Forum: General Assembly Economic and Financial (GA2)

Issue: Strengthening international cooperation to combat tax evasion and corruption

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Introduction

"Alone we can do so little; together we can do so much." – Helen Keller

As many of you may know taxes are a contribution to the state revenue. In other words they're charges that are imposed upon workers, corporations,goods, services, transactions amongst many others. These are controlled by the government and are used as a means of helping finance certain projects within the country in which they're collected. These projects include but are not limited to infrastructure, healthcare and defense. Despite the many strict regulations that exist in present times, there are still many individuals and corporations alike who try and find loopholes in order to avoid taxation. The reason this is a major issue is due to the fact that these are funds obtained by the government, with the purpose of improving the country's circumstances. Were these to not be paid there would be a huge financial loss, which would ultimately result as a long term deterioration of said country due to there not being enough resources to maintain it or further improve it.

Over the past few years there have been a major series of cases all around the world concerning tax evasion. And although there's been a series of past attempts to solve the issue what with the creation of the OECD (Organization for Economic Cooperation and Development) there are still many individuals and corporations who refuse to pay taxes or try to lessen the amount of taxes they pay. One of the many examples of tax evasions were all of the corporations that were found in the Panama Papers, which were uncovered on May 9 of 2016.

This is a serious crime that must be paid by those who commit it including those with power, in order to not only help the country improve its conditions but to also tackle corruption which is something that goes hand in hand with tax evasion. This becoming clearer over the past few years as many world leaders such as the prime minister of Iceland,

Sigmund Gunnlaugsson were found making money with offshore companies which they had not declared.

Definition of Key Terms

Tax Evasion

Illegal arrangements where taxes are overlooked or hidden.

Beneficial Ownership

An individual who can enjoy the benefits of ownership despite the fact that the title to the property may be in someone else's name.

Tax Havens

All the countries which either impose no tax whatsoever or low taxes.

Corporate Profit Shifting

Tax planning strategies which try and take an advantage of any possible loophole within tax rules. This being done in order to make profits disappear for tax purposes, or to change the profits to locations where there is little or no activity and just slightly taxed. In other words this is a process doe in order to pay little to no taxes.

Effective Tax Rate

Is known as the rate at which a taxpayer would be taxed were his liability to be taxed in a constant manner rather than a progressive one. This is computed by the determination of the taxpayer's tax liability is of his total taxable income.

Country by Country Reporting

A standard requirement for companies where they must publish their financial reports separately for each country in which they operate. What with the current rules regarding this multinational companies can report these details as if they were a single aggregate figure whether that be regionally or globally. This in itself prevents the monitoring of where their activities are taking place.

Trade Mispricing

Is known as one of the many strategies used by large corporations in order to cut their tax bills.

Abatement

A reduction in the assessment of penalty, tax or interest when it's deemed the assessment as incorrect.

Affiliation Privilege

Tax relief or exemption according to the divided distributions done by a resident subsidiary company to its parent company which owns a minimum percentage of shares. all of this is done in order to mitigate double taxation of the division.

Branch Tax

A business unit located at a different location from the main office. (NOT another entity).

Compensating Adjustment

An adjustment where the taxpayer reports a transfer price for tax purposes. From the taxpayer's opinion, an arm's length price for a controlled transaction, even if the price differs from the amount charged between the enterprises.

Capital Tax

A gain on the capital asset.

Competent Authority

Forum created in order to resolve disputes which arise the application and/or interpretation of a double tax treaty.

Commodity Tax

Tax according to a particular number of commodities.

Consumption Tax

Tax that lies on the consumption of goods and services.

Base Company

Company situated in a tax haven.

Unitary Taxation

Various branches or units of a corporation are calculated as if said entire group were a unity.

Corporate Income Tax

Income tax on the income of companies.

Accelerated Depreciation

A method of depreciation where taxpayers can allocate larger depreciation deductions to the first year or first few years of certain useful business assets (e.g plant and machinery).

Excise Tax

A tax imposed upon an act, occupation, privilege, manufacture, sale or consumption.

