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DIGITAL OMNIPRESENCE AND ECONOMY: REDUCING TAX EVASION OR INCREASING REVENUE COLLECTION?

TIt is no secret how the rise of the so-called "Digital Age," a phenomenon that emerged with the 21st century, has influenced the global economy. Businesses have experienced rapid development, offering products and services through digital platforms, thereby extending their reach both nationally and internationally.

This era is marked by constant innovation, necessitating our adaptation to a society in perpetual change. In this context, legislative and economic advancements have shifted from focusing solely on data protection to influencing the benefits that proper use of digital technology can bring to society, especially in the development of business through e-commerce.

One emerging aspect of this practice is the "Digital Economy," which poses the challenge of regulating its scope, according to several authors. New business models compel the adaptation of local norms that impact and directly affect operations conducted from different parts of the world, influencing economic flow at the national level.

Aiming to balance the non-traditional local economy, represented by physical businesses, with the global digital economy through online providers, the Organization for Economic Cooperation and Development (OECD) has established international standards that the Dominican Republic has decided to adopt. Among its recommendations, the OECD includes the simplified registration of foreign supplier companies as taxpayers to ensure compliance with the fiscal obligations imposed by the local jurisdiction. This measure seeks to prevent distortions in the country's fiscal practice by controlling tax evasion and promoting effective and sustainable competition to the benefit of various service providers, ensuring financing for sustainable development, and preventing unfair competition between traditional and emerging businesses.

Considering that digital services are not exempt from ITBIS, based on OECD recommendations and international standards and principles grounded in the destination principle – according to which the jurisdiction responsible for generating taxes is where consumption occurs – the President of the Republic issued Decree 30-25, which was later repealed by Decree 107-25 on March 3, 2025. The now-defunct Decree 30-25 sought to establish regulations for the collection and application of ITBIS on services offered through digital platforms consumed in the Dominican Republic and provided by foreign suppliers. This measure attempted to align with international recommendations.

Decree 30-25 included the term "commission agents," applicable to providers not resident or domiciled in the Dominican Republic, both direct and indirect. These providers were designated as agents for the collection of 100% of the ITBIS on the services they offer through digital platforms and that are used, consumed, or captured in the Dominican Republic.

Its scope was directed at all those "Commission Agents" that provide locally taxed ITBIS services used, consumed, or captured in the country, as well as the commissions they charge for such services provided through these digital platforms.

Explicitly excluded from this regulation are the services listed in Article 344 of the Tax Code, such as financial services, including insurance; pension and retirement plans; land passenger and freight transport; electricity, water, and waste collection; residential rentals; health, educational, and cultural services; funeral services; and beauty salon and barber services.

It is important to note that the Regulation included clear definitions and references, facilitating the precise identification of the obligated subject when applying the tax. It also detailed the classification and determination of the services subject to this provision and aimed to establish the procedure and requirements for registration, as well as the form of declaration and payment.

The goal of Decree 30-25 was to bring us closer to balancing tax collection levels and correcting the improper habit of distorting local fiscal practice.

However, its recent repeal shows that Decree 30-25 touched on an important nerve, highlighting the growing concern about the impact this measure could have on productive sectors and end consumers, as they would ultimately bear the cost of the tax. In this regard, it might be useful to consider the practices of other countries and the global landscape.

Taxation of digital platforms is a complex and dynamic issue that varies considerably between different countries and regions. With the rise of the digital economy, many governments have sought ways to tax companies that primarily operate in the digital realm, such as Google, Amazon, Facebook, Apple, and Netflix, among others. Here are some key points about the taxation of digital platforms worldwide:

Traditionally, international taxation is based on the principle of permanent establishment, meaning a company must have a significant physical presence in a country to be taxable there. However, digital platforms often operate without a physical presence, leading to challenges in applying this principle.

