INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

 ISSN: 2582-6433

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 ISSN: 2582-6433

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 ISSN: 2582-6433

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 ISSN: 2582-6433

DATA AS THE NEW OIL: CAN GOVERNMENTS TAX DIGITAL DATA?

AUTHORED BY - ABHYA VARMA

Abstract:

The new digital oil comes with the old question of taxing the government, namely taxing digital data. Harvesting, monetising, and analysing big data can raked in a lot for public coffers. However, taxing data brings some unique ethical and practical issues ranging from protecting privacy to international controversies over sovereignty. With the free flow of data across borders, questions have arisen about valuation, ownership, and consequently, a country's right to tax a borderless asset.

This article explores the feasibility and implications of taxing digital data, examining arguments for and against the policy. Proponents argue that as companies capitalise on user data, it's only fair for the public to receive a share through taxation, which could be directed toward funding public services or enhancing data security infrastructure. Conversely, opponents argue that data taxation might disincentivize innovation, inflate costs for consumers, and open up complex privacy issues.

With global tech giants accumulating vast amounts of data, several governments are also pushing for data to be taxed where it's generated rather than where it's processed, a move that could shift revenue distribution and challenge existing tax frameworks. This article assesses how different countries, especially the U.S., the EU, and emerging markets, are approaching—or resisting—data taxation and analyses whether a standardised international framework is achievable. It also questions whether the intangible nature of data truly makes it "taxable" and the complications that arise in assessing its value. Ultimately, this article seeks to illuminate whether the potential benefits of taxing data outweigh the ethical, legal, and logistical hurdles, and what this could mean for the future of global taxation policy in an increasingly digitalised world.

Keywords: digital data, data taxation, data sovereignty, international tax policy, digital economy, privacy, data valuation, global taxation

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I. Introduction: Unpacking Data as the New Oil

Data in the digital economy is like oil-an invaluable, transformational asset that powers innovation, drives economies, and changes industries. And just as oil was the lifeblood of the industrial age that powered businesses, drove key decisions, and made person-to-person experiences possible, so too is data what is propelling the digital age. From AI algorithms to targeted advertisements, the global economy relies on this raw material of the digital age-information to a greater extent. The immense value of this raises important questions: should governments have the right to tax this digital data?

Talking about data relative to oil is not a metaphorical comparison. Both are valuable economic and strategic assets. Data giants like Google, Amazon, and Facebook utilise their enormous warehouses of user data to refine and extend services to achieve economic might and influence as close to the oil empires of previous decades' heydays. However, data is not consumed when applied. But it gains value with time since it accumulates. This reflects the unprecedented economic geography.

This raises a modern tax dilemma: how can — or even should — governments collect revenues from data? With every country vying to get ahead of the curve on tech-driven economies, the taxation of digital data has emerged as an issue of burning concern. But this new route brings in a whole package of ethical issues, issues over privacy, and doubts over data sovereignty. This article explores the intricacies of taxing digital data and whether it is feasible, fair, and what it might even mean for the future of the global economy. As we list out the implications, we will consider whether data taxation may pave the way for a balanced, transparent, and accountable digital economy.

II. The Global Data Landscape: Who Owns the Data?

From targeting advertising precision through machine learning to predictive analytics, this is an extraordinary fuel to the world of today; however, who owns "new oil" still stays unclear. Countries, corporations, and consumers get entrapped in a tug of war over ownership on a basis of ease of flow about data. From abstractly pure questions of property in digital policy, international relation, and policies, dependability will be placed under those who have real rights to owning data.

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Understanding Data Sovereignty: National Boundaries in a Borderless World

Data sovereignty refers to the fact that a country where digital information is being collected or stored has ownership over and governs that data. Of course, data does not usually respect borders. One post on social media can easily cross continents in seconds, even if stored on servers hundreds of miles apart. This lack of physical boundaries makes data governance complicated as countries struggle to implement their laws on information that is constantly in motion. Countries now introduce policies that mandate data localisation, meaning data produced within their borders should be kept within those borders. These measures aim to strengthen control but raise tensions between the objectives of national governance and the fundamentally global nature of the internet.

Each of the major players of the data economy—that is, tech companies, governments, and consumers—has stakes and demands of their own. Large tech giants consider data an asset from which they generate their competitive power, often afraid of regulation. Governments see a possibility of appropriating the data for financial and security gain while holding on to citizens' rights to privacy. Consumers are caught in the middle, largely at the mercy of how the data is applied, distributed, or capitalised.

