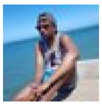
Twitter Thread by Ndegwa Power



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Thread: Why Kenya and other countries are introducing Digital Taxes? Why now?

Now,the current tax laws & international tax framework (which dates back to the 1920s) was designed at a time when businesses were largely brick-and-mortar (physical stores).Then, it was unimagineable for a biz to operate in another country without some form of physical presence

Thus, in most countries, for a business to be pay corporate tax it has to have some form of nexus there (e.g. Kenya). Either it's registered here, or it's managed from here or it has what we call a permanent establishment (also implies some form of physical presence)

Fast forward to today, there are numerous companies that are able to operate in multiple countries without having any physical presence in those countries. Consider social media platforms or streaming services, with a device, connection & subscription you can access their service

...and they don't have to have any physical office or employees etc in Kenya for them to deliver the service to you. I mentioned above that to be subject to corporate tax here, a company would have to have some form of nexus here in Kenya, these companies, don't.

Since such companies don't need to have a physical presence here, they can easily generate income from Kenyan users, book them in countries with low tax rates & end up paying minimal taxes in Kenya despite generating the income here (kuna exceptions e.g. payments sub 2 WHT).

Example, a music streaming company receiving subscription fees from Kenyan subscribers without any office/physical presence in Kenya & receiving the funds in a company registered in the virgin islands. See how that works - minimal or no tax paid here in Kenya.

This isn't just a Kenyan problem, it's a problem for many countries especially developing countries that lose out on revenues from these outflows. Let's continue...

Now, global economies (via the OECD) have been working on a new international tax framework that will be able to address the tax challenges arising from the shift to digital. Considering that the "digital economy" transcends national boundaries, only makes sense...

...to have international consensus on how to tax the digital sector. Also, whereas we can separate digital from main econony today, this distinction wont be relevant I'm future as tech/digital will have been fully integrated into the main economy (lack of better words).

But it's still uncertain if & when this international consensus will be reached, so several countries (France, Japan, India & now Kenya) have moved ahead to introduce digital taxes pending any consensus. Scoop a bit of the digital revenue as the world attempts to agree.

Of course, this comes at a time when Kenya has a serious budget deficit to address amidst not-so-promising revenues. So aside from limiting the income not (appropriately) taxed here, the digital tax is to generate extra revenue for the exchequer.

So essentially, through the lens of Kenya & other countries introducing digital taxes, the tax will ensure that these foreign digital companies operating in Kenya & not paying a fair share of taxes...get to pay tax here (& in those countries), hence ensuring fairness in taxation

However, I should point out that while for Kenyan businesses & individuals the digital tax will be an advance tax...for certain businesses they may not be able to recover the tax paid in time or ever & thus a negative impact. Including the negative impact on cash flows.

So, hopefully, this year will provide lessons for Kenya on how to ensure fairness by targeting the foreign digital companies & minimizing the collateral damage on Kenyans and Kenyan businesses. End/

Thanks for reading:) I may have missed sth or some things may be lost in translation, but I hope this makes sense. I'm always open to learning. Cheers.