The skyline of Singapore, which Oxfam has found to be the fifth worst corporate tax haven in the world. Photo: Singapore Travel Guide.

TAX BATTLES

The dangerous global Race to the Bottom on Corporate Tax

EMBARGOED UNTIL 00:01 HRS GMT 12 DECEMBER 2016

Collecting tax is one of the key means by which governments are able to address poverty. But big business is dodging tax on an industrial scale, depriving governments across the globe of the money they need to address poverty and invest in healthcare, education and jobs. This report exposes the world's worst corporate tax havens – extreme examples of a destructive race to the bottom on corporate tax which has seen governments across the globe slash corporate tax bills in an attempt to attract business. It calls on governments to work together to put a stop to this race to the bottom and to tax havens that are driving inequality and poverty around the globe.

SUMMARY: TAX BATTLES

OXFAM

CORPORATE TAX DODGING IS DRIVING THE INEQUALITY CRISIS

This year, Oxfam revealed that just 62 people own the same wealth as the bottom 3.6 billion people.[1] This stark statistic illustrates the scale of an inequality crisis that is undermining economic growth and the fight against poverty, and destabilizing societies across the globe. This report examines one of the key drivers fuelling this inequality crisis: tax competition, and the resultant **race to the bottom** in the taxation of global corporations. Using new research, this report exposes the world's worst corporate tax havens – the 15 countries which facilitate the most extreme forms of tax dodging. Finally, the report identifies clear actions governments can take to act in the interest of their citizens and put an end to tax havens and the race to the bottom.

Well-designed tax systems that redistribute wealth and provide spending on public goods are one of the most effective ways for governments to reduce inequality and poverty, while sustaining growth.[2] Taxing profits of companies, particularly large, successful corporations, is one of the most progressive forms of taxation. It raises more income for national budgets, and when this revenue is invested in public services, it reduces inequality because it redistributes the income by putting 'virtual income' in the pockets of poor people. This equips people with the essential tools and skills to escape poverty, such as good health care and education.

Conversely, when governments reduce the tax burden for large corporations, they tend towards two options: to cut back on the essential spending needed to reduce inequality and poverty; or to make up the shortfall by levying higher taxes, such as value-added tax (VAT), on other, less wealthy sections of society. Indirect taxes such as VAT, which fall disproportionately on poor people, make up on average 67 percent of tax revenues in sub-Saharan Africa, impacting women most.[3] At the same time, increased profits as a result of lower corporate taxation benefit the shareholders and owners of corporations who are predominantly wealthy, further increasing the gap between rich and poor.

Low corporate tax rates or further tax giveaways are promoted because they are supposed to attract investment. Yet evidence shows that corporate tax rates are not the main consideration for companies when seeking where to invest. There are 12 reasons why companies choose to invest in a country, according to the World Economic Forum's Global Competitiveness report.[4] The most important are the quality of the country's infrastructure, the availability of an educated, healthy workforce, and social stability. Corporate tax contributions are vital to ensuring the revenue for these investments.

CORPORATE TAX RECEIPTS ARE FALLING ACROSS THE WORLD

Over the last few decades, however, figures show that the tax contributions of large corporations are diminishing as governments compete in a race to the bottom on corporate taxation. Over the last thirty years, net profits posted by the world's largest companies more than tripled in real terms, from $2 trillion in 1980 to $7.2 trillion by 2013.[5] This increase has not been matched by a rising trend in corporate income tax contributions, partially because of tax havens.

Ending the corporate tax race to the bottom and protecting corporate tax revenues is particularly important to developing countries. In poor countries, corporate tax revenues as a proportion of total tax revenues are twice as important as they are for rich countries.[6] In 2014, IMF research showed that developing countries are up to three times more vulnerable to negative effects of other countries' tax rules and practices than rich countries. Research by the United Nations University recently suggested that the poorer a country is, the more likely it is that corporations will shift their profits out of the country in response to incentives (e.g. lower rates) offered by other countries.[7]

Developing countries lose around $100bn annually as a result of corporate tax avoidance schemes. This amount is more than enough to provide an education for all of the 124 million children currently out of school, and to pay for health interventions that could save the lives of six million children.[8] Action Aid has estimated that developing countries lose a further $138bn due to tax incentives offered by developing countries to large businesses.[9]

This report looks at two core elements of the race to the bottom on corporate tax. Firstly, using new research carried out by Oxfam, the report examines the corporate tax havens that are undermining the whole system of effective corporate tax, naming the worst 15 in the world. Secondly, the report analyses the way the rest of the world is engaging in a dangerous and ultimately self-defeating competition on corporate tax rates and tax exemptions. Finally, it sets out what must be done now by governments to stop this before we see the end of corporate tax altogether.

THE WORLD'S WORST CORPORATE TAX HAVENS

Tax havens are the ultimate expression of the global corporate tax race to the bottom, and they can be found in every region of the world. For this paper, Oxfam has conducted new research that identifies the world's worst corporate tax havens.

Table 1: Oxfam's ranking of the top 15 corporate tax havens

1	Bermuda
2	Cayman Islands
3	Netherlands
4	Switzerland
5	Singapore
6	Ireland
7	Luxembourg
8	Curaçao
9	Hong Kong
10	Cyprus
11	Bahamas
12	Jersey
13	Barbados
14	Mauritius
15	British Virgin Islands

These countries[10] earned their place on Oxfam's 'world's worst' list because they facilitate the most extreme forms of corporate tax avoidance, driving the race to the bottom in corporate taxation. To create the list, Oxfam researchers assessed countries against a set of criteria that measured the extent to which countries used three types of harmful tax policies: corporate tax rates, the tax incentives offered, and lack of cooperation with international efforts against tax avoidance.[11]

Corporate tax havens are causing the loss of huge amounts of valuable tax revenue and their use is becoming standard business practice for many companies. Oxfam analysis found that 90 percent of the world's biggest companies had a presence in at least one tax haven.[12] According to the United Nations Conference on Trade and Development (UNCTAD), large multinationals own, on average, almost 70 affiliates each in tax havens, and this enables them to pay a lower effective corporate tax rate at the group level compared to multinationals without affiliates in tax havens.[13]

Both the European Union and the G20 have committed to producing a blacklist of tax havens in order to clamp down on corporate tax dodging. However, a failure to use objective and comprehensive criteria for assessing countries means many tax havens – including those identified by Oxfam as being among the world's worst offenders – will not appear on their lists. Criteria for the EU blacklist, may not, for example, include

whether a country has a zero percent corporate tax rate. This means countries such as Bermuda, the world's worst corporate tax haven according to Oxfam's analysis, may not feature on the list at all. Oxfam found that US multinational companies reported $80bn in profits in Bermuda in 2012 – more than their profits reported in Japan, China, Germany and France combined.[14]

The EU's decision to only assess and list countries outside of the EU ensures that no European country will feature on their blacklist, despite Oxfam's analysis indicating that the Netherlands, Luxembourg, Ireland and Cyprus are among the world's worst corporate tax havens. Many EU leaders are also willing to exclude countries such as Switzerland from the blacklist merely because it is engaging with the EU on issues relating to exchange of financial information.

A G20 blacklist, due to be published next year, will be weaker still as it only looks at criteria related to financial transparency and ignores many key tax policies that facilitate corporate tax dodging including, zero corporate tax rates. This means it would fail to address harmful tax rules in many of the worst corporate tax havens, including Bermuda, the Netherlands, Switzerland and Singapore.

It is absolutely critical that the world establishes a clear list of which are the worst tax havens, based on objective criteria, and free from political interference. This could be done by the UN or another independent body on an annual basis.

RACE TO THE BOTTOM

Tax havens are frontrunners in a global race to the bottom on corporate tax. Yet every country is being swept up in this. In an attempt to attract business, governments around the world are slashing corporate tax bills – damaging their own economies, and those of other countries in the process. As an illustration, globally corporate tax rates have fallen from an average of 27.5 percent just ten years ago to 23.6 percent today, and this process also shows signs of accelerating.

For G20 countries, the average corporate tax rate has fallen from 40 percent just 25years ago to less than 30 percent today. According to the Organisation for Economic Cooperation and Development (OECD), the average revenues for OECD countries from corporate incomes and gains fell from 3.6 percent to 2.8 percent of GDP between 2007 and 2014. This downward trend in corporate taxation has contributed to the inequality crisis that exists today.

The G20 and the OECD have recently concluded a significant multilateral process to try to tackle corporate tax avoidance, known as the Base Erosion and Profit Shifting (BEPS) initiative. The initiative is aimed at enabling governments to tax profits where those profits have been made (and not where they have been shifted for tax avoidance purposes). OECD governments did not provide an equal platform for developing countries to influence the BEPS tax reform negotiations, even though

corporate tax dodging hits their economies hardest – yet corporate tax havens such as Switzerland, Netherlands and Luxembourg had a seat at the negotiations.

Critically, where the reforms have led to closing corporate tax loopholes, governments have the flexibility to compensate companies by lowering their corporate tax rates. Consequently, BEPS has resulted in an acceleration of the race to the bottom on tax rates. Indeed, since the BEPS agreement several European countries have announced or made plans to cut corporate tax rates including the UK, Hungary,[15] Belgium and Luxembourg.