Background Information

The multilateral competent authority agreement to exchange country by country reports (CBCR agreement)

Country-by-Country Reporting (CbCR) is part of Action 13 of the OECD/G20 Action Plan on Base Erosion and Profit Shifting (BEPS Action Plan, 2013). The plan is a strategy regarding corporate taxes used by multinationals in order to "shift" profits from higher tax-jurisdictions to lower tax-jurisdictions. It was implemented by the OECD and G20 countries and manages to enhance transparency within tax administrations by providing adequate information to said countries. The information would allow the possibility of assessing higher level transfer pricing and other BEPS-related risks such as tax avoidance strategies that no only exploit gaps but also mismatches within tax rules to artificially shift profits to low or no tax locations (OECD. (n.d.))¹ all of which are crucial aspects when it comes to tackling the issue ("OECD, October 4, 2018)². This plan was developed based on

¹ OECD. (n.d.). Base erosion and profit shifting. Retrieved from http://www.oecd.org/tax/beps/

² OECD and World Bank call for whole-of-government approach to combating tax evasion and corruption. (n.d.). Retrieved from https://www.worldbank.org/en/news/press-release/2018/10/24/oecd-and-world-bank-call-for-whole-of-government-approach-to-combating-tax-evasion-and-corruption

the Convention on Mutual Administrative Assistance in Tax Matters, which by virtue of its article 6, requires the authorities of the parties to mutually agree on the automatic exchange of information and the procedure they must comply with. ("OECD and World Bank, October 4, 2018) ³

Listed below are some of the countries which have signed said agreement(OECD, 2019)⁴:

| 1. | Andorra | 18-10-2018 |
|-----|------------------------------|------------|
| 2. | Argentina | 30-06-2016 |
| 3. | Australia | 27-01-2016 |
| 4. | Austria | 27-01-2016 |
| 5. | Belgium | 27-01-2016 |
| 6. | Belize | 20-06-2017 |
| 7. | Bermuda | 15-04-2016 |
| 8. | Brazil | 21-10-2016 |
| 9. | Bulgaria | 17-11-2017 |
| 10. | Canada | 11-05-2016 |
| 11. | Cayman Islands | 21-06-2017 |
| 12. | Chile | 27-01-2016 |
| 13. | China (People's Republic of) | 12-05-2016 |

| 14. Colombia | 21-06-2017 |
|--------------------|------------|
| 15. Costa Rica | 27-01-2016 |
| 16. Croatia | 06-07-2017 |
| 17. Curação | 30-06-2016 |
| 18. Cyprus | 01-11-2016 |
| 19. Czech Republic | 27-01-2016 |
| 20. Denmark | 27-01-2016 |
| 21. Estonia | 27-01-2016 |
| 22. Finland | 27-01-2016 |
| 23. France | 27-01-2016 |
| 24. Gabon | 26-01-2017 |
| 25. Georgia | 30-06-2016 |
| 26. Germany | 27-01-2016 |
| 27. Greece | 27-01-2016 |
| 28. Guernsey | 21-10-2016 |

Panama papers

In the year 2016 the biggest leak of documents in world history took place. Eleven million documents were released that day from one of the world's most secretive law firms, Mossack Fonseca. The statistics that were obtained based on this information stated that within 79 countries 6,500 taxpayers (Patrick Evans, 2016)⁵ and companies alike are being

³ OECD and World Bank call for whole-of-government approach to combating tax evasion and corruption. (n.d.). Retrieved from https://www.worldbank.org/en/news/press-release/2018/10/24/oecd-and-world-bank-call-for-whole-of-government-approach-to-combating-tax-evasion-and-corruption

⁴ Signatories of the multilateral competent authority agreement on the exchange of country -by- country reports (CbC MCAA) and signing dates (2018, November 9). Retrieved from https://www.oecd.org/ctp/exchange-of-tax-information/CbC-MCAA-Signatories.pdf

⁵ Panama Papers: What happened next? (2016, December 26). Retrieved from https://www.bbc.com/news/world-38319026

investigated. The leaking also exposed the hidden financial dealings of 140 politicians and public officials worldwide ("Massive leak reveals offshore accounts of world leaders – Center for Public Integrity", 2016) ⁶. Because of this many world leaders took to creating a series of measures in order to improve the situation and try and tackle tax evasion. In Germany they created and applied the Panama law which requires citizens to declare whether they have a shell company or are using one.

