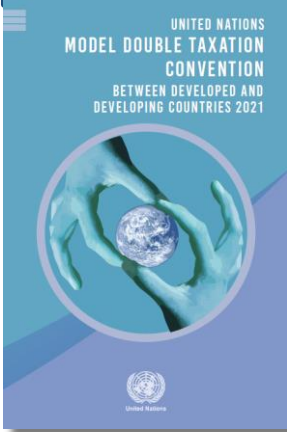


# Article 12B UN MODEL (2021)

THE RESPONSE OF THE UN TO THE TAX CHALLENGES ARISING FROM THE DIGITALIZATION OF THE ECONOMY



## Art 12B - Automated Digital Services

**Objective:** Taxing right for the market jurisdiction

- (1), (2) & (3): Allocation of taxing rights
- (4): Definitions for net tax option under (3)
- (5) & (6): Scope
- (7): Priority for Arts 12 & 12A in case of overlaps
- (8): PE/FB-proviso
- (9) & (10): Sourcing rules (payer state)
- (11): Arm's length clause

## Scope - Cross-border Automated Digital Services

Art 12B(5) & (6)

- **Digital:** *provided on the Internet or another electronic network*
- **Automated:** *minimal human involvement from the service provider*
  - Threshold for „minimal human involvement“?
  - Focus on service provider, not service recipient
- Little value added of exemplary and indicative list of Art 12B(6)

## Allocation of taxing rights

Art 12B(1), (2) & (3)

- (1): Non-exclusive taxing right for residence state
- (2): Taxing right for the source state (payer state)
  - Tax rate (suggestion of “modest” rate, i.e. 3 or 4% in UN Commentary)
  - Alignment with tax rates in Arts 12 & 12A?
- (3): Net tax option for service provider (s = source state)
  - Tax rate<sub>s</sub> \* Qualified profits
  - Qualified Profits = 30% \* ( adj. PBT / Revenue \* Revenue[ADS]<sub>s</sub> )
- Elimination of double taxation: Credit method (Art 23A(2))

## Relation to other provisions & Pillar 1

Arts 12, 12A & Pillar 1

- Relation to other rules? E.g. overlap with Art 12 (software), Art 12A?
- Coexistence with Pillar 1?
  - “Withdrawal of all existing DSTs and relevant similar measures”
  - Complex revenue sourcing vs simple but imprecise payer-principle?

## Implementation & Administration

UN MLI & Collection

- Implementing Art 12B in the DTT network – via UN MLI?
- No exclusion of B2C ADS – collection issues



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