REVIEW OF RECENT LITERATURE

Felix Wilson[1], *Lynne Oats*[2]

The following is a selection of recently published papers that caught our eye, in no particular order, from a diverse range of publications. JOTA welcomes suggestions for papers for review and offers to assist in compiling future reviews.

TAX MORALE & ATTITUDES

Matthaei, E., Chan, H. F., Schmidt, C., & Torgler, B. (2023). Relative trust and tax morale. *Economic and Political Studies, 11*(3), 400–418.

In this paper, the authors draw on data for 44 European countries from the Integrated Value Survey, which integrates the World Value Survey and the European Value Survey, in order to explore the importance of trust in international institutions—in particular, the European Union (EU) and the United Nations—for tax morale. They find that trust in national government appears to be the main factor in driving tax morale, although there are differences depending on national context. The literature review section of the paper is instructive as to the various understandings of the relationship between trust in national institutions and trust in international institutions, and the development of the research questions investigated in the paper is clearly explained. The measurement of tax morale is based on the response to the single survey question of whether tax cheating is justifiable. The authors find that in the EU and low trust countries, increasing trust in international institutions can help to foster tax morale. In non-EU countries and high trust countries, high levels of tax morale are particularly associated with high levels of trust in government, and higher levels of trust in international institutions can crowd out tax morale, which underscores the importance of creating trust between citizens and the state.

Oliva, M., Tomasena J. M., & Anglada-Pujol, O. (2023). "Kids, these YouTubers are stealing from you": Influencers and online discussion about taxes. *Information, Communication & Society*.

This case study uncovers a tension between debates and conceptions about media ecologies, inequality, welfare, fairness, and generational differences in attitude. The paper reveals these strains through the thematic analysis of public discourse about tax avoidance in Spain, with the case focussing on the public move by Spain's most popular YouTuber, El Rubius, to Andorra with the aim of paying lower taxes. The authors collect data from 30 videos posted by YouTubers, traditional media clips reposted to YouTube, and their respective comment sections. Their analysis exposes a polarised argument, with traditional media forming a moral dispute, and with YouTubers highlighting the burden of taxation and a perception of inefficient and corrupt government. The aim of the study is to explore how taxes are defined, how YouTubers and their audiences are portrayed, and the resulting identification that these stories offer. The literature review section outlines current research on "taxation imaginaries" and "austerity culture", with the research looking at how naming and shaming strategies were applied in this case, the case's impact on tax imaginaries, as well as the role of tax morale, and providing an outline of the current discussion surrounding social media celebrities. This

[1] PhD candidate, University of Exeter
[2] Emeritus Professor of Taxation, University of Exeter.

research finds that traditional media outlets emphasise the elements of reciprocity, equality, and solidarity, although naming and shaming here is seen as counterproductive, having little effect on their reputation with audiences identifying with the shamed YouTubers. This resulted in legacy media being called out as manipulative, and the younger generation seeing definitions of taxation and the welfare state as outdated and oppressive.

TAX COMPLIANCE

Yong, S., & Fukofuka, P. (2022). Accounting, tax compliance and New Zealand indigenous entrepreneurs: A Bourdieusian perspective. *Accounting Auditing & Accountability Journal, 36*(5), 1350–1378.

This study explores how New Zealand's indigenous (Māori) entrepreneurs use accountants for tax compliance practices, as well as the resulting interactions between these entrepreneurs, their accountants, and the tax authority (the Inland Revenue Department [IRD]). The authors explore 34 qualitative interviews combined with a government documentary review, basing their analysis on Bourdieu's concepts of field, capital, and habitus. This allows for a closer inspection of compliance practices and the power relations between the various actors in the tax field. The authors first discuss the historical relationships developed between Māori people and the state, as well as Māori entrepreneurship, before examining tax compliance literature and Bourdieu's framework. In-depth, semi-structured interviews are undertaken with entrepreneurs, accountants, business experts, and key informants in order to triangulate the narratives of Māori entrepreneurs and uncover the effects of habitus on actions. By analysing the results through Bourdieu's framework, the authors are able to conclude that accountants and the IRD hold positions of power, disadvantaging Māori entrepreneurs as a result of underlying western ideology and a lack of awareness regarding its effect. Accounting for tax reporting does not allow for contextual and social factors to be considered as part of the tax compliance policy debate and is at odds with Māori culture and collectivism.

Barrett, J. M. (2023). Is a duty to pay tax inherent in affirmations of human rights? *Washington and Lee Journal of Civil Rights and Social Justice, 29*(3), Article 3.

