



The benefits of running a Corporate Social Responsibility program

Speakers:

Marina Menezes da Silva

Panellist:

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THE TIMES Today's sections Past six days Explore Times Radio

Jon Ungoed-Thomas, Dipesh Gadher and Kevin Dowling, Luxembourg

December 9 2012, 12:01am, The Sunday Times

Microsoft pays no UK tax on £1.7bn a year

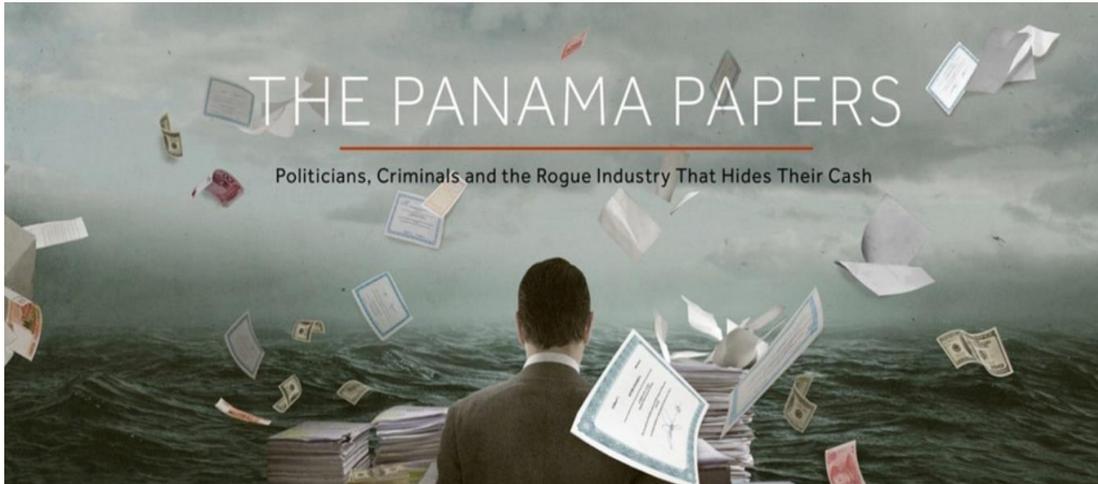
Billions of pounds are whisked off to small offices in Luxembourg as tech giants boost profits

TIME

APPLE

Apple's Tax Avoidance: Evil Scheming, Good Business, or Both?

By Sam Gustin | May 01, 2012



Search The Guardian International edition

Sat 17 Nov 2012 18.00 GMT

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Should we boycott Google, Starbucks and Amazon?
Margaret Hodge and Jeff Jarvis

Margaret Hodge and Jeff Jarvis debate the rights and wrongs of the revelation that Google, Starbucks and Amazon pay so little tax in the UK

S. Hrg. 113-90
OFFSHORE PROFIT SHIFTING AND THE U.S. TAX CODE—PART 2 (APPLE INC.)

HEARING
BEFORE THE
PERMANENT SUBCOMMITTEE ON INVESTIGATIONS
OF THE
COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE
ONE HUNDRED THIRTEENTH CONGRESS
FIRST SESSION
MAY 21, 2013

Is paying tax a CSR issue?

