



BIAC THE VOICE OF
BUSINESS AT THE OECD

THE TAX AGENDA OF THE OECD

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The Business and Industry Advisory Committee to the OECD (BIAC) represents national business, industry and employer associations from OECD member and observer countries, as well as international sector-specific associate experts. It is the voice of business in OECD policy making processes. The OECD is the world's foremost purveyor of fact-based policy recommendations and cross cutting statistics.

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I. Introduction

Tax policy is possibly one of the most active areas of work of the Organisation for Economic Co-operation and Development (OECD). From an organisational viewpoint, the OECD is structured in several centres and directorates; amongst them, there is the Centre for Tax Policy and Administration (CTP), which deals with tax policy matters. The CTP currently has three pillars: the Committee on Fiscal Affairs (CFA), the OECD Network on Fiscal Relations across Levels of Governments (“Fiscal Network”), and the Global Forum on Transparency and Exchange of Information for Tax Purposes (“Global Forum”). The CFA has manifold bodies, which can be grouped in Working Parties (WP), fora and other groups (for an illustration of the CTP’s organisation, see chart 1 below).

Each CTP subdivision has *inter alia* its own mandate, rules on participation and duration:

The **Fiscal Network** was created in December 2003 and its current mandate will be effective until December 2018. It currently has 17 members and actively invites both OECD and non-OECD member countries to become full participants.

The **Global Forum on Transparency and Exchange of Information for Tax Purposes** was created in September 2009 and its mandate was recently extended until December 2020. Its membership comprises OECD countries, G20 countries, and other jurisdictions that have committed to implement the standards and be reviewed. All members participate in the Global Forum on an equal footing. Moreover, international organisations may be invited as observers. The Global Forum currently has 130 members and 15 observers.

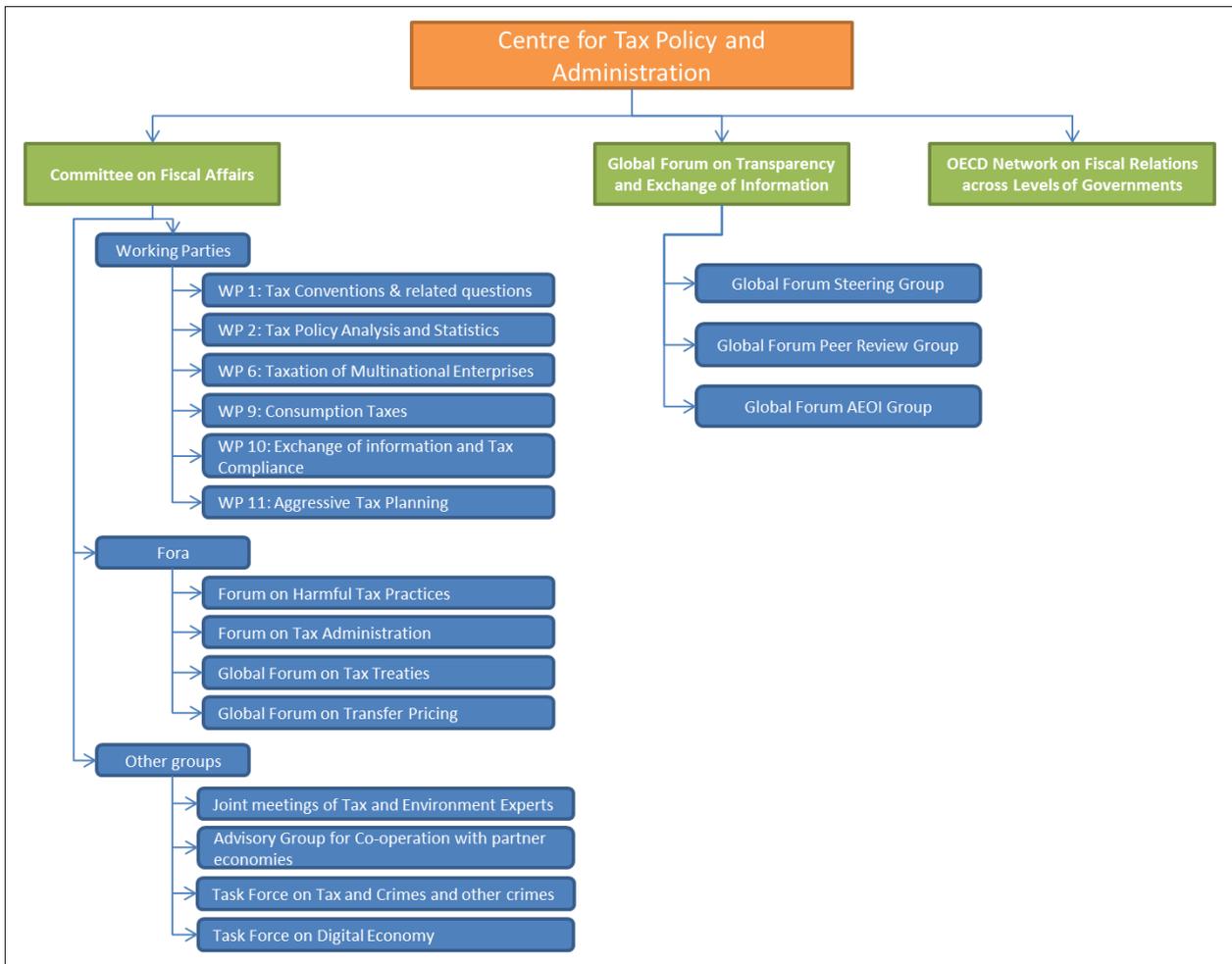
The **Committee on Fiscal Affairs** was created in May 1971 and its current mandate will remain effective until December 2018. All OECD countries are members of the Committee and non-OECD countries may be invited to participate as observers. The CFA closely cooperates with the Business and Industry Advisory Committee (BIAC), the Trade Union Advisory Committee (TUAC) and other major stakeholders.

