



 Reina Sofía Museum



European
Region Conference
Madrid-Spain

11-13 March, 2026

Emerging trends in
international taxation:
Europe and its global
connections

Digitalisation and Taxation in Europe: Challenges and Opportunities

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2026

Chair



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Panelists



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Ruben Dirks
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The treaty entitlement in the post-BEPS era

The old concepts are redefined significantly with the notion of value creation and economic substance factors

- Tax Residency
- Beneficial owner

Jakub Jankowski



Tax residency

Indian Supreme Court Ruling as of 15 th January 2026 on Tiger Global - the landmark decision

- The issue of treaty entitlement of Mauritius company to Article 13(4) of the DTA between India and Mauritius (the exemption of capital gains in India)
- The Indian tax authorities claimed that a valid TRC is not sufficient to establish treaty eligibility.



Tax residency

Indian Supreme Court Ruling as of 15 th January 2026 on Tiger Global - the landmark decision

- The ISC held that the authorities are entitled to look beyond the TRC and examine the substance of the arrangement, including: where effective control and management reside; the commercial rationale for the structure; and whether the entity performs meaningful economic functions.



Beneficial owner

Spanish Supreme Court, 12 January 2026, case no STS 20/2026 - the landmark decision

- The Dutch intermediate holding company obtaining royalties - the IR Directive and Spain - Netherlands DTT
- The Court applied actually transfer pricing principles, particularly the expectation that returns from intangibles align with DEMPE functions and value creation. The SSC reconciled this approach with the Danish cases.



Beneficial owner

Spanish Supreme Court, 12 January 2026, case no STS 20/2026 - the landmark decision

- The functions of Dutch entity were limited to the management of the collection of the royalties accrued. The exercise of the limited collection functions cannot equate to 'an unlimited and unrestricted right to use and enjoy the entire royalty received'
- The Dutch entity was not able to demonstrate active management and control of intellectual property. Mere administrative or transitory management without assumption significant economic risks associated with the exploitation of the intangibles



Beneficial owner

Spanish Supreme Court, 12 January 2026, case no STS 20/2026 - the landmark decision

- The complete opposition to *Canada vs Velcro Canada Inc*, 24 February 2012, Tax Court, Case No 2012 TCC 57.
- In that case the Canadian court applied very low threshold for passing beneficial ownership test - the standard of „absolute no discretion’.

Transfer Pricing Considerations and Digitalisation



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AI and transfer pricing challenges

The evolving data centre landscape

Tax controversy



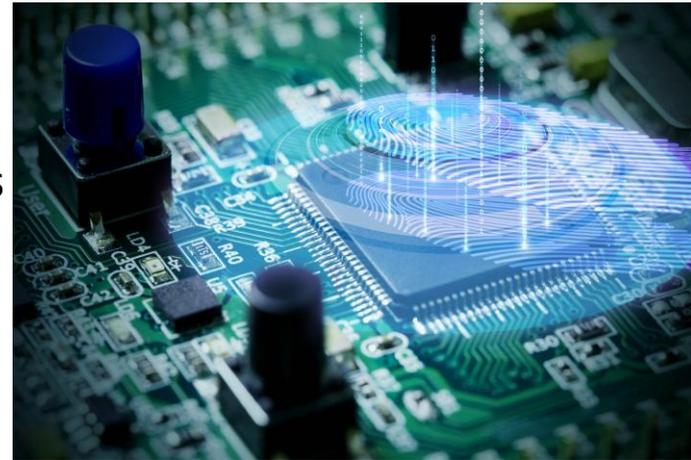
Trevor Glavey



AI and Transfer Pricing Challenges

Overview of the Complexities

- Intricate supply chains
- Creation of novel IP
- New value drivers arise in AI businesses
- Move from task automation to autonomous systems



AI and Transfer Pricing Challenges

Entity Characterisation Challenges

Who controls the economically significant risks?