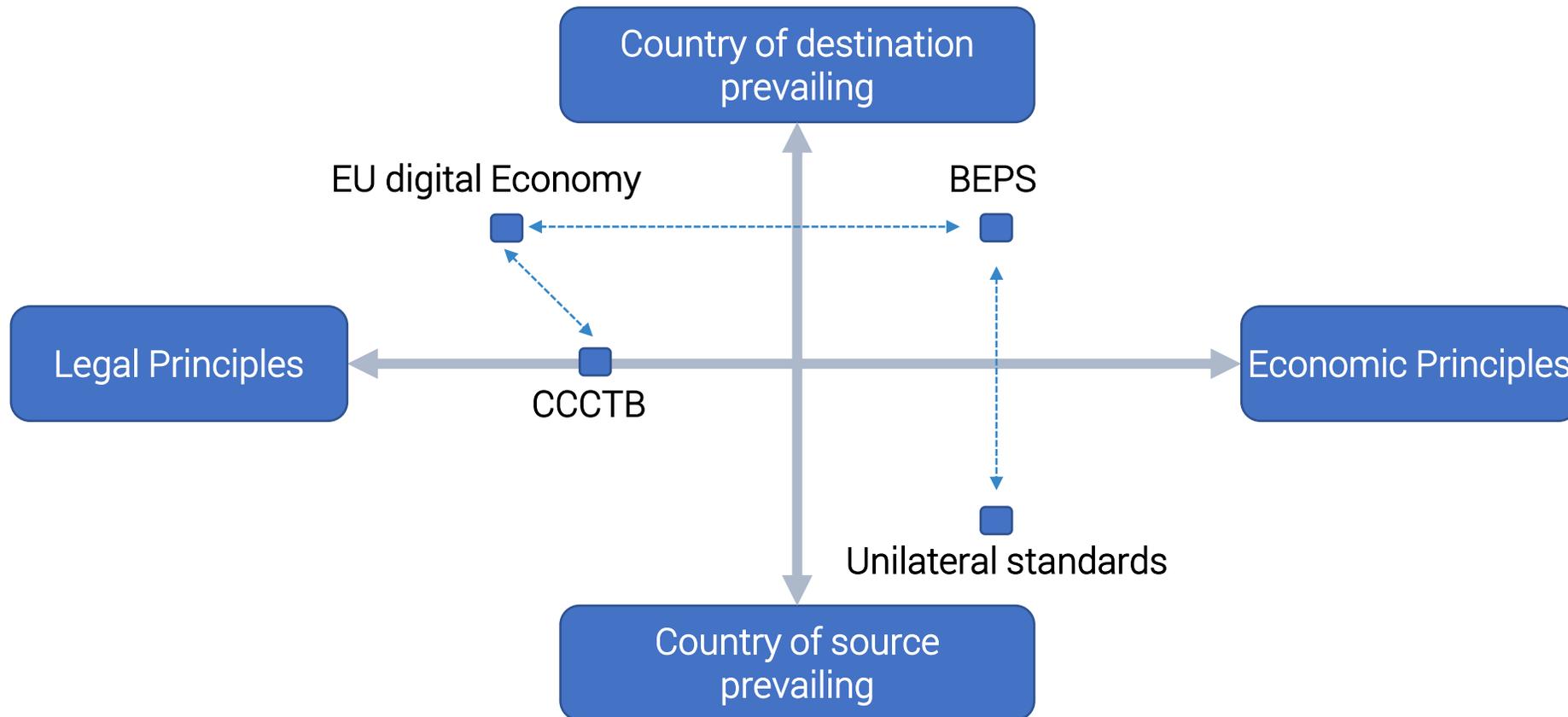
- Non-governmental organizations and think tanks such as Tax Justice Network, the Institute on Taxation and Economic Policy or Citizens for Tax Justice through their investigative efforts are shedding light on the tax planning used by corporations.
- Sometimes, because of these journalistic initiatives, countries where the corporations are established initiate internal investigations.
- The public pressure is extremely high after such investigations are made public in the press, with the consequence of customers boycotting the companies (e.g. Starbucks).
- There are four participants in the Social contract: the Government, the NGOs, the corporates and the citizens. The participants are expected to have a balanced set of rights and responsibilities in order to build a functional society.

Questions: Is minimizing tax a legitimate corporate goal? Is paying 1-2% in corporation tax in line with CSR? Is paying tax a CSR issue?

Corporate responsibility, in regard to tax liability and enforcing it, has always been on the state. However, states get guidance on tax policy from international bodies such as:

- OECD with BEPS;
- EU with directives such as the ATAD and DAC6;
- UN measures directed at the developing countries;
- Latin America measures against corruption.

While the above measures do not have as their main goal to enforce CSR on companies, they most certainly influence it indirectly.



Transformation in the Tax World is overwhelming

- In their Report to Society, **Anglo American**, the UK-based global mining company, discuss their payments with government (including tax) alongside other aspects of their corporate responsibility.
- Anglo American report their total tax contribution by country as part of their economic value added, including all the different taxes that they pay and collect, such as corporate income tax, royalties, employer's social contributions, and employee taxes deducted through the payroll.
- They explain how all these taxes are generated across the life-cycle of a mining project and show that two thirds of their tax payments are made in developing countries.
- This type of reporting is quite different from the country-by-country proposal, which focuses solely on corporate income tax and the tax charge in the financial statements.

BHP

- In a public hearing of the Senate inquiry into Corporate Tax Avoidance in Melbourne on 10 April 2015, both BHP Billiton and Rio Tinto disclosed that they were being audited by the ATO.
- BHP's corporate affairs boss Tony Cudmore and group tax head Jane Michie refused to reveal if BHP had received a claim to pay back taxes for alleged tax avoidance through Singapore, or how much revenue was transferred to Singapore from Australia or how much tax was paid in Singapore.
- The corporate affairs president of BHP Billiton cited **commercial sensitivity** for not revealing figures for its Singapore operations, but its own sustainability report states that the amount was \$26 million in 2014.
- The head of group tax for BHP Billiton also refused to answer repeated questions from Greens senators on whether there was a position paper from the ATO setting out how much tax is owed.

