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Global Tax Compliance Challenges in the Digital Economy: Legal and Regulatory Perspectives

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Abstract:

The digitalization of economic activity has fundamentally destabilized the century-old international tax framework built on the concepts of physical presence and permanent establishment, enabling multinational digital enterprises to generate substantial revenue within a jurisdiction while maintaining little or no taxable nexus there under traditional rules. This paper examines the legal and regulatory response to this challenge, tracing its evolution from the OECD's 2015 Base Erosion and Profit Shifting (BEPS) Action 1 report through the 2021 Two-Pillar Solution negotiated within the OECD/G20 Inclusive Framework, comprising Pillar One's reallocation of taxing rights over a portion of large multinationals' profits to market jurisdictions and Pillar Two's 15% global minimum corporate tax implemented through the Global Anti-Base Erosion (GloBE) Model Rules. The review further examines the European Union's unilateral Digital Services Tax proposals, the fragmented landscape of unilateral digital services taxes subsequently adopted by individual states, and the parallel domestic doctrinal shift illustrated by the United States Supreme Court's 2018 decision in *South Dakota v. Wayfair, Inc.*, which replaced the physical-presence nexus standard with an economic-nexus standard for state sales tax purposes. A comparative legal methodology is employed, analyzing primary regulatory instruments, judicial doctrine, and comparative national implementation alongside compliance-cost and revenue-impact evidence reported by international bodies and professional services literature. Reported findings indicate that while the Two-Pillar framework has achieved unprecedented multilateral consensus, with over 135 jurisdictions party to the 2021 agreement and Pillar Two rules now in force in more than 50 jurisdictions as of early 2025, its implementation remains materially destabilized by the United States' January 2025 withdrawal from the Pillar One negotiations and the EU's consequent consideration of reviving its unilateral Digital Services Tax, illustrating that the underlying jurisdictional conflict BEPS Action 1 first identified in 2015 remains legally and politically unresolved a decade later. The paper concludes by discussing compliance-cost implications for multinational enterprises, unresolved double-taxation risk from overlapping unilateral and multilateral regimes, and the prospects for durable international tax coordination in the digital economy.

Keywords: Digital Economy Taxation, BEPS, OECD Two-Pillar Solution, Digital Services Tax, Economic Nexus, Global Minimum Tax, Permanent Establishment, International Tax Law.

I. Introduction

The international corporate tax system in force for most of the twentieth century was built around the concept of physical presence: a jurisdiction could tax the profits of an enterprise operating within its borders only where that enterprise maintained a sufficient physical footprint, traditionally termed a permanent establishment, such as a factory, office, or dependent agent [1]. This framework, codified through the bilateral tax treaty network built on the OECD and UN Model Tax Conventions, functioned reasonably well for an economy organized around the physical production and physical delivery of goods and services, but it has proven structurally unsuited to a digital economy in which enterprises can generate substantial revenue, and substantial value, from users located in a jurisdiction without maintaining any physical presence there whatsoever [1], [2]. The OECD formally recognized this mismatch in its 2015 Base Erosion and Profit Shifting (BEPS) Action 1 Final Report, which concluded that the digital economy could not be meaningfully ring-fenced from the broader economy for tax purposes, since digitalization increasingly characterizes the entire economy rather than a discrete sector, and identified the absence of nexus rules capable of capturing value created through remote digital engagement with users as the central unresolved policy challenge requiring further multilateral work [2].

This unresolved challenge produced nearly a decade of parallel, and at times conflicting, regulatory responses. At the multilateral level, the OECD/G20 Inclusive Framework on BEPS, now encompassing more than 140 member jurisdictions, pursued continued negotiation toward a consensus-based solution, culminating in the July 2021 Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy, to which 134 jurisdictions agreed as of that date, with membership expanding to 136 by the October 2021 statement and 139 by mid-2023 [3], [4]. The Two-Pillar Solution comprises two structurally distinct mechanisms: Pillar One reallocates a defined portion of the residual profit of the very largest and most profitable multinational enterprises, those with global turnover above €20 billion and profitability above 10%, to the market jurisdictions where their users and customers are located, termed "Amount A," directly addressing the nexus problem BEPS Action 1 identified by creating a new taxing right independent of physical presence [4], [5]. Pillar Two, by contrast, addresses base erosion more broadly through the Global Anti-Base Erosion (GloBE) Model Rules, released in December 2021, which establish a coordinated global minimum effective tax rate of 15% for multinational enterprise groups with consolidated revenue exceeding €750 million, operationalized through a top-up tax mechanism that allows one jurisdiction to "tax back" profit that another jurisdiction has taxed below the minimum rate [6], [7].

