36 Groups Urge World Leaders to Increase Tax Transparency

March 6, 2020

Mr. Angel Gurría
Secretary-General, OECD
c/o International Co-operation and Tax Administration Division
Centre for Tax Policy and Administration
2, rue André Pascal
75016 Paris
France

RE: Public Consultation Document: Review of Country-by-Country Reporting (BEPS Action 13)

Dear Secretary-General Gurría,

We, the undersigned organizations, call on the OECD/G20 Inclusive Framework on BEPS (Inclusive Framework) to support increased tax transparency for multinational corporations under BEPS Action 13. Specifically, we request that the members of the Inclusive Framework align their country-by-country reporting framework to the new Tax Standard from the Global Reporting Initiative (GRI), mandate public disclosure of the information, and reduce the revenue threshold for reporting.

Copious studies continue to find that large, multinational corporations in the United States and elsewhere use provisions in the tax code to shift profits and avoid paying taxes that they would otherwise be required to pay. A new analysis from the Institute on Taxation and Economic Policy revealed that 91 profitable Fortune 500 companies paid no federal income taxes in the U.S. in 2018 while another 56 such companies paid between 0 and 5 percent.[1]

Tax haven abuse presents several alarming problems for stakeholders. The Tax Justice Network estimates that tax avoidance results in a loss of $500 billion for taxpayers globally each year. The OECD itself estimates the annual losses globally to be in the hundreds of billions of dollars.[2] This enormous revenue drain puts pressure on lawmakers to either cut public services that are vital to a functioning economy or to unfairly shift the tax burden to other taxpayers, including those who are less able pay. Either choice leads to regressive fiscal regimes which exacerbate economic inequality — a metric that has been shown to undermine the long-term sustainability of economies and democracies. In undermining public revenues, corporate tax avoidance has also fueled calls for severe austerity measures in the United States, the European Union, and in other parts of the world.

Increasing tax transparency through public disclosure will force companies to clean up the most questionable tax practices. We know this because the E.U. recently required large banks operating in member states to publicly report certain profit and tax information on a country-by-country level. After accounting for all other factors, transparency alone pushed these financial institutions to move away from their most aggressive tax avoidance schemes — resulting in a rise in their effective tax rates, according to an academic review.[3] While the Inclusive Framework takes no position on

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1 Matthew Gardner, Lorena Roque, Steve Wamhoff, "Corporate Tax Avoidance in the First Year of the Trump Tax Law", *Institute on Taxation and Economic Policy*, December 16, 2019; https://itep.org/corporate-tax-avoidance-in-the-first-year-of-the-trump-tax-law/.

2 Alex Cobham, "Estimating tax avoidance: New findings, new questions," *Tax Justice Network*, March 22, 2017, https://www.taxjustice.net/2017/03/22/estimating-tax-avoidance-questions/.

3 Overesch, Michael and Wolff, Hubertus, Financial Transparency to the Rescue: Effects of Country-by-Country Reporting in the EU Banking Sector on Tax Avoidance (February 8, 2019). Available at SSRN: https://ssrn.com/abstract=3075784 or http://dx.doi.org/10.2139/ssrn.3075784.

domestic tax rates, credible standards should move companies to adopt sustainable practices. The move away from certain practices by these financial institutions suggests that some of the previous tax avoidance strategies were not sustainable.

At the same time, public disclosure will give policymakers, academics, investors, and others a better understanding of how tax policies impact differing constituencies — information we do not have under the current system of private reporting. Multinational corporations rely on this secrecy in the financial system to shift the tax burden to the rest of us. Presently, it is difficult — if not impossible — to even engage in an informed discussion.