Each body has a specific mission or objective, and therefore, a different scope of work. For instance, at present there are six WPs: WP 1 deals with tax conventions and related questions, WP 2 works on tax policy analysis and Statistics, WP 6 focuses on the taxation of multinational enterprises (MNEs), WP 9 handles consumption taxes, WP 10 deals with information exchange and tax compliance, and WP 11 focuses on aggressive tax planning.

The CTP structure allows the OECD to address a vast range of topics. The BIAC Tax Committee follows and engages with the OECD’s work.

This document, for clarity, is organised by topic, rather than by body.

Chart 1: OECD CTP organisational chart (2015)



II. Base Erosion and Profit Shifting

Since the G20 commissioned the OECD work on Base Erosion and Profit Shifting (BEPS) in November 2012, the OECD has released numerous reports. In 2013, the first report entitled “Addressing Base Erosion and Profit Shifting” was released; it was followed by an Action Plan on BEPS, that very same year. Said Action Plan proposed to address BEPS through 15 Actions, which the OECD worked on for around 2 years. On 16 September 2014, the OECD launched its first 7 BEPS Deliverables and, on 5 October 2015, the Final Reports were made public. These Final Reports were endorsed by the G20 Leaders in November 2015.

Although the Reports are considered to be final, some contain follow-up work that the OECD will undertake in the coming years. Moreover, the G20 called on the OECD to develop an inclusive framework for monitoring and implementing the BEPS outcomes, by early 2016.

a. Follow-up work on BEPS

As explained earlier, the BEPS Final Reports include follow-up work that the OECD will carry out, over the coming years. The reports/action are outlined below:

Action 1

- A report reflecting the outcome of the continued work related to the digital economy (by 2020).

Action 2

- Work on the Deduction / No Inclusion (D/NI) outcome from the use of branches (including through the use of notional interest deductions).

Action 4

- Work on the detailed operation of the worldwide group ratio rule (by 2016).
- Work on specific rules to address risks posed by banking and insurance groups, identifying targeted rules to deal with the base erosion and profit shifting risks posed by this sector, and best practice rules (by 2016).
- Further technical work on the design and operation of the group ratio rule, using a net third party interest/EBITDA ratio (by 2016).
- Further work on the transfer pricing aspects of financial transactions (2016 and 2017).
- The design and operation of the exclusion rule (i.e. interest expense incurred on specific third party loans meeting certain conditions) will be included in the initial review of the best practice (by 2020).
- The 10%-30% corridor may be revised following an initial review of the best practice (by 2020).

Action 5

- Review of the third category of IP assets (no later than 2020).

