

Review of *Global Tax Fairness*, Thomas Pogge and Krishen Mehta, Editors[†]

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This timely volume (Global Tax Fairness, edited by Thomas Pogge and Krishen Mehta) on the proper taxation of multinational enterprises argues that several feasible, near-term reforms could substantially narrow the scope for tax avoidance by closing information gaps, and it proposes more ambitious, long-term reforms that pursue coordination on the design, not just the enforcement, of tax policy. The editors construct an impassioned normative case that (legal) avoidance violates fairness because its negative effects fall especially hard on the world's poor, but their case could be bolstered by an appeal to the classical benefit-based logic behind the central aim of the reforms they recommend. (JEL D63, F23, H25, H87, K34).

1. Introduction

This timely set of essays argues for, and offers guidance on how to achieve, fundamental reform of the taxation of the multinational enterprises (MNEs). Its publication coincides with a wide range of policy actions being taken by many countries in response to the OECD's Base Erosion and Profit Shifting (BEPS) project, a process these essays are likely to encourage. In fact, many of the fifteen main action items released by BEPS in late 2015 are also recommended by this volume's authors.

The essays range from the practical to the polemical, but underneath them all is the

idea that the current situation—in which MNEs can (legally) minimize their taxes through creative accounting and preferential treatment—is unfair and reduces general welfare, especially in poor and developing countries. After all, the size of the tax gap is large: as the editors note in their introduction, “Global Financial Integrity estimates that corporate tax abuse accounts for 80 percent of all illicit financial outflows from less developed countries ... larger than incoming total foreign direct investment ... and also vastly larger than the sum total of all official development assistance flowing into these countries.” Though abuse is not necessarily evasion and illicit does not necessarily mean illegal, such widespread contravention of the spirit (if not the letter) of tax law surely calls out for reform.

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It is satisfying, then, that this volume so effectively pursues two complementary goals. First, it argues that a small set of feasible, near-term reforms could substantially narrow the scope for illicit tax avoidance by closing information gaps in the international tax system. These reforms are all the more appealing because they require only a light touch by regulators: information may be not just necessary but also *sufficient*, or at least nearly so, to generate dramatic reductions in the tax gap. Second, it introduces proposals for more ambitious, long-term reforms that pursue coordination on the design, not just the enforcement, of tax policy. Each of these proposals has both undeniable appeal and potentially fatal flaws, such that these essays are best seen as providing a starting point for discussion. For example, several chapters debate the choice between transfer pricing and formulary apportionment as a method of allocating an MNE's profits across countries—a debate on which many volumes have been and will be written. To that end, I found particularly appealing the idea of creating an international institution to serve as a focal point for ongoing debate, and eventual coordination, on such proposals. With only a few exceptions that I will note below, these essays strike a healthy balance between whetting the reader's appetite for action and acknowledging the complex details of policy design that prevent simple solutions.

As one would expect from its title, *Global Tax Fairness*, this book addresses not only the practical side of reform but also the philosophical, and it is here that I think an opportunity is missed.

What is the normative case for the reforms recommended in these essays? The book's title emphasizes "fairness," but what does that mean? A limited definition of fairness would require simply that MNEs pay what they would owe if information were complete; i.e., that they play by the rules. The near-term reforms recommended early in

this volume pursue this form of fairness. But I doubt that such a narrow definition is what any of the authors have in mind, in that I doubt they would support zero taxation of MNEs even though it would, technically, eliminate issues of tax avoidance. And, I doubt that their concerns about the fairness of the tax system are assuaged by the fact that much of the avoidance behavior they consider is legal (if just barely so). Instead, several of the chapters suggest reforms that would maintain substantial levels of corporate income taxation, not just discourage avoidance. But why would it be more "fair" to have MNEs pay substantial taxes?

