Tax Justice Aotearoa NZ

International Tax Policy Brief

Tax Justice Aotearoa Policy Brief Six

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Introduction

This is the sixth policy brief in the Tax Justice Aotearoa (TJA) series, complementing the *Why Tax Wealth, The Case for Net Wealth Tax, The Case for a Wealth Transfer Tax, Reforming Income Tax, Transparency and Tax,* and*Why we Need a Capital Gains Tax* policy briefs.

The international tax system is unjust and has damaging social and economic consequences internationally and within Aotearoa. The fundamental solutions that are needed would, ideally, be given effect at a global level, necessitating significant international consensus. There are some areas, however, where it would be possible for Aotearoa to act alone. The TJA argues for advocacy by the Aotearoa government for reform of international tax rules at the global level; as well as action at the local level.

In general the ideas and recommendations in this brief are based on and consistent with the views of the Tax Justice Network, of which Tax Justice Aotearoa Aotearoa is a partner. The Tax Justice Network, based in England, is an international network. When referred to in this brief, to avoid confusion, the Tax Justice Network will be referred to as TJN (Int).

All errors remain the responsibility of Tax Justice Aotearoa and the authors.

International Tax and How it Works[1]

International tax law consists of laws that apply to the taxing of activity that takes place in two or more countries. It is about the international aspects of income tax laws that all countries have, including all aspects of income: business income, interest, dividends, and royalties. Law applies to both to individuals and companies who carry out cross-border commercial transactions (e.g. trade in goods and services) and the profits that derive from those transactions.

Cross-border tax rules are set out in (1) the national laws of individual countries that have implications for cross-border financial transactions as well as within the country (such as the rate of corporate income tax); and (2) international treaties which may be signed by many countries, just a few, or only two.

The international tax regime has been around for about a century and largely reflects the interests of the countries who developed it, that is, the Western and richer states. The rules are complex, and compounded by several factors, in particular the concept of 'tax sovereignty', that is, the principle that every country has the right to set its own tax rules. For example, all countries set their own rate of corporate income tax. Aotearoa's rate of corporate income tax is 28%; Ireland's rate is 12.5% (for trading income): that in the Cayman Islands is zero. Tax rules of different countries also take different approaches on *what* is taxed and *who* has the right to tax.

[1] This summary of international tax law draws on: Elliffe, C. M. (2018). International and Cross-Border Taxation in New Zealand Wellington, Thomson Reuters; New Zealand Public Service Association (2017). "Progressive thinking: ten perspectives on tax." Retrieved 29/05, 2017, from https://www.psa.org.nz/assets/Campaigns/stand-together/Tax-booklet/Tax-book-2017-LOW-RES.pdf; Arnold, B. J. M., M J (2002). International tax primer. The Hague, Kluwer Law International; as well as OECD documents. Also: 'International Taxation' in C Coleman et al, *Principles of Taxation Law 2016* (Thomson Reuters, 9th ed, 2016) from https://unimelb.libguides.com/internationallaw/int_tax_law

The complexity of tax law is compounded by the acceleration of interlinked economic, social, technological and ideological forces: globalisation. Our global digital economy, as a specific aspect of globalisation, enables e-commerce through the internet. Over recent decades, in association with other globalisation trends, large multinational corporations have transformed themselves. ('Corporations' are also termed 'companies'; or 'enterprises'. For the purposes of this brief the very general phrase 'multinational enterprise' – 'MNE' – will be used.)

MNEs have many ways to minimise or negate their tax obligations, given the complexity of international tax rules, the differences between them, and the ways in which international tax rules favour the interests of richer countries (of course, not all MNEs do negate their obligations). MNEs may be structured as one or more companies and sub-companies or subsidiaries, each of which has independent legal status, but with sufficient common ownership and management of function as one economic unit or enterprise.[2] A company based in one country finds another country which taxes profits at a relatively low or zero rate of corporate income tax (e.g. a tax haven) and then arranges its functions and profits between the various jurisdictions to take advantage of these differences. Payments are made between the subordinate company entities for these transfers with various ways to calculate how much these payments should be. This is "transfer pricing'.

The upshot is 'Profit Shifting' which leads to 'Base Erosion', that is, erosion of a country's tax base. Other avoidance strategies include the exploitation of 'intangible' assets such as patents and trademarks (which are very difficult to price in any meaningful way), and deductions (eg of interests derived from loans made by one company subsidiary to another): all of which are relevant to profit shifting.

