

Contribuições de São Tomé e Príncipe- DIGITAL SERVICES

Protocol 1 – Taxation of Income from the Provision of Cross-Border Services

Suggested Text and Formal Comments

I. Fair Taxation in the Market Jurisdiction

Proposed Text:

The Parties recognize the right to tax income derived from the provision of services when such services are used, consumed, or have a significant economic impact within their territory, even if the provider does not have a physical presence in that State.

Comment:

The absence of physical presence should not prevent taxation of digital and remote services. São Tomé and Príncipe supports recognizing the place of consumption or use as a legitimate nexus for allocating taxing rights.

II. Significant Economic Presence

Proposed Text:

The Parties recognize that a significant economic presence in a State, including the provision of services through digital or remote means, grants that State the right to tax the income generated, regardless of the physical presence of the service provider.

Comment:

São Tomé and Príncipe strongly supports the inclusion of a 'digital nexus' rule, as it enables the taxation of services provided by foreign companies to local consumers, even without physical presence. This rule is vital for countries with limited treaty networks and high reliance on external revenue sources.

The Parties may establish criteria for significant economic presence based on revenue thresholds, marketing activities, or other forms of targeted engagement with the domestic market.

Comment:

This concept is especially important for small but open economies like São Tomé and Príncipe. It should allow for proportional adaptation to the size of the local market.

III. Withholding by Individuals

Proposed Text:

Where services are paid for by individuals or entities not subject to withholding obligations, the Parties commit to adopting alternative and appropriate measures, proportionate to the administrative capacity of each State, ensuring effectiveness without imposing disproportionate burdens on consumers or States with limited technological capacity.

Comment:

Due to the lack of international electronic payment infrastructure (e.g., VISA cards), São Tomé and Príncipe is unable to apply withholding by individual consumers. We propose the inclusion of alternatives such as:

- Collection via intermediary platforms;
- Declarations by the provider or intermediary;
- International technical assistance.

IV. Differentiation by Type of Service

Proposed Text:

The Parties may adopt distinct taxation regimes for automated services, services provided within multinational groups, and services provided to final consumers, provided that they respect the principles of neutrality and non-discrimination.

Comment:

We propose:

- Flat-rate withholding for automated digital services;
- Minimum revenue thresholds to avoid undue burdens.

V. Services Without Tax Treaty

Proposed Text:

In the absence of bilateral tax treaties, cross-border services income may be taxed under the rules defined in this Protocol, ensuring minimum common standards. Comentário / Comment:

São Tomé and Príncipe has few tax treaties and depends on clear multilateral rules to exercise taxing rights over services provided by large platforms or foreign suppliers.

VI. Technical Assistance

Proposed Text:

The Parties commit to providing continuous technical cooperation and institutional support to developing countries, to facilitate the effective application of this Protocol's rules, notably in developing systems for withholding and identifying cross-border payments.

Comment:

The absence of compatible digital banking systems hinders protocol implementation. International technical support is vital for implementing simple, effective, and proportionate solutions.