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**Organisation for Economic Co-operation and Development**

**Tax Policy and Statistics**

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## General comments of the American Chamber of Commerce in Poland on the OECD's Document Addressing the Tax Challenges of the Digitalisation of the Economy

- We believe that the arms length standard, or ALS, that includes profit and loss splits, should continue to be respected and enforced. We believe that it is flexible enough to address concerns.
- If a company operates in a country with a physical presence, any special rule for marketing intangible margins should not be imposed, and traditional ALS should apply.
- Further, if a company satisfies the applicable transfer pricing method, a global minimum tax should not apply, and there should not be an additional denial of deductibility on "low-taxed" payments between related parties, when there is a tax treaty with the residence country. A minimum tax would undermine a country's sovereign right to set tax policy that respects economic substance, and could affect the ability to attract foreign direct investment.
- Before any guidance is finalized, there should be a review of the progress of BEPS implementation that may be addressing real and perceived concerns.
- There will need to be stronger dispute resolution processes, including mandatory binding arbitration to minimize double taxation from any new proposals. They should be adopted as a BEPS minimum standard in any consensus solution.
- Direct taxes should be levied on net income, not revenues. Proposals to tax revenues improperly ignore the costs associated with sales and would raise costs to consumers.