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# Base Erosion and Profit Shifting in Taxation: A Deep Dive into The Two-Pillar Solution in Tanzania

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## ABSTRACT

*This study explores the phenomenon of Base Erosion and Profit Shifting (BEPS) within the framework of Tanzanian taxation. It places a specific focus on the intricate Two-Pillar Solution proposed by the OECD to tackle BEPS-related challenges. The analysis encompasses an in-depth investigation of BEPS itself and a thorough examination of the OECD's Two-Pillar Solution, which encompasses the novel nexus and profit allocation rules under Pillar One and the proposition of a minimum global tax under Pillar Two. Furthermore, the study delves into the evolving global trend toward multilateralism in the realm of international taxation. The research concludes by presenting recommended solutions and offering insights into the future landscape of BEPS-related issues, while also providing valuable observations on the subject matter. This paper adopts a doctrinal approach and draws upon primary and secondary sources of literature, including Tanzanian tax laws, OECD guidelines, and other international principles. It is expected to be a valuable resource for policymakers, academics, think tanks, the academic community, tax departments, international trade entities, digital taxation stakeholders, online businesses, and the judiciary, facilitating a deeper understanding of BEPS and its implications.*

**Keywords:** *Base Erosion and Profit Shifting (BEPS), Tanzanian Taxation, Two-Pillar Solution, Multilateralism in Taxation, International Taxation Trends.*

## I. INTRODUCTION

In an era characterized by extensive business operations and a growing reliance on intangible assets and digital platforms, conventional tax systems have struggled to keep pace with the evolving landscape. This article delves into the critical issue of Base Erosion and Profit Shifting (BEPS), a phenomenon that has garnered attention from tax authorities, policymakers, and international organizations like the Organization for Economic Co-operation and Development

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(OECD).<sup>3</sup> BEPS encompasses the tactics employed by multinational corporations to legally, though often aggressively, reduce their tax liabilities by shifting profits from high-tax jurisdictions to those with lower or non-existent tax rates.<sup>4</sup> These tactics exploit disparities and irregularities in national tax laws, resulting in a disconnect between where economic activity occurs and where taxes are paid. BEPS presents a substantial challenge as it erodes the tax base of nations, particularly those with higher corporate tax rates, and undermines the fairness and integrity of the global tax system.

Recognizing the urgency of addressing BEPS, the OECD launched the BEPS Project in 2013.<sup>5</sup> This ambitious initiative aimed to confront the multifaceted challenges posed by BEPS and modernize the international tax framework.<sup>6</sup> It engaged governments, businesses, and civil society in collaborative efforts to formulate comprehensive solutions capable of adapting to the constantly evolving global economy. One of the most significant outcomes of the BEPS Project is the establishment of the Two-Pillar Approach, marking a paradigm shift in international taxation.

Pillar One centers on the reassignment of taxing rights. It suggests that a portion of the profits generated by multinational corporations, particularly those in digital services, should be attributed to the market jurisdictions where their customers are located, regardless of their physical presence. This approach ensures that businesses pay taxes in places where they engage in substantial economic activities, effectively addressing the tax challenges arising from the digital age.<sup>7</sup>

Pillar Two, conversely, aims to institute a global minimum tax rate. Under this pillar, countries agree to impose a minimum tax on multinational corporations, ensuring they pay a baseline level of tax regardless of their operational location.<sup>8</sup> This measure aims to curb the competition to lower corporate tax rates and promotes a more equitable distribution of tax revenue. Importantly, the Two-Pillar Approach signifies a collective effort to combat BEPS and

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<sup>3</sup> Annet Wanyana Oguttu, *Tax Base Erosion and Profit Shifting — Part 2: A Critique of Some Priority OECD Action Points from an African Perspective — Preventing Excessive Interest Deductions and Tax Treaty Abuse*, 49 COMP. INT. LAW J. SOUTH. AFR. 130 (2016).

<sup>4</sup> The Organization for Economic Co-operation and Development (OECD), UNITED STATES DEPARTMENT OF STATE, <https://www.state.gov/the-organization-for-economic-co-operation-and-development-oecd/> (last visited Oct 8, 2023).