At the unilateral and regional level, frustration with the slow pace of multilateral consensus led numerous jurisdictions to adopt interim measures unilaterally, most prominently the European Commission's March 2018 proposal for a Council Directive establishing a common EU Digital Services Tax (DST), which would have imposed a 3% levy on gross revenues from targeted online advertising, digital intermediation platforms, and the sale of user-generated data by enterprises with worldwide revenue exceeding €750 million and EU revenue exceeding €50 million [8], [9]. This EU-wide proposal ultimately failed to secure the unanimous Council approval required under EU tax legislative procedure, with opposition from Ireland, Luxembourg, and the Nordic member states, who feared the measure would disproportionately burden their digitally oriented economies and invite retaliatory measures against their broader digital investment climate, and the proposal was formally shelved by March 2019 after member states could not agree even on a narrowed, advertising-only version [9], [10]. The practical consequence of this EU-level failure was precisely the fragmented, jurisdiction-by-jurisdiction landscape the Commission had sought to avoid: individual member states, including France, Italy, Austria, and later others, proceeded to enact their own unilateral national DSTs, each with differing rates, thresholds, and scope, producing the patchwork of overlapping and inconsistent national digital tax regimes that continues to characterize the field [10].

The legal doctrine governing domestic, sub-national digital nexus has undergone a parallel and independently significant transformation, most clearly illustrated by the United States Supreme Court's 2018 decision in *South Dakota v. Wayfair, Inc.* Prior to *Wayfair*, U.S. state sales tax nexus was governed by the physical-presence rule established in *National Bellas Hess, Inc. v. Department of Revenue of Illinois* (1967) and reaffirmed in *Quill Corp. v. North Dakota* (1992), under which a state could not require an out-of-state seller to collect sales tax absent some physical footprint within that state [11]. In *Wayfair*, decided June 21, 2018, the Court overturned this physical-presence requirement and upheld South Dakota's economic-nexus statute, which imposed sales tax collection obligations on any remote seller exceeding $100,000 in in-state sales or 200 separate transactions annually, regardless of physical presence [11], [12]. Following the decision, the substantial majority of U.S. states enacted their own economic-nexus statutes modeled on South Dakota's threshold structure, though with meaningful variation in the specific dollar and transaction thresholds adopted, producing a state-by-state compliance landscape that professional tax practice literature has consistently identified as one of the most operationally burdensome consequences of the ruling for multi-state and multinational digital sellers [12], [13].

As of the most recent developments in this field, the multilateral Two-Pillar framework's durability has come under direct and material strain. Pillar Two's GloBE rules are now reported to be in force in more than 50 jurisdictions as of early 2025, representing substantial implementation progress on the base-erosion component of the framework [7]. Pillar One's implementation, by contrast, has been significantly destabilized: on January 20, 2025, the United States formally withdrew from the OECD-led Pillar One global digital tax reform negotiations, a development that has directly prompted the European Commission to publicly raise the prospect of reviving its previously shelved pan-EU Digital Services Tax as a negotiating instrument, particularly in the context of subsequent U.S. reciprocal tariff actions against EU goods [14]. This unresolved and actively evolving conflict between multilateral consensus-building and unilateral national or regional measures represents the central legal and regulatory tension this paper examines.

Research Objectives

1. To trace the legal and regulatory evolution of international digital economy taxation from the OECD's 2015 BEPS Action 1 report through the 2021 Two-Pillar Solution.
2. To examine the structural mechanisms of Pillar One and Pillar Two and their departure from the traditional permanent-establishment nexus standard.
3. To analyze the European Union's unilateral Digital Services Tax proposal, its failure at the EU level, and the resulting fragmented national DST landscape.
4. To evaluate the domestic doctrinal shift illustrated by *South Dakota v. Wayfair* and its compliance implications for multi-jurisdictional digital sellers.
5. To assess the current state of multilateral consensus in light of the 2025 U.S. withdrawal from Pillar One negotiations and its implications for global tax compliance.

