CENTRALE BANK

CURAÇAO & SINT MAARTEN

EUROPE DIRECT

Curaçao

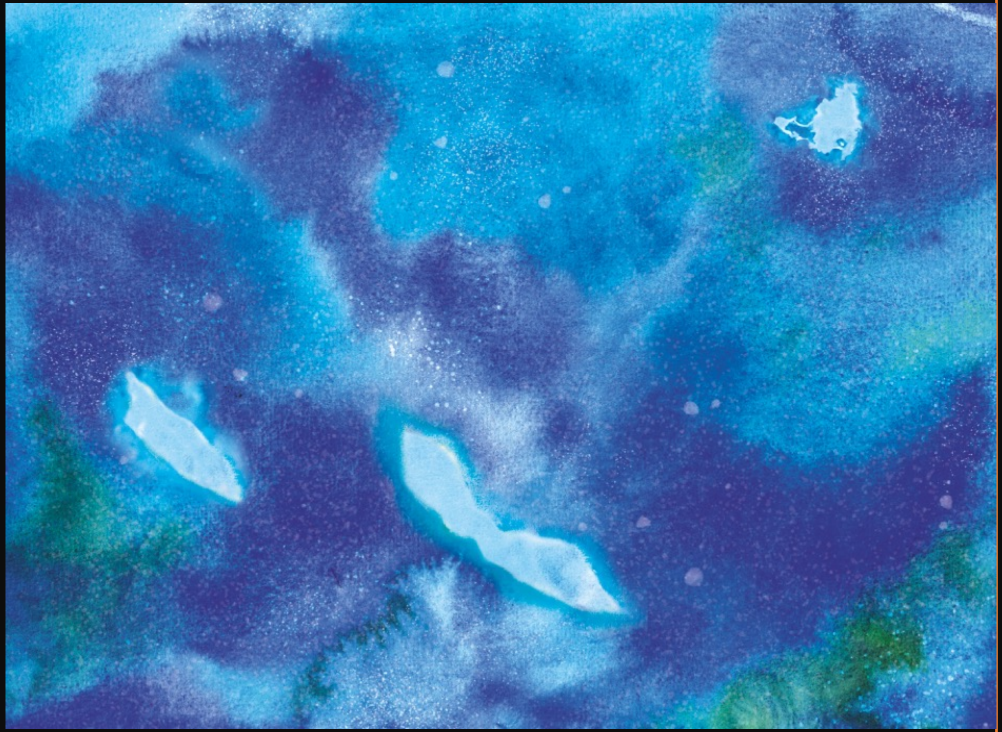
FAIR TAXATION CONGRESS

Date: Tuesday 31st January, 2023
Location: Centrale Bank van Curacao en Sint Maarten
Dress code: Business formal
Time: 8:30 AM - 12:30 PM
Entrance: FREE - registration required

TOPICS & SPEAKERS:

Fair Tax Competition (dr. Germaine Rekwest / University of Curaçao)
The Growth of Tax Havens During the 1950s and 60s (dr. Vanessa Ogle / Yale University)
Transfer Pricing, Fair Taxation and Ethical issues (dr. Clive Jie-A-Joen / Simmons & Simmons Amsterdam)
Tax considerations arising from IFRS 17 (Vivian Pieters MSC / Taxxa Curaçao)

Fair Tax & Fair Tax Competition



Dr. Germaine Rekwest

Centrale Bank van Curaçao en
Sint Maarten – 31 January 2023

EUROPE DIRECT
Curaçao

UNIVERSITY
OF CURAÇAO
DR. MOISES DA COSTA GOMEZ

forfaitair 117

FISCAAL
STUDENTEN
MAANDBLAD

JAARGANG 15
NUMMER 117
SEPTEMBER 2001

THEMANUMMER
de Nederlandse Antillen

Schadelijke belasting-concurrentie, de gevolgen voor de Nederlandse Antillen

Het regime fiscale eenheid op Aruba

De ontwikkeling van de Nederlands Antilliaanse deelnemingsvrijstelling

De relatie van de Koninkrijks-regeling t.o.v. het Nederlandse belastingrecht

koninklijke vermande

Fair Taxation & Fair tax competition

- State sovereignty
- Fiscal sovereignty
- Caribbean SIDS: attract investment – taxrelated financial services

Tax competition

Lowering the tax burden to maximize foreign businesses to flow into the country and thus boosting the national economy

