

Tax good governance platform 12/09/18 - Tax and competitiveness N. Salson, EPSU policy officer

The Commission asked for EPSU's views on how taxation can contribute to EU competitiveness. I proposed to look at how EU competitiveness can support progressive, transparent, effective taxation for the general interest.

After years of debate and many tax scandals, our conclusion is that tax competition, as well as wage competition, needs to be stopped.

First, “fair tax competition” is a myth and it has little to do with competitiveness

The discussion document for today's meeting rightly says that investment is driven by different factors including strong institutions, good infrastructure, skilled, educated workforce, rule of law, stability and that tax like any other cost is only one factor. But then it goes on to say that companies tend to be more competitive when the tax burden decreases. While it is unclear which “tax burden”, a terminology we refute, is referred to, it is not a helpful starting point.

The case for CIT, which presumably is what today's discussion is about, needs to be made here.

Clearly the negative view of CIT on savings, investment, or growth is not borne out by the evidence. Indeed the IMF (ICRICT report) finds small negative effects. In relation to foreign investment, whilst CIT rates affect financial flows into developing countries, these flows do not contribute to real investment or sustainable growth anyway.

Modern growth economists find that design of CIT to stimulate firms' investment in worker training or real R&D results in higher productivity and growth. And even if tax was to depress consumption and investment demand, compensating government expenditure for what we see as essential productive infrastructures -hospitals, childcare, eldercare, public transport-, for skills and real useful R&D will raise demand and employment.

There is no robust evidence that CIT depresses wages. In contrast, there is evidence that tax avoidance depresses wages. What's more, there is evidence that reliance on VAT, the outcome of reduced CIT rates or bases, worsens household income inequality because it is regressive and, as it is now recognised, there is equally strong evidence that reduced inequality has a positive effect on growth.

So CIT needs to be framed as a key element, importantly a progressive one, of public fiscal resources, not as a burden.

Second, what kind of competitiveness are we talking about ?

Competitiveness is not an end in itself, it is a tool to serve the needs of the people, not the other way around.

EPSU calls for fair, progressive, transparent and effective tax systems to redistribute corporate profits, which as we know are reaching colossal unacceptable levels -€ 1tn digital companies- and finance public services citizens and companies need.

Therefore, EU competitiveness based on a race to the bottom of CIT and labour cost is a non starter.

If anything, competitiveness -internal and external- is best based on skilled labour force, quality of public infrastructures, health and social care, socially and ecologically useful innovation, social inclusion, democracy. All of which require public investment based on democratic decisions.

Therefore, while we agree with the Commission that tax competition hinders the above broader policy aims, **we disagree that fair tax competition can be part of good tax governance. It cannot. Simply because it cannot be separated from the harmful variety.**

Third, all international tax competition has the potential to undercut countries' fiscal bases or rates and is therefore harmful.

Competition between countries including in the EU to attract foreign firms, FDI, by lowering statutory rates, granting tax breaks, providing secrecy of ownership creates a few winners and many losers. Overall, it leads to a welfare and democratic loss for everyone and, as we are just a couple of days after the Swedish elections, this loss makes the bed of anti-migrants, anti-EU far right rhetoric.

Fourth, as mentioned in today's discussion note, we don't believe that the **Code of Conduct Group on business taxation** is the right forum to make progress.

After all, it was set up 20 years ago to identify and curtail, behind closed doors, harmful tax practices but it did not prevent any of the worse ones that are concentrated on CIT:

- Tax rulings, that grant in many if not most cases a tax advantage to large companies
- Tax breaks on profits from intellectual property as "patent boxes" which are NOT a spur to innovation, they are tax competition tools that continue spreading across Europe despite BEPS nexus approach to R&D
- Double tax treaties (3000 worldwide) that can be turned into double non taxation treaties, or as we discussed here as a means to reduce or cancel withholding taxes on multinationals' outbound payments of interest, royalties, dividends and various service fees etc

These have been brought to light by investigative journalists, whistleblowers, tax justice movement, members of parliaments, trade unions, not by the business code of conduct.

This is why the EU list of non-cooperative jurisdictions will fail to deliver much if it is kept in the hands of this group (not to mention the lack of deterring sanctions).