As well as cutting corporate tax rates, governments can continue to offer companies a variety of tax incentives. Sometimes tax incentives can play a positive role in attracting investment, or helping a country shape its economy. But far too often tax incentives have been found to be ineffective, inefficient and costly. A recent World Bank survey of investors in East Africa, 93 percent said they would have invested anyway even if tax incentives had not been on offer.[16] The frequent lack of regulation and transparency around tax incentives gives rise to them being prone to abuse and corruption.[17] Tax incentives are a particular problem in developing countries, but not exclusively so. For example:

- Kenya is losing $1.1bn a year to tax exemptions and incentives – almost twice what the government spends on its entire health budget,[18] in a country where mothers face a one in 40 chance of dying in childbirth.[19]
- Nigeria spends $2.9 billion on tax incentives, twice as much on tax as it does on education, despite six million girls in the country not attending school.[20] [21]
- In the Netherlands, it is estimated that one specific tax incentive, the 'innovation box', will cost well over €1.2bn in 2016. This figure is equivalent to 7.6 percent of the Netherlands' total income from corporation tax.

Ultimately, the evidence shows that the only beneficiaries of this destructive race to the bottom are corporations and their wealthy shareholders and owners. Yet governments in every part of the world cannot resist playing a part in the race to the bottom. This is due in large part to the prevailing economic worldview that defines all competition as inherently good. It is also a result of the significant lobby pressure placed on governments across the world by corporations to lower their tax bills. To reverse the race to the bottom in corporate taxation, governments must reject these outdated and flawed assumptions that are based on an unproven economic worldview. They must also put an end to the capture of tax policy making by private vested interests that work against the public interest.

Governments must act now. Every month that passes seems to bring yet another revelation exposing a household brand for dodging tax despite huge profits, leading to increasing public anger and disgust. Multinational corporations should no longer be allowed to escape their obligations to the societies in which they operate and where they generate their profits. Many world leaders have said this needs to stop.[22]

Yet their actions fall far short of their words.

Until governments are willing to take the tough decisions required to change the policies that allow these corporations to shirk their tax obligations, the race to the bottom in corporate taxation will continue. Left unchecked, it is quite possible that this could lead to the effective end of corporate taxation in our lifetimes, which will have a huge impact on inequality and the fight against poverty.

RECOMMENDATIONS

On global tax reform

- Governments must call for a new generation of international tax reforms aimed at putting a halt to the race to the bottom in corporate tax. Any new negotiation must include developing countries equally. This could be championed by Germany as a core part of their G20 presidency in 2017.
- Create a global tax body to lead and coordinate international tax cooperation that includes all countries on an equal footing ensuring that global, regional and national tax systems support the public interest in all countries.

On tax havens

Governments and relevant international institutions should seek to:

- Establish a clear list of which are the worst tax havens, based on objective criteria, and free from political interference. The criteria must include transparency measures, very low tax rates and the existence of harmful tax practices granting substantial reductions. This could be done on an annual basis by the global tax body or in its absence another independent body. Strong measures (including sanctions and incentives depending on the context) should be then be used to limit base erosion and profit shifting.
- Adopt strong defensive measures (including sanctions) against listed corporate tax havens to limit BEPS. As a top priority, all countries should at least implement strong controlled foreign company (CFC) rules, which prevent multinationals based in those countries from artificially shifting profits into tax havens, which can be done without waiting for global agreement.
- Support those tax havens that are economically dependent on their tax haven status to build fairer, more sustainable and diversified economies.

On corporate income tax and national tax bases

Governments and relevant international institutions should seek to:

- Governments and international institutions must work together to end the race to the bottom on corporate tax rates. Corporate tax rates need to be set at a level that is fair, progressive and contributes to the collective good. This should include consideration of how to ensure that all countries are able to deliver their commitments under the Sustainable Development Goals (SDGs), reduce their dependency on regressive taxation, and effectively set public spending – thereby helping to close the inequality gap.
- Within the new generation of tax reforms, act to define and review harmful tax practices and measures, in order to ban them both nationally and globally.
- Cease offering discretionary tax incentives, and subject all new tax incentives to rigorous economic and risk assessments (including their contribution to global and regional 'races to the bottom'). All incentives should be regularly reviewed to limit private long-term benefits and public harm; all tax exemptions should be phased out where there is no clear evidence that they are effective.
- Establish through regional forums guidelines and criteria for the circumstances under which tax incentives and exemptions are acceptable.

On public transparency

Governments and relevant international institutions should seek to:

- Improve public tax transparency by requiring all multinational companies to publish country-by-country reports (CBCRs) with separate data for each country in which they operate, including developing countries. The world needs to see a breakdown of their turnover, intra-firm sales, employees, physical assets, profits and current taxes due and taxes paid, to reveal the scale of the problem, and to spur urgent action to end corporate tax dodging for good.
- Publish core elements of tax rulings (agreements between tax authorities and multinational companies) to make both governments and companies accountable to citizens.

Companies

Companies should seek to:

- Approach their tax responsibility as conduct that goes beyond legal compliance and reflects their broader duties to contribute to the public goods on which companies themselves depend.
- Be transparent about their business structures and operations, their tax affairs and tax decision making; assess and publicly report the fiscal, economic and social impacts of their tax-related decisions and practices; and take progressive and measurable steps to improve the sustainable development impact of their tax behaviour.[23]

1 THE RACE TO THE BOTTOM IN CORPORATE TAX: HOW IT HAPPENS

Low corporate taxation is the cornerstone of many governments' growth strategies. The theory behind this is that tax-aggressive economies attract investors and businesses to invest or operate in a country. This doctrine is augmented by a powerful lobby that wields disproportionate influence over policy making to protect the interests of corporations, often at the expense of the public interest. The consequence is that many economies are pitted against each other as to who can offer the most favourable tax environment to attract foreign direct investment (FDI).

Often the policy tools of ever lower corporate tax rates and incentives (tax exemptions such as tax breaks, tax holidays, etc.) are offered in combination with anonymity as a shelter from interested tax authorities. Combined, these policies often shape a tax regime that is overly distorting, and encourage companies to artificially shift their profits and investment to the preferred regime to the detriment of other states' tax collections. These 'beggar thy neighbour' tactics are what is defined as 'harmful tax competition'. The G20 has taken steps to curb corporate tax avoidance through the OECD-led Base Erosion and Profit Shifting (BEPS) action plan. The central aim of the OECD BEPS project is that multinationals pay tax where they really do their business. Unfortunately, the OECD–BEPS agenda is not comprehensive and has left the fundamentals of a broken global tax system intact. It does little to reverse the proliferation of unnecessary tax incentives or to end competitive lowering of general tax rates, all of which drive a race to the bottom on corporate taxation.

Interestingly, in 1998, the OECD issued a bold report, *Harmful Tax Competition: An emerging global issue*,[24] which concluded that tax competition may lead to the proliferation of harmful tax practices. It stated that governments must take measures, including through enhanced international cooperation, to protect their tax bases and to avoid the worldwide reduction in welfare. They proposed, inter alia, that 'countries consider terminating their tax conventions with tax havens'. The OECD described companies using tax havens as 'free riders', benefiting from public spending that they avoid funding. Similarly, governments and residents of tax havens can be considered 'free riders' on general public goods created by the non-tax haven country. [25] Unfortunately, OECD member countries that operate as tax havens, together with other powerful members, succeeded in blocking further progress on the report's findings and recommendations.[26]

THE ROLE OF TAX HAVENS IN ENABLING CORPORATE TAX ESCAPE

Tax competition between countries has taken extreme forms, with the emergence of an international network of tax havens and an exploitative industry of tax avoidance. Some countries set themselves up as tax havens to attract global corporations and the super-rich, who want to pay as little tax as possible. Common features of tax haven policies include some or all of the following: low tax rates; offering tax loopholes and special incentives; providing financial secrecy to facilitate tax evasion; impeding scrutiny; or being deliberately lax about tax enforcement. The scale of revenue loss resulting from the presence of corporate tax havens is illustrated by US global corporations. In 2012, US global corporations alone shifted $500–700bn, or roughly 25 percent of their annual profits, mostly to countries where those profits would be taxed at a zero or very low rate.[27] Opportunities for profit shifting to tax haven countries could be a key factor giving rise to the observed increase in 'sleeping money' that is not reinvested in the economy, but just kept in reserve.[28] According to the *Financial Times*, the net cash position of the British FTSE 100 companies has risen from £12.2bn in 2008 to £73.9bn in 2013.[29]

Global corporations that adopt aggressive tax-planning strategies – some of which are brands as well known for their tax dodging exploits as for the products they market – rely on the mismatches and gaps that exist between the tax rules of different tax jurisdictions. In order to minimize corporate tax contributions, they make taxable profits 'disappear' by shifting profits to low-tax operations where there may be little or no genuine economic or profit-making activity. They can artificially attribute the ownership of assets or the locations of transactions to paper subsidiaries in tax havens.

Failure on the part of the international community to agree a definition of a 'tax haven' contributes to their legitimization. Some countries would claim that a 'real' tax haven is a country that collects no corporate income tax.[30] Others would consider countries with a harmful preferential tax regime to be tax havens (countries with a fairly respectable level of corporate income tax, but enabling corporations to significantly lower the effective level of tax they have to pay).

Box 1: What is a tax haven?

Tax havens are jurisdictions or territories which have intentionally adopted fiscal and legal frameworks allowing non-residents (physical persons or legal entities) to minimize the amount of taxes they pay where they undertake substantial economic activity.

Tax havens tend to specialize and most of them do not tick all the boxes, but they usually fulfil several of the following criteria:

- They grant fiscal advantages to non-resident individuals or legal entities only, without requiring that substantial economic activity be undertaken in the country or dependency.
- They provide a significantly lower effective level of taxation, including zero taxation for natural or legal persons.
- They have adopted laws or administrative practices that prevent the automatic exchange of information for tax purposes with other governments.
- They have adopted legislative, legal or administrative provisions that allow the non-disclosure of the corporate structure of legal entities (including trusts, charities, foundations, etc.), or the ownership of assets or rights.

