Corporate tax reform, value theory, post-capitalism

Call for expressions of interest

We are calling for expressions of interest in contributing to an issue of *Tax Justice Focus* dedicated to exploring the relationship between corporate tax reform, value theory, and the global transition to a post-capitalist, post-patriarchal, post-work society. We append an introductory essay setting out some of the linkages that we perceive to exist between these topics.

Tax Justice Focus is the flagship newsletter of the Tax Justice Network. It is issued from two to four times a year, and contains four to six articles roughly 1000-1200 words in length. The articles are pitched for an engaged general audience rather than for an academic one.

If you would like to express interest in contributing an article **linking corporate tax reform to any of the following topics** please email david.quentin+TJF@gmail.com by 31 March 2016.

Value theory
Reproductive/productive/unproductive labour
Organic composition of capital, surplus-absorption and the rate of profit
Dematerialised economy
Bullshit jobs
Economic rent
Global value chains
Global inequality
Dependency theory
Negative externalities (and how to quantify them)
Universal basic income (and how to fund it)
Sustainable prosperity
Post-capitalism
Fully-automated luxury communism

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Corporate tax reform and value theory: an introduction and a manifesto

The starting point with corporate tax in any given jurisdiction is generally the accounting profits of individual corporate entities, subject to adjustments under local law. Whatever system exists for handling the problems of corporate tax internationally is always going to constitute a departure from that starting point. The current system departs from it by means of the "arm's length" principle governing the pricing for tax purposes of intra-entity transactions within corporate groups, and the objective of the OECD's "BEPS" project was to take that departure further by seeking to align taxable profits with "economic substance". The more radical idea of unitary taxation by formulary apportionment would break completely from the entity-by-entity basis and apportion a group's aggregated taxable profit on a jurisdiction-by-jurisdiction basis according to a formula.

Behind these rebarbative technicalities lies perhaps the single greatest distributional question of our age: how is the tax base represented by corporate profits (wherever they arise for accounting purposes) to be distributed between jurisdictions? This question is not a theoretical one; it is a pressingly practical one, since the global corporation tax system is widely recognised to be in crisis, and it continues to be in crisis notwithstanding the BEPS project. Indeed the EU is again pushing for the adoption of its version of unitary taxation by formulary apportionment, the Common Consolidated Corporate Tax Base (or "CCCTB").

The question of how multi-jurisdiction profits are to be allocated between jursidictions is often characterised as being a matter of how to reward an entity (and therefore the jurisdiction in which it is tax-resident) with an allocation of taxable profits, by reference to that entity's role in "value creation". But that question is impossible to answer because it falls into a theoretical black hole at the heart of mainstream economics: the absence of a theory of value. In mainstream economics value is effectively synonymous with market price: if branded trainers can be sold for ten times the price of identical but unbranded ones they have ten times the value, and that is the end of the story. The best that mainstream economics can offer is therefore a theoretical basis for the adjustments for putative market value which are the most notorious feature of the existing failed system.

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This question of how to allocate profits for tax purposes is supremely political because, from the perspective of mainstream economics, it is *solely* political. There is seemingly no objective basis for answering it. People involved in the processes of applying and reforming tax law talk about "economic substance" and "value creation" as if there existed a common understanding of what these terms refer to, but no such common understanding exists. They are just sensible-sounding phrases, masking a pure struggle for control over economic resources.

If one seeks outside mainstream economics for a science of value, a range of possibilities present themselves. At one extreme lies rigorous classical value theory; the labour theory of value adopted by Adam Smith and elaborated by Karl Marx. This theory would suggest that all the value in the system is created by workers materially engaged in such processes as mining, agriculture, manufacture and bulk distribution, and corporate profits represent merely the appropriation by capital of the surplus generated by such workers, at various junctures and by various direct and indirect means, as material commodities make their way to the point of exchange with consumers.

At another extreme lies a nascent value theory for the internet age, having its origin perhaps in post-Marxist critiques of capitalism which placed factors of consumption at the centre of their analysis rather than factors of production. This theory blurs the distinction between the dematerialised labour taking place in the corporate sector and the digital lives led by consumers, suggesting that we create value within an immaterial network by the mere act of producing and interacting with information. Another developing theory of value, which traces its lineage back to political economist Thorstein Veblen, is the power theory of value, which analyses the creation of value through the lens of institutionalised systems of ownership and exclusion.

All three of these analyses highlight the possibility that value is created outside not just the entity where the profits are booked but outside the entire corporate group, elsewhere in what is know as the "value chain" (*i.e.* the journey taken by commodities from raw material to consumption or to deployment in consumer services). Indeed existing global value chain

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analysis is familiar with the concept that powerfully-positioned actors in value chains can exercise "governance" beyond the formal system of corporate grouping, and (given the power which value chain governance gives rise to in terms of the pricing of inputs) can thus extract what amounts to economic rent from the chain. The paradigmatic examples of this are intellectual property owners who dominate markets without themselves manufacturing the underlying products, and media organisations who dominate access to markets via quasi-monopolies over the attention of consumers.

