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ADDRESSING TAX AVOIDANCE THROUGH OECD BEPS POLICY: AN EVALUATION

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Abstract

BEPS consists of a series of measures created to close loopholes in international tax regulations that allow companies to channel their profits to jurisdictions with low or zero tax rates. The study conducted in this research uses the literature study method. The results show that the BEPS policy has successfully improved transparency and accountability in multinational companies' tax reporting. It strengthens transfer pricing rules, introduces country-by-country (CbC) reporting, and implements a multilateral framework to facilitate cooperation between countries in addressing tax issues. Nonetheless, implementation challenges remain, such as the need for companies to adjust their business structure and operations, as well as the importance of consistent coordination between jurisdictions in implementing this policy.

Keywords: Tax Avoidance, Oecd Beps Policy, Evaluation

Introduction

Tax evasion is a global issue that has caught the attention of many countries. Tax evasion occurs when individuals or companies use legal loopholes in the tax system to reduce their tax obligations. Although not illegal, this practice has a major impact on state revenues through taxes, creates injustice in the tax system, and destroys public trust in the system (Jones, 2021).

Tax evasion has a significant impact on a country's economy, especially in terms of state revenue from taxes. One of the impacts is the reduction of state funds that should be used to finance public projects such as infrastructure development, education, and health facilities (Danon, 2020). If tax revenues fall due to tax evasion, the government must find additional sources of funds or reduce state spending, which in turn can disrupt economic growth and public welfare. Therefore, tax evasion creates

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imbalances in the state's financial capacity to support national development (Akindayomi, 2023).

In addition, tax evasion undermines fair competition in the market. Multinational companies that are able to evade taxes by exploiting legal loopholes have a competitive advantage over local companies that pay taxes. This can lead to market distortions where less economically efficient firms can survive and even thrive simply because they can significantly reduce their tax costs (Kollruss, 2022). As a result, local companies and small firms without the ability or resources to evade taxes will be at a disadvantage, which could ultimately stifle innovation and growth of domestic businesses.

Another important impact is the decline in public trust in the tax system and government. If people realise that big companies or rich people are able to evade taxes while they are obliged to pay taxes without loopholes, the sense of injustice and distrust of tax authorities and the government will increase (Maaloul, 2022). This may encourage more widespread taxpayer offences and discourage citizens from contributing to the state. These psychological and social impacts can have long-term effects, where the trust and legitimacy of the government to manage taxes and state finances is compromised (Prejs, 2022).

In recent decades, globalisation and information technology have made it easier for multinational companies to shift profits to countries with lower tax rates. This practice, known as Base Erosion and Profit Shifting (BEPS), has led to the erosion of the tax base in many countries. Recognising its negative impact, the Organisation for Economic Co-operation and Development (OECD) launched a comprehensive initiative to address this issue (Hakelberg, 2020).

The OECD BEPS policy includes a series of measures designed to increase transparency, strengthen international tax rules, and prevent tax evasion through transfer pricing manipulation, false claims, and other strategies. The implementation of this policy requires close international co-operation and regulatory adjustments at the national level (Kobetsky, 2020).

Although the BEPS policy is intended to effectively reduce tax avoidance practices, there are various opinions regarding its effectiveness and impact. Some studies show that the initiative is successful in reducing tax avoidance, while others point to challenges in its implementation in various countries. Therefore, an in-depth evaluation of the OECD's BEPS policy is required to understand the extent to which it addresses tax avoidance and its implications for stakeholders.

Research Methods

The study conducted in this research uses the literature research method. The literature research method is a research approach that involves collecting and analysing data from various written sources to provide new insights on a particular topic. Researchers should search and collect relevant literature from various sources. These sources can be books, scientific journals, conference articles, research reports, dissertations, and other reliable sources. (Afiyanti, 2008); (Syahrizal & Jailani, 2023); (Syahran, 2020).

Results and Discussion

Definition and Concept of Tax Avoidance

Tax avoidance is an action taken by individuals or companies to legally reduce their tax obligations through the use of loopholes and provisions contained in the tax law. This practice involves strategic planning to maximise financial returns by minimising the amount of tax payable, without breaking the law (Penno, 2021). Although tax avoidance is not illegal, the practice is often viewed as controversial because it can go against the spirit and purpose of the tax system, which is to distribute tax liabilities fairly among taxpayers (Brock, 2023).

Tax avoidance and tax evasion are two concepts related to the avoidance of tax obligations, but have important differences in terms of legality and morality. Tax avoidance is a legal and legitimate tax planning strategy, where individuals or companies use loopholes or provisions in tax laws to reduce their tax liabilities (Richelle, 2020). This can include the use of tax deductions, tax credits, or certain financial structures permitted by law. While tax avoidance is technically legal, the practice is often seen as controversial as it can go against the intent and purpose of the tax system, which is for a fair and equitable distribution of the tax burden (Joseph, 2021).

