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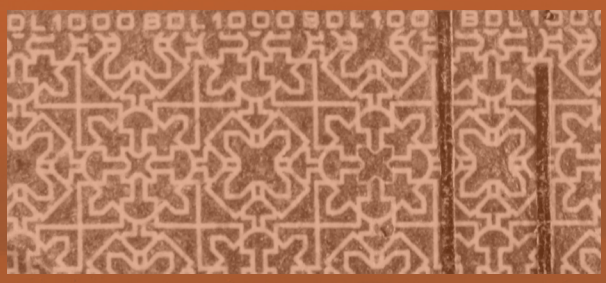

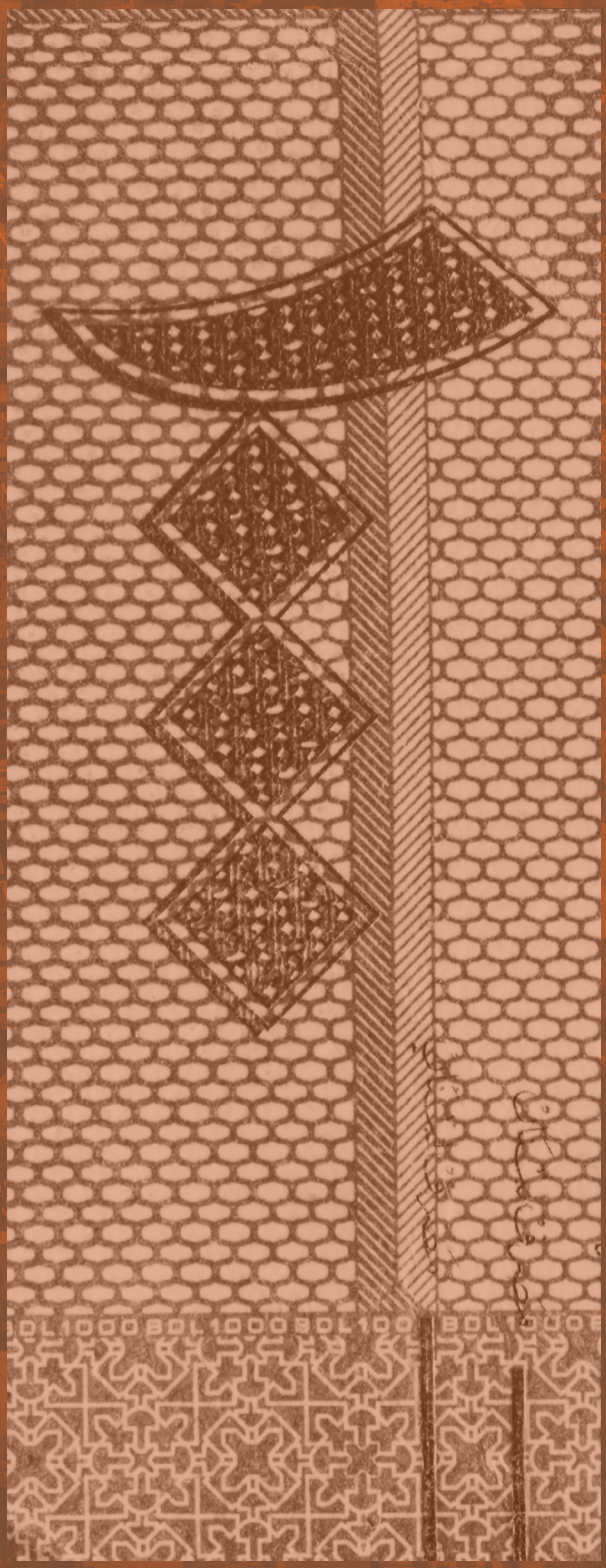

Digital Technology in Lebanon: A tool for fiscal and financial inclusion?

Karim Daher

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Karim Daher is a lawyer and tax expert specializing in international business law, tax policy, and financial transparency. He teaches Tax Law and Public Finance at Saint Joseph University of Beirut and has been actively engaged in legislative reform and anti-corruption initiatives in Lebanon. He is a founding member and former president of the Lebanese Association for Taxpayers' Rights (ALDIC), as well as a founding member and vice-chairman of The Policy Initiative.

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1. Introduction

The opening of borders and the technological revolution of recent years have allowed and even facilitated unrestricted intrusion by multinational enterprises (MNEs) and foreign tech companies into developing countries such as Lebanon—due to the lack of any specific public contract tools or legal framework. Instead, these foreign companies use tailored tax optimization strategies and subtle engineering to decrease the burden of the tax and hence compete with local businesses. This state of affairs deprives national economies of significant resources to invest in infrastructure, education, social welfare and innovation. This situation contributes, at the same time, to the development of the parallel or informal economy and leads to a proliferation of tax evasion among local economic actors and agents.

However, the sheer power of these foreign players and, notably, the internet giants in the digital economy is such that any change or restriction in their operation and development would lead to their withdrawal and the discontinuation of their services. This is particularly true in a relatively small and weak economy such as Lebanon's, and would therefore have negative or even disastrous repercussions on a slew of local players and consumers. Notably, most of these foreign players and internet giants are merely service platforms and intermediaries using the networks of local telecommunications operators, which are themselves subject to all state requirements and obligations.

> **Multinational enterprises (MNEs) and foreign tech companies use tailored tax optimization strategies and subtle engineering to decrease the burden of the tax and hence compete with local businesses.**

That is why the past two decades have seen other states begin to consider appropriate tax regulation at the local and international level to counter this exploitation. The aim is to finally apply strict rules to these tech companies, which abuse international treaties and legislative loopholes to hide or minimize their huge profits while making extensive use of local networks and other infrastructure. The Organization for Economic Co-operation and Development (OECD), for its part, has been working since 2013 to develop anti-abuse clauses (BEPS and MDR) and disseminate them on a large scale in the hopes of harmonizing standards and organizing the fight against tax abuse and tax evasion.

But Lebanon still lags behind. In a country undergoing such a unique financial crisis, where broadening the tax base is becoming a national priority, could developing local digital technology be a path toward financial inclusion or exclusion?

The study aims to assess how Lebanon's tax system can adapt to the realities of a rapidly digitalizing economy. It seeks to diagnose structural weaknesses and legal loopholes that enable tax avoidance and evasion—particularly by large digital corporations—and to propose reform measures that promote fairness, efficiency, and

international compliance. By addressing both domestic deficiencies and global cooperation frameworks such as the OECD's BEPS initiative, the study ultimately strives to chart a pathway toward a modern tax regime capable of regulating digital transactions, integrating the informal economy, and ensuring greater equity and transparency in revenue collection.

The paper argues that Lebanon's tax system is structurally ill-equipped to address the fiscal and regulatory challenges posed by digitalization. Despite rapid technological change, tax legislation remains outdated, fragmented, and vulnerable to manipulation by both multinational digital firms and local actors. The report identifies weak enforcement, the absence of digital monitoring tools, and the persistence of informal economic activity as key sources of inefficiency and inequity. It contends that the system's design favors rent-seeking and avoidance rather than fairness and productivity, with tax rules that neither capture digital profits nor ensure horizontal equity among taxpayers. To address these shortcomings, the study recommends a comprehensive reform agenda anchored in modern digital governance. This includes strengthening tax administration through artificial intelligence and data analytics to detect unregistered entities; introducing a universal Tax Identification Number (TIN) to integrate the informal sector; adopting international standards such as the OECD's BEPS framework to tax digital services based on "significant economic presence"; and tightening rules against transfer pricing and fictitious transactions. Together, these measures aim to build a transparent, inclusive, and technologically adaptive tax regime capable of supporting Lebanon's fiscal sustainability and social justice goals.

This report is composed of two sections: Section one describes the current tax situation using practical examples in the field and summarizes the tax regulations in place. The second section explores ways and means of countering abuses and misuses, as well as making good use of digital technology as part of a comprehensive reform of the national tax system. Section three highlights international developments that are currently underway. Section four concludes with the key findings.

2. Current Conditions Promoting Exclusion and Tax Evasion

Lebanon's current tax system can be illustrated through one familiar example from daily life.

A pedestrian leaves their workplace to return home. They order a taxi from a major international online booking service. At the end of the journey, they pay the fare electronically or by credit card. The amount will most likely be billed from a European country where the company is headquartered, without VAT.

From a tax perspective, this particular transaction gives rise to three situations that differ according to the current tax regime applicable in Lebanon to each economic agent involved: (1) the international company from which the service is ordered and which owns the source code used in connecting cabs with users, (2) the local carrier providing the service, and finally (3) the user benefiting from the service. It is also necessary to take into account the diversity of taxes that such a transaction would entail, which we will limit here to income tax on the one hand and VAT on the other. In light of the above, it would therefore be appropriate, for a better overall understanding, to examine and explain the regime applicable to each of them.

