FINNISH COMMERCE FEDERATION

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To Tax Policy and Statistics Division,
Centre for Tax Policy and Administration,
OECD

FINNISH COMMERCE FEDERATION'S COMMENTS TO THE OECD PUBLIC CONSULTATION ON THE PROPOSAL FOR A UNIFIED APPROACH UNDER PILLAR ONE

1 Introduction

Finnish Commerce Federation[1] is a nationwide lobbying organisation whose mission is to promote Finnish commerce. We work to improve the operating conditions for companies active in wholesale and retail trade, to stimulate co-operation within the sector and to enhance the commercial and employer interests of our members. We have a total of 2,200 corporate members that represent all sectors of commerce: the retail trade, wholesale trade, technical trade and car trade. In addition to corporate members, we have 25 member associations. Our lobbying efforts cover some 7,000 companies in total.

Finnish Commerce Federation is grateful for the opportunity to comment on the OECD's work in the field of taxation under Pillar One. Finnish Commerce Federation shares concerns on how to ensure large and highly profitable Multinational digital companies to pay taxes wherever they generate their profits. As Finnish Commerce Federation has stated earlier, it does not support unilateral solutions at EU or national level. Thus, we hope that the level playing field can be found on the OECD level.

Finnish Commerce Federation emphasizes that a comprehensive impact assessment needs to be made covering all countries. It is important that the impact assessment covers the proposals impact on tax revenues. Our understanding is that the proposal will have a negative impact on smaller economies with high R&D intensity and net exports, such as Finland.

The proposal does not go into details but is rather of general nature. Therefore, we focus mainly on providing OECD with feedback on the scope and the principles of the unified approach under Pillar One. We also express our concerns about double taxation.

2 The Scope

The outlined 750 MEUR threshold is according to Finnish Commerce Federation too low. Multinational enterprises that provide physical products often do that in a high number of countries, the volume being scattered as the size of any market is typically very small compared to the total global volume. Therefore, also the market specific limit for the new tax model should be kept reasonably high.

According to the proposal "Unified Approach" focuses on large consumer-facing businesses, broadly defined, e.g. businesses that generate revenue from supplying consumer products or providing digital services that have a consumer facing element.

Finnish Commerce Federation points out that the definition "consumer facing business" needs a clarification, which safeguards similar interpretation and level playing field for pure e-commerce

[1] https://kauppa.fi/en/finnish-commerce-federation/

and brick and mortar retailing companies. In the current form it may exclude some companies which seemingly offer only B2B services while using consumer data in their internet platforms. Finnish Commerce Federation emphasizes that not only the sales through online intermediaries and other marketplaces but also platform services where a platform is provided for Buyers and Sellers to come together and interact should be included in the scope of the proposal. This also applies to the use of franchising arrangements.

According to Finnish Commerce Federation the term distributor, which is widely used in the proposal, should be defined clearly as it seems to mean a limited risk distributor which may also perform local marketing functions. These entities typically earn a cost plus compensation for their services to principal company which carries the risks, own valuable intangibles and carry non routine functions relating to the business. A clear distinction should be made between these entities and full risk entities (subsidiaries or PE's) which carry their local business in a relatively independent way and own their local assets and marketing intangibles. The full risk entities already earn arm's length profit (losses) according to the current transfer pricing rules and there is no reason for any re-allocation on their part. According to Finnish Commerce Federation these companies should be totally excluded from the proposal's Amount A, B or C types of re-allocations and their local sales should be excluded from the market sales when the new allocation model is applied.

3 Principles of re-allocation of tax profits

The compliance and tax collection will be challenging. According to our understanding, in respect of the compliance costs, the best solution would be the one where national tax authorities collect the tax and re-allocate it to the destination countries. Tax reporting should be done only via the HQ state or a state in which the taxpayer has a local subsidiary or PE. Tax authorities of this country should be reporting and sharing Amount A paid between each other via a "tax authority-to-tax authority" process.

Finnish Commerce Federation emphasizes that level of routine profit should be set to correspond regular profitability levels in each industry. Only the exceeding levels should be subject to possible re-allocation based on the profit split between participating countries.

Finnish Commerce Federation also points out that the business line segmentation should be permitted as some business segments may include several operating countries while others may be country specific segments. We stress that application should not lead to any re-allocation of taxable profit in the latter cases, if there are no significant amounts of cross border sales. In any case, the set off local tax losses should be allowed, if additional profits are allocated in line with the new rules, to avoid double taxation. The location of sales should be clearly defined in a way that covers all online purchases.

4 Double taxation

According to Finnish Commerce Federation it is crucial that the proposal includes rules for elimination of double taxation. The countries whose tax profits will be re-allocated based on the proposal to "market countries", should allow full tax credit for the local entities. Finnish Commerce Federation points out that the different tax base should not lead to situation where tax credit is fully or partially denied by any participating country. As the re-allocation is made based on segment specific IFRS operational profit, the local tax bases will inevitably differ significantly from the new consolidated tax base.

Additionally, the country operations may not have separate legal entity structure which fully correspond segments structure in IFRS reporting. This should not prevent taxpayers to get full tax credit on the re-allocated part of their profits or to force groups of companies to implement reorganizations in their legal structure.

5 Final remarks

As we have stated in the chapter '1 Introduction' we hope that level playing field can be found on the OECD level. The OECD's proposal does not go into details, thus, there are essential points that need further development. For example, the scope needs to be clearer and the 750 MEUR threshold should be higher. Finnish Commerce Federation calls for impact assessments which covers the proposals impact on tax revenues, employment, investment and business models.

For any questions on our contribution, please send an e-mail to toni.jaaskelainen@kauppa.fi

Yours sincerely

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