PUBLIC SERVICES
INTERNATIONAL

The global union federation of workers in public services

BRIEF 1 ENGLISH

1

Fixing Corporate Tax

UNION DEMANDS

WHY CORPORATE TAXATION NEEDS DEEP REFORM

INTRODUCTION

Deep reform of international tax rules is needed to ensure that the corporate world and the very rich pays more tax to fund public services that workers and their families depend on and revers3 the massive inequalities in wealth and power that the current global economy creates. The secrecy which enables the super-rich to hide wealth in tax havens needs to end.

Too many people are not aware of the scandalous amounts that our governments are allowing multi-national companies and the very wealthy to avoid. Vested interests spend a lot of money telling us that the issues are too complex for ordinary people to understand and that the rich will always find a way around the rules. In fact, the answers already exist.

WHAT IS LACKING IS THE POLITICAL WILL.

Every time we expose the injustice, the people overwhelmingly support us and we make progress. Global unions are committed to working with the Tax Justice movement to keep on exposing the problems and for advocating for the answers.

These briefs outline the reforms to the international corporate tax system that the global labour movement thinks are most important and provides specific demands for trade unions to make to their governments for domestic, regional and global reform to fix these problems.

If your union would like to know more about how to campaign for tax justice, please contact Daniel Bertossa at PSI or Jason Ward at CICTAR:

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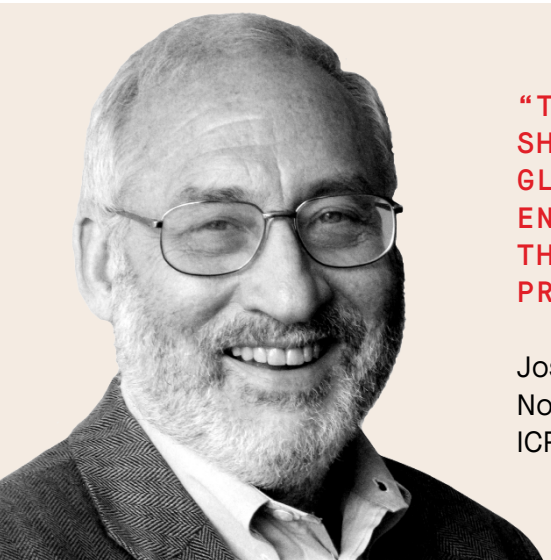


"THE FIRST ELEMENT OF SOCIAL RESPONSIBILITY SHOULD BE PAYING YOUR FAIR SHARE OF TAX. INSTEAD, GLOBALIZATION HAS ENABLED MULTINATIONALS TO ENCOURAGE A RACE TO THE BOTTOM, THREATTENING THE REVENUES THAT GOVERNMENTS NEED TO FUNCTION PROPERLY."

Joseph Stiglitz
Nobel Prize-Winning Economist
ICRICT Commissioner

SUMMARY OF KEY DEMANDS

Throughout these briefs, a series of political demands have been included to help union leaders and members effectively engage in the tax debate. Here is an extracted selection of the 16v most important of these demands:

1. Tax multinationals as single global firms, based on a formula which gives due weight to the contribution of labour to the creation of corporate profits (see Briefing 1)
2. Adopt a minimum effective tax rate of at least 25 per cent, to prevent tax competition based on the factors used in the formula (see Briefing 2)
3. Stop cutting headline rates of corporate income taxation and agree with other countries on a minimum effective tax rate of at least 25 per cent (see Briefing 2)
4. Abolish all discretionary tax breaks and phase out tax breaks on profits, including tax holidays, "patent box" tax breaks, tax rulings that are really tax cuts in disguise and Special Purpose Entity regimes with low or no taxation (see Briefing 2)
5. Limit tax breaks which relieve genuine investment costs to essential cases, carefully scrutinised by legislators and reported in detail to the public (see Briefing 2)
6. Carefully review bilateral tax treaties and scrap clauses which abolish or unduly limit the rights of countries to tax corporate income (see Briefing 2).
7. Ensure that tax authorities are independent from all branches of government, and from other governmental agencies and bodies, as well as from influence from economic and political actors (see Briefing 3)
8. Ensure that tax authorities are adequately resourced in terms of staff and IT infrastructure and have a strong mandate and legal instruments to enforce tax laws and policies (see Briefing 3)

