OECD interim report on the tax challenges arising from digitalisation pursuant to BEPS Action Plan 1

Background

The 2015 Base Erosion and Profit Shifting (BEPS) Action Report 1, *Addressing the Tax Challenges of the Digital Economy*, was released in October 2015 as part of the BEPS package. The full BEPS package was endorsed by the G20 Leaders in November 2015, more than 110 countries and jurisdictions having committed to its implementation as members of the Inclusive Framework on BEPS, which was established in June 2016.

Action Plan 1 of the BEPS Project undertook to consider the tax challenges raised by digitalisation for both direct and indirect taxation. To carry out this work, the Task Force on the Digital Economy (TFDE) was established as a subsidiary body of the Committee on Fiscal Affairs (CFA), with the participation of more than 45 countries including all Organisation for Economic Cooperation and Development (OECD) and G20 members. In preparing the 2015 BEPS Action 1 Report, the TFDE drew from previous work on this topic, including the 1998 Ottawa report on *Electronic Commerce: Taxation Framework Conditions*, as well as the work of the Technical Advisory Group on Monitoring the Application of Existing Treaty Norms for Taxing Business Profits.

The 2015 Action 1 Report also identified a number of broader tax challenges raised by digitalisation, notably in relation to nexus, data and characterisation. These challenges go beyond BEPS and chiefly relate to the question of how taxing rights on income generated from cross-border activities in the digital age should be allocated among countries. The 2015 Report also recognised that in the area of indirect taxation, new challenges arose in particular with respect to the collection of Value Added Tax/ Goods and Services Tax (VAT/GST) on the continuously growing volumes of goods and services that are purchased online by private consumers from foreign suppliers.

To address these indirect tax concerns, it was recommended that countries implement the OECD’s International VAT/GST Guidelines, and in particular the destination principle for determining the place of taxation of cross-border supplies, and consider implementing the mechanisms for the effective collection of VAT/GST presented in the Guidelines. The 2015 Action 1 Report also identified a number of possible approaches for a more effective VAT/GST collection on the significantly growing volume of imports of low value goods from online sales.

To tackle the broader direct tax issues raised by digitalisation, the TFDE analysed three options, namely (i) a new nexus rule in the form of a ‘significant economic presence’ (SEP) test, (ii) a withholding tax which could be applied to certain types of digital transactions, and (iii) an equalisation levy, intended to address a disparity in tax treatment between foreign and domestic businesses where the foreign business had a sufficient economic presence in the jurisdiction. Though, none of these options were ultimately recommended in the 2015 Action 1 Report, however it was concluded that countries could introduce any of these options in their domestic laws as additional safeguards against BEPS, provided they respect existing treaty obligations, or in their bilateral tax treaties. It was agreed to continue to monitor developments in respect of the digital economy, with a further report to be delivered by 2020.
With the establishment of the Inclusive Framework in June 2016, a further mandate of the TFDE was agreed in January 2017, including for the delivery of an interim report by the end of 2018 and a final report in 2020. In March 2017, the G20 called on the TFDE to deliver an interim report1 by the 2018 IMF/World Bank Spring Meetings, which was also reiterated by the G20 Leaders at their July 2017 Hamburg Summit. With this timeframe in mind, the TFDE resumed its work, including the monitoring of developments in digital technology and business models, the individual measures taken by countries to address the broader tax challenges raised by digitalisation, and the extent of implementation and impact of the relevant Actions from the BEPS package.

The Interim Report on the tax challenges arising from digitalisation

Digitalisation, business models and value creation

The report has provided an in-depth analysis of value creation across different digitalised business models, with the aim of informing the current debate about international taxation. The report further noted that it emerged that the structure of businesses and the process of value creation have significantly evolved, especially for some enterprises and in an attempt to understand these changes, the report highlighted a number of the most salient, common characteristics of digitalised businesses. The characteristics, which will become common features of an even wider number of businesses as digitalisation continues, include cross-jurisdictional scale without mass; the heavy reliance on intangible assets, especially intellectual property (IP); and the importance of data, user participation and their synergies with IP, which are explained in detail below:

- **Cross-jurisdictional scale without mass**: Digitalisation has allowed businesses in many sectors to locate various stages of their production processes across different countries, and at the same time access a greater number of customers around the globe. Digitalisation also allows some highly digitalised enterprises to be heavily involved in the economic life of a jurisdiction without any, or any significant, physical presence, thus achieving operational local scale without local mass.