This article seeks to understand whether or not the vaguely stated duties presented in the United Nation's Universal Declaration of Human Rights (UDHR), 1948, suggest that there is a duty to pay tax in a way that is comparable with the explicit manner in which such duty is included in the American Declaration of the Rights and Duties of Man, 1948. Through answering this question, the article aims to develop links between welfare rights and duties and the duty to pay tax. This is achieved through consideration of the negotiations that led to the formulation of article 29(1) of the UDHR in order to understand why Anglophone countries do not have an express duty in human rights doctrine to pay tax. Overall, the paper argues that a duty to pay tax may be inferred through the protection and promotion of all rights thus requiring government expenditure. The author outlines the origins and development of welfare rights as universal human rights by close investigation of landmark recognitions of welfare rights (such as the Constitution of Mexico, 1917, and the International Labour Organization, which was founded in 1919). The author presents a discussion about how the development of article 29(1) uses the American Declaration of the Rights and Duties of Man, 1948, as a precursor and comparator, yet only includes a broadly worded mention of duties in the context of human rights, suggesting that the duty to pay tax may be present in human rights doctrine. The author finds that a duty to pay tax is consistent with the presence of human and welfare rights.

INTERNATIONAL TAX COOPERATION AND COMPETITION

Cui, W. (2022). New puzzles in international tax agreements. *Tax Law Review, 75*(2), 201–270.

Cui asks a fundamental question—what are countries cooperating in the international sphere to achieve? He radically suggests that "the answers offered by the proponents of the new international tax agreement are alarmingly ad hoc, misleading, and incoherent" (p. 204).

To frame the discussion, Cui identifies puzzles in three OECD narratives. The first of these is that global business now mainly takes place remotely, yet there is little evidence of this outside of specific sectors and countries, calling into question the idea that global agreement is essential to international reform. The second is that international agreement is necessary in order to appease the United States of America, but the possibility of one country violating global trade agreements is a "highly unusual justification for global cooperation" (p. 204). The third is that a global minimum tax will resolve the problem of tax competition, yet the gains from cooperation remain unclear.

He then takes a close look at whether past scholarship, in particular within economics, has identified a rationale or rationales for cooperation in international corporate income taxation and concludes that it has not. He notes that "in international taxation, the question of what global welfare gain can be achieved through international cooperation is basically unanswered—obviously unsatisfactory 'folk theories' continue to occupy this void" (p. 206). He notes that there are unacknowledged gaps in understanding about common normative assumptions and how international tax rules have worked which have been exacerbated by the isolation of tax law from other areas of law, e.g. trade law. Indeed, he states that a "fundamental reconceptualization of the subject matter of international taxation may be needed for understanding the true past and future grounds for international cooperation" (p. 208).

Cui identifies three rationales for reforming international tax. The first is mode substitution in services (scale without mass). Yet trade statistics cast doubt on the premise that there has been a massive shift to Mode 1 from Mode 3 trade in services. While the growing volume of Mode 1 trade may justify action, it still does not provide grounds for a "prompt and radical overhaul" (p. 214). Similarly, the case for dealing with an increase in Mode 1 trade within corporate income tax is itself weak. In terms of the temporal dimension, the need for speed necessitating more multilateral agreements is also questionable given the reception given to the OECD's *Multilateral Convention to Implement Tax Treaty Related to Measures to Prevent Base Erosion and Profit Sharing* (2020) by practitioners and the added complexity (therefore cost) that it entails.

The second rationale is the prevention of trade wars, exemplified by the United States Trade Representative investigations under Section 301 of the 1974 Trade Act into several DSTs on the basis that they discriminated against U.S. technology companies. In 2021, because of the potential for "trade wars" (p. 216), the OECD agreed that digital services taxes (DSTs) should not be used. Yet, as Cui notes, "a rationale for global tax agreement based on DST induced-trade tensons…emerges only if the United States is assumed to be 'retaliating' against almost the entire world" (pp. 219-220). He also points out that there are unanswered questions about the compatibility of s301 tariffs and World Trade Organization rules.

In terms of the global minimum tax, Cui notes that a requirement to adopt a minimum corporate income tax (CIT) rate is absent from the Two Pillar Solution, which was endorsed by the G20 in July 2021. Both the income inclusion rule and the undertaxed payments rules deal with income lightly taxed elsewhere. The link to tax competition is tenuous at best. In terms of Pillar 1, Cui states that "the smaller the scope of application of the newly created taxing rights, the clearer it is that the *main* outcome… is the prohibition of DSTs" (p. 231).

