Business calls for a unified, global approach to digital economy taxation

As national digital taxation proposals continue to emerge, ICC calls for governments and business to adopt a unified approach to taxation of the digitalised economy.

Taxation of the digitalised economy remains a leading topic on the global tax agenda as policymakers seek to address the implications and opportunities presented by digitalisation. Political pressure is evident as governments around the world explore solutions to ensure that income generated from cross-border activities in the digital age is taxed appropriately.

France has taken the lead by introducing domestic digital taxation measures. Other countries have considered adopting similar measures, including Czech Republic, Italy, Spain and the United Kingdom. While countries have indicated that these measures will be repealed in the case of a multilateral consensus position at the Organisation for Economic Cooperation and Development (OECD) level, these measures have interim consequences, according to ICC. For example, the French domestic legislation has sparked a swift response from the United States (US). Based upon the perception that these measures unfairly target US companies, the US has ordered an enquiry into the digital taxation measures and threatened to impose retaliatory tariffs.

ICC advocates for a consistent global tax system, founded on the premise that stability, certainty and consistency are essential for business and will foster cross-border trade and investment. As digitalisation continues to be an important driver for global economic growth, policies related to taxation of the digitalised economy should seek to promote, and not hinder, economic growth and cross-border trade and investment.

"The digitalisation of the economy raises challenging issues," said Christian Kaeser, Chair of the ICC Commission on Taxation and Global Head of Tax at Siemens. **"ICC underlines the need for countries to collectively discuss and address the perceived tax challenges arising from digitalisation, through mutual consensus, and reiterates that any solutions should be long-term and have broad adoption by countries to allow for seamless application for business."**

"Unilateral disparate tax rules that introduce double or multiple standards could not only create compliance challenges for business, but essentially undermine the consistency of the international tax system and create the risk of double taxation," he added. "**Business fears the potential precedent, legal uncertainty and possible counter actions that could undermine global efforts to seek alignment at international level."**

ICC has welcomed the multilateral approach taken by the OECD, including the global engagement of 131 Inclusive Framework members, to build consensus and address the taxation of the digitalised economy. The OECD recently released its Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy, which was approved by the Inclusive Framework and later presented to the G20 Finance Ministers for endorsement.

The Programme focuses on two pillars. The first pillar examines the allocation of taxing rights and provides a coherent and concurrent review of the profit allocation and nexus rules. The second pillar focuses on the global anti-base erosion (GloBE) proposal, which seeks to address remaining Base Erosion and Profit Shifting (BEPS) issues by introducing a minimum tax for companies.

"It is essential for members of the Inclusive Framework to deliver a consensus-based solution to the G20 in 2020 to address the tax challenges of digitalisation," said Raelene Martin, ICC Knowledge

Solutions Manager. **"In this respect, ICC commends the G20's confirmation to redouble efforts to arrive at an agreement in developing a solution for the tax challenges of digitalisation."**

As many national governments and legislators are working on tax policies, ICC, representing 45 million companies in over 100 countries, echoes the view that tax reforms should be both practicable and effective in facilitating greater consistency globally. Further, any tax reform initiative must improve certainty for business.

ICC also calls for the avoidance of double taxation, which would discourage cross-border trade and investment, thus harming both countries and business. To eliminate double taxation disputes it is essential to put in place robust dispute prevention and resolution mechanisms.

ICC welcomes views expressed in the G7 Finance Ministers' Statement released last Thursday which states: "New rules should be administrable and simple… in order to avoid double taxation and ensure the stability of the international tax system, robust and effective tax dispute resolution through mandatory arbitration must be a component of this global solution." The statement also indicated support for "further progress in the context of the G20 and a global agreement on the outlines of the architecture by January 2020 at the level of the Inclusive Framework on BEPS."

4 tax policy issues in the age of digitalisation

The International Chamber of Commerce (ICC), Business at OECD (BIAC), and BusinessEurope, co-hosted an international tax conference to discuss the proposed approaches for addressing the challenges posed by digitalisation.