The editors construct, in their introduction, an impassioned normative case that (legal) MNE tax avoidance violates fairness because its negative effects fall especially hard on the world's poor, i.e., by reducing the fiscal capacity of developing countries' governments. Several of the subsequent essays echo this logic for taxing MNEs. As I will discuss below, this argument relies on substantial economic and normative assumptions. Many of us are likely to find those assumptions appealing, but they are not universally agreed upon.

Achieving substantial reform of the international tax system would be made easier if policy makers could point to an additional, complementary, normative logic, and here lies what I see as this book's missed opportunity.

Many of the essays in this volume stress, but do not explain, the principle that taxes should apply where the income-generating economic activity takes place. A similar emphasis can be found in the work by the OECD BEPS project. This idea is thus widely used as an intuitively appealing but exogenous norm, left unjustified in both this book and more generally. In reality, it has a moral logic behind it, and we can make it explicit.

The idea that taxes should be paid where income is earned is a natural implication of the principle that was Adam Smith's first maxim of taxation and was given the name classical benefit-based taxation (CBBT) by Richard Musgrave (1959). Though it has fallen out of favor in modern tax theory, CBBT has long been (and remains) an important principle behind real-world tax policy. Moreover, the moral appeal of CBBT is that it supports the development of the inclusive institutions this volume's contributors so desire. With CBBT, the reforms recommended in this book can thereby claim the backing of an intellectually coherent, long-standing, and widely accepted moral logic that complements the editors' argument from social justice.

Bolstering the normative foundation for the international tax regime is important. The early successes of BEPS have surprised many observers who thought vested interests would prevent reform, but a plausible explanation is that the public simply lost faith in the international tax system and demanded action. Restoring the public's confidence will require not only reforms but also convincing arguments for why the new system is better. Fortunately, progress on both of those steps appears to be underway, placing a real improvement in the international tax system within reach.

2. *Closing Informational Gaps through Cooperation*

The first contribution of this volume is to explain and advocate for a set of reforms that are not only feasible in the near term, but also capable of meaningfully addressing gaps between the intended and actual taxation of MNEs.

These reforms target the pervasive asymmetries of information in the international tax system along two key axes. First, between companies and tax authorities; second, between tax authorities.

2.1 *Country-by-Country Reporting and Automatic Information Exchange*

A simple but powerful and reasonable starting point for reform is to force companies to report the geographic breakdown of their economic activities in a holistic and consistent way. Called country-by-country (CBC) reporting, the idea is to have a company report its financial statements both in aggregate and broken out for each country in which it operates, including those countries that do not require reporting themselves.

As Richard Murphy explains in his chapter, two problems arise when MNEs can report on only a subset of their activities (for example, omitting activities that take place in tax havens). First, shareholders and other stakeholders in the company have less of the information they need to hold management accountable for their actions and to appraise the health of the company. Second—and more directly relevant to this volume—taxable income can be hidden from tax authorities. Murphy writes that the lack of CBC has meant that “certain parts of the multinational corporation's activities can, at its choice, entirely disappear from view...” CBC would, by making all of an MNE's economic activities visible, directly serve to close the gap between intended taxation and actual taxation.

CBC has opponents, but more broadly it receives praise from many tax analysts both inside and outside this volume. Murphy focuses not on opposition by havens, which would resent CBC's sidestepping of their internal regulations on financial reporting, but on that by major MNEs and their accounting firms. I found his rejection of their concerns convincing: as a matter of responsible business practice, any MNE already keeps (or ought to keep) its books in sufficient detail that meeting CBC requirements would not be too costly. In fact, Murphy makes the subtle, but I think

important, observation that shareholders of MNEs themselves ought to advocate for CBC to the extent that it saves more money through reducing principal-agent problems than it costs through increased tax liabilities. A broader argument for CBC is summarized by Brauner (2014), for example, who writes that “Country-by-country reporting is important not only for the substantive reasons of improving compliance and enforcement, but also for the important legitimacy benefits it brings with it.” It would do so by making sure that, literally, “everything adds up.”

