

Recent Developments in Digital Services Taxes: The UK Debate

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This presentation

- UK DST's stated policy rationale and design issues arising from it
- Many other issues:
 - Economic perspective: distortions, incidence, etc
 - Enforcement
 - DTT, WTO, EU law issues
 - Impact on international cooperation
 - Alternative rationales

Context

- Huge public/political/media pressure to ensure companies pay “fair share of tax”
 - Non-tax concerns with digital giants
- UK’s general position on Int’l Tax reform (March 2018, Updated Position Paper)
- Policy rationale
 - Mismatch represents a “fundamental challenge to the fairness, sustainability and public acceptability of the corporate tax system.”
 - **to ensure digital businesses pay tax that reflects value they derive from UK users**
- By basing reform preferences on *value creation*:
 - UK can claim that not departing from principle underlying existing system
 - But affects particular design of UK DST

UK's proposals

- DST
 - Announced in Budget October 2018
 - Despite “acknowledg[ing] the limitations and challenges of revenue-based taxes”
 - Consultation: November 2018 – February 2019
 - Final legislation expected by July 2019
 - Effective from April 2020
- Preferred long-term solution: User Participation
 - Modify nexus and allocation rules
 - Currently discussed by OECD's Inclusive Framework

UK DST in brief

- **2% tax on revenues** of *certain* digital business models if linked to UK users
 - Not a tax on online sales or advertising revenues
- **Double threshold:**
 - £500m global annual revenues from in-scope business activities; &
 - £25m in annual revenues from in-scope business activities linked to UK users
- **Exemption:** £25m of UK taxable revenues not taxable
- **Safe harbour:** Very low profit margins businesses can elect for alternative calculation
- **Deductible:** against UK CIT as an expense
- **Temporary:** Formal review in 2025 but disapplied before if “appropriate international solution” in place
- **Expected revenue:** £1.5bn over four years

Design issues stemming from policy rationale

“In scope business”

- Businesses for which users are “*significant* value drivers”
 - search engines; social media platforms; and online marketplaces
- Reverse engineered?
- Why only if users are *significant* value drivers? Fine distinctions - e.g. wine app
- What is “significant”?
 - HMT needs to “reflect further” on online gaming
- In a fast-moving digitalised world list will require regular updating
- Each business model defined
 - Is business within definition?
 - Website providing professional content allows users to upload content/interact with other users etc: “ancillary” or “incidental” to website’s offering?

Design issues stemming from policy rationale

“In scope revenue”

- All 3rd party revenues linked to UK users (“whatever the character”, e.g. advertising, fees, commissions, data sales)
- Irrelevant if realised in UK entity or not
- Highly integrated in and out of scope businesses
 - e.g. advertising revenues both on market place and sales of own services
 - “just and reasonable apportionment” (diff. businesses reach diff. conclusions)

Design issues stemming from policy rationale

UK Users

→ Basic rule: UK user if “normally resident”

- Businesses can take different approach if “just and reasonable having regard to facts”
 - – e.g. search engine could use IP address
- Issues:
 - Diff companies have different views on “just and reasonable”
 - Will all companies have data? How will HMRC review it?
 - VPN
 - Data protection