Taxation and the Digitalization of the Global Economy
Digitalization is transforming the global economy at an unprecedented rate. It brings with it a range of benefits, including the acceleration of innovation, and greater choice and convenience for consumers as competition for their business grows. The digital revolution signals the next step in the evolution of globalization – businesses are no longer merely integrating across national borders, they are now moving to a paradigm seemingly without borders.

Digitalization has the capacity to increase efficiency, productivity and consumer choice, reduce costs and drive rapid economic growth. At the same time, it has increased the impacts of inequality, is disrupting labor markets and is challenging traditionally accepted concepts of how businesses create and realize value. The disruption caused by the digitalization of the global economy presents new challenges and opportunities to every business in every part of the world.

In the tax world, globalization has put the existing framework of international tax rules under enormous strain. A fundamental principle in that framework is a country’s right to tax business profits arising from economic activity within its borders. That concept, rooted in physical geography, is becoming quainter by the day in the face of digitization of business practices. Even before this digital wave, globalization had facilitated base erosion and profit shifting (BEPS) tax planning practices, which, to some extent, decoupled the incidence of taxation from economic activity and value creation. The global financial crisis exposed the weaknesses inherent in the current rules and led to international efforts (notably, the G20/OECD BEPS Project) to redress the balance.

The digitalization of the global economy, however, has accelerated BEPS-type tax planning activities by taxpayers and, therefore, increased the pressure on existing international tax principles. Whereas the G20/OECD BEPS Project was a reaction to tax planning perceived as inappropriately exploiting gaps and mismatches within the existing framework for international taxation, digitalization fundamentally challenges some core assumptions about the incidence of tax, sovereignty, value creation and economic activity. For example, how (if at all) do algorithms, user data, user participation and knowledge create or contribute to a business’s value proposition? If they do, where do they create such value? Or, using a more tangible example, where is value created when a component is bought from a company in one jurisdiction, printed by a customer on a 3D printer located in a second jurisdiction, driven by a data store located in yet a third?

Finally, as a practical matter, how should corporate income tax law deal with value creation?

For all of its achievements, the G20/OECD BEPS Project has (so far) failed to find or create an international consensus on the operation of international taxation in a digitalized economy. Most still believe that a global agreement on reforming the international tax framework with a coordinated approach is the best way to address the challenges, but the apparent delay and lack of progress has led others to explore alternative, interim paths. The European Union (EU), in particular, has sought to lead the way in defining the problems and formulating the answers.

In this newsletter, we consider the status of the EU’s proposals and discuss the reasons for, and nature of, the opposition to them from the US. In light of the EU’s lack of progress, we also outline how the focus has returned to the Organisation for Economic Co-operation and Development’s (OECD) work. We also cover developments in three jurisdictions (Spain, the UK and Australia) that have shown a willingness to act unilaterally in this area. Finally, we provide a brief overview of what we see in the road ahead.

Although much of the political focus, public concern and governmental response has so far concentrated on how best to tax digital businesses (e.g., “Big Tech”), it is important to emphasize that the tax challenges are far more fundamental. The disruption caused (and exemplified) by Big Tech is merely a precursor to the changes facing every major company, whatever its business or sector, as it digitalizes in the next few years. In addition, policymakers around the world are concerned that the BEPS Project may not have fully addressed the profit-shifting opportunities for non-digitalized businesses that exploit valuable intangibles. Short-term, interim measures imposing additional taxes on digital businesses may ameliorate immediate public concern, but they will not resolve the long-term issue of identifying the optimal location for taxation in an ever-changing global economy.
European Union

The EU’s original efforts to introduce a digital tax were contained in proposals initially put forward by the European Commission (EC) in March 2018 and comprised the following two-pronged approach:

- **Short-term**: An interim digital services tax (DST) – i.e., a low-rate tax on a non-resident’s gross revenues from online advertising and intermediation services
- **Long-term**: Recognizing a taxable “digital presence” – i.e., allowing full taxation, despite the absence of a physical presence, of a non-resident’s profits attributable to the market jurisdiction, where the non-resident’s sales to residents, and other local factors, exceed stated thresholds

The proposals were introduced at the request of France, a prominent supporter of the need to balance the tax contributions of technology companies appropriately across the EU.