A further aspect of the international tax system is tax competition. This to a large extent results from the ability of MNEs to transfer functions and hence profits across countries. Various countries 'compete' with each other to attract business activity through their different rates of corporate income tax that range from low to zero. Such competition is an incentive for tax havens to offer lower rates of tax than other countries: a race to the bottom, competition is an incentive for tax havens to offer lower rates of tax than other countries.

Consequences

Over the last few decades, several organisations and independent researchers have attempted to calculate the amount of money lost through tax avoidance and tax evasion. These estimates are calculated in different ways and vary widely, for example the extent to which they focus on developing countries. One estimate[3] suggests global revenue losses at around US$650 billion annually, of which around one-third relate to developing countries. Oxfam estimates that the 50 largest US businesses have $US 1.4 trillion held in tax havens.

Tax avoidance by the very rich and from MNEs means:

1. Less revenue for government spending. This reduces the ability of states to provide essential societal functions and services.

[2] Fleming, J. C., et al. (2014). "Formulary Appointment in the U.S. International Tax System: Putting Lipstick on a Pig?" Mich. J. Int'L L **36**.
[3] Crivelli, E., R. De Mooij and M. Keen (2016). "Base Erosion, Profit Shifting and Developing Countries." FinanzArchiv: Public Finance Analysis **72(3)**: 268-301.

2. Increased inequalities *within* countries, caused by reduced revenue available to governments and increased tax obligations falling on the comparatively poor to compensate for revenue deficits.
3. Increased inequalities *between* countries. Tax revenue lost in poorer countries is substantially greater as a *proportion* of GDP than in richer countries.
4. Facilitation of criminal and illegal behaviour: the same strategies that allow 'legal' tax avoidance are also used by criminal enterprises for illegal activities (e.g. money laundering).
5. The weakening of societal culture and norms on which tax administration depends: why should an ordinary person pay tax when MNEs do not?

Implications for Emerging Economies

The many flaws in the present international tax arrangements and their consequences have more adverse impacts in poorer countries. Developed economies have more right to taxable profits (because their industries and companies have their central offices in those countries, that is they have 'permanent establishment'; and developing countries have incentives to agree to unfair treaties which may involve little tax being paid. In addition, developing countries have traditionally had less power than developed countries to influence the rules that govern them.

Increasing Awareness of These Problems

Both official organisations and nongovernmental organisations have been aware of the flaws and injustices in the present system for many years. Problems have been highlighted by several scandals and leaks over the last decade and publicised, in particular, by the International Consortium of International Journalists. These scandals include the Paradise Papers, the Lux Leaks, and the Panama Papers. Of these the Panama Papers had the most implications for Aotearoa.

What is Being Done to Address These Problems?

Official agencies, such as the OECD, as well as many governments and state tax authorities, recognise that the present international tax system enables exploitation and tax dodging by some rich individuals and MNEs, and that this is extremely unfair and the cause of immense harm. Significant reforms have been initiated. These include those aimed at (1) improving global financial transparency in how MNEs and tax authorities operate; and (2) the OECD BEPS project.

1 Improving global financial transparency

More financial and tax transparency would increase governmental ability to gather tax revenue, reduce tax avoidance, and promote democratic values. A greater level of transparency would also, hopefully, discourage obvious criminal activities, such as money laundering and illegal trafficking, that are facilitated by the opacity of current systems.[4]

Two main international initiatives are underway to improve transparency: 'automatic exchange of information' (AEOI) and 'country by country reporting.'

(a) Automatic exchange of information (AEOI) requires tax authorities to:

(1) collect financial data on MNE activity, e.g. bank account and profit details, and

[4] Tollan, H. (2016). An International Convention on Financial Transparency. Global Tax Fairness. T. Pogge and K. Mehta, Oxford Scholarship Online.

(2) exchange that information with other tax authorities.

The information gained through AEOI helps countries know where their citizens store assets offshore. Aotearoa enacted legislation with effect from July 2017 to implement AEOI. At the international level, countries agree to the AEOI through the *Multilateral Convention on Mutual Administrative Assistance in Tax Matters.* A Common Reporting Standard (an international G20 and OECD standard) sets out what information is to be provided and which taxpayers are covered.

