

February 18, 2022

Tax Policy and Statistics Division  
Centre for Tax Policy and Administration  
Organization for Economic Cooperation and Development

Re: Public Consultation Document – *Pillar One – Amount A: Draft Model Rules for Nexus and Revenue Sourcing*

Dear Sir or Madam,

The Association of International Certified Professional Accountants (“Association”) appreciates the opportunity to provide comments on your public consultation document [\*Pillar One – Amount A: Draft Model Rules for Nexus and Revenue Sourcing\*](#) (“Pillar One Draft Model Rules”).

The Association has previously [submitted initial thoughts](#) on your public consultation document on [\*Addressing the Tax Challenges of the Digitalisation of the Economy\*](#), along with [detailed comments](#) on your [\*Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy\*](#), and [our recommendations](#) regarding your Public Consultation Document [\*Secretariat Proposal for a “Unified Approach under Pillar One.”\*](#)<sup>1</sup>

We welcome the advancing of the OECD project, and while the consultation document provides a significant amount of detail on the rules, we note that substantive points remain for further discussion. We encourage the OECD to continue the consultation process in a manner that allows stakeholders ample time to evaluate the complexity of the new Pillar One Draft Model Rules.

## ASSOCIATION’S FRAMEWORK

The Association continues to recommend that a consensus-based, equitable, and successfully durable rebalancing of multijurisdictional taxing rights must have the following elements:

- (1) Any rules extending taxation nexus to businesses that lack a physical presence in a jurisdiction should be clear, measurable, predictable, and applied consistently and neutrally across all industries and business models, and across all jurisdictions;
- (2) All participant Inclusive Framework jurisdictions must agree:
  - (i) to adopt and fully implement the new consensus to ensure that all income is properly taxed only once across all applicable jurisdictions, and

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<sup>1</sup> See [“Comments on the OECD Public Consultation Addressing the Tax Challenges of the Digitalisation of the Economy,”](#) submitted May 2019; [“Programme of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalisation of the Economy – Comments on Income Allocation between Jurisdiction \(Pillar One\),”](#) submitted October 4, 2019; and [“Public Consultation Document – Secretariat Proposal for a “Unified Approach” under Pillar One,”](#) submitted November 11, 2019.

- (ii) to immediately repeal any previous unilateral actions, including temporarily enacted provisions related to digital services (whether currently in effect or pending); and
- (3) To resolve any controversy over taxing rights and ensure prompt resolution of any situations potentially resulting in double taxation, all participant Inclusive Framework jurisdictions must include compulsory effective and practical mechanisms in their treaties and other bilateral agreements (such as, mandatory binding arbitration as a minimum standard subject to peer review).

## **Conclusion**

Defining parameters for allocating and apportioning income based on the advent of the digital economy is a multi-jurisdictional exercise in cooperation and enforcement. Income allocated to any jurisdiction should include a routine return to jurisdictions where valuable functions and activities occur, as this would provide jurisdictions the right to tax the output of activities that generate value within their borders. Minimum threshold exceptions to economic nexus should be provided to protect small and medium sized businesses, and such minimum thresholds should be agreed to globally.

Developing and obtaining international consensus on new rules to tax value may be based on many aspects of existing tax law, and the impact on individuals operating cross-border should be considered. The application of the parameters of the enforcement and capability of the tools utilized will be critical to ensure equitable and effective compliance in each jurisdiction.

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The Association of International Certified Professional Accountants is the most influential body of professional accountants, combining the strengths of the American Institute of CPAs (AICPA) and The Chartered Institute of Management Accountants (CIMA) to power opportunity, trust and prosperity for people, businesses and economies worldwide. It represents 650,000 members and students in public and management accounting and advocates for the public interest and business sustainability on current and emerging issues. With broad reach, rigor and resources, the Association advances the reputation, employability and quality of CPAs, CGMAs and accounting and finance professionals globally.

We appreciate your consideration of these comments and welcome the opportunity to discuss these issues further. If you have any questions, please contact Amy Miller, Association Senior Manager – Tax Policy & Advocacy, at +1 202 434 9264 or [Amy.Miller@aicpa-cima.com](mailto:Amy.Miller@aicpa-cima.com); Michelle Mullen, Association Vice President – International Advocacy, at [Michelle.Mullen@aicpa-cima.com](mailto:Michelle.Mullen@aicpa-cima.com); or me at +1 601 326 7119 or [JanLewis@HaddoxReid.com](mailto:JanLewis@HaddoxReid.com).

Sincerely,



Jan F. Lewis, CPA  
Chair, Tax Executive Committee