The EU does not levy taxes and so does not have a direct role in raising taxes or setting tax rates. Member states generally retain their sovereignty in relation to tax and fiscal policy with the EU’s role of overseeing national rules to ensure they are consistent with certain EU policies and laws. Furthermore, EU decisions affecting tax matters still require the unanimous agreement of all member states. As a result, coordination of tax matters across the EU is difficult. In January 2019, the EC issued a Communication proposing to gradually abolish unanimity voting rules on taxation matters by 2025. In the medium term, member states are unlikely to approve such a radical change in the decision-making process on taxation. Member states are still negotiating the desirability, scope and design of the interim DST.

The negotiations have been progressing despite strong opposition from several member states and from industry. The main argument against the proposals has been that corporate income tax is, by definition, based on profit and not revenue, thus making the proposal problematic. Others are arguing that a global, consensus-based solution in the context of the OECD’s follow-up work on G20/OECD BEPS Project implementation is a more sensible approach to addressing the issues. Some negotiators, however, have indicated a preference not to wait, emphasizing the need for an immediate response to this fast-moving set of issues.

Some member states, including Sweden, Denmark and Ireland in particular, however, have consistently reiterated their opposition to the plan, while others, such as Germany, have showed a marked reluctance to support the proposals as drafted.

Germany’s position on digitalization has become pivotal. Its skepticism about the EU proposal has been based on an insistence that it should refer (at a minimum) to the OECD’s work on developing a global response. While, therefore, it remains open to further negotiations, which could lead to the implementation of an EU DST (subject to a number of targeted amendments and a sunset clause), it would then support the permanent shelving of the tax if the OECD process produces a global, consensus-based agreement.

Interestingly, Germany also started to express an interest in adopting an approach that would combine a global minimum tax measure (similar to the GILTI provisions in the US, mentioned below) with a defensive anti-base erosion measure similar to its domestic rule for denying deductions for royalties paid to an offshore affiliate that benefits from a harmful tax regime.

At the end of 2018, member states negotiators proposed to introduce a “sunset clause” (i.e., setting a deadline after which the DST would cease to apply) to ease some member states’ concerns. Due to a continued deadlock in the negotiations, the French and German governments issued a joint declaration in an attempt to advance the negotiations, proposing to limit the scope of the EU DST to revenues realized from digital advertising activities. The joint declaration, examined on December 4, 2018, is urging the adoption of a narrower, advertisement-only DST by March 2019, and combining both a 2021 “sunrise” and a 2025 “sunset” clause. The only agreement was that technical negotiations should continue.

In light of this year’s European Parliament elections (May 2019), and the commencement of a new EC term (November 2019), the DST proposal has become a highly politicized issue. For election campaign purposes, the DST proposal is envisaged to be depicted as a “success story” that the EU will use to represent itself as a frontrunner on policy development at a global level. The future of the EU DST proposals (as currently formulated) remains deeply uncertain. A political debate on the DST is expected to be held on March 12, 2018 between the EU28 Finance Ministers. Nevertheless, the implementation of an interim, EU-wide DST, in the immediate future, seemingly grows increasingly unlikely.
United States

The US view on digital taxation is twofold. At the federal level, there is a very public message that the EC is pushing a proposal forward that would significantly disadvantage US companies, in particular, by subjecting them to double taxation.

In other words, there is a sense that these proposals are invading US tax territory. The Secretary of the Treasury (Stephen Mnuchin) and senior US lawmakers (Republican Senate Finance Committee Chairman Orrin Hatch (R-UT), Democrat Ranking Member Ron Wyden (D-OR) and Republican Ways and Means Committee Ranking Member Kevin Brady (R-TX)) have urged European leaders to abandon the EU’s proposed digital services tax, saying it would create a significant trade issue between the US and Europe.

At the US state level, however, taxation of sales over the internet by remote sellers is now more clearly possible, due to a 2018 Supreme Court decision (discussed right). In addition, Senator Wyden and Senator John Thune (R-SD) have introduced federal law provisions intended to create a consistent framework for taxing digital goods that would apply across jurisdictions in the US.

Another important US development was the passage of sweeping federal income tax reform in December 2017, which included major changes to the US international tax rules. One such change was a new set of rules imposing current US tax on offshore earnings that go far beyond traditional Subpart F (CFC) rules. The new rules, the so-called “global intangible low-taxed income” (GILTI) regime, will apply to most US shareholders of non-US corporations and causes the current inclusion for US corporations of foreign earnings at a reduced rate and subject to a foreign tax credit. This effectively ended the ability of US multinationals to defer indefinitely US taxation of foreign earnings booked in low-taxed foreign affiliates. As noted further herein, some foreign policymakers (e.g., in Germany) have expressed the view that the US GILTI rules are a much fairer way to impose a minimum level of global tax on corporations than the alternatives being considered in the EU and at the OECD.