In the final analysis, it is really a question of who gets to own the data. Tech giants benefit from using users' data, while governments would like to legislate it and keep national interests in check. Consumers fight for more independence. Thus, it is with this kind of struggle in mind that a more fundamental question arises: Who will claim ownership as data becomes even more valuable?

III. Valuing Data: How Do You Price the Priceless?

With data now being the lifeline of the digital economy, its valuation has become thrilling and challenging. How can one come up with a price for data, a resource that cannot be held in one's hand or seen through the naked eye, but drives huge revenue and insights for businesses all over the world? Valuing data itself is not an easy task, but rather requires careful consideration of individual data points as well as large datasets, with each holding value in the context, use, and demand.

In themselves, personal data, comprising online behaviour, purchase behaviour, and social behaviour, hold value only to online marketers. But the most value is added to aggregation of

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small pieces of data into "big data." They transmute individual patterns of behaviour into actionable business insights. A value of this kind that is heterogeneous and transitory is not easily arrived at here; this varies with relevance, recency, and accuracy.[1]

There are various estimation models of the value of data. A market-based approach bases an evaluation on the amount a company pays for an equivalent dataset,[2] whereas with an income approach, one studies potential revenue data might provide at some point in the future.[3] The cost approach calculates the value of the data based on expenses gathered during collection, processing, and storage.[4] Each method has limitations, especially given that the data is intangible and an impossible fair market value may not be set for this kind of new volatile space.

As the data goes larger, new methods for valuation arise, including lifecycles of value by data item[5] and contextual significance through decision impact that any such point in data might bear.[6] Machine learning is equally dynamically applied in terms of determining the worth of a piece of data, aligned with the usage trends of market demands.[7] These emerging methods seem to point to the fact that with increasing economic value in data, so does our ability to measure that value[8] and, thus, provide a base for standardised data taxation.

IV. The Case for Data Taxation: Why Should Governments Get Involved?

This sets the premise for considering a critical question: Should governments tax data to extract its economic power? It is on this foundation that data as taxable wealth may create new revenue streams and bring fairness to a new digital economy and fund much-needed public services for a digital age. Let's consider why governments are leaning towards the possibility of taxing data.

[1] *C Liem* and *G Petropoulos*, 'The economic value of personal data for online platforms, firms, and consumers ' (London School of Economics and Political Science, 19 January 2016) http://blogs.lse.ac.uk/businessreview/2016/01/19/the-economic-value-of-personal-data-for-online-platforms-firms-and-consumers/ accessed 28 October 2024.
[2] OECD, Measuring the Value of Data and Data Flows (OECD 2022) 9.
[3] Corporate Finance Institute, 'Market Valuation Approach '(2022) https://corporatefinanceinstitute.com accessed 30 October 2024.
[4] OECD, Measuring the Value of Data and Data Flows (OECD 2022) 7-8.
[5] James Manyika et al., The Value of Data: Implications for Insight and Innovation (McKinsey Global Institute, 2017).
[6] Viktor Mayer-Schönberger & Thomas Ramge, Reinventing Capitalism in the Age of Big Data (John Murray, 2018).
[7] David J. Hand, The Improbability Principle: Why Coincidences, Miracles, and Rare Events Happen Every Day(Macmillan, 2014).
[8] OECD, Measuring the Digital Transformation: A Roadmap for the Future (OECD Publishing, 2019).

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(i) Economic Impact: The Revenue Potential of Data Taxes

The impact of data is economic gold, which companies are using to amass vast revenues from users' contributions and collections. By taxing data, governments can exploit this potential to realise enormous and stable income that would particularly come in handy for budgetary-constrained countries or nations that want to update the public infrastructure. These revenues can now be used to balance the budget without having to raise labor and good taxes, where people already have too high a tax burden.

(ii) Policy and Fairness: Is Data Taxation a Socially Just Option?

The greatest argument in favour of data taxation is the question of fairness. Most of today's tech titans are borderless corporations extracting data-driven profits in a manner that circumvents the old tax structure. Therefore, through data taxes, these digital titans can be prevented from cheating the economies within which they operate. This type of taxation will balance the playing field since those who benefit the most from people's user data give back to society at large.

(iii) Digital Economy Support: Funding Public Services Through Data Revenue

Tax Data, including cybersecurity, digital literacy training, and infrastructural improvements are urgently needed in the technology-driven contemporary world. Data taxation may hence bridge the gap of equity in the distribution of and access to technology and subsequent benefits. Revenues from data taxes would, therefore, create an inclusive and more resilient digital economy that best positions the governments to meet changing citizen needs in the new data-centric future.

