raises. Their contributions to the debate on sovereign debt are both valuable and urgent, and there might be no better place for philosophers to start reading than by picking up *In Defense of Public Debt* and making themselves comfortable to enjoy the ride.

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References

ECLAC 2021. Financing for development in the era of COVID-19 and beyond. <https://repositorio.cepal.org/bitstream/handle/11362/46711/1/S2100063_en.pdf>.

Gavras P. 2012. Ratings game. *Finance & Development* **49**, 34–37.

Guzmán M., J.A. Ocampo and J.E. Stiglitz, eds. 2016. *Too Little, Too Late: The Quest to Resolve Sovereign Debt Crises*. New York, NY: Columbia University Press.

Wertheimer A. 1988. The equalization of legal resources. *Philosophy and Public Affairs* **17**, 303–322.

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Taxing Profit in a Global Economy, M. Devereux, A. Auerbach, M. Keen, P. Oosterhuis, W. Schön and J. Vella. Oxford: Oxford University Press, 2021.
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Taxing Profit in a Global Economy, billed as a report of the 'Oxford International Tax Group', is a comprehensive and challenging call to international tax reform. It is the result of a collaboration between six economists and lawyers that began in 2013, we learn from the preface, as the Organisation for Economic Co-operation and Development's (OECD's) 'Base Erosion and Profit Shifting' (BEPS) project gathered steam. While the BEPS project, later also supported by the G20, led to significant multinational efforts to shore up the existing international tax system, the aim of the authors was to start from 'first principles' and address 'fundamental issues of principle and practice' (vi, 14) in the way business profit is taxed in an international context, including the evaluation of the BEPS actions and considering more radical and innovative proposals for international tax reform.

The core chapters of the book present two such reform proposals: the 'Residual Profit Allocation by Income' (RPAI) and the 'Destination-Based Cash Flow Tax' (DBCFT). Both have already proven influential. The DBCFT has been widely discussed since the Republican members of the United States House of Representatives proposed a version of it in 2016;[1] the RPAI informs current OECD plans. The book assesses the advantages and disadvantages of both while also providing a more general evaluation of different ways in which one may tax international business profit. It presents a powerful case for the proposals and, reflecting the specialisms of its authors, offers a great deal of useful discussion of economic and legal dimensions of international tax reform. When it comes to their aim of arguing their case from 'first principles', the book is perhaps less compelling. I start by providing an overview of the book after which I discuss some potential weaknesses.

The authors start by 'identifying what criteria should be desired in a good international tax system' (14). They are economic efficiency, ease of administration, fairness, robustness to avoidance and what they term 'incentive compatibility'. The criterion of economic efficiency concerns the extent to which a tax avoids imposing an excess burden on the economy in the form of a lower aggregate welfare. Ease of administration concerns the costs associated with tax collection. Under the heading of fairness the authors group a somewhat loose collection of concerns, including the importance of progressive taxation at the national level and what has become known as 'inter-nation equity' at the international level. The authors note that robustness to tax avoidance is difficult to operationalise. In the context of the OECD/G20 BEPS project, tax avoidance is conceived as the 'artificial' separation of profits from the activities that generated them. However, it is often hard to identify the geographic location of the economic activity that gave rise to the profit, a problem that is compounded by the digitalization of the economy. Hence, the authors simply equate tax avoidance with profit-shifting activities (irrespective of whether these activities prevent the country where profit-generating activities occurred from taxing that profit). One might ask why tax avoidance, so understood, is problematic: if it does not matter which country taxes the profit, why care about profit shifting? The underlying worry seems to be that with opportunities for profit shifting come incentives for countries to engage in tax competition, putting pressure on long-term viability of the international tax system. If this is indeed the answer, the criterion is strictly speaking superfluous as the issue is covered by the criterion of incentive compatibility. This final criterion concerns the extent to which 'each individual economic agent can achieve her best possible outcome while following the norms established by a group of agents. This implies that there can be no gain to failing to cooperate with other agents' (55). The relevant economic agents are the countries that, in the existing system, have incentives to attract investment and economic activity by lowering statutory tax rates or otherwise providing attractive tax provisions. The authors acknowledge tax competition as a serious problem and argue that reforms should aim 'to reduce or eliminate this incentive for countries to compete with each other and hence undermine the international tax system' (56).