United Nations Code of Conduct on Cooperation in Combating International Tax Evasion

On 2016 it was agreed upon that the there should be a United Nations Code of Conduct on Cooperation in Combating International Tax Evasion. The code of conduct supports the automatic exchange of information in regards to taxes in the same manner that countries do, the main difference being that countries must share the information even if they aren't prepared to do so. The code was also approved by the Committee of Experts in the same year. The reason as to why some countries would not be prepared to share information regarding taxes is because some of these countries act as conduits for corporate profits whilst these make their way to tax havens (Garcia-Bernardo, Heemskerk, Takes, & Fichtner, "These five countries are conduits for the world's biggest tax havens", 2018) ⁸. Some examples of countries that tend to act in such a manner are the Netherlands and United Kingdom. Another reason as to why countries may be reluctant when revealing tax related information is the fact that those who lead and have authority within the country are, at times also involved with tax avoidance. Some elected world leaders who've been "caught in the act" are; Vladimir Putin who had a network of secret offshore deals and vast loans tied back to him ("Massive leak reveals offshore accounts of world leaders — Center for Public

⁶ Massive leak reveals offshore accounts of world leaders – Center for Public Integrity. (2016, April 4). Retrieved from https://publicintegrity.org/accountability/massive-leak-reveals-offshore-accounts-of-world-leaders/

⁷ Global Forum on Transparency and Exchange of Information for Tax Purposes - Organisation for Economic Co-operation and Development. (n.d.). Retrieved from http://www.oecd.org/tax/transparency/Latin-American-Ministers-launch-regional-initiative-to-combat-tax-evasion-and-corruption.htm

⁸ Garcia-Bernardo, J., Heemskerk, E., Takes, F., & Fichtner, J. (2018, September 19). These five countries are conduits for the world's biggest tax havens. Retrieved from http://theconversation.com/these-five-countries-are-conduits-for-the-worlds-biggest-tax-have ns-79555

Integrity", 2016)⁹, the prime ministers of Pakistan (Nawaz Sharif) and Iceland (Sigmundur Davíð Gunnlaugsson) both of which controlled offshore companies.

United Nations Model Double Taxation Convention between Developed and Developing Countries

Is a non-binding instrument which tries to guide countries into not only designing double tax treaties but also implementing these. It was created and is still updated by the UN committee of Experts on International cooperation in Tax matters. It's main purpose or objective is that of tackling what developing countries need in order to design tax treaties in line with their own policy framework.¹⁰

The Multilateral Competent Authority Agreement for CRS

Is a multilateral framework agreement that details when and what information will be exchanged. It includes the subsequent bilateral exchanges which take place between those signatories that file the subsequent notifications under the section 7 of said agreement.¹¹

Major Countries and Organizations Involved

Panama

One of the most renowned tax havens in the Caribbean, which also does not cooperate with international transparency initiatives, is the bearer of one of the most used canals and according to the Tax Justice Network it also has the largest shipping fleet in the world. Within said country no taxes are asked from offshore companies which are incorporated within said republic. In other words they're exempt from the following;

⁹ Massive leak reveals offshore accounts of world leaders – Center for Public Integrity. (2016, April 4). Retrieved from https://publicintegrity.org/accountability/massive-leak-reveals-offshore-accounts-of-world-leaders/

¹⁰ International Cooperation to End Tax Crimes Crucial for Achieving Sustainable Growth Agenda, Speakers Say as Development Financing Forum Concludes | Meetings Coverage and Press Releases. (n.d.). Retrieved from https://www.un.org/press/en/2017/ecosoc6840.doc.htm

¹¹ International framework for the CRS - Organisation for Economic Co-operation and Development. (n.d.). Retrieved from http://www.oecd.org/tax/automatic-exchange/international-framework-for-the-crs/

Corporate taxes, withholding taxes, capital gains tax, local taxes, estate taxes and inheritance taxes.

OECD (Organisation for Economic Co-operation and Development)

Has been working for years in order to try and tackle the issue, constantly tries to acquire information regarding taxes and has taken certain plans of action such as the Base Erosion and Profit Shifting (BEPS) action plan.

FATF (Financial Action Task Force)

Has made a call and standard for all jurisdictions to have access to information in regards to the beneficial ownership of entities and operating legal arrangements. Has also had an active role in producing future plans to tackle tax evasion.