Tax havens and the policies that promote harmful tax competition create some winners, and many losers. Global corporations and their shareholders are the clear beneficiaries. The losers are those that experience the consequences of gaps in government tax revenues and government spending. Ultimately, it is the public who suffers the most.

2 THE WORLD'S WORST CORPORATE TAX HAVENS

Most countries are engaged in the race to the bottom, be it as a known 'tax haven', or by providing preferential taxes. A small group of countries have taken the low- to- no-tax environment to an extreme, setting themselves up as 'corporate tax havens', and in so doing are poaching the rightful tax revenue of other governments, including those of the poorest countries. For a number of G20 countries, it is convenient that the term 'tax haven' conjures the image of a distant tropical island. In reality, some of the tax havens that contribute most to the global race to the bottom are also key members of the OECD and G20 groups of rich and powerful states.

Oxfam has developed a unique and comprehensive set of indicators to identify the countries that play the greatest role as corporate tax havens (see Table 2).

The research reveals that some of the worst culprits are countries with reasonable nominal corporate tax rates, including the Netherlands, Luxembourg, Singapore and Hong Kong.

To identify this list of tax havens, the researchers, as a starting point, referred to lists of jurisdictions with different 'tax haven' features formulated by credible bodies such as the US Government Accountability Office, the European Parliament and the Bank for International Settlements. As explained in Section 4, the research concentrated on identifying tax havens for corporations. Next, the researchers assessed three key elements of jurisdictions facilitating corporate tax dodging: corporate tax rates, the tax incentives offered, and lack of cooperation with international efforts against tax avoidance. Finally, the scale of corporate profit shifting through each of the countries listed was taken into account; i.e. evidence of tax avoidance structures involving these countries at a globally significant level. There may be other countries with similar tax policies, but for which available data does not indicate they are used on a large scale for corporate tax avoidance and therefore they do not appear in our list. A full explanation of the methodology is available in the methodology note which accompanies this paper.

Table 2: Top 15 corporate tax havens

Top 15		Characteristics
1	**Bermuda**	0% corporate income tax (CIT), 0% withholding taxes, lack of participation in multilateral anti-abuse, exchange and transparency initiatives, evidence of large-scale profit shifting.
2	**Cayman Islands**	0% CIT, 0% withholding taxes,[31] lack of participation in multilateral anti-abuse, exchange and transparency initiatives, evidence of large-scale profit shifting.
3	**The Netherlands**	Tax incentives, 0% withholding taxes, evidence of large-scale profit shifting.
4	**Switzerland**	Tax incentives, 0% withholding taxes, lack of participation in multilateral anti-abuse and transparency initiatives, evidence of large scale profit shifting.
5	**Singapore**	Tax incentives, lack of withholding taxes, evidence of substantial profit shifting.
6	**Ireland**	Low CIT, tax incentives, evidence of large scale profit shifting
7	**Luxembourg**	Tax incentives, 0% withholding taxes, evidence of large scale profit shifting
8	**Curaçao**	Tax incentives, 0% withholding taxes, lack of participation in multilateral anti-abuse, exchange and transparency initiatives, evidence of substantial profit shifting.
9	**Hong Kong**	Tax incentives, 0% withholding taxes, evidence of large scale profit shifting.
10	**Cyprus**	Low CIT, tax incentives, 0% withholding taxes.
11	**Bahamas**	0% CIT, 0% withholding taxes, lack of participation in multilateral anti-abuse and transparency initiatives.
12	**Jersey**	0% CIT, 0% withholding taxes, evidence of substantial profit shifting.
13	**Barbados**	Low CIT, 0% withholding taxes lack of participation in multilateral anti-abuse and transparency initiatives.
14	**Mauritius**	Low CIT, 0% withholding taxes, lack of participation in multilateral anti-abuse and transparency initiatives.
15	**British Virgin Islands**	0% CIT, 0% withholding taxes, lack of participation in multilateral anti-abuse and transparency initiatives.

Further evidence is available substantiating the role of these 15 countries as corporate tax havens. For example, Luxleaks revealed how tax rulings provided by the Luxembourg tax authorities had been used by multinationals to dodge billions of dollars in taxes.[32] In addition, the European Commission (EC) state aid investigations that looked into the tax ruling practices of Luxembourg, Ireland, the Netherlands and Belgium have already resulted in four negative verdicts on the tax advantages provided by these countries to multiple companies.[33] Oxfam research on French banks shows the use of the Cayman Islands, where the top five French banks declare 16 subsidiaries and €45m in turnover, but not one single employee.[34] Further research by Oxfam in Kenya shows the use of tax havens such as the Netherlands, Luxembourg and Mauritius in the ownership structure of Kenyan petroleum rights.[35]

Action Aid research on the Australian uranium mining company Paladin showed how Malawi, one of the poorest countries in the world, has missed out on approximately $27.5m in the past six years because the

company was able to use a Dutch tax avoidance structure.[36] The country could have paid annual salaries of 10,000 nurses with this amount of money.[37] Research by Oxfam Australia has shown that Australian-based multinational corporations that use tax havens cost Australia an estimated US $4–5bn in lost tax revenue annually, and 33 developing countries an estimated US $2.3bn every year.[38] A 2015 report by Finance Uncovered revealed how MTN – one of the largest mobile telecoms operators in Africa – in Uganda, Cote d'Ivoire and Nigeria made substantial payments to a mailbox company of MTN located in Mauritius.[39] MTN denied any wrongdoing and referred to agreements with the appropriate authorities in the countries involved.[40]

Due to lack of transparency by corporations on their tax practices, exposing cases of corporate tax avoidance is extremely difficult. Until governments take further measures to improve this transparency by requiring multinational companies to practise country by country reporting (CBCR) (see Box 2), it is likely that the public will need to rely on the next whistleblower to leak the scale of tax avoidance through these and other tax havens. The ongoing trial against the whistle-blower who revealed the Luxleaks documents emphasizes the need for strong whistleblower protection rules around the world.[41]

Box 2: Public country-by-country-reporting (CBCR)

Currently, it is impossible to know if large multinationals are contributing their fair share of tax in countries where they operate. Public country-by-country-reporting (CBCR) could change this. CBCR requires large companies to provide a breakdown of profits earned, taxes owed and taxes paid, as well as an overview of their economic activity in every country where they have subsidiaries. One of the minimum standards that the OECD has agreed on is to require multinational companies with a turnover of more than $750m to report to tax authorities on revenues, profits, taxes paid, employees and assets in each country where they do business. While this is progress, it is vital that CBCR information is made public so that developing countries can access the data for all relevant firms (which many will be unable to under the OECD-proposed system), and citizens and civil society can hold corporations and governments to account for their tax practices. Over 350,000 actions have been taken by citizens across the EU[42] demanding that all their governments make large companies publicly declare where they do business and where they pay taxes. EU member states are currently negotiating towards a public CBCR requirement for multinational companies. The latest proposals presented need to be improved in order to:

- Ensure that multinational companies will be required to publish data broken down on a country-by-country basis for each country and jurisdiction of operation, both inside and outside the EU (not only on operations in EU countries and yet-to-be determined tax havens);
- Ensure they apply at a threshold of €40m in turnover (instead of €750m);
- Ensure reporting includes all necessary elements, such as intra-group sales, tangible assets, subsidies, and a list of subsidiaries.

FEATURES OF GOOD PERFORMERS

The top 15 corporate tax havens differ substantially from some non-tax haven countries. Countries like Germany, France and Denmark apply generally better standards to ensure global corporations pay their fair share. Such countries have higher statutory corporate tax rates, and have made reasonable efforts to withhold taxes on, for example, dividends and royalties. They are also committed to making progress on international tax transparency measures, and have more effective rules against profit shifting to tax havens (see Box 3 on CFC rules). However, these countries are also dragged into this race to the bottom or are not doing enough to stop it. For example, in June 2013, Denmark decided to gradually reduce its corporate tax rate from 25 percent to 22 percent in 2016. It stood at 34 percent in 1995. France recently announced that it will lower its corporate income tax rate from 33 percent to 28 percent and is increasingly offering a range of tax incentives.[43] Meanwhile, Germany is, unfortunately, strongly opposed to public CBCR. Further action by these governments at national, regional and international levels to reverse the race to the bottom is essential.

Box 3: Controlled foreign company (CFC) rules

Strong controlled foreign company (CFC) rules are a critical counter-measure to profit shifting. If the income of a company's subsidiary abroad is taxed at a low effective rate or not taxed at all, then CFC rules can enable the tax authority of the company's home country to tax the income of the foreign subsidiary. The main aim of CFC rules is to discourage profit shifting to tax havens, which should benefit both developed and developing countries. One of the OECD's BEPS reports provides guidance on CFC rules. However, countries can choose if and how to follow them. Recently, for example, the EU agreed CFC rules that will oblige tax administrations to prove that profits parked, for example, in Bermuda or the Cayman Islands, are completely artificial. This rule is easily circumvented. Companies can avoid paying taxes often by simply employing a single person in a tax haven.[44]

UNEXPECTED ABSENCES

The City of London

The UK's City of London is at the centre of a web of Crown Dependencies and Overseas Territories, over which the UK wields both official and informal influence. The 14 Overseas Territories include the Cayman Islands, the British Virgin Islands and Bermuda, and Jersey is one of the UK's three Crown Dependencies. As Jersey Finance, the official marketing arm of the Jersey offshore financial centre, puts it, 'Jersey represents an extension of the City of London'.[45]

Delaware

Another surprising absence is the US state of Delaware. While Delaware does not use some of the high scoring corporate tax incentives mentioned above, it is home to 1.1m registered companies for a population of only 935,000 people. Companies register in Delaware because of its business-friendly legal system, but also because it does not impose a state corporate income tax on income relating to intangible assets held by companies registered in the state and, like some other US states, allows anonymous shell companies.[46]

Belgium

One recent study[47] rated Belgium second only to the Netherlands for harmful tax practices in Europe. Our research shows that Belgium has provided large intra-group loans to major economies including the US, Germany and France. This suggests that Belgium is a key destination for interest payments out of these countries because of its notional interest deduction system.[48] Yet Belgium has in turn received large intra-group loans from Luxembourg and may therefore be suffering from profit shifting itself, with interest payments to Luxembourg reducing taxable profits from real business operations in Belgium. This example indicates that Belgium is probably a good illustration of countries being simultaneously culprits and victims of corporate tax avoidance – however, the lack of specific data and transparency on where companies pay their taxes and make their profits makes it impossible to analyse this systematically. This again reinforces the need for public CBCR (Box 2).

