



Taxation of the digital economy and BEPS Project

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Agenda

- ❖ **Introduction**
- ❖ **Global developments & outlook**
- ❖ **Africa developments & outlook**
- ❖ **Kenya developments & outlook**
- ❖ **Taxation of digital economy vs COVID -19**
- ❖ **Discussion**

Introduction

“Digital economy is an economy itself...”

OECD

Do you agree...



Introduction

Facebook's 'outrageous' UK tax bill puzzles financial experts

Facebook paid £28.5m in tax in Britain last year despite gross revenue of £1.6bn

- ❖ What could have wiped away all the £1.6bn ?

Introduction

- ❖ Taxation of digital economy is complex & challenging, BEPS 1.0 – (coherence, substance & transparency)
- ❖ Nexus & allocation of tax rights, objective is to tax profits where economic activities take place (prior digitilisation – sufficient physical presence and post digitalisation - ??)
- ❖ New models of doing business (e-commerce) – How does it integrate with the existing international tax framework?
- ❖ With digitilisation MNEs can operate in a country with no physical presence
- ❖ COVID -19 proofed that digital economy is a significant economy.

Global developments

- ❖ BEPS challenge - Increase shifting of profits across jurisdiction – take advantage of tax differentials
- ❖ OECD/G20 inclusive framework – BEPS 2.0 with focus on digital economy (Pillar1 & Pillar 2)
- ❖ Delays in the discussion process for BEPs 2.0, this is detrimental to revenue stuffed economies especially African countries
- ❖ Will there be an all inclusive solution? Yes or No ? – what is the impact of COVID -19?

Global developments

- ❖ Pre pandemic France & Italy and recently UK put in place DST – MNE were paying less tax.
- ❖ Political conflicts (Tax sovereignty)- France & UK intends to abandon to start negotiations with US.

US announces duties on \$1.3B in French goods in digital tax dispute

The United States believes the way the French tax is structured unfairly targets large US internet companies like Facebook, Google and Amazon.

Trade disputes

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US takes aim at digital services taxes in UK and EU

Trump administration expands probe that led to tariff threat against France last year

US pulls out of talks to tax tech giants in a blow to Europe's plans

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Africa developments

- ❖ ATAF – provided a suggested approach for its members to adopt for DST
- ❖ ATAF will be launching VAT digital toolkit
- ❖ Waiting for the outcome of the OECD inclusive framework approach; it tends more risk to African economies – move for unilateral approaches.
- ❖ A number of countries have put in place or are in process of putting up unilateral measures – Kenya, Nigeria, Tunisia, Zimbabwe, Egypt and recently South Africa

Kenya developments

- ❖ Introduction of tax on transactions carried out through the digital market place (DST and VAT)
- ❖ Target income accrued or derived in Kenya through a digital market place. Electronic platform buyers & sellers
- ❖ Final or Advance tax, for Non residents with no PE, DST is a final tax and for residents and non residents with PE will be treated as advance tax.
- ❖ What is the drive?
 - ❖ Widen the revenue base
 - ❖ Fair play between tax payers – tax neutrality

Digital economy and COVID -19

- ❖ Delay in discussion at the G20/OECD inclusive framework – delay realization of the unified approach.
- ❖ Short term it may contribute to tax revenues – subsequent e-commerce in terms of transaction values.
- ❖ Increase move towards the unilateral approach. What is the effect of the unilateral tax measures put in place by various countries?
- ❖ Kenya specific Impacts
 - ❖ DST will compliment the revenue gaps as a result of COVID 19.
 - ❖ Learning curve – subsequently provide basis in examining the applicability of the unified approach when negotiations kick off

Way forward

- ❖ What will the unified approach look like- will be adoptable to all economies
- ❖ Will the unilateral measures be sustained or they will be temporal measures.
- ❖ We anticipate increase in unilateral tax measures across the globe
- ❖ Can as an economy sustain the political pressure associated to taxation of digital economy?
- ❖ There is need to move in harmony as a continent or economic blocs.
- ❖ As a taxpayer are we ready on the impact- tax burden sharing

Q&A



Next steps

Should you have any questions please let us know

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