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UK could take unilateral action on digital tax in 2018 budget

The UK government might announce its own rules to tax the digital economy in the upcoming budget in autumn 2018 after ministers hint that they are considering their options.

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With Italy and India already having their own digital economy taxes, and some countries doubting the OECD's ability to find a global solution on taxing online businesses by 2020, the UK government is once again looking to establish its own approach.

The move would reinforce the treasury's statement in its paper on corporate tax and the digital economy released in March 2018 that stated its interest for a tax on the revenues of digital businesses that derive significant value from UK user participation. However, that same paper also express the treasury's desire for multilateral action on digital taxation and support for the European Commission's proposals.

Mel Stride, financial secretary to the treasury, suggested in an interview with The Guardian that the UK could introduce a digital revenue levy if OECD efforts to find a global solution are delayed. UK Chancellor Philip Hammond has also hinted at a digital tax on goods and services offered by companies such as Amazon and eBay in an interview with Sky News. A 1% tax on digital sale revenues are predicted, which aims to offer a level playing field between traditional bricks and mortar businesses on the high street and their digital counterparts.

"Recent comments from the chancellor and treasury ministers, coupled with the treasury position paper, mean that I would not be surprised if a form of UK digital revenue tax is announced in the budget this autumn, most likely in consultation for forthcoming introduction but, given the expressed interim nature of any such tax, potentially with immediate effect," Ben Jones, head of corporate tax at Eversheds Sutherland, told *TP Week*.

While the UK has positioned itself as a leader within the OECD BEPS project to update the international tax system applicable to multinational companies, it was the first country to introduce the controversial diverted profits tax (DPT). Australia has followed the UK's lead on this regime by introducing its own DPT, and New Zealand could still be next as it has not totally eliminated this option.

"It looks like [the UK] also wants to set the standard on taxing the digital economy," said Jones, adding that he can "definitely see others adopting digital tax measures".

If the UK pushes ahead with its plan, it may adopt a similar framework to the EU's proposals, ensuring start-ups and small businesses are not caught in the tax net. In the EU, the tax is likely to apply to companies with annual worldwide revenues of €750 million (£700 million) and annual EU revenues of €50 million. The UK's equivalent will be similar, but more focused on revenues in the country. Also, the EU plans to impose a 3% tax on revenues, while the UK is considering a rate of 1%.

In comparison, Italy's digital tax is set at 3% after it halved the original proposed rate. India introduced digital PE rules, with an equalisation levy in 2016 of 6% and implemented a 'significant economic presence' concept and widened the scope of a 'business connection' in the 2018 budget. Brazil, France and Slovakia have also discussed the potential for their own digital taxes.

"The problem for digital businesses will be that such unilateral measures will inevitably be different in each jurisdiction, giving rise to additional compliance burdens and cost as well as the potential for double taxation," Jones said.

While a tax on digital retailers is part of BEPS Action 1, finding a framework to tax the whole digital economy is a far bigger challenge. Where governments decide not to wait for a global consensus on taxing borderless businesses and technology giants such as Google and Facebook, the double taxation risks for companies grow.

When Italy first proposed its digital tax, **transfer pricing advisers warned** that the government would need to look at its tax treaty network and find solutions to potential double taxation if the tax were implemented. The UK will need to do the same to determine the applicability of the tax to treaty partners.

"Any such digital revenue tax would represent a radical change to the traditional system of international tax," Jones said. "[A] continued unilateral approach to this issue, in particular by a lead proponent of cooperation on reforming the international tax system, will be very concerning to technology businesses who will face significant administrative cost and burden dealing with such different taxes in different jurisdictions, quite apart from the increased tax cost."

Although transfer pricing and associated allocation methods may be less relevant to the UK's potential new tax, Jones noted that it will be necessary for companies to "effectively determine the revenues of an entity that relates to in-scope UK user generated value out of what will in many cases most likely be a wider overall revenue stream and methods to do this will need to be formulated".

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