

ECHEC AUX PARADIS FISCAL

**PRE-BUDGET CONSULTATIONS IN ADVANCE OF THE
2024 FEDERAL BUDGET**

Brief

**Submitted to the Department of Finance Canada
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RECOMMANDATIONS OF THE ÉCHEC AUX PARADIS FISCAUX COLLECTIVE:

1. Increase the transparency and accountability of the Canada Revenue Agency (CRA).
2. Review how mandatory disclosure practices work.
3. Ensure that the CRA works with Revenu Québec.
4. Establish a public registry of beneficial owners.
5. Call for an international financial registry.
6. Expand country-by-country reporting and make it public.
7. Criminalize aggressive tax avoidance and crack down on tax cheats and enablers.
8. Further regulate and restrict the use of voluntary disclosure.
9. Make the fight against tax havens a foreign policy priority for Canada.
10. Limit and regulate out-of-court settlements.
11. Get rid of double non-taxation agreements.
12. Tax multinational corporations appropriately.
13. Eliminate transfer pricing problems by introducing unitary taxation for corporations.

ABOUT THE ÉCHEC AUX PARADIS FISCAUX COLLECTIVE

Established in 2010, the Échec aux paradis fiscaux collective brings together Quebec civil society organizations from labour, student, community and economic movements. It represents nearly 1.7 million members. Its mandate is to foster public debate on the use of tax havens and to develop, support and share solutions to shut them down.

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RATIONALE

As part of Budget 2023, the Canadian government unveiled the legislative timetable for Canada's implementation of Pillars I and II of the *Two-Pillar Solution to Address the Tax Challenges Arising from the Digitalisation of the Economy*. Adopting these measures represents the last stage in the process of modernizing international taxation, a process that OECD countries initiated ten years ago. Canada had high hopes for those negotiations, which culminated in the *Two-Pillar Solution*.

However, the effort invested failed to produce the desired outcome. The G20 mandated the OECD to lead discussions on reforming the global tax architecture, but the OECD failed to deliver the reform agenda needed by the international community following the 2008 financial crisis. Opaque authorities, the influence of multinational corporations and an outdated view of the global economy all dampened enthusiasm for the fight against tax evasion.¹ Thus, despite the agreements reached under the auspices of the OECD, it is estimated that maintaining current tax practices result in losses totalling US\$4.7 trillion worldwide over the next ten years.²

The OECD reform process failed to address the challenges inherent in the fight for tax justice. In fact, a new forum has since been established within the UN. In December 2022, the United Nations General Assembly unanimously adopted Resolution 77/244, which, among other things, calls on Member States to begin “intergovernmental discussions... on ways to strengthen the inclusiveness and effectiveness of international tax cooperation through the evaluation of additional options, including the possibility of developing an international tax cooperation framework or instrument....”³ This reform proposal, led by the Group of African States, represents an opportunity to review the work undertaken to date with the goal of severely cracking down on international tax evasion.

The *Échec aux paradis fiscaux* collective is concerned about Canada's lack of consideration for the initiative being led by the African Group. During consultations at the UN in March, the Canadian government took a negative stance on the proposed changes.⁴ In the absence of any concrete, UN-led reform plan, Canada is siding with the

¹ Tax Justice Network, “Why the World Needs UN Leadership on Global Tax Policy”, July 2023, p. 6-13. Online: <https://taxjustice.net/wp-content/uploads/2023/07/Why-the-world-needs-UN-leadership-Briefing-Tax-Justice-Network.pdf>.

² Tax Justice Network, “State of Tax Justice 2023”, July 2023, p. 13. Online: <https://taxjustice.net/wp-content/uploads/2023/07/State-of-Tax-Justice-2023-Tax-Justice-Network-English.pdf>.

³ United Nations General Assembly, “Promotion of inclusive and effective international tax cooperation at the United Nations” A/Res/77/244, December 30, 2022. Online: <https://financing.desa.un.org/sites/default/files/2023-02/A%20RES%2077-244%20English.pdf>

⁴ Permanent Mission of Canada to the United Nations, “Canada's Submission to the Call for Input for the Preparation of the UN Secretary General's Report in Response to General Assembly Resolution 77/244”. Department of Economic and Social Affairs,

OECD, even though those agreements provide the Canadian government with minimal economic benefits.^{5 6}

When talks begin at the UN in autumn 2023, Canada must seize the opportunity to pursue the tax reforms tentatively begun in recent years. Because of its past role in the development of many Caribbean tax havens, Canada now has a responsibility to restore and ensure tax justice. Many domestic and international reforms – including in the areas of relationships with notorious tax havens, internal tax transparency, crackdowns on the most serious forms of tax avoidance – are still needed to make Canada the leader it wants to be.