<sup>5</sup> What's Base Erosion and Profit Shifting?, THE HINDU, Mar. 27, 2016, <https://www.thehindu.com/news/cities/mumbai/whats-base-erosion-and-profit-shifting/article8404293.ece> (last visited Oct 8, 2023).

<sup>6</sup> What is BEPS (Base Erosion and Profit Shifting)? | BEPS Defined, <https://tax.thomsonreuters.com/en/beps/what-is-beps> (last visited Oct 8, 2023).

<sup>7</sup> Ruth Mason, *The Transformation of International Tax*, 114 AM. J. INT. LAW 353 (2020).

<sup>8</sup> Oguttu, *supra* note 3 at 1.

modernize international taxation.<sup>9</sup> It encourages countries to collaborate and adopt consistent tax rules, thereby reducing opportunities for profit shifting and tax avoidance. This multilateral approach acknowledges that the challenges posed by digitalization are inherently global and require a coordinated response.

## **II. BASE EROSION AND PROFIT SHIFTING (BEPS)**

For several years, the OECD and G20 member nations have been collaborating to establish principles for international tax regulations.<sup>10</sup> These efforts are aimed at aiding governments in combatting tax evasion and the avoidance strategies used by corporations that exploit gaps and inconsistencies in international tax policies. In 2015, the OECD released a report addressing the complexities of taxing the digital economy. According to the report, digital multinational enterprises (MNEs) possess three characteristics that make them particularly challenging to tax. Firstly, they find it easier to conduct international sales with minimal to no physical presence compared to traditional enterprises. Secondly, intangible assets, specifically intellectual property like brand names, patented ideas, trade secrets, algorithms, and designs, are increasingly significant sources of corporate value for digital MNEs. These assets are much simpler to transfer across countries than tangible assets, but assessing their value during sales or leases is more intricate. The third factor is user involvement in value creation. The active participation of users, their data, and the effects of network interactions all contribute substantial value to certain digital MNEs.<sup>11</sup>

The report identified three potential approaches to addressing the challenges of taxing the digital economy. These include establishing a new nexus based on significant economic presence (replacing the traditional Permanent Establishment threshold with SEP), implementing a withholding tax on digital transactions, and introducing an equalization levy (which appears not to necessitate treaty modification as it constitutes a new tax). However, the report did not explicitly recommend any specific approach.

### **(A) The OECD Two-Pillar Solution**

On October 8, 2021, the OECD released a statement from the OECD/G20 Inclusive Framework (IF) regarding the Two-Pillar Approach aimed at tackling the tax challenges stemming from the

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<sup>9</sup> OECD, ADDRESSING THE TAX CHALLENGES OF THE DIGITAL ECONOMY (2014), [https://www.oecd-ilibrary.org/taxation/addressing-the-tax-challenges-of-the-digital-economy\\_9789264218789-en](https://www.oecd-ilibrary.org/taxation/addressing-the-tax-challenges-of-the-digital-economy_9789264218789-en) (last visited Oct 8, 2023).

<sup>10</sup> OECD/G20 Base Erosion and Profit Shifting Project, [https://www.oecd-ilibrary.org/taxation/oecd-g20-base-erosion-and-profit-shifting-project\\_23132612](https://www.oecd-ilibrary.org/taxation/oecd-g20-base-erosion-and-profit-shifting-project_23132612) (last visited Oct 8, 2023).

<sup>11</sup> OECD, ADDRESSING BASE EROSION AND PROFIT SHIFTING (2013), [https://www.oecd-ilibrary.org/taxation/addressing-base-erosion-and-profit-shifting\\_9789264192744-en](https://www.oecd-ilibrary.org/taxation/addressing-base-erosion-and-profit-shifting_9789264192744-en) (last visited Oct 8, 2023).

digital transformation of the economy. The elements of each Pillar that have received consensus are succinctly described as follows:

