

REGULATORY FRAMEWORK FOR TAXING THE DIGITAL ECONOMY IN NIGERIA: CHALLENGES, COMPLIANCE STRATEGIES, AND REFORM PROSPECTS*

Abstract

The rapid expansion of the digital economy has challenged traditional tax systems worldwide, with Nigeria facing significant difficulties in taxing cross-border digital transactions under laws originally designed for physical commerce. This paper critically examines the legal and regulatory for taxing the digital economy in Nigeria, focusing on existing statutory provisions, enforcement mechanisms, and their alignment with global best practices. Using a doctrinal research method, the study analyzes key legislations such as the Finance Acts (2019-2023), Companies Income Tax Act, and Federal Inland Revenue Service (FIRS) Guidelines, complemented by a comparative review of OECD proposals and international models. Findings reveal that although Nigeria introduced Significant Economic Presence (SEP) rules to capture digital revenues, enforcement remains weak due to jurisdictional challenges, inadequate technological capacity, and low compliance by non-resident companies. The study further identifies policy inconsistencies and a lack of harmonization with global standards as major obstacles to effective digital taxation. It recommends adopting clearer nexus rules aligned with international frameworks, strengthening digital tax infrastructure, and fostering multilateral cooperation for information exchange to curb tax avoidance. The paper concludes that comprehensive reforms combining legal clarity, institutional capacity-building, and global collaboration are essential to ensure equity, compliance, and sustainable revenue generation in Nigeria's evolving digital economy.

Keywords: Digital Economy, Taxation, Benefit Principle, Theories of Tax, Justice, Ability to Pay Principle.

1. Introduction

The digital economy has fundamentally reshaped global commerce, creating new opportunities for economic growth while presenting significant challenges for tax administration.¹ Unlike traditional business models, digital transactions often transcend physical borders, enabling multinational enterprises to generate substantial income in jurisdictions where they have little or no physical presence.² This shift disrupts the conventional principles of international taxation, which rely heavily on concepts of residence and source, and raises critical questions about fairness, equity, and efficiency in revenue generation.³ Nigeria, Africa's largest economy and a growing digital market, faces these challenges acutely. With the increasing adoption of digital platforms for e-commerce, financial services, and information technology, the tax base is progressively shifting from tangible to virtual business models.⁴ In response, Nigeria has introduced measures such as the Significant Economic Presence (SEP) rules under the Finance Acts to capture revenue from non-resident digital service providers.⁴ However, these reforms are not without difficulties. Weak enforcement capacity, technological limitations, jurisdictional constraints, and low compliance rates have hampered their effectiveness.⁵ This article examines the legal and regulatory framework for taxing the digital economy in Nigeria, exploring its inherent challenges, compliance strategies, and prospects for reform. It situates Nigeria's approach within a comparative and global context, highlighting the need for adaptive legislation and institutional reforms to ensure a fair and efficient taxation regime in the digital era.⁶

2. Meaning of Digital Economy

The term 'digital economy' refers to an economy primarily driven by digital technologies, including digital communication networks, computer systems, and software applications. According to the OECD, it encompasses all economic activities facilitated by digital inputs, including platforms, e-commerce, and digital services.⁷ In Nigeria, the digital economy covers online transactions, and other activities conducted through digital platforms without requiring physical presence.⁸ This shift challenges traditional taxation principles based on territoriality and physical nexus.

3. Taxation of the Digital Economy

Taxation of the digital economy involves applying existing tax rules or designing new frameworks to capture revenue from cross-border digital transactions.⁹ Historically, tax systems have relied on the principle of permanent establishment (PE) to determine tax liability. However, in digital contexts, companies can generate significant income in jurisdictions without physical presence, rendering traditional PE rules ineffective.¹⁰ Nigeria addresses this gap through the Significant Economic

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² Finance Act, 2019 (Nigeria) s.13(2) (c), Amending Companies Income Tax Act, Cap C21 LFN 2004.

³ United Nations, *Model Double Taxation Convention between Developed and Developing Countries* (2021) Art.12B.