The rest of the world

Many more countries have a regional or global reputation as a corporate tax haven. Oxfam identified countries with similar tax policies to the top 15, but for which it did not find evidence of the facilitation of large-scale tax avoidance (e.g. Antigua and Barbuda). In Oxfam's desk research for this report, another example uncovered was that of Indonesia announcing that it is exploring options for setting up tax haven jurisdictions that will make it easier for Indonesian and foreign businesses to set up shell companies and enjoy lower taxes.[49] Ending the era of tax havens is not just the responsibility of the top 15 and the countries named above, but requires acknowledgement at the global level of the harm done by the corporate tax race to the bottom.

Most countries are engaged in the race to the bottom, be it as a known 'tax haven', or through providing some degree of a preferential tax regime. This small group of 15 countries, however, has taken the no-to-low tax environment to an extreme, ratcheting up the competition to new levels. For governments, the costs associated with playing the game of the race to the bottom is a widening tax gap,[50] and narrowing fiscal flexibility to raise revenues. For many countries, being a tax haven has not delivered prosperity. A recent article by *The Atlantic*, describing Jersey, Panama, the Channel Islands, Luxembourg, and Antigua and Barbuda, summarized it well:

'...being a tax haven has unexpected costs…Precipitous economic, political and social declines have occurred so often…that observers have coined a new term for it: "the finance curse"...such countries gradually become organized around the interests of people who don't live there, to the detriment of those who do'.[51]

The next section examines the different policy tools used by governments to reduce the tax bills of global corporations.

3 RACE TO THE BOTTOM POLICIES

As indicated above, Oxfam's research on the top corporate tax havens identified three core elements of corporate tax competition: lowering corporate tax rates, offering wasteful tax incentives and a lack of international cooperation against tax avoidance.

NOSE-DIVING CORPORATE TAX RATES

Statutory corporate tax rates are nominal only. Systemic tax minimization arrangements (loopholes, exemptions, etc.) often result in greatly reduced effective corporate tax rates. Nevertheless, overall corporate income tax rates do have some significance. Competition through rate reduction has been considerable over the past few decades. In 1990, the G20 average statutory corporate tax rate was 40 percent; in 2015, it was 28.7 percent.[52] In addition, there are now a large and growing number of countries with a zero percent corporate tax rate, or at a level below half the worldwide average.

Diminishing corporate tax rates have contributed to rising global corporate post-tax profits. In real terms, they increased from $2 trillion in 1980 to $7.2 trillion in 2013.[53] In December 2015, the OECD reported that average revenues from corporate incomes and gains in OECD countries fell from 3.6 percent to 2.8 percent of GDP between 2007 and 2014. Over a similar period, the OECD average standard VAT rate increased from 17.7 percent in 2008 to 19.2 percent in 2015 – 'a record high'.[54]

Over the past few years, the OECD average corporate income tax as a percentage of GDP has remained relatively stable at 2.9 percent. Personal income taxes on the other hand, have increased from 7.8 to 8.5 percent of GDP since 2011. The OECD recently concluded that:

'the structure of tax revenues continues shifting towards labour and consumption taxes. The combined share of personal income taxes, social security contributions and value-added taxes were higher in

2014 than at any point since 1965, at 24.3% of GDP on average in 2014'.[55]

Some critics will claim that a relatively stable corporate tax relative to GDP is an indication of 'no race to the bottom'. However, this is misleading, as rate reduction is often compensated for by broadening the tax base (e.g. increasing the number of taxable corporations, including more small- and medium-sized businesses).

The lack of access to reliable data makes assessments that track *effective* tax rates challenging, but some studies provide interesting insights. For example, a study by the University of North Carolina estimated that the effective tax rates of over 10,000 corporations from 85 countries had declined by, on average, 20 percent from 1988 to 2007.[56] A more recent study on the effective tax rate paid by over 54,000 US companies between 1988 and 2012 concluded there had been a decline of approximately $109bn in taxes paid in 2012 compared to what would have been paid had the effective rate remained at the 1988 level.[57]

A study by the US Government found the effective tax rate for US corporations was around 12.6 percent, despite the nominal CIT rate of 35 percent in 2010.[58] A study by academics at University of Technology Sydney (UTS) in Australia similarly found a sizeable difference, with 76 of Australia's largest multinationals paying on average 16.2 percent instead of the statutory corporate tax rate of 30 percent in Australia.[59]

Countries often lower their corporate income tax rates in response to other countries doing the same, and often for unfounded reasons. There is a deeply entrenched assumption among governments that lowering corporate taxation is necessary to attract investment or to realize growth. Often this assumption is unfounded. When Australia planned to cut its corporate tax rates from 30 to 25 percent, analysis by the Australian Commonwealth Treasury showed that it would only result in a very small increase in employment (0.1 percent in 20 years), wage growth (up less than 0.1 percent per annum) and GDP growth (0.05 percent per annum).[60] Other research[61] has shown that other factors (e.g. a well educated workforce, living environment, etc.) are far more important when deciding where to invest. As Nobel Prize-winning economist Joseph Stiglitz said in 2014: 'The idea that lowering the corporate tax rate will lead to more investment is fundamentally wrong'.[62] And corporate tax revenues can play an important role in enabling governments to finance the other factors that are more important for attracting investments.

TAX INCENTIVES AND HARMFUL TAX PRACTICES

Almost all countries in all regions provide tax incentives. Tax incentives can play a positive role in attracting investment, or helping a country shape its economy. But too often tax incentives are granted to corporations without parliamentary or public disclosure or scrutiny. As a

result, tax incentives are often ineffective and have become associated with abuse and corruption.

The complex array of different types of tax incentives created to attract and satisfy investors and foreign business often do damage to countries' tax bases. Three types of tax incentive used by those among the top 15 global corporate tax havens stood out in our research for causing high revenue losses to countries, including the countries offering said incentives.

Patent boxes

'Patent boxes' have recently gained popularity, particularly in rich countries. Patent boxes[63] are a special tax regime for intellectual property revenues. They allow a lower corporate tax rate (e.g. five or 10 percent) on profits derived from any products that incorporate patents. The net benefit is likely to be several percentage points of a company's corporate earnings, given that statutory corporate tax rates are much higher. In 2015, the Dutch government found that its innovation box resulted in a tax loss of €361m to the Netherlands in 2010. Two years later this had increased to €743m. It is expected to have risen in 2016 to well over €1.2bn. This figure is equivalent to 7.6 percent of the Netherlands' total income from corporation tax.[64] A recent report by the European Commission (EC) concludes that innovation boxes such as these are not the most effective way to stimulate innovation and research and development.[65] Countries without such incentives, such as Germany, have been more successful in attracting and fostering innovative businesses.[66] Despite this, the Dutch government has refused to change its policy.[67]

Secret tax rulings ('sweetheart deals')

Generous discretionary tax treatment of select corporations is another competitive tool used by governments that causes revenue loss to themselves and other countries. For example, the EC recently ruled that the global technology giant Apple received €13bn in illegal state aid from the Irish government. Other similar EC rulings include calling on global coffee shop brand Starbucks to repay up to €30m in illegal state aid received from the Dutch government. A deal between the Luxembourg government and car manufacturer Fiat was also ruled illegal, resulting in Fiat being asked to give back €20–30m.[68]

The EC also ruled against the Belgian government's 'excess profit' tax scheme involving 35 companies (including BP and AB InBev, the brewer behind the Stella Artois brand).[69] This scheme reduced the corporate tax base of the companies by 50–90 percent to discount for so-called 'excess profits' that allegedly result from being part of a multinational group.[70] The total amount to be recovered from these companies is approximately €700m. Instead of recovering these amounts, governments have decided to appeal the EC's decision.

Tax treaties

In 2015, the IMF found that so called 'withholding tax rates' (tax collected at source on the dividends, interest, etc. made by corporations in one country and sent to corporations that reside in other countries) have also gone down as a result of tax competition over the past decades.