II. Literature Review

2.1 The Permanent Establishment Standard and Its Digital-Economy Mismatch

The permanent establishment concept, embedded in Article 5 of both the OECD and UN Model Tax Conventions, has historically functioned as the threshold determination governing whether a source jurisdiction may tax the business profits of a nonresident enterprise, requiring some fixed place of business or dependent agent presence within that jurisdiction [1]. The OECD's BEPS Action 1 Final Report formally examined why this standard proves inadequate for the digital economy, concluding that digital enterprises can achieve substantial and sustained economic engagement with a jurisdiction's user base, generating advertising revenue, data value, and platform network effects, entirely through remote digital means, without triggering the physical-presence threshold the permanent establishment standard requires, and further concluded that because digitalization increasingly permeates the entire economy rather than remaining confined to an identifiable "digital sector," a targeted, sector-specific carve-out solution was not viable, necessitating a broader structural reconsideration of nexus and profit-allocation rules [2]. This 2015 report did not itself resolve the underlying legal question but established the foundational diagnosis, and the resulting six years of continued OECD/G20 negotiation, that produced the 2021 Two-Pillar Solution [2], [3].

2.2 Pillar One: Reallocation of Taxing Rights Through Amount A

Pillar One directly addresses the nexus problem identified in BEPS Action 1 by creating a new taxing right, termed Amount A, that reallocates a defined portion of the residual profit of the largest and most profitable multinational enterprise groups to the market jurisdictions where their users and customers are located, independent of any physical presence requirement [4]. Under the framework agreed in the 2021 Statement, in-scope enterprises are those with global turnover above €20 billion and profitability above 10%, with the turnover threshold contemplated to fall to €10 billion contingent on successful implementation and a review of tax-certainty mechanisms beginning seven years after the agreement's entry into force [5]. This structure represents a genuine legal innovation because it does not attempt to expand the definition of permanent establishment to capture digital presence, an approach the EU's earlier "significant digital presence" proposal had pursued, but instead creates a formulary reallocation mechanism operating independently of the traditional nexus and profit-attribution rules embedded in the existing bilateral tax treaty network [4], [8].

2.3 Pillar Two: The Global Anti-Base Erosion Model Rules

Where Pillar One addresses the allocation of taxing rights over a narrow set of the largest multinationals, Pillar Two addresses base erosion more broadly across all in-scope multinational enterprise groups through the Global Anti-Base Erosion (GloBE) Model Rules, released by the OECD/G20 Inclusive Framework in December 2021, which establish a coordinated global minimum effective tax rate of 15% applicable to multinational enterprise groups with consolidated annual revenue exceeding €750 million [6]. The GloBE Rules operationalize this minimum through a jurisdictional blending and top-up tax mechanism: where a multinational group's effective tax rate in a given jurisdiction, calculated on a jurisdiction-wide basis, falls below 15%, another jurisdiction is granted the right to impose a top-up tax capturing the shortfall, a structure explicitly designed so that the minimum tax outcome is achieved regardless of which specific jurisdiction ultimately collects the top-up amount [7]. A complementary component, the Subject to Tax Rule (STTR), operates as a treaty-based mechanism specifically protecting the right of developing Inclusive Framework members to tax certain intra-group payments, such as royalties and interest, where those payments would otherwise be subject to a nominal tax rate below the agreed minimum, addressing a base-erosion channel of particular concern to lower-income source jurisdictions [15]. Following the European Commission's subsequent adoption of an EU Directive incorporating the GloBE Model Rules into EU law, and comparable implementing legislation across other jurisdictions, Pillar Two rules are now reported to be in force in over 50 jurisdictions worldwide as of early 2025, representing the most substantially implemented component of the Two-Pillar framework to date [7].

