February 16, 2018

The Honorable Steven Mnuchin
Secretary of the Treasury
1500 Pennsylvania Avenue NW
Washington, DC 20220

Dear Secretary Mnuchin:

As organizations representing companies across a wide range of economic sectors, we write to express our concerns about developments in the ongoing work on taxation of the digital economy. In the next two months, the European Commission (EC) will release recommendations and the Organization for Economic Cooperation and Development (OECD) will release analysis regarding both short-term "special" tax measures directed at digital goods and services, as well as longer term options for taxing the digital economy. It is imperative the United States express its concern with the direction of the work and its possible impact on the global business climate in general and digital commerce in particular and forcefully engage in any multi-lateral discussions. Given the potential scope and breadth of the proposals under consideration and the impact on US business and the US fisc, we ask that you engage directly and forcefully in this unfolding policy discussion.

The global economy is digitized and data-driven. Digital commerce business activity is exceptionally broad and encompasses any economic activity involving the movement of digital information, services and products across borders. Given the pervasiveness of digital commerce in the broader economy, efforts to separate out or "ring-fence" the digital economy for special tax regimes have proved unworkable. Both the EC and the OECD reached similar conclusions in the past about the challenges inherent to a digital economy-specific tax because of their recognition that digital technology and services enable all companies, regardless of their sector and size, to become more efficient and competitive.

Despite these conclusions, the short-term proposals under consideration threaten to do just that: ring-fence the digital economy for tax purposes. Proposals under consideration, including imposition of a tax on turnover, or a tax on digital advertising revenue, or the use of concepts in determining taxable presence other than the well-known tax on net income with respect to a "permanent establishment" concept, would set a troubling precedent that could deeply harm the US and global business climate. These efforts are coupled with rising rhetoric targeting US companies and clear statements of intent to raise revenue from US-based firms. Because additional taxation of US firms likely would result in additional foreign tax credit claims, the result of these efforts would be born directly by the US fisc.

We support and encourage multi-lateral discussions at the OECD and G20 levels on matters of cross-border taxation precisely because of Treasury's strong engagement in shaping policies impacting our businesses. We ask that you reinforce the conclusions reached as a result of the Base Erosion and Profit-Shifting (BEPS) Action 1 report and strongly oppose efforts aimed at ring-fencing the digital economy and imposing short-term and long term special tax regimes on digital economy businesses.

Thank you for your ongoing engagement on these issues.

Sincerely,

Information Technology Industry Council
National Foreign Trade Council
United States Council for International Business
Software Finance and Tax Executives Council
CompTia
The Internet Association
Progressive Policy Institute
National Taxpayers Union
Taxpayers Protection Alliance

CC: David J. Kautter, Assistant Secretary for Tax Policy
LG "Chip" Harter, Deputy Assistant Secretary, International Tax Affairs
Gary Cohn, Director, National Economic Council