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Implementation of the «Two-Pillar Solution» prospects in the international taxation system

The world economy has undergone a rapid digital transformation, which has caused critical discussions about the effectiveness of existing international tax systems. Traditional norms and rules are proving insufficient to solve the dynamic challenges associated with the development of the digital economy, where new sources of value creation and innovative business models challenge the established norms of profit distribution and relationships. At the same time, intangible sources of value creation contribute to tax avoidance by transnational corporations. Base Erosion and Profit Shifting (BEPS) rules are becoming a key initiative to counter these challenges. The article identifies the difficulties in reforming the modern international tax system, emphasizing the need for constant dialogue, cooperation, and adaptation to changing economic conditions. A two-step solution is an important tool in the fight against aggressive tax planning. Current discussions highlight the complex nature of the impact of the digital economy on international tax rules. Effective monitoring of the implementation and impact of the two-step solution is critical to areas for improvement, with international cooperation through the OECD playing a central role in this reform process. The BEPS rules are seen as a critical solution in the evolution of international tax policy in overcoming the challenges associated with the digital economy. The success of the implementation of the two-step solution initiative depends on effective cooperation between countries, in particular in the context of agreements on the avoidance of double taxation. The internal adaptability of this tool has the potential to improve the efficiency of the international tax system, as it directly addresses the challenges and conditions of the digital economy.

Keywords: *BEPS; transfer pricing; taxation; Two-Pillar Solution; OECD.*

Problem statement. The rapid digital transformation has had a significant impact on the global economy, sparking discussions about the effectiveness of the international tax system. Traditional tax rules now do not meet the challenges of the dynamically developing digital economy. This development poses challenges to the fundamental principles of the global tax system. New sources of value creation and business models are redefining entire sectors of the economy, challenging existing rules of profit sharing and interconnection. At the same time, technologies contribute to tax evasion by multinational companies, and various tools and methods are being developed and implemented to solve this problem, both domestically and internationally. The most significant project to prevent tax evasion is undoubtedly the BEPS (base erosion and Profit Shifting) rules (policy) of the OECD/G20 program.

A robust and sustainable international tax system is critical to global economic growth and well-being. Taking into account the challenges of the digital economy, a comprehensive solution that addresses both the distribution of tax rights and the rest of BEPS' concerns is clearly needed. At the same time, the risk of failure to implement new solutions is important, which can lead to unilateral actions and thus damage investment and economic growth, limiting the collection of state revenues and major investments in development programs.

The study examines the symbiotic relationship between BEPS and transfer pricing, delving into the multifaceted challenges and opportunities that arise at the intersection of these two components. As digital technologies continue to change the global economy, traditional transfer pricing mechanisms are receiving unprecedented attention. The dynamic nature of changes in the economy in general and the international tax system in particular is characterized by intangible assets, cross-border digital transactions and new business models. All these challenges highlight the limitations of the existing transfer pricing standards, which were formulated at the beginning of the development of the post-industrial economy.

Revealing the complexity of BEPS and transfer pricing, the article aims to consider the current state of international tax policy reform. Studying the common and distinctive problems between BEPS and transfer pricing allows us to identify potential solutions and innovations that affect changes in the international tax system, ensuring that it remains reliable, adaptive and fair in the face of changing economic paradigms. It is worth noting that the first positive changes as a result of the implementation of the BEPS project emphasize the effectiveness of a coordinated multilateral approach to reducing tax evasion, but require improvement in the context of challenges to the digital economy.

Analysis of research and publications. Research on the evolution of the international tax system in recent years has received special attention, in particular due to the introduction of BEPS rules and the consequences of these rules for the entire economic system [4, 6, 2, 5, 8].

The tax incentives that countries have introduced to increase their competitiveness in the market have led to the emergence of various methods of tax evasion, as well as the creation of «tax havens» [9, 10]. The negative effects of aggressive tax planning have been studied in the works [11, 12]. Kurian A. [3] studied the impact of BEPS rules on the economies of developing countries. His findings indicate that it is the developing countries that are most affected by tax evasion by large corporations. This problem is partly due to the fact that the governments of these countries do not have the experience or leverage to combat tax evasion by multinational companies.

The purpose of the article is a study of the opportunities and risks associated with the implementation of a two-stage solution (Two-Pillar Solution) of OECD.

