

The Road to Hell
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In my last blog I mentioned how world economies are integrating and which brings into focus the treatment of corporate taxation, especially following the advent of the digital economy. Multinational enterprises have taken lawful advantage of the opportunities to minimise their tax burden by structuring their business in jurisdictions where they are either more favourably taxed, or not taxed at all.

Last December the OECD released its annual report of revenue statistics which revealed a decline in average revenues from corporate income taxes as a percentage of gross domestic product during the 2007-2014 period and which prompted Pascal Saint-Amans, its Director of the Centre for Tax Policy and Administration, to comment that “the urgency of the efforts to ensure that corporations pay their fare share” has become apparent. Mondelēz UK, Cadbury UK and Cadbury plc are owned by Mondelēz International a multinational confectionary, food and beverage conglomerate based in America which did not pay a penny of UK corporation tax in 2014, even although sales of over GBP 2 billion generated profits just shy of GBP 150 million. One sweet deal, literally, for Cadbury’s.

The “fare share” doctrine has been embraced not only in the developed countries and in November last year a second meeting of the Regional Network on Base Erosion and Profit Shifting (BEPS) was held in Costa Rica. The meeting was organised by the OECD, the Inter-American Centre for Tax Administrations, the Inter-American Development Bank and Costa Rica’s Ministry of Finance which allowed 49 participants from 16 countries in Latin America and the Caribbean to be involved in the development of mechanisms in support of the BEPS project aimed at strengthening their tax systems.

Latin America’s two biggest economies, Brazil (largest) and Mexico, have enthusiastically supported the BEPS initiative but, as we know, the road to Hell is often paved with good intentions. The OECD’s Common Reporting Standard is all about transparency, an anathema for Latins, and is not diminished in any way under BEPS, an initiative which, in its purest form, has a three-tier approach to transfer pricing documentation comprising a master file, a local file and a country-by-country report.

Dilemma for Dilma

Economically, Mexico is surviving whereas Brazil is struggling and Dilma Rousseff could suffer a BEPS backlash from Brazilian businessmen. The UN Economic Commission for Latin America and the Caribbean (ECLAC) predicts a contraction of 2.8 per cent for Brazil's GDP in 2015 (which still isn't as bad as Venezuela's at 6.7 per cent) versus anticipated Mexican growth of 2.2 per cent. The BEPS programme, frankly, is far from Brazil's top priorities in 2016, always assuming that a rebellious congress, prompted by the business lobby, will even entertain a crackdown on corporate taxation. BEPS can also stand for Brazil's Economic and Political Stumble.

Joaquim Levy resigned as financial minister last December and has been replaced by Nelson Barbosa, the planning minister, who commentators believe will be less aggressive on fiscal austerity measures and more accommodating towards interventions by President Rousseff. Levy's attempts to raise taxes were met with hostility not only from congress, which the President has lost control over, but from the government also.

The central bank has surveyed local economists, some of whom expect economic growth to contract 2.7 per cent this year, with an inflation rate of 6.8 per cent. That's before the Petrobras scandal which alleges that politicians from the president's ruling Workers' Party received some US\$4 billion from contracts awarded by the state oil company. Dilma Rousseff is the most unpopular president in Brazilian history. Normally, you pour oil on troubled waters, but in this instance oil is the trouble.

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