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In this article, Uessler examines whether the qualified domestic minimum top-up tax undermines the legitimacy of domestic tax decisions by materially conditioning states' fiscal choices, and she argues that although the regime formally preserves fiscal sovereignty, it materially constrains the autonomy of some source states.

Introduction

The rise of the global economy and increased capital mobility have rendered international tax coordination a central challenge facing modern tax law. The base erosion and profit-shifting project, developed by the OECD and G20, sought to address tax base erosion and artificial profit shifting. Consequently, pillar 2 introduced a global minimum taxation framework designed to ensure that large multinational groups with annual consolidated revenue equal to or exceeding €750 million are subject to a minimum effective tax rate of 15 percent in jurisdictions that implement the relevant rules, regardless of where they operate.

Among the mechanisms that comprise this architecture, the qualified domestic minimum top-up tax (QDMTT) ensures that the jurisdiction where profits are generated has priority in collecting the top-up tax. Although presented as an optional instrument and designed to preserve states' fiscal sovereignty, the QDMTT has become a cornerstone of the implementation of the global anti-base-erosion rules. However, its incorporation into pillar 2 raises questions that extend beyond the strictly technical elements of global minimum taxation, reaching the very foundations of international tax law.

The research examines whether the QDMTT undermines the legitimacy of domestic tax decisions by materially conditioning states' choices. It argues that, although the mechanism does not formally violate fiscal sovereignty because its adoption does not derive from an international legal obligation, its interaction with the income inclusion rule and the undertaxed profits rule materially restricts source states' fiscal autonomy. This interaction produces a legitimacy concern rooted in the disparity between source states' participation in shaping international tax rules and the extent to which those rules affect their taxing authority. The research adopts the hypothetico-deductive method based on a bibliographic review and analysis of specialized literature.

This article is organized into three sections. The first examines the concepts of fiscal sovereignty and legitimacy in international tax law. The second analyzes the structure of pillar 2 and the role of the QDMTT within the architecture of the GLOBE model rules, while the third demonstrates how the QDMTT gives rise to a legitimacy challenge by materially conditioning states' fiscal choices, particularly those of developing states.