Income tax

The Lebanese legislature has adopted a very broad concept of territoriality[1] without prejudice to Double Taxation Treaties (DTTs) signed by Lebanon and ratified by law. All profits made in Lebanon by residents or non-residents are subject to local taxation; the only notable difference between taxes for residents and non-residents lies in the methods of taxation and, more specifically, in the method of determining the tax payable.

The tax base for non-residents is set at a flat rate of 20% of basic income (revenue) and 50% for services. Once determined, this flat-rate profit is taxable at a fixed rate of 17%; in short, this means that for commercial and production activities, the rate is 3.40% of gross receipts or invoices, and for activities classified as services rendered, the rate is 8.50%.[2]

Meanwhile, taxation for residents is set at 17% (corporate income tax)[3] of net profits for corporations and 10% for distributed dividends,[4] for a total tax rate of 25.3%. For self-

1. Article 3 of the Income Tax Law (Decree-Law No. 144 of 12 June 1959 and its amendments).

2. Articles 41, 42 and 43 of the Income Tax Law, supplemented by Implementing Decree No. 3692 of June 22, 2016, replacing Guidelines No. 798/S1 of April 10, 1965 and their amendments and notably article 54 of the Budget Law No. 324 dated February 15, 2024.

3. Finance Law No. 66/2017, amending Article 32 of the Income Tax Law.

4. Articles 69 and 72 of the Income Tax Law.

employed individuals subject to tax on commercial, industrial, and non-commercial income, it consists of a progressive tax ranging from 4% to 25%.[5]

With regard to the procedures for declaring and paying tax for non-residents, it will be withheld at source (i.e. deducted from the due amount of the transaction or the invoice) and then declared and paid to the Lebanese tax authorities by the resident beneficial owner of the service on behalf of the non-resident, unless otherwise provided for in an agreement.

Tax regime for foreign companies that have contributed to a service performed in Lebanon

Under applicable laws and regulations, taxes differ for non-resident companies undertaking a one-off operation on Lebanese territory and those acting regularly through a branch or subsidiary or as de facto residents.

> **All profits made in Lebanon by residents or non-residents are subject to local taxation; the only notable difference between taxes for residents and non-residents lies in the methods of taxation.**

All foreign commercial companies, regardless of their form, that establish a branch or agency[6] in Lebanon are required to enter the Lebanese Commercial Register. Foreign joint-stock companies (Sociétés Anonymes Libanaises) are also subject to additional registration with the Ministry of Economy's Company Control Office.[7] However, this obligation only applies in specific cases where the foreign company decides to set up a branch in Lebanon or to carry out a complete economic cycle of activity there through a declared or presumed permanent establishment.

This requirement does not apply, however, in cases where the company's involvement is occasional or one-off. The Lebanese legislature in 2016 adopted a clear definition of tax residence[8], while the Cabinet that same year also clarified the two concepts of "fixed place of business" and "permanent and repetitive" activity by decree, in order to avoid any ambiguity or misinterpretation and, consequently, misapplication.[9]

Thus, "fixed place of business" refers to any place owned, rented, or made available to the taxpayer for the purpose of carrying out public or private works for more than six months in any consecutive 12-month period, or any other activities or services (apart from the previous ones) performed for more than three months. Non-recurring or occasional activities, meanwhile, are any activities undertaken more than once during a consecutive 12-month period.

The 2016 decree also broadened the scope of operations and taxable income under this heading to include, in particular, all consulting, intermediation, sales and purchasing,

5. Article 32 of the Income Tax Law, as amended by Article 46 of Finance Law No. 324 of February 12, 2024.

6. Article 29 of the Code of Commerce and the Law of September 3, 1944.

7. Decision No. 96 of January 20, 1926, as amended by Decision No. 479 of July 7, 1949.

8. Law No. 60 of 27 October 2016, amending Articles 1(23-1), 32(1) and 107 of the Code of Tax Procedures (Law No. 44 of 11 November 2008).

9. Decree No. 3692 of 22 June 2016, setting out the implementing provisions of the tax on non-residents (Articles 41 et seq. of Decree-Law No. 144/59).

advertising, and promotional services. It required resident beneficiaries of the services to provide the tax authorities, within 20 days of the end of each quarter, the names and addresses of any residents not registered with the tax authorities with whom they contract. Non-residents who receive their income directly in Lebanon are required to appoint a representative resident in Lebanon and, where applicable, to register and fulfill their tax obligations in terms of filing returns and making payments. However, the decree expressly provides that the application of all its provisions is subject to international DTTs.

Where applicable, when there is a DTT between Lebanon and a foreign state, a company that is a national of the latter state is only liable for Lebanese corporate tax if it has a permanent establishment there or if it receives income from Lebanese sources that are conventionally attributed to Lebanon for tax purposes. The concept of a permanent establishment is defined in all DTTs (OECD model) as "a fixed place of business through which the business of an enterprise is wholly or partly carried on."—in other words, as an extension of the company that does not constitute a separate legal entity but simply a facility, forming a legal unity with the company located in the other country. This may be a branch, an office, a place of management, a factory, a workshop or a construction site exceeding a certain duration (varying according to the agreements from six to 24 months); or, more simply, a person acting in a contracting state on behalf of an enterprise of the other contracting state with sufficient powers to bind the company. For example, even when lacking such a fixed place of business, any person who has the power to conduct the enterprise's business on a regular basis with the power to decide and engage the latter, constitutes a permanent establishment, unless that person is an agent with independent status acting in the ordinary course of their business. The legal independence of the agents is assessed in light of the extent of their obligations in their relations with the enterprise.

In light of the above, tech giants (and in our example, the international online taxi booking company) are not subject to taxation in Lebanon. They have no physical presence, either through the local criterion of a "fixed place of business," or through the international criterion of a "permanent establishment"—or even through a resident representative with sufficient powers to bind the company. They therefore escape taxation as there are no rules adopting a minimum level of taxation in the country of source of income (place of situs of the consumer or user). The nature of their highly digitalized businesses implies that their value creation is done largely through intangibles, and often with a significant component of user contribution.

Tax regime applicable to professional or quasi-professional agents (carriers)

Under the Lebanese Income Tax Law, tax is levied on the taxpayer's net income earned in Lebanon, without specifying the concept of income. However, this concept of income must be placed in the broader context of Lebanon's schedular taxation system, where each type of income, depending on its source and the activity carried out, is subject to a specific tax with its own system, mechanism, and rate. This allows, in the absence of a unified system (general income tax) and a wealth tax, a wide range of activities and income not covered or classified by the laws in force to be kept outside the scope of taxation, thereby encouraging tax fraud and evasion.

In addition, the regulations in force require any person starting (or carrying out) a taxable activity to complete the formalities for starting a business with the relevant

department of the Ministry of Finance within two months of starting the activity[10], failing which they will be subject to penalties defined in the Code of Tax Procedures.[11] In this case, questions arise over whether the person above should be subject to professional tax on industrial, commercial, and non-commercial profits (BIC/BNC) as an independent or self-employed carrier, or rather to tax wages and salaries as an employee bound to their employer by a relationship of dependence and subordination.

In the first case, it would also be necessary to determine which income determination and reporting regime it should fall under: the actual profit regime applicable to large taxpayers, the flat-rate profit regime applicable to medium-sized taxpayers, or the estimated profit regime applicable to small taxpayers. In the latter case, which is most likely to apply to the carrier, the Income Tax Law subjects persons not required to keep commercial books to the estimated profit system, such as "those who carry on, on an individual basis, a small business or a simple trade with minimal overhead costs, such as street vendors, day laborers, or those who provide small-scale transportation by water or land."[12] This is a simplified tax regime applicable to low-income taxpayers, subjecting them to a flat-rate tax set in advance by a special commission of the Minister of Finance. In the case of other economic agents dealing with tech giants, such as residential rentals (Airbnb) or online commerce and service providers (GAFAMN), taxation should be based on the nature and category of income earned, such as subjecting rental income to property tax.[13]

Tax regime applicable to the customer

Here, too, in the absence of a general income tax and a wealth tax, the user does not find it necessary to report or declare the payment made in return for the service received. This is only deducted from the annual result for the determination of net profit in the rare cases where the customer is a Lebanese corporation or resident taxpayer subject to the actual profit regime, and when they wish to translate the carrier's invoice into an expense and deductible charge. However, and in this latter case, we would still have to count on a tax adjustment or tax audit of corporate accounts carried out by the tax administration to track down the recalcitrant or fraudulent service provider on grounds of tax evasion.