TJA view on AEOI and its implementation

The TJA agrees with the objectives of *Automatic exchange of information;* however as presently designed AEOI has significant limitations. In particular, Tax Justice Network (Int), and TJA(NZ), argue that there should be public access to *aggregated,* or statistical, information gained through automatic exchange of information[5,6]. Aggregated information would respect the privacy of account holder by not identifying them, but would also allow interested stakeholders including citizens, and civil society organisations to obtain essential information about the total holdings of wealthy residents of their countries wherever they live. This *statistical* information would help measure capital flight and inequality. It would also identify the most relevant financial centres chosen by a country's residents to hold money and investments.

(b) Country by Country Reporting (CBCR): This is another international initiative in which Aotearoa participates. CBCR aims to understand how MNEs conduct their global operations. It does this by identifying MNEs' constituent entities (sub-companies, subsidiaries etc.) and how they transfer functions and costs between them. This sheds light on how MNEs make their profits and where that profit is taxed (if at all). Thus, under CBCR, MNEs headquartered in Aotearoa are required to provide IRD with aggregated information. Such information includes details that include gross revenue, profits and loss, income tax paid, and other various assets. The MNE must also provide information on their entities in Aotearoa and what they do. These reporting requirements only apply to NZ businesses with an annual consolidated group revenue of over EUR 750 million (approximately NZ$1.3 billion). According to IRD, there are around 20 Aotearoa-headquartered corporate groups affected.[7]

The TJA agrees with CBRC but strongly advocates several reforms. Difficulties with the present design include:

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[5] Knobel Andres, C. A., Tax Justice Network,. (2016). *Country-by-country reporting: how restricted access exacerbates global inequalities in taxing rights: A Tax Justice Network report for the Financial Transparency Coalition*. Retrieved from https://www.taxjustice.net/wp-content/uploads/2016/12/Access-to-CbCR-Dec16-1.pdf

[6] Knobel, Andres, Tax Justice Network (2019) *Statistics on automatic exchange of banking information and the right to hold authorities (and banks) to account.* Retrieved from: https://www.taxjustice.net/2019/06/21/statistics-on-automatic-exchange-of-banking-information-and-the-right-to-hold-authorities-and-banks-to-account/. This explains further what aggregated information would involve: 'While banking information on specific account holders is of course confidential (for example, "John has $10 million in HSBC"), there is no legitimate reason why aggregate information – for example, "All Germans hold $100 billion in country X" should be kept under wraps. Aggregate numbers of this kind are already published by some countries' central banks (such as those of the United States or Switzerland) and by the Bank for International Settlements. Similarly, information on the total number of foreign bank accounts that countries sent and received from each other (eg "Argentina received information about 20,000 bank accounts from country X") should not be considered an existential threat either.'

[7] https://www.ird.govt.nz/international-tax/exchange-of-information/country-by-country-reporting-requirements

1. Limited application: The requirements only apply to relatively large MNEs. Most MNEs do not meet the threshold for its application. This limited scope is particularly inappropriate for smaller economies.

2. Inadequate provisions for information exchange: reports are only provided between jurisdictions if there is a treaty to this effect. The TJA considers that there is no need for this requirement and the OECD rules should simply provide for direct filing by the relevant MNE.[8]

3. Quality of information: Currently CBRC is undertaken in accordance with OECD standards. This standard is regarded by TJN and TJA as inadequate by comparison with a newly developed standard: the Global Reporting Initiative (GRI),[9] intended to address key weaknesses of the OECD standard.[10, 11] It is supported by a number of business groups and NGOs including TJN (Int).[12]

4. Lack of public access to information. Reports from CBRC are provided to tax authorities on a confidential basis. Tax Justice groups round the world oppose the secrecy requirements that characterise these arrangements and endorse instead ***public*** CBRC: pCBCR. PublicCBCR would require MNEs to put key financial information in the public realm, disaggregated by each country in which they operate. The reports would provide key financial information such as taxes due and paid; profit before tax, turnover, number of employees, nature of activities and accumulated earnings.

2 The OECD Base-Erosion and Profit Shifting (BEPS) Project

Currently, the main global initiative to address tax avoidance and ensure greater levels of government revenue arises from the OECD BEPS action plan. This is a package of 15 action points designed to help countries reduce base-erosion and profit shifting (base erosion and profit shifting describe the strategies used by MNEs that exploit the present system to avoid tax).

