# **Tax Competition and Global Interdependence[[1]](#footnote-1)\***

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What taxes to levy, and at what rate, are among the most important decisions governments face. These decisions determine the size of their budget, and who foots the bill. But states do not make decisions about taxation in a void. Tax policy has repercussions beyond borders, enticing companies and individuals from elsewhere to evade or avoid taxation they are currently subject to. For instance, companies or individuals may tax assets or activities in lower-tax locations, even though the underlying economic activity takes place in a higher-tax location, or they may relocate to a lower-tax jurisdiction altogether. Because relative tax rates matter when companies and individuals decide where to tax assets and activities, states find themselves competing for tax base. States compete by designing taxation to attract wealth and economic activity, or at least to be the location where assets and activities are taxed. The ensuing growth for the successful tax competitor occurs at the expense of states that lose out in the competition. An obvious adverse effect is that some states see their base decline. States also lose out by reducing taxes in the attempt to protect their tax base.

What do states owe each other when setting tax policy? Is competing for the tax base of another state justifiable and, if so, what are the limits of permissible tax competition? In concert with the existing literature, we approach the ethics of tax competition from the perspective of policy makers, taking the behaviour of economic agents as given. Our contribution is to identify a fallacy that existing approaches to tax competition commit or to which common approaches to global justice (statism and cosmopolitanism) are implicitly committed. We present an approach that does not commit that fallacy, allowing us to resist some implausible judgements about tax competition that previous approaches are committed to. The fallacy is to assess which forms of competition are acceptable by assuming a country is entitled to either its actual national income or its national income as it would be were it not for certain types of tax competition. That is, the *Independence Fallacy* is the (false) view that one can assess a country’s justifiably disposable national income simply by looking at its gross national income or gross national income as it would be absent certain forms of tax competition, independently of entanglements in the global economy. Global interconnectedness renders such an approach fallacious.

The link between the Independence Fallacy and tax competition is that national income is a key determinant of a state’s tax base, either directly, because it is a measure of the financial streams on which tax can be imposed, or indirectly, because it adds to the financial assets on which states can impose taxes. Identifying the Independence Fallacy is important, because a broad range of initially plausible views on tax competition assume that states are entitled to the proceeds of taxing national income. With the fallacy exposed, we can assess what kind of tax competition is morally problematic.

Section I shows that tax competition and large-scale tax evasion and avoidance have become pervasive features of our interconnected world. We also consider reasons for and against permissibility of such activities. The right question to ask is not whether but when tax competition is morally acceptable. Section II argues that, in an interconnected world, domestic property systems themselves are intertwined and depend on each other for their justifiability, and that therefore the participants in each system must be prepared to devote some of their resources to matters of more than purely domestic concern. The Independence Fallacy is the denial of that insight.

Section III argues that Peter Dietsch’s recent proposal regarding tax competition commits the Independence Fallacy.[[2]](#footnote-2) We discuss Dietsch, partly because his work has done much to focus philosophical attention on tax competition and partly because his proposal is straightforward and concrete, which allows us to illustrate how the Independence Fallacy occurs. But Section IV then formulates a more comprehensive result: both statist and cosmopolitan approaches to global taxation look implausible once the Independence Fallacy is identified. The point is always that the respective views hold that the just distribution of tax income among states is fully determined by where taxes happen to accrue, either given how global tax competition actually unfolds or under certain assumptions about what kind of tax competition is permissible. Either way, this fails to do justice to global interdependence and instead commits the Independence Fallacy.

Section V argues that the grounds-of-justice approach in Risse’s *On Global Justice* does not commit that fallacy.[[3]](#footnote-3) The grounds-of-justice approach allows us to determine what kind of tax competition is permissible. Section VI draws out the implications of this approach in more detail, by considering what two types of problematic occurrences in tax competition (‘poaching’ and ‘luring’) look like in its terms. The approach recognizes both positive and negative duties differing in scope and stringency, allowing for a differentiated evaluation of tax competition. Section VII concludes.

I. TAX COMPETITION AND WHY IT MIGHT BE MORALLY PROBLEMATIC

Tax competition results if governments set tax policy strategically, attempting to improve revenue by offering more attractive incentives than other states.[[4]](#footnote-4) There is much space for competition in an economically interconnected world where tax systems vary enormously.[[5]](#footnote-5) The leaks of the Panama and Paradise papers in 2016 and 2017 exposed to what extent wealthy individuals shift cash, equities, or other security holdings offshore to minimize income tax or capital gains tax on resale profits. Tax havens facilitate tax evasion by helping individuals to hide their wealth from authorities.

The equivalent of 10 per cent of world GDP is held in tax havens. The share is even higher for Russia (50 per cent), as well as Gulf countries and some Latin American economies (up to 60 per cent).[[6]](#footnote-6) Worldwide, an estimated US$21–31 trillion are held offshore.[[7]](#footnote-7) 80 per cent of the wealth in tax havens is held by the top 0.1 per cent richest households, fully 50 per cent of the total by the 0.01 per cent households. In Britain, France, and Spain, the top 0.01 per cent richest households hold 30–40 per cent of their wealth in tax havens.[[8]](#footnote-8)

Multinationals benefit by shifting profits from states with high tax rates on corporate profits to locations with low rates. Often, shifts are mere accounting tricks: due to violations of or loopholes in tax codes, firms claim profits in jurisdictions where they are not realized. Google is a case in point: shortly before its initial public offering in 2004, Google transferred its search and advertising business to Ireland. Irish tax law allows the company to shift its tax burden to Bermuda, where the corporate tax rate is zero. In 2015, Google reported $15.5 billion profits in Bermuda.

Much like liquid cash, paper profits move on a dramatic scale. On average, in countries like the USA, Germany, or France, corporate profits from around the world are 50 per cent of what the corporation pays in wages. By contrast, in tax havens like Luxembourg, corporations claim to earn 350 per cent of their wage bill in profits.[[9]](#footnote-9) These enormous differences are mostly due to ‘paper profits’ realized in low-tax jurisdictions. By applying low corporate rates to a huge tax base, some low-tax countries generate large revenues. For instance, Ireland charges a mere 12.5 per cent of corporate tax, compared to the EU average of 22 per cent. Yet Ireland’s corporate tax revenue amounts to almost 5 per cent of net national income in 2015, compared to the EU average of just above 2 per cent. EU countries, as well as the USA, lose on average 20 per cent of corporate tax income to profit shifting, actual or virtual, equal to about half of their public spending on higher education.[[10]](#footnote-10)

Tax competition can also lead corporations to actually shift economic activity to lower-tax countries, to avoid rather than evade taxation. Countries might attempt to attract foreign investment by setting tax rates favourable to investors. Tax competition may lead to a race to the bottom in corporate tax rates. The average global corporate tax rate dropped from 29 per cent in 2003 to 23 per cent in 2016.