Once one country has a full reckoning of an MNE’s global activities, a second reform would make it automatic for other countries to have it, as well. Automatic information exchange (AIE) is just what it sounds like, namely the default sharing of information on the taxable activities of MNEs across relevant jurisdictions. In a world where tax authorities have different, but always limited, resources, this information sharing would make tax administration more affordable and effective.

The idea behind AIE, like that behind CBC, is that limited information is a key roadblock to tax authorities trying to enforce liabilities. Once data are available, the argument goes, the self-interest of the authority (i.e., to collect the taxes due) will ensure its use. This “hands-off” approach, in which the authorities are doing no more than sharing their data, makes AIE an appealing option to those who worry about domestic government overreach into taxpayers’ lives.

Recent years have brought remarkable progress toward these near-term reforms. As Grinberg notes, building on the 2010 US Foreign Account Tax Compliance Act legislation, AIE has become a reality across many developed economies. CBC reporting is a core part of the OECD BEPS Action Item 13, and a number of countries are currently putting into place regulations requiring CBC

of large MNEs. Evidence of the pace of real change is that the latest developments in BEPS are being tracked in real time by, for example, the accounting firm of Ernst & Young at www.ey.com/bepstracker.

2.2 Critiques of CBC and AIE

One critique of both CBC and AIE is that a country’s self-interest may be necessary but not sufficient to ensure that shared tax data are used; tax authorities must also have the capability to use it. In particular, as emphasized by Grinberg, tax authorities in many countries would require substantial investments in technology and expertise in order to process and apply the data they receive as a result of these reforms.

Ideally, self-interest would cause rich countries to want to subsidize the implementation of CBC and AIE in developing countries, efforts that could (in Grinberg’s terms) “serve to improve the structure of their domestic tax information reporting and withholding regimes more generally.” But this type of cross-subsidization is likely to be piecemeal and long in coming.

One possible resolution to this concern is to work toward a norm recognizing that “information” and “data” refer to different concepts. Information is what is learned from data. Closing information gaps in the international tax system therefore means more than just sharing data; it means sharing the tools required for understanding. If success in AIE were thus defined, the information gaps plaguing the international tax system might be substantially closed.

Skeptics of these reforms also argue that the international tax system fails a test of fairness not because of a lack of cooperation (i.e., information sharing), but rather because of a lack of coordination on the design of tax policy. They worry that CBC and AIE will act as palliatives preventing (or even undermining) the more ambitious goal of sustaining

substantial taxation of MNEs in a globalized economy. Their argument is that the incentives for countries to compete on tax policy, not just the opportunities for companies to avoid taxes, must be removed if the taxation of MNEs is to survive in the long run. In other words, guaranteeing that MNEs play by the rules won't remove the incentives for countries to change those rules in order to compete on taxation. Outside this volume, many tax analysts including Sheppard (2014), Brauner (2014), and Devereux and Vella (2014) make this argument. Devereux and Vella write, for example, that "The OECD BEPS initiative is essentially seeking to close some loopholes rather than to re-examine the fundamental structure of the system," and "A stable system must remove the incentives for governments to undercut each other." Several contributors to this volume agree, as discussed in the next section.

3. *International Coordination on Tax Policy Design*

Several of the essays in this volume recommend ways in which international tax policy ought to be coordinated. Each of these ideas has unavoidable limitations, and the prospects for success as defined by these essays' authors may seem rather dim. But each also contains an appealing idea that deserves consideration as the norms of international MNE taxation develop. The rapid pace with which the BEPS project has formalized reform on MNE taxation suggests that change can happen quickly when the reality of MNE taxation departs too much from the public's expectations, and if those expectations evolve toward those of these essayists, these bold proposals may suddenly become feasible.