Cui makes the cogent point that "*it is not clear why maintaining a minimum CIT rate across all countries is good for the world*" (p. 235). Indeed, there are arguments for abolishing CIT altogether. He highlights two unquestioned assumptions in international tax scholarship. The first is that the main subject of international taxation is capital mobility and the second is that CIT is immutable. He concludes that "the new international tax agreements of 2021 seek to weld the world to these outdated assumptions" (p. 269).

Devereux, M., & Vella, J. (2023). The impact of the global minimum tax on tax competition. *World Tax Journal, 15*(3), 323–378.

In this paper, the researchers look at the impact of the Pillar Two Global Anti-Base Erosion (GloBE) rules on corporate tax competition. To do this, they explore the two main objectives of the GloBE rules, addressing issues with profit shifting and tax competition. They locate two different meanings of tax competition in the Inclusive Framework (IF) documentation with recent IF documentation using the first, ensuring that multinationals pay a minimum level of tax. Despite this, OECD officials and politicians still discuss it in terms of bringing a stop to the harmful race to the bottom. As a result, the paper goes on to see which of these forms of tax competition the GloBE rules address.

Furthermore, the authors also discuss the top-up tax calculation, focussing on substance-based income exclusion and the qualified domestic minimum top-up tax. They look at the effects that these different approaches have on tax competition and, more broadly, whether the GloBE rules will be successful in creating a tax floor. The authors then test the impact of several factors, including the interactions between controlled foreign company rules and the GloBE rules on their previous conclusions, finding only small changes. Finally, the authors consider an alternative and more straightforward design for the top-up tax. Overall, they conclude that the impact of the GloBE rules will be significant, although not straightforward.

THE TAX PROFESSION

Killian, S., O'Regan, V., & O'Regan, P. (2023) "Uncomfortable territory": Personal and organisational values in the tax profession. *Accounting Forum, 47*(1), 1–23.

In this paper, the authors zoom in on the personal ethical and spiritual values of individual tax professionals, against the backdrop of a shift in perception of their role from technical service providers to an elite group doing work that damages society. The study draws on a large global survey of tax professionals together with a follow-up set of 68 semi-structured interviews. Much of the previous research on ethics in the tax profession is experimental, based on hypothetical scenarios, but this study takes a mixed methods approach and adapts Rest's (1986) model to tease out "the recognition by tax experts of the ethical dimensions in their work" (p. 5). The authors examine the salience of personal values in light of age, career stage, and organisational context.

The findings of the study yield new insights into tensions between personal and organisational ethics. Spiritual values are strongest among those practitioners working in very small firms, those who are still in the process of obtaining their professional qualifications, and those within domestic (non-international) organisations. Perhaps unsurprisingly, the salience of spiritual and religious values is found to be lowest in large international firms, indicating a "surrender of personal values to the corporate culture" (p. 19), possibly overriding professional ethics training among early career stage practitioners.

OFFSHORE TAX EVASION

Leenders, W., Lejour, A., Rabaté, S., & van 't Reit, M. (2023). Offshore tax evasion and wealth inequality: Evidence from a tax amnesty in the Netherlands. *Journal of Public Economics, 217,* 104785.

The authors analyse datasets of Dutch tax evaders in order to map the distribution of evasion and the implications for how wealth inequality is measured. Hidden wealth poses difficulties for the measurement of wealth inequality. Researchers who have investigated various data leaks and the outcomes of tax amnesties have generally confirmed that tax evasion is concentrated among the wealthy, but the use of tax administration data may fail to capture hidden wealth and income. This study finds that the concentration of tax evasion at the top of the wealth distribution, i.e. the super-rich, is lower than found in previous literature. Rather, there is substantial evasion among the "merely rich", which is at least in part attributable to cross-border evasion opportunities in neighbouring countries. The radical option of tax migration is easier for the super-rich. In relation to the tax amnesty, the authors observe a strong sensitivity to changes in the penalty rate, i.e. institutional and geographical factors have explanatory roles to play.

Fernando G. A., & Mandel, A. (2022). The network structure of global tax evasion evidence from the Panama papers. *Journal of Economic Behavior & Organization, 197,* 660–684.

In this paper, the authors use the Panama Papers to explore the dynamics of tax evasion. They draw on network theory to model links between jurisdictions in what they describe as a "global network of tax evasion" (p. 660). The authors identify structural features consistent with complex networks and are able to identify tax havens that should receive priority attention from policymakers. The authors also identify optimal deterrence strategies.

GLOBAL GOVERNANCE

Killian, S., O'Regan, P., Lynch, R., Laheen, M., & Karavidas, D. (2022). Regulating havens: The role of hard and soft governance of tax experts in conditions of secrecy and low regulation. *Regulation & Governance, 16*(3), 722–737.