> **In the absence of a general income tax and a wealth tax, the user does not find it necessary to report or declare the payment made in return for the service received.**

Furthermore, despite recent amendments of the Bank Secrecy Law and Article 103 of the Income Tax Law[14], banking secrecy still makes it practically impossible today for the tax authorities to investigate banks in order to scrutinize the account statements of residents.[15] However, this can be resolved easily to the extent that the Ministry of

10. Article 32 of Tax Procedures Law No. 44/2008 (Code of Tax Procedures) and article 115 of the Income Tax Law (Decree-Law No. 144/59 and its amendments) corporate.

11. Article 107 of Code of Tax Procedures.

12. Article 24 of the Income Tax Law (Decree-Law No. 144/59 and its amendments) and Article 10 of the Code of Commerce.

13. Law of September 17, 1962 and its various amendments, establishing progressive rates ranging from 4% to 14% on net income after deduction of authorized expenses and exemptions (most recent amendment: Law No. 324 of February 12, 2024).

14. Law of 3 September 1956, as amended by Law No. 306 of 28 October 2022 and the Law No 1 dated 24 April 2025.

15. Article 103 of the Income Tax Law, as amended by Law No. 306 of October 28, 2022.

Finance and the Council of Ministers implement the provisions of the amending law and expedite the issuance of the required implementation decree specifying the mechanism by which the tax authorities may request information from banks and lift banking secrecy. This will enable the Ministry of Finance to verify the accuracy of data and statements and, consequently, the compliance of taxpayers.

With regard to VAT

The provisions of the VAT Law[16] currently exempt public transportation, including shared taxi transportation (service), from value-added tax. However, despite the abovementioned provisions, the VAT Law's terms and conditions[17] clearly distinguish between shared (service) taxis and private taxis and thus do not exempt taxis operating within or on behalf of specialized companies.

Similarly, cases where the entire vehicle is rented for a specially chartered trip (i.e., where all seats in the car are reserved as a whole for the pre-specified journey) are also not exempted, and do fall within the scope of taxation (VAT). The difficulty, of course, lies in distinguishing between situations and monitoring the proper application of the rules on the ground. Most players in this sector are reluctant to do so and therefore break and violate the law.

As for a multinational tech company intervening in Lebanon, it could be accused of another offense. Non-resident foreigners who have business dealings with a person residing in Lebanon for goods and services operations carried out on Lebanese territory, or benefiting the latter, are normally licensed and registered by the competent Lebanese tax authority regardless of their annual turnover. As a result, they are required to appoint a local representative to fulfill their obligations to the Treasury.[18] This representative will be jointly and severally liable with them for the declaration of profits and the payment of the due tax in Lebanon.

With regard to other areas of activity of tech giants, such as online rentals and sales, it should be noted that any natural or legal persons or entities that carry out taxable transactions within the meaning of the law are automatically subject to VAT if their total turnover for one or more of the previous four consecutive quarters exceeds LBP5 billion.[19]

Findings and summary

The above developments allow us to conclude that the entire transportation operation described in our example, as well as its main players or stakeholders, can easily fall outside the scope of taxation. This is attributable, as we pointed out in the introduction, to the current tax framework, which is ill-suited and inadequate to address most of the tax issues raised by digital technology, as well as to the weakness of the current schedular system and state structures and their consequences in terms of control and traceability of operations.

16. Article 16-6 of the VAT Law No. 379/2001 and its Implementing Decree No. 7287 of January 25, 2002.

17. Implementing Decree No. 7287 of January 25, 2002.

18. Article 40 of Law No. 379 of December 14, 2001.

19. Article 3 of Law No. 379 of December 14, 2001, as amended by Article 14 of Budget Law 2024 (Law No 324 dated February 12, 2024, establishing the turnover threshold for mandatory or optional VAT registration, as well as the Implementing Decree No. 13073 of August 5, 2004.

One of the consequences of this current state of affairs is the development of the informal sector to the detriment of the formal sector and a breakdown in horizontal equality between players in the economic sectors concerned. This situation encourages unfair competition between local economic agents and hurts tax citizenship.

In the example described above, a Lebanese online taxi booking company is required to declare and pay tax on the net income from its annual operations, with the overall tax burden currently standing at around 25% regardless of the structure adopted. In addition, it is subject to VAT and is required to withhold and pay taxes and social security contributions on its drivers' salaries, bearing a significant portion of the cost, particularly in terms of severance pay. As a result, the prices charged to its customers can only be higher than those advertised by the multinational online booking company—not to mention the fact that any drivers linked to the multinational will be deprived of all social rights and guarantees, particularly medical and pension benefits.

Lebanon's executive power has made only timid attempts to curb the reach of tech giants in the sale of computer programs or usage fees by subjecting them to non-resident taxation through withholding tax.

The same situation can also be transposed to other economic sectors where the internet giants also run rampant. Airbnb, for example, allows transactions to be concluded on its platform and, in return, receives a fee called a "service fee" on all bookings made through its intermediary, which is not subject to taxation in Lebanon. This also opens up a loophole for non-professional individuals who rent out their properties, often their primary or secondary (furnished) residences and apartments, to foreign third parties during periods of absence. Normally, the repetitive nature of these rentals should result in an obligation to declare and pay the tax due on seasonal or occasional furnished rentals[20]. The same phenomenon also applies to online purchases and sales through Amazon or through social media "influencers," all of whom are a part of the informal sector.

Yet Lebanon's executive power has made only timid attempts to curb the reach of tech giants in the sale of computer programs or usage fees by subjecting them to non-resident taxation through withholding tax. This was manifested first through decrees issued by the Minister of Finance[21] and then through a decree adopted by the Council of Ministers.[22] These regulations list a number of taxable transactions carried out partially or totally on Lebanese territory, which vary according to the nature of the service, activity, or income. These activities include the provision of services and the sale of computer programs, as well as royalties paid in return for the use of intellectual property rights or licenses for the purpose of re-exploiting them in Lebanese territory. However, the results have been the opposite of what was hoped for, as these tax levies, which were supposed to be borne by foreign multinationals, have ultimately been borne by the Lebanese agents themselves, unable to assert their rights and claims due to the imbalance of power and other dominant positions, with resulting inflationary consequences.

20. Article 1 of the Law No 60 dated October 27, 2016 modifying the Code of Tax Procedures No 44/2008.

21. Decision No. 1/898 of September 8, 2010.

22. Decree No. 3692 of June 22, 2016 (Official Gazette of June 30, 2016, No. 34, p. 2220).

Besides, the former caretaker government under Najib Mikati tried in the draft Budget Law for the year 2024 to introduce a DigitTax, but this attempt failed. The concerned article was removed by the parliamentary Finance and Budget Committee on the pretext that creating this new tax would result in major ambiguity and contradiction with those currently in force for the same purposes (non-resident tax).

So, faced with all the above issues, what can be done?

3. Structural Reforms Aimed at Inclusion

As we clarified above, there is a significant mismatch between technological developments and current laws relating to income taxation. The same is true of the conventional provisions found in the OECD model agreements signed between Lebanon and a number of countries.[23] Most multinational enterprises (MNEs)—particularly the internet giants—are taking full advantage of this arrangement because the internal and treaty approaches are, with few differences, the same: "The profits of an enterprise of a Contracting State shall be taxable only in that State, unless the enterprise carries on business in the other Contracting State through a permanent establishment situated therein" (this is the wording typically used in double taxation treaties). For MNEs not headquartered in Lebanon, they can simply avoid meeting criteria that would classify them as having a permanent establishment, thereby avoiding taxes.

This is very easy to do, as "the activities of the major Internet multinationals do not require a physical presence on national soil. An Internet site—which is intangible—cannot be classified as such. Even the presence of servers in France is not sufficient."[24] A practical example would be a tech company locating its intellectual property in a tax haven and then setting unreasonably high royalty rates for its use. It would then tell the tax authority of the source country that most of the profits generated in the country were used to pay the royalty fees. The tax authority would find it difficult to assess whether the royalty payments were reasonably priced[25]. Hence, the existing system is often exploited to generate what is known as "stateless income" that is not taxed anywhere.

Oftentimes, an e-commerce business might avoid a fixed establishment by limiting its presence in a certain country to storage facilities or auxiliary activities. For example, a bookseller or individual residing in Lebanon may choose to sell a book on an online sales site such as Amazon in exchange for a fixed percentage (usually 15%) of the transaction amount as a sales fee.[26] The same applies to mobile applications on the Apple store.