Tax competition is potentially morally problematic, because it allows capital owners to pursue their interests at the expense of other citizens. Prospects of tax evasion and avoidance put downward pressure on taxes on mobile capital, constraining states in setting the size of the public budget relative to GDP according to democratic preferences. Regardless of whether majorities in democratic states favour high rates, states will find it infeasible to collect high taxes without shrinking their tax base. Moreover, tax competition can make fiscal regimes become more regressive, widening the income gap between capital owners and others. For instance, to compensate for lost revenue due to tax competition, countries may have to tax labour more heavily or impose expenditure-based taxes (for example, a value-added tax) that fall disproportionately on lower-income groups.

But there are reasons to resist the view that tax competition is always morally problematic. Individuals are not destined to stay where they were born, nor companies to remain where they were first registered. In fact, the right to exit a political community is a key tenet of liberalism, because it makes the imposition of the majority’s political preferences on minorities more bearable. Individuals and companies should be free to build relationships with communities that suit them. What kind of policies a political community adopts, both domestically and internationally, legitimately matters for their choice of location. Tax rates reflect expectations of how much a community’s members should contribute. It is in principle permissible for countries to design taxation to make themselves attractive for individuals and corporations and thus enable them to relocate to a community that suits them. The challenge is to tackle tax competition in ways that protect *to a legitimate extent* both the ability of states to pursue public projects and the choice of individuals and corporations to live in communities that suit them. Hence the question is not whether tax competition is morally acceptable, but when and to what extent it is.

II. INTERCONNECTED JUSTIFIABILITY OF PROPERTY SYSTEMS AND THE INDEPENDENCE FALLACY

The key to assessing when competition is morally acceptable is to recognize that tax competition occurs in a politically and economically highly interconnected world. To simplify, consider a two-state world.[[11]](#footnote-11) Decisions by state A to set taxes at a certain level have an effect on the national income in state B, via two channels.[[12]](#footnote-12) First, changing tax rates in A affects the income distribution in A, which has a knock-on effect on exchange relations between economic agents in A and B. Second, affecting the relative attractiveness of tax regimes for individuals and firms potentially incentivizes them to relocate for tax purposes to another jurisdiction. Reductions in taxes have two opposite effects. On the one hand, tax revenue decreases for the given tax base. This is the ‘tax rate effect’ of lowering taxes. On the other hand, lower taxes lead to a migration of capital to the jurisdiction, increasing its tax base and thereby its tax revenue for a given tax base. This is the ‘tax base effect’ of lowering taxes.[[13]](#footnote-13)

Which of these two effects dominate differs between countries. Less populous countries tend to benefit at the expense of populous ones.[[14]](#footnote-14) For more populous countries, the tax base effect is normally too small to offset losses due to the tax rate effect. For small countries, relocations and the shifting of wealth and paper profits more readily compensate for losses due to the tax rate effect. Countries like Luxembourg, Switzerland, or Singapore benefit most, but so do some poor countries such as Panama.[[15]](#footnote-15) Moreover, tax competition hits developing countries especially hard; they lose more than thrice what they receive in foreign aid to tax havens.[[16]](#footnote-16) The biggest losers, normally, are populous poor countries. Finally, it is important to note that tax competition has effects not only on taxpayers *between* countries, but also *within* countries, as tax competition tends to favour more mobile taxpayers over more immobile ones.

Many approaches to tax evasion fail to take interconnectedness properly into account, including Peter Dietsch’s recent thoughtful contribution to the subject, as well as a whole family of approaches to global taxation that draw on statism and cosmopolitanism. Instead of doing justice to global interconnectedness, these views all commit the *Independence Fallacy*.

That fallacy is a generic mistake in thinking about how the property regimes of different countries relate, which is consequential when proposing a moral assessment of tax competition. The Independence Fallacy is the false view that looking at gross national income suffices to determine a country’s justifiably disposable national income. This view is fallacious because international property transactions depend on the community of states to enable and enforce their conventional property systems in concert with one another. This mutual dependence has normative consequences. This section introduces the Independence Fallacy, and then Sections IV and V explain why it spells trouble for the aforementioned approaches to tax competition. Since for now we are concerned at a rather general level with the interconnected justifiability of property systems, readers should keep in mind that tax competition is one way in which property systems affect each other.[[17]](#footnote-17) We proceed first by explaining how international property transactions depend on the recognition of local property systems abroad, and then explain the normative consequences of the interconnections between property systems.

As a result of the local nature of property law, arrangements upheld in country A are not ipso facto legal in B. They become legal in B only if B recognizes A’s property arrangements.[[18]](#footnote-18) Suppose we establish a new nation on an island in the Pacific Ocean.[[19]](#footnote-19) To determine property laws, we must make decisions about ‘Us-Here’, ‘Them-Here’, and ‘Us-There’. ‘Us-Here’ decisions determine property rules within our territory. But persons and things cross borders. Foreigners with possessions penetrate our perimeters, and locals come to possess foreign objects. ‘Them-Here’ decisions concern foreigners who import things and buy, use, or sell things here. These rules might well differ from those applicable to residents: foreigners might not be allowed to import the same objects as locals, or might be subject to different regulations regarding acquisition of real estate.[[20]](#footnote-20) Finally, ‘Us-There’ decisions concern transactions of citizens abroad. National authorities have personal jurisdiction in addition to territorial jurisdiction. National laws follow a citizen wherever she goes, and might bar her from certain transactions abroad.

Citizens come to legally own objects only if they act in accordance with rules imposed by a political process in the country where they hold citizenship. Acquisitions or transactions in A become legal in B if B’s law bestows upon A’s citizens rights to sell in B objects legally acquired in A, even if these transactions are considered tarnished in B. Transactions in B then launder dubious property transactions in A.

