



**Palestine Economic Policy Research**

# **Prospects for Regulation of the Electronic Commerce Sector in Palestine**

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## **Prospects for Regulation of the Electronic Commerce Sector in Palestine**

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## Foreword

In recent research, the International Monetary Fund (IMF) has projected a decline in future, governmental, tax-collection rates, highlighting different reasons to support this forecast. Such reasons include the growth of commercial transactions between multinational companies; an increase in cross-border shopping; the transfer of skilled workers to Western countries; and an expansion in the use of electronic commerce (e-commerce) as an alternative to traditional commerce. This is further complicated by the emergence of new financial instruments such as digital currencies, as well as the spread of “tax havens”.

This long list of reasons has been a cause for concern by governments, which began to move towards economic protectionism, a practice that is now firmly established in some countries. A prominent recent example was the dispute between the U.S. and French governments over the tax affairs of the GAFAM Group (Google, Amazon, Facebook and Apple). This sparked a wave of escalation between the two governments, expressed in the manipulation of pre-agreed customs duties and taxes. This wave of chaos led to countries the world over agreeing that, through the utilization of technology, there should be an exchange of cross-border information on taxpayers, and users of e-commerce. The majority of bilateral tax agreements include a commitment to exchange information between tax authorities, in order to counter the negative effects of globalization. This is especially relevant to the collection of tax revenues. The Organization for Economic Cooperation and Development (OECD) and the European Union have already started with measures to put this into practice.

In light of this global debate on e-commerce, the Palestinian Ministry of Finance took a number of measures that can best be described as reacting to the risks posed by this sector to future tax-collection rates. Such measures included hiring an employee specifically to monitor parcels of goods arriving via Palestine Post, in addition to monitoring/tracking select e-commerce companies operating in different areas of Palestine. In parallel with the Ministry's measures, the Palestine Public Finance Institute (PPFI) contemplated a comprehensive reform program for this sector. Herein lies the rationale for conducting this research, which provides a preliminary diagnosis of the reality of e-commerce in Palestine - and - prospects for its regulation.

PPFI is the beneficiary of a project funded by the French Development Agency (AFD) and implemented by French Agency for International Technical Expertise (France Expertise). This project invited French experts, specializing in e-commerce tax affairs, to study this topic and discuss it closely with relevant authorities at the Ministry of Finance. PPFI hosted a number of brainstorming and awareness-raising workshops on this emerging sector in the Palestinian economy. This was motivated by the need to prepare the Ministry to withstand the likely impact on its tax-collection rates, while formulating conclusions and recommendations that can serve as a roadmap for building effective tax policies, targeting the e-commerce sector.

The PPFI and MAS are pleased to present this study to the general and specialized audience, hoping it will serve as a reliable and up to date resource on this emerging sector and the complex challenges it poses for the Palestinian economy, both in terms of structural transformation and effective regulation.

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## Executive Summary

The volume of e-commerce has grown over the past two decades, bringing its total global value to \$ 25.6 trillion in 2018 (equivalent to 30% of global GDP), according to estimates by the United Nations Conference on Trade and Development (UNCTAD), with a growth rate of 8% compared to 2017. This has created a major challenge for traditional tax systems based mainly on trade in physical goods that are easy to track. Governments in most countries face the double challenge of enhancing their tax revenues given the development of e-commerce; while simultaneously not impeding the growth of the electronic market and developments in the ICT sector and digital economy. Therefore, setting tax policies for e-commerce, in a way that achieves a balance between financial goals and economic benefits, is a key issue for both developed and developing countries alike.

