Fiscal Sustainability and the Role of an International Tax Regime

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Abstract

Tax is often perceived as one of the last bastions of sovereignty with jurisdictions traditionally viewed as competing for a share of global taxes. Yet, with the advent of a potentially new international tax regime, fiscal law and policy is moving against the tide of rising nationalism. The genesis of the current movement towards multilateralism in tax can be traced to the global financial crisis and ensuing austerity measures. Subsequent increased public scrutiny, following evidence of highly aggressive tax planning strategies by large multinational entities such as Google, Apple, Starbucks, and Amazon, has provided even greater impetus for international tax reform. Studies suggest that between US $100bn and $240bn is lost annually through profit shifting which means that countries at all corporate tax levels are losing revenue and competing for a much smaller amount than would otherwise be available if base erosion and profit shifting (BEPS) strategies were no longer available to corporate taxpayers. Together, as a response to corporate tax practices, over 100 countries are currently collaborating to implement minimum standards recommended by the OECD to address BEPS and ensure corporate tax revenues are captured by the appropriate jurisdiction. These minimum standards deal with harmful tax practices, tax treaty abuse, country-by-country reporting and dispute resolution mechanisms. The consequence of the change in approach to international tax policy is that the international tax regime is no longer viewed as a mechanism for preventing double taxation but rather a means of counteracting less than single taxation. This paper considers the rise of this potentially new international tax regime and addresses the question of why regionalism and multilateralism measures are viewed as a means to ensure fiscal sustainability, rather than the national protectionist measures of the past.