The focus of the authors in this paper is the regulation of tax experts and the need to better understand how the relative influence of hard and soft governance varies by jurisdiction. The field study drawn upon to analyse this consists of an international survey that elicited the perceptions of tax experts of the influence of regulation and governance on their day-to-day work. The authors find that influences on work are reported to be stronger for tax experts in countries with high financial secrecy, irrespective of conditions of economic freedom. Workplace ethos is reported to be significantly more influential for tax experts in high-risk

jurisdictions. Economic freedom and financial secrecy are found to "foster very different governance landscapes" (p. 734) and, ultimately, these differences lead to a need for different governance levers. This is an important reminder that the blind adoption of "best practice" regulation and governance mechanisms is generally not a good idea.

Oei, S-Y. (2023). World tax policy in the world tax polity? An event history analysis of OECD/G20 BEPS inclusive framework membership. *The Yale Journal of International Law, 47*(2), 199–246.

Although the Base Erosion and Profits Shifting (BEPS) project and Inclusive Framework (IF) have received criticism for failing to prioritise the interests of developing countries, many countries have still agreed to join. As a result, this paper asks how these developing countries came to join despite the burdens, clear limitations, and questionable benefits of the projects. The author applies event history regression methods and world polity theory to better understand the decisions made by these countries and, therefore, the growth of the new global tax consensus.

World polity theory describes how norms spread across the world, giving rise to shared culture shaped by international organisations and non-governmental organisations. To better understand the application of world polity theory, the underlying mechanisms and processes by which global tax norms have been adopted need to be understood. The author investigates three pathways—normative, mimetic, and coercive—to see where these have driven countries to become members of the BEPS IF. Overall, this article finds that international organisations like the OECD can work with other powerful actors to exert pressure on the international tax landscape in order to generate norms that shape global tax institutions and domestic tax regimes.

TRANSFER PRICING

Ormeño-Pérez, R., & Oats, L. (2022) Implementing problematic tax regulation: Hysteresis and bureaucratic revolutionaries within tax administrations. *British Accounting Review, 55*(3), Article 101147.

This paper takes a historical look at the design and implementation of the first transfer pricing rule in Chile in 1997, its amendment in 2002, and its repeal in 2012. The authors draw on a series of semi-structured interviews to gather behind the scenes insights into how the rule was designed, and the ensuing difficulties resulting from inadequate drafting. The rule was designed to be consistent with the then OECD transfer pricing guidelines, but with modifications to accommodate deficiencies in administrative capabilities. The paper illustrates the unexpected difficulties that emerge when tax rules are adapted from external sources without due deference to their fit within the institutional competencies and resource constraints, thereby providing a cautionary tale for jurisdictions seeking to implement OECD-mandated rules.

Greil, S., Overesch, M., Rohlfing-Bastian, A., Schreiber, U., & Sureth-Sloane, C. (2023). Towards an amended arm's length principle: Tackling complexity and implementing destination rules in transfer pricing. *Intertax, 51*(4), 272-289.

The authors of this paper argue for an extensive revision of the arm's length principle (ALP) to improve fairness in the allocation of MNE profits to jurisdictions where customers reside. They rehearse the arguments for the diminution of support for the single entity principle,

including increasing tax complexity. To tackle complexity, the authors propose the reduction of functional and other analyses, alongside the standardisation of margins, remaining within the bilateral structure to minimise disruption. The second aspect of the authors' concerns is the implementation of destination rules, which they argue can be incorporated into a reinterpreted ALP in keeping with the aspirations of Pillar One, Amount A. With these modifications, the authors do not seek to create a new normative concept, but rather to improve the current bilateral rules.

Akhand, Z., & Mawani, A. (2023) Arm's length principle vs. formulary apportionment in BEPS Action 13: Stakeholders' perspectives. *Accounting in Europe, 20*(2), 225–243.

This study examines 133 comment letters submitted to the OECD in relation to transfer pricing documentation in response to a discussion draft published in January 2014. The authors seek to understand differences in opinion between stakeholders about the longstanding tension between the arm's length principle and formulary apportionment. The authors used qualitative data analysis software to manage the coding process, which featured five main categories. Concerns about a prospective shift to formulary apportionment were higher among European commenters than those from North America, possibly reflecting their starting position of lower levels of disclosure. The authors further argue that comments from that opposed the new documentation regime may be indicative of implicit lobbying and that such firms prefer complex rules that result in lower taxes for their clients.

INFORMATION REPORTING

Blank, J. D., & Glogower, A. (2023). The tax information gap at the top. *Iowa Law Review, 108*(4), 1597–1651.

