

# **Withholding Taxes and the “Digitalized Economy”**

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# Introduction

- Background - WHT
- **The Digitalized Economy**
- BEPS
- DSTs
- **The Withholding Solution**
- UN Model Art. 12B
- BEPS 2.0
- **The Future**

# Background

- Withholding taxes
  - Income taxation
- In lieu of...
- Payments?
- Source issues
- Refunds
- Trends



# Taxing the Digitalized Economy

- A variety of business models
  - The digital economy is the economy
  - The ring-fencing problem
- Intangibles
  - Services
  - Data, AI
  - Often bundled
- Importance of MNE, but not only...
- Location / presence

# BEPS













# Action Item 1

- **Reports**, no recommendations or minimum standards
- **Mentions:**
  - Nexus based solution - “**Digital PE**”
  - **Withholding tax**
  - Equalization levy
- Countries “jumping the gun”

# DSTs



FIGURE 6.

# Countries With Legislation Relating to Direct Taxes on Digital Activities, by Status of Legislation

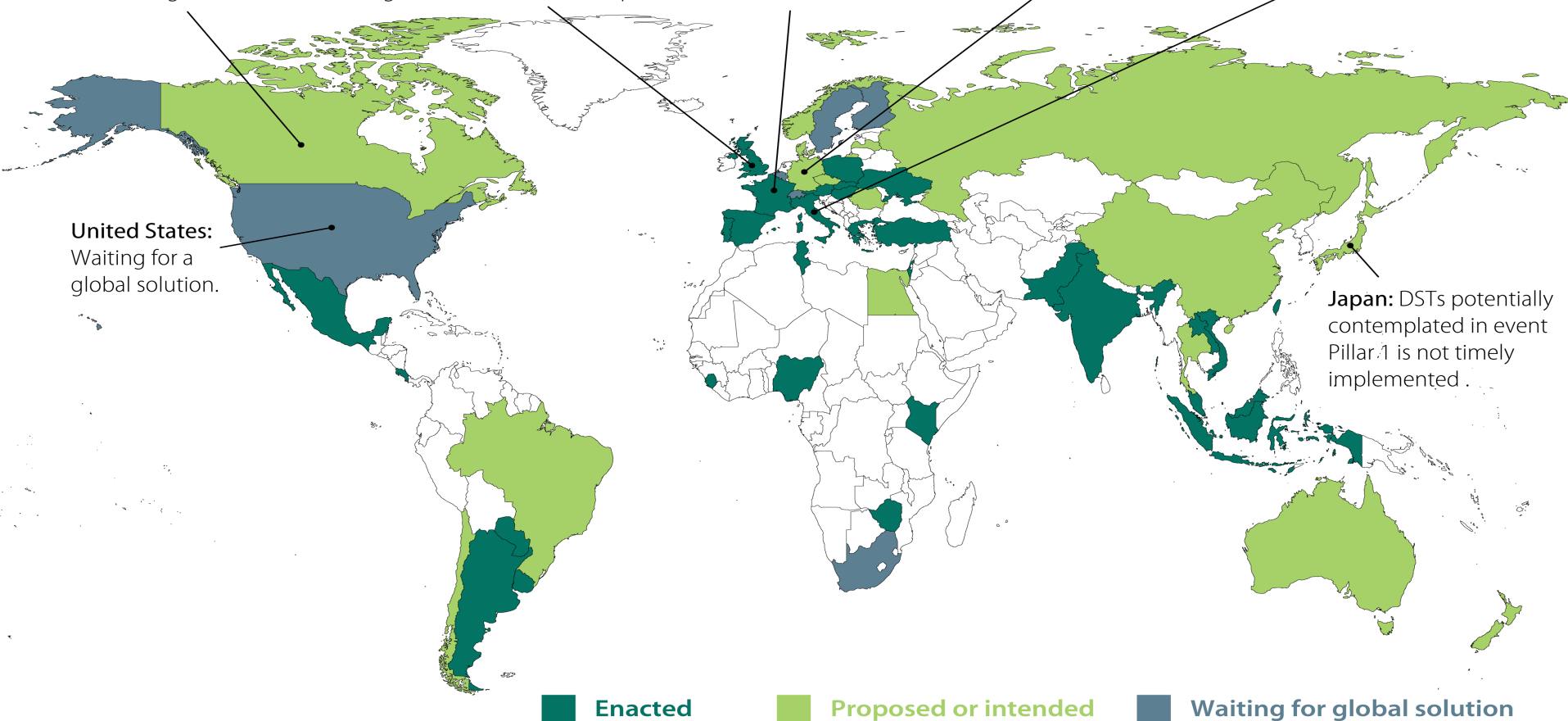
**Canada:** Proposed 3% DST on revenues from online business models including online marketplaces, social media, online advertising, and user data.

**United Kingdom:** Enacted 2% DST on revenue in excess of 25 million pounds derived from UK users on social media platforms, search engines, and online marketplaces.

**France:** Enacted 3% DST on a portion of taxable services income on intermediary services and advertising services based on users' data.

**Germany:** Rejected proposal for a withholding tax on payments for digital advertising services.

**Italy:** Enacted 3% DST on gross revenue derived from digital advertising, online marketplaces, and user data.



Source: KPMG Tax (2022).

Note: Direct taxes on digital activities can take the form of digital services taxes (DST), withholding taxes, permanent establishment taxes, general income taxes, significant economic presence taxes, and others.

# The Withholding Solution

- Targets BEPS threats
- Focus on **B2B**
- No ring-fencing
- Regime **compatible** / no new **definitions**
- Compatible with other solutions
- Requires coordination
- WHT **advantages**
  - Disadvantages easily (and should be) mitigated





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# UN Model 12B

- Automated digital services
  - Interaction w/ articles 12 (royalties) and 12A (fees for technical services)
  - **All services**
- **WHT** tax construction
- Tracking **payments**
- Election to register and be subject to **net taxation**

# BEPS 2.0





# The Future





# Thank You!

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