

Taxation and Recovery from the Financial Crisis

June 2009

The attached BIAC statement on Taxation and Recovery from the Financial Crisis is a working document released on the occasion of the OECD Council Ministerial, in support of OECD work in the area of international taxation, and to indicate priorities of the international business community in this field.

This document will serve as a basis for a dialogue in the future with the OECD Leadership on tax policy issues as discussions on economic recovery and the role of taxation continue.

BIAC continues work with OECD in this field on the range of OECD international tax projects, which are seen as an important basis for well functioning open markets, trade and investment.

Taxation and Recovery from the Financial Crisis

June 2009

The current economic and financial crisis is both an opportunity and challenge for the OECD and for its Center for Tax Policy and Administration (CTPA) work in the field of international taxation.

BIAC believes that the OECD is the international organization best situated to maintain and emphasize standards for tax administration - procedure, and policy, especially as they relate to cross border transactions and transfers. The OECD has the expertise to establish fair, broadly applicable and workable standards and practices. The OECD peer review process provides an important means to monitor implementation and enforcement of standards and procedures.

The current work of the OECD for the G-20 in analyzing and organizing the relation of tax systems and financial systems (both in the context of the current crisis and in ongoing operations) carries out the OECD's overall mission of promoting international trade and open markets through tax reform and removing economic double taxation. BIAC commends the efforts of the OECD and the CTPA in this regard. The recent emphasis on transparency in tax information can well serve as an antidote to national protectionism as well as a framework for good tax practices by both business and tax administrations.

The area of taxation presents both dangers and opportunities for governments, business, and citizens in the current crisis. BIAC believes that the OECD is best placed to address such challenges. The OECD's historical leadership on the tax issues relevant to international commerce can be used not only to serve the immediate G-20 needs, but also to help build a broader international consensus around good tax practices for both businesses and governments.

We encourage the OECD to take up the challenge of building that broader consensus so that its objectivity can be translated into both (1) responses to the current crisis that are proportional and relevant to the objective tax issues; but also (2) to establishing a stronger consensus among all nations about the role of tax in trade and good governance. We believe that this will appropriately help extend the reach and influence of the OECD. It is very important that the work be both principled and influential. This requires that any proposals be characterized by the high quality analytical content for which OECD and CTPA are well known. Increasing OECD influence requires active application of the historical work through constant reiteration of the way OECD tax principles work to the benefit of all countries and business.

To that end, BIAC suggests continued reference to the following fundamental and historical principles and specific areas for the OECD both in its work to define appropriate tax policy responses to the crisis with a view towards economic recovery and sustainable growth, and in its ongoing work.

Fundamental Principles

- **Ensure that tax policies support sustainable growth**

The only truly sustainable way out of the crisis is through economic growth.

BIAC strongly encourages continuation of OECD's analysis of the impact of tax on the economy in the OECD's *Tax and Growth Project*.

- **Defend accepted tax principles**

Settled tax principles, as promulgated by the OECD Model Tax Treaty and the OECD Transfer Pricing Guidelines, are crucial to renewed investment and growth. In particular, to encourage cross-border trade there must be certainty and stability in two key areas: permanent establishments, and transfer pricing.

The OECD should work to ensure that the fundamental principles of the Model Tax Convention and Transfer Pricing Guidelines continue to have consensus international support in letter and application.

- **Promote tax transparency and tax competition**

Transparency in tax matters, information exchange and actions to induce disclosure of financial essentials will enhance investment decisions. In this work, the OECD should continue clearly and cohesively to distinguish issues of tax transparency and evasion from issues related to tax competition (in particular, low tax rates).

- **Do not use the tax system to address non-tax problems**

Tax policy is an important part of most business and economic decisions. However, it is not often the sole driver of economic outcomes including in the current economic and financial crisis. For example, excessive leverage undoubtedly was a factor in the financial crisis, and tax rules may provide an incentive for leverage. However, other issues such as inadequate regulation also contributed to the current crisis.

BIAC encourages OECD analysis to bring better understanding on the role of leverage in growth strategies and how regulatory and tax policy, including topics such as taxation of saving and investment, capital adequacy ratios, and other non-tax tools may be better applied going forward in this area to ensure better balance.

- **Continued engagement with emerging economies**

OECD efforts to encourage the major emerging economies, in particular China, India, Brazil, South Africa and Russia, to adopt and apply OECD standards in taxation, will be a major contribution to continued global economic growth.

BIAC continues to support the OECD accession and enhanced engagement process and its particular activities related to international taxation. Several national business organizations from these countries are already participating to BIAC as Observers, and are providing input to BIAC OECD tax activities.

- **Prevent tax protectionism**

The OECD with its expertise in both taxation and investment should ensure that tax policies are not used for protectionist purposes, hampering cross-border trade and investment. For example, exit taxes on “business restructurings” can impede necessary economic change, FDI, and global economic growth.

BIAC recommends that OECD work in taxation be coordinated with OECD work on Freedom for Investment, and work to ensure that tax policies do not overtly or inadvertently lead to protectionism.

In addition, current work of the OECD in more recent areas of development regarding tax are the right direction relative to extending the OECD influence and effectiveness. These ought be reinforced and pursued with vigor:

- **VAT Framework:** BIAC continues to encourage and support OECD work to develop an international framework for VAT/GST to prevent growth-reducing international double taxation.
- **Tax Administration and the “Enhanced Relationship”:** BIAC encourages continued OECD work to support greater mutual cooperation, openness and trust between taxpayers and tax authorities that will allow more productive use of resources by both taxpayers and government, thereby facilitating growth.
- **Procedural projects in the field of international taxation:** The Collective Investment Vehicle (CIV) project and tax projects relating to improved dispute resolution and arbitration; warrant vigorous continued support and should not be lower in priority, since they also contribute to economic growth through furthering cross-border transactions and investments.
- **Tax and Tradable Permits:** This OECD project illustrates the importance of both highlighting international tax to general governmental officials and of comprehensively analyzing tax consequences of potential government interventions, in order to assure that tax policy supports and does not inhibit innovations but rather contributes to sustainability and efficiency. BIAC supports OECD analysis of taxation issues in this area in conjunction with overall OECD work addressing climate change issues.

We also submit that the principles and projects are most effective when there is timely and full engagement with business broadly and with BIAC specifically.