In contrast, tax evasion is an illegal act where individuals or companies intentionally hide or reduce income, falsify financial information, or use other unlawful means to avoid paying taxes. This practice is a serious crime and can lead to severe legal sanctions, including large fines and imprisonment. Tax evasion undermines the tax system as it unlawfully reduces sources of state revenue and creates injustice among law-abiding taxpayers. The main difference between tax avoidance and tax evasion lies in legality: tax avoidance is legal and compliant with the law, while tax evasion is illegal and unlawful (Hanlon, 2020).

BEPS (Base Erosion and Profit Shifting) Policy

Base Erosion and Profit Shifting (BEPS) is an initiative led by the Organisation for International Economic Co-operation and Development (OECD) and supported by G20 countries to address the issue of international tax avoidance due to tax base erosion and profit shifting practices of multinational companies (Gjems-Onstad, 2023). The background to this initiative is a global concern that companies may utilise international tax law loopholes to shift income to low- or zero-tax jurisdictions, thereby reducing their tax liabilities in the country of operation. This phenomenon has the potential to cause significant tax revenue loss for countries and reduce the fairness of the global tax system as well as disrupt fair competition (Olender, 2020).

EBAL efforts are driven by the need to ensure profits are taxed where economic activity and value creation occur. In 2013, the OECD adopted an EBAL Action Plan comprising 15 key actions designed to improve international tax rules and thwart tax avoidance schemes from undermining member countries' tax bases (Akindayomi, 2023). The action plan covers various aspects ranging from transparency to uniformity of transfer pricing rules and international tax treaty updates. One of the main objectives of this action is to modernise the international tax system in line with the digital economy and evolving business patterns.

The main objectives of the BEPS initiative are: 1) Clarify tax transactions: Clarify the tax reporting of multinational companies so that each country's tax authorities can access precise information on their activities and financial position. This includes mandatory reporting and cross-border information exchange to better identify tax avoidance risks. 2) Preventing abuse of tax laws: Preventing tax avoidance practices through tax base erosion and profit shifting by introducing stricter and uniform rules across jurisdictions. This involves improvements in areas such as double tax treaties, transfer pricing, and permanent gains. 3) Ensuring fairness in the global tax system: Creating a fair and balanced tax system so that all companies, both large and small, pay taxes according to the economic activity carried out in each country (Öner, 2020). The aim is to reduce inequities and promote fair competition by preventing multinational companies from taking advantage of differences in tax rules between countries (Seshadri, 2024).

The Base Erosion and Profit Shifting (BEPS) initiative of the OECD and G20 focuses on 15 key measures divided into three main pillars, which aim to increase transparency, improve international tax rules, and reduce tax avoidance practices by multinational companies (Tree, 2020). These BEPS measures are designed to provide a comprehensive framework that countries can adopt to effectively mitigate the risk of tax base erosion and profit shifting. These pillars include coordinating tax policies across countries, strengthening international tax rules, and improving information exchange between tax authorities (Rakhmayani et al., 2022).

Each multinational tax avoidance countermeasure consists of specific measures designed to close loopholes in international tax rules and improve the effectiveness of tax laws. Some examples of important measures include: Action 1: Address tax challenges in the age of digitalisation, which is particularly relevant to the growth of online-based businesses. Action 6: Prevent the use of tax treaties for tax avoidance purposes, including the abuse of tax treaty provisions. Action 15: Develop multilateral legal instruments to update bilateral tax treaties more efficiently, allowing countries to quickly adopt new standards in their tax treaties (Hutabarat, 2021).

By implementing these key pillars and specific actions, the multinational tax avoidance prevention initiative aims to create a fairer, more transparent and effective international tax system, and ensure that every company pays reasonable taxes based on the location of their real economic activities.

OECD BEPS Policy in Addressing Tax Avoidance

The Base Erosion and Profit Shifting (BEPS) policy initiated by the OECD has the main objective of minimising tax avoidance or tax evasion practices by multinational companies. BEPS includes a set of 15 measures designed to ensure multinational companies pay their taxes where substantive economic activity occurs and value is generated (Cerioni, 2020). Tax avoidance practices that aim to erode countries' tax base through shifting profits to low- or no-tax jurisdictions (tax havens) are the main focus of this policy (Hakelberg, 2020).

One crucial aspect of BEPS policy is to improve the coherence of international tax rules. For example, Step 4 limits the interest deductions that companies can claim in intragroup transactions, thus preventing them from artificially eroding their tax base. In addition, Step 2 addresses the mismatches that often occur due to differences in the treatment of financial instruments between jurisdictions, which can be manipulated to achieve double tax advantages or avoid tax altogether (Campbell & Raizenne, 2021).

Other pillars emphasise transparency and information exchange, which are considered critical steps in the fight against tax evasion. Measure 13, for example, introduces Country-by-Country (NbN) reporting, which requires large multinationals to report the global distribution of their profits, revenues and tax payments, giving tax authorities a clear view of companies' economic activities to analyse BEPS risks (Huang & Gao, 2021). Furthermore, Step 5 requires governments to share information on potentially harmful tax schemes, allowing tax authorities in different countries to collaborate in identifying and responding to tax avoidance practices (Cai, 2023).

