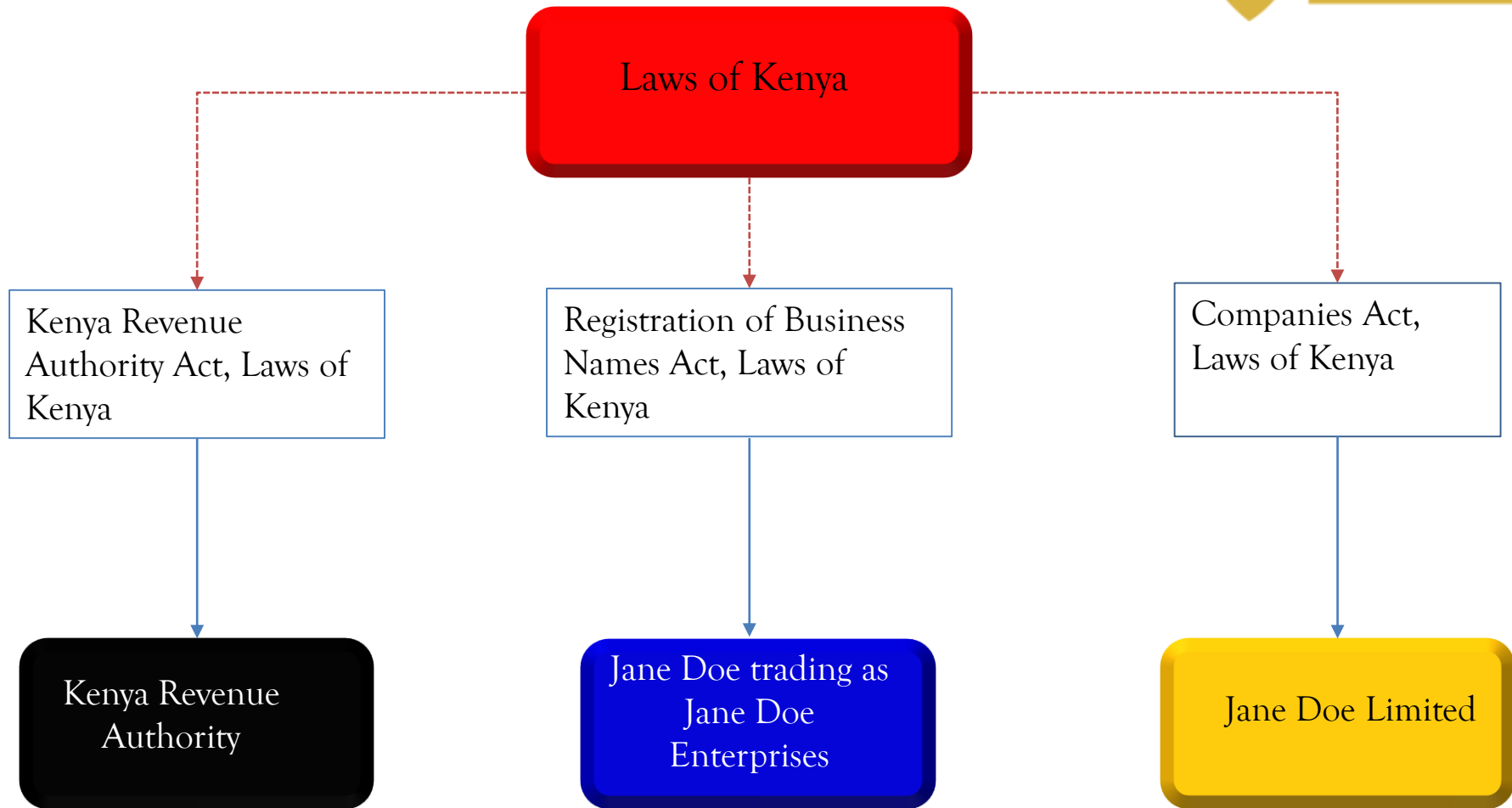




Digital Service Tax & BEPs Development on Taxation of E-Commerce

Presentation by: Kamau Maryann
Tax Consultant-Grant Thornton

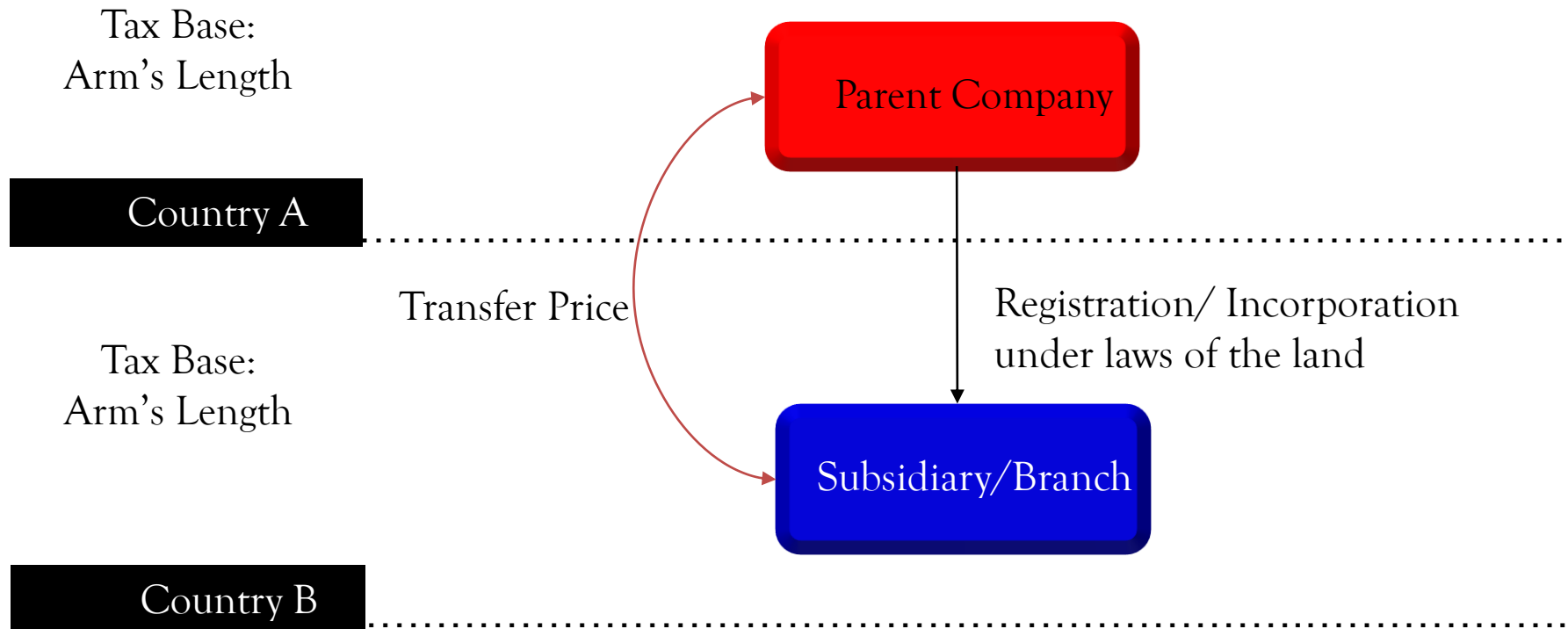
Taxing The Digital Economy



Taxing The Digital Economy



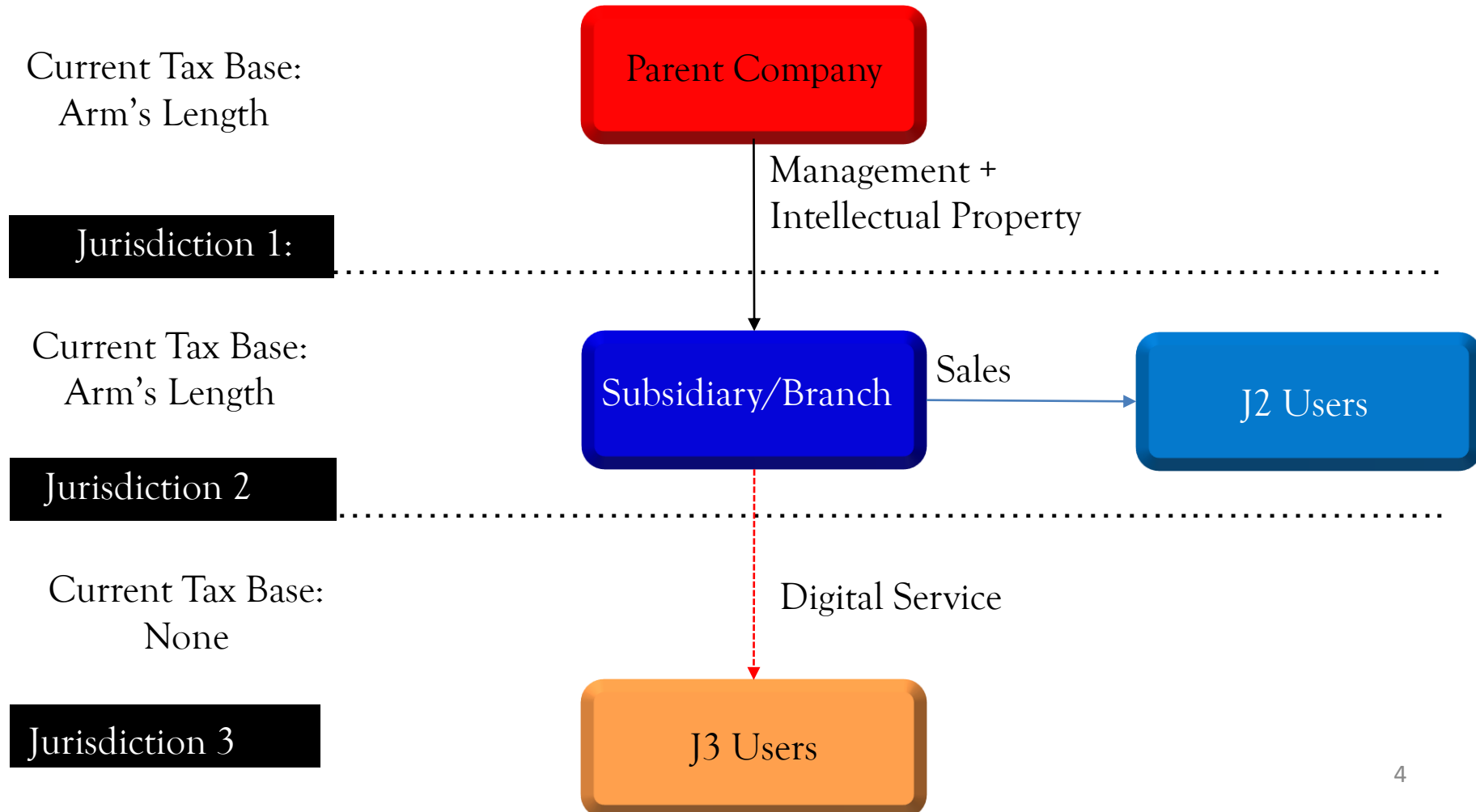
Trade Globalization



Taxing The Digital Economy



Economic Digitization



Taxing The Digital Economy



Why Digital Service Tax?

- Borderless nature of transactions;
- Revenue Leakages;
- Equalization tool.

Taxing The Digital Economy



OECD Pillar 1

- How taxing rights are allocated between jurisdictions
- What the digital economy means for traditional measures of taxable presence and intercompany transactions
- How to minimise the complexity of any proposed changes, for both taxpayers and tax authorities

Taxing The Digital Economy- Challenges



Nexus

- E-commerce has eliminated the need for physical presence;
- Current framework does not recognise a digital permanent establishment

Data

- Data is a unique asset which is not recognized in the balance sheet;
- Difficulty in calculating value of intellectual property e.g. behavioural, user, transactional etc.

