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OLGA LYUTOVA*

TAXATION OF DIGITAL COMPANIES: EXPERIENCE OF RUSSIA AND OTHER COUNTRIES[1]

Abstract

The article concerns the patterns of development of the tax legislation of the Russian Federation and other countries related to the taxation of companies providing digital services. Some scientific and practical issues affecting the problems of tax incentives for entrepreneurship in digital companies are analyzed. The article covers the issues of the staged transformation of Russian tax law, which occurred as a result of the so-called "tax maneuver" of the rules for taxation of IT companies, associated with the need to stimulate the production of national software. The main idea of the research is - the concept of legal regulation of taxation of digital companies should be based on the supranational agreements reached by states, in accordance with which the digital transformation of tax legislation of individual countries will be carried out. The prospects for the introduction of digital taxes in Russia were also estimated, taking into account the experience of other countries as a unilateral response actions to the failure to reach an international consensus on taxation of the digital economy. At the same time, both the possible risks and the positive aspects of establishing a digital tax, which have a beneficial impact on the Russian tax climate, are indicated.

* Candidate of Legal Science, head scientist researcher at the Institute of State and Municipal Administration at the National Research University Higher School of Economics, Russia, Moscow. She is the author of 3 books and more than 70 reviewed articles in prestigious journals, specializing in tax regulation in a digital transformation. Contact email: lutova.olga@mail.ru, https://orcid.org/0000-0002-6603-8859.

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Key words: digital economy taxation model; fiscal liability; tax legal personality; taxation of digital companies; corporate income tax; value added tax; digital tax (tax on digital services).

JEL Classification: H21, K34

1. Introduction

The development of digitalization and globalization has allowed many companies to conduct business in different countries of the world remotely. This predetermined the need to develop new approaches to taxing profits of complex value chains and digital business models. Classical tax law, being caught in the middle of the Fourth Industrial Revolution, faced a situation of feeling out of technological progress along with other branches of Russian law. Indeed, modern technologies determine the inevitability of the emergence of new approaches to the establishment of tax liabilities. For example, this applies to the calculation and payment of income tax and indirect value added taxation. It is also possible for the state to impose new taxes.

Famously, ways to solve the problem of taxation of the digital economy are discussed, first of all, at the supranational level (UN, EU and OECD), which is associated with the obvious objective necessity for development of a unified approach to taxation of companies that receive income at the place of effective management in performing digital services. This will make it possible to implement the principle of non-discrimination in international economic actions. To this date, no consensus has been reached on fair taxation of digital companies, and it is likely that there will be no possibility of achieving results of such agreements in the near future.

At the same time, the issues of stimulating the national development of the digital economy by means of national legislations of states are researched to a lesser extent. In the science of tax law, the development of the rules of the so-called " fiscal attachment" and the transformation of the concept of tax sovereignty, taking into account the objective conditions of digital transformation arose traditional interest. However, the issues of developing a model for digital company taxation are no less urgent, in particular, due to the lack of well-defined guarantees of achieving international agreements on taxation of profits and value added of digital companies.

2. The main trends in digital company taxation

In the modern context, the issues of digital company taxation are getting to a new conceptual level, since it affects the fundamentals of legal regulation of tax legislation, and also impose the necessity to reestimate the content of fundamental categories of tax law, for example, such as tax sovereignty, tax representation, tax legal personality and others.

For example, the possibility of applying and updating the concept of tax legal personality of digital companies, consisting of tax legal and tax legal capacity, is of unconditional scientific interest. It provides for recursive interaction in the financial activities of individuals using new models of digital interaction, including the use of virtual currencies and smart contracts. This, as we see it, has a significant impact on the use of the term tax legal personality, insignificant impact on the category of sovereignty. Indeed, the determination of tax obligations related to the calculation and payment of various taxes by individual organizations providing digital services should be preceded by the determination of their fundamental possibility to be considered as participants in tax legal relations.

