OECD publishes 2016 aggregated country-by-country report data as part of corporate tax statistics update

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In brief

On July 8, 2020, the OECD published the second edition of its Corporate Tax Statistics report, including for the first time aggregated information from country-by-country reports (CbCRs) on the global tax and economic activities of nearly 4,000 multinational enterprises (MNEs). This information covers groups headquartered in 26 jurisdictions and operating across more than 100 jurisdictions worldwide, representing anonymised 2016 country-by-country report data.

In this Alert, we provide a brief summary of the OECD's analysis of the aggregated CbCR information, which is heavily caveated. We also note the inclusion of information relevant to BEPS recommendations on controlled foreign company (CFC) rules and interest deduction limitations, as well as the relative importance of corporate tax in relation to total tax revenues in different regions.

In detail

Background

The OECD's second annual Corporate Tax Statistics publication includes the impact of various BEPS recommendations as well as other information for different periods. The CbCR data is for 2016, the first period for which it was required. Other data are more recent, including an analysis of CFC and interest limitation rules for 2019. The comparison of statutory tax rates includes 2020, but the calculation of forward-looking effective tax rates is for 2019.

CbCR and other BEPS analyses

An accompanying OECD press release states, "While the data contain some limitations and it is not possible to detect trends in BEPS behaviour from a single year of data, the new statistics suggest a number of preliminary insights:

- There is a misalignment between the location where profits are reported and the location where economic activities occur, with MNEs in investment hubs reporting a relatively high share of profits compared to their share of employees and tangible assets.
- Revenues per employee tend to be higher where statutory CIT rates are zero and in investment hubs.
- On average, the share of related party revenues in total revenues is higher for MNEs in investment hubs.
- The composition of business activity differs across jurisdiction groups, with the predominant business activity in investment hubs being 'holding shares and other equity instruments'."

Limitations on interpreting CbCR data

In a separate Disclaimer section, there are seven pages of caveats to the CbCR data. Some of the key issues relate to the following:

1. Each jurisdiction applied its own confidentiality standard on what information was shared. This implies that different jurisdictions have provided CbCRs aggregated at different, non-homogeneous levels and hence, it is difficult to compare and further aggregate this data.
2. The inclusion of tax-exempt entities within taxable MNE groups affects the analysis of the aggregated data, because they will typically have revenues, profits, and employees, but no taxes paid or accrued (although some countries excluded them).
3. In the compilation of aggregate CbCR statistics, jurisdictions took different approaches concerning the cleaning procedure applied to the underlying microdata. This implies that the aggregation provided by each country to the OECD may not be fully comparable across different countries.
4. Some jurisdictions have required MNEs to exclude dividends from constituent entities from profit before income tax, while others required these amounts to be included if they are reported in profit for financial accounting purposes. A third group of jurisdictions remained silent on this topic (so any treatment is unknown); the inclusion of intra-company dividends in “profit (loss) before income tax” can result in artificially low effective tax rates (ETRs).
5. The treatment of entities that are not resident anywhere for tax purposes (so-called “stateless entities”) is under discussion as part of the 2020 review; it could give rise to the potential double counting of profits.
6. MNEs are required to report aggregate jurisdiction-wide information in a CbCR as opposed to consolidated jurisdiction-wide information.
7. Income tax accrued (current year) in the CbCR template should not include deferred taxes or provisions for uncertain tax liabilities.

The Disclaimer concludes that because the potential scale of double counting issues is “difficult to assess and correct for, the Inclusive Framework on BEPS expressly cautions against the calculation of ratios such as ETRs based on these statistics. Those using these statistics should, at the very least, carry out sensitivity analysis to benchmark the CbCR statistics against other relevant data sources (e.g., taxpayer microdata or firm-level financial statistics) before using them for statistical analysis."

Other notable data

The second edition of *Corporate Tax Statistics* reports that corporate income tax accounts for 14.6% of total tax revenues on average across 93 jurisdictions in 2017, compared to 12.1% in 2000. Corporate tax revenues are a higher proportion of total tax in developing countries, comprising on average 18.6% of all tax revenues in Africa and 15.5% in Latin America and the Caribbean, compared to 9.3% in the OECD. The OECD corporate income tax revenue share of total tax was higher in 2017 (9.3%) than in 2016 (8%) or 2015 (8.8%).

Other key aspects of the publication cover:

- **Statutory corporate income tax rates**: an explanatory annex for OECD jurisdictions and an explanatory annex for non-OECD jurisdictions each contains further information on statutory corporate income taxes for certain jurisdictions.
- **Forward-looking effective tax rates**: the methodology for calculating the ETRs is described in detail in the OECD Taxation Working Paper No. 38 (Hanappi, 2018), building on the theoretical model developed by Devereux and Griffith (1999, 2003).
- **R&D tax incentives**: information on the methodology behind the two R&D tax incentives indicators are available in two reports.
- **Intellectual property regimes**: compiled from information collected by the Forum on Harmful Tax Practices for its peer reviews of preferential regimes.
- **Controlled Foreign Company rules**: available for 49 jurisdictions.
- **Interest Limitation rules**: available for 67 jurisdictions.

The takeaway

The second annual Corporate Tax Statistics publication provides a considerable amount of useful information on the corporate tax systems of a diverse group of countries. However, limitations in how the CbCR data was constructed and reported may make it very difficult to draw clear conclusions from those aggregated figures and could, unless the caveats are carefully observed, potentially result in misuse of the dataset to draw policy conclusions that the data do not support.

Let's talk

For a deeper discussion of how this issue might affect your business, please contact:

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