**a. Pillar one: New Nexus and profit allocation rules**

Pillar one seeks to broaden and supplant the commonly acknowledged "nexus" rule in global tax practices. This alteration would grant a jurisdiction the authority to impose income tax on a multinational corporation conducting business within its economy, even in the absence of a physical presence. This involves a partial redistribution of tax authority concerning the profits of highly profitable multinational corporations to the locations where their customer base is situated. So, the focal point is determining the locations where they fulfill their tax obligations. Pillar One's structure is bifurcated into two segments: Amounts A and B. Amount A redistributes a portion of the residual profits of multinationals subject to the scope of this rule to the markets where they operate.<sup>12</sup> Conversely, Amount B introduces an arms-length principle pertaining to marketing and distribution activities.

**b. Pillar two: A minimum global tax**

Pillar Two encompasses a worldwide minimum tax designed to address outstanding Base Erosion Profit Shifting ('BEPS') concerns, ensuring that corporate earnings are subject to a minimum global tax rate of 15%. This pillar comprises two interlinked domestic regulations, collectively referred to as the Global Anti-Base Erosion Rules ('GloBE rules').

Additionally, there exists a third regulation concerning tax treaties known as the Subject to Tax Rules (STTR). Consequently, Pillar 2 centers on guaranteeing that multinational corporations fulfill a minimum tax obligation in each jurisdiction they are active in, which is achieved through a framework referred to as the GloBE rules. In essence, it pertains to the extent of tax liability these corporations bear.

**(B) Global anti-base Erosion Rules ('GloBE rules')**

The Global Anti-Base Erosion Rules, often referred to as the 'GloBE rules,' encompass two interconnected regulations:<sup>13</sup>

**i. Income Inclusion Rule (IIR)**

This rule imposes an additional tax on a parent corporation for the low-taxed income generated

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<sup>12</sup> Simon M Nairam, *Optimal Benefit-Based Corporate Income Tax*, 112 PROC. ANNU. CONF. TAX. MINUTES ANNU. MEET. NATL. TAX ASSOC. 1 (2019).

<sup>13</sup> FABRIZIO SACCOMANNI & SIMONE ROMANO, *A Coordinated Approach to Foster Sustainable Growth and Financial Stability*, (2017), <https://www.jstor.org/stable/resrep09686> (last visited Oct 8, 2023).

by one of its subsidiary corporations.<sup>14</sup>

### ii. Undertaxed Payment Rule (UTPR)

The provision either restricts deductions or requires an equivalent adjustment when a component of an entity's income, which is taxed at a low rate, is not subject to tax under an IIR. On March 14, 2022, the OECD/G20 Inclusive Framework (IF) released a commentary that provides further insights into the implementation and functioning of the Global Anti-Base Erosion (GloBE) Rules mentioned earlier.<sup>15</sup> This GloBE Rules Commentary now offers Multinational Enterprises (MNEs) and tax authorities specialized and comprehensive technical guidance on how the rules operate and their intended impact, as well as elucidates various terminologies.<sup>16</sup> It also demonstrates the application of these principles to various scenarios. The aim of this Commentary is to foster a consistent and shared comprehension of the GloBE Rules, enabling tax authorities and MNE Groups to work together towards coordinated objectives.

### iii. Subject to Tax Rules ('STTR')

The treaty-based rule in question empowers source countries to impose limited source taxes on specific payments made between related parties, provided that these payments are subject to a predetermined minimum tax rate. This provision essentially allows the source country to exercise a degree of control over cross-border transactions involving affiliated entities, ensuring that a minimum level of taxation is applied to these transactions, thereby preventing undue erosion of the tax base. This rule is established within the framework of bilateral or multilateral treaties between countries, signifying a mutual agreement between the involved parties to implement and uphold this tax regulation.<sup>17</sup>

## III. MOVEMENT TOWARD MULTILATERALISM

To enact the two-pillar solution efficiently and uniformly, the Inclusive Framework (IF) has introduced the Multilateral Convention (MLC).<sup>18</sup> This convention will be formulated to establish a multilateral framework applicable to all participating jurisdictions, regardless of their

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<sup>14</sup> Michael J. Graetz & Rachael Doud, *Technological Innovation, International Competition, and the Challenges of International Income Taxation*, 113 COLUMBIA LAW REV. 347 (2013).