Characterisation

- New digital products; and service delivery;
- classify e-commerce transactions either as business profits or royalties

Taxing The Digital Economy - Global



Country	Tax	Rate
United Kingdom	Digital Service Tax & VAT	DST rate -2% VAT rate - 20%
Canada	DST on advertising services and digital intermediation services	3%
Austria	DST on Revenues from advertising services on digital interfaces or any type of software or websites rendered in Austria	5%
Italy	DST	3%
India	<ul style="list-style-type: none">– Income Tax on revenue of a Digital PE– WHT on e-commerce transactions– Equalization levy on digital advertising	<ul style="list-style-type: none">– 40%– 1%– 6%

Taxing The Digital Economy - Global



Country	Tax	Rate
Zimbabwe	General income tax on digital services	5%
Nigeria	Revenue relating to a Digital PE	5%
Tunisia	DST – details yet to be specified	3%
Cameroon	VAT	19.25%
Algeria	VAT	9%
Ghana	VAT	12.5%
South Africa	VAT	15%

Taxing The Digital Economy - Global



Country	Status
United States of America	Awaiting global solution
Germany	Awaiting global solution
Norway	Awaiting global solution
Israel	DST rejected taxation of PE inforce
South Africa	Intention to introduce DST announced
Singapore	Awaiting global solution
Switzerland	Awaiting global solution



Taxing The Digital Economy - Kenya

Uphold public interest

Digital Service Tax



What is Digital Service Tax?

- A tax imposed on a person who provides or facilitates provision of a service through a digital platform to a user who is located in Kenya

Definition of Key Terms



Digital Market Place

A platform that enables the direct interaction between buyers and sellers of goods and services through electronic means.

Platform

- An application,
- website, or
- other internet-based content service used to transact or facilitate trade through an Electronic system.

Digital Market Place Provider

Person who provides a Platform that enables the direct interaction between buyers and sellers through a digital marketplace, website or other other applications

Digital Service

- Any service that is:
- delivered or subscribed over the internet or other electronic network
- *delivery must be automated

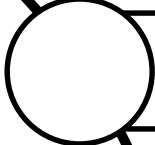
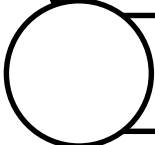
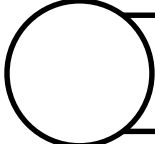
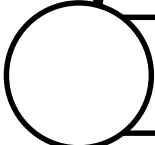
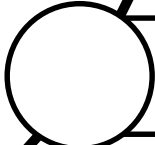
Digital Service Tax - Scope



- Downloadable digital content
 - Applications, videos, music and games
- Over the top services
 - Television streaming, podcasts and any form of digital content
- Data Monetization
 - Sale of license of or any other form of monetization data collected about Kenyan users;
- Provision of a digital market place
 - E-commerce sites, cab hailing apps, Airbnb etc
- Subscription based media
 - Newspapers, magazines and journals

Digital Service Tax - Scope



- Electronic data management  Web hosting, online data warehousing, file sharing, cloud computing and cloud storage services
- Online Ticketing  live events, theatre, performance art and similar entertainment activities
- Search Engine Services  Google search engine, Microsoft bing, yahoo, Ask.com
- Online learning  pre-recorded media, online lessons
- Any other service provided through a digital market place  Any other service provided through a digital marketplace

