



OECD GLOBAL PARLIAMENTARY NETWORK SPECIAL SESSION ON TAX: UPDATE ON ADDRESSING THE TAX CHALLENGES OF THE DIGITALISATION OF THE ECONOMY

Pillar 1: Allocation of MNE Income

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OUTLINE OF THE ARCHITECTURE OF A UNIFIED APPROACH ON PILLAR ONE



Outline of the Architecture of a Unified Approach on Pillar One

Section 1: Introduction

Section 2: Overview

Section 3: The New Taxing Right (Amount A)

- 3.1. Scope and nexus
- 3.2. Quantum of Amount A
- 3.3. Elimination of double taxation
- 3.4. Interactions and potential for double counting

Section 4: The fixed Return for Defined Baseline Distribution and Marketing Activities (Amount B)



Outline of the Architecture of a Unified Approach on Pillar One

Section 5: Tax Certainty: Dispute Prevention and Resolution:

- 5.1. A new framework for dispute prevention and resolution for Amount A
- 5.2. Tax certainty and dispute prevention and resolution for Amounts B and C

Section 6: Implementation and Administration:

- 6.1. General
- 6.2. Further consideration of alternative global safe harbour system

Annex A. Programme of Work to Develop a Consensus Solution to Pillar One Issues

Annex B. MNE Groups Impacted by Amount A



The New Taxing Right (Amount A): Scope (section 3.1)

Automated digital services

- Provision of automated digital services that are provided on a standardised basis to a large population of customers or users (online search engines, social media platforms, cloud computing services, etc.)

Consumer facing business

- Businesses that generate revenue from the sale of goods and services of a type commonly sold to consumers (e.g. personal computing products, clothes, branded foods, franchise models, automobiles)
- Intermediate products and components - out of scope (with possible exception)

Specific considerations

- Extractive industries, commodities, financial services sector, and international traffic



The New Taxing Right (Amount A): Scope (section 3.1)

Thresholds

- Limited to MNE Groups that meet a certain gross revenue threshold. This threshold could, for instance, be the same as for CbC reporting (i.e. MNE groups with gross revenue exceeding EUR750M)
- Consideration will be given to:
 - aggregate in-scope revenue threshold
 - *de minimis* threshold




The New Taxing Right (Amount A): Nexus (section 3.1)

Significant and sustained engagement with market

- Local in-scope revenue threshold over a period of years
- Commensurate with the size of a market (but with a minimum level)
- For **automated digitalised businesses**, the revenue threshold will be the *only* test (scale without mass)
- For **consumer facing business**: *additional* factors to be considered

Design and simplification option

- One** • To be designed to eliminate (or limit to a bare minimum) any filing and other tax related obligations.
- Shop**  • Exploration of simplified reporting and registration-based mechanisms (such as a “one stop shop”)



The New Taxing Right (Amount A): Quantum of Amount A (section 3.2)

A formula based allocation mechanism

- Based on a formula designed to identify the portion of residual profit allocated to market jurisdictions – consolidated group financial accounts
- Amount A only applies to the portion of profit exceeding a certain level of profitability – Profit Before Tax the preferred measure to assess this
- Allocation key of sales for allocation of Amount A to market jurisdictions

Further technical work

- Business line and regional segmentation to be explored
- The quantum of Amount A could be weighted for different degrees of digitalisation
- Specific revenue sourcing rules to be consider for different business models



The New Taxing Right (Amount A): Elimination of Double Taxation (section 3.3)

Identify the entity/entities liable

- Entities earning the relevant deemed residual profits

Apply the most effective double tax relief method

- Exemption / credit / corresponding adjustment

Further work required

- Determining the relieving entity(ies)
- Methods for allocating Amount A liabilities



The New Taxing Right (Amount A): Interactions and potential for double counting (section 3.4)

Interactions between A and B

- No significant interaction between Amounts A and B

Interactions between Amounts A and C

- Identifies potential interactions between Amounts A and C
- Notes that no double counting should give rise to double taxation given the application of the mechanism to eliminate double taxation



Amount B: Fixed Return (section 4)

Fixed Return under the Arm's Length Principle

- Fixed return based on the ALP for “baseline” or routine marketing or distribution activities performed in a market jurisdiction
- The fixed return would consider differences in region and industry
- Treaty changes will not be required to implement Amount B

Further technical work

- Definition of baseline activities / profit level indicator / fixed % at an agreed profit / benchmarking studies / industry or region differentiation



Tax certainty (section 5)

Dispute prevention and resolution

- Tax certainty is an essential element of the unified approach and is a fundamental part of the design of Pillar One

Dispute prevention and resolution under Amount A

- Disputes will likely affect the taxation of Amount A in multiple jurisdictions
- Agreement that a new effective and binding dispute prevention and resolution mechanisms is required for amount A





Tax certainty (section 5)

Dispute prevention and resolution under Amounts B and C

- Core of the work on tax certainty and dispute prevention and resolution for **Amounts B** will be to limit disputes by using fixed rates of return on baseline distribution and marketing activities
- **Amount C** will involve:
 - exploring innovative approaches to dispute resolution
 - reaching agreement on the breadth of the application of new enhanced dispute resolution is critical and IF members agree to return to the matter as part of arriving at a consensus-based solution in 2020
 - also enhancing MAP and domestic measures



Implementation and administration (section 6)

General implementation aspects

- New multilateral convention for coordinated, consistent and effective implementation
- Compliance and administrative costs, novel compliance requirements, transition rules
- Commitment by members of the Inclusive Framework to implement this agreement and at the same time to withdraw relevant unilateral actions

Alternative Global Safe Harbour Approach

- Electing MNE group would agree, on a global basis, to be subject to Pillar One



Annex A: Revised Programme of Work

1. Scope of Amount A

2. New nexus and related treaty considerations for Amount A

3. Tax base determinations

4. Quantum of Amount A

5. Revenue sourcing rules under Amount A

6. Elimination of double tax under Amount A

7. Interactions between Amounts A, B and C and potential risks of double counting

8. Features of Amount B

9. Dispute prevention and resolution for Amount A

10. Dispute prevention and resolution for Amounts B and C

11. Implementation and administration