<sup>15</sup> Tax Challenges Arising from the Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two) - OECD, <https://www.oecd.org/tax/beps/tax-challenges-arising-from-the-digitalisation-of-the-economy-global-anti-base-erosion-model-rules-pillar-two.htm> (last visited Oct 8, 2023).

<sup>16</sup> Sara Dillon, *Tax Avoidance, Revenue Starvation and the Age of the Multinational Corporation*, 50 INT. LAWYER 275 (2017).

<sup>17</sup> Monica Gianni, *OECD BEPS (In)Action 1: Factor Presence as a Solution to Tax Issues of the Digital Economy*, 111 PROC. ANNU. CONF. TAX. MINUTES ANNU. MEET. NATL. TAX ASSOC. 255 (2018).

<sup>18</sup> *Id.*

current tax treaty status. Additionally, the MLC will incorporate rules for ascertaining and apportioning Amount A, eradicating instances of double taxation, streamlining administrative procedures, facilitating information exchange, and instituting obligatory and binding processes for dispute prevention and resolution across all jurisdictions.<sup>19</sup> Adequate provisions will be made for countries that possess an optional binding dispute resolution mechanism for matters related to Amount A.

Additionally, the Multilateral Convention (MLC) will mandate all parties to abolish any Digital Services Taxes and similar equivalent measures that are applicable to all enterprises, and commit not to introduce such measures in the future. In the execution of Pillar Two, a Multilateral Instrument (MLI) is anticipated to be created by the Inclusive Framework (IF) by mid-2022. This instrument aims to streamline and ensure consistent application of the Subject to Tax Rules (STTR) in pertinent bilateral treaties.

#### IV. PROPOSED SOLUTIONS AND FUTURE OUTLOOK

In the era of globalization and economic liberalization, there has been an unprecedented increase in cross-border transactions and international trade.<sup>20</sup> This growth has brought international taxation and double taxation treaties to the forefront of global economic discussions. One particularly contentious and debated aspect of international tax law is the concept of permanent establishment (PE). Its interpretation has resulted in numerous legal disputes, further complicating this already complex field. This article represents the culmination of extensive research and analysis focused on the challenges related to PE in the context of taxes on digital commercial transactions. As globalization continues to reshape the business landscape, traditional tax frameworks struggle to deal with the complexities brought about by the digital economy. The primary hypothesis guiding this research has been rigorously examined and confirmed through thorough investigation.<sup>21</sup>

The core challenge stems from the evolving nature of commerce, where businesses can conduct operations internationally without requiring a physical presence in a particular location. In the digital era, economic activities have taken on a more intangible character, posing a challenge for current tax regulations, which typically hinge on the concept of physical presence, to accurately determine and allocate taxable income. This disparity between the traditional notion

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<sup>19</sup> Regina Ortmann & Dirk Schindler, *Income Shifting and Management Incentives*, 112 PROC. ANNU. CONF. TAX. MINUTES ANNU. MEET. NATL. TAX ASSOC. 1 (2019).

<sup>20</sup> JEFFREY SACHS ET AL., *Appendix VI.: Global Efforts to Support Domestic Revenue Mobilization*, 76 (2019), <https://www.jstor.org/stable/resrep25843.16> (last visited Oct 8, 2023).

<sup>21</sup> Fabien Candau & Jacques Le Cacheux, *Taming Tax Competition with a European Corporate Income Tax*, 128 REV. DÉCONOMIE POLIT. 575 (2018).

of PE and the realities of e-commerce has resulted in significant challenges and occasional disputes regarding the taxation of digital transactions.

To address these pressing concerns and propose a way forward, this article not only reaffirms the identified hypothesis but also puts forth a series of innovative solutions. These proposed solutions aim to reconcile the intricacies of digital commerce with the established principles of international taxation, creating a framework that ensures fairness, efficiency, and transparency. The issues discussed here are not unique to Tanzania but have global resonance, reflecting the broader transformation of the international tax landscape. As the global community wrestles with the intricacies of digital commerce and taxation, it is imperative to pursue flexible solutions that harmonize the promotion of economic growth with the protection of a nation's fiscal interests.<sup>22</sup> By doing this, this article adds to the ongoing discourse on PE and e-commerce taxation, providing valuable perspectives and approaches to influence the trajectory of international taxation in the digital age.

