for tax avoidance and disruption of competition is as narrow as it might be.

The experience sharing among tax officials is particularly important these days, where the focus is shifted to digital tax administration. Digitalization leads to more and more electronic data and an increasing emphasis on risk-based and automated interactions and solutions. On the other hand, demand for IT specialists and data scientists is increasing, and recruitment, as well as staff retention, becomes a significant challenge for tax administrations requiring additional resources.

Tax administrations face challenges, including the need to combat tax fraud and evasion, and deal with the digitalization of the economy and globalization. Tax evasion and avoidance schemes erode the economies of not only our member tax administrations but also all administrations across the globe. So, we, tax administrations, are at the forefront and are authorized by our governments to ensure that legitimate tax revenues are secured.

Business registration in Georgia is quite a simple process, taking only a day and not requiring any initial capital, which itself creates a favorable environment for starting up a business. However, this simplicity in business registration poses a distinct challenge for the tax authority on the tax administration phase. In particular, in the event of a tax debt, the debt recovery process becomes difficult. To address this challenge, the GRS, based on recommendations coming from international organizations, implemented a comprehensive reform, implying establishment of a debt management department and approval of a debt management strategy.

In tandem with global trends, e-commerce surge became evident in Georgia, especially during the pandemic and post-pandemic period. Though this area does not hold a significant market share yet, it is necessary to assess the potential (future) challenges. E-commerce stands out as a formidable and burgeoning challenge.

Additionally, we consider cash transactions as one of the main challenges, and it is not new for the tax administrations of most countries. In Georgia, the substantial use of cash in purchasing goods and services, especially in the retail sector, poses a unique challenge for tax authority during the tax administration process.

Nowadays challenges facing the GRS differ not much from the ones faced by other tax administrations. However, we use all possible resources to train our staff on modern approaches, sharing as much as possible the international experience that our partner tax administrations and international organizations offer us.

BRITJ: Could you please tell us the highlights of the measures and practices adopted by the GRS in optimizing business environment? And the results achieved?

Levan Kakava: As mentioned earlier the GRS has always been proactive in terms of process simplification, it was a pioneer state institution that fully automated business and introduced such electronic services that would make it easier for taxpayers to fulfill their tax obligations and therefore ensure effective mobilization of tax revenues. In the post-COVID period, we went further and encouraged self-service by reducing the number of service centers to only two in the capital city of Georgia, and next we are going to close all service centers. In the contrary, we are planning to implement digital and electronic services with greater zeal to create environment close to taxpayer-natural systems, where paying taxes is seamless and automated, and reduce human and time resources spent on fulfilling business obligations. When we talk about business environment and COVID pandemic support, enhancement and launching of a new VAT refund system has a great importance. The role of the GRS in implementing and operating the system is crucial and it was a real game changer in our economy. Automatic VAT refund system is allowing system-verified taxpayers to refund access payment in VAT in up to 2 days. For example, in 2022, more than GEL2 billion was paid back to the taxpayers and therefore back to the business, promoting economic growth, which is 4 times more than the amount paid back on an annual basis before automatic VAT refund system was launched.

In the digital economy, there are more and more opportunities for taxpayers to evade their legal obligations. In such conditions, the availability of reliable and versatile data is of particular importance. For this purpose, we have created a data warehouse (repository). The introduction of a data processing and analysis system ensures the collection and analysis of data available in the Service and acceptable from third parties, which helps to strengthen the analytical capabilities of the Service and make strategic and operational decisions based on reliable information. We would like to make more use of modern approaches to process big data in the analysis process, be it statistical methods, machine learning, artificial intelligence or other approaches of advanced analytics.

Figure 1. Tax revenue dynamics

Note: Planned Performance=Actual Tax Revenue/Tax Revenue Projections

Source: Georgia Revenue Service Annual Report, 2022.

BRITJ: As far as we know, GRS issues its Strategy every four years. The most recent was the GRS Strategy 2021-2024, with the aim of improving and making the tax and customs administration process more efficient and effective. Could you elaborate on the Strategy and its implementation process?

Levan Kakava: In the strategic plan, the GRS has outlined its goals for 2021-2024 to enhance the efficiency of tax and customs administration. There are three main strategic goals. First, there's a focus on improving compliance regarding tax and customs obligations. This involves development of services tailored to the needs of the taxpayers; raising awareness of current and potential taxpayers; improvement of the management of tax arrears; allocating significant resources to reduce the stock of arrears; and developing customs risk management, including the introduction of modern data processing mechanisms and expanding pre-exchange of data related to international trade.

The second goal is to strengthen the institutional capacity of the organization. The GRS aims to introduce modern approaches in human resource management, ensuring employee professional development, creating a modern work environment, and maintaining a high organizational culture. Additionally, there's a strong emphasis on investing in information technologies and implementing an institutional risk management system.

Lastly, the GRS is actively engaged in international cooperation, expanding collaboration with partner countries, agencies, and international organizations. The focus is on sharing successful practices, supporting Georgia in meeting international obligations, and integrating with the European Union. Key projects include joining the Common Transit Convention, promoting the Authorized Economic Operator concept, and introducing the Standard for Automatic Exchange of Financial Account Information. Overall, the GRS is committed to adapting to dynamic challenges, improving work processes, and building trust with stakeholders.

In the future we plan to move to a 5-year strategic plan, which will be in line with the Medium-term Revenue Strategy of the Ministry of Finance of Georgia.

BRITJ: At the Fourth Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF) in September 2023, Georgia's 3-year "Tax Compliance Improvement Plans" quite impressed us. Could you give us a detailed introduction?

Levan Kakava: The term "compliance" denotes the prompt and thorough fulfillment of obligations stipulated by tax legislation. There are four key obligations outlined in tax legislation: Registration, Timely Declaration, Data Accuracy, and Timely Payment. The degree to which a taxpayer adheres to these obligations determines their compliance rate, and specific monitoring methods are applied for each obligation type.

To attain the desired compliance rate, it is crucial to analyze factors influencing taxpayer behavior and devise responsive mechanisms. While performing its mandated functions, the tax administration may encounter various risks that can adversely impact the tax administration process. Among these risks, those related to compliance are particularly significant, as they can lead to revenue losses if the fundamental obligations are incorrectly fulfilled or not fulfilled at all.

Risk management stands out as a vital process within an effective tax administration system. This process encompasses structural approaches to identify, assess, prioritize, and eliminate risks.

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It's important to note that due to limited resources, planning actions and measures for all existing risks is impractical. Therefore, the identification, analysis, prioritization, planning, and monitoring of actions are essential components of effective planning. To optimize our work, we draw on international best practices from different international organizations, such as the IMF and the OECD.

Based on those methodologies, the GRS has developed a so-called risk management cycle as follows:

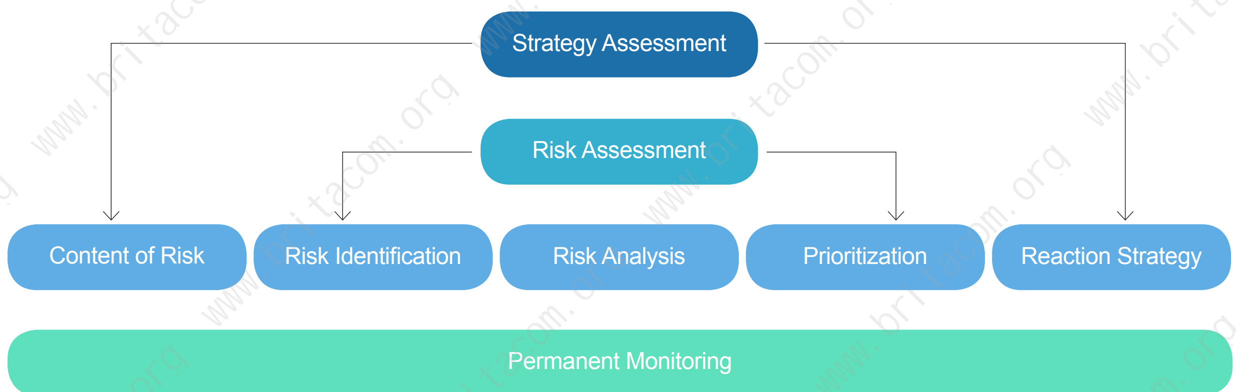

Figure 2. Risk management cycle

It is important to highlight that the strategy for mitigating risks within any prioritized sector outlined in the law compliance plan is formulated by the working group dedicated to that specific area. This group comprises representatives from various departments of the GRS and requires approval from the head of the GRS. The implementation of the plan is overseen by the head of the working group. A unique tax compliance plan is devised for each fiscal year.

BRITJ: You also shared with us the "Control Program of Tax Return Accuracy" at the Fourth BRITACOF. Could you please brief us on its working mechanism and process?

Levan Kakava: The GRS is actively working to incorporate new preventive control approaches into its operations. The traditional method primarily focused on tax audits, inventory checks, control of purchases, and similar measures, lacking the main advantage of the new approach: proactive communication and voluntary collaboration with taxpayers. The new strategy views tax audits as an extreme measure due to the associated costs and time.

In contrast to the traditional approach, which addresses irregularities after they have occurred, preventive control aims to minimize the likelihood of undesirable events, such as cases of tax evasion. An exemplar of this innovative approach is the tax return accuracy control program, designed to enhance preventive control mechanisms within the GRS. This involves promptly informing taxpayers about potential tax violations at an early stage. The risk module evaluates the taxpayer's tax return immediately upon submission. Moreover, if a tax return is flagged for examination based on high risk, the taxpayer is granted the opportunity to voluntarily rectify identified errors. The decision

to initiate an examination with the taxpayer is only made in extreme cases when voluntary cooperation is declined.

The real-time risk assessment, focusing on the accuracy of tax returns, facilitates early detection, and reduces the likelihood of future risks. Consequently, the accuracy control program diminishes bad debts and, by extension, tax disputes. Simultaneously, the program enables a more effective allocation of resources for tax audits.

Currently, the accuracy control program applies to monthly income and withheld taxes, with plans underway to broaden its scope to encompass all major taxes.

BRITJ: Georgia also shared some ideas about the digitalization of tax debt management at the Fourth BRITACOF. Could you please tell us more about it?

Levan Kakava: Following the recommendations from the IMF's technical assistance report, the GRS approved the "Debt Management Strategy 2022-2024" on 31 December 2021. This strategy focuses on modernizing tax debt management to boost taxpayer compliance.

The objective is to prompt timely tax debt payment and reduce accumulated debts through three main tasks:

- Preventive Measures: Regular notifications, via SMS and authorized service page messages, inform taxpayers about debts and potential enforcement measures to deter evasion;
- Improved Recovery: Utilizing an analytical approach, we'll identify taxpayers for enforcement based on electronic databases and pre-determined compliance indicators. Coercive measures will be lighter for compliant taxpayers, considering their interests; and
- Reducing Old Debt: Designating a "Temporarily Uncollectable Debt" status and periodic write-offs for debts that can't be paid despite exhausting legal avenues.

These strategies create a flexible and effective debt management model through cooperative measures with taxpayers. By prioritizing timely communication and tailored actions based on analysis, we aim to significantly enhance voluntary compliance, fostering a transparent and supportive relationship between the GRS and taxpayers.

BRITJ: In the process of optimizing business environment, what measures Georgia has taken are particularly worth recommending to other Belt and Road countries?

Levan Kakava: From our own experience we can confirm that political will of the government is key to any development in the country and successful implementation of strategic goals, the right balance between a cooperative approach and coercive measures so that competition does not get disrupted; constant communication with taxpayers; service accessibility for all groups and segments of taxpayers; identification of problems and search for effective ways to solve them; sharing the experience of successful countries for the purpose of continuous growth; active cooperation with international organizations through various platforms; openness and transparency both with taxpayers and partner organizations.

BRITJ: The Fourth BRITACOF dropped the curtain with fruitful outcomes released. As the host, could you share some of your feelings with us? As a Member Tax Administration of the Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM), what are your expectations for the future development of the BRITACOM?

Levan Kakava: First of all, I would like to thank the BRITACOM once again for giving the GRS the opportunity to host the Fourth BRITACOF and to get to know better about the representatives of our colleague administrations.

In my answers to previous questions, the sentence "to share best practices" often appears. It is because, in my deep belief, it is only by sharing the accumulated experience that it is possible to fill the gap between a country like Georgia and experienced and advanced countries in terms of efficient tax administration. However, in today's reality, when physical borders between countries are broken in the conditions of the digital economy, in order to perform our functions effectively, we are forced to get prepared to address modern challenges. For developing economies like Georgia, it is difficult and almost impossible to devote large resources to the development of new technologies without the help of sharing the experience of others and the help of donors. Therefore, we attach special importance to the opportunity to share experience, especially the opportunity to share practical experience. I sincerely hope that the BRITACOM as a multilateral mechanism would offer more of such an opportunity.

Enhancing Cross-Border Interoperability to Advance International Digitalization Cooperation

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Abstract: This paper delves into the national standards for e-invoices, the seamless integration of fully-digitalized e-invoices with international norms, and the digital identity system, shares the explorations and practices made by China's tax authorities in cross-border interoperability, and proposes suggestions and outlook for future development.

Keywords: E-invoices; Cross-border interoperability; Tax administration; Digital economy; International cooperation; Chinese practices

1. Introduction

In today's world, the speed, breadth and depth of the development of the digital economy are unprecedented, with more and more investment and trade completed digitally. Following this trend, a series of rules, standards or regulatory requirements for digital governance have gradually emerged in various jurisdictions, playing a positive role in improving the global digital governance mechanism and tapping the growth momentum of the world economy.

As an important pillar of global economic governance, tax administration is confronted with both opportunities and challenges brought by digital transformation, with problems such as incongruent tax governance rules, incompatible data element standards and inconsistent system security and regulatory requirements posing difficulties to cross-border interoperability in taxation. Taking e-invoices as an example, the discrepancy of rules and standards for e-invoices in various jurisdictions not only requires cross-border taxpayers to take additional measures to solve the problem of data matching and conversion under different standards, which add tax compliance burden in cross-border transactions, but also increases the difficulty of security management of tax data, preventing jurisdictions from tightening tax supervision through data exchange and sharing.

In September 2022, the Forum on Tax Administration (FTA) published *Tax Administration 3.0 and the Digital Identification of Taxpayers*. The report explores the current state of play on digital identity,

the different domestic solutions adopted in a number of jurisdictions and the challenges related to cross-border processes. It also lays the groundwork for future collaborative work with businesses and other stakeholders in this area. China's tax authorities believe that, based on respect for different development conditions in different jurisdictions, international coordination and cooperation should be strengthened to seek more common ground of digital governance rules and standards, and improve cross-border interoperability in taxation, so as to enhance the capacity of digital tax governance, and expedite the elimination of barriers to cross-border digital services and data flow.

2. China's Explorations and Practices

In response to the FTA's *Tax Administration 3.0: The Digital Transformation of Tax Administration*, China's tax authorities have in recent years focused on enhancing cross-border interoperability in taxation, solidly advanced digital transformation of tax administration, and achieved positive results.

2.1 Promoting E-invoices with Standardized Criteria and Strong Compatibility

E-invoice is the paragon of the digital economy which can lower costs, minimize complexity, remove barriers in international trade, and reduce uncertainty in tax compliance requirements, overcoming mistrust in cross-border transactions. At the very beginning of designing China's e-invoices, that is, the fully digitized e-invoices (hereinafter referred to as "FDEIs"), we took into full account of the needs of global digital trade and attached great importance to the development of standards for the elements of e-invoices, in particular, the aligning of fiscal and tax standards, and of domestic and international standards.

After extensive research and careful deliberation, we have now established two national standards for e-invoices led by the tax authorities, namely the national standards for basic elements of e-invoices and specific elements of e-invoices. The former specifies the data elements of basic element information and their attributes, and the latter specifies the attributes of specific elements for construction services, real estate sales and other businesses, which together constitute the data specification for e-invoices. The release of China's national standards for invoices further unifies invoice standards on top of incorporating element information of invoice data, thus greatly promoting the standardized development of China's e-invoices.

2.2 Facilitating Seamless Integration of FDEIs with International Norms

Based on established national standards for e-invoices, we are working towards adopting international norms in developing the rules of FDEIs in terms of document format and element information. Choosing such compatible and interactive open rules facilitates the seamless conversion of invoice data without additional problems arising.

As for file format, FDEIs adopt Extensible Markup Language (XML) format, an internationally recognized data language used by jurisdictions with more experience in e-invoices (Germany, Italy, Finland, etc.), making it easier for computers to read, identify, collect, analyze and utilize.

Regarding element information, FDEIs basically cover all main tax-related information for cross-border transactions, and the core elements are consistent with the basic elements of invoice, debit note, receipt and other international commercial certificates and can be further added for more accurate and broader collection of invoice elements for commercial transactions. It is the openness, transparency and scalability of invoice rules that make cross-border interoperability of digital invoice feasible.

2.3 Establishing a Secure and Unique Digital Identity System

Drawing on the conception of digital identity in *Tax Administration 3.0*, and within the framework of China's digital identity standards, we utilize important resources such as the national statutory basic identity documents represented by the resident identity cards and the international standard machine-readable travel

documents, and use various verification methods such as collaborative signature, facial recognition, and digital certificate to provide a secure, unique, and nationally unified digital identity authentication system for tax-related market entities based on the statutory identity and the national authoritative authentication. Thus, taxpayers can enter the online tax system and complete all tax-related operations after different levels of real-name verification. Through "mutual recognition and application" of identity information across different systems, departments, regions and levels, taxpayers can access all kinds of government services in a convenient and smooth manner. Apart from offering standardized and unified services, digital tax identity can also be applicable to China's national e-government platform, achieving the interoperability of domestic digital identity, and laying a solid foundation for future mutual recognition of cross-border digital identity.

In addition, China has explored providing digital services to non-resident taxpayers. After remotely completing the "digital identity authentication" for tax processing in China by "email registration + document uploading + manual verification," non-resident enterprises can handle tax-related matters such as tax declaration and payment in China's online tax system without any obstacles, easily realizing cross-border interoperability of tax-related businesses for non-residents.

3. Suggestions and Outlook

Looking ahead, economic digitization has become an irreversible historical trend. Enhancing cross-border interoperability is of great significance to promoting cross-border trade and investment facilitation. To this end, this paper proposes the following.

First, strengthening the standardization of basic data elements. In the era of big data, in order to turn tax data into "elements", it is necessary to process data on an element basis and propose standardized requirements. Where possible, common tax data element standards should be adopted for inter-country tax data exchange. Common and mature data element formats should be embraced for data presentation. In addition to sorting tax data into elements, the elements should be further standardized, and a uniform and standardized digital mutual trust mechanism should be established, so as to save the cost of collection, communication and trust among data-related parties and to promote the compliant and efficient flow and application of data.

Second, promoting openness, transparency and convertibility in data governance rules. As an ancient Chinese saying goes, "people can reach the same destination via multiple paths, and achieve the same goal through different means." Considering the "standard data elements" and "cross-border interoperability", when setting tax data governance rules, jurisdictions should promote the transparency of data collection, exchange and use processes based on the principle of "mutual consultation and sharing", so as to ensure seamless and cost-free interoperability of international tax data.

Third, furthering exchange and cooperation on data security. To safeguard data security in cross-border interoperability, it is imperative for governments, the public and the private sectors to fully cooperate with each other, prioritize both development and security, and balance the relationship between standards, technical coordination and the protection of national security and social public interests. We should explore a more diversified, more innovative and more flexible approach of international cooperation in data security governance, take concerted efforts to build a secure and trustworthy data sharing ecosystem, and jointly explore best practices of data sharing and security supervision to provide security for cross-border interoperability in taxation.

Connectivity brings common progress and isolation results in backwardness. Exploring cross-border interoperability solutions and facilitating the digital transformation of tax administration are our common goal and vision in the digital era. China's tax authorities stand ready to work with all stakeholders in a mutual-benefit mentality to deepen practical cooperation and make coordinated explorations to create synergy and promote development.

The Practices and Experience of Digitalisation of Tax Administration in Singapore

Inland Revenue Authority of Singapore

Inland Revenue Authority of Singapore

Abstract: Tax administrations around the world have been digitalising to improve services delivery and internal processes. This article provides an overview of the Inland Revenue Authority of Singapore's digitalisation strategies, focusing on enhancing customers' experiences, modernising systems, adopting Artificial Intelligence and analytics, and empowering its people through capability building.

Keywords: Digitalisation of tax administration; Taxpayer experience; IT systems; Artificial Intelligence; Analytics; Capability building

1. Introduction

Digitalisation has significantly transformed how people live, work and interact with each other. In an era defined by rapid technological advancements, ever-expanding computing power, quality and quantity of data, Singapore recognises the need to embrace digitalisation or risk being left behind in a constantly evolving and advancing world.

This reality, however, provides Singapore, a country with no natural resources, numerous opportunities to dream and imagine bigger. By harnessing technology, Singapore aims to become a Smart Nation by building a Digital Government, Digital Economy and Digital Society. Adopting a Whole-of-Government approach in our Smart Nation and Digital Government drive, Singapore's vision of a Digital Government is "digital to the core, and serves with heart." This will help improve the way people work, live and play, including how the government interacts and provides services.

In tandem with this ambition, the Inland Revenue Authority of Singapore (IRAS) began its transformation movement in 2016 to re-define experiences for taxpayers and staff by Leveraging Analytics, Design & Digitalisation (LEA:D). IRAS is moving beyond its traditional role as a tax collector to become a trusted partner of taxpayers in nation-building and to provide services in the administration of enterprise disbursements.

IRAS' digitalisation strategies are structured around three key pillars, focusing on (i) enhancing customers' experiences, (ii) modernising systems and adopting Artificial Intelligence (AI)

and analytics and (iii) empowering its people through capability building.

2. Enhancing the Experiences of IRAS' Customers by Making Tax and Enterprise Disbursement a Non-Event

2.1 Taxpayer Education and Seamless Digital Services to Promote Self-help

IRAS believes in getting tax right from the start. To reach out to a large group of target audience in this age of social media, educational materials are made available on various platforms including YouTube and TikTok. For instance, IRAS introduced educational videos on YouTube on how to register for goods and services tax (GST) and how to file GST returns to provide businesses with a better general understanding of their tax obligations. There is also a dedicated e-Learning webpage on the IRAS website that offers a suite of educational online videos for individual and corporate taxpayers on the various tax types. These videos can also be accessed directly from YouTube.

IRAS seeks to deliver personalised and anticipatory services by leveraging AI, digitalisation and design. IRAS implemented "WalkMe", a personalised onscreen application guidance in IRAS' myTax Portal[1] to direct taxpayers to the correct transactional services or relevant information that would improve their tax knowledge or understanding. In addition, IRAS also launched a new IRAS Virtual Intelligent Chat Assistant Bot, an AI-powered chatbot, in February 2023 to better assist taxpayers with tax queries and deliver transactional services related to individual income tax (IIT), property tax (PT) and more. This chatbot enabled a more seamless, personalised and enhanced digital experience for taxpayers and is available 24/7.

In line with the national drive towards electronic payments (e-payments), IRAS offers taxpayers a broad array of quick and seamless electronic payment options such as internet banking and PayNow QR[2]. IRAS also introduced electronic refunds (e-refunds) for GST, corporate income tax (CIT), IIT, PT and stamp duty (SD). Businesses and individual taxpayers can now enjoy fast, secure and seamless e-refunds.

2.2 Simplified Tax Filing and Compliance for Taxpayers

To simplify tax filing for more employees, IRAS extended the Auto-Inclusion Scheme (AIS)[3] for Employment Income to over 100,000 employers with five or more employees. These employees would enjoy simpler tax filing as their employment income information was electronically submitted to IRAS and populated in their electronic IIT returns. With this, some 1.7 million individual taxpayers benefitted from the No-Filing Service (NFS) for the 2023 tax filing season, where they did not have to file an income tax return. IRAS also scaled up the Direct-Notice of Assessment initiative, enabling more taxpayers on the NFS to receive their Year of Assessment 2023 tax bill directly.

Beyond employees, IRAS also extended the NFS to eligible self-employed taxpayers in 2021. Eligible commission agents and taxi/private hire car (PHC) drivers who joined the Pre-filling of Income Scheme could also enjoy simplified tax filing, with their income data populated in their electronic IIT returns based on the information submitted by their commission-paying organisations and transport service operations. As part of continuous efforts to simplify tax filing and ease compliance for self-employed taxpayers, IRAS is seeking to expand the NFS to benefit a wider group of self-employed taxpayers.

Under the Fixed Expense Deduction Ratio (FEDR) initiative, qualifying commission

1 MyTax Portal is a secured and personalised portal for taxpayers to view and manage their tax transactions with IRAS.

2 PayNow QR is a collection mode that offers an easier and faster avenue for customers to make payments to entities by scanning a QR code, via existing mobile banking applications.

3 AIS for employment income was first introduced in 1998.

agents and taxi/PHC drivers could also elect to deduct a deemed amount of expense based on a prescribed percentage of the gross income earned. By offering this initiative, IRAS accepts that it may lead to marginal Government revenue losses but bring about increased efficiency for tax administration and greater convenience for taxpayers.

There were close consultations with industry stakeholders to co-develop the FEDR levels to ensure that they are realistic and reasonable. This led to high take-up rates of over 85% by taxi/PHC drivers and qualifying commission agents. This co-creation is an example of how IRAS actively listened to citizens' needs and provided them with a voice and avenue to shape tax policies, fostering an engaged citizenry and participatory culture.

IRAS is also simplifying and easing tax compliance for businesses, especially small businesses, by working with taxpayers and the wider ecosystem. IRAS partnered software vendors to encourage more businesses to adopt seamless filing solutions, allowing them to fulfil tax filing obligations (which include CIT, GST, AIS and tax clearance for employees) more easily and accurately to IRAS with a few clicks of buttons from their accounting and/or payroll software. Businesses can choose suitable software that meets their needs from IRAS' new Accounting Software Register Plus listing. With seamless filing, businesses can benefit from time savings, reduce compliance costs, enjoy digital record keeping and fulfil other adjacent regulatory obligations from the same software. To meet the evolving needs of taxpayers as they adopt digital solutions to manage their day-to-day events and operations, IRAS will continue collaborating and co-creating with software developers to develop meaningful solutions that make fulfilling tax obligations easy.

Tailored digital services have also been implemented to provide better experiences for property owners. IRAS introduced the interactive PT bills (i-Bills) on a mobile platform to allow residential property owners to view their tax bill on-the-go. The i-Bills also contain (i) direct navigation to various payment options, (ii) personalised greetings and customised nation-building messages based on the taxpayer's profile and (iii) rental information of comparable properties to provide taxpayers with a better understanding of how their tax assessments are derived. Owners of multiple properties also benefitted from a consolidated notification when their digital bills are ready for viewing in myTax Portal. They can see an overview of their portfolios of properties via a dashboard and print a consolidated summary statement. Corporate owners can also download essential property tax information to suit their companies' needs.

IRAS introduced its new e-Stamping Portal in October 2022 with a freshly designed interface and enhanced features based on users' feedback. The new portal is integrated with IRAS' myTax Portal to create a more seamless and intuitive stamping experience. Stamping can now be performed on-the-go with enhanced search functionalities.

2.3 Efficient and Effective Mechanism to Disburse Grants to Support Businesses

COVID-19 has impacted Singapore's economy significantly. IRAS played its part by disbursing enterprise grants on behalf of the Government to support businesses, jobs and wage growth during the pandemic. To facilitate timelier payouts and provide the appropriate level of support for businesses, IRAS developed agile systems that enable it to take on new schemes or vary the parameters of existing schemes within a short time. It also incorporated a robust anti-gaming framework that leverages data from multiple sources to prevent and detect abuses of these schemes. Faster payouts were also made possible by leveraging e-payment options.

For instance, in 2020, IRAS built a system that allowed automatic disbursement of Government Cash Grants for up to 91% of eligible property accounts, thus ensuring rental waiver for the majority of the eligible Property-Tenant Occupiers. IRAS developed a new payout mechanism in 2021, learning from the previous years' experience, to provide

direct rental support to tenants without going through the landlords. The new mechanism sped up disbursement to businesses and significantly reduced the compliance burden for landlords.

2.4 Greater Collaboration Across the Singapore Government and Private Sector

Beyond tax and grant administration, by breaking down silos within government, there are opportunities to provide more integrated services with our citizens and end-users in mind. IRAS' "One Stop Payroll" initiative is one such initiative to simplify data submission by employers.

Currently, employers in Singapore need to submit payroll data to IRAS, so that IRAS can pre-fill the employment income in the tax returns of their employees. In addition, employers in Singapore also need to submit monthly contributions into their employees' compulsory retirement and health-care savings plan, to the Singapore Central Provident Fund Board. There are also other government data requests, such as surveys to employers by the Ministry of Manpower on the labour market, workforce and employment trends.

IRAS came up with a one-stop solution that enables employers to fulfil all their filing obligations seamlessly through their payroll system. IRAS' solution uses Application Programming Interfaces (APIs) which enables a harmonised set of data to be submitted to the three government agencies via a single touch-point. IRAS then collaborated with payroll software companies to pilot and incorporate the solution into their product offerings. This is an example of how IRAS can initiate greater collaboration across Singapore government agencies and businesses to co-create products and services which are useful to businesses and citizens.

2.5 An Enabler to Accelerate Digital Adoption Across Businesses

IRAS is aware that it is not enough to simply become a digital tax administration — IRAS is playing a role to catalyse and accelerate the adoption of digital solutions to improve productivity and convenience across the eco-system.

Singapore has adopted the international Pan European Public Procurement Online (PEPPOL) standard for its e-invoicing network, known as InvoiceNow. IRAS has partnered Singapore's Infocomm Media Development Authority (IMDA) by including grants for businesses to increase take-up. InvoiceNow supports cross-border transactions with other

businesses which are connected to the PEPPOL network. Singapore's plan is to also implement InvoiceNow as the default e-invoicing channel for Business-to-Government transactions, further strengthening its use case and amplifying the network effect for businesses to come onboard. IRAS is working with businesses to increase the adoption of InvoiceNow for GST administration. On top of productivity savings from digitalising invoicing, businesses can benefit from easier GST compliance, with InvoiceNow integrated seamlessly into their daily business operations.

IRAS will continue to provide excellent digital services to customers, with empathy, through understanding customers' needs, and co-creating digital solutions that are easy to use, reliable and relevant.

3. Modernising Our IT Systems and Adopting AI and Analytics to Realise the Potentials of Latest Technology and Big Data

3.1 Modernised IT System to Support IRAS' Transformation Goals

To keep its technology and architecture up-to-date and set the foundations to seize current opportunities and prepare for future challenges, IRAS started modernising its tax system in phases in 2018. It is revamping the system with APIs and Microservices-based architecture for greater nimbleness and scalability and leveraging Government Commercial Cloud (GCC) and DevOps[4] to improve time to deliver while reducing costs.

Phases 1 and 2 of the modernisations of the IT system have been completed, allowing IRAS to provide more seamless and convenient digital services. Taxpayers can receive digital notices on-the-go and manage their notice preferences on IRAS' myTax Portal following the completion of phase 1. IRAS also laid the foundational layer for the system to be hosted on the GCC platform and implemented the new SD module in phase 2. Phase 3, which involves modernising the system functionalities of the remaining tax types and grants disbursement schemes, is in progress.

3.2 AI and Analytics for Smarter Decision-Making

In the world of big data, organisations that seize opportunities to harness its power will be able to deliver personalised services and make better decisions. IRAS has over 700 interfaces to enable transmission of data with government agencies, government data hubs, etc. IRAS has been stepping up its efforts to better exploit big data by working on AI projects, including collaborating with AI Singapore. It has also upgraded its analytics data platform to offer greater flexibilities and capabilities.

IRAS utilises the Whole-of-Government Application Analytics (WOGAA) Dashboard to understand the health status of its websites and digital services. Through the insights provided on the dashboard, such as a comprehensive overview of web analytics, user sentiments and recommendations, IRAS could improve services' performance, accessibility and user experiences. Besides tapping on WOGAA dashboard, it also developed an internal dashboard to collect data from an operational level for assisted services. This enables IRAS to identify the trending nature of enquiries and shifts in contacts between channels, allowing it to optimise resources across channels.

Besides better customer services, IRAS' audit and fraud detection capabilities have also been enhanced with AI applications. This enables IRAS to fight tax crimes more effectively in Singapore. With the help of advanced statistical tools, AI and social network analysis, anomalies in tax reporting could be detected, leading to further probing. For instance, IRAS uncovered a non-compliance case involving an undertaker, leading to tax investigations.

4 DevOps is a set of tools and practices that automate the processes between development and operation teams, in order to build, test, and deliver software faster and more reliably.

The individual was found to be evading tax willingly and not accounting for GST and was eventually charged for income tax evasion and failure to register for GST for the businesses.

4. Empowering IRAS Officers Through Capability Building

Digital transformation is not just about technology — it is about empowering our people to reach their full potential by harnessing technology. While a modernised IT system and big data can support an organisation's operations and decision-making, its people are undoubtedly the most valuable asset. IRAS empowers its people to be the best that they can be by providing opportunities to learn, develop and apply new skills in a digital environment where things are constantly changing.

To expand breadth and depth in capabilities, IRAS curated a list of courses that focuses on Data, Digital, Design and Agile, which are part of the core learning programmes for its officers. They can also acquire knowledge through workshops or e-learning courses on Singapore's Civil Service College LEARN platform, a one-stop online learning platform for Public Officers. IRAS also launched the Digital Skills Incentive to encourage officers to proactively upgrade and take up advanced skill certifications to develop their expertise.

Besides learning through courses, officers also have opportunities to apply conceptual knowledge to solve real-world problems in IRAS. Communities of Practices in the areas of Analytics and Robotic Process Automation (RPA) have been formed to deepen competencies and train officers to support business divisions in the development of (i) analytics solutions for smarter decision-making and (ii) automated processes to streamline work. By working in projects, officers could enhance their data science, analytics, AI and RPA capabilities.

By applying different skill sets, solutions could be developed to better serve the taxpayers. IRAS officers applied Agile and Design methodologies to devise digital solutions that improved the tax experience for Clubs and Associations (C&As). The project team adopted an iterative approach and conducted in-depth interviews to uncover the challenges faced by C&As in fulfilling their tax obligations. The outcome was an e-Filing system prototype developed for C&As and a programme of change to help them transit to e-Filing smoothly.

In a constantly changing digital environment, it is important for an organisation to have a deep understanding of existing or new technologies so that it can incorporate them into processes to enhance operational efficiency and effectiveness. IRAS developed operations-technology (ops-tech) capabilities in its people and created roles to focus on bridging the gap between the operational and technical aspects, starting from the early stages of planning and conceptualisation of initiatives. With ops-tech capabilities, its officers can re-imagine and re-design current processes to improve productivity and services.

IRAS also encourages its people to constantly explore and experiment with new technologies, such as Generative AI, while understanding and mitigating the risks involved. IRAS officers build networks and collaborate with other government agencies and partners to understand best practices and identify suitable use cases for adoption within IRAS.

5. Conclusion

As the environment continues to evolve rapidly, it is important to keep up with the latest trends and technology to manage challenges and seize new opportunities. IRAS will continue its transformation efforts to re-define experiences for customers and staff. This includes scaling up the use of data and technology to deliver personalised and seamless services, finding new ways to foster partnerships amongst industry and government agencies to make services more seamless and convenient, and levelling up the skills and competencies of its workforce. This is in line with IRAS' vision to be a leading revenue authority in the world, a partner of the community in nation-building and inclusive growth with a dynamic team of competent and committed people.

Promoting the Quality Development of the Belt and Road Initiative from Tax Perspective: Practice of Kazakhstan

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Abstract: This article explores the importance of cooperation between tax administrations and educational institutions in improving the quality of tax administration and proposes a framework for improving the quality of cooperation between tax administrations and educational institutions, which includes the development of joint training programs, the establishment of research partnerships, and the creation of platforms for knowledge sharing. To conclude it is important to mention that effective cooperation between tax administrations and educational institutions is essential for building a sustainable tax system and promoting economic growth.

Keywords: Educational institutions; Cooperation; Knowledge sharing

1. Introduction

Kazakhstan is an active participant in the construction of the Belt and Road Initiative (BRI), which has proved to be an advanced initiative in international cooperation with neighboring and other countries around the world over the last decade. This initiative contributes to deepening cooperation among the tax administrations of the BRI countries and strengthening the economic and business ties between our states.

Tax systems always vary significantly from country to country in elements such as economic indicators, tax culture, tax compliance, measures of responsibility for tax violation, and tax revenue sources. These features of tax systems in each individual jurisdiction depend on many factors: economic, political, demographic, social, etc.

The BRI is a favorable platform for bilateral and multilateral cooperation, and experience sharing in tax, customs, transportation and logistics. Studying best practices will help to answer the questions of the most effective solutions in the sphere of Kazakhstan's tax policy.

2. Regional Tax Center

Established at the First Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF) in Wuzhen, China in 2019, the Regional Tax Center (Belt and Road Initiative Tax Academy·Astana) on the basis of the Training-Methodical Center of the State Revenue Committee of the Ministry of Finance of the Republic of Kazakhstan, with the support of other Belt and Road Initiative Tax Academies (BRITAs), conducts trainings to improve the skills of tax officials.

The philosophy of the Center is to build a platform for experience sharing and interaction in the field of tax administration, which allows employees of Kazakhstan tax service to refresh their knowledge and explore the potentiality of the best foreign practices, which in turn allows them to identify the positive and negative sides, as well as to assess the possibilities of using the knowledge gained in domestic practices and in its improvements, to increase the efficiency of tax services.

Since the establishment of the Regional Tax Center, seven international events have been held on various topics in the field of tax administration. Around 600 employees of the Kazakhstani tax administrations and more than 60 employees from other Russian-speaking countries participated in these events.

In November 2019, BRITA·Astana organized the first international event on transfer pricing, with the participation of representatives from Russia, Belarus, Uzbekistan, Tajikistan, Moldova, and China.

