



WITSA Statement on Consumption Taxation Issues and Electronic Commerce

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Guiding Principles

Many taxation issues are not new or unique to electronic commerce but have already developed in conventional commerce, which increasingly relies on new modes of communications and increasingly crosses national borders. The mode of doing business through electronic commerce may add new layers of difficulty and may require solutions to both the problem of no taxation or double taxation and matters of administrative burden.

In order to allow for the cross border trading potential of electronic commerce, simplicity, clarity, and fairness must be promoted. Bilateral tax treaties should be expanded to include indirect taxes so that double taxation can be avoided. Tax rules worldwide should be understandable and user-friendly to encourage compliance. And, compliance models should be based upon information that is currently collected by businesses or that businesses contemplate developing to meet market needs. Tax collection obligations should fit into the new streamlined processes found in electronic commerce in order to achieve high tax compliance with the least burden and the fewest economic distortions.

The World Information Technology and Services Alliance (WITSA)

The World Information Technology and Services Alliance (WITSA) is a consortium of 41 information technology (IT) industry associations from economies around the world. WITSA members represent over 97 percent of the world IT market. As the global voice of the IT industry, WITSA is dedicated to:

- advocating policies that advance the industry's growth and development;
- facilitating international trade and investment in IT products and services;
- strengthening WITSA's national industry associations through the sharing of knowledge, experience, and critical information;
- providing members with a vast network of contacts in nearly every geographic region of the world;
- hosting the World Congress on IT, the premier industry sponsored global IT event;
- hosting the Global Public Policy Conference; and
- hosting the Global Information Security Summit.

Founded in 1978 and originally known as the World Computing Services Industry Association, WITSA has increasingly assumed an active advocacy role in international public policy issues affecting the creation of a robust global information infrastructure, including: **increasing**

competition through open markets and regulatory reform; protecting **intellectual property**; encouraging cross-industry and government cooperation to enhance **information security**; bridging the education and **skills gap**; **reducing tariff and non-tariff trade barriers** to IT goods and services; and safeguarding the viability and continued growth of the **Internet** and **electronic commerce**.

WITSA has an impact on the global IT environment. It strengthens the industry at large by promoting a level playing field and by voicing the concerns of the international IT community in multilateral organizations, including the World Trade Organization (WTO), the Organization for Economic Cooperation and Development (OECD), the G-8 and other international fora where policies affecting industry interests are developed. More information on WITSA can be found online at <http://www.witsa.org>.

Consumption Tax Issues and Electronic Commerce

Consumption taxes are borne by consumers; sellers act as tax collectors. If not properly designed, these taxes may impose an economic burden on business. Sellers bear the burden of correctly administering the tax, including: determining the applicable tax rate (which may vary depending on the type of product and the location and type of customer); preparing invoices according to accommodate the tax rules; collecting the correct tax; filing the necessary tax transmittal forms; remitting the tax; and maintaining the necessary tax records. If the tax is assessed incorrectly, the seller typically will be held responsible for any shortfall.

In addition, cross-border transactions raise the possibility of double taxation, which can create a significant competitive disadvantage. Because the prospect of double taxation will do more to inhibit the development of electronic commerce than any other tax factor, the avoidance of double taxation should be the most important of the guiding principles governing consumption taxation.

Neutrality should also be recognized as a guiding principle governing consumption taxation. In particular, electronic commerce transactions, regardless of whether the method of delivery is on-line or off-line, should not be subject to different tax rates or subject to greater compliance burdens than conventional commerce. Additionally, electronic commerce imports should not be taxed differently than domestic electronic commerce products and services.

We also believe that simplicity should be included as a guiding principle. We would like to underscore the importance of uniform classifications, clarity and consistency of rules, and the minimization of compliance burdens and costs. Compliance burdens associated with the application of consumption taxes to electronic commerce transactions are likely to have a much greater adverse impact on electronic commerce transactions than on traditional commerce creating a greater need for simplification.

