Summary Notes on the DLS entitled:

"Digital Economy Activities: Taxation Challenges"

Tuesday 8 May 2018, from 4:00 p.m. to 6:00 p.m.

Speakers:
- Dr. Mustafa Abdelkader - International Tax Advisor, United Nations Economic and Social Commission.

Discussants:
- Eng. Ashraf Sabry - Founder and Chief Executive Officer, Fawry Banking & Payment Technology Services Ltd.
- Mr. Hatem Montasser – Managing Partner, KPMG Hazem Hassan Public Accountants & Consultants

Moderator:
Dr. Abla Abdel Latif, Executive Director and Director of Research, ECES

Chair:
Ahmed Abu Ali, Board Member, ECES

The main points addressed by the presentation:

- The recent boom in the IT sector has led to the emergence of new types of businesses and business models that are novel to the existing tax systems, such as social networking sites, search engines, online retail companies and other companies engaged in digital economy activities.

- A new type of trade in intangible assets and goods has emerged, such as a person buying an anti-virus software or data processing application online. This development in business and asset models has not been accompanied by a similar development in the taxation rules, hence the problem emerged.

- Accordingly, it is necessary to develop the taxation rules and systems to accommodate these developments for many considerations:

    - First, to ensure fair competition between enterprises operating in the same market; i.e., companies operating in digital activities should not pay lower taxes than those operating in traditional activities.

- Second, the right of the state to collect taxes for spending on education, health, infrastructure and other items of government spending.

The main points of discussions:

First, Income Tax:

- The current taxation rules are designed specifically for traditional economic activities. They require that the company exists on the state's land for its profits to be taxable or, in legal terms, the company should operate through a "permanent establishment" or a "fixed place of business."

- To be taxable, the company should have a real presence on Egyptian territories in the form of a headquarters, a factory, machines and workers such as a textile factory or company. The Egyptian taxation authority can therefor impose a tax on its profits. Thus, the Egyptian Tax Authority cannot impose taxes on the profits generated by the use of Facebook or Google by Egyptians because these companies do not operate through a permanent establishment in Egypt.

- A company may have a physical presence in a given country in the form of a warehouse or an office for aggregating information and marketing, or even an exhibition or a place to deliver goods but its profits are not taxable; because the law considers storage, supply, delivery and collection of information as preparatory and support activities and that the conduct of these activities does grant the country the right to tax the profits thereof.

- OECD launched the Multilateral Document, which was signed by Egypt in June 2017. This document amended the concept of a “permanent establishment,” so that delivery, supply and information gathering activities are no longer considered preliminary or auxiliary. Accordingly, when companies engaged in digital economy activities conduct such activities in a given country, that country is entitled to impose taxes on its profits.

- What if companies operating in the digital economy conduct their activities in another country through an agent (e.g., Uber in Egypt)? In this case, in order for the State to impose a tax on the profits of the company, the agent must fully act on behalf of the company, i.e., negotiates, enters into contracts and signs agreements on its behalf. Here, the company does not grant the agent the right to sign contracts on its behalf and to send them instead abroad to be signed at the headquarters to avoid giving the state the right to impose taxes on its profits.

- The multilateral document stressed the right of the state to impose a tax on the profits of the company provided the agent plays the main role that leads to conclude contracts, even if the agent doesn’t not sign contracts by himself.

- Egypt should do the following over the coming period:
    - First: Amend the Egyptian tax law to take into account the efforts indicated in the Multilateral Document.

- Second: Develop and restructure tax administrations to improve their capacity to collect taxes by providing comprehensive electronic databases and training employees on the use thereof.

Second: Value Added Tax

- Technological development has shifted attention from the traditional form of goods such as clothing, electrical appliances, furniture, machinery and equipment to other types of intangible goods such as software, films, songs and electronic books (PDF) that can be purchased online through the Internet, not to mention data for research and development purposes.

- These intangible assets are sold and bought online away from the eyes of the customs authorities, which poses a challenge as to how VAT is levied in this case.

- According to Egyptian law, the recipient of the service or the purchaser of the intangible asset must calculate the VAT on the goods and services received and supply it to the tax administration within a specified time period, but this method has proved to be ineffective in most countries of the world.

- The OECD proposes introducing a system called "tax collection by the seller." Assuming that a student has purchased his books from Amazon, the system requires the state to ask Amazon to register with the tax authority, calculate and supply the VAT to it.

- In this case, the state should provide the company with all the incentives that encourage it to do this service, including:
  - Not requiring the company to establish a branch or permanent headquarters within the State, which is subject to income tax.
  - Accelerating customs clearance procedures for any tangible goods that may be traded by the company.
  - Streamlining collection, registration and tax reporting procedures, and allow for conducting such procedures online.
  - Not requiring the company to provide all the needed data in the tax invoice.
  - Enabling the seller to appoint a mediator to collect and supply the tax.

- The challenges of imposing taxes on the digital economy is not exclusively Egyptian problem, but a global one.

- Any transaction in the digital economy is registered and payment methods such as the credit card are used. The bank is informed of this transaction and can know on whose behalf the payments are made. This means that the information already exists and the possibility is there to track it.

- Taxation is a means of development, not an end in itself.

- Egypt is a consumer of digital products, and has great potential to be an exporter thereof, which should be exploited.

- Egypt suffers from a problem in the collection of taxes on normal economic activities such as liberal professions (e.g., artists and physicians). Also, no taxes are collected from the informal economy, which needs to be reconsidered before starting to search for a way to collect taxes from the digital economy.

- It is necessary to reduce the restrictions placed on the tax administration regarding the confidentiality of bank accounts . The law of the Administrative Control Authority allows for access to bank accounts, while the tax law does not allow for that, which should be revisited so the Tax Authority can use the data it receives on electronic transactions.