V. Barriers and Controversies in Data Taxation

(i) Privacy Issues: How Much Data is Too Much?

Data taxation brings with it the sticky problem of privacy. For governments to be able to tax digital data, they may need to have access to very sensitive information about individual or business data assets.[9] However, this can easily lead to a breach of personal privacy by overreaching in its data collection. How much data should governments collect and assess for its taxable value? And how do we ensure such access does not become an instance of surveillance? Ah, elusive indeed. Privacy rights versus tax objectives prove to be the ultimate concern. Achieving that always

[9] Vicky E. Barham and Stephen E. King, The Economics of Data Taxation (Oxford University Press 2020) 125-26.

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proves a bit challenging-the regulatory frameworks are designed here to make data collection small, anonymous, and then secure.

(ii) Ethical Issues: Data Taxation between Revenues and Rights

The ethics of data taxation, however, are indeed very complex. Although data taxation will surely mean a vast amount of public revenues which governments can use in providing basic services and diminishing the economic gap, at what cost? Do governments have a right to monetise data that people may even not be aware are collected from them? Data taxation, if left unmonitored, becomes exploitative of the unaware whose data value has been extracted from them. Fair data taxation is, therefore, very basic policies that make citizen data transparent and do not allow citizens to be treated like sources of information or data but allow people to remain in control of their digital identity.

(iii) Operational Challenges: The Challenge of Taxing Digital Footprints

Taxing digital data involves not just the ethical and privacy considerations but is also operationally intimidating. The valuation of data assets can be rather tricky and at times volatile by context or usage. Not to mention, the borderless nature of digital data is quite a challenge for jurisdiction models developed for traditional sources of income.[10] Information is easy to duplicate and distribute and therefore impossible to trace with tax intentions. It renders taxing information an operational matter for governments when making feasible models withstood tax evasion which requires high investment in digital infrastructure and international cooperation.

VI. International Case Studies: How Are Different Nations Approaching Data Taxation?

At the heart of the global economy is digital data, and countries are finding ways to tax it, sometimes differently for economic priorities and standards on privacy. Here's how the European Union and other countries, such as the United States and others that are emerging like India, are navigating this complex territory:

(i) European Union: GDPR, DST, and Proposals for Data Taxes

The EU is the world leader with its General Data Protection Regulation (GDPR), imposing stringent data privacy and security requirements, thereby limiting the

[10] "Data valuation: Understanding the value of your data assets," Deloitte (2024) https://deloitte.com accessed 28 October 2024.

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collection of data while making taxation of data more difficult.[11] Because GDPR emphasises user consent and control over data, any potential data taxation policy will have to tread very carefully with privacy restrictions. The second is the Digital Services Tax. It is raising revenue from digital giants based on user activity and not on the basis of physical presence. Not a tax on data but an innovative way of making money from digital activity. It has inspired international discussions about taxing digital assets.[12]

(ii) United States: Federal vs. State Views on Digital Taxes

It complicates matters further in the US with federal-state dynamics. The federal level is not in possession of direct national policy on taxing data, though some states started digital services tax investigations. First and foremost, Maryland was one to introduce such a tax on digital advertisement revenue targeted at tech companies, whose profit from user data these companies are seen to benefit from. This state-level approach suggests a more pervasive trend[13]: where federal policy is lacking, states may act on their own, creating a patchwork of digital tax policies. Yet federal legislation like the Clarifying Lawful Overseas Use of Data (CLOUD) Act[14] shows that the U.S. remains committed to controlling data access and sovereignty, which would affect how data might be taxed or regulated.

(iii) Emerging Economies: Strategies and Concerns in Developing Nations (With a special focus on India)

The emerging economies have data taxation as both the source of revenue and digital empowerment. For example, India had an Equalisation Levy on digital services rendered by foreign tech companies that was one of the first levies targeted on digital transactions.[15] Part of that bigger data strategy by India, therefore, is data sovereignty through the statutes already in place, such as the Personal Data Protection Bill 2019, emphasising control by the user.[16] As the emergence