In subsequent chapters, the authors apply these criteria to the extant international tax system as well as a number of alternatives. As the authors see it, one fundamental weakness of the existing system (and of several popular alternatives such as formula apportionment systems) is in the selection of business profit as the tax base. One of the themes that recurs throughout the

[1]For example Avi-Yonah and Clausing (2017) and Shaviro (2018).

book is the inefficiency of a conventional profit tax, which is a tax on both normal returns and economic rent. Economic rent is defined as returns over and above normal returns due to some market power, with normal returns being the cost of capital (the return required by an investor given the risk profile of the investment). The advantage of only taxing economic rent, the authors argue, is twofold: first, a tax on economic rent should not lead to changes to the incentives that investors face (an investment that was worth undertaking pre-tax will remain worth undertaking post-tax) and hence be more efficient than a conventional profit tax. Second, the incidence of the tax should generally fall on the owners of the business (rather than its employees or consumers), which suggests that the tax would have, as seen from a national perspective, a progressive incidence. These considerations give reason to consider alternatives to a conventional tax on business profit.

A second weakness of the current system, the authors argue, is that companies are predominantly taxed in 'origin' countries rather than 'destination' countries. Origin countries are countries where mobile economic factors – such as management, production, intellectual property – are located. Destination countries are the countries where, broadly, generally immobile consumers are located. Taxing in origin countries incentivises businesses to relocate economic factors for tax reasons, which, in turn, incentives countries to compete to attract such factors. This dynamic is problematic in light of the criteria of economic efficiency and incentive compatibility. On the one hand it produces inefficiencies in the worldwide allocation of capital. Indeed, the authors note that recent and upcoming reforms spearheaded by the OECD exacerbate this problem since shoring up rules to limit profit-shifting opportunities may lead companies to respond to tax differentials by more aggressively shifting real economic activity. On the other hand, the gradual reduction of tax rates may lead to an erosion of tax revenue that 'destabilizes the system itself and threatens its long-term viability' (124).

The authors' own proposals address these problems. Central to the first – 'Residual Profit Allocation by Income' (RPAI) – is a distinction between routine and residual profit. First, in accordance with existing practices of separate entity accounting and using familiar transfer pricing methods, routine profit is allocated to the different entities of a multinational company. Routine profit is 'the profit a third party would expect to earn for performing a particular set of functions and activities on an outsourcing basis' (191). (Routine profits are related to but not equivalent with normal returns: to the extent that a comparable third party has some market power the routine profit would also include some economic rent.) Second, it allocates residual profit to the destination country according to the 'residual gross income' of the multinational in that country, which is the sales to third parties less costs attributable to those sales (hence accounting for the costs of goods and services sold). The main advantage of this alternative is that it is significantly more robust to tax avoidance than the current system and provides fewer incentives to businesses to relocate investment and economic activities. A clear disadvantage as the authors see it is that it includes a conventional tax base, and thus comes with economic inefficiencies due to taxing normal returns.

The authors tackle this disadvantage with the 'Destination-Based Cash Flow Tax' (DBCFT). The proposal has two main characteristics. First, the tax base is the business cash flow, which consists of the payments received minus the expenses paid within a set period. Significantly, the tax base of a cash flow tax is only economic rent (rather than also normal returns), which intuitively follows from the fact that the cost of capital is treated as an expense and hence remains untaxed. Second, the tax base is allocated to the destination countries, which requires a 'border adjustment': exports are not taxed but imports are. To outline the macroeconomic implications of a border adjustment the authors draw on the literature on VATs (which are conceptually equivalent to the DBCFT). Briefly, they argue that both with a fixed or a floating exchange rate, one would expect a new equilibrium to form without changes to trade and investment, although they admit that in practice things may not be that simple 'even in the long run and leaving aside potentially significant short-run effects' (276). In evaluating the DBCFT they note 'remarkable properties' in terms of economic efficiency and incentive compatibility. If introduced universally the tax should not affect the location and scale of investments by companies. And by virtue of the fact that tax is levied in the location of the relatively immobile factor – the consumer – there are few incentives for companies to redirect investment or profits or for countries to lower tax rates, which would secure the long-term stability of the international tax system.