⁴ Akanbi S, 'Digital Taxation in Nigeria: Opportunities and Pitfalls' (2022) 4(2) *Nigerian Journal of Taxation* 45.

⁵ Federal Inland Revenue Service, *Guidelines on Significant Economic Presence for Non-Resident Companies* (2020) para 4.

⁶ ATAT, *Technical Note on Digital Services Taxes in Africa* (2021) 7.

⁷ OECD, *Addressing the Tax Challenges of the Digital Economy* (OECD 2020) 15.

⁸ Federal Ministry of Communications and Digital Economy, *National Digital Economy Policy and Strategy* (2020-2030) 8.

⁹ PWC, *Taxation of the Digital Economy: Nigeria's Perspective* (2021) 4.

¹⁰ KPMG, *Significant Economic Presence Order 2020: Implications for Digital Services* (2020) 2.

Presence (SEP) Rules introduced under Section 13 of the Companies Income Tax Act (CITA) as amended by the Finance Act 2019.¹¹

4. Legal Framework

The Nigerian legal framework governing digital taxation is anchored on statutes such as:

- i. Companies Income Tax Act (CITA), Cap.C21 LFN 2004, as amended by the Finance Act 2019 and 2020.¹²
- ii. Significant Economic Presence (SEP) Order 2020, which defines thresholds for non-resident companies offering digital services in Nigeria.¹³
- iii. Value Added Tax Act (VATA), Cap.V1 LFN 2004, as amended by the Finance Act 2019, expanding VAT to include digital services.¹⁴

5. Challenges of Definition

Conceptually, ambiguity persists in defining ‘digital services’ under Nigerian law. For example, does it cover cryptocurrency exchanges or social media advertising.¹⁵ Lack of clarity in these definitions complicates enforcement and compliance.

6. Theoretical Framework

Benefit Principle: The Benefit Principle posits that taxpayers should contribute to the cost of public goods in proportion to the benefits they receive.¹⁶ Digital companies generate revenue from Nigerian consumers, benefiting from infrastructure and legal systems, this justifying taxation.¹⁷ However, critics argue that this principle falters in digital contexts due to intangible services and cross-border complexities.

Ability-to-Pay Principle: This principle asserts taxation should correspond to taxpayers’ economic capacity.¹⁸ In digital taxation, this principle supports imposing taxes on large multinational enterprises that derive substantial revenue from Nigeria without local operations.¹⁹ The Finance Act 2019 operationalizes this through the SEP regime targeting tech giants like Google and Facebook.

Theories of Tax Justice: Scholars like Musgrave argue that fairness in taxation entails both vertical equity (tax payers with higher capacity should pay more) and horizontal equity (similar taxpayers should bear similar tax burdens).²⁰ Applying this to digital taxation, fairness demands equitable sharing of tax burdens between traditional businesses and digital platforms.²¹

Economic Nexus Theory: The Economic Nexus concept, advocated by OECD’s BEPS (Base Erosion and Profit Shifting) Action Plan, underpins Nigeria’s SEP rules.²² It defines nexus based on economic participation rather than physical presence, thus addressing tax avoidance strategies of digital multinationals.²³

6. Case Law Perspective

Although Nigerian courts have not yet developed a robust body of jurisprudence on digital taxation, analogous principles appear in decisions interpreting nexus and income source. For instance, in *Shell Petroleum Development Company v FBIR*, the Supreme Court emphasized that tax liability depends on establishing income source within Nigeria, even if the entity is foreign.²⁴ This reasoning supports digital tax initiatives targeting significant economic participation.

7. International Approaches

Globally, the OECD’s Pillar One and Pillar Two proposals seek to allocate taxing rights more equitably and introduce a global minimum tax.²⁵ Nigeria’s position aligns partially with these frameworks but faces sovereignty concerns.²⁶

¹¹ Companies Income Tax Act, Cap. C21 LFN 2004, s13 (as amended by Finance Act 2019).

¹² Ibid.

¹³ Significant Economic Presence (SEP) Order 2020, paras 3-5.

¹⁴ Value Added Tax Act, Cap.V1 LFN 2004, S 10 (as amended by Finance Act 2019).