Action 6

- The Limitation on Benefits (LoB) rule will be reviewed (by the first part of 2016).
- An examination of the issues related to the treaty entitlement of certain types of investment funds (by the first part of 2016).
- The possible inclusion of a derivative benefits provision in the LoB rule (by the first part of 2016).
- The triangular cases clause (by the first part of 2016).
- The relief of the double taxation clause (by the first part of 2016).
- Special tax regimes and the clause on future changes to domestic law (by the first part of 2016).

Action 7

- Work on the attribution of profits to a permanent establishment (by 2016).

Actions 8-10

- Further work on the transactional profit split method, on profit splitting factors that show a strong correlation with value creation, as well as situations where comparables are not available because of the structures designed by taxpayers (this work will be carried out in 2016 and finalised in the first half of 2017).
- Guidance on the implementation of the approach on hard-to-value intangibles will be provided during 2016; the practical application of the exemptions, including the measurement of materiality and time periods contained in the current exemptions, will be reviewed by 2020, in the light of further experience.
- Follow-up work on the design of the threshold for the application of the simplified approach for low-value adding intra-group services and other implementation issues will be undertaken (by 2016).
- As part of the follow-up work on implementation, clarifications will be provided on the countries joining the safe harbour approach to low value-adding intra-group services (by 2016).
- Further guidance will be provided on the economically relevant characteristics for determining the arm's length conditions for financial transactions (2016 and 2017).

Action 12

- Work on the design of rules and hallmarks for international schemes.

Action 13

- Development of an XML Schema and a related User Guide, with a view to accommodate the electronic exchange of Country-by-Country Reports (by 2016).

Action 14

- The monitoring of the implementation of the minimum standard will be carried out pursuant to detailed terms of reference and an assessment methodology (by the end of the first quarter of 2016).

- The peer monitoring process conducted by the FTA MAP Forum will begin in 2016, with the objective of publishing the first reports by the end of 2017.

Action 15

- Development of the multilateral instrument (by 2016).

b. Inclusive framework

The OECD is currently working on developing an inclusive framework for monitoring and implementing the BEPS outcomes, as requested by the G20. A proposal has already been prepared and will be discussed and approved by the CFA, during its 91st meeting, in late January 2016.

III. Consumption taxes

In the past few years, the OECD had been working on developing the International VAT/GST Guidelines, which BIAC has been actively engaged with. During the Third Global Forum on VAT, in November 2015, the OECD released the complete consolidated set of Guidelines, which were endorsed by its participants. These Guidelines are the first internationally agreed framework for applying national VAT rules to cross-border transactions.

Now that the Guidelines are in place, the focus will be on their implementation and on the areas that haven't been covered yet.

The **Statement of Outcomes** of the Third Global Forum indicates that an OECD Recommendation embodying the complete set of Guidelines and opened to adherence by all interested non-OECD Members will be developed in 2016.

Moreover, the Global Forum has urged the development of implementation packages to support the effective and consistent implementation of the Guidelines, as well as to work on the areas that aren't covered by these Guidelines yet. This work, as per the Statement of Outcomes, could include:

- The research and analysis of approaches to improve the neutrality and the overall performance of VAT systems, for instance through the design and implementation of efficient VAT refund mechanisms and risk assessment processes.
- The development of a possible framework for the exchange of information and enhanced administrative cooperation in the VAT area.
- The application of VAT to cross-border trade in goods, including the collection of VAT on low-value imports, and good practices to address compliance issues.
- The interaction between VAT and the international direct tax framework, notably in the area of transfer pricing.

IV. Exchange of Information

‘Exchange of information’ is an increasing and evolving area of work of the OECD. There are currently 92 jurisdictions participating in the **Convention on Mutual Administrative Assistance in Tax Matters**; this makes it the most comprehensive multilateral instrument, given that it is available for all forms of tax cooperation, in tackling tax evasion and avoidance. Since 2014, 75 jurisdictions have signed the multilateral competent authority agreement to automatically exchange information, under the Common Reporting Standard (CRS), based on Article 6 of the aforementioned convention. As from 2016, over 50 jurisdictions will collect information, which will be exchanged in September 2017.

As part of the OECD’s efforts to put an end to offshore tax evasion, three publications were released in 2015: the **Common Reporting Standard Implementation Handbook** (the CRS Handbook), the Offshore Voluntary Disclosure Programmes, and the **Model Protocol to the Tax Information Exchange Agreements** (TIEAs).