The BEPS project has 15 Action points, for example addressing transparency issues as detailed above; the tax challenges of the digital economy; and improved rules around such matters as interest deduction and transfer pricing. BEPS does not radically change the present tax system, but aims to make it work better. The Aotearoa government supports BEPS, and also supports the international agreement to help give BEPS effect. Aotearoa has since 2016 taken various actions on BEPS related reform, including measures noted above on the AEOI and CBRC.

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[8] Knobel Andres, C. A., Tax Justice Network,. (2016). *Country-by-country reporting: how restricted access exacerbates global inequalities in taxing rights: A Tax Justice Network report for the Financial Transparency Coalition*. Retrieved from https://www.taxjustice.net/wp-content/uploads/2016/12/Access-to-CbCR-Dec16-1.pdf

[9] Mansour Mark Bou.Tax Justice Network. (2009). Businesses, campaigners back global tax standard to tackle $500bn corporate tax abuse epidemic. Retrieved from https://www.taxjustice.net/2019/12/05/businesses-campaigners-back-global-tax-standard-to-tackle-500bn-corporate-tax-abuse-epidemic/

[10] https://www.globalreporting.org/information/news-and-press-center/Pages/First-global-standard-for-tax-transparency.aspx; https://www.globalreporting.org/standards/media/2513/gri-207-tax-standard-2019-factsheet.pdf

[11] The GRI website includes a comparison between the GRI Tax standard and OECD BEPS Country-by-Country reporting: https://www.globalreporting.org/standards/media/2537/comparison-gri-207-tax-2019-oecd-beps.pdf

[12] "The OECD standard is scheduled for review in 2020, and the Tax Justice Network is calling for the OECD to take the GRI tax tandard as the benchmark for technically robust, and rigorously comparable country by country reporting. A key feature of the GRI standard, lacking in the OECD approach, is that it provides for reconciliation of the country by country reports, with companies' consolidated financial statements. The GRI standard also allows meaningful comparison and aggregation by separating related party transactions." From: https://www.taxjustice.net/2019/12/05/businesses-campaigners-back-global-tax-standard-to-tackle-500bn-corporate-tax-abuse-epidemic/

The OECD work on BEPS has not stopped with the 15 Action points. A further programme of work is underway, prompted by issues related to the digital economy, but with broader implications. This programme has assumed the label of "BEPS 2.0", with two main groups of ideas labelled as Pillar One and Pillar Two. Two discussion papers were released in October 2020.[13] These reflect a basis for agreement on principles; consensus is not however yet reached on many issues and details. The OECD has called for submissions on the two discussion papers by December 2020, and there are hopes for a consensus conclusion by mid 2021. This which would lead to model draft legislation, guidelines and rules.

1. Pillar One involves various ideas for allocating greater taxing rights over a MNE's profits and 'nexus' requirements among the different countries in which they operate (i.e. no requirement for physical presence). The term 'nexus' means the degree and nature of linkage/relationship between a company and a country. For instance, physical presence in a country is generally regarded as sufficient nexus for that country to claim taxing rights. The idea that there may be nexus leading to taxing rights, even without physical presence, is therefore a significant change. To a degree, also, the proposals move away from the approach that regards all components of a MNE as independent entities.
2. Pillar Two: amongst other ideas, this involves a minimum corporate tax measure. The idea of a minimum global tax measure would apply beyond the digital economy and would ensure that multinationals pay a minimum level of tax on profits earned in low tax countries. The Pillar Two work is also labelled GLoBE: that is *Global Anti-Base Erosion Proposal.* Initial ideas on this topic were outlined in the 2019 OECD consultation document,[14] now superseded by the 2020 Discussion document. A crucial issue is clearly what rate any minimum corporate rate should be.

Comments on BEPS work

While the BEPS project and action on implementation appears positive, BEPS:

1. doesn't address root causes of tax evasion;
2. does nothing about tax 'competition' (and the consequent race to the bottom) between countries.

In brief, current reform policies by the main international agencies do not directly address fundamental causes of problems in international tax.

We next outline A: the main changes that are needed to the tax system as a whole; then B: specific measures to address challenges faced by developing countries; followed by C: ideas for new taxes (international or national) that would ensure more meaningful contributions from MNEs and rich individuals.

A) FUNDAMENTAL CHANGES TO THE INTERNATIONAL TAX SYSTEM ARE NEEDED

The defects in the current international tax system, and the failure of reforms proposed so far, have led to calls from international agencies such as OXFAM, TJN(Int), ICRICT and others for a more fundamental approach to international taxation, in conjunction with a broader governance system that fully recognises the interests of all global citizens.

