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Targeting Multinationals, the OECD Launches New Scheme to Boost the Tax Burden on Business

By: Daniel J. Mitchell – March 26, 2013

I've been very critical of the Organization for Economic Cooperation and Development. Most recently, I criticized the Paris-based bureaucracy for making the rather remarkable assertion that a value-added tax would boost growth and employment.

But that's just the tip of the iceberg.

- The OECD has allied itself with the nutjobs from the so-called Occupy movement to push for bigger government and higher taxes.
- The OECD, in an effort to promote redistributionism, has concocted absurdly misleading statistics claiming that there is more poverty in the US than in Greece, Hungary, Portugal, or Turkey.
- The OECD is pushing a "Multilateral Convention" that is designed to become something akin to a World Tax Organization, with the power to persecute nations with free-market tax policy.
- The OECD supports Obama's class-warfare agenda, publishing documents endorsing "higher marginal tax rates" so that the so-called rich "contribute their fair share."

Now the bureaucrats have concocted another scheme to increase the size and scape of government. The OECD just published a study on "Addressing Base Erosion and Profit Shifting" that seemingly is designed to lay the groundwork for a radical rewrite of business taxation.
In a new *Tax & Budget Bulletin* for Cato, I outline some of my concerns with this new "BEPS" initiative.

> …the BEPS report…calls for dramatic changes in corporate tax policy based on the presumption that governments are not seizing enough revenue from multinational companies. The OECD essentially argues that it is illegitimate for businesses to shift economic activity to jurisdictions that have more favorable tax laws. …The core accusation in the OECD report is that firms systematically—but legally—reduce their tax burdens by taking advantage of differences in national tax policies.

Ironically, the OECD admits in the report that revenues have been trending upwards.

> …the report acknowledges that "… revenues from corporate income taxes as a share of gross domestic product have increased over time. …Other than offering

> anecdotes, the OECD provides no evidence that a revenue problem exists. In this sense, the BEPS report is very similar to the OECD's 1998 "Harmful Tax Competition" report, which asserted that so-called tax havens were causing damage but did not offer any hard evidence of any actual damage.

To elaborate, the BEPS scheme should be considered Part II of the OECD's anti-tax competition project. Part I was the attack on so-called tax havens, which began back in the mid- to late-1990s.
The OECD justified that campaign by asserting there was a need to fight illegal tax evasion (conveniently overlooking, of course, the fact that nations should not have the right to impose their laws on what happens in other countries).

The BEPS initiative is remarkable because it is going after legal tax avoidance. Even though governments already have carte blanche to change business tax policy.

> …governments already have immense powers to restrict corporate tax planning through "transfer pricing" rules and other regulations. Moreover, there is barely any mention of the huge number of tax treaties between nations that further regulate multinational taxation.

So what does the OECD want?

> …the OECD hints at its intended outcome when it says that the effort "will require some 'out of the box' thinking" and that business activity could be "identified through elements such as sales, workforce, payroll, and fixed assets." That language suggests that the OECD intends to push global formula apportionment, which means that governments would have the power to reallocate corporate income regardless of where it is actually earned.

And what does this mean? Nothing good, unless you think governments should have more money and investment should be further penalized.

> Formula apportionment is attractive to governments that have punitive tax regimes, and it would be a blow to nations with more sensible low-tax systems. …business income currently earned in tax-friendly countries, such as Ireland and the Netherlands, would be reclassified as French-source income or German-source income based on arbitrary calculations of company sales and other factors. …nations with high tax rates would likely gain revenue, while jurisdictions with pro-growth systems would be losers, including Ireland, Hong Kong, Switzerland, Estonia, Luxembourg, Singapore, and the Netherlands.

Since the United States is a high-tax nation for corporations, why should Americans care? For several reasons, including the fact that it wouldn't be a good idea to give politicians more revenue that will be used to increase the burden of government spending.

But most important, tax policy will get worse everywhere if tax competition is undermined.

> …formula apportionment would be worse than a zero-sum game because it would create a web of regulations that would undermine tax competition and become increasingly onerous over time. Consider that tax competition has

> spurred OECD governments to cut their corporate tax rates from an average of 48 percent in the early 1980s to 24 percent today. If a formula apportionment system had been in place, the world would have been left with much higher tax rates, and thus less investment and economic growth. …If governments gain the power to define global taxable income, they will have incentives to rig the rules to unfairly gain more revenue. For example, governments could move toward less favorable, anti-investment depreciation schedules, which would harm global growth.

You don't have to believe me that the BEPS project is designed to further increase the tax burden. The OECD admits that higher taxes are the intended outcome.

> The OECD complains that "… governments are often under pressure to offer a competitive tax environment," and that "failure to collaborate … could be damaging in terms of … a race to the bottom with respect to corporate income taxes." In other words, the OECD is admitting that the BEPS project seeks higher tax burdens and the curtailment of tax competition.

Writing for Forbes, Andy Quinlan of the Center for Freedom and Prosperityhighlights how the BEPS scheme will undermine tax competition and enable higher taxes.

> …the OECD wants to undo taxpayer gains made in recent decades thanks to tax competition. Since the 1980′s, average global income taxes on both individuals and corporations have dropped significantly, improving incentives in the productive sector of the economy to generate economic growth. These pro-growth reforms are the result of tax competition, or the pressure to adopt competitive economic policies that is put on governments by an increasingly globalized society where both labor and capital are mobile. Tax competition is the only force working on the side of taxpayers, which explains the organized campaign by global elite to defeat it. …If taxpayers want to preserve gains made thanks to tax competition, they must be weary of the threat posed by global tax cartels though organizations such as the OECD.

Speaking of the OECD, this video tells you everything you need to know.

The final kicker is that the bureaucrats at the OECD get tax-free salaries, so they're insulated from the negative impact of the bad policies they want to impose on everyone else.

That's even more outrageous than the fact that the OECD tried to have me thrown in a Mexican jail for the supposed crime of standing in the public lobby of a public hotel.