The approach generally accepted in the science of tax law, in accordance with which tax legal personality was understood as “the potential freedom of a person guaranteed by the state, to be a subject of tax law” [Kobzar-Frolova 2011: 215] was repeatedly subjected to well-fair criticism. The fact is that in the field of tax legal regulation initially, dispositivism, which presupposes the freedom of choice of behavioral options by participants in tax legal relations, has always been considered as an exceptional condition for their shaping. As a general rule, tax legal personality acted as a set of criteria under which the subject of tax relations became a tax liable subject, i.e. tax legal personality “was a condition for establishing legal links between the taxpayer and the relevant state and municipal bodies in specific tax legal relations” [Vinnitsky 2001: 43].

Such reasoning has always been based on the thesis about the role of the state as an unambiguously powerful subject. Only it can establish the "rules of the game" in the field of taxation, endow individuals with a specific set of powers. Meanwhile, the emergence of new financial technologies has created the possibility of collaborative engagement between taxpayers and the state on the basis of the peer-to-peer principle "from equal to equal". This forms a different approach, according to which the concept of tax legal personality as a set of benefits initially provided by a public entity, which are the basis for the functioning of the subject as participant in the relevant legal relationship is doubtful. Also, this raises an expectable question of the scientific feasibility and practical significance of the category of tax legal personality. For example, when using smart contracts, which

can be defined as agreements between the parties, executed and / or provided by a computer algorithm automatically in a specialized software environment, which does not imply any activity of a public subject related to the investing parties with the appropriate powers and their compliance with the "standard" conditions, implying a classical understanding of the subject of law.

Furthermore, the possibility of carrying out cryptocurrency operations and mining, as well as concluding smart contracts, including in virtue of distributed ledger technology, currently exists objectively, without strict reference to age, ownership of property, the presence of an entrepreneur status, and other circumstances, with the point of view of the state that is important for the recognition of a person as a subject of tax law and tax relations.

The question of the public or private nature of the origin of the tax legal personality of the participants in such relations and the possible global change in its understanding is directly related to the definition of the issuer of cryptocurrencies. If a private entity is recognized as an issuer, it is necessary to fundamentally revise the approach to the customary interpretation of tax legal personality, since there is no question of granting rights to such a subject.

Practical issues related to the adaptation of tax legislation of specific countries to the real conditions of digitalization and globalization play an important role, amid the occurring processes. Usually, such adaptation is associated with the so-called temporary unilateral actions, which involve the creation of your own rules for taxing digital companies.

As is commonly known, when considering the issue of taxation of digital companies, as the researchers note, the key participants in these discussions had different starting conditions, methodological and empirical principles of such a discussion. For example, in the United States there was a long history of researching these issues in the paradigm of finding effective tax legal means to stimulate the development of an innovative economy. In the European Union, the discussion of the digital agenda prompted the raising of the issue of permanent presence and proper taxation under the new rules of the digital economy [Kazachkov, Kazachkova 2020: 3].

2.1. Digital transformation of Russian tax law: the beginning

As above mentioned, ways to solve the problems of the digital economy are discussed at the international level, in particular, at the level of the OECD, the UN and the European

Commission, and include not only general, but also short-term reforms. This is quite logical, since unilateral measures in the absence of general agreements can lead to a conflict of economic interests of states.

At the same time, due to the absence of the achieved intercountry agreement on taxation of the digital economy, individual states take unilateral measures in the form of establishing additional tax obligations for foreign digital companies providing services on their territory. For example, in 2019, France passed the GAFA tax bill (an abbreviation for Google, Apple, Facebook and Amazon). As a result of its adoption, it was foresaw to adopt an additional tax in the amount of 3% on the proceeds of international technology companies received by them in this country. Only companies which annual turnover is at least 750 million euros, and at least 25 million euros of it must be received in France, are subject to it. Therefore, when Russian digital company operates in France, it must pay an additional tax, but in the opposite situation (in case French organization providing digital services on Russian territory), similar rules have not been established for a long time.

Arising from the lack of rules for taxation of digital services in the legislation of the Russian Federation until 2017, there was a gap in the taxation of Russian and foreign digital companies.