At the US state level, some states have become much more aggressive in recent years, arguing that even without a physical presence, companies could become subject to tax in that state. A recent decision of the Supreme Court of the United States (the Supreme Court) in South Dakota v Wayfair Inc. (2018) 585 US, on June 21, 2018, hints at how the international tax system might address the dual challenges of BEPS and the digitalization of the globalized economy:

“The internet revolution has made Quill’s original error all the more egregious and harmful. The Quill Court did not have before it the present realities of the interstate marketplace, where the internet’s prevalence and power have changed the dynamics of the national economy. The expansion of e-commerce has also increased the revenue shortfall faced by states seeking to collect their sales … taxes, leading the South Dakota Legislature to declare an emergency.”

The case concerned the prior court-made tax rule in Quill (Quill Corp. v North Dakota (1992) 504 US 298) that physical presence is required for a business activity to have the sufficient “substantial nexus” with a state in order for that state to impose income tax on profits from sales to residents of the state. It is easy to extrapolate the issues to the global level. In the passage quoted above, if one substitutes the term “sovereign nations” for the term “states,” and for “sales taxes” inserts “income taxes,” and for “South Dakota Legislature” inserts “national governments,” it is easy to see how the Wayfair approach can translate to the international context. As in South Dakota, the changing global economic dynamic, and the ability of multinational enterprises to “game” the system, has arguably impeded countries’ abilities to recover tax revenue.

Digitalized businesses are able to access multiple markets across borders without the need for a substantial (if any) local physical presence – the “scale without mass” problem. The international tax system considers whether a non-resident entity is carrying on a business through a public entity (PE) (i.e., has a taxable presence) there. The digitalization of business models puts pressure on the current formulation of a PE.

The Wayfair opinion considers when an entity’s activities have “substantial nexus” with a state to create the obligation on to collect and remit sales tax when sales are made to state residents. The conclusion of the Supreme Court was that an entity that merely makes sales to customers resident in a state has the necessary nexus with that state. Adopting BEPS language, the economic substance of the transaction is where the buyer resides irrespective of the existence of any form of physical presence of the seller in the jurisdiction.

Although care should be taken not to overstate their importance, the parallels between Wayfair and the OECD’s work on the need to extend the definition of a PE to encompass a virtual PE are remarkable. The conclusion in Wayfair that making sales to residents of a jurisdiction establishes taxable presence is a simple and arguably radical solution to the problem. If doing business in a country “as if the [entity] had a physical presence” became the new norm for international taxation, the effect would reverberate throughout the international tax system.
Organisation for Economic Cooperation and Development (OECD)

It is worth restating the nature of the digitalization challenge faced by the international corporate tax framework. The principle that a company’s profit should be taxed in the country (or countries) in which it creates value (i.e., where the economic activity that produces those profits takes place) underpins that framework. The challenge posed by highly digitalized businesses is identifying where that value is created.

Many worry that digitalization of the global economy facilitates a mismatch between profit taxation and value creation which is unfair, ultimately unsustainable and, therefore, politically unacceptable. There are several challenges but, in essence, two familiar questions arise:

- **Nexus** – When does a business entity have sufficient contacts with a jurisdiction to be subject to income tax there?
- **Profit attribution** – How should profits from digitalized business activities be measured and then allocated between different jurisdictions with competing taxing rights?

The OECD continues to focus its work on finding consensus-based, global answers to these questions.

The Interim Report

In March 2018, at the same time the EU released its own proposals, the Task Force on the Digital Economy (TFDE) published an interim report ("Tax Challenges Arising from Digitalisation," March 2018). That report illustrated the scale of the problem it faces (and perhaps helps explain why the EU has struggled to secure unanimous support for its plans).

The interim TFDE report identified three main characteristics of highly digitalized businesses, namely:

- Scale without mass
- Heavy reliance on intangible assets
- The role of data and "user participation"

Unfortunately, however, different countries have different views on how (if at all) these characteristics contribute to value creation and, therefore, how (if it all) they should lead to change in the international corporate tax framework.

In broad outline, three main approaches emerged. The interim report summarized each approach.

First, there was a view that the G20/OECD BEPS Project has successfully addressed the major concerns of abusive tax avoidance activities and that there is nothing particularly problematic about digitalization. Countries holding this view, the interim report says, are largely satisfied that the existing tax system does not need any significant reform.