Events supported by the BRITACOM Secretariat and the Organisation for Economic Co-operation and Development (OECD) from 2019 to 2022 on "Implementation and Discussion of BEPS Steps", "Transfer Pricing: Application of BEPS Action Plan 8-10", "Mobile Applications for Tax Compliance to Combat Tax Crimes" and "Management and Application of Big Data in the Tax Sphere" were of great interest to various tax authorities in Serbia, Indonesia, China, Italy, etc.

The planned BRITA·Astana events are aimed at enhancing the capacity of tax authorities to address complex international tax issues arising in the BRI countries, developing necessary ideas for creating the most favorable tax environment, and deepening cooperation among tax administrations of the BRI countries.

The Regional Tax Center, as a part of the BRITAs, is ready to provide training events for knowledge sharing and experience exchanges on tax administration, create opportunities for tax officials to discuss emerging tax disputes, and will serve as a solid base for training tax officials from different jurisdictions together with other international tax organizations.

3. Efforts to Improve Quality Development of the Educational Process

To promote and improve quality development of the BRI from tax perspective, there should be joint efforts of all members. Here are some key steps to enhance quality of tax educational process from our perspectives:

(1) Continuous professional development: Tax officers should continuously improve their knowledge and skills in the field of taxation to ensure that they provide up-to-date and accurate information to other employees of the tax administrations of the BRI countries.

(2) Practical experience: Tax officers should be given practical experience in taxation through internships or case studies, which will help them apply theoretical concepts in real-world scenarios.

(3) Collaborative learning: Encouraging collaborative learning among the BRITACOM participants can be achieved through group projects, discussion, and presentations, which will help tax officers to learn from each other and develop teamwork skills.

(4) Technology integration: Incorporating technology, such as online learning platforms, simulation software, and tax preparation software, into the tax educational process will help to make the learning process more interactive and engaging.

(5) Industry partnerships: Partnering with tax professionals, accounting firms, and government agencies can provide students with exposure to the real-world application of taxation and career opportunities.

(6) Assessment: Ensuring that assessments are fair, objective, and measuring the intended learning outcomes will help to maintain the quality of the tax educational process.

As for Kazakhstan, the primary task of the Regional Tax Center is to hold seminars, webinars, master classes and other forms of discussion and training events to exchange experiences, opinions and ideas in an effort to find solutions to common problems and tasks. In the future, it is planned to form a pool of trainers — specialists who have been trained on tax, transportation, logistics and humanitarian issues on the basis of the BRITACOM Secretariat, to carry out joint research on tax administration, taking into account the demands of the participants of the BRI.

The study of international best practices in the field of tax administration is an integral part of the tax authorities' capacity building for each jurisdiction. BRITACOM is a unique international platform providing assistance in advanced training of tax specialists, and creating necessary conditions for the development and improvement of high-quality training in the field of tax administration via BRI tax academies.

By focusing on the study of tax administration, Kazakhstan is committed to jointly enhancing tax administration capabilities of jurisdictions in the main professional educational program and will continue to develop, together with the BRITACOM, high-quality training programs and knowledge products for tax officials from the jurisdictions of the main professional educational program and other stakeholders.

4. The Role of the BRITACOM in Promoting Tax Cooperation among BRI Jurisdictions

BRITACOM provides potential support in holding events and puts forward the most significant topics to increase the relevance and practicality of events for training employees of tax services.

Through the BRITACOM platform, the tax administrations of the BRI jurisdictions consider the most significant topics with basic theory and practices combined, adapt to the global economic situation and the peculiarities in the development of various jurisdictions, and also pay equal attention to professional and practical needs.

Since its foundation, the BRITACOM has adhered to the principles of extensive consultation, joint contribution and shared benefits, as well as strengthening ties, exchange of experience and cooperation in the tax administrations of the BRI jurisdictions. To further promote the friendly and win-win cooperation, *Nur-Sultan Action Plan (2022-2024)* was developed and adopted in 2021.

As a guide for the implementation of joint contribution and shared benefits, exchange of experience and cooperation in the tax administration of the BRI jurisdictions, this Action Plan includes raising tax certainty, promoting digitalization of tax administration, improving tax environment, reinforcing capacity building of tax administration, establishing a regular exchange mechanism, raising the profile of the BRITACOM and implementation framework.

The BRI jurisdictions are moving towards the common goal of creating a favorable environment that would simplify trade procedures and contribute to tax capacity building by developing cooperation in tax administrations, increasing tax competence, as well as exchanging tax administration experiences.

Kazakhstan expresses the hope that BRITACOM, when holding international events, will serve as a platform for strengthening cooperation in the field of professional development of tax officials, with the aim of facilitating cooperation among participants through joint activities in tax services and facilitating dispute resolution, and the exchange of experiences and best practices in tax administrations.

The Application of Digital Technology in Optimizing the Business Environment in Tax Administration

West African Tax Administration Forum

West African Tax Administration Forum

Abstract: This paper examines the potential benefits of digital technology in tax administration in African countries. It proposes three hypotheses: (i) digital technology can reduce the compliance burden on businesses and taxpayers, (ii) it can improve the efficiency and effectiveness of tax administrations, and (iii) it can enhance the transparency and accountability of tax administrations. The study mentions econometric models to test these hypotheses for further quantitative evidence. The Federal Inland Revenue Service (FIRS) in Nigeria serves as a case study, showcasing the positive impact of digitalization efforts on tax revenue collections. These efforts have reduced the compliance burden, improved data accuracy and timeliness, and enhanced communication between taxpayers and the tax authority, even during the COVID-19 pandemic that has elicited the importance of digitalization in tax administration, thanks to the various technology-driven initiatives such as Integrated Tax Administration System (ITAS), Standard Integrated Government Tax Administration System (SIGTAS), and TaxPro-Max implemented over the years. The West African Tax Administration Forum (WATAF) supports e-tax administration initiatives to automate processes and improve service delivery. The paper urges developing economies to embrace centralizing and standardizing digital technology transformation initiatives, for it is crucial for building institutional capacity and effective resource utilization in tax administration.

Keywords: Digital technology; Tax administration; FIRS; WATAF

1. Introduction

The Africa of 2063 envisioned under the aspiration of ***"a prosperous Africa based on inclusive growth and sustainable development"*** is an affluent continent where the citizens have a high standard of living, are well educated with a skilled labor force, transformed economies, productive agriculture and healthy ecosystems, with well-preserved environment and a continent resilient to climate change (African Union, 2015). To achieve this goal a resource mobilization strategy has been designed looking at strategies for Africa to finance her own development. Among various measures,

the most important for the financing of the Agenda 2063 are: budget reallocation and/or increased taxes, customs, excise revenues (African Union, 2015). How to succeed in this endeavor?

After gaining their independences in the 1960s, many African countries' tax systems were built upon the legacy of colonialism structure left over by European countries. A number of transformations occurred since then, from the introduction of new taxes, implementation of tax treaties, up to the digitalization of tax systems, and the tax authorities in African countries are contemporaneous, by keeping updating domestic revenue mobilization (DRM) processes that are appropriate to their context.

However, reports from organizations such as African Union Commission (AUC), African Tax Administration Forum (ATAF) and the Organisation for Economic Co-operation and Development (OECD) show that in 2020, against the backdrop of the COVID-19 pandemic, the unweighted average tax-to-GDP ratio for the 31 countries in this publication (the "Africa (31) average") was 16.0%, a decrease of 0.3 percentage points relative to 2019. The tax-to-GDP ratio refers to total tax revenues, including compulsory social security contributions, as a percentage of gross domestic product (GDP). The Africa (31) average in 2020 was below the averages of Asian and Pacific economies (19.1%), Latin America and the Caribbean (LAC) (21.9%), and the OECD (33.5%) (AU, ATAF & OECD, 2022).

Furthermore, according to the World Bank, countries collecting less than 15% of GDP in taxes must increase their revenue collection to meet basic needs of citizens and businesses. This level of taxation is an important tipping point to make a state viable and put them on a path to growth. As of 2018, 48% of the International Development Association (IDA)/Blend countries and 69% of Fragile and Conflict-Affected States (FCS) countries fall below the 15% baseline, including many African countries (World Bank, 2022).

Meanwhile, observations show that governments in many African countries collect so little because taxpayers pay not only formal multiple taxes, but also sundry informal taxes and countless implicit taxes through numerous collecting agencies that do not always report accurately what they collect. How could African countries overcome these challenges, in order to meet their development goals set in the Agenda 2063? Is the application of digital technology in optimizing the business environment in Tax Administration the panacea?

This paper intends to provide some answers to this question. After the introduction that provides an overview of the topic and the objectives of the study, the literature review section follows, which reviews relevant literature on the benefits and challenges of digital technology in tax administration. This section cites previous studies and research findings to establish the context for the study. The paper then presents three hypotheses related to the potential benefits of digital technology in tax administration. The case study section focuses on the Federal Inland Revenue Service (FIRS) in Nigeria, showcasing the positive impact of digitalization efforts on tax revenue collections. It discusses the various technology-driven initiatives implemented by the FIRS and their outcomes. The paper concludes with a discussion and conclusion section, summarizing the findings and their implications.

2. Ontological Description

We can approach this research question by trying to figure out the meaning of each term.

2.1 Digital Technology

Digital technology refers to electronic tools, devices, and systems that process, transmit and store data in binary form. Unlike analog technology, which carries data in wavelength signals, digital technology encodes data as true or false, on or off. The term digital technology encompasses all the systems and devices that encode and use the binary number system to represent data. These devices range from digital watches and televisions to cutting-edge robotics and artificial intelligence. Digital technology has changed how we learn, communicate,

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work, and much more (Berman, 2021).

American engineers began developing digital technology in the mid-20th century (Encyclopedia, 2019). Their techniques were based on mathematical concepts suggested by the 17th-century German mathematician, Gottfried Wilhelm Leibniz, who proposed a binary computing system. His innovation inspired such numerical codes as American Standard Code for Information Interchange (ASCII) that described objects with digits (Gerald, 1986). Digital technology paves the way for large-scale process automation across many fields like economics, accounting, finance, etc.

2.2 Optimization

According to Wright (2023), optimization, also known as mathematical programming, refers to collection of mathematical principles and methods used for solving quantitative problems in many disciplines, including physics, biology, engineering, economics, and business. The subject grew from a realization that quantitative problems in manifestly different disciplines have important mathematical elements in common. Because of this commonality, many problems can be formulated and solved by using the unified set of ideas and methods that make up the field of optimization.

The historical term mathematical programming, broadly synonymous with optimization, was coined in the 1940s before programming became equated with computer programming. Mathematical programming includes the study of the mathematical structure of optimization problems, the invention of methods for solving these problems, the study of the mathematical properties of these methods, and the implementation of these methods on computers (Wright, 2023). Larger and more complicated optimization issues can now be handled thanks to faster computers. Along with advancements in computer science, optimization approaches have been developed in operations research, numerical analysis, game theory, mathematical economics, control theory, combinatorics, and business process.

2.3 Business Environment

A business environment is all the components that affect a business. These include both internal factors, like employees and resources, and external factors, like customers and markets. Each of these contributes to a company's working environment and can influence how the business functions (Indeed Editorial Team, 2023). The factors listed in Figure 1 influence how a business functions, its performance, and its ability to achieve its objectives.

On top of supporting the legal obligations and societal expectations for prudent financial control and fair staff treatment, the administration is likely to find that modern business administration software allows for more efficient and effective execution of business processes, which in turn decreases cost and improves staff motivation:

• Planning efficient use of the human resources is contingent to updated and detailed information about the staff working for the tax administration, their education, and their skills, for instance.

• Sound financial control is expected of any governmental entities, and tax administrations are probably expected to observe particularly high standards inasmuch their position ensuring the finance of public benefits.

• With skilled financial staffs, efficient financial processes, and support from a modern ICT system for finance, the tax administration can guarantee that the money spent to fulfil its mandate is spent in the most efficient and effective way possible *ceteris paribus*.

3. Epistemological Assumptions

The application of digital technology in optimizing the business environment of tax administrations is a topic that has gained increasing attention in recent years. Digital technology can offer various benefits for tax administrations, such as improving efficiency, transparency, compliance, and service delivery. However, implementing digital technology also poses some challenges and risks, such as data security, privacy, and digital divide. In this section, three hypotheses will be presented, and

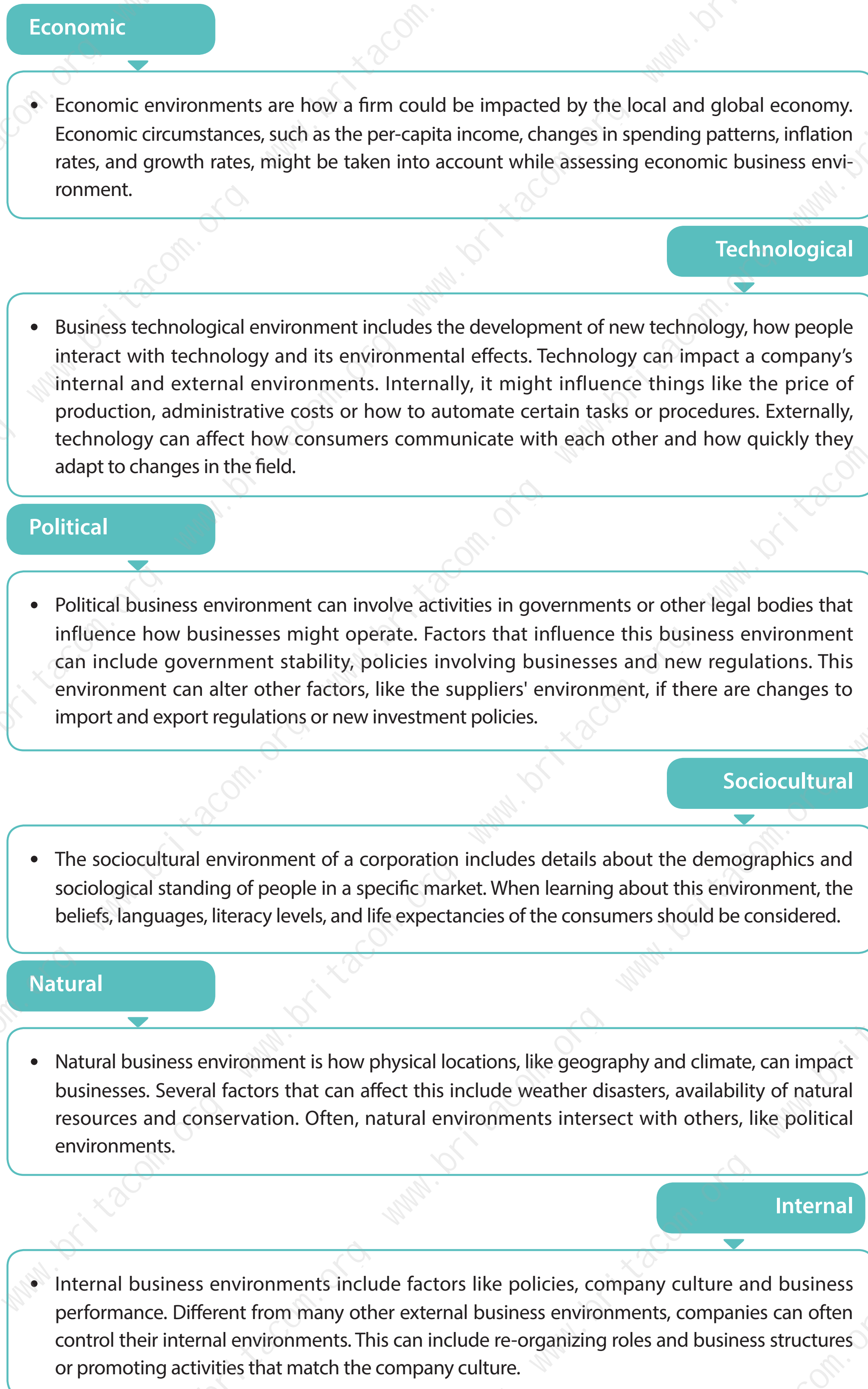

Figure 1. Factors that influence business environment

their implications discussed.

Hypothesis 1: The application of digital technology can reduce the compliance burden on businesses and taxpayers. This can be achieved by making it easier for businesses to file their taxes, pay their taxes, and access tax information.

Hypothesis 2: The application of digital technology can improve the efficiency and effectiveness of tax administrations. This can be achieved by automating tasks, streamlining processes, and improving data analytics capabilities.

Hypothesis 3: The application of digital technology can enhance the transparency and accountability of tax administrations. This can be achieved by making more information publicly available, such as tax data and tax rulings.

4. Econometric Models

The econometric models can be estimated whenever data availability is not a barrier. This paper could not provide quantitative estimates due to several reasons. However, a case study methodology was adopted instead. The axiological assumption is that the models and their descriptions are of value for further research.

4.1 Modelling of H1

To test the hypothesis that the use of digital technology can reduce the compliance burden on businesses and taxpayers, we can use the following econometric model:

Compliance burden = $\alpha + \beta 1$ * Digital technology + $\beta 2$ * Controls + ε

where:

• Compliance burden is a measure of the time and cost that businesses and taxpayers spend on complying with tax laws and is the dependent variable.

• Digital technology is a measure of the adoption of digital technology by tax administrations. This could include measures such as the percentage of tax returns filed electronically, the percentage of taxes paid online, and the availability of taxpayer portals and the independent variable of interest.

• Controls are a set of variables that could influence compliance burden, such as the complexity of the tax system, the level of economic development, and the size of the informal sector.

• α, $\beta 1$, and $\beta 2$ are the parameters to be estimated.

• ε is the error term.

The parameter $\beta 1$ measures the causal effect of digital technology on compliance burden. If the coefficient is negative and statistically significant, then this would support the hypothesis that digital technology reduces the compliance burden on businesses and taxpayers.

The econometric model can be estimated using a variety of methods, such as ordinary least squares (OLS), two-stage least squares (2SLS), or instrumental variables (IV). The choice of estimation method will depend on the specific data set and the potential for endogeneity.

In practice data can be collected on compliance burden, digital technology, and the control variables for a sample of countries. If the coefficient on the digital technology variable is negative and statistically significant, this would provide evidence to support the hypothesis that digital technology reduces the compliance burden on businesses and taxpayers.

It is important to note that econometric models can only provide evidence of correlation, not causation. It is possible that other factors, such as the complexity of the tax system, could also be influencing compliance burden. However, the econometric model can provide useful insights into the potential impact of digital technology on compliance burden.

4.2 Modelling of H2

To examine the hypothesis that the application of digital technology can improve the efficiency and effectiveness of tax administrations, we can use the following econometric model:

Efficiency and effectiveness = $\alpha + \beta 1$ * Digital technology + $\beta 2$ * Controls + ε

where:

• Efficiency and effectiveness are measure of the tax administration's ability to collect taxes accurately and efficiently, while minimizing the cost of tax administration and are consid-

ered as the dependent variable.

• Digital technology is a measure of the adoption of digital technology by tax administrations. This could include measures such as the percentage of tax returns processed electronically, the use of data analytics to identify tax fraud, and the availability of online tax services and the independent variable of interest.

• Controls are a set of variables that could influence efficiency and effectiveness, such as the size of the tax administration, the level of corruption, and the quality of the tax administration's workforce.

• α, β1, and β2 are the parameters to be estimated.

• ε is the error term.

The parameter β1 measures the causal effect of digital technology on efficiency and effectiveness. If the coefficient is positive and statistically significant, then this would support the hypothesis that digital technology improves the efficiency and effectiveness of tax administrations.

The econometric model can be estimated using a variety of methods, such as ordinary least squares, two-stage least squares, or instrumental variables. The choice of estimation method will depend on the specific data set and the potential for endogeneity.

Moreover, data can be collected on efficiency and effectiveness, digital technology, and the control variables for a sample of a jurisdiction. If the coefficient on the digital technology variable is positive and statistically significant, then this would provide evidence to support the hypothesis that digital technology improves the efficiency and effectiveness of tax administrations.

It is worth to note that econometric models can only provide evidence of correlation, not causation. It is possible that other factors, such as the quality of the tax administration's workforce, could also be influencing efficiency and effectiveness. However, the econometric model can provide useful insights into the potential impact of digital technology on efficiency and effectiveness.

Furthermore, besides the econometric model, there are other ways to assess the impact of digital technology on the efficiency and effectiveness of tax administrations. For example, tax administrations can conduct surveys of taxpayers and tax professionals to get their feedback on the impact of digital technology. Tax administrations can also track their own performance metrics, such as the time it takes to process tax returns and the number of tax audits conducted. By combining these different methods of assessment, tax administrations can get a more complete picture of the impact of digital technology on their efficiency and effectiveness.

4.3 Modelling of H3

To assay the assumption that the application of digital technology can improve the customer service of tax administrations by making it easier for taxpayers to comply with their tax obligations, we can use the following econometric model:

Customer satisfaction = α + β1 * Digital technology + β2 * Controls + ε

where:

• Customer satisfaction is a measure of how satisfied taxpayers are with the tax administration's customer service and is the dependent variable.

• Digital technology is a measure of the adoption of digital technology by tax administrations. This could include measures such as the availability of a taxpayer portal, the ability to file taxes electronically, and the ability to pay taxes online and the independent variable of interest.

• Controls are a set of variables that could influence customer satisfaction, such as the complexity of the tax system, the level of taxpayer education, and the quality of the tax administration's workforce.

• α, β1, and β2 are the parameters to be estimated.

• ε is the error term.

The parameter β1 measures the causal effect of digital technology on customer satisfaction. If the coefficient is positive and statistically significant, this would support the hypothesis that digital technology improves the customer service of tax administrations.

The econometric model can be estimated using a variety of methods, such as ordinary least squares, two-stage least squares, or instrumental variables. The choice of estimation method will depend on the specific data set and the potential for endogeneity.

In fact, data can be collected on customer satisfaction, digital technology, and the control variables for a sample of a jurisdiction. If the coefficient on the digital technology variable is positive and statistically significant, then this would provide evidence to support the hypothesis that digital technology improves the customer service of tax administrations.

It is essential to note that econometric models can only provide evidence of correlation, not causation. It is possible that other factors, such as the quality of the tax administration's workforce, could also be influencing customer satisfaction. However, the econometric model can provide useful insights into the potential impact of digital technology on customer satisfaction.

In addition to the econometric model, there are other ways to assess the impact of digital technology on the customer service of tax administrations. For example, tax administrations can conduct surveys of taxpayers and tax professionals to get their feedback on the impact of digital technology. Tax administrations can also track their own customer service metrics, such as the number of taxpayer inquiries received and the average time it takes to resolve taxpayer issues. By combining these different methods of assessment, tax administrations can get a more complete picture of the impact of digital technology on their customer service.

5. Case Study: Effect of Application of Digital Technology in FIRS in Nigeria

The Federal Inland Revenue Service, in collaboration with the Ministry of Finance, Budget and National Planning, and other stakeholders, has continued to take some strategic steps to reposition the Nigerian tax system in areas of tax policy, tax legislation, and tax administration. The application of digital technology has helped build the economic resilience Nigeria has witnessed despite the unprecedented global shocks in 2020 due to the COVID-19 pandemic which still lingers to date and the geopolitical conflict since February 2022.

The paper published by Mohammed, et al., in July 2023 evaluates the effect of tax digitalization efforts on tax revenue collections in Nigeria. It highlights the importance of digitalization in enhancing tax administration and revenue generation. The study finds that the FIRS has been proactive in implementing various digitalization efforts, which have resulted in increased tax revenue collections.

According to Mohammed, et al. (2023), tax revenue collections by the FIRS in Nigeria showed an increasing trend from 2002 to 2021. In 2002, total collected taxes were about N429 billion (USD3.73 billion). This increased to N693 billion (USD5.55 billion) in 2003 and further increased to N1.19 trillion (USD8.85 billion) in 2004. The trend continued with tax collections reaching N1.91 trillion (USD14.70 billion) in 2005.

However, tax collections decreased to about N1.87 trillion (USD14.58 billion) in 2006 and further decreased to about N1.85 trillion (USD14.33 billion) in 2007. There was a significant increase in tax collections in 2008, reaching N2.97 trillion (USD24.77 billion), but then decreased to about N2.09 trillion (USD13.73 billion) in 2009.

The decreasing trend was reversed in 2010, with tax collections increasing to N2.84 trillion (USD19.45 billion). This further increased to about N4.63 trillion (USD31.49 billion) in 2011 and continued to increase to about N5.01 trillion (USD32.31 billion) in 2012. The trend fluctuated over the years, with tax revenue collections reaching N6.40 trillion (USD15.62 billion) in 2021.[1]

1 The exchange rate of the Nigerian Naira to the US dollar is based on the real-time exchange rate for the year.

The article discusses the factors that influenced tax revenue collections in Nigeria during different periods. The digitalization efforts of the FIRS have contributed to increased tax revenue collections. The study finds that the implementation of digitalization processes, such as the issuance of Taxpayer Identification Number (TIN) and the introduction of digital tax administration systems like ITAS[2], SIGTAS[3], and TaxPro-Max[4], has improved tax assessments, registration of taxpayers, and overall efficiency of tax administration.

The findings suggest that digitalization has enhanced the ability of the FIRS to collect taxes effectively and efficiently. The establishment of a database of taxpayers and the use of digital platforms have facilitated compliance and improved revenue mobilization.

5.1 Effect of Application of Digital Technology on Compliance Burden

The effect of digitalization on compliance burden has been positive. The implementation of digitalization efforts by the FIRS in Nigeria has improved tax assessments, registration of taxpayers, and overall efficiency of tax administration. This has reduced the compliance burden on taxpayers by streamlining processes and making it easier for them to fulfill their tax obligations.

The introduction of numerous digital tax administration systems has enabled taxpayers to register for taxes online, file returns, remit taxes, and carry out assessments more efficiently. Taxpayers can also manage withholding tax deductions, capital allowance and loss among others through the various platforms.

By digitizing tax administration processes, the FIRS has made it more convenient for taxpayers to comply with their tax obligations. The automation of tax filing and collection processes has reduced the need for manual paperwork and physical visits to tax offices, thereby reducing the compliance burden on taxpayers.

5.2 Effect of Application of Digital Technology on Efficiency and Effectiveness

The use of digital platforms has also improved the accuracy and timeliness of tax data, enabling the FIRS to make more informed decisions and enhance the effectiveness of tax administration.

Furthermore, the digitalization efforts have facilitated better communication between taxpayers and the FIRS. Taxpayers can easily communicate with the FIRS on tax issues, download tax clearance certificates, and manage various tax-related matters through digital platforms. This has improved the overall effectiveness of tax administration by providing a more convenient and accessible channel for taxpayers to interact with the tax authority.

5.3 Effect of Application of Digital Technology on Customer Satisfaction

Even though Mohammed, et al. (2023), didn't specifically discuss the effect of digitalization on customer satisfaction, Self-Service Stations (SSS) were created for taxpayers in all FIRS tax offices for ease of tax payment and to

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2 Integrated Tax Administration System (ITAS): With the ITAS deployment, both federal and state taxpayers are assigned one unique TIN from the Joint Tax Board (JTB) system, being the organization with the mandate to enroll taxpayers.

3 Standard Integrated Government Tax Administration System (SIGTAS): With SIGTAS, automatic calculation of tax and penalty, identification of taxpayer errors or omissions through tax declaration processing, assessment notices generation, payment reminders and other taxpayer correspondence automatically are available.

4 TaxPro-Max is the FIRS' flagship tax administration solution for automated end-to-end processing of its tax administration function. It is a game-changer through which FIRS achieved over 100% of its 2021 collection target. In 2021, FIRS collected N6.405 trillion (N2.008 trillion from oil and gas revenue, and N4.396 trillion from non-oil and gas), against a target of N6.401 trillion. The TaxPro-Max Portal can be accessed by taxpayers from anywhere and in the comfort of their home/office. Some of its functionalities are e-Registration, e-Filing, e-Payment, e-Receipts, e-TCC (electronic Tax Clearance Certificate), and Tax Accounting.

increase voluntary tax compliance and foster customer satisfaction. The self-service allows a taxpayer to use FIRS facilities to perform electronic transactions at no cost to the taxpayer. The Self-Service Stations provide taxpayers with the opportunity to file tax returns, pay taxes, apply for and validate tax clearance certificates, generate receipts and credit notes and other e-services. The SSS have designated officers readily available to assist taxpayers with any technical difficulty or concerns that may arise.

Furthermore, according to FIRS 2023 Report, the FIRS Contact Center was established to respond to enquiries and complaints from taxpayers and other stakeholders, and has received so far appraisal from taxpayers. The center is robust enough to handle enquiries through the various channels made available in today's digitalized world. Among other things, the Contact Center has a reporting platform providing executive summaries, FAQs, and historical reports. Agents of the center can also respond to enquiries or complaints in seven languages, namely: Yoruba, Hausa, Ibo, English, Pidgin English, French and Arabic, and more language capabilities will soon come online.

5.4 Other Technology-Driven Initiatives by FIRS

Nigeria Tax Administration Service, according to the FIRS 2023 Report, has also adopted the following technology deployments to drive efficiency in the internal administrative process:

• Adoption of Systems Applications and

Products (SAP)[5] modules for Finance and Account, Human Resources automation and Payroll, Procurement, and Internal Audit;

• Deployment of an Electronic Document Management System (EDMS);

• Implementation of Enterprise File Tracking Application;

• Deployment of the Electronic Tax Audit Process Solution (e-TAPS) introduced in the 4th quarter of 2020 for reporting tax audit activities electronically; and

• Deployment of Online Transfer Pricing Platform (e-TP Plat).

In summary, the digitalization efforts have had a positive effect on reducing compliance burden on taxpayer, on the efficiency and effectiveness of tax administration along with increasing taxpayer satisfaction in Nigeria. The automation of processes, improved accuracy of tax data, and enhanced communication channels have contributed to a more efficient and effective tax system.

6. Conclusion

Organizational structure to centralize, standardize, and streamline digital technology transformation initiatives is an important aspect in building institutional digital technology capacity and effective resource utilization. To this end, it is necessary to use digital technology in optimizing the business environment in tax administration tools that help reduce tax compliance burden, enhance efficiency and effectiveness of tax administration and foster customer satisfaction.

Moreover, the COVID-19 pandemic has had a profound impact on digitalization as a strategic tool. Relevant improvements include establishing and maintaining remote work capabilities, and adopting technological preparedness and adjustments. Also, data quality is crucial in optimizing the availability and value of the data required to meet the administrations' objectives. Processes and protocols should be in place to ensure an acceptable level of confidence in the data. The WATAF is supporting e-tax administration initiatives aimed at fully automating business processes of tax administrations in close collaboration with other public sector institutions to improve delivery of services.

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5 The SAP is an enterprise resource planning (ERP) software implemented in businesses to streamline company operations.

Improving Tax Services and Optimising the Business Environment:

Insights from the Experience of Hong Kong SAR, China

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Abstract: To keep pace with the global trend of digital transformation, the Inland Revenue Department of Hong Kong SAR, China (HKIRD) has embarked on its digital transformation journey to upgrade its information technology (IT) infrastructure and pave the way for full adoption of electronic filing (e-filing) of profits tax returns for businesses (the e-filing project). The e-filing project was implemented in phases starting from June 2020 and expects full implementation by June 2025. The first phase of the digital transformation was successfully implemented earlier this year allowing more businesses to voluntarily e-file their profits tax returns. This article discusses the motivations behind the HKIRD's e-filing project, the implementation process as well as its implications for Hong Kong SAR, China. Digital transformation is an inevitable development in the society and commerce. To keep pace with the global trend of digital transformation, the public sectors in various jurisdictions have been digitalising financial and tax reporting over the past decades to harness IT to improve delivery of public services to customers and enhance the standard of information collection and administration.

Keywords: Tax service; Business environment; E-filing; Tax digitalisation; Hong Kong SAR, China

1. Motivation of HKIRD's Tax Digitalisation Journey

The motivations behind the e-filing project of the Inland Revenue Department of Hong Kong SAR, China (HKIRD) are twofold: internally, to enhance processing capacity and work efficiency, and externally, to strengthen the provision of electronic services to the public and align with the international standards.

1.1 Limitations for Tax Administration Before Modernisation

The pre-enhanced eTax Portal was launched in 2008 to provide e-filing of tax returns for individuals and other e-services such as business registration

and e-stamping of certain instruments. Although more electronic services have been added to the pre-enhanced eTax Portal over the years, voluntary e-filing of profits tax returns was confined to taxpayers that qualify as small corporations (amongst other conditions having a gross income of less than HKD2,000,000) and could not cater for the needs of certain groups of taxpayers, notably tax representatives who handle taxation matters on behalf of their clients.

The narrow scope of application of the pre-enhanced eTax Portal was largely due to the limited data uploading capacity of the HKIRD's IT infrastructure at the relevant time, which cannot support the electronic processing of voluminous accounting and financial data.

As a result, most profits tax returns are not submitted electronically. During the year ended 31 March 2020, only about 2,200 (out of some 438,000) profits tax returns were received through the pre-enhanced eTax Portal.[1]

1.2 Compliance with International Tax Standards

As a member of the Global Forum on Transparency and Exchange of Information for Tax Purposes[2], Hong Kong SAR, China is committed to implementing the international standards of exchange of information (EoI) in different modes to enhance tax transparency and prevent tax evasion.

In the Peer Report on the Exchange of Information on Request of Hong Kong SAR, China published by the Organisation for Economic Co-operation and Development (OECD) in 2019, Hong Kong SAR, China was recommended to take measures to ensure that accounting records of all relevant businesses should be readily available.

However, as certain taxpayers are currently not required to file their tax returns annually[3], taking forward the OECD's recommendation will involve the annual issuance of a much larger number of profits tax returns and processing of voluminous accounting and financial data. The HKIRD can only efficiently handle such a move by way of a full adoption of e-filing of profits tax returns for businesses, thereby also necessitating the need to enhance the limited data uploading capacity of its existing IT infrastructure.

Against the above background, the HKIRD has commissioned to implement the e-filing project by two phases. The first phase involved enhancing the eTax Portal to enable more businesses to voluntarily e-file profits tax returns together with their financial statements and tax computations in 2023.

In the second phase, a new business tax portal will be rolled out to replace the eTax Portal and mandatory e-filing of profits tax returns will first apply to multinational enterprises (MNEs) from the year of assessment 2025/26. The HKIRD's ultimate goal is to achieve full-scale implementation of mandatory e-filing by 2030. Nonetheless, the HKIRD has indicated that it will consider the actual situation to allow micro enterprises to continue filing profits tax returns in paper form.

2. First Phase of Implementation — iXBRL Tax Filing

The enhanced eTax Portal was launched as scheduled in April 2023 to allow all kinds of taxpayer to voluntarily e-file their profits tax returns together with their financial statements and tax computations in inline eXtensible Business Reporting Language (iXBRL) format. A further extension of one month will be given by the HKIRD on application to encourage early adoption of e-filing of profits tax returns.

1 https://www.legco.gov.hk/yr20-21/english/bills/brief/b202103195_brf.pdf.

2 The Global Forum on Transparency and Exchange of Information for Tax Purposes is a multilateral framework under the auspices of the Organisation for Economic Co-operation and Development (OECD) and G20.

3 To best deploy the limited resources of HKIRD, profits tax returns are issued every two to three years, instead of annually, to businesses which have suffered losses continuously or did not have profits chargeable to tax in the past.

The iXBRL is an international standard which allows the computer-readable tags to be attached to an electronic file which can also be read by human on screen or in printed form. In other words, user is not required to change the content, style or layout of the financial statements and tax computations, and the HKIRD will be able to view the documents exactly as they were submitted.

iXBRL is well proven, with many financial and regulatory reporting regimes mandating the use of the format globally. For instance, the revenue authorities of Ireland and the United Kingdom require businesses to submit their financial statements in iXBRL format as part of their corporation tax return.

2.1 The HKIRD Taxonomy Package

The HKIRD has developed and published the IRD Taxonomy Package to facilitate Hong Kong SAR, China businesses to tag financial statements and tax computations for generating iXBRL data files in support of e-filing of their profits tax returns through the IRD's enhanced eTax Portal. The IRD Taxonomy Package is similar to a "dictionary" which classifies all elements and their related information in an organised manner for iXBRL reporting.

The current version of the IRD Taxonomy Package includes the following:

• IRD FS Taxonomy — the IRD Taxonomy for financial statements prepared in accordance with full Hong Kong Financial Reporting Standards (HKFRSs) as issued by the Hong Kong Institute of Certified Public Accountants;

• IRD FS-PE Taxonomy — the IRD Taxonomy for financial statements prepared in accordance with the Hong Kong Financial Reporting Standard for Private Entities (HKFRS for Private Entities) and also applicable to corporations and businesses adopting Small and Medium-sized Entity Financial Reporting Framework and Financial Reporting Standard (SME-FRF & SME-FRS); and

• IRD TC Taxonomy - the IRD Tax Computational Taxonomy which covers major tax data and schedules to tax computations as specified by the HKIRD.

2.2 The IRD iXBRL Data Preparation Tools

Businesses may either develop their own bespoke in-house integrated accounting software or conversion tools for generating iXBRL data files for the e-filing of profits tax returns or commercially available conversion tools.

The HKIRD has also provided free conversion tools, namely IRD iXBRL Data Preparation Tools, for corporations or businesses to convert their financial statements and tax computations into iXBRL data files.

The IRD iXBRL Data Preparation Tools consist of two tools (i.e. Tagging Tool and Template Tool) that enable users to generate the required iXBRL data files which conform to iXBRL specifications and the IRD Taxonomy schema. Key features of these tools include:

• **Template tool**: small corporations or businesses with gross income not exceeding HKD2,000,000 and satisfying certain conditions can use the template tool to input figures and text in pre-defined templates for generating iXBRL data files.

• **Roll-over function**: while tagging is essential for initial adoption in the first year, businesses will be able to roll over tagging items in subsequent years without duplicating the efforts in tagging the same items again.

• **Tagging tools**: automatic detection of figures and labels from financial statements and tax computations and matching with elements in the taxonomies according to the rules already built in the tool. If users are not satisfied with the results of auto-tagging or the tool fails to select the correct tag, users can use the recommended tagging or manual tagging instead.

• **Validation function**: allow users to validate their iXBRL data files for financial statements and tax computations to ensure they meet the HKIRD's specifications. An error message would pop-up in case the validation checking fails.