[13] OECD (2020). Tax Challenges Arising from Digitalisation – Report on Pillar One Blueprint; and OECD (2020). Tax Challenges Arising from Digitalisation – Report on Pillar Two Blueprint.

[14] https://www.oecd.org/tax/beps/public-consultation-document-global-anti-base-erosion-proposal-pillar-two.pdf.pdf.

Ideally, the following interrelated directions for policy reform should be given effect at the international level.

1. 'Unitary taxation': this would both change and standardise how MNEs are taxed. Current tax law accepts the fiction that the many entities included in a MNE are independent legal businesses. They should instead be treated as one whole entity and taxed on the total profit generated by the entity. The global profits generated by the whole entity would then be then apportioned according to an agreed formula between the individual countries within which the MNE operates, and taxed by those countries according to the country's own rate of corporate income tax (this is 'formulary apportionment). Critical to the success of this concept is the actual formula which could take very different factors into account.
2. A broader governance approach to international tax. Currently the OECD (traditionally representing the richer countries) leads and helps implement changes to international tax, with the United Nations (which attempts to represent all countries) playing a very minor role. Although in recent years the OECD has made significant attempts to broaden its constituents through its "Inclusive Framework" a more truly representative body under UN auspices may be appropriate. This would most effectively consist of a global tax body (e.g. something similar to the global role played by the World Health Organization) to encourage international cooperation, greater global harmonisation, and to provide dispute resolution.
3. Action to reduce tax competition, in particular agreement on a global minimum corporate tax rate: tax competition results in a race to the bottom and particularly disadvantages developing countries. A corporate tax rate that is the same in every country would put all countries on the same footing and remove a major incentive for tax havens. From TJN(Int): https://www.taxjustice.net/faq/tax-competition/
4. Action on enablers and intermediaries that give effect to exploitation of the international tax system. The concept of 'enablers and intermediaries' covers the banks, investment companies, accountants, trust companies, and auditors (among others) who ensure and promote the functioning of the present immoral tax system. For example they institute and sell 'tax minimisation schemes' to their clients. Law should create offences for these activities, and governments should be responsible for ensuring the necessary legal reform and implementation. For more see TJN(Int).[15]
5. International agreement and action on tax havens: A global blacklist of tax havens should be developed and action taken with sanctions to limit their use.

B) SPECIFIC MEASURES TO ADDRESS CHALLENGES FACED BY DEVELOPING COUNTRIES

Developing countries 'lose an estimated US$100bn a year in tax revenues as a result of tax dodging by multinational corporations – and even more as a result of damaging tax competition between countries' (Oxfam 2019). The fundamental changes to the international tax system as identified above would have major benefits for developing countries, but more specific action is needed (set out below).

C) NEW TAXES FOR REVENUE GENERATION

Several new kinds of new taxes have been proposed and, in some cases adopted, by individual countries. Some of these would be global in nature, that is, collected and used globally. These taxes would supplement the more fundahttps://www.startpage.com/mental system-based approaches set out in section A, and are justified morally as compensation for historic harms inflicted by rich

[15]From: Tax justice network: https://www.taxjustice.net/topics/finance-sector/enablers-and-intermediaries/

countries and their MNEs on poorer countries; as well as for practical purposes such as compensation for externalities and disencentivising specific activities that cause environmental or social harm. In addition, more revenue is required to fulfil the Sustainable Development Goals; particularly in the light of social and economic impacts of COVID-19.

Ideas for new taxes include:

1: *Wealth taxes* (Piketty inspired). This would require a kind of 'global wealth register' – a positive measure in itself for transparency benefits.

2: *Anonymous wealth tax.* That is, an additional tax on assets where no information on ownership is publicly available.

3: *Variations of financial transaction taxes*. Some versions of some of these taxes have been adopted, but to be truly effective require a uniform approach.

4: *Diverted profit tax.* Basically a tax on what is assumed to be tax avoidance by multinationals. Australia and the UK have both adopted versions of this recently; the NZ Government has looked at this possibility but is not enthusiastic.

