



Suggestions from Norwegian Civil Society Organizations to the FACTI Panel report

On behalf of Norwegian civil society, we would like to express our gratitude for the opportunity to present our views to the FACTI panel process. We look forward to the FACTI panel's final report in February 2021, and hope that its specific recommendations will be a step towards a more equitable global arena on the subject of taxation. In addition to the suggestions below, Transparency International Norway would like to stand behind the suggestions that their international network has played into the process. These suggestions can be found [here](#).

Tax must be paid where value is created

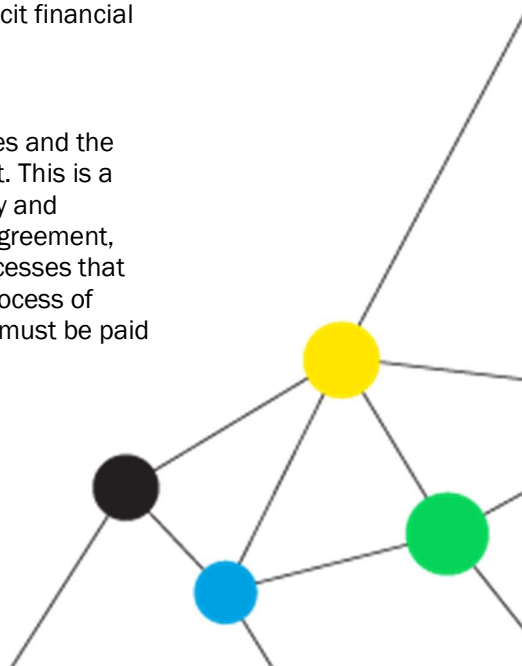
Paying tax where value is created is in our opinion what a fair global system of taxation should ensure. This is an important principle upon which to build norms. We should not accept that jurisdictions craft laws that are designed to undermine the taxing rights of others. In this respect, we believe that the Official Norwegian report [“Tax Havens and Development” \(NOU 2009:19\)](#) can be useful. It defines this as states who have legal structures that are harmful to other states and which does not apply to its own citizens. It is important to identify and name such legal structures in small and big jurisdictions.

Intergovernmental tax body

We encourage the panel to include the creation of an intergovernmental tax body, under the auspices of the United Nations, as one of the suggestions in the final report. This would ensure a global and genuinely representative forum to set consistent, multilateral standards for corporate taxation, for the necessary tax cooperation between governments, and to deliver comprehensive, multilateral tax transparency. We also reiterate the call for initiating a process within the UN which will lead to a UN Tax convention. Since the OECD process has not delivered beneficial results for developing countries, and many are now setting in place unilateral measures such as digital service taxes, these actions should be recommended as short-term objectives. Developing countries have called for this for years, and structural change cannot be delayed yet again. We hope the FACTI panel will clearly express that change in international cooperation is needed to curtail illicit financial flows.

Unitary taxation

One much debated proposal to profit shifting of multinational companies and the erosion of the tax base is unitary taxation with formulary apportionment. This is a system of taxation that in our view is more suited to the global economy and multinational companies. It will require a high degree of international agreement, which is why it is important that the panel recommend governance processes that could establish such a system as described above, through a UN led process of setting global tax rules and norms. It should follow the principle of “tax must be paid where value is created”.



Beneficial ownership registers

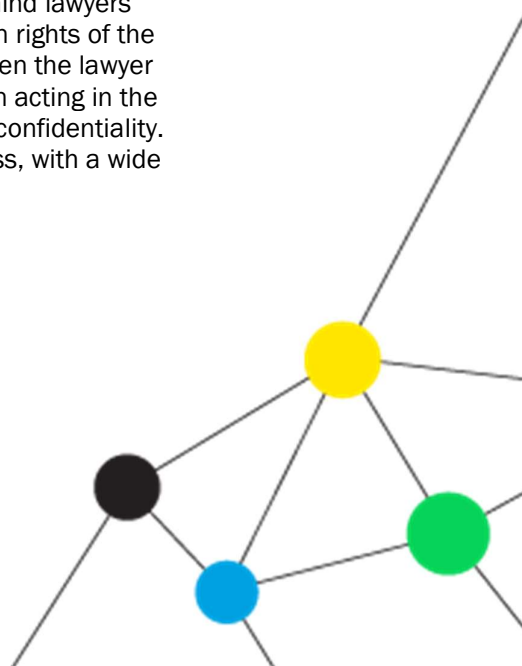
We welcome the focus on beneficial ownership registers in the interim report and ask the FACTI panel to recommend that all states adopt public beneficial ownership registries, without ownership thresholds, which include trusts, private foundations and other financial instruments. As argued by the Tax Justice Network in [this article](#), they should include companies listed on the stock exchange, as security disclosures do not always cover beneficial ownership disclosure. For these registers to be effective tools for e.g. governments, civil society, banks and investors, they need to be allocated sufficient resources to be continuously updated and contain historical records.

Publicly available country by-country-reporting

The nature of tax avoidance is often that it is in line with the letter, but not the spirit, of the law. In order for civil society, journalists, parliamentarians and citizens in general to engage in policy change, they need information on where companies do business and how much they pay in taxes in each country. Public country-by-country reporting can also aid the existing global asymmetries in access to information, hitting tax administrations in developing countries hardest. As noted by the PRI report “[Advancing Tax Transparency: Outcomes from the PRI collaborative Engagement 2017-2018](#)”, none of the companies involved were willing to make country-by-country reports public, in fear of compromising their competitive advantage. This underscores the role for policy makers in creating a level playing field, where all companies over a certain threshold are expected to make this information public.

Investigate the multitude of roles lawyers

We recognize that this is an issue with opposing views, as was evident during the work on the Norwegian Official Report (NOU) [2019:15 on tax advisors' duty to provide information and duty of confidentiality](#). All members in the making of the report agreed that tax advisors should have the duty to inform the government on tax arrangements. However, the mandated group could not agree on whether lawyers should have special privileges preventing them in their duty to inform the governments. Sigrid Klæboe Jacobsen, executive director of Tax Justice Network – Norway, and member of the report group, argued that the rationale behind lawyers' special privileges concerning confidentiality, being to protect the human rights of the individual from the state in a process of prosecution, is not relevant when the lawyer acts in an advisory role on the question of taxation. Thus, lawyers, when acting in the role of enablers or tax advisors, should not be protected by the duty of confidentiality. The debate this sparked shows that this question is important to discuss, with a wide set of stakeholders, and across different sectors.





Signatories:

Norwegian Forum for Development and Environment
Tax Justice Network - Norway
SLUG - Debt Justice Norway
Norwegian Church Aid
Changemaker Norway
Transparency International - Norway