Under the theme "Towards a New World Tax Order?", the International Tax Conference (ITC Munich 2019) gathered business leaders and policymakers from around the world to discuss tax policy issues arising from the international discussion around the challenges of digitalisation. The proposals outlined in the OECD Programme of Work to "Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy", presented to G20 Finance Ministers last month, formed the basis of discussions at the conference, namely: **reallocation of taxing rights, significant economic presence, minimum taxation and dispute resolution**.

In his opening remarks, Russell Mills, Secretary General, BIAC, emphasised the importance of collaboration and cooperation in the formulation of inclusive international tax regimes. **"Co-operation is imperative at the international level to develop a consensus based solution by 2020 to address the tax challenges of digitalisation," he said.**

Here are four areas that were addressed during the conference:

1. Reallocation of taxing rights

Following Mr Mills' opening statement, the first session of the day considered the reallocation of taxing rights among countries. As part of the session, Krister Andersson, Chairman for Tax Policy, BusinessEurope interviewed Valere Moutarlier, Tax Director, European Commission on the Pillar One proposals which would modify international rules on profit allocation and nexus based on the concept of user contribution or marketing intangibles. Mr Andersson reiterated the importance of a principles-based approach in reforming the international tax rules to address these issues. Mr Moutarlier responded saying: "The EU should implement the tax reform in such a way that it creates tax certainty for businesses and increase the EU's attractiveness for investment".

In the face of growing populist movements across Europe, Mr Moutarlier views the EU Single Market as a source of tax certainty for business and citizens alike. **"[This] initiative has a lot to deliver in terms of responding to the populistic manifestation in the Single Market which means securing growth and jobs on the one hand but also selling tax fairness," he said. "This is an outcome of global governance … that would bridge the reputational gap between the business community and wider citizens."**

2. Significant economic presence and transfer pricing

After a morning coffee break, the conference continued with a session on "Significant Economic Presence and Transfer Pricing," which examined tax policies for enterprises that maintain a taxable presence in a country through sustained economic participation via technology and other automated means. Duringt the session, Christian Kaeser, Chair of the ICC Commission on Taxation and Global Head of Tax at Siemens, interviewed Michael Lennard, Chief, International Tax Cooperation, Financing for Development Office at the United Nations. On the emerging topic of significant economic presence, both Mr Kaeser and Mr Lennard reaffirmed the importance of establishing consistent and clear rules for business leaders and policymakers.

Mr Kaeser said: "Consistency of rules and implementation are essential for providing certainty as a driver for investment. A good starting point would be to draw elements from what is available in existing reporting systems into a formula that is easy to understand."

3. <u>Minimum Taxation</u>

In the afternoon sessions, panellists examined other tax issues in the age of digitalisation, including minimum taxation, dispute avoidance and dispute resolution. On the proposals for a minimum tax, Martin Kreienbaum, Director General of International Taxation, German Ministry of Finance and Chair of the Committee on Fiscal Affairs (CFA), OECD, explained: **"The minimum tax proposal is intended to be an instrument to react to low tax situations and avoid a race to the bottom in terms of tax rates."** The panel also considered how the introduction of minimum tax rules would materially increase the global effective tax rates of enterprises as well as implications related to investment decisions and economic trade-offs.

4. <u>Dispute Resolution</u>

As part of the final session of the day, delegates exchanged ideas and strategies on how to improve dispute prevention and dispute resolution mechanisms. Will Morris, Chair of BIAC's Tax Commission, interviewed Pascal Saint-Amans, OECD Director for Centre of Tax Policy, on the importance of embedding measures against double taxation and ensuring that robust dispute prevention and dispute resolution procedures are in place when addressing tax issues related to digitalisation. While discussing dispute resolution instruments, Mr Saint-Amans said: **"If there is a deal in the coming months to address the tax challenges of digitalisation, the deal will include the dimension to securing tax certainty, which is about effective dispute resolution."**