The political default is for B to recognize whatever A classifies as legally held in A as something that is legally held in B as well.[[21]](#footnote-21) But the default can be overturned. Omitting to take an explicit stance, if only by default, *is* to take a stance: it is to endorse A’s property regime. Many countries prohibit import of fresh food; and similarly, any given country could in principle bar import of and trade with any goods from any other country.

One might suppose that recognizing a state implies recognizing its property regime. If so, not recognizing the property regime of another recognized state would be incoherent. But that is not so. The inherently local nature of property regimes in our world of states requires a decision for any given country of what dealings with its people are permitted. There is no principled reason B would not recognize A as a state for purposes of diplomatic interactions while classifying many or all property transactions sanctioned by A as morally tarnished and therefore prohibit objects owned by someone in A to enter B.

The dependence of international property transactions on the recognition of local property systems abroad has normative consequences. The reason is that recognizing another state’s conventional property system is legitimate only if that other property system is justifiable. In what follows, we argue that the justifiability requirement enables us to identify the Independence Fallacy. The Independence Fallacy is the false view that looking at gross national income suffices to determine a country’s justifiably disposable national income.

We introduce the argument in two versions, which differ in the way the interconnection of property regimes is characterized and in the normative assumptions they require. The starting point for both versions is that property arrangements in country A carry over to B only if B chooses to make it so. Version 1 considers the property systems of countries A and B as distinct even if they mutually recognize their property systems. The key normative assumption in version 1 of the argument is that it is only justifiable for B to recognize the property system of A if the system is justifiable to people in A to begin with. If A’s property system is not justifiable, B is obligated to help make A’s system justifiable, as long as B continues to recognize A’s property arrangements. If, for instance, A cannot meet basic rights of its citizens for lack of resources, B has to support A in meeting this shortfall. If low taxes in B undermine A’s ability to raise sufficient taxes to deliver justice at home, B can either increase its tax rates, potentially losing tax base and perhaps even revenue, or compensate A for the shortfall. Hence B’s national income is not justifiably freely disposable income.

According to version 2 of the argument, B’s recognizing A’s property system by freely allowing exchanges of goods and services with A leads to the expansion of B’s property system. The key normative assumption is that the rules of the property system, including tax rates, must be justifiable to everyone subject to the expanded property system. Therefore, tax rates in B must be justifiable not only to citizens in B, but also to citizens in A. Yet justification to citizens in A fails if A cannot deliver justice at home for lack of resources, if such lack is due to an insufficient tax base owing to tax competition from B. This second version of the argument leads to the same conclusion as the first: B’s national income is not justifiably freely disposable income. Making assumptions to the contrary is to commit the Independence Fallacy by ignoring international entanglements from commerce.[[22]](#footnote-22)

Exposing the Independence Fallacy blocks the inference from ‘our national income is X’ to ‘X is our freely disposable national income’. In a globalized world where *any* two countries A and B are interconnected at least through a chain of intervening countries, these duties have global dimensions. The interconnected nature of the justifiability of property systems potentially has substantial implications beyond any issues of tax competition. But here we focus on tax competition.

To be sure, the fact that income was generated within some state might be morally significant for the question of where this income counts towards justifiably disposable national income. But it is not *simply* because the income accrued to some state that the state can claim it as justifiably disposable national income. This consideration enters the general discussion of global distributive justice, and competes with other considerations.

III. IMPLICATION OF THE INDEPENDENCE FALLACY: DIETSCH ON TAX COMPETITION

The Independence Fallacy has implications for current treatments of the ethics of tax competition. In this section we show that Peter Dietsch’s innovative approach commits the Independence Fallacy. Section V shows that the problem we identify by appeal to this fallacy is of much broader generality.

The following principles determine what kind of tax competition is acceptable according to Dietsch:[[23]](#footnote-23)

*Membership Principle (MP)*: Natural and legal persons (that is, individuals and corporations) are liable to pay tax to the state(s) of which they are a member; they are not liable to pay tax to any other entities.[[24]](#footnote-24)

*Fiscal Policy Constraint (FPC)*: Any fiscal policy of a state is unjust and should be prohibited if it is both strategically motivated and has a negative impact on the aggregate fiscal self-determination of other states.

FPC needs explaining. Fiscal self-determination is fully realized if states can exercise their fiscal prerogative. For democratic states, that prerogative is the ability to determine the size of the public budget relative to GDP, and the level of redistribution in accordance with preferences of their citizens. A fiscal policy is strategically motivated to gain tax base at the expense of other states if, absent the prospect of gaining tax base from other states, the state would not choose that policy. FPC implies that it is unjust for A to strategically target people or companies to move away from B if the aggregate ability of other states to set the size of governmental revenues relative to GDP and the level of redistribution thereby declines. By contrast, FPC is consistent with states lowering taxes if indeed that results from collective self-determination, rather than attempts to attract people or companies.[[25]](#footnote-25)

MP holds because being a member means taking advantage of a community’s infrastructure and the safety and security it provides, either as an individual or as a corporation. As a matter of fair play, one should contribute appropriately to this community. In democracies it is democratic processes that fix what is ‘appropriate’. For those who are members of various communities simultaneously (as individuals or corporations), taxation must be devised so that partial membership in each is taken into account properly.

MP explains why sheltering individuals and corporations from being taxed where they are liable is wrong. Dietsch calls these forms of competition ‘poaching’, following OECD usage. Poaching is depletion of another state’s tax base by enticing individuals or companies to take their wealth or profits somewhere else, even though they have not registered their residency or undertaken economic activity there.[[26]](#footnote-26) Both tech corporations like Google shifting their profits to tax havens and individuals parking their wealth in Panama violate MP. Transparency between taxpayers and their tax authorities, as well as among authorities, matters greatly for any institutional implementation of anti-poaching measures. Bank secrecy and refusal to exchange information among administrations are precluded, as are deliberately legally opaque tax constructions that mislead authorities.

Poaching contrasts with ‘luring’: efforts to encourage individuals or companies to relocate to a different political community or move some of their economic activities there. Luring would become even more attractive if poaching is precluded. FPC is designed to rule out what Dietsch considers improper luring of FDI. FPC draws initial appeal from the idea that states should not aim to reduce each other’s tax base, as a way of supporting their fiscal self-determination.

