Comparing Tax Incentives across Jurisdictions: Data Sources, Definitions and Choices for a Corporate Tax Haven Index

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"TJN has done more than any other organisation to put fiscal justice at the center of the policy agenda.

Tax issues should not be left to those who want to escape taxes!

Changes will come when more and more citizens of the world take ownership of these matters. TJN is a powerful force acting in this direction."

Thomas Piketty

Overview

- Context
- Literature Review
- Contributions and Findings
- Methodological Framework
- Conclusion and Recommendations

Context

- The annual Infrastructure need in developing countries will reach about USD 800 billions for the next two decades. (Dailami et al. 2013)

- Developing Countries have offered various **tax incentives** and **exemptions** with the aim of attracting investors and fostering economic growth. However, evidence shows that **these incentives are not an important driver of foreign investment.** Such practices therefore put economies against each other, competing to offer the most favourable tax treatment. This 'brings greater benefit to MNCs than to developing countries. **race to the bottom**'. (EP, 2015)

- Research question: **How can tax incentives be defined and compared across jurisdictions, and what data sources are available?**

Context: Effects of Tax Incentives

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Negative Effects	Positive Effects
• Distortion of the economy; • Encouraging round tripping; • Increase of tax abuse; • Increase of the risk in terms of redundancy; • harmful to public finance, spending, development and human rights outcomes while increasing the rent of MNEs; • Increase of the administrative costs; • Favourising readily mobile ('footloose') activities.	• Potential Increase of FDIs, Employment,Growth, Government Revenue... **In the practice:** "*overall tax incentives encouraged an additional investment of 2.1 billion rand each year between 2006 and 2012. [...] The revenue foregone as a result of the lower tax as a result of the tax incentives is about 4.5 billion rand each year over the seven year period. [...] In terms of jobs, the tax incentives have resulted in 34,000 additional jobs. However it has not come cheap costing an average of about 116,000 rand of revenue foregone for each job in South Africa.*" (World Bank Group, 2016)

Problems with FDI Data (IMF, 2014; UNCTD 2015; Yılmaz & Tanyeri 2016)

Literature Review

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Academics

- Klemm & Parys (2009) studied the effectiveness of tax incentives in attracting FDI in Latin America, Caribbean and Africa (47 countries).
- Parys & James (2010a) analysed the effect of tourism sector incentives in the Caribbean.
- Parys & James (2010b) assessed the effects of tax incentives on the FDI flows in Africa (14 countries).
- Stausholm (2017) undertook fresh empirical analysis of tax holidays in the manufacturing sector using a large sample (51 countries) and over a long period.

Literature Review

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Civil Society Organisations

- ActionAid International & Tax Justice Network-Africa (2012, 2015 and 2016) produced some reports on the costs of tax incentives in East and West Africa.
- Oxfam (2016) released a global study of tax competition, tax incentive and tax haven.
- Christian Aid, Oxfam and ActionAid (2015) published a report on responsible corporate tax behavior.
- Christian Aid (2016) studied the use of tax incentives in Latina America.
- ActionAid (2013 and 2015); Hubert (2017) focused on tax incentives granted to companies in the sector of extractive industries.

Contributions and Findings

- First global country by country analyse of tax incentives: proposal of empirically informed and theoretically sound assessment matrixes for tax incentives across jurisdictions.
- Contribution to the development of a novel Corporate Income Tax Haven Index.
- **Results:** High income countries tend to offer more cost-based incentives, while middle- and low-income countries (namely African countries) most often rely on profit based incentives such as special economic zones and/or tax holidays.