3.1 *A Focal Point for Coordination*

I found the most encouraging of these ideas to be Vito Tanzi's call for a World

Tax Authority (WTA), which is a proposal not so much for coordination of policy as for an institution that might facilitate that coordination. At its core, Tanzi's proposal is straightforward and compelling: the world needs a tax counterpart to the World Trade Organization (WTO). Tanzi's WTA would provide a range of services for national tax authorities. At the most narrow, it could support the OECD in extending its data-collection and information-provision activities. Once established, it could serve as a focal point for discussions and coordination on international tax policies. Finally, as its role in policy coordination grew, the WTA could monitor countries' adherence to agreements and act as a platform for dispute resolution.

Progress toward implementing Tanzi's vision for a WTA would no doubt be slow, but in the absence of a global government, it may be our best option. Similar options have been pursued, with some success, in both trade policy (i.e., from the failed International Trade Organization to the General Agreement on Tariffs and Trade and finally the WTO) and climate change policy (the Intergovernmental Panel on Climate Change was formed in 1988). While fiscal policy is especially likely to raise concerns about sovereignty, as has been made evident in the recent struggles of the Eurozone, incrementalism would ensure that member countries were comfortable with the WTA's role. (It may also help to have the "A" stand for something other than Authority.) If coordination needs a focal point, the WTA seems like a reasonable place to start.

One reason the WTA is an appealing proposal is because it would provide an institutional home for work on specific recommendations for policy coordination, such as those proposed by other authors in this volume, that would almost surely fail without it.

3.2 *A Suite of Bold Reforms*

Reuven Avi-Yonah suggests that all OECD countries should tax the global profits of their domestically headquartered MNEs at the same, coordinated rate (with credits for foreign taxes paid). The core of his argument is that this system eliminates the incentives of both MNEs to shift their reported profits (because all profits are taxed) and of developing countries to compete on tax policies (because the MNE does not retain any tax savings). An appealing idea in many ways, Avi-Yonah himself acknowledges that “The key question is therefore whether a multilateral approach is realistic.” He ends up blaming MNEs for lobbying against coordinated action, but it seems to me that any success these lobbyists have had is due to the underlying prisoner’s dilemma problem in tax coordination. The classic solution to a prisoner’s dilemma is repeated play, when the folk theorem can work its magic to make coordination rational. The WTA would function largely as a venue for repeated plays of the tax coordination game, and thereby help facilitate movement toward reforms as bold as Avi-Yonah’s.

Harald Tollan promotes an International Convention on Financial Transparency to “do away with” secrecy jurisdictions, i.e., tax havens. The crux of the agreement would be a pledge to “not introduce legal structures that...are particularly likely to undermine the rule of law in other states.” Specifically, Tollan has in mind tax havens that build regulatory architectures that facilitate MNEs (or individuals) skirting their home-country laws. His idea recalls the OECD’s recent efforts to name tax havens and thereby exert moral pressure on them to change their practices. Of course, achieving any multilateral agreement such as this, especially including countries that are demonstrably willing to flout international norms, requires extraordinary levels of coordination. And these agreements

can be hard to sustain even among major countries, given their diversity of interests (the United States substantially reduced its support for the OECD tax havens efforts in the early 2000s, as described by Shaxson and Christensen). In the end, it is hard to envision anything resembling Tollan’s convention without a truly global, enforcement-enabled institution like the WTA behind it.

Three other chapters provide additional examples of specific reforms that could be facilitated by an institution like the WTA. Johnny West proposes that resource-rich but less-developed countries adopt a cost-plus-based method of contracting with resource extraction companies. It was unclear to me, though admittedly I am far from an expert in these contracts, how this method would ease the informational burdens on the countries signing these contracts, but it is on precisely such details that an international institution such as the WTA could provide technical expertise. James Henry uses his chapter to suggest a tax on anonymous wealth. Though this reasonable idea is somewhat obscured by his screed against what he calls “crapitalism,” the logic is simple: anonymity strongly signals illegality. A tax on anonymous wealth would be far more effective if it were coordinated globally. Finally, Peter Wahl fiercely supports the idea of a financial transaction tax (i.e., a Tobin tax), a contentious topic over which the WTA could broker debate and ease concerns about free riding.