Despite some initial glitches which were swiftly rectified by the HKIRD, feedbacks from stakeholders were generally positive. While Hong Kong SAR, China has the benefits of leveraging the experience of overseas juris-

dictions, the smooth journey so far is largely attributed to the tremendous preparation work undertaken by the HKRID and early engagement with stakeholders.

3. Ensuring a Smooth Implementation

3.1 Enhancing the Statutory Framework

To provide legislative backing for the implementation of the e-filing of tax returns, amendments were made to the domestic tax law of Hong Kong SAR, China to: (i) empower the Commissioner of the HKIRD to require any class or descriptions of persons to furnish a return in the form of an electronic record; (ii) allow service providers, e.g. tax representatives to sign returns on behalf of taxpayers and then furnish the same to the HKIRD; and (iii) set out the legal obligations and liabilities of a taxpayer and a service provider when the latter is engaged in furnishing a return for the taxpayer. These legislative amendments confer clarity and legal certainty on the obligations and liabilities of each party involved in e-filing.

3.2 Engaging Stakeholders at the Early Stage

Engaging stakeholders at the early stage of such a wide-reaching digital transformation will assist in creating a robust and user-friendly tax portal. In this connection, the HKIRD conducted two consultation exercises from January 2021 to January 2022 to solicit views of various interested parties such as businesses, professional bodies and tax practitioners on its e-filing project.

3.3 Offering Free Conversion Tools to Businesses

Recognising that the adoption of the iXBRL format for e-filing of financial statements and tax computations may drastically change the way taxpayers file their returns and may impact the design of accounting software, the HKIRD has provided the following support services to businesses:

- Making available a preliminary edition of the IRD Taxonomy Package and the specifications in iXBRL schemas prior to the formal launch of the enhanced eTax Portal to facilitate businesses or interested parties (e.g. software suppliers) to early develop iXBRL conversion or integrated software;
- Providing the free IRD iXBRL Data Preparation Tools for corporations or businesses to convert their financial statements and tax computations into iXBRL data files; and
- Setting up a support service hotline to help answer enquiries from businesses and taxpayers.

3.4 Providing e-Concierge Services to Businesses

In addition to setting up a designated helpdesk to answer enquiries in relation to e-filing, the HKIRD has also launched an e-concierge to offer one-on-one direct assistance to businesses via an online booking system. Businesses can access the e-concierge to book in advance a specified timeslot for making general enquiries in relation to the use of IRD iXBRL Data Preparation Tools via phone call.

3.5 Educating Taxpayers and Service Providers

To encourage more taxpayers to embrace and adopt e-filing, the HKIRD has published different guidance and training materials on its website such as demonstration video on e-filing of profits tax returns, training videos on tagging function of the tools, detailed guidance and FAQs on common issues. The HKIRD has also established an outreaching team to conduct seminars/webinars to promote e-filing.

3.6 Inviting Interested Parties to Trial Run

Taxpayers and service providers were invited to participate in the trial run exercise using the preliminary version of the IRD Taxonomy Package and the IRD iXBRL Data Preparation Tools. Participants were asked to provide feedback and suggestions to allow the HKIRD to further refine the tax portal before actual rollout.

As the HKIRD is halfway through its digital transformation journey, it is perhaps an opportune time to assess its implications for the HKIRD and businesses in Hong Kong SAR, China.

4. Implications of E-filing Project for Hong Kong SAR, China

4.1 Compliance with the OECD's Standard

The enhanced data processing capacity of the new portal will enable the HKIRD to collect and process large volume of financial and accounting data, thereby facilitating the automatic processing of tax assessments with greater work efficiency as well as meeting the OECD's standard in processing the EoI requests.

4.2 Better Alignment with Government Initiative to Develop Hong Kong SAR, China into a Smart City

The SAR Government has formulated a Smart City Blueprint for Hong Kong SAR, China with a vision to building it into a world class smart city. The new tax portal will greatly improve the attractiveness and user-friendliness of HKIRD's e-services.

4.3 Better User Experience

The enhanced eTax Portal streamlines the e-filing process and allows users to e-file tax returns and supporting documents regardless of geographical location. It also reduces the turnaround time for signature or authorisation arrangement, especially for taxpayers with approval process carried out outside Hong Kong SAR, China. The largely automated process in e-filing and the availability of validation checks would also minimise possible manual errors and hence, enhancing accuracies of tax filing. These enhanced features will bring greater ease and convenience to users, thereby encouraging more businesses to embrace and adopt e-filing.

4.4 Improve Resources Utilisation and the Environment

Prior to the e-filing project, the HKIRD had to process mountains of paper returns poured in during the filing season. Tremendous manpower resources were required to handle paper copies of tax returns, financial statements and other related documents. As more taxpayers adopt e-filing, it is envisaged that the HKIRD's efficiency in processing returns, raising assessments and post assessment follow-up works would be gradually enhanced. The digitalisation move will allow the HKIRD to save or re-deploy its staff resources. According to its estimate, the implementation of the e-filing project will bring about annual savings of approximately HKD87 million from 2029-30 onwards.[4]

Moreover, paper consumption will be significantly reduced, making the overall tax administration more environmental-friendly.

5. Challenges Ahead of the Tax Digitalisation Journey

Transition to mandatory e-filing will put new demands on companies and their agents, posing a considerable challenge for all concerned. The HKIRD has therefore, rightly introduced a two-year transitional period and implemented the second phase of its e-filing project in a gradual manner from the year of assessment 2025/26. Specifically, the mandatory filing requirement will first apply to large MNEs that are subject to the Global Anti-Base Erosion (GloBE) rules and Country-by-Country (CbC) reporting[5], and then progressing to small and medium enterprises (SMEs).

In addition to the above, the HKIRD may need to consider the following possible actions

4 *Submission Paper Prepared by the Financial Services and the Treasury Bureau to the Finance Committee of the Legislative Council*, https://www.legco.gov.hk/yr19-20/english/fc/fc/papers/f20-08e.pdf.

5 Large MNEs to which the GloBE rules and CbC reporting apply generally refer to MNEs with consolidated group revenue for the preceding accounting period in excess of EUR750 million.

to address the challenge to ensure successful implementation of the second phase of its e-filing project.

5.1 Taxpayer Education

Taxpayer education is an important aspect of the implementation since it is paramount to ensure that taxpayers are aware of and understand the merits of e-filing. While the pandemic has made businesses more receptive to conduct transactions online, inertia may keep some of them from making needed changes in handling their tax matters. In particular, some taxpayers may consider that they can easily file their tax returns through the normal paper filing method and do not see the need to adopt e-filing until they are required to do so. This underlines the need of the HKIRD to step up its marketing effort to educate taxpayers the merits of e-filing.

5.2 Data Usage and Security

As the information provided to the HKIRD is highly sensitive, taxpayers are likely concerned about data security and data usage. To allay their concerns and encourage e-filing, the HKIRD should provide information about the measures it has undertaken to safeguard the privacy and security of the information, e.g. information is accessible on a need-to-know basis and is carefully tracked, how data security is monitored and enhanced.

5.3 Continuous Enhancement and Support to Users

The HKIRD should proactively seek users' feedbacks about the problems they encountered and their comments on areas for improvement. Continuous enhancement should be made to both the portal and IT infrastructure (e.g. transaction speed) to meet the need and expectation of end users. The enhancement of the usability of the portal will certainly encourage more taxpayers to early adopt e-filing and familiarise themselves with this new mode of tax compliance.

The HKIRD should also maintain its support provided to users. A responsive helpdesk and e-concierge encourages businesses to use the new tax portal as help is at hand whenever problems are encountered.

5.4 Lenient Approach Towards Unintentional Tagging Errors

As it will inevitably involve time and effort in developing tagging knowledge and select the accurate tag to the best knowledge of the taxpayers or service providers, the HKIRD should adopt a lenient approach and allow some flexibilities for the interpretation of tagging accuracy in the early stage of e-filing.

The HKIRD's approach during the transitional period should be advising and supporting businesses to comply with the requirements, as opposed to penalising them for getting things wrong. Such an approach would encourage more taxpayers to early adopt e-filing.

6. Concluding Remarks

In examining the HKIRD's implementation of its e-filing project, this article shows that it is crucial to devise a comprehensive implementation plan, engage with stakeholders at an early stage, provide comprehensive support and assistance to users, especially SMEs, and phased implementation to enable users to familiarise themselves with the new tax portal and ensure smooth implementation. The issues and insights gained from the HKIRD's experience may provide insights to other government agencies and private businesses intending to undergo digital transformation.

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The BRI & the BRITACOM — Leveraging Peace, Friendship and Cooperation

Christian Kaeser

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The 21st century has so far proven to provide a rough ride from time to time: it all started with the dot-com bubble bursting in the spring of the year 2000, continued after a period of economic recovery with the financial crisis in 2008, fueled by cheap credit and lax lending standards that triggered a housing bubble and resulted in banks collapsing and many governments around the globe seeking to stabilize the financial economy at all cost. This massive task burdened national budgets and increased government debt, leading to a situation in which e.g. many European Member States got into severe trouble and the European Union needed to provide funding and securitization facilities to avoid the worst. In the end, interest rates were lowered for almost a decade to close to zero rates, allowing states cheap refinancing opportunities and spurring private investment. The global economy expanded and the growth helped many developed and developing countries. With the COVID-19 pandemic starting in 2020, this period came to an end. And especially since geopolitical tensions are on the rise since early 2022, inflation came back—especially increasing the cost of energy and posing new challenges to private households, businesses and industries and governments. Interest rates needed to be adjusted upwards to counter the inflation effects, posing even more stress on the overall situation. At the same time there is more and more focus on the challenges created by an apparent climate change. It looks like we are in a very challenging environment right now.

So it is even more relevant to focus on how to tackle the global challenges. And this focus needs to be a holistic approach. It has to work for all parties involved: the government and states, the individuals and societies and last but not least businesses and industries. It is this holistic approach which is provided for by the Belt and Road Initiative (BRI) and the Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM).

1. BRI's Positive Impact on Its Members

In the year 2013, Chinese President Xi Jinping put forward the important cooperation initiative of building the Silk

Road Economic Belt and the 21st Century Maritime Silk Road. Up to the current date, the BRI made steady progress and the initiative has been implemented widely amongst its members and even non-members. The international community has welcomed the initiative and its positive impact. From its very beginning, the BRI has provided an open, transparent and inclusive approach, welcoming all countries that wanted to join the initiative. In May 2017, China hosted the Belt and Road Forum for International Cooperation (BRF), the major international event for countries and parties concerned to engage in consultation on building the Belt and Road and sharing the respective benefits. In this regard, the BRF serves as a platform for the participating parties to strengthen cooperation and synergize their development strategies. Cooperation agreements were signed between the various participating countries, but as the BRI is an open initiative, agreements were also achieved with the United Nations: the Chinese government signed Belt and Road cooperation documents with the United Nations Development Programme (UNDP), the United Nations Industrial Development Organization, the United Nations Human Settlements Programme, the United Nations International Children's Fund, the United Nations Population Fund, the United Nations Conference on Trade and Development, the World Health Organization, the World Intellectual Property Organization and the International Criminal Police Organization. This emphasized not only the inclusiveness of the BRI approach, but also the strong commitment to the United Nations 17 Sustainable Development Goals (SDGs), forming the internationally agreed agenda for the global community.

The positive effects in the development of its member countries, fostering economic growth, connectivity, and collaboration across diverse regions of the BRI, are close to countless. To make them more tangible, here are some key aspects of the BRI's positive impact:

(1) Infrastructure development: One of the most notable contributions of the BRI has been its substantial investment in infrastructure projects. Member countries have benefited from the construction of roads, railways, ports, and energy facilities. These developments have improved transportation and connectivity, reducing logistical challenges and enhancing trade opportunities. Improved infrastructure has also spurred economic activities in previously underserved regions.

(2) Economic growth: The BRI has acted as a catalyst for economic growth in participating countries. The enhanced infrastructure and connectivity have attracted foreign direct investment (FDI), stimulated trade, and boosted economic activities. This, in turn, has created jobs, increased income levels, and lifted many people out of poverty.

(3) Trade expansion: The BRI's focus on connectivity has led to a significant increase in trade between member countries. Reduced transport costs and faster logistics have made it more cost-effective for businesses to engage in cross-border trade. This has opened up new markets and trade opportunities, benefiting industries ranging from manufacturing to agriculture.

(4) Energy security: The BRI has played a vital role in addressing energy security concerns in many member countries. Through investments in energy infrastructure, such as pipelines and power plants, the initiative has helped ensure a stable and affordable supply of energy resources, reducing dependency on a single source.

(5) Knowledge and technology transfer: Collaborative projects under the BRI have often involved technology transfers and knowledge sharing. This has facilitated the development of local industries and increased technological capabilities in member countries. These exchanges have the potential to boost innovation and competitiveness in the long run.

(6) Cultural exchange: Beyond economics and infrastructure, the BRI has encouraged cultural exchanges and people-to-people connections. Educational programs, tourism initiatives, and cultural exchanges have fostered mutual understanding and appreciation among

diverse cultures, promoting peaceful coexistence.

(7) Financial assistance: The BRI includes a significant financial component, with mostly China providing funding and investment for various projects. This financial assistance has been instrumental in countries that face challenges accessing capital for development. It has allowed them to undertake essential infrastructure projects and develop key sectors of their economies.

(8) Regional integration: The BRI promotes regional integration by fostering cooperation among member countries. Joint projects encourage collaboration in various fields, from trade to environmental protection. This integration helps in addressing common challenges and leveraging shared resources more efficiently.

(9) Poverty reduction: By boosting economic growth, creating jobs and improving access to education and healthcare, the BRI has contributed to poverty reduction in many participating countries. These improvements in living standards have had a positive impact on the quality of life for millions of people.

(10) Sustainable development: The BRI's emphasis on sustainability aligns with global efforts to address climate change and environmental concerns. Many BRI projects incorporate eco-friendly practices and technologies, contributing to sustainable development goals.

In summary, the BRI has played a pivotal role in the development of its member countries by fostering economic growth, improving infrastructure, expanding trade, and promoting collaboration across borders. The BRI continues to be a significant driver of progress and cooperation in the regions it encompasses.

2. The Role of Taxation in Promoting the High-Quality Development of the BRI

Over the last ten years, there has been a growing emphasis on business taxation, particularly concerning international business operations and emerging digital business models. This heightened focus has attracted widespread attention and involvement from tax legislators, tax authorities, and international standard-setting organizations like the UN and the Organization for Economic Co-operation and Development (OECD). During this period, new regulations were introduced, including the OECD's Base Erosion and Profit Shifting Program with its 15 Actions. Additionally, there has been a rising recognition of the challenges associated with taxing the digital economy. As a result, tax authorities in both developed and developing nations found themselves stretched and compelled to enhance their capabilities in order to keep pace with the evolving legal and business landscapes. Consequently, the importance of capacity building in this context cannot be overstated, and it plays a crucial role in two significant aspects.

Firstly, it is essential for tax legislation to keep pace with and comprehend international developments, translating them into applicable domestic tax regulations. These regulations should be carefully crafted for clarity and ease of administration. However, this task is not limited to the realm of legislation alone; tax authorities must also possess the necessary expertise to effectively assess and collect taxes in accordance with the law. Without a comprehensive understanding of both domestic and international tax rules, tax collection may fall short of its potential. Particularly in market jurisdictions, mere comprehension of tax laws is not adequate. In the digital economy sphere, for instance, applying tax regulations like the Arm's Length Principle (ALP) necessitates an understanding of how digital business models operate, including how value is generated and how market jurisdictions contribute to this value creation. This understanding is pivotal for the BRI countries to collect taxes on value created within their borders, thereby generating funds crucial for fostering further growth and stability in their nations.

Secondly, lacking in-depth expertise and knowledge, tax authorities might impose excessive taxes on taxpayers, potentially leading to double taxation when two tax authorities

adopt different stances on taxing a specific transaction or business model. This situation breeds uncertainty for businesses, hampers investment decisions, and retards economic growth, ultimately having adverse effects on society development and the overall economy. Over the past decade, we have witnessed divergent developments in this context. Some countries have excelled in crafting suitable tax laws and implementing them in a manner that reasonably balances the interests of businesses and national budgets. Conversely, other countries have encountered difficulties, either failing to collect the taxes they could have or placing excessive burdens on taxpayers. In both scenarios, uncertainty prevails. Businesses cannot rely on the lack of expertise and comprehension within tax authorities as a basis for their investment decisions, even if it means collecting fewer taxes in the short term than what is owed. When businesses are subject to excessive taxation, it becomes an evident hindrance to their respective business plans.

3. The Positive Role of BRITACOM in Promoting Cooperation Among Tax Administrations

The BRITACOM has established itself as a platform for cooperation of relevant parties, thus supporting the BRI vision in the field of taxation. It facilitates communication between its Member Tax Administrations and Observers, providing a structured and neutral space for relevant parties to engage in open and constructive dialogue. It enables regular communication, the exchange of ideas, and the sharing of concerns, fostering mutual understanding. Based on this continuous dialogue trust is built. Trust is the cornerstone of strong international relationships. By participating in the cooperative efforts and honoring commitments made within the BRITACOM, relevant parties build trust over time. This trust is essential for successful cooperation on various fronts. With the physical meeting at the annual Conferences—BRITACOF, cultural and educational exchanges are provided which foster greater understanding and appreciation among relevant parties. They help break down stereotypes and promote people-to-people connections, strengthening the cultural ties that bind nations. And the BRITACOM forms the foundation for promoting collaboration on common goals and challenges and information sharing. A great example in this regard is the joint educational program—the Belt and Road Initiative Tax Administration Capacity Enhancement Group (BRITACEG).

To address the need for equilibrium and enhance the tax capabilities of tax administrations within BRITACOM, an educational program called BRITACEG was established. This initiative involves the creation of tax academies designed to provide structured education. These academies follow a comprehensive educational plan known as the BRITACEG Curriculum. This curriculum covers all aspects of business taxation, encompassing both direct and indirect taxes. By doing so, it ensures that tax authorities share a common understanding, thereby reducing the risk of disputes and the likelihood of either overtaxing or undertaxing businesses. The curriculum also addresses administrative aspects, including the digitalization of tax administrations, collaboration among tax authorities, and engagement with taxpayers, including providing taxpayer services. This balanced approach contributes to an increased level of certainty for both tax authorities and taxpayers. Notably, the composition of the lecturers in these academies is diverse, drawing expertise from tax authorities, academia, and the business sector.

4. Proposals and Suggestions for Future Development of the BRI and the BRITACOM

High-quality development in the BRI countries primarily requires two key components: private investments and government investments. Taxation plays a crucial role in attracting private investments while ensuring sufficient tax revenues for governments. Striking the right balance between these objectives is essential.

A harmonious tax policy seeks to identify

the optimal tax rate or effective tax burden that can both attract private investment and generate tax revenue. Achieving this balance is a complex but critical goal for BRI countries and warrants further research facilitated by collaboration and exchange of respective data among BRITACOM parties. In this regard the BRITACOM could also start defining key metrics for its parties' improvement. While arithmetic goals like tax rates are measurable, other areas like overall tax environment improvement require clear goal-setting and measurement methodologies. A BRITACOM report could provide transparency on the tax environment's development, aiding its parties on their path to sustainable growth.

Beyond the absolute tax burden, tax certainty is paramount in influencing investment decisions. Even the lowest tax rate is of little value if businesses face uncertainty due to inconsistent tax interpretations by tax administrations. To enhance tax certainty, factors like upfront tax rulings, transparent tax guidelines, efficient administrative procedures, and amicable taxpayer relationships all play significant roles. The BRITACOM serves as a platform for relevant parties to discuss, align, and design frameworks for tax certainty in legislation, thereby reducing potential disputes. This alignment promotes economic and societal development by minimizing friction among relevant parties. Additionally, international standards, such as Pillar Two (GloBE rules) developed by the OECD, introduce complexities that require local implementation. The BRITACOM can serve as a platform for relevant parties to align on interpretation and application of such rules, ensuring uniformity and engagement with the OECD. Furthermore, establishing a joint dispute resolution mechanism within BRITACOM could significantly enhance tax certainty. Fast and efficient resolution of tax disputes can save resources. This mechanism could initially offer recommendations for dispute resolution, gradually evolving into binding decisions, showcasing relevant parties' commitment to sustainable growth and prosperity.

The relationship between taxation and achieving the United Nations Sustainable Development Goals is a nascent field. Aligning taxation principles with the SDGs is crucial, given that all legislative and administrative areas should support these goals. The BRITACOM can facilitate discussions, develop guiding tax principles in line with the SDGs, and ensure consistency with other legal and administrative aspects.

5. Congratulations from ICC

Having to deal with tax matters is often seen as a dry or even boring matter. The BRITACOM is a great proof that taxes are a core lever for tackling the pressing issues of our time and everything else but dry and boring. On this remarkable occasion of the 10th anniversary of BRI, I therefore take great pride in extending my and ICC's heartfelt congratulations to all those who have been part of this transformative journey. Over the past decade, the BRI has demonstrated its commitment to fostering economic growth, enhancing connectivity, and promoting collaboration among nations. It has served as a beacon of opportunity, bringing together diverse cultures and economies in a spirit of cooperation and shared prosperity. The ICC applauds the dedication and vision of all those involved in the BRI. We acknowledge the positive impact it has had on member countries, creating jobs, improving infrastructure, and expanding trade. The BRI's emphasis on sustainability aligns with our global goals for responsible and inclusive development.

As we celebrate this milestone, let us renew our commitment to the principles of openness, transparency, and mutual benefit that underpin the BRI. Together, we can continue to build a more interconnected and prosperous world and overcome the pressing challenges of our century.

Once again, congratulations on this remarkable achievement. We look forward to the continued success of the BRI in the years to come. And we will be honored to support and be part of this journey.

Congratulations on the 10th Anniversary of the Belt and Road Initiative

It is with great honor and immense pleasure that I address you on this occasion to commemorate with you the 10th anniversary of the Belt and Road Initiative, and to offer my sincere congratulations to all those who have contributed, directly or indirectly, to the success of this initiative. I am pleased to share this testimony which attests to the praise we express for this initiative that has always worked for a more open, inclusive, and balanced global economy. It is important to note that through its program of actions, the Belt and Road Initiative has undoubtedly become one of the most popular institutional instruments of international cooperation, through which member countries can engage in common, mutually beneficial development policies. This initiative, based on the principles of equality, free trade, and reliable and incredible partnership, has been working tirelessly in a comprehensive approach including all economic, commercial, and cultural spheres, for sustainable global development.

It is in this context that Algeria signed in April 2019, during the 1st Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF) held in Wuzhen, *the Memorandum of Understanding (MoU) on the Establishment of the Belt and Road Initiative Tax Administration Cooperation Mechanism* (BRITACOM), for the establishment of the BRITACOM whose purpose is to support the construction of a tax environment conductive to sustainable economic development, through cooperation and the sharing of best practices in compliance with the rule of law. This mainly involves increasing tax certainty, accelerating the resolution of tax disputes, improving services to taxpayers, and strengthening tax capacities. We can only applaud the achievements acquired during this period, which has been marked by the pooling of experiences and the sharing of exchanges and information in terms of economic cooperation, digital revolution, and management methods with the aim of moving forward towards the development of national economies.

I would like to add that the Directorate General of Taxes was much honored to host the 3rd BRITACOF in Algiers in September 2022, whose theme was devoted to "Enhancing Tax Administration Capacity Building in the Post-Pandemic Era". I would also like to take this opportunity to express our satisfaction with the actions already taken to date, particularly with regard to online training sessions that have focused mainly on current issues, such as better tax management in the era of globalization and digitalization, VAT reform, tax dispute resolution, and service to taxpayers, whose expected results are of great significance in terms of sharing experience and knowledge.

Finally, allow me to reiterate my congratulations and to let you know that we remain and will always be an active partner in all actions aimed at contributing to the improvement of economic and financial governance in countries.

Amel Abdellatif
Director General
Directorate General of Taxes
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Congratulations on the 10th Anniversary of the Belt and Road Initiative

This year marks the 10th anniversary of the Belt and Road Initiative (BRI). On behalf of the Inland Revenue Department of Hong Kong SAR, China, I would like to extend our sincere congratulations on this historic milestone. I would also like to take the opportunity to express our heartiest appreciation for the work undertaken by the Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM) to promote tax cooperation under the framework of the BRI.

Over the past decade, the BRI has achieved fruitful outcomes in promoting international cooperation and contributed to the sound development of economic globalisation. As a multilateral mechanism established under the BRI, the BRITACOM has an active role to play in building a growth-friendly tax environment so as to facilitate cross-border trade and investment and promote economic growth. Such role is considered particularly important in the context of post-pandemic development where the world economy is facing unprecedented challenges and requires the impetus for recovery.

With the strong support from the international community, the BRITACOM has been an important mechanism for knowledge sharing and collaborations between the tax administrations of the BRI participating jurisdictions. Since its establishment, the BRITACOM has been making concerted efforts to raise tax certainty, digitalise tax administration, improve tax environment and reinforce capacity building of tax administration. The annual conference of the Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF) serves as an effective platform for tax administrations to exchange views on tax issues of common interest and to have dialogues with stakeholders. The regular seminars and theme day events of the BRITACOM as well as the publication of the *Belt and Road Initiative Tax Journal* (BRITJ) promote the full sharing of experience and best practices among tax administrations. The well-structured training programmes offered by the Belt and Road Initiative Tax Administration Capacity Enhancement Group (BRITACEG) encourage mutual learning and help build tax administrations' capacity. All these make the BRITACOM a great contributor in fostering a favourable tax environment for businesses and investments.

As a founding Member Tax Administration of the BRITACOM, the Inland Revenue Department of Hong Kong SAR, China has been actively participating in the activities of the BRITACOM, and will be hosting the 5th BRITACOF in September 2024. It is indeed a great honour for the Inland Revenue Department to have such an opportunity to contribute to the BRITACOM's objective of building a growth-friendly tax environment, and to reinforce the role of Hong Kong SAR, China as a key link for the BRI. We look forward to welcoming BRITACOM participants in Hong Kong SAR, China next year and working with them in pursuit of strengthened tax cooperation.

TAM Tai-pang
Commissioner of Inland Revenue Department
Hong Kong SAR, China

Congratulations and Best Wishes for Our Future Success and Collaboration

On the occasion of the 10th Anniversary of the Belt and Road Initiative (BRI), as the representative of the Directorate General of Taxes of Indonesia (DGT), I would like to give congratulations and best wishes for our future success and collaboration.

A decade ago, the BRI was proposed with the primary goal of fostering shared prosperity among countries and regions. The effort aligns with the BRI's vision for openness and shared growth and embraces the current trend of peaceful development and win-win cooperation.

Given the crucial role that taxes play in resource allocation, the flow of production factors across borders, and global economic and commercial ties, tax cooperation has become a key development driver for the BRI. To support the idea, the Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM) was established in 2019. Since then, the BRITACOM has proven its contribution to the development of a growth-friendly tax environment through cooperation and sharing of best practices in taxation among its members.

DGT, as one of the founding members of the BRITACOM, has been actively participating in the annual events of the BRITACOM, such as the Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF). DGT has shared our experience in Tax Digitalization and Enhancing Tax Administration Capacity Building at the event. We hope that the sharing would be great value to the other members of the BRITACOM as we learn from each other.

We are also thankful that the Belt and Road Initiative Tax Administration Capacity Enhancement Group (BRITACEG) has been very supportive to us through the extensive and various topics of the online taxation training so far.

We hope that BRITACOM will continue to work on significant developments and trends in international taxation in the future.

Again, congratulations on the BRI's 10th Anniversary. We look forward to more cooperation and engagement in the future.

Mekar Satria Utama
Director of International Taxation
Directorate General of Taxes
Ministry of Finance of Indonesia

澳門特別行政區駐北京辦事處
Delegação da Região Administrativa Especial
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Unique Advantages and Active Participation of Macao, China in the Pursuit of the Belt and Road Initiative

Year 2023 marks the 10th anniversary of China's proposal of the Belt and Road Initiative (BRI). Over the past decade, the Macao Special Administrative Region (SAR) of China has taken the initiative to align with the country's development strategy and actively participated in the pursuit of the BRI, facilitated exchanges and cooperation with Portuguese-speaking countries, as well as countries of the BRI in the areas of economy and trade, tourism and culture. The efforts had achieved fruitful results. For example, according to Macao's external merchandise trade statistics, in the year of 2022, merchandise import from the BRI countries has increased by 3.5% year on year and reached 26.21 billion pataca (MOP). Meanwhile, the total amount of exports to the BRI countries was MOP523 million, which also expanded by 69.8%.

In the future, Macao, China will continue to leverage its unique advantage as a free port and its development positioning of "the world center of tourism and leisure, the commercial and trade cooperation service platform between China and Portuguese-speaking countries, the exchange and cooperation base with Chinese culture as the mainstream combined with a diverse multi-cultural coexistence" to make more contributions to the pursuit of the BRI.

While upholding the aforesaid development positioning of "One Center, One Platform and One Base", Macao, China will also enhance resources synergy of both domestic and international markets to open a new horizon to achieve new developments. In addition, Macao, China will keep on striving to promote people-to-people ties along the BRI through actively advancing comprehensive and in-depth cooperation. By fully grasping the great opportunities of the BRI, the Guangdong-Hong Kong-Macao Greater Bay Area and the Guangdong-Macao In-Depth Cooperation Zone in Hengqin, Macao, China aims to make due contributions to the country's high-level opening up and high-quality development.

Nadia Leong
Director
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Congratulations on the 10th Anniversary of the Belt and Road Initiative

A famous case in the US Supreme Court noted that "Taxes are what we pay for civilized society". It follows naturally that governments need revenues from taxation to assist their own economic development, protect their people, and promote social progress. In short, a wise system of taxation can assist a country's development and attract significant foreign investment; an inefficient or ineffective tax system can hold a country back from achieving its full potential. Tax systems should be designed to promote economic growth.

Governments in both industrialized and developing nations face increased fiscal pressures as the needs of a growing (and in many jurisdictions, ageing) population raise demands on the public purse. New business models, increased mobility of capital, and technological developments have made it more difficult for jurisdictions to act unilaterally in matters of tax policy. The global tax community agrees that the architecture of the international tax system, designed almost exactly 100 years ago, is no longer appropriate. However, it cannot agree on appropriate solutions, increasing the risks of double taxation and reducing the free flow of capital. The Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM) brings together jurisdictions that have historic trading ties in a new, cooperative mechanism, where consultation and discussion can help solve some of these problems.

Tax administration is too often neglected as an important aspect of a nation's overall tax system. In this context, the role of the BRITACOM in the work of tax administration is essential. Beyond its efforts in promoting the Belt and Road Initiative and in helping jurisdictions to participate more effectively in it, perhaps most of all, it seeks to raise the level of knowledge and skills by promoting cooperation among tax administrations. In this way, the BRITACOM has a truly global impact.

In the Belt and Road Initiative, China seeks to develop closer ties with developing jurisdictions around the world so that other nations may embark on the same path of economic growth and eradication of poverty as China itself has done. The key insight that led to the establishment of

BRITACOM and led to informs its work is this: Raising the level of knowledge and skill among tax administrations themselves contributes to economic development, by helping jurisdictions to administer tax systems designed to promote economic growth.

The meetings of BRITACOM in which I have participated are tightly focused on this aim: how to develop and implement tax systems that are fair to taxpayers, predictable so that taxpayers understand their obligations, easy for revenue authorities to administer, and promote very high levels of compliance. BRITACOM has helped developing jurisdictions modernize their tax systems and optimize them for economic growth by promoting reforms involving tax regimes in a range of industries including extractive industries, agriculture, and many others.

The case, nearly 100 years ago, from which the quotation at the outset of this article is taken, concerns the limits of the powers by a court in a region seeking economic development to tax the business activities of a foreign corporation involving contracts entered into in a third country. Issues involving appropriate taxation regarding foreign investment are not new. There remains a clear need for constant discussion, clear communication, and strong cooperation between tax administrations to develop systems that are fair and predictable while also promoting economic growth. These issues require attention at the highest levels of national policymaking, as BRITACOM has promoted.

In this year in which BRI celebrates its 10th anniversary and International Tax and Investment Center (ITIC) celebrates its 30th, I appreciate the honor given to ITIC as one of the few non-governmental organizations invited to participate in the direct work of BRITACOM. I congratulate the Belt and Road Initiative on its 10th anniversary and look forward to our continued work together in helping the BRI partner jurisdictions contribute to global economic development.

Congratulations on your achievements and best wishes for a bright future.

Best regards,

Daniel A. Witt
President
International Tax and Investment Center

The Role of Taxation in Promoting Development

Taxation can contribute to promoting high-quality development of the Belt and Road Initiative that covers many developing countries, which rely, among others, on financial resources to accelerate the pace of development to improve the lives of their citizens. Financial resources are primarily generated through taxation, which are used to provide public goods and services, including maintaining law and order, developing socio-economic infrastructures and providing social security to the weaker section of the population. A progressive tax system also helps reduce income inequality. Taxes can also be levied strategically to divert resources to sectors prioritized for national development.

To promote high-quality development through taxation, Belt and Road Initiative countries should put emphasis on minimizing the costs generated in the taxation process, namely compliance, administrative and economic costs. Among these, compliance costs are those borne by taxpayers while complying with the requirements of the tax system, while administrative costs are borne by tax administration while collecting various taxes levied by the government. Finally, economic costs are inherent in taxes that bring distortions in the economy but can be minimized via proper design and effective and uniform implementation.

Belt and Road Initiative countries should develop a proper tax mix to generate additional revenue to finance government expenditures needed for various development and welfare activities in the country while minimizing potential distortions to promote a high-quality development of the Belt and Road Initiative region.

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The Use of Digital Technology by Belt and Road Tax Administrations

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Abstract: The growing trading links in the modern world have made it more difficult for tax administrations to monitor the activities of multinational enterprises (MNEs) operating on their territory. Advanced technology and communications have been used by MNEs to increase the scope of their operations and create global supply chains, while tax administrations try to use limited resources to apply the tax rules. The development of digital technology within government can help tax administrations to implement the latest international tax rules and monitor taxpayer activities more completely, improving domestic resource mobilisation.

A benefit of more digitalisation for tax administrations is the ability to manage data and use analytical tools to make the best use of the data acquired. Wider international tax cooperation has provided tax administrations with access to information from country-by-country (CbC) reporting, the common reporting standard (CRS) and the exchange of tax rulings. These give tax administrations access to large volumes of data in relation to cross-border activities to facilitate risk assessment. Digitalisation can also reduce the compliance burden of taxpayers by making it easier to complete their tax obligations, helping them to integrate taxation processes into their routine business systems.

Full use of technology combined with adequate governance can boost the efficiency of tax administration. The Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM) can be a platform for cooperation among tax administrations to gain more efficiency. It is important for BRI tax administrations to learn from each other through sharing their knowledge and experience in the introduction of digital technology.

Keywords: Tax administration; Digital technology; Risk assessment; Tax compliance; Governance; International tax; BRI; BRITACOM

1. Introduction

The growing trading links between countries in the modern world have greatly increased the burden of tax administrations in keeping track of the activities of companies operating on their territory. On the one hand, globalized supply chains have made it possible to centralize certain functions, assets and risks in principal entities, often at the headquarter location, or in specialised entities. On the other, fragmentation of manufacturing and service functions have taken place, where the final product or service sold is the result of a complex set of transactions between both related parties and unrelated suppliers that are located in different countries across the world. Multinational enterprises (MNEs) have used technology to increase the scope of their operations and create supply chains that span the globe, while tax administrations with their limited resources have struggled to keep pace with international developments.

Digital technology has therefore created new challenges for tax administrations. However, technology can also be harnessed by tax administrations to carry out their responsibilities more efficiently. Although the introduction of digital technology means additional costs for installation and training, benefits to be obtained from it would greatly outweigh the disadvantages, provided that processes are adapted to make full use of the technology.

Advantages include increased data collection on taxpayers and their transactions, more efficient processing of returns and issuing of assessments, and efficient risk-based selection of taxpayers for audit. Digital technology can increase the exchange of information between tax administrations and help to build a complete picture of a taxpayer's cross-border transactions.

International tax initiatives from the United Nations (UN) and the Organisation for Economic Co-operation and Development (OECD) can help to improve tax collection, but are potentially placing a greater burden on tax administrations which often suffer from a lack of resources. The need to adequately tax MNEs and the plans for a global minimum tax will impose compliance requirements that tax administrations can only handle by properly using digital technology. The Belt and Road (BRI) countries could therefore benefit from greater use of technology to deal with the increased presence of MNEs.

2. Global Developments in Tax Policy

2.1 UN Developments

On 30 December 2022, the UN General Assembly adopted a resolution[1] on *Promotion of Inclusive and Effective International Tax Cooperation at the United Nations*, confirming its commitment to increase international tax cooperation and combat tax avoidance and evasion. The resolution called for discussions on developing an international tax cooperation framework to be agreed through a UN inter-governmental process. The General Assembly requested the Secretary-General to prepare a report analysing the existing international tax arrangements, identifying additional options, and setting out the possible next steps. The Secretariat invited Member States and other stakeholders to provide written input and more than 80 submissions were received.

The UN Secretary-General's report to the General Assembly, released for consideration at the September 2023 session, noted that the international tax system should take into account the sovereign equality of all Member States under the UN Charter. As required by the Addis Ababa Action Agenda on Financing for Development, international tax cooperation should consider the different needs, priorities, and capacities of all countries. Inclusive international tax cooperation requires participation by all countries in developing the rules that will

1 UN (2023). *Promotion of Inclusive and Effective International Tax Cooperation at the United Nations,* https://digitallibrary.un.org/record/3997328.

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apply to them. The most important elements in international cooperation were identified as participation, agenda-setting, decision-making, and implementation, including monitoring and tax dispute resolution.

The report set out three general approaches for the next stage of inter-governmental discussions at the UN. The first option would be a legally binding treaty or standard multilateral convention covering a wide range of tax issues. If this option is followed, the next step could be to establish a Member State-led, inter-governmental ad hoc advisory expert group to draw up draft terms of reference for negotiating the multilateral convention.