Based on all of the above, there is no longer any doubt that the solution to the problem of tax optimization and other forms of tax evasion by internet giants and their local contractors lies in changing the current rules on the territoriality of income taxation. A unilateral approach, although necessary for the stabilization of the landscape and fiscal inclusion, would make little sense without a concerted international effort to promote transparency and combat the erosion of the tax base, particularly at the level of the

23. Official website of the Ministry of Finance of Lebanon: https://www.finance.gov.lb/en-us/Finance/IA/Pages/default.aspx

24. See the commentaries on Article 5, §4.1 and 5 of the OECD Model Tax Convention, - B. Castagnède, Précis de fiscalité internationale, 5th Edition, PUF, 2015, pp. 462 et seq.; L. Ayrault, "les géants de l'Internet et le droit fiscal" in "l'effectivité du droit face a la puissance des géants de l'internet" Giants, IRJS Editions, p. 30 et seq.

25. Assessment of the Two-Pillar Approach to Address the Tax Challenges Arising from the Digitalization of the Economy; Report by the South Centre Tax Initiative's Developing Country Expert Group -Irene Ovonji-Odida, Veronica Grondona, Samuel Victor Makwe- August 2020.

26. https://sellercentral.amazon.com/.

OECD or Group of Twenty (G20) Inclusive Framework on BEPS, with which Lebanon should actively collaborate.

Necessary internal adjustments

Several questions need to be asked regarding the development and implementation of internal measures to counter or regulate the territorial or market intrusion of MNEs and internet giants:

1. How can current Lebanese tax legislation be adapted to developments in digital technology and artificial intelligence?
2. How can a protection mechanism be implemented for resident businesses and users while avoiding excessive economic protectionism and fiscal interventionism?
3. What technical means can be used to ensure proper traceability of transactions and better fiscal inclusion?
4. How can the criteria for taxing cross-border transactions be defined in order to avoid a Lebanese "Dutch Sandwich" (residence, extended territoriality, source, place of beneficial ownership, etc.)? And how can the added value and its territorial framework be assessed?
5. How can we prevent efforts and measures to counter irregularities and encourage tax inclusion from having counterproductive effects leading to banking and financial exclusion (most of the Lebanese population is currently outside the banking system, further to the country's financial meltdown in 2019)?

In reality, the specific framework for combating the rampant optimization practices of internet giants and their "tax impunity" should focus on how to counter and limit tax avoidance, which should be assimilated to tax evasion and tax abuse. Tax avoidance means acting in full compliance with the rules of common law with the intention of knowingly evading all or part of one's public contribution. This practice exploits the market and rules imperfections so that the MNE is able to increase the amount of profits and to charge artificial prices that will affect the free and fair competition. Thus, tax avoidance needs to be considered under that angle (evasion and abuse) in order not to "hamper the enjoyment of human rights via blocking financing through abusive tax laws, rules and allowing companies and wealthy individuals to abuse tax systems".[27]

> **The specific framework for combating the rampant optimization practices of internet giants and their "tax impunity" should focus on how to counter and limit tax avoidance, which should be assimilated to tax evasion and tax abuse.**

Lebanon's Code of Tax Procedures defines tax evasion[28] as: "the act of a person with tax obligations knowingly and intentionally failing to declare the taxes due [to the State] on their income or wealth, and failing to pay the taxes and duties that they are required to deduct or collect or withhold at source, or reducing, canceling, deducting, or recovering such taxes and duties illegally, through the use of illegitimate means."
This definition encompasses both the acts and omissions of internet giants and those

27. https://www.taxjustice.net/2020/09/04/a-un-tax-convention-then-a-u-turn/
28. Article 57 of Finance Law No. 144 of July 31, 2019 modifying article 1 of the Code of Tax Procedures No 44/2008.

of their resident co-contractors—consumers or quasi-professionals—as outlined in the first part of this policy paper. As a result, far from being specific to Internet multinationals, this tax avoidance, which is difficult to suppress, can in fact take several forms that need to be countered by new technical or alternative means that are not currently available or require specific implementation or accompanying measures.

To this end, several means can be proposed, namely:

Transfer pricing policy
This relates primarily to transactions between two related or affiliated companies. However, it can be broadened to include transactions carried out by Internet giants or other MNEs (or even ordinary foreign companies) on Lebanese territory through local intermediaries— that is, when the price of the transaction differs significantly from the fair market price. In such cases, the pricing distorts free competition, as the non-resident company concerned is located in a country with a privileged tax regime or a non-cooperative country or territory as defined by either the OECD and the Global Forum for Transparency or the FATF.[29]

> **The digital economy relies on intangibles and that by definition, such intangibles are innovations and hence lack "comparables," making it difficult for tax administrations to counter abusive transfer pricing.**

In this regard, the Lebanese legislature could amend the current provisions prohibiting transfer pricing[30] and fictitious transactions[31], and the tax authorities could potentially apply them. In the first scenario, the tax authorities could reclassify the transactions on the grounds that part of the profits were transferred abroad through an artificial increase or decrease in purchase or sale prices. In the second case, it could also invoke the fictitious nature of the transaction as defined in the aforementioned legislation if the transaction differs by 20% (margin) from the market price, even if the transaction does not involve connected or related parties. In both cases, it will invoke the theory of abuse of rights through fraud to induce Internet multinationals or their local representatives or agents to negotiate and compromise with it, either a priori or a posteriori. Such a move, however, must take into consideration that the digital economy relies on intangibles and that by definition, such intangibles are innovations and hence lack "comparables," making it difficult for tax administrations to counter abusive transfer pricing.

Without sufficient proof to enable determination of the real profits, the latter are fixed by comparing with the profits of similar undertakings, as well as the external appearance and information from the concerned tax department. However, the Tax Administration must respect the fundamental rights of taxpayers and avoid any arbitrariness, abuse of power, or injustice in its actions and decisions, while preserving the interests of the Treasury. Besides, Lebanese tax rules and principles consider that the burden of proof (onus probandi) rests with the tax authority itself and depends upon the factual circumstances of the transaction.

29. The FATF identifies jurisdictions with weak measures to combat money laundering, terrorist financing and proliferation financing risks (AML/CFT). For all countries identified as high-risk, the FATF calls on all members and urges all jurisdictions to apply enhanced due diligence, and in the most serious cases, countries are called upon to apply counter-measures to protect the international financial system.

30. Article 15 of the Income Tax Law.

31. Article 10 of the Code of Tax Procedures (Law No. 44 of November 11, 2008) and its implementing regulations (Articles 11 to 13 of Implementing Decree No. 2488 of July 3, 2009 and Articles 2 to 5 of Implementing Decision No. 453 of April 22, 2009).

For economic actors, this could mean taking the initiative with the relevant tax authorities, seeking their approval for the conclusion of a prior agreement on the method of determining transfer prices and any transactions to be carried out. This agreement, concluded with the tax authorities, at the taxpayer's request and either expressly or in accordance with the current procedure similar to a ruling[32], results in a formal unilateral position taken by the Tax Administration, which is then enforceable before the courts in accordance with the laws and regulations currently in force and the established case law of the Council of State (the legal principle of legem patere quam ipse fecisti, meaning "obey the law that you yourself made").[33]

> **The Tax Administration must respect the fundamental rights of taxpayers and avoid any arbitrariness, abuse of power, or injustice in its actions and decisions, while preserving the interests of the Treasury.**

The possibility of requesting an advance ruling from the tax authorities is not unique to Lebanon; it is common practice in France and many other countries. Although it has not been publicly disclosed, it is now accepted that Google obtained such an agreement from the US Internal Revenue Service (IRS), known as a tax ruling or advanced pricing agreement, enabling it to secure its arrangement known as the Double Irish or Dutch Sandwich.[34] This mechanism could thus reallocate a portion of the profits and corresponding tax rights to Lebanon for operations and transactions undertaken and carried out by internet multinationals on its territory. If it is impossible to calculate the tax base, this taxation could take the form of a flat-rate tax on the turnover relating to the portion of the operation carried out on Lebanese territory or benefiting a resident.

The identification of these operations and the compliance of tech companies (notably in terms of reporting) would lead, at the same time, to the exposure of fraudulent resident co-contractors who take advantage of institutionally organized opacity to evade taxes and other related obligations. The result of this is that the tax authorities will benefit from this opportunity to broaden the tax base and improve tax collection with the aim of making the tax system fairer and more efficient.

Without such cooperation, the Tax Administration may still resort retroactively to the aforementioned procedure for abuse of law through fraud, punishable by an increase in the duties and taxes evaded and by active solidarity between resident and non-resident co-contractors. The criterion of a primarily or essentially tax-related objective or purpose (of the transaction or arrangement) will be accepted in the absence of evidence to the contrary. It should be noted, however, that while this procedure has been used consistently in recent years, its effectiveness and basis can only be questioned when one considers its discretionary and abusive use by the Lebanese tax authorities.