This gap in the tax obligations of foreign and Russian organizations providing digital services is as follows:

- foreign organizations providing digital services on the territory of Russia are not revenue agents of personal income tax within Russian territory and do not withhold personal income tax when making payments of income in favor of an individual for services that they provided using their digital services or platforms;

- in accordance with Russian tax law, foreign digital companies are not insurance contribution payers, in case they do not have branches, representative offices or other separate divisions on the territory of the Russian Federation;

- the lack of duty to pay corporate profit tax in relation to the profit received from the Russian "client base" for foreign organizations; they pay corporate profit tax to the state budget of their location.

Thus, it is obvious that the Russian tax legislation needs to react to the digital transformation of economic activity, as well as to the active development of digital services.

2.2. “Google Tax”: Towards a balance of interests

Obviously, this situation required a response from the legislator. Then, in the Russian Federation, the beginning of the transformation of tax legal regulation to the environment of digital reality is associated with the appearance of the so-called " Google Tax " (Article 174.2 of the Tax Code of the Russian Federation, in accordance with which, since 2017 foreign organizations providing services in an electronic form should pay VAT within a special procedure).

These rules have been subject to significant criticism by executors of law, since it has a number of defects, for example, associated with the uncertainty of the list of electronic services language, with the equivocation of the mechanism for avoiding double taxation, as well as the procedure for paying such a tax and the absence of a real mechanism for ensuring the universality of tax payment.

In an array of works on tax law, outstanding attention is paid to the issues of legal regulation of the definition of subjects of taxation, including value added tax, in relation to taxes arising out relating to the doing business at the digital services markets (for example, in the field of electronic commerce, when using technology distributed ledgers). Such problems require further research, owing to the impossibility of applying the traditional approach to defining the concept of a subject of taxation in the new economic reality. The implementation of the concept of digitalization makes necessary to clarify the concept of subject of taxation and to establish the corresponding tax consequences in relation to new business models, for example, various types of e-commerce in the form of the sale of goods and trade in access to intangible assets and intellectual property.

Indeed, the object of taxation when performing such transactions is specific. For example, it is the income from the implementation of new digital processes. Recognition of income as an object of taxation requires special tax structures that make it possible to objectively assess it also fairly and effectively to withdraw part of the income, without luring the pace of economic development.

The base quantity of disputes from the point of view of law enforcement was caused by the list of services provided in electronic form, in terms of identifying certain actions of income taxpayers for their compliance with the exhaustive list provided for in Article 174.2 of the Tax Code of the Russian Federation, that is, the subject of taxation “tax Google”.

From the point of view of the science of tax law, the issue of digital transformation of the concept of subject of taxation is very urgent. Moreover, the doctrinal re-thinking of the concept of the subject of taxation has quite pragmatic goals: according to the fair point of

N.T. Mambetalieva, “the dynamically developing e-commerce industry expands the list of subjects that can be levied execution of taxes ...” [Bukach 2017: 11].

For example, in the context of digitalization, identification as a subject of taxation of various digital goods sold via the Internet is difficult, since the existing legal mechanisms of tax legislation do not allow to unambiguously determine what it is - a product, work or service.

The definition of the concept of such goods, as well as the digital market where they are circulated, is currently absent both at the legislative level and in judicial and other law enforcement practice, that is noted by the experts [Kadar 2015: 342]. In the meantime, academic circles arise a discourse only on the issue of labelling various types of cryptocurrencies to it [Saveliev 2017: 139]. At the same time, a significant number of a wide variety of goods are being sold, which hypothetically can be labelled to digital ones. This means that transactions with such goods require an adequate legal assessment, including their tax and legal consequences.

