ICC POLICY STATEMENT

TAXATION POLICY FOR THE DIGITALISED ECONOMY

Introduction

The International Chamber of Commerce (ICC), as the world business organization, works to promote open, rules-based multilateral trade and investment, the market economy system, sustainable economic growth, responsible business conduct and a global approach to regulation. These objectives are pursued through a combination of policy advocacy, practical tools and rule-setting activities by business.

In the area of taxation, ICC seeks to promote transparent and non-discriminatory treatment of foreign investments and earnings that eliminate tax obstacles to cross-border trade and investment. ICC supports transparent, efficient, predictable and stable tax regimes that incentivise long term investment, job creation and economic growth. Through its wide membership network, ICC advocates for a consistent global tax system, founded on the premise that stability, certainty and consistency in global tax principles are essential for business and will foster cross-border trade and investment.

Taxation provides a predictable and stable flow of revenue to finance public spending, and shapes the environment in which investment, employment and trade takes place. International tax rules provide for clarity and certainty in the tax systems which serve to safeguard these aims.

ICC supports a harmonised approach to ensure that international tax rules remain relevant and applicable in a rapidly digitalising global economy. The digital economy is not only revolutionising the way businesses operate but also creates new opportunities for global growth and prosperity. If nurtured appropriately, technological advances and digital connectivity can spur innovation in business models, business networking and knowledge transfer while also facilitating access to international markets for businesses large and small, old and new. Digitalisation will enable improved education, health care and social services for all. 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. Any change of international rules or principles should be done through a comprehensive, coherent and co-ordinated approach between jurisdictions.

As discussions evolve across the globe, ICC proposes a framework of internationally established tax principles for consideration in determining relevant policies to address the taxation of the digitalised economy.

This framework of internationally established tax principles is intended to meet the following objectives:

- Help define the contours of a suitable tax framework for the digitalised economy that encourages business activities, job creation and economic growth.
- Contribute to building a coherent international regulatory framework for world business - the integrity of the international tax system is of critical importance to facilitate cross-border trade.
- Support the premise that international commitments undertaken in income tax treaties and other international agreements affecting taxes should be respected.
- Serve as a gauge for policy makers, legislators and businesses, to measure the effectiveness of proposed policies on taxation of the digitalised economy.
- Build on principles that can accommodate continued rapid evolution in digitalised business models.

Taxation of the digitalised economy: internationally established tax principles

The following internationally established tax principles provide a useful foundation for consideration:

1. *Profit-based taxation*

The corporate income tax liability of a company should be based on the profits that such company generates with its economic activities and not on its revenues. The allocation of company profits between countries should be based on where the company's activities create value.

2. Neutrality

Taxation should seek to operate neutrally and equitably between different forms of business activities.

A neutral tax will contribute to efficiency by ensuring that optimal allocation of the means of production is achieved. A distortion, and the corresponding deadweight loss, will occur when changes in price trigger different changes in supply and demand than would occur in the absence of tax. Neutrality thus entails that the tax system raises revenue while minimising discrimination in favour of, or against, any particular economic choice. Necessarily, the same principles of taxation should apply to all forms of business as well as address particular aspects that may affect their equal and neutral application.

In the context of the digitalised economy, neutrality of taxation means that taxation should seek to be neutral and equitable between forms of digital businesses and between more conventional and digital businesses. Taxpayers in similar situations carrying out similar transactions should be subject to similar levels of taxation.

3. No double taxation and unintentional non-taxation

Tax rules and systems should seek to avoid double taxation and unintentional non-taxation.

4. (Administrative) efficiency and enforceability

Compliance costs, including enforcement and collection costs, to businesses, and administration costs for governments and businesses should be minimised as much as possible. Enforcement and collection costs should be reasonably proportionate to the receipts.

If there is a class of taxpayers that is technically subject to a tax, but never pays the tax due to ineffective enforcement mechanisms, then the taxpaying public may view the tax as unfair and ineffective. The tax system should be administered fairly, honestly and with integrity and should seek to prevent or identify and pursue instances of tax fraud, in order to ensure a level playing field for compliant taxpayers. As a result, the practical enforceability of tax rules is an important consideration for policy makers. In addition, because it influences the collectability and the administerability of taxes, enforceability is crucial to ensure efficiency of the tax system.

Tax administrations should offer various forms of payment to tax payers and should only require payment when the actual amount is due.

5. Certainty, simplicity (including predictability)

Tax rules should be clear and simple to understand, so that taxpayers know exactly what is being taxed, how much has to be paid and how and when it has to be paid. This means that the law should be clear and unambiguous, the tax authorities' interpretation of it should be readily available to taxpayers, and advance rulings are available. A simple tax system makes it easier for individuals and businesses to understand their obligations and entitlements. As a result, businesses are more likely to make optimal decisions and respond to intended policy choices. In addition, co-operation and constructive collaboration with key stakeholders is essential in developing a predictable tax system based on clear, consistent and transparent international standards of taxation.

6. Flexibility

Taxation systems should be flexible and dynamic to ensure they keep pace with technological and commercial developments. This means that the structural features of the system should be durable in light of evolving business models, taking into account that future developments will often be difficult to predict.

7. Information security

Tax administrations must protect information obtained or held, establish standardised procedures to mitigate potential privacy risks and disclose or exchange information with third parties only as permitted by law. Such disclosure or exchange itself should be based on transparent rules and procedures and secure protocols.

8. Non-discrimination

Discrimination generally refers to equal treatment of different cases or the unequal treatment of similar cases. Within the international tax context, discrimination is evidenced where taxpayers in similar situations are treated differently except in the case of certain characteristics. Discrimination may be direct or indirect where the rule does not particularly discriminate by reference to the characteristic but in practice still has the same effect. Tax rules and systems should provide for consistent application of the principle of non-discrimination in administering a neutral tax system and promoting the equal treatment of all taxpayers before the law. Taxpayers should be treated equally, free from any inappropriate influence, and without bias or preference.

Conclusion

The digitalisation of the economy brings new opportunities as well as challenges. ICC underlines the need for countries to collectively discuss and address the 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. ICC strongly recommends that any measures being considered be aligned with global efforts to ensure consistency and coherence and to avoid double and over-taxation.

ICC proposes the above framework of internationally established tax principles for consideration, as a foundational base in determining international tax rules that are fit for purpose in an ever-evolving digitalised economy. ICC remains committed to providing knowledge and expertise on behalf of business with a view towards determining a long-term global solution to address taxation of the digitalised economy.

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