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WORLD ECONOMIC FORUM

Ireland Calls for Focus on Value Creation In Digital Tax Debate

by Stephanie Soong Johnston

While Ireland opposes global minimum taxation as a long-term solution to tax digitalization, what's lacking in the ongoing debate is a focus on value creation as it relates to tax incidence, Ireland's finance minister said.

During a January 24 panel at the World Economic Forum in Davos, Switzerland, Irish Finance Minister Paschal Donohoe explained that Ireland is against any kind of minimum taxation because it believes a country's ability to set its own tax rate is a crucial element of its sovereignty. Competing on tax is also important for smaller countries to keep pace with bigger ones, he added.

"For those reasons, we, along with some other countries in the European Union, have always been very cautious or skeptical about any proposals on minimum taxation," Donohoe said.

His comments came as French Finance Minister Bruno Le Maire, also participating in the forum, separately promoted the G-7 French presidency's goal of introducing effective minimum corporate taxation to crack down on corporate tax avoidance. The proposal, which France is exploring with Germany, would be similar to the global intangible low-taxed income provision of the U.S. Tax Cuts and Jobs Act.

There is not yet global agreement on how best to tax the increasingly digital economy, "although there's much more progress that we have made in a relatively short period of time," said OECD Secretary-General Angel Gurría, a fellow panelist.

The TCJA was a major factor in moving the conversation forward, and it "opened many possibilities," he added. According to Gurría, there are generally two other kinds of proposals on the table: a broader approach to the reallocation of taxing rights with a focus on the market jurisdiction, and a solution involving user contribution.

The OECD is leading the debate with countries through the inclusive framework on base erosion and profit shifting, which had its sixth meeting January 23-24 in Paris, and it hopes to come to a consensus-based solution by 2020, in line with a mandate from the G-20.

However, Donohoe highlighted the Irish government's concerns about any international tax reforms that will end up shifting tax incidence away from value creation and toward consumption. As a service-exporting economy, "that poses a gigantic challenge for us," he said.

Another concern Donohoe noted is that any reforms will have to be agreed on within the OECD framework. Otherwise, "we run a real risk of a tax issue becoming a trade issue," he said.

Although he was asked what long-term approach Ireland supports, Donohoe only pointed out what is lacking in discussions on the subject.

"What we're looking for is balance in recognizing that value creation is genuine and does happen within companies and that the tax incidence should recognize that," Donohoe said.

"It's really complicated, it's very technical, but if you look at the progress that was made in [the BEPS project], many said it wouldn't happen, and it has happened. And we all have our part to play in the process now," Donohoe added.

To the Irish government, the key issue that has yet to be teased out in the debate is that the digital economy can't be ring-fenced from the rest of the economy — in fact, the entire economy has become digitalized. "We still have to figure that out," Donohoe said. That's why the principle that guides other elements of corporate taxation — that countries must recognize where value is created — must also apply to digital taxation, he explained. "My own view is we haven't made enough progress on that yet, and I think where you will see that happen is in the inclusive [framework] . . . and we will play our part in that," Donohoe added.

Buy You a Beer?

When asked whether Ireland could be convinced to adopt an EU-wide short-term digital services tax, which France and some other EU member states support, Donohoe said Le Maire has already tried to convince him and even went so far as to offer to buy him a beer. But Ireland continues to dig in its heels on the tax, along with other EU members states including Sweden.

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Ireland is still concerned about the implications of shifting taxation to where consumption occurs, which transcends the debate on how to tax the digital economy, Donohoe said.

Le Maire had told France 24, a Paris-based international news network, in a clip posted online January 24 that France cannot wait for the OECD to come up with a long-term solution because of political pressure. France is set to introduce domestic legislation for its own digital services tax, which will be imposed at a rate of up to 5 percent on the turnover of large digital companies, in February.

However, Gurría said the OECD has a clear mandate from the G-20 to provide an update on the debate on long-term solutions in 2019 and to publish a final report in 2020. "We're not lagging behind — this is not late," Gurría said. "This is too important to be urgent." ■

WORLD ECONOMIC FORUM

Brazil Studying Dividend Tax To Pay for Corporate Cuts

by William Hoke

Brazil's new economy minister reportedly told business leaders that the government is studying a plan to slash corporate tax rates and make up for the revenue hit by taxing dividend and interest payouts.

São Paulo newspaper *Valor Economico* reported January 23 that Economy Minister Paulo Guedes told a closed gathering of business leaders at the World Economic Forum in Switzerland that the government plans to cut the corporate income tax rate from 34 percent to 20 percent. Dividends, which are currently exempt, would become taxable under Guedes's plan, as would interest payments on company equity.

Alexandre Siciliano, a tax lawyer with Lobo & de Rizzo Advogados, said that while such interest payments are subject to a 15 percent withholding tax, they are fully deductible against the 34 percent corporate income tax.

Alex Jorge, a tax lawyer with Campos Mello Advogados, said Guedes might have been suggesting that the tax benefit from the deduction for interest payments on company equity be eliminated as part of the proposal to reduce the corporate income tax (CIT) rate.

Siciliano said the tax moves would be beneficial from an economic standpoint because they would encourage the reinvestment of profits, which would be less expensive than distributing earnings as taxable dividends.

The switch in emphasis from taxing corporations to taxing shareholders would also be positive from a tax efficiency point of view, Siciliano said. "The calculation of the tax basis of companies can be a very complex task and . . . there can be certain room for tax planning, reducing the tax basis," he said. "Nowadays, when dividends are tax free, if a company reduces its tax basis, it pays less income tax and more tax-free dividends, leaving the government with no chance to tax those dividends again in the hands of the shareholder."

Siciliano said that because the determination of resident individuals' tax basis is far less

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