¹⁵ Ayo Salami, ‘Digital Economy and Taxation in Nigeria’ (2022) 15 *Nigerian Tax Journal* 67,73.

¹⁶ Richard Musgrave, *The Theory of Public Finance* (McGraw-Hill 1959) 60.

¹⁷ Ibid.

¹⁸ Ibid 71.

¹⁹ Tochukwu Nnamani, ‘Taxing Digital Platforms: A Nigerian Perspective’ (2021) 4 *UNN Journal of Law* 112,120.

²⁰ Musgrave (n 10) 72.

²¹ Ibid.

²² OECD (n 1) 22.

²³ Ibid.

²⁴ *Shell Petroleum Development Company v FBIR* (1996) 8 NWLR(Pt466) 256.

²⁵ OECD, *Tax Challenges Arising from Digitalisation-Report on Pillar One Blueprint* (OECD 2020) 14.

²⁶ Tolu Olalere, ‘Nigeria and the OECD’s Two-Pillar Approach: Issues and Implications’ (2021) 2 *African Tax Review*. 98,103.

8. Literature Review

Overview of Existing Scholarship

The taxation of the digital economy has been the subject of extensive scholarly debate due to its implications for national revenue mobilization, sovereignty, and global trade dynamics. Scholars broadly agree that the rise of digital businesses challenges traditional tax rules anchored on physical presence and source-based taxation.²⁷ Digitization facilitates cross-border economic activities without requiring a permanent establishment, creating significant base erosion risks for developing economies like Nigeria.²⁸

Schulhofer observes that legal frameworks governing taxation must evolve in tandem with technological advancements to maintain fairness and efficiency.²⁹ Similarly, Olalere emphasizes that African economies face unique difficulties in implementing OECD-aligned solutions due to infrastructural and compliance constraints.³⁰

Global Perspectives

International tax literature has largely focused on the OECD/G20 BEPS Action Plan and the Two-Pillar Solution, which seek to redistribute taxing rights and implement a global minimum tax.³¹ According to Cockfield, these initiatives attempt to restore balance between residence and source countries but may undermine fiscal autonomy for developing states.³² Developed jurisdictions have also adopted unilateral measures like Digital Services Taxes (DSTs). For example, France imposes a 3% levy on revenues derived from digital advertising and platform services.³³ While such measures aim to capture value created within national borders, they have been criticized for increasing compliance costs and sparking trade disputes.³⁴

Nigerian Context

In Nigeria, literature highlights both opportunities and risks associated with digital taxation. Ayo Salami identifies the Significant Economic Presence (SEP) regime under the Finance Act 2019 as a landmark shift in Nigeria's tax jurisprudence, redefining nexus beyond physical presence.³⁵ However, he warns that ambiguities in defining 'digital services' and weak enforcement infrastructure limit the effectiveness of these provisions.³⁶ Nnamani argues that Nigeria's VAT reforms extending tax to cross-border digital transactions demonstrate the government's commitment to broadening the tax base.³⁷ Nonetheless, he notes persistent administrative bottlenecks, including lack of automated tracking systems and inadequate taxpayer awareness, which undermine compliance.

Judicial and Policy Gaps

Unlike jurisdictions with robust jurisprudence, Nigeria lacks case law specifically addressing digital tax disputes.³⁸ Most tax cases, such as *Shell Petroleum Company v. FBIR*,³⁹ focus on source-based income under conventional commerce, leaving significant interpretive gaps regarding digital transactions. Policy documents such as the National Digital Economy Policy and Strategy (2020-2030)⁴⁰ stress innovation and economic diversification but do not provide detailed compliance frameworks for digital taxation.⁴¹

Emerging Themes

From the foregoing literature, three dominant themes emerge:

1. Legal Adaptation: Need for a flexible legal framework that aligns with international standards while protecting Nigeria's sovereignty.
2. Administrative Efficiency: Importance of digital infrastructure for tracking transactions and enforcing compliance.
3. Equity and Fairness: Balancing taxation of foreign digital firms with the interests of domestic players to avoid discouraging innovation.⁴²

²⁷ Michael Kobetsky, 'International Taxation of Digital Services' (2019) 73 *Bulletin for International Taxation* 112,113.