- Consideration of impact on FAR profile and DEMPE
- CTO versus data scientists
- Who actually understands the risks?
- Circumstances where AI may create new IP
- Case by case analysis required for each MNE
- Importance of RACI and reporting lines

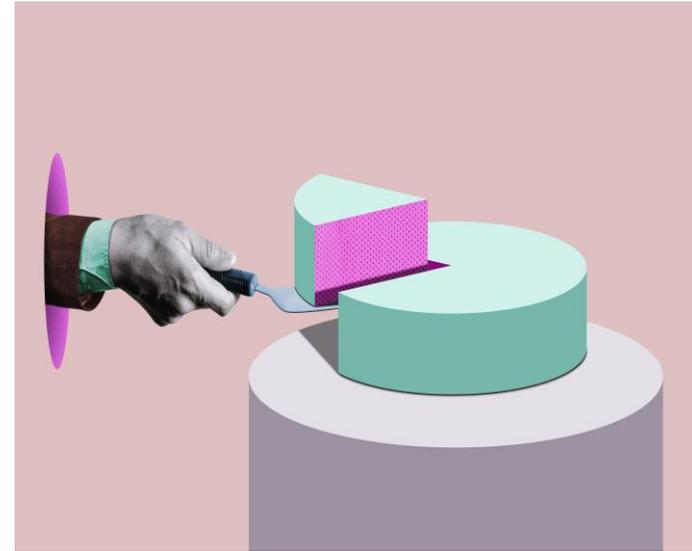


AI and Transfer Pricing Challenges

Profit Attribution Challenges

Importance of data for AI

- Who owns it?
- Should it be attributed its own return?
- If so, is a cost-plus mark-up appropriate?
- Difficulties with benchmarking and comparables in an AI context



The Evolving Data Centre Landscape

Evaluating the Role Played by Data Centres in an AI World

Transfer Pricing

- The importance of data infrastructure to AI
- Are data centres performing a routine activity?

Permanent Establishment Risk

- Do the functions performed by the server form an essential part of the enterprise's business?
- Are core functions of the enterprise carried out through the equipment?



Impact on Tax Controversy

Importance of TP Documentation

- First line of defence
- Identify the economically significant risks
- Articulate who controls DEMPE

Trends

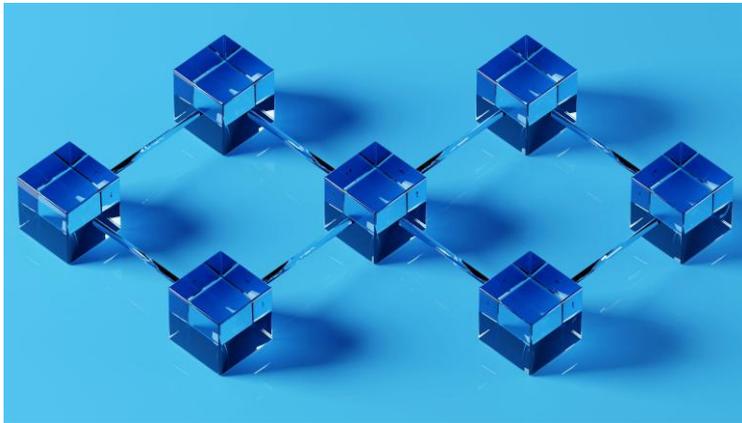
- Extensive information gathering
- Expanded functional interviews
- Focus on FAR and DEMPE
- Appropriateness of cost-plus being challenged
- A “whole of code” approach?



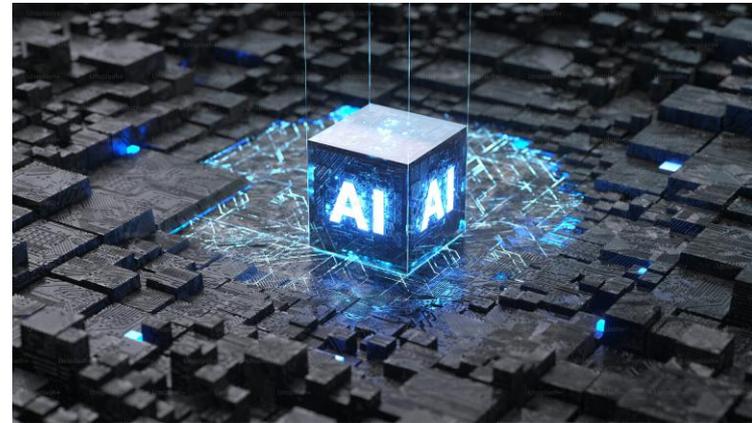


Why does digital transformation happen?