Finally, several chapters debate a key technical question best answered collectively in a venue such as the WTA, namely: how are an MNE’s tax liabilities to be assigned across the countries in which it operates?

Two prominent alternatives are transfer pricing and formulary apportionment, each of which has key vulnerabilities. Transfer pricing is the way in which MNEs account for the cost of those inputs they produce in one country and use in another, so it

is an essential factor in allocating profits across borders. The standard rule for setting the transfer price is to use comparable arms-length transactions if they exist, or hypothetical ones if they do not, to set input prices. Critics allege that the arms-length standard is misguided, since the purpose of vertical integration is to achieve cost savings relative to arms-length transactions, implementing it is costly for MNEs, and it opens the door to massive transfer-price manipulation. Nevertheless, Lorraine Eden argues in her chapter, transfer pricing is here to stay for the foreseeable future and therefore requires reform, so she details a number of steps to improve its theory and practice. Sol Picciotto argues that the future of assigning tax liabilities lies in formulary apportionment, not improved transfer pricing, a position echoed by Devereux and Vella (2014). Formulary apportionment treats the MNE as a single entity (as does Avi-Yonah's proposal discussed above), but it allocates profits across jurisdictions based on a rule, or formula. This approach is how US states assess their own corporate income taxes, and the European Union has been working on its own internal version. A main objection to formulary apportionment is that it leads to harmful tax competition, a critique rejected by Picciotto but made elsewhere (Altshuler and Grubert 2010 and Fleming Jr., Peroni, and Shay 2014). Edward Kleinbard disagrees with Picciotto's endorsement of formulary apportionment for practical reasons, writing in his chapter: "to my knowledge, though, no legal or accounting professional with a conscience who actually works in that field has recommended that it serve as the template for international taxation."

Resolving this debate is well beyond the scope even of this volume (much less this review), but one lesson is clear: providing a forum in which specialists can work out an approach with all relevant parties is essential. Both the OECD and the United Nations

have stepped into that role in recent years, and the BEPS project includes substantial work on these questions. Sustaining progress toward coordination, and ensuring the long-term viability of any agreement, will be made much easier by the presence of a more focused institutional home with a global membership, robust monitoring authority, and dispute-resolution capabilities.

Stepping back, when assessing the feasibility of reforms such as these, perhaps the most important question is whether they are consistent with a convincing, widely accepted normative logic for taxing MNEs. My reading of these chapters is that such a logic flows throughout the authors' arguments and could be made explicit, substantially strengthening the book's argument overall. I turn to that issue now.

4. *Clarifying the Normative Basis for Taxing MNEs*

In this section, I will argue that *Global Tax Fairness* misses an opportunity to leverage a normative logic for its recommended reforms that would provide substantial support to the moral reasoning the book does emphasize. That omitted logic is one of benefit-based taxation; that is, that MNEs ought to pay taxes based upon the benefit they obtain from the activities of the states in which they do business.

4.1 *Narrow and Broad Definitions of "Fairness"*

Before detailing my argument, it is important to understand the normative perspective adopted explicitly in this volume.

As discussed at the start of this review, a narrow definition of "fairness" would require only that MNEs pay the taxes they would owe if information were complete. The information-sharing reforms discussed in section 2 can be seen as pursuing that goal. But it is important to note that this definition

of fairness could be trivially satisfied by eliminating the taxation of MNEs. In fact, this definition of fairness provides no reason to tax MNEs.

A much broader view of “fairness” and its implications for the taxation of MNEs is suggested by the distinguished editors of this volume. In their introduction, they make an argument from social justice, namely that the suffering of the poor outside the developed world justifies the taxation of MNEs by developing countries. As they write, “Clearly, massive reductions in existing human rights deficits could be achieved by allowing poor countries to collect reasonable taxes from MNCs...”