- **Reliance on intangible assets, including IP**: The analysis also shows that digitalised enterprises are characterised by the growing importance of investment in intangibles, especially IP assets which could either be owned by the business or leased from a third party. For many digitalised enterprises, the intense use of IP assets such as software and algorithms supporting their platforms, websites and many other crucial functions are central to their business models.

- **Data, user participation and their synergies with IP**: Data, user participation, network effects and the provision of user-generated content are commonly observed in the business models of more highly digitalised businesses. The benefits from data analysis are also likely to increase with the amount of collected information linked to a specific user or customer. The important role that user participation can play is seen in the case of social networks, where without data, network effects and user-generated content, the businesses would not exist as we know them today. In addition, the degree of user participation can be broadly divided into two categories: active and passive user participation. However, the degree of user participation does not necessarily correlate with the degree of digitalisation: for example, cloud computing can be considered as a more highly digitalised business that involves only limited user participation.

Among members of the Inclusive Framework, the existence of these three frequently observed characteristics of digitalised businesses is generally acknowledged but there is no consensus on their relevance and importance to the location of value creation and the identity of the value creator. There is general agreement that cross-jurisdictional scale without mass and the increased reliance on intangible assets can be highly relevant to the value creation of digitalised businesses, however, there is also agreement that these factors are not exclusive or unique to digitalised businesses. While there is general agreement that data and user participation are common characteristics of digitalised businesses, there are differences of opinion on whether and the extent to which data and user participation represent a contribution to value creation by the enterprise.

For some countries of the Inclusive Framework, the role of user participation is seen as a unique and important driver of value creation in digitalized businesses. These countries point to the participation and sustained engagement of users which allows digital businesses to collect large amounts of data through the intensive monitoring of users’ active contributions and behaviour. These countries also point to the contribution of content by users, which can be central to a digital business’ offering and central to attracting other users and generating network effects.

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In contrast, there are countries that view data collection from users, user participation, and the provision of user generated content as transactions between the users (as providers of data/content) and the digitalised business, with the digitalized business providing financial or non-financial compensation to the users in exchange for such data/content. These countries do not agree that the action by the digitalized business to source data from users is an activity to which profit should be attributed to the digitalized business solely because the data acquired may be valuable.

Differences in views over whether and the extent to which data and user participation contribute to value creation will have an impact on whether there are considered to be tax challenges arising from changing business models, whether those are unique to the application of international tax rules to digitalised firms, or whether any challenges apply to the international tax rules more broadly. Additionally, since the degree of user participation may not closely correlate with the degree of digitalisation, a pure focus on data and user participation without reference to other characterising factors may imply that the tax challenges affect only a specific, more limited group of digitalised businesses.

It was noted that further work may be needed to assess whether the different views can be reconciled in order to reach consensus on the extent of the long term tax challenges and, in turn, how long term solutions could be developed.

Implementation and impact of the BEPS package

The report further describes the current progress in the implementation of the measures outlined in the BEPS package, with a particular focus on the measures relevant to digitalisation and their impact on the behaviour of highly digitalised businesses in the context of direct and indirect tax both.

These relevant measures include the direct tax measures developed under Action 7 (prevent the artificial avoidance of Permanent Establishment (PE) status), Actions 8-10 (assure that transfer pricing outcomes are in line with value creation), Action 3 (strengthen Controlled Foreign Company (CFC) rules), Action 5 (tackle harmful tax practices) and Action 6 (prevent treaty abuse). They include also the new guidelines and implementation mechanisms relating to VAT that were agreed under Action 1 to level the playing field between domestic and foreign suppliers.

In the area of direct taxes, while it is still relatively early days, evidence is available that countries have gone a long way in achieving a widespread implementation of the various BEPS measures, and that this is already having an impact. While the adoption rate of the PE related provisions (Action 7) through the Multilateral Convention (MLI) is currently low, this does not reflect the full degree of implementation and impact of the MLI over time, as indicated by the early responses of some digitalised Multinational Enterprises (MNEs) (e.g., Amazon, eBay, Facebook) that have already started changing their trade structures based on remote sales models to local reseller models. Equally important, a significant number of MNEs have already taken pro-active steps aimed at aligning their corporate structures with their real economic activity, either by reconsidering their transfer pricing positions and/or by relocating valuable assets, such as intangibles, in jurisdictions where substantial economic activities take place (i.e., so-called “on-shoring” of assets).

