Association of International Certified Professional Accountants comments on OECD digital economy tax proposal

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The Association has commented on the OECD's Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy.

The Association of International Certified Professional Accountants (the Association), the unified voice of The Chartered Institute of Management Accountants (CIMA) and the American Institute of CPAs (AICPA), has released comments on the Organisation for Economic Co-operation and Development (OECD)'s Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy.

Previously, the Association submitted comments outlining key elements for a consensus-based, equitable and successfully durable rebalancing of multi-jurisdictional taxing rights. In this recent letter, the Association's comments focus on the first of two pillars proposed by the OECD which could form the basis for consensus - the concept of income allocation between jurisdictions.

Income allocation to markets where value is created - also known as the economic nexus - is the foundation of pillar one of the OECD project regarding taxation of the digital economy. The Association's framework outlines how defining parameters for allocating and apportioning income based on the advent of the digital economy is a multi-jurisdictional exercise in cooperation and enforcement. The Association offers the following points to the OECD for consideration:

- Income allocated should include a routine return to jurisdictions where valuable functions and activities occur, as this treatment provides jurisdictions the right to tax the output of activities that generate value within their borders;
- Minimum threshold exceptions to economic nexus are necessary to protect businesses, and such minimum thresholds should be agreed to globally;
- Developing and obtaining a consensus on workable and practical enforcement mechanisms is a priority;
- New rules to tax value should utilise aspects of existing tax law and consider the impact on individuals operating cross-border; and
- Before considering a fractional apportionment approach, OECD should take steps to recognise the importance of intangible assets.

  In this context, countries in Africa need to consider whether current taxing rights adequately capture profits earned in their jurisdictions for taxation purposes. They also have to ensure that their voice is represented in global tax debates in the digital economy.

"Companies must formulate and implement a well-defined tax strategy that clearly addresses how they will be affected by global tax laws and regulations," said Sara Bux, Associate Director, Head of Southern Africa at the Association. "This will become increasingly necessary as more and more business is conducted online."

"As the global digital economy continues to evolve and expand, so does the need for a global consensus on the taxation of the digital economy," said the Association's Vice President of Taxation, Edward Karl, CPA, CGMA. "The international corporate tax rules must be updated for the digital age; however, unilateral, cross-border taxation actions can lead to double taxation, business uncertainty and lengthy and expensive controversy for businesses and governments," he continued.

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