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**Recommendations to OECD/G2**0 **on Pillar One–Amount A:  
Draft Model Rules for Nexus and Revenue Sourcing**

Citizens’ Coalition for Economic Justice,**[[1]](#footnote-1)** Korean Civil Society

February 18, 2022

1. Of particular interest to digital taxation of how to allocate residual profits (i.e., Amount A) from multinational enterprises (MNEs) to market jurisdictions found on [*Draft Model Rules for Nexus and Revenue Sourcing* (OECD, 2022)](https://www.oecd.org/tax/beps/oecd-invites-public-input-on-the-draft-rules-for-nexus-and-revenue-sourcing-under-pillar-one-amount-a.htm) under Pillar One, is our remark concerned about unfair taxation.

2. As a matter of Nexus, the rule of Quantum for Amount A, twenty-five percent of residual profits defined as an excess profit over ten percent of revenue, is ill-considered between MNEs and SMEs as the same revenue-based Allocation Key. That should be tailor-made between them at *disparate* rates by following revenue-per-based Allocation Keys:

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| --- | --- | --- | --- | --- | --- |
| **over €7.5B** | **under €7.5B** | **under €4.5B** | **under €2B** | **Under €15M** | **under €250K** |
| **30%** | **28%** | **25%** | **22%** | **20%** | **10%** |

3. As a matter of Revenue Sourcing, the type of revenue lacks coherence between exclusion and inclusion: materials and components. Components should be excluded before any finished goods and digital taxation in the same manner that raw or advanced materials are excluded before any components and digital taxation, or vice versa. Look, what’s wrong with it? We the citizens can’t help criticizing the collectivism of only excluding mining and primary industries in that OECD/G20 shouldn’t have missed an important point of resource monopolization, depletion, and environmental contamination around the world. *Unfair’s unfair*. That makes it imperative for us not to discriminate between materials and components, or at least to exclude chip materials and auto parts and every kind of components and finished goods from a small open economy.

4. On top of that, the type of financing is a prerequisite to completing BEPS Actions with success. And We strongly emphasize more to include financial intermediaries and services: Fintech; Private banking; Prime brokerage; Reinsurance; Asset management; Structured finance; Virtual asset. That means not only the lending of money but trading and swap between financial instruments (viz., stocks, bonds, indices, forex, commodities, derivatives) including cryptos. These financial transactions can be categorized in transfer pricing.

5. Especially, Amount A derived from intangible property (IP) and data holds the Allocation Key to achieving this project. For a typical example, IP immigration and data monetization. The rule for IP, however, could be an *unreliable* method at arm’s length transaction based on business to business in transfer pricing when MNEs abnormally exploit licensing, sale, or alienation of IP and data at price manipulation for Internet service provider and affiliated content provider absurdly to accept a high royalty and zero-rating in bad faith. That should be excluded from a routine profit or expense to allocate it as a residual profit in Pillar One, or that shall be denied a deduction for an intra-group payment to allocate a top-up tax with the Undertaxed Payments Rule in Pillar Two. In this case, it is unclear what Amount A is arm’s-length-priced in trade secret before fair market price and IP and data taxation.

6. Nevertheless, we advocate the way forward for digital tax, though unfair taxation upon small open economies. And we are looking forward to many countries joining Anti-BEPS Tax Treaty together. Good luck.

1. This statement was contributed by our true activist, Hochul Jung ([hcjung@ccej.or.kr](mailto:hcjung@ccej.or.kr)), and our peer reviewers, Prof. Hyochang Pang ([hcpang@doowon.ac.kr](mailto:hcpang@doowon.ac.kr)) in a new order to propose an alternatve approach to OECD ([tfde@oecd.org](mailto:tfde@oecd.org))

   You can refer to our CCEJ. (2019a). *Review of the OECD’s proposed “Unified Approach” under Pillar One*. Retrieved from <https://bit.ly/2DiPRZs>; CCEJ. (2019b). *Against the OECD’s proposed “Global Anti-Base Erosion” under Pillar Two*. Retrieved from <https://bit.ly/3m9tYAo>;

   CCEJ. (2020). *Bottom-Up Approach*. Retrieved from <http://ccej.or.kr/65897>

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   ■ ***Please, visit us***: <http://ccej.or.kr/eng/who-we-are/about-us/>;  
   **■ *Refer to our Achievements (RLA, 2003)***: <http://www.rightlivelihoodaward.org/laureates/citizens-coalition-for-economic-justice-ccej/> [↑](#footnote-ref-1)