#### ***(A) Discourse and Remarks***

The understanding of the term 'Permanent Establishment' has been a subject of disagreement in tax disputes, both at the international and national levels. It's crucial to acknowledge that this concept has undergone development and improvement over time, primarily influenced by international organizations such as the OECD and UN.<sup>23</sup> Although these model tax treaties do not hold legal binding, they function as guiding principles in interpreting real tax treaties and national tax legislations.

In Tanzania's case, an examination of its bilateral tax treaties shows a preference for the UN Model, although many treaties are based on the OECD Model.<sup>24</sup> However, the current tax provisions in Tanzania's domestic law, including the Model Contracts (MCs), are inadequate in addressing the complex legal status of e-commerce, as discussed earlier. Despite the significant role that tax treaties play in the country's economic policy and legislative framework, there have been no systematic efforts to study their effectiveness and impact on e-commerce within Tanzania.

Despite the fact that preventing fiscal evasion is a central goal of tax treaties, Tanzania's treaties currently lack provisions to tackle this issue, particularly in terms of defining PE. This

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<sup>22</sup> ISAAC AGYIRI DANSO ET AL., *Reasons to Re-Think Resource Taxation*, 5 (2020), <https://www.jstor.org/stable/resrep26589.5> (last visited Oct 8, 2023).

<sup>23</sup> Action 1 - OECD BEPS, <https://www.oecd.org/tax/beps/beps-actions/action1/> (last visited Oct 8, 2023).

<sup>24</sup> Establishing a business in Tanzania | Practical Law, [https://content.next.westlaw.com/practical-law/document/I81810651b4f511e398db8b09b4f043e0/Establishing-a-business-in-Tanzania?viewType=FullText&transitionType=Default&contextData=\(sc.Default\)](https://content.next.westlaw.com/practical-law/document/I81810651b4f511e398db8b09b4f043e0/Establishing-a-business-in-Tanzania?viewType=FullText&transitionType=Default&contextData=(sc.Default)) (last visited Oct 8, 2023).



demonstrates that, according to existing tax treaty models and the Income Tax Act, e-commerce transactions do not align with the traditional criteria of the PE requirement.<sup>25</sup>

Tanzania's tax legislation, particularly Section 6 of the Income Tax Act, mainly taxes business income when there is a physical presence where profits can be attributed. Global businesses with a permanent establishment in Tanzania are subject to taxation under this Act.<sup>26</sup> However, the concept of PE, as defined in the Act, does not cover online retail establishments engaged in the exchange of physical and intangible goods between Tanzania and other countries, creating a gap in the taxation framework for e-commerce. Furthermore, there is a lack of clear guidance from Tanzania's judiciary regarding the definition of PE and the taxation of e-commerce. In contrast, judicial systems in other countries, like India, have actively interpreted and developed international concepts related to PE and digital commercial transactions.

As emphasized earlier, there is a noticeable gap in Tanzania's tax regulations when it comes to addressing the taxation of digital transactions, largely due to the challenges associated with PE. The existing tax legislation, crafted during the era of conventional commerce, requires significant revisions and updates to effectively handle the challenges posed by the digital economy.<sup>27</sup> Given these challenges, the researcher provides recommendations and a way forward to navigate this evolving landscape.

The proliferation of digital commercial transactions has fundamentally transformed the way business is conducted over the Internet.<sup>28</sup> As outlined in previous discussionC, this shift has given rise to numerous tax-related issues. The preceding article discussed some of the measures adopted by various countries, which Tanzania could consider adopting to mitigate the adverse impacts of the digital economy, particularly in the realm of e-commerce taxation. These measures represent potential solutions to address the challenges and complexities arising from the evolving digital economy, and they provide a blueprint for Tanzania's tax authorities to effectively adapt to this dynamic landscape.