But it is hard to see what is in principle wrong with strategically motivated fiscal policy that diminishes aggregate fiscal self-determination. Singapore, say, being a small country, lacks advantages enjoyed by large nations: economies of scale, ability to internalize positive effects it creates in the region, military strength. FPC prevents Singapore from capitalizing on one of the few advantages of being small—adopting policies to attract wealthy individuals and companies—unless aggregate fiscal autonomy across countries stays at least constant. But standard cases of luring will tend to somewhat diminish aggregate fiscal self-determination. Other things being equal, corporations that move to lower-tax countries will pay lower corporate taxes than in their previous location, which is the point of the move. FPC presupposes that countries are obligated to maintain each other’s fiscal self-determination under circumstances of global fiscal interdependence, and thus must make it possible for each other to maintain their tax base under certain protective conditions. Countries have these obligations to such an extent that Singapore, Switzerland, or Luxembourg might be condemned for disturbing this purified international context, even if they entice corporations to shift activities, rather than pocket paper profits. At first sight, this seems implausible.[[27]](#footnote-27)

Should we revise the intuitive judgement that cases of luring that violate the FPC, such as the Singapore scenario, are permissible? We believe we should not, or at least not for the reasons Dietsch gives. Justifying Dietsch’s position requires the assumption that each country has rights to tax the national income generated by its members absent unfair tax competition. However, states would have a right to tax income they generate *absent unfair competition* only if they were entitled to their national income *in the first place*. Insistence by states on their gross national income is what we identified as the Independence Fallacy. Since states have no such unqualified entitlement, they also have no right to the tax revenue they generate from national income. The view that the just distribution of tax income across states is fully determined by where taxes accrue in a world without unfair tax competition commits that fallacy.

In their reply to this article, Dietsch and Rixen reject the charge that they commit the independence fallacy. They point out that their theory has the limited ambition of providing a normative enquiry into international taxation alone, treated as one component of an overall theory of global justice. All results of this theory are therefore preliminary, pending modification by considerations from components of a global theory of justice. We take issue with this approach, because we do not think that the normative assessment of international taxation can be meaningfully isolated from other components of a theory of justice. This precisely is the key issue emphasized by the independence fallacy. Dietsch and Rixen seem to recognize the problems with this piecemeal strategy in their discussion (in Section I) of van Apeldoorn’s challenge that realizing their ideal of fiscal autonomy requires the creation of redistributive institutions.[[28]](#footnote-28) We need a comprehensive theory of distributive justice to sort out the relationship between different domains of justice. The grounds-of-justice approach we suggest provides the framework for working through the trade-offs.

How problematic the Dietsch and Rixen piecemeal approach can be emerges in the discussion of poaching in Section II of their reply. We agree with Dietsch and Rixen that poaching from another state’s tax base through tax evasion or tax avoidance is rarely justified. The reason, in our view, is that poaching generally leads to individuals and companies avoiding or evading substantial taxation altogether. By contrast, it is noteworthy that Dietsch and Rixen give a very different reason for why poaching is impermissible, namely that it is akin to ‘allowing a poor person to steal from a rich person’. For the analogy to work, one needs to presuppose that the state analogous to the rich person has a legitimate claim to the tax revenue it happens to generate. This assumption is an expression of the independence fallacy. According to our view, the assumption is only warranted if the rich state adheres to its holistic obligations of justice.

IV. IMPLICATION OF THE INDEPENDENCE FALLACY: THE GENERAL RESULT

The Independence Fallacy does not beset Dietsch’s view alone. Any approach to ascertain under what conditions tax competition is acceptable that presupposes that states are entitled to gross national income falls prey to it. In this section, we argue that both certain proponents and certain critics of global tax competition commit the fallacy.

Proponents commit the Independence Fallacy to the extent that they take tax income *given prevailing tax competition* as baseline. Accordingly, they do not find tax competition inherently problematic at all. This view comes naturally to statists in the global distributive justice debate, who limit distributive justice to relations within nation states. Statists *might* want to resist poaching, perhaps out of consideration for sovereignty.[[29]](#footnote-29) But statists have few resources to condemn luring as a matter of distributive justice.

Critics of tax competition commit the Independence Fallacy as well, if they assume the baseline of tax revenue states *could achieve absent unfair tax competition*. They believe states are entitled to tax income that arises once the global playing field is cleared of illegitimate competition. *Cosmopolitan* critics would consider impact on all other states and insist on policies that optimize the global aggregate of some measure connected to tax revenue. In this sense, cosmopolitan views recognize an agent-neutral global justice constraint on domestic tax levels. That constraint is *agent-neutral* in the sense of requiring every state to optimize the same aggregate measure. Cosmopolitan conceptions call for such a constraint because for them justice is global in scope.[[30]](#footnote-30) Lowering taxes in A may be impermissible, even if this allows A to build its tax base so that tax revenue per head moves closer to the global mean, if other countries lose more than A gains.[[31]](#footnote-31)

In sum, the Independence Fallacy besets both statist and cosmopolitan approaches to taxation because, one way or another, they assume states are entitled to their gross national income, either as it is or as it would be in a purified international context. We need to examine tax competition in an interconnected world in a different manner to know what kind of competition is morally acceptable. The following section offers a view of global taxation based on the grounds-of-justice approach in Risse’s *On Global Justice*. That approach does not commit the fallacy.

V. THE GROUNDS-OF-JUSTICE VIEW AND GLOBAL TAXATION

In this and the following section, we outline an approach to global tax competition that does not fall prey to the Independence Fallacy. As a starting point, we propose the following principle:

*Global Justice Principle (GJP)*: Any state should design its fiscal policy to advance justice, both domestic and global. This means funds are generated to that effect and no policies are adopted that frustrate the realization of justice, unless necessary as part of an overall policy package that advances justice.

GJP requires a theory of distributive justice covering both the domestic and the global, as well as the relation between the two domains. We must commit to some theory of global distributive justice, one that does not commit the Independence Fallacy. To avoid that fallacy with regard to tax competition, a theory of justice must not recognize tax revenues as freely disposable income just because they are raised from national income, or from what national income should be absent unfair tax competition. Tax revenues, though raised and collected within particular states, are beholden to the pursuit of global as well as domestic justice.[[32]](#footnote-32) We use the grounds-of-justice approach to demonstrate that a theory of justice can avoid the Independence Fallacy.