²⁸ OECD, *Tax Challenges Arising from Digitization – Interim Report* (OECD 2018) 20.

²⁹ Stephen J. Schulhofer, *Unwanted Sex* (Harvard University Press, 1998) 91.

³⁰ Tolu Olalere, 'Nigeria and the OECD's Two-Pillar Approach: Issues and Implications' (2021) 2 *African Tax Review* 98,103.

³¹ OECD, *Addressing the Tax Challenges of the Digital Economy* (OECD 2020) 15.

³² Arthur Cockfield, 'Tax Wars: Digital Services Taxes and Global Trade' (2020) 46 *Intertax* 540,545.

³³ French Digital Services Tax Law 2019, art.299.

³⁴ *Ibid*,72.

³⁵ Ayo Salami, 'Digital Economy and Taxation in Nigeria' (2022) 15 *Nigerian Tax Journal* 67,70.

³⁶ *Ibid*,72.

³⁷ Tochukwu Nnamani, 'Taxing Digital Platforms: A Nigerian Perspective' (2021) 4 *UNN Journal of Law* 112,115.

³⁸ *Ibid*,120.

³⁹ Salami (n 29) 73.

⁴⁰ Federal Ministry of Communications and Digital Economy, *National Digital Economy Policy and Strategy* (2020-2030)8.

⁴¹ *Shell Petroleum Development Company v. FBIR* (1996) 8 NWLR (Pt 466) 256.

⁴² Kobetsky(n21) 119.

9. Challenges in Taxing the Digital Economy in Nigeria

The taxation of the digital economy in Nigeria faces multiple legal, administrative and practical hurdles. These challenges significantly affect the efficiency and enforceability of current tax measures such as the Significant Economic Presence (SEP) rule and digital VAT regimes.

Jurisdictional and Nexus Issues: Traditional tax rules rely on the concept of permanent establishment (PE), which presupposes physical presence as the basis for taxation.⁴³ The digital economy disrupts this foundation by enabling companies to generate significant economic value in Nigeria without a tangible footprint.³⁸ This creates difficulties in establishing nexus under both domestic laws and double tax treaties (DTTs). The SEP rule under Section 13(2) (C) of the Companies Income Tax Act (CITA), as amended by the Finance Act 2019, seeks to redefine nexus; however, the absence of a global consensus on digital taxation undermines Nigeria's ability to enforce these provisions.⁴⁴

Administrative and Enforcement Constraints: Nigeria's tax authorities, particularly the Federal Inland Revenue Service (FIRS), lack robust digital infrastructure to monitor and assess cross-border transactions.⁴⁵ Most tax reporting systems remain paper-based, making it challenging to capture revenues from multinational tech giants operating through complex digital supply chains. Furthermore, FIRS faces capacity gaps in technology-driven auditing, which hinders the detection of non-compliance in sectors such as e-commerce, streaming services, and online advertising.⁴⁶

Absence of Judicial Precedent: Unlike jurisdictions with established jurisprudence on digital taxation, Nigerian courts have not decided cases that clarify the interpretation of SEP thresholds, profit attribution rules, or liability for indirect taxes on digital supplies.⁴⁷ Cases such as *as FBIR v Halliburton*⁴⁸ and *Shell Petroleum v. FBIR*,⁴⁹ primarily concern physical operations and source rules under traditional commerce, leaving digital tax rules open to interpretive uncertainties. This gap creates potential litigation risks that discourage voluntary compliance by foreign entities.⁵⁰

International Trade and Double Taxation Risks: The lack of alignment between Nigeria's unilateral measures (such as SEP) and the OECD Two-Pillar Framework increases the likelihood of double taxation and retaliatory trade measures.⁵¹ Foreign jurisdictions may view Nigeria's SEP rules as discriminatory or inconsistent with treaty obligations, potentially triggering disputes under international trade agreements.⁵²