The struggle against fraud and tax evasion also depends mainly on seeing that the economic activity generating the tax base is within the reach of the authority of the

32. Article 26 of Law No. 44 of November 11, 2008 on Tax Procedures and Article 23 of Implementing Decree No. 2488 of July 3, 2009, as amended by Decree No. 13567 of June 19, 2024.

33. Lebanese Council of State, Case No. 64/2006–2007 of October 31, 2006 (unpublished).

34. See also L. Ayrault, L. Ayrault, "les géants de l'Internet et le droit fiscal" in "l'effectivité du droit face a la puissance des géants de l'internet" Giants, IRJS Editions, p. 32 ; and Ph. Dominati & E. Bocquet, "l'évasion fiscal internationale, et si on arrêtait?''French Senate Report No. 673, 2011–2012, p. 252.

state and involves other complementary important measures. These include tackling several loopholes in the current tax system, such as the scheduled taxes, as well as the weak notification procedures for applying the Tax Identification Number (TIN) ID numbers (for both nationals or foreigners) in the midterm.

Derogation from the general rules of territoriality for electronic and digital services
To circumvent the constraint imposed by the tax territoriality regime in Lebanon with regard to professional income, as well as in duly ratified bilateral international tax treaties (DTTs), it would be appropriate to adopt an exemption aimed at subjecting services provided by a non-resident service provider via the internet or electronic networks to tax and VAT (if the conditions for taxation are met) in Lebanon. This would be in addition to the measures proposed in the paragraph above.[35]

As such and in line with Action 1 of BEPS that focused on the digitalized economy[36], Lebanon may retain one of the adopted criteria such as the "significant economic presence" (that opposes the current criteria of "significant physical presence") or the "country of source" (i.e. where the profits are made). Hence, while the Inclusive Framework (BEPS) did not outline so far a consensus solution, it recognized the right of all participating countries to unilaterally undertake specific measures to tax the profits of digital companies. Developing countries such as Lebanon should thus be aware that they are fully within their rights under international law to undertake national measures to tax the digitalized economy.

To this end, it would be necessary to clearly define electronic services, including, but not limited to: the provision and hosting of websites, the provision of software and updates thereto, the provision of databases, and the provision of remote services; and, on the other hand, clarifying the status of the beneficiary of the service and distinguishing between professional and quasi-professional customers. The latter are individuals who flirt with the professional sphere due to the number and frequency of their transactions and the profits they make. They are, in fact, "professionals who are unaware of their status or who voluntarily exempt themselves from the rules that professionals must comply with. In either case, quasi-professionals compete directly with professionals."[37]

Lebanon must therefore modify its current criteria in order to achieve taxation of electronic goods and services delivered to residents who are not subject to taxes or duties (quasi-professionals) and which are shipped or transported to Lebanon from another country not bound to Lebanon by a double taxation treaty or specific bilateral or multilateral tax agreements.

This derogatory taxation would be based on the location of the beneficiary customer and no longer on that of the supplier or service provider. More specifically, in the case of a quasi-professional customer, the criterion to be used for taxing the transaction would be the place of establishment of the said customer for the portion of the transaction carried out in Lebanon. For professional customers, the current withholding tax rule would continue to apply, subject to any contrary provisions in agreements.

Multinational digital companies that carry out significant activities in Lebanon despite having no physical presence here would therefore be taxed in Lebanon, through the

35. Articles 3 and 46 of Decree-Law No. 144 of June 12, 1959 and its amendments, as well as Articles 2, 13, and 14 of the VAT Law No. 379 of December 14, 2001 and its amendments.

36. OECD, Addressing the Tax Challenges of the Digital Economy, Action 1 - 2015 Final Report. Available from https://www.oecd.org/en/topics/policy-issues/base-erosion-and-profit-shifting-beps.html

37. See also F. Douet, "Fiscalité 2.0 Fiscalité du numérique", LexisNexis, 2018, p. 3.

creation of new rules establishing (1) the place where the tax must be paid (the "connection" rule) and (2) what fraction of profits they should be taxed on (the "profit allocation" rule)[38]. An arrangement similar to that provided for in Article 13 of the VAT Law would be a good prelude to the overhaul and amendment of the current texts, as it provides that the provision of services is considered to have been performed in Lebanon if the service is used within Lebanese territory.

Establishment of a specific tax regime for transactions carried out on online platforms (taxation 2.0)

Our tax laws date back to the late 1950s. All of their provisions address issues that arose at that time (reducing and simplifying taxation to attract capital from wealthy individuals and families fleeing nationalist revolutions and coups d'état in neighboring countries). For the most part, taxable income and taxpayers were easy to locate at that time. Today, things have changed, and authorities must face the digital age with its share of intangibles, globalization, and offshoring. As a result, they must rethink tax rules to respond to new challenges and to avoid the evaporation of tax revenues necessary for sustainable development and the exposure of national (local) companies to unfair tax competition.

That is why, in this context, we should be wary of believing that activities in the private sphere are systematically untaxed, unlike those in the professional sphere[39]. Thus, activities in the private sphere would not be taxable as long as their purpose is not lucrative and their frequency is not repetitive in such a way as to distort free competition and create horizontal inequity. They therefore become taxable when the income, although generated in the context of private asset management, is considered taxable income for income tax purposes, as would be the case for Airbnb furnished rentals. An activity is considered for-profit when its main objective is to generate income. However, in order to be taxed, the activity must generate profits such that the income exceeds expenses.

The above raises a secondary but no less important question about the schedular taxation system in Lebanon: to which category of taxes should income generated by "taxation 2.0" be assigned? It would be tempting to follow the example of France—from which our legislation is inspired—where the tax judge relies on a set of indicators to classify patrimonial transactions as "hidden trade." In France, "this set of indicators includes the nature of the transactions, their number, their volume, their frequency, and the length of the time between them."[40]

> **Today, things have changed, and authorities must face the digital age with its share of intangibles, globalization, and offshoring.**

But this example still overlooks the fact that the Lebanese legislature had already unwittingly provided for this type of situation in the current laws by including a residual "catch-all" category in Chapter I of the Income Tax Law.[41] This category covers all types of income that are not subject to specific taxation under a formal and existing precise

38. https://www.oecd.org/en/topics/tax-transparency-and-international-co-operation.html

39. See also F. Douet," Fiscalité 2.0 Fiscalité du numérique", LexisNexis, 2018, p. 53 et seq.

40. See also F. Douet," Fiscalité 2.0 Fiscalité du numérique", LexisNexis, 2018, supra; French Council of State, 7th and 9th sub-sections, June 4, 1982, Case No. 24523; Dr. Fisc. 1982, No. 44, Commentary 2042; RJF 8–9/1982, No. 891.

41. Chapter 1 of Decree-Law No. 144 of June 12, 1959, relating to industrial, commercial and non-commercial profits.(BIC/BNC).

text[42]. This could easily apply to all income generated by hidden digital activities, but would pose a problem for income from furnished (Airbnb) or unfurnished rentals, which would normally fall under the law on net income from built properties.[43]

In this case, it would depend on whether the activity is habitual and repetitive in order to qualify as professional, in which case it would be taxable under industrial, commercial and non-commercial profits (BIC/BNC), or not, and therefore subject to property tax. They could also be placed in the category of hidden commerce, whether the rental is habitual or not, and taxed like other digital activities.

Traceability of operations

In today's globalized and increasingly digitalized economy, many online companies and platforms can project themselves into the daily lives of consumers and push them, even unintentionally, to create value and work. Thus, a social media platform such as Facebook or Twitter relies almost entirely on user-generated content for its value.

Hence, all of these activities, which we might be tempted to call "subsidiary" or "collateral," remain informal and unknown to the tax authorities due to various practical and institutional constraints. Effort is needed to regulate and trace these activities and could take several forms, the most objective and efficient of which are as follows:

1 Effectively implement the provisions of the law amending the 1956 law on banking secrecy,[44] to allow the lifting of banking secrecy on accounts suspected of tax evasion, fraud, or tax abuse. The traceability and identification of suspected offenses is now facilitated through the monitoring of professional and non-professional accounts.

It is therefore simple and justified to allow the Treasury to access these accounts to ensure the authenticity and regularity of declarations. On the other hand, deposits and transactions made on so-called "personal" accounts can be scrutinized to detect any anomalies by requiring disclosure and justification of the sources of funds and transfers. In this way, electronic transactions carried out by quasi-professionals, such as residential online rentals, online transportation, or Amazon purchases and sales, would be easily identifiable and therefore reported to the Treasury through the appropriate means defined by Decree adopted by the Council of Ministers[45].