In conclusion, this study provides the following suggestions in order to overcome the tax difficulties of Digital commercial transactions:

**i) Amendment of the definition of PE**

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<sup>25</sup> AGNÈS BÉNASSY-QUÉRÉ & KONSTANTINOS EFSTATHIOU, *To the Commissioner Responsible for Taxation and Customs Union*, 114 (2019), <https://www.jstor.org/stable/resrep28600.10> (last visited Oct 8, 2023).

<sup>26</sup> Tanzania Comprehensive Agreements, <https://incometaxindia.gov.in/dtaa/10869000000000088.htm> (last visited Oct 8, 2023).

<sup>27</sup> H: Public Economics, 53 J. ECON. LIT. 740 (2015).

<sup>28</sup> Annet Wanyana Oguttu, *Tax Base Erosion and Profit Shifting in Africa – Part I: What Should Africa's Response Be to the OECD BEPS Action Plan?*, 48 COMP. INT. LAW J. SOUTH. AFR. 516, 1 (2015).

Proposed changes to the Income Tax Act involve broadening the definition of Permanent Establishment (PE) to encompass Significant Digital Presence or activities within Tanzania or involving Tanzanian residents as a factor that could establish a PE for taxation purposes. This amendment would also incorporate the suggestions outlined in the BEPS Action Plan. Additionally, adjustments to the Value Added Tax Act of 2014 are recommended to extend the definition of goods to include virtual goods.

#### **ii) Introducing Digital Services Tax**

The Tanzanian Income Tax Act does not adequately handle the constraints of Digital Commercial Transactions as evinced earlier due to intrinsic flaws, and as a result, Tanzania is unable to tax the majority of income earned by MNEs from business done electronically in Tanzania.<sup>29</sup> Consequently, new legislation dedicated to tackling these difficulties is required. The new legislation will address digital PE, customer engagement, source rule, value creation, assessment, the return procedure, data collection, enforcement, and other taxes processes.

#### **iii) Improving technical infrastructures**

African countries generally face a deficiency in technical infrastructure. To effectively adapt to the emergence of the digital economy and generate essential revenue, it is imperative to build or upgrade infrastructure accordingly. This necessitates a collaborative effort among communications regulatory bodies, service providers, suppliers, and consumers to establish technology-driven methods for acquiring sufficient information about online transactions or businesses. The utilization of software capable of recording e-transactions and online business data can serve as a valuable tool for tax authorities.<sup>30</sup> Furthermore, there should be an emphasis on implementing system integration and enhancing information exchange among entities like TRA, BoT, TCRA, and other relevant stakeholders. This underscores the importance of making a strategic investment in technology.

#### **iv) Capacity building and stakeholder awareness**

Tax authorities must be adequately prepared to grasp the complexities of the digital economy and its effects on tax administration. This necessitates providing comprehensive training and courses on this critical subject for all tax officers. Personnel within tax administration should exercise increased vigilance and proactivity in overseeing e-commerce transactions and business operations. Additionally, there should be consideration for the creation of a distinct

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<sup>29</sup> Establishing a business in Tanzania | Practical Law, *supra* note 24.

<sup>30</sup> From Connectivity to Services: Digital Transformation in Africa, <https://www.worldbank.org/en/results/2023/06/26/from-connectivity-to-services-digital-transformation-in-africa> (last visited Oct 8, 2023).

unit or section within the revenue authority tasked with the responsibility of identifying and registering small digital enterprises, among other responsibilities.<sup>31</sup>

**v) Inclusion of nexus rule in tax treaties**

The enduring solution for taxing digital commercial transactions involves incorporating a nexus rule into tax treaties. This can be achieved through two main avenues. Firstly, by engaging in lengthy negotiations to amend treaty clauses with other countries, prioritizing those nations heavily involved in digital commerce.<sup>32</sup> This renegotiation process will entail revising the definition of P.E. in tax treaties. Secondly, an alternative approach is to introduce a Multilateral Instrument (MLI) that governments may adopt.<sup>33</sup> However, it is crucial to note that treaties result from a negotiation process that considers the economic and fiscal policies of the contracting parties. Adding an MLI to such treaties may not account for specific relationships between contracting states, potentially leading to resistance from some parties.