This early evidence of the impact and implementation of some key BEPS measures holds much promise for the resolution of double non-taxation concerns exacerbated by digitalisation. For example, the recent US tax reform includes the concerted implementation of strengthened CFC rules (Action 3) and anti-hybrid rules (Action 2), and similarly important reforms involving the treatment of CFCs and hybrid mismatch arrangements have taken place in Japan and in European Union (EU) Member States (through the EU Council's Anti-Tax Avoidance Directives). At the same time, the relevance and impact of the BEPS measures that have been implemented are much less evident for the broader direct tax challenges raised by digitalisation (i.e., nexus, data, and characterisation). For a large number of countries, these challenges remain to a large extent unaddressed. This is because the relevant measures of the BEPS package were primarily designed to target instances of double non-taxation rather than the more systematic tax challenges posed by digitalisation.

In the area of indirect taxes, the success and impact of the BEPS implementation process is also evident. An overwhelming majority of OECD and G20 countries have adopted rules for the VAT treatment of business-to-consumer (B2C) supplies of services and intangibles by foreign suppliers in accordance with the OECD International VAT/GST Guidelines.

These jurisdictions include the 28 EU Member States, Albania, Andorra, Argentina, Australia, Bahamas, Belarus, China, Colombia, Ghana, Iceland, India, Japan, Kenya, Korea, Mexico, New Zealand, Norway, Russia, Saudi Arabia, Serbia, South Africa, Switzerland, Tanzania and Turkey. Among those that have not yet implemented the rules, many jurisdictions are now considering a reform in light of the principles of the Guidelines. This is notably
the case for Costa Rica, Indonesia, Israel, Malaysia, Singapore, Thailand, the Philippines, Tunisia, and a number of the Gulf Cooperation Council countries.

Early data shows that this has led to significant additional revenue in the adopting countries. For example, the EU has identified that the total VAT revenue declared via its simplified compliance regime in 2015 (the EU regime’s first year of operation) was in excess of EUR 3 billion.

**Relevant tax policy developments**

The report further provides a description of the design and implementation of a variety of country measures that are potentially relevant to digitalisation, notably where these measures relate to the broader direct tax challenges identified in the 2015 BEPS Action 1 Report (i.e., nexus, data and characterisation).

In 2015, the BEPS Action 1 Report identified a number of broader tax challenges relating to nexus, data, and characterisation for direct tax purposes. These challenges raised questions regarding the ability of the existing international tax framework to determine where economic activities are carried out and value is created for corporate tax purposes.

At the time that the Action 1 Report was adopted, however, no agreement had been reached among countries participating in the BEPS Project on the actual scale and impact of these broader direct tax challenges. In particular, no common view emerged on whether changes going beyond the measures proposed in the BEPS package were warranted. The result was that none of the potential options discussed in the Action 1 Report were adopted as agreed international standards. Nonetheless, it was acknowledged that countries could introduce any of these options in their domestic laws, provided that they respected existing tax treaties and other international obligations.

Since the release of the Action 1 Report, the lack of consensus in relation to these options has seen many countries around the world explore alternative measures for the taxation of highly digitalised businesses, generally by adopting new tax measures usually implemented through domestic law changes or changing the way they interpret existing laws and tax measures. While only some of these measures draw upon elements of the options described in the Action 1 Report (e.g., the ‘equalisation levy’), they all respond, at least to some extent, to similar concerns such as the desire to secure an appropriate tax base in respect of business activities performed in, or closely linked with, the market jurisdiction where goods and services are supplied.

The TFDE was mandated to monitor relevant tax policy developments across the world that are potentially relevant to digitalisation, with a focus on measures that seek to address aspects of the broader tax challenges identified in the Action 1 Report. In the absence of global consensus, it was deemed important to keep track of all potentially relevant measures introduced by countries as part of this monitoring, and to ensure a good understanding of the details of their design and implementation (e.g., compliance, impact, revenue collected etc.). These tax measures have been grouped into four categories: (i) alternative applications of the PE threshold; (ii) withholding taxes; (iii) turnover taxes; and (iv) specific regimes to deal with large MNEs.

