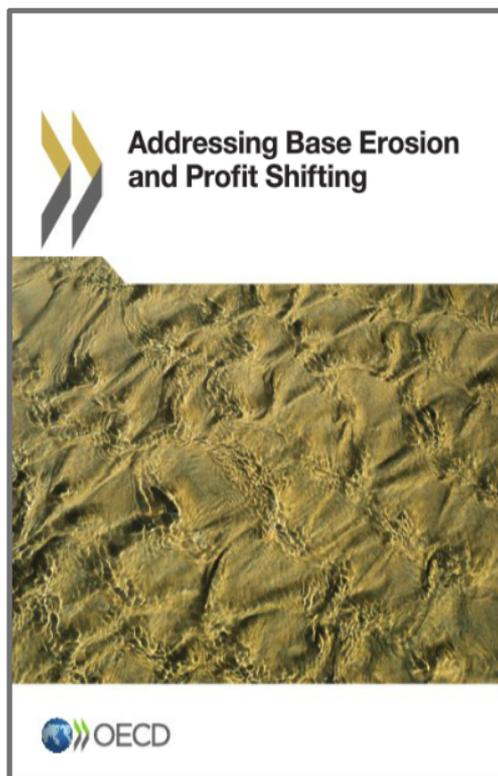


CORPORATE TAXATION, FISCAL COMPETITION AND WEB TAX?

MILAN, 2 December 2019

NOT SUCH A NEW DISCUSSION – February 2013



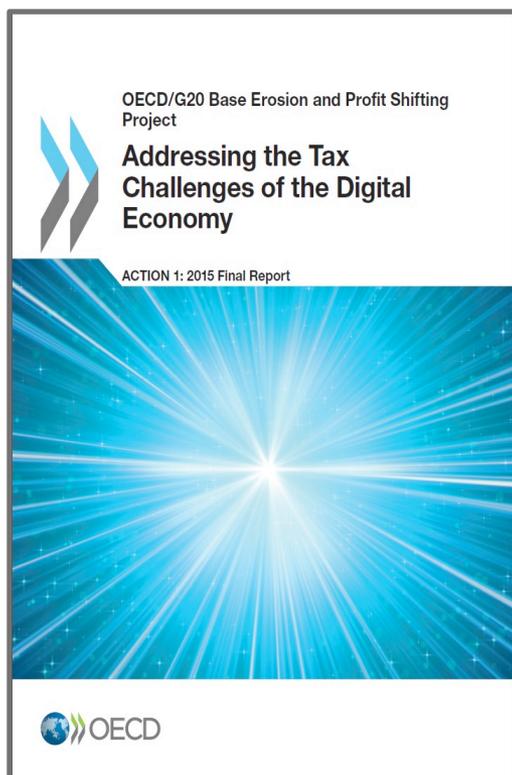
*“This report also shows that current international tax standards may not have kept pace with changes in global business practices, in particular in the area of intangibles and the development of the digital economy. For example, **today it is possible to be heavily involved in the economic life of another country, e.g. by doing business with customers located in that country via the internet, without having a taxable presence there or in another country that levies tax on profits**”*

NOT SUCH A NEW DISCUSSION – July 2013



*“The spread of the digital economy also poses challenges for international taxation. The digital economy is characterised by an unparalleled reliance on intangible assets, the massive use of data (notably personal data), the widespread adoption of multi-sided business models capturing value from externalities generated by free products, and the difficulty of determining the jurisdiction in which value creation occurs. This raises **fundamental questions as to how enterprises in the digital economy add value and make their profits, and how the digital economy relates to the concepts of source and residence** or the characterisation of income for tax purposes.”*

NOT SUCH A NEW DISCUSSION – October 2015



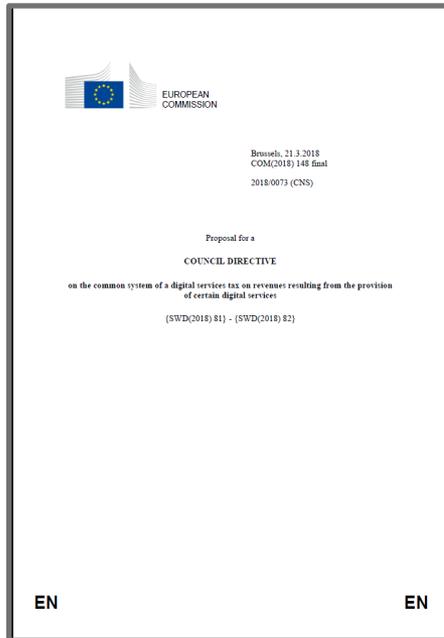
*“The digital economy also raises broader tax challenges for policy makers. These challenges relate in particular to nexus, data, and characterisation for direct tax purposes, which often overlap with each other ... **none of the other options analysed by the TFDE were recommended at this stage... Countries could, however, introduce any of these three options in their domestic laws as additional safeguards against BEPS, provided they respect existing treaty obligations, or in their bilateral tax treaties. Adoption as domestic law measures would require further calibration of the options in order to provide additional clarity about the details, as well as some adaptation to ensure consistency with existing international legal commitments.**”*

