Tax Research UK

Protecting developing countries on a global tax deal

Statement by John Christensen[1] and Richard Murphy[2] [3]

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We note:

1. That more than 130 jurisdictions[4] have agreed to back the development of a new global tax deal announced by the OECD[5] in July 2021;
2. That despite this achievement some countries withheld their agreement and others have expressed reservations[6];
3. The range of conditionalities within the proposed deal make its delivery uncertain;
4. That a significant number of concerns have been raised about the technical feasibility of delivering the deal, in particular with regard to the availability of necessary accounting data to ensure that it can be effectively implemented;
5. Many countries and stakeholders are concerned that the proposed deal:
    - is biased against source countries and favours residence locations;
    - provides an insufficient return to developing countries, not least through the STTR regime;
    - applies too low a minimum rate of corporation tax;
    - contains too many carve outs and exemptions to be truly effective, especially given the composite nature of many multinational corporations;
    - applies to too few companies as a consequence of both the profit quantum and profit margin rate thresholds;
    - will have too small an impact as a consequence.

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[4] Including overseas dependencies and various territories that do not enjoy full statehood

[5] https://www.oecd.org/tax/beps/statement-on-a-two-pillar-solution-to-address-the-tax-challenges-arising-from-the-digitalisation-of-the-economy-july-2021.pdf

[6] Developing countries are notable in having reservations about this deal

The above being noted we welcome:

1. The precedent implicit in this global tax deal and the capacity it creates to apply tax to profits declared either inappropriately in a jurisdiction or in a jurisdiction where an inappropriately low rate of tax is applied to it;
2. The opportunity that this deal still provides for improvements to be made;
3. The opportunity that this deal provides for past issues of concern e.g. on the accounting within country-by-country reporting, to be addressed;
4. The opportunity that this deal might provide to develop a better international tax agreement on these issues in due course, work on which should, we recommend, begin as soon as this deal is agreed;
5. The opportunity that this deal might provide to improve the international tax dialogue, which remains constrained and biased against the interests of developing countries

Whilst we suspect that there will be features of whatever deal emerges from current negotiations of which we will remain critical, we hope to engage with the process of change, in the expectation that we might eventually witness an international tax deal that delivers tax justice for all stakeholders.

To help achieve that goal we ask all those involved in the negotiations on this deal to consider the following issues:

1. To increase the minimum corporation tax rate used within the deal to a rate equivalent to 80% of the average headline corporation tax rate of all those states that charge corporation tax weighted by their populations;
2. To increase the STTR rate provided for by this agreement so that it shall be a sum equivalent to 80% of the average headline corporation tax rate of all those states to which such a charge might apply and who charge corporation tax, weighted by their populations;
3. That the profit margin that a company shall be entitled to retain without apportionment applying shall be reduced to 5%;
4. That all the profits in excess of this rate shall be subject to apportionment;
5. That the rules for determining the profits and tax paid for use in apportionment calculations shall be made clear so that the calculations for apportionment in any company can be replicated by the stakeholders of the global tax system, or shall be required to be published instead;

6. The country-by-country reporting data used for the purposes of apportionment calculations shall be made public by those companies undertaking an apportionment calculation so that the stakeholders of the global tax system shall be aware that taxes are being paid;
7. That the tax paid by jurisdiction by a company subject to apportionment calculation shall be published so that the stakeholders of the global tax system shall be aware that taxes are being paid in order that the outcomes of this deal can be properly appraised.