In the remainder of this review I critically discuss the criteria used by the authors to assess the two proposals. I focus in particular on incentive compatibility and fairness (which, together with economic efficiency, are arguably the most important), and start with the former.

Recall that incentive compatibility allows each individual economic agent to achieve her best possible outcome while following the norms established by a group of agents. It is a crucial ingredient in the arguments for destination-based taxation. One of the core tenets of the book is that stability in international tax cannot be achieved by taxing on an origin basis, but requires the introduction of destination-based alternatives such as the DBCFT or the RPAI. I have some doubts about whether the criterion as the authors present it can be used to establish this conclusion, and if it can, whether it should. To start with the first worry, let me ask what precisely renders the current system incentive incompatible. From much of what the authors say it seems they think the current system is incentive incompatible because it facilitates tax competition: countries do better by defecting from established norms by setting lower rates than other countries (56; also 15, 33, 55, 82, 178). This answer presupposes the existence of a norm that prohibits engaging in tax competition. But does such a norm exist? Is there any international consensus on where the line should be drawn between the legitimate exercise of fiscal autonomy and illegitimate forms of tax competition? The authors, at any rate, do not demonstrate this. Perhaps they do not mean to equate defection with engaging in tax competition, but rather with a more fundamental breakdown of international cooperation that may be prompted by the *effects* of tax competition. The current system is incentive incompatible because a race to the bottom in tax revenue may lead countries to conclude that they have nothing to gain from adhering to the bilateral and multilateral tax treaties and the soft law principles that structure the current system. On this second interpretation what appears missing in the argument is what precisely would be the cost of such a breakdown. Excepting some gestures towards stability and certainty as promoting 'investment and economic activity' (56), the book assumes, rather than argues for, the importance of cooperation in matters of international taxation.

Second, I question whether incentive compatibility should be used as an independent criterion in the way the authors use it. They appear to treat it as a feasibility constraint, judging reforms of the international tax regime that do not satisfy it unstable and hence impracticable, regardless of how 'fair' they might otherwise appear. There may, however, be other ways to ensure the stability of cooperative arrangements. In particular, the authors treat as exogenous two types of strategic interaction that may significantly shape (the effects of) international tax cooperation. First, there are what one might call external incentives, incentives that are due to interactions beyond the realm of international tax. The authors admit that 'arms can be twisted politically' and that 'other consideration could be offered in return for a cooperation' but submit that little should be expected from such incentives (129–130). Second, they treat as fixed the current state of global economic coordination and integration. They do not probe the possibility of adapting other rules relating to international trade and capital mobility that could potentially ameliorate the harmful effects of tax competition, and the costs and benefits involved in doing so. By bracketing the larger strategic environment that shapes international tax cooperation while requiring incentive compatibility, the authors might unduly rule out as infeasible more equitable alternative arrangements.

With regard to the criterion of fairness, and in particular the authors' assessment of the 'inter-nation equity' of the RPAI and the DBCFT, I make two observations. First, the authors arguably take too narrow a view of inter-nation equity by equating it with the benefit principle, which holds that countries should receive revenue in return for the provision of public goods and services (38). Musgrave and Musgrave (1972: 70), who originally introduced the idea of inter-nation equity in the tax debate, took a broader perspective. One of their insights was that the taxation of returns to cross-country investments helps determine the international distribution of those returns. Therefore, they argued, what matters in the determination of what inter-nation equity requires, is not the allocation of tax revenues between countries per se, but how that allocation contributes to a fair distribution of the benefits of international investment. (They suggested the benefit principle as one of several ways to determine a fair distribution.) The authors ignore this observation. When discussing the inter-nation equity of the introduction of the DBCFT, they consider the estimated revenue impacts of moving from a conventional corporate income tax to a DBCFT: on the whole revenues are equivalent but there is 'considerable variation across countries', mostly depending on the countries' balance of trade. (Since the DBCFT allocates the tax base to the country of sales, net importing countries stand to benefit from a move to the DBCFT) (278). The authors do not consider the size and distribution of the benefits of international investment, nor do they consider how the DBCFT contributes to that distribution. It may not be easy to make those calculations, but the authors, among whom are several distinguished economists, would be well-placed to undertake them.

