IMF Calls for Greater International Tax Cooperation

G20 Members Leaning toward Widespread, Coordinated Disclosure of Assets

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International Monetary Fund Managing Director Christine Lagarde called recently for increased cooperation across borders to identify and close tax loopholes and to put an end to some of the tax avoidance strategies employed by companies and individuals — many, if not most of them perfectly legal — that were exposed in the Panama Papers. Corporate tax and bank secrecy are moving to the forefront as countries look for ways to boost their spending to stimulate their economies and climb out of a lagging recovery. Lagarde made her remarks ahead of the IMF's Spring Meetings on April 14.

"We need much stronger international tax cooperation," Lagarde said. "A lot of things have gone global and it is unlikely to recede, but there is one thing which has not gone very global and that is taxation, which is still very much a local affair associated with national sovereignty."

At a press conference preceding meetings in Washington, D.C., a reporter asked Lagarde if she was concerned that the revelations in the Panama Papers, a leak of more than 11.5 million legal and financial records of the wealthy international clientele of a Panama City law firm viewed by a handful of newspapers and reported in early April, would fuel popular anger and "reinforce the perception that the elite can always find a way to avoid paying their fair share."

Lagarde said that the exposé showed that, "however important BEPS is, the Base Erosion and Profit Shifting [project] commitment, and the automatic exchange of information, it is unfinished business." She said the IMF would be happy to play its part. "We have a membership of 189 countries now and all countries have to be included" in sweeping efforts to close in on tax evaders using two key tools: the so-called BEPS (seebox) project and the automatic exchange of information.

'BEPS' and Automatic Exchange of Information

The IMF, its sister organization the World Bank, and other major multilaterals announced the details April 19 of their joint effort to "intensify their cooperation on tax issues: the Platform for Collaboration on Tax." Their efforts are likely to lead to more invasive government practices such as the automatic exchange of asset information among national governments and financial institutions. These efforts will be aimed at reducing what finance ministers call "base erosion and profit shifting," or BEPS. The United Nations and the Organisation for Economic Cooperation and Development, or OECD, are the other two organizations cooperating on the BEPS program, at the request of the Group of 20 largest economies.

Automatic Exchange of Information — the Legacy of FATCA

The second major prong of the G20 effort to shut down tax loopholes and bank secrecy is called the "automatic exchange of information," or AEOI, commitment, and it exists largely because of legislation in the United States called the Foreign Account Tax Compliance Act, or FATCA. "Propelled by the introduction of [FATCA], in 2013 the G20 called on the OECD to establish a single common global standard for AEOI that could give access to foreign financial account information to all committed jurisdictions," the November 2015 OECD report said of the G20 effort to "eliminate bank secrecy."

FATCA, the 2010 law, requires foreign financial institutions, or FFIs, to report on U.S. account holders' assets above a given threshold or suffer a 30-percent withholding rate on many types of their U.S.-source income. (See "FATCA Requirements Closing in on Advisers, Funds," Nov. 26, 2013 [December 2013 newsletter, p. 5 of the print edition]; also see ¶1145-3 of the *Money Manager's Guide* for more on offshore funds and FATCA.)

According to the Internal Revenue Service, FFIs can include:

- depository institutions, for example, banks;
- custodial institutions; for example, mutual funds;
- investment entities; for example, hedge funds or private equity funds; or
- certain types of insurance companies that have cash value products or annuities.

(For a more thorough list, see http://www.irs.gov/Businesses/Corporations/Information-for-Foreign-Financial-Institutions.)

The OECD introduced what it boasted in its 2015 report was a "game-changer in terms of deterring, detecting and addressing tax evasion," in the form of a global common reporting standard. The CRS will apply to the automatic exchange of bank account information between financial institutions and tax collectors; that is, AEOI. The report said 96 jurisdictions had signed on to the standard, "including almost all identified financial centres," and will participate in the first exchanges in 2017 and 2018.

"Although some schemes used are illegal, most are not," the OECD said. "Business cannot be faulted for using the rules that governments have put in place. It is therefore governments' responsibility to revise the rules or introduce new rules." Similarly, Lagarde said at the April 14 press conference, "I am not necessarily passing judgment on the legality or illegality of one scheme or another, but clearly what has resulted from the review of these Panama Papers" is that governments have more work to do. "Everybody has to move beyond BEPS to see that there is actual implementation and that the net is inclusive and does not have little loopholes here and there," she said.

Encouraging Economic Growth and Fighting Negative 'Spillover' Effects

Motivation for global tax coordination is strong. A weak economic recovery has had countries looking for ways to boost their economies through infrastructure spending and other fiscal policies that lead to expansion. In a communiqué from a summit in Shanghai Feb. 27, the G20 said that it was "making tax policy and public spending as growth-friendly as possible, including by prioritizing expenditure in favor of high-quality investment." For its part, the OECD said national leaders realize that they must tackle uneven tax regimes and “treaty shopping” because “in cases where no action by some countries would have created negative spill overs (including adverse impacts of competitiveness) on other countries.”

According to a November 2015 OECD report, leaders at the highest levels of the G20 want national tax systems to work better together in order to sustain global economic growth. “From putting an end to bank secrecy, to establishing a system for tracking cross-border transactions that were previously unknown and unknowable, our work to enhance tax transparency across the world has fundamentally changed the landscape — shutting down opportunities for tax evaders to escape detection,” the report said.

What Is ‘BEPS’?

“Base erosion and profit shifting (BEPS) refers to tax planning strategies that exploit gaps and mismatches in tax rules to make profits ‘disappear’ for tax purposes or to shift profits to locations where there is little or no real activity but the taxes are low, resulting in little or no overall corporate tax being paid.”

Source: OECD/G20 Base Erosion and Profit Shifting Project, 2015 Final Reports, Frequently Asked Questions. http://www.oecd.org/ctp/beps-frequentlyaskedquestions.htm.