Methodological Framework
Definition of Tax Incentives

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- "A 'tax incentive' means any special tax provision granted to qualified investment projects or firms that provide favourable deviation from the general tax code." (IMF, OECD, UN and WBG et al. 2015)
- "Tax incentives are measures that provide a favorable tax treatment to companies given some criteria such as investment, and may be targeted at favoring certain regions, activities or industries." (A. Klemm and Parys 2011; Zee, Stotsky, and Ley 2002; Tuomi 2012)
- **A 'tax incentive' is any special tax treatment granted in law or regulation to certain economic actor, sector, activity or income that can be accessed by foreign multinational companies, and which deviates from the general tax code and results in lower corporate income or capital gains taxation.** (Authors)

Methodological Framework
Overview and suggested terminology and classification of tax incentives

Categorisation alongside four (4) dimensions: 1) Profit-based vs. cost based; 2) Temporary vs. Permanent; 3) Geographically confined (Economic Zone, EZ) vs. not; 4) Full exemption vs. partial reduction.

Profit based tax incentives (tax waivers, tax breaks)		
No geographical constraint	temporary:	permanent:
partial tax reduction:	tax reduction holiday	tax reduction concession
complete tax exemption/nil taxation:	(full) tax holiday	tax exemption
EZ constraint	temporary:	permanent:
partial tax reduction:	EZ tax reduction holiday	EZ tax reduction concession
complete tax exemption/nil taxation:	EZ (full) tax holiday	EZ tax exemption

EZ = Economic Zone

Cost based tax incentives (tax credits, tax refunds, tax deductions)
- capital allowance - depreciation rules - investment credits

Cost-based incentives "[…] may generate investments that would not otherwise have been made […]" whereas profit-based incentives tend to " […] make even more profitable investment projects that would be profitable, and hence undertaken, even without the incentive." (International Monetary Fund et al. 2015).

Methodological Framework

Data Sources

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Three potential data sources:

- Country level data and statistics from government agencies;
- Data collected by civil society organisations on the ground;
- Sources compiled by private sector agents.

	International organisations	National Level Government portals	Coordinated National level CSOs	Private Databases for Investors
Examples/Sources	None are public	Specific in each country, can be multiple portals	Christian Aid Scorecard approach	IBFD, BNA, PWC, KPMG
Country Coverage	Unknown	Single country maximum	Low (<10)	High (IBFD over 200 jurisdictions)
Comparability	Unknown	Low	Medium-High	High
Robustness	Unknown	Unknown	Unknown	Unknown
Timeliness	Unknown	Unknown	One-Off?	Unknown
Replication / Verification	None	Yes, depending on country agencies	Yes, depending on CSO work	Constrained if private databases (IBFD, BNA), mostly open if Big4

For this pilot study, data have mainly been extracted from:

- Country-specific corporate taxation Surveys and Analyses of the IBFD;
- Accountancy Firms' Reports (PwC, E&Y);
- Countries' Legislation;
- BNA's Country Portofolios.

Methodological Framework

Conceptual considerations and Pilot Sample Selection

This study concerns:

- Incentives related to CIT and CGT;
- Incentives accessible to and relevant for (local) subsidiaries and branches of large MNEs;
- Fifteen (15) jurisdictions according to: the level of misalignment (Cobham & Janský, 2015) , belonging to the EU, belonging to the African continent and inclusion in the FSI 2018 sample.

European or EU-dependent, Top 5 Major Misalignment Jurisdictions: excess profit	European or EU-dependent, Top 5 Major Misalignment Jurisdictions: missing profit	African, included in FSI, ranked by largest inward Foreign Direct Investment
Source: Cobham/Janský 2015		Source: Tax Justice Network 2018
Netherlands	Germany	South Africa
Ireland	France	Ghana
Bermuda	Italy	Tanzania
Luxemburg	Spain	Liberia
Switzerland	United Kingdom	Kenya

Incentives concerning patent boxes / intellectual property; WHT on cross-border dividends, interests and royalties payments, notional interest deduction regimes have not been included (captured by other CTHI Indicators).

Widespread exemptions applying to income from shipping and air transport received by non-residents are disregarded (such exemptions are not applying to domestic companies).

Main Results

- African countries on average grant a similar number of incentives as the EU country group.

However:

- African countries tend to grant more profit based incentives than European Countries;
- While the profit based tax incentives of the African countries are in form of tax holidays and special economic zones, those of the EU countries are mostly in form of broad or sectorial exemptions on CIT and CGT.