The second approach identified a firm correlation between the reliance on data (and, in particular, "user participation") of certain business models and the misalignment between the location of profit taxation and the location of value creation. Countries holding this view (the UK being prominent among them) believe that new rules targeted at specific, highly digitalized businesses can address the problem in the short-term and there may not be a need for wide-ranging change to the existing international tax framework.

Finally, the third approach emphasizes that the challenges to the continued effectiveness of the existing international tax framework for business profits are not exclusive or specific to highly digitalized business models. This group of countries (led, crucially, by the US) argues that the problems reflect the ongoing intangibles based transformation of the economy and globalization trends more generally.

The Policy Note

Since the interim report, the TFDE’s work has intensified and evolved further. International discussions seeking an agreement on the way forward are reflected in a new Policy Note released after the January 23-24 meetings of the Inclusive Framework on BEPS Implementation and the Committee on Fiscal Affairs.

The Policy Note states there is agreement to examine proposals for a consensus-based long-term solution coalescing around two pillars.
The first pillar, broadly aligned with the second and third approaches outlined in the interim report, focuses on the allocation of taxing rights (i.e., profit attribution and nexus rules). Recommendations under this pillar are likely to result in the allocation of more taxing rights to the market (or user) jurisdictions where value can be said to have been created through user participation or customer-based intangibles, or both. The Inclusive Framework members accept that reform of this nature could have implications that “reach into fundamental aspects of the current international tax architecture,” require a re-examination of existing transfer pricing guidelines and “lead to solutions that go beyond the arm’s length principle.” In addition, the OECD is openly contemplating an international tax framework that is no longer reliant on (or limited by) nexus being tied to having a physical presence in a taxing jurisdiction. A recommendation to lower the threshold for the creation of a taxable permanent establishment appears to be highly likely.

The second pillar focuses on new or reinforced anti-BEPS rules. Recommendations under this pillar are likely to cover the taxation of all types of businesses based on a combination of:

- Income inclusion rules – e.g., controlled foreign corporation rules that impose home-country tax on profits of low-taxed foreign subsidiaries in excess of a routine return on tangible capital assets (like the US GILTI rules), and
- Anti-base erosion rules – e.g., rules that deny deductions for (or withhold a tax on) payments to low-taxed foreign affiliates in stated conditions.

The interrelationship between the two pillars, and the proposals that emerge under them, demand more analysis. Importantly, the OECD recognizes the importance of maintaining tax certainty, simplicity, and effective dispute resolution mechanisms in an ever more complex, interconnected global economy.

**Next Steps**

The Inclusive Framework has promised to publish a consultation document (expected by February 15, 2019) describing the two pillars outlined in more detail. In addition, a public consultation meeting will take place in Paris on March 13-14 as part of a meeting of the TFDE. The OECD has promised a report on its progress, containing a detailed program of work, for delivery to the meeting of the G20 Finance Ministers in Fukuoka, Japan in June 2019 and will publish a final report (with, it hopes, a consensus-based solution) in 2020.

In the meantime, in the absence of an international consensus-based solution at this stage, it is unsurprising that individual countries appear increasingly ready to take unilateral, interim action to protect (or enlarge) their tax base. These countries believe the risks of not acting outweigh the risks inherent in waiting for the development and implementation of a global solution. Of course, many other countries have openly opposed the taking of such interim measures on the basis that they will (among other things):

- Have a negative impact on investment, innovation and growth
- Result in double-taxation
- Distort production
- Increase compliance burdens and administration costs

The divisions within the EU in respect of the EC’s proposal for an interim digital services tax, and the strength of, and visibly irritated, opposition emerging from the US, is illustrative of the widening divisions in the international tax community.

Perhaps inevitably, therefore, the pace and fragmentation of responses is growing. The Slovak Republic and India have each already acted to expand domestic definitions of “permanent establishment” to include certain digital platforms. India (again) has already implemented a form of interim digital tax (an equalization levy) charged on online advertising revenues, and so has Hungary. Italy has announced that it intends to introduce measures (broadly based on the EU’s original short-term proposals) unilaterally in 2019. French Finance Minister, Bruno Le Maire, irritated by the lack of progress on its proposals for an EU-wide solution, has also committed France to introducing a DST, with a rate as high as 5%, early in 2019. The French proposal is likely to be included in a legislative bill, expected to be published in February.