> *'Since the 1980s, tax treaty withholding tax rates on dividends, interest and royalties have on average fallen by about 30%, while the average rate on participating dividends has fallen almost 50%'.*[71]

In 2016 Action Aid analysed over 500 tax treaties signed since the 1970s and concluded that many treaties have led to significant tax revenue losses for developing countries, including as a result of reduced withholding tax rates.[72]

COMPETITION BETWEEN DEVELOPING COUNTRIES

Developing countries often use a range of tax incentives, including tax holidays or exemptions.[73] Tax holidays in particular have come under heavy criticism. Due to their nature, they attract short-term, 'footloose' and rapidly profitable investments, allow no collection of any public revenue and tend to be renewed several times in a row. Competition between developing countries through tax incentives has increased significantly over the past few decades. A coalition of international organizations reported that:

> *'...in 1980 less than 40 percent of the low-income countries in sub-Saharan Africa offered tax holidays while free zones were non-existent. By 2005, more than 80 percent offered tax holidays, and 50 percent had adopted free zones. The number of countries in sub-Saharan Africa granting tax incentives has grown further since.'*[74]

The increased use of tax incentives may partially be a result of them becoming more attractive to companies over the years (e.g. countries offering longer tax holidays). Other reasons include trade liberalization and the growth of common markets: 'When firms can supply several national markets from a single location, this is likely to encourage competition among countries to serve as the host country for firms servicing the entire area'.[75] The IMF and others reported that 'business surveys conducted in Africa, Asia, and Latin America suggest that tax incentives very often have no impact on the investment decisions of multinationals'.[76] In other words, often the investments would have been made even if these tax incentives had not been provided. According to the IMF, 'the proliferation of incentives is largely a manifestation of international tax competition – which regional coordination can help mitigate'.[77]

Competition within South-East Asia

An Oxfam review of tax incentives in South-East Asia found that despite being the most damaging fiscal incentive, tax holidays remain the most common.[78] A forthcoming study by Oxfam in Vietnam finds that despite the widespread use of tax incentives, there is little evidence that incentives have contributed to increased investment or economic growth. The largest incentives, particularly tax holidays, go to large investments in manufacturing and real estate. These investments would likely have occurred regardless, leading to significant revenue losses without corresponding economic benefits. The complexity of Vietnam's incentive regulations and the overall lack of information and data make it difficult for both researchers and investors to accurately analyse the costs and effectiveness of tax incentives.[79]

Specific examples of high-profile tax competition within South-East Asia are also covered in other studies.[80] For example, in 2014, in competition for Samsung's investment, Indonesia offered a corporate income tax exemption for 10 years, while Vietnam offered 15 years.[81] The World Bank concluded in 2015 research that:

> *'Tax competition in East Asia and [the] Pacific is an issue that needs to be addressed in regional forums, rather than being left to individual countries. Otherwise, a race to the bottom could develop, with competing tax breaks leading to the long-term loss of tax revenue and few offsetting benefits'.*[82]

East Africa

Governments in East Africa are still failing to eliminate unnecessary tax incentives despite warnings of significant valuable revenue losses from several studies.[83] Precise figures are impossible to provide due to a lack of transparency, but Action Aid and Tax Justice Network Africa estimated in 2016, that four East African countries could still be losing up to $2bn each year:[84] Concrete country examples from their report included:

- In Kenya, tax incentives, including Special Economic Zones, lead to losses of around $1.1bn per year.
- A report by the Institute of policy analysis in Rwanda estimates that Rwanda is missing a quarter of its potential tax revenues by providing tax incentives for business. These foregone revenues constitute 14 percent of Rwanda's potential budget. This would be sufficient to double its spending on health and nearly double spending on education.[85]
- A 2015 Action Aid study on tax incentives in West Africa found that just three countries – Ghana, Nigeria and Senegal – are losing up to $5.8bn each year as a result of tax incentives (Ghana, $2.27 billion; Nigeria, $2.9 billion; and Senegal, $638.7 million).[86]

UN research in 2011 showed that tax incentives rank low in importance for investors when it comes to deciding whether to invest in Africa.[87]

Latin America and the Caribbean

Tax incentives in Latin America and the Caribbean similarly undermine tax collection there. Despite its limited effectiveness in terms of attracting investment,[88] an analysis of ten countries identified over 300 separate tax incentives, ranging from Guatemala, with only six, to the Dominican Republic, with 101 incentives.[89]

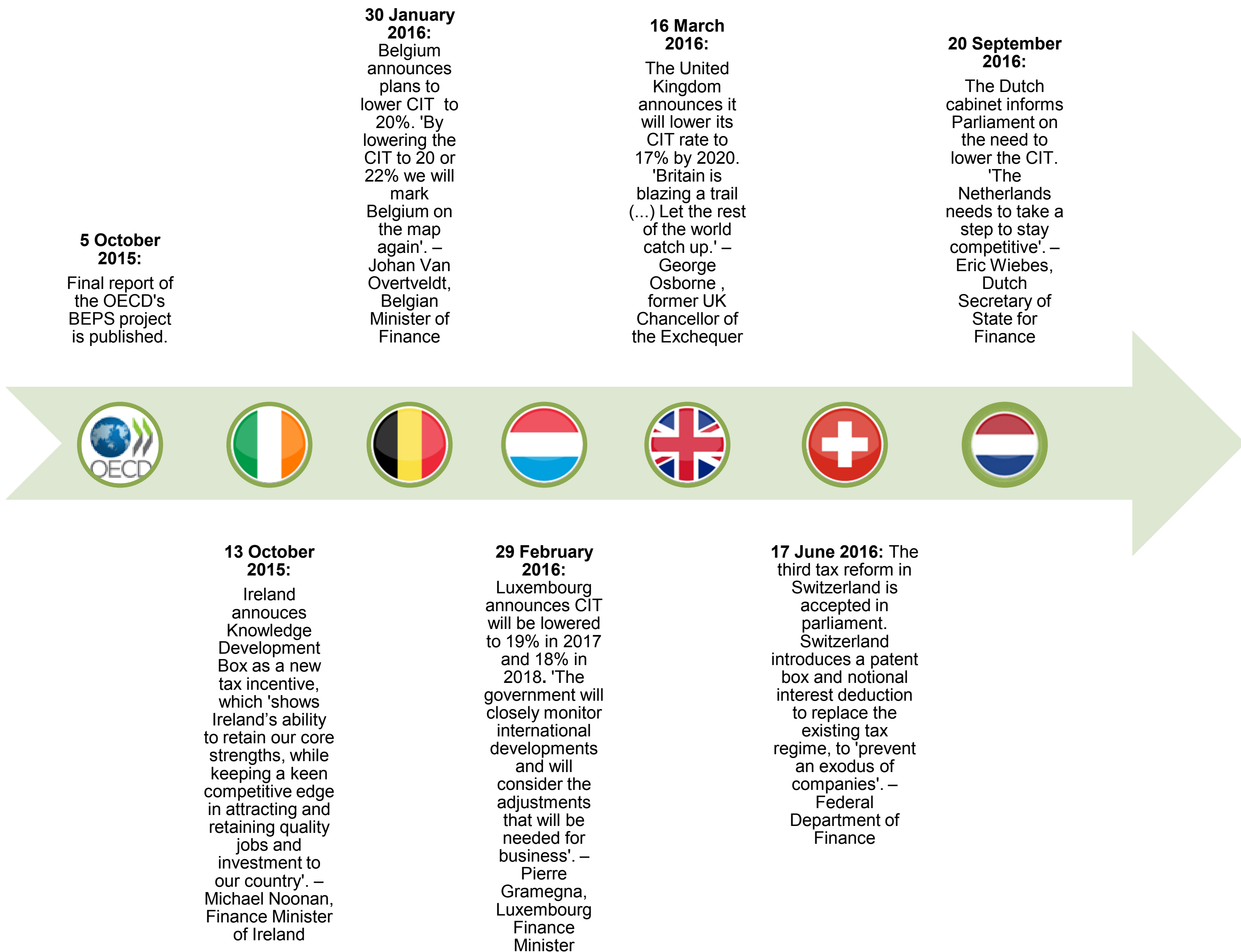
Many of these incentives are agreed without public debate and behind closed doors. In the Dominican Republic, the volume of exemptions received annually by companies[90] in the tourism sector, industry, free trade zones and the border area would be enough to increase the health budget by 70 percent, multiply the budget for potable water and sanitation by three times, or multiply the housing budget by 20.[91]

In Peru in 2015, it is estimated that the mining sector received more credits and refunds than the taxes it paid.[92]

Competition between EU members

EU countries similarly seem to ignore the warning signs against regional competition and tax incentives. As mentioned in Section 1, the OECD-led BEPS action plan was created to put a halt to the systemic erosion of national tax bases. However, it appears to be resulting in the exact opposite. For example, several EU countries have recently announced a reduction in CIT; other countries are replacing old tax incentives with new ones that do comply with the new rules. **Figure 1** shows agreements made by a number of EU member states since the adoption of the BEPS action plan. All of these countries legitimate these measures by stating that they are needed to stay competitive and attractive for foreign investment.

Figure 1: Corporate tax competition Europe



Source: various news reports and government documents[93]

Competition between US states

There are also examples of tax competition between US states. A recent analysis of 11 data centre ‘megadeals’ found that states and localities are giving cash-rich companies upwards of $2m dollars per job in tax incentives to locate data centers in their states, despite the fact that taxes are not even the most important factors for companies to decide on site location.[94] Several large data companies in the US receive a tax exemption on electricity.

> *‘Those exemptions can last for as long as 20 years. Too often states don’t disclose how much tax revenue is lost to these special tax exemptions…This presents a justice issue: while companies with billion-dollar profits pay no tax on electricity, homeowners, tenants and small businesses pay utility taxes.’*[95]

SECRECY AND INFORMATION EXCHANGE

Inadequate tax transparency (for example secrecy on bank account information, or the beneficiaries of assets held in tax havens) helps facilitate harmful corporate tax competition, especially to attract super-rich individuals. In response to the leaks of files related to the offshore financial centres of Switzerland, Luxembourg, Panama and the Bahamas,[96] governments have made new commitments to automate the exchange of bank account information between tax administrations to enable monitoring of where residents hold wealth and income, more transparent and detailed information about beneficial owners, and increased information exchange on, for example, beneficial owners.

