Rethinking the source of business income obtained by multinational enterprises

A Latin American perspective in the post-BEPS era

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"The world is at the dawn of the next technological revolution"

UNCTAD, Information Economy Report 2017: Digitalization, Trade and Development

"While businesses increasingly regard the world as a single marketplace, nation states have retained tax policies developed when countries were geographically and economically isolated… The international tax system is largely a creature of the industrial age at the beginning of the last century"

JINYAN LI, International Taxation in the Age of Electronic Commerce: A Comparative Study (2003)

WHAT?

Relight the old Latin American defense of source taxation, by establishing appropriate nexus criteria for business income taxation at source under the current economic scenario.

In Latin America Corporate Income Tax represents 72% of the total revenue from income taxes

WHY?

Traditional source-based taxation rules do not suit the characteristics of the "new economy".

Taxing rights at source, already limited (unfairly) by the PE concept, have no effective application.

To protect the tax base at source and to grant fair taxation.

HOW?

In depth understanding of new business models and value-creation processes.

Analysis of source taxation legislation (domestic and treaty rules) in Latin American countries

Benchmark of ongoing policy options.

Traditionally, it has been understood that the "source" of business income should be attributed to the jurisdiction(s) where "production" factors (capital and labor) generating the profits are located (supply side)

New elements, from the demand side, the market of destination, must be added, for determining the source.

Is this conceptually sound?

- Business income would not have been earned without the destination market;
- Economic allegiance and benefit principles are still valid;
- Increasing active role in the generation of profits played by consumers