An interdisciplinary approach to the study of International Tax Law Making.

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A New Model of Global Governance in International Tax Law Making

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• Period February 2018- January 2023

• Team
  - Principal Investigator Irma Johanna Mosquera Valderrama
  - PhDs researchers
  - Postdoctoral researcher

• Host Institution: Institute of Tax Law and Economics, Leiden University, the Netherlands
Challenges international taxation

Challenges: To find the income, to tax it, to enforce the tax and to make companies to comply with tax.

• Complexity of the transactions resulting in double non-taxation, or low taxation.
• Lack of information exchange between tax administrations
• Use of tax havens

Challenges different for developing and developed countries. Developing countries lack of resources, and advance knowledge of international taxation to tackle complex transactions.
Current instruments/proposals

1. League of Nations, OECD and UN Models. Failure to have a multilateral instrument. (developed vs. developing countries). Some OECD projects e.g. Transfer Pricing Guidelines, 1998 Report on Harmful Tax Competition.

2. Financial crisis: Need for revenue, and to tackle tax evasion and bank secrecy. Exchange of Information: On request and then automatic (financial account information). Global Transparency Forum

3. BEPS tackle base erosion and profit shifting by multinationals (see next slide) – EU also following these developments.

4. BEPS Taxation of Highly digitalized business
   1. Pillar 1 – 3 proposals and 9th October proposal Unified Approach OECD Secretariat – Allocation of taxing rights: Nexus (where) and allocation (how)
TAX GOVERNANCE – OECD and G20

4 Minimum standards

10 Best practices

1 Multilateral Convention

INCLUSIVE FRAMEWORK

134 COUNTRIES

BASE EROSION PROFIT SHIFTING (BEPS) Decision making: BEPS 44 GROUP

G20

OECD

SIGNATORIES

89 COUNTRIES
TAX GOVERNANCE: EU AND THIRD COUNTRIES

Anti-Tax Avoidance Directives

State Aid Investigations

Fair Tax Competition
RESEARCH QUESTION

Under what conditions can the OECD-G20 and the EU models of global tax governance be feasible and legitimate for both developed and developing countries?
Research objectives

• To investigate the transplant of the 4 minimum standards

• To investigate the conditions under which the OECD can set standards in the current model of global tax governance

• To investigate the legitimacy of the EU initiatives with respect to EU and third (non-EU) countries
MY RESEARCH

- Legal systems
- Legal culture
- Tax Law

- Comparative Law
  - Legal transplants
  - Legal systems
  - Legal culture

- Legitimacy
  - Input, Output: Scharpf
  - Throughput: Schmidt

- Governance
  - Experimentalist Governance: Zeitlin & Sabel
  - Keohane & De Búrca
ACTORS

International Tax Rules/Standards

Governments

Businesses

Tax Advisors, judges, scholars

Tax Rules
Legitimacy deficits

1. BEPS Inclusive Framework: Peer review input limited from peers due to technical capacity among others. IF only for implementation of BEPS 4 Minimum Standards. MLI different mismatches – bilateral negotiations.

2. Different needs of developing countries, speed of the reforms and the need to balance raising revenue vs attracting investment
   - IMF 2019 Corporate Taxation in the Global Economy
   - IMF 2019 The Rise of Phantom Investments

3. Alignment with Sustainable Development Goals and the 2030 SDG Agenda
   - Ensure responsive, inclusive, participatory and representative decision making at all levels (SDG 16.7)
   - Develop effective, accountable and transparent institutions at all levels (SDG 16.6)
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• GLOBTAXGOV project receives funding from the EU H2020 Research & Innovation Programme and European Research Council
Blog https://globtaxgov.weblog.leidenuniv.nl/

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