

Internet Governance Forum 2015

“Double Irish, Dutch Sandwich, Caipirinha: tale Internet taxation”

Proposed by

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1. Basic Information

- a. **Title of Panel session:** “A Double Irish, a Dutch Sandwich and a Caipirinha, *por favor*: a tale of Internet taxation”
- b. **IGF subtheme:** Internet Economy
- c. **Tags:** taxation; commerce; economy; jurisdiction; finance

2. Abstract of background paper:

The interest of governments in understanding and taxing Internet services is escalating. Whereas some countries are interested in fighting international tax-avoidance strategies of multinational companies, others tackle the issue of taxing specific Internet services within their territory. This workshop proposal recommends the IGF community to look into this relevant Internet Economy issue, which, according to our research, has never been the subject of a dedicated workshop.

Due to the novelty of the topic at this venue, the organizers expect to (i) collect the views of different stakeholders, (ii) highlight some of the most important issues pertaining to Internet taxation, (iii) identify proper venues where this matter (iii.a) is being and (iii.b) should be addressed, (iv) brainstorm ways forward (e.g., best practices, formal legal compromises, multilateral and multistakeholder approaches), (v) establish a coalition of stakeholders interested in further research and development on this matter.

3. Background paper:

The interest of governments in understanding and taxing Internet services is escalating. Whereas some countries are interested in fighting international tax-avoidance strategies of multinational companies, others tackle the issue of taxing specific Internet services or phases of these services within their territory. This is a sensitive issue to the business of companies, to governments who want to identify new sources of fiscal income, and to the broader Internet ecosystem.

Diligences led by revenue services, legislators and other governmental authorities interested in tax collection and tax law enforcement from various countries

demonstrate the relevance of this workshop. Australia¹, France², Ireland³, Hungary⁴, Brazil⁵, United Kingdom⁶, United States⁷, European Union⁸, Organization for Economic Cooperation and Development (OECD)⁹ have undertaken or considered initiatives towards (i) fighting the illegal practice of tax evasion, (ii) closing jurisdictional loopholes that favor tax avoidance, (iii) imposing new taxes, levies or duties to various sections and markets of Internet services provision. Due to the global nature of the Internet and the exchange of information among governmental authorities and multinational corporations, national measures are just as important as international ones.

The Commission on Science and Technology for Development (CSTD) also looked into taxation at its 2014 report “*The mapping of international Internet public policy issue*”¹⁰. The document states that “[t]he question of taxation on the Internet has become particularly relevant since the financial crisis in 2008. For many governments, the growing volume of economic activities of the Internet is the first place where they can increase fiscal income.” Most importantly, CSTD emphasizes “a knowledge gap on data and research about taxation on the Internet” and refers to a submission to the Working Group on Enhanced Cooperation/correspondence group which “indicated a lack of international bodies where best practices could be shared and necessary coordination ensured”.

Due to the novelty and complexity of this Internet Economy issue at the IGF, IBIDEM proposes to structure the panel into a presentation format that would facilitate the discussion of the following questions:

¹ Financial Times, “Australia targets UK-style ‘Google tax’”, <http://www.ft.com/intl/cms/s/0/2d423164-7f54-11e4-bd75-00144feabdc0.html#axzz3VhzxqbNw>; The Global Mail, “Google: Don’t Be Evil, Don’t Pay Tax”, <http://www.theglobalmail.org/feature/google-dont-be-evil-dont-pay-tax/261/>;

The Conversation, “Australia eyes missing billions with very own ‘Google tax’”, <http://theconversation.com/australia-eyes-missing-billions-with-very-own-google-tax-35249>

² The Guardian, “US blocks crackdown on tax avoidance by net firms like Google and Amazon”, <http://www.theguardian.com/business/2013/jul/14/us-tax-avoidance-google-amazon>