> **Banking restrictions could backfire, pushing people towards banking exclusion and the use of alternative payment methods—including over cryptocurrencies.**

However, this is not without risk, as the results of these banking restrictions could backfire, pushing people towards banking exclusion and the use of alternative payment methods—including over cryptocurrencies such as Bitcoin, Facebook's Diem, Monero, Dash, and Ethereum. These virtual currencies allow their users to exchange goods and services without using legal tender.[46] They represent "a unit of account stored on an electronic medium, created not by a state or a monetary union, but by a group of individuals (natural or legal) and intended to record

42. Article 4(d) of Decree-Law No. 144 of June 12, 1959 and its amendments.
43. Law of September 17, 1962 and its various amendments.
44. Law No. 306/2022 recently amended again by Law No. 1/2025.
45. Article 23 of the Tax Procedure Law No. 44 dated November 11, 2008, as amended by Law No. 306 of October 28, 2022.
46. https://libnanews.com/cryptomonnaies-au-liban-une-echappatoire-financiere-dans-un-vide-legal/

multilateral exchanges of goods or services within that group."[47] This currency, created within a network using a special algorithm, must be distinguished from electronic money, which represents a claim on the issuer. This explains why it is outside the banking system and therefore outside the usual controls. It may also perpetuate the cash economy despite all the implemented measures to combat it, in blatant contradiction of the principles and objectives to which the Lebanese authorities say they wish to conform.

2 There is also the question of consolidating the information with the central tax administration for analysis (data mining technique) and creating a blockchain between the various ministries and relevant government departments in order to compare and contrast the declarations made and the information provided to each of them. This is sensible and essential, for example, in the case of imports of goods and products, given that in the absence of real means of control, some importers understate their prices in their declarations to customs and tax authorities (income tax and VAT, notably) to reduce their taxation and duties. At the same time, these importers inflate their prices to the Ministry of Economy so that they can sell at a higher price on the market and thus avoid any restrictions or infringement resulting from the application of regulations prohibiting monopoly and unfair competition.[48]

Blockchain technology can provide solutions to this problem. It is a technology that allows information to be stored and transmitted transparently, securely, and without a central control body. It resembles a large database that contains the history of all exchanges between its users since its creation. Blockchain can be used in various ways, including for better traceability of assets and products.[49]

The unique feature of blockchain is that the information contained in the blocks (transactions, property titles, contracts, etc.) is protected by cryptographic processes that prevent users from modifying it retrospectively. Thus, in the above example of the importer, the data provided will circulate within the same chain, which will make it possible to identify contradictions and infringements. Each member of the network that makes up the blockchain will have a constantly updated copy of all transactions in the blockchain on their own server. Any doubts about the authenticity of a transaction can therefore be resolved by checking that all members of the network have the same information.[50]

Care must be taken to ensure that the costs incurred in collecting taxes do not exceed the amount generated.

Traceability also involves analyzing the marked disproportion between a taxpayer's lifestyle and their declared income, to combat under-reporting and hidden activities. Lebanon could take inspiration from the French example in this regard.[51] The tax authorities could use artificial intelligence software capable of navigating, searching, and cross-referencing millions of pieces of data on individuals and

47. "L'encadrement des monnaies virtuelles, Recommandations visant à prévenir leurs usages à des fins frauduleuses ou de blanchiment", French Ministry of Finance and Public Accounts, Virtual Currency Working Group, June 2014, p. 3.

48. Law No. 73 of September 9, 1983 on the Possession and Marketing of Agricultural Products and Harvests as well as the Laws No. 659 dated 04/02/2005 (on the protection of consumers with its amendments) and No 281 dated March 15, 2022 (Competition Law).

49. https://www.journaldunet.com/economie/finance/1195520-blockchain-avril-2019/

50. https://www.lecommercedulevant.com/article/29090-les-premiers-pas-de-la-blockchain-au-liban

51. Articles 168 and 190 of the French General Tax Code (CGI), specifying several flat-rate taxation rules in cases of significant discrepancy between a taxpayer's standard of living and declared income; beyond a certain threshold, a lump sum is applied to certain elements of the taxpayer's lifestyle.

businesses. It would define various alert criteria to obtain a relevant risk analysis report that automatically identifies suspicious cases.[52] This could also be extended to automated social media monitoring. However, certain risks must be taken into account. First and foremost, it is important to ensure good profitability. This means that care must be taken to ensure that the costs incurred in collecting taxes do not exceed the amount generated. On the other hand, it is important not to jeopardize certain economic sectors (such as luxury cars or jewelry) or displace or drive away the investment that is essential for growth and employment.

Authorities must also consider and comply with other regulations in force aimed at protecting taxpayers and citizens, such as the General Data Protection Regulation (GDPR), which is a legal framework recently adopted in Lebanon to regulate the collection and processing of users' personal data and protect it.[53]

Indeed, the open data collected on various social networks will initially only serve as indicators. When cross-referenced with other data, they may, in the event of anomalies, lead to a tax audit. This audit may invoke the new provisions of the law[54] to require, including from collaborative platforms such as Airbnb, the disclosure of any information that the tax authorities deem relevant to the taxpayers being audited.

Finally, traceability requires taxpayers to use and declare their tax identification number (TIN)[55] for all commercial or banking transactions as well as for public services. It may be recommended to link or integrate this TIN to the personal ID (citizens) or residency permit.

3 Thirdly, improved traceability remains linked to changes in the current schedular taxation system. This system is obsolete and allows taxpayers to avoid declaring certain income and evade taxation, or to diversify their sources of income by favoring those with low or fixed, single, and regressive percentages. The system would be replaced by a general income tax system that allows all income (professional income, investment income, income from real estate, and other sources), derived locally and abroad, to be grouped in a single tax base subject to a fairer and more equitable progressive tax. This would also be accompanied, on the one hand, by taxation per tax household with a family quotient (to avoid fictitious transfers and distributions between spouses tending to reduce income by brackets and progressivity) and, on the other hand, by the obligation to declare expenses to analyze the situation of taxpayers and identify fraudsters or hidden taxpayers.

Finally, in the cases of Airbnb or similar online rentals, non-resident visitors and tourists should be required to provide detailed information about their place of stay in Lebanon and enter it into a dedicated computer system linked to the relevant tax authorities (technology enabling the automation of information in a chain). This will place the information in an artificial intelligence platform capable of detecting the frequency and periodicity of transactions and ensuring that the consideration received is included in tax returns.

52. Impôts: ces 10 indices qui déclenchent un contrôle fiscal: http://www.lefigaro.fr/impots/impots-controle-fiscal-fisc-dix-indices-20231214; Méthodes du fisc pour repérer les fraudeurs: http://www.lefigaro.fr/impots/controles-fiscaux-comment-les-algorithmes-reperent-les-fraudeurs-20220919

53. Law No. 81 of October 10, 2018 on Electronic Formalities and Personal Data.

54. Article 23-1 of Law No. 44 of November 11, 2008 on Tax Procedures, as amended by Law No. 306 of October 28, 2022.

55. Article 34 of Law No. 44 of November 11, 2008 on Tax Procedures and Annex Circular No. 5 of March 4, 2015, as well as Law No. 241 of October 22, 2012 (establishing a unique identification number).

4. International Developments Underway

In light of all of the above, it is clear that today's globalized and increasingly digitized economy allows numerous companies to project themselves into the daily lives of consumers (and users), interact with them, and create significant value without a traditional physical presence in the market. This is true for companies that market their products and use digital technologies to develop a consumer base without a direct physical presence in the relevant territory.

It is also true for companies engaged in certain service and intermediation activities, such as data collection and exploitation, brand promotion, and online advertising services, which target non-paying users located in a different place from where the corresponding income is recorded. Today, however, in most jurisdictions, a non-resident company is only taxable on its commercial profits if it has a permanent establishment there—that is, a physical presence (in various forms) that allows it to interact with its customers and co-contractors.

The result of this conventional rule has prompted internet giants and other major online operators and platforms to set up their headquarters and establish support structures for intellectual property rights in compliant jurisdictions with privileged tax regimes, depriving market or consumer jurisdictions of significant and legitimate tax revenues. These excesses by internet giants and their collateral damage to the domestic tax landscape have prompted many countries, in the absence of compromise, to adopt unilateral, uncoordinated measures aimed at ensuring that companies are not taxed where their premises are located but where they create wealth and substance.