2.4 The European Union's Unilateral Digital Services Tax: Proposal and Failure

Frustrated by the pace of OECD-led multilateral negotiation, the European Commission issued two draft directives on March 21, 2018, addressing digital economy taxation: a long-term proposal that would have introduced the concept of a "significant digital presence" as a new form of deemed permanent establishment triggering corporate income tax liability, and an interim Digital Services Tax proposal imposing a 3% levy on gross revenues from online advertising placement, digital intermediation services facilitating transactions between users, and the sale of data generated from user-provided information, applicable to enterprises with worldwide revenue above €750 million and EU-taxable revenue above €50 million [8], [16]. The Commission projected the interim DST would generate up to approximately €5 billion in annual revenue across the EU and explicitly framed it as a stopgap measure pending a comprehensive OECD-led global solution [16]. The proposal required unanimous Council approval under the EU's special legislative procedure for tax matters, and this unanimity requirement ultimately proved fatal: opposition from Ireland, Luxembourg, and the Nordic member states, motivated by concern that the measure would disadvantage their digitally oriented economic sectors, prevented adoption even of a narrowed version limited solely to digital advertising revenue that France and Germany had proposed as a compromise, and the proposal was formally abandoned by March 2019 [9], [10].

2.5 The Resulting Fragmented Landscape of Unilateral National DSTs

The EU-level DST's failure produced precisely the fragmented outcome the Commission's proposal had explicitly sought to avoid: individual EU member states, together with a number of non-EU jurisdictions, proceeded to enact their own unilateral national digital services taxes, generally following the broad structural template of the original EU proposal, targeted advertising revenue, digital marketplace intermediation, and, in some national variants, data sale revenue, but differing meaningfully in specific rate, revenue thresholds, and precise scope across jurisdictions [10]. Austria's national DST, for example, is limited entirely to the targeted-advertising category, while other jurisdictions adopted broader scope encompassing marketplace intermediation revenue as well, producing a compliance landscape in which a single multinational digital enterprise operating across multiple European markets may face materially different DST obligations, rates, and filing requirements in each jurisdiction despite the underlying digital business model being substantially uniform across markets [10].

2.6 Domestic Nexus Doctrine: *South Dakota v. Wayfair* and Economic Nexus

Parallel to the international-level developments reviewed above, the legal standard governing sub-national tax nexus within the United States underwent its own foundational transformation. Prior to 2018, U.S. state sales tax nexus was governed by the physical-presence rule first established in *National Bellas Hess, Inc. v. Department of Revenue of Illinois* (1967) and subsequently reaffirmed in *Quill Corp. v. North Dakota* (1992), under which a state could not constitutionally require an out-of-state seller lacking physical presence within that state to collect and remit sales tax, even where that seller conducted substantial remote commerce with in-state customers [11]. In *South Dakota v. Wayfair, Inc.*, decided June 21, 2018, the U.S. Supreme Court directly overturned this physical-presence requirement, upholding South Dakota's economic-nexus statute, which required remote sellers exceeding $100,000 in annual in-state sales or 200 separate transactions to collect and remit South Dakota sales tax regardless of physical presence, on the basis that the physical-presence rule had become an artificial and increasingly distortive standard in a digitally enabled interstate commerce environment [11], [12]. Following the decision, the substantial majority of U.S. states enacted comparable economic-nexus statutes, generally modeled on South Dakota's threshold structure but varying in specific dollar and transaction-count thresholds, producing a state-by-state compliance landscape frequently described in professional tax practice literature as one of the more operationally significant post-*Wayfair* burdens for multi-state digital and remote sellers, since no uniform threshold or filing standard applies across the more than forty states that now impose some form of economic-nexus sales tax obligation [12], [13]. This domestic doctrinal shift, functionally analogous in its rejection of physical presence to the international Pillar One reallocation mechanism, illustrates that the nexus problem BEPS Action 1 identified at the international level has a direct sub-national analogue that United States courts, rather than international treaty negotiation, ultimately resolved through domestic constitutional doctrine [2], [11].

2.7 The 2025 Destabilization of Pillar One and Renewed Unilateral Risk

The multilateral consensus underlying the Two-Pillar Solution has come under direct and material strain in the most recent period covered by this review. On January 20, 2025, the United States formally withdrew from the OECD-led Pillar One negotiations, a development that removes the world's largest economy, and the home jurisdiction of many of the multinational digital enterprises the framework was originally designed to address, from active participation in finalizing the Amount A reallocation mechanism [14]. This withdrawal has directly prompted renewed European Commission consideration of reviving the previously shelved pan-EU Digital Services Tax, with Commission President Ursula von der Leyen explicitly raising the prospect of restarting EU-27 discussions on a 3% DST, framed in part as negotiating leverage in the context of subsequent U.S. reciprocal tariff measures against EU goods [14]. This sequence of events, a decade after BEPS Action 1 first diagnosed the digital nexus problem, illustrates that the underlying jurisdictional and revenue-allocation conflict between major economies remains legally and politically unresolved, and that the fragmented unilateral landscape the 2021 Two-Pillar Solution was specifically designed to supersede remains an active, rather than merely historical, regulatory risk [3], [10], [14].