5: Digital tax. A digital services tax (additional to corporate income tax) could be imposed on revenues resulting from aspects of digital services. Many businesses have no obvious 'permanent establishment' and rely heavily on intangible services and assets, such as advertising – which are more susceptible to profit shifting and hence under-taxed.[16] The question of whether or not we should have a digital tax is relevant to the digitalisation of everything: and it not clear whether a specific digital tax is the right response. In response to various options put forward by the OECD, the New Zealand IRD issued a discussion document[17] inviting comment, most specifically on the question of whether an Aotearoa national approach should be adopted pending any international consensus. The TJA would prefer an international approach to all global taxation, including issues relatinhttps://www.startpage.com/g to the digital economy and digital services. As an interim measure the TJA supports a digital services tax of 5% for Aotearoa.[18] The Government's current view on the evolving international position is unclear.

6. Minimum corporate tax. This concept is being discussed internationally, led by OECD within the Pillar Two framework as discussed above.[19] It is not the same idea as a digital tax. The OECD is aiming to obtain at consensus on this issue in mid 2021.

7. Environmental, social and health taxes. These could include: taxes on resource use and resource destruction: carbon, climate issues, environmental damage, mineral extraction, airline taxes; and taxes on health-harming products and services – tobacco, alcohol, some foods, weapons, gambling.

Summary and Proposed TJA Policy Position on International Tax Law and Policy

[16] For more background on the issues relating to digital tax, see Andrea Black *Let's talk about tax NZ* "Taxing multinationals (3) – Digital Services Tax https://letstalkabouttaxnz.com/2019/06/21/taxing-multinationals-3-digital-services-tax/

[17] New Zealand Inland Revenue Department, 2019

[18] Reasons for the TJA approach: include uncertainty about adoption of an international approach, the possibility of the tax acting as an incentive for a more satisfactory multilateral solution; and of bypassing the need for permanent establishment

[19] OECD (2020). Tax Challenges Arising from Digitalisation – Report on Pillar Two Blueprint.

Tax Justice Aotearoa proposes the following policies to improve the transparency, equity, and efficacy of international tax policy. Some will involve international collaboration and advocacy with other countries and agencies; others can be given effect within Aotearoa.

Policies at the International Level

1. Global financial transparency: to be achieved through availability of information to ensure that financial data - based on valid accounting standards - from all multinationals (that is, not only the very largest ones) is provided to tax authorities; exchanged between jurisdictions; and readily available to the public (as discussed above in relation to CBRC).
2. Adoption of an independent accounting standard, for example that of the GRI[20].
3. A global wealth register to assist in promoting greater transparency**.**
4. A global approach to international rules governing tax across borders to ensure that MNEs do not manipulate and take advantage of differences between tax regimes; and the effective bias towards the interests of developed nations.
5. Agreement on treating and taxing multinationals as one whole entity (unitary taxation), rather than continuing the fiction that the many business units included in the enterprise are independent legal businesses. Profits derived from the whole MNE would be allocated to individual countries through a fair approach towards formulary apportionment; together with a global approach to corporate tax
6. Agreement on a global rate of corporate tax that is an *effective* corporate tax [21]
7. A global approach to taxation of the digital economy
8. A global governance approach representing all global citizens, preferably under UN auspices, and perhaps comprising a specific global tax body that encourages international cooperation and harmonisation; giving all countries an equal voice
9. Abolition of tax havens: this would require a suite of measures to abolish the ability of, and incentives for, countries to act as tax havens, involving not only a standard corporate rate tax, but also other strategies such as blacklisting
10. Agreement and action to ensure that countries which facilitate tax evasion/avoidance should have banking and trading privileges reduced or prohibited
11. Action on the 'enablers' and intermediaries, that is banks, investment companies, accountants, trust companies, and auditors (among others) that enable continued exploitation of the international tax system. Measures at the international level via treaties should require governments to create offences for these activities.

Many ohttps://www.startpage.com/f these measures are not 'either/or' but should take effect as a package. In particular, as ICRICT explains, unitary taxation will only be effective if complemented by an effective corporate income tax of some kind.