Taxpayer Awareness and Compliance Culture: The complexity of digital tax provisions, combined with low level of tax literacy among SMEs engaged in digital trade, poses a significant barrier to compliance.⁵³ While multinational corporations may have access to legal and accounting expertise, smaller businesses often lack the capacity to interpret and implement these requirements.⁵⁴

Policy and Legislative Gaps: Although the Finance Acts (2019-2023) introduced provisions on digital taxation, Nigeria lacks a comprehensive digital economy tax policy harmonized with its National Digital Economy Policy and Strategy (2020-2030).⁵⁵ Current laws do not sufficiently address emerging issues such as cryptocurrency transactions, peer-to-peer platforms, and artificial intelligence services.⁵⁶

10. Compliance Mechanisms for Digital Taxation in Nigeria

Ensuring compliance in the digital economy requires a multi-pronged approach involving legislative measures, administrative reforms, technological innovations, and tax payer engagement. Nigeria has introduced some mechanisms through its Finance Acts and FIRS initiatives, but several gaps remain in enforcement and monitoring.

Legislative and Regulatory Measures: The Finance Act 2019 introduced the Significant Economic Presence(SEP) rule under Section 13(2)© of the Companies Income Tax Act (CITA),which mandates non-resident companies(NRCs) that provide digital services to Nigerian users to pay tax on income derived from Nigeria.⁵⁷ The Finance Act 2020 extended Value Added Tax(VAT) liability to non-resident suppliers of digital services, requiring them to register with FIRS and remit

⁴³ OECD, *Addressing the Tax Challenges of the Digital Economy* (OECD 2020) 15.

⁴⁴ Arthur Cockfield, 'Tax Wars: Digital Services Taxes and Global Trade' (2020) 46 *Intertax* 540,543.

⁴⁵ Companies Income Tax Act, Cap C21 LFN 2004, s 13(2) (c) (as amended by Finance Act 2019).

⁴⁶ Ayo Salami, 'Digital Economy and Taxation in Nigeria' (2022) 15 *Nigerian Tax Journal* 67,70.

⁴⁷ Tochukwu Nnamani, 'Taxing Digital Platforms: A Nigerian Perspective' (2021) 4 *UNN Journal of Law* 112,118.

⁴⁸ *FBIR v Halliburton West Africa Ltd* (2016) 15 TLRN 1.

⁴⁹ *Shell Petroleum Development Company v FBIR* (1996) 8 NWLR (Pt 466) 256.

⁵⁰ Salami(n40) 74.

⁵¹ OECD(n37) 18.

⁵² Cockfield (n 38) 545.

⁵³ Nnamani (n 41) 120.

⁵⁴ *Ibid.*

⁵⁵ Federal Ministry of Communications and Digital Economy, *National Digital Economy Policy and Strategy* (2020-2030) 8.

⁵⁶ Salami(n40) 75.

⁵⁷ Companies Income Tax Act, Cap C 21 LFN 2004, s 13(2) (c) (as amended by Finance Act 2019).

VAT under Section 10 of the VAT Act.⁵⁸ These measures are aimed at widening the tax net and ensuring that tech giants like Google, Netflix, and Amazon contribute to Nigeria's tax revenue.⁵⁹ However, while these provisions exist on paper, their enforceability depends on effective monitoring systems and international cooperation mechanisms.⁶⁰

Introduction of Digital Service Tax Framework: Nigeria has opted for a unilateral approach to digital taxation by introducing significant economic presence thresholds instead of adopting a standalone Digital Services Tax (DST) regime like in some jurisdictions (e.g., France and India).⁶¹ Under current FIRS guidelines, NRCs providing streaming, online advertising, and digital intermediary services are expected to comply with tax obligations once they cross specified revenue thresholds.⁶²

Deployment of Technology-Driven Tax Administration: The FIRS has implemented Tax Pro-Max, an electronic tax administration system, to facilitate e-filing, e-payment, and automated tax compliance monitoring.⁶³ This platform improves data collection and enhances compliance for domestic taxpayers, but its reach is limited when dealing with NRCs without local infrastructure.⁶⁴ To strengthen digital tax enforcement, FIRS has explored the use of Application Programming Interface(API) integration with major e-commerce and payment platforms, ensuring real-time tracking of digital transactions.⁶⁵

