Brexit: Accelerating the Drive Toward Corporate Tax Harmonisation?

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Brexit means the UK is no longer bound by EU Directives aimed at tackling tax avoidance and aggressive tax competition, an issue that has become a high salient electoral-political issue among citizens in EU member states.

The UK will not be bound by the forthcoming Anti-Tax Avoidance Directive (which contains five legally binding anti-abuse measures that all member-states must implement by 2019); the Directive on Administrative Co-Operation (aimed at improving cross border transparency and the exchange of information); and they will most certainly not be bound by the proposed Common Consolidated Corporate Tax Base (CCCTB), should it be agreed and implemented by the Council.

The UK was the loudest and most vociferous opponent of the CCCTB, and successfully blocked its implementation in the Council in the past. Whilst the "unanimity" rule still applies to fiscal policies, which means Ireland still has a veto in the Council, there can be no doubt Ireland has lost its biggest ally in arguing against a common consolidated tax base.

In the context of uncertainty (and in the absence of a CCCTB), most legal-accountants are correctly pointing out that Brexit provides an opportunity for Ireland to take advantage of the present international tax situation. UK firms no longer benefit from those Directives aimed at the Single Market. Brexit means UK firms will no longer have a "one stop shop" for their EU trades. Many have an incentive to merge their businesses to an Irish subsidiary. Some will also consider moving their EU parent companies to Ireland, to ensure they can continue to transfer prices.

Of course, in the medium-to-long run, everything depends on the EU-UK negotiations. As it stands, some sort of Swiss+ type deal is the most likely outcome, with priority accorded to a sectoral-industry specific deal for London finance, including the question of passporting and equivalence. Whatever the outcome, a Swiss+ type deal (or the WTO default) will give the UK much greater scope to adopt an aggressive corporate tax regime, which, whilst subject to WTO and OECD rules, would encourage a regulatory race to the bottom in Europe.

This is not good for Ireland.

Further European integration reflects the direction of travel for the remaining EU member-states. This is particularly the case for those countries in the Eurozone (with growing calls for a Eurozone Treasury/Budget and even parliament). Macron and Merkel, and their finance ministers, have made it perfectly clear that the Franco-German preference is for more integration. They know the risk associated with turning the UK into the Singapore of northwest Europe, and they have publicly declared that the harmonisation of corporate income tax systems will be central to their drive toward more integration.

The Commission fully support this Franco-German preference for greater tax harmonisation, which is best reflected in their recent proposal for a CCCTB. It is no surprise that Pierre Moscovici put it back on the agenda directly after the Brexit vote, despite it being defeated previously. Anyone who spends time in Brussels will know that the CCCTB is now a core priority for the EU, and they will persist until it is eventually agreed.

The new CCCTB proposal is slightly different to the previous proposals. It will take place over two stages. The first stage will seek to agree a single set of EU rules to calculate the profits of MNC's in Europe (i.e. establishing the common tax base). The second and more controversial stage will be aimed at agreeing how to divide up the profits, which is the taxable income given to member-states (based on assets, labour and sales). Ireland will lose out as MNC's based in Ireland will no longer be able to transfer the profits of their sales in *other* countries back to Ireland.

The second big change is that the CCCTB will be *mandatory* for all firms with revenue more than 750 million, and that there will be an R/D scheme aimed at supporting small and medium sized enterprises. But perhaps the biggest change is that the CCCTB is now being framed to *explicitly* tackle corporate tax avoidance in Europe. The Commission have launched a concerted campaign aimed at EU citizens to win support.

Brexit will accelerate the drive to harmonise corporate income tax systems, and the probability of this being successfully passed has increased, not least because of a change in the number of votes. The EU Council now looks completely different: the votes are significantly stacked in favour of the Franco-German alliance. But on CCCTB, qualified majority voting cannot be used, as unanimity is required. However, what this means is that Germany and France will seek to win Irish, Danish, Dutch and Baltic support through consensus, and side-payments.

Whether Ireland chooses to veto any attempt to introduce a CCCTB is, of course, a political question, and likely to be determined by the partisan colour of elected government. Ireland is already in the spotlight for facilitating global tax avoidance (not least with the Apple case). Further, Ireland makes up less than 1% of the EU population (even if one adds the Dutch, Danes and Baltic states, combined they are only a small percentage of the EU whole). Hence, a core political economy question is whether it in Irelands long term strategic interest to veto those EU policies aimed at strengthening the problem-solving capacity of Europe, post-Brexit?

The future of the Eurozone is a Franco-German growth model, not an Anglo-American one. Ireland needs to decide which way to go.