The second option could be a framework convention in the form of a legally binding multilateral instrument, which would establish an overall system of international tax governance. This framework convention would set out the basic principles of future international tax cooperation, its objectives, the key principles governing the cooperation and the governance structure for cooperation. For this option, the next step would also be to start with a Member State-led, inter-governmental ad hoc negotiating group that could draw up the terms of reference.

The third option would be the development of a non-binding multilateral agenda providing for coordinated action at the international, regional, national or bilateral level on improving tax standards. Some issues such as eliminating illicit financial flows require global action but some other questions, such as the appropriate withholding tax rates on cross-border payments, could be resolved in a bilateral situation. This third option would establish principles of international tax cooperation, but these principles would not be enforced by legal commitments. If a particular problem requires binding legal commitments on a global level, the General Assembly could approve the negotiation of a multilateral instrument similar to those envisaged by the first two options. If the third option is chosen, a Member State-led, inter-governmental ad hoc expert group could be set up to serve as the preparatory committee to carry out the organisational preparation of the conference, including negotiating input papers and a draft outcome document on the key tax cooperation issues.

The three options identified by the report are not mutually exclusive, as a framework making recommendations on domestic tax rules could operate at the same time as a standard multilateral convention focused on international tax rules.

The UN tax discussions are an opportunity for BRI countries to participate in the development of the international tax framework. It will be worthwhile for BRI countries to devote some resources to providing input into the discussions, based on their own experience. That will also be a chance to exchange knowledge and experience with other tax administrations.

On 22 November 2023 the second committee of the UN General Assembly adopted a resolution to commence the process of setting up a framework convention on tax. Under the resolution the Member States of the UN have decided to establish an open-ended, ad hoc intergovernmental committee to draft terms of reference for a UN framework convention on international tax cooperation. The resolution requests the committee to submit a report to the 79th Session of the UN General Assembly with the draft terms of reference for a UN framework convention.

2.2 OECD Developments

On 11 July 2023 an Outcome Statement[2] on the two-pillar international tax solution was

2 OECD (2023). *Outcome Statement on the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*, https://www.oecd.org/tax/beps/outcome-statement-on-the-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2023.pdf.

approved by 138 member jurisdictions of the Inclusive Framework on base erosion and profit shifting. The Outcome Statement summarises the package of deliverables developed to address the remaining elements of the two-pillar international tax proposals.

Following an earlier consultation, on 17 July 2023 the Inclusive Framework issued a consultation document asking for stakeholder input on the proposals for Amount B under Pillar One.[3] Amount B applies to baseline marketing and distribution activities that do not involve unique and valuable intangibles or certain economically significant risks. The rules relating to Amount B simplify the current transfer pricing rules for all taxpayers with transactions within the scope of the rules, such as buy/sell entities, commissionaires and sales agents. The proposed measures on Amount B set out a simplified and streamlined approach to applying the arm's length principle to marketing and distribution activities. There is an emphasis on the needs of countries with low administrative capacity that will need to implement these provisions in line with their available resources. Responses by stakeholders to the consultation on Amount B have been published on the OECD website.

Pillar Two introduces a global minimum corporate tax at a rate of 15%. The minimum tax is to be applied to MNEs with revenue above EUR750 million. An Income Inclusion Rule (IIR) will operate to impose a top-up tax on the parent entity in relation to the low taxed income of a constituent entity of the MNEs. An Undertaxed Payment Rule (UTPR) will deny a tax deduction or require an equivalent adjustment where the low tax income of a constituent entity is not subject to tax under the IIR. A treaty-based Subject to Tax Rule (STTR) would permit source jurisdictions to impose some source taxation on certain related party payments that are subject to tax below a minimum rate.

On 20 December 2022 the OECD issued a consultation package on the Pillar Two Model Rules[4] and their implementation. This includes a consultation document on the type of information to be included in the Global Anti-Base Erosion (GloBE) Rule information return and a consultation document on tax certainty for the GloBE rules, setting out various mechanisms for achieving tax certainty including dispute prevention and resolution. Guidance has also been issued on a transitional safe harbour and a framework for a permanent safe harbour, together with provisions for penalty relief in the first years after the rules are implemented.

On 2 February 2023 technical guidance was released on the implementation of the global minimum tax.[5] The guidance sets out harmonised foreign exchange translation rules for the thresholds and clarifies which financial accounts should be used for the calculation of deferred tax. The rules also clarify the definition of an excluded entity and look at qualified domestic minimum top-up tax (QDMTT).

The OECD's Inclusive Framework has drafted a transitional safe harbour[6] and a regulatory framework for developing a permanent safe harbour. The transitional safe harbour would be a short-term measure to exclude from the scope of the computations an MNE's

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3 OECD (2023). *Public Consultation Document - Pillar One – Amount B*, https://www.oecd.org/tax/beps/public-consultation-document-pillar-one-amount-b-2023.pdf .

4 OECD (2022). *Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two)*, https://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two.htm.

5 OECD (2023). *Agreed Administrative Guidance for the Pillar Two GloBE Rules,* https://www.oecd.org/tax/beps/agreed-administrative-guidance-for-the-pillar-two-globe-rules.pdf.

6 OECD (2022). *Safe Harbours and Penalty Relief: Global Anti-Base Erosion Rules (Pillar Two),* https://www2.oecd.org/tax/beps/safe-harbours-and-penalty-relief-global-anti-base-erosion-rules-pillar-two.pdf.

operations in certain lower-risk jurisdictions in the first years the rules operate. The permanent safe harbour would reduce the number of computations and adjustments or allow the MNE to undertake alternative calculations to show that no GloBE tax liability arises in relation to a jurisdiction.

On 17 July 2023 the OECD published details of the contents of the GloBE information return (GIR) under Pillar Two.[7] The GIR is a standardised information return assisting compliance with the administration of the GloBE rules. A transitional simplified jurisdictional reporting framework would be applicable for a transitional period for fiscal years on or before 31 December 2028 but would not apply to any fiscal year ending after 30 June 2030. MNEs will, after that date, be required to report GIR information on an entity-by-entity basis for each jurisdiction where they operate.

On 17 July 2023 the OECD published details of the STTR.[8] The STTR gives jurisdictions the right to "tax back" in situations where other jurisdictions have not taxed a payment or where the payment is subject to low levels of taxation. The STTR is a treaty-based rule applicable to certain intragroup payments from source States where the income is subject to low nominal tax rates. The STTR applies to interest, royalties, and a defined set of other payments made between connected companies. An STTR model treaty provision and commentary have been developed. The provision is based on the principle that where, under a tax treaty, a source State has ceded taxing rights on certain outbound intragroup payments, it should be able to recover some of those rights where the income in question is taxed in the jurisdiction of the payee (the residence State) at a rate below 9%. A binding request can therefore be made by developing countries to include the provision in tax treaties with jurisdictions that have nominal tax rates below 9%. A multilateral instrument has been developed to enable countries to quickly include the provision in their tax treaties and this instrument will be open for signature from 2 October 2023.

3. Tax Governance and the Use of Technology

Introducing digital technology would help tax administrations to implement these global initiatives, especially the OECD proposals. Digitalisation of tax administration can enable governments to collect tax more efficiently while maintaining a positive investment environment. Governments can use digital technology to track the activities and profits of MNEs operating in their territory and improve domestic resource mobilisation. Digitalisation can therefore bring hitherto untapped revenue sources within the reach of the tax administration and procedures can be adapted to ensure full use of the tax initiatives.

The use of technology can greatly increase knowledge sharing between tax administrations, including the sharing of peer experiences in areas of international taxation. Countries can better utilise guidance on capacity building from international bodies such as the UN and the OECD[9] or regional bodies such as the African Tax Administration Forum (ATAF)[10], and can also exchange specific experiences within

7 OECD (2023). *Tax Challenges Arising from the Digitalisation of the Economy – GloBE Information Return (Pillar Two)*, https://www.oecd.org/tax/beps/globe-information-return-pillar-two.pdf.

8 OECD (2023). *Tax Challenges Arising from Digitalisation - Subject to Tax Rule (Pillar Two)*, https://www.oecd-ilibrary.org/sites/c65c7c20-en/index.html?itemId=/content/component/c65c7c20-en.

9 OECD (2022). *Tax Capacity Building: A Practical Guide to Developing and Advancing Tax Capacity Building Programmes*, https://www.oecd.org/tax/forum-on-tax-administration/publications-and-products/tax-capacity-building-c73f126f-en.htm.

10 https://www.ataftax.org/technical-assistance.

the BRI framework.

Digital technology can only be used to its full potential if suitable governance procedures are in place within tax administrations. The introduction of digital processes must be done in an ordered manner allowing sufficient time for businesses to adjust to the new procedures. Digital tax administration can improve the ability to collect indirect tax and can first be applied to this area. Using the destination principle, indirect tax can be collected on cross-border digitally delivered services, using common international classifications for services, particularly for digital services. Tax governance should also look at possibilities for integrating tax processes within business record keeping systems to allow smoother compliance processes. These measures must however be phased in carefully, after consultation with business, and with minimum intervention to business operations of taxpayers.

The OECD's Forum on Tax Administration (FTA) noted in a recent report[11] that tax administrations were able to continue serving taxpayers during the pandemic, and even to provide wider government support measures. The problems caused by the pandemic had the effect of accelerating the transition to digital services within tax administrations. In 2020 there was a 30% increase in digital contacts, and the trend towards increased digital communication is continuing.

Tax administrations worldwide are aiming to extend the automation of tax compliance into further areas of interaction with taxpayers, to make the compliance process easier. Tax administrations have also adopted more flexible operating models for the period after the pandemic, implementing a hybrid working model that gives their staff greater choice in their work while keeping the same quality of taxpayer services.

A benefit of greater digitalisation for tax administrations is the ability to manage data and use analytical tools to make the best use of the data acquired. In the future, tax administrations will be able to make full use of the opportunities provided by artificial intelligence to assess and collect tax and to improve taxpayer services.

4. Transition of Tax Administration Technology

The first step in digitalisation of tax administration is usually the introduction of e-filing. Standard electronic forms can be used for filing tax returns and for submitting tax that is deducted from the payroll. The next step could be electronic submission of accounting and other information by taxpayers to support the tax return, in a defined electronic format according to a defined timetable. Frequent additions and changes can be made. As a further step in digitalisation, additional accounting and source data can be provided electronically. The government can then access additional data such as bank information and begin to match the data across tax types, taxpayers and jurisdictions in real time.

The initial stages of digitalisation typically tend to be:

- Forms driven (paper and electronic);
- Spreadsheet based and often require complex math work;
- Reliant on periodic, historical, aggregated data;
- Mimic manual work which can be slow and expensive to implement;
- Subjective – e.g. it will often still result in non-standardised risk assessment techniques;
- Desktop-based audit & investigation methods; and
- Reliant on fragmented systems, requiring information sharing protocols and multiple databases.

The next level of digitalisation could in-

11 OECD (2022). *Tax Administration 2022*, https://www.oecd-ilibrary.org/taxation/tax-administration-2022_1e797131-en.

volve e-audit. Data sent electronically by taxpayers can be analysed by government entities and cross-checked to filings in real time to map the geographic economic ecosystem. Taxpayers can be given electronic audit assessments and a limited period of time to respond.

At a more advanced stage of the digitalisation process, government entities are experimenting with pre-populating returns using data from various sources. Eventually governments could use the data available to assess tax without the need for tax forms. Taxpayers would be given a limited period of time to check the government-calculated tax and appeal if necessary.

At the most advanced stage of digitalisation, all government interaction with citizens and enterprises can be digitalised. This would lead to seamless international digital exchange of information between law enforcement and tax authorities in different countries. This would result in tax administration that delivers a fully integrated tax management system that

- Has a systematic and structured approach;
- Has data driven proactive services;
- Enables validation and automation;
- Enables whole-of-government services and connectivity; and
- Enables assured data without having to maintain a number of different databases.

An integrated risk management system can be developed using data and analytical tools in tax intelligence and investigation, such as statistical modelling, outlier detection, data visualisation and network analysis, and predictive modelling. Data modelling tools can discover useful information and support decision-making. Audit case selection could be automated using tools that leverage third party and AEOI data. An integrated risk assessment and management system looks like this:

Figure 1. Integrated risk assessment and management system

5. International Cooperation in Tax Administration Technology

Tax administrations are benefitting from the growth in the scope of international tax cooperation and knowledge sharing. The report notes that the OECD's FTA is helping tax administrations to share their experience and knowledge. The FTA is also devising practical tools for tax administrations to use in their work, an example being the maturity model on digital transformation. Tax administrations can use this type of tools to identify their own strengths and weaknesses and look at areas where they would benefit from collaboration.

The wider international tax cooperation has provided tax administrations with access to information such as that provided by country-by-country (CbC) reporting, the common reporting standard (CRS) and the exchange of tax rulings. These give tax administrations access to large volumes of data in relation to cross-border activities that can help in the task of risk assessment. This in turn lowers compliance time for taxpayers and costs for tax administrations.

A tax administration can make use of the Digital Transformation Maturity Model as outlined in an OECD report to determine its

current stage of digitalisation.[12] The Model was developed by a working group of the FTA led by the Inland Revenue Authority of Singapore. Maturity models can help organisations to assess their current level of capability in each functional, strategic or organisational area. Assessments can help an organisation determine the type of changes that would lead to a higher level of maturity. The Maturity Model can therefore allow tax administrations to assess their current capacity and consider where the level need to be raised, taking into account their circumstances, broader objectives, and priorities.

The Model sets out five levels of maturity called emerging, progressing, established, leading and aspirational. The five levels help administrations to identify their current level of maturity. The Model looks at the themes of digital identity, taxpayer touchpoints, data management and standards, tax rule management and application, new skill sets and governance frameworks.

The Model can be used as a basis for determining strategy and identifying the areas where further improvement is needed. In some cases, support from other parts of the tax administration or from external sources such as other parts of government may be needed. Communication with other parts of the organisation or other government bodies can help to identify business areas where there is scope for synergies and where functions could benefit from mutual support. A tax administration can compare its level of digital maturity with its peers using the Model, which in turn helps engage with peers and training through organisations such as the FTA.

Feedback from a pilot process indicated that the majority of participants found the Model easy to use and they were able to understand the different maturity levels. The FTA report gives some guidance on how a suitable score can be established and has produced a record sheet that can be used internally, for example for periodically repeated use of the Maturity Model. As tax administrations operate in different environments, a standard approach to tax administrations may not always be practical, so when using the Model tax administrations must take account of the challenges and priorities they are facing. It is likely that not all parts of the Maturity Model will be useful for all tax administrations, but most could gain some benefit from it.

The UN Committee of Experts on International Cooperation in Tax Matters is working on a guide to the digitalisation of revenue authorities to provide a roadmap and guidance on the data governance framework. Guidance on how to develop a roadmap for the digitalisation process will take into account that each country is starting from a different situation. Each country must work out a clear vision of what it is trying to achieve through the digitalisation of the tax administration and know the end point it is trying to reach. The success of the digitalisation process will depend on various factors including the leadership of the project, the human resources, the data quality and the legal context in which it takes place.

The UN intends to produce guidance on data collection and the use of the data received, including data storage and processing, taking into account data protection laws. As information exchanged with other countries is subject to rules on confidentiality, there will be constraints on the use of information obtained through exchange procedures. Protection of confidentiality means ensuring that the necessary infrastructure is in place to protect the data.

Each country would therefore need to review its existing laws and consider what changes are needed to create the framework within which digitalisation can effectively take place. Data protection laws may require updating and some new legislation may be required to back

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12 OECD (2022). *Digital Transformation Maturity Model, OECD Tax Administration Maturity Model Series*, https://www.oecd.org/ctp/administration/digital-transformation-maturity-model.htm.

up the digital procedures. Tax officials will need to change the ways in which they deal with data and new procedures must be introduced to maximise the benefits of digitalisation.

The UN intends to develop case studies to supplement its guidance. The guidance will cross-reference work done by other organisations such as the FTA and developing countries may find it helpful to refer to the guidance from both the UN and the OECD. Each country must determine its own priorities, but a model framework for digitalisation and model legislation will be a useful guide.

6. Taxpayer Perspective – Advantages and Challenges of Digital Tax Administration

Digital technology is creating opportunities for tax administrations to raise revenue and reduce taxpayers' compliance burden more efficiently. A report by the FTA[13] issued on 16 December 2021 looked at the opportunities and challenges facing developing countries undertaking digitalisation, noting that for successful reform the administration must have a clear vision for digitalisation that is in line with political priorities. The digitalisation process must be supported by the senior staff within the tax administration so they can balance competing priorities and take difficult decisions. Digitalisation of tax administration can increase revenue by expanding the tax base or ensuring more effective collection. Processes can be simplified by using more accessible digital channels to communicate with taxpayers, allowing more self-service and analysing data to focus resources more effectively.

Greater availability of reliable wireless Internet, often through mobile phones, means that access to the Internet is increasingly widespread in developing countries. There is growing use of mobile-based electronic payment services, providing taxpayers with opportunities of digital payments, including those who do not have a traditional bank account. Digitalisation has also received increased momentum as a result of the COVID-19 pandemic which has forced administrations and governments to increase their use of technology to interact with taxpayers and to deliver financial support.

The FTA has analysed the factors contributing to successful digitalisation projects and the potential pitfalls. Successful projects begin with context analysis, looking at the opportunities and changes considering the unique circumstances in the country, such as compliance issues or levels of digital adoption. Based on the context analysis, the administration can draw up a digitalisation strategy outlining the overall vision and objectives for digitalisation and a timetable for implementation. Finally, successful project delivery will need careful preparation, flexible and professional execution, and post-project follow-up of deliverables and benefits.

The report sets out targeted areas of digitalisation that can be brought together to form a digitalised tax administration. These include taxpayer registration and identity, integrated tax systems, taxpayer communication, taxpayer services, compliance and risk management, business administration systems within the tax administration, and analytics that can give an overview of opportunities and challenges arising.

For a tax administration of a developing country looking at digitalisation, the next steps could include consideration of the potential strategic challenges they will face during the digitalisation process, the use of the new digital transformation maturity model to self-assess their current level of maturity, development of an inventory of digital innovations and relevant case studies to share knowledge and help identify possible options, establishment of forums on key issues such as data management, digital identity and human resources, and exploration of possibilities for online learning on tax administration digitalisation topics.

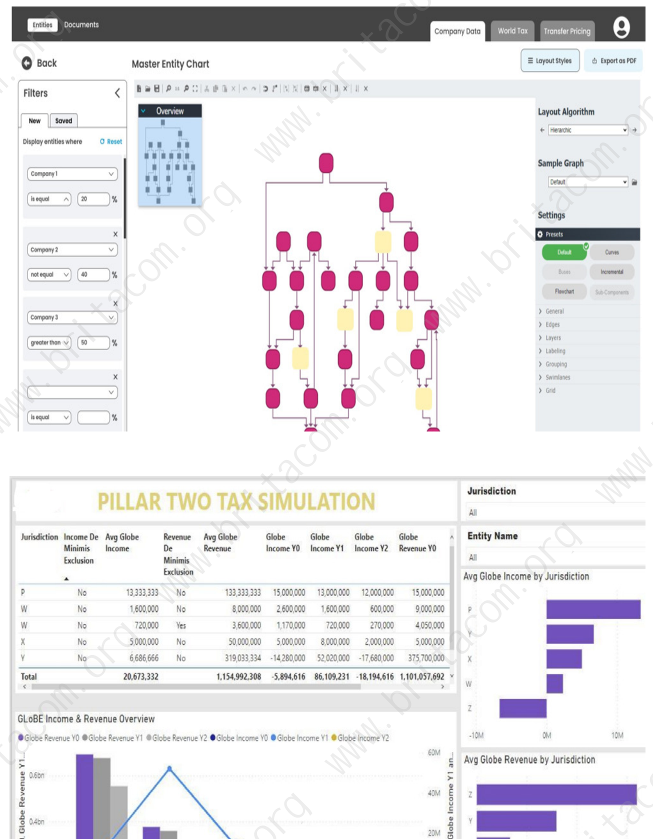
13 OECD (2021). *Supporting the Digitalisation of Developing Country Tax Administrations*, https://www.oecd.org/tax/administration/supporting-the-digitalisation-of-developing-country-tax-administrations.htm.

7. Taxpayer Perspective – How Would They Benefit from Tax Administration Digitalisation

Typical benefits of digitalisation include reduced compliance costs for taxpayers, with clarity and simplicity when implemented correctly. Taxpayers can benefit from the enhanced compliance risk management performed by tax administrations as this reduces the risk of disputes and challenges. Under digital administration there can be an improved collection and refunds system, especially for VAT, and this helps taxpayers with their cashflow management. For MNEs there can be improved controls on tax payments and compliance. Taxpayers can be better assured that they are operating on a level playing field and are being treated equally.

Digitalisation can reduce the compliance burden for taxpayers by making it easier to complete their tax obligations, helping them to integrate taxation processes into their routine business systems. Digitalisation of the tax administration can also help to promote wider digitalisation across government and across society, bringing new opportunities for economic growth. An example of the use of digitalisation is Kenya's introduction of mobile payments and use of digital tax certificates that have reduced the need for taxpayers to interact with the tax administration in person. Also, in the United Arab Emirates (UAE) the large investment in tax administration digitalisation paid very high dividends during the pandemic. Taxpayers were able to comply with their tax obligations and undertake transactions with the tax administration remotely.

On the other hand, taxpayers, especially those with cross-border businesses, have to be prepared to deal with a range of tax administrations with varying levels of maturity in digitalisation. This raises the risks of increased costs and risks in managing a heterogenous set of compliance systems, and maintaining data sets that conform to the differing requirements set by the countries in which they operate. In order to manage these challenges, taxpayers need to build a better understanding of tax administration requirements into their own information and reporting systems. This will require deeper use of tax technology in business and will leverage any tax reporting that is built into business systems referred to above. Some illustrative images are as follows.



Jurisdiction	Income De Minimis Exclusion	Avg Globe Income	Revenue De Minimis Exclusion	Avg Globe Revenue	Globe Income Y0	Globe Income Y1	Globe Income Y2	Globe Revenue Y0
P	No	13,333,333	No	133,333,333	15,000,000	13,000,000	12,000,000	15,000,000
W	No	1,600,000	No	8,000,000	2,600,000	1,600,000	600,000	9,000,000
W	No	720,000	Yes	3,600,000	1,170,000	720,000	270,000	4,050,000
X	No	5,000,000	No	50,000,000	5,000,000	8,000,000	2,000,000	5,000,000
Y	No	6,686,666	No	319,033,334	-14,280,000	52,020,000	-17,680,000	375,700,000
Total		20,673,332		1,154,992,308	-5,894,616	86,109,231	-18,194,616	1,101,057,692

Figure 2. Taxpayer information and reporting systems

Broader business benefits from digital tax administration include the ability to implement systems such as VAT e-invoicing. Also, the introduction of a customs national single window can support improved supply chain management through efficient tax and trade compliance applications that share data. There can be more efficient payroll administration with electronic filing of personal income tax and social security payments withheld from wages. Digital systems can support better data and cashflow management through electron-

ic administration and improved management information systems. Businesses can improve their financial reporting with less uncertainty from tax provisions.

8. Cooperation on Technology Through the BRI Platform

The Belt and Road Initiative Tax Administration Cooperation Mechanism (BRITACOM) could encourage more peer experience sharing on principles of good tax administration that should take place across BRI countries. Also, the BRITACOM could document good practices and success stories, for example e-invoicing implementation, simplified electronic tax payments and digital tax stamps, so the BRI countries can consider these advantages.

Possible tax digitalisation initiatives include improving tax administration approaches for digitally delivered services amongst BRI countries; coordination of the classification of services amongst BRI countries and their dissemination through a common portal; and initiatives to simplify withholding tax rules consistent with treaty obligations and other agreements that can be implemented across BRI countries.

BRI can be a platform for cooperation among countries. For a beneficial partnership between the tax administrations and businesses making full use of technology, the tax compliance and information processes need to be built into cross-border business arrangements so tax administrations can gather data as business is conducted. Good governance is required to build confidence and trust in the government among the business community.

By building tax compliance into business systems, tax authorities can leverage the data that business systems process through advanced and innovative IT systems, harnessing traders' advanced technological capabilities to deal with billions of transactions. The tax administrations can gain advantages in the analysis of taxpayer behaviour by using technologies and infrastructures (data mining, matching, and scanning) at the right time and on the right sets of data. As businesses are understandably concerned with the confidentiality of their data, there must be dialogue with business to arrive at a balance between data protection and trade and investment facilitation.

The benefits of digitalisation can be increased by taking a whole-of-government approach to strengthen the partnership between tax administrations, customs and other relevant government agencies and collaboration with businesses. Trust between government agencies and the business communities can be increased with an adequate governance framework in place. This can enable governments to cope with an increasing volume of data and be in position to perform effective and efficient controls.

9. Conclusion

The benefits of digitalisation will outweigh disadvantages provided that the appropriate governance framework and processes are in place. Countries must first assess their current stage of digitalisation and set out a plan for extending the level of digitalisation by stages. By phasing in the digital technology gradually, there is time for tax officials and businesses to update their knowledge and adapt to new methods of work.

The digitalisation of tax procedures must take into account the needs of businesses. This means that public consultation is necessary before introducing a new digital technology. Consultation is especially necessary at the later stages of digitalisation, when tax administrations want to incorporate approved tax compliance software into business systems of taxpayers. Trust and confidence of taxpayers is necessary if this level of collaboration is to be achieved and this can be promoted by more dialogue.

It is important for BRI tax administrations to learn from each other through sharing of knowledge and experience in the introduction of digital technology. They should also consider making use of capacity building support from regional and international organisations. Digital technology introduced with adequate processes and human resources can lead to greater efficiency in tax collection and administration.

The Implementation of the Global Minimum Tax (GloBE):

The Need for an Effective Dispute Prevention and Resolution Mechanism

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Abstract: The successful implementation of the Global Anti-Base Erosion (GloBE) rules on a global scale cannot be achieved without an international effective dispute prevention and resolution mechanism. However, the development of a dispute prevention and resolution framework for the GloBE rules faces significant challenges. This article offers two possible options for an effective dispute prevention and resolution mechanism: a model based on reciprocal domestic legislations and the multilateral convention model.

Keywords: Global Anti-Base Erosion rules; Dispute prevention and resolution mechanism; Multilateral convention

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1. Introduction

A successful implementation of the global minimum tax around the globe — the Global Anti-Base Erosion (GloBE) rules — requires an international effective dispute prevention and resolution mechanism to be added to the already existing mechanisms for coordination in the GloBE rules (i.e. Administrative Guidance, peer-reviews, etc.). It is equally recognized that the GloBE rules which are rooted in a common framework have, from a substantive perspective, all the attributes of international tax rules. The development of a dispute prevention and resolution framework for the GloBE rules faces, however, important challenges. First, GloBE disputes may be rooted not only in conflicts of interpretation between countries (i.e. differences in the interpretation or application of the GloBE rules could give rise to divergent outcomes)[1], but also in the transposition of the GloBE rules in domestic law which may not be identical in all countries. It is indeed likely that some jurisdictions may, even in good faith, slightly rephrase the GloBE Model Rules, adopt terms and expressions drawn from domestic law, and disregard or add new elements (whether taken from the Commentary or not) for simplification purposes, thereby reaching (albeit unintentionally in many cases) different outcomes.

The traditional mutual agreement procedure (MAP) embodied in Art. 25 of the OECD Model Convention (MC) and found in double taxation conventions (DTCs) around the globe is poorly equipped to deal with GloBE disputes. This is because, under Art. 25(1) of the OECD MC, taxpayers may not initiate the MAP to resolve a dispute involving the GloBE rules, mainly, because there is not "taxation not in accordance with a tax treaty". An alternative route is the consultation procedure under the second sentence, Art. 25(3) of the OECD MC which states: *"The competent authorities of the Contracting States (…) may also consult together for the elimination of double taxation in cases not provided for in the Convention."* In relation to GloBE disputes, reliance on the second sentence, Art. 25(3) of the OECD MC alone has, however, several shortcomings. First, this provision does not provide taxpayers with a right to initiate the MAP as is the case under Art. 25(1) of the OECD MC although in practice, the consultation procedure is often initiated following a request made by the taxpayer. An important piece of the dispute resolution framework which Base Erosion and Profit Shifting (BEPS) Action 14[2] has sought to reinforce would thus be missing. Second, it may be argued that the second sentence, Art. 25(3) of the OECD MC, is confined to the elimination of double taxation, while not all GloBE disputes may lead to actual double taxation.[3] Third, assuming there is a tax treaty in place including a rule modelled on Art. 25(3) of the OECD MC, the Contracting States' domestic laws may prevent them from successfully resorting to this consultation procedure. This would namely be the case if these laws do not include a proper legal basis allowing ad hoc upwards or downwards adjustments.[4] This is of course a relevant consideration insofar as the GloBE rules are not

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1 OECD. Pillar Two — Tax Certainty for the GloBE Rules, December 2022-3 February 2023 Public Consultation Document, para. 2.

2 OECD (2015). *Making Dispute Resolution Mechanisms More Effective, Action 14 — 2015 Final Report*, https://doi.org/10.1787/9789264241633-en.

3 OECD (2022). Public Consultation Document: Pillar Two — Tax Certainty for the GloBE Rules (20 December 2022-3 February 2023), para. 38.

4 See Para. 55.1 OECD Model: Commentary on Article 25 (2017); Robert Danon, Daniel Gutmann, Guglielmo Maisto, et al. (2022). The OECD/G20 Global Minimum Tax and Dispute Resolution: A Workable Solution Based on Article 25(3) of the OECD Model, the Principle of Reciprocity and the GloBE Model Rules. 14 *World Tax Journal* 3, (hereafter: Danon, Gutmann, Maisto & Martín Jiménez, The OECD/G20 Global Minimum Tax and Dispute Resolution), pp. 506.

covered by DTCs.

2. Possible Options

2.1 A Model Based on Reciprocal Domestic Legislations

In recent publications[5], the authors have argued in favor of a dispute prevention and resolution package which would be included in the domestic legislations implementing the GloBE rules and which would leverage on the principle of reciprocity generally recognized in international relations. In essence, this proposed model would include the following three elements.

First, a new interpretative model rule (i) "switching off" the domestic canons of interpretation with a view to ensuring that GloBE provisions are always and exclusively interpreted in line with the GloBE rules and their Commentary; and (ii) providing that the framework of the Vienna Convention on the Law of Treaties (VCLT) applies by analogy to the interpretation of the GloBE rules so as to streamline the interpretative exercise among the implementing jurisdictions. This new interpretative provision is designed to neutralize a dispute rooted in a conflict of interpretation of GloBE rules worded identically.

Second, a new *lex specialis* model rule providing that the GloBE Model Rules shall take precedence in case of a dispute rooted in a diverging transposition of GloBE rules in domestic law and only to the extent necessary to eliminate such dispute. This new provision would be designed to neutralize a dispute rooted in a conflict of transposition of GloBE rules which are then worded differently. As indicated, a conflict of transposition should, on the other hand, not occur where a country chooses simply to declare the GloBE Model Rules as applicable domestic law. However, implementing jurisdictions may not necessarily be able to proceed in this fashion for various reasons.

Last but not least, a domestic dispute resolution model rule applying on the basis of the principle of reciprocity. This domestic dispute resolution (i) would apply on a stand-alone basis; (ii) would incorporate an express reference to the possibility for the competent tax authorities to enter into an advance binding agreement relating to the interpretation of the GloBE rules; (iii) would rely on a complementary and underlying substantive rule included in Art. 3 of the GloBE Model Rules to enable adjustments to the determination of the GloBE Income or Loss; (iv) would also apply to situations not leading to effective double taxation (unlike under the second sentence, Art. 25(3) of the OECD MC); and (v) would use existing exchange of information tools (bilateral treaties and the MAAC[6]) to make it work.

The enactment of domestic dispute resolution mechanisms based on reciprocity has been taken into due consideration by countries facing the transposition of the Pillar Two Model Rules. For instance, the Italian Government recently approved a draft implementing legislation which includes a provision based on reciprocity, ensuring access to mutual agreement procedure with the competent authorities of other countries adopting the same domestic dispute resolution mechanism. The dispute resolution rule would also apply in the absence of a tax treaty concluded with the other State(s).[7]

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5 See Danon, Gutmann, Maisto & Martín Jiménez, The OECD/G20 Global Minimum Tax and Dispute Resolution, or, more recently, Danon, Gutmann, Maisto, et al. (2023). The Global Anti-Base Erosion (GloBE) Rules and Tax Certainty: A Proposed Architecture to Prevent and Resolve GloBE Disputes. 6 *International Tax Studies* (ITAXS) 2.

6 Council of Europe/OECD, Convention on Mutual Administrative Assistance in Tax Matters, as amended by the 2010 Protocol ("MAAC").

7 Article 59 of the Legislative Decree 19 December 2023 relating to the implementation of the Pillar Two EU Directive in the context of the delegation law enacted by Parliament (Law 9 August 2023, no. 111).

2.2 The Multilateral Convention Model

The authors submit that a domestic dispute resolution provision would perfectly be possible in most legal orders. It is likely, however, that most tax administrations feel more comfortable with tax treaties rather than with the domestic provision as an innovative idea. As a consequence, (some) countries may indeed be inclined to believe that resolving international tax disputes (in particular, GloBE disputes) can only be achieved with a new multilateral convention. This is certainly a possibility even if signing a new mini multilateral convention on GloBE dispute resolution ("GloBE MTC") may take time until it is applicable and effective for all the signatory states (on the other hand, the procedure would be speeded up dramatically with the domestic law framework outlined above).

A dispute resolution provision in the GloBE MTC should have very similar features to the domestic dispute resolution provision, but the following elements should be included in particular (some in common with the domestic provision and others to make the most of its inclusion in an MTC):

1) It should leverage on bilateral tax treaties and exchange of tax information agreements or the MAAC for information exchange purposes.

2) It should be drafted to allow the resolution of disputes on interpretation and application of the GloBE rules as well as disputes regarding conflicts of transposition. In order to achieve this objective, a "priority rule" would be needed in the GloBE MTC so that it is clear that the competent authorities of the GloBE MTC can put aside their domestic rules deviating from OECD's GloBE rules and give priority to the latter in order to provide a solution to the disputes.

3) Entities affected by the GloBE disputes should have the possibility of presenting their case to any of the competent authorities concerned and not only to that of its State of residence.

4) It should make clear that not only bilateral but also multilateral dispute resolution procedures are regulated and available, so that a uniform solution applies to all countries involved in the GloBE dispute. These multilateral procedures should be allowed to proceed even if one of the States opts out and withdraws from the procedure for whatever reason, but still the other competent authorities believe that partial solutions are possible.

5) It should regulate procedural issues beyond Art. 25(2) of the OECD MC (2017) so that the solution to the dispute can be enforced, regardless of either domestic time

limits or any other procedural obstacles. Likewise, it should be foreseen that the collection of the tax to be paid should be suspended for the duration of the GloBE dispute resolution procedure, especially if the same income has already been included in the tax base (GloBE rules or corporate taxes) in another country.

6) It should foresee the possibility of arbitration in case the competent authorities of the GloBE MTC cannot reach a solution without any blocking power by the tax administrations concerned.

7) It should regulate how this provision is linked with other similar dispute resolution procedures. It could be the case that a GloBE dispute involves both signatory and non-signatory States of the GloBE MTC (or States where the MTC is already in force and others where it is not yet in force), or that the dispute resolution procedure is eventually regulated in some countries in domestic legislation (e.g. Italy) or in the EU in a directive and, as a consequence, is implemented in domestic implementing legislation. A "linking provision" should be foreseen to allow the application of the GloBE MTC dispute resolution provision in connection with the legislative MAP (the second sentence, Art. 25(3)) of a tax treaty in force with States where the GloBE MTC is not yet in force for whatever reason (if they will use the second sentence, Art. 25(3) of the OECD MC to address GloBE disputes) or those which have a domestic dispute resolution provision in their domestic law.

This will expand the geographical scope and reach of the solution to the dispute, which may also be needed if, from the very beginning, it is clear that some relevant States may not join the GloBE MTC.

Furthermore, the linking approach should also have a "priority rule" to avoid duplication and overlap of dispute resolution mechanisms which have proliferated overtime in connection with tax treaties due to the multiple tools adopted at the regional (e.g. EU) or global level.

8) Regardless of the linking approach outlined above, it would be desirable to regulate the interaction of the dispute resolution provision of the GloBE MTC with MAPs or arbitration procedures initiated in the context of existing tax treaties, Directive 2017/1852 or Convention 90/436/EEC that could affect its outcome.

In short, if it is decided to regulate the GloBE dispute resolution procedure in a GloBE MTC, several connected issues could be dealt with to improve the position of the taxpayers and tax administrations as well as the interconnection with other relevant procedures.

A special attention should be paid to the relations between countries belonging to different regions and to constraints derived from such regional membership or to the difficulties of synchronized implementation derived from the different regional legal and tax backgrounds or lack of permanent cooperation between competent authorities. These difficulties could be handled through the setting up of joint regional dispute resolution boards which might provide guidelines on the application of dispute resolution mechanisms adopted by domestic legislations based on reciprocity. A similar experience may be found in the EU Joint Transfer Pricing Forum, which was set up by the EU Council to provide guidance on interpretation and application of the OECD Transfer Pricing Guidelines, and included tax officials of the competent authorities of the EU member states and experts from the private sectors and academia. At the very least, regional organisations such as the BRITACOM could set up a platform retrieving, compiling and disseminating information relating to the Pillar Two implementation. The role of the regional body would be to support the MLC. Although a Conference of the Parties could be the right solution, a regional effort could be more efficient and realistic: fewer countries, same legal culture, geographical proximity, closer relations between CAs, specificity and common issues. The Conference could then contribute to avoid overlap and discrepancies between regional efforts.

Pillar Two — Providing for a Minimum Taxation or Triggering Double Taxation?