Double Taxation and International Cooperation: Nigeria is not a member of the OECD Inclusive Framework, which limits its ability to benefit from global consensus solutions like the Pillar One and Pillar Two rules.⁶⁶ Nonetheless, Nigeria relies on bilateral tax treaties to address double taxation risks for digital businesses.⁶⁷ However, many of these treaties were negotiated decades ago and are silent on the taxation of digital activities, creating compliance uncertainty.⁶⁸

Taxpayer Education and Voluntary Compliance: FIRS has embarked on taxpayer sensitization campaigns to raise awareness among digital service providers and local SMEs on compliance obligations.⁶⁹ These programs aim to reduce ignorance-driven non-compliance and build trust through voluntary disclosure mechanisms. However, their success remains limited due to the complexity of tax rules and the lack of simplified guidance for smaller businesses engaging in cross-border e-commerce.⁷⁰

Enforcement Measures and Penalties: To deter non-compliance, Nigerian tax laws impose administrative penalties on non-resident companies that fail to comply with SEP and VAT obligations.⁷¹ Enforcement, however, faces practical limitations as Nigeria lacks jurisdictional reach over NRCs without physical assets in the country.⁷² This has prompted calls for collaborative enforcement through information exchange with global digital platforms and financial institutions.⁷³

11. Comparative Perspectives on India, Kenya, and the European Union and Lessons for Nigeria

India: India pioneered unilateral digital tax measures through the Equalization Levy. First introduced in 2016 at 6% on online advertising and related services supplied to Indian businesses, it was expanded in 2020 to impose a 2% levy on consideration received by non-resident e-commerce operators from 'e-commerce supply or services' to Indian users.⁷⁴ This levy sits outside the Income-tax Act and is administered separately, with quarterly compliance obligations for qualifying operators.⁷⁵ Doctrinally, India's approach operationalises an economic nexus test without requiring a traditional permanent establishment, capturing value created by user participation and market access. For Nigeria, India's two step evolution – targeted levy (2016) then broad e-commerce expansion (2020)-illustrates how a phased regime can broaden the base while building administrative capacity.⁷⁶

Kenya: Kenya introduced a Digital Service Tax (DST) effective 1 January 2021 (originally at 1.5 % of gross transaction value) targeting income earned through a digital marketplace by non-residents. In 2024, Kenya legislatively replaced DST

⁵⁸ Value Added Tax Act, Cap V1 LFN 2004, s 10(as amended by Finance Act 2020).

⁵⁹ Ayo Salami, 'Digital Economy and Taxation in Nigeria' (2022) 15 *Nigerian Tax Journal* 67,71.

⁶⁰ Tochukwu Nnamani, 'Taxing Digital Platforms: A Nigerian Perspective' (2021) 4 *UNN Journal of Law* 112,119.

⁶¹ OECD, *Tax Challenges Arising from Digitalisation-Report on Pillar One Blueprint* (OECD 2020) 18.

⁶² Federal Inland Revenue Service (FIRS), *Guidelines on Significant Economic Presence (SEP) for Non-Resident Companies* (2020).

⁶³ FIRS, *Tax Pro-Max Implementation Manual* (2021) 3.

⁶⁴ Salami (n 54) 73.

⁶⁵ FIRS (n 58) 73.

⁶⁶ OECD, *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitization of the Economy* (OECD 2021).

⁶⁷ Nigerian-South Africa Double Taxation Agreement, 2000, art 7.

⁶⁸ Salami(n54) 74.

⁶⁹ FIRS, *Taxpayer Education Framework* (2022).

⁷⁰ Nnamani (n 55) 121.

⁷¹ Companies Income Tax Act (n 52) s 55(3).

⁷² Salami (n 54) 76.

⁷³ OECD (n 56) 22.

⁷⁴ Government of India, Finance Act 2016 (Equalisation Levy) s 165; Finance Act 2020, s 153(2% levy on e-commerce operators).