This view of fairness has much to recommend it, especially in the eyes of an egalitarian. Alleviating global suffering is undeniably good, and MNEs not paying taxes in countries where much of that suffering is concentrated cannot help but strike one’s moral sense as wrong. In a world where so few have so much and so many have so little, enabling poor countries to levy and enforce substantial taxation on rich-country MNEs seems like a moral no-brainer.

At the same time, this argument for the taxation of MNEs could benefit from buttressing.

One shortcoming of this argument is that it provides no reason why economic activity in a country makes an MNE any more obligated to help that country’s residents. If the justification for taxing MNEs is global egalitarianism, physical nexus is irrelevant. The optimal policy would be a global corporate income tax funding transfers to the world’s poor, not country-specific corporate tax policies that apply to profits earned within national borders. Of course, one could argue that the latter are constrained optimal policies, but it would be more satisfying to have a normative logic that was more closely tied to the policies being recommended.

A second shortcoming is that the goal of helping the global poor may conflict with the recommendation of enforcing the tax laws of the countries in which they live, at least according to benchmark theoretical models that suggest low capital income taxes (e.g., Atkinson and Stiglitz 1976). Of course there is debate over this theory, but the possible effects of taxation on capital accumulation make it far from obvious that compelling MNEs to pay greater taxes on their economic activities in poor countries would benefit those countries’ residents on net (see, for example, Hong and Smart 2010). Related, if the goal is to efficiently provide funds for the alleviation of the global poor’s suffering, why should MNEs active in poor countries be the source of those funds if they could be raised more efficiently otherwise?

To put this point provocatively, suppose it could be shown that allowing MNEs to avoid taxes by shifting profits out of developing countries was best for those countries’ poor. In that case, would we abandon the reform efforts in this volume? According to the logic put forth by the editors, the answer would be yes. What we need, in order to more robustly justify the reforms recommended in this volume, is a reason why MNEs should pay what they owe a country in which they choose to operate regardless of the direct cost–benefit implications for the residents of that country.

Finally, while the contributors to this volume and many of its readers may find the argument from social justice appealing, the world is far from having embraced global egalitarianism. It has long been recognized that the largest welfare gains from redistribution would be not within countries but across them, and yet concern for the poor seems to drop sharply at national borders (see Weyl forthcoming). If the goal is to generate momentum for reform to the international tax system, it would help to have a complementary normative logic that does not rely on an appeal to global egalitarianism.

4.2 Classical Benefit-Based Taxation

Fortunately, the authors of the essays in the volume implicitly embrace a moral foundation for the taxation of MNEs that directly addresses these shortcomings, buttressing the editors' normative logic.

Repeatedly, the authors stress the idea that corporate income taxes should be paid where the income-generating activity takes place. Here are a few examples drawn from the text:

Murphy: "If chosen with care such a method should indicate...whether or not profit is being recorded where it is most likely to be earned" (p. 106).

Kleinbard: "Because this is a book on global tax justice, it is useful to consider for a moment on whose shoulders rests the moral obligation to produce international corporate tax results that correspond with genuine economic activity (which might be taken for our purposes as a convenient norm)" (p. 132).

Corrick: "No or low taxation is not per se a cause of concern, but it becomes so when it is associated with practices that artificially segregate taxable income from the activities that generate it"(p. 175).

Picciotto: "[G20 world leaders] have proclaimed that 'the existing international tax rules on tax treaties, permanent establishment, and transfer pricing will be examined to ensure that profits are taxed where economic activities occur and value is created.' . . . Adopting a unitary approach [with formulary apportionment] is the only effective way to deliver tax rules which can indeed ensure this" (p. 175).

Tanzi: "The net effect is that the world tax base is partly diverted from areas where tax rates are high, and from where that base has actually been generated..." (p. 255).

Durst: "The long-term effect [of CFC rules] is to discourage the shifting of income in the first instance from countries where the income is earned to zero- and low-tax jurisdictions" (p. 318).