SUMMARY OF KEY DEMANDS (CONTINUED)

9. Ensure that tax authorities have well-trained, well-remunerated and motivated professional staff with supportive working conditions, who can enjoy their human and trade union rights (see Briefing 3)

10. Work with other governments under the auspices of the International Labour Organisation (ILO) to create an ILO Convention for the Protection of Whistle-blowers, which would provide adequate legal protection as well as physical security if needed for those who report corporate wrongdoings (see Briefing 3)

11. Ensure that the tax authority has a mandate to maintain databases of all companies and trusts registered in their jurisdiction and their beneficial owners, and hold records of their annual financial accounts (see Briefing 3)

12. Adopt measures to deter financial flows into tax havens, such as higher withholding taxes, denying tax deductions for payments to related parties in tax havens and barring companies which use tax havens from bidding for public contracts (see Briefing 4).

13. Require all multinationals to publish country-by-country reports in line with global best-practice standards, in an open data format and reconciled to multinationals' global accounts (see Briefing 5).

14. Work with other governments to reform the OECD's Common Reporting Standard so that all jurisdictions which sign up to it automatically share tax information with other jurisdictions, with a five-year exemption for lower-income countries (see Briefing 6).

15. Require that individuals who are physically present in a jurisdiction for less than half a year do not get tax residency, and not sell residence rights to individuals in return for money or investments in a country (see Briefing 6).

16. Introduce a register of the ultimate beneficial ownership of companies, trusts and foundations in that jurisdiction, which is public, free to use, up to date and verified (see Briefing 7).

BRIEF ONE: WHY CORPORATE TAXATION NEEDS DEEP REFORM

THE PROBLEM:

AN OUTDATED SYSTEM OPEN TO ABUSE

For decades wages have stagnated, public services have been squeezed and inequality has risen as workers struggle to understand why the riches of globalisation seem to pass them by. Recent leaks and scandals have revealed a missing piece of the riddle: many multinational corporations are avoiding their fair share of tax, often helped by willing governments.

Corporations have drained many hundreds of billions of dollars into the world's tax havens. At the same time, governments compete to offer tax cuts and tax breaks to corporations. The results are bigger private profits and much less public money for essential services like schools, healthcare, public housing and transport, with more tax raised from workers and consumers instead. This constitutes a transfer from workers and the poor to the wealthiest corporations and people on the planet.

When a corporation is based in one country and does business in another, the question arises: where should its profits be taxed? Early in the last century, governments agreed to answer this question by treating different parts of a corporation as if they were independent entities, trading with each other in an open market: the so-called "arm's length principle".

That solution, designed for a simpler world, has long since broken down. Multinationals learned how to exploit the arm's length principle by using accounting tricks to shift profits out of the countries where they do business and into tax havens. These manoeuvres are designed to fall within the law, and they are defended by armies of corporate accountants and lawyers. Over-stretched tax authorities often struggle to successfully challenge them.

It is easy to spot evidence of the problem by opening the accounts of a multinational.

Its list of subsidiaries will usually include companies in the Netherlands or Luxembourg, in tiny islands in the Caribbean or the English Channel, or in the US state of Delaware. Few if any staff work at most of these subsidiaries, which exist largely on paper. Their purpose is to book profits which were really earned in other places, then pay little or no tax on them. This practice is so common that according to IMF researchers, as much of 40 percent of the world's foreign investment is actually "phantom" investment which is routed from one country to another via a tax haven.

This practice is estimated to cost anywhere up to US$650 billion a year in lost public revenues. Developing countries, which depend relatively more on corporate taxes than high-income countries, are particularly at risk. The advent of digital-era companies like the US tech giants, which do business in many countries while having little or no physical presence there to tax, has brought the flaws of the system to crisis point.