2.8 Research Gap

While the OECD Two-Pillar framework, the EU DST proposal, and *Wayfair*-based economic nexus doctrine have each been extensively documented individually, relatively few legal analyses synthesize the domestic U.S. sub-national nexus transformation and the international multilateral/unilateral tax framework within a single comparative doctrinal analysis, despite both addressing structurally analogous nexus problems through different legal mechanisms, constitutional adjudication in one case, multilateral treaty-based agreement in the other [2], [11]. Furthermore, most existing academic and professional literature addressing the Two-Pillar Solution predates or only partially accounts for the January 2025 U.S. withdrawal from Pillar One negotiations, leaving a gap in analysis of how this most recent development affects the framework's practical compliance implications for multinational enterprises [3], [14]. This study addresses these gaps by synthesizing the international multilateral, EU regional, and U.S. domestic doctrinal developments within an integrated comparative legal framework current through the most recent 2025 developments.

III. Methodology

3.1 Research Design

This study adopts a doctrinal, comparative legal research design, analyzing primary regulatory and treaty instruments, judicial decisions, and legislative proposals addressing digital economy taxation, supplemented by professional services and international-organization literature reporting on implementation status and compliance impact. The approach synthesizes findings across multilateral (OECD/G20), regional (EU), and domestic (U.S. state-level) legal frameworks to characterize the comparative structure and current status of digital economy tax compliance obligations.

3.2 Conceptual Framework

The framework applied in this review distinguishes three legal response mechanisms to the digital economy nexus problem: (1) **multilateral consensus-based reform**, exemplified by the OECD/G20 Two-Pillar Solution, which reallocates taxing rights and establishes a global minimum tax through negotiated agreement among participating jurisdictions; (2) **unilateral regional/national measures**, exemplified by the EU DST proposal and its successor national DSTs, which impose new tax obligations independent of, and at times in tension with, the multilateral process; and (3) **domestic doctrinal adjudication**, exemplified by *Wayfair*, in which courts reinterpret existing constitutional or statutory nexus standards to accommodate digitally enabled commerce without new legislative or treaty action. These three mechanisms are evaluated for their comparative legal durability, compliance-cost implications, and current implementation status.

3.3 Data Sources

The literature synthesized in this review draws on primary OECD/G20 Inclusive Framework instruments, including the 2015 BEPS Action 1 Final Report, the 2021 Statement on a Two-Pillar Solution and its subsequent implementation statements, and the GloBE Model Rules and associated Pillar Two guidance; European Commission legislative proposals and associated directives addressing digital services taxation; the U.S. Supreme Court's opinion in *South Dakota v. Wayfair, Inc.* and associated Congressional Research Service and professional tax practice analysis of its post-decision implementation; and contemporary professional services and international-organization reporting on Pillar Two jurisdictional implementation status and the 2025 Pillar One negotiation developments.

3.4 Analytical Framework

Reviewed instruments and case law were classified according to the three-mechanism framework described in Section 3.2, and further evaluated by legal basis (treaty/multilateral agreement, EU directive/regulation, domestic constitutional doctrine, or national statute), by scope (global, regional, or state-level), and by current implementation status (in force, proposed/pending, or abandoned), enabling systematic comparison of which legal mechanisms have achieved durable implementation and which remain contested or unresolved as of the most recent available developments.

3.5 Evaluation Criteria

Comparative evaluation in this review uses criteria appropriate to comparative doctrinal legal analysis: **legal basis and authority** (the specific treaty, directive, statute, or judicial doctrine establishing the obligation), **jurisdictional scope** (the number and character of jurisdictions bound by or adopting the mechanism), **implementation status** (in force, pending, or abandoned, as of the most recent reviewed developments), and **compliance burden characteristics** (reported thresholds, rate variation, and cross-jurisdictional consistency, or lack thereof, affecting multinational enterprise compliance obligations).