In response to these challenges, several countries, especially in Europe, have begun to implement what is precisely known as Digital Services Taxes. These taxes generally apply to revenues generated from digital services offered in a country, regardless of the company's physical presence. For example, France and Spain have implemented such taxes, which tax revenues from online advertising, the sale of data for advertising purposes, and intermediation on digital platforms.

As mentioned earlier, the OECD has been working on a more coordinated and systematic solution through the BEPS Project (Base Erosion and Profit Shifting). The OECD proposes reforms to ensure that tax rights on revenues generated by digital activities are allocated in a way that reflects where economic value is created, even if there is no physical presence.

The OECD has also promoted country-by-country reporting, requiring multinationals to report on their activities in each jurisdiction, helping tax authorities better understand where revenues are generated and taxes potentially owed.

While the idea of taxing digital companies is popular in many circles, its implementation is complicated. Challenges include defining what constitutes a significant digital presence, determining revenue thresholds for taxation, avoiding double taxation, and understanding the complete global socioeconomic landscape.

In effect, U.S. President Donald Trump has taken a public and firm stance against Digital Services Taxes (DST) imposed by various countries on U.S. tech companies. Trump has stated that these taxes are discriminatory and harmful to major U.S. businesses like Google, Apple, and Amazon. In response, he signed a memorandum directing the application of tariffs on countries that apply these taxes, as a measure to "combat" what he considers an unfair appropriation of the U.S. tax base by foreign governments. His approach is intended to protect U.S. companies and ensure fair international trade, perceiving DSTs as a threat to the global competitiveness of U.S. businesses.

Trade treaties and free trade agreements can also impact how digital platforms are taxed, especially with clauses dealing with non-discrimination in the taxation of foreign companies.

Digital platforms, for their part, have responded in various ways, from restructuring their operations to lobbying against such taxes, arguing that they could hinder innovation and economic growth.

In summary, the taxation of digital platforms continues to evolve, with a significant push toward creating tax systems that can effectively manage the unique nature of the global digital economy. The occasion is ripe for seeking effective solutions.

On the one hand, we have the guidelines of the OECD, which many governments have begun to implement, including this recent and apparently failed attempt by the Dominican government, at least on this occasion. On another note, we see how great powers may reject this type of taxation. Nevertheless, for the Dominican Republic, the implementation of a tax on digital services could have a significant impact on the country's tax collection, depending on how it is implemented and regulated.

The specific impact on tax collection will depend on several factors, including the tax rate applied, the allowed exemptions, and the effectiveness of the tax administration in enforcing these new requirements.

Establishing an 18% tax on digital services in the Dominican Republic could generate significant revenue for the government, considering the continuous growth of the digital economy. Although exact figures for expected tax collection for the Dominican Republic are not provided, we can make some extrapolations based on examples from other countries.

For instance, similar initiatives in European countries have projected collections in millions of euros. Austria expected to collect up to 34 million euros in 2023 from its digital services tax, primarily through digital advertising. France estimated revenues of 500 million euros in a fiscal year with a similar tax, and the United Kingdom projected around 275 million pounds in the first fiscal year of the digital services tax (source: taxfoundation.org).

Applying these examples to the Dominican context, although adjusted to the economic scale and digital market volume of the country, it is reasonable to expect that the introduction of a tax on digital services could help significantly increase tax collection. The 18% rate applied in the Dominican Republic is comparative to the rates applied in these countries, suggesting that it could have a significant positive fiscal impact, especially considering the growing use of digital platforms in the country.

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Preliminary discussions and analysis suggest that this measure could increase tax revenues by capturing a portion of the revenues generated by the digital economy, which until now has been difficult to tax due to the transnational nature of the services. However, it is crucial that this process is handled with transparency and in consultation with stakeholders to avoid any negative impact on the growth of the tech sector in the nation.

However, for the time being, Decree 30-25 has been repealed, leaving open again the conversation about how and when to address the issue.

This summary only contains general information on the addressed matters and does not constitute a legal opinion. We recommend seeking specific legal assistance for each case.

For more information and assistance, please contact us at ***info@ulisescabrera.com / 809.566.7111***