In reality, digital goods can, for example, be downloaded from the manufacturer's website, without the necessity to transfer its material medium. It means that it can be encashed by sending it by e-mail or put it on the Internet, providing an appropriate access. Often digital goods are text, audio and video files. At the same time, it is often difficult to determine what type of goods is a digital goods: it is a property, a work or a service. For example, in case of the encash of digital goods in the form of a temporary link to a cloze file or video (audio) recording on a website, the nature of such a legal fact is controversial precisely from the point of view of the classic triad “product, work, service”. From the point of view of tax legislation, the question arises: did the buyer purchase services of education, a license to use a website, a communication service, or goods in the form of educational information itself? If the fact of transfer of goods is recognized, then can we talk about the transfer of ownership to it? Due to the limited time of its use, it is obvious that this is not possible. From these positions, it is as if transferring information by link for permanent use to the consumer (when selling digital goods, both options are often possible (both permanent and temporary access) depending on the cost), the possibility of its recognition as goods or service is disputable, with no appropriate result (for example, in the case of buying a video lesson).

Thus, a definition of the concept of a subject of taxation in the Russian theory of tax law that is adequate to modern realities will make it possible to objectively assess the tax consequences of entrepreneurial activity for business in the context of digitalization, as

well as to fairly and efficiently withdraw part of the income to the public treasury, without slowing down economic growth with fair provision and protection of both private and public interests.

Remarkably, the "Google tax" was provided for foreign companies, but not for Russian income taxpayers operating in the field of providing digital services, which led to an imbalance in the taxation of foreign and Russian Internet companies in Russia, and also discouraged foreign income taxpayers to carrying out activities for the provision of digital services in the Russian jurisdiction. In addition, “the fair distribution of the income tax received by such companies, including the Russian economic zone, is still not ensured” [Ponomareva 2020: 84].

Since January 1, 2020, there has been a legislative expansion of the establishment of the tax obligation to pay value added tax for foreign organizations providing digital services in the Russian Federation. Firstly, they are obliged to independently register as an income taxpayer, and, secondly, the tax rate on personal income tax when providing digital content has been increased to 20%.

Due to these novations, the unification of the requirements of indirect taxation for all foreign companies was made, regardless of the nature of their activities and the type of digital services provided, the period of activity in the Russian territory. In addition, other tax obligations have been established for foreign companies producing digital content, for non-performance or improper performance of which tax liability has been established: when an organization is registered electronically as an income taxpayer, the obligation to maintain a personal account on the website of the Federal Tax Service of the Russian Federation is established; submission of tax returns on value added tax (in Russian with a quarterly frequency); the obligation to set up a bank account in the Bank of Russia to be able to fulfill the obligation to pay value added tax to the budgetary system of the Russian Federation.

2.3. “Tax manoeuvre” for digital companies

These reasons became the basis for the further transformation of Russian tax rules under the influence of technological progress and globalization and led to a "tax manoeuvre" in the IT industry. In addition, the "tax manoeuvre " is because of the necessity to create supporting measures, including those of a tax and legal nature, for Russian organizations in the IT industry in order to stimulate their development of software, as well as to prevent

the loss of personnel in Russian IT sphere, and also creation of more favorable tax conditions in comparison with other jurisdictions.

The "tax manoeuver" in relation to digital companies in the Russian Federation is provided for by the Federal Law of July 31, 2020 No. 265-FZ "On Amendments to Part Two of the Tax Code of the Russian Federation", the provisions of which come into force on January 1, 2021 and establish:

- reduction of the corporate income tax rate from 20 to 3%, while concurrent observance of three conditions: accreditation of the organization by the Ministry for Digital Development, Communications and Mass Media of the Russian Federation, the average estimated number of employees is 7 people and procuring at least 90% of a receipt from digital activities with establishing a list of such activities;

- reduction of the rate of insurance premiums from 14 to 7.6% (without time limitation) while concurrent observance of the conditions established for IT companies for receiving a reduced tax rate of income tax;

- remission of value added tax of exclusive rights to computer programs and databases included in the unified register, as well as the rights to use these programs and databases.

Despite the fact that, at first glance, the “tax manoeuver” provides exclusively easy tax terms for those taxpayers who are addressed by the relevant rules, representatives of the IT industry express the opinion that the total tax burden will, on the contrary, increase as a result of such a maneuver. To establish the adequacy of such opinions to real conditions, we consider it is important to stress the following.