RACING TO THE BOTTOM

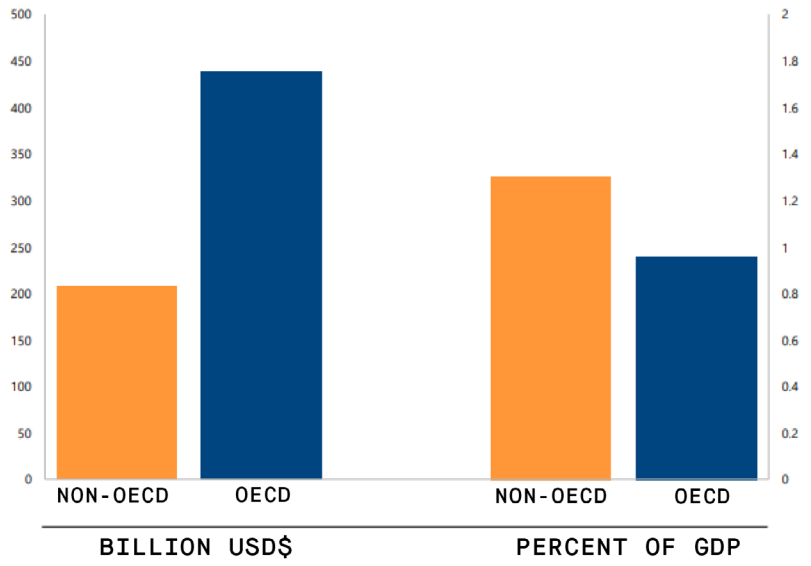
A giant and related problem is that countries compete against each other for international capital by offering tax breaks or cuts in tax rates. Whenever a country or territory offers a tax break to foreign investors, then some corporations will try to shift profits from somewhere else to take advantage of it. The result is a fool's game that costs revenue to all countries but does not increase the pool of investment and jobs.

The logic is the same as the "race to the bottom" on labour rights, pay and working conditions. The willingness of governments to lower standards, in the hope of luring investment from other countries, gives corporations an opportunity to play governments off against each other to get the best deal for themselves, at public expense.

Corporate tax cuts and "offshoring" of profits are part of a shift since the 1980s towards greater economic rewards for capital at the expense of labour. When profits are shifted offshore, the company can claim that less money is available for collective wage bargaining or to invest in creating new jobs. The same maze-like arrangements of companies in tax havens which help corporations to avoid tax also help them to evade accountability towards workers and consumers. By making private wealth hard to find and hard to reach, tax havens reinforce the power of bosses over labour.

IMF ESTIMATES COST OF TAX AVOIDANCE AS HIGH AS US$650 BILLION A YEAR

ESTIMATED REVENUE LOSSES FROM PROFIT SHIFTING, 2013



Progress to date

Corporate tax avoidance blossomed in the high noon of neoliberalism, between the end of the Cold War and the financial crisis that began in 2007. Although many countries have anti-tax haven rules, efforts to rein in the problem were largely ineffective, not least because some governments saw a light touch on tax avoidance as necessary to bring investment.

In some countries tax competition has actually got worse: The United States under President Trump, for example, has adopted reforms to deter tax avoidance by US corporations overseas while at the same time slashing the US corporate tax rate from 35 per cent to 21 per cent. This is creating a huge hole in the US public finances for which workers and their families will pay for years to come.

Since the financial crisis, public anger and campaigning by civil society groups and trade unions has slowly woken governments up to the reality that the status quo is not sustainable. Many governments are still trying to face both ways, however, by adopting measures against tax avoidance while cutting tax rates or offering new tax breaks.