They have also adopted their own arsenal of "corrective" and "coercive" measures, like France with its "GAFAM tax,[56]" which taxed not profits but turnover. However, the latter is not intended to affect all companies but to target large international conglomerates with large turnovers (MNEs) and, as far as possible, to ensure that it does not hinder innovation and digitalization. It was clear that such a situation effectively compromised the relevance and sustainability of the international tax framework, and ultimately is likely to have detrimental effects on global investment and growth. Furthermore, these measures— which grant taxing rights on all or part of the commercial profits of a non-resident company without a physical presence by derogating from the arm's length principle—would require amending existing tax treaties.

> **Today's globalized and increasingly digitized economy allows numerous companies to project themselves into the daily lives of consumers.**

It was therefore essential that these changes be implemented simultaneously by all jurisdictions to ensure a level playing field. States, therefore, have begun to work towards greater cooperation and regularization to curb this excessive trend toward tax

56. Common designation for the major Internet multinationals: Google, Amazon, Facebook, Apple and Microsoft; to which should be added Netflix.

evasion and impunity, while also taking action to prevent or combat acts of money laundering and terrorist financing.

Although these challenges exist globally, they have more impact on developing countries like Lebanon as they exacerbate inequalities and worsen poverty. That is why considerable collective efforts have been made to promote transparency by all parties to catalyze crucial changes that will help states meet the Sustainable Development Goals (SDGs) adopted in 2015 by the 2030 Agenda for Sustainable Development. The world's leaders committed at that time to "transform the world" in a set of aspirational, comprehensive, and universal goals. However, they recognized that implementing the transformative 2030 Agenda requires stronger resource mobilization at all levels. Several international organizations were therefore mandated to review current frameworks and challenges in several areas, notably in tax matters, with a view to identifying and closing existing loopholes and vulnerabilities and proposing technically feasible and politically viable recommendations to combat illicit financial flows. We discuss two of the most prominent resulting measures below:

The Global Forum (GATCA)

The OECD Global Forum[57] first established common standards to mandate, initially, the exchange of tax information upon request (EOIR) and subsequently to lead to an automatic and reciprocal exchange of information (AEOI), known as the CRS standard.[58] The latter aims to establish an intergovernmental system for the annual and automatic (and no longer simply on-demand) standardized exchange of information relating to the accounts and financial assets of non-residents of the countries concerned (reportable persons). This way, they can be subject to verification and, if evasion or fraud is identified, prosecuted and taxed by the authorities of the countries of residence of said persons (reportable jurisdictions).

The Global Forum regularly assesses countries to verify whether they comply with international standards on tax transparency and EOIR. In 2019, during its second review, Lebanon was rated as "largely compliant."[59] According to the OECD report, Lebanon made notable efforts despite the challenging political context, in particular:

- ◊ Lifting of banking secrecy
- ◊ Prohibition of bearer shares
- ◊ Signing the Multilateral Convention on Mutual Administrative Assistance in Tax Matters on May 12, 2017
- ◊ Legal obligation to maintain reliable accounting records

Notably, however, Lebanon does not yet receive information from partner states. It will (theoretically) gain access once it reaches level 3 of the Global Forum's peer review, mainly after having secured the confidentiality of data and forwarded information.

Coordinating with the OECD, the Lebanese Ministry of Finance, in coordination with OECD, established an action plan to that end in December 2019, though it has yet to

57. International platform established in 2001 and restructured in 2009, grouping member states including OECD countries, G20 members, and other developing countries and financial places such as Lebanon. With its 173 members, the Global Forum on Transparency and Exchange of Information for Tax Purposes is the leading international body working on the implementation of global transparency and exchange of information standards around the world.

58. Standard adopted in 2014 through the Multilateral Competent Authority Agreement (MCAA).

59. https://www.oecd.org/content/dam/oecd/en/publications/reports/2019/07/global-forum-on-transparency-and-exchange-of-information-for-tax-purposes-lebanon-2019-second-round_0f2c4964/939f334e-en.pdf

achieve it due to political and financial turmoil as well as the lack of political will. Consequently, Lebanon is so far a non-reciprocal participating jurisdiction under the CRS: it is required to transmit information to CRS counterparties, but is not authorized to receive information. The latest Peer Review Report for Lebanon, issued in November 2022,[60] analyzed the implementation of the AOEI Standard in Lebanon with respect to the requirements of the AOEI Terms of Reference.

> **As part of its compliance efforts, Lebanon's State Council has also removed any ambiguity surrounding the mechanisms for sending information upon request.**

It concluded that Lebanon's legal framework implementing the AOEI Standard "is in place and is consistent with the aforesaid requirements. It covers both the due diligence and reporting procedures (CR1) on the one hand and the practical exchange of the information in an effective and timely manner (CR2)." Based on these findings, it was concluded "that Lebanon appears to be meeting expectations in relation to responding to notifications from exchange partners and the sending of corrected, amended or additional information." In addition, "the Special Investigation Commission (SIC), despite the severe economic and financial crisis, is always monitoring the effective implementation of the CRS" backed by the ICC and the Revenue Directorate of the MoF. However, the report highlighted that, as Lebanon exchanges information on a non-reciprocal basis and does not receive information, it is not required to have systems in place to receive the information and provide status messages. This is why no assessment and recommendation have been provided in this case.

As part of its compliance efforts, Lebanon's State Council has also removed any ambiguity surrounding the mechanisms for sending information upon request—as the request for information complies with the provisions of the international convention (that is, the MAC) and is based on the defined criteria, the information can be disclosed without verifying the practical data of the criterion that prioritizes one tax residence over the other.[61] The council's decisions on these matters are not subject to appeal.[62]

Working through the Global Forum, countries and jurisdictions have implemented robust standards that have prompted an unprecedented level of transparency in tax matters. However, this new system for the automatic international exchange of tax information has nevertheless revealed certain loopholes and limitations that were quickly exploited by the "masters" of optimization. The Global Forum worked to counter these gaps through active cooperation between states and anti-abuse clauses aimed at addressing weaknesses that could be used for base erosion and profit shifting (BEPS).

The OECD's work under the BEPS Project led to the development of the Multilateral Convention to Implement Tax Treaty Related Measures to Prevent Base Erosion and Profit Shifting ("MLI"). As of June 18, 2025, Lebanon was still not a signatory to the Convention; however, it had declared its intention to become one.
Meanwhile, the Committee on Fiscal Affairs (CFA), a central body within the OECD's

60. Taking into account that the Global Forum does not publish the Peer Reviews on confidentiality and data safeguards, as it considers these to be "confidential".

61. Lebanese State Council's Decision No 233/2017-2018 of December 11, 2017 (https://www.aldic.net/decision-of-the-council-of-state-no-2332017-2018-dated-111222017-on-the-exchange-of-information-for-tax-matters-between-lebanon-and-france/).

62. Lebanese Decision No 494/2017-2018 of March 1, 2017 (https://www.aldic.net/decision-of-the-council-of-state-no-4942017-2018-dated-132017-on-the-remedy-at-law-relief-as-regards-to-its-decisions-on-the-exchange-of-information-for-tax-matters/).

Center for Tax Policy and Administration that sets international tax standards, is coordinating with interested countries and jurisdictions to establish this new inclusive framework for the implementation of the BEPS project. This inclusive framework (IF) includes the implementation of minimum consensual standards aimed at ensuring that profits are taxed in the territory where the activity creating this income is carried out, thus avoiding transfers to non-taxed or tax-privileged countries (low-tax countries).

The set of measures resulting from the BEPS Project is based on the reports established for 15 actions. It contains a set of solutions that provide for the adoption of new minimum standards mentioned above, as well as the revision of existing standards, the establishment of common approaches to accelerate the convergence of national practices, and the application of guidelines supported by good practices. Among the topics highlighted by the 15 actions are the digital economy and the problems it poses in terms of taxation methods.[63]

The inclusive framework on BEPS and the challenges posed by the digital economy (Action 1)

In the above context, the Inclusive Framework on BEPS adopted a work program aimed at developing a consensus-based solution to the tax challenges posed by the digitalization of the economy. It is based on the premise that in the digital age, taxing rights can no longer be allocated solely based on physical presence, and that the rules currently in force date back to the 1920s and are no longer sufficient to ensure a fair distribution of taxing rights in an increasingly globalized economy.[64]

Rules and enforcement mechanisms were first defined to facilitate the collection of value-added tax (VAT) from the country where the consumer is located in cross-border transactions involving end consumers. The aim is to establish a level playing field between domestic and foreign suppliers and to facilitate the efficient collection of VAT on these transactions.