Thus, in respect to insurance premiums, in addition to reducing their rate, the undoubtedly positive side of the "tax manoeuver" is an unambiguous decision on the possibility of income accounting from affording rights of software use on the basis of license agreements, including if it is carried out "by providing remote access" to software using the Internet, "including updates to it and additional functionality."

We believe that such an addition is of fundamental importance, since it will allow leveling a certain category of tax disputes similar to the case of Mail.ru Games Limited Liability Company, which is a subsidiary of Mail.ru [Supreme Court of the Russian Federation: A40-91072 / 14], during the consideration of which it was established that the taxpayer was obliged to pay value added tax from the object in the form of the sale of items and currency used in computer games (the implementation of additional game functionality in the form of abilities, weapons etc.).

Thus, free (free-to-play) user access to the basic functionality of a multiplayer online game was carried out by Mail.ru Games on the basis of a simple non-exclusive license, without paying value added tax with reference to the provisions of subparagraph 26 of paragraph 2 of Article 149 of the Tax Code RF, according to which “the implementation of exclusive rights to inventions, utility models, industrial designs, computer programs, databases, topology of integrated circuits, secrets of production (know-how), as well as the rights to use the specified results of intellectual property based on a license agreement are not subject to VAT”.

According to the courts, the paid provision of gaming functionality is the implementation of services for bringing to the public, distribution, operation, maintenance, administration, management of computer online games

As D.M. Shchekin points it out, the position expressed by the Russian courts during the consideration of this case on refusing to recognize the additional gaming functionality as a software product and recognizing it as a "service for organizing the game process" led to the changing of jurisdiction by many (if not almost all) online game operators, that allowed them, receiving payments from the players, do not pay any taxes in Russia at all [Shchekin 2016: 31]. Thereafter, the "tax manoeuver" is designed to exclude such situations.

As for the provision of value-added tax advantages, performed within the framework of the "tax manoeuver" for IT companies, it can be assessed not as a novelty, but as a transformation of the previously existing rules. At the same time, the manoeuvering led to the establishment of additional restrictions on the application of the VAT exemption, in connection with which it was criticized by industry representatives. So, on the basis of Federal Law No. 265-FZ of July 31, 2020, not all taxpayers can receive such an advantage, but only those who carry out operations to exercise exclusive rights to computer programs and databases included in the Unified Register of Russian computer programs and databases, rights to use them on the basis of a license agreement, as well as by providing remote access to such computer programs and databases, including updates to them and additional functionality. According to the new rules, possessors of rights who have a foreign equity of more than 50% are deprived of the right to tax advantages.

Furthermore, it is worth noting another significant disadvantage of the content of the "tax manoeuver": as you know, most Russian IT companies apply a special tax regime - simplified tax system (STS), i.e. that innovations on reducing the income tax rate are irrelevant for them, because they are not the relevant tax payers; special measures for IT companies with STS, are not either specifically provided.

Thus, manoeuvering in the conditions of taxation of IT companies implies not as much as reduction of the total amount of tax revenues from the IT industry, but rather their other combinatorics, the content of which is very ambiguous, since it includes not only additional preferences for digital companies, but also a number of restrictions. In our opinion, the "tax manoeuver" is rather of a clarifying nature associated with the differentiation of preferential taxation conditions for certain types of digital services.

3. Digital tax: realities and prospects

Nowadays, for any state a fundamental adjudication in the matter of the necessity to establish a digital tax (or tax on digital services) on its territory is relevant, due to the absence of an international consensus on taxation of digital services. In fact, despite of the clearly protectionist nature of such unilateral actions, they are aimed at protecting the national market from the expansion of American corporations, which are world leaders in the digital industry and derive significant profits from activities in foreign countries [Milogolov, Ponomareva 2020: 42].

