

Tax Justice Briefing: on the OECD's forthcoming report ...

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The Tax Justice Network has produced a new briefing to serve as a curtain-raiser ahead of the OECD's planned launch on Friday of a long-awaited report that is supposed to offer new solutions to the problems of taxing multinational corporations. This blog contains a summary of the TJN report, [reposted from the TJN blog](#) here with permission. The full report is available [here](#).

Summary: TJN briefing on the OECD's "BEPS" project on corporate tax avoidance

On Friday 19th July the OECD will publish its long-awaited Action Plan on how to fix the broken international tax system for multinational corporations. An interim report on this project, called "Base Erosion and Profit Shifting (**BEPS**,)" was published in February with a promise of "holistic and comprehensive" solutions to the problems of taxing multinationals.

We do not, however, expect the OECD to announce any radical new approach on Friday.

What we expect, instead, is a series of piecemeal recommendations for states to apply patches to the increasingly leaky international tax system. The effect would be like trying to plug the holes in a sieve.

The problem, in a nutshell

The OECD plays a co-ordinating role in the international tax system by bringing together national tax officials from rich developed countries, and they have designed international tax rules that many states choose to follow to a greater or lesser degree. But its recommendations are not binding on states. To the extent that the OECD does recommend meaningful changes, all the evidence suggests that these will be a piecemeal patch-up job. They will also face determined opposition from the tax avoidance industry and big business in countries such as the UK, US, Netherlands and Ireland, which have provided special tax breaks and regimes in recent years, in response to such lobbying and pressure by multinationals and their advisers.

Let's now suppose, however, that the OECD does succeed in persuading governments to row back on their current strategies and strengthen current tax rules. At best, the OECD can only provide loose coordination of the rules. Its piecemeal strategy outlined so far in the BEPS project would result in governments trying to grab what they can of the various parts of the profit of transnational corporations. Conflicts already abound in the current system, and success on BEPS' terms would lead to intensified international tax conflict. A patch-up job, even if the OECD were to achieve its objectives, cannot deal with the fundamental flaws in the current system.

The Solution

Most tax experts agree that a better approach to taxing multinational corporations requires a fundamental philosophical shift in the underpinnings of the international tax system, away from the current approaches, where multinationals are taxed according to convoluted legal forms devised by their accountants and lawyers, towards a system where they are taxed according to the genuine economic substance of what they do and where they do it.

This alternative is to take a Unitary approach to taxing multinational firms. This involves taking a multinational's total global profits and apportioning them out between the states where it does business according to its genuine economic presence in each country.

Many people, including some experts at the OECD, accept that such a system is desirable. Yet they are refusing, so far, even to investigate it, because they claim that it would be too difficult to obtain global agreement on such a new approach. Another reason, perhaps, is because it would be, as one top U.S. tax expert [put it](#) recently, "too effective" — and the tax shock would therefore be too great for multinationals to accept.

But the naysayers are quite wrong. A unitary system can be introduced gradually, in a series of steps, building on elements in the current system. The **first** step would be merely a transparency requirement, to help countries see and understand the genuine economic substance of what multinationals do and where they do it. **Second**, apportionment of the total profits could be done by building on so-called "profit-split" methodologies (explained in the main report), which are already accepted in some circumstances. **Third**, there should be a procedure for resolving disagreements, which could also be based on existing arrangements, although these also should be more transparent.

Setting out on the road towards a unitary approach is not only far more desirable than merely applying sticking plasters to the current system, but it should also be more politically feasible, if governments really want to ensure an effective system.

All the OECD needs to do now is to crack open the door to serious study of this reform,

which is the only effective way that we will be able to tax multinational corporations properly in our globalised world.

The **full briefing** explores this in greater detail.

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