G-24 South Centre Call For Papers: Comparing tax revenues to be generated from United Nations and OECD Subject To Tax Rule (STTR)

Deadline – 1 July 2024

The OECD/G20 Inclusive Framework on BEPS has reached an agreement under Pillar Two on instituting a Subject to Tax Rule (STTR). The STTR is a treaty-based rule that seeks to prevent double non-taxation in tax treaties when the State of residence fails to tax (or taxes at a reduced rate) an item of income where the State of source accepts treaty provisions that restrict its right to tax elements of income on the understanding that such item of income is taxed appropriately in the other State (of residence). A Multilateral Instrument (MLI) has been developed to speed up implementation of the OECD STTR.

Simultaneously, the UN Tax Committee has incorporated its version of STTR into the UN Model Tax Convention under Article 1(3) as a secondary taxing right that is triggered (in the State of source) only if the jurisdiction (State of residence) that has the primary taxing right does not exercise that right to impose a certain minimum level of tax, agreed during bilateral negotiations, on the relevant income. The text of the UN STTR is provided in an Annex.

Countries who want to implement the OECD STTR have the option of signing the OECD STTR MLI, and countries who want to implement the UN STTR will need to bilaterally incorporate it into their existing tax treaties. It is expected that the signing ceremony of the OECD STTR MLI will take place in September 2024. It is important that developing countries make an informed decision regarding signing on to the OECD STTR MLI. In particular, it should be confirmed whether developed countries who are important treaty partners also sign on to the OECD STTR MLI, because if they do not, then the MLI has no value as developing countries would have to bilaterally negotiate the STTR into their tax treaties.

Accordingly, the G-24 and the South Centre have launched this Call For Papers providing funding for studies which can produce country level comparative revenue estimates of the UN and OECD STTR on the 65 combined Member States of the South Centre (available here) and the G-24 (available here). The data should clearly provide how much revenue each Member State will get if they opt for the UN STTR vs the OECD STTR. The objective is to help Member States of both intergovernmental organizations make informed decisions on adopting the version of the STTR which is more beneficial to them.

Member States of the G-24 and the South Centre are advised to wait till the publication of the results of this study before taking a decision on whether or not to sign the OECD STTR MLI.

Interested persons/institutions must initially submit an abstract. Selected abstracts will be invited to write full papers which will be subsequently published jointly by the G-24 and the

South Centre. **An honorarium of USD 3,000** will be offered for completed full papers that can provide country level data for all 65 G-24 and South Centre Member States.

However, consideration will also be given to papers that can provide data for as many countries as possible or provide a robust methodology which can be used by G-24 and South Centre Member States to carry out an impact analysis. **A minimum honorarium of USD 1,000** will be given for such selected papers.

Abstracts must outline the following:

- the methodology to be used ('what steps will you follow to get the data?');
- data sources involved; and
- a tentative outline of the paper.

The topic covers a range of disciplines and accordingly would benefit from interdisciplinary analysis. Thus, preference will be given to Abstracts that:

- Are submitted by teams rather than individuals
- Are submitted by interdisciplinary teams (eg – a lawyer and an economist working together have a higher chance of selection than two economists or two lawyers)
- Are submitted by cross-country teams (eg – two or more applicants from different countries collaborating have a higher chance of selection than a team from the same country)
- Come from individuals or institutions based out of the Member States of the G-24 and the South Centre.

The final papers will be jointly published by the G-24 and the South Centre in the format of a 5000-8000 word Policy Brief which mainly details the methodology used with country-level data to be published as Annexes.

Deadline for abstract proposal: 1 July 2024.

Send the abstract proposal of up to 700 words to taxcooperation@southcentre.int and g24@g24.org with the subject titled "Submission: Call for abstracts on UN and OECD STTR" together with a CV.

A response will be provided to selected participants by 15 July 2024.

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ANNEX I: TEXT OF UN STTR

Article 1(3) of the UN Model Tax Convention:

(a) This Convention shall not affect the taxation by a Contracting State of any income arising in that State and derived by a resident of the other Contracting State if that income is subject to a low level of taxation in that other State within the meaning of subparagraph (b).

(b) Income is subject to a low level of taxation in that other State if:

it is subject to a statutory tax rate of ___ per cent [the percentage is to be established through bilateral negotiations] or less; or

it is subject to a statutory tax rate higher than the rate set out in subdivision (i) but the beneficial owner of the income is entitled to a special exemption, exclusion or reduction that is linked directly to the income or the entity receiving it so that the amount of tax paid in that other State with respect to such income is less than the amount of tax that would be imposed if the tax rate set out in (i) were applied to such income without regard to such exemption, exclusion or reduction.

(c) Subparagraph (a) will not apply to income that: [exemptions, if any, appropriate in the context of the bilateral relationship between the Contracting States].

The text and Commentary is available here:
https://financing.desa.un.org/sites/default/files/2023-04/CRP.12%20UN%20Model%20STTR%20final.pdf

ANNEX II: COMPARATIVE FEATURES OF UN AND OECD STTR

Even though the underlying principle of STTR proposed by the UN and the OECD is similar, however, the implementation rules under both models vary substantially as mentioned *inter alia* hereunder:

- The OECD version provides that STTR will not apply if an item of covered income is taxed up to 9% in the residence State, whereas, under the UN Model, the STTR rate is to be decided bilaterally and allows source State's domestic tax rate to apply.
- The OECD's STTR applies on specified items of income, i.e., interest, royalty, services etc. However, the UN's STTR has no such restriction and applies to all types of income including capital gains and business profits, unless specifically excluded bilaterally.
- The OECD's STTR applies to transactions between related parties only, whereas the UN's STTR has a broad scope that is not limited to the BEPS concerns relating to transactions between related parties only.
- The OECD's STTR incorporates a *de minimis* threshold and applies on transactions above EUR 1 million in respect of jurisdictions having GDP exceeding EUR 40 billion (or on transactions above EUR 250,000 in respect of jurisdictions having GDP less than EUR 40 billion). On the other hand, the UN STTR provides for no thresholds at all.

Some of the above-mentioned divergences in the UN and OECD STTR rules make it amply clear that revenue accruing to jurisdictions that apply either of the two models shall vary considerably.