

Taxing Times for Business

Matti Kohonen, Attac UK and Sven Giegold, Attac Germany

**We live in a fragmented global era, where national sovereignty is bended for purposes of escaping one's responsibilities to the rest of society especially in terms of tax payment. To overturn the tendency, we call on different cultural and social forces that create the groundwork on which a global community can be built on. At the moment, global governance rests on a patchwork of 250 or so different institutions. The current situation is a system that leaves more loopholes than binding agreements.**

The shifting tax burden

Due to systematic tax evasion **and tax avoidance**, the amount of corporate tax as a share of all collected taxes diminished during the last growth cycle in Britain and the USA. **Ms. Watson and Mr. Stuttaford argue for a difference between the practices, evoking the 1936 House of Lords ruling. We believe that this ruling should be overturned with a general anti-avoidance principle in company law, so that abusive cases of tax avoidance could also be ruled illegal by a court decision.** In Britain, taxes paid by individuals have more than doubled during 1989-2003, while taxes paid by corporations only increased by 2.8 percent. As a result, in the year 2003 individuals paid £109 billion in taxes, while corporations only paid £29 billion. This is largely due to tax avoidance. **Transfer payments, which are transactions between parts of the same parent company registered in different jurisdictions, is now identified as one of the main mechanisms that drives the shifting tax burden. Transfer mis-pricing, quoting inaccurate prices for intercompany transactions, is used to shift profits to lower tax jurisdictions. Though the practice is in breach of legality, it takes place in secrecy since company transactions need not be stated, only the total balances.** This practice has resulted in a situation where eight out of the 20 largest non-oil companies paid little or no tax in 2002 to the UK government.

In the era of globalisation, very small states sell their sovereignty to international corporations to provide favourable tax laws, laws for shell companies and banking secrecy laws. In so-called tax havens the concept of sovereignty is distorted beyond the national state. Financial speculation and tax evasion harms ordinary citizens and businesses through giving false incentives on investments. Incentives for capital investment are increasingly based upon tax efficiency, rather than solely on economic efficiency. **Though tax efficiency may boost short-term shareholder value, in long term the false incentives harm the economy.** Oxfam has estimated that developing countries lose \$50 billion due to tax competition and tax evasion, equivalent to annual direct aid flows. Furthermore, financial instability increases the cost of trade, as companies are put off from hedging higher currency and country risk. All these factors put together, aid seems like a piecemeal and we should really focus on systemic issues of currency instability and company tax payments.

Civil society responses

These developments have stimulated a response from civil society organisations. What began at counter and fringe conferences in the mid-nineties has led to an increasingly articulate process of civil society mobilisation for another type of a global society. The Jubilee debt-relief campaign was one of the first of its kind to mobilise public support at the 1998 Birmingham G-7 meeting. Attac\* also emerged from this wider mobilisation, founded in 1998 after the Asian crisis, following an appeal to *disarm the market*, which essentially started looking at how global financial markets distort national sovereignty and present a narrowing policy sphere for national governments. Attac now has over 100,000 members in 38 countries. In France its over 30,000 strong membership allows for a significant public voice.

In 2001, the first *World Social Forum* was organised in Porto Alegre, Brazil, as a counter forum of alternatives in contrast to the *World Economic Forum* in Davos. A new polarity was born. In a social forum, the organising committee organises larger plenary sessions, while seminars and workshops are self-organising. Since then, regional and local social forums have been set up. **The next World Social Forum will take place again in the end of January, back in Porto Alegre after having been last year in Mumbai, India.**