NOT SUCH A NEW DISCUSSION – March 2018



- 3 groups of countries emerged
 - BEPS Actions working, no need for major changes
 - Change needed, but target highly digitalised businesses
 - Change needed to address broader challenges
- Agreement to work towards a consensus-based, long-term solution

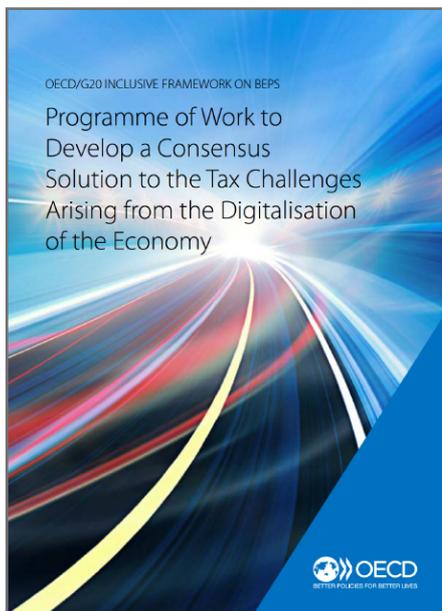
NOT SUCH A NEW DISCUSSION – March 2018



Digital Services Tax

- Applied to activities where the "user value creation" is the highest.
- Role by user \neq role by traditional customer. Without users, the targeted digital business models could not exist in their current form.
- Generation of value in jurisdictions where users are.
- Revenue used a proxy.

NOT SUCH A NEW DISCUSSION – May 2019



Several proposals under 2 pillars:

- ***Pillar 1*** dealing with nexus and profit allocation
 - *User contribution*
 - *Marketing intangible*
 - *Significant Economic Presence*
- ***Pillar 2*** relating to remaining BEPS issues

Pillar 1 Secretariat Discussion Draft – November 2019



Brings the 3 proposals into 1

- *Scope: large consumer-facing MNEs*
- *Nexus: largely based on sales*
- *Profit allocation:*
 - *Routine: ALP*
 - *Baseline marketing and distribution: fixed margins*
 - *Super-normal (non-routine from users/market) profits: Reallocation to market/user jurisdiction based on formulas and conventions*

1. Determine MNE operating profits
2. Exclude routine profit (convention)
3. Split non-routine profit (convention)
4. Allocate to relevant market jurisdictions (formula)

Comparing different approaches

- BEPS started in **2012** and identified the digital economy as a challenge to be addressed.
- **Today** Pillar 1 contains a blueprint of a new international tax system where: ALP and FA/RPS live together, as well as separate entity and group consideration.
- **DST** was conceived with the idea in mind that there was something fundamentally new (users) and that several countries were eager to act.
- It was then developed as **an interim measure** at EU level.

A possible rationale for the DST?

Straight from the FA of a large tech company

Trends in Our Monetization by User Geography

- We calculate our revenue by user geography based on our estimate of the geography in which ad impressions are delivered or virtual and digital goods are purchased.
- *Note: **Our revenue by user geography in the charts above is geographically apportioned based on our estimation of the geographic location of our users when they perform a revenue-generating activity.** This allocation differs from our revenue by geography disclosure in our consolidated financial statements where revenue is geographically apportioned based on the location of the marketer or developer.*

TO CONCLUDE

- *Some countries have decided to move ahead*
- With the understanding that when new international rules are in force, they will repeal the measure.
- Examples include: **France, UK, Spain, Italy, Austria, Czech Republic, Turkey, India**
- Let's see how the debate unfolds (starting from today!) and **how long it takes to reach international agreement.**
- Meanwhile, *improving, enacting and monitoring the DST should be a priority*

... ***Not such a new discussion*** ...
... ***struggling to address it***



*A Report by the Committee on Fiscal Affairs,
as presented to Ministers at the OECD Ministerial Conference,
“A Borderless World: Realising the Potential of Electronic Commerce”
on 8 October 1998.*

*Ministers welcomed the report and endorsed the proposals on how to
take forward the work as outlined within it.*