Remember this?



And now:



Ruben Dirks



Why does digital transformation happen?

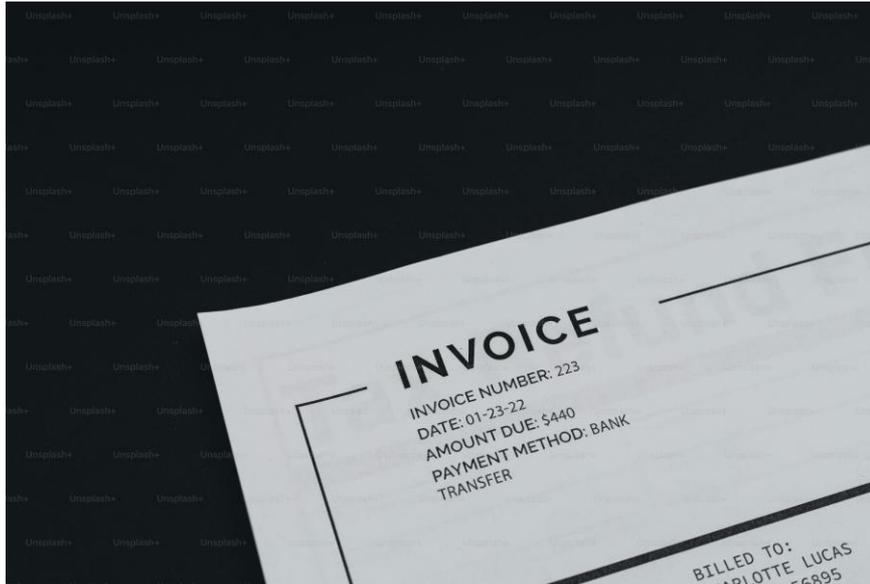
Cool topics, individual gains, cool CEO's





Electronic invoicing

Not cool, group gains, high implementation cost





Politics

Government mandates are never free (not just eInvoicing, also reports)





Reality

Mandate with mixed goals, it's not all business



Europe



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Europe tries to save us, but fails (a little)





New status quo

Group gains to be made but be careful! (data safety, implementation strategy, interoperability)





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Digitalization and Digital Transformation of Tax Administrations: **the Latin American experience**

Diana Calderón Manrique

Digitization, Digitalization and Digital Transformation



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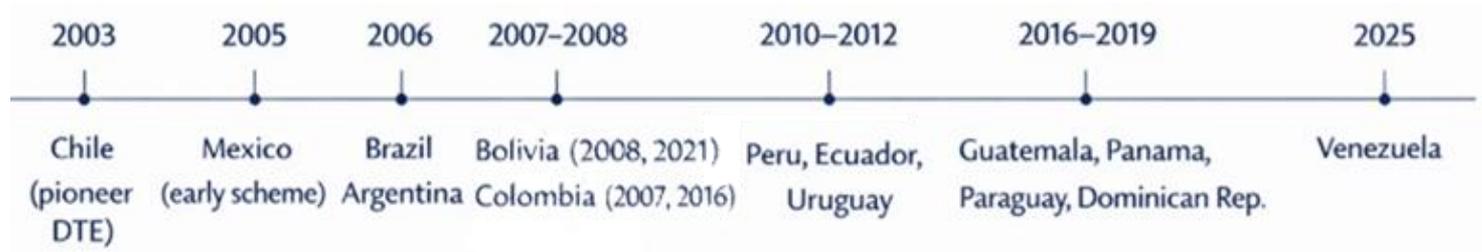


E-Invoicing in LATAM



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LATAM pioneered e-invoicing to enhance transactional visibility and strengthen VAT compliance. Predominantly clearance-based models, with real-time or near real-time validation.



E-Invoicing in LATAM



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Main impact

Improved VAT transparency, compliance,
and fraud prevention

Uruguay: +3.7% VAT payments within six months
(*Bérgolo evaluation; IDB-CIAT, 2018*).

Argentina: Revenue impact up to +10% (*Artana & Templado; IDB-CIAT, 2018*).