A description of various potentially relevant actions taken by countries to adapt to an increasingly digitalised economy grouped into the aforesaid four categories has been briefly explained in the Annexure 1 below.

**Adapting the international tax system to the digitalisation of the economy**

In the digital age, the broader tax challenges chiefly relate to the question of how taxing rights on income generated from cross border activities should be allocated among countries. In this context, the report deals with an analysis of the two of the key fundamental concepts in the international income tax system: profit allocation and nexus rules. It analyses how certain characteristics frequently observed in highly digitalised business models, scale without mass, heavy reliance on intangibles and data and user participation, may interact with those rules. In turn, it is possible to identify how it could create outcomes which do not align the location where profits are taxed with the location of the activities which are creating value for the enterprise.

While there is acknowledgement of the continuing evolution of digital technologies, there is however, no agreement over the tax implications of scale without mass and a greater reliance on intangibles. Further, with respect to data and user participation, there is no consensus on whether, and the extent to which they should be considered as contributing to a firm’s value creation, and therefore, any impact they may have on the international tax rules.

Members of the Inclusive Framework have different views on the question of whether and to what extent these features of highly digitalised business models and digitalisation more generally should result in changes to the
international tax rules. While acknowledging these divergences, members of the Inclusive Framework agree that they share a common interest in maintaining a single set of relevant and coherent international tax rules, to promote, inter alia, economic efficiency and global welfare.

Further work will need to be carried out on the analysis of the value contribution of certain characteristics of highly digitalised business models as well as digitalization more broadly, and to inform that debate, technical solutions would also be explored to test the feasibility of different options with respect to the profit allocation and nexus rules. An update on this work will be provided in 2019, as members work towards a consensus-based solution by 2020.

Interim measures to address the tax challenges arising from digitalisation

While a consensus-based solution to the tax challenges arising from digitalization will take time, in the interim a number of jurisdictions are considering the introduction of an interim measure.

A number of countries consider that an interim measure will give rise to risks and adverse consequences irrespective of any limits that may be imposed on the design of such a measure and therefore oppose any such measure. The group of countries further consider that there are a number of risks and adverse consequences that would arise in respect of such a tax including impact on investment, innovation and growth; impact on welfare; potential economic incidence of taxation on consumers and businesses; possibility of over-taxation; possible difficulties in implementing a tax as an interim measure; compliance and administration costs.

Other countries acknowledge these challenges, but consider that they do not outweigh the need to ensure that tax is paid in their jurisdictions on certain e-services supplied in their jurisdictions and consider that at least some of the possible adverse consequences can be mitigated through the design of the measure.

The report further sets out guidance on the design considerations that need to be taken into account when considering the introduction of interim measures as follows:

- The interim measures should be compliant with international obligations i.e. the measure must not come into conflict with tax treaties; membership of EU, European Economic Area and World Trade Organisation.
- Interim measures should be targeted ceasing to apply once a global response to the tax challenges raised by digitalisation has been agreed and is implemented.
- Given the potential adverse consequences of introducing an interim measure, it is important that the measure is as targeted as possible at those businesses that are perceived to constitute the highest risk.
- A key objective of an interim measure should be to balance the underlying policy objective of trying to address the rapidly emerging challenges raised by the digitalization of the economy while avoiding the risk of over-taxation on taxpayers caught by the measure.
- The interim measures should be such that it minimises impact on start-ups, business creation, and small businesses more generally.
- Compliance cost for taxpayers and tax administrations should always be a key consideration in tax policy design of an interim measure.

Special feature - Beyond the international tax rules: The impact of digitalisation on other aspects of the tax system

The report noted that beyond the international tax rules, other elements of the modern tax system are shaped by its disruptive effects which bring both opportunities and challenges. From the design of the tax system through to tax administration, relevant developments include the rise of business models facilitating the growth of the gig and sharing economies as well as an increase in other peer-to-peer (P2P) transactions, the development of technologies such as blockchain, and growing data collection and matching capacities.