WHY CORPORATE TAX REFORM MATTERS TO WORKERS:

- WHEN CORPORATIONS PAY LESS TAX ON THEIR PROFITS, WORKERS AND OTHER CITIZENS MUST PAY MORE, OR PUBLIC SERVICES LIKE SCHOOLS AND HOSPITALS SUFFER.
- LOW TAX RATES ENRICH THE WEALTHY PEOPLE WHO OWN MOST CORPORATE SHARES AND INCREASE THEIR POWER IN SOCIETY, WHICH UNDERMINES DEMOCRACY.
- THE STATUS QUO REFLECTS THE EXCESSIVE POWER OF CORPORATE LOBBYISTS OVER GOVERNMENT, AT THE EXPENSE OF LABOUR AND THE WIDER PUBLIC INTEREST.
- TAX HAVENS ENABLE CORPORATIONS TO SHIFT PROFITS OFFSHORE WHILE CLAIMING TO THEIR WORKERS ONSHORE THAT THEY CAN'T AFFORD WAGE INCREASES.

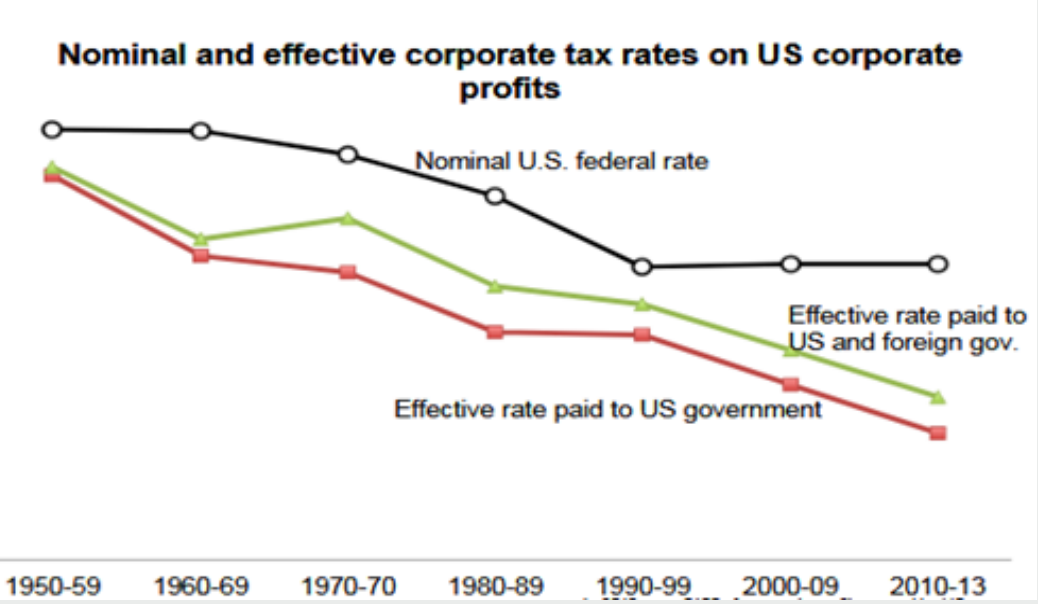
The Organisation for Economic Cooperation and Development (OECD) attempted in 2013 to tackle some of these problems. Its Base Erosion and Profit Shifting (BEPS) project, which finished in 2016, seems to have led some tax authorities to take a tougher line with low-taxed multinationals. However, BEPS did not get at the roots of the problem, which are the arm's length principle itself and the availability of low or no taxation on corporate profits.

Instead, BEPS laid hundreds of pages of new guidelines on top of the status quo. As a result, various countries started to introduce their own tax reforms aimed at digital multinationals like the giant US tech companies. Such taxes may raise extra revenue, but they only add to the unworkable complexity of international taxation without solving the underlying problems.

They have, however, prompted the United States and other key governments to agree that a bigger shakeup of international taxation is needed.

As of 2019, the OECD was hosting new negotiations (labelled "BEPS 2.0" by some) which at last recognises these fundamental problems. For the first time in years, there is a sense that deeper change might be possible. However, the lead role of the OECD is problematic because it is not a globally representative body but a club of mostly rich countries, each of which seeks to change the rules to benefit its own perceived national interest and the interest of its own companies. There is also quite a high risk that the solution will be a weak and short-lived compromise between the OECD's most powerful members.

