LETTER FROM THE EDITOR

Leopoldo Parada

Dear reader,

2025 has just begun, and the tax world is prepared to face plenty of pending issues. To begin with, this year is probably decisive for the future of the OECD Pillar One project. Although the expectations regarding the implementation of Amount A through a Multilateral Convention (MLC) agreed by all members of the Inclusive Framework (IF) are very low, countries have demonstrated some willingness to recognise the contribution of Amount B as a formulaic solution to the long-lasting problem of fixing a price for marketing and distribution activities in inter-company transactions. This includes some developing nations like Mexico, among other Latin American countries.[1]

Similarly, the OECD Pillar Two is not left behind. Indeed, although more successful than its counterpart —at least from an implementation perspective— the OECD Pillar Two still raises questions in some major economic actors globally. One of them is China. Indeed, as the second-world largest economy in the world, many are waiting to see whether China will respond positively to the implementation trend, or whether it will finally abstain from the 'global minimum tax trend'. Reaction from China and other BRICS countries will draw the path for what may come regarding the OECD Pillar Two, especially among developing countries. This can be particularly interesting since nothing about the global minimum tax is written in stone, as the Trump administration in the United States has already demonstrated, officially withdrawing from the OECD initiative.[2]

Finally, we should keep an eye open on the United Nations (UN) and the whole reforming process taking place in there. In fact, unlike some minority sceptical voices around, an overwhelming majority has recently approved the Term of References (ToR) for a UN Tax Convention on International Tax Cooperation in the Second Committee of the General Assembly, paving the path for the new Tax Convention, which should start in February 2025.[3] In this context, it is important to understand the role and symbolism of the UN Tax Convention, which represents an expected reaction to a much-needed decentralisation of the international tax policy debate in the hands of the OECD, creating forum that —hopefully— provides the necessary counterbalances in the current dynamics of power at the international tax level.[4] This also includes a call for developing nations in Latin America and the Caribbean both to involve in the process as well as to look to the right place when influencing their own tax policy decisions. This can be particularly relevant considering the role of the European Union (EU) and the series of initiatives supporting the recent OECD developments.

In this number, our authors aim to provide different perspectives on these and other interrelated matters. Andrea Riccardi raises some alarms for Latin American and Caribbean countries to be aware of the EU recent tax initiatives, especially considering the influence of the EU in the international tax arena as well as in the global agenda setting. For this purpose, she concentrates on two initiatives: the Council Directive 2022/2523 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union ("minimum tax directive),[5] and the Public Country-By-Country Reporting (CBCR) Directive, which amends the Council Directive 2013/34/EU on disclosure of income tax information by certain undertakings and branches.[6] She does not only identify potential effects on the tax policies of Latin American and Caribbean countries, but also provides three specific recommendations for them to follow, namely identify the immediate effects; anticipate future demands derived from this influence, and be aware of practices from which the region can eventually take advantage of.

Yi Zheng takes the lead on one of the big elephants in the room: what will China do about the OECD Pillar Two proposal? Zheng's article provides an assessment of the global minimum tax in China, exploring the interaction of China's various tax incentives and the global minimum tax with a particular focus on the right for economic growth and the right to apply tax policy to balance and correct economic weakness. She anticipates the challenges of such an initiative in an economy like China and explores some strategic responses. Ricardo García Antón brings us a fresh perspective on arbitration as an efficient way to solve tax disputes, particularly in the Caribbean region where scepticism regarding arbitration has historically prevailed. García Antón argues that arbitration is crucial to be endorsed as a dispute resolution mechanism in double tax treaties ("DTCs"), provided a MAP ends without an agreement, examining why arbitration has been traditionally discarded as a dispute resolution mechanism in international taxation, and proposing several alternatives that can be applied in the region to increase its acceptance.

John Arias offers an interesting perspective on fiscal advances and challenges faced by Ecuador, emphasising the transformative impact of technology, transparency, and fiscal education in the relationship between the State and taxpayers.

Finally, Germaine Rekwest elaborates on the important steps undertaken by Curaçao on matters related to automatic exchange of information (AEOI), highlighting one of the most important outcomes for the country recently, namely its removal from the European list of non-cooperative jurisdictions.

This number is full of provocative and interesting perspectives in a tax world that is in constant evolution. I hope you enjoy our first number of 2025.

Leopoldo Parada

Editor of the Caribbean Tax Law Journal

[1]Stephanie Soong, Mexico to Issue Secondary Regs on ICAP and Amount B in 2025, 116 Tax Notes Int'l 1785 (2024).
[2]Memorandum for the Secretary of Treasury, The United States Representative, Subject: The Organization for Economic Co-operation and Development (OECD) Global Tax Deal (Global Tax Deal), 20 January 2025, available here. See also Mindy Herzfeld, Trump Executive Orders Bring U.S. Course Change on International Tax, 2025 TNTI 17-1.
[3]In this regard, see, e.g., Leopoldo Parada, U.N. International Tax Cooperation: The Terms of References Final Draft, 116 Tax Notes Int'l 771 (2024). In a more pessimistic view, see, e.g., Philip Baker, Reform of the International Tax Architecture: The UN Fails to Reach Consensus, 1676 Tax J., at 13 (2024).
[4]Leopoldo Parada, International Cooperation on Tax Matters at the UN, Caribbean Tax Law Journal 5 (2024), pp. 11-12.
[5]Council Directive (EU) 2022/2523 of 14 December 2022 on ensuring a global minimum level of taxation for multinational enterprise groups and large-scale domestic groups in the Union,
[6]Council Directive (EU) 2021/2101 of the European Parliament and of the Council of 24 November 2021 amending Council Directive 2013/34/EU as regards disclosure of income tax information by certain undertakings and branches, https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32021L2101 (accessed 29.12.2024).