The work program also examined technical solutions to address concerns specific to the digital economy, particularly territoriality and data issues. Both the problems identified and the related proposed responses raise important questions regarding the current framework for taxing cross-border activities.[65]

The OECD put forward several proposals in this regard for the allocation of taxing rights between jurisdictions. It also called certain fundamental features of the international tax system into question, such as the traditional notion of permanent establishment and the applicability of the arm's length principle. All proposed reallocating taxing rights based on other parameters, such as "user participation," the location of "marketing intangibles," and "significant economic presence," to the extent that highly digital businesses can operate remotely, particularly where they are highly profitable. These proposals envisaged a new nexus rule without requiring a physical presence in the user or market jurisdiction, while emphasizing the need for simplicity, stabilization of the tax system, and strengthening legal certainty in tax matters in the context of implementation.

63. OECD (2015), Addressing the Tax Challenges of the Digital Economy, Action 1 – Final Report 2015, OECD/G20 Base Erosion and Profit Shifting Project, OECD Publishing, Paris.

64. OECD (2019), OECD Secretary-General Tax Report to G20 Finance Ministers and Central Bank Governors – October 2019, OECD, Paris.

65. OECD BEPS Project – Action Plan 2015.

The OECD/G20 Inclusive Framework, however, considered that the discrepancies between the three proposals could encourage a greater number of jurisdictions to adopt uncoordinated unilateral tax measures, including taxing gross turnover. Such a situation would be highly detrimental to international taxation and global growth. Therefore, the OECD Secretariat has attempted to devise a solution that would garner support from all members of the Inclusive Framework. The initial proposal was based on a "unified approach" as a method to address the tax challenges arising from the digitalization of the economy. This approach aimed to streamline the allocation of taxing rights over the residual profits of multinational enterprises.[66]

The proposed rules, in conjunction with the transfer pricing rules, aimed to allocate an agreed portion of profits to market jurisdictions, and in a straightforward manner, avoiding double taxation and significantly enhancing tax certainty. Those promoting these rules argued that the simplest way to implement them would be to define a turnover threshold for the relevant market (the amount of which could be modulated based on market size) as the primary indicator of sustained and significant participation in that jurisdiction. This nexus would be created through a standalone rule, in addition to the one applicable to permanent establishments, to avoid duplication.

The proposed rules, in conjunction with the transfer pricing rules, aimed to allocate an agreed portion of profits to market jurisdictions.

For companies falling within the scope of application, this new nexus rule, without a physical presence requirement, is largely based on sales and could be supplemented by thresholds, including country-specific turnover thresholds, calibrated to allow jurisdictions with smaller economies to also benefit from this new approach. In this context, a three-tiered system has been proposed, taking into account three main components (Amounts):

- **Amount A:** which corresponds to a reallocation of a portion of residual profits to market jurisdictions. This amount could potentially be calculated by industry or product line. This presumed residual profit would roughly correspond to the profit available after attributing routine or standard profit accruing to the countries in which the routine activities giving rise to this return are carried out (profitability level).

  This routine profit or profitability level may be calculated using various approaches, or could be based on a simplified approach with a fixed percentage formula that would vary by sector. In this approach, the excess profits beyond the retained profitability level are presumed to correspond to the group's non-standard or residual profits. It will therefore be necessary to determine the portion of these presumed residual profits that should be attributed to the market jurisdiction and the portion that is attributable to other factors, such as manufacturing intangibles. This will be based on a pre-agreed allocation key, defined based on variables such as sales.

66. Program of Work to Develop a Consensus Solution to the Tax Challenges Arising from the Digitalization of the Economy, May 28, 2019.

- **Amount B:** which corresponds to the second type of profit, namely the fixed return, would aim to limit the number of disputes resulting from the application of transfer pricing rules. It consists mainly of a simplified and standardized remuneration for baseline marketing and distribution activities. This approach would benefit taxpayers and tax administrations, as it would reduce the risks of double taxation, as well as reduce the significant compliance costs incurred by the rigorous application of current transfer pricing rules.

- **Amount C:** which corresponds to a supposed profit that goes beyond the fixed return provided for under B, addresses additional profits where transfer pricing rules might apply. It would result from an activity undertaken by the internet giants in a relevant jurisdiction (primarily the market jurisdiction) other than the distribution, marketing, or service activities previously provided for.

However, Amount C was not included in the final agreement. The OECD's October 2021 statement on the Two-Pillar Solution focused solely on Amount A and Amount B. In consequence, there has been no formal adoption or implementation of Amount C since then. It is in this context that the OECD/G20 Inclusive Framework on BEPS agreed in October 2021 on a Two-Pillar Solution to address the tax challenges arising from the digitalization of the economy[67].

- **Pillar One** aims to undertake a coherent and concurrent review of the rules on profit allocation and nexus, and focuses on the reallocation of taxing rights so that a portion of residual profits of the largest and most profitable multinational enterprises are taxed in the jurisdictions where consumers or users are located, even without physical presence. It is composed of:

  - Amount A: which corresponds to a reallocation of part of residual profits to market jurisdictions. A Multilateral Convention (MLC) has been drafted to implement this approach, but, as of 2025, it has not yet entered into force due to delays in signatures and ratification.

  - Amount B: provides a simplified and standardized remuneration for baseline marketing and distribution activities in market jurisdictions. Progress has been made in this direction, but it is less advanced than in Amount A.

    The latest reports clearly show that Pillar One has faced delays. Although technical work is largely complete, the MLC for Amount A still awaits sufficient signatures and ratifications. Amount B remains under discussion, with ongoing consultations on pricing standards.[68]

- **Pillar Two** addresses the BEPS issues that remain and aims primarily to avoid the risks of double taxation, minimize administrative and compliance burdens, and ensure the adaptability of measures and the effectiveness of dispute resolution methods. It introduces a global minimum tax of 15% for multinational groups with revenues above EUR 750 million. This seeks to put an end to the "race to the bottom" in corporate taxation. As of 2025, many jurisdictions (including the EU countries) have transposed these rules into domestic law, and implementation is

67. https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2021.pdf
https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/beps/outcome-statement-on-the-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2023.pdf

68. https://www.oecd.org/content/dam/oecd/en/publications/reports/2022/07/progress-report-on-amount-a-of-pillar-one_bb3f2953/0afb5c80-en.pdf
https://www.oecd.org/content/dam/oecd/en/publications/reports/2024/02/pillar-one-amount-b_41a41e1e/21ea168b-en.pdf

well underway. The progress observed so far clearly shows that Pillar Two is moving into practice, with model rules and administrative guidance published and adopted in many jurisdictions.[69]

69. https://www.oecd.org/content/dam/oecd/en/topics/policy-issues/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2021.pdf

5. Findings and conclusion

Finally, one observation is necessary in light of all the preceding developments. Our current Lebanese tax laws are adapted neither to the collaborative economy nor to the challenges of digital technology. The Lebanese tax authorities are also ill-equipped to deal with the internet giants or to impose unilateral measures and constraints on them that other larger states and international organizations are struggling to implement in a consensual manner.

It will therefore be up to the Lebanese authorities to implement a taxation mechanism based on existing texts by developing and clarifying them. This way, they can bring a large number of digital economy entities currently outside the scope of taxation into that scope. One avenue could consist of delimiting the categories of taxation of the digital economy. Another avenue could include setting thresholds, such as the amount of revenue or the number of transactions, from which the transactions would be qualified as quasi-professional and thus be subject to income tax on the basis of a combination of existing regulations provisions.[70] For example, for furnished rentals, regardless of whether the rental is occasional or not, and whether the lessor rents directly or through a rental site, taxation will be applied and linked to the professional tax on industrial, commercial, and non-commercial profits (BIC/BNC)[71] by assimilation.

Regarding the taxation of internet giants, it would be necessary either to proceed by deduction and withholding tax from the Lebanese contracting parties or users, or to await the solution agreed upon within the Inclusive Framework on BEPS, as indicated above in paragraph 2 of Section B. The work of the BEPS Project can also benefit developing countries that are engaged, like Lebanon, in the fight against tax evasion, corruption, and money laundering. The Inclusive Framework also proposes “toolkits” for developing countries with weak capacities to help them tackle the issues of base erosion and profit shifting, and therefore to counter the internet giants and collect a portion of the residual profits.

It goes without saying that political engagement and political will are needed to solve the critical issues highlighted in this paper, at the national level first—for embracing reforms that might be politically difficult—and at the international level secondly, for reaching a shared understanding of the challenges and the best ways to resolve them. Rules and regulations alone will not produce equitable and sustainable development outcomes. There must be a willing acceptance of the rules and a determination to apply them, plus a sanction regime and an enforcement process to create a deterrent effect. This is a global problem, and a problem for everyone to help solve.

70. Between Article 4(d) of Decree-Law No. 144 of June 12, 1959 and its amendments and those of Decree No. 3692 of June 22, 2016.

71. Chapter 1 of the Income Tax Law (Decree-Law No. 144 of June 12, 1959 and its amendments).

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