



Request for Input Regarding Work on Tax Challenges of the Digital Economy

November 2013

REQUEST FOR INPUT REGARDING WORK ON TAX CHALLENGES OF THE DIGITAL ECONOMY

1. Background

1. At the request of G20 Finance Ministers, in July 2013 the Action Plan on Base Erosion and Profit Shifting was launched. The G20 leaders at their meeting in St. Petersburg on 5-6 September 2013 fully endorsed the Action Plan and welcomed the establishment of the OECD/G20 BEPS project in which all non-OECD G20 countries participate on an equal footing with OECD Countries.

2. The Action Plan sets forth 15 actions to tackle BEPS in a comprehensive and coordinated way. The development of the 15 actions in the Action Plan will result in significant changes to the rules for the taxation of cross-border profits. The aim is to ensure that profits are taxed where the economic activities that generate them are carried and where value is created. The digital economy provides a good illustration of the types of challenges facing the international tax system.

3. According to the Action Plan:

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. At the same time, the fact that new ways of doing business may result in a relocation of core business functions and, consequently, a different distribution of taxing rights which may lead to low taxation is not per se an indicator of defects in the existing system. It is important to examine closely how enterprises of the digital economy add value and make their profits in order to determine whether and to what extent it may be necessary to adapt the current rules in order to take into account the specific features of that industry and to prevent BEPS.

4. Against this background, the BEPS Action Plan includes the following description of the work to be undertaken in relation to the digital economy:

ACTION 1 – Address the Tax Challenges of the Digital Economy

Identify the main difficulties that the digital economy poses for the application of existing international tax rules and develop detailed options to address these difficulties, taking a holistic approach and considering both direct and indirect taxation. Issues to be examined include, but are not limited to, the ability of a company to have a significant digital presence in the economy of another country without being liable to taxation due to the lack of nexus under current international rules, the attribution of value created from the generation of marketable location-relevant data through the use of digital products and services, the characterisation of income derived from new business models, the application of related source rules, and how to ensure the effective collection of VAT/GST with respect to the cross-border supply of digital goods and services. Such work will require a thorough analysis of the various business models in this sector.

5. The Action Plan also provides that “[t]he OECD’s work on the different items of the Action Plan will continue to include a transparent and inclusive consultation process” and that all stakeholders such as business (in particular BIAC), non-governmental organisations, think tanks, and academia would be consulted.

6. A Task Force on the Digital Economy has been established to identify the issues raised by the digital economy and possible actions to address them. A report is expected to be finalised by September 2014. Examining the tax challenges of the digital economy requires a thorough analysis of the various relevant business models involved. In particular, it is of utmost importance for the work of the Task Force to be based on a full understanding of how digital economy businesses create value and make their profits, and also to analyse how the overall digitalisation of the economy has impacted business models and supply chains in traditionally non-digital industries.

7. As an initial matter, therefore, the Task Force on the Digital Economy is seeking **general comments on Action 1 regarding the appropriate approach to addressing the tax challenges of the digital economy**. In addition, the Task Force is seeking specific input on the questions below related to business models employed in the digital economy. This input will be relied upon in producing a discussion draft of the Task Force’s required report on the Digital Economy, which is expected to be released for comments in March 2014.

2. Request for specific input

A. *Nature of work/activities undertaken by your organisation*

A.1. Please describe the background of your organisation, including the nature of the work or activities performed.

B. *Impact of information and communication technology on the activities of the organisation*

B.1. Please provide a detailed description of the business models that have emerged in the context of the digital economy due to advances in information and communications technology. Please also describe briefly the technology deployed.

B.2. How do these models leverage new technology to change organisational structures and supply chains?

B.3. In each of the business models identified, what assets and activities contribute to the generation of value?

B.4. How has new technology impacted the way and the location in which value is created or monetised under these business models?

B.5. How have changes in underlying business models impacted the way in which business is organized as a legal or tax matter?

B.6. What challenges do digital economy players face in determining their tax liability from a corporate income tax and VAT/GST perspective?

B.7. How do you see business models and supply chains evolving in the future due to advances in information technology?

C. Other comments

C.1. Please provide *Any other comment* you may have regarding Action 1, including any additional information *that you would consider useful* in identifying *the challenges that the digital economy poses for the application of existing international tax rules*.

8. Responses to this invitation should be sent electronically (in Word format) by email to CTP.BEPS@oecd.org by 22 December 2013 at the latest. Unless otherwise requested at the time of submission, responses to this invitation will be posted on the OECD website.