

Sharing Best Practices with G20 Indian Sherpa (G20 Sherpa Meeting | Germany, 2017)

(March 6, 2017)



Centre for Budget and Governance Accountability
(www.cbgaindia.org)

Subject: Sharing a few best practices on financial transparency measures for curtailing black money and cooperation on international tax matters ahead of the G20 Sherpa Meeting (March 23-24, 2017)

Government of India (GoI) has played a crucial role in furthering transparency in the global financial system through international platforms such as the United Nations (UN), G20 and the Organisation for Economic Cooperation and Development (OECD) as well as becoming one of the early adopters of the Automatic Exchange of Information (AEOI) and Base Erosion and Profit Shifting (BEPS) standards to address tax evasion. As a part of the BRICS and the G77, India has supported the demand for an intergovernmental tax body under the auspices of the UN.

Developing countries continue to lose revenue through tax evasion practices employed by multi-national corporations (MNCs) and big businesses. The issue of illicit financial flows (IFFs)¹ or black money is urgent and complex, that concerns authorities all across the world. In 2015 alone, developing countries all across the world lost over \$1.1 trillion to IFFs.²

With reference to the G20 Sherpa Meeting to be held on March 23-24, 2017, below are some of the policy asks on tax, anti-money laundering and corruption, many of which have also found mention in the policy paper drafted by the Civil20 group, which CBGA was a part of:

Automatic Exchange of Information**1. Collecting information on residents from all jurisdictions:**

There is a necessity to collect information on residents from all jurisdictions and share it with adjudicating authorities, rather than to do it only for jurisdictions that have adopted the AEOI framework. The benefits in adopting this approach are:

- i. For simplicity: Financial institutions treat all account holders in the same way, and all information is passed onto tax authorities. The authorities do not need to keep updating lists, guidelines and legislations to require information from residents of new countries to be collected and/or submitted.
- ii. Simplifies the integration of new countries: If all necessary information is already collected, integrating new countries into the AEOI standard will be easier, with data available immediately.
- iii. It will enable research and analysis to be done on the size, composition and changes in the offshore financial markets. The data currently available on offshore assets is significantly scanty.

2. Collating and publishing aggregate statistics:

There is a lack of high quality data on the size and composition of the offshore financial markets. As a result, estimates on the size of offshore assets in secrecy jurisdictions and tax havens range between \$7 and \$32 trillion. There is a need to improve statistics and enable better research. If information is

¹ Illicit financial flows (or IFFs) are cross-border movement of money that is illegally earned, transferred or utilized. These are a result of tax evasion, trade manipulation, crime and corruption. Tax avoidance by multinational companies and the wealthy is legal, but unethical and also results in the generation of IFFs. Common to illicit flows is that they tend to be aided by financial secrecy.

² Global Financial Integrity, 2015

collected for all account holders, the data would be available for authorities to aggregate it into “totals” by country of residence, without identifying any individual or entity account holder (and so would not cause any concern over confidentiality), but would be able to show, for example, the size of assets and number of accounts held by residents from each jurisdiction in the world.

Country-by-Country Reporting by MNCs

The BEPS Action 13 mandates MNCs with an annual consolidated revenue of 750 million euros (or Rs. 5,300 crores) to provide details regarding revenue, profit and loss before tax, tax paid, stated capital, number of employees and tangible assets on a country-by-country basis to their respective tax authorities.

With this threshold in place, only 45-47 Indian companies or subsidiaries of MNCs located in India would be required to report their data on a country-by-country, disaggregated basis. We would therefore request you to consider lowering the national threshold at which companies would be required to report their data on a country-by-country basis in India, so as to include more companies in the net.

Beneficial Ownership

One of the most common ways in which companies obscure ownership is by appointing representatives, nominees, proxies or agents to represent the beneficial owner (BO)³, while hiding the true BO's identity. These proxies are persons in charge of a company only on paper and not in practice, therefore making it crucial to establish public registries of beneficial owners. It is also important to identify the true BO through means other than shareholding ownership.

There is a need to lower the current threshold of twenty-five per cent ownership of shares in a company to be recognized as a beneficial owner. An individual wishing to remain anonymous would only need to appoint three individuals to represent themselves as BOs of a company to dilute their stated ownership interest to twenty per cent, or lesser. The presence of a twenty-five per cent threshold is vulnerable to abuse and should be lowered to ten per cent.

Reforming the International Financial Institutional Architecture

International tax norms are currently designed by the OECD and the G20. Most developing countries therefore, do not have the policy space to shape international tax standards that affect them directly.

The then Minister of State for Finance, Mr. Jayant Sinha stated at the Third International Conference on Financing for Development (FfD) in July 2015:

“In today's interconnected world, tax policy is a global public interest, having ramifications far beyond national borders. Greater information exchange is good, but not a substitute for genuine and equitable multilateralism in deciding global norms and standards on taxation. If this is truly a universal agenda, then

³ “Beneficial owner’ is defined as any natural person(s) who ultimately owns or controls the customer and/or the natural person(s) on whose behalf a transaction or activity is being conducted and includes the natural person(s) who ultimately owns or controls a legal entity through direct or indirect ownership of a sufficient percentage of the shares or voting rights or ownership interest in that entity, including through bearer shareholdings, or through control via other means.” (European Parliament, Anti-Money Laundering Directive- IV).

all of us must have an equal seat at the table to legislate on global issues. The lack of an ambitious decision on upgrading the UN Committee of Experts on international cooperation on tax matters into an intergovernmental body, in our view, is a historic missed opportunity.”

We would therefore request that the G20 Sherpa meeting be an opportunity for G20 countries to support the establishment of a well-resourced, intergovernmental tax body under the auspices of the United Nations, to achieve a neutral, democratic and inclusive platform for shaping norms of taxation and promoting international tax cooperation.

(For further information on these issues, please contact us at neeti@cbgaindia.org or at 011-4920 0400 / 401 / 402).