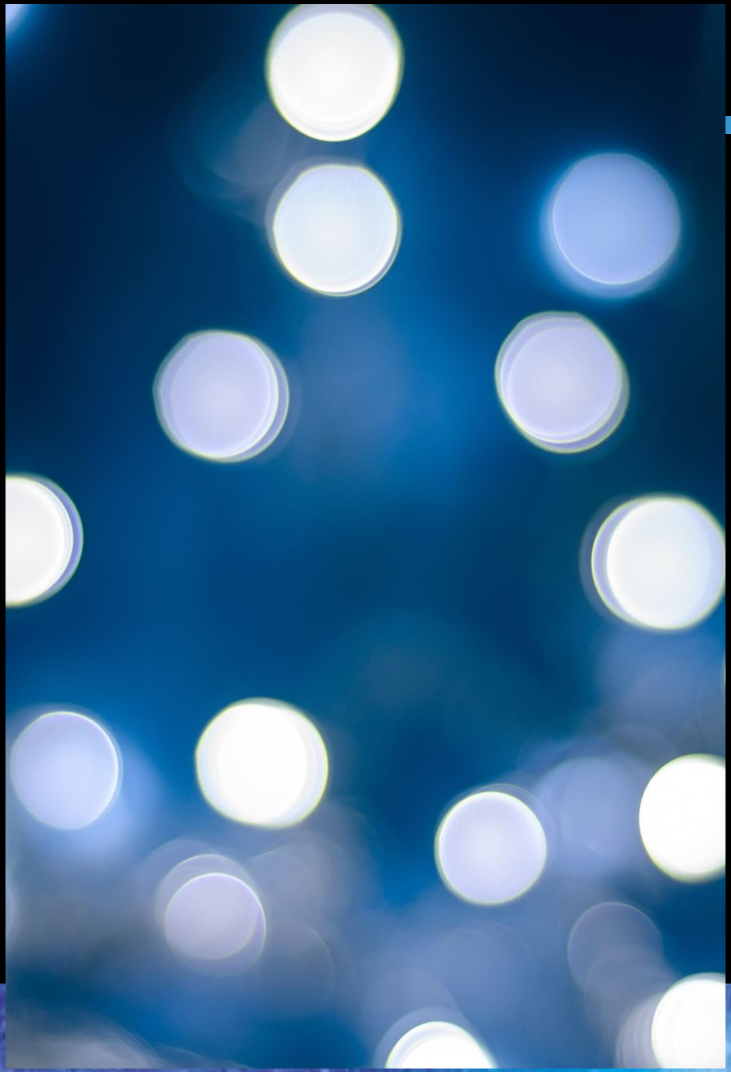
Favorable tax measures

Prefential tax rates

OECD 2000 Progress Report:

Harmful tax competition is by its very nature a global phenomenon and therefore its solution requires global endorsement and global participation.

Countries outside the OECD must have a key role in this work since a number of them are either seriously affected by harmful tax practices or have potentially harmful regimes



Harmful Tax competition

Lowering	lowering the general tax burden
Eroding	eroding other states's tax bases

OECD: States could not stand back while their tax bases are eroded through the actions of countries which offer taxpayers ways to exploit tax havens and preferential regimes to reduce the tax that would otherwise be payable to them

EU Code of Conduct on business taxation

1 December 1997: package of measures

EU Member States

EU dependencies & associated territories

Code: 5 criteria to determine harmful tax competiton

- advantages only to non-residents
- advantages are ring-fenced from the domestic market
- advantages are granted even without any real economic activity or substantial economic presence
- rules for profit determination depart from internationally accepted principles
- tax measures lack transparency

Dr. Pie Habimana – Leiden University (2022):

"a low tax rate is not problematic in the matters of tax competition. Rather, it is ring-fencing that is the most problematic. This is to say, offering favorable tax rates or tax bases are generally accepted, as long as residents have equal access with non-residents."

Revised Code of Conduct for Business taxation

Revised Code of Conduct for Business taxation

What is new?

- the concept of '**tax features of general application**' instead of examining only preferential measures
- The tax features of general application → harmful if they lead to double non-taxation or the double/multiple use of tax benefits.
- To establish whether a tax measure falls under the Code: only preferential tax measures affecting or potentially affecting the place of business activities fall under the revised Code of Conduct.
- For preferential measures → additional specific gateway criterion: effective level of taxation that is significantly lower than the general level of taxation.

4 criteria ‘measures are effectively harmful’:

1. Are the advantages ‘ring-fenced’ from the domestic market?
2. Are the advantages granted even without any real economic activity and substantial economic presence
3. Do the rules for determining profits of multinational groups deviate from internationally accepted principles
4. Do the tax measures lack transparency?

Tax measures of general application, effectively harmful:

Does the *tax feature of general application* lead to double non-taxation or does it allow the double or multiple use of tax benefits ?

Does this affect in a significant way the place of business activity in the EU?

Impact of the revised code:

Impact on how countries' tax regimes are assessed→ 'EU list'

EU list of non-cooperative jurisdictions for tax purposes (4 October 2022)

American Samoa	Anguilla	The Bahamas
Fiji	Guam	Palau
Panama	Samoa	Trinidad and Tobago
Turks and Caicos islands	US Virgin islands	Vanuatu

Fair Tax Competition

31 January, 2023

Dr. Germaine Rekwest

www.germainerekwest.nl

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