The report dealt with the evolving elements of the modern tax system i.e. changes in the tax system viz. online platforms and their impact on the formal and informal economy; digitalisation and tax compliance; emerging frontiers for tax and digitalisation and the opportunities and challenges emanating out of the evolved elements.

The report further looks at areas where further work in the coming years that will be required to be done and will provide the tools for governments to better understand and harness the opportunities these changes bring, while ensuring the ongoing effectiveness of the tax system.
Several such measures being incorporated by various government across the world have also been discussed in the report which have been discussed in Annexure 2. While dealing with digitalisation and tax compliance, the report discussed the latest developments and in the process highlighted the improved taxpayer services introduced by the Indian, Peru and the Danish tax administration. In the Indian context, the report stated that the Indian government has built a nationwide biometric database based on fingerprints and iris scans from more than a billion residents. Those residents are issued with a 12 digit identity number which is used for security purposes in many government and private sector applications, including income tax returns.

**Next Steps**

The interim report is a key milestone to developing a durable, long-term solution to the tax challenges posed by the digitalisation of the economy. Further work will need to be carried out on the analysis of the value contribution of certain characteristics of highly digitalised business models as well as digitalisation more broadly.

Throughout, it will be important to continue to monitor the latest developments: from the evolution of new technologies and rapidly evolving business models, to the adoption and impact of countries’ legislative proposals that aim to address these challenges.

Ongoing political support is essential to building consensus and achieving progress on these complex issues. The TFDE will hold its next meeting in July 2018. An update on this work will be provided in 2019, as members work towards a consensus-based solution by 2020.

**Our comments**

The OECD interim report is a very detailed exercise which, amongst other things, deals with the complexities revolving around the framework of the international tax rules that are applicable to the transactions emanating out of the digital economy. Though the report provides an in-depth analysis of the main features frequently observed in certain highly digitalised business models and value creation in the digitalised age, along with the potential implications for the existing international tax framework, much work is yet to be done to enable carrying out an analysis of the value contribution of certain characteristics of highly digitalised business models as well as digitalisation more broadly.

As mentioned in the report, ongoing political support is essential in building consensus and achieving progress on these complex issues. It would be interesting to see the shape of the outcomes when the OECD comes out with the next update on this work in 2019.

On the lines of Action Plan 1 recommendations which concluded that countries could introduce any of the three options analysed in the report in their domestic law as additional safeguards against BEPS, India has been one of the torch bearers to implement, from amongst the options recommended, an ‘equalisation levy’. Further, India has also introduced the amendments to the nexus rules for the taxation of the business income of non-resident in India in the domestic law by incorporating the concept of SEP to enlarge the scope of ‘business connection’. Pursuant to India adopting the early measures, it appears that many countries (for e.g. U.K., Australia, etc.) are following suit considering the fact that the BEPS Action Plan 1 has merely suggested an introduction of any of the three options to be adopted to tackle the issues arising out of the digitalized business models. In fact, with the EU recently proposing new rules for the taxation of digital business activities in the EU region, it would be interesting to see how the OECD monitors all these developments in the context of digital economy while providing an update on the work by 2019 and further recommendations by 2020.
Annexure 1 - Relevant actions taken by countries to adapt to an increasingly digitalised economy