In Palestine, the scope of electronic commerce has expanded in recent years, evidenced by the significant growth in postal parcels arriving from overseas via Palestine Post (more than 900,000 postal items in 2019, representing a growth of 44% relative to 2018). Moreover, data on the ICT sector in Palestine for 2019, issued by the Palestinian Central Bureau of Statistics (PCBS), reveals that 8.1% of individuals (18 years and over) in Palestine have purchased goods or services via the Internet. UNCTAD's data indicates that the percentage of Internet shoppers (15 years and over) in Palestine was 8% of total Internet users in 2017, and 4% of the total population. E-commerce in Palestine has also witnessed a spurt in growth in recent months, due to the state of emergency and accompanying measures adopted by the Palestinian government at the beginning of March 2020 to limit movement, in order to restrict the spread of the corona virus across the Palestinian territories. This caused an increase in the number of electronic consumers who purchased goods/services through local/global electronic shopping-sites.

In order to keep abreast of developments in the e-commerce sector in Palestine, the surrounding environment must first be understood. If this environment is properly configured, it can serve as a catalyst and driver for e-commerce growth among various population groups. The environment surrounding e-commerce focuses on four main axes. These are digital infrastructure; payment mechanisms; Palestine Post and delivery companies; and the legal environment.

Digital infrastructure is the basis for e-commerce platforms, meaning that the growth in the use of ICT by individuals/institutions contributes significantly to creating a digital environment that helps the spread of e-commerce. Data indicates a significant growth in the use of the Internet in Palestine during the past years, clearly shown by PCBS data captured in the ICT Sector Survey of 2019. The percentage of families with Internet access in Palestine increased from about 52% in 2017 to about 80% in 2019, in addition to a significant growth in the use of smartphones, at the level of both individuals and families.

Low levels of financial inclusion are one of the obstacles to the development of e-commerce, especially e-commerce activities through international shopping-sites. The slow growth in the adoption of payment technology, or electronic payment methods, in Palestine has led to the adoption of other forms of payment, such as payment on delivery, which is the most common method of email shopping in the Arab world and a large number of developing countries. Figures issued by PCBS indicate that 86.5% of Palestinians who made purchases via the Internet used cash on delivery for payment. 15.2% used online credit-card payments, 7.5% used

direct debit card or electronic bank transfer via the Internet. Only 3.7% used PayPal. However, the preference for the payment on delivery method by a large number of shoppers in Palestine poses a great challenge to local e-commerce companies, due to the high cost of transporting goods and the high rates of rejection upon delivery, with many consumers insisting on examining products before making the decision whether or not to pay for them. The beginning of 2020 witnessed a growth in payment services in Palestine, as the Palestinian Monetary Authority (PMA) issued licenses to six companies that provide payment services such as 'Jawwal-Pay' and 'Pal-Pay' based on cash cards, without the need for a bank account. It is anticipated that the development of payment services in Palestine will contribute to bridging the current gap in electronic payment methods and reducing the heavy reliance on the method of payment on delivery, and problems associated with it.

Postal services are an important component of e-commerce at the international level, mainly in the case of commodity products, as the speed and effectiveness of mail services and delivery companies affects e-commerce. E-commerce in Palestine is exposed to obstacles by the Israeli occupation, similar to those faced by traditional trade, such as Israeli control over border crossings, laborious inspection procedures, and deliberate delays imposed on both exports and imports. In the case of e-commerce, matters are complicated further by Israel's practice of seizing postal parcels for long periods, even for years. Officials at Palestine Post also complain about the lack of human resources and the weak logistical infrastructure for sorting and transporting mail. Given significant growth in the number of incoming parcels from overseas (the growth rate reached about 44% between 2018 and 2019), the number of employees at Palestine Post and Customs is insufficient for the purpose of sorting and distributing mail. There are only 370 employees working in 82 post offices across the West Bank, placing a great burden on human resources. Additional obstacles to e-commerce, at the local level, include the lack of numbering/coding for homes/structures in Palestine; the lack of digital ID cards for citizens; the weakness of automation processes at Palestine Post and the lack of electronic signatures' technology to date. Additional problems are associated with some international shopping/e-commerce companies not accepting Palestinian credit cards; and a low focus on exporting domestic products through e-commerce, which is limited to imports only.