The reactions in Spain, the UK and Australia (discussed next) are particularly good examples of how individual jurisdictions are starting to take matters into their own hands. It is possible these actions will precipitate a number of other countries choosing to act sooner rather than later.
Spain

Spain has been one of the EU member states more actively involved with the initiatives under the EC to implement new measures to tax the digital economy.

This resulted in the announcement on October 19, 2018, by the Spanish Council of Ministers, of a preliminary bill published on October 23 that creates a new tax on certain digital services, which is part of the tax reform undertaken to adapt taxation to new digital business models. The preliminary bill was registered in the Congress on January 25, 2019.

The bill is in line with the original EU Directive proposals published by the EC last March to tax digital services, with Spain becoming the first EU country, acting unilaterally, to implement one of these measures.

The purpose of this tax is to have multinational companies taxed where they generate the profits. The press release to the bill states that this indirect tax intends to tax digital services where there is an essential contribution of users in the value creation process of the company providing those services and through which the company monetizes those user contributions. In other words, it is not intended to tax the profits, but rather the value incorporated in the services that are rendered.

The argument used by the Spanish government is that the tax is justifiable because the income obtained in Spain by large multinational companies from certain digital activities is escaping the current Spanish tax system.

The tax rate applicable is 3%, again in line with the proposals from the EC. The Spanish government estimates the new tax will generate an annual tax revenue of about €1.2 billion.

The companies subject to this tax will be those meeting all of the following criteria:

- Having an annual net turnover of more than €750 million worldwide
- Deriving revenues from digital services covered by the tax in Spain of more than €3 million in Spain

For the tax to apply, the user of said services must be located within Spanish territory. The tax is limited to the rendering of:

- Online advertising services
- Online intermediation services
- The sale of data generated from information provided by the user

The tax, therefore, will be levied on the income derived from online advertising, digital platforms and intermediaries that allow users to identify each other in order to interact among them to provide a service or deliver goods. It will also cover the income from the transfer of data collected from the users generated by the information offered during their activity on the platform or the sale of metadata.

The sale of goods or services between users is excluded in the framework of an online intermediation service, as well as the sale of goods or services contracted online through the web of the supplier of those goods or services in which the supplier does not act as an intermediary.
United Kingdom

Chancellor of the Exchequer Philip Hammond announced during the Autumn Budget Statement on October 29, 2018 that the UK will introduce a new DST in April 2020. The UK government intends the DST to be a “sunset,” interim measure, which will be withdrawn when an international, long-term, consensus-based solution for the taxation of digital businesses is agreed.

The UK government had already published two position papers (the first alongside the Autumn Budget 2017, and the second alongside the Spring Statement 2018) setting out its initial thinking on corporate tax and the digital economy. However, the announcement of the UK’s willingness to act alone still came as a mild surprise to some.

Recognizing (or at least reacting to) the economically disruptive effect digital businesses have had, the official justifications for introducing a DST in the UK are familiar: to ensure “the corporate tax system is sustainable and fair across different types of businesses” and “large multinational businesses make a fair contribution to supporting vital public services.”

However, no longer willing to wait for global consensus, the UK’s determination to move ahead, to be a “first-adopter,” on the unilateral implementation of a DST is illustrative of a wider, and more politicized, domestic and international context.

The broad framework for the proposed new UK tax is straightforward. The UK will charge DST on the revenues of certain digital businesses. The rate applicable will be 2%. The scope of the UK DST will be relatively narrow, in that it will only apply to the revenues attributable to a specified digital business, where such revenues relate to UK “user participation.”

The affected businesses are:

- **Search engines** – Generating revenue from advertising relating to the result of search terms inputted by UK users
- **Social media platforms** – Generating revenue from adverts targeted at UK users
- **Online marketplaces** – Generating revenue from commission by facilitating transactions between UK users of that marketplace

Many digital businesses, however, will not be within scope. The examples provided by the UK government include online financial and payment services, businesses providing data content online (e.g., music streaming and cloud data storage services) and telecommunications. The UK government has also stated that it will consider whether further exemptions should be available, but the precise nature, extent and operation of all exemptions will clearly require careful drafting in the legislation.

The UK DST will be deductible as an allowable expense for the purposes of corporation tax, but, crucially, because it is not a tax on profits, it does not purport to be within the scope of the UK’s double tax treaties and so treaty relief most likely will not be available. In the absence of unilateral, domestic relief, double taxation is, therefore, almost certain to result for affected businesses.

