PRESS RELEASE
EMBARGOED: 14:00 CET
Press Contact: George Turner
+447540 252 850
George@taxjustice.net

OECD's BEPS proposals will not be the end of tax avoidance by multinationals

The Tax justice network responds to the OECD proposals to fight multinational tax avoidance

Today, the Organisation for Economic Cooperation and Development (OECD) released their long awaited Base Erosion and Profit Shifting (BEPS) outcomes.

These outcomes are the OECD's proposals for new rules to combat tax cheating by multinationals. The OECD was commissioned by the G20 group of leading industrial nations to develop these proposals in 2013 and it is expected that they will be adopted by all G20 countries.

This has been the first serious global effort to combat widespread corporate tax cheating - and that in itself has been a huge step forward. The OECD should be congratulated for the work they have done, and for seeing the process through.

However, although some progress has been made on strengthening international tax rules, the process has been continually undermined by the army of paid corporate tax advisers and lobbyists, as well as governments seeking to protect some of their pet tax breaks to business. As a result, many of the proposals are weak, and will still provide multinational companies with opportunities to move profits away from the countries where those profits are generated, and in doing so reduce tax revenues. There is still much work to be done if tax avoidance by multinationals is to be effectively dealt with.

Country by Country reporting

In particular, the Tax Justice Network is pleased that the OECD has carried out its mandate from the G20 to establish a template for country-by country-reporting. Country by Country reporting, a concept developed by Richard Murphy with the TJN. This measure will help tax authorities by making companies disclose how much profit they declare in each country where they operate, and how that relates to measures of real activity, such as employment and sales. This would for the first time give tax authorities an overview of the multinational as a whole, and help to reveal (among other things) how much profit a company is booking in tax havens.

However, proposals from the OECD contain cumbersome procedures for access to country by country filings. Each multinational will only be required to file reports with its home country tax authority. This will create enormous and unnecessary obstacles for access to these reports, especially for tax authorities from small and developing countries. Publication would be a far easier and better method, and ensure proper accountability to the public.

Central problem with the international tax system

It is disappointing that the OECD has not tackled the central flaw that allows multinationals to exploit the international tax system. That is the way in which tax rules treat the various subsidiaries of multinationals as if they were merely loose collections of independent companies: supposedly 'independent entities' trading with each other in 'arm's length' transactions.

This allows companies to trade with subsidiaries they have set up offshore, often where they have no real economic activity and move profits to those companies located in countries with a low or zero tax rate.

The G20 mandate for the BEPS project was that international tax rules should be reformed to ensure that multinational enterprises (MNEs) could be taxed 'where economic activities take place and value is created'. This implied a new approach, to treat the corporate group of a MNE as a single firm, and ensure that its tax base is attributed according to its real activities in each country. Yet the BEPS project has continued to emphasise the independent entity principle.

Overall, this means that the BEPS outcomes are an attempt to patch up the broken old system, and will introduce yet more complexity, further inflating the incomes of the legions of tax advisors, lawyers and accountancy firms.

Commenting on the release of the BEPS report today, **John Christensen**, Director of the Tax Justice Network said:

> *"Tax avoidance is deeply embedded in the business models of most multinational companies, and while we recognise the BEPS process as an important step towards addressing this issue, progress to date will not be nearly sufficient to tackle the problem.*
>
> *"We welcome measures that will increase corporate transparency, for example through country-by-country reporting, but even on CBCR the limitations on information exchange with developing countries and the unnecessary imposition of an arbitrary reporting threshold (USD750mn turnover), reveal a lack of political will to tackle tax avoidance at its root.*
>
> *"Moving beyond the BEPS process we urgently need a new global institutional forum for setting rules on tax multinationals that meet the needs of all countries and don't solely address the interests of the rich OECD countries and their multinational companies."*

Alex Cobham, the Tax Justice Network's Director of Research, said:

> *"The failure to require that country-by-country reporting be public is especially disappointing, as this is critical to make the scale of profit misalignment transparent and to allow both companies and tax authorities to be held accountable. The home country tax authorities of multinationals, mostly in the OECD, will receive this information; while many host countries will not. If anything then, the current measure will further disadvantage developing countries and the world's poorest people."*

Notes to editors

1. The Tax Justice Network is a research organisation with a focus on tax and tax havens.
2. The Tax Justice Network originally set up the BEPS monitoring group, a team of independent experts, researchers and NGO representatives, to monitor the work and outcomes of the BEPS project.
3. The BEPS Monitoring group was the only independent group to attend and contribute to all of the BEPS public consultations
4. The OECD was commissioned by the G20 to formulate proposals to combat tax avoidance by multinationals
5. The mandate was adopted by the G20 meeting in St Petersburg in 2013
6. The BEPS outcomes announced by the OECD today will be signed off by G20 Finance ministers meeting in Lima, Peru on Thursday 8 October.

Explainer

How BEPS works

A multinational's operating affiliate in a country where it has real activities "onshore" makes payments to related entities "offshore". These payments can be for things such as royalties for the use of brand names or patents, interest on loans, and fees for management and other specialist services. These payments are deductible as costs from the income of the operating affiliate, reducing that company's profits and so reducing tax in the source country. Those profits are channelled to 'cash box' entities, located in countries with with low or zero taxation (Bermuda, Cayman Islands). It is estimated that US multinationals alone have over $2 trillion of such so-called 'stateless' income, which has not been taxed anywhere.

These payments are generally routed through the offshore system via 'conduit' entities formed in countries with suitable tax treaties (e.g. the Netherlands) so that they are also not subject to withholding taxes in the county that they are paid from.

In addition, valuable assets, such as oil concessions or telecoms licences, are owned by other affiliates formed where no capital gains tax would apply when they are sold (e.g. Mauritius).

ENDS