Fifth, another reason why we have little faith in "fair tax competition" is that **competition/state aid rules to prevent countries from selectively providing favourable tax treatments to companies are too limited.**

As you know, EPSU, as part of a coalition of European and US trade unions, published a report on McDonalds' tax scheme *Unhappy meal*, that contributed to the launch of a state aid investigation in 2015. The Commission's investigation looks at how tax rulings (granted by Luxembourg), in combination with loopholes in the US/Luxembourg double tax treaty might have granted an unfair advantage allowing the fast food leader to pay 0-tax on profits in Europe and the USA.

We welcomed the investigation and called upon national tax administrations to do likewise, ideally in cooperation.

Three years later, McDonald's new corporate structure has become more complex and opaque. It has moved its subsidiary under investigation from Luxembourg to Delaware using a myriad of intermediate companies in Singapore, the UK while using companies in the Cayman Islands, Bermuda and Guernsey. Its tax base has been moved to the UK, just after the referendum on the Brexit. The move to Delaware prevents public scrutiny of the companies' global accounts.

We hope that the Commission will shortly conclude its investigation and oblige the second largest employer in the world to pay back what it owes. As an aside, we fail to understand why the anti-tax avoidance rules at national level do not seem to be used against those artificial tax schemes.

But state aid rules cannot establish the level playing field we call for

After all, if all companies would benefit from the same low tax regimes as currently applied to MNEs, it would be equal treatment, but we would still be in trouble.

A case by case basis is therefore not enough.

This brings me to my final point, our call for a solid floor under tax competition and stop all tax breaks

We know how the story runs, since the 80s, statutory CIT rates have declined from 45% to around to 24% today in the EU (largest fall in the world).

The downward trend continues, Luxembourg just announced last week it will cut CIT from 26 to 20%, following the steps of the UK, France, Belgium, the US and others.

And of course the effective tax rates are much lower for multinationals.

Meanwhile the tax base does not seem to have widened despite BEPS action 15.

Therefore reducing continuously the corporate tax rates in the MS is not a serious option.

For more than 20 years the ETUC has been calling for a common corporate tax, both with a common base and a minimum corporate tax rate set at 25%, to stop the race to the bottom. We have a single currency, a single market, a Semester on economic governance, strict rules on public spending but no common rules on public income and corporate tax. **This is clearly an obstacle to EU's competitiveness and social cohesion.**

A similar call for a global corporate tax co-designed at the **UN level** is a central demand of an international coalition of trade unions and NGOs as well as economists (ICRICT).

So I don't think the Commission is right to say that there is no international appetite for reforming the rules at global level, there is. While in the EU the CCCTB is on the agenda, some discussions are taking place in Africa, and Latin America coordinated by our International sister federation, PSI.

A unitary system is the way forward to stop treating parent company and its subsidiaries as separate entities. We would like this platform to discuss this including reallocation of corporate tax revenues across countries. **Perhaps the Commission could invite African or Latin American tax justice campaigners to have a global, more balanced discussion on CIT.**

Some words on tax breaks:

In a nutshell, tax advantages that require little or no economic activity e.g. employment, assets and sales in the host jurisdiction, and that are awarded to foreign multinationals over domestic ones are a barrier for development of domestic innovation. In our view (ICRICT) **They are not legitimate.**

There are other non-harmful and regulated ways of encouraging R&D via public funds or, as proposed by ICRICT, more tax relief for genuine R&D costs (but only as deductions on expenses incurred in jurisdiction where research takes place)

They might be justified as a policy tool to achieve social or green objectives although there are also other ways of going about this, in any case we would welcome further discussion on the illegitimacy of tax breaks in the Platform.

Finally, going beyond tax rules, we need to look at company law , or else progress on anti tax avoidance can be undermined by lax rules that allow opaque, complex corporate legal structures

Today, there are **500 000 letter box companies** in the EU, purpose of which is to escape tax, social security and wage payment that clearly undermine good tax governance.

Workers are the prime losers, when profitable companies hide and declare no profits, this is to escape paying both CIT and decent wages.

The **Commission's proposal to revise the company law directives** that set out rules on cross-border mergers, conversions and divisions, is an opportunity to establish new rules that prevent corporate regime shopping , circumvention of social security, taxation, and workers' rights to information and consultation on restructuring. The location of the registered office must be connected to the location of economic activities, in other words, to choose more favourable tax legislation to relocate registered offices should constitute an abuse .

To conclude, this year is the 10th anniversary of the financial crisis that is still impacting many of our members in public services. Some economists warn the next recession will be even worse. Fiscal policy must play a much greater role than it does today in terms of its regulatory and redistributive functions. Clearly, tax cooperation will be vital, not tax competition.