

Introductory note on the ActionAid TaxTreaty Dataset, October 2015

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This is a consultative document ahead of planned release of the dataset in early 2016. Comments in particular on the coding scheme and composition

Figure2: Sample of aggregated indexes in the spreadsheet

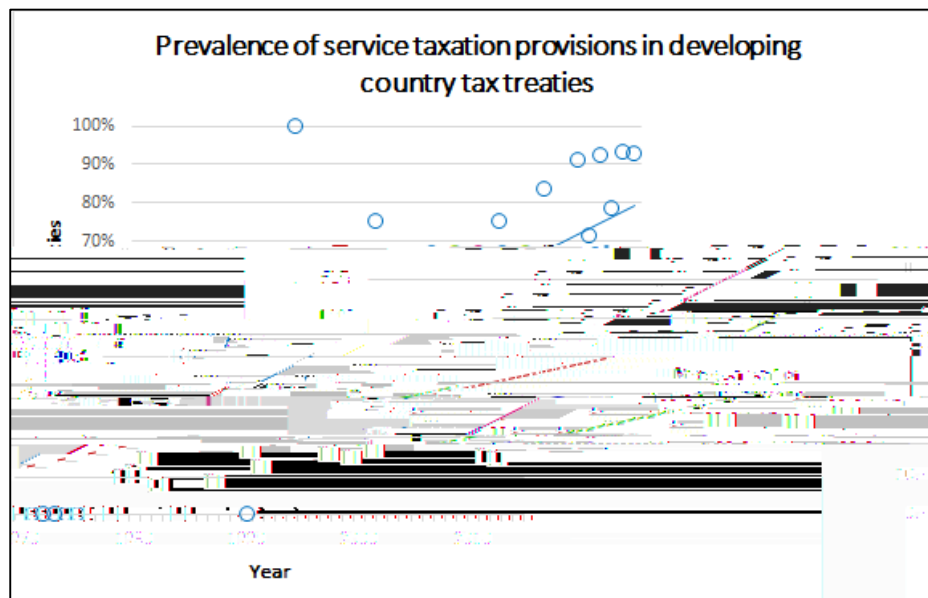
1	AgmtID	C1	C2	Signed	UN ind	Source	PE	WHT	Other
2	254	Kiribati	Australia	1991	0.47	0.49	0.52	0.51	0.44
3	272	Papua New Guinea	Australia	1989	0.44	0.45	0.52	0.50	0.33

Example findings

Taxation of services

Looking at individual clauses shows that, for example, service taxation provisions are becoming more common, and the inclusion of the UN model service PE provision is now the norm in developing country tax treaties. Clauses providing for withholding taxes (WHTs) on technical service fees are not as common, but are becoming more so.

Figure3: Percentage of treaties including service taxation provisions in each year



Capital gains provisions

While article 13(4) providing for source taxation of gains (OECD) is becoming more widespread it is becoming less common to see article 13(5) providing source taxation of gains from the sale of other types of shares included in developing country tax treaties.

Figure 4: Percentage of treaties including capital gains tax provisions in each year



Overall source/residence balance

Using aggregate indexes for PE, WHT and the remaining provision based on the dataset we can see that the permanent establishment definitions within tax treaties have become more expansive (a higher value in the source/residence index) since around 2000. Withholding tax rates have tended to decline over time. A strict analysis measuring the prevalence of UN model treaty provisions as opposed to their OECD equivalents shows a notable growth in their use since around 2000.

Figure5: Average values of source/residence indices each year

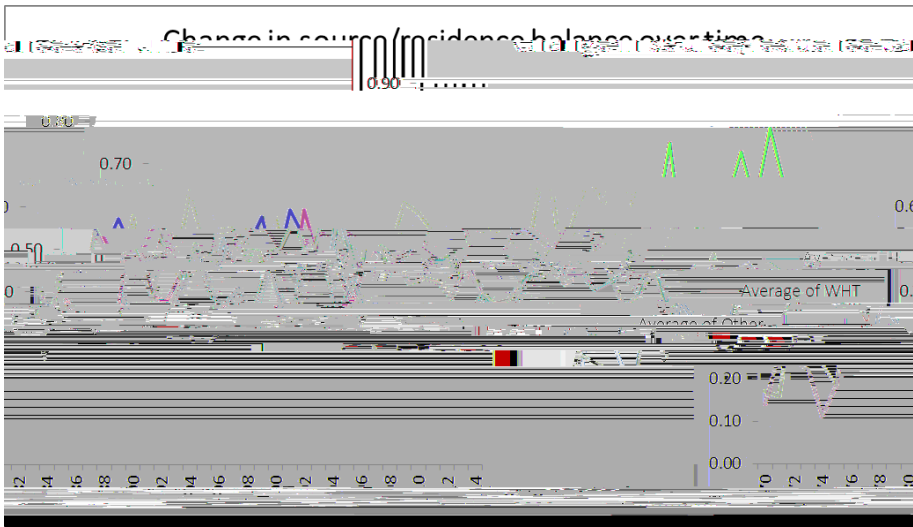


Figure6: Average share of UN model provisions in developing country treaties each year