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Abstract: The Inclusive Framework's Pillar Two rules aim to create a global tax system for multinational enterprises (MNEs). They propose a global minimum tax rate for MNEs to reduce profit shifting and ensure a minimum tax on global income. The rules have been developed over the past years in order to provide for a coordinated and multilateral approach with common standards and mechanisms to avoid double taxation. However, the rules will need to be implemented by national laws, which may differ from the Model Rules and from each other causing distortions as national legislators have to adapt these rules to their own tax systems and contexts. This article explores how double taxation could arise from the different applications of the GloBE rules by different states.

Keywords: Pillar Two; GloBE rules; Double taxation; OECD; Inclusive Framework; Minimum taxation

One of the most hotly discussed topics in the last years has been the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) proposal introducing the so-called Pillar Two rules. These rules can be seen as the first step toward a global tax system that aims to address the remaining challenges of taxing multinational enterprises (MNEs) in a digitalized and globalized economy. One of the key cornerstones of these rules is the introduction of a global minimum tax rate for MNEs to limit incentives for shifting profits and to ensure that a minimum level of tax is paid on the global income. The Pillar Two rules are intended to operate as a coordinated and multilateral system with common rules, definitions, thresholds and mechanisms to avoid double taxation. However, as those rules will have to be transformed into national law by the different states it would be surprising if definitions and rules will not deviate despite the Tax Challenges Arising from Digitalization of the Economy — Global Anti-Base Erosion Model Rules (Pillar Two) (hereinafter referred to as "Model Rules") containing very detailed regulation. As it is literally impossible to regulate every situation, national legislators will still draft their own versions of the Pillar Two rules against the background of their own national rules. Accordingly, the question to be investigated here is to what extent a double taxation could result from the multiple application of Global Anti-Base Erosion (GloBE) rules through different states.

1. Introduction

The Pillar Two rules consist of two main components: the GloBE rules and the Subject to Tax Rule (STTR). In this paper only the GloBE rules will be analyzed.

The GloBE rules are designed to ensure that MNEs pay a minimum level of tax on their global profits, regardless of where they operate or locate their subsidiaries. The GloBE rules comprise the following components:

- The Income Inclusion Rule (IIR) requires the ultimate parent entity or an intermediate holding entity of an MNE group to levy a top-up tax on the income of its foreign subsidiaries or branches (so-called Constituent Entities) which is taxed below the minimum tax rate.
- The Undertaxed Payment Rule (UTPR)

➢ denies or limits the deductibility of payments made by an entity of an MNE group to a related party which is taxed below the minimum tax rate;

➢ requires the UTPR state to levy a top-up tax on the incomes of the Constituent Entities of the group, which are taxed below the minimum tax rate.

Furthermore, all states have the right to levy a top-up tax with regard to Constituent Entities which are taxed below the minimum tax rate in their own territory via a so-called Qualified Domestic Minimum Top-up Tax (QDMTT).

In other words, there is a sequence foreseen in the Pillar Two rules determining which countries can collect top-up taxes. According to this sequence, the QDMTT has priority and gives the country where the business is located the right to claim any top-up tax. Only afterwards may an IIR or UTPR be applied.

2. Applying GloBE Rules and Potential Areas of Double Taxation

As described the GloBE rules are intended to avoid double taxation by providing a coordinated multilateral approach. However, it will be considered here whether a double taxation might still occur under the GloBE rules in the following situations:

- Double taxation because of multiple application of IIR rules;
- Double taxation due to application of UTPR; and
- Double taxation because of application of QDMTT rules.

2.1 Double Taxation When Applying the IIR

According to Article 2.1.1. of the Model Rules, the IIR has to be applied at the level of the ultimate parent entity. If the ultimate parent entity exercises this right, no other intermediate parent entity is allowed to apply its IIR under Article 2.1.3.(a) of the Model Rules. This rule provides for a sequence in which states are entitled to apply their IIR and ensures that no double taxation arises because more than one state applies its IIR.

However, double taxation can still be triggered if another IIR state, in which an intermediate parent entity is based, disagrees to the assessment of whether the rules of the ultimate parent entity can be seen as constituting a qualified IIR regime. To what extent such a qualified IIR can be assumed is defined under Article 10.1.1. of the Model Rules as follows:

"Qualified IIR means a set of rules equivalent to Article 2.1 to Article 2.3 of the GloBE rules (including any provisions of the GloBE rules associated with those articles) that are included in the domestic law of a jurisdiction and that are implemented and administered in a way that is consistent with the outcomes provided for under the GloBE rules and the Commentary provided that such jurisdiction does not provide any benefits that are related to such rules."

There are attempts to substantiate when an IIR is considered to be equivalent to an IIR regime as e.g. provided for in Article 51 of the Pillar Two Directive which consists of a catalogue of criteria to be fulfilled. Furthermore, the countries which are considered to be equivalent to a qualified IIR within the EU are mentioned in a list set out in the Annex of the Directive. However, it does not require a crystal ball to conclude that outside those binding qualifications different views may exist regarding the qualification of a state's IIR for purposes of Article 2.1.-2.3. of the Model Rules. This is based on the fact that the determination that an IIR has been implemented and administered in a way that is consistent

with the outcomes foreseen under the GloBE rules leaves wide room for interpretation. This qualification might in particular be important with regard to the US global intangible low-taxed income (GILTI) rules, which — unlike the Pillar Two rules — provide for a global blending in order to determine the applicable tax rate.

If the IIR of the state of residence of an intermediate parent entity is applied as well, double taxation might arise as two states would aim to levy a top-up tax on income which is taxed at a rate below 15%. In this scenario it is up to the state of residence of the ultimate parent entity to provide for a rule like Article 2.3.1. of the Model Rules in order to lower the amount of top-up tax to be levied for the Low-Taxed Constituent Entity. In other words, the state of residence of the ultimate parent entity will be required to provide for a tax credit in order to prevent double taxation.

2.2 Double Taxation When Applying the UTPR

Furthermore, double taxation might also arise if states apply their UTPR rules. This might be the case if the ultimate parent state applies its IIR and other states apply their UTPR as they consider the IIR to be not equivalent to a qualified IIR as described under Article 2.1. This may again be particularly relevant for the years starting from 2025 onwards (i.e. the first year of the mandatory application of the UTPR) with regard to the US GILTI regime.

Also, the so-called transitional UTPR safe harbor rule introduced in the latest Tax Challenges Arising from the Digitalization of the Economy — Administrative Guidance on the Global Anti-Base Erosion Model Rules (Pillar Two) (hereinafter referred to as "Administrative Guidance") in July 2023 does not fully prevent this conflict. This transitional UTPR provides that the top-up tax calculated for the ultimate parent entity's jurisdiction should be deemed to be zero for the fiscal year during the transitional period where the ultimate parent entity's jurisdiction has a corporate income tax of at least 20%. However, with regard to any other jurisdiction with a lower tax rate this UTPR safe harbor is not applicable allowing in principle the UTPR state to levy a UTPR top-up tax amount.

However, in this scenario another interesting aspect arises: if the UTPR state does not consider the foreign IIR regime to be equivalent to a qualified IIR, the question arises: how to qualify the foreign "IIR" regime instead? As an IIR regime foresees that top-up taxes on foreign entities are to be levied, it seems reasonable to conclude that such a non-qualifying IIR regime can rather be seen to qualify as a controlled foreign company (CFC) tax. This is also supported by the definition of a CFC tax regime according to the OECD Model Rules foreseen under Article 10.1.1.:

"Controlled Foreign Company Tax Regime means a set of tax rules (other than an IIR) under which a direct or indirect shareholder of a foreign entity (the controlled foreign company or CFC) is subject to current taxation on its share of part or all of the income earned by the CFC, irrespective of whether that income is distributed currently to the shareholder."

If one follows this rationale an interesting observation can be made:

According to Article 4.3.2.(c) of the OECD Model Rules such CFC taxes which are included in the financial accounts of its Constituent Entity-owners have to be allocated to the covered taxes of the Constituent Entity. As a consequence, such covered taxes increase the adjusted covered taxes of the Constituent Entity and can lead to it being lifted above the 15% minimum tax threshold. In other words, double taxation would not arise as the application of the IIR at the level of the ultimate parent entity would be prevented due to the allocation of taxes under Article 4.3.2.(c) of the OECD Model Rules. Interestingly, the taxing rights of the state of residence of the ultimate parent entity would de facto still prevail even though its IIR regime is not a qualified IIR regime.

However, a different scenario could arise if two states apply their UTPR rules. In principle it is accepted under the Model Rules that multiple states can levy a top-up tax under their UTPR. The allocation of taxing rights in this scenario is regulated in Article 2.6.1. of the Model Rules with the following formula:

$$50\% \times \frac{\textit{Number of Employees in the jurisdiction}}{\textit{Number of Employees in all UTPR jurisdictions}} + 50\% \times \frac{\textit{Total value of Tangible Assets in the jurisdiction}}{\textit{Total value of Tangible Assets in all UTPR jurisdictions}}$$

The problem of double taxation might again be triggered if states qualify their respective UTPR differently. This is based on the requirement set out in Article 2.6.1. of the OECD Model Rules that a UTPR jurisdiction is "a jurisdiction that has a Qualified UTPR in force for the Fiscal Year". Putting it differently, a state, which denies the qualification of another UTPR to be equivalent to a qualified UTPR, would claim a higher portion of the overall tax pie in the form of the top-up tax, as the denominator of the formula would decrease (i.e. given that the total number of employees and the total value of tangible assets in all UTPR jurisdictions) while the nominator (consisting of the state's own number of employees and total value of tangible assets) would be the same. A mechanism to prevent double taxation similar to Article 4.3.2.(c) of the OECD Model Rules seems to be non-existent because Article 10.1.1. of the OECD Model Rules require that a "*direct or indirect shareholder of a foreign entity*" is subject to taxation which is not the case with regard to the UTPR. Hence, one can conclude that rules need to be introduced to prevent double taxation in situations of conflicting UTPR rules.

2.3 Double Taxation When Applying the Domestic Rules

Furthermore, the question arises as to whether double taxation may be triggered with regard to the QDMTT where states take differing views on the qualification of those rules. In fact, as the QDMTT always prevails and is, therefore, likely to be introduced by most states who implement the GloBE rules, it would be worthwhile closely examining whether this could trigger double taxation.

Although a QDMTT needs to follow the same methods and calculations as those set out in the IIR, deviations can be expected as national legislators can take different interpretations and measures when implementing those rules. As one says: the devil is in the detail! Therefore, it should be further explored to what extent a double taxation might arise if QDMTT rules differ.

First it is worth noting that a top-up tax levied under QDMTT itself does not constitute a covered tax according to Article 4.2.2.(b) of the Model Rules. However, a top-up tax levied under a QDMTT is still relevant when determining the top-up tax for a Constituent Entity when applying an IIR as the jurisdictional top-up tax is determined by the following formula under Article 5.2.3. of the Model Rules:

$$\textit{Jurisdictional Top-up Tax}$$
$$= (\textit{Top-up Tax Percentage} \times \textit{Excess Profit}) + \textit{Additional Current Top-up Tax} - \textit{Domestic Top-up Tax}$$

where the domestic top-up tax is the top-up tax payable under a QDMTT. So, in other words, a top-up tax levied under a QDMTT will be credited to the top-up tax to be levied under an IIR.

As a consequence, any top-up tax levied under a QDMTT does not avert the requirement to determine whether an entity is low-taxed and will trigger an additional administrative burden as a calculation under local QDMTT and IIR has to be performed. Consequently, to lower this administrative burden, the OECD published in July 2023 further Administrative Guidance on the Pillar Two Rules which introduces a so-called QDMTT Safe Harbor. This QDMTT Safe Harbor aims to resolve this administrative burden with the following rule:

If an MNE group meets the QDMTT Safe Harbor criteria, it is exempt from the GloBE rules in other jurisdictions under Article 8.2. of the Model Rules, as the top-up tax due under the GloBE rules is deemed to be zero (i.e. any

other top-up taxes in other jurisdictions applying the GloBE rules would be eliminated without having to do another computation under an IIR or UTPR). However, in order to be able to benefit from the QDMTT Safe Harbor, the QDMTT must meet an additional set of standards such as that the

- QDMTT must be computed based on the ultimate parent entity's Financial Accounting Standard or a Local Financial Accounting Standard subject to certain conditions (QDMTT Accounting Standard);
- QDMTT must be computed according to the computations required by the GloBE rules except where the Commentary to the QDMTT definition in Article 10.1. as modified by the Administrative Guidance (hereinafter referred to as "the QDMTT Commentary") explicitly requires a QDMTT to depart from the GloBE rules or where the Inclusive Framework decides that an optional variation from the GloBE rules still meets the standard (Consistency Standard); and
- QDMTT jurisdiction must meet the requirements of an on-going monitoring process similar to the one applicable to jurisdictions implementing the GloBE rules (Administration Standard).

If the local QDMTT does not fulfil these requirements, additional calculations are required. However, a credit of the QDMTT top-up tax is still possible if it meets the definition according to Article 10.1.1. of the Model Rules. This foresees that a QDMTT:

"[is] a minimum tax that is included in the domestic law of a jurisdiction and that:

(a) determines the excess profits of the Constituent Entities located in the jurisdiction (domestic excess profits) in a manner that is equivalent to the GloBE rules;

(b) operates to increase domestic tax liability with respect to domestic excess profits to the minimum rate for the jurisdiction and Constituent Entities for a fiscal year; and

(c) is implemented and administered in a way that is consistent with the outcomes provided for under the GloBE rules and the Commentary, provided that such jurisdiction does not provide any benefits that are related to such rules."

If in contrast localized QDMTT rules do not fulfil these requirements (e.g. because significant adjustments to the tax base are made) and, therefore, not qualify as a QDMTT within the meaning of the OECD Model Rules, double taxation might still not arise. This is based on the fact that it is very likely that such a local QDMTT not meeting the OECD requirements will still qualify as a covered tax under Article 4.2.1.(a) of the Model Rules as those include:

"*Taxes recorded in the financial accounts of a Constituent Entity with respect to its income or profits or its share of the income or profits of a Constituent Entity in which it owns an ownership interest.*"

As a consequence, the application of another IIR or UTPR should not be possible as long as any non-qualifying local QDMTT will lead to an effective taxation above the global minimum tax rate of 15%.

Therefore, it appears that the requirement to determine top-up taxes under the IIR/UTPR and QDMTT rules outside of the QDMTT Safe Harbor is burdensome. However, at least no double taxation would seem to be triggered in those cases.

3. Conclusion

The Pillar Two rules to be introduced by the different states can probably be seen as one of the most complex areas that international taxation practitioners and tax authorities will have to face in the upcoming years. The IIR, UTPR and QDMTT rules have manifold interdependencies which can be explained by the fact that they are the result of a long negotiation process between the representatives of the different tax administrations in the Inclusive Framework.

Even while the determination of the top-up taxes under those rules can be burdensome and lead to doubling filing requirements, it appears that at least in most scenarios no double taxation will arise insofar as the parallel application of IIR and QDMTT rules are concerned (even if those rules differ when being implemented by the different states). In contrast double taxation might be triggered by a divergent qualification of UTPR rules by different states.

Transfer Pricing, Taxing Rights over Cross-Border Sales Income and the OECD Two-Pillar Response

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Abstract: The confluence of several factors including government fiscal pressures and growing opportunities for tax minimization in a digital economy prompted the OECD to embark on a program to reduce base erosion and profit shifting (BEPS). At the same time, countries became increasingly unhappy about international tax rules that left them unable to impose income taxes on companies earning profits by selling to customers inside their country without establishing a taxable presence there. The frustration led to unilateral responses that prompted the OECD to develop proposals to address this problem as well. The OECD's proposals to reduce profit shifting and enhance taxing rights of sales destination countries evolved into what are now known as Pillar One and Pillar Two international tax reforms. This paper provides an overview of the operation of each of the Pillars and notes the limitations that prevent them from addressing the underlying causes of profit shifting and providing full taxing rights to sales destination jurisdictions.

Keywords: Transfer pricing; Taxing rights; Base erosion and profit shifting; International tax reform; Two-Pillar reform; Sales

1. Introduction

For more than a century, two features of the international tax system have attracted the attention of policymakers concerned with reform of the international tax system. Both features involve the allocation of profits and related taxing rights over those profits of multinational entities (MNEs) operating and selling across many jurisdictions.

The first issue is what factors should be considered when allocating profits. Under current rules, profits are allocated to the parts of MNEs by looking at where the proceeds from transactions go, not where they come from. By way of contrast, in some federal jurisdictions profits of multi-state or multi-provincial enterprises are allocated to different states or provinces using what is known as a formulary apportionment system that takes into account each jurisdiction's share of the enterprise's combined input factors (labor and capital) used to create goods and services and an output factor of sales. The allocation formula assumes

there would be no profit if customers were not willing to pay more than the cost of production for the goods and services and the place of sale should have the right to tax some of the profits. Many international tax critics have argued that the state and provincial formulary apportionment system should be extended to MNEs operating and selling across national borders.

The second issue concerning international policymakers is the opportunity for tax avoidance under current rules. International tax law principles attribute the global profits of MNEs to their parts treating each part as if it were a separate and distinct taxpayer. Transactions between the different parts are recognized as if they were ordinary commercial dealings. As a result, the transfer prices chosen by the parts for transactions between them can be used to shift profits between members of the group. To prevent excess shifting, international tax rules allow tax authorities to substitute arm's length prices or the prices that would have been used if the entities had not been related for the transfer prices nominated by the parties. The approach has been shown to be of limited value in countering profit shifting, however, because of the difficulty in finding true arm's length prices for transactions that take place wholly within one enterprise.

Growing exploitation of the weakness in the international tax system by MNEs adopting aggressive tax strategies to shift profits and reduce taxes has resulted in significant tax base erosion and profit shifting (BEPS). Since 2013, the OECD, at the behest of the G20, has been devising ways in which base erosion and profit shifting can be addressed at a global level. At the same time the OECD was concerned by disjoined and unilateral moves by a growing number of countries to impose alternative taxes, most notably "digital service taxes" on a select group of MNEs with digital products where the profits are attributable in part to sales in those countries.

The initial response of the OECD to these two issues was a 15-point Action Plan that dealt with proposals to address flaws in both the substantive tax laws and additional transparency measures as a way of assessing the aggressive tax practices of MNEs. The work also led to a multilateral treaty to modify existing bilateral treaties.

Subsequently, and in part due to recognition of new tax issues arising from the globalization and digitalization of the economy, a second tranche of international tax reform was proposed. In October 2021, over 135 jurisdictions joined a plan to update key aspects of the international tax system that are considered no longer fit for purpose.[1] In what has become known as BEPS 2.0 and termed the Two-Pillar Solution, the tax challenges arising from the digitalization of the economy are addressed through what are often presented as historic and major reforms of the international tax system. In July 2023, 138 members of the OECD/G20 Inclusive Framework on BEPS agreed on an Outcome Statement,[2] indicating broad support for global collaboration and the proposed reforms.

The Two-Pillar initiative seeks to address both issues concerning global tax policymakers, the failure of the current rules to recognize the importance of sales in generating profits and the opportunity for profit shifting by MNEs offered by the current transfer pricing regime with its arm's length standard for pricing transactions internally to the entity. This article considers the interaction between the current transfer pricing rules and allocation of taxing rights and the proposed Two-Pillar Solution

1 OECD (2021). *OECD Releases Pillar Two Model Rules for Domestic Implementation of 15 % Global Minimum Tax*, https://www.oecd.org/newsroom/oecd-releases-pillar-two-model-rules-for-domestic-implementation-of-15-percent-global-minimum-tax.htm.

2 OECD (2023). *138 Countries and Jurisdictions Agree Historic Milestone to Implement Global Tax Deal*, https://www.oecd.org/newsroom/138-countries-and-jurisdictions-agree-historic-milestone-to-implement-global-tax-deal.htm.

to the transfer pricing and taxing right allocation issues. It considers whether the Two-Pillar proposals are truly a move toward a system that would see the profits of MNEs subject to tax in the jurisdictions in which there is genuine economic activity associated with those profits or if they merely make small changes in appearance to the international tax system while in practice they reinforce an international tax regime that has existed for more than a century.

2. The Two-Pillar Initiative

The Two-Pillar initiative is designed to shift the international tax system in the direction of greater taxing rights in the jurisdiction in which profits are actually generated through economic activity. Pillar One addresses the inability of consumer countries (market jurisdictions) to tax profits of foreign providers of goods and services, while Pillar Two addresses profit shifting by multinational enterprises. In essence, Pillar One focuses on where MNEs pay taxes, while Pillar Two focuses on the amount of tax paid.

Pillar One has two distinct limbs. The first, if implemented, would reallocate some taxing rights of large MNEs to market jurisdictions even if the MNEs have no physical presence in the market jurisdictions. The reallocation formula looks at sales revenue in the final user/consumption jurisdiction, one of the factors that are used in traditional formulary apportionment regimes. Formulary apportionment is the alternative system used in some federal jurisdictions to allocate the profits of enterprises with operations and sales across borders. In contrast with the existing international system that treats each part of an MNE as a separate entity and calculates the income of each part separately, a formulary apportionment system takes a whole of entity approach and measures profits at the MNE level, ignoring all intra-group transactions. The total profits within the country are then attributed to provinces or states for taxing purposes on the basis of a formula that attributes profits to the provinces or states in which an MNE has a presence or customer by reference to three factors that give rise to profits. The first two factors are those used to create the goods or services sold by the enterprise, with a portion of the profits allocated on the basis of each jurisdiction's share of capital and labor used to produce the goods or services. The third factor is the proportion of total revenue derived from sales of the goods or services.

The concept and application of formulary apportionment is neither new nor novel and in the very early days of income taxation early in the 20th century was originally suggested as the model for the international allocation of MNE's profits. However, until now, the system has been used only for the allocation of profits to provinces or states within federal jurisdictions, with only academic consideration of a move toward this approach for the international allocation of profits. The use of one formulary apportionment factor (sales revenue) in the Pillar One first limb calculation has prompted some observers to speculate that in the future there may be a push by some countries for a shift to a full formulary apportionment system for international tax purposes.

The second limb to Pillar One is a simplification measure that reallocates taxing rights only indirectly by substituting a standardized pricing matrix that can be used to determine transfer prices for transactions between parts of an MNE. If it is applied, taxpayers and countries taxing them will not have to argue on a case-by-case basis to determine the transfer price to be used for transactions that will be subject to the standard calculation rule.

Pillar Two, containing what are known as the Global Anti-Base Erosion (GloBE) rules, is designed to reduce the level of profit shifting by way of transfer pricing. It does not attack transfer pricing directly but rather seeks to reduce transfer pricing by reducing the benefit from profit shifting by imposing higher taxes on profits that have been moved to lower tax jurisdictions. Pillar Two proposes a coordinated system of rules that imposes a minimum effective rate of tax of 15% on MNEs on the income arising in each jurisdiction in which they operate. While there has been some debate as

to the true objective behind Pillar Two, whether to reduce tax competition, thereby targeting low and no-tax jurisdictions, or to address the behavior of MNEs thereby targeting taxpayers, there is little doubt that it is a notable change to the international tax system.

The two Pillars and the limitations that prevent them from addressing the underlying causes of profit shifting and providing full taxing rights to sales destination jurisdictions are examined further below.

2.1 Pillar One

Pillar One, as noted, has two limbs that impact, respectively, on taxing rights and transfer price calculations. The first limb creates new taxing rights for jurisdictions in which sales of an MNE's goods or services take place, even if the MNE has no presence in the jurisdictions. The second sets out a standardized pricing matrix for calculating transfer prices for selected intra-group supplies.

While the first limb of the OECD's Pillar One international tax reform program is sometimes portrayed as a change to formulary apportionment from the current system of attributing MNE's profits to different jurisdictions based on treating each part of an MNE as if it were an independent business and using arm's length pricing mechanisms to measure the value of intra-group transactions, its effect is much more modest. Once implemented, it will act as a supplement to the current system for allocating profits, not a replacement. The first limb of the Pillar One proposal would allow jurisdictions to treat a portion of the profits of selected MNE from sales to a source within the market jurisdiction (where consumers and users are located) and impose domestic corporate income tax on that portion even where the MNE has no subsidiary or permanent establishment in the jurisdiction. The first limb was estimated initially to allocate taxing rights of approximately USD125 billion in profits to market jurisdictions annually but the figure has since been revised to approximately USD200 billion in profits, resulting in estimated annual global tax revenue gains of between USD13-36 billion,[3] with low- and middle-income countries expected to gain the most.[4]

The proposed Pillar One rules work with two elements of MNEs' profits, described in the proposal as "Amount A" and "Amount B". Amount A of the Pillar One rules providing market jurisdictions with taxing rights over a portion of the profits of MNEs that sell into the country will apply only to a small subset of MNEs, those with global revenues of more than EUR20 billion. The Amount A rules will provide sales destination jurisdictions with the right to impose tax on a portion of an MNE's profits (the portion exceeding 10% of profits) from sales in those jurisdictions. It is expected that as a result of the revenue threshold for the application of the Amount A rules the system will only apply to the largest 100 MNEs globally. The Amount B rules, in contrast, will apply to all MNEs and provide an alternative methodology for computing arm's length prices in jurisdictions in which the calculation is difficult because there are few or no comparable transactions by independent businesses that can be used for comparative purposes. The Amount B substitute methodology focuses on the baseline marketing and distribution activities of MNEs.[5]

Amount A, initially designed to apply to the automated digital services industry or consumer-facing businesses, but subsequently

3 OECD (2023). *Revenue Impact of International Tax Reform Better than Expected: OECD*, https://www.oecd.org/newsroom/revenue-impact-of-international-tax-reform-better-than-expected.htm.

4 OECD (2023). *OECD/G20 Inclusive Framework Releases New Multilateral Convention to Address Tax Challenges of Globalization and Digitalization*, https://www.oecd.org/tax/beps/inclusive-framework-releases-new-multilateral-convention-to-address-tax-challenges-of-globalisation-and-digitalisation.htm.

5 OECD (2023). *Pillar One Amount B in a Nutshell*, https://www.oecd.org/tax/beps/pillar-one-amount-b-in-a-nutshell.pdf.

expanded to any in-scope MNE, recognizes that the traditional international tax regime for allocating profits to jurisdictions no longer reflects the operating models of many modern MNEs. This issue arises because the "source of profit" rules currently used in the international tax regime do not attribute profits of foreign goods and services providers to the location of customers. Traditionally, this has not been a problem for destination jurisdictions as MNEs sold locally through subsidiaries or branches that were treated as permanent establishments for tax purposes and a portion of profits from sales could be attributed to the local subsidiary or branch. However, with the advent of online platform models, MNEs can now easily derive income without establishing a physical presence in a jurisdiction, meaning a jurisdiction may provide a significant market for the MNE without having any taxing rights. Amount A is designed to address this failing of the traditional system and allow market jurisdictions, defined as the place in which consumers and users are located, to tax income of a foreign MNE even where there is no physical presence in the jurisdiction.

The proposed Amount A rules will allocate a portion of the profits of affected MNE described as the "residual profits". The system will exclude profits that equal a 10% return for MNEs, with the additional profits treated as residual profits. The rules effectively attribute one-quarter of the residual profits to sales at destination factor and allow each jurisdiction in which consumers and users are located to impose their local income tax to a fraction of the 25% of the residual profits equal to the portion of sales to customers in their territory. The allocation of taxing rights will be adjusted to the extent that the market jurisdiction already taxes the excess profit of the MNE and has a corresponding obligation on jurisdictions adopting the provision to grant relief for double taxation.

Amount A will be implemented through *The Multilateral Convention to Implement Amount A of Pillar One* (MLC).[6] Entry into force is contingent on the ratification of the MLC by 30 jurisdictions accounting for at least 60% of the ultimate parent entities of MNEs initially expected to be in scope for Amount A. A jurisdiction that commits to the MLC must agree not to impose digital services taxes and relevant similar taxes on any company.

Amount B, aimed at reducing transfer pricing disputes by increasing certainty, reducing compliance and administrative costs, and assisting low-capacity jurisdictions that often do not have local market comparables, primarily focuses on the wholesale distribution of goods.[7] Transactions that fall within scope are then priced according to a pricing matrix unless internal comparable uncontrolled prices are available, with the pricing matrix providing returns expressed as returns on sales approximating arm's length outcome.[8] While design elements of Amount B were outlined by the OECD in a consultation document released in July 2023, details are still being considered by that organization. Work is expected to be completed by the end of 2023 and a final report will be released in January 2024.[9]

The logic behind the Amount A allocation of taxing rights is undeniable as without customers/users, there would be no profits. Amount A ensures a portion of profits would be attributed to the jurisdiction of the desti-

6 OECD (2023). *The Multilateral Convention to Implement Amount A of Pillar One*, https://www.oecd.org/tax/beps/multilateral-convention-amount-A-pillar-one-overview.pdf.

7 OECD (2023). *Pillar One Amount B in a Nutshell*, https://www.oecd.org/tax/beps/pillar-one-amount-b-in-a-nutshell.pdf.

8 OECD (2023). *Pillar One Amount B in a Nutshell*, https://www.oecd.org/tax/beps/pillar-one-amount-b-in-a-nutshell.pdf.

9 OECD (2023). *138 Countries and Jurisdictions Agree Historic Milestone to Implement Global Tax Deal*, https://www.oecd.org/newsroom/138-countries-and-jurisdictions-agree-historic-milestone-to-implement-global-tax-deal.htm.

nation of sales and taxed in that jurisdiction. A formula attributing a portion of profits to the jurisdiction where the customers/final users reside has always been used to allocate profits between states or provinces in federal jurisdictions such as the United States and Canada. The adoption of Pillar One to a limited extent would align source rules with the economic reality of cross-border profits. However, Pillar One has numerous limitations.

At present, however, Pillar One proposes extending the source of profits rule to profits from cross-border supplies by very large MNEs only and also provides exclusions for the extractives and regulated financial services industries. While Pillar One is a valuable starting point for taxing in the location of economic activity, it is a model that still relies heavily on internally priced transactions and works within the current transfer pricing regime. As it currently stands, Pillar One is at best a pale reflection of a true formulary apportionment system that allocates profits based on their actual economic source looking at inputs of capital and labor and revenue by sales. The Pillar One rules will apply to only a small number of enterprises and then only to a small proportion of their profits. It leaves intact the existing transfer pricing regime for the remaining profits of any in-scope MNE. A genuine international tax reform would apply to all profits of all MNEs and allocate those profits for tax purposes to the jurisdictions in which they are truly sourced based on the input factors that create the goods or services to be acquired and the sales for a price higher than cost.[10]

2.2 Pillar Two

The Pillar Two Model Rules, released on 20 December 2021, and known as the Global Anti-Base Erosion (GloBE) rules, establish an alternative global minimum effective corporate tax imposed at a 15% rate. The minimum tax will apply to MNEs with consolidated revenue above EUR750 million, with the OECD initially estimating an increase in global tax revenues of USD150 billion annually,[11] with the figure revised to USD220 billion in January 2023.[12] The rules are estimated to cover over 90% of the global corporate income tax base.[13]

In contrast to Pillar One proposals, which remain only theoretical proposals in late 2023, by July 2023, over 50 jurisdictions had taken steps toward implementing Pillar Two measures.[14] This was possible because the OECD's Pillar Two proposals included a set of model rules with a template for the introduction into domestic tax regimes. The model is designed to ensure that there is a floor on corporate tax competition by ensuring that the profits of MNEs are subject to the minimum tax regardless of the jurisdiction in which they deposited the profits. Because the GloBE rules operate by amendments to the domestic tax laws of participating jurisdictions, no multilateral treaty is needed to bring in the rules. They simply need the adoption by a critical mass to ensure they are effective[15] and, consequently, there is little doubt the global minimum

10 Sol Picciotto (2017). *Taxing Multinational Enterprises as Unitary Firms, ICTD Working Paper 53*, https://www.ictd.ac/publication/taxing-multinational-enterprises-as-unitary-firms/.

11 OECD (2021). *OECD Releases Pillar Two Model Rules for Domestic Implementation of 15 % Global Minimum Tax*, https://www.oecd.org/newsroom/oecd-releases-pillar-two-model-rules-for-domestic-implementation-of-15-percent-global-minimum-tax.htm.

12 OECD (2023). *Revenue Impact of International Tax Reform Better than Expected: OECD*, https://www.oecd.org/newsroom/revenue-impact-of-international-tax-reform-better-than-expected.htm.

13 OECD (2023). *Global Anti-Base Erosion Model Rules (Pillar Two): Frequently Asked Questions*, https://www.oecd.org/tax/beps/faqs-on-model-globe-rules.pdf.

14 OECD (2023). *138 Countries and Jurisdictions Agree Historic Milestone to Implement Global Tax Deal*, https://www.oecd.org/newsroom/138-countries-and-jurisdictions-agree-historic-milestone-to-implement-global-tax-deal.htm.

15 OECD (2023). *Global Anti-Base Erosion Model Rules (Pillar Two): Frequently Asked Questions*, https://www.oecd.org/tax/beps/faqs-on-model-globe-rules.pdf.

tax will be in effect soon.

The GloBE rules are based on two complementary alternative minimum tax rules. Broadly, the rules operate to require in-scope taxpayers to calculate their effective tax rate for each jurisdiction in which they operate and then pay one of two top-up taxes to ensure profits are subject to a minimum effective tax rate of 15% in all jurisdictions to which profits are attributed for tax purposes. The first alternative minimum tax would apply in jurisdictions that offer lower tax rates either across the board or in special circumstances such as in special economic zones. These jurisdictions may wish to impose a tax or top-up tax to raise the local effective income tax rate to 15%. In OECD documents, the low tax jurisdiction top-up tax is labelled the Qualified Domestic Minimum Top-up Tax (QDMTT). If the low tax rate jurisdiction does not impose a QDMTT, the lightly taxed profits will be subject to a top-up tax known as the Income Inclusion Rule (IIR) tax imposed on another entity in the group further up the chain. An alternative to an IIR top-up tax is a rule that raises tax on group companies in the subsidiary jurisdiction equal to the tax deficit in the jurisdiction. It remains to be seen if low tax jurisdictions or jurisdictions with selective low tax features such as special economic zones will adopt QDMTTs or leave it for higher tax jurisdictions to collect the tax that was saved in the low tax jurisdictions.

An ancillary part of Pillar Two is the Subject-to-Tax Rule (STTR), designed to aid developing countries. The rule, adopted through a multilateral convention, would enable developing countries to tax certain intra-group payments if those payments are subject to a nominal corporate income tax rate below 9%. However, this rule will have limited scope and will only apply to interest, royalties and a defined set of other service payments.

Touted as a reform to create a level playing field for investment and business and eliminate the need for countries to offer low tax rates in order to attract foreign investment,[16] the global minimum tax is likely to be effective in subjecting some of the profits of MNEs transferred to low and no-tax jurisdictions to higher taxes. It also provides an opportunity for jurisdictions with genuine source income and effective tax rates below 15% to examine their tax incentives and ensure there are benefits to the local economy from the incentives. It remains to be seen, however, if the 15% global minimum tax will have any impact on tax competition or on profit shifting by means of aggressive transfer pricing by MNEs. While the Pillar Two measures will raise the minimum tax paid by MNEs to 15%, that rate is still well below the ordinary company tax rate in many countries (the average worldwide rate is over 23% or, weighted by GDP, over 25%)[17], leaving plenty of room for tax savings if profits are shifted to low tax countries. The 15% tax will reduce after-tax profits of MNEs currently paying lower rates on profits shifted to low tax jurisdictions, but they will still be better off than enterprises that do not shift profits and consequently face higher tax rates. It can be expected that profit shifting will continue much as it currently does.

3. Conclusion

As of the end of 2023, there has been little international progress on the adoption of Pillar One and the allocation of taxing rights to sales jurisdictions. The prospects of implementation remain uncertain at best and even if the Pillar One rules are eventually adopted the limb that would have the most important implications for taxing rights will only apply to a handful of companies. The prospects for implementation of the GloBE minimum tax system are much

16 OECD (2023). *Global Anti-Base Erosion Model Rules (Pillar Two): Frequently Asked Questions*, https://www.oecd.org/tax/beps/faqs-on-model-globe-rules.pdf.

17 Cristina Enache (2022). *Corporate Tax Rates Around the World, 2022*, https://taxfoundation.org/data/all/global/corporate-tax-rates-by-country-2022/.

greater but even after the system is in full operation transfer pricing and tax minimization will remain serious problems. Support for Pillars One and Two may be seen as important as a demonstration of comity with the international community, but jurisdictions supporting the reforms must realize that neither addresses the underlying structural features of the international tax regime that make tax avoidance possible and that prevent sales jurisdictions from taxing profits attributable to the sales in their jurisdictions.

A solution to these issues, the adoption of a formulary apportionment system to allocate MNE profits for tax purposes, has been suggested by many tax policy experts who point to their success in preventing profit shifting and providing fair taxation to source states/provinces in federal countries with provincial or state income taxation. Future reforms that address both Pillar One and Pillar Two issues by actively supporting moves toward a system that allocates the profits of MNEs on the basis of the source of factors that give rise to profits — inputs of capital and labor and the revenue from sales — are the only genuine way to address the profit shifting that occurs. The reform has long been advocated by international tax experts.[18] The experience of the US state of California in applying formulary apportionment to the global profits of MNEs with a presence in California showed the change would undoubtedly attract political opposition from those benefiting from the current profit allocation system but does not entail any technical difficulties.

18 See, for example, Richard Bird (1986). The Interjurisdictional Allocation of Income. 3 *Australian Tax Forum* 333, 33; Richard Krever & François Vaillancourt (eds.), (2020). *The Allocation of Multinational Business Income: Reassessing the Formulary Apportionment Option.* Alphen aan den Rijn: Kluwer Law International.

Transfer Pricing Aspects of Pillar One and Pillar Two*

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Abstract: This article showcases the potential interplay between transfer pricing rules and the OECD's Pillar One and Pillar Two proposals. Given their simultaneous application, conflicts between these sets of rules may arise. The article also emphasizes the importance of careful consideration before implementation of these rules, including potential adjustments to domestic laws, and the need to prevent double taxation and less-than-single taxation risks through enhanced cooperation and clear communication.