In spite of this recent progress, current measures are insufficient or will be ineffective with regards to addressing corporate (and private wealth) tax havens. As the Tax Justice Network notes, 'these schemes are full of loopholes and shortcomings: many countries are planning to pay only lip service to them'.[97] Through the OECD-BEPS process many governments have now agreed to start exchanging information on tax rulings (including agreements between tax authorities and companies) and to require corporations to be more transparent on where they make their profits and where they pay their taxes. While we welcome this progress, not all governments have joined up yet and these measures also do not go far enough. It is vital that CBCR information is made public so that developing countries can access the data (which many will be unable to under the OECD-proposed system), and citizens and civil society can hold corporations and governments to account for their tax practices (see Box 2).

4 HOW TO REVERSE THE RACE TO THE BOTTOM

Reversing the corporate tax race to the bottom is not impossible. Governments can take action to address the problem. Four key measures are highlighted below that governments should take, simultaneously and urgently. These are: increasing global cooperation; increasing regional cooperation; protecting corporate income tax and fighting vested interests.

INCREASING COOPERATION

As mentioned above, OECD member countries that operate as tax havens, together with other powerful members, must lift their resistance to, revisit and act on the recommendations made in the OECD's important 1998 report on harmful tax competition.[98] The OECD-led BEPS

action plan fails to address harmful tax competition – likely because of the kind of resistance from OECD members to the OECD's 1998 report.

In recent years, the IMF has been more willing to take on harmful corporate tax competition. In 2014, an IMF working paper concluded that the effects of one country's tax rules and practices on others (so-called 'international tax spillovers') are significant and that the institutional framework for addressing this is weak: '...as the strength and pervasiveness of tax spillovers become increasingly apparent, the case for an inclusive and less piecemeal approach to international tax cooperation grows'.[99] IMF director Christine Lagarde stated in 2014 that 'there would be more revenue for all if countries resisted the temptation to compete with each other on taxes to attract business. By definition, a race to the bottom leaves everybody at the bottom'.[100] The OECD and the G20 need to follow this lead by prioritizing tackling the corporate tax race to the bottom.

Initiatives to list and target tax havens

The OECD and the EU are acknowledging the harmful role played by tax havens by attempting to formulate tax haven lists. If done right, these could be useful in identifying the roles that specific countries play in facilitating the race to the bottom. Once measures that promote corporate tax escape are pinpointed, appropriate counter-measures such as, incentivizing compliance and applying sanctions can be defined.[101]

However, the OECD's initiative focuses only on exchange of information, which the OECD calls 'transparency'[102] even though the information remains confidential. The focus on information exchange makes it insufficient for tackling corporate tax havens. Tax rates and harmful tax practices also need to be assessed in order to identify tax havens. The EU's efforts are more comprehensive. The EU is considering including a criterion of zero percent tax rates, as well as other harmful tax practices. Despite its promise, the screening initiative has been subject to arbitrary and politicized exemptions that threaten to undermine it before it begins. It will not, for example, list any EU country. Major corporate tax havens like the Netherlands, Luxembourg or Ireland will therefore be excluded. It may also not list any country that has started a dialogue on good tax governance with the EU, for example, which covers Switzerland – ranked fourth in our top 15.[103]

Some tax havens offer high levels of secrecy, aiming to attract the private wealth of the super-rich, and others cater for the global corporations seeking to shirk their tax responsibilities. Some tax havens play a dual role in facilitating the corporate tax race to the bottom, and in facilitating private tax avoidance and evasion. The different characteristics of a 'pure secrecy jurisdiction' compared with a 'pure corporate tax haven' should be appreciated. The OECD proposal to list countries purely on 'secrecy jurisdiction' characteristics will not help to bring an end to corporate tax havens and will certainly not bring an end to the corporate tax race to the bottom. A number of the specific policy solutions required to curb corporate tax dodging are different to those required to stop individuals from hiding their wealth in tax havens.

Table 3: Features of and solutions to private wealth tax dodging and corporate tax dodging

Secrecy jurisdiction	Corporate tax haven
• Facilitating corruption, money laundering, and avoidance and evasion of taxes on private wealth of individuals from other countries. • No information available about ultimate beneficial owners. • Legislation allowing secretive trusts and other opaque financial structures. • No effective exchange of financial account data or ownership data.	• Facilitating avoidance and evasion of taxes on profits of multinational companies generated by operations in other countries. • No CIT or low overall corporate tax rate. • Special corporate tax regimes resulting in non-taxation of certain profits, or low effective tax rates. • No effective exchange or tax rulings, country-by-country data, or other corporate tax data.
Private wealth tax dodging solutions:	*Corporate tax dodging solutions:*
• Exchange of bank account information. • Transparency on beneficial owners. • Anti-corruption measures at national level.	• Public CBCR on where companies earn profits and where they pay taxes. • Information exchange on tax rulings. • Transparency on tax incentives granted to corporations. • Transfer pricing rules. • CFC rules. • Harmonization of corporate tax base. • Ending the race to the bottom on corporate tax rates.

Regional initiatives to cut discretionary tax incentives

In all regions, problematic tax incentives have risen up the political agenda. In East Africa, several countries have committed to reduce tax incentives, or have already taken action to, for example, reduce VAT exemptions. Developing countries have also received support and guidelines from the OECD and the IMF to address wasteful tax incentives.[104] However, these guidelines seem to stress cost-benefit analyses – which are not unimportant, but also will not tackle the underlying political motivations and pressures causing the proliferation of tax incentives. Often tax incentives serve special interests, and often they are formed in response to competition within a region that would be better served by a political and cooperative approach, rather than a technical and unilateral one. Some regions have taken significant steps towards common solutions.

The West African Economic and Monetary Union

The West African Economic and Monetary Union (WAEMU) is a notable example of regional cooperation against tax avoidance and harmful competition. WAEMU has defined a common tax base and a corporate tax rate between 25 and 30 percent. However, the IMF observed that

there is neither an effective monitoring of compliance nor sanctions, and that:

> *'the tax coordination framework may have had the unintended effect of contributing to the fragmentation of policy making at the national level by providing countries with the incentive to enact special tax regimes outside their tax laws… The framework allows unfettered tax competition as long as it is done outside countries' main tax laws. This, in turn, has made tax systems opaque, increased their complexity, and contributed to a culture of "tax negotiation"'.*[105]

For example, Senegal provides income tax holidays for up to 50 years under its 2007 free zone law.[106] Despite this, a 2013 study by the IMF found that 'the process of tax coordination in WAEMU is one of the most advanced in the world'.[107]

The European Union

Direct taxation is not harmonized across the EU, but increasing efforts are being made to coordinate against tax avoidance and evasion. The EC has expressed its concern about tax competition, explaining it can lead to the loss of revenues needed to fund public goods and also limits countries in applying public redistributive policies (which are important to address inequality).[108] The EC recently presented a proposal for a 'common corporate tax base' (CCTB) in Europe, which would replace national rules for calculating taxable profits. The EC suggests that this is to 'improve the business environment', 'help to combat tax avoidance in the EU', as well as reduce the scope for harmful tax competition.[109] While the common base would put an end to base competition (i.e. how taxable profits are defined) between EU member states, it is highly likely that competition through the lowering of corporate tax rates on these profits would intensify. This leaves member states with a dilemma – a high rate is pointless if multiple loopholes continue; closing loopholes is pointless if corporate tax rates are so low that it makes no difference. Appropriate measures need to be introduced to address this situation.[110]

PROTECTING CORPORATE INCOME TAX

Governments eager to show corporations that their country is 'open for business' by reducing the corporate tax contributions are making a political choice. They are choosing to pass on the tax burden left unpaid by corporations to labour, and small- and medium-sized businesses. If these groups are not taking on more of a burden in direct taxation, then they are made to pay through increased indirect – and often more regressive – forms of taxation, such as taxes on goods and services.

As explained previously, indirect taxes such as VAT place a greater proportionate burden of tax on the lowest-paid and small businesses. This reduces income and standards of living, but also means that small businesses and those on low incomes are contributing more than their

fair share to essential services, infrastructure and other public goods and services. Moreover, it gives global corporations a further competitive advantage over their smaller domestic counterparts. Independent coffee shops, for example, are subject to statutory tax rates, while global coffee brands might not be.

Box 5: Why corporate income tax must be defended

1. Corporate taxes raise essential revenue for essential public services such as schools, hospitals and the rule of law. This is crucial for enhancing national welfare, for rebalancing economies, and particularly important for developing countries, which rely more heavily on corporate tax revenue. Public services mitigate the impact of skewed income distribution, and redistribute by putting 'virtual income' into the pockets of the poorest women and men.[111]
2. A tax cut in one place may result in a race to the bottom where the only winners are the very wealthiest sections of society. Without CIT, people will stash their money in zero-tax corporate structures and defer or escape tax entirely.
3. CIT curbs inequality, spurs transparency and more accountable governments and protects democracy. Preserving it means that the tax burden falls largely on the wealthy owners of capital; it is *after-tax* profits that most directly translate into political (and economic) power.