Assessment Matrixes developed for Ghana

Profit/Gains-Based Incentives only (no cost-based incentives)			Mandatory: Tax Type (CIT or CGT)	Mandatory: Ordinary CIT Rate, %	Mandatory: Available?, Y/N/U	If applicable: Partial CIT Exemption, %	If applicable: Sector(s) covered - one word per sector	If applicable: Notes (insert any explanatory text/notes here)	Mandatory: Sources	Mandatory: Access date	HI Score
Temporary	EZ	Full Exemption	CIT & CGT	25	Y			*NTE: Free zone (	*SRC:		20
		Partial Exemption							*SRC: IBFD 2018d: Corporate Taxa		
	Non-EZ	Full Exemption							*www: htt	23/03/2018	
		Partial Exemption	CIT & CGT	25	Y	1	Farming: tree crop	*NTE: Tree crops	http://tax	23/03/2018	40
Permanent	EZ	Full Exemption							*www: htt	18/06/2018	
		Partial Exemption	CIT & CGT	25	Y	15		*NTE: After a 10-	*www: htt	24/06/2018	10
	Non-EZ	Full Exemption									
		Partial Exemption									
										TOTAL HIS	70

Country	Incentives	Lowest Tax Rate Small and Micro Businesses	Lowest Tax Rate Investment Funds	Lowest Tax Rate Economic Sectors	Lowest Tax Rate Other Preferential Regime	Notes	Sources
Ghana	2			0	0	*NTE: Agriculture: Cocoa farming activities are exempt; Export of non-traditional goods is taxed at a reduced CIT rate of 8%; Hotels are taxed at the reduced rate of 22%. 4. Companies can benefit from a CIT exemption, waiver and variation granted by the Minister of finance.	*SRC: IBFD 2018d; GPCGHANA; PWC 2018

Conclusion

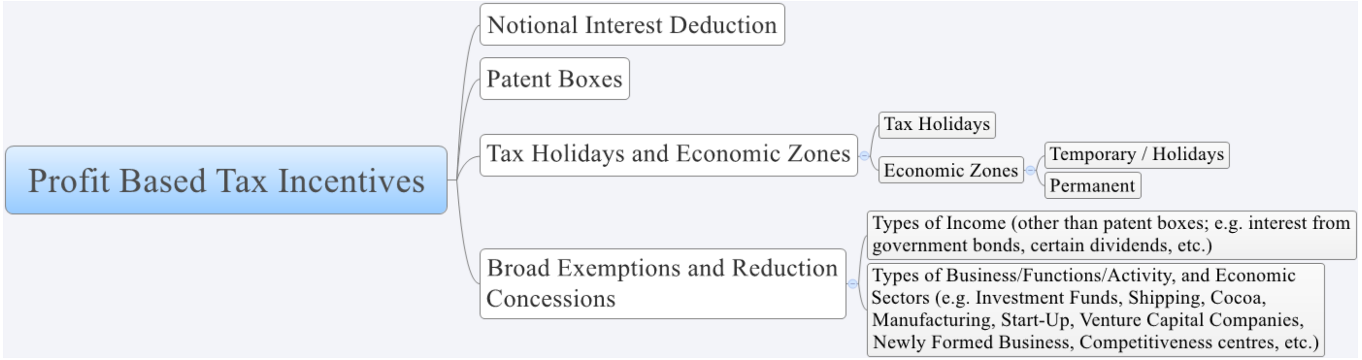
- This study tried to address the empirical data gap, and to provide a basis for assessing tax incentives (proposal of assessment matrixes) within the framework of a novel index of corporate tax havens in compiling and analytically sorting tax incentives data for 15 countries.

- African jurisdictions tend to grant mainly **harmful** profit based tax incentives , provided as tax holidays and/or in special economic zones while the cost based incentives mainly granted by the 10 EU countries are in form of tax credits, accelerated depreciation and cost deduction for investment in certain sectors.

- The disaggregation of FDI data in greenfield and merger & acquisitions, and in roundtripping, and conduit FDI components, is required to assessing the effectiveness of tax incentives.