Moreover, the Automatic Exchange Portal (the Portal), an online support for the implementation of the automatic exchange of information for tax matters, was launched in October. Said Portal contains, amongst other, information regarding CRS, the international framework for the CRS and CRS implementation and assistance; the latter includes a section on CRS by jurisdiction. Information on 56 jurisdictions is currently available (inter alia, year where they are committed to the first exchange, primary legislation, secondary legislation, guidance and domestic reporting format).

The **Global Forum on Transparency and Exchange of Information for Tax Purposes** (currently with 130 members) undertakes in-depth **peer reviews**. This is to ensure the implementation of the internationally agreed standards of transparency and exchange of information. The peer reviews process is undertaken in two phases: Phase 1 reviews assess the quality of a jurisdiction’s legal and regulatory framework for the exchange of information, whereas Phase 2 reviews the practical implementation of that framework.

The upcoming work in this area includes:

- Development of a schema and User Guide for the exchange of Country-by-Country reports.
- Common transmission systems (CTS).
- Further work on the exchange of rulings.
- The revised TRACE implementation package.
- The review of any technical changes to be made to the CRS XML schema, as well as the addition of the fields proposed by the EU (this work should be completed by the end of 2017).
- Carrying out a comprehensive substantive review of the CRS, based on a full set of exchange experiences under the CRS, and of the use of CRS information that will have been gained by both the 2017 and 2018 jurisdictions.

V. Tax and Development

The OECD’s Task Force on Tax and Development (the Task Force) held its 5th plenary meeting in November 2015; during said meeting, the different initiatives carried out during the year were reviewed. The **Tax Inspector without Borders Initiative** was launched in 2015, with the aim to help developing countries bolster domestic revenues, by strengthening their tax audit capacities.

Moreover, the Task Force will contribute to the development of the new **inclusive framework for the implementation of the BEPS Reports**, which will deliver transfer pricing capacity building support

programmes to at least 20 countries by the end of 2016 and will contribute to the G20 mandated toolkits. The latter cover the following themes:

- Tax incentives (November 2015).
- TP comparability (October 2016).
- Indirect transfer of assets (September 2016).
- TP documentation (October 2016).
- Tax treaty negotiation capacity (December 2016).
- Base eroding payments (June 2017).
- Supply chain management (March 2018).
- BEPS risk assessment (March 2018).

VI. Miscellaneous work

On top of the aforementioned areas of work of the OECD on tax policy, there are additional streams of work in the field. The following are of particular interest:

a. Health taxes

A roundtable discussion took place during the 90th meeting of Working Party 2 on Tax Policy Analysis and Tax Statistics of the CFA; during said discussion, a scoping document on the design of health-related taxes on food and non-alcoholic beverages was presented, together with health tax and reform experiences in several countries, namely Denmark, Finland, Hungary, Mexico, and Norway.

The OECD Secretariat is currently discussing with the World Health Organisation (WHO) the possibility of devising a project on health-related taxes, which could lead to the development of an OECD-WHO manual on designing and implementing health-related taxes. If the project were to be undertaken, the work could be completed by mid-2016.

b. Inclusive growth and taxation

During the 90th meeting of Working Party 2 on Tax Policy Analysis and Tax Statistics of the CFA, a draft Taxation Working Paper on "Tax policy design for inclusive growth" was presented and discussed. The OECD had previously released a report (in 2008) on Tax and Economic Growth. However, the focus of economic growth is currently on its inclusiveness; thus, the draft paper examines whether through the design of certain aspects of taxes, inclusive growth can be heightened. The draft paper concludes with a number of key tax policy recommendations to better reconcile efficiency and equity goals. For instance, it recommends strengthening horizontal equity to enhance vertical equity, broadening tax bases by removing tax expenditures that disproportionately benefit high-income groups, broadening the financing of social security beyond labour income taxation, taxing capital and its returns in efficient and equitable ways, as well as fighting against tax avoidance and evasion.

ANNEX 1

Objectives of the Centre for Tax Policy and Administration subdivision and Working Parties

OECD Network on Fiscal Relations across Levels of Government

1. The Network's overarching objective is to improve countries' policies with regard to the fiscal relations across levels of government and sub-national public finance, both on the taxation and spending side, with a view to enhancing economic performance and well-being.

Resolution of the Council [C(2014)117]

Global Forum on Transparency and Exchange of Information for Tax Purposes

1. The Global Forum shall ensure a rapid and an effective global implementation of the standards of transparency and exchange of information for tax purposes, either on request or automatic (the standards).