IV. Results and Discussion

4.1 Comparative Status of the Three Legal Response Mechanisms

Table I summarizes the comparative legal basis, scope, and implementation status of the multilateral, unilateral/regional, and domestic doctrinal mechanisms reviewed in Section II.

Table I. Comparative legal mechanisms addressing digital economy tax nexus

Mechanism	Legal basis	Jurisdictional scope	Key threshold/rate	Implementation status (as of early 2025)	Source
OECD Pillar One (Amount A)	Multilateral political agreement, pending Multilateral Convention	139 Inclusive Framework members agreed (2023); MLC not yet in force	MNEs >€20bn turnover, >10% profitability	Stalled; U.S. withdrew from negotiations Jan. 2025	[3]–[5], [14]
OECD Pillar Two (GloBE Rules)	Model rules + domestic implementing legislation/EU Directive	Over 50 jurisdictions with rules in force	15% global minimum effective tax rate; MNEs >€750m revenue	Substantially implemented and operative	[6], [7]
EU Digital Services Tax (2018 proposal)	Proposed EU Council Directive (required unanimity)	Would have applied EU-wide	3% of gross revenue; MNEs >€750m global / >€50m EU revenue	Abandoned March 2019; revival under consideration as of 2025	[8]–[10], [14]
National unilateral DSTs (France, Italy, Austria, others)	Domestic national legislation	Jurisdiction-specific, no harmonization	Varies by country (rate, scope, threshold)	In force in multiple jurisdictions; fragmented	[10]
U.S. economic nexus (*Wayfair* doctrine)	U.S. Supreme Court constitutional ruling + state statutes	Sub-national (U.S. states)	Varies by state (South Dakota model: $100,000 or 200 transactions)	In force in the substantial majority of U.S. states since 2018	[11]–[13]

4.2 The Central Legal Tension: Consensus Durability Versus Unilateral Fragmentation

The comparative pattern in Table I reveals the central legal tension defined by this review: the mechanism with the broadest formal jurisdictional buy-in, Pillar One, with 139 jurisdictions having agreed to the underlying statement, is simultaneously the mechanism whose actual legal implementation remains least advanced, still pending a Multilateral Convention that has not entered into force and now facing the withdrawal of a major participating economy [3], [5], [14]. Pillar Two, by contrast, has achieved substantially more concrete implementation, operative in over 50 jurisdictions, precisely because its minimum-tax mechanism does not require the same degree of politically contentious taxing-rights reallocation that Amount A entails; a jurisdiction can adopt

GloBE-consistent minimum tax legislation unilaterally, as the EU did through its implementing directive, without needing the reciprocal, negotiated buy-in that Pillar One's cross-border profit reallocation structurally requires [6], [7]. This distinction carries a direct legal-compliance implication: multinational enterprises can reasonably treat Pillar Two compliance obligations as a stable, near-term operational reality across a substantial share of their global footprint, while Pillar One compliance planning remains subject to material political and legal uncertainty, particularly following the January 2025 U.S. withdrawal, which directly threatens the multilateral consensus the mechanism depends upon [7], [14].

The EU DST case and its national successors further illustrate that unilateral fragmentation is not merely a historical artifact of the pre-2021 period but an active and recurring regulatory risk that resurfaces whenever multilateral consensus falters, precisely the dynamic now unfolding with the European Commission's renewed consideration of reviving its DST proposal in direct response to the Pillar One negotiation breakdown [9], [14]. This pattern, multilateral stall triggering unilateral revival, mirrors the original 2015–2021 sequence in which the slow pace of OECD negotiation motivated the EU's initial 2018 DST proposal in the first place, suggesting that the underlying jurisdictional conflict identified in BEPS Action 1 functions less as a problem that has been resolved by the 2021 agreement and more as a recurring structural tension that resurfaces whenever any single major economy's participation becomes uncertain [2], [8], [14].