Second, I note some puzzling features in the authors' treatment of the benefit principle. The idea that states should receive revenue in return for the provision of public goods has in the past been embraced by the OECD when it suggested that profit should be taxed 'where economic activities generating the profits are performed', and it has also found its way into the philosophical literature (OECD 2014; Dietsch 2015). The authors are, probably rightly, sceptical of attempts to elaborate what fairness requires in terms of the benefit principle. They note that companies benefit from public goods and undertake economic activities wherever they have a presence, and valuing the benefits to the companies will mostly be practically impossible (38, 135). The authors, however, do not think these objections apply in cases of natural resource exploitation:

> This is rather different, since in this case the profit is directly related to the fact that there has been an extraction of natural resources which would most naturally be considered as being owned by the residents of the country concerned. In general, we would argue that this is both a special and important case which justifies a level of taxation over and above that applied to other profit earned in a country. (39)

It is puzzling why the authors think that profit generated through the exploitation of natural resources deserves a different treatment than profit generated through, say, the use of public infrastructure. If residents of a country can be said to own natural resources, why can't they equally be said to own roads or telecommunication systems? And why do the same arguments that militate against determining the contribution of a country to the profits of a business in the latter case not also apply in the former?

The authors conclude from the ostensibly exceptional status of natural resources that countries rich in resources should be permitted, from an inter-nation equity perspective, to levy additional taxes on companies exploiting those resources, for instance in the form of a royalty or user fee. That conclusion leads to a second puzzle. When considering the impact of the universal introduction of the DBCFT, the authors note that resource-rich net exporting countries stand to lose from the introduction of the DBCFT. Countries would receive no revenue from companies exploiting and exporting natural resources, since the resource-specific rents would be taxed in the country of the consumer. They therefore recommend that these countries make up for that loss by levying a separate tax on natural resources, in which case 'moving to a DBCFT for non-resource trade would tend to increase their tax base' (288). This is a significant proviso, easily overlooked in a book that does not further spell out the design of these resource taxes. More importantly, this argument is in tension with the thought that natural resources justify an additional tax because those natural resources can be considered 'owned' by residents. If natural resources justify an additional tax, then this additional tax presumably should not be used to offset losses created by the introduction of the DBCFT.

The ideas contained in this book form important contributions to tax scholarship and are already shaping policy debates about the future of international tax cooperation. The book contains careful and detailed discussions of current and future reforms of the existing international tax system and of various alternatives proposed in the literature. Their case for the introduction of the RPAI and the DBCFT is impressive. I have highlighted their treatment of inter-nation equity and incentive compatibility as possible weaknesses. Lacking in particular is a more holistic assessment of the distributional implications of the introduction of the RPAI and DBCFT, not just in comparison to the status quo, but also in comparison to other global economic arrangements that may be feasible, notwithstanding the authors' demand for incentive compatibility. Although this seems somewhat of a missed opportunity it should not detract from the interest the book should receive from scholars in economics and philosophy working on international taxation.

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References

Avi-Yonah R. and K. Clausing 2017. Problems with destination-based corporate taxes and the Ryan blueprint. *Columbia Journal of Tax Law* **8**, 229–255.

Dietsch P. 2015. *Catching Capital: The Ethics of Tax Competition*. Oxford: Oxford University Press.

Musgrave R. and P. Musgrave 1972. Inter-nation equity. In *Modern Fiscal Issues: Essays in Honour of Carl S. Shoup*, ed. R. Bird and J. Head, 70. Toronto: University of Toronto Press.

OECD 2014. *Explanatory Statement, OECD/G20 Base Erosion and Profit Shifting Project*. Paris: OECD Publishing.

Shaviro D. 2018. Goodbye to all that? A requiem for the destination-based cash flow tax. *Bulletin for International Taxation* **72**(4/5), 1–10.

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