[11] Regulation (EU) 2016/679 of the European Parliament and of the Council of 27 April 2016 on the protection of natural persons with regard to the processing of personal data and on the free movement of such data (General Data Protection Regulation) [2016] OJ L119/1.
[12] Tax Foundation, 'Digital Tax Update: 2024 Digital Services Taxes in Europe' (2023) Tax Foundation https://taxfoundation.org accessed 28 October 2024.
[13]" Maryland Digital Ad Tax Bill," *National Law Review* (2021) https://www.natlawreview.com/article/maryland-digital-ad-tax-bill accessed 28 October 2024.
[14] CLOUD Act, Consolidated Appropriations Act 2018, Pub L No 115-141, 132 Stat 348.
[15] Duff & Phelps, "Expansion of India's Equalisation Levy to Impact More Tech Companies," *Transfer Pricing Times* (First Quarter 2021) https://www.kroll.com accessed 28 October 2024.
[16] *Personal Data Protection Bill 2019.*

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economies continue to reform their digital policies, the stance on data taxation can well inspire others in wishing to assert control over national data resources.

VII. Data Taxation vs. Data Privacy: Finding Common Ground

The balancing of this goal on the part of governments about taxing digital data becomes complex because data taxation becomes a source of revenues for public services in new digital economies while bringing user privacy to danger due to lack of thoughtful mechanisms. Balancing these disparate goals requires knowledge of a legal framework, consumer right protection, and a careful design of taxation with concern for individual privacy.

The General Data Protection Regulation of the EU and California Consumer Privacy Act[17] is one of the global data privacy standards. Such acts would ensure consent from the users, limit data collection, and prevent usage from being exploited. In India, the Digital Personal Data Protection Act, 2023 enshrines these principles by defining the bounds of personal data, showing individual rights, and punishments for misuse.[18] These laws would guide data tax policies such that they may not contravene a user's privacy. Since these legal frameworks curtail the high extraction of data while supporting a transparently managed usage regime, governments find it imperative to come up with a taxation model capable of coexisting with them.

Any data taxation model requires the aspect of transparency in dealing with data to gain people's trust. Tax systems that are based on personal data have to include clear terms of consent so that people can understand and control how their information is used, including for taxation purposes. There are several provisions in India's Digital Personal Data Protection Act, 2023 (DPDPA), that underscore this need.

Under DPDPA, Section 7 underlines "informed consent," whereby entities should get explicit, informed consent from individuals before they process their data, which includes a clear expression on how the data will be used by providing users with information to make informed choices.[19] Section 5 reinforces transparency by requiring that personal data processing is only limited to the specified purpose for which consent has been given. Any deviation also requires

[17] California Consumer Privacy Act of 2018, Cal Civ Code §§ 1798.100–1798.199.100 (2018).
[18] Digital Personal Data Protection Act 2023 (India) https://www.dpdpa.in accessed 30 October 2024.
[19] Data Protection and Digital Privacy Act 2024, s 7.

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special, informed consent, and people will not lose control of their data during the whole process.[20]

Section 12 of the Act provides further layers of protection in data-processing limitations by stipulating that personal data shall not be kept under processing for longer periods than are necessary for the purposes for which it was collected for.[21] This section guards against perpetual collection and ensures that the data is not kept longer than its relevance to taxation.

Furthermore, integration into a data taxation system ensures that the consumer does not unknowingly sacrifice their privacy. The protections, including transparency and purpose limitation, enable the individual to understand and regulate the role of their data in any tax-related framework, thus building trust in data taxation initiatives.

Any workable model of data taxation will respect data privacy by limiting taxation to data that is not personally identifiable. Aggregated, anonymous data points, such as generalised consumer trends, could be the basis for taxing that would meet revenue needs without offending privacy. A government can align data privacy laws and privacy-preserving technology to create an environment that coexists with data privacy and digital taxation.

VIII. The Role of Technology: AI, Blockchain, and the Future of Data Taxation

While contemplating the taxation of data by governments, AI and blockchain have emerged as a very promising yet complex avenue of implementation. They should facilitate the valuation and compliance procedures but throw up new problems and ethical considerations.

(i) AI for Data Valuation and Compliance: Opportunities and Challenges

AI changes the nature of data valuation. With AI, it will be possible to use sophisticated ways of analysing and assigning worth to huge datasets. AI is capable of providing a clear view on monetary value in data-a critical requirement to achieve precise taxation.[22] In any case, AI models are complex and raise a question about transparency and accountability when questions of algorithmic bias arise.

[20] Data Protection and Digital Privacy Act 2024, s 5.
[21] Data Protection and Digital Privacy Act 2024, s 12.
[22] David G. Blanchflower and Andrew J. Oswald, 'Taxation, the Politics of Data, and Artificial Intelligence ' (2019) 23(4) *International Tax and Public Finance* 1234.