2. The Global Forum shall work to achieve its aims by monitoring implementation of the standards, undertaking peer reviews, developing tools and assisting members to implement the standards effectively. Monitoring and peer review processes will be ongoing exercises. Peer reviews will be published, and other Global Forum reports or documents may also be published, after adoption by the Global Forum. Jurisdictions will be expected to act on any recommendations in their reviews and to report back to the Global Forum on action taken.

Resolution of the Council [C(2015)127]

Committee on Fiscal Affairs

1. The overarching objective of the Committee on Fiscal Affairs is to contribute to the shaping of globalisation for the benefit of all through the promotion and development of effective and sound tax policies, international tax standards and guidance that will allow governments to provide better services to their citizens while maximising economic growth and achieving environmental and social objectives. Its work is intended to enable OECD and Partner (i.e. non-Member) governments to improve the design and operation of their national tax systems, to promote co-operation and co-ordination among them in the area of taxation and to reduce tax barriers to international trade and investment.

Resolution of the Council [C(2013)84]

CFA Working Party No. 1 (Created on May 1971)

The general mandate of Working Party No. 1 on Tax Conventions and related Questions is to act as a forum for the discussion of issues related to the negotiation, application and interpretation of tax conventions, to examine proposals for the modification of the OECD Model Tax Convention and to draft appropriate recommendations for dealing with the issues it has examined and for periodic updates to the Model Tax Convention

Document [DAFFE/CFA(99)8]

CFA Working Party No. 2 (Created on September 2010)

To analyse and measure the social and economic implications of tax policy, as referred to it by the Committee on Fiscal Affairs. In particular:

- to be responsible for the annual publication of Revenue Statistics and Taxing Wages;
- to analyse current tax policy issues;
- to provide advice and experience in tax-related issues to other parts of the OECD; and
- to be responsible for the maintenance and appropriate dissemination of the OECD Tax Database

Document [DAFFE/CFA/WP2(2002)1]

CFA Working Party No. 6 (Created on January 1973)

1. To pursue its work on issues pertinent to transfer pricing and to issue the additions to the guidelines referred to in the 1995 Report;
2. To monitor the implementation of the 1995 Report in cooperation with the tax authorities of Member countries and with the participation of the business community and the recommend to the Council to amend and update, if necessary, the 1995 Report in the light of this monitoring;
3. To report periodically to the Council on the results of its work in these matters together with any relevant proposals for improved international cooperation;
4. To develop its dialogue with non-Member countries, consistently with the policy of the Organisation, with the aim of assisting them to become familiar with the 1995 Report and where appropriate encourage them to associate themselves with the 1995 Report.

Recommendation of the Council [C(95)126/FINAL]

CFA Working Party No. 9 (Created on January 1998)

Working Party No 9 on Consumption Taxes is a forum for the discussion of issues relating to consumption tax policy and administration. The Working Party will assist member countries to secure appropriate and effective taxation outcomes through the development of the OECD International VAT/GST Guidelines and any other relevant outputs that address these issues. The Working Party will develop a dialogue with non-OECD economies and work with them, in accordance with the CFA's Global Relations Strategy and Participation Plan, to improve the design and operation of their consumption tax systems. It will ensure relevant input from non-OECD economies into the development of the OECD International VAT/GST Guidelines and promote consistent and effective implementation of these Guidelines in both OECD and non-OECD economies. The Working Party will also assist member countries through the publication of comparative data and information concerning the application of consumption taxes and through the development of tools for measuring the efficiency of VAT/GST systems.

Document [CTPA/CFA(2013)49]

CFA Working Party No. 10 (Created on September 2010)

1. To provide strategic policy, legal, administrative and technical support to develop and improve the legal, practical and administrative framework to facilitate exchange of information and mutual administrative assistance with a view to improving tax compliance while ensuring that a proper balance is maintained with respect to the protection of taxpayers' rights.
2. Strengthen international co-operation on exchange of information amongst tax administrations and tax policy makers.
3. Enhance countries' ability to tackle tax avoidance and evasion and to counter aggressive tax planning.

Document [CE(2010)13]

CFA Working Party No. 11 (Created on June 2013)

1. To provide policy, legal, administrative and technical support to the work on BEPS;
2. To strengthen international co-operation on countering aggressive tax planning amongst tax administrations and tax policy makers so as to improve the design and implementation of tax laws in an international context;

Document [CE(2013)8]



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