⁷⁵ PwC, *Digital tax introduced for e-commerce operators* (2020).

⁷⁶ RSM, *India has significantly expanded its equalization levy* (2020).

with a Significant Economic Presence (SEP) Tax, aligning more closely with nexus-based approaches and global reforms.⁷⁷ The shift reflects policy recognition that revenue-based DSTs can create double-taxation and trade tensions, whereas SEP frameworks aim to tax profits attributable to meaningful market engagement by foreign platforms.⁷⁸ For Nigeria, Kenya's transition underscores the importance of treaty-compatibility, administrative feasibility, and synchronisation with emerging international rules (e.g. OECD Pillar One).

European Union (EU): The EU does not (yet) have a bloc-wide DST, though several Member States adopted national DSTs pending a multilateral solution; momentum now centres on implementing the OECD Pillar One deal and, if necessary, revisiting EU-level measures.⁷⁹ Parallel to income-tax debates, the EU has already modernized consumption tax rules: since 2015, VAT on B2C digital services is based on the place of consumption (MOSS/OSS schemes), with platforms often treated as 'deemed suppliers'. Major reforms under 'VAT in the Digital Age' were adopted on 11 March 2025, further expanding platform-liability and reporting.⁸⁰ These VAT tools—clear definitions, single-window filing, and platform obligations—offer Nigeria practical models and for indirect tax compliance in the digital sector while income-tax rules evolve.

Cross-cutting Lessons for Nigeria

Sequencing matters: India's staged roll-out (targeted levy-broad e-commerce scope) built compliance capacity before widening the base.⁸¹

From turnover to nexus: Kenya's pivot from DST to SEP is a caution against long-term reliance on gross-revenue taxes that risk trade frictions and double-taxation.⁸²

Leverage VAT rails: The EU experience shows that platform-based collection, place-of-consumption rules, and one-stop shops can dramatically improve indirect-tax compliance while Pillar One remains unsettled.

Treaty alignment and multilateralism: All three comparators highlight the need to calibrate domestic rules with OECD/UN developments to minimize disputes and ensure administrability.

12. Conclusion and Recommendations

The taxation of the digital economy in Nigeria reflects the wider global struggle to align twentieth-century tax rules with twenty-first-century business models. Current reliance on significant economic presence provisions and VAT adjustments demonstrates incremental progress but suffers from definitional ambiguity, compliance challenges, and enforcement gaps.⁸³ Comparative lessons from India's sequenced levy, Kenya's shift from DST to SEP, and the EU's VAT in the Digital Age reforms highlight viable pathways for Nigeria: a phased, nexus-based regime anchored in indirect tax modernization and coordinated with international standards. Ultimately, Nigeria's success will depend on its ability to codify clear digital nexus rules, simplify compliance, protect against double taxation, and remain engaged in multilateral reforms. Without these steps, Nigeria risks both revenue leakage and trade disputes, but with them, the country can position itself as a leader in digital taxation across Africa. A robust and future-proof digital tax regime in Nigeria must balance revenue mobilization, compliance feasibility, and international coordination. The following recommendations are proposed:

Legislative Clarification of Significant Economic Presence (SEP): Section 13(2) (c) of the Companies Income Tax Act (CITA), Cap C21, LFN 2004 (as amended) introduced taxation of non-resident companies with SEP in Nigeria. However, the FIRS Order on Significant Economic Presence, 2020, provides thresholds and scope that remains contested, particularly in treaty situations. A statutory amendment should codify SEP standards (turnover thresholds, user base, digital transactions value) in line with Kenya's SEP Tax Act 2024 and India's Equalization Levy Framework. This would avoid administrative ambiguity and strengthen Nigeria's negotiating posture in treaty contexts.⁸⁴

Adoption of an EU-style VAT One-Stop Shop (OSS): The Value Added Tax Act (VATA), Cap V1, LFN 2004 (as amended by Finance Act 2019) already applies VAT to non-resident digital suppliers.⁸⁵ However, compliance is fragmented, with many foreign suppliers avoiding registration. Nigeria should adopt an OSS model, similar to the EU VAT OSS/IOSS scheme, allowing non-residents to declare and remit VAT in a single electronic interface.⁸⁶ This would ease compliance, expand the tax net, and align with the global trend toward consumption-based indirect taxation of digital services.