The scrutiny of the concept of PE as outlined in the Model Tax Treaties and Tanzania's bilateral agreements, along with its interpretation within the context of the Income Tax Act, has been a thorough process.<sup>34</sup> What emerges is the nuanced nature of the PE definition across these diverse frameworks, each influenced by distinct ideological perspectives. Particularly, the UN Model Tax Convention (UN-MC), which chiefly governs relationships between developing and developed countries, serves as a foundational framework for Tanzania's bilateral tax treaties, guiding the taxation of cross-border transactions involving the country.<sup>35</sup> However, the existing provisions in these Model Conventions fall short in adequately addressing the intricate challenges posed by e-commerce taxation within the scope of PE. Thus, the examination underscores a clear reality: under the current tax treaty models, the traditional criteria for defining PE do not sufficiently encompass the complexities of e-commerce transactions. The concept of PE was formulated in a vastly different era from today's digital economy, and its limitations have become evident. Furthermore, this limitation extends to Tanzania's Income Tax Act, where the definition of PE is notably outdated and ill-suited to address the complexities of digital commercial transactions within the nation's borders. This misalignment between the tax regulations and the contemporary digital economy unequivocally demonstrates that the existing

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<sup>31</sup> Oguttu, *supra* note 28.

<sup>32</sup> ANNE-LAURE DELATTE & SÉBASTIEN JEAN, *Co-Ordination in Tense Times: Issues for the G7*, (2017), <https://www.jstor.org/stable/resrep09687> (last visited Oct 8, 2023).

<sup>33</sup> Peterson K. Ozili, *Impact of Digital Finance on Financial Inclusion and Stability*, 18 BORSA ISTANB. REV. 329 (2018).

<sup>34</sup> Tanzania Comprehensive Agreements, *supra* note 26.

<sup>35</sup> Tanzania, <https://incometaxindia.gov.in/DTAA/Old%20Treaties/10869000000000153.htm> (last visited Oct 8, 2023).

legal frameworks are ill-prepared to handle the unique challenges of e-commerce taxation. Hence, the findings affirm the initial hypothesis: taxing digital commercial transactions, as it stands under the current definition of PE and related tax rules, is an exceptionally challenging endeavor. The disparity between the traditional tax framework and the digital economy is evident and necessitates a fundamental overhaul of tax legislation.

## **V. CONCLUSION**

In conclusion, this research highlights the pressing need for a modern and adaptable tax framework in Tanzania to effectively address the complexities of e-commerce taxation in the digital age. The shift towards online transactions, intangible business activities, and cross-border trade necessitates a reevaluation of traditional tax laws and principles. It is not merely a matter of keeping up with technological advancements but a critical step towards achieving equitable, efficient, and sustainable taxation in this digital era.

The Two-Pillar Solution emerges as a pivotal moment in international taxation. Its significance lies in its potential to replace unilateral measures, such as Digital Services Taxes (DSTs), and prevent the introduction of new, disjointed tax policies that could lead to double taxation and trade disputes. By offering a framework for coordinated action among nations, the Two-Pillar Solution holds the promise of bringing order and fairness to the taxation of multinational enterprises, both in Tanzania and worldwide. It aims to ensure that profits are taxed where economic activities occur, while discouraging tax avoidance strategies reliant on low-tax jurisdictions.

The potential impact of the Two-Pillar Solution is profound. It has the capacity to foster a synchronized, predictable, and stable international tax environment, essential for stimulating economic growth, encouraging investment, and equitably distributing tax revenues among nations. This represents a significant step forward in addressing the complexities of taxation in the digital age, and its influence is likely to extend beyond Tanzania, serving as a model for collaborative solutions in a globally interconnected commerce landscape. As the international community continues its efforts to implement these pillars, the aspiration is to establish a more just and sustainable taxation system that is well-suited to the challenges and opportunities of the 21st century.

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