Attac's proposals started from the currency transaction tax, also known as the Tobin Tax, to collect a new global tax and regulate the foreign exchange market reducing the likelihood of a currency crisis. France and Belgium have already voted for the proposal, and if campaigning is successful in Britain, other Eurozone and key developing countries, it could become a reality in the coming years. Attac is now actively looking at other adverse sides of financial globalisation: tax planning of large corporations and the pressures on countries to engage in tax competition. It now calls for a minimum global corporate tax rate to halt tax competition, in which the EU could lead the way by agreeing a minimum within its member states. **As Ms. Watson and Mr. Stuttaford point out, the EU has been very active in building a common harmonised VAT regime, and we exactly call out to extend this to corporate taxation. The EU savings directive is an exemplary agreement on paper about automatic information exchange between jurisdictions, but since it leaves out trusts and companies, where most wealthy people hold their assets, it is not an effectively binding agreement on tax evasion.**

Paying tax is a key corporate social responsibility

In times of cuts in social spending and public services Attac does not accept that corporations refuse to pay for infrastructure, social security and education on which they also depend on. Corporations that engage in aggressive tax avoidance will increasingly have to account for their behaviour. Corporate social responsibility (CSR) should be taken to the bottom line; there can be no CSR without paying one's taxes. **When companies play different tax jurisdictions against each other there is a largely grey area of legality, with too many loopholes for tax evasion. Companies have to decide what risk they want to take on tax. They do so according to their ethic or CSR.**

Therefore, tax avoidance creates a new type of a tax risk, where by companies'

shareholders and investors do not have a clear picture of the possible tax liabilities or value of the business where they invest in. For example, on September 27<sup>th</sup> the clothing maker Tommy Hilfiger's stocks fell by more than 20% after a suspicion from a US grand jury that it had shifted profits to a lower-tax jurisdiction and would face a large tax bill. The risk of companies being challenged by tax authorities is a new type of company risk to which analysts, credit rating companies and investors are slowly waking up to. Jeffrey Owens, the director of the OECD commented in an Financial Times article on the 22<sup>nd</sup> of November that 'tax is where the environment was 10 years ago', expecting tax justice issues to surface in civil society in the coming years.

## Global tax justice

Global regulation can only be legitimately based on institutions that act as democratic intermediaries, which is why we initially propose that the UN Economic and Social Council should take a lead in creating a global tax authority responsible for settling international taxation issues. **Ms. Watson and Mr. Stuttaford state the plethora of existing tax treaties, but we feel that a new global treaty on binding and automatic information exchange should be signed. International agreements already exist in many other areas including trade, intellectual properties and land mines, to take a few examples. Without such a new jurisdiction, as long as a few countries opt out, tax evasion will move to such jurisdictions. Automatic information exchange on tax matters between jurisdictions would bring an effective end to banking secrecy.** Sanctions could include entry taxes on capital and exclusion from returns of global taxation.

Further changes need to be made to international accounting standards to account for the ways in which companies can use transfer payments. Proposals set forward by Richard Murphy include standards that require the disclosure of inter-group trading and the location in which revenues, profits and taxes are earned or paid would overcome the cat and mouse game that is played with national tax authorities, which are seldom provided with the information that is required to determine the genuine tax liability of a multi-nationally structured business. **Trust owners should also be made as public as company owners, to end trusts being used as fronts for tax evasion and criminal activities. Having a public list of Jersey trust owners would be a good start to end tax evasion of wealthy individuals.**

Finally institutions for administering global taxation should be created, starting with the task of a global fund for the distribution of the currency transaction tax. Once such an institution is in place, further investigation should be given to global environmental taxes to which there is widespread interest, but no global structures. Such taxes would shift the tax burden further away from productive work to scarce resources and harmful consumption, especially to activities and products that cause pollution and depletion of water resources, which can be characterised as constituting an ecological debt. The Bretton Woods institutions could become a relic of a failed past, of a state franchise of globalisation that was the Washington Consensus.

We argue that an alternative model of globalisation is possible, *another world is possible*, as the slogan of the social forums declares. These proposals, like proposals that have transformed societies before, come from organised groups of civil society that engage in creating a era that is characterised by a much wider belonging to a global community. What better way to build global governance than taxes? What better way to build legitimacy for global governance than asking how our taxes are being spent? Global justice also needs to be taken to the bottom line.

\* Attac stands for the 'Association for the taxation of financial transactions for the benefit of the people'.

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