Policies to address specific issues relevant to developing countries

1. https://www.startpage.com/Ensuring fair treaties: Tax treaties often protect MNEs at the expense of developing countries, sometimes resulting in MNEs not paying some types of tax

[20]Global Reporting Initiative (2019). GRI 207: Tax 2019 A new Global Standard for public reporting on tax. https://www.globalreporting.org/standards/media/2513/gri-207-tax-standard-2019-factsheet.pdf

[21] A minimum *effective* corporate rate includes tax breaks to the base (that is, the income on which taxes are charged), and effective rates can often be much lower, and in many cases half, of the statutory rate: see p 1 Four ways to tackle international tax competition ICRICT (Nov 2016) https://static1.squarespace.com/static/5a0c602bf43b5594845abb81/t/5a25cdcbec212dbeed80d78c/1512426962658/ICRICT_Tax+Competition+Report_ENG_web+version+%281%29.pdf

in any country. Rich countries should ensure that they, and MNEs based in their countries, only enter into treaties with developing countries that are fair in regard to investments, tax provisions, and the projects they finance.[22] The right of governments of developing countries to revise or void their treaties should be recognised.

2. Enhanced tax administrative capacity: Developing countries have smaller and less-equipped tax collection agencies than developed nations. Sufficiently trained staff are required to administer tax systems. Some countries – including Aotearoa in relation to the Pacific - do provide assistance in developing such capacity, but more is needed, along with budget support. Such assistance should ensure independence of the interests of countries responsible for assistance.
3. Ensuring a real voice for developing countries at the global level to ensure that their interests are represented and implemented.

New taxes (both international and national)

These could include consideration of *wealth taxes*; *anonymous wealth tax* (additional tax on assets where no information on ownership is publicly available); *variations of financial transaction taxes*; *diverted profit tax* (that is, a tax on what is assumed to be tax avoidance by MNEs)*;* and *environmental, social and health taxes* including taxes on resource use and destruction: carbon, climate and environmental damage, mineral extraction, airline use; and taxes on health-harming products/ services – tobacco, alcohol, some foods, arms, gambling.

Specific policies at the national level in Aotearoa

The following policies could be actioned within Aotearoa without multilateral agreement. They would reduce tax minimisation by MNEs operating *between* Aotearoa and other countries; as well as benefiting the operation of tax systems and culture *within* Aotearoa.

1 Transparency at the national level: in particular, action on the lack of information on ultimate ownership ('beneficial ownership') of both companies and trusts in Aotearoa); improving the quality of information required under CBRC as recommended; and public access to all such information.

2 Law relating to trusts should be reformed to reduce their capacity to hide wealth nationally and internationally and avoid taxation.

3 Digital taxation: as an interim step (while awaiting agreement on a global approach) a 5% digital services tax[23] could be required.

4 Action on enablers/intermediaries.

Conclusion

The international tax system is systemically flawed and operates to the detriment of poorer countries and poorer people. Its complex and anarchic rules enable exploitation by MNEs and rich people, ensuring that those who so choose to avoid tax obligations. This deprives national

[22] Tax treaties between lower and higher income countries generally unfairly allocate more taxing rights to the higher income country, ensuring that money flows untaxed from developing countries to high income countries. Many treaties result in multinational companies not paying certain types of tax at all in any country.

[23] New Zealand Inland Revenue Department. (2019). *Options for taxing the digital economy A Government discussion document*. Wellington: June 2019 by Policy and Strategy of Inland Revenue, PO Box 2198, Wellington 6140. Retrieved from http://taxpolicy.ird.govt.nz/publications/2019-dd-digital-economy/overview

governments of much needed revenue, increases inequalities both within and between countries, and has particular disadvantages for developing countries.

A global approach to reform is needed. The OECD-led reforms are to be applauded, but their implications, especially for developing countries, are yet to be seen. Even if the OECD reforms are implemented within the foreseeable future, they will not enable poorer countries to obtain sufficient revenue to fulfil the SDGs. Covid-19 has now amplified the challenges faced by poorer countries.

The recommendations in this policy brief that relate to treating MNEs as single legal entities, and other approaches to global consistency, are based largely on the position of international organisations such as TJN, Oxfam, ICRICT and others. Ideas about new kinds of taxes, e.g. international wealth taxes, are however less widely championed. One question implicit in concepts of new international taxes (that is, tax not collected by or accruing to individual nation states) is *how* any such taxes could or should be distributed. This issue is beyond the scope of this Policy Brief, but should be explored. It would be appropriate for any new inthttps://www.startpage.com/ernationally derived revenue to be used for international purposes - such as funding for the SDGs; or emergencies of an international nature - such as COVID-19.

Our government should take these ideas into account when working at the international level on tax reform, in particular given its membership of the UN Tax Committee; and implement those recommendations where national action is possible.

The information contained in this Policy Brief is valid to the end of 2020, and will be updated in 2021.