Source: Tax Justice Network. (2013). *Ten Reasons to Defend the Corporation Tax*. http://www.taxjustice.net/wp-content/uploads/2013/04/Ten_Reasons_Full_Report.pdf

While many countries argue that CIT rates are a matter of national sovereignty, they fail to speak out about the loss of sovereign decision making power when it comes to taxing global corporations.[112] Sovereignty is shrinking in a regional or global system that promotes 'beggar thy neighbour' taxation. Many multinational corporations make use of tax havens, and many governments have little option but to bend to the demands of corporate and financial power.[113]

One country that has recently demonstrated the courage to take a different route is Vanuatu. With a current corporate income tax rate of zero percent and a top score on the Tax Justice Network's Financial Secrecy Index, this country has recently launched a tax reform initiative and is planning to introduce a corporate tax.[114] The Vanuatu government's tax reform consultation paper explained that

> *'Reliance on passive foreign investment to support our economy is now a major risk as there is international pressure (through the OECD work on international tax avoidance) on multinational companies to pay taxes in the place where the economic benefits arise.(…) In order to attract foreign direct investment (FDI) to Vanuatu, we must improve our infrastructure, education and health standards. FDI will come to Vanuatu if our economy is sound, our legal system is effective and we can provide a good environment for investment'.*[115]

The need to defend CIT is obvious (see Box 5) and it requires national courage as well as international cooperation. A global tax body is

required to oversee the global governance of international tax matters, while respecting democratic national sovereignty on taxing multinational companies.[116] Until such a global forum is created, we urge all countries and global institutions, including the UN, the IMF, the World Bank and the OECD to work towards an agreement on how to curb the corporate tax race to the bottom and to ensure companies pay their fair share of tax.

FIGHTING VESTED INTERESTS

There is a growing understanding of the economic and fiscal policies that drive economic inequality. There is even a growing international consensus that inequality is bad for economic growth, stability and poverty reduction. However, there is less consensus on condemning damaging competition, despite its role in contributing to increasing inequality and poverty. Unchallenged positive assumptions about competition continue to push countries towards ever more corporate tax competition. Any change is likely to be resisted by lobbyists representing vested interests.

The powerful corporate lobby

Representatives of global corporations and their tax advisors often have an unjustifiably disproportionate influence over government and public policy making where corporate taxation is concerned. This influence is often used to achieve lower corporate taxes and for other tax advantages.

The Big Four accounting firms (Deloitte, EY, KPMG and PwC) are major providers of technical expertise to policy makers in many countries (both for lucrative fees and by offering pro bono services and secondments that may generate sellable knowledge).[117] As a result, the Big Four have the potential to exert enormous influence, positive or negative, over tax policies and the administration of tax.

For example:

- In the US, the Business Roundtable – made up of the CEOs of 150 of the largest corporations operating in America – is just one voice among many corporate lobby groups pushing for lower corporate tax rates. In 2015, this one group alone spent $19.25m on lobbying in Washington, DC, filing more than 28 disclosure reports on 15 separate tax issues. That year the Roundtable hired more than 76 lobbyists, nearly 80 percent of whom had recently travelled through the ‘revolving door’ of government.[118]
- In Ireland, a ‘secretive group of financial industry executives’ successfully lobbied for a range of tax incentives, including for research and development and ‘changes to the taxation of foreign dividends for firms with branches abroad. In some cases...sections of the legislation were drafted by industry groups’.[119]
- Oxfam and SOMO research in the Netherlands found that tax partners from Dutch accountancy firms have key advisory positions for political

parties and regularly organize high-level meetings with representatives from the Dutch Ministry of Finance.[120]

- In May 2016, the Dutch government received a lobby letter from a group representing some of the largest US technology firms warning that any changes to, for example, the tax ruling system in the Netherlands, the absence of withholding tax on interest and royalties, and the innovation box, would have negative effects on the flow of US investments into the Netherlands. The group expressed its support for the appeal by the Dutch government against the EC illegal state aid judgement on the ruling between the Dutch government and Starbucks. In addition, the group argued the Netherlands should lower its corporate tax rate, and warned the Netherlands about EC plans for public CBCR.[121]

Pressure on developing economies

A number of cases have revealed how developing countries are put under pressure by representatives of business to maintain tax incentives for corporations:

- In October 2014, the government of Zambia introduced a bill that would increase its royalties on copper and other minerals. The representative organization Chamber of Mines of Zambia warned that it would hurt investment; Glencore PLC, First Quantum Minerals Ltd. and Barrick Gold Corp all threatened to close their operations or stop investments. After talks with the companies in 2015, the government dropped the new bill and replaced it with a sliding-scale royalty system that has much lower rates.[122]
- In 2007, the Nigerian government introduced a petroleum industry bill, proposing a new 10 percent tax on profits to go to local communities, and an increase in royalty rates. The bill met heavy resistance and was delayed for several years. In 2014, the finance minister claimed that the delays were due to intensive lobbying by interest groups. In 2016, the government announced it would split the bill into three sections to speed up the process. The bill has not yet passed.[123]
- In 2011, the government of Ghana announced that it was planning to reintroduce a windfall tax on mining profits. It was badly received by mining companies operating in the country, and the Ghana Chamber of Mines publicly opposed it. Despite this resistance, the tax was brought before parliament in November 2013. However, in 2014, it was put on hold. Later, the president claimed that the mining companies did not allow the government to implement the tax because they threatened to fire employees or move elsewhere.[124]

The motivation for tax competition will never be broken while public policy making on corporate taxation is captured by vested interests. Governments need to ensure transparent policy making processes and include all stakeholders in an open and transparent manner. Governments should make available how public and private interests have been taken on board during the policy making and political decision making processes.

Corporate responsibilities on tax: beyond legal compliance

Due to the mobility of functions within multinationals, and the availability of jurisdictions where those functions can be treated as profit centres without becoming liable for significant amounts of tax, multinationals are well positioned to organize their affairs to minimize their tax bills. This systemic weakness in the global tax architecture demonstrates clearly that, to tackle corporate tax avoidance in a globalized economy, governments must fundamentally reform corporate tax rules on an equally global scale. But for the foreseeable future, companies will continue to face an inconsistent international tax system with incomplete regulation and much room to manoeuvre.

Legal compliance, in this context, is insufficient. As is the case with many issues of corporate responsibility, it is not just regulation, but values, that must shape the tax behaviour of companies. This is tax responsibility beyond legal compliance – conduct that reflects a company's broader duties to contribute to public goods on which it may itself depend. A tax-responsible company will be transparent about its business structure and operations, its tax affairs and tax decision making. It will assess and publicly report the fiscal, economic and social impacts of its tax-related decisions and practices. And it will take progressive and measurable steps to improve the sustainable development impact of its tax behaviour.[125]

5 CONCLUSIONS AND RECOMMENDATIONS

Competition between governments in every region of the world to offer ever more favourable tax regimes to global corporations and the super-rich is damaging their own economies and the economies of other countries, and is not in the public interest. Tax revenues are needed to fund public goods and services, which contribute to the reduction of poverty and to the development of social and economic infrastructure. Most countries raise revenues by taxing both capital and labour. Tax competition among countries and the growth in the use of tax havens has meant that states find it increasingly difficult to tax income from capital. Consequently, either tax revenue has declined, or the burden of tax has shifted more heavily onto labour. Ultimately, the most harm falls on the public, which is faced with the triple impacts of a higher tax burden, declining public goods and services, and having to subsidize corporate profits and private wealth.

The race to the bottom in corporate taxation fuels the widening inequality gap and prevents people escaping poverty. Oxfam supports the use of progressive taxation and spending to reduce inequality and poverty. Taxing global corporations and the super-rich according to their means is the most progressive form of taxation. Everyone must pay their fair share of taxes, and should not be allowed to escape their obligations to the societies in which they operate and where they generate their wealth. But for governments to reverse this and put the public first, they must challenge decades-long assumptions informed by a flawed and increasingly discredited market fundamentalist doctrine, and the capture of policy making by vested interests that works against the public interest.

Tax havens are the ultimate expression of the global corporate tax race to the bottom, and they can be found in any region of the world; in new research, Oxfam has identified the world's top 15 in this paper. Many other tax havens exist to hide wealth from tax authorities, and criminal gains from law enforcers. While continued unfettered *tax havenry* is a bleak prospect for the world, there are some signs of action at regional and the international level, and further positive action can be taken.

Publics across the world, forced to bear the pain of tax increases or cuts to public services – even as just 62 people own half the world's wealth[126] – have had enough. In response, world leaders are saying things must change. If governments want to make change happen and end the race to the bottom in corporate taxation, they must launch a new generation of comprehensive international tax reforms.

RECOMMENDATIONS

On global tax reform

- Governments must call for a new generation of international tax reforms aimed at putting a halt to the race to the bottom in corporate tax. Any new negotiation must include developing countries equally. This could be championed by Germany as a core part of their G20 presidency in 2017.
- Create a global tax body to lead and coordinate international tax cooperation that includes all countries on an equal footing ensuring that global, regional and national tax systems support the public interest in all countries.

On tax havens

Governments and relevant international institutions should seek to:

- Establish a clear list of which are the worst tax havens, based on objective criteria, and free from political interference. The criteria must include transparency measures, very low tax rates and the existence of harmful tax practices granting substantial reductions. This could be done on an annual basis by the global tax body or in its absence another independent body. Strong measures (including sanctions and incentives depending on the context) should be then be used to limit base erosion and profit-shifting.
- Adopt strong defensive measures (including sanctions) against listed corporate tax havens to limit BEPS. As a top priority, all countries should at least implement strong controlled foreign company (CFC) rules, which prevent multinationals based in those countries from artificially shifting profits into tax havens, which can be done without waiting for global agreement.
- Support those tax havens that are economically dependent on their tax haven status to build fairer, more sustainable and diversified economies.

On corporate income tax and national tax bases

Governments and relevant international institutions should seek to:

- Governments and international institutions must work together to end the race to the bottom on corporate tax rates. Corporate tax rates need to be set at a level that is fair, progressive and contributes to the collective good. This should include consideration of how to ensure that all countries are able to deliver their commitments under the SDGs, reduce their dependency on regressive taxation, and effectively set public spending – thereby helping to close the inequality gap.
- Within the new generation of tax reforms, act to define and review harmful tax practices and measures, in order to ban them both nationally and globally.

