



*SUMMARY OF THE PROGRAMME OF WORK  
TO DEVELOP A CONSENSUS SOLUTION TO THE TAX CHALLENGES  
ARISING FROM THE DIGITALISATION OF THE ECONOMY*

(Prepared by the G20 Presidency in June 2019)

---

1. The Base Erosion and Profit Shifting (BEPS) Project began in 2012, when the G20/OECD decided to tackle tax avoidance by multinational enterprises, including the tax challenges arising from the digitalization of the economy. After years of work, in March 2018, the Inclusive Framework on BEPS (Inclusive Framework) submitted an Interim Report<sup>1</sup> to, and was asked to provide an update in 2019 by, G20 Finance Ministers and Central Bank Governors. In response to the mandate given by G20 Leaders, the Inclusive Framework has just agreed Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy (hereafter Programme of Work), which has been submitted to the G20 for their endorsement. The Programme of Work provides a roadmap to develop a **consensus-based long-term solution** to reach a global agreement by the end of 2020.

2. Digitalization has raised a series of broader tax challenges for the existing international tax framework. It challenges both the traditional concept of permanent establishment, as activities can be deployed by companies in a country without any physical presence, and the traditional profit allocation rules. Additionally, there is recognition that if the Inclusive Framework does not deliver a comprehensive solution within the agreed G20 time frame, there is a risk that more jurisdictions will adopt unilateral measures.

3. In response, the Inclusive Framework has identified two pillars, which could form the basis for consensus. The first pillar focuses on the allocation of taxing rights, and seeks to undertake a coherent and concurrent review of the profit allocation and nexus rules (**Pillar 1**). The second pillar focuses on the remaining BEPS issues and seeks to develop rules that would provide jurisdictions with a right to “tax back” where other jurisdictions have not exercised their primary taxing rights or the payment is otherwise subject to low levels of effective taxation (**Pillar 2**). The Programme of Work details the technical issues that need to be explored and addressed on a “without prejudice” basis.

4. **Pillar 1** explores solutions determining the amount of profit and loss subject to the new taxing right (**new profit allocation rules**) and the novel concept of a business presence in a market jurisdiction reflecting the transformation of the economy, rather than being constrained by physical presence requirements (**new nexus rules**). There are three proposals that have been articulated to develop a consensus-based solution on how taxing rights on income generated from cross-border activities in the digital age should be allocated among countries – namely, the “user participation” proposal, the “marketing intangibles” proposal and the “significant economic presence” proposal. They have important common policy features, and the work continues to develop a **unified approach**. The Programme of Work will also explore three possible methods for determining the amount of profit and loss subject to the new taxing right, consistent with the principle of

---

<sup>1</sup> Tax Challenges Arising from Digitalisation – Interim Report 2018, 16 March 2018

avoiding double taxation (i.e. the Modified Residual Profit Split Method, the fractional apportionment method and the distribution-based method). The *Programme of Work* will also consider use of business line and regional segmentation, design scope limitations (i.e. carve-outs), and options for the treatment of losses under the new taxing right.

5. **Pillar 2** consists of two inter-related rules: an **income inclusion rule** that would tax the income of a foreign branch or a controlled entity if that income was subject to tax at an effective rate that is below a minimum rate, and a **tax on base eroding payments** that would operate by way of a denial of a deduction or imposition of source-based taxation (including withholding tax), together with any necessary changes to double tax treaties, for certain payments unless that payment was subject to tax at or above a minimum rate. The technical work described in the *Programme of Work* on the key design elements of the measures (such as the use of a fixed percentage tax rate or the scope of the inclusion rule), will inform members of the Inclusive Framework for further decision.

6. While the two issues of the ongoing work on remaining BEPS challenges and a concurrent review of the profit allocation and nexus rules are distinct, they intersect and a solution that seeks to address them both could have a mutually reinforcing effect. Therefore, the Inclusive Framework agreed that both issues should be discussed and explored in parallel.

7. In exploring the various proposals under the two Pillars, an **economic analysis and impact assessment** will be carried out throughout the course of the entire period of the *Programme of Work*. As the first phase, Secretariat-led analysis of the proposals will be undertaken over the remainder of 2019, considering the revenue, economic and behavioural implications of the proposals. The *Programme of Work* details how the work under both Pillars is organized and articulates the role of the Steering Group in steering, monitoring and co-ordinating the work programme and related outputs produced by different subsidiary bodies.

8. Reaching a solution among the 129 members of the Inclusive Framework will require political engagement and endorsement. For a consensus-based solution to be delivered in 2020, the outlines of the architecture will need to be agreed by January 2020. This outline will have to include a determination of the nature of, and the interaction between, both Pillars, and will have to reduce the number of options to be pursued under Pillar 1. The solution should reflect the right balance between precision and administrability for jurisdictions at different levels of development, underpinned by sound economic principles and conceptual basis. Furthermore, it will be important to ensure a level playing field between all jurisdictions; large and small, developed or developing. The G20 process can provide important momentum in this regard.