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How to appropriately tax a highly digitalized and globalized economy?

Addressing tax challenges arising from digitalization and trying to prevent Base Erosion and Profit Shifting (BEPS)

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Tax challenges arising from the digitalization of MNE groups

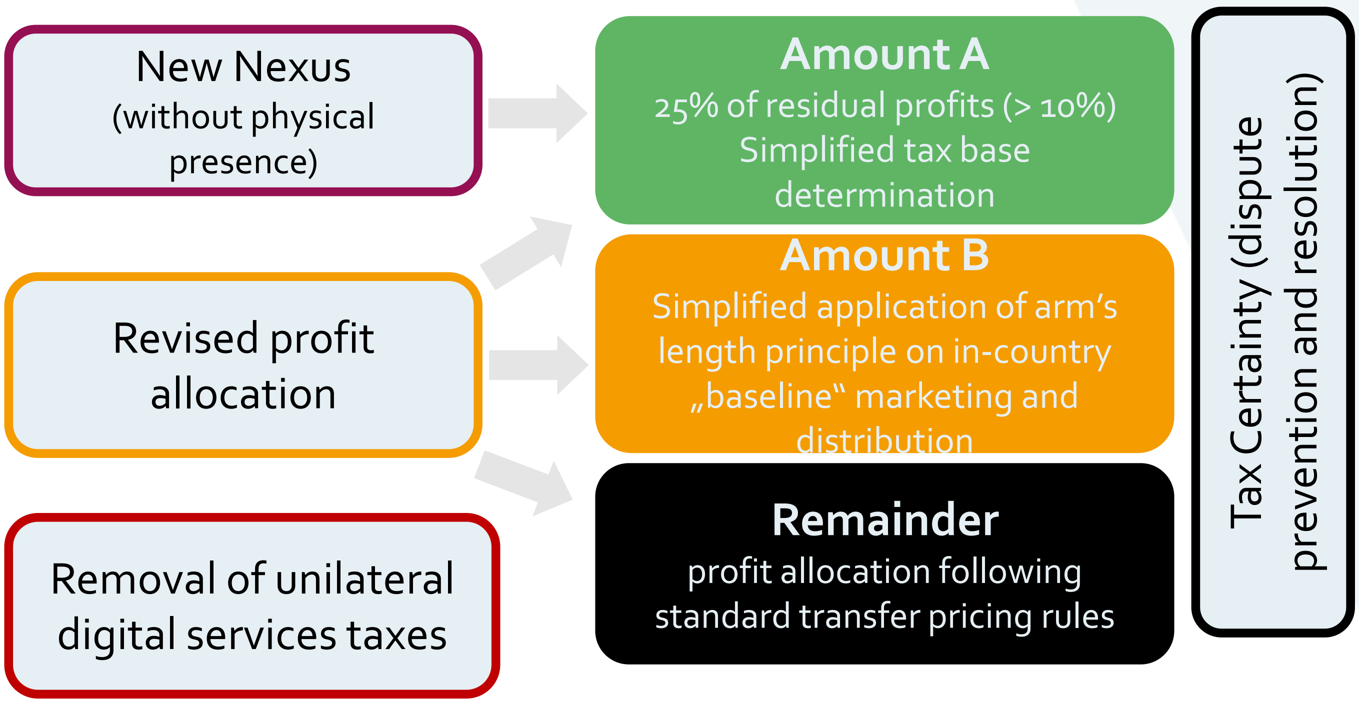
- **Digitalization together with ongoing globalization of the economy complicates even more an appropriate taxation of multinational enterprise (MNE) groups**
  - E.g., where should the profits of an MNE group that has branches all over the world and is gaining most of its profits by e-commerce be taxed?
  - Is there even something like a „digital economy“ that should be treated differently compared to the traditional economy? Or have we already arrived at a point where (almost) all kind of businesses can be part of the digital economy?
- **Ongoing digitalization makes shifting of profits even easier (BEPS risks)**
  - Highly „mobile“ profits
  - Challenging for policy makers to keep up with the pace of change
  - Agreeing on very targeted rules against BEPS gets more and more difficult

Multilateral Responses: OECD/G20 and European Union

- **OECD/G20 Inclusive Framework: Action Items against BEPS**
  - Anti Tax Avoidance Directive (ATAD) and ATAD II were agreed on an EU-level
- **OECD/G20 two-pillar solution to address the tax challenges arising from the digitalization of the economy**
  - EU Directive (for a coherent and coordinated implementation of the GloBE rules [Pillar Two] in the EU) agreed on a working party level, but no political agreement
    - Political agreement on a directive still possible?
    - Enhanced Cooperation (Art. 20 Treaty on European Union) as a way forward?

OECD/G20 two-pillar solution: Pillar One in a nutshell

- **Expansion of taxing rights of market/user jurisdictions where there is an „active and sustained participation"**



OECD/G20 two-pillar solution: Pillar Two in a nutshell

GloBE rules
(Global anti-Base Erosion rules)

Subject to tax rule (STTR)

Income Inclusion Rule (IIR)

UTPR

Minimum Taxation

15%

Effective tax rate (Jurisdictional blending)

9%

Nominal tax rate

Take-aways from the OECD/G20 projects

- **Ring-fencing the digital economy has turned out to be impossible**
  - Therefore, most recent rules are applicable to all parts of the economy
- **Ongoing trend to focus only on the very biggest MNE groups**
  - Implicit risk of complicating tax systems even more as there are different rules depending on the size of the tax payers
- **There seems to be a trend to move on from very targeted rules to rules with a much wider scope, that work more mechanical**
  - E.g. compare the scope of very targeted rules like the CFC-rules (first OECD/G20 anti-BEPS initiative) to the very wide scope of the Income Inclusion Rule of Pillar Two (part of the OECD/G20 two-pillar solution)

Future developments?

- Discussion