4.3 Discussion

The *Wayfair* doctrine offers an instructive point of comparison precisely because it demonstrates that the underlying nexus problem, taxing a remote digital or economically engaged actor absent physical presence, admits a legally durable solution when resolved through domestic constitutional adjudication rather than international treaty negotiation: the economic-nexus standard *Wayfair* established has remained stable and has been adopted, with threshold variation, across the substantial majority of U.S. states since 2018, without the kind of subsequent multilateral renegotiation risk currently threatening Pillar One [11]–[13]. This contrast suggests that the structural difficulty confronting Pillar One is not primarily conceptual, the reallocation-of-taxing-rights logic is well established and legally coherent, but rather institutional: a domestic court within a single sovereign jurisdiction can authoritatively resolve a nexus question through binding constitutional interpretation, whereas an international reallocation of taxing rights among sovereign states fundamentally requires sustained, reciprocal political commitment from every major participating economy, a commitment that remains vulnerable to withdrawal by any single significant party, as the January 2025 U.S. withdrawal directly illustrates [11], [14]. For multinational enterprises and their legal and tax compliance functions, this asymmetry translates into a materially different risk profile across the frameworks reviewed: Pillar Two and *Wayfair*-based U.S. economic nexus obligations should be treated as comparatively stable, near-term compliance requirements, while Pillar One implementation, and the associated question of whether unilateral DSTs will be formally withdrawn as originally envisioned or instead proliferate further as the EU is now reconsidering, remains a genuinely open legal and political question whose resolution will materially affect the compliance burden multinational digital enterprises face over the coming years [7], [10], [14].

V. Challenges in Global Digital Economy Tax Compliance

Several challenges constrain durable resolution of this field's underlying legal tension. Double-taxation risk remains a persistent and practically significant concern, since a multinational enterprise subject to both a national unilateral DST and, prospectively, Pillar One's Amount A reallocation on overlapping revenue streams faces a genuine risk of double taxation absent coordinated withdrawal or credit mechanisms that the current, partially implemented framework does not yet fully guarantee. The Multilateral Convention required to bring Pillar One into binding legal force has not yet entered into effect, meaning that the taxing-rights reallocation at the center of the original BEPS Action 1 diagnosis remains, a decade later, a matter of political agreement rather than binding international law. The fragmented national DST landscape, and its prospective further fragmentation should the EU revive its own proposal, imposes genuine and rising compliance costs on multinational digital enterprises required to track differing rates, thresholds, and scope definitions across dozens of national regimes rather than a single harmonized standard. The post-*Wayfair* state-by-state economic nexus landscape within the United States presents a structurally analogous, though domestically contained, compliance burden, since the absence of a uniform national threshold requires multi-state digital sellers to separately monitor compliance obligations across more than forty distinct state regimes. Finally, the geopolitical volatility illustrated by the January 2025 U.S. withdrawal from Pillar One negotiations underscores that even a formally agreed multilateral framework remains subject to material political risk, complicating long-term compliance and tax-planning certainty for multinational enterprises that must make investment and structuring decisions without confidence in the framework's ultimate legal durability.

VI. Conclusion

This paper has examined the legal and regulatory response to the digital economy's destabilization of the traditional permanent-establishment tax nexus standard, tracing this response from the OECD's 2015 diagnosis in BEPS Action 1 through the 2021 Two-Pillar Solution, the European Union's unilateral Digital Services Tax proposal and its subsequent fragmentation into national measures, and the parallel domestic doctrinal transformation the United States Supreme Court effected in *South Dakota v. Wayfair*. The comparative evidence demonstrates that these three legal response mechanisms, multilateral consensus, unilateral regional or national action, and domestic doctrinal adjudication, have achieved markedly different degrees of durable implementation: Pillar Two's global minimum tax and the *Wayfair*-derived U.S. economic-nexus standard have each achieved substantial, comparatively stable legal implementation, while Pillar One's taxing-rights reallocation mechanism, despite the broadest formal multilateral agreement of any measure reviewed, remains legally unresolved and has been materially destabilized by the United States' January 2025 withdrawal from the underlying negotiations. This divergence indicates that the central legal challenge facing global digital economy tax compliance is no longer primarily conceptual, the mechanisms for reallocating taxing rights and establishing minimum tax floors are well developed and, in Pillar Two's case, substantially operative, but rather institutional and political: sustaining the reciprocal, multilateral commitment among sovereign states that a coordinated reallocation of taxing rights fundamentally requires. Until this institutional challenge is resolved, multinational enterprises operating in the digital economy should expect continued legal fragmentation, persistent double-taxation risk, and genuine uncertainty regarding the ultimate fate of Pillar One, a decade after the underlying problem was first formally diagnosed.

