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US - Digital Economy Does Not Warrant Special Tax Regime

Chip Harter, Deput Assistant Secretary (International Tax Affairs) at the US Department of the Treasury, set out the US position concerning proposals to tax the digital economy at a Tax Council Policy Institute conference held in Washington over 15 to 16 February. Mr Harter stated that the US does not believe digital business is so inherently different such that it warrants separate treatment by way of the creation of a special tax regime.

Harter stated the US is open to discussions as to whether benchmarks concerning permanent establishment and profit attribution should be revised on a broader basis, but not as part of a special regime which is specific only to digital business.

These comments come ahead of the interim report concerning the implications of digital taxation that the Task Force on the Digital Economy (TFDE), a subsidiary of the CFA, is preparing to deliver to G20 Finance Ministers at the April 2018 meeting. Harter indicated that a consensus cannot be reached and that this will be reflected in the report.

OECD Updates

On 8 February the OECD issued additional guidance concerning the implementation of country-by-country reporting (CbCR) in accordance with Action 13 of the BEPS Project. The guidance states that total consolidated group revenue should be calculated on the basis of the same accounting standards used to identify the existence of a group for the purposes of CbCR. In addition, the guidance includes clarification concerning situations in which the non-compliance of a jurisdiction with the conditions of confidentiality, appropriate use or consistency with respect to CbCR may be considered a systemic failure of the jurisdiction to fulfil its obligations under an international agreement for the automatic exchange of CbCR.

The Global Tax Advisers' Cooperation Forum submitted an opinion statement in January concerning the OECD consultation draft regarding proposed Mandatory Disclosure Rules requiring disclosure of avoidance arrangements and offshore structures.

Additionally, the OECD announced this month that Serbia has joined the Inclusive Framework on BEPS, bringing the total number of countries who have committed to work together to prevent multinational group tax avoidance and improve cross-border tax disputes to 112.

Nigeria, having ratified the Multilateral Component Authority Agreement on the Exchange of Country-by-Country Reporting Reports (CbC MCAA) in August 2016, has this month enacted Income Tax (Country-by-Country) Reporting Regulations 2018. These Regulations indicate compliance with Action 13 of the implementation plan of the OECD Base Erosion and Profit Shifting (BEPS) project.

Australia Proposes Draft Legislation Extending Multinational Anti-Avoidance Law

The Australian government has issued draft legislation which proposes to extend current anti-avoidance law, by preventing taxpayers from using foreign trusts or partnerships in corporate structures to evade the current legislative application.

The current legislation was enacted in 2016, and was designed to prevent multinational entities with annual global income of AUD $1 billion or more, or that are a part of a group of entities that have annual global income of AUD $1 billion or more, from avoiding paying tax within Australia by constructing artificial arrangements with the aim of avoiding having a taxable presence in Australia.

The Australian Government in its explanatory memorandum indicated that the proposed legislation would ensure the current anti-avoidance legislation operates as intended.

Revision of the UK Intangible Fixed Assets Regime

The UK regime on corporate intangible fixed assets (IFA regime) is being revisited. The scope of the regime includes assets such as copyright, patents and trademarks as well as goodwill. It was first established in 2002 to equate tax and accounting treatment of such assets. In essence, it introduced relief for amortisation or impairment of the aforementioned assets. The revision is aimed at enhancing the efficiency and attractiveness of the regime. Concrete proposals concerning the revisions are expected in late 2018.

Digital Services Tax & Carbon Tax Introduced in Singapore's 2018 Budget

In its 2018 budget, the Singapore government has announced that a goods and services tax will be imposed on digital services from 2020 onwards, with plans to raise the current rate of the GST to 9%, a 2% increase, between 2021 and 2025. This announcement reflects current ongoing international dialogue concerning using destination principles for the taxation of digital services. B2B services are to be taxed by a reverse charge mechanism, with B2C services to be taxed via overseas vendor registration, which will be compulsory for overseas suppliers of digital services to Singapore.

The government also announced a new carbon tax in the budget for those entities producing 25,000 tonnes or above of greenhouse gases annually, to apply from 2019. The proposed tax rate is S$5 per tonne of emissions, to increase to S$10 or S$15 per tonne by 2030. The tax will take the form of a fixed-price credits-based mechanism.

The budget did not introduce any proposed changes for Singapore's corporate income tax rates.

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The selection of the remitted material has been prepared by
Piergiorgio Valente/ Aleksandar Ivanovski/ Brodie McIntosh/ Filipa Correia

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