The little information to which we do have access suggests that there is an enormous problem. Aggregate data at the U.S. Internal Revenue Service from the initial reports filed by corporations under the Inclusive Framework's current country-by-country reporting framework show that, in 2017, more profits were booked in known tax haven countries (including the Cayman Islands, Bermuda, and Singapore) by U.S. multinationals than in China, Canada, and Mexico — the three largest U.S. trading partners.[4] Following the passage of the 2017 Tax Cuts and Jobs Act, Professor Kimberly Clausing of Reed College estimates that U.S. multinationals will continue to shift $300 billion in profits offshore each year to avoid taxes.[5]

Beyond mandating public disclosure, we also encourage the Inclusive Framework's member nations to adjust BEPS Action 13 to align it with the new tax transparency standard created by GRI.[6] The new GRI standard was negotiated with a diverse set of constituencies — including representatives from major multinational corporations, investment firms, accounting firms, academia, and non-governmental organizations. GRI's data and narrative requirements provide companies with the opportunity to present the information in context. The standard calls for limited amounts of data that help create a clear picture of a company's tax strategy without requiring overly burdensome accounting measures. By requiring consolidation (rather than aggregation) of the country-level data, the GRI template produces more useful — and less misleading — information than the current BEPS framework. Several companies have already moved to adopt the standard and thousands more are likely to do so shortly. Due to the value of the information and the simplicity of meeting the requirements, we see the GRI standard as the emerging global norm, and we ask the Inclusive Framework to take advantage of the emerging consensus around the GRI standard.

Similarly, we are concerned that the current reporting threshold of €750 million ($850 million) in annual revenues exempts the vast majority of multinational corporations from the Inclusive Framework's disclosure requirements. We believe that a much lower threshold, such as $100 million, is necessary to provide stakeholders with the necessary information. The U.S. Securities and Exchange Commission, for example, institutes an annual revenue threshold of $100 million in determining whether a business can qualify as a "Smaller Reporting Company" with lesser reporting obligations.[7] We encourage the Inclusive Framework to align its threshold with the SEC's.

We thank you for considering our views. If you have questions, please feel free to contact Clark Gascoigne at cgascoigne@thefactcoalition.org or +1 (202) 810-1334.

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4 *Internal Revenue Service*, "Table 1A: Country-by-Country Report (Form 8975): Tax Jurisdiction Information (Schedule A: Part I) by Major Geographic Region and Selected Tax Jurisdiction, Tax Year 2017", https://www.irs.gov/pub/irs-soi/17it01acbc.xlsx.

5 Clausing, Kimberly A., Profit Shifting Before and After the Tax Cuts and Jobs Act (January 20, 2020). Available at SSRN: https://ssrn.com/abstract=3274827 or http://dx.doi.org/10.2139/ssrn.3274827.

6 *See:* GRI 207: TAX 2019, https://www.globalreporting.org/standards/gri-standards-download-center/gri-207-tax-2019/.

7 *See*: *SEC*, "Smaller Reporting Companies," https://www.sec.gov/smallbusiness/goingpublic/SRC.

Sincerely,

Advocacy for Principled Action in Government

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO)

American Federation of State, County and Municipal Employees (AFSCME)

Americans for Democratic Action (ADA)

Americans for Financial Reform

Americans for Tax Fairness

Center for International Environmental Law (CIEL)

Communications Workers of America (CWA)

Congregation of Our Lady of the Good Shepherd, U.S. Provinces

Economic Policy Institute

Faith Action Network

Financial Accountability and Corporate Transparency (FACT) Coalition

Friends of the Earth U.S.

Gender Action

Global Financial Integrity

Greenpeace USA

Health Care for America Now

Institute for Policy Studies — Program on Inequality and the Common Good

Institute on Taxation and Economic Policy

Interfaith Center on Corporate Responsibility

International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW)

Jubilee USA Network

MiningWatch Canada

National Advocacy Center of the Sisters of the Good Shepherd

National Organization for Women

NETWORK Lobby for Catholic Social Justice

Oxfam America

Patriotic Millionaires

Public Citizen

Revolving Door Project

RootsAction.org

Take on Wall Street

Tax Justice Network USA

Tax March

Transparency International

ValueCSR