According to the grounds-of-justice approach, there are multiple grounds of justice, giving rise to multiple principles of justice respectively associated with different grounds. A ground consists of the properties of individuals that make it the case that (some of) the especially stringent demands of distributive justice apply among individuals who share those properties. The most common view in the global-distributive-justice literature is that there is merely one ground: statists think only individuals sharing membership in a state are subject to principles of justice, which are domestic in scope. Various types of cosmopolitans agree there is only one ground that is global in scope. But they differ on whether that ground is common humanity as such, or membership in the world society, or whether principles of justice apply in virtue of involvement with global political and economic structures or practices.

The grounds-of-justice approach theorizes five grounds: shared membership in the state; shared membership in world society; common humanity; subjection to the global trading regime; and humanity’s collective ownership of the earth. Some grounds are global in nature, whereas others are not. Some are relational: that is, they arise because individuals stand in certain relations to each other, such as being co-nationals. Others are non-relational, in that they hold without turning on such relations: common humanity and collective ownership of the earth. Risse calls his own development of the grounds-of-justice approach *pluralist internationalism*. But note that recognizing a multiplicity of grounds, as well as recognizing this specific list, is consistent with different proposals regarding the principles associated with those grounds.

What is the role of taxes in achieving justice? Levying taxes enables a state to fund meeting the claims of justice of its citizens. Moreover, it is often recognized that states have some obligations beyond their borders which may require funding through taxes. According to pluralist internationalism, grounds of justice with global scope help to determine what the obligations of states are towards people abroad. Duties with global reach are more limited, but include a duty of assistance in building institutions so people can live decent lives where they live. What is less commonly recognized is that setting tax rates at a certain level has implications for the tax revenue other states can raise. Tax competition can undermine the institutions that enable people to live decent lives. In what follows, we introduce the grounds of justice recognized by pluralist internationalism. The next section explores the implications of pluralist internationalism for tax competition.

One ground of crucial importance from the perspective of taxation is *membership in a state*. According to pluralist internationalism, the ground generates egalitarian principles of domestic justice. Hence states have a duty to raise enough taxes to guarantee basic rights of citizens and pursue egalitarian justice. They also have a pro tanto right to keep tax proceeds generated on the basis of national income and deploy them to pursue domestic justice. However, grounds of justice give rise to obligations that drive a wedge between the amount of taxes a state happens to raise based on national income and what it is entitled to, and thus makes clear how this approach to global taxation avoids the Independence Fallacy.

*Common humanity.* People have certain rights on the basis of shared humanity. Our common humanity grounds human rights, which in turn generate obligations of assistance in disaster situations and, in a further-reaching manner, in building institutions capable of protecting these human rights. In our world, many states have not yet been able to build institutions required to meet even basic human rights of citizens. Hence common humanity implies a duty on the side of rich countries to use some tax revenues to finance institution building in countries with weak institutions, even if the national income on the basis of which the taxes are levied accrues in other countries. Moreover, the duty of assistance in building institutions plays an important role in regulating tax competition. We return to this issue below.

*Common ownership of the earth.* According to pluralist internationalism, the earth belongs to humankind together.[[33]](#footnote-33) Each person has a right to the same opportunities to use original resources and space to satisfy basic needs. Resource-rich countries are under an obligation either to allow people without access to a sufficient share of natural resources and space access to their countries, or otherwise to make the resources they need available to them where they currently reside. One way of realizing the latter option (assuming the beneficiaries agree) would be via financial transfers, which needs to be financed via tax revenues.

*Membership in the world society.* Membership in the world society is an associative right, held in virtue of belonging to the world society. People can derive specific rights from their membership if the issue in question is first a matter of importance in the person’s environment, and if the issue is of global concern. Membership in the world society can generate claims to ‘global public goods’. For instance, people have claims to a reasonably clean environment in virtue of their membership in the world society. A reasonably clean environment is a matter of importance in people’s immediate environment everywhere in the world. At the same time, it is a matter of global concern because of the global environmental impact of local pollution and the need to coordinate efforts to safeguard the environment. Such global public goods need to be financed by the community of states together. Hence the need to devote some tax revenue to the production of such global public goods, regardless of where the national income accrues that generates the required tax revenues.

*Subjection to the global trading system*. Being subject to the trading system is another relational ground. The associated principle is that participating states should not enjoy gains ‘at the expense’ of other states. Risse and Wollner develop this principle to show why exploitative terms of trade are unjust from a global perspective.[[34]](#footnote-34) But exploitation cannot only occur through terms of trade. Another way of exploiting in the trading system is to engage in problematic competition. Being a member of the trade system involves reducing barriers to trade. Luring production and payroll away from other countries to boost tax revenues may violate the duties associated with membership in the global trading system.

Before we consider the consequences of the GJP for taxation, it is worth highlighting a methodological disagreement between our approach and Dietsch’s and Rixen’s approach, which they articulate in their reply to this article. They point out that in the face of persistent disagreement about substantive principles of global justice, appealing to any one conception of global justice is problematic in settling issues of tax competition. Instead, they hope to stay clear of substantial commitments by appealing to the value of fiscal self-determination, which lies at the heart of the FPC. In their view, invoking the FPC is a way to devolve some autonomy to settle controversial issues of justice to individual polities, who can then implement their preferred conception of justice. They stress that the FPC is not a principle of distributive justice, but builds on another normative ground, namely democratic self-determination.

We agree that democratic self-determination has a role to play in pursuing procedurally just tax arrangements. But we think that these procedural considerations carry weight when polities choose between different permissible tax regimes. Hence we maintain that considerations of global justice need to be considered before the value of democratic self-determination enters. By ignoring substantive considerations of justice, the FPC does not occupy a neutral ground between competing conceptions of justice, but rather ends up being committed to one specific conception of justice itself, which recognizes only procedural considerations. This is the reason, we think, why the FPC has to purify democratic preferences by ruling out strategic motivations. By contrast, our approach is to determine the range of permissible tax regimes first, by appealing to substantive principles of global justice. Within the bounds of the constraints imposed by justice, polities are free to choose tax regimes in line with their democratic preferences.

