



Future of Taxing Multinational Corporations

**Transfer pricing issues in Central America
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Central American elites evolution

- Growing non-CA corporations presence in the region
- But also, recent local elites evolution:
 - From local or national oligarchic monopolies...
 - ... to regional transnational corporations and groups
 - ... and even in some cases, to global scale multinational corporations
- In both cases, transfer pricing control has become an urgent need to tackle new regional capital flows
 - Not a “far away developed-country fashionable-complicated-expensive” practice

Awkward income tax design

- For example: Guatemalan income tax
- Coexistence of two optional regimes:
 - Real income tax: 31% on net profits
 - Simplified: 5% on gross income
- Current equilibrium point between two regimes: profits equivalent to 16% of income
- Then, many Guatemalan corporations break down in 2 sub-companies (related partners), one in each regime

Awkward income tax design

- By manipulating transfer prices they achieve to allocate:
 - Profits over 16% in the simplified 5% regime on gross income
 - Profits below 16% in the 31% real income tax regime
- So, transfer pricing tax control is needed not only for transnational corporations
 - Local and particular circumstances may require tax control on transfer pricing

Recent TP legislation in CA

- 2008: regional council of MOF (COSEFIN) prepared a model of TP legislation
 - OECD based model
 - Technically assisted by IMF and IADB
- All 5 CA countries have made TP legislation drafts
- But only 3 have approved them: GUA, ESV and HND
 - Weakened versions of original proposals
 - In GUA, only for multinational corporations
- Legislative approval surrounded by stiff private sector resistance and distrust: complexity and burden of proof

But... far from effective

- CA TA´s are building technical expertise and administrative framework
 - But, the main issue is political will
 - Elite power and State capture is a big issue
 - Then, more a political challenge than a technical one...
- Nevertheless, there are big technical challenges
 - Legislation is based on OECD model: complex and where to find viable comparables and concurrent prices?
 - Alternative methodologies are desirable: do they work?

Alternative methods for CA

- Simon Pak's price filter matrix method
 - ICEFI found that its application in Guatemala is possible
 - Recommend to test its practical effectiveness
- Brazilian method
 - Relies on company's own data
 - Applies to a more expanded group than OECD: unrelated foreign entities (interesting for Guatemala!)

Some conclusions

- Need to apply TP control in CA:
 - Because of growing MC presence
 - But also because of trans-nationalization of regional elites
- Some OECD model based legislation approved... but far from effective
- Main challenge: politics. Captured states and regional elites and groups excessive power

Some conclusions

- But also technical challenge: legislation is too complex. TA's working to improve
- Alternative models are required in CA:
Brazil's or Pak
 - Viable but must be tested in practice (ICEFI's interest)
 - Adaptable to particularities: Guatemalan case

Thank you!

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