³ The New York Times, “Ireland to Phase Out ‘Double Irish’ Tax Break Used by Tech Giants”, <http://www.nytimes.com/2014/10/15/business/international/ireland-to-phase-out-tax-advantage-used-by-technology-firms.html? r=1>

⁴ The Economist, “Hungary’s internet tax - A bit of protest”, <http://www.economist.com/blogs/easternapproaches/2014/10/hungarys-internet-tax>

⁵ DLA Piper, “Brazil revises law on tax treatment of cross-border payments for data centers located abroad”, <https://www.dlapiper.com/en/us/insights/publications/2014/08/international-tax-news-aug-2014/brazil/>; Lex Consult, “Minister wants same taxes for Internet companies”, <http://www.lexconsult.com.br/en/ministro-quer-mesmos-tributos-para-empresas-de-internet-2/>;

⁶ Financial Times, “More evidence of low tax payment by us tech groups”, <http://www.ft.com/intl/cms/s/0/28e15a82-7230-11e3-9c5c-00144feabdc0.html#axzz3Vsk2AcdV>

⁷ Yahoo! Finance, “U.S. Congress expected to reboot Internet tax issues in 2015”, <http://finance.yahoo.com/news/u-congress-expected-reboot-internet-215423920.html>; Tax Foundation Blog, “Internet Tax Freedom Act Extended in the Omnibus Spending Bill”, <http://taxfoundation.org/blog/internet-tax-freedom-act-extended-omnibus-spending-bill>

⁸ The Wall Street Journal, “EU Considers Taxing Google, Other U.S. Internet Firms”, <http://www.wsj.com/articles/eu-considers-taxing-google-other-u-s-internet-firms-1421699055>

⁹ EurActiv.com, Google, “Apple and Amazon under fire in OECD war on tax evasion”, <http://www.euractiv.com/sections/innovation-enterprise/google-apple-and-amazon-under-fire-oecd-war-tax-evasion-308548>;

¹⁰ Intersessional Panel of the Commission on Science and Technology for Development (CSTD). “The mapping of international Internet public policy issues”, http://unctad.org/meetings/en/SessionalDocuments/CSTD_2014_Mapping_Internet_en.pdf

- (i) What are the basic issues surrounding the taxation on the Internet?
- (ii) What are the common measures being put in place by governments?
- (iii) What are the most common corporate practices (e.g. the double Irish with a Dutch sandwich arrangement¹¹)?
- (iv) Are there best practices to be shared?
- (v) Are formal legal instruments a way out?
- (vi) Is it possible to consider this topic from a multistakeholder perspective?
- (vii) What are the proper venues for debating Internet taxation?
- (viii) What are the ways forward?

With the support of experts from different stakeholder groups and open access to remote participants, the workshop would enable the following outcomes:

- (i) The collection of the views of different stakeholders;
- (ii) A more detailed problem definition;
- (iii) Identification of some of the most important issues pertaining to Internet taxation;
- (iv) Identification of proper venues where this matter is being and should be addressed;
- (v) Possible ways forward (e.g., best practices, formal legal compromises, multilateral and multistakeholder approaches);
- (vi) Establishment of a coalition of stakeholders interested in further research and development on this issue.

The matter of Internet taxation is usually associated with e-commerce, but the range of issues with fiscal impact is much broader and the presenters could explore some of them, such as the impact of net neutrality rules in tax collection, international Internet peering and transit agreements, the international transfer of personal data, online payment systems and bitcoin, taxing the cloud, the innovative and business models of the sharing economy. This workshop will be an open venue to bring this relevant topic into the IGF agenda, assist with the better framing the issue and providing a way forward for the governments, international organizations and the Internet community at large.

¹¹ Wikipedia, “*Double Irish arrangement*”, https://en.wikipedia.org/wiki/Double_Irish_arrangement; The New York Times, “*Double Irish With a Dutch Sandwich*”, <http://www.nytimes.com/interactive/2012/04/28/business/Double-Irish-With-A-Dutch-Sandwich.html? r=0>