Keywords: Transfer pricing; Pillar One; Pillar Two; OECD; Complexity; Interplay

* A detailed version of this article is published in IBFD's Bulletin for International Taxation, see R. Petruzzi & A. Padwalkar (2023). Pillar One, Pillar Two, Transfer Pricing and the Arm's Length Principle: A Tangled Web of New and Old Taxing Rules. 77 *Bulletin for International Taxation* 10.

1. Introduction

Traditional transfer pricing (TP) rules based on the arm's length principle (ALP) are facing significant challenges in today's rapidly evolving global economy. The existing international tax framework, which relies on physical presence, seems inadequate to handle the complexities of profit allocation in the digitalized world shaped by technology and digitalization. In response to these challenges, the Organisation for Economic Co-operation and Development (OECD) and the G20 initiated the Base Erosion and Profit Shifting (BEPS) project in 2013.[1]

However, as the changes brought by the BEPS project proved insufficient to fix the issues the project was originally conceived for, the OECD/G20 Inclusive Framework (IF) on BEPS introduced a Two-Pillar Solution. Pillar One allocates new taxing rights to market jurisdictions, offering a fresh approach. Conversely, Pillar Two proposes a global minimum tax to combat harmful tax competition and base erosion and profit shifting.

While an overall impression is that there will be no conflict between the new Pillar One and Pillar Two rules and the existing transfer pricing rules,[2] questions regarding the simultaneous application of these systems remain. This article highlights some of the potential interplay of the Pillar One and Pillar Two proposals on TP rules and examines areas where conflict and tension may arise, without going into specific details. Some of the new rules have not yet been completely drafted and/or agreed at the international level and, even more importantly, they have not been implemented in any country's legislation.

The article is divided into two parts. The first part (Section 2) explores the relation between Pillar One and TP rules, while the second part (Section 3) delves into the relation between Pillar Two and TP rules. Section 4 provides some conclusions.

2. The Interplay Between Pillar One and TP Rules

2.1 Pillar One: Rules at a Glance

Pillar One aims to establish a comprehensive framework by introducing two elements: Amount A, which introduces a new nexus rules, and Amount B, which provides for simplifying the TP application to certain baseline marketing and distribution activities.

Amount A primarily applies to large multinational enterprises (MNEs) and comprises two entry tests: the revenue test and the profitability test. The revenue test is met when MNEs' pre-tax qualifying revenues exceed EUR20 billion, while the profitability test requires a pre-tax profit margin of over 10%. Calculating the pre-tax profit margin involves using consolidated financial accounting standards with specific adjustments.

Once the MNEs falling within the scope are identified, the Amount A model rules[3] incorporate a nexus test that establishes the taxable presence in a jurisdiction and determines the treatment of revenues within specific jurisdictions. The nexus test is met when in-scope MNEs' revenues generated in a market jurisdic-

1 OECD (2013). *Action Plan on Base Erosion and Profit Shifting*, https://read.oecd-ilibrary.org/taxation/action-plan-on-base-erosion-and-profit-shifting_9789264202719-en#page4.

2 For further discussion on the topic, see J. Coleman, T.D. Bettge, A. Pepper, et al. (2022). The Arm's Length Standard after the Pillars, 107 *Tax Notes Intl*. 13, pp. 1513-1519; M. de Wilde (2022). *Why Pillar Two Top-up Taxation Requires Tax Treaty Modification*, https://kluwertaxblog.com/2022/01/12/why-pillar-two-top-up-taxation-requires-tax-treaty-modification/; See also OECD/G20 Base Erosion and Profit Shifting Project, Public Consultation Document: Secretariat Proposal for a "Unified Approach" under Pillar One p. 5 (OECD 9 Oct. 2019) (accessed 28 Sept. 2023) wherein the reader gets an impression that Amount A and transfer pricing rules would complement each other.

3 OECD (2022). *Progress Report on Amount A of Pillar One*, https://www.oecd.org/tax/beps/progress-report-on-amount-a-of-pillar-one-july-2022.pdf (hereinafter "Amount A model rules").

tion exceed EUR1 million, with a lower threshold of EUR250,000 for smaller jurisdictions.[4]

Afterwards, the Amount A model rules provide for the determination and allocation of taxable profits to the identified market jurisdictions. The taxable portion in a jurisdiction is determined using a profit allocation formula denoted as Q, which takes into account the adjusted profit before tax, revenues of the covered group, revenues arising in the jurisdiction, a profitability threshold of 10%, and a re-allocation percentage of 25% times the revenue arising in a jurisdiction divided by revenues of the covered group. The marketing and distribution safe harbor (MDSH) adjustment[5] is applied to avoid double counting.

To mitigate double taxation resulting from Amount A, jurisdictions are required to provide relief. The elimination of double taxation follows a three-stage approach based on the jurisdictions' "elimination profit".[6] Jurisdictions with the highest elimination profit are classified into tiers using specific thresholds, and the relief amount for double taxation is determined by a waterfall approach considering the Return of Depreciation and Payroll (RoDP).[7] The jurisdiction with the highest RoDP takes precedence in providing relief for double taxation.

On the other hand, Amount B is a framework that applies to all entities within MNEs within the scope of the TP rules in their countries. It encompasses buy-sell arrangements, where a distributor acquires goods from another group entity for wholesale distribution, and sales agency and commissionaire arrangements, where an entity contributes to wholesale distribution on behalf of another group entity.[8]

Determining whether a transaction falls under Amount B depends on evaluating a range of qualitative and quantitative aspects, supplemented by an understanding of the accurate delineation of a transaction. The pricing mechanism specified in the consultation document for Amount B is the Transactional Net Margin Method (TNMM), which considers a global pool of independent entities engaged in wholesale distribution. The Amount B consultation document also provides for return on sale (ROS) as a profit level indicator as well as a berry ratio[9] "cap and collar" guardrail as a corroborative mechanism.[10]

Since the development of Amount B is still in its early stage, further changes can be expected in the near future regarding the precise mechanism of its implementation.

2.2 The Interaction Between Pillar One and TP Rules

One of the points of interaction between Pillar One and TP rules stands in the deviation from the ALP. The overarching aim of TP rules based on the ALP is to tax profits in jurisdictions where value is created.[11] However, the

4 The nexus test is deemed to be satisfied when the in-scope revenues of the MNE generated in a market jurisdiction exceed EUR1 million. However, smaller jurisdictions with a gross domestic product of less than EUR40 billion have a lower threshold of EUR250,000.

5 The MDSH is primarily designed to address potential issues of "double counting".

6 Financial accounting profit or loss is the starting point for the computation of the elimination profit followed by certain adjustments. These adjustments are similar to those made under the GloBE rules. See, Schedule I supra n. 3.

7 The RoDP is calculated by dividing the elimination profit for a jurisdiction by qualifying depreciation and payroll costs.

8 OECD (2023). *Public Consultation Document: Pillar One — Amount B*, https://www.oecd.org/tax/beps/public-consultation-document-pillar-one-amount-b-2023.pdf.

9 Berry ratio is a financial ratio that compares a company's gross profit to its operating expenses.

10 Berry ratio cap and collar guardrail would prevent over-remuneration of low-operating expense intense entities, and the under-remuneration of high-operating expense intense entities.

11 S. Greil, M. Lagarden, U. Schreiber, et al. (2020). Why the Arm's Length Principle Should Be Maintained. 27 *International Transfer Pricing Journal* 6.

re-distribution of a portion of residual profits through Amount A deviates from the traditional TP rules. This small yet significant deviation implies a departure from the ALP as a sole profit allocation mechanism. It also implicitly provides a new interpretation of value creation implying that value is created not only by the supply side, but also by the demand side of an MNE.[12] Nevertheless, it remains uncertain whether a formula-based allocation under Amount A will align with the rationale of value creation. Consequently, the Amount A rules will deviate from and could partially supersede the ALP by incorporating elements of formulary apportionment, thus departing from the idea of taxing profits in jurisdictions where value is created.

Another point of interaction stems from potential changes in business models and business restructurings. To enhance tax optimization and achieve greater certainty, MNEs may consider changes to their business models. These changes in business models would have implications for the related TP analysis. For instance, in order to leverage the certainty provided by Amount B, MNEs could restructure their operations by establishing routine distribution entities falling within the scope of Amount B. The conversion or establishment of these entities could give rise to changes in functions, assets and risks thereby constituting a business restructuring under Chapter XI of the OECD TP Guidelines. Additionally, MNE groups would also need to evaluate the advantages of having a physical presence in a market jurisdiction, which would subject them to domestic corporate tax provisions, versus the potential benefits of falling within the scope of Amount A.

TP adjustments are another area where the two sets of rules will interact. Since the determination of Amount A model interplays with TP rules, the accurate implementation of appropriate TP rules assumes even greater significance for MNEs falling under the purview of Amount A. This is primarily due to the potential impact on the profits re-allocated under Amount A. Thus, TP adjustments would inevitably have a consequential effect on the computation of Amount A. Indeed, even though the determination of Amount A stems from consolidated financial statements, the determination of which jurisdictions bear the responsibility of eliminating double taxation in relation to Amount A considers jurisdictional RoDP. Hence, if residual profits are re-assigned to another jurisdiction in prior years as a result of TP adjustments,[13] question arises as to how this change is to be implemented.[14] Furthermore, re-characterization of certain entities as well as substantial re-allocation of business profits between related entities would also have the risk of spillover effects on the allocation of Amount A.

3. The Interplay Between Pillar Two and TP Rules

3.1 Pillar Two: Rules at a Glance

Similar to Amount A, the Pillar Two Global Anti-Base Erosion (GloBE) rules exclusively apply to large MNE groups.[15] These GloBE rules are specifically applicable to constituent entities (CEs) within an MNE that meet the revenue threshold of EUR750 million.

Net GloBE income or loss is determined by aggregating income or loss of CEs in a jurisdiction. It starts with net income from consolidated financial statements, adjusts to GloBE income,

12 S. Greil, M. Overesch, A. Rohlfing-Bastian, et al. (2023). Towards an Amended Arm's Length Principle — Tackling Complexity and Implementing Destination Rules in Transfer Pricing. 51 *Intertax* 4.

13 Provided that the other jurisdiction also agrees to the adjustment.

14 J.L. Andrus & R.S. Collier (2021). Transfer Pricing and the Arm's Length Principle after the Pillars, 105 *Tax Notes International*.

15 See, OECD (2021). *Tax Challenges Arising from Digitalisation of the Economy — Global Anti-Base Erosion Model Rules (Pillar Two)*, https://www.oecd-ilibrary.org/docserver/782bac33-en.pdf?expires=1685904315&id=id&accname=guest&checksum=91A82FAC996CCF39A497007C6B71D3B6 (hereinafter "Pillar Two model rules").

and allocates it to permanent establishments (PEs) or flow-through entities.

Subsequently, covered taxes are computed based on financial accounts. Adjustments are made to current tax expenses for financial accounting net income. Only amounts reported in a taxpayer's local tax return are considered. Then, the effective tax rate (ETR) is calculated by dividing the adjusted covered taxes by the net GloBE income, on a jurisdictional basis. If the ETR is below the minimum rate of 15%, top-up tax may be due based on the positive difference. The top-up tax is applied to jurisdictional net GloBE income, excluding substance-based income.

The primary level of collection for the top-up tax is allocated to the low-tax jurisdiction itself through the implementation of a qualified domestic minimum top-up tax (QDMTT). The QDMTT serves to ensure that any additional taxation on economic activities within a jurisdiction, arising from the Pillar Two minimum tax framework, directly benefits the domestic jurisdiction. However, the tax base for QDMTT is different from the base for the determination of a country's ETR.

The second level of collection of top-up taxes is through the income inclusion rule (IIR), which collects top-up tax at the parent entity level for low-taxed income. The ultimate parent entity jurisdiction has the primary right, followed by intermediate holding countries. The undertaxed payment rule (UTPR) denies deductions or applies equivalent adjustments if top-up tax is not collected through the IIR.

The subject to tax rule (STTR) operates independently from the GloBE rules and is not contingent upon the jurisdictional ETR. The STTR essentially grants source jurisdictions' tax authorities to levy taxes on interest, royalties, and other specified payments received by a connected company, up to a globally agreed minimum rate of 9%.

3.2 The Interaction Between Pillar Two and TP Rules

One of the points of interaction between Pillar Two and TP rules stands in the increased relevance of TP rules. The GloBE rules stipulate that transactions between CEs situated in different jurisdictions must adhere to the ALP. Similarly, transactions between CEs within the same jurisdiction should also be recorded at arm's length, particularly when the transfer or sale between these entities generates a loss that is factored into the computation of GloBE income or loss. The rationale behind applying the ALP to domestic transactions is to prevent MNEs from artificially creating losses within a jurisdiction through intra-group transfers or sales at prices inconsistent with the ALP.[16] Furthermore, transactions between Minority Owned CEs[17] and other CEs must also conform to the ALP. It is crucial to note that for the regular TP rules to be applicable, the parties involved must qualify as associated enterprises. From the above analysis, it is evident that the Pillar Two rules reinforce the significance of TP based on the ALP.

Another point of interaction stems from the new definition of the ALP. Any transaction involving CEs located in different jurisdictions, which is not recorded with identical amounts in the financial accounts of both CEs or does not adhere to the ALP, should be modified to ensure uniformity in amount and alignment with the ALP. Article 3.2.3 of the GloBE rules defines ALP as follows:

"*ALP means the principle under which transactions between Constituent Entities must be recorded by reference to the conditions that would have been obtained between independent enterprises in comparable transactions and under comparable circumstances.*"

It is important to note that the definition of the ALP differs between the GloBE rules and

16 See, K. Sharma (2023). *GloBE Rules Made Easy*. Wolters Kluwer.

17 Where the UPE's economic interest is less than or equal to 30%, the entity or subgroup is described as a Minority Owned Constituent Entity or Minority Owned Subgroup.

the OECD and the UN Model Convention.[18] While many countries have adopted TP rules based on the ALP for the purposes of corporate income tax allocation, its application varies across jurisdictions. The divergent interpretations and understandings of the ALP are likely to be compounded by the differing languages used in the GloBE rules, leading to increased uncertainty. When a jurisdiction adopts the Pillar Two rules, there is a possibility that two distinct definitions of the ALP will be incorporated into national legislation: one for the purpose of the GloBE rules and another already existing in domestic TP rules (in line with the OECD and UN Models). This discrepancy in wording may result in conflicting positions for similar transactions.

Changing business models and business restructurings will also give rise to the interaction of the two sets of rules. To navigate the challenges posed by Pillar Two, MNEs may evaluate their TP policies and consider restructuring their intra-group transactions to prevent inadvertent exposure to top-up taxes. For instance, MNEs within the scope of GloBE rules may try to avoid the IIR by relocating their parent entity to a jurisdiction which has not implemented the IIR while still having access to the same markets.[19] MNEs would need to take into account the Pillar Two (as well as Pillar One) implication for any change in value chain and operational relocation.

4. Conclusions

The Pillar One and Pillar Two proposals require further consideration before implementation. Questions arise regarding their suitability for intended purposes, particularly in addressing tax challenges related to digitalization of business models. This raises the possibility of a new project, "BEPS 3.0", in the future. The ongoing discussions in the UN Tax Committee may offer insights into the potential realization of this scenario.[20]

Implementing the proposed changes necessitates major adjustments to domestic laws. Developing countries must conduct impact assessments to balance increased administrative burden with potential tax revenue gains. Shifting toward formulary apportionment, which alters the ALP, poses a significant point of contention requiring coordinated implementation.

Double taxation and less-than-single taxation risks are critical concerns arising from the interplay between the two pillars and TP rules. Preventing such outcomes requires enhanced cooperation, clear communication, and mutual understanding between taxpayers and tax administrations.

While aiming to address global economic challenges and curb tax avoidance, successful implementation of Pillar One and Pillar Two would require careful consideration of these points.

18 OECD (2017). *Model Tax Convention on Income and on Capital: Condensed Version 2017*, https://read.oecd-ilibrary.org/taxation/model-tax-convention-on-income-and-on-capital-condensed-version-2017_mtc_cond-2017-en#page4; United Nations (2017). *United Nations Model Double Taxation Convention Between Developed and Developing Countries*, https://www.un.org/esa/ffd/wp-content/uploads/2018/05/MDT_2017.pdf. According to both OECD and UN Model tax conventions, ALP is embedded in Article 9 which provides: "conditions are made or imposed between the two enterprises in their commercial or financial relations which differ from those which would be made between independent enterprises, then any profits which would, but for those conditions, have accrued to one of the enterprises, but, by reason of those conditions, have not so accrued, may be included in the profits of that enterprise and taxed accordingly."

19 J. Hagelin & J.-E. Duvauchelle (2021). Pillar Two and Transfer Pricing, in *Global Minimum Taxation?: An Analysis of the Global Anti-Base Erosion Initiative* (A. Perdelwitz & A. Turina Eds) ch. 9 (IBFD Tax Research Series).

20 UN: 26th Session of the Committee of Experts on International Cooperation in Tax Matters (UN Tax Committee) (27 Mar. 2023).

Pursuing Tax Certainty in International Taxation

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Abstract: This article addresses the issue of tax certainty with emphasis on certainty in international taxation. It also discusses the most important methods and measures used to create and enhance tax certainty.

Keywords: Tax certainty; International taxation; APA; MAP

1. Introduction

When it comes to taxation, one issue that both taxpayers and tax administrations are most concerned about is certainty. In general, businesses aim to make profits, but excessive tax burdens may easily tax all profits away and make any business adventures meaningless. For a successful business, a corporation (or an individual entrepreneur) needs, in addition to products it sells, the market and other aspects of doing business, to know how much tax it must pay. An investor or entrepreneur will only start business operation if he/she is certain that there is a profit left after tax. Consequently, taxation, and in particular tax certainty, is essential to any investor who makes investment or carries on trade, regardless of where the investment or trade occurs, either domestically or internationally.

From a tax administration's perspective, tax certainty is equally important. Tax administrations are responsible for assessment and collection. Tax uncertainty may lead to more tax disputes, occupy limited resources of tax administration and undermine the trust of taxpayers. After all, tax revenues come from taxpayers who are treated fairly and correctly, convinced that they do not pay more tax than they should, and do not bear compliance costs arising from the complexity of tax rules and disputes with tax administrations.

For developing countries and in particular, capital-importing countries, tax certainty is extremely important in terms of attracting and retaining foreign investments. Although there are many factors (political stability, market, labor costs and law protection, etc.) that play a role for businesses to choose an investment location, tax certainty is obviously a factor that needs to be taken into account. For example, the Shell, one of the biggest multinational companies in the Netherlands, has emigrated from the Netherlands to the UK after a protracted discussion of taxation on dividends with the Dutch government. Although there are several factors motivating the emigra-

tion mentioned by Shell, it appears that tax was one of the important reasons.[1]

Tax certainty can be provided at both the domestic level and the international level. Both levels are needed to provide comprehensive tax certainty.

2. Tax Certainty at the Domestic Level

There are three ways for tax certainty to be achieved at the domestic level. First of all, high-quality tax legislation should be put in place. Secondly, a taxpayer should have the access to appealing to tax authorities at a higher level when he/she disagrees with the tax assessment or other tax related matters. Thirdly, to ensure tax certainty, a jurisdiction needs to develop and maintain a well-functioned and independent judicial system, responsible for making final decisions on difficult and protracted cases.

2.1 High-Quality Tax Legislation

High-quality tax legislation serves as the basis for tax certainty. It is not only important for smooth and successful implementation of tax rules, but also for avoidance or reduction of tax disputes arising from ambiguity, inconsistence and lack of coherence of tax laws and regulations. Therefore, a jurisdiction may provide taxpayers with certainty by drafting high-quality tax legislations and implementation guidance. A high-quality tax legislation generally means a legislation that is clear, simple, consistent, effective, and accessible. Clarity of tax legislation is extremely important in this context. Any ambiguous formulation or confusion of definitions and legal concepts may cause question or doubt on the rights and obligations of a taxpayer, which may give rise to disputes with tax authorities on his/her tax liabilities. In addition, tax legislators should ensure that tax laws and regulations are drafted and formulated as concisely as possible. It is easier for individuals and businesses to understand their rights and obligations under a simple tax system. Complexity of tax legislation will often create misunderstandings and increase risks of different interpretation and application. Furthermore, complex tax laws and regulations are also vulnerable to aggressive tax planning, which may lead to tax revenue loss and unfair competition among businesses. Inconsistency of tax rules may result in disputes between taxpayers and tax administrations, and impair the enforcement of tax rules by tax administrations.

High-quality tax legislation also means that tax laws and regulations are transparent and accessible to taxpayers. If new laws and regulations are enacted, a certain transitional period should be put in place for taxpayers to adapt to the new rules. Taxpayers can be engaged in the legislative process at the early stage, typically through the consultation process. By taking taxpayers' feedbacks and opinions into account, some potential disagreements may have already been avoided.

2.2 Appeal Procedure of the Tax Administration

Under the tax laws and regulations, most jurisdictions offer taxpayers the opportunity to appeal to a special independent office in cases where they disagree with the tax assessment or the treatment of tax related issues (in China, the appeal must be submitted to the tax authority of a higher level). During the process of the review, the taxpayer can present his or her arguments to make their objection, and the independent tax officials may re-examine the issue by giving a "second opinion". A successful review can prevent the escalation of the case to a legal proceeding, which will considerably save resources of tax administrations and compliance costs of taxpayers. It is certainly an efficient and effective way of preventing tax disputes. A vital point for the appeal procedure is that tax officials in charge of the review are independent from those that have made the tax assessment and decision on the issues in dispute.

1 https://www.rtlnieuws.nl/economie/artikel/5267343/waarom-shell-weg-wil-uit-nederland.

2.3 Independent Judicial System

An independent judicial system is the safeguard for tax certainty. In most jurisdictions, taxpayers generally have the right to file a lawsuit before the court. Some jurisdictions have established a special tax court/tribunal or a civil court with a tax chamber to settle tax disputes between taxpayers and tax administrations. If a court decision is disagreed by the tax administration, it has the equal right to make a further litigation. From a technical point of view, a special tax court does make sense given the fact that tax issues could be very complex, and the interpretation and application of tax laws and regulations require technical knowledge and skills.

To achieve political, economic, and social goals, it is sometimes inevitable to adopt complex and highly technical provisions in tax legislations. As a result, the interpretation and application issues regarding tax rules will always arise and so the disputes between taxpayers and tax administrations. However, it is important that if a dispute arises, there is a mechanism in place to put an end to it. An independent judicial system, in addition to others, serves this purpose as the highest authoritative means.

In tax litigations, difficult questions on tax laws are examined by independent judges and a final decision will be rendered to taxpayers and tax administrations. As it is the final decision, both parties in dispute must accept the outcome even if one of the parties is discontent with it. Certainty is embedded in the discontinuity of the conflict in the legal sense. The court decisions will also serve as case laws, guiding and directing taxpayers and tax administrations in respect of how the laws and regulations should be applied.

2.4 Administrative Measures Such as Rulings Issued by Tax Authorities

A ruling is considered to be a good measure to ensure tax certainty. There are two important categories of rulings: public rulings and private rulings. Public rulings are used by tax administrations to provide guidance and advice in respect of how the tax administration will interpret and apply the law. For example, the State Taxation Administration (STA) of China publishes circulars and announcements on a regular basis to provide guidance to both taxpayers and tax officials.

Private rulings provide certainty to a particular taxpayer in relation to its specific tax matter and circumstance. For developing countries, a private ruling system, if designed and implemented well, may serve the country in attracting and retaining foreign investment, especially in respect of the key industries of a country that are vital to its economic development. One example is a ruling on the preferential tax treatment of a long-term investment that may introduce advanced technology and a huge amount of capital.

Under the Base Erosion and Profit Shifting (BEPS) project, rulings are often associated with tax avoidance and tax evasion. And some countries are criticized for their ruling practices. The opinions of scholars on rulings are also divided. Tax certainty is highly appreciated by multinational companies and a good ruling practice may provide the great certainty to foreign investors. However, jurisdictions should be vigilant not to be involved in harmful tax competition, the exchanged information on which may damage a jurisdiction's reputation.

A special form of ruling is the advance pricing agreement (APA). An APA is the ruling specifically used to tackle transfer pricing issues. APAs may be concluded unilaterally, bilaterally and multilaterally, and are legally binding on the parties to the ruling. China has adopted the APA in its Enterprise Income Tax Law under Article 42 and has implemented this approach since 2008. In addition, China publishes a report on APAs on an annual basis, including unilateral and bilateral APAs, and sets out the procedure and process of how an APA can be applied, negotiated and concluded. Since most tax disputes between jurisdictions are concerned with transfer pricing issues, an APA mechanism has proven to be an effective tool to provide tax certainty, particularly for large multinationals who have a huge amount

and variety of transactions with associated enterprises. The downside of an APA is the heavy workload for both sides and the tax expertise for a successful conclusion of an APA that has rather limited validity (3 or 5 years). It appears that a lot of developing countries have little expertise and experience with APAs, resulting in a huge gap between developed and developing countries. Developing countries can narrow this gap and enhance tax certainty by taking more training and capacity building programs in an effort to attract foreign investment and boost economic growth.

3. Tax Certainty in International Taxation

Tax certainty is an important aspect of investment protection for developing countries. As a matter of fact, the focus of the perceived international taxation is on the avoidance and elimination of double taxation (although the elimination of tax avoidance and tax evasion has become the second main purpose and objective). Tax treaty partners can resolve tax disputes by initiating the Mutual Agreement Procedure (MAP).

3.1 Mutual Agreement Procedure

Both the OECD and the UN Model Conventions contain Article 25 that "institutes a mutual agreement procedure for resolving difficulties arising out of the Convention in the broadest sense of the term". Under Action 14 of the BEPS project, it has become one of the minimum standards to resolve tax disputes in a more effective way.

An MAP may, in many cases, not be a solution for tax disputes, either because there is no applicable tax treaty between two jurisdictions, or because tax authorities of the two jurisdictions insist on their own points of view, or simply for any other reasons that make it impossible for both parties to reach an agreement through the MAP. In recent versions of both the Model Conventions, a binding arbitration procedure has been proposed to the countries where the MAP fails its purpose. Despite of the fact that a mandatory binding arbitration may offer a final solution for a tax dispute, developed and developing countries are divided on this issue. The main concern of developing countries is its possibility of violating their national sovereignty as well as domestic political, constitutional and legal constrains and limitations. For most developing countries and some developed countries, it is not acceptable to surrender even a (small) part of their sovereignty to a committee established out of their control. Under the UN Model Convention, the provision on binding arbitration is proposed as an alternative option so as to accommodate the needs of jurisdictions that are ready to go for arbitration.[2]

In this context, it should be noted that the MAP is considered the most important measure to resolve international tax disputes. Therefore, the *Handbook on the Avoidance and Resolution of Tax Disputes* devotes the entire second part to discuss the MAP in detail, providing templates, examples and information on the request, negotiation and conclusion of an MAP.[3] Those who are interested in studying the subject thoroughly are recommended to use the handbook as a reference material.

3.2 Other Approaches to Enhance Tax Certainty

Apart from approaches mentioned above, other attempts have been made to enhance or achieve tax certainty. These are discussed in the UN's *Handbook on the Avoidance and Resolution of Tax Disputes of 2021*, which covers tactics such as cooperative compliance, relationship

2 United Nations (2021). *United Nations Model Double Taxation Convention between Developed and Developing Countries 2021*, https://www.un.org/development/desa/financing/document/un-model-double-taxation-convention-between-developed-and-developing-countries-2021.

3 United Nations (2021). *Handbook on the Avoidance and Resolution of Tax Disputes*, https://www.un.org/development/desa/financing/document/un-handbook-avoidance-and-resolution-tax-disputes.

managers for large taxpayers, independent review of the statement of audit position and tax mediation. At the international level, efforts have been made to establish the so-called "International Compliance Assurance Programme (ICAP)" and joint audits. All the initiatives aim to provide more certainty to taxpayers and tax administrations. Whether or not one of such approaches is suitable depends on the actual circumstances specific to the countries and regions concerned. Countries and regions may explore these different approaches in their journey seeking for tax certainty.

3.3 Tax Certainty Proposed in Pillar One and Pillar Two

The most important tax developments of the 21st century are the BEPS Projects 1.0 and 2.0, which aim to address the issues arising from the digital economy. As the 15 action plans of the BEPS Project have been implemented to a certain extent across the globe, Pillar One and Pillar Two under the stewardship of the OECD are now in full development. 137 member jurisdictions of the BEPS Inclusive Framework have reached consensus on the two-pillar approach (BEPS Project 2.0). However, these positive developments on both pillars are overshadowed by the complexity of the proposed rules, which creates concerns and uncertainty among multinational companies and tax administrations.

One of these concerns is the Digital Service Tax (DST). The two-pillar approach requires the removal of the DST as a precondition for its implementation. However, there still are countries that have not taken steps to completely repeal this tax. Some countries even consider the DST a much easier way to address the issues arising from the digital economy. As to Pillar Two, a lot of developing countries need to review their tax incentives designed to attract foreign investments, and thus develop the qualified domestic minimum top-up tax mechanism to protect their tax revenues, which may lead to double taxation of multinational companies. Countries that have adopted the credit method to avoid double taxation impose restrictions on crediting foreign tax payments. To be eligible for a foreign tax credit, a (tax) payment must be qualified as such under the domestic tax law. One of the uncertainty arises from the credibility of foreign income taxes brought about by new taxing rights created under Pillar One and Pillar Two. The same applies to the credibility of the DST.

The Inclusive Framework issued the "Agreed Administrative Guidance" which is expected to play a role in enhancing tax certainty by clarifying the interpretation of the GloBE rules under Pillar Two and providing guidance to tax administrations on how to apply these rules. At the end of 2022, the OECD issued "The Progress Report on the Administration and Tax Certainty Aspects of Amount A of Pillar One – Two Pillar Solution to the Tax Challenges of the Digitalization of the Economy",[4] which provides some guidance to ensure tax certainty. Nevertheless, regarding the BEPS Project 2.0, a lot of details need to be worked out before the rules can be fully implemented.

In March 2023, representatives from large companies and accounting firms expressed their concerns about the complexity of the tax reporting rules under Pillar Two, embodied in the information return. They wished a much simpler method to be developed for the sake of tax certainty. The type and amount of information that the GloBE Rules require multinational companies to report will have a direct impact on their compliance burden, and the various mechanisms to prevent and resolve tax disputes will also have a direct impact on tax certainty. The BEPS Project 2.0 is challenging

4 OECD (2022). *Progress Report on the Administration and Tax Certainty Aspects of Amount A of Pillar One – Two Pillar Solution to the Tax Challenges of the Digitalization of the Economy,* https://www.oecd.org/tax/beps/progress-report-on-the-administration-and-tax-certaint-aspects-of-amount-a-of-pillar-one-two-pillar-solution-to-the-tax-challenges-of-the-digitalisation-of-the-economy.htm.

for everybody around the globe, especially for developing countries whose resources and expertise are limited.

3.4 Contribution of International Organizations to Tax Certainty

Various international publications on taxation, including commentaries, guidance and handbooks issued by international organizations, can also contribute greatly to tax certainty. These publications help the global tax communities understand how the tax rules should be interpreted and applied, so as to avoid misunderstanding and therefore prevent disputes. Furthermore, international organizations often organize training programs and workshops where complex tax issues can be discussed and experiences be exchanged. The BRITACOM is a good example. Looking back on the international tax developments in the last 20 years, it can be said that, despite of some political difficulties, tax cooperation has been advanced. More and more jurisdictions recognize the mutual benefits derived from such cooperations, and taxation is, to a certain extent, growing to be an international concern like the climate change and the peace issues.

3.5 Capacity Building and Tax Certainty

Investment in qualified tax officials and capacity building of tax administrations are essential in creating tax certainty and building an investment-friendly environment. Capacity building is an important way for a country to keep up with the current international tax developments. Education and training of tax officials should be a long-term strategy for every jurisdiction as it takes time and cannot be achieved overnight.

4. Conclusion

Having discussed all these aspects of tax certainty, 100% "certainty" is hard to achieve. There is a saying nothing is certain but death and taxes, as is said by Benjamin Franklin.[5] However, this should not prevent us from pursuing tax certainty. We can always do better, and we have done better than before in enhancing tax certainty. As discussed above, many approaches have been developed to prevent and resolve tax disputes for the sake of tax certainty. In today's world, a growing number of well-trained tax professionals and tax officials are more and more capable of dealing with complex tax issues. As a result, tax certainty is more secured than ever before. The pursuit for tax certainty continues and will never stop.

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[2] OECD (2017). *Model Tax Convention on Income and on Capital: Condensed Version 2017*, https://www.oecd-ilibrary.org/taxation/model-tax-convention-on-income-and-on-capital-condensed-version-2017_mtc_cond-2017-en.

[3] United Nations (2021). *Handbook on the Avoidance and Resolution of Tax Disputes*, https://www.un.org/development/desa/financing/document/un-handbook-avoidance-and-resolution-tax-disputes.

[4] John L. Harrington (2023). Tax Certainty and Foreign Tax Credit Uncertainty. *Tax Notes International* 109.

[5] OECD (2022). *Progress Report on the Administration and Tax Certainty Aspects of Amount A of Pillar One – Two Pillar Solution to the Tax Challenges of the Digitalization of the Economy*, https://www.oecd.org/tax/beps/progress-report-on-the-administration-and-tax-certaint-aspects-of-amount-a-of-pillar-one-two-pillar-solution-to-the-tax-challenges-of-the-digitalisation-of-the-economy.htm.

5 The most famous variant of the death and taxes quote originates from Benjamin Franklin, who touted the phrase after the signing of the Constitution of the United States.

Dutch Transfer Pricing Court Case on Business Restructuring:

Preventing Transfer Pricing Disputes by Getting Certainty in Advance*

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Abstract: This article summarizes a Dutch court case regarding a business restructuring within a multinational enterprise, where the valuation of the transferred business activities was not confirmed by the tax authorities in advance. As a result of the lack of certainty beforehand, the taxpayer experienced a significant tax correction. According to the author's perspective, this situation could have been prevented by seeking certainty in advance.

Keywords: Dispute resolution; Transfer pricing; Advance Pricing Agreement; Tax certainty; Business restructuring

1. Introduction

Multinational enterprises foster trade and investments globally. For example, inter-company transactions take place within multinational enterprises, representing 80% of the global trade. These international operating companies are creating new jobs, attracting new international investments and adopting new technologies to make the world more connected and a better place.

Whether these entities within a multinational group are paying their fair share of taxes locally according to the arm's length principle is currently a hot topic. From the Dutch experience in practice, local tax authorities should provide a robust, transparent and friendly tax environment for international operating businesses, which will attract more international investments to the Netherlands. This article discusses how transfer pricing

* Disclaimer: The information contained in this contribution is of general nature and does not address the specific circumstances of any particular individual or entity. Hence, the information in this paper is intended for general informational purposes and cannot be regarded as advice. Although we endeavor to provide accurate and timely information and great care has been taken when compiling this paper, there can be no guarantee that such information is accurate as of the date it is received or that it will continue to be accurate in the future. No one should act on such information without appropriate professional advice after a thorough examination of the particular situation. We do not accept any responsibility whatsoever for any consequences arising for the information in this publication being used without our consent.

disputes in relation to business restructuring can create a huge tax risk for international trade and how prevention is much better than cure.

2. Key Points Following the Latest Business Restructuring Court Case in the Netherlands

The North Holland Court (hereinafter referred to as "the Court") ruled on 30 September 2022, in a long-lasting dispute between a taxpayer and the Dutch tax authorities.[1] In this case, a business restructuring occurred within a multinational company, involving the transfer of business operations from the Dutch entity to a Swiss entity as part of a reorganization. Following the transfer, the enterprises became limited risk (routine) entities in the Netherlands.

The taxpayer argued that the transfer was only limited to certain valued assets and liabilities as separate stand-alone items, resulting in an exit tax valued at an amount of EUR2 million. The Dutch tax authorities took the view, based on the transfer pricing documentation prepared by the taxpayer, that substantial and core company activities and responsibilities had been transferred from the Netherlands to Switzerland, including a group of experts and associated profit potential.

On the other hand, the initial assessment of the transfer price by the Dutch tax authorities was valued at a much higher amount of EUR320 million instead. From the tax authorities' point of view, the assets and liabilities should not have been valued separately, but assessed holistically when valuing the (partial) transfer of the business. In the end, the Court appointed an independent transfer pricing expert that valued the transfer at a minimal discounted value of potential future profits of EUR85 million.

The Court argued that the market expertise was essential for the profitability of the Dutch entity. Due to the transfer of the 33 trading employees, the activities related to this market expertise were transferred to Switzerland post-business restructuring. Therefore, the Court ruled that the Dutch entity must be compensated accordingly. An interesting discussion, which took place on the sidelines of this case, concerns whether one should adjust to the median or lower quartile level.

Additionally, the Court ruled that no correction was needed for the tax effects of the transaction, even though the business was transferred to a lower taxed entity. This decision was on the fact that both parties involved in the transaction did not have insights into the financial position of the other party. Such knowledge could also not be "attributed" to each party due to the fact that the arm's length principle requires a simulation as to what would have happened if parties were not related.

Last but not least, changes in the business strategy, options realistically available to parties and whether hard-to-value intangibles have been valued, have not been explicitly discussed in this case.

3. Business Restructurings Are Happening on a Daily Basis

According to the OECD Transfer Pricing Guidelines (TPG) 2022 par. 9.1.: a business restructuring is a transfer of something of value, the termination or substantial renegotiation of existing arrangement, which may occur cross-border or not. From par. 9.12., it follows that the conditions made or imposed between affiliated enterprises should be assessed at an individual level. The first step in this analysis is to delineate the transactions accurately. Subsequently, the business restructuring should be valued at arm's length. Crucial for the valuation is whether the transfer of something of (hard to) value or termination or renegotiation would have been compensated between independent parties. Business restructurings are

1 ECLI:NL:RBNHO:2022:9062 (for an English translation of the Dutch court case: https://tpcases.com/netherlands-vs-agri-b-v-september-2022-court-of-appeal-case-no-awb-16_5664-eclinlrbnho20229062/).

typically associated with a reallocation of profit potential.[2] Within a multinational enterprise, business restructurings are almost daily business practices. However, finance, tax or transfer pricing team is often not aware of the inter-company transactions. This can often create a huge transfer pricing risk.