VI. TAX COMPETITION: POACHING AND LURING REVISITED

Let us return to tax competition, more specifically to poaching and luring. From the perspective of pluralist internationalism, we again obtain this principle:

*Membership Principle (MP)*: Natural and legal persons (that is, individuals and corporations) are liable to pay tax to the state(s) of which they are a member; they are not liable to pay tax to any other entities.

MP now is a principle we arrive at from within our proposed theory of global distributive justice. Pluralist internationalism not only accepts that our global political reality is one of states. This acceptance is more than one of short-term political pragmatism. We cannot sufficiently theorize a global political and economic system where the power centres constitutive of states have disappeared for such an ideal to be action-guiding.[[35]](#footnote-35) In a world of states, it is a matter of fair play for members to contribute appropriately.

However, under certain circumstances GJP might license poaching and thus contradict MP. Suppose poaching advances a poor country’s economy. Suppose by becoming a tax haven, such a country improves not only domestic justice, but also serves global justice overall. Insofar as rich countries fail to meet obligations towards them, it may be permissible for poor countries to make good on claims by poaching.[[36]](#footnote-36) In principle, it may even be legitimate for citizens and corporations to engage in both tax avoidance and tax evasion in a country that does not allow for collective will formation and where taxation only benefits a select few. Perhaps countries could even legitimately shelter evaders from a country that makes no credible efforts to pursue global justice. But, except for such cases, improvements along the dimension of global justice in a world of states must not occur in ways that undermine statehood as its organizing principle.

Under what circumstances is luring unjust from the perspective of pluralist internationalism? Every state is under two kinds of obligations. First, it ought to raise sufficient taxes to meet its duties of justice. Second, since the realization of global justice is a shared responsibility, every state is obligated to set tax rates in a way that assists every other state to meet its obligations, both domestic and international. This second obligation is grounded in common humanity, as well as in the relational ground of being subject to the global trading system. States have an obligation to facilitate institution-building in other states, to enable them to meet duties both towards their own populations and to those outside of the state. What matters is that every state has the ability to meet its obligations of justice, both domestic and global.

Consider a world with just two identical states, raising barely enough taxes to meet duties of justice. Corporations and individuals are evenly distributed across both states, leaving them with identical tax bases. A’s government seeks to increase tax revenue to fund public projects that would advance justice within A. Suppose the government has two options to do so: slightly raising corporate taxes or drastically lowering them. The latter option would improve revenue, because reducing corporate taxes would induce corporations in B to relocate to A, increasing A’s tax base. The companies paying additional taxes in A would more than compensate for the decline in revenue per company. May A reduce corporate taxes?

The answer depends on whether B would still be able to meet its duties. Common humanity places obligations on states to support other states in building institutions capable of delivering on their duties of justice. Minimally, this requires not taking actions that undermine B’s capability to deliver on obligations of justice. Considering that A seeks to raise more taxes to advance justice within A, and given that A and B are identical in relevant ways, B will probably come under pressure in meeting its obligations if its tax base erodes. Hence A must refrain from luring companies away from B. To fund additional spending, A must raise taxes.

Consider a variant where both states raise taxes in excess of what they need to meet obligations of justice. In A, corporations and some political parties lobby for lighter corporate taxes. They advance two arguments. First, they argue private enterprise has been squeezed in the past. Lower taxes would rebalance the relationship between government and private enterprise, enable more investment, and increase growth. Secondly, lower taxes might not lead to lower tax revenues, as lower taxes would attract corporations from B. On Dietsch’s account, to decide whether lowering taxes is permissible for A, we need to ascertain the intention behind the decision. If the legislator is swayed by the first reason, lowering is permissible. If the second is operative, lowering taxes is objectionably strategic. In the messy reality of democratic politics, both considerations will matter to varying degrees for parliamentarians and voters. On the grounds-of-justice approach, what matters is whether each country can still meet its duties of justice. A is free to lower taxes, thereby luring away corporations from B, as long as B can still meet its duties of justice.

Suppose, then, B can still meet its obligations of justice even though some corporations relocate to A. One way for B to restore competitive parity is to lower corporate taxes as well. But lowering taxes to the level A has set might contradict democratic preferences in B. Citizens in B might prefer a world where they can maintain their tax base at a higher level of corporate taxation. But A is under no obligation to accommodate such preferences. Rather, membership in a state generates a duty on A to comply with democratic preferences of its citizens.

This account of tax competition can make sense of the observations on tax competition made at the outset. There is nothing wrong in principle with countries making themselves friendly places for individuals and companies they wish to attract, including setting attractive tax rates. What is problematic is if relocations increase injustice. Large poor countries are especially vulnerable and need special aid to maintain a just domestic order.

But we must be careful. It will not normally be the sheer fact that individuals or companies are lured by another tax system’s siren call that makes it the case, say, that a country cannot maintain institutions where human rights are respected, or that it becomes so weak as to be subject to exploitation by corporations and other countries. Erosion of just institutions is often one component of a more complex picture. Similarly, when it comes to assessing the strategic use of luring, and thus of the performance of a given state as an agent of justice, much depends on details. One might want to say that, on the approach presented here, states are justified in luring individuals and corporations from wealthy countries, but not from poor ones. But this would mean we would ask countries, as a matter of justice, to make themselves attractive only to individuals and companies that are already rather well situated and would yet further improve their circumstances by moving. We would ask these countries to deny such opportunities to individuals or corporations from poorer countries. That is implausible.

This view implies that the practice of luring must be evaluated as part of an overall package. If Singapore attracted individuals and companies from poorer locations without investing in suitable causes of global justice, it would be acting unjustly. Alternatively, Singapore might pursue other measures to advance global justice. It might lure away individuals and companies from places like Indonesia or Malaysia; but also provide aid and assistance to these or other countries. Luring is pro tanto wrong only to the extent that it obstructs the pursuit of global justice. But the pro tanto character of this fact is so pronounced that the proper response will not normally be directly and exclusively concerned with intercepting A’s efforts to lure away people and companies from B.

VII. CONCLUSION

For all we know, there is enough wealth to build a just world. Aggressive tackling of inappropriate tax competition, evasion, and avoidance can help enormously to direct funds towards improving justice globally. We have illuminated tax competition from a philosophical perspective. A key step was to identify the Independence Fallacy, the false belief that a state has unfettered entitlements to its gross national income and the resulting tax revenues. The Independence Fallacy is a general phenomenon that arises in light of the interconnected justifiability of property systems. Since tax competition is one way for property systems to affect each other, this fallacy may occur especially in reflection on that domain.

