



THAILAND COURT
Legal System in Thailand

SOUTH CENTRE

**APPEALS COURT OF THAILAND: TAX CASE
DIVISION**

**TRAINING MODULE: TAXATION OF THE
DIGITALIZED ECONOMY**

September 2022



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INTRODUCTION

The South Centre seeks to support developing countries on the complex project of the taxation of the digitalized economy. Many developing countries are members of the OECD Inclusive Framework and have in-principle agreed to the Two-Pillar solution. However, this is only a political, non-binding agreement. Pillar One will be legally binding only if a country ratifies a forthcoming international convention. Similarly, Pillar Two is entirely optional, is about a global minimum tax, and it is up to the country to decide whether to introduce the Model Rules as domestic law.

The decision on whether to accede to Pillar One, however, is a pressing and urgent one. Accordingly, it is of the utmost importance that developing countries evaluate it from an administrative and legal standpoint, to understand what are the technical issues and implications of the proposed rules and the situations that may cause disputes. Alternative policy options need to be similar assessed.

The two-day training by the South Centre will be for judges of Thailand's Appeals Court, in particular their Tax Case Division. It seeks to contribute to precisely this objective. It will provide an overview of the key elements of Pillar One and also discuss alternative measures. The training will also examine some of the salient technical issues that may arise from each approach.

There will be an entire module focusing on the dispute prevention and resolution architecture of Pillar One. This seeks to create, for the first time in history, a multilateral system for resolving tax disputes. Hence, early familiarity with this process will be important for countries considering joining Pillar One.

Similarly, the Mutual Agreement Procedure (MAP) has been gaining increasing traction for resolving tax disputes, particularly relating to transfer pricing. There will also be a module for how countries can more effectively use the MAP process.

METHODOLOGY

Peer-to-peer knowledge exchange between developing countries is one key strategy for this purpose. South-South peer exchanges open spaces for innovation and expand the capacities of countries to design more effective and realistic national policies in

line with their capabilities and that are more likely to bring in revenue. These exchanges also increase the ability of Global South officials to participate actively in international standard setting fora, including in the United Nations, the OECD, and other bodies.

SYLLABUS

The training module will cover the following.

Day 1 (6 September)

Overview of National Measures

- Digital Service Taxes
- Significant Economic Presence
- Withholding Taxes on Digital Transactions
- Unilateral measures taken by Developed Countries

UN Model Tax Convention

- Article 12B on Income from Automated Digital Services

Pillar One

Overview

- Scope rules
- Scope Exclusions: Regulated Financial Services and Extractives
- General nexus and revenue sourcing rules and special provisions for developing countries
- Tax base determinations
- Determination and calculation of allocable profit
- Elimination of double taxation
- Overall Assessment and Way Forward

Day 2 (7 September)

Dispute Prevention and Resolution

- Overview of tax certainty process for Amount A
- Overview of tax certainty process for issues relating to Amount A

Mutual Agreement Procedure (MAP)

- Overview of MAP process
- Legal framework for MAP audit
- How to implement MAP decisions
- Developing country lessons learned during MAP; practical case studies

TRAINING MODALITY

The South Centre will facilitate the training on this module, which will take place virtually on Zoom for two days with three-hour sessions from 1300 – 1600 BKK / 0800 – 1100 CET. The dates are 6-7 September 2022.

MATERIALS

Overview of National Measures

- [National Measures on Taxing the Digital Economy](#)
- [Summary of National Measures by KPMG](#)

UN Model Tax Convention

- [Article 12B - A tax treaty solution by the UN Tax Committee for taxing digital incomes](#)
- [UN Tax Committee provides draft guidance on taxing the digitalized economy](#)
- [The Tax Sovereignty Principle and Its Peaceful Coexistence with Article 12B of the UN Model Tax Convention](#)
- [Conceptualizing a UN Multilateral Instrument](#)

Pillar One

- [Action 1 Tax Challenges Arising from Digitalisation](#)

- [Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy](#)
- [Progress Report on Amount A of Pillar One](#)
 - [Frequently asked questions](#)
 - [Fact Sheet Amount A](#)
- [South Centre comments on issues related to Pillar One](#)
- [Developing Country Demands for an Equitable Digital Tax Solution](#)
- [Mutual Agreement Procedure](#)