

11 June 2024

Ad Hoc Committee (AHC)  
to Draft Terms of Reference  
for a United Nations Framework Convention  
on International Tax Cooperation

VIA E-MAIL (ahc-tax@un.org)

**Stakeholder's Comments on Zero Draft Terms of Reference for a UN Framework Convention on International Tax Cooperation**

Dear AHC Members:

My comments presented in this letter are related to development of the proposed early protocols on (i) taxation of digitalized and globalized economy and (ii) taxation of income derived from cross-border services. I prepared these comments in my individual capacity of an economist who authored publications on user contributions to digital business models and estimation of comparative tax revenue effects from Amount A and an alternative method of taxing digital transactions known as a Digital Services Tax (DST). My comments represent my own views, and not the views of my employer, NERA Economic Consulting.

As all of us know from the personal experience, the process of digitalization is rapidly spreading around the world right now. The market size for cross-border business-to consumer (B2C) e-commerce stood at 785 billion U.S. dollars in 2021.<sup>1</sup> Remarkably, this figure far surpasses the global market size for many types of commodities such as iron ore, cotton or coffee beans. Separately, the global value of trade in digital media was estimated to reach 628 billion U.S. dollars in 2023, and the global trade in digital services in the same year was estimated at 350 billion U.S. dollars.<sup>2</sup> At the same time, these figures do not even account for the amounts earned by digital platforms from third-party advertisers.

Because of the rapid growth and sheer size of the digitalization phenomenon, tax laws adopted presently by most jurisdictions fall short of the goal of taxing the effects of digitalized economy consistently with the value contributed by different participants to respective value chains (including

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<sup>1</sup> Allied Market Research. "Cross-Border B2C E-Commerce Market Size, Share, Competitive Landscape and Trend Analysis Report by Offering, by Payment Method, by Category, by End User: Global Opportunity Analysis and Industry Forecast, 2021-20," Report Code: A31485. October 2022.

<sup>2</sup> Statista. Digital Market Insights.

advertisers and users). For instance, end users may contribute value to digital businesses by increasing the scale of a digital enterprise, which reduces operating costs per unit sold, by creating a user network that attracts new users to the platform, or by contributing content to digital platforms. Current tax laws may not adequately capture these value effects created by users.

Even though Action One of the Base Erosion and Profit Shifting (BEPS) initiative set out to address the challenges stemming from the digital economy, the result of this Action in the form of the Multilateral Convention on Amount A developed by the Inclusive Framework, regrettably, misses the mark. The companies in scope of Amount A do not necessarily include those providing digital services or those operating digitalized business models. Instead, Amount A targets only large and profitable companies, leaving most digital businesses out of scope. Moreover, Amount A assigns taxing rights to market jurisdictions over only a portion of the residual profit of the large taxpayers.

The United Nations now has a unique opportunity to take on the tax challenges arising from digitalization of the economy. By doing so, the UN can lead the way in shaping new taxation principles and ensuring their future relevance. The urgency of this task cannot be overstated.

Digital goods and services easily lend themselves to delivery across borders of sovereign jurisdictions directly to end users. For most types of digital services, the physical presence of a seller in the market jurisdiction is not necessary. This ability of digitalized businesses to operate across borders without establishing taxable presence leads to some of the most challenging tax issues associated with the digital economy. Because potential tax revenues from addressing these issues could be quite significant, I propose that efforts to develop protocols that address taxation of the digitalized economy proceed contemporaneously with developing of the Framework Convention.

Development of these protocols will demand significant time to complete. First, an agreement will have to be reached on the scope of the problems to be addressed, next estimates of the economic impact of various proposals may have to be obtained, and the general principles of taxing the digital economy will have to be agreed upon. Only after that, the country delegates will be able to embark on drafting and negotiating the actual protocol(s) to the Framework Convention.

Given the magnitude of this undertaking, I propose that this Ad Hoc Committee and the Delegates of the Member States do not postpone the work on the protocols related to taxation of digitalized and globalized economy and taxation of income derived from cross-border services until completing the work on the Framework Convention itself.

Respectfully,



Vladimir Starkov, PhD, CPA