- Cease offering discretionary tax incentives, and subject all new tax incentives to rigorous economic and risk assessments (including their contribution to global and regional 'races to the bottom'). All incentives should be regularly reviewed to limit private long-term benefits and public harm; all tax exemptions should be phased out where there is no clear evidence that they are effective.
- Establish through regional forums guidelines and criteria for the circumstances under which tax incentives and exemptions are acceptable.

On public transparency

Governments and relevant international institutions should seek to:

- Improve public tax transparency by requiring all multinational companies to publish country-by-country reports (CBCRs) with separate data for each country in which they operate, including developing countries. The world needs to see a breakdown of their turnover, intra-firm sales, employees, physical assets, profits and current taxes due and taxes paid, to reveal the scale of the problem, and to spur urgent action to end corporate tax dodging for good.
- Publish core elements of tax rulings (agreements between tax authorities and multinational companies) to make both governments and companies accountable to citizens.

Companies

Companies should seek to:

- Approach their tax responsibility as conduct that goes beyond legal compliance and reflects their broader duties to contribute to the public goods on which companies themselves depend.
- Be transparent about their business structures and operations, their tax affairs and tax decision making; assess and publicly report the fiscal, economic and social impacts of their tax-related decisions and practices; and take progressive and measurable steps to improve the sustainable development impact of their tax behaviour.[127]

ANNEX: TERMINOLOGY

Glossary adapted from Eurodad's 2015 *Fifty Shades of Tax Dodging* report.[128]

Automatic Exchange of Information

A system whereby relevant information about the wealth and income of a taxpayer – individual or company – is automatically passed by the country where the income is earned to the taxpayer's country of residence. As a result, the tax authority of a tax payer's country of residence can check its tax records to verify that the taxpayer has accurately reported their foreign source income.

Base Erosion and Profit Shifting (BEPS)

This term is used to describe the shifting of taxable income out of countries where the income was earned, usually to zero – or low-tax countries, which results in 'erosion' of the tax base of the countries affected, and therefore reduces their revenues (see also below under 'transfer mispricing').

Beneficial ownership

A legal term used to describe anyone who has the benefit of ownership of an asset (for example, bank account, trust, property) and yet nominally does not own the asset because it is registered under another name.

Common Consolidated Corporate Tax Base (CCCTB)

CCCTB is a proposal that was first launched by the European Commission in 2011. It entails a common EU system for calculating the profits of multinational corporations operating in the EU and dividing this profit among the EU Member States based on a formula to assess the level of business activity in each country. The proposal does not specify what tax rate the Member States should apply to the profit, but simply allocates the profit and leaves it to the Member State to decide what tax to apply.

Controlled Foreign Corporation (CFC) rules

CFC rules allow countries to limit profit shifting by multinational corporations by requesting that the company reports on profits made in other jurisdictions where it 'controls' another corporate structure. There are many different types of CFC rules with different definitions regarding which kind of jurisdictions and incomes are covered.

Harmful tax practices

Harmful tax practices are policies that have negative spillover effects on taxation in other countries, such as eroding tax bases or distorting investments.

LuxLeaks

The LuxLeaks (or Luxembourg Leaks) scandal surfaced in November 2014 when the International Consortium of Investigative Journalists (ICIJ) exposed several hundred secret tax rulings from Luxembourg, which had been leaked by Antoine Deltour, a former employee of PricewaterhouseCoopers (PwC). The LuxLeaks dossier documented how hundreds of multinational corporations were using the system in Luxembourg to lower their tax rates, in some cases to less than one percent.

Patent box

A ‘patent box’ or ‘innovation box’ is a special tax regime that includes tax exemptions for activities related to research and innovation. These regimes have often been labeled a type of ‘harmful tax practice’, since they have been used by multinational corporations to avoid taxation by shifting profits out of the countries where they do business and into a patent box in a foreign country, where the profits are taxed at very low levels or not at all.

Profit shifting – see ‘base erosion and profit shifting’.

Public country-by-country reporting (CBCR)

Country-by-country reporting would require multinational companies to provide a breakdown of profits earned, taxes owed and taxes paid, as well as an overview of their economic activity in every country where they have subsidiaries, including offshore jurisdictions. At a minimum, it would include disclosure of the following information by each transnational corporation in its annual financial statement:

- A global overview of the corporation (or group): the name of each country where it operates and the names of all its subsidiary companies trading in each country of operation.
- The financial performance of the group in every country where it operates, making the distinction between sales within the group and to other companies, including profits, sales and purchases.
- The number of employees in each country where the company operates.
- The assets: All the property the company owns in that country, its value and cost to maintain.
- Tax information i.e. full details of the amounts owed and actually paid for each specific tax.

Swiss Leaks

The Swiss Leaks scandal broke in 2015 when the ICIJ exposed 60,000 leaked files with details of more than 100,000 clients of the bank HSBC in Switzerland. The material was originally leaked by Herve Falciani, a former computer engineer at the bank. Among other things, the data showed how HSBC was helping clients to set up secret bank accounts to hide fortunes from tax authorities around the world, and assisting individuals engaged in arms trafficking, blood diamonds and corruption to hide their illicitly acquired assets.

Tax avoidance

Technically legal activity that results in the minimization of tax payments.

Tax evasion

Illegal activity that results in not paying or under-paying taxes.

Tax ruling

A tax ruling is a written interpretation of the law issued by a tax administration to a taxpayer. These can either be binding or non-binding. Tax rulings cover a broad set of written statements, many of which are uncontroversial. One type of ruling is the so-called advance pricing agreements (APAs), which are used by multinational corporations to get approval of their transfer pricing methods. Tax rulings have attracted increasing amounts of attention since they have been known to be used by multinational corporations to obtain legal certainty for tax avoidance practices. The documents exposed in the LuxLeaks scandal were APAs.

Tax treaty

A legal agreement between jurisdictions to determine the cross-border tax regulation and means of cooperation between the two jurisdictions. Tax treaties often revolve around questions about which of the jurisdictions has the right to tax cross-border activities and at what rate. Tax treaties can also include provisions for the exchange of tax information between the jurisdictions, but for the purpose of this report, treaties that only relate to information exchange (so-called Tax Information Exchange Agreements (TIEAs)) are considered to be something separate from tax treaties that regulate cross-border taxation. TIEAs are therefore not included in the term tax treaty.

Transfer mispricing

This is where different subsidiaries of the same multinational corporation buy and sell goods and services between themselves at manipulated prices with the intention of shifting profits into low tax jurisdictions. Trades between subsidiaries of the same multinational are supposed to take place ‘at arm’s-length’, i.e. based on prices on the open market. Market prices can be difficult to quantify, however, particularly with respect to the sale of intangible assets such as services or intellectual property rights.

Transparency

Transparency is a method to ensure public accountability by providing public insight into matters that are, or can be, of public interest.

Whistleblower

A whistleblower is a person who reports or discloses confidential information with the aim of bringing into the open information on activities that have harmed or threaten the public interest.

NOTES

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Common tax incentives:

Tax exemptions: exemptions on certain taxes or on some forms of income. For example on income coming from loans or dividends or on income earned outside the jurisdiction (Investopedia).

Tax holidays or reduced tax rates: a temporary exemption or a reduction of a tax. Tax holidays can be granted by governments at national, sub-national, and local levels, and can include income, property, sales, VAT, and other taxes (Investopedia).

Special treatment or preferential tax regimes: an exemption or reduction of tax for a certain sector or form of income. An example of this incentive is the patent box that offers a reduction or exemption of tax on revenues originated from intellectual property73.

Reduced trade tariffs or custom duties: A country can give a reduction on trade tariffs and/or custom duties to companies73.

Tax rulings: a written interpretation by tax authorities regarding the application of the tax law for a specific company's tax arrangement or transfer pricing methodology. Some confidential rulings have in EU countries resulted in significant tax losses to governments and been ruled illegal under EU state- aid rules.

Tax credits: A tax credit is an amount the tax payer can subtract from their taxes owed to the government. It differs from tax deductions or exemptions because it does not lower the taxable income but lowers the taxes owed (Investopedia).

Investment incentives or allowances: enable companies to deduct certain investment cost from their taxable income.

Accelerated depreciation: Accelerated depreciation allows companies to perform greater deductions in the first years after the purchase of an asset. In this way it is possible to reduce income before taxes (investopedia).

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Note: Although it is not at all uncommon (to consult experts) and their advice is undoubtedly valuable – it is incredibly difficult to draw the line between expert advice and advice that serves a (corporate) lobby purpose. The positions that the (representatives of) Dutch accountancy firms and business lobby for often concern maintenance of the tax advantages that the Netherlands currently offers to multinationals, and/or expansion thereof in reaction to tax policy changes in other countries. Oxfam Novib. (2016). *Nederland Belastingparadijs* http://www.oxfamnovib.nl/Redactie/Downloads/Rapporten/Nederland_belastingparadijs.pdf

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This paper was written by Esmé Berkhout. Oxfam acknowledges the assistance of Francis Weyzig, Susana Ruiz, Aurore Chardonnet, Max Lawson, Radhika Sarin, Luke Gibson, Michael McCarthy Flynn, Kalina Tsang, Thomas Endhoven, Maria Villanueva Serrano, Rosa Cañete Alonso, Deepak Xavier, Helen Bunting and many others in its production. Oxfam would like to also give special thanks to Claire Godfrey for her contribution to text editing the paper. It is part of a series of papers written to inform public debate on development and humanitarian policy issues.

For further information on the issues raised in this paper please email advocacy@oxfaminternational.org

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The information in this publication is correct at the time of going to press.

Published by Oxfam GB for Oxfam International under
ISBN 978-0-85598-847-0 in December 2016.
Oxfam GB, Oxfam House, John Smith Drive, Cowley, Oxford, OX4 2JY, UK.

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