Individual countries in comparative context

The figures below, produced with preliminary data for a presentation given to the Danish % Ø o] Fiscal Affairs Committee during in 2015 show the source/residence balance of all treaties in the dataset over time, with Danish treaties highlighted. While the overall trend is towards more source-orientated provisions, Denmark shows a different trend: more generous negotiator during the 1980s, it has since become tougher. This is reflected in the PE definitions contained in Danish treaties with developing countries, which have recently become more residence-based, the opposite of the overall trend.

Figure 7: Source/residence indices for all treaties Danish treaties highlighted

Methodological notes

Treaties included

The dataset includes treaties signed by low and lower middle income countries in sub-Saharan Africa and Asia, excluding 20 member states. There are two versions of the finished dataset. One, by treaty, includes each treaty only once and has 506 entries. The other, by country, includes treaties twice where both signatories are in the sample dataset, and has 524 entries.

The dataset starts in 1970 and ends in 2014. This is because after 1970, the treaties become more and more unconventional in their structure and content or they are colonial era treaties. The end date is 2014, and the list of treaties was obtained from the IBFD database on 1st January 2015. There are

Index name	Articles covered	Number of components
Permanent establishment	5	9
Withholding tax	10,11,12	8
Other	7,8,13,16,18,21	9
Source index	Average of the above	26
UN	5,7,8,12,13,16,18,21	19

Source/residence index

This is calculated as:

Average PE score + Average WHT score + Average score on other provisions

3

As the indices record 9 PE and the UN index is 19 (er) 572.20 1 BTU

7ii	7(3)	No deduction for payments to head office (UN=yes, OECD=no)	Other	Yes: 1 No: 0	Yes: 1 No: 0	v Ç ^ v } • μ Z μ š] } v is counted here.	
8i	8(2)	Source shipping right as a % (UN=yes[option B], OECD=no)	Other	Yes or NA: 1 No: 0	Yes: 0.5 No: 0	The article is only worth 0.5 in the UN index because it is optional in the UN model.	
10i	10	FDI dividend WHT in % (OECD=5)	WHT	Linear scale from Exclusive residence taxation = 0 to 25% = 1		This is the lowest generally available rate (ie excludes special classes such as companies receiving incentives, government companies, particular industries). Exclusive source taxation scores the same as the max available rate of 25%.	
10ii	10	FDI dividend threshold in % (OECD = UN = 10)	Not included in the indices				
10iii	10	Portfolio dividend WHT in % (OECD=	WHT	Linear scale from Exclusive residence taxation = 0 to 30% = 1		This is the highest generally applicable rate, typically below the FDI threshold, or for individuals. Exclusive source taxation scores the same as the max available rate of 30%	
11i	11	Interest WHT in % (OECD=10)	WHT	Linear scale from Exclusive residence taxation = 0 to 30% = 1		This is the lowest generally available rate, excluding rates for exceptions, if given, such as bank and governments. Exclusive source taxation scores the same as the max available rate of 30%	
12i	12	Royalties WHT in % (OECD=0)	WHT				

12ii	12	Royalty definition: films or tapes used for radio or television broadcasting (UN=yes, OECD=no)6 Tm [(5)-3(0)7(taxation = 0 to 50% = 1		<p>the OECD and UN models where the article specifies different rates for different types of income, coders were instructed to use the OECD model which sometimes entailed subjective judgement.</p> <p>Exclusive source taxation scores the same as the maximum rate of 50%</p>
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16i	16(2)	Top-level managerial officials (UN=yes, OECD=no)	Other	Yes = 1 No or NA = 0	Yes = 1 No = 0	
18i	18(2)	Shared taxation of pensions (UN=yes, OECD=no)	Other	Yes = 1 No = 0	Yes = 0.5 No = 0	Where the treaty distinguishes, source taxation of pensions as part of a recognised scheme count as yes, while unregistered pensions do not. Worth 0.5 in the UN index because this is an option within the UN model This clause is disregarded from indices if there is No Article
18ii	18(2/3)	Source taxation of social security pensions (UN=yes, OECD=no)	Other	Yes = 1 No = 0	Yes = 1 No = 0	This clause is disregarded from indices if there is No Article
21i	21(3)	Source taxation of other income (UN=yes, OECD=no, NA=no article)	Other	Yes or NA = 1 No = 0	Yes = 1 No = 0	Where this provision only covers specific types of income, it is recorded.
27i	27	Assistance in the collection of taxes (later models = yes, older models = no)	Not included in the indices			