

**The Impact and Challenge International Tax Law Faced on
“Digital Economy”: The Effect BEPS Action 1 Had on Taiwan’s
Tax System for Cross-border E-commerce**

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Abstract

Stepping into the era of the “digital economy”, numerous international corporations have put radical tax plans into action, and to respond to this, the OECD came up with BEPS Action 1. The purpose of this essay is not only to acquaint its readers with BEPS Action 1, but will also bring to its readers’ attention, the effect it can have on Taiwan’s tax system for cross-border e-commerce.

Breaching the subject of income tax, in the “digital economy”, international corporations have taken to profit shifting, to which the BEPS Action 1 responded with many counter plans. Of these plans, the OECD deemed the “significant digital presence” a rather transcendent concept. On the other hand, this essay shall be pointing out the fact that the aforementioned standard is not qualified to pass the examination for “the principle of value creation”, and may cause for it to violate “the principle of certainty” and “the principle of neutrality”.

Moving onto VAT, as of these years, there has been a strong trend that tax authorities of numerous consumption countries usually regard the “VAT registration” as legal fiction of PE. These actions not only strongly contradict the interpretation of PE in International Tax Law, but also do not comply with VAT basic principles.

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Any worthwhile observation on International Tax Law should not isolate “income tax” or “VAT”. Yet Taiwan’s newly-amended tax system for cross-border e-commerce only handles “VAT” in a limited, “out of sight, out of mind” way. Then again, even in the new VAT guidelines, there are many unclear lines and flaws.

Hopefully, there will be more adjustments made in the next amendment.

Keywords: BEPS, BEPS Action 1, digital economy, cross-border e-commerce, significant digital presence, income tax, VAT, international tax law