THE RATE OF TAX PAID BY US CORPORATIONS HAS FALLEN BY A THIRD SINCE THE 1990S



Source: Gabriel Zucman, The Hidden Wealth of Nations, 2015

WHAT NEEDS TO HAPPEN

1. Multinationals must be taxed as single global entities, not as collections of separate companies, each taxed individually as if they were independent of each other
   - (see Briefing 1: Taxing multinationals as single global firms).
2. Governments need to phase out harmful tax breaks and stop slashing tax rates, so that all corporations are taxed highly enough to pay a fair contribution to society
   - (see Briefing 2: Curbing tax competition)
3. Tax authorities need the resources, the political backing and the information to curb corporate tax avoidance and stop the super-rich hiding wealth offshore
   - (see Briefing 3: Strengthening tax authorities and Briefing 6: Automatic exchange of information).
4. Governments must adopt robust measures to deter the use of tax havens by multinationals and the super-rich
   - (see Briefing 4: Curbing tax havens)
5. International taxation must be more open to public scrutiny so as to deter corporate tax avoidance and other abuses involving tax havens, such as corruption
   - (see Briefing 5: public country-by-country reporting for corporations; Briefing 7, Making public the beneficial owners of companies)

These demands are linked to each other. For example, all the other reforms depend on strong and independent tax authorities with access to the information they need. Public country-by-country reporting is needed so that journalists, workers and other citizens can see when multinationals are shifting profits into tax havens and can use the information to hold companies and governments to account. Without better public reporting of corporations' tax affairs, there is no way to know if other reforms are working or not.

Some of these reforms, such as taxing multinationals as single firms or curbing tax competition, need international cooperation which ultimately needs to be governed by a global body more democratic and inclusive of all countries than the OECD. The logical place to host this global body would be at the United Nations. Other solutions can be adopted unilaterally by governments, or groups of governments, and should be because there is no guarantee that effective multilateral solutions will be agreed soon. If some governments adopt unilateral reforms, this may prod others into agreeing deeper changes at the international level, just as the introduction of digital revenue taxes in some countries has opened the way for broader debate at the OECD.

After years of injustice in the taxation of corporate profits, an opportunity for deeper reform now exists. Trade unions can and should play a central role in demanding that all multinationals pay a fair share of tax on their profits, for the good of workers and society.

WHY GLOBAL TAX PROBLEMS REQUIRE GLOBAL GOVERNANCE

Some of the problems identified in these briefings can be addressed by governments at national or regional level but comprehensive and fair solutions need to be global, which requires global tax governance.

The dominant rule-making body in the world of international taxation is the OECD, a club of currently 36 countries which has taken on itself the role of negotiating and disseminating tax rules which are highly influential and sometimes incorporated into countries' domestic laws.

This role is very controversial because the OECD is dominated by the governments of rich countries, mostly in the West, and has a history of giving more weight to their concerns than to those of developing countries. For example, for many years the OECD was resistant to addressing the imbalances in taxing rights between the "residence" countries where multinationals are from and the "source" countries where they invest, which tended to limit the rights of developing countries and incentivise the use of tax havens by corporations.

The OECD takes its mandate for this role, not from a truly global organisation with a basis in international law like the United Nations, but from the Group of 20 countries which includes the world's largest economies but excludes nearly 200 other countries.

Centre for International Corporate Tax Accountability and Research

CICTAR: LEADING GLOBAL TAX RESEARCH

While corporations have the resources to invest heavily in understanding and lobbying around tax matters, trade unions, civil society, workers and the community often do not. That is why a coalition of unions, NGOs and public interest groups formed the Centre for International Corporate Tax Accountability and Research: a centralised global resource providing information about the practical effects of corporate tax policy and behaviour.

The Centre enables unions and campaigning organisations to understand the tax practices of the corporations which affect them. CICTAR's research has been used to engage the main stream media, support wage claims and effectively lobby politicians on tax matters. CICTAR's work across the globe has already helped expose hundreds of millions of dollars in dodged taxes, sparked dozens of news stories, spurned an Australian senate inquiry on outsourcing and helped end a 700 day long collective bargaining dispute.