With that fallacy exposed, we see global tax competition in new light, which led us to object first to Dietsch’s account and then to the whole family of statist and cosmopolitan approaches to global taxation. Instead we propose GJP as a way of making sense of global interconnectedness:

*Global Justice Principle (GJP)*: The fiscal policy of any state should be designed so as to advance global justice; this means both that funds are generated to that effect and that no policies are adopted that are detrimental to the realization of global justice, unless they are strictly necessary as part of an overall package of policies that does advance global justice.

GJP presupposes a theory of global justice that does not commit the Independence Fallacy. To avoid the Independence Fallacy with regard to tax competition, a theory of justice must not recognize tax revenues as freely disposable income just because they are raised from national income, or from what national income should be absent unfair tax competition. We used pluralist internationalism to demonstrate how a theory of justice that escapes the Independence Fallacy handles tax competition. The grounds-of-justice approach delivers plausible results concerning the permissibility of poaching and luring. Poaching is normally bad, because it undermines the very organizing principle of a world of states, but there are cases when it is justified after all. Luring, too, is bad if, but only if, and to the extent that, it contributes to injustice.

1. \*We are very grateful for written comments and feedback from Andreas Cassee, Peter Dietsch, Joachim Helfer, Martin O’Neill, Thomas Rixen, Kate Vredenburgh, Gabriel Wollner, and two anonymous referees. Peter Dietsch engaged with our article at various stages and each time provided extremely generous responses. We are grateful for the opportunity to present earlier versions of this article and receive productive feedback at the Colloquium for Political Philosophy, Humboldt University Berlin; the Political Theory Workshop, University of York; and the Political Theory Workshop, University of Hamburg. Marco Meyer gratefully acknowledges financial support from the Leverhulme Trust. [↑](#footnote-ref-1)
2. Peter Dietsch, *Catching Capital: The Ethics of Tax Competition* (Oxford: Oxford University Press, 2015). [↑](#footnote-ref-2)
3. Mathias Risse, *On Global Justice* (Princeton: Princeton University Press, 2012). [↑](#footnote-ref-3)
4. For rare philosophical discussions of taxation, see Liam Murphy and Thomas Nagel, *The Myth of Ownership: Taxes and Justice*, new edn (Oxford and New York: Oxford University Press, 2004), Daniel Halliday, 'Justice and taxation’, *Philosophy Compass,* 8 (2013), 1111–22. For an interdisciplinary approach to international taxation, see Thomas Rixen and Peter Dietsch (eds), *Global Tax Governance: What Is Wrong with It and How to Fix It* (Colchester: ECPR Press, 2016). For a discussion of the right to tax from a standpoint of distributive justice, see Alexander W. Cappelen, ‘The moral rationale for international fiscal law’, *Ethics and International Affairs*, 15 (2001), 97–110. [↑](#footnote-ref-4)
5. Regarding the various types of tax evasion and avoidance, we follow Dietsch, *Catching Capital*, ch. 1. For the economic literature on tax competition, see Philipp Genschel and Peter Schwarz, ‘Tax competition: a literature review’, *Socio-Economic Review,* 9 (2011), 339–70. See also Kimberly A. Clausing, ‘The nature and practice of tax competition’, Rixen and Dietsch (eds), *Global Tax*, pp. 27–53; and Philipp Genschel and Laura Seelkopf, ‘Winners and losers of tax competition’, Rixen and Dietsch (eds), *Global Tax*, pp. 55–75. [↑](#footnote-ref-5)
6. Annette Alstadsæter, Niels Johannesen, and Gabriel Zucman, ‘Who owns the wealth in tax havens? Macro evidence and implications for global inequality’, *Journal of Public Economics,* 162 (2018), 89–100. [↑](#footnote-ref-6)
7. Dietsch, *Catching Capital*, p. 3. [↑](#footnote-ref-7)
8. Alstadsæter et al., ‘Who owns the wealth in tax havens?’. [↑](#footnote-ref-8)
9. Ibid. [↑](#footnote-ref-9)
10. Ibid. [↑](#footnote-ref-10)
11. We are grateful to an anonymous referee for pressing us to provide two-state scenarios throughout the article. In fact, in an interconnected world, there is rarely one particular country that needs to shoulder the burdens of global justice. Rather, a large number of countries typically shares obligations of global justice, leading to intricate questions about what an individual country should do if others only partly comply with their obligations. We need to set these problems aside here. For a great discussion of partial compliance, see Liam B. Murphy, *Moral Demands in Nonideal Theory* (Oxford: Oxford University Press, 2003). [↑](#footnote-ref-11)
12. Thanks to an anonymous referee for pushing us to characterize the nature of the interdependence between tax regimes more fully. [↑](#footnote-ref-12)
13. We adopt the terms ‘tax rate effect’ and ‘tax base effect’ from Vivek Dehejia and Philipp Genschel, ‘Tax competition in the European Union’, *Politics and Society,* 27 (1999), 403–30. [↑](#footnote-ref-13)
14. Dietsch, *Catching Capital*, p. 55. For discussion of the relevance of size of countries, see Alberto Alesina and Enrico Spolaore, *The Size of Nations* (Cambridge, MA: MIT Press, 2003). [↑](#footnote-ref-14)
15. It is not always so straightforward, though: some small countries also find themselves under pressure by developed countries to become tax havens, and resist; see William Vlcek, *Offshore Finance and Small States: Sovereignty, Size and Money* (Basingstoke: Palgrave Macmillan, 2008). [↑](#footnote-ref-15)
16. Dietsch, *Catching Capital*, p. 51. On tax havens, see Sharman, *Havens in a Storm*; Ronen Palan, Richard Murphy, and Christian Chavagneux, *Tax Havens: How Globalization Really Works* (Ithaca: Cornell University Press, 2013). [↑](#footnote-ref-16)
17. The next several paragraphs draw on Leif Wenar, *Blood Oil: Tyrants, Violence, and the Rules that Run the World* (Oxford: Oxford University Press, 2015), ch. 7. Wenar’s concern is to establish that in buying morally tarnished products from an oppressive regime, we in fact endorse the property regime imposed by that regime, thus the regime itself. What we adopt is the argument that property law is generally local and thus acceptance of property regimes in distant places presupposes a political decision by those in a position to determine local property law. [↑](#footnote-ref-17)
