

## **COMMENTS**

### **OF THE RUSSIAN FEDERATION ON THE CO-LEADS' DRAFT ISSUES NOTE (27 JUNE 2025) INTERGOVERNMENTAL NEGOTIATING COMMITTEE ON THE UN FRAMEWORK CONVENTION ON INTERNATIONAL TAX COOPERATION**

#### **WORKSTREAM II: TAXATION OF CROSS-BORDER SERVICES**

The Russian Federation reiterates its gratitude to the Co-leads, the Secretariat, and colleagues in the Workstream II for the engaged and insightful discussions and would like to provide with the following comments.

#### **Abstract**

Russia urges the Committee to prioritize practicality, universality, and enforceability in the Protocol's design.

The Russian Federation suggests for consideration the following main focal points for the taxation of cross-border services in an increasingly digitalized and globalized economy:

1. A new elaborated approach should be rather simple, clear reported and easily implemented.
2. It should constitute a withholding tax having similar features to the withholding tax on services under Article 12AA of the UN Model Convention.
3. We consider it is optimal to withhold such a tax on the gross basis.
4. Also noteworthy is the size of the withholding tax rate, limiting it to a level that will, on one hand, contribute the achievement of sustainable development goals, and on the other, will not prevent the co-operation between countries.
5. Russia believes that a definition of the term «cross-border services in the context of digitalization and globalization of the economy» will require a special attention and should include all services with the view to eliminate complexities in distinguishing between service types or methods of service providing.
6. We assume that it is reasonable to implement such an approach through an international convention under the UN auspice, which would amend Double Tax Agreements on a coordinated manner and would eliminate potential conflict between different treaty obligations.

Given the above-mentioned, the Russian Federation would believe that the proposed approach offers an administrable path forward that respects sovereignty while minimizing compliance burdens.

#### **General Comments**

##### **1. Information Exchange (Paras 1-4, 23(c)):**

Russia emphasizes that effective implementation of any new taxation framework requires robust cross-border information exchange. To ensure transparency and administrability, we propose establishing standardized information requirements, including detailed nature and value of services provided, identification of service providers, and their tax treatment concerning income derived from such services.

##### **2. Unrestricted Source Taxation (Paras 7-9, 13, 21):**

Russia supports the principle that all cross-border service payments should be subject to taxation at source. We consider that taxation of cross-border services should not be affected by any limitations based on arbitrary thresholds (for example, the amount of payment with respect to any transaction or all transaction with particular counterpart etc.).

This approach:

- Aligns with sovereign rights of states to tax economic activity involving their residents;
- Ensures equitable revenue distribution for jurisdictions;
- Eliminates complexities in distinguishing between service types or methods of service providing.

### **3. Gross Basis Withholding with Reduced Rates (Paras 7, 22):**

Russia advocates for gross basis withholding as the default mechanism for source taxation.

To mitigate economic distortions we believe it would be appropriate to bring up for discussion the issue of determining the level of WHT rates: for non-intragroup services - reduced tax rates, and for intragroup services - higher tax rates.

This model ensures revenue collection efficiency and simplicity, minimizes compliance costs through standardized withholding.

### **4. Simplification Over Complexity (Paras 14, 18-19):**

Concepts such as "value creation" and "significant economic presence" introduce unnecessary subjectivity and administrative burdens. These frameworks lack globally accepted definitions and create legal uncertainty for taxpayers and authorities.

### **5. Expense-Based Nexus Principle (Para 15):**

Russia could support deductibility of payments as one of the justification for nexus, for taxing rights on income from services.

It is reasonable to conclude that taxation rights should be anchored to the jurisdiction where expenses related to service payments are incurred and deducted. This pragmatic approach creates a clear, objective nexus (deduction = taxable event) and leverages existing domestic tax infrastructure for enforcement.

However, we should continue to explore on developing and finding any other possible new nexus rules for services.

### **6. Exclusive focus on Direct Taxes (Paras 20, 23):**

The Protocol should apply solely to direct taxes on income (e.g. corporate/profit tax). Indirect taxes such as VAT should be explicitly excluded.

However, we acknowledge the existing difficulties in classification of taxes and in this respect we support the proposal to define coverage of the protocol by reference to the nature of the tax, not what it is called.

### **7. Services versus licenses (Para 23a - additional considerations that should be taken into account in the workstream's discussions)**

Russia highlights the hybrid nature of certain services (including SaaS («software as a service») and information covered under UN Model Convention Article 12). To enhance legal certainty, we propose to discuss this issue within the Protocol to clearly differentiate these kinds of income and establish their appropriate tax treatment.