<table>
<thead>
<tr>
<th>Type of measure</th>
<th>Sr. No.</th>
<th>Country</th>
<th>Type of levy introduced</th>
<th>Nature of the levy</th>
</tr>
</thead>
</table>
| (i) Alternative applications of PE - Measures adopted by countries incorporating digital presence factors | 1. | Israel | Israel’s Circular introducing a “significant economic presence” test | For the purpose of making source determination under domestic law, the Circular clarifies that online services provided by a non-resident enterprise from a remote location to in-country customers may create a taxable presence in Israel if these activities constitute a SEP. This domestic law measure applies only outside the scope of double tax treaties, when the supplier of the online services is resident in a country with no double tax agreement with Israel. The SEP test may be satisfied absent any physical activities in Israel, and is broadly defined by reference to factors of 'digital presence' which include, but are not limited to.  
  - **Online contract conclusion**: a significant number of contracts are concluded online between the foreign company and Israeli customers;  
  - **Use of digital products and services**: the foreign company offers online services/products that are used by a significant number of Israeli customers;  
  - **Localised web site**: the foreign company employs a website with localized features targeted at the Israeli market (e.g., Hebrew language, local discounts and marketing, local currency and payment options);  
  - **Multi-sided business model**: the company generates significant revenue that is closely related to the volume of online activities performed by users located in Israel. |
| | 2. | India | India’s new nexus based on a concept of “significant economic presence” | Several amendments to domestic nexus rules for corporate income tax purposes (i.e., the concept of “business connection in India”) were recently introduced and are expected to become effective from 1 April 2019. One of these amendments expands the domestic definition of nexus for business income by incorporating the concept of SEP. The latter constitutes an alternative threshold allowing the taxation of the profits of a non-resident enterprise on a source basis irrespective of the level of physical presence of that enterprise in the taxing jurisdiction. The legislation provides that a SEP of a non-resident enterprise can be characterised in two distinct situations:  
  - A threshold based on local revenue: “any transaction in respect of any goods, services, or property carried out by a non-resident in India, including the provision of download of data or software in India, if the aggregate of payments arising from such transaction or transactions during the previous year exceeds the amount as may be prescribed”,  
  - A threshold based on number of local users: “systematic and continuous soliciting of its business activities or engaging in interaction with such number of users as may be prescribed, in India, through digital means”. |
These thresholds create a direct tax liability in India irrespective of the location and/or residence of the taxpayer. Following a consultation with relevant stakeholders, further rules and implementation guidance are expected to clarify the elements of these two thresholds.

(i) Alternative application of PE - Virtual Service PE

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<tr>
<th>Country</th>
<th>Description</th>
<th>Note</th>
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<tbody>
<tr>
<td>Saudi Arabia</td>
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(iii) Measures adopted by countries on the basis of use of turnover taxes

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<tr>
<th>Country</th>
<th>Description</th>
<th>Note</th>
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<tr>
<td>India</td>
<td>India’s Equalisation Levy</td>
<td>India’s equalisation levy is a separate tax that was introduced in 2016, which draws upon some features of the options described in the 2015 BEPS Action 1 Report (notably the ‘equalisation levy’). It effectively works as a 6 per cent charge deducted from the gross amount of consideration paid for the provision of online advertisement services by non-residents. The tax base is the value of the covered transactions, not the income generated by them. It is therefore a gross based tax or equivalently a turnover tax limited to revenue from online advertisement services supplied by non-residents.</td>
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<tr>
<td>Italy</td>
<td>Italy’s Levy on Digital Transactions</td>
<td>The Levy on Digital Transactions (LDT) is a transaction-based tax proposed by the Parliament and adopted in 2017. It applies to both resident and non-resident enterprises and is expected to become effective from 1 January 2019. The stated objective is to restore a level playing field between suppliers of digital services and other suppliers of more “conventional” services, by taxing digital transactions whose value, generated by users and user-generated content, is currently not captured (or at least is only partially captured) by existing corporate tax rules. Some parallels can be drawn with the ‘equalisation levy’ described in the BEPS Action 1 Report. The LDT is imposed at a rate of 3 per cent on the “value” of the taxable transactions, i.e., the amount of consideration paid (net of VAT) in exchange for the provision of digital services supplied electronically. The taxable transactions are defined as services delivered over the Internet or an electronic network and the nature of which means that their supply is essentially automated, involves minimal human intervention, and is impossible to complete without information technology. A specific list of taxable transactions will be provided by a forthcoming decree expected to be issued by 30 April 2018.</td>
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<tr>
<td>Hungary</td>
<td>Hungary’s advertisement tax</td>
<td>The tax applies to the net sales revenue (exclusive of VAT) of both resident and non-resident enterprises arising from the sale of advertisement time or space in Hungary. The taxable transactions include a broad list of advertising services defined by reference to the various media used for their broadcast to the public (e.g., TV and radio, printed newspapers, outdoor billboards, vehicles, real estate, and internet websites).</td>
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### (iv) Specific regimes targeting large MNEs