4. Observations of the Court Case

First of all, there must be a good understanding and transfer pricing documentation of the business of the whole group and its separate entities and permanent establishments pre- and post-restructuring in place. Hereby the functions performed, the assets used and the risks assumed (also called functional analysis) of all entities of the group should be mapped out.

Next, the intra-group services/goods flows within the group should be examined (value chain analysis), including any IP used.

Subsequently, a detailed post-restructuring functional analysis should be prepared. This functional analysis should be documented and include the new business financial forecast, and value chain, including the potential functions performed, assets used and risks assumed.

Finally, based on the pre- and post-restructuring functional analysis, the proper transfer price can be established and the substantiation thereof should also be documented sufficiently.

5. Recommendations to Get Tax Certainty in Advance: Dutch Perspective

The tax ruling team in the Netherlands is one of the most efficient ones in the world. Main reasons why the Dutch tax authority is considered to be efficient are based on the following:

(1) Simplified tax system: The Dutch tax system is known for being straightforward and easy to understand.

(2) Digitization: The Dutch tax authority is investing in digitization, which makes it possible for taxpayers to file their taxes online and access their tax information easily.

(3) Data analytics: By using sophisticated data analytics to identify potential tax fraud and evasion, it allows the Dutch tax authority to target its audits more effectively and efficiently.

(4) Business friendly: The Dutch tax authority has a reputation of being customer friendly and providing proactive services to taxpayers.

(5) Horizontal Monitoring Tax System[3]: Taxpayers and tax advisors in the Netherlands work with the tax authorities to develop a tax control framework, which sets out the policies, procedures, and controls. Tax advisors can join the initiative and support their clients to set up such framework. Taxpayers proactively share information with the authorities by being transparent upfront, allowing the tax authorities to provide feedback to taxpayers in real time, rather than conducting traditional tax audits.

In the view of the ruling team, getting certainty in advance is much better than solving the dispute through a Mutual Agreement Procedure (MAP). An MAP means that competent authorities need to be involved to resolve tax disputes regarding double taxation. These sorts of procedures can take years and are very costly for taxpayers.

Prevention and transparency in advance is the best cure, so it is recommended to take actions in advance with the (Dutch) Advance Pricing and Tax Ruling Team to mitigate the risk of disputes at a later stage. If the transferred value of the business operations had been determined in advance unilaterally with the Dutch tax authorities, this dispute in court would have been prevented.

2 OECD (2022). *OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations 2022*, https://doi.org/10.1787/0e655865-en. par. 9.6.

3 Tax Administration. *Supervision of Large Business in the Netherlands*, https://www.belastingdienst.nl/wps/wcm/connect/bldcontenten/themaoverstijgend/brochures_and_publications/supervision_large_business_in_the_netherlands.

Referring to this court case, failing to obtain tax certainty in advance regarding the value of intangible assets can have significant financial implications for taxpayers. Without a clear determination of the value, there is a higher risk of tax disputes, audits, and potential penalties imposed by tax authorities. These disputes can lead to costly litigation fees, and the possibility of double taxation. Moreover, the uncertainty surrounding the value of intangible assets can create instability in financial planning, hinder investment decisions, and impact the overall profitability of businesses. Therefore, it is from my view imperative for taxpayers to prioritize obtaining tax certainty in advance to mitigate the potential adverse financial consequences associated with unresolved intangible asset valuations.

For more certainty, it is even possible to request a bilateral or multilateral advance pricing agreement with the tax authorities. Having tax agreements in advance by confirming the inter-company prices, the value of IP, etc. decreases the risk of potential future disputes. Without tax agreement in advance, transactions may be subject to audit, resulting in the obligation to defend the taxpayer's tax position over many years into the past.

This is actually also the reason why many international companies have chosen to get certainty in advance when establishing its business operations in the Netherlands. With the current uncertain global business climate, building trust and having a transparent relationship with the Dutch tax authorities is crucial for taxpayers. Most importantly, taxpayers are able to focus on their business operations instead of tax audits and disputes.

Navigating the Development of International Tax Regulation in Indonesia

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Abstract: The area of international taxation is constantly evolving due to factors including globalisation, technological advancements, and the economy's increasing digitalisation. In recent times, there has been an increased focus on addressing tax avoidance, promoting tax justice, and addressing tax issues resulting from the digitalisation of the economy. One of the most significant developments in international taxation in recent years was the BEPS Action Plan and the Two-Pillar Solution framework proposed by the OECD and G20 on BEPS. Indonesia released Government Regulation No.55/2022, which includes regulations on international tax matters, among other things, in response to the globalisation of international taxation. Apart from that, Indonesia is considering applying Amount B as a rule or safe harbour provision because of the dynamics surrounding international tax. Overall, a strong correlation exists between the transformation of international taxation worldwide and the shifts in Indonesia's international field.

Keywords: International tax regulation; Tax reform; BEPS; Two-Pillar Solution

1. Introduction

The taxation of multinational enterprises (MNEs) has garnered significant and ongoing attention from civil society and government officials following the global financial crisis of 2008. The redirection of focus led to the initiation of the OECD/G20 Base Erosion and Profit Shifting (BEPS) project, which encompasses a comprehensive set of 15 Actions aimed at updating the global framework for direct taxation. The suggested approaches encompass components that are particularly advantageous for tax administrations that face limitations in resources and capacity.[1]

Despite the unprecedented multilateral endeavour that the OECD/G20 BEPS project represented to combat profit shifting, numerous questions re-

1 Clavey C., Pemberton J. L., Loeprick J., et al. (2019). International Tax Reform, Digitalization, and Developing Economies. World Bank.

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garding the allocation of taxing rights remain unanswered. Digitalisation and globalisation have brought to light specific weaknesses within the current framework that primarily assigns taxing rights according to physical presence. Additionally, a number of BEPS concerns persist.[2] The final version of the BEPS package failed to comprehensively tackle the issues pertaining to the legitimacy, inclusivity, and sustainability of the international tax framework. Aggressive tax planning through the utilisation of low-tax jurisdictions and associated avenues for base erosion and profit shifting remains.

According to the World Development Report issued by the World Bank in 2019, developing economies necessitate more robust solutions that align with their capacity, including enhanced international and regional coordination, to mitigate tax competition and avoid a race to the bottom.[3] In the context of taxation, race to the bottom refers to a decrease in corporate income tax imposed by countries to attract businesses, which might result in a decline in public revenue. The effects of the race to the bottom might be more harmful to developing economies for several reasons, namely the constraint of tax administration and enforcement capabilities, their tax structure relying more on the corporate income tax, and their dependence on certain tax incentives to attract investments.[4]

To mitigate the negative consequences of excessive tax competition and effectively tackle the tax implications arising from the digitisation of the global economy, the OECD/G20 Inclusive Framework on BEPS has released action plans to prevent base erosion and profit shifting, called the BEPS Action Plan. Aside from that, the OECD/G20 Inclusive Framework on BEPS has also proposed a consensus-driven framework for international tax regulations, known as the Two-Pillar Solution. What is the response of Indonesia, a developing country, to the international tax reform? The article's primary objective is to elucidate the response of the Indonesian government concerning international tax reform while offering a prospective trajectory that the Indonesian government may pursue.

2. Indonesia's Response to International Tax Development

2.1 Indonesia's Market in a Glimpse

In recent years, there has been a prevalence of significant disruptions that have had a profound impact on both societies and economies. These disruptions include the emergence of the COVID-19 pandemic and an escalation in geopolitical fragmentation. The implementation of extraordinary policy measures has effectively safeguarded both human lives and economic sustenance during this period of upheaval. However, there still are persistent and enduring difficulties that necessitate attention and resolution in the long run. Numerous countries across the globe continue to face the challenge of sluggish productivity growth and a decline in corporate dynamism.[5]

In spite of the prevailing global uncertainties, Indonesia's economic growth continues to show resilience and strength. The year 2022 witnessed a notable enhancement in growth, reaching the highest level over the past ten years. The gross domestic product (GDP) expe-

2 OECD (2020). *Tax Challenges Arising from Digitalisation — Economic Impact Assessment: Inclusive Framework on BEPS*, https://doi.org/10.1787/0e3cc2d4-en.

3 World Bank (2019). *World Development Report 2019: The Changing Nature of Work*, https://documents1.worldbank.org/curated/en/816281518818814423/pdf/2019-WDR-Report.pdf.

4 Abbas S.A. & Klemm A. (2013). A Partial Race to the Bottom: Corporate Tax Developments in Emerging and Developing Economies. 20 *International Tax and Public Finance* 4, pp. 596-617.

5 OECD (2023). *Economic Policy Reforms 2023: Going for Growth*, https://doi.org/10.1787/9953de23-en.

rienced a year-on-year gain of 5.3%, surpassing the median growth rate of the region.[6] The development can be attributed to the good performance of trade, driven mainly by export of commodities, as well as a rebound in private consumption.[7] The positive trend in the preceding year continues in 2023, as evidenced by the robust increase of 5% in the first quarter, which is primarily driven by private consumption and export, playing a pivotal role in sustaining the momentum.[8]

As a developing country, Indonesia has positive prospects for generating tax revenue within its market. Several things could affect this: Indonesia's population size, economic activities, government initiatives, natural resources, infrastructure development, digital economy, and tax reform effort.[9] Indonesia ranks fourth in population worldwide, boasting a substantial and expanding consumer base. Generally, there is a positive correlation between population growth and increasing economic activities, which in turn leads to a potential for tax revenue generation. Aside from that, Indonesia also possesses a multifaceted economy and rich natural resources that have the potential contribution to government revenue through the collection of taxes. Ongoing infrastructure development initiatives, including the construction of roads, ports, and airports, have the potential to foster economic activity and enhance tax revenue, mainly through the imposition of indirect taxes on construction materials, such as value-added tax (VAT). The Indonesian government has also been enacting tax reforms aiming at enhancing tax compliance and broadening the revenue base.

Despite the positive prospect in generating tax revenue, the tax-to-GDP ratio of Indonesia in 2021 was recorded at 10.9%, which is 8.9 percentage points lower than the average tax-to-GDP ratio of 19.8% in the Asia-Pacific region. Furthermore, it is 23.2 percentage points lower than the average of the OECD countries, which stood at 34.1%.[10] Indonesia's tax structure could contribute to the relatively low tax ratio. In 2021, Indonesia's predominant sources of tax revenue were the income tax and the VAT/goods and services tax, which comprised 55.48% and 41.91% respectively of the total tax revenue.[11] In 2021, the corporate income tax was the second-largest source of tax revenue, constituting 21% of the total.[12] The generation of tax revenue in Indonesia heavily depends on firms' compliance, as the corporate income tax holds considerable importance in this regard. Considering the relatively low tax ratio in Indonesia, one might infer that the level of tax compliance in the country is also comparatively low.

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6 Badan Pusat Statistik (2023). *Ekonomi Indonesia Tahun 2022 Tumbuh 5,31 Persen*, https://www.bps.go.id/pressrelease/2023/02/06/1997/ekonomi-indonesia-tahun-2022-tumbuh-5-31-persen.html#:~:text=Ekonomi%20Indonesia%20tahun%202022%20tumbuh%20sebesar%205%2C31%20persen%2C%20lebih,Pergudangan%20sebesar%2019%2C87%20persen.

7 Kementerian Koordinator Bidang Perekonomian Republik Indonesia (2023). *Pertumbuhan Ekonomi Tahun 2022 Capai 5,31%, Tertinggi Sejak 2014*, https://www.ekon.go.id/publikasi/detail/4904/pertumbuhan-ekonomi-tahun-2022-capai-531-tertinggi-sejak-2014.

8 The World Bank (2023). *The Invisible Toll of COVID-19 on Learning, Indonesia Economic Prospects*, https://www.worldbank.org/en/country/indonesia/publication/indonesia-economic-prospects-iep-june-2023-the-invisible-toll-of-covid-19-on-learning.

9 Arnold J. M. (2012). *Improving the Tax System in Indonesia*, https://doi.org/10.1787/5k912j3r2qmr-en.

10 OECD (2023). *Revenue Statistics in Asia and the Pacific 2023 — Indonesia*, https://www.oecd.org/tax/tax-policy/revenue-statistics-asia-and-pacific-indonesia.pdf.

11 Setyawan Herry (2021). *Tercapainya realisasi penerimaan pajak 2021, momentum penyehatan APBN*, https://komwasjak.kemenkeu.go.id/in/post/tercapainya-realisasi-penerimaan-pajak-2021,-momentum-penyehatan-apbn.

12 Rachman Arrijal (2023). *Bos Pajak Pede Setoran PPh Badan Moncer Jelang Tahun Politik*, https://www.cnbcindonesia.com/news/20230724135228-4-456773/bos-pajak-pede-setoran-pph-badan-moncer-jelang-tahun-politik#:~:text=Sebagai%20informasi%2C%20pada%20kontribusi%20PPh,2021%20juga%20kontribusinya%20sekitar%2021%25.

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2.2 International Tax Development: From BEPS Action Plan to the Two-Pillar Solution

There is an increasing sense among scholars and policymakers that governments are experiencing a significant loss of corporate income tax due to strategic planning efforts targeted at transferring earnings which diminishes the taxable base.[13] The issue at hand encompasses both tax compliance and a broader policy concern. Specifically, the current domestic regulations for international taxation and the internationally agreed-upon standards are based on an economic landscape with less economic integration across borders. This contrasts with the present global taxpayer environment, characterised by the growing significance of intellectual property as a driver of value and the continuous advancement in information and communication technologies.[14]

To effectively mitigate the issue of base erosion and profit shifting, which arises from a complex interplay of various causes, it is imperative to formulate a complete course of action expeditiously. The primary objective of the aforementioned plan is to provide countries with both domestic and international tools to enhance the congruence between taxing rights and actual economic activity.[15]

The OECD and the G20 formulated the BEPS Action Plan, which comprises a comprehensive collection of 15 actions to tackle BEPS. The initiative was initiated in 2013 to ensure that MNEs fulfil their equitable tax obligations in every jurisdiction where they conduct business activities. The primary aims of the BEPS Action Plan encompass the prevention of contrived profit shifts to jurisdictions with low or no taxation, the enforcement of tax payments by MNEs in jurisdictions where they engage in economic activities and accrue profits, the enhancement of tax transparency and the facilitation of information exchange among tax authorities, and the establishment of a consensus-driven framework for taxing digital economy activities.[16]

Although governments may have to provide unilateral solutions, there is value and necessity in providing an internationally coordinated approach. Collaboration and coordination will not only facilitate and reinforce domestic actions to protect tax bases but will also be essential to provide comprehensive international solutions that may satisfactorily respond to the issue. Coordination in that respect will also limit the need for individual jurisdictions' unilateral tax measures. However, jurisdictions may also provide more stringent unilateral actions to prevent base erosion and profit shifting than those in the coordinated approach. The Indonesian government has demonstrated its dedication to adhering to the BEPS Action Plan. Currently, the Indonesian government is in the process of adopting Action 5 (Countering harmful tax practices more effectively, taking into account transparency and substance), Action 6 (Preventing the granting of treaty benefits in inappropriate circumstances), Action 13 (Transfer pricing documentation and country-by-country reporting), and Action 14 (Making dispute resolution mechanism more effective).

Aside from the BEPS Action Plan, the OECD has put out the Two-Pillar Solution to address the various difficulties arising from the digitalisation of the economy. Conventional international tax regulations were created to accommodate a global landscape in which the majority of commercial transactions were conducted through physical establishments.

13 Cooper M. & Nguyen Q. T. (2020). Multinational Enterprises and Corporate Tax Planning: A Review of Literature and Suggestions for a Future Research Agenda. 29 *International Business Review* 3, 101692.

14 Ting A. & Gray S. J. (2019). The Rise of the Digital Economy: Rethinking the Taxation of Multinational Enterprises. 50 *Journal of International Business Studies* 9, pp. 1656-1667.

15 OECD (2013). *Addressing Base Erosion and Profit Shifting*, https://doi.org/10.1787/9789264192744-en.

16 OECD (2013). *Action Plan on Base Erosion and Profit Shifting*, https://doi.org/10.1787/9789264202719-en.

Nevertheless, the emergence of digital enterprises has exposed the insufficiency of current regulations, thereby raising apprehensions regarding the erosion of tax bases and the shifting of profits.[17]

Each pillar of the proposed framework aims to address distinct loopholes within the current regulations that enable MNEs to evade tax obligations. Firstly, Pillar One pertains to the largest and most lucrative MNEs and involves the re-distribution of a portion of their profits to the nations in which they sell their products and offer their services, hence targeting the locations of their consumer base. In the absence of this regulation, these corporations have the ability to generate substantial profits inside a given market while evading a major portion of their tax obligations within such jurisdiction. According to Pillar Two, an expanded set of MNEs encompassing companies with annual revenue exceeding EUR750 million would subsequently be subject to a worldwide minimum corporation tax. Under the newly implemented regulations, corporations are required to structure their operations in such a manner that their profits generated within a particular jurisdiction, regardless of whether it is a low-tax jurisdiction or not, are subject to an effective tax rate that is below the established minimum rate. However, these profits will now be subject to a minimum tax rate of 15%.[18]

The Two-Pillar Solution recognises the needs of developing countries for increased implementation of systematic and predictable regulations. Moreover, it aims to facilitate a fairer allocation of taxation right to market jurisdictions, taking into account the geographical location of sales and users. Additionally, it establishes a worldwide minimum tax, which will effectively address the issue of tax havens, diminish the motivation for MNEs to transfer profits away from developing countries, and alleviate the burden on developing country governments to provide unnecessary tax incentives and tax breaks. This proposal also includes an exemption for activities with genuine substance that are subject to low taxation. This implies that emerging nations have the potential to provide compelling incentives that can attract authentic and substantial foreign direct investment. Significantly, this solution, which has been agreed upon by multiple parties, effectively mitigates the potential consequences of trade restrictions that may arise from unilateral measures like digital services taxes.[19]

2.3 Indonesia's Reform in International Taxation

The impetus for Indonesia's reform in international taxation stems from the global development of international taxation. In response to the announcement of the BEPS Action Plan by the OECD, the government of Indonesia has implemented a series of measures aimed at harmonising its practices with globally recognised standards. Adherence to international best practices is considered crucial for both taxpayers and tax administrators in Indonesia.

As a prominent global market, Indonesia faces the challenge of managing MNEs with a worldwide presence. Given the global operations of MNEs, they are confronted with the task of managing interactions with numerous tax authorities. Implementing uniform tax treatments across multiple tax authorities would

17 McGaughey S. L. & Raimondos P. (2019). Shifting MNE Taxation from National to Global Profits: A Radical Reform Long Overdue. 50 *Journal of International Business Studies*, pp. 1668-1683.

18 OECD (2022). *Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*, https://www.oecd.org/tax/beps/faqs-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2022.pdf.

19 Sukardi Ichwan (2023). *Indonesia's Vital Breakthrough with the BEPS Two-Pillar Solution*, https://www.internationaltaxreview.com/article/2b6p9yrs66oxxwfnehla8/sponsored/indonesias-vital-breakthrough-with-the-beps-two-pillar-solution.

facilitate MNEs in their compliance with said legislation. As a result, MNEs would experience a significant reduction in the expenses associated with tax compliance. Reduced tax compliance expenses can be considered a motivating factor for MNEs to conduct their business activities within a particular jurisdiction.

Adherence to international best practices can facilitate tax authorities to perform their duties. One advantage of convergence with international best practices is that it enables tax authorities to acquire insights from their counterparts on implementing specific regulations. Enhanced collaboration can be attributed to the standardisation of tax legislation. In addition to this, tax administrations derive advantages from the clear framework used in tax regulations. It also enables tax authorities to scrutinise and rectify transactions deemed artificial or devoid of economic substance.

Indonesia has just implemented a new governmental rule, namely Indonesian Government Regulation No.55/2022, which pertains to the modifications made in the domain of income taxes. This law provides a legal framework for several anti-avoidance measures in Indonesia. Anti-avoidance regulations contain provisions to deter taxpayers from employing deceptive or artificial transactions to reduce their tax liabilities. Implementing these regulations is essential as taxpayers consistently strive to minimise their tax liabilities, often resulting in the desire to exploit legal loopholes or engage in transactions lacking genuineness.

Tax avoidance presents a substantial obstacle for every country.[20] The distinction between avoidance and evasion should not be overlooked. Evasion pertains to the deliberate and dishonest act of misrepresenting one's income throughout the reporting process. For example, a business that primarily engages in cash transactions may deliberately understate its income statistics or fail to provide any tax documentation. Avoidance is the deliberate and planned practice of structuring transactions in a manner that artificially reduces tax obligations. This is done to reduce the taxes that would otherwise be payable according to the applicable tax regulations.[21]

The anti-avoidance instruments regulated in Government Regulation No.55/2022 include:

- controlled foreign company (CFC) arrangement,
- special purpose company (SPC) scheme handling,
- interest fee limitation, and
- hybrid mismatch arrangement handling.

Based on Article 32 of Government Regulation No. 55/2022, the Directorate General of Taxes of the Republic of Indonesia may re-determine the amount of tax that should be payable based on the economic substance over form principle.[22]

The CFC rule is a tax policy implemented with the intention of discouraging domestic taxpayers from shifting their income to jurisdictions that have minimal or non-existent tax requirements through the use of foreign corporations.[23] These regulations aim to mitigate tax avoidance tactics by imposing taxation on the earnings of overseas subsidiaries under the control of individuals or companies residing in the domestic jurisdiction. The implementation and scope of CFC rules exhibit significant variation across different countries. Article 34 of the

20 Prebble R. & Prebble J. (2010). Does the Use of General Anti-Avoidance Rules to Combat Tax Avoidance Breach Principles of the Rule of Law? A Comparative Study. 55 *Louis ULJ* 1, p. 21.

21 James Kessler (2004). Tax Avoidance Purpose and Section 741 of the Taxes Act 1988. 4 *BRIT. TAX REV.*, pp. 375, 376.

22 Republic of Indonesia (2022). Government Regulation No.55/2022 Concerning the Adjustments in the Field of Income Taxes.

23 OECD (2015). *Designing Effective Controlled Foreign Company Rules, Action 3 - 2015 Final Report*, https://doi.org/10.1787/9789264241152-en.

Government Regulation No.55/2022 regulates that the CFC rules in Indonesia include determining when dividends will be considered as received and the basis for calculating and determining when dividends will be received for overseas business entities that are required to submit Annual Tax Returns and overseas business entities that do not have an obligation to submit Annual Tax Returns.[24]

An SPC is a legally established entity designed to serve a distinct and typically restricted objective.[25] SPCs are frequently employed in a range of financial and corporate operations to accomplish distinct goals, such as risk mitigation, streamlining financing processes, or retaining specific assets. The characteristics and purposes of SPCs may exhibit variability, although they are typically built to fulfil a well-defined objective or attain a certain aim. In Indonesia, the treatment of SPCs is regulated in Government Regulation No.55/2022 in Article 38 and Article 39. Article 38 regulates the determination of whether there is an unfair price determination where parties who purchase company shares or assets through other parties or bodies formed for such purposes. A party or entity formed for the purpose of purchasing company shares or assets is a party or entity that does not have business substance and is formed by a domestic taxpayer with the aim of purchasing shares or assets of other domestic taxpayers. Meanwhile, Article 39 regulates the determination of the party carrying out the sale or transfer of company shares of those established or domiciled in a country that provides tax protection and is related to an entity established or domiciled in Indonesia or a permanent establishment in Indonesia. The sale or transfer of shares of the intermediate company, as referred to above, can be determined as a sale or transfer of shares of the entity established or domiciled in Indonesia or the permanent establishment in Indonesia.[26]

Interest limitation rules, commonly referred to as interest expense limitations or thin capitalisation rules, are regulatory measures enforced by tax authorities with the aim of constraining the deductibility of interest expenses for taxation reasons. The primary objective of these regulations is to mitigate profit shifting and base erosion by imposing restrictions on the allowable deduction of interest when computing taxable income.[27] Interest limitation rules can manifest in diverse ways, with their specific characteristics being contingent upon the jurisdiction in question. In Indonesia, aside from being regulated in Government Regulation No.55/2022, interest limitation rules are also regulated in Law No.7/2021 concerning the Harmonisation of Tax Regulations. The regulation allows the Ministry of Finance of the Republic of Indonesia to limit the amount of loan fees that can be charged for the purposes of calculating tax. In the Elucidation to Article 18 paragraph (1) of the Income Tax Law, it is emphasised that the limit on the amount of interest fees that can be charged for tax purposes is determined through a method of determining a certain reasonable level of comparison regarding proportion of debt and capital (debt to equity ratio), or through a certain percentage of the costs. Loans are compared with business income before deducting loan costs, taxes, depreciation, and amortisation (earnings before interest, taxes, depreciation, and amortisation)

24 Republic of Indonesia (2022). Government Regulation No.55/2022 Concerning the Adjustments in the Field of Income Taxes.

25 Feng M., Gramlich J. D., & Gupta S. (2009). Special Purpose Vehicles: Empirical Evidence on Determinants and Earnings Management. 84 *The Accounting Review* 6, pp. 1833-1876.

26 Republic of Indonesia (2022). Government Regulation No.55/2022 Concerning the Adjustments in the Field of Income Taxes.

27 OECD (2016). *Limiting Base Erosion Involving Interest Deductions and Other Financial Payments, Action 4 — 2016 Update: Inclusive Framework on BEPS*, https://doi.org/10.1787/9789264268333-en.

or through other methods.[28] This regulation updates the previous arrangement in which the Ministry of Finance may only limit the interest fees based on the debt-to-equity ratio.[29]

The term "hybrid mismatch" pertains to a scenario in which the tax treatment of a financial instrument differs between two countries, resulting in unanticipated tax benefits or drawbacks.[30] The occurrence of these mismatches can be attributed to variations in the classification or characterisation of financial instruments within the tax legislations of diverse countries. Hybrid mismatches may give rise to instances of double deductions, double non-taxation, or a combination thereof, hence creating possible avenues for tax arbitrage. Article 43 of the Government Regulation No.55/2022 regulates how Indonesia's tax authority handles hybrid mismatch arrangements. The hybrid mismatch arrangement handling revolves around re-calculation of the amount of tax that should be payable without charging payments made by domestic taxpayers to foreign taxpayers as costs that reduce income due to the use of differences in tax treatment of an instrument or entity which may have more than one characteristic in the country or jurisdiction where the taxpayer is domiciled. That said, payments made to foreign taxpayers could not be deemed as deductible expenses if the foreign taxpayers do not consider the payments as income subject to tax (non-inclusionary deduction) or charge the payment as a deduction from income (double deduction) in the country or jurisdiction where the foreign taxpayer is domiciled, in which making that said payments non-taxable or subject to low tax both in Indonesia and in the country or jurisdiction where the foreign taxpayer is domiciled.[31]

Aside from regulating the anti-avoidance instruments, Government Regulation No.55/2022 also allows the application of Multilateral Advance Pricing Agreements (APAs).[32] Multilateral APA refers to an agreement that encompasses three or more tax jurisdictions with the aim of resolving transfer pricing disputes. Multilateral APAs serve as a system via which tax authorities can engage in collaborative efforts to establish a consensus regarding the most suitable transfer pricing technique for transactions involving related parties. This process aims to prevent or resolve instances of double taxation. However, the implementation of Multilateral APA is yet to be regulated in detail.

2.4 Future Outlook of International Tax Reform in Indonesia: Transfer Pricing Simplification

Transfer pricing reforms have been a prominent feature of international tax discussions, spearheaded mainly by the OECD. The changing landscape of the transfer pricing framework impacts MNEs and poses significant challenges for tax administrations. As these reforms introduce layers of complexity in applying the arm's length principle most effectively, doubts emerge regarding the net outcomes of the modifications, given the administrative burdens they impose.[33]

In Indonesia's practice, conducting benchmarking analysis on transactions between re-

28 Republic of Indonesia (2021). Law No.7/2021 Concerning Harmonization of Tax Regulations.

29 Ministry of Finance of the Republic of Indonesia (2015). Ministry of Finance Regulation No. 169/2016 Concerning the Determination of the Debt-to-Equity Ratio of Companies to Calculate Income Taxes.

30 OECD (2015). *Neutralising the Effects of Hybrid Mismatch Arrangements, Action 2 — 2015 Final Report*, https://doi.org/10.1787/9789264241138-en.

31 Republic of Indonesia (2022). Government Regulation No.55/2022 Concerning the Adjustments in the Field of Income Taxes.

32 Republic of Indonesia (2022). Government Regulation No.55/2022 Concerning the Adjustments in the Field of Income Taxes.

33 Treidler O. (2023). *A Global Conversation on the Amount B Discussion Draft*, https://www.taxnotes.com/special-reports/digital-economy/global-conversation-amount-b-discussion-draft/2023/10/27/7hgvz.

lated entities presents significant challenges for tax administration and taxpayers. Issues in this matter include lack of local comparable companies when the Indonesian entity is used as a tested party. As such, the geographical criteria in searching strategy are commonly set to include potential comparables from neighbouring countries or even broader regions like the Far East and Central Asia. Consequently, complex effort is needed to increase the comparables' accuracy and degree of comparability. Having said that, transfer pricing analysis becomes resource-intensive and time-consuming.[34] In addition, transfer pricing disputes arise owing to the different perspectives taken by tax authorities and taxpayers on those analyses.

Amidst the comprehensive reforms, Amount B of the Pillar One project emerges as a pivotal part of the overhaul, particularly concerning inbound baseline marketing and distribution activities in transfer pricing. Proposed within the OECD Inclusive Framework, Indonesia has been actively engaged in discussing and formulating the Amount B concept through joint Working Party No.6 — FTA MAP forum. Indonesia's role in the OECD's agenda on Pillar One has become more noticeable, especially by setting the agenda and priorities for the project since Indonesia's Director of International Taxation, Mekar Satria Utama, has been appointed as a new member of the OECD Inclusive Framework Steering Group.[35] Amount B will be incorporated into the OECD Transfer Pricing Guidelines 2024, and countries that opt to implement Amount B can elect to apply it either as a rule or as a safe harbour provision.

Amount B has been devised with the explicit objective of streamlining the application of the arm's length principle, specifically concerning baseline marketing and distribution activities. It is worth noting that simplification constitutes a recognised strategy within the broader context of transfer pricing reform, as acknowledged by the World Bank.[36] Furthermore, it is pertinent to observe that a significant proportion of transfer pricing disputes pertains to enterprises engaged in marketing and distribution operations. As a consequence, the primary purpose of this simplification initiative is to address and mitigate these disputes effectively.

Amount B is a potential solution that might be integrated into Indonesian transfer pricing regulations, either as a rule or a safe harbour provision. However, it is essential to note that Indonesia's current transfer pricing regime does not recognise either safe harbour or simplification provisions in terms of pre-determined margin. The existing simplification measures primarily revolve around thresholds determining which companies must file transfer pricing documentation based on total transaction volume per fiscal year.[37] Therefore, the incorporation of Amount B as a safe harbour provision stands to alter Indonesia's transfer pricing landscape significantly.

As mentioned above, the challenge lies in identifying local comparable companies in the commercial market database in Indonesia. This may be due to the absence of legal mandatory financial information disclosure for unlisted companies. The absence of a legal obligation for unlisted companies to publicly disclose finan-

34 Ezenagu A. (2019). *Safe Harbour Regimes in Transfer Pricing: An African Perspective: Working Paper 100*, https://www.ictd.ac/publication/safe-harbour-regimes-in-transfer-pricing-an-african-perspective/.

35 Septian Fachrizal (2023). *Indonesia's Hopes for Pillar One*, https://www.internationaltaxreview.com/article/2bp434q4b-k15xf8s5t14w/indonesias-hopes-for-pillar-one#:~:text=Indonesia%20has%20been%20putting%20its,its%20piece%20of%20the%20cake.

36 World Bank Group (2021). *Policy Note: Transfer Pricing Reform*, https://thedocs.worldbank.org/en/doc/f379384861b-1f92e90418785c8c1a35c-0090072021/original/POLICY-NOTE-ON-TRANSFER-PRICING-REFORM-final.pdf.

37 Tambunan M.R.U.D. (2021). A Safe Harbour: A Predetermined Margin Method to Reduce Transfer Pricing Compliance Burden. 33 *Mimbar Hukum* 2.

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cial information poses a significant obstacle in establishing local comparables using commonly utilised external databases like Orbis. Amount B presents itself as a viable solution, potentially benefitting tax authorities and taxpayers by facilitating the comparability analysis crucial for applying the arm's length principle.

Should Indonesia decide to incorporate Amount B into its transfer pricing regime, policymakers must deliberate on adopting it as a rule or as a safe harbour provision. Under the rule approach, Amount B becomes a default pricing solution binding on eligible taxpayers, while the safe harbour approach allows taxpayers to apply Amount B.

This critical decision introduces considerations for policymakers, determining the extent of authority vested in tax administrations. Under a safe harbour approach, taxpayers can adopt Amount B; the tax authority cannot impose it when they opt out. In contrast, with the rule approach, the tax authority may enforce Amount B on eligible taxpayers meeting specific criteria. A significant challenge for Indonesia in adopting Amount B lies in developing and preparing regulations at the Ministry level. Regardless of the chosen approach, comprehensive regulatory groundwork will be imperative for a smooth implementation of this reform.

The introduction of Amount B as a safe harbour provision holds the potential to revolutionise Indonesia's transfer pricing landscape. It addresses the challenges of finding local comparables and simplifies compliance for distributor taxpayers and tax authorities. The path policymakers choose in defining the implementation approach will significantly impact the effectiveness and acceptance of this much-needed reform in Indonesia's international tax framework. Implementing Amount B as a safe harbour provision could streamline transfer pricing obligations, offering a balanced and effective solution to the challenges faced in Indonesia's current landscape. It is critical for Indonesia to consider adopting these changes to align with global standards and ease the burdens faced by both MNEs and tax authorities.

3. Conclusion

Due to the forces of globalisation, technological progress, and the expanding digitalisation of the world economy, international taxation is perpetually undergoing changes. As the digitalisation of the economy has given rise to tax-related concerns, there has been an increased focus on addressing these issues in recent years. Furthermore, measures have been undertaken to address the issue of tax avoidance and promote fair taxation. Recent development in international taxation includes the OECD/G20 Inclusive Framework on BEPS and Two-Pillar Solution. Indonesia modifies its tax regulations in response to this development in international taxation. Indonesia has issued a Government Regulation establishing the legal framework for several anti-avoidance instruments, including hybrid mismatch arrangements, CFC rules, and SPC management. Meanwhile, this regulation permits the execution and submittal of Multilateral APA in Indonesia. Furthermore, the Two-Pillar Solution's advancements provide valuable perspectives on the potential for optimising the implementation of the arm's length principle in distribution and marketing operations within Indonesia. In general, the reform of international taxation in Indonesia is highly integrated with the global development in international taxation.

The Hainan Free Trade Port Tax System: Past, Present and Future

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Abstract: Since President Xi Jinping announced the Chinese central government's decision to transform Hainan into a highly open free trade port (FTP), the region has experienced unprecedented growth and development. In order to support this progress, a comprehensive policy framework has been introduced and successfully implemented, with tax policy playing a crucial role in its success. Under the principles of zero tariffs, low tax rates, simplified taxation processes, effective tax law enforcement, and phased implementation, Hainan FTP's tax system has embarked on a new voyage, providing businesses with the strongest support ever introduced in China. The most fundamental changes pertain to income tax incentives for both individuals and businesses, and additional supportive measures in VAT have also been implemented to facilitate a strong free-trade economy. Meanwhile, it is hopeful that structural changes in the Hainan FTP tax system will also be in place after 2025.

Keywords: Hainan Free Trade Port; Tax system; Income tax incentives; VAT

1. Introduction

Nowadays Hainan, China's southernmost province, emerges as a promising gateway to the Pacific and Indian Oceans, a pivot along the Belt and Road Initiative and the New International Land-Sea Corridor in the western region of China. The once backwater province has gained unprecedented momentum as the central government vows to turn this tropical island into a globally significant free trade port (FTP) with distinctive Chinese features.

The conception of building a free trade port in China first came up in the report to the 19th National Congress of the Communist Party of China (CPC) in 2017 when China was exploring a new paradigm for all-around opening up.[1] In April 2018, Hainan was brought into focus when President Xi Jinping announced the central government's decision to build Hainan, in steps and stages, into a pilot free trade zone and then a free trade port with the highest level of openness in the world at the celebration of the 30th anniversary of the founding of Hainan Province and the Hainan Special Economic Zone.

In June 2020, the Overall Plan for the Construction of Hainan Free Trade Port (hereinafter referred to as "Overall Plan") outlines a three-step development

1 *Report by Xi Jinping at the 19th National Congress of the Communist Party of China*, http://ro.mofcom.gov.cn/article/chinanews/201711/20171102674100.shtml.

strategy spanning the next 30 years: (i) basically establishing the Hainan Free Trade Port system featuring trade and investment liberalization and facilitation by 2025, (ii) growing into a pacesetter for open economy in China in the following decade, and (iii) growing into a free trade port with strong international influence by the middle of the century.[2]

Soon in June 2021, the Hainan Free Trade Port Law was promulgated, the first-ever law in China that was enacted to promote the economic development of a certain region, giving the Hainan FTP more autonomy in reform and opening up.

More recently, in October 2022, the report to the 20th CPC National Congress made it clear to "work faster to develop the Hainan Free Trade Port".[3] In this context, Hainan pledges to become a confluence in China's dual circulation development[4], helping Chinese companies to expand overseas operations and foreign companies to access the Chinese market, and a flagship leading China's reform and opening up in the new era.

2. Principles of the Hainan FTP Tax System

The policy and institutional framework of the Hainan FTP can be summarized as "6+1+4", which aims to:

- promote the free and convenient flow in five aspects (trade, investment, cross-border capital, transportation and personnel) and a safe and orderly data flow in the Hainan FTP;
- establish a modern industrial system in the Hainan FTP through developing tourism, modern services and high-tech industries; and
- emphasize institutional innovation in four aspects (taxation, social governance, rule of law and risk prevention and control).