Example of Rio Tinto and BHP style of communication



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Rio Tinto

- The managing director of Rio Tinto told the inquiry that its Singapore hub made a \$719 million profit and paid a 5 per cent tax rate (\$44 million) in 2014;
- It also admitted that it was under audit by the Tax Office but said it had not been given a position paper setting out the additional amount of tax the ATO was claiming back;
- Rio Tinto intends to be open and transparent about taxes paid on their worldwide operations.
- It produces “Rio Tinto Taxes Paid” annually showing the effective corporate income tax rate and also all tax payments for each of the main countries where the Rio Tinto Group has revenue-generating operations or projects.

Rio Tinto CFO Chris Lynch interview on transparency : <https://twitter.com/riotinto/status/851995451700019200>

Example of Rio Tinto and BHP style of communication

- Rio Tinto has been pioneering a tax transparency approach for over 10 years. Examples of tax reporting that can be found on the company's website:

Europe

Our global headquarters are in London, and we pay tax in ten European countries: Belgium, France, Germany, Iceland, Luxembourg, Netherlands, Serbia, Spain, Switzerland, and UK.



Australia

Of the \$7.6 billion Rio Tinto paid in taxes and royalties during 2019, \$6.2 billion was paid in Australia. Australia is home to around half of our global assets, including Gudai-Darri (Koodaideri) – our new \$2.6 billion iron ore mine – and [Winu](#), our promising copper-gold exploration project. At our iron ore assets in the [Pilbara](#), projects worth a combined value of \$4.6 billion are underway. And we continue to invest in the country including with our partners. In 2019, we awarded our 400th scope of work through our local procurement portal, and partnered with over 1900 Western Australian businesses – including Pilbara Aboriginal businesses.



Does transparency always pay off?



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BHP deal

- BHP Billiton agreed to pay **\$390m** to settle tax bill dispute over Singapore business.
- The miner has been hit with tax bills spanning 11 years – between 2003 to 2013 – that total \$661 million in primary tax. When you add in interest and penalties, this takes the total tax bill to **more than \$1 billion**.

Rio Tinto dispute

- Rio Tinto plans to fight against the ATO tax assessments for income years 2010 to 2013 which would lead to it paying additional tax of \$379m plus interest of \$68m – **\$447m** in total. This payment would be in addition to the \$A25.5 billion of taxes and royalties Rio Tinto paid in Australia during the same four-year period.
- It believes it has done nothing wrong because it confirmed its pricing arrangements with the ATO more than a decade ago on certain transaction between entities in Australia and Singapore. It also believes the assessments paid will trigger double taxation, which it plans to reclaim via the Australia-Singapore double tax treaty.

The increasing importance of CSR



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- More than ever, customers aim to procure services from companies that can demonstrate the lowest possible carbon footprint and operate sustainably in the interest of society.
- Equally, employees and investors are becoming increasingly interested in companies launching initiatives on topics such as CO2 emissions, recycling, fighting poverty, etc. as part of their social responsibility.
- Numerous initiatives were launched at top levels to improve transparency for customers, employees and investors regarding companies' (not just banks') contributions to the community's welfare.



Appendices

Paying tax is a CSR issue?

In a study conducted by the Citizens for Tax Justice and the Institute on Taxation and Economic Policy, published in 2011, which examined Fortune 500 companies during the years 2008– 2010, it was found that 280 of the companies studied were profitable each of these years and the average ETR was only 18.5% during that time.

To make matters more interesting, in those three years, 10.7% of these companies averaged a negative tax bill, and nearly 28% had at least one no-tax year. The study concluded that these companies received total tax subsidies of nearly \$223 billion. In addition, U.S. corporations with significant foreign profits paid tax to foreign countries that was almost a third higher than what they had paid in the U.S.

Examples of everyday companies that were highlighted by the study for the limited amounts of tax paid to the U.S. included FedEx Corporation (“FedEx”) and Amazon.com, Inc. (“Amazon”), which paid 0.9% and 7.9%, respectively. Additionally, it also reported that Pepco Holdings, Inc. (“Pepco Holdings”) paid an astounding negative 57.6% between 2008 and 2010.

Most of this is a result of an extensive use of “complex structures, dubious transactions and legal fictions,” to move profits into other countries and avoid paying U.S. taxes. This raises the question, is it a legitimate corporate goal to minimize tax?