As these statements suggest, a prominent norm in international tax policy design is that taxes ought to be levied where the relevant

economic activity takes place. And this norm is not just academic: Jay Nibbe, a tax executive at the accounting firm Ernst & Young, writes that a central aim of the OECD's BEPS recommendations is that "profit should be taxed where value is created" (Nibbe 2016). The OECD BEPS project itself, in its executive summary of its transfer pricing recommendations, writes that the problem it is addressing is "outcomes in which the allocation of profits is not aligned with the economic activity that produced the profits." What is the justification for this norm?

The idea that taxes should be paid where income is earned is a natural implication of CBBT. As noted earlier, CBBT is the name Musgrave gave to the principle behind Smith's (1776) first maxim of taxation, which reads: "The subjects of every state ought to contribute toward the support of the government, as near as possible, in proportion to their respective abilities; that is in proportion to the revenue which they respectively enjoy under the protection of the state." In other words, CBBT is the straightforward idea that taxpayers ought to pay taxes based on the benefit they obtain from the activities of the state, and that benefit is best measured by the increase in the taxpayer's economic opportunities (e.g., income) due to those activities. Therefore, under CBBT, an MNE should pay tax where its economic activity takes place because that activity is made possible by the state in which it occurs.

The moral appeal of CBBT comes (at least in part) from the virtuous cycle it can encourage: in principle, if taxes consistent with CBBT are enforced, economic activity and supportive institutions will develop together, leading to the progress the contributors to this volume are so eager to see, especially in developing economies. CBBT achieves this virtuous cycle, according to its proponents, by approximating the market mechanism for determining the scale and funding of the activities of the state. Taxpayers will

be willing to pay for the benefit the state's activities provide (once assured that others will also do so), so a state that provides more benefit will raise more revenue with which to fund additional supportive activities. CBBT thereby provides a clear moral logic for enforcing a country's tax rules.

Statements from this volume demonstrate that this logic for CBBT is implicit in many of its contributors' arguments. That is, when companies pay taxes in exchange for the benefit a state provides, the state's legitimacy is strengthened:

Grinberg: "Tax administration both provides the lifeblood of the country's government and can shape citizens' perceptions of evolving national institutions more broadly" (p. 16).

Murphy: "Companies are unavoidably tied to real places. They operate within national frameworks of law and regulation" (p. 97).

Kleinbard: "If business income tax revenues fall short of expectations, relative to the business actually done, the difference must be made up by other taxpayers....the subsequent shifting of relative burdens must be suboptimal, from the perspective of Sylvaniaian policymakers" (p. 136).

Tollan: "Secrecy jurisdictions have a direct effect on the taxation rights of other countries, with income which should have been taxed locally being concealed in a tax haven, and thus infringing on the state's right to collect its tax revenues" (p. 241).

It is important to note that this logic for CBBT complements the moral case for taxation of MNEs emphasized by the editors. The negative impacts of MNEs paying less than what their benefits would imply undermines the mechanism by which responsible states decide upon and fund the public goods required for economic development and aid to the poor.

Though it is not mentioned in this volume and has fallen out of favor in modern tax research, CBBT has a long intellectual and practical history, and it continues to exert

influence on current tax debates. More than a century after appearing in Smith's writings, it was used by the economist Roy Blakey and US President Franklin Delano Roosevelt to explain the introduction of the US personal income tax. More recently, in 2011 President Barack Obama said: "As a country that values fairness, wealthier individuals have traditionally borne a greater share of this [tax] burden than the middle class or those less fortunate. Everybody pays, but the wealthier have borne a little more. This is not because we begrudge those who've done well—we rightly celebrate their success. Instead, it's a basic reflection of our belief that those who've benefited most from our way of life can afford to give back a little bit more." And in recent research of my own (Weinzierl 2017, forthcoming), I find evidence that the US public is strongly supportive of the CBBT logic for taxation. I also show how it can be formally incorporated into modern tax theory and how it may be consistent with—in fact supportive of—the fundamentally welfare goals tax theorists typically assume.