18. International law does constrain domestic property law in some domains, such as intellectual property, foreign investments, deep-sea minerals, cultural objects, and satellite orbits. Globalization is adding to these constraints. But while these are important developments, they do not undermine our general point. For international components of property, see John G. Sprankling, *The International Law of Property* (Oxford: Oxford University Press, 2014). [↑](#footnote-ref-18)
19. Wenar, *Blood Oil*, pp. 104–6. [↑](#footnote-ref-19)
20. As reported ibid., p. 105, Egyptian law limits foreigners to two residences that must not surpass a certain size and must not be sold within five years of acquisition; Colombian law forbids foreigners to import used cars; and New Zealand bars foreigners from importing pit bull semen. [↑](#footnote-ref-20)
21. In legal practice, there is the principle of comity (deriving from a Latin word meaning ‘courteousness’), that out of respect for state sovereignty and in due deference to reciprocity, courts ought to act with comity towards foreign courts, even if they hold that, as a matter of fact, those foreign courts erred; see Timothy Endicott, ‘Comity among authorities’, *Current Legal Problems,* 68 (2015), 1–26; Adrian Briggs, ‘The principle of comity in private international law’, *Recueil des Cours,* 354 (2012), 65–182. But, as Briggs notes, the principle is far from being accepted by all common law courts as a norm for judicial decisions (as distinct from norms of state conduct). [↑](#footnote-ref-21)
22. This fallacy is arguably a globalized version of the myth of ownership in Murphy and Nagel, *The Myth of Ownership*. [↑](#footnote-ref-22)
23. Dietsch’s proposal draws on joint work with Thomas Rixen; see Peter Dietsch and Thomas Rixen, ‘Tax competition and global background justice’, *Journal of Political Philosophy,* 22 (2014), 150–77. For the statement, see Dietsch, *Catching Capital*, p. 80. [↑](#footnote-ref-23)
24. The addition that people and corporations are *only* liable to pay taxes to entities of which they are members is not explicit in Dietsch, but captures the spirit of this discussion. [↑](#footnote-ref-24)
25. Democratic states would have to negotiate mutually acceptable solutions with non-democratic states. [↑](#footnote-ref-25)
26. The OECD (Organization for Economic Cooperation and Development) report is *Harmful Tax Competition: An Emerging Global Issue* (Paris: OECD, 1998), <http://www.keepeek.com/Digital-Asset-Management/oecd/taxation/harmful-tax-competition\_9789264162945-en>. Poaching is mentioned on p. 16. [↑](#footnote-ref-26)
27. Singapore is extensively discussed in Alesina and Spolaore. *The Size of Nations.* For some more discussion of FPC, see Mathias Risse and Marco Meyer, ‘Review of “Catching Capital”: the ethics of tax competition’ (2016), *Notre Dame Philosophical Reviews*, <https://ndpr.nd.edu/news/catching-capital-the-ethics-of-tax-competition/>. [↑](#footnote-ref-27)
28. L. van Apeldoorn, 'BEPS, tax sovereignty, and global justice', *Critical Review of International Social and Political Philosophy*, 21 (2018), 478–99. [↑](#footnote-ref-28)
29. For a pristine version of statism, see Thomas Nagel, ‘The problem of global justice’, *Philosophy and Public Affairs,* 33 (2005), 113–47. Like Nagel, John Rawls, David Miller, and Michael Blake would not acknowledge taxation as a legitimate subject for global distributive justice; see John Rawls, *The Law of Peoples: With ‘The Idea of Public Reason Revisited’*, rev. edn (Cambridge, MA: Harvard University Press, 2001); David Miller, *National Responsibility and Global Justice* (Oxford: Oxford University Press, 2012); Michael Blake, *Justice and Foreign Policy* (Oxford: Oxford University Press, 2013). [↑](#footnote-ref-29)
30. In different ways, the stance that taxation matters from a standpoint of global justice comes naturally to a range of recognizably cosmopolitan views that do not much engage with taxation, such as Charles R. Beitz, *Political Theory and International Relations*, rev. edn (Princeton: Princeton University Press, 1999); Simon Caney, *Justice beyond Borders* (Oxford: Oxford University Press, 2006); Kok-Chor Tan, *Justice without Borders* (Cambridge: Cambridge University Press, 2004); Thomas W. Pogge, *World Poverty and Human Rights*, 2nd edn (Cambridge: Polity, 2008). While none of these authors themselves offers detailed views on taxation, on their views closer scrutiny from a global standpoint of taxation and tax competition readily suggests itself. The philosopher who has had most to say on taxation from an explicitly cosmopolitan standpoint is Gillian Brock in *Global Justice* (Oxford: Oxford University Press, 2009), ch. 5; ‘Taxation and global justice: closing the gap between theory and practice’, *Journal of Social Philosophy,* 39 (2008), 161–84; and ‘What burden should fiscal policy bear in fighting global injustice?’, H. P. Gaisbauer, G. Schweiger, and C. Sedmak(eds), *Philosophical Explorations of Justice and Taxation: National and Global Issues* (Basel: Springer, 2015), pp. 185–202. [↑](#footnote-ref-30)
31. To be sure, to the extent that one wishes to understand cosmopolitan approaches to global taxation in ways that do away with states altogether, the point just made does not apply. But one would then have to explain how such an approach bears on our current political reality. [↑](#footnote-ref-31)
32. Risse, *Global Justice*. [↑](#footnote-ref-32)
33. For elaboration, see ibid., ch. 6. [↑](#footnote-ref-33)
34. Mathias Risse and Gabriel Wollner, ‘Three images of trade: on the place of trade in a theory of global justice', *Moral Philosophy and Politics*, 1 (2014), 210–25. See also Mathias Risse and Gabriel Wollner, *On Trade Justice: A Philosophical Plea for a New Global Deal* (Oxford: Oxford University Press, forthcoming). [↑](#footnote-ref-34)
35. For details, see Risse, *Global Justice*, chs 15–16. [↑](#footnote-ref-35)
36. Compare Dietsch’s discussion of the circumstances under which luring should be tolerated; *Catching Capital*, ch. 5. [↑](#footnote-ref-36)