Is income anywhere? Only if we let that be

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I've just made a presentation on country-by-country reporting at the TJN transfer pricing conference in Helsinki.

I did so after the head of transfer pricing at the OECD had spoken saying their solution on transfer pricing worked - and after an Indonesian government representative argued that whatever the OECD said in practice their rules do not work in developing countries.

My argument on this issue was simple: the reason why we can't properly allocate income to countries now is because we don't have enough information worldwide to do so. In developing countries there is almost data on public record to allow the performance of one country with another. In groups as a whole the countries at the bottom of the supply chain - developing countries in the main (many of whom are here) - can't see what happens further up the vertical supply chains through which their products flow before they reach a consumer so any agreement on allocating fair profit shares throughout that supply chain is not possible now. And the result is that most developing countries collect far too little tax - as indeed do many developed countries because, as we all know, tax ends up in tax havens.

Country-by-country reporting would provide the data - almost all the data - needed to correct these deficiencies and so address these problems. We'd see where and how intra-group trading (which is more than 50% of world trade) flows though multinational corporations - and how much of that will go through tax havens. And we'll see where profits are in groups - and if it looks unreasonable then tax authorities know which companies to challenge - in itself a massive benefit for them in deciding where to allocate their scarce resources.

But I was challenged - because one person said income has no logical place where it should be recorded. You can, the challenger argued, record your income anywhere, and if it is due to intangibles that anywhere can be a tax haven. Apple do just that. So do Google. And so does Amazon, and we could go on and on.

Well, I do not agree: an intangible asset only gets a value because a product to which it relates is bought. Intangibles have no value without sales. It's as simple as that: anyone who argues otherwise has never been in business. So income needs to be taxed where income is earned. That's the whole problem that has now been raised with Apple, Amazon and Google who don't record their sales where their consumers are: they shift them to Ireland or Luxembourg.

And income also arises where people add value: that's where your employees are, not where you shift the legal ownership of your intangible asset.

And in some cases it is where your tangible assets are.

Or where you dig stuff out of the ground.

Or in the case of a bank, where your customer relationships are regulated.

And so on.

So, in other words, income can be anywhere if you're an accountant. But for tax that arbitrary choice is unacceptable. A political choice to allocate that income to countries has to be made, and country-by-country reporting will help countries make that political choice. And 99% of us in developed countries will gain as a result. And 100% of developed countries will.

So we have to decide where income is, whatever companies wish to do.

A summary of CBC is here. http://www.taxresearch.org.uk/Documents/CBC.pdf