To that end, we are submitting a series of recommendations, which, together with an overhaul of international tax relationships, constitute a realistic plan to ensure tax justice. The recommendations are as follows:

1. **Increase the transparency and accountability of the CRA.** With each budget, the Department of Finance must report on the CRA’s progress in combatting tax havens.
2. **Review how mandatory disclosure practices work.** Mandatory disclosure programs are supposed to ensure that corporations and individuals have their financial packages approved by authorities beforehand. The reality is that tax promoters use them to test the limits of the law. Once a transaction is approved, it becomes difficult to take legal action against these corporations when it turns out that they are abusing Canada’s tax system. The government must ensure that the spirit of the law is respected.
3. **Ensure that the CRA works with Revenu Québec.** Whether through tax treaties, tax information exchange agreements (TIEAs) or country-by-country reporting, the CRA receives tax information from a number of countries relating to the foreign activities of Canadian taxpayers and businesses based in Quebec. However, Revenu Québec currently has access to only a small fraction of that information. This needs to change. The CRA must share this information with Revenu Québec.

March 2023. Online: https://financing.desa.un.org/sites/default/files/2023-03/Canada_Input%20Tax%20Report%20Combined.pdf.

⁵ International Monetary Fund, “International Corporate Tax Reform”, February 2023, Figures 1 & 5. Online: <https://www.imf.org/en/Publications/Policy-Papers/Issues/2023/02/06/International-Corporate-Tax-Reform-529240>.

⁶ Mona Baraké et al., “Revenue Effects of the Global Minimum Tax Under Pillar Two”, Intertax, vol. 50, no. 10, 2022, p. 699. Online: <https://gabriel-zucman.eu/files/BCNZ2022.pdf>.

4. **Establish a public registry of beneficial owners.** For the sake of transparency, the government must make public a registry disclosing the names of individuals as soon as they hold 10% of the shares or are in effective control of a company, foundation or trust.
5. **Call for an international financial registry.** The various registries of beneficial owners have a limited scope unless accompanied by an international financial registry. Only such a registry would make it possible to track beneficial owners across national borders. Canada must call for such a registry and promote it at the international level.
6. **Expand country-by-country reporting and make it public.** The threshold for reporting (currently €750 million, or around C\$1.1 billion) must be lowered so as to include more companies in these reporting programs. Furthermore, Canada must follow the example of the European Union and make public the country-by-country reports of companies.
7. **Criminalize aggressive tax avoidance and crack down on tax cheats and enablers.** Despite the General Anti-Avoidance Rule, tax avoidance is not sufficiently penalized in Canada. In this context, tax cheats cannot be expected to be deterred from engaging in aggressive tax avoidance practices. Aggressive tax avoidance must be criminalized, both for the beneficiaries and the promoters of these schemes (specialized lawyers, tax specialists, etc.).
8. **Further regulate and restrict the use of voluntary disclosure.** Voluntary disclosures should not be a free pass; rather, they should come with penalties of up to 30% and should never include lower interest rates.
9. **Make the fight against tax havens a foreign policy priority for Canada.** Canada's ties with tax havens are well documented. These ties are not limited to our financial institutions. We know, for example, that the blight extends to Canada's political establishment and international political institutions. The Government of Canada will not be taken seriously in its fight against tax evasion until it makes the fight against tax havens a pillar of its foreign policy.
10. **Limit and regulate out-of-court settlements.** Better oversight of out-of-court settlements in cases of proven tax evasion is essential to restore confidence in Canadian courts. These settlements must be made public.
11. **Get rid of double non-taxation agreements.** Whether through permissive laws or through tax treaties signed between Canada and tax havens, Canadian taxpayers and corporations are able to repatriate income and profits reported in a

tax haven without being subject to Canadian tax. It is high time that the Government of Canada closed these tax loopholes.

12. **Tax multinational corporations appropriately.** Contrary to the OECD proposal to set a minimum tax rate of 15%, Canada must establish an effective tax rate for multinationals of at least 25% and promote this minimum internationally.
13. **Eliminate transfer pricing problems by introducing unitary taxation for corporations.** We propose reforming the international taxation of multinational corporations by introducing unitary taxation, which means taxing them on their global profits rather than the profits reported by each of their subsidiaries. The taxes payable in each country would be determined by an allocation formula established based on the economic activity of the multinational corporation in those countries. Canada should champion this idea at the international level.

CONCLUSION

The tax inequities created by the use of tax havens and tax loopholes are not inevitable. However, fighting them effectively requires acknowledging our political capacity to change things, to change a situation that we ourselves created in the past.

By sitting idle, or worse by pretending to deal with it, the government is allowing inequality to grow, contributing to the pervasive cynicism that is destroying confidence in our public institutions, damaging the social safety net and sending a signal that Canada is a lawless land.

It is time to expose profiteers and cheats, to condemn rather than legalize the use of tax havens and aggressive tax avoidance, and to collect the taxes that have been evaded in order to fund our much-needed public services.