Of course the very fact that pricing between independent economic actors incorporates elements of economic rent undermines the theoretical underpinning of the existing system for taxing corporate profits internationally, which appears to presuppose that arm's-length pricing locates value creation where an open market would place it. But it also suggests that reallocating taxing rights over group profits as between the jurisdictions where group entities operate (unitary taxation by formulary apportionment, in other words) is not necessarily enough to "reward" value creation, if that is the objective of the system. The *real* “value creation” might be taking place outside the group altogether.

Allocating taxing rights in accordance with the labour theory of value, for example, would require allocating a substantial proportion of them down the value chain to where the material production of commodities takes place. Taxing rights over the profits of clothing retailers in wealthy countries would largely find themselves reallocated to places like Bangladesh, Cambodia and Indonesia, notwithstanding that the retailers have no corporate tax footprint at all in those jurisdictions. In the case of what we might describe as the "information" or "network" theory of value, the re-allocation would be up the value chain to where the consumer resides; effectively giving rise to a freshly re-theorised tax on consumption. The profits of groups manufacturing physical commodities sold wholesale to unaffiliated retailers would find themselves being allocated to jurisdictions on the basis of the residence of people interacting with their brands on social media. Clearly either of these approaches would have huge global distributional consequences.

This redistributional potential of properly theorising value is perhaps most starkly evident

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when viewed through a gender lens. Recognising that value may be created outside the formal mechanisms of corporate value-capture, and may therefore be merely *appropriated* by those mechanisms, opens up the possibility of recognising the value placed into value chains by unpaid reproductive and domestic labour, the global burden of which is overwhelmingly borne by women. Whether your value-creating actor is female or male, a factory worker or (perhaps less plausibly) a consumer using social media, that person's capacity to create value is in part supported through unremunerated labour in those actors' homes, and any reallocation of taxable profits to where value is created will have to take into account that contribution in order to not embed economic injustice between genders under patriarchal capitalism. What this might mean in practice is a metric for the extent to which unpaid reproductive labour makes up for underprovision of welfare and other services by the state in any given jurisidction, and a weighting of reallocation of taxable profits by reference to this metric.

Further, adopting a value theory which recognises unpaid reproductive labour (and therefore takes into account people who are not, insofar as concerns money transactions, economic actors in the value chain at all) opens up the possibility of recognising that the reallocation we are seeking is not really towards value creation, but towards where the burden of bringing the value chain into being falls. This line of thinking might lead towards abandonment of the idea of value altogether for these purposes, in favour of an allocation of corporate profitability for tax purposes to those places along the value chain where its negative social and environmental externalities are most keenly felt. Clearly a whole new set of metrics would be required for these purposes.

In any event, whether a value theory is adopted which allocates taxing rights over corporate profits according to where the materially productive and reproductive labour in the value chain takes place, or whether a metric for reallocation is adopted which goes directly to the negative social and environmental externalities along the chain, there exist rational methodologies for the reallocation of taxable corporate profits which could channel funds globally to places where they will be most useful for rebalancing global inequalities.

This discussion therefore meshes with wider debates about reshaping the global economy so

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as to achieve sustainable prosperity, such as the debate around universal basic income or global wages for domestic care work. Those debates currently appear to be about the components of utopian visions of post-patriarchal or post-capitalist or even post-work modes of human organization. They should not be. They should be informing today's practical debates about how corporation tax could be made more rational and globally effective.

As regards the transition to a post-work society, which should be a source of hope but is typically presented in the form of a threat that robots will steal our jobs, it has been noted that under capitalism there exists a proliferation of unproductive jobs; "bullshit jobs", as they have been memorably labelled by anthropologist David Graeber. This is consistent with something that classical value theory predicts; capitalism's tendency towards a higher and higher ratio of unproductive to productive labour (subject of course to systemic shocks and counter-tendencies). It is therefore particularly interesting to note that the kinds of work most implicated in corporate capital's capacity to capture surplus — for example the creation of, and control over, intellectual property, and financialised or fiduciary management activity — are both (a) materially unproductive, and (b) also implicated in the structural mechanisms which enable corporate profits to accumulate untaxed.

It might be inferred therefore that a more-or-less unlimited proportion of corporate profits could be diverted from materially unproductive work in the private sector to materially unproductive but socially useful work funded through the public sector; the work, fundamentally, of people looking after each other. With an environmental crisis pressing upon us the need to suppress the exponential use of material resources which capitalism requires of us, and technological developments apparently capable of making us redundant from the point of view of meeting our material needs, is the corporate tax reform debate taking place now in fact (but in disguise) the debate about how we can in practice effect a global transition to "fully-automated luxury communism"?

20 February 2016

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