United Nations Committee of Experts on International Cooperation in Tax Matters

Is a subsidiary body of the UN Economic and Social Council. Fulfills its main objective of reviewing and updating as necessary the United Nations Model Double Taxation Convention between Developed and Developing Countries as well as the Manual for the Negotiation of Bilateral Tax Treaties between developing and developed countries. Also creates a framework for dialogue and looks to further improve international tax cooperation.¹²

TJN (Tax Justice Network)

An independent group made up of international activists and researchers whose main concern is regarding tax related aspects such as tax avoidance, competition, evasion and havens.

Timeline of Events

Date

Description of event

¹² ECOSOC Committee of Experts on International Cooperation in Tax Matters – 15th Session. (2017, October 17). Retrieved from https://dig.watch/events/ecosoc-committee-experts-international-cooperation-tax-matters----1
5th-session

| May 23, 1996 July, 1996 | OECD Ministerial meeting- regarding the commitment and approach to the problems imposed by harmful tax competition. 13 G7 Lyon Summit- reference to the emerging need for international tax reforms, tax competition work. Obtained support from the OECD. 14 |
|--------------------------|---|
| April 9, 1998 | OECD "Harmful tax competition" report |
| 2002 | John Christiansen held the first meeting at the European Social Forum in regards to what would become the Tax Justice Network |
| 2003 | Tax Justice Network Founded. |
| March, 2005 | Tax Justice Network "price of offshore" 15 |
| 2007 | The global financial crisis leads to a public outcry about international tax avoidance by multinationals. ¹⁶ |
| March, 2008 | Tax Justice Network "Country by Country reporting: How to make multinational companies more transparent" ¹⁷ |

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¹³ OECD. (1996). Meeting of the Council at Ministerial Level Paris, 21-22 May 1996. Retrieved from http://www.q8.utoronto.ca/oecd/oecd96.htm

¹⁴ European Commission (n.d.). Retrieved from http://europa.eu/rapid/press-release DOC-96-5 en.htm

¹⁵ Tax Justice Network. (n.d.). Briefing Paper- The Price of Offshore. Retrieved from http://www.taxjustice.net/cms/upload/pdf/Price_of_Offshore.pdf

¹⁶ Ting, A. (2018, September 17). Key events in the G20 push on tax avoidance. Retrieved from https://theconversation.com/key-events-in-the-g20-push-on-tax-avoidance-33890

¹⁷ Tax Justice Network. (2008, March). Country -by- Country Reporting: How to make multinational companies more transparent. Retrieved from http://www.taxjustice.net/cms/upload/pdf/Country-by-country_reporting - 080322.pdf

| November 15, 2008 | G20 summit communique of 2009 - where the commitment to publish a list of non cooperative jurisdictions is expressed along with the international standard for exchange of information on tax. |
|--------------------|--|
| July, 2010 | President Obama signs Dodd-Frank Wall Street Reform and Consumer Protection Act - SEC. Which states that registered extractive industry companies are required to report all payments including taxes made to US Federal and foreign governments, by project and country, on an annual basis |
| September 10, 2010 | The European Parliament requests that the European Commission consider the area of Transparency and Accounting. |
| July, 2011 | ActionAid, FairFood, FairPensions "Tax responsibility: the business case for making tax a corporate responsibility issue" report. ¹⁸ |
| November, 2012 | UK Public Account Committee asks for large US multinationals and the four Heads of Tax/Tax Policy to discuss their tax positions and practices. |
| February, 2013 | UK government announces certain proposals which require potential suppliers under Government contracts to confirm they have not been involved in certain tax avoidance arrangements. |
| February 12, 2013 | OECD "Addressing Base Erosion and Profit Shifting" report. |
| April, 2013 | The European Parliament agrees to proposals that will require the reporting of banking entities regarding profit |

¹⁸ Actionaid. (2011, July). Tax responsibility The business case for making tax a corporate responsibility issue. Retrieved from

https://www.actionaid.org.uk/sites/default/files/doc_lib/tax_responsibility.pdf

| before tax and payments to and from governments | | | | | | |
|---|--|--|--|--|--|--|
| which will be revealed annually to the European | | | | | | |
| Commission. This being only one of the many | | | | | | |
| proposals that form part of the EU's Capital | | | | | | |
| Requirements Directive (CRD) IV. | | | | | | |

September, 2013

The OECD Action Plan is endorsed by the G20 Finance Ministers during their meeting in Moscow, the G20 heads of State further endorsed it during their St. Petersburg meeting.