Recommendations

I) Suggestion of a categorization of Tax CTI incentives for cross-country comparison of profit-based tax incentives



II) Proposal of an assessment matrix of Tax Holidays and Economic Zones

Profit/Gains-Based Incentives only (no cost-based incentives)			Mandatory	If applicable:			
			Available? Y/N/U	Tax Type (CIT or CGT)	Reduction Concession, CIT/CGT	Sector(s) covered - one word per sector	Notes (insert any explanatory text/notes here)
Temporary	EZ	Full Exemption					
		Partial Exemption					
	Non-EZ	Full Exemption					
		Partial Exemption					
Permanent	EZ	Full Exemption					
		Partial Exemption					
	Non-EZ	Full Exemption	Dealt with in separate matrix "Broad Exemptions and Reduction Concessions"				
		Partial Exemption					

III) Proposal of an assessment matrix of incentives related to specific types of income and/or economic activity/businesses/functions

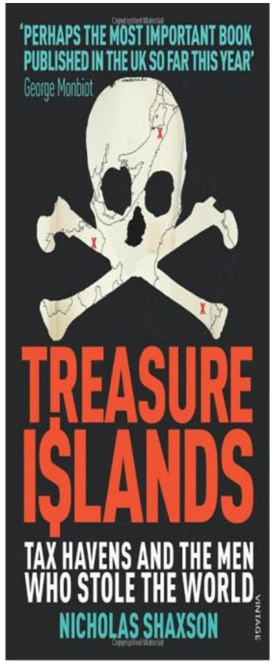
Profit/Gains-Based Incentives related to types of income or types of activity/businesses/functions		Mandatory	If applicable:			
		Available? Y/N/U	Tax Type (CIT or CGT)	Reduction Concession, CIT/CGT %	Type of Income/ Sector	Notes (insert any explanatory text/notes here)
Types of Income						
Types of Activity/Businesses /Functions	Start-Up/Small Comp					
	Investment Funds/Entities					
	Economic Sectors					
	Other Preferential Regimes					

Thank You For Your Attention!

Forthcomings:

- Corporate Tax Haven Index (CTHI)
- Econometric Analysis of Data collected on tax incentives

The Spider's web Documentary: can be watched for free on youtube, and has had over 750.000 views...



Corporate Tax Haven Index Indicators

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Haven Indicator (HI)	Acronym	Category
Lowest available corporate income tax rate (LACIT)	LACIT	LACIT
Foreign income tax credit system - dividends, interest, royalties	LG-ScopeCredit	Loopholes and Gaps
Loss Carry Forward	LG-Loss	Loopholes and Gaps
Capital gains tax rate	LG-CGT	Loopholes and Gaps
Broad Exemptions	LG-BExemptions	Loopholes and Gaps
Tax Holidays and Economic Zones	LG-HolidaysEZs	Loopholes and Gaps
Patent boxes	LG-Patent	Loopholes and Gaps
Notional interest deduction	LG-NotionalInt	Loopholes and Gaps
Public Company Accounts	DS-PCA	Disclosure
Public CBCR	DS-PCBCR	Disclosure
Robust local filing of CBCR	DS-LCBCR	Disclosure
Unilateral cross-border tax rulings	DS-UTRuling	Disclosure
Reporting of tax avoidance schemes	DS-Schemes	Disclosure
Tax court transparency	DS-Courts	Disclosure
Outbound intra-group payments treatment - Deduction-Limitation - Interest	AA-OutInt-Ded	Anti-Avoidance
Outbound intra-group payments treatment - Deduction-Limitation - Royalties	AA-OutRoy-Ded	Anti-Avoidance
Outbound intra-group payments treatment - Deduction-Limitation - Services	AA-OutServ-Ded	Anti-Avoidance
Outbound payments treatment - Withholding Taxes - Dividends	AA-OutDiv-WHT	Anti-Avoidance
CFC rules	AA-CFC	Anti-Avoidance
Double Tax Treaty Number and Average WHT Rates	DTAs	Double Taxation Avoidance Agreements