

Tax competition and legal transplants in corporate tax law

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BEPS, Tax Competition and legal transplants

- BEPS 44 Group decided the content of the BEPS Actions
- Extended to non-OECD; non-G20 Countries: BEPS Inclusive Framework for BEPS 4 Minimum Standards (Actions 5,6,13 and 14)
- Study of legal transplant in BEPS: why countries are adopting BEPS?;
- Study of tax systems and tax culture in BEPS: how the BEPS minimum standards will be implemented?

Does the implementation of BEPS creates tax competition? If there are differences in the implementation of BEPS, the result could be tax competition among countries.

- legalistic approach to the implementation of BEPS vs.
- approach based in consensus, open norms and discretionary application.



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Standard of Good Governance and Tax Competition

- ECOFIN Council: 2008 Standard of Good Governance: Transparency, exchange of information, fair tax competition. In 2018 BEPS 4 Actions
- Import of norms: Transparency, exchange of information and BEPS 4 Actions. Following OECD-G20 Developments
- Export of norms: Fair Tax Competition: Developed by the EU

THIRD (NON-EU) COUNTRIES

- Reasoning to adopt the standard: authority, prestige, economical incentives
- Standard pre-condition: EU development aid' strategic and economic partnership and free trade agreements. Also used for list of non-cooperative jurisdictions.
- Flexibility to the EU Commission to negotiate the content of the standard that can result in competition among countries.



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