November 5, 2014

International Consortium of Investigative Journalists: release of information about 300 multinationals given favourable tax treatment by Luxembourg ("LuxLeaks").

October, 2014

In response to immense political pressure, Ireland announces changes to its tax law to close the "Double Irish" loophole. Multinationals with existing subsidiaries in Ireland are given six years to respond before the change applies to them.¹⁹

July 20, 2015

EU Accounting Directive: EU member states have until 20 July 2015 to discuss the latest tax related laws in order to later on enforce its application.

May 9, 2016

Leak of 11.5m files from the database of the world's fourth biggest offshore law firm, Mossack Fonseca (Panama Papers)²⁰.

Relevant UN Treaties and Events

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https://www.theguardian.com/news/2016/apr/03/what-you-need-to-know-about-the-panama-papers

¹⁹ Ting, A. (2018, September 17). Key events in the G20 push on tax avoidance. Retrieved from https://theconversation.com/key-events-in-the-g20-push-on-tax-avoidance-33890 ²⁰Harding, L. (2016, April 05). What are the Panama Papers? A guide to history's biggest data leak. Retrieved from

- Committee of Experts on International Cooperation in Tax Matters, 11 November 2004 (E/2004/INF/2/)
- Committee of Experts on International Cooperation in Tax Matters, 28 July 2006 (E/2006/INF/2/)
- Report of the Committee of Experts on International Cooperation in Tax Matters,
 27 July 2007 (E/2007/INF/2/)
- United Nations code of conduct on cooperation in combating international tax evasion, 20 April 2007 (E/RES/2017/3)
- United Nations Model Double Taxation Convention Between Developed And Developing Countries, 1980 (ST/ESA/102)
- Combating Tax Evasion Especially Critical for Developing States, 11 November 2015 (GA/EF/3438-ECOSOC/6723)

Previous Attempts to solve the Issue

ETUC

Resolution on tackling tax evasion, avoidance and tax havens

Code of Conduct

The creation of the United Nations code of conduct on Cooperation in Combating International Tax Evasion

Manual

Creation of the Manual for the Negotiation of Bilateral Tax Treaties between Developed and Developing Countries

OECD and G20

OECD and G20 pursue efforts to curb multinational tax avoidance and offshore tax evasion in developing countries.

UN Double Taxation

Implementation of the United Nations Model Double Taxation Convention between Developed and Developing Countries.

MCMAATM

The creation of the Multilateral Convention on Mutual Administrative Assistance in Tax Matters.

Country by Country Reporting

The G20 and OECD agreement to a template for country-by-country reporting in 2015.

ECOSOC

Hold a special meeting on tax evasion on December 2016 and April 2017

UN

On July 2017 another group of Tax experts was chosen by the UN Secretary General.

Global Forum

Creation of the Global Forum on Transparency and Exchange of Information for Tax Purposes.

MLI

In November 2016 more than 100 countries concluded negotiations on a Multilateral Instrument (MLI) that would implement relevant aspects of the BEPS Action Plan.

Possible Solutions

In order to tackle tax evasion one must first take care of tax havens. A way in which this could be done is by having UN experts from the United Nations Committee on Tax Matters monitor the tax havens in order to prevent offshore companies or irregular activity from taking place as well as to take the necessary actions, were said irregular activity to happen, with the purpose of increasing transparency. Following these series of actions the experts would then formulate a plan keeping in account the information obtained from the monitoring as well as the existing tax laws within the countries. Something that could complement this would be the information given by the OECD and TJN. Something which would tackle any potential loopholes within the tax policies. The United Nations Code of Conduct on Cooperation in Combating International Tax Evasion should also be further implemented and promoted due to the fact that there are still countries who act in a rather hostile manner whenever tax related information should be revealed. What said code of

conduct states would be enforced by the Security Council in order for said committee to create a series of penalties for all of those who don't cooperate given that it is the only committee that is allowed to do so.

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