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**WORKING PAPER**

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**MEETING DOCUMENT**

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From:	Presidency
To:	High Level Working Party
Subject:	Tax challenges arising from the digitalisation of the economy

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Delegations will find attached a document in view of the meeting of the High Level Working Party (Taxation) on 12 July 2019.

8.7.2019

## **TAX CHALLENGES ARISING FROM THE DIGITALISATION OF THE ECONOMY**

### **1 Introduction**

1. The purpose of this document is to describe the state of play in relation to the work on the tax challenges arising from the digitalisation of the economy, with respect to the developments in the OECD and the work thus far conducted within the Council.
2. The document aims to inform the Member States about the Presidency's plans for the way forward during its Presidency, by broadly outlining the work plan envisaged at this stage. This would permit the Member States to exchange views on the most suitable way forward in this area during the coming months.

### **2 Overview of the developments in the OECD**

3. The OECD's Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy was adopted at the Inclusive Framework on BEPS at its May 2019 meeting. It was endorsed by the G20 ministers at their meeting on 9 June 2019.

4. The work will be organised in two pillars:

Pillar 1: Revised nexus and profit allocation rules

Pillar 1 consists of different proposals, which nevertheless all allocate more taxing rights to the market jurisdiction. There are technical issues to be resolved under the programme of work, which are the following:

- a) different approaches to determine the amount of profits subject to the new taxing rights and the allocation of those profits among the jurisdictions;
- b) the design of a new nexus rule that would capture a novel concept of business presence in a market jurisdiction reflecting the transformation of the economy, and not constrained by physical presence requirement;
- c) Different instruments to ensure full implementation and efficient administration of the new taxing rights, including the effective elimination of double taxation and the resolution of tax disputes.

## Pillar 2: Global anti-base erosion proposal (GloBE)

Work on Pillar 2 will aim to address unresolved issues regarding base erosion and profit shifting (BEPS). The members of the Inclusive Framework have agreed to explore an approach whereby other jurisdictions would have the right to apply the rules when income is taxed at an effective rate below a minimum agreed rate.

Within this context, and on a 'without prejudice' basis, the members of the Inclusive Framework have agreed a programme of work that will explore an income inclusion rule, a switch-over rule, an undertaxed payments rule, and a subject-to-tax rule. They have further agreed to explore, as part of this programme of work, issues related to rule co-ordination, simplification, thresholds, compatibility with international obligations and any other issues that may emerge in the course of the work.

5. The technical work in the OECD is expected to be carried out swiftly. Based on the information at hand, various OECD working groups will take place throughout 2019 in order to present recommendations on the core elements of a long-term solution to the Inclusive Framework for agreement at the start of 2020. After that, work on policy issues and technical details would continue, with a final re-port to be delivered by the end of 2020.

## 3 Discussion within the EU

### 3.1 Ecofin

6. At the ECOFIN meeting on 17 May 2019, ministers discussed the state of play of current international tax reforms. Views were exchanged on the ongoing international debate on long-term comprehensive solutions addressing both the challenges of taxation in the digitalised economy and broader issues related to the allocation of taxing rights and tax competition.

7. Ministers assessed possibilities for preparing for the negotiations in the OECD and broadly supported continuing discussions on these matters in the EU. The objective of the discussions would be to exchange ideas on the technical papers and options discussed in the OECD, taking into account the impact on the tax revenues and businesses of the Member States and to see whether issues common to MS could be identified.

8. The ECOFIN Chair (Romanian Presidency) asked the High Level Working Party on Taxation (HLWP) to follow this up in practical terms.

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