Tax Policy Alert
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No slowdown in unilateral tax measures targeting digital activities in 2020

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In brief

2020 started with new digital services taxes (DSTs) coming into effect in Italy and Austria, with more on the horizon in the coming months, including agreed legislative provisions from Turkey beginning in March. The pace of countries considering DSTs continues to accelerate, even as discussions by the OECD Inclusive Framework move forward, driven in part to mitigate the rationale for DST implementation.

In detail

France (which retroactively applied its law to the beginning of 2019) and Italy mark the most active DSTs currently in effect. Modelled in part on the paused European Commission directive regarding a DST, both countries target large technology firms with more than €750 million in global sales and local revenues thresholds with a 3% tax. Activities considered in-scope include online advertising services and the provision of digital intermediation (such as online marketplaces, dating services, and app stores).

Austria chose a limited measure in only subjecting online advertising revenues to a 5% tax (an extension of its traditional advertising tax). However, Turkey has arguably enacted the strongest DST to date, which begins on 1 March 2020 – at 7.5%, its scope goes beyond the French version to capture transmissions of digital content services (such as streaming services) and internet of things (IoT) sensor data.

New DSTs in 2020

	Italy	Austria	Turkey
Revenue threshold	Global €750M; Local €5.5M	Global €750M; Local €25M	Global €750M; Local TRY 20M
Rate	3% of deemed Italian revenues	5% of deemed Austrian revenues	7.5% of deemed Turkish revenues
In-Scope Activities	- Online advertising - Intermediation platforms - Sale of data	- Online advertising	- Online advertising - Intermediation platforms - Sale of data
Entry into Force	1 January 2020	1 January 2020	1 March 2020
Notes			Broader application to digital content and sensor information; monthly reporting and payments

Each of these measures places new, substantial compliance burdens on affected companies (or those likely to be affected), requiring not only administrative filing with tax authorities but implementation of new data systems to collect information on the location of purchasers/users to substantiate the various revenue thresholds used.

The United Kingdom is also committed to introducing a 2% DST from April 2020 (based on deemed revenues attributable to certain activities rather than specific revenue streams); the UK Budget will be announced in March 2020. Spain has expressed strong interest in an EU-inspired DST and is likely to move forward with a new government installed in January.

Revenue threshold	Global £500; local £50M (£25M allowance)	Global €750M; Local €3M
Rate	2% of deemed UK revenues	3% of deemed Spain revenues
In-Scope Activities	- Social media platform - Online marketplace - Internet search engine	- Online advertising - Intermediation platforms - Sale of data
Entry into Force	1 April 2020 (anticipated)	TBD (awaiting establishment of new government)
Notes	Exclusions for regulated financial services or revenue >50% from trade/creation of financial assets	Modelled on European Commission DST proposal

Also on the horizon for potential action in 2020 are the consideration of unilateral measures in other diverse areas of the world, including by Canada, Kenya, and Israel. And the European Commission has indicated strong interest in resurrecting its own bloc-wide plans if the OECD fails to develop a global consensus solution by the end of 2020.

Canada	• The Liberal government has, consistent with its election campaign, stated the need to pursue a DST similar to the French model
Israel	• Public remarks by government that it is considering a DST similar to France at a 3-5% rate
Kenya	• In a preview of the 2019 Budget, the Treasury Secretary stated that the digitalization of Kenya's economy has resulted in erosion of the country's tax base and decreased tax revenue. The Secretary announced a "raft of tax measures that are aimed at providing the platform for taxation of income generated from the digital economy." Details of such measures are expected when the 2019 Finance Bill is published.

In 2018 and 2019, a number of countries expanded their VAT/sales tax regimes to digital services as an intermediate solution to political sensitivities on taxes paid by technology companies; depending on the outcome of the OECD discussions, those jurisdictions could move further to enact DST measures that make levies on gross revenues.

The United States has responded to unilateral measures by investigating France's DST as discriminatory and proposing tough tariff sanctions in response and threatened to open investigations into other countries' DSTs. Following an early January hearing by the US Trade Representative, the US government is poised to take action with respect to the DST when it concludes the time is right. Example of tables/charts

The takeaway

Continued uncertainty and global adoption of DST measures make 2020 an important year for careful watch of jurisdictions' tax legislation and policies.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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