In a number of foreign countries, tax legislation has been amended and as a result national and foreign companies providing digital services have an obligation to pay digital tax. For example, only in 2020 the revenue from e-services began to be subject to a new digital tax in Italy, Austria, Turkey, Great Britain, Poland and Hungary, and Spain, Norway, Belgium, Czech Republic, Slovakia and Slovenia are likely to be subject to it next year. In addition to European countries, "taxes on digital services" are also gradually emerging in other countries, for example, in India, Uruguay and Chile.

Such actions by states are in fact unilateral measures applied due to the absence of international consensus on taxation of the digital economy. It should be noted that digital taxes adopted by individual states are not coordinated at the international level and are not subject to double taxation treaties, which often leads to a violation of the principle of one-off taxation.

Thus, the fundamental difference between Russian legal regulation and the rules of taxation of digital companies in other countries is that the Russian legislator adapts tax regulation to new digital realities by making amendments to the Tax Code of the Russian Federation to the chapters on individual tax items, however in foreign countries (to the greatest extent - in European countries, for example, France, Hungary, Belgium, Italy, the Netherlands, Malta, Great Britain, Spain, Luxembourg) the concept of the so-called "patent box" is used. This concept intents the use of various legal measures, often formulated in

the form of a special tax regime, stimulating the development of innovations and the implementation of digital interaction between entrepreneurs.

As for the content, the "patent box" includes, first of all, various types of motives and preferences for ensuring the expanded use of digital services and the creation of software, for instance, in the form of applying reduced rates, establishing tax advantages and so-called super tax deductions (for example, in Latvia and China). When establishing super tax deductions, taxpayers are allowed to reduce tax by an amount exceeding the amount of revenues incurred.

Thus, the value of the "patent box" is that such a taxation mechanism helps to reduce financial risks in the activities of digital companies, as well as provides an effective tax rate for corporate income tax, which ensures the competitiveness of digital companies operating in jurisdictions that provide significant tax motives for innovation.

Then, in Russia, today there is no tax obligation to calculate and pay the digital tax, and no special tax regime has been created for organizations in the IT industry, unlike other countries. At the same time, the issue of the necessity to establish such a payment is the most urgent in a number of problems of taxation of digital companies.

When discussing the practicality of establishing a digital tax in Russia, it is traditionally stated that its legal regulation should be based on the fact that there are four types of business models that are implemented by organizations providing digital services. Consequently, the decision on whether or not to adopt a digital tax, as well as on the determination of its essential elements, should be decided taking into account the fact that such models exist. It is this position that, in our opinion, will allow to ensure administrative convenience of digital tax, as well as its enforcement for payment, taking into account the correctly established tax basis.

The first model, called advertising, is used by search services and social media platforms. In this case, it is advisable to regulate the digital tax as an income tax and "make it contingent" to the revenues from Internet advertisement according to the "revenue-tax" formula, i.e. to tax at the place of value creation. At the same time, the very concept of "value creation" raises a number of questions about its content and application for tax purposes. As you know, value creation means transforming raw materials and data into something socially useful. Inherently, the raw materials and data are of a small value and have no fundamental value, or do not have any value at all from the point of view of tax law.

The second model, the subscriber model, is used for Internet audio and video recording services. In this case, consumers of services are individuals and organizations (retail consumers) who pay for the corresponding services and, therefore, are payers of the digital tax, the amount of which is included in the cost of the digital service. The difficulty in structuring taxation within the framework of subscriber model is the real possibility of installation of consumers from various platforms and digital services of both Russian and foreign jurisdictions, which once again raises questions about the development of rules for " fiscal attachment " of transactions. For instance, in the European Union, this issue is addressed by applying the principle of automatic location identification of the consumer by a digital service provider. For example, Bandcamp, one of the oldest online stores of music audio products, having identified the location of the buyer, in an automatic transactional manner provided for in agreements with the European Union, adds the tax amount to the cost of the digital service, and then transfers it to the European Union.

The third model of taxation of digital companies, which can be called an agency one, necessitates the provision of digital services for the purchase and sale, lease, etc. through a digital platform. In this case, the digital tax is also imposed on the income from the sales revenue from the sale of digital services or goods.