Overall, the OECD BEPS policy is aimed at creating a fairer and more efficient global tax system, reducing incentives for companies to engage in tax avoidance practices, and giving tax authorities more tools to enforce rules and collect fair taxes. The implementation of these policy measures is expected to improve the integrity of the international tax system and increase global tax revenue.

Impact of BEPS Policy on Multinational Companies

The Base Erosion and Profit Shifting (BEPS) policy proposed by the OECD presents significant challenges and opportunities for multinational companies. One of the main impacts of this policy is the increased complexity in tax planning and reporting (Wallace, 2022). Multinational companies must now be more rigorous in ensuring that all their business activities comply with the new rules on transfer pricing, interest deductions, and global financial reporting through Country-by-Country (CbC) reporting mechanisms. This requires significant operational adjustments, including improved reporting systems and internal controls, as well as additional costs to ensure compliance with these stricter regulations (Belahouaoui & Attak, 2024).

On the one hand, the pressure for greater transparency from BEPS policies has changed the dynamics of the relationship between companies and tax authorities. The disclosure of details through CBC reporting allows tax authorities to access more comprehensive information on the distribution of profits, operations, and tax payments globally, reducing the room for tax avoidance (Foster, 2021). As a result, multinational companies must be more proactive in managing their tax compliance and be prepared to face reassessment by tax authorities who are increasingly likely to conduct cross-border audits and investigations. This emphasises the importance of effective tax risk management and the integration of tax policy with overall business strategy (Schulman, 2020).

However, BEPS policies also provide opportunities for multinational companies to build a stronger reputation for good governance and transparency. By demonstrating compliance with strict international standards, companies can improve relationships with stakeholders, including investors, customers and regulatory authorities, who increasingly appreciate sustainable and accountable business practices (Ki & Kim, 2022). In an era where corporate reputation matters, compliance with BEPS policies can be a competitive advantage, attracting investment interest and support from the wider global community concerned with tax and corporate social responsibility issues (Leibrecht & Rixen, 2020).

In addition to the immediate impact on tax operations and reporting, BEPS policies also have long-term strategic implications for multinational companies. Companies now need to revisit their international business structures to ensure that they not only comply with the new rules but also adopt more tax-efficient practices (Elkins, 2022). This may involve restructuring their network of legal entities, changing business models or supply chains, and relocating strategic and financial functions to jurisdictions with more favourable and stable tax regulations. Such sweeping revisions require in-depth analysis and careful decision-making to maintain business continuity and minimise negative impacts on operations and profitability (Jing et al., 2024).

Furthermore, heightened scrutiny and increased risk of scrutiny means companies must be better prepared with effective defensive strategies. The use of technology and data analytics is becoming increasingly important to monitor and manage tax compliance on an ongoing basis (Brounstein, 2023). Automation of tax reporting processes, utilisation of advanced tax compliance software, and integration of data analytics across jurisdictions can help companies deal with the increasingly complex demands of BEPS policies. In addition, ongoing internal training for finance and legal teams is needed to ensure they remain updated in understanding and implementing these new policies (Martínez, 2023).

Finally, BEPS policies encourage companies to be more active in public policy dialogue and cooperate with tax authorities and international organisations. By participating in global tax policy and regulatory forums, companies can help shape policies that directly impact their operations and safeguard their business interests. In addition, active engagement in cross-border tax initiatives can also help companies become leaders in the industry, by setting higher standards of compliance and ethics expected from multinational companies in the future. Being proactive in following and complying with BEPS policies not only helps companies in avoiding sanctions and penalties but also in building trust with key stakeholders.

Conclusion

The implementation of the Base Erosion and Profit Shifting (BEPS) policy by the OECD is an important step in global efforts to reduce tax avoidance practices by companies across countries. The policy aims to address holes in international tax rules that are used by companies to shift profits to low or zero tax jurisdictions. Through a comprehensive set of measures, including increased transparency with Country-by-Country (CbC) reporting and the establishment of stricter transfer pricing rules, BEPS policies help ensure that profits are taxed in the locations where economic activity occurs and value is created.

However, while BEPS policies represent significant progress in improving the global tax system, implementation challenges remain. Cross-border companies must adapt their business structures and operations to comply with the new, more complex and stringent rules. This requires investment in better reporting systems and internal controls as well as ongoing training for tax professionals. In addition, the success of this policy in reducing tax avoidance also depends heavily on the coordination and consistency of policy implementation by various jurisdictions around the world.

Overall, the BEPS policy represents an important step forward in building a fairer and more transparent global tax system. It helps narrow the space for tax avoidance practices that cost countries revenue and encourages companies to adopt more responsible business practices. By continuing to encourage international cooperation and monitoring the effectiveness of this policy, it is hoped that the long-term goal of creating a more effective and equitable tax system can be achieved.

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