

Preface

In 2013, when concerns about tax avoidance by multinational companies were hitting the headlines and the OECD was launching its BEPS project, I thought it was time for a more fundamental review of the way in which business profit was taxed in an international context.

I was inspired by three outstanding reviews that the Institute for Fiscal Studies had commissioned to investigate the structure and reform of taxes over the decades—the Meade Committee in the 1970s, the IFS Capital Taxes Group, led by Malcolm Gammie, in the late 1980s and early 1990s, and the Mirrlees Review, which was completed in 2011. A key feature of these pathbreaking reviews was that they all married modern economic theory with a deep concern for how taxes worked in practice. And they all included economists and lawyers on the review team.

As a member of the IFS Capital Taxes Group, I very much appreciated the benefits of economists and lawyers working together. That has also been my experience in directing the Oxford University Centre for Business Taxation, which has also always employed researchers from both economics and law. So I set out to recruit the very best thinkers from law and economics from around the world to join a new group. To my delight they accepted, and the initial group—which first met in December 2013—consisted of Alan Auerbach and Michael Keen as the other economists, and Michael Graetz, Paul Oosterhuis, Wolfgang Schön, and John Vella as the lawyers. It is hard to imagine a more distinguished group. Unfortunately, Michael Graetz stepped down from the group along the way, but only after he had made an immense contribution to our work and thinking. His ideas and thoughts continue to permeate through this book—though of course, he is absolved from any responsibility for any flaws or outright errors in what it finally contains. In retrospect, our work would also have been helped by the expertise of others, especially from accounting; but the group was well established by the time I realized that.

We summarized the task we set ourselves in December 2013 as follows.

The BEPS Action Plan aims at evolutionary, rather than revolutionary, changes to the system of international taxation, based on arms-length pricing and a network of double tax agreements. But it is not clear that such an approach will generate an international tax system fit for the 21st century. It is not only the practical working of the system that is in doubt, but—more profoundly—its conceptual

basis. Without a solid conceptual basis, reform will be piecemeal and arbitrary, and it is not clear what the reforms will be a transition to.

We will address fundamental issues of principle and practice in the allocation of profits for the purposes of taxation, paying attention to the interests and circumstances of advanced and developing countries. Specifically, we will:

- analyse the conceptual basis of the existing OECD framework, including the basic allocation of taxing rights, the treatment of interest and royalties, and the methods used in determining transfer prices;
- evaluate potential reforms within the existing framework, especially whether they can be justified on the basis of a clear conceptual basis, rather than as ad hoc measures;
- consider more radical methods of allocating taxing rights, including those based on residence, destination and formulary apportionment. This will involve not only analysis of the conceptual basis of such taxation, but also the extent to which such methods can be implemented in practice, and whether there is a feasible path of transition; and
- make recommendations for reform into the medium term.

The group held a series of meetings, mostly lasting two days and discussing a variety of notes and papers prepared for them, until 2017. Those meetings developed our ideas, although a great deal of work also took place outside the meetings. The group constituted a wonderful and constructive discussion forum; we did not start in complete agreement, and it is probably fair to say that we did not finish with complete agreement either. But along the way, I believe we all learnt a great deal from each other, and I hope those lessons have been reflected (with more clarity than there may have been at the beginning) in the book. The book represents our collective view on how taxes on international business profit should be reformed.

We have presented the ideas in the book on many occasions in the intervening period and, both individually and collectively, the group has written and presented many contributions which have been published along the way. These are generally also reflected in this book. Notably, we presented earlier versions of our two main proposals—the RPAI and the DBCFT—at a pair of conferences in Oxford and Washington DC in June and July 2016, and produced working papers relating to these proposals in March 2019, and January 2017, respectively. Much of the debate about tax reform in the US in 2016 and 2017 was based around the DBCFT. More recently, in 2019 the OECD has begun to pursue proposals that draw on the RPAI proposal—although with some important differences. Being actively involved in these policy debates has not helped us in completing the book in reasonable time.

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the Robert D. Burch Center for Tax Policy and Public Finance at the University of California, Berkeley. Skadden Arps and the IMF also generously hosted meetings.

As well as learning from each other, the group benefited from comments and advice from numerous people, including Rosanne Altshuler, Reuven Avi-Yonah, Philip Baker, Johannes Becker, Jennifer Blouin, Stephen Bond, Anzhela Cédelle, Kim Clausing, Alex Cobham, Richard Collier, Wei Cui, Rita de la Feria, Ruud de Mooij, Mihir Desai, Dhammika Dharmapala, Joachim Englisch, Judith Freedman, Clemens Fuest, Malcom Gammie, Rachel Griffith, Itai Grinberg, Harry Grubert, Michelle Hanlon, Caroline Heber, Jim Hines, Doug Holtz-Eakin, Mitchell Kane, John Kay, Ed Kleinbard, Kai Konrad, Li Liu, Ben Lockwood, Glen Loutzenhiser, Drew Lyon, Giorgia Maffini, Mark Mazur, Peter Merrill, Will Morris, Christine Osterloh-Konrad, Vicki Perry, Alice Pirlot, Erik Röder, John Samuels, Dan Shaviro, Joel Slemrod, Moshe Spinovitz, Johanna Stark, Martin Sullivan, Eric Toder, Richard Vann, and Al Warren, as well as colleagues and numerous others at various conferences, seminars, and meetings over the last six years. We are very grateful to them for helping us to better understand some of the difficult problems which arise in analysing and re-designing taxes of international business profit.

Finally, please note that the views expressed here should not be attributed to the IMF, its Executive Board, or IMF management.

Michael P. Devereux
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Contents

<i>Biographies of Authors</i>	xiii
1. Introduction	1
1. Tax avoidance	4
2. Competition for economic activity and tax revenue	6
3. Other problems	12
4. A principled and comprehensive approach	14
5. Proposals	17
2. Key Issues in Taxing Profit	21
1. What is business profit?	22
2. Criteria for evaluating taxes on business profit	33
3. Possible rationales for business-level taxes on profit	57
4. Business-level and investor-level taxes	77
5. Conclusions	82
3. The Current International Tax Regime	85
1. An introduction to the current regime	86
2. General trends in the current regime	94
3. The BEPS project	106
4. Evaluating the current regime	113
5. Post-BEPS reform	127
6. Conclusions	130
4. Fundamental Reform Options	131
1. Origin country	132
2. Country of residence of parent company or business headquarters	151
3. Country of residence of owners	163
4. Destination country	168
5. Final thoughts	173
5. Basic Choices in Considering Reform	175
1. What degree of coordination is required?	176
2. Transition	179
3. Revenue neutrality and distributional issues	181
4. Scope of the reformed taxes	182
5. Identifying destination	184
6. Final thoughts	187

6. Residual Profit Allocation by Income	189
1. Introduction	189
2. The gradual move towards profit splits	194
3. The RPAI in outline	199
4. Evaluating the RPAI	237
5. Implementation	256
6. Conclusions	264
7. Destination-Based Cash Flow Taxation	267
1. The DBCFT in outline	268
2. Evaluating the DBCFT	279
3. Taxing financial flows	300
4. Implementation	317
5. Conclusions	333
<i>Appendix 1 Personal and Business Level Taxes in a Small Open Economy</i>	335
<i>Appendix 2 The Algebra of the RPAI</i>	337
<i>References</i>	339
<i>Index</i>	357