If you think your corporate campaign could benefit from a tax angle or your tax campaign needs corporate examples, contact: jason.ward@cictar.org

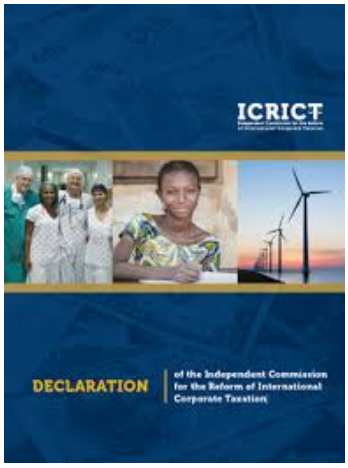
In response to such criticism, the OECD has created an Inclusive Forum in which the governments of non-OECD countries can present tax reform proposals and argue their positions. This forum is very recent and it remains to be seen how much influence non-OECD countries can actually wield. The OECD's "BEPS 2.0" reform project, set to conclude in 2020, has been working to such a tight timetable that there is quite a high risk of the interests of smaller and poorer countries taking second place to behind-the-scenes deals between the biggest countries.

There needs to be a global convention to set international tax norms which is negotiated and administered by a global body inclusive of all countries on an equal basis. The logical place for such a body would be the United Nations. Currently, the UN has only a small technical committee which has been deliberately marginalised by OECD member states which prefer the OECD, over which they have much more influence, to take the lead.

A global tax convention and tax body could not magically solve all the problems of international taxation, because there are different and sometimes conflicting national interests at stake. However, these would have more legitimacy than the OECD and would provide smaller and less powerful countries with a better chance to take part in decisions.

FURTHER INFORMATION

THE INDEPENDENT COMMISSION FOR THE REFORM OF INTERNATIONAL CORPORATE TAXATION (ICRICT)



Tax policy affects everyone. But workers and citizens are all too often excluded from the important debates, leaving larger corporations, big accounting firms and tax lawyers to write the rules in their interests.

Responding to widespread anger on corporate tax avoidance, ICRICT brings together economists, academics and politicians with global reputations to provide credible alternatives to fix the global tax rules in the public interest - not corporate interest. Chaired by former UN Under-Secretary General José Antonio Ocampo, its commissioners include Thomas Piketty, Jayati Ghosh and Nobel-Prize-Winning Economist Joseph Stiglitz.

PSI is proud to be a founding member of ICRICT. If you want to know more about how to fix the broken tax rules, visit their website: www.icrict.com

THE INTERNATIONAL CENTRE FOR TRADE UNION RIGHTS – JOURNAL

Want to know more about how tax affects workers?In 2018 PSI guest-edited the ICTUR Journal for a special feature on Tax Justice for Workers.

The issue outlines why tax matters to workers, providing a series of strong examples from around the world showing how unions have linked wage justice and workers rights to the fight for tax justice.

Check out the full issue here: psishort.link/ictur

THE GLOBAL ALLIANCE FOR TAX JUSTICE

GATJ is an international movement of civil society groups and trade unions , united in campaigning for greater transparency, democratic oversight and redistribution of wealth in national and global tax systems.

Website: www.globaltaxjustice.org

THE TAX JUSTICE NETWORK

Tax Justice Network (TJN) is an independent international network focused on research, analysis and advocacy in the area of international tax and financial regulation, including the role of tax havens. Their website provides new research and regular news on the fight for Tax Justice, tailored for use by civil society.

Website: www.taxjustice.net

THIS PUBLICATION WAS MADE POSSIBLE
THANKS TO THE GENEROUS SUPPORT OF
FRIEDRICH EBERT STIFTUNG:
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Public Services International is a global trade union federation representing 20 million working women and men who deliver vital public services in 163 countries. PSI champions human rights, advocates for social justice and promotes universal access to quality public services. PSI works with the United Nations system and in partnership with labour, civil society and other organisations.