Inclusive Global Tax Governance in the Post-BEPS Era

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Sieb Kingma (Maastricht University)

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Income tax rules are under great pressure internationally, because multinational enterprises, such as Apple, Facebook and McDonald's, and rich individuals, such as Messi and Ronaldo, avoid or evade taxes. In addition to that, the legitimacy of these rules can be questioned, because the OECD – an organization with limited membership – has set them. Developing countries have to play by these rules, but did not have a voice in their establishment. To address these issues properly, new, more inclusive forms of cooperation and coordination are needed.

In this respect, it should be noted that the OECD/G20 BEPS Project presents a historical breakthrough in the status quo of tax cooperation and coordination. It should therefore be seen as a step in the right direction. Yet, it did not address all institutional shortcomings of global tax governance. The underrepresentation of developing countries in international tax standard setting is not sufficiently addressed, while the power differences between developed and developing countries are still too big. Therefore, calls to set up a strong UN tax body or an entirely new organization to take over from the OECD have become stronger, but is that really what should happen?

There are at least four reasons not to do so. First, the most powerful countries do not support such a move, because they have a clear preference for the OECD. Second, setting up a new organization is costly in terms of both time and money. Third, it is questionable whether a new organization would really make a difference, because its creation and operation would be subject to the same political and economic forces currently at play. Fourth, the OECD expanded its purview in tax matters over the past decade. In the context of the OECD/G20 BEPS Project, it set up the Inclusive Framework on BEPS, which has 134 members at this moment. Accordingly, setting up a new body or organization to take over from the OECD seems unnecessary and infeasible. Yet, action should be taken to overcome the institutional shortcomings of global tax governance. This should happen from within the existing institutional framework of tax cooperation and coordination.

In order to do so, I recommend that:

– The OECD through its Inclusive Framework on BEPS should have a fair chance as the central, inclusive forum for international income tax cooperation and coordination.

– Developing countries should get financial and technical support to join and participate in the Inclusive Framework.

– Eventually, a 'fair' allocation of taxing rights should be put on the international tax agenda.

– The UN should be enabled to strengthen its current role as the protector of developing countries' interests in international tax matters.

– Developing countries should be stimulated to form regional alliances to strengthen their position in the international tax landscape.

Even though cooperation and coordination will take place in the forum that developed countries prefer, this improved, inclusive global tax governance model will strengthen developing countries' position in international tax standard setting. Therefore, it seems acceptable for both developed and developing countries.

Sieb Kingma will defend his PhD thesis 'Inclusive Global Tax Governance in the Post-BEPS Era' on Friday 18 October at 14:00 in the auditorium of Maastricht University, Minderbroedersberg 4-6 in Maastricht.