⁷⁷ Republic of Kenya, Tax Laws (Amendment) Act 2024 (replacing DST with SEP tax).

⁷⁸ EY, 'Kenya proposes tax changes under the Finance Bill, 2024' (2024); Digital Policy Alert, 'Kenya: Tax Laws (Amendment) Act, 2024' (2024).

⁷⁹ Tax Foundation, 'Digital Services Taxes in Europe, 2025' (2025); IBFD, OECD Pillar One Reform and the European Union (2024).

⁸⁰ Council of the EU, 'VAT in the Digital Age—Package adopted 11 March 2025'; European Commission, 'VAT One Stop Shop (OSS/IOSS)': EU, MOSS scheme—VAT on digital services.

⁸¹ BDO, *India Equalisation Levy 2.0* (2020).

⁸² WTS Global, *Kenya's Significant Economic Presence Tax—Digital tax revolution* (2025).

⁸³ Value Added Tax Act, Cap V1 LFN 2004 (as amended) by Finance Act 2019, s 10(1)-(2); European Commission, VAT One-Stop Shop (OSS/IOSS) Guidance.

⁸⁴ Vertex, 'Major EU VAT changes for digital platforms' (2021); Avalara, 2015 EU VAT changes to B2C electronic services.

⁸⁵ Companies Income Tax Act (CITA), Cap C21 LFN 2004 (as amended by Finance Act 2019), s 13(2)(c); Federal Inland Revenue Service, Companies Income Tax (Significant Economic Presence) Order, 2020. See also Republic of Kenya, Tax Laws (Amendment) Act 2024 (introducing SEP tax); Government of India, Finance Act 2016 and Finance Act 2020.

⁸⁶ OECD/G20, *Two-Pillar Solution Statements* (various).

Sequenced Expansion of Digital Tax Base: Following India's two-step approach (2016 levy on ads, 2020 expansion to e-commerce), Nigeria could first consolidate VAT collection on B2C supplies and SEP compliance for digital advertising, then progressively extend to broader e-commerce and digital content.⁸⁷ This phased roll-out avoids overburdening FIRS capacity and minimizes investor push-back.

Integration with OECD Pillar One: Nigeria should engage proactively in the OECD/G20 Inclusive Framework negotiations, particularly on Amount A of Pillar One, which reallocates residual profits of large multinationals to market jurisdictions. Though Nigeria previously opted out of early consensus citing revenue risks, future reforms should ensure SEP rules are adaptable to Pillar One implementation.⁸⁸

Dispute Resolution and Double Taxation Safeguards: As seen in Kenya's DST disputes and EU-US trade frictions, unilateral digital taxes risk double taxation. Nigeria should incorporate tax treaty amendments under the Multilateral Instruments (MLI) or bilateral protocols to mitigate overlapping claims, consistent with principles in *Shell Petroleum Dev. Co. v. FIRS*⁸⁹, where treaty provisions were given priority.

Domestication Consolidation: Amendment of CITA and VATA to codify SEP, adopt OSS, and clarify enforcement powers under the Federal Inland Revenue Service (Establishment) Act, 2007.

Regional Coordination: ECOWAS and African Union initiatives should be leveraged to harmonize digital tax policies, reducing tax competition and investor uncertainty. Kenya's SEP adoption and South Africa's strong VAT collection model provide reference points.

Multilateral Engagement: Nigeria must re-enter OECD/UN negotiations with a clear strategy –balancing sovereignty with the benefits of a stable, coordinated allocation of taxing rights in the digital economy.

⁸⁷ RSM, *India expands its Equalisation Levy* (2020); Government of India, Finance Act 2020.

⁸⁸ OECD/G20, *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy* (2021).

⁸⁹ *Shell Petroleum Development Company of Nigeria Ltd v. Federal Inland Revenue Service* (2016) 15 TLRN 115.