

Kluwer International Tax Blog

The Contents of Intertax, Volume 50, Issue 5, 2022

Ana Paula Dourado (General Editor of Intertax) · Thursday, May 12th, 2022

We are happy to inform you that the latest issue of the journal is now available and includes the following contributions:

[Suranjali Tandon, The Need for Global Minimum Tax: Assessing Pillar Two Reform](#)

In 2021, the Organisation for Economic Co-operation and Development (OECD) announced its proposal to introduce a global minimum tax. This proposal signals that Base Erosion and Profit Shifting (BEPS) program achieved limited success and tax avoidance continues as some countries tax at low or zero tax rates. This article reviews the existing international tax rules to demonstrate that their inefficient design is among the key factors that have compelled developed countries to support a global minimum rate.

In contrast to the previous approach where the OECD identified harmful tax practices, pillar two seeks to address tax competition. In doing so tax rates and incentives will be re-calibrated so as to ensure that a corporation pays 15% in each jurisdiction. For this the rules allow the residence countries to tax back the difference between the minimum and effective tax rate (ETR). The design of the rules indicates that developing countries will not gain tax revenues from this proposal. A more important point for developing countries to consider is that tax structures depend on regulation and structure of the economy. This article presents evidence to suggest that countries must weigh their overall economic objectives against the minimum tax.

[Afton Titus, Global Minimum Corporate Tax: A Death Knell for African Country Tax Policies?](#)

The idea that a global minimum corporate income tax rate should be introduced has been publicized with intense fanfare. Not as widely publicized is the fact that this, along with the other provisions of Pillar Two, has negative implications for the corporate income tax policies currently implemented in African countries. Moreover, Pillar Two may also affect the implementation of the United Nations' Sustainable Development Goals (SDGs) in Africa. In systematically delineating these implications, this article argues that a more nuanced approach to global harmful tax competition should be followed in the practice of inter-nation equity. This approach is as follows: all countries should cooperate to halt virtual tax competition. Moreover, all developed countries should cease both virtual and real tax competition while developing countries continue to engage in real tax competition – provided that their tax incentives meet certain criteria. Should a developing country not adhere to such criteria, it would forfeit its exemption. This article further argues that African countries are already demonstrating that the fears that such an approach elicits are unfounded. The time is opportune for African countries to advocate for meaningful reform in

international tax that would result in fairer outcomes for all developing countries.

Carmen Bachmann, Johannes Gebhardt & Patrick Sunday Kayongo, Uganda's Tax System: Key Challenges and Prospects for Improvement

Most studies on tax research have focused on the developed countries, and those on developing countries concentrate on subjects of general application. As a result, research on many aspects of tax applicable to low-income countries (LICs) has been neglected. By presenting an in-depth analysis of Uganda's tax system, this study seeks to address this gap. The authors analysed panel data spanning over seventeen years to identify the key system gaps. The findings revealed that Uganda's tax system conforms to the generally accepted international standards, and its economic performance during the period was above the regional sub-Saharan Africa (SSA) average. However, tax revenue performance still remains poor. The main reasons include: unrealistic tax expenditures, corruption, poor governance, low tax morale, overdependence on international trade tax revenues, and structural system weaknesses. To address those challenges, mitigation measures including creating a firm and all-inclusive political settlement; enforcing anti-corruption measures; streamlining the tax system to eliminate system inefficiencies; and systematically formalizing the agricultural and informal sectors to widen the tax base are proposed. It is hoped that the findings provide valuable insights to tax policymakers in formulating policies for improving revenue performance in Uganda and related LICs.

Mbakiso Magwape, Unilateral Digital Services Tax in Africa; Legislative Challenges and Opportunities

As the Base Erosion and Profit Shifting (BEPS) Project attains a significant milestone with 130 Members of the Organisation for Economic Co-operation and Development (OECD)/G20 Inclusive Framework agreeing on international tax rules that address digitalization of the economy (Pillar 2), and the UN globally approving its tax treaty on Article 12(B) on automated digital services, a handful of African countries have joined their international counterparts in deviating from the global approach by developing and imposing unilateral digital services tax (DST) policy and legislation. This article examines the rationale of short-term measures of a unilateral DST, particularly in the African context post the COVID-19 pandemic and critically examines legislative measures imposed by a number of African countries. The article then contrasts general and specific challenges (applicable to African countries) in imposing a unilateral DST with opportunities that digital taxation presents for the continent, particularly in developing policy and legislation, and in implementation by tax administrations.

M.F. (Maarten) de Wilde, International Company Tax Developments and Some Reflections on Ways Forward for the African Continent

The article comments on the contribution in this edition entitled 'Unilateral Digital Services Tax in Africa; Legislative Challenges and Opportunities'. The current article also serves as an independent reflection on contemporary developments in company taxation and potential ways forward in this regard for the African continent. With a view to submitting suggestions that could cater to the needs and revenue mobilization interests of African countries and – building on the observations of the commented paper's author – the current article proposes some suggestions for potential tax policy approaches for Africa. These are based on securing two objectives: (1) maintain and/or attract investment while (2) devising ways and means to further securing sustainable revenue mobilization policies. The first objective could be pursued by prudently

continuing to compete for investment to the extent possible considering the available scope for such under the envisaged Pillar Two approach and on a regionally coordinated basis. Meeting the second objective could occur by furthering the market-based tax base division agenda that has emerged in recent years along with the spread of digital services taxes and in the context of developments towards the construction of the Amount A concept in Pillar One. Such a policy direction could also be pursued if the envisaged Pillars collapse.

Cihat Öner, Analysis of Turkey's Controlled Foreign Company Regime

This study analyses Turkey's current position against the policies it has carried out, especially regarding the controlled foreign companies (CFC) taxation regime by the Organization for Economic Cooperation and Development (OECD). As a member of the OECD and G20 during both the preparation and processing of the OECD's Base Erosion and Profit Shifting (BEPS) Project, Turkey has undertaken various roles. Nevertheless, it is observed that existing CFC rules and current developments regarding Turkey's CFC regime fall below the minimum standards recommended in the BEPS Action 3 Final Report, and there is a certain 'resistance' that continues to regulate some matters. This study seeks to critically analyse and display Turkey's position for coping with the BEPS Action Plan concerning CFC regulations.

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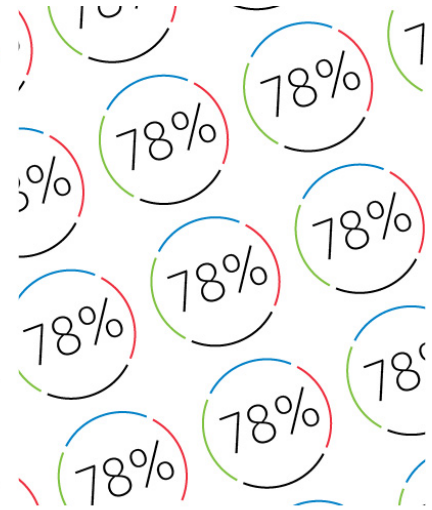
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