VII. Future Work

Future legal research should prioritize close monitoring and doctrinal analysis of the Multilateral Convention implementing Pillar One as its ratification status evolves, given the material uncertainty introduced by the 2025 U.S. withdrawal from negotiations. Further comparative work is needed examining how jurisdictions manage, or fail to manage, double-taxation risk arising from the overlap between existing unilateral DSTs and any eventual Pillar One implementation, an area where current legal literature remains underdeveloped relative to the practical compliance stakes involved. Continued research should also examine whether the EU's prospective revival of its Digital Services Tax proceeds, and if so, whether it is structured to automatically sunset upon eventual Pillar One implementation as the original 2021 political agreement contemplated, or whether it instead becomes a durable, independent feature of the EU tax landscape. Comparative doctrinal research extending the *Wayfair* case study to other federal or quasi-federal systems facing analogous sub-national digital nexus questions would help clarify whether domestic constitutional adjudication represents a generally viable alternative pathway to multilateral negotiation for resolving digital nexus problems. Finally, future work should track Pillar Two's continued jurisdictional expansion and assess whether its comparatively successful implementation trajectory offers transferable institutional lessons for eventually stabilizing Pillar One's more politically contested taxing-rights reallocation mechanism.

References:

[1] OECD, *Model Tax Convention on Income and on Capital: Condensed Version 2017*. Paris, France: OECD Publishing, 2017.

[2] OECD, *Addressing the Tax Challenges of the Digital Economy, Action 1 – 2015 Final Report*, OECD/G20 Base Erosion and Profit Shifting Project. Paris, France: OECD Publishing, 2015.

[3] OECD, *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy – 1 July 2021*. Paris, France: OECD/G20 Inclusive Framework on BEPS, 2021.

[4] OECD, *Statement on a Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy – 8 October 2021*. Paris, France: OECD/G20 Inclusive Framework on BEPS, 2021.

[5] Tax Policy Center, "What are the OECD Pillar 1 and Pillar 2 international taxation reforms?" Urban-Brookings Tax Policy Center Briefing Book, 2024. [Online]. Available: https://taxpolicycenter.org/briefing-book/what-are-oecd-pillar-1-and-pillar-2-international-taxation-reforms

[6] OECD, *Tax Challenges Arising from Digitalisation of the Economy – Global Anti-Base Erosion Model Rules (Pillar Two)*. Paris, France: OECD Publishing, 2021.

[7] KPMG International, "BEPS 2.0: Pillar One and Pillar Two," KPMG Insights, 2025. [Online]. Available: https://kpmg.com/xx/en/our-insights/risk-and-regulation/beps-2-0-pillar-one-and-pillar-two.html

[8] European Commission, "Proposal for a Council Directive on the common system of a digital services tax on revenues resulting from the provision of certain digital services," COM(2018) 148 final, Brussels, Belgium, Mar. 21, 2018.

[9] Centre for European Policy Studies (CEPS), "Taxing the digital economy," CEPS Policy Insights, 2019. [Online]. Available: https://www.ceps.eu/taxing-the-digital-economy/

[10] LegalClarity, "EU Digital Services Tax: Rates, thresholds, and compliance," legal analysis, 2026. [Online]. Available: https://legalclarity.org/eu-digital-services-tax-rates-thresholds-and-compliance/

[11] *South Dakota v. Wayfair, Inc.*, 138 S. Ct. 2080 (2018).

[12] PwC, "South Dakota v. Wayfair — five years later," PwC Tax Insights, 2023. [Online]. Available: https://www.pwc.com/us/en/services/tax/library/south-dakota-v-wayfair-five-years-later.html

[13] Congressional Research Service, "State Sales and Use Tax Nexus After South Dakota v. Wayfair," CRS Report IF11832, Library of Congress, Washington, DC, USA.

[14] VATCalc, "EU may revive Digital Services Tax proposal," VAT policy analysis, Apr. 2025. [Online]. Available: https://www.vatcalc.com/eu/european-union-delays-digital-services-tax-levy/

[15] OECD, *Tax Challenges Arising from the Digitalisation of the Economy – Subject to Tax Rule (Pillar Two)*. Paris, France: OECD Publishing, 2023.

[16] Deloitte, "European Union alert: European Commission proposes tax on digital services, structural changes to PE rules," Deloitte International Tax Alert, Mar. 23, 2018.