Presentation of the main material. Over the years, the digitalization of the economy and the growing complexity of global business operations have made traditional international tax rules obsolete. The BEPS project has been a catalyst for change, prompting a critical review of how taxation overlaps with the modern, interconnected and digitized global economy. To understand the prospects and problems of the tax system, it is important to study BEPS in terms of revealing the subtleties of international tax rules through their impact on the fairness, transparency and overall stability of the international tax system.

The development of the digital economy is a key topic in reforming international tax rules. Digitalization of trade has allowed multinational corporations to operate smoothly across borders, often with minimal physical presence. This change has caused problems with determining where economic activity takes place and, as a result, where to transfer taxable profit. Traditional tax systems, created in an era when physical presence was the main determining factor, are trying to adapt to the intangible nature of digital transactions.

The introduction of the first BEPS initiatives identified and helped address key challenges related to digital transformation: the ability of businesses to exploit loopholes and move profits to low-tax jurisdictions, tax evasion, and the blurring of national tax bases. As a result, BEPS seeks to establish a more equitable distribution of tax rights by ensuring that multinational companies (MNCs) contribute their fair share of taxes based on the economic nature of their operations. In addition, the international tax challenges posed by the digital economy go beyond profit sharing. The growing importance of intangible assets in the capital structure, data-driven business models, and the ability to achieve scale without tangible resources have created difficulties in defining the value creation process.

BEPS has introduced stricter disclosure requirements for MNCs, requiring detailed transfer pricing documentation and transaction information from related parties. This increased transparency has improved the ability of tax authorities to assess the «arm's length» principle and identify potential threats to transfer pricing. Modern methods of countering aggressive tax planning, in particular those introduced in accordance with the requirements of BEPS, have influenced the updating of methods for evaluating intangible assets and controlling financial transactions. As a result, uncertainty for both MNCs and tax authorities was reduced, contributing to predictable and consistent transfer pricing practices.

For a long period of time, politicians considered corporate tax evasion not problematic or estimated the cost of curbing it too high [4]. On July 11, 2023, the 138 OECD/G20 members, representing more than 90 % of global GDP, agreed on a final statement recognizing the significant progress made and allowing countries and jurisdictions to move forward with historic, serious reform of the international tax system [1].

The Two-Pillar Solution is an international agreement initiated by the organization for Economic Cooperation and Development (OECD) to address current challenges in international taxation, particularly in the context of tax base reduction and profit transfer (BEPS). BEPS refers to tax planning strategies used by multinational companies to exploit gaps and inconsistencies in tax regulations to artificially move profits to low-tax jurisdictions where economic activity is low or nonexistent.

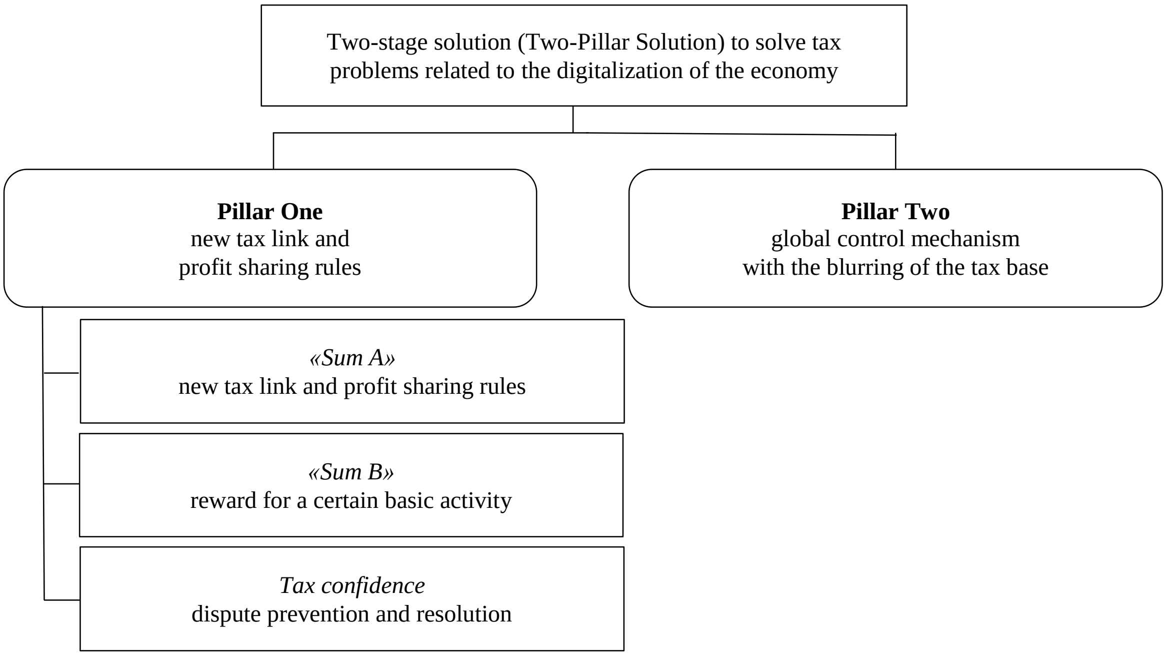
The two-step mechanism for countering aggressive tax planning is part of the OECD/G20 inclusive BEPS framework and, accordingly, consists of two main components.

