Digital services tax

As a leading global business law firm, with an international tax team present in 48 countries we follow the rapid changes to the international tax landscape and offer advice which considers the rules of different jurisdictions and solve the arising tax and business challenges through a combination of local capability and extensive experience of seamless cross-border services.

The OECD/G20 Inclusive Framework on BEPS is moving forward to address the tax challenges posed by the digitization of the economy. The goal of the OECD member states is to resolve the political and technical issues around these tax challenges and to bring the process to a successful conclusion by mid-2021.

Meanwhile, the European Commission has also published a roadmap including a public consultation for the introduction of a digital levy – highlighting that the EU is still committed to reaching a global agreement in relation to the digitalization of the economy. This should be seen as supplementing ongoing work at the G20/OECD level on reform of the international corporate tax framework. The European Commission is, however, committed to publishing a draft directive by June 2021 at the latest, given its proposed introduction in January 2023.

Despite these ongoing multilateral negotiations, several European countries have decided to move ahead with unilateral measures targeting the digital economy. These unilateral measures have largely taken the form of a Digital Services Tax (DST). The proposed and implemented DSTs share a number of features in common regarding affected taxpayers, applicable territorial rule, and exempt activities, as well as significant differences in their structure and the applied methods for collection and compliance. While some countries, such as Austria and Hungary, target only tax revenues from online advertising, the French, Italian and Spanish DST tax base is much broader, encompassing revenues from the provision of intermediation services through a digital interface, targeted advertising, and the transmission of data collected about users for advertising purposes.

Additionally, several further jurisdictions within and outside the European Union have announced plans to impose DST if an international agreement on the digitalization of the economy cannot be reached.

In general, the implemented DSTs are considered so far to be interim measures until an agreement is reached at international level. But, based on current legislation, it remains unclear whether all of them will be repealed at that point.

DLA PIPER

Here to support you

Against this background and considering the potential implications of this additional tax liability to your existing business agreements as well as the magnitude of the penalties introduced by the different legislations in case of non-compliance, it is pivotal for you to understand the ramifications of the implemented DST to your international business in all jurisdictions your business is present. Our Tax Group has the unique experience and global presence to provide multi-jurisdictional advice in this relatively new field of taxation, which includes:

- analyse your business activities to determine if they qualify as covered services and fall within the scope of the digital services tax;
- assess actions to be taken to be compliant with the applicable tax compliance regulations;
- review and propose changes to the existing business agreements to determine whether burden of taxation shall and could be possibly shifted to clients and business partners; and
- analyze the possibilities to obtain the refund of DST based on Tax Treaties and EU legislation.

For more information, speak to your principal DLA Piper contact, email tax@dlapiper.com or visit www.dlapiper.com/dst.