



Ministerial Symposium on International Taxation
-For a globally fair, sustainable, and modern international tax system

Fukuoka, 8 June 2019

Issue Note

International taxation has been a clear example of the G20's success in facilitating multilateralism. With strong G20 support, significant progress has been achieved in recent years, including the Base Erosion and Profit Shifting (BEPS) package, exchange of tax information, and capacity building in developing countries. With such achievements, international taxation continues to attract international attention. In making this issue a priority for the G20 finance track, Japan aims to facilitate constructive discussion on a range of international tax issues.

A recent focus in the international tax debate centers upon the tax challenges arising from the digitalization of the economy. Technological innovation is providing significant impacts on ways of doing business, for firms both large and small, including new business models and transaction methods. The international tax system, which was designed based on traditional business models, is facing challenges adjusting to this new world. To tackle such challenges, some jurisdictions intend to introduce interim unilateral tax measures, which could damage the integrity of the international tax system.

While the BEPS project was successful in involving a large number of jurisdictions, the implementation of the package has just begun. More than three years have passed since the BEPS Action Plan final reports were agreed, and considering the mandate of the Inclusive Framework on BEPS expires in 2020, it may be time to look back to see what has been achieved, and look forward to consider what still needs to be done.

This Symposium consists of two sessions: the first to discuss the tax challenges arising from the digitalization of the economy, and the second to discuss efforts to counter tax avoidance and evasion.

Session 1: Tax challenges arising from digitalization

Recent innovation in information and communication technologies has brought significant changes in ways of doing business, shifting firms into the digital economy and its new business models. The OECD report in 2018¹ identified 1) scale without mass, 2) reliance upon intangible assets, and 3) data and user participation as common characteristics of digitalized business models. On the other hand, the 2015 OECD report² clearly stated “it would be difficult, if not impossible, to ring-fence the digital economy from the rest of the economy for tax purposes.”

Changes to ways of doing business, in particular the circumstance of operating without a physical presence in a purchaser jurisdiction, pose challenges for the traditional rules of international taxation. Of these, indirect tax challenges were well addressed by the 2015 OECD report, which led to the revision of the OECD International VAT/GST Guidelines, while direct tax challenges were left for further deliberation. Without an agreed solution, some jurisdictions intend to impose interim unilateral tax measures upon certain digital services supplied in their jurisdictions. The 2018 OECD report enumerates the considerations that should be taken into account when introducing such interim measures.

In order to cope with the direct tax challenges arising from digitalization, G20 Leaders agreed to “work together to seek a consensus-based solution ... with an update in 2019 and a final report by 2020” in their declaration in December 2018. To meet this target, discussion continues at the Inclusive Framework on BEPS.

In January this year, the Inclusive Framework released a Policy Note³, which announced that there is agreement to examine proposals involving two pillars, which could form the basis for consensus. The first pillar aims to address the broader tax challenges of the digitalized economy, focusing upon nexus and profit allocation rules. The second one tackles the remaining BEPS issues.

Further, in February and March, the Inclusive Framework conducted public consultations on the tax challenges of the digitalization of the economy. Following the two pillar

¹ Tax Challenges Arising from Digitalisation – Interim Report 2018, OECD, 2018

² Addressing the Tax Challenges of the Digital Economy – ACTION 1: 2015 Final Report, OECD, 2015

³ Addressing the Tax Challenges of the Digitalisation of the Economy – Policy Note, OECD, 2019

approach, the public consultation document set out three proposed policy rationales for revising nexus and profit allocation rules under the first pillar: 1) user participation, 2) marketing intangibles, and 3) significant economic presence. These proposed rationales have commonalities; for example, all assume more profits allocated to user/market jurisdictions. However, they would lead to different designs for revised rules, such as in their scope and mechanics.

The public consultation document also made a global anti-base erosion proposal under the second pillar, which included: 1) an income inclusion rule, 2) an undertaxed payment rule and 3) a subject to tax rule. Some may find similarities between the first and second options and US GILTI and BEAT regimes, respectively. Nevertheless, the proposed policy rationales as well as design options are still under consideration.

The Inclusive Framework has been working on those proposals and has agreed on the detailed Programme of Work for each pillar in the May meeting, with a view to reporting progress to this FMCBG meeting.

Given the 2020 deadline to reach a consensus-based solution is rapidly approaching, progress this year is critical. This session is an opportunity to show high-level political engagement and guidance, which are imperative in bridging the existing gaps among countries, and finding out a solution that bridges different views.

Questions for Discussion

1-1:

- What are in your view the major considerations in addressing the tax challenges arising from the digitalization of the economy?
- How do you assess the two-pillar approach for a consensus-based solution and the proposals set out under each Pillar in the Programme of Work?

1-2:

- How do you think the tax challenges arising from the digitalization of the economy can best be managed?
- What do you think are the prerequisites to reach a consensus on the tax challenges arising from digitalization?

Session 2: On-going efforts to counter tax avoidance and evasion

The issue of tax avoidance, first highlighted by the OECD Fiscal Affairs Committee in 2012, came under a global spotlight when a 15-point Action Plan to address base erosion and profit shifting (BEPS) was endorsed by G20 Leaders in September 2013. Since then, the BEPS project has been at the forefront of the agenda for the G20, as well as other international fora.

The BEPS project produced a series of Final Reports, which were submitted and endorsed by G20 Leaders in November 2015. It then led to the establishment of the Inclusive Framework on BEPS in Kyoto in June 2016, which was mandated to monitor the implementation of the BEPS package, including *inter alia* the four minimum standards: (i) harmful tax practices; (ii) treaty shopping; (iii) Country-by-Country Reports (CbCR); and (iv) dispute resolution. The Inclusive Framework started with 82 jurisdictions, and has expanded its membership to include almost 130 jurisdictions to date, which marks a clear success for international tax collaboration. The future of the Inclusive Framework needs to be considered, as its mandate is due to expire in 2020.

Intertwined with the BEPS project, the international work on the exchange of tax information to address tax evasion and improve tax transparency has also shown remarkable progress in recent years. Notably, the automatic exchange of financial account information under the Common Reporting Standard, led by the Global Forum on Transparency and Exchange of Information for Tax Purposes, and CbCR, established in the 2015 BEPS Action 13 report, were implemented globally last year. These milestones mark genuine worldwide cooperation, as the former exchange involves over 100 jurisdictions and the latter around 80 to date, with the number of participants still increasing.

As such, international efforts to combat tax avoidance and evasion have made notable progress to date, although implementation has only recently begun. For the BEPS package and transparency measures to be fully effective, their timely, consistent and widespread implementation is imperative. It is often pointed out, however, that developing countries may face implementation challenges due to capacity constraints. Well-coordinated technical assistance by international and regional organizations, as well as donor countries, including through the Platform for Collaboration on Tax, is indispensable to truly counter tax avoidance and evasion.

This session will take stock of global and individual achievements to date and consider what is needed to further advance the fight against tax avoidance and evasion.

Questions for Discussion

2-1:

- How do you see the achievements of the BEPS project and tax transparency measures (such as the CRS) to date?
- What is your assessment of how these measures have been implemented so far?

2-2:

- What do you want to see for the future of the BEPS project and the Inclusive Framework on BEPS beyond 2020?
- In your view, what is the most important issue regarding international taxation that need to be discussed in the coming years?