WITSA is encouraged by the **international** work being done in the area of consumption tax, in particular the work of the OECD, which is seeking an international consensus on this complex area. **We support the continued work of the OECD.**

This statement provides our views on certain issues raised in the ongoing OECD discussion on consumption tax aspects of electronic commerce **(See the reports by the OECD Committee's Working Party No. 9 on Consumption Taxes: Consumption Tax Aspects of Electronic Commerce. http://www.oecd.org/daf/fa/e_com/ec_6_WP9_REPORT_Eng.pdf and the OECD Consumption Tax Technical Advisory Group (TAG) http://www.oecd.org/daf/fa/e_com/ec_7_CT_TAG_Eng.pdf)**

1. Taxation at the Place of Consumption

We applaud the OECD for moving forward in this area and creating draft guidelines on the definition of the place of consumption for cross-border services and intangible property. We believe that more work is needed in certain areas including further refining of definitions and classifications, rules for determining when and where tax is due and compliance procedures (including how refunds and credits will be handled). We look forward to the priority work schedule that includes further work in this area in this next session of the OECD Consumption Tax TAG.

2. Consumption Tax Collection: Services and Intangible Property

Countries apply different consumption tax rules to different types of services and intangible property, such as, telecommunications, broadcast, consulting, engineering, training and education, data processing, supply of information, access to databases, entertainment, and content of various types. The WITSA would like to stress the importance of developing consistent definitions, classifications, and tax rates for these types of transactions. This effort not only would provide clarity and certainty, but also should reduce double taxation and attempts to manipulate classifications to avoid taxation.

Guidelines applicable to combined or bundled services (e.g., telecommunications and Internet access) are also needed, especially if they are subject to different rules and/or tax rates. It is also increasingly common to bundle free services with purchased services, creating additional issues regarding the application of consumption tax. Another issue that requires attention is the application of consumption taxes to services provided within and without a country, (e.g., telecommunications services or the use of an Intranet network).

We also recommend a de minimis threshold for services when a payment obligation is imposed for sales to unregistered customers, consistent with the exception for goods under the distance selling rules. This would serve the principle of neutrality between different forms of commerce. Intermediaries such as telecommunications companies and Internet service providers should not be subject to special collection or compliance burdens not imposed on other business.

WITSA believes that the OECD is the best place to achieve consensus in the consumption tax area. An international consensus on consumption taxation is critical to the continued growth of international electronic commerce. As the OECD reports point out, an examination of currently available products on the Internet aimed at private consumers suggest that an estimate of potential revenues at risk is insignificant in relation to overall consumption tax revenues. Uncoordinated action will be harmful to the development of electronic commerce and undermine compliance efforts.

A self-assessment or reverse charge systems appears to be a feasible and effective tax collection mechanism for **business-to-business (B2B)** transactions based on experiences in many OECD countries. For **business-to-consumers (B2C)** transactions, it may be too early to select one mechanism to address this complex area. **(Tax collections options being considered are: (a) Consumer self-assessment, both business and non-business; (b) Registration of non-resident suppliers; (c) Tax at source and transfer; and (d) Withholding by third parties (such as financial institutions.)** More study and analysis will be required as hybrid systems may work best in certain commercial environments.

3. Classification of Digitized Products

There is a view that the on-line supply of digitized products should not be treated as a supply of goods, but presumably as a supply of services. It is inconsistent to treat a digitized product differently from its conventional counterpart (e.g., products such as books, software, images,

music, or information). We encourage a policy that applies the same rate of taxation regardless of the method of delivery to ensure neutrality.

If digitized products are treated as services, then further guidance is needed to specify which of the many different source of supply rules for services shall govern.

4. International cooperation

WITSA urges the OECD to continue to broaden its dialogue with the business community and non-OECD member countries.

To foster consumption tax cooperation, consideration should be given to including indirect taxation in the tax treaty process. The inclusion of procedural provisions in those tax conventions could provide mechanisms for taxpayers to address double taxation that may result from inconsistent classifications, definitions, or source of supply rules. Such mechanisms might include credit, exemption, or refund provisions that are not burdensome, offer timely refunds, and bear interest in the event of excessive delay. While this is a new idea in the field of international tax conventions, it could be a way of using existing tax agreements to cover consumption tax issues.

5. Simplification

We recommend that significant attention be given to simplification of consumption tax rules for all commerce not those limited to digitally deliverable goods and services. The current inconsistencies among definitions, classification, treatment of combined or bundled services, source of supply rules, registration requirements, invoicing requirements, payment procedures, reporting, record retention, reverse charges, levy, assessment, and collection (including consumption tax withholding obligations of the customer) are widely cited by businesses of all sizes as a significant burden on international commerce.

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