A number of exceptions will further restrict the UK DST tax base. These include:

- **A double threshold** – Businesses generating less than £500 million a year of relevant revenues globally will not be liable to UK DST. In addition, the first £25 million a year of relevant revenues generated in the UK will be exempt.
- **A “safe harbor”** – Businesses will be able to make an election to calculate their DST liability using an “alternative basis.” In effect, the alternative calculation should ensure that only profitable businesses are liable to UK DST at the full 2% rate, while those businesses with (as yet undefined) “very low profit margins” will be able to elect to be liable at a reduced rate.
- **A five-year review clause** – The UK government has committed formally to review the DST in 2025. The UK government claims that it is still committed to “continue to lead” efforts (in the G20, OECD and even, despite Brexit, the EU) to facilitate global agreement on reforming the international corporate tax framework.

The new tax is expected to raise just £1.5 billion over the four-year period 2020-24. In addition, the proposal (alongside those from other EU member states) has attracted overt criticism from leading figures (on both sides of the aisle) on the US Senate Committee on Finance and, given its likely narrow effect, is possibly susceptible to a legal challenge on the basis that it breaches state aid rules. This has all caused some to question just what the policy imperative behind the new tax is. The most likely explanation is it is political. Domestically, the UK government can present UK DST as an exercise in “fair taxation”; increasing the UK tax bill of multinational enterprises, widely perceived to be avoiding contributing their fair share, is going to be popular with the public. Internationally, it is possible the UK feels the need (or simply wants) to exert some political pressure to hurry along the OECD’s work.

In light of the OECD’s new Policy Note, the UK might justifiably claim some success from its strategy. The UK government remains committed to the policy and will continue to consult on the detailed design and implementation of the tax until February 28, 2019.
Australia

In response to the digitalization of the economy, Australia has recognized that it must update its taxation regime to ensure digitalized businesses pay their fair share of tax.

Australia is yet another nation positioned at the forefront of the international effort to ensure multinational enterprises pay their fair share of tax in countries in which they operate. During Australia’s Presidency of the G20 in 2014, Australia played a crucial role in delivering the first stage of the OECD’s BEPS Project plan to combat base erosion and profit sharing by multinational enterprises.

In response to the BEPS Project’s recommendations on tackling the tax challenges of the digital economy, Australia has legislated to extend its consumption tax (the Goods and Services Tax) to digital products and services and to low value goods imported by Australian consumers. Moreover, Australia has introduced a number of reforms to prevent multinational enterprises from operating in Australia and diverting profits overseas to avoid tax in Australia.

There is a growing concern in Australia that the current international tax framework does not capture the value of digitalized businesses incorporation of the participation of users, the provision of personal data or user-created content.

Australia is yet to indicate its final views on how the international tax system should approach such an issue. The Australian Treasury, however, has released a discussion paper on the issue that outlines a range of possible responses Australia could take and considers whether it should “pursue interim options ahead of an OECD-led, consensus-based solution.” Critically, however, the paper does not propose that Australia adopt any particular policy or position.

The adoption of any significant taxation measures will be more difficult now due to the uncertainty surrounding recent changes to Australia’s federal government. Because of a recent by-election loss, Australia has a hung Parliament until the next federal election, expected around May 2019. Such uncertainty suggests that the Australian federal government could be more focused on domestic issues until next year’s federal election, as opposed to international tax reform. However, it is likely that, due to Australia’s recent leadership on international tax reform and support from both major political parties to ensure that multinational enterprises pay their fair share of tax, there will likely be further developments in Australia’s policies in respect of the digital economy during 2019.
Concluding Remarks

The convergence of accelerated digital business models and business practices along with an increased focus on fair and appropriate levels of tax around the world have led us to a moment of great uncertainty on how things will shake out. The basic precepts of who is taxed, where and how much are being hashed out against the backdrop of business paradigms that do not fit easily within “old school” thinking about cross-border tax.

We will continue to see both coordinated efforts by the likes of the OECD and the EU, as well as individual digital tax initiatives from “first mover” countries like Spain, the UK and Australia. Yes, it is a time of unprecedented uncertainty, but there is also tremendous opportunity — to affect tax policy decisions at the country or group level and to shape and structure business arrangements to meet and capitalize on this new global tax landscape.

We have established a dedicated team of leading tax experts to work with our clients in connection with global tax reforms that affect the digitalized economy. Our team comprises former government ministers, civil servants and OECD officials. We are uniquely poised to help global businesses in the tax policy and legal spheres.

Contact your usual firm lawyer or any of the people listed to discuss how we can help you to understand the change that is coming and protect your interests.

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