The legal framework is a fundamental element of the e-commerce environment. Therefore, the study conducts an in-depth analysis of current laws and regulations that are supposed to regulate e-commerce activities. While current laws and regulations allow individuals and institutions to practice electronic trade activities, the lack of clarity in current regulations and legislation hinders the development of this sector. The current legal environment for e-commerce in Palestine is characterized by weakness and a lack of integration. It is a mixture of old laws that are applied to traditional commerce and have been extended to e-commerce, in addition to new laws and procedures that have not yet been implemented. Nevertheless, current laws provide the regulatory foundation for future laws/regulations specialized in e-commerce.

The deficiencies in e-commerce laws and regulations in Palestine are partly caused by a lack of understanding, on the part of relevant authorities, of the positive impact of this type of trade on the Palestinian economy. Moreover, there is an absence of appropriate mechanisms for governmental institutions to implement current regulations, and a lack of clarity as to who is responsible for implementing which laws. There are also different regulatory procedures, reflected in the ability of regulators to implement some laws and the extent to which consumers/companies comply with them. There are currently four official (government) institutions responsible for regulating various aspects of e-commerce. They are the Ministry of

National Economy, the Ministry of Finance, the Palestinian Monetary Authority and the Ministry of Communications and Information Technology. The Ministry of National Economy monitors the registration of e-commerce companies, while its Consumer Protection Department tracks consumer rights and company performance. Current consumer protection law needs detailed amendment, to protect users from e-commerce companies that operate informally and harm both consumers and the e-commerce sector.

The Ministry of Finance oversees the collection of taxes for e-commerce, which is a practical challenge in many ways. Most notably, there are insufficient human resources at Palestine Post in the field of monitoring, tracking and sorting parcels; as well as low technical capabilities of the Ministry of Finance (and Palestine Post) in monitoring incoming international mail. Both the Ministry of Finance and the General Administration of Customs are of the opinion that the e-commerce sector in Palestine is currently large enough to merit tightening tax procedures, however, they still need to develop an effective supervisory system that keeps pace with latest developments in e-commerce, such as the signature archiving system. This has not yet been approved by the Ministry, which it also in urgent need of developing its supervisory role by educating tax officials on e-commerce and training them on mechanisms for monitoring parcels.

The Ministry of Communications and Information Technology is responsible for developing the required technological infrastructure that enables e-commerce to grow and develop. It also organizes and supervises the work of Palestine Post and delivery companies. We noticed a weakness in the monitoring of private delivery companies, and a lack of clarity in the criteria for reporting postal parcels intended for trade to the tax authority. There is also an overlap in powers, and little cooperation between this Ministry and others regarding the issue of monitoring e-commerce activities, with an absence of coordination on emerging issues.

The Palestinian Monetary Authority is responsible for regulating the work of banks and electronic payment service-providers. The Authority recently issued legislation and instructions for payment companies, but there is still an urgent need to license a number of payment companies, similar to 'Jawwal Pay', and to spread awareness on this type of payment method. The Authority needs to avoid the numerous problems caused by payment on delivery, as practiced by a large number of local consumers who shop online.

The study determined that there is a need to adopt a different strategy for laws governing e-commerce, whether in the short, medium or long term. At the present time, there is a need to adopt more effective systems and procedures, as opposed to new laws. There is also a need to form a governmental committee to coordinate efforts between relevant authorities, and facilitate the exchange of information between them. It is clear that there is no coordination between relevant authorities in regulating e-commerce, as well as overlapping powers and a lack of clarity on the role of each party in implementing required procedures. There is a need to define responsibilities and the chain of command. There is also a need to bring together e-commerce companies in an umbrella organization or union that can play a role in supervising the activities of these companies and representing them in government committees related to e-commerce. This is especially important in light of the great increase in the number of such companies. Such a union can help these companies negotiate better terms with payment service-providers and withstand external competition from global shopping-sites.