... beyond VAT

- **Rio Grande do Sul,** e-invoicing data is used to set market-based reference prices for public procurement.
- Factoring industry growth.
- **Brazil:** Integration of NF-e with electronic freight documentation (CT-e) to enable real-time fiscal control over the physical circulation of goods.
- Backbone to **fully integrated digital tax ecosystems...**

Integrated digital tax ecosystems

Mexico – CFDI (e-invoice) as compliance backbone:

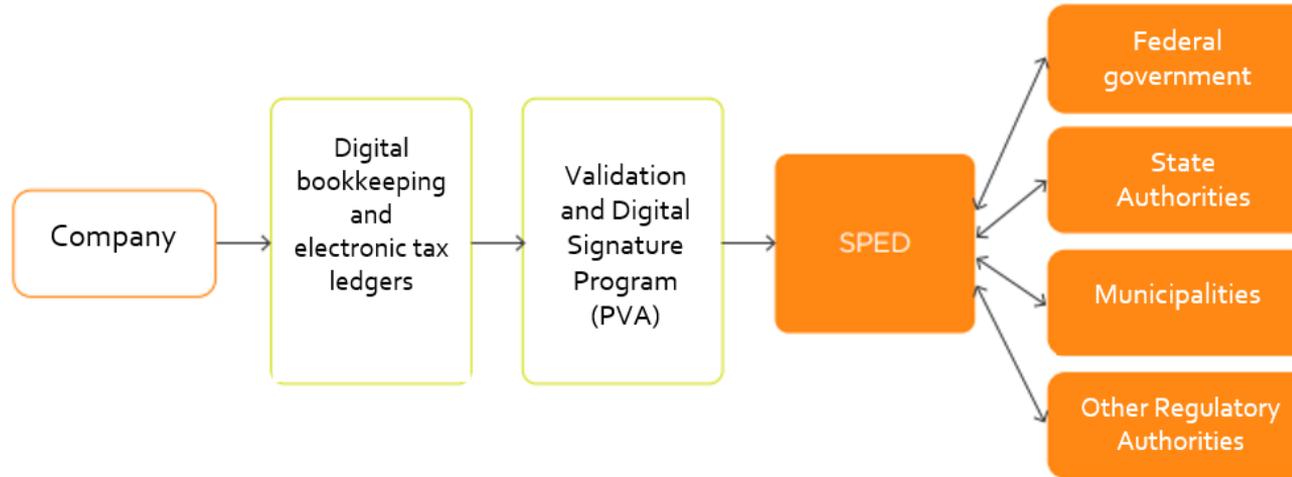
- CFDI required for VAT, income tax, payroll, withholdings and deductions (cross-checked against transactional data).
- Real-time e-invoice validation (third party certification model - PAC).



Brazil – SPED (2007) unified digital reporting architecture:

- Integration of accounting and fiscal documents under a single digital framework.
- Modules beyond NF-e: ECD (digital accounting), EFD (digital tax bookkeeping), eSocial (payroll), CT-e (transport), NFC-e (retail).
- Interoperability three levels of government (Federal, State, Municipalities).

The Brazilian Public Digital Bookkeeping System (SPED)



Source: IDB, *Documentos tributarios electrónicos y big data económica para el control tributario y aduanero*, 2022. Own translation

Digital transformation: recent developments in LATAM



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Mexico: effective April 2026, digital platforms must grant the TA **near-real-time access to daily transaction data** (24h). Non-compliance sanctions include “kill switch”.

Brazil: “Intelligent” split payment under VAT (IBS/CBS) reform. Many challenges ahead!

Brazil: Sovereign Cloud – *“the foundation of digital sovereignty and accelerated intelligent transformation”.*

Looking ahead



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Data-Driven TAs and AI

- Expansion of **AI-based risk models** for audit selection and anomaly detection.
 - Machine-learning tools applied to invoice cross-matching and fraud pattern detection.
- Increasing use of robotic process automation.
- Use of **blockchain** for customs and document traceability.

Challenges for taxpayers

- **ERP** integration and continuous adaptation to evolving technical standards.
- Fragmentation of technical requirements across jurisdictions.
- Cybersecurity and governance of large-scale taxpayer datasets.
- Increased operational complexity from embedded collection mechanisms.
- **Protection of taxpayers' rights.**



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Let's discuss



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...and what about the future?

Thank you



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