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<tbody>
<tr>
<td>1.</td>
<td>United Kingdom</td>
<td>The United Kingdom’s Diverted Profits Tax (DPT) is a distinct tax, levied at a rate of 25 per cent (i.e., higher than the standard corporate tax rate of 19 per cent in 2017), limited in scope to profits that are considered to be artificially diverted from the United Kingdom. It is combined with a very specific administrative regime, based on a 12-month review period during which a dialogue needs to take place between the taxpayer and the tax authorities to determine the final tax liability. Profits diverted from the United Kingdom are identified according to two basic rules: an avoided PE rule and an alternative provision rule. These rules potentially cover a broad range of BEPS arrangements, and are not confined to structures used by highly digitalised businesses.</td>
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<td>2.</td>
<td>Australia</td>
<td>Australia’s Multinational Anti-Avoidance Law (MAAL) is an anti-abuse rule for corporate tax purposes adopted in the context of a significant debate in Australia on the level of taxes paid by MNEs. It replicates aspects of the United Kingdom’s DPT related to PE avoidance, and shares common policy objectives with the recent changes proposed to the PE definition under BEPS Action 7. The measure works as a PE anti-avoidance rule limited in scope to non-resident enterprises belonging to large MNEs. It is designed to target a very specific type of trade structure: the use of an overseas company (so-called &quot;billing company&quot;), supported by locally based personnel (typically a local subsidiary), with the aim of remotely supplying goods and services to final customers located in Australia.</td>
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<tr>
<td>France</td>
<td>France’s tax on online and physical distribution of audio visual content</td>
<td>To finance its domestic movie and audio-visual production, France introduced in 2003 an indirect tax targeted at sales and rentals of “videograms” (i.e., a physical object containing audio-visual content, such as a videotape or DVD). This tax may apply to both resident and non-resident enterprises. In 2004, with the rise of electronic commerce, the scope of the tax was extended to online video-on-demand services where movies and audio-visual content are accessed through electronic communications in exchange for a payment. In 2016, to accommodate the growing importance of advertising-based revenue models, the tax was further extended to online video-on-demand services provided for free but monetized through the advertisements displayed to the viewers. On that occasion, the designation of the tax was also changed to “Tax on the online and physical distribution of audio-visual content” (also regularly referred to as the “YouTube tax” in the media). The tax is imposed at a flat rate of 2 per cent, increased to 10 per cent for movies and audiovisual content containing “pornography” or “incitement to violence”.</td>
</tr>
</tbody>
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### Annexure 2 - Measures being incorporated by various government across the world have been summarized in the table below

#### Tax policy measures targeted at the sharing economy

In Denmark, the Ministers of Industry, Business and Financial Affairs, Transport, Building and Housing, and Taxation recently presented the Danish Government’s strategy on growth through the sharing economy. The strategy contains 22 initiatives including higher basic allowances on renting out property, cars and boats if a third party (e.g., a platform) declares all income to the tax authorities. The strategy also includes an initiative on developing a digital solution for declaring income arising from the sharing economy.

In Italy, an optional taxation regime for short-term rental income has been introduced allowing the taxpayer to opt for a substitute tax (in lieu of personal income tax) in the form of a 21 per cent flat rate tax on gross income from the rental. The new law applies to rental contracts not exceeding 30 days, on contracts defined online as well as contracts defined in traditional ways.

The United Kingdom has introduced two separate annual tax allowances for individuals, each of GBP 1,000, for income from a trade or property with the objective of simplifying the tax system and supporting the development of the digital and sharing economy. Where the allowances cover all of an individual’s relevant income (before expenses) then they will no longer have to declare or pay tax on this income. Those with higher amounts of income will have the choice, when calculating their taxable profits, of deducting the allowance from their receipts, instead of deducting the actual allowable expenses.

#### Educating taxpayers about tax obligations arising from the platform economy

The Canada Revenue Agency (CRA) has added new pages to its website, providing information on income tax and goods and services tax (GST)/ harmonised sales tax (HST) obligations for registering, collecting, remitting and reporting income derived from the sharing economy. These webpages include information specifically intended to assist taxpayers who may not have reported income in previous years and now want to correct their tax affairs.

In France a requirement was placed on P2P platforms to provide information on the tax and social security obligations of the users of these platforms. This requirement is deemed to have been complied with if the message sent by the platform to its users following each transaction provides accurate, unambiguous and transparent information concerning these obligations and includes, “in a clear manner”, hypertext links to the websites of the tax authorities and social security organisations.
Obtaining tax information directly from platforms

The Estonian Tax and Customs Board (ETCB) has entered a cooperative agreement with two well-known ride-sharing platforms for information sharing. The platforms first ask consent from the drivers for income information to be shared with the ETCB. Where consent is given, the platforms compile the relevant data into a single file with names, personal codes and income amounts, and send this file to the ETCB before the beginning of income tax return submitting period. The ETCB prefixes the natural persons’ income tax returns using all relevant data. The natural person has to check the prefilled data, amend if necessary and submit the income tax return. The process is entirely electronic.