The first component focuses on setting new rules to determine where multinational companies should be taxed. The goal is to distribute some of the profits and tax rights to market jurisdictions where businesses have significant consumer activity and create value. This is especially true for digital companies, which can have a significant economic presence in the market without a physical presence.

The second component addresses the global minimum tax issue to ensure that multinational companies pay the minimum level of taxes, regardless of where the company is headquartered or where the company operates. The goal of the second component is to prevent aggressive tax planning, mainly by moving profits to low-tax jurisdictions.

Two-Pillar Solution is designed to modernize and restore the balance of the international tax system, in particular those related to the digital economy. Improving BEPS rules involves a collaborative effort between countries to reach consensus on new requirements and recommendations, ensuring that multinational companies pay their fair share of taxes.

Figure 1 shows the structure of the proposed approach to improving the international taxation system.



Source: [7]

Fig. 1. Structure of a two-step solution for improving BEPS rules

Pillar One aims to introduce new tax rules that are caused by the current conditions of the digital economy. The Pillar One criterion applies to companies with a turnover of 20 billion euros and a yield level above 10 %. At the same time, the company's profit is taxed in the jurisdiction where it was generated. New profit distribution methods «Sum A» and «Sum B» care also being introduced. According to the «Sum A» method, the distribution of a high rate of profit will be carried out on the basis of a special calculation (the «arm's length» rule ceases to be mandatory). The tax calculation will take into account the sources of income and methods of avoiding double taxation. «Sum B» is an alternative method and consists of remuneration for basic activities, such as marketing and distribution. A special innovation for the BEPS rules is the abolition of the «arm's length» rule, but this does not mean that the Pillar One proposal prohibits the use of this principle. The new rules provide for an increase in ethical and legal liability for business entities when calculating the tax base and distributing profits.

Pillar Two is designed to solve the problem of tax base blurring and profit shifting (BEPS) across tax havens. This approach sets a global minimum tax rate of 15 %, which applies to 10 % of NMC's highest profits exceeding the threshold of 750 million euros. This creates a minimum limit that prevents the company from artificially moving profits to low-tax jurisdictions in order to minimize tax liabilities.

Two-Pillar Solution has prospects for solving tax problems in the international tax system, in particular those related to the development of the digital economy. It is expected to achieve the following benefits from the introduction of new tools:

– justice – by ensuring that MNCs pay their fair share of taxes based on their global economic performance, this approach helps create a level playing field for businesses and eliminates tax evasion issues;

– increased revenue – reallocation of tax rights and the global minimum tax create significant additional revenue for governments, potentially boosting public services and infrastructure investment;

– efficiency of the tax system – the two-component solution promotes a more stable and viable international tax system, encouraging cooperation and reducing harmful competition between jurisdictions.

Despite the potential of the Two-Pillar Solution to create a fairer and more sustainable tax environment, there are still many unpredictable risks to its effectiveness and implementation. The complex nature of the transaction requires careful adaptation and implementation within various legal and regulatory framework. Ensuring consistent application across all jurisdictions remains a significant obstacle, raising concerns about possible loopholes and uses. However, the global minimum tax Pillar Two may disproportionately affect smaller multinational enterprises with limited global coverage.

Among the critical issues that may be negatively affected by BEPS policy are: 1) countries implement BEPS measures at different speeds and levels of consistency, which in turn increases the level of uncertainty and creates additional risks for tax base blurring; 2) theoretical and empirical research results [3] indicate that BEPS has unintended consequences for developing countries with limited resources and experience to implement complex regulations. By understanding the current impact and implications of BEPS, MNCs, tax authorities, and governments can work together to create a more predictable and fair global tax system that meets the challenges of the post-industrial economy.