Digital Service Tax

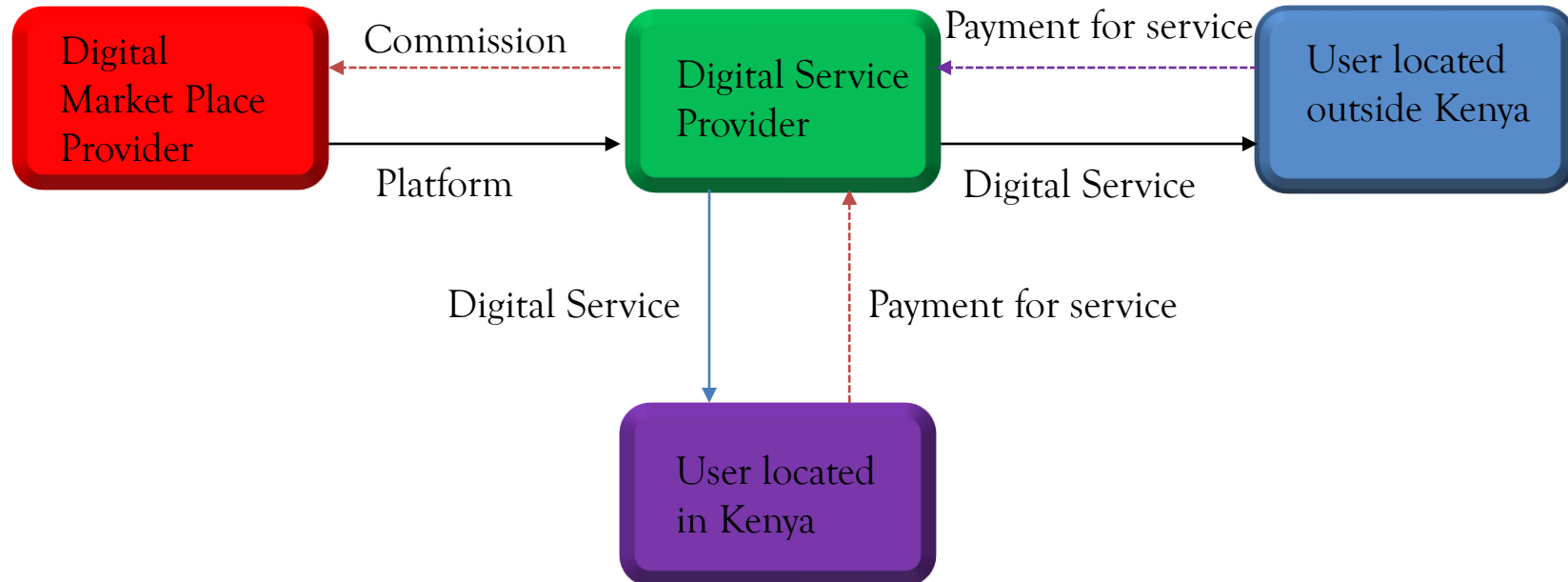


User Location

A user of a digital service shall be deemed to be in Kenya if:

- ☐ The user accesses the digital interface from a terminal (computer, tablet or mobile phone) located in Kenya;
- ☐ Payment for the digital services is made using a credit or debit facility provided by any financial institution or company in Kenya;
- ☐ Digital services are acquired using an internet protocol address registered in Kenya or an international mobile phone country code assigned to Kenya;
- ☐ The user has business, residential or billing address in Kenya.

Digital Service Tax



Digital Service Tax



Payment: 20th day of the month

DST shall be imposed on the gross transaction value (which does not include VAT) of the service as follows:

- The payment received as consideration for the services in the case of a Digital Service Provider;
- The commission or fee paid for the use of the platform in the case of a Digital Market Place Provider

Liability

Payment shall be the liability of:

- The digital service provider or digital market place provider;
- The supplier or intermediary (where an intermediary makes a supply on a digital marketplace on behalf of another person)
- The tax representative appointed by a non-resident person without a permanent establishment

Digital Service Tax



Exemptions

- ☐ Any service whose payment is subject withholding tax under Section 35 of the Income Tax Act (ITA);
- ☐ Income under Section 9 (2) of the ITA;
- ☐ Online services which facilitate:
 - payments,
 - lending or trading of financial instruments, commodities or
 - foreign exchange;

*Thank
you*