Benefit-based taxation has special relevance for corporate taxation. In 1909, US President Howard Taft proposed an "excise tax upon the privilege of doing business as an artificial entity and of freedom from a general partnership liability enjoyed by those who own the stock," the precursor to the modern corporate income tax in the United States. Richard Murphy, in his chapter of this volume, echoes Taft's statement: "This privilege of limited liability is an extraordinary thing." As a magnifier of the more general benefit corporations enjoy from the activities of the state, limited liability provides a specific reason for which a corporate tax liability has been justified from a CBBT perspective.

I would suggest, then, that incorporating CBBT logic into how we judge and design tax policy (including corporate tax policy) would substantially improve the extent

to which the calls for reform in this book impact real-world discourse on policy. Again, the CBBT logic need not replace the moral case made in this volume; they are complementary and should be used together. A diverse normative foundation may be an unfamiliar idea in tax theory, but a wide range of social scientists have shown that it is how real people make these judgments (see Weinzierl 2014 and the discussion therein). Moreover, given the diversity of normative beliefs in modern society, reformers have a higher likelihood of success if they can point to a suite of arguments rather than one.

Before closing, let me make a few observations on material in this volume related to this suggestion. The logic of CBBT is closely tied to the idea of tax competition, an idea on which some authors in this volume take a strong, and in my opinion one-sided, view. Tax competition undeniably can lead to a race to the bottom, as Nicholas Shaxson and John Christensen, in particular, emphasize. In a world of non-distortionary capital taxation and benevolent governments, having jurisdictions compete for private sector investment would be hard to justify. But the world is not so simple, and tax competition can therefore have a range of effects, some of them positive. For example, if governments use revenue poorly or even destructively, tax competition may be one of society's few levers of influence, as in many of these cases the political system is captive to the same governments. More generally, the idea of productive tax competition is merely that taxes should be benefit-based, and if they were then the race to the bottom about that the authors worry about would not be inevitable at all. After all, there is a reason the OECD takes care to separate out "harmful" tax competition in its work on tax havens. If the CBC and AIE reforms recommended in this book were successfully implemented, we could legitimately hope that the negative forms of tax competition would be

substantially reduced, leaving behind constructive, benefit-based competition.

It must be acknowledged that the flip side of CBBT's virtuous cycle is the risk that it can lead to vicious cycles as well, where states providing little benefit attract little business and thus revenue. This risk relates to a concern expressed by many of the authors in this volume, namely that MNE tax avoidance drains national budgets, especially in the developing world. In fact, as Michael Durst explains in his chapter, developing nations do face a tricky balancing act. They need revenue, but they have less to offer companies, so they simultaneously can't afford not to tax MNEs and can't afford to tax them. As Grinberg warns in this volume's first essay, ignoring the latter force holds great risks for developing countries. It is essential that concerns over low effective taxation of MNEs in developing countries do not lead to the adoption of rules that short-circuit efforts by those countries to put themselves on the first step of the virtuous cycle. At the same time, we can recognize that in some cases the suffering of the poor in these failing states requires intervention, even if we thereby give up on the opportunity to encourage better institutions. This flexibility is a core advantage of using a mixed normative criterion for judging policy.

5. Conclusion

A scholarly volume on a hot policy problem ought to leave the reader with at least two things: a better understanding of the technical details of the debate, and a deeper understanding of the conceptual framework that lies underneath it. I found this book especially successful at the first, and my wish for greater attention to the second is not surprising, given the relatively underdeveloped state of normative reasoning in tax theory in general.

The process of reforming the international tax system is in full swing, with the OECD BEPS project moving quickly to formulate and propagate a series of recommendations, many of which are made in this valuable volume. To sustain the project and see it through the obstacles that will surely arise, we scholars need to provide it with a firm moral foundation—a robust, widely acceptable set of normative reasons. In this essay, I suggest that as part of this foundation we can and should embrace the classical benefit-based logic behind the central aim of these reforms, namely to align the location where taxes are paid with that where the relevant economic activity occurs.

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