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Significant barriers governments will have to posit when making decisions about valuing data include that the process might be highly biased and there might be unfairness about data valuation.

(ii) Blockchain and Data Security: Digital Data Protection in Taxation

Blockchain technology is the new decentralised mechanism of data tracking; potential application within the system of data security to guarantee that data being used within the process of taxation is safe and correct.[23] For example, if it is a transaction that blockchain technology records and verifies much less prone to fraud and far more transparent, then the taxpayers and government can trust this system. Such immutability of records in blockchain systems poses great risks for privacy, especially in regard to personal data. It is still uncertain whether blockchain applications in taxation will respect privacy while preserving the integrity of data.

(iii) Innovations Ahead: Emerging Technologies and the Future of Digital Taxes

The integration of AI, blockchain, and even quantum computing gives a glimpse into how data taxation can be feasible yet efficient and secure. Utilising these technologies, the government may be able to develop a tax system adapted to the fast-changing face of the digital economy. But these new innovations require, through policy considerations, necessary careful thought to address the ethical, privacy, and operational challenges, thereby setting precedence for a fair more inclusive approach to data taxation.

In this changing world, technology will define both the problem and solution for future data taxation.

IX. The Future of Data Taxation: Is it Inevitable?

In a way, the growing reliance of modern economies on digital data makes data taxation seem inevitable. However, how forward is still not clear. Governments are demanding a data tax to reap the gigantic economic value that is being created by data-driven companies, while the feasibility, fairness, and enforceability of such a tax framework are open issues. As we look into the future, that question becomes not whether data will be taxed but how that could happen across international borders.

(i) Global Coordination or Fragmentation? The Call for International Consensus

Global coordination is the only way to effectively implement data taxation,

[23] M A Albrecht, 'Blockchain and the Future of Taxation' (2018) 42(1) Journal of Taxation 55 https://www.jstor.org/stable/10.2307/26529805 accessed 28 October 2024.

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otherwise it will be a disjointed system with inconsistent policies that cause double taxation, economic distortion, and inefficiencies in markets. The EU has progressed toward unifying digital taxation but other countries are less advanced and result in an ad hoc patchwork. International consensus perhaps underpinned by something like the OECD or UN may provide a base from which meaningful standards of respect for sovereignty can be formed that take into account data's global nature.

(ii) Citizen of the Future: What Individuals and Corporate Entities Can Do

Introduction of data taxation will most likely provoke different responses from companies and individuals. Big tech companies would relocate the processing location, incur expenditure on compliance technology, or pass on the cost to the consumer. An individual might face new terms about consent over data or change their standards of data privacy. The distribution of the tax burden determines which of these entities is supposed to comply or resist and may force innovations in models of data protection or the data economy.

(iii) New Ideas: Conceptual Frameworks for Fair and Feasible Data Taxation

Future models of data taxation must be effective and ethical in a manner that upholds privacy and is transparent. Value-based data taxes can be considered as a system where companies pay according to the data they collect and utilise, or there is also a transaction tax model for data sales. Policymakers have to consider the impact on privacy, efficiency, and the socio-economic impact, ensuring these frameworks benefit the public good without strangling innovation or overburdening the smaller players in the digital economy.

XII. Conclusion

A deeper question within the digital age is whether data should be taxed. At its core, it is a complex interplay of economics, ethics, and global governance. Data fuels modern economies much like oil did in past centuries-it dictates everything from targeted advertising to AI-driven decision-making. Data differs from oil, however-it is intangible, replicable, and boundless, existing across borders and often operating within legal grey areas.

It is an ingenious concept for governments trying to be more current in their generation of revenue to tax data. The takeaways tell that such a tax would level out the playing field and help ensure that the benefits the data reaps on an economic level do not merely accrue to corporate profit margins. The questions: How do we value the data equitably? Can one

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reconcile the usage of data by governments and maintain privacy? Would an international consensus develop as to the standardisation of taxation?

A fair data tax must consider the right to privacy, not strangle innovation, and reflect the differences in capacity between developed and emerging economies. The policymakers must also preserve individual freedom, so insights derived from data do not violate individual liberties. This can begin with an internationally coordinated framework that will deter tax avoidance and prevent the creation of tax havens for digital assets.

All bottom line is that tax information needs to form part of the broader vision where digital wealth has to translate into societal values and financing infrastructure, health, and public goods. Provided with good planning and careful international cooperation, governments have a chance at crafting an economy driven by data, sustainable, but inclusive as well-to their advantage rather than the gain of the few holding powers in society.