The Finnish Tax Administration (FTA) has focused efforts on sharing economy platforms related to the accommodation industry, P2P lending and crowd funding activities. While domestic legislation has been effective at collecting third party data from P2P and crowd funding platforms within Finland, it cannot be applied where the platform only has a presence in a third country.

In Mexico, the Mexican Tax Administration (SAT) has worked with a ride-for-hire service in order to help their drivers to comply with tax regulations, including sending electronic invoices to all their customers. As part of this, the ride-for-hire service requires that a driver obtains the electronic certificate required to digitally sign invoices before registering with the platform. Drivers are able to use the platform’s own systems to file and send invoices to the customers and to SAT, as well as to download them for record keeping purposes.

In Ecuador, the Ecuadorian Tax Administration has worked with a taxi company in such a way that the company will prepare, file and send each month an electronic invoice to each passenger for their usage of the platform (their rides). In addition, each driver will prepare an electronic invoice relating to the commission they would receive from the taxi company. The Tax Administration will receive all of these invoices electronically.

Impact of data recording technology and electronic invoicing on the fight against tax evasion and fraud

In Hungary, requirements to introduce electronic cash registers saw VAT revenue increase by 15 per cent in the targeted sectors, exceeding the cost of introducing the new system.

In Quebec alone, more than CAD 1.2 billion has been recovered following the introduction of data recording technology in the restaurant industry. By 2018-19, this is expected to reach a total of CAD 2.1 billion.

In Rwanda, in the two years since the introduction of electronic cash registers in March 2013, VAT collected on sales increased by 20 per cent.

Over EUR 500 million in risky VAT was identified over a 2 year period in the Slovak Republic following the introduction of electronic invoice data matching processes.

An additional 4.2 million micro-businesses were brought into the formal economy after Mexico introduced mandatory electronic invoicing.

In Russia the Federal Tax Service has implemented a system that allows it to monitor VAT compliance on a nationwide basis mostly in real time, drastically reducing opportunities for fraud. The approach is based on automatic cross-matching of all VAT paid with all VAT claimed across all transacting parties. 2016 results show an increase in VAT collection over 2015 of 8.5 per cent, while in 2014 the increase amounted to 12.2 per cent and 16.8 per cent respectively.

Improving taxpayer services through the use of technology

Peru’s tax administration, SUNAT, launched its first mobile app in February 2015. This provides constant tablet and cell phone access to a range of services including tax registration, invoice issuing, access to a virtual tax guide and the ability to report tax evaders.

The Danish Tax Administration (SKAT) is collaborating with software developers to embed tax-related guidance and functionality in third party accounting software solutions targeting small businesses. The long-term ambition is that transaction data flowing from banks to accounting systems should form the basis for a semi-automated process that integrates with SKAT’s business processes.
Use of electronic data to enhance compliance

A large number of tax administrations have already adopted pre-filled returns for some or all sources of personal income. Some jurisdictions, including Belgium, Denmark, Finland, Hungary, Iceland, Lithuania, Malaysia, Malta, Norway, Singapore and Slovenia, have adopted a “deemed acceptance” approach of pre-filled returns after the expiry of a notice period. In their most advanced form, complete pre-filled tax returns cover close to 100 per cent of personal income taxpayers in a number of jurisdictions.

The Australian Tax Office has incorporated a tool in its mobile app which allows users to record tax deductions on the go. Using the camera on their device, taxpayers can capture receipts and use location services to record work-related car trips for vehicle deductions, eliminating the need for paper records.

The Kenya Revenue Authority introduced the iTax system in 2013. This is a web-enabled tax collection system that provides a fully integrated and automated solution for the administration of income taxes, including pay as you earn, VAT and withholding taxes. It allows taxpayers to simply update their tax registration details, file tax returns, register all tax payments and make status enquiries with real-time monitoring of their account.
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