Conclusions and prospects for further research. Current discussions reflect the complexities inherent in reforming the international tax system in the digital age. Addressing these challenges requires constant dialogue, cooperation and adaptation to changing economic realities. At the present stage, careful monitoring of the implementation and impact of a two-component solution is essential to identify areas for improvement. In such a situation, international cooperation through the OECD plays a major role in the entire reform process. The BEPS rules represent a key moment in the evolution of international tax policy, addressing the complex challenges associated with the digital economy. The Two-Pillar Solution marks a significant step towards a fairer and more stable international tax system for the digital age. However, its ultimate success depends on solving problems and improving implementation through constant dialogue and cooperation, especially in terms of double taxation agreements. Thanks to the adaptability of this tool, it is possible to achieve the expected results in improving the efficiency of the international tax system.

References:

1. Action 1 Tax Challenges Arising from Digitalisation / OECD. – 2024 [Electronic resource]. – Access mode : https://www.oecd.org/tax/beps/beps-actions/action1/.
2. *Gravelle J.G.* Tax Havens: International Tax Avoidance and Evasion / *J.G. Gravelle* // CONG. RES. SERV. – 2015 [Electronic resource]. – Access mode : http://fas.org/sgp/crs/misc/R40623.pdf.
3. *Kurian A.* The evolution of international tax regime and the OECD Two-Pillar solution: Analysis from a developing country perspective / *A.Kurian* // Journal of Economic Issues. – 2022. – Vol. 1, № 1. – P. 61–71. DOI: 10.56388/ei220808.
4. *Mason R.* The Transformation of International Tax / *R.Mason* // American Journal of International Law. – 2020. – Vol. 114, № 3. – P. 353–402. DOI: 10.1017/ajil.2020.33.
5. *Omri Y.M.* The State Administration of International Tax Avoidance / *Y.M. Omri* // Harvard Business Law Review. – 2017. – Vol. 7, № 2015-95. – 67 p. DOI: 10.2139/ssrn.2685642.
6. *Pistone P.* General report / *P.Pistone* ; in *M.Lang, P.Pistone, J.Schuch, C.Staringer* ed. // The Impact of the OECD and UN Model Conventions on Bilateral Tax Treaties. Series : Cambridge Tax Law. – Cambridge : Cambridge University Press, 2012. – P. 1–36. DOI: 10.1017/CBO9781139095686.002.
7. *Scherer A.-L.* Ethical and Legal Responsibility of Multinational Corporate Groups for a Fair Share of Taxes / *A.- L. Scherer, U.Schmiel* // Nordic Tax Journal. – 2021. – № 1. DOI: 10.2478/ntaxj-2021-0002.
8. *Faulhaber L.V.* The Trouble with Tax Competition: From Practice to Theory / *L.V. Faulhaber* // Proceedings. Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association. – 2017. – Vol. 110. – P. 1–63 [Electronic resource]. – Access mode : https://www.jstor.org/stable/26794434.
9. *Бозуленко О.К.* Роль офшорної фінансової діяльності у світовій фінансовій системі / *О.К. Бозуленко* // Економіст. – 2010. – № 1. – С. 51–53.
10. *Волкова Ю.О.* Розвиток офшорних центрів у системі міжнародного бізнесу / *Ю.О. Волкова* // Формування ринкових відносин в Україні. – 2008. – № 1. – С. 43–48.
11. *Греца Я.В.* Зміст, правові засоби та межі податкового планування: зарубіжний досвід та українська практика : дис. ... д.ю.н. : 12:00:07 «Адміністративне право і процес; фінансове право; інформаційне право» / *Я.В. Греца*. – Ужгород, 2020. – 471 с.
12. *Непочатенко О.О.* Агресивне податкове планування / *О.О. Непочатенко, П.К. Бечко, В.П. Бечко* // Збірник наукових праць УНУС. Ч. 2. Економічні науки. – 2021. – Вип. 98. – С. 57–69.

