

# Tax challenges of digitalisation: OECD invites public input on the draft rules for nexus and revenue sourcing under Amount A of Pillar One

As part of the ongoing work of the OECD/G20 Inclusive Framework on BEPS to implement the Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, the OECD is seeking public comments on the *Draft Rules for Nexus and Revenue Sourcing* under Amount A of Pillar One.

This [public consultation document](#) ([également disponible en français](#)), issued on 4 February 2022, contains the first building blocks under Pillar One for which public input will be sought, relating to nexus and revenue sourcing.

The Inclusive Framework has agreed to release this document in order to obtain public comments, but the draft rules do not reflect consensus regarding the substance of the document. The stakeholder input received on the Draft Rules for Nexus and Revenue Sourcing will assist members of the Inclusive Framework in further refining and finalising the relevant rules.

Interested parties are invited to send their written comments\* no later than **18 February 2022**. Instructions for submitting comments can be found in the consultation document.

## Background

The purpose of the revenue sourcing rules is to allow in-scope MNEs to identify the relevant market jurisdictions from which revenue is derived, and to apply the revenue-based allocation key. As noted in the [October 2021 agreement](#), revenue is sourced to the end market jurisdictions where goods or services are used or consumed.

To do this, the revenue sourcing rules provide the detail that is necessary to identify the end market for specific categories of transactions. By providing different rules for different categories of transactions, the rules seek to take the relevant commercial context into account, and ensure that the rules are complete so that they can be applied to all types of MNEs. Not all categories are relevant for each type of MNE. For example, some consumer goods MNEs will only need to apply the rules related to finished goods and will not need to apply any of the other categories of sourcing rules; others might apply the rules for online advertising for much of their revenue.

The revenue sourcing rules have been designed to fulfil the policy objective of accurately identifying the market jurisdiction and the associated revenue, while limiting and simplifying compliance burdens as much as possible. This balance is struck in a number of ways.

First, the rules used to identify the market jurisdiction (as defined for that category) are designed to allow MNEs to, as much as possible, draw on information that they are already collecting and using as they operate their business, and avoid the need to change information collection practices or create new reporting obligations. While the rules provide a consistent identification of the end market, they have been designed with in-built flexibility as to how the MNE applies that rule, without being prescriptive as to which data point must be used. This recognises that different business models will have different types of information at hand.

The revenue sourcing rules acknowledge that there will be cases where transactional information is not available to the MNE or where it would be disproportionately burdensome to obtain it. In these cases the rules allow for the use of proxies including allocation keys, rather than require highly complex and new information reporting systems, or changes in commercial contracting arrangements. The allocation keys use either industry or macro-economic data to provide a simplified way to approximate the end market, that provides certainty while ensuring that all revenue is sourced without gaps. This should significantly ease compliance burdens in the most difficult revenue sourcing cases, such as sales through independent distributors, sales of components, and B2B services.

Compliance burdens are also addressed in a number of other ways. This includes a materiality approach to smaller sets of sales where the market cannot reasonably be identified at transactional level (such as sales through independent distributors); taking into account the nature of distribution arrangements in the EU single market; maximising the commercial information available to the MNE that can “knock-out” unlikely markets to result in a more tailored allocation key; allowing certain “supplementary” *de minimis* transactions to be sourced in the same way as the main transaction to limit the different types of rules that need to be applied. It also includes a coherent design in the sourcing rules to identify the same end market in cases where there is a potential for an overlap in the categorisation of certain revenue streams, thus easing the pressure on characterisation questions and by anticipating a systems level compliance approach in connection with an early certainty process that is part of a multilateral and binding dispute prevention and resolution regime.

However, striking the balance between accuracy and operational realities is a challenge in any rule design. Stakeholder input will be especially valuable in identifying cases where this balance could be better achieved, and finalising the delivery of revenue sourcing rules that achieve the desired policy objective but at the same time are practical and avoid unnecessary burdens.

For further information or inquiries, please contact [tfde@oecd.org](mailto:tfde@oecd.org).

*\*Please note that all written comments received will be made publicly available on the OECD website. Comments submitted in the name of a collective "grouping" or "coalition", or by any person submitting comments on behalf of another person or group of persons, should identify all enterprises or individuals who are members of that collective group, or the person(s) on whose behalf the commentator(s) are acting. Speakers and other participants at the upcoming public consultation meeting will be selected from among those providing timely written comments.*

## **Related Documents**

[Planned stakeholder input in OECD tax matters](#)

[OECD launches public consultation on the tax challenges of digitalisation with the release of a first building block under Pillar One](#)

[Tax challenges arising from digitalisation: Public comments received on the draft rules for nexus and revenue sourcing under Pillar One Amount A](#)