Assessing the Flaws in the 1920s Compromise in the Times of the Burgeoning Digital Economy and the Great Lockdown
Policy Phases During and After the Pandemic

Taxing the digital economy

Source: OECD
COVID-19 Responses: Percentage of OECD and G20 countries reporting each type of measure

OECD Proposal

Action 1

Pillar 1
“Unified Approach”

Pillar 2
Global Anti-Base Erosion

Nexus Rule

Allocation of Profits Rules

Amount A
(% of residual profit)

Amount B
(Fixed return for distribution functions)

Amount C
(Additional Return – TP analysis)
What about the 1930s compromise?
FORMULARY APPORTIONMENT

STEP 1: Can a move to FA be justified for the business sector:
- current application of the TP regime is significantly flawed and/or
- a 'new' type of business for which TP does not provide a solution.

STEP 2: Can the business sector be adequately distinguished from other business sectors?

Sector level questions:
1. How is the sector defined?
2. What are the activities of the sector?

Entry level questions:
1. What is the scope of the business group?
2. What is the scope of the activities for FA application?

STEP 3: Do the current 'jurisdiction to tax rules' allow for suitable allocation to locations where activities take place?

STEP 4: Can a suitable formula be designed and agreed upon?

Can suitable allocation keys be identified?
- Property, Payroll, Sales, Other?

Can the allocation keys be defined within the sector?

Is there a 'workable' nexus rule which can be implemented?

Maintain the current regime

Adopt formula apportionment for the industry
VALUE CREATION AND USER PARTICIPATION
Unilateral Moves (as at 18 August 2020):

Next in 2020 for the digital economy?

- **8–9 Oct.** Inclusive Framework Meeting
- **15–16 Oct.** G20 Finance Ministers Meeting (Washington)
- **21–22 Nov.** G20 Leaders Summit
- **End of 2020** OECD to deliver a consensus-based solution
THANK YOU

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