It must be assumed that such model is based on the general-theoretical concept of a digital platform developed in the science of public administration, understood as a tool for implementing the industry-specific ecosystem of interaction between participants. A.I. Kovalenko believes that multilateral platforms can reduce transaction costs, increase productivity, because they are ecosystems in which “producer and consumer jointly produce and use; where quest keep in balance with supply so steadily that the border between them is blurred; where companies do not compete in the market process, but organize and control the market process” [Kovalenko 2016: 82]. Therefore, this taxation model for digital service companies is commonly referred to as the sharing economy.

The fourth model - the online retailer - involves the imposition of a digital tax on revenues from digital content sales. In this case, the main difficulty will be proving the fact of the presence of the so-called “fiscal attachment,” i.e. the substantial presence of a potential taxpayer on the territory of the Russian state.

In addition, it is important to note the global tax impact of the spread of artificial intelligence. From this point of view, at the official level, the issues of establishing a digital tax on the results of robots' activities are currently being discussed, which makes it

relevant for the science of tax law to study the content of the principle of justice in the new conditions of digital transformation [Lyutova 2020: 20].

Undoubtedly, Russia will have to make a fundamental decision on the presence or absence of the necessity to adopt a digital tax soon, as well as continue to develop a strategy for digital transformation of taxation. If the legislator decides to adopt it, it is necessary, first of all, to resolve the issue of the relationship between the new taxation rules for digital companies and the existing agreements on the avoidance of double taxation. An example of such a delineation of jurisdictions is the UK, where companies are allowed to assign up to 50% of taxable revenue to jurisdictions with a similar digital tax.

When adopting a digital tax in Russia, it is important to ensure targeted regulation in order to avoid including companies that are not digital by nature. Unfortunately, Russia has not been able to avoid this when the “Google tax” has been extended to the B2B sector (“business-to-business” relations) since 2019.

The advantages of the Russian Federation committing unilateral actions related to the potentially possible establishment of a digital tax can be:

- protection of the fiscal interests of Russia in case companies will not reach a consensus on the issue of establishing taxation rules for digital companies in the coming years at the international level;

- the Russian taxation authorities have relevant experience in fiscal management of taxation of digital transactions of foreign companies providing digital content to Russian users;

- the possibility of increasing the significance of the Russian Federation on the agenda of the Organization for Economic Cooperation and Development when discussing taxation of the digital economy.

The risks (negative consequences) of establishing a digital tax in Russia are:

- the risk of double taxation of profits and value added for organizations providing digital services;

- possible economic sanctions from the states of origin of digital companies providing services on the territory of the Russian Federation;

- growing uncertainty for Russian business, due to the fact that the digital tax will be a temporary measure, and will also significantly differ from digital taxes and "taxes on digital services" already paid within the territories of other states.

The advantages (prerequisites) for the transformation of the Russian legal system by establishing a digital tax are:

- promising protection of Russia's fiscal interests in a situation of possible failure to reach consensus on taxation of the digital economy at the international level;

- The FTS of Russia has relevant experience in management foreign taxpayer organizations that provide digital services (when charging Google Tax);

- obtaining an additional argument to increase the significance of Russia's position on the OECD agenda.

4. Conclusion

In conclusion, the growing popularity of research into digitalization of taxation has the potential to accumulate the necessary regulatory material to create in various states their own models of legal regulation of taxation of digital companies in the future. At the same time, the importance of developing and adopting, at the level of international agreements, general agreements of countries on whose territories there is a "digital presence" of foreign organizations, remains undoubted. At the same time, states are witnessing a gradual development of the process of forming various decisions, which are unilateral actions in relation to the tax consequences of digital companies. The author believes that such processes (creation of international and national rules for taxing digital companies) should not be mutually exclusive. Global standards for digitalization of taxation should play the role of "rules of the game" of a fundamental nature, being the fundamental basis for a significant transformation of the national tax law of each of the modern states.

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