References:

1. «Action 1 Tax Challenges Arising from Digitalisation» (2024), *OECD*, [Online], available at: https://www.oecd.org/tax/beps/beps-actions/action1/
2. Gravelle, J.G. (2015), «Tax Havens: International Tax Avoidance and Evasion», *CONG. RES. SERV*, [Online], available at: http://fas.org/sgp/crs/misc/R40623.pdf
3. Kurian, A. (2022), «The evolution of international tax regime and the OECD Two-Pillar solution: Analysis from a developing country perspective», *Journal of Economic Issues*, Vol. 1, No. 1, pp. 61–71, doi: 10.56388/ei220808.
4. Mason, R. (2020), «The Transformation of International Tax», *American Journal of International Law*, Vol. 114, No. 3, pp. 353–402, doi: 10.1017/ajil.2020.33.
5. Omri, Y.M. (2017), «The State Administration of International Tax Avoidance», *Harvard Business Law Review*, Vol. 7, No. 2015-95, doi: 10.2139/ssrn.2685642.
6. Pistone, P. (2012), «General report», in Lang, M., Pistone, P., Schuch, J. and Staringer, C. (ed.), *The Impact of the OECD and UN Model Conventions on Bilateral Tax Treaties.* Series. *Cambridge Tax Law*, Cambridge University Press, Cambridge, pp. 1–36, doi: 10.1017/CBO9781139095686.002.
7. Scherer, A.-L. and Schmiel, U. (2021), «Ethical and Legal Responsibility of Multinational Corporate Groups for a Fair Share of Taxes», *Nordic Tax Journal*, doi: 10.2478/ntaxj-2021-0002.

8. Faulhaber, L.V. (2017), «The Trouble with Tax Competition: From Practice to Theory», *Proceedings. Annual Conference on Taxation and Minutes of the Annual Meeting of the National Tax Association*, Vol. 110, pp. 1–63, [Online], available at: https://www.jstor.org/stable/26794434
9. Bozulenko, O.K. (2010), «Rol ofshornoi finansovoi diialnosti u svitovii finansovii systemi», *Ekonomist*, No. 1, pp. 51–53.
10. Volkova, Yu.O. (2008), «Rozvytok ofshornykh tsentriv u systemi mizhnarodnoho biznesu», *Formuvannia rynkovykh vidnosyn v Ukraini*, No. 1, pp. 43–48.
11. Hretsa, Ya.V. (2A020), *Zmist, pravovi zasoby ta mezhi podatkovoho planuvannia: zarubizhnyi dosvid ta ukrainska praktyka*, D.Sc. Thesis of dissertation, 12:00:07, *Administratyvne pravo i protses; finansove pravo; informatsiine pravo*, Uzhhorod, 471 p.
12. Nepochatenko, O.O., Bechko, P.K. and Bechko, V.P. (2021), «Ahresyvne podatkove planuvannia», *Zbirnyk naukovykh prats UNUS*. P. 2. *Ekonomichni nauky*, Issue 98, pp. 57–69.

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Значення впровадження «двоступеневого рішення» (Two-Pillar Solution) для міжнародної системи оподаткування

Світова економіка зазнала швидкої цифрової трансформації, що викликало критичні дискусії щодо ефективності існуючих міжнародних податкових систем. Традиційні норми та правила виявляються недостатніми для вирішення динамічних проблем, пов'язаних із розвитком цифрової економіки, де нові джерела створення вартості та інноваційні бізнес-моделі кидають виклик встановленим нормам розподілу прибутку та взаємозв'язків. Водночас нематеріальні джерела створення вартості сприяють уникненню сплати податків транснаціональними корпораціями. Правила протидії розмиванню податкової бази та переміщенню прибутку (BEPS) стають ключовою ініціативою для протидії цим викликам. У статті визначено складності в реформуванні сучасної міжнародної податкової системи, наголошуючи на необхідності постійного діалогу, співпраці та адаптації до мінливих економічних умов. Двоступеневе рішення – важливий інструмент у боротьбі з агресивним податковим плануванням. Поточні дискусії підкреслюють складний характер впливу цифрової економіки на міжнародні податкові правила. Ефективний моніторинг імплементації та впливу двоступеневого рішення має вирішальне значення для областей покращення, причому міжнародна співпраця через ОЕСР відіграє центральну роль у цьому процесі реформ. Правила BEPS розглядаються як критичне рішення в еволюції міжнародної податкової політики в подоланні викликів, пов'язаних з цифровою економікою. Успіх впровадження ініціативи двоступеневого рішення залежить від ефективної співпраці між країнами, зокрема в контексті угод про уникнення подвійного оподаткування. Внутрішня здатність до адаптації цього інструменту має потенціал для підвищення ефективності міжнародної податкової системи, оскільки вона безпосередньо враховує виклики та умови цифрової економіки.

Ключові слова: BEPS; трансфертне ціноутворення; оподаткування; двоступеневе рішення; Two-Pillar Solution; OECP.

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