Under the "6+1+4" framework, the Overall Plan proposes five principles in guiding the tax innovation in the Hainan FTP, i.e. zero tariffs, low tax rate, simplified taxation, effective law enforcement, and phased implementation.

2.1 Zero Tariffs Strategy

On the premise of achieving effective regulation, Special Customs Supervision Zones (SCSZs) will be established in the Hainan FTP to support the island-wide independent customs operation to be initiated from 2025. The trade control policies in the Hainan FTP will adhere to international norms and practices. Although SCSZs are in the territory of China, enterprises in the SCSZs are treated as those beyond the customs territories of China.

For goods entering the Hainan FTP from abroad, tariff exemption policy is implemented across two stages. Before the island-wide independent customs operation is initiated, certain categories of goods imported into the Hainan FTP can be exempt from import duties, import value-added tax (VAT) and consumption tax.

After Hainan has independent customs operation and simplified tax system in place, goods allowed to be imported into the Hainan FTP will be exempt from import duties unless included in the catalogue for import taxation.

For goods entering other regions within the customs territories of China from the Hainan FTP, customs clearance is compulsory, and import duties, import VAT and consumption tax are levied as per relevant legislation. However, import duties will be exempt for enterprises that are registered in the Hainan FTP and engaged in "encouraged industries" catalogue if:

- The goods do not contain imported materials; or
- No less than 30% of the added value (i.e. mark-up on imported materials) is generated

2 *Overall Plan for the Construction of Hainan Free Trade Port*, http://en.hnftp.gov.cn/policies/Document/202008/t20200818_3288396.html.

3 Xinhua (2022). *Full Text of the Report to the 20th National Congress of the Communist Party of China*, https://english.www.gov.cn/news/topnews/202210/25/content_WS6357df20c6d0a757729e1bfc.html.

4 The "dual circulation" development paradigm is a major strategy championed by Chinese President Xi Jinping, featuring domestic and overseas markets reinforcing each other with the domestic market as the mainstay.

when their goods are further processed in the Hainan FTP.

2.2 Low Tax Rates

Income tax rates are a core element in determining the international competitiveness of a free trade port. As one of the highlights in tax innovation for Hainan FTP, low corporate income tax (CIT) rate of 15% and individual income tax (IIT) rate targeted at specific groups aim to pool investment (capital, fund and resources) and human capital (highly skilled professionals, workforce and population) into the Hainan FTP to sustain the development of the free trade port.

2.3 Simplified Tax System

In line with national tax reform, the simplified tax system is designed to reduce the proportion of indirect taxes, make tax structure more simple and reasonable, optimize the elements of tax system and remarkably alleviate tax burden.

Introducing the "sales tax" is the major task in streamlining tax structure in the Hainan FTP. Specifically, under the independent customs operation, various turnover taxes (i.e. VAT, consumption tax, vehicle purchase tax, urban maintenance and construction tax (UMCT), and education surcharge) will be consolidated into a single "sales tax" levied on goods and services for retails, replacing the existing commodity circulating taxation system in China. Such tax reform is expected to significantly reduce transaction costs for market entities, promote trade and investment facilitation and drive the economic growth of the Hainan FTP.

2.4 Enhanced Law Enforcement

To prevent tax shelter abuse in the Hainan FTP, based on the place of effective economic activities and the place where value is created, tax authorities assess and monitor tax compliance, set up clear and practical criteria for judging place of substantive operation and place of residence, identify tax evasion risks as well as prevent base erosion and profit shifting (BEPS). Active engagement in global cooperation in tax-related matters is crucial in enhancing tax compliance and tax-related information sharing.

2.5 Phased Implementation

Matching with different development stages of the Hainan FTP, the preferential tax policies that aim to ease tax burdens through zero tariffs, low tax rate and a simplified tax system will be implemented to establish an innovative tax regime with strong international competitiveness.

The tax policies, released in the early development stage of the Hainan FTP, function as "transitional and institutional arrangement". As early institutional arrangements, their purposes are to attract business investment, and solidify foundation for institutional innovation. Transitional in nature, such policies are used as an instrument to conduct stress tests to (i) reduce the gaps between policies and practices in establishing the Hainan FTP tax system; and (ii) build an insights repository on tax innovation for China's further reform and opening up in the new era.

3. Current Tax Incentives

The current tax incentives in the Hainan FTP mainly cover the IIT, CIT, import VAT, zero tariffs, offshore duty-free shopping and imported exhibits at national-level expo.

3.1 Individual Income Tax

According to the Overall Plan, during 2020-2024, the amount of income in excess of the taxable burden subject to a 15% personal income tax rate, earned by high-end talents and highly-demanded talents employed in the Hainan FTP, is exempt from individual's taxable income in the following categories: comprehensive income and business income earned in the Hainan FTP, as well as talent subsidies recognized by the Hainan Provincial Government.

Comprehensive income covers salaries or wages, remuneration for providing services, author's remuneration and royalties, not including investment income (e.g. dividend, interest and bonus).

Unlike China's Guangdong-Hong Kong-Macao Greater Bay Area (GBA) that provides IIT incentives only for overseas qualified talents working within the GBA, the Hainan FTP expands the IIT tax benefits to qualified talents in and outside the Port.

3.2 Corporate Income Tax

To date, three CIT incentives have been rolled out for the Hainan FTP, targeting various elements of the tax structure (such as tax rates, tax base, etc.). These broad-based incentives are innovative in the way that they are moving from "foreign tax credit" system to "foreign tax exemption" system in an effort to promote cross-border investment.

3.2.1 A reduced 15% CIT rate

A reduced 15% CIT rate is available to enterprises registered in the Hainan FTP and conducting substantive business operations in encouraged industries. Specifically, qualified enterprises must meet the following conditions:

- The management institution is located in the Hainan FTP and the operation documentation must justify a substantive and comprehensive local management and control over the enterprise's business operation, personnel, accounts, properties and other relevant aspects;
- The primary business activity of the enterprise must fall in *The Catalogue of Encouraged Industries for Foreign Investments in the Hainan Free Trade Port (2020)*; and
- The revenue from the encouraged business must account for 60% or more of gross revenue.

3.2.2 Tax exemption on new foreign-sourced direct income

According to the Overall Plan, enterprises established in the Hainan FTP that are engaged in the tourism, modern services, high- and new-technologies sectors can be tax-exempt on income derived from new overseas direct investment from 1 January 2020 to 31 December 2024.

New foreign direct investment may be made through (i) establishing a new branch or enterprise in a foreign jurisdiction; (ii) increasing capital and expanding the shares of existing overseas enterprises; and/or (iii) acquiring equity of overseas enterprises.

During this period, tax exemption applies to:

- income from operating profits from newly established overseas branches;
- dividend income that is a result of new direct investment derived from overseas subsidiaries in which the Hainan-registered enterprise holds a 20% or more equity.

To enjoy the tax exemption, the foreign jurisdiction, where the overseas branch is located or investment is made, must impose a statutory income tax rate of no less than 5%.

3.2.3 Accelerating pre-tax deduction for capital expenditures

According to the Overall Plan, eligible capital expenditures are allowed to be fully deducted from the taxable income or to be depreciated and amortized at an accelerated speed in the current accounting period. This tax treatment applies to fixed assets or intangible assets which are acquired by enterprises registered in the Hainan FTP through "currency purchase", and are "independently built or developed" between 1 January 2020 and 31 December 2024.

- For assets with a unit value at RMB5 million or less, a one-off pre-tax deduction is allowed, which can be recognized as an immediate expense when calculating the taxable income;
- For assets with a unit value over RMB5 million, accelerated depreciation or amortization is allowed by using the double-declining-balance method or sum-of-years-digits method.

It should be noted that the methods for calculating depreciation and amortization generally cannot be changed once determined. Plus, the minimum depreciation or amortization period cannot be less than 60% of the minimum depreciation period as prescribed in the CIT Law.

3.3 Value-added Tax

To support China's national strategy of building a high-level modern transportation system, China released the *Master Plan for the New Western Land-Sea Corridor* in which the Yangpu Port, located on the west coast of Hainan Island, is positioned to develop into an international container shipping hub.[5] To support this goal, the central government has rolled out the following tax preferential policies:

5 https://language.chinadaily.com.cn/a/201908/16/WS5d563982a310cf3e355662af.html.

• Domestically built ships registered at Yangpu Port of China and engaged in international shipping are entitled to export tax rebate as in the situation of export;

• Domestic ships transporting both domestic and foreign trade cargo using Yangpu Port of China as a transit port are eligible to refuel with bonded oil for the current voyage that is to or from the Yangpu Port of China. Tax rebate is applicable if they refuel with locally produced oil.

• A trial policy of tax rebate at port of departure is applicable to container cargoes that meet relevant conditions and transit at Yangpu Port of China for final departure from China; and

• Domestic and international flights entering and leaving Hainan Island are allowed to refuel with bonded aviation oil at the island's public airports at the bonded price.

3.4 Zero Tariffs Package, Imported Exhibits and Offshore Duty-Free Shopping

The zero tariffs measures for the Hainan FTP are managed by one negative list and two positive lists. Specifically, the negative list applies to self-use production equipment imported by enterprises, except for goods that are not exempt from taxes as prescribed in laws, regulations and relevant provisions and goods that are banned from import as stipulated in national provisions.

The positive lists apply to the following goods:

• Ships, aircraft and other means of transport imported to Hainan for transportation and tourism; and

• Raw and auxiliary materials imported by eligible enterprises for production either for their own use, or for exporting final products/services.

Zero tariffs treatment also applies to specific imported exhibits sold within the sales limit at the China International Consumer Products Expo (CICPE), also known as the Hainan Expo.

Starting from April 2011, China has piloted a duty-free shopping scheme in Hainan Province, one of the four duty-free zones for islands in the world, making dynamic adjustment based on duty-free quotas, product categories, and shopping frequency. To date, the quota for offshore duty-free shopping has tripled to RMB100,000 per person/per year with further expanded categories.

All these above-mentioned preferential tax incentives have injected impetus into the key industries in the Hainan FTP with a focus on tourism, modern services and high- and new-tech sectors, boosting inbound consumption repatriation in China and the construction of international tourism and consumption center in Hainan.

4. Looking Ahead

The early achievements are commendable. Foreign direct investment (FDI) flowing into the Hainan FTP, in actual use, doubled successively from 2018 to 2020,[6] and remained constantly positive in the subsequent years.

The Hainan FTP will continue to innovate its tax regime in line with the national tax reform. It will be tasked in the following three aspects:

• **The CIT incentives expansion**: a reduced 15% CIT rate that currently applies to positive list management will turn into negative list of management mode. This means that the tax treatment will be expanded to all qualified enterprises that are not on the negative list.

• **The IIT incentives expansion**: by 2035, the IIT benefits will not be limited to high-end and urgently needed talents working in the Hainan FTP. The IIT brackets on comprehensive income and business income earned from the Hainan FTP will apply to 3%, 10% and 15% for any individual who has aggregately stayed in the Hainan FTP for 183 days during a tax year.

• **More tax autonomy to Hainan**: the CIT and IIT will be collected by the central government and shared in a pre-determined proportion with the Hainan Provincial Government. Sales tax and other domestic taxes will be collected and fully retained by the latter.

6 Hainan Provincial Bureau of Statistics & Survey Office of National Bureau of Statistics in Hainan (2023). *Hainan Statistical Yearbook 2023*. Beijing: China Statistics Press.

Taxation of E-commerce: Global and National Trends

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Abstract: This article aims to assess the significance of electronic commerce (e-commerce) and digitalization, and examine the existing taxation practices both globally and in the Republic of Azerbaijan. In contrast to traditional trade, e-commerce relies on modern digital solutions for conducting business operations. When we examine the statistics of e-commerce turnover, it becomes evident that both globally and within the Republic of Azerbaijan, there has been a consistent upward trajectory in turnover over the years. Consequently, it is imperative to emphasize the significance of regulating activities stemming from various emerging trends in e-commerce and adopting a more intricate approach to electronic tax accounting for non-resident entities engaged in e-commerce.

Keywords: E-commerce; International taxation; Base Erosion and Profit Shifting

1. Introduction

The remarkable expansion of the internet has led to the emergence and implementation of electronic commerce (e-commerce), fundamentally transforming the way business is conducted in the contemporary world. Through e-commerce, businesses are capable to sell their products or services globally, often with minimal physical presence in a specific consumer's country. They can also operate without intermediaries since they can engage with customers worldwide directly, conveniently, and cost-effectively.

E-commerce presents challenges in terms of political disputes and authority because of its operation within a borderless virtual realm. However, in my opinion, it also has broader implications. The complexity of e-commerce makes it increasingly difficult to accurately determine the locations of buyers and sellers for taxation purposes. As a result, governments are witnessing substantial losses in tax revenue due to the growing prevalence of e-commerce within their jurisdictions, and their tax authorities are struggling to combat this erosion. This loss of revenue, stemming from the expanded use of e-commerce, has triggered discussions on the necessity of devising practical methods for taxing e-commerce transactions to address tax avoidance.

As a result, legislators in different regions are currently assessing tax policies related to e-commerce to understand how these policies might either hinder or support economic goals. Nevertheless,

taxation is inherently intricate and contentious, so it's not unexpected that there are conflicting opinions and disputes in various jurisdictions concerning the taxation of e-commerce transactions. Owing to the potential of significant expansion of e-commerce and the ambiguity surrounding the establishment of internationally consistent taxation principles of this sector, along with governments' commitment to sustaining a significant source of revenue, the taxation of e-commerce is fueling substantial debates at local, national, and international tiers.

2. Global Trends of Electronic Trade

The digital economy has paved the way for various new business models. While some of these models have similarities with conventional business practices, contemporary advancements in Information and Communication Technology (ICT) have enabled the execution of a wide range of business activities on a significantly larger scale and across much greater distances than what was achievable in the past.

Electronic commerce, commonly known as e-commerce, has been broadly defined by the OECD Working Party on Indicators for the Information Society as "the sale or purchase of goods or services conducted over computer networks using methods specifically designed for the purpose of placing or receiving orders. While the goods or services are ordered online, it's not necessary for the payment and final delivery to occur online. E-commerce transactions can involve enterprises, households, individuals, governments, and other public or private organizations." E-commerce can serve to facilitate the ordering of goods or services, which are then delivered through traditional means (referred to as "indirect or offline e-commerce"), or it can involve the complete electronic ordering and delivery of goods or services (known as "direct or online e-commerce"). While e-commerce encompasses a wide range of businesses, this section provides examples of some of the more prominent types, such as business-to-business, business-to-consumer, and consumer-to-consumer models.

2.1 Business-to-Business Models

The majority of e-commerce transactions involve businesses selling products or services to other businesses, known as business-to-business (B2B) transactions, as noted by the OECD in 2011. These transactions encompass a wide range of activities, including both online adaptations of traditional practices where wholesalers acquire goods online and then retail them to consumers, as well as the provision of goods and services that support other businesses. These supporting services include:

Logistics Services: This category includes services related to transportation, warehousing, and distribution, which are essential for efficient supply chain management in e-commerce.

Application Service Providers (ASPs): ASPs offer services such as deploying, hosting, and managing packaged software from a centralized facility. This allows businesses to access and use software applications over the internet, eliminating the need for local installations.

Outsourcing of Support Functions: This involves outsourcing various support functions for e-commerce operations, such as web hosting, security, and customer care solutions, to specialized service providers.

Auction Solutions Services: Businesses may rely on service providers to manage and maintain real-time auctions conducted via the internet, enabling efficient and competitive bidding processes.

Content Management Services: These services facilitate the management and delivery of website content, ensuring that information is presented effectively to users.

Web-Based Commerce Enablers: These service providers offer automated online purchasing capabilities, streamlining the buying process for businesses and consumers.

The B2B e-commerce sector encompasses a wide array of activities beyond traditional online retail, and it plays a pivotal role in the modern global economy by providing services and products to support businesses in various industries.

2.2 Business-to-Consumer Models

Business-to-consumer (B2C) models represent some of the earliest manifestations of e-commerce. In the B2C model, businesses sell products or services directly to individual consumers who are making purchases for personal use rather than for professional or business purposes. B2C models come in various forms and can be categorized into different types:

Pureplay Online Vendors: These are businesses that operate exclusively in the digital realm, with no physical stores or offline presence. They conduct all their sales and customer interactions online.

Click-and-Mortar Businesses: These businesses combine their existing brick-and-mortar operations with online sales. In addition to physical stores, they establish an online presence to serve customers through digital channels, creating a seamless shopping experience.

Manufacturers with Direct Online Sales: Some manufacturers leverage e-commerce to interact directly with customers. They allow consumers to order products online and often offer customization options, empowering customers to tailor products to their preferences.

B2C e-commerce has revolutionized the way consumers shop, offering convenience, a wide range of choices, and the ability to shop from the comfort of one's home. It has also opened up new business opportunities for companies, driving competition and innovation in the retail sector.

2.3 Consumer-to-Consumer Models

Consumer-to-consumer (C2C) transactions are on the rise and have become increasingly prevalent in the e-commerce landscape. In C2C e-commerce, businesses function as intermediaries, enabling individual consumers to sell or rent their personal assets, such as residential properties, vehicles, motorcycles, and more. These intermediary businesses facilitate transactions by publishing the listings on their websites, and their revenue model may involve charging consumers for the services they provide. C2C e-commerce encompasses various forms, including but not limited to:

Online Auctions: These platforms allow individuals to list items for sale and enable others to place bids on these items, with the highest bidder securing the purchase.

Peer-to-Peer File Sharing Systems: These systems permit users to share files, often without the direct involvement of intermediaries, making it easier for individuals to exchange digital content, such as music, videos, and documents.

Classified Ads Portals: These interactive online marketplaces provide a platform for individuals to post classified advertisements for products or services they wish to sell or trade. These portals often facilitate negotiations between buyers and sellers.

C2C e-commerce has transformed the way people buy, sell, and trade items, as well as share digital content. It has created opportunities for individuals to monetize their assets and has led to the emergence of innovative platforms that connect consumers in various ways. Additionally, the accessibility and convenience of online C2C transactions have contributed to the growing popularity of this e-commerce model.

The internet has revolutionized the way transactions are conducted, enabling the seamless ordering of goods and services. This means that many transactions that previously occurred without internet involvement can now be executed with greater efficiency and reduced costs. Consequently, there has been a significant surge in the number of businesses conducting their transactions over the internet over the past decade.

To illustrate the growth of e-commerce, let's consider some specific examples. In the Netherlands, e-commerce has surged as a proportion of overall company revenue, climbing from 3.4% in 1999 to 14.1% in 2009. Similarly, between 2004 and 2011, this proportion increased from 2.7% to 18.5% in Norway and from 2.8% to 11% in Poland. Data comparisons reveal that e-commerce is rapidly approaching 20% of total turnover in countries like Finland, Hungary, and Sweden, and it has already reached 25% in the Czech Republic (OECD, 2015).

In 2014, the global B2C e-commerce sales surpassed an estimated USD1.4 trillion, marking

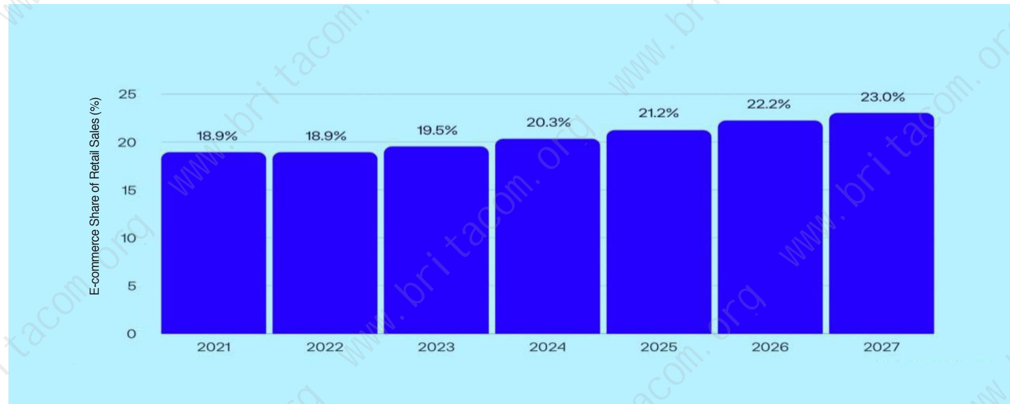

Figure 1. E-commerce share of retail sales (2021–2027)
Note: Figures in 2023-2027 are estimated.
Source: *E-Commerce Share of Retail Sales (2021–2027)*, https://www.oberlo.com/statistics/ecommerce-share-of-retail-sales.

a substantial increase of almost 20% compared with that of 2013. Projections indicate that B2C sales are set to soar, reaching an estimated USD2.356 trillion by 2018.[1] It's worth noting that the Asia-Pacific region is expected to overtake North America as the leading market for B2C e-commerce sales in 2015, as reported by eMarketer in 2014.

Additionally, according to research conducted by Frost and Sullivan, the B2B online retail market is poised to become twice the size of the B2C market, generating a staggering total revenue of USD6.7 trillion by the year 2020. This growth is significant, with B2B online sales projected to constitute nearly 27% of the total manufacturing trade, which is anticipated to reach USD25 trillion by 2020 (OECD, 2015). These statistics underscore the remarkable expansion and impact of e-commerce in both B2C and B2B sectors on a global scale.

The high interest shown by consumers has an important influence on the rapid spread of e-commerce. The choice of obtaining high-quality products at a more reasonable price in a competitive market and the ability to order products regardless of location are considered the main advantages that e-commerce creates for consumers.

Figure 1 shows that the share of global e-commerce in retail turnover is increasing year by year.

3. OECD and BEPS Project

Political leaders, media organizations, and civil society across the globe have expressed increasing apprehension regarding the tax strategies employed by multinational enterprises (MNEs). These strategies often exploit gaps in the interplay of different tax systems, resulting in the artificial reduction of taxable income or the shifting of profits to low-tax jurisdictions where little to no economic activity is conducted. In response to this mounting concern, and at the behest of the G20, the OECD released an *Action Plan on Base Erosion and Profit Shifting* (BEPS) in July 2013. Action 1 of the BEPS Project outlines the need to address the taxation challenges posed by the digital economy. While the digital economy and its business models do not generate unique BEPS issues, some of its key features exacerbate BEPS risks.

In addition, the OECD explored the theory of "virtual permanent establishment (PE)" as an alternative approach to be applied to e-commerce transactions and concluded that a number of approaches should be included to

1 OECD (2015). *Addressing the Tax Challenges of the Digital Economy, Action 1 — 2015 Final Report*, https://doi.org/10.1787/9789264241046-en.

expand the definition of PE.

In many digital economy business models, a non-resident company may interact with customers in a country remotely through a website or other digital means (e.g. an application on a mobile device) without maintaining a physical presence in the country. Increasing reliance on automated processes may further decrease reliance on local physical presence. The domestic laws of most countries require some degree of physical presence before business profits are subject to taxation. In addition, under Articles 5 and 7 of the *OECD Model Tax Convention*, a company is subject to tax on its business profits in a country of which it is a non-resident only if it has a PE in that country. Accordingly, such non-resident company may not be subject to tax in the country in which it has customers.

Although the digital economy and its business models don't inherently create distinctive BEPS concerns, certain essential characteristics of the digital economy can magnify the risks associated with BEPS. These BEPS risks were recognized, and the development of relevant actions under the BEPS Project was influenced by these insights. They were considered to ensure that the proposed solutions comprehensively tackle BEPS challenges within the digital economy.

Significant emphasis is placed on the efforts aimed at addressing the challenges related to the taxation of the digital economy, and it constitutes *BEPS Action Plan 1*. This Action in particular covers the below-mentioned issues related to taxation in the digital economy by OECD and G20 countries:

- The direct and indirect taxation;
- The establishment of a cohesive approach to tax policy and administration;
- The presence of legislation concerning the equitable distribution of income stemming from cross-border digital economic activities;
- The presence of legislation aimed at preventing income diversion by transnational corporations capitalizing on digital economic opportunities;
- The presence of legislation concerning the regulation of value-added tax (VAT) in the digital economy, with a focus on the principles of neutrality and ultimate consumption; and
- The implementation of an efficient and effective mechanism for the collection of taxes derived from commercial activities conducted on digital platforms.

4. Electronic Trade in Azerbaijan

Promoting the continuous growth of entrepreneurial activity in the Republic of Azerbaijan stands as a fundamental objective within the state's economic policy. In recent years, substantial economic reforms have been initiated, targeting specific objectives and aligning with global economic dynamics. These reforms encompass a comprehensive set of actions intended to enhance the business and investment climate, ultimately elevating the nation's standing in international rankings. In the context of the past nine years (2014-2022), the growth trend of e-commerce turnover reveals a 20% increase compared with the previous year, reaching USD5.717 trillion globally,[2] while in the Republic of Azerbaijan, there has been a remarkable 92% increase compared with the previous year, amounting to USD10.793 billion.[3]

Azerbaijan adopted the *Law on Electronic Commerce* in 2005. Due to the absence of an internet payment system at that time, the initial steps in this field commenced from 2008.

In 2008, a significant development took place with the establishment of the country's first online payment system known as "Golden-Pay", which obtained a special license from both "Mastercard" and "Visa". To foster e-commerce, efforts were made to introduce special online payment devices over time in commercial es-

2 Global retail e-commerce sales 2026, Statista.

3 Azərbaycan Respublikasının Mərkəzi Bankı - Ödəniş sistemlərinin statistikası (cbar.az).

tablishments, entertainment centers, restaurants, hotels, and other venues. Additionally, "smart card" payment systems were introduced in the transportation sector, further advancing electronic payment methods.

As a continuation of efforts to bolster this sector, President Ilham Aliyev of the Republic of Azerbaijan adopted the *State Program on Development of Communication and Information Technologies in Azerbaijan for 2010-2012* (Electronic Azerbaijan) on 11 August 2010. This program identifies the widespread adoption of e-commerce solutions as a key priority in its objectives.

Furthermore, the "Azexport.az" portal was established through a Presidential Order issued on 21 September 2016. The primary objective of creating this portal is to establish a digital repository of products manufactured in the Republic of Azerbaijan and make them accessible to foreign buyers via international electronic trading platforms.

The "Azexport.az" portal has introduced the "Free Sale Certificate" in Azerbaijan for the first time. This certificate is a mandatory requirement in many countries and is essential for various products such as food, cosmetics, textiles, medical devices, and hygiene items that come into contact with the human body. Its purpose is to guarantee the safety of products in circulation. Notably, Azerbaijan is the third country in the Commonwealth of Independent States (CIS) to offer this type of certificate, marking a significant step in ensuring product safety and compliance with international standards.

As a continuation of the work carried out in the field of electronic commerce, the *State Program on Expansion of Digital Payments for 2018-2020 in the Republic of Azerbaijan* was approved by the Order of the President of the Republic of Azerbaijan dated 26 September 2018. Within the framework of the State Program, measures were taken to expand the non-cash payment environment in the country, to form non-cash payment habits, to increase the financial literacy of citizens, as well as to increase the application of innovative payment technologies, and country-wide projects were implemented.

Moreover, the *Socio-economic Development Strategy of the Republic of Azerbaijan for 2022-2026*, which received presidential approval through the relevant Order, has set its sights on easing the process of export via electronic platforms and expanding the participation of small and medium-sized enterprises (SMEs) in the realm of e-commerce.

5. Taxation of Electronic Trade in Azerbaijan

Taxation of e-commerce transactions in Azerbaijan is regulated according to the *Law of the Republic of Azerbaijan on Electronic Commerce* and the *Tax Code*. To address discrimination between residents and non-residents in the field of e-commerce and enhance transaction transparency, significant modifications were introduced to the *Tax Code* and the *Law of the Republic of Azerbaijan on Electronic Commerce* on 1 January 2017. As a result of these changes, taxes were imposed on e-commerce transactions, marking a pivotal shift towards a fairer and more transparent taxation system in this sector. Starting from 2017, several changes to the *Tax Code* have been enacted. Some of these changes are outlined below:

- The obligation of the taxpayer includes the installation of POS-terminals in compliance with the *Law of the Republic of Azerbaijan on Protection of Consumer Rights* to facilitate cashless payments and (or) function as a seller in accordance with the *Law of the Republic of Azerbaijan on Electronic Commerce* to ensure consumers' electronic payment capability;
- In instances where sellers (suppliers) of e-commerce provide goods and services, including electronically organized lotteries, other competitions and contests, and where the buyer of such goods or services is situated or registered, the location of the buyer's permanent establishment shall be deemed as the place where these goods or services are delivered or performed for the purposes of VAT; and
- A non-resident engaged in electronic commerce through an online information resource and generating income from the provision of goods and services to residents

in an electronic trade format, is subject to the electronic tax registration, re-registration, and de-registration procedures.

Currently, in the Republic of Azerbaijan, intra-governmental procedures are being implemented in connection with the approval of "the rule for electronic tax registration, re-registration and de-registration of a non-resident who carries out electronic trade through the internet information resource". If the rule is approved, the electronic tax accounting of multinational companies, such as the "Youtube", "Facebook", "Netflix", "Tiktok", "Instagram" and other such works and services, will be carried out, which in turn will lead to voluntary compliance of those companies, and the fulfillment level will help boost cooperation at the same time.

6. Conclusion

In conclusion, the taxation of e-commerce is a complex and evolving subject with significant implications for governments, businesses, and consumers alike. As the digital economy continues to expand, it has become increasingly essential for tax policies and regulations to adapt to the changing landscape.

The challenges associated with e-commerce taxation, including issues of jurisdiction, cross-border transactions, and the need for international cooperation, demand careful consideration and thoughtful solutions. It is evident that traditional tax models often struggle to keep pace with the innovative business models and technologies that drive e-commerce.

Nevertheless, there are opportunities within this dynamic landscape. Governments can find ways to harness the economic potential of e-commerce by developing tax policies that strike a balance between promoting innovation and ensuring a fair and equitable tax system. Collaborative efforts at the national and international levels can lead to more effective taxation frameworks that benefit both tax authorities and businesses while maintaining a level of consumer trust and protection.

As electronic commerce continues to redefine the way we do business and access goods and services, the conversation surrounding its taxation will remain a vital part of our economic and policy discourse. It is incumbent upon governments, businesses, and stakeholders to work together in navigating the complexities of e-commerce taxation, with the aim of fostering growth, innovation, and fairness in this transformative era of digital trade.

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9 June 2023

BRITA·Macao Participants Visited the Guangdong-Macao In-Depth Cooperation Zone

On 9 June 2023, the Belt and Road Initiative Tax Administration Capacity Enhancement Group (BRITACEG) organized an exchange program, gathering the Belt and Road Initiative Tax Academy (BRITA)·Macao participants to visit the Guangdong-Macao In-Depth Cooperation Zone in Hengqin, Guangdong, China. BRITACEG Director, Director of the BRITA·Macao, and Director of the Financial Services Bureau of Macao, China, Mr. IONG Kong Leong, together with 13 tax officials from Angola, Brazil, Cabo Verde, Guinea-Bissau, Mozambique, Portugal, and Sao Tome and Principe, participated in the Cooperative and Exchange Conference on Taxation in Support of the Promotion of the Belt and Road Initiative (BRI) and visited the Traditional Chinese Medicine Science and Technology Industrial Park of Cooperation between Guangdong and Macao, and the Zhuhai Hengqin Bringbuys Network Technology Co., Ltd.

Mid-July to Mid-August 2023

Fifth Tax Administration Theme Day Event

During mid-July to mid-August of 2023, the fifth Tax Administration Theme Day Event highlighting Eurasia is co-organised by the Kazakhstan, Tajikistan, and Hungary tax administrations. The virtual seminar of the fifth event with speakers sharing views and practices on their current tax policies, tax administration, taxpayer services, and tax incentives for investment was concluded on 20 July, attracting participation of businesses, the BRITACOM Council Member Tax Administrations, Observers, and members of the Advisory Board. More information about the theme day event could be found on the dedicated webpage of the BRITACOM website.

11-13 September 2023

Fourth BRITACOF

The Fourth Belt and Road Initiative Tax Administration Cooperation Forum (BRITACOF) themed "Improving Tax Environment" was convened in Tbilisi, Georgia on 11-13 September 2023. More than 300 delegates, including 25 heads and deputy heads of tax authorities from 32 jurisdictions, and representatives and experts from 10 international organizations and world-famous enterprises attended this event onsite or remotely. The Fourth BRITACOF dropped the curtain with fruitful outcomes, namely Joint Statement of the Fourth BRITACOF, Action Plan for Improving Tax Environment (2023-2025), Improving Tax Environment — Best Practice, Improving Tax Environment — Theme Day Events, BRITACEG Curriculum System Version 1.0, and Annual Report of the BRITACOM (2023).

October 2023

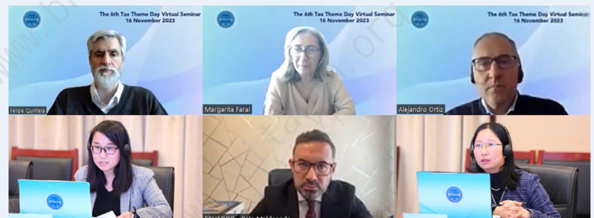
The 10th Anniversary of the BRI

As 2023 marks the 10th anniversary of the BRI, the BRITACOM Secretariat has received around 15 congratulatory letters and videos from the BRITACOM parties including Uruguay, Singapore and Hungary, expressing their congratulations and appreciation to both the BRI and the BRITACOM, and making constructive suggestions to the progress of the BRITACOM.

Mid-November to Mid-December 2023

Sixth Tax Administration Theme Day Event

The sixth Theme Day Event of the BRITACOM from mid-November to mid-December, focusing on tax policies, tax administration, taxpayer services, and tax incentives for investment of Latin American countries, is co-organised by Uruguay, Ecuador, and the Inter-American Centre of Tax Administrations (CIAT).The virtual seminar of the event was held on 16 November with speakers sharing their views and practices on the above-mentioned topics, attended by representatives from the BRITACOM Council Member Tax Administrations, Observers, the Advisory Board, and businesses. More information about the theme day event could be found on the dedicated webpage of the BRITACOM website.



The 4th BRITACOF

December 2023
Online Courses of BRITACEG

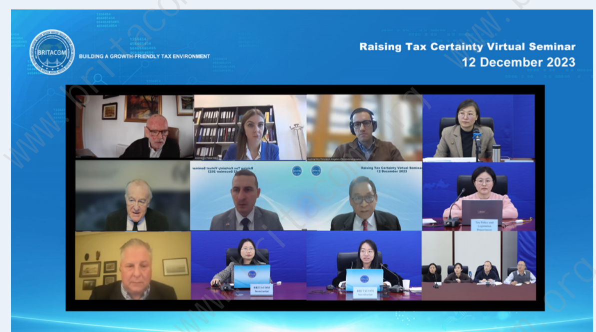
Under the framework of *Curriculum System Version 1.0*, the BRITACEG has sped up its progress of online courses released on the BRITA website (https://www.brita.top/). By the end of 2023, 65 courses will be launched under the theme of Tax System, Tax Administration and Digitalization, Tax Environment and Taxpayer Service, and Tax Cooperation, which include 8 topics, and 27 sub-topics, aiming to enhance the capacity of BRI tax officials in an all-round way.

5 December 2023
Virtual Seminar on Experiences of Tax Administration Digitalization

The Virtual Seminar with the theme of Experiences of Tax Administration Digitalization was co-hosted by the BRITACOM Secretariat and the State Revenue Committee of Ministry of Finance of Kazakhstan, Chair of Promoting Tax Administration Digitalization task force under the framework of *Nur-Sultan Action Plan (2022-2024)* on 5 December 2023, attracting more than 200 representatives including BRITACOM Council Member Tax Administrations, Observers, the Advisory Board and businesses from over 20 jurisdictions.

12 December 2023
Virtual Seminar on Raising Tax Certainty

The Virtual Seminar on Raising Tax Certainty was held on 12 December 2023. More than 160 representatives from the BRITACOM Council Member Tax Administrations, Observers, the Advisory Board, and businesses attended the seminar. All participants and speakers contributed to this informative and engaging event.



December 2023
Online and Onsite Training Programs

Focusing on the needs and interests of BRI tax officials, the BRITACEG designed a series of events with BRI characteristics. Since its establishment in 2019, the BRITACEG has already launched over 60 high quality online and onsite training programs, participated by more than 4,000 tax officials from over 120 jurisdictions. The online training programs are open to tax officials in a certain period, which provide more flexibility and save both time and cost. The onsite training programs are launched in the form of workshop and field study, offering attendees opportunities to visit local tax administrations, tax service centers, etc., which serves as a very good integration of theory and practice.

December 2023
Communication and Exchanges

The BRITACOM Secretariat sent officials to attend the annual conference of CIAT and Study Group on Asian Tax Administration and Research (SGATAR), during which the Secretariat promoted the BRITACOM through introducing its mission and vision, recent progress, and future plans. Besides, the Secretariat also received colleagues from the International Chamber of Commerce (ICC), International Tax and Investment Center (ITIC), Embassy of Poland based in China, etc. to exchange views on deepening the substantial cooperation under the framework of the BRITACOM.

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Contributions Invited

Dear readers and writers,

We highly appreciate your contribution to the *Belt and Road Initiative Tax Journal* (BRITJ), and look forward to your continuous support in the future.

As an official journal sponsored by China Taxation Magazine House in collaboration with the BRITACOM Secretariat, BRITJ is committed to serving as a platform for communication and cooperation among tax administrators, academia, tax practitioners and other stakeholders around the world, and providing strong theoretical support and international reference for tax reform and administration among the Belt and Road jurisdictions.

Given your expertise and reputation in the tax arena, we sincerely invite you to contribute papers to the journal on such themes as tax issues concerning the Belt and Road Initiative, the latest development and reform of tax system and tax administration as well as hot topics in the field of international taxation. Papers written in English with less than 5,000 words and sent in a WORD format would be highly appreciated.

Papers can be sent to britj@britacom.org. For more information, please visit our website: www.britacom.org.

Kind regards,

Editor-in-Chief
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