In this article, the authors theorise about why the U.S. tax information reporting regime treats extremely high earners differently from other taxpayers. Their discussion emphasises that the U.S. tax information reporting regime can be considered as two-tiered where less scrutiny is applied to the very top cases than to most cases. Consequently, this presents greater opportunities for avoidance or evasion, therefore disproportionality benefiting certain groups. As a result, the authors highlight several issues with the current regime. They argue that an overreliance on the activity-based approach allows high-end taxpayers the scope to earn income in ways that fall outside of the law framework of specified activities where tax information reporting is obligatory, introducing the concept of actor-based information reporting rules. To address these weaknesses, the paper first evaluates the Biden administration's recent bank information reporting scheme, which is an attempt to expand the types of transaction that must be reported to the Internal Revenue Service. This is followed by two proposals that introduce a model for first-party information reporting and a hybrid system. This considers both first-party and third-party information reporting along with their challenges and describes the benefits of making use of both types of reporting. This paper is relevant to tax scholars, policymakers, and tax officials.

BIBLIOGRAPHY

Akhand, Z., & Mawani, A. (2023) Arm's length principle vs. formulary apportionment in BEPS Action 13: Stakeholders' perspectives. *Accounting in Europe, 20*(2), 225–243. https://doi.org/10.1080/17449480.2023.2192356

Barrett, J. M. (2023). Is a duty to pay tax inherent in affirmations of human rights? *Washington and Lee Journal of Civil Rights and Social Justice, 29*(3), Article 3. https://scholarlycommons.law.wlu.edu/crsj/vol29/iss3/3/

Blank, J. D., & Glogower, A. (2023). The tax information gap at the top. *Iowa Law Review, 108*(4), 1597–1651.

Cui, W. (2022). New puzzles in international tax agreements. *Tax Law Review, 75*(2), 201–270.

Devereux, M., & Vella, J. (2023). The impact of the global minimum tax on tax competition. *World Tax Journal, 15*(3), 323–378.

Fernando G. A., & Mandel, A. (2022). The network structure of global tax evasion evidence from the Panama papers. *Journal of Economic Behavior & Organization, 197*, 660–684. https://doi.org/10.1016/j.jebo.2022.03.024

Greil, S., Overesch, M., Rohlfing-Bastian, A., Schreiber, U., & Sureth-Sloane, C. (2023). Towards an amended arm's length principle: Tackling complexity and implementing destination rules in transfer pricing. *Intertax, 51*(4), 272-289.

Killian, S., O'Regan, P., Lynch, R., Laheen, M., & Karavidas, D. (2022) Regulating havens: The role of hard and soft governance of tax experts in conditions of secrecy and low regulation. *Regulation & Governance, 16*(3), 722–737. https://doi.org/10.1111/rego.12347

Killian, S., O'Regan, V., & O'Regan, P. (2023) "Uncomfortable territory": Personal and organisational values in the tax profession. *Accounting Forum, 47*(1), 1–23. https://doi.org/10.1080/01559982.2021.2004633

Leenders, W., Lejour, A., Rabaté, S., & van 't Reit, M. (2023). Offshore tax evasion and wealth inequality: Evidence from a tax amnesty in the Netherlands. *Journal of Public Economics, 217*, 104785. https://doi.org/10.1016/j.jpubeco.2022.104785

Matthaei, E., Chan, H. F., Schmidt, C. & Torgler, B. (2023) Relative trust and tax morale. *Economic and Political Studies, 11*(3), 400–418. https://doi.org/10.1080/20954816.2022.2157235

Oei, S-Y. (2023). World tax policy in the world tax polity? An event history analysis of OECD/G20 BEPS inclusive framework membership. *The Yale Journal of International Law, 47*(2), 199–246.

Oliva, M., Tomasena J. M., & Anglada-Pujol, O. (2023). "Kids, these YouTubers are stealing from you": Influencers and online discussion about taxes. *Information, Communication & Society*. https://doi.org/10.1080/1369118X.2023.2179374

Organisation for Economic Co-operation and Development. (2020). *Multilateral convention to implement tax treaty related to measures to prevent base erosion and profit sharing*. OECD Publishing.

Ormeño-Pérez, R., & Oats, L. (2022) Implementing problematic tax regulation: Hysteresis and bureaucratic revolutionaries within tax administrations. *British Accounting Review, 55*(3), Article 101147. https://doi.org/10.1016/j.bar.2022.101147

Yong, S., & Fukofuka, P. (2022). Accounting, tax compliance and New Zealand indigenous entrepreneurs: A Bourdieusian perspective. *Accounting Auditing and & Accountability Journal, 36*(5), 1350-1378. https://doi.org/10.1108/AAAJ-12-2017-3273