Richard Murphy

From: "Faucon, Benoit" <Benoit.Faucon@dowjones.com>
To: "Richard Murphy" <richard_murphy@btconnect.com>
Sent: 28 September 2006 11:29
Subject: RE: Oil companies and tax havens

Hi Richard,

Many thanks for your help.
The story has finally been published.
Best
Benoit

FOCUS:Tax Havens Ease Fiscal,Legal Risk On Global Oil Cos
By Benoit Faucon
Of DOW JONES NEWSWIRES
1462 words
22 September 2006
14:51
Dow Jones Emerging Markets Report
English

FERRY REACH, Bermuda (Dow Jones)--Shell Qatar GTL Ltd. is a multibillion-dollar gas-to-liquids venture due to operate in the Gulf emirate by the end of the decade. Yet the registered offices of the Royal Dutch Shell PLC (RDSB.LN) unit sit at the far eastern tip of Bermuda, overlooking sailboats, lush palm trees and manicured lawns.

Major oil and gas companies such Shell, BP Plc (BP), Occidental Petroleum Corp. (OXY) and Exxon Mobil Corp. (XOM) have this year achieved record profits on the back of historically high oil prices, but at the same time their tax liabilities have ballooned. When profits rise quickly, large corporations do not necessarily have time to fully adjust their tax planning strategies, meaning offshore incorporation has become increasingly attractive for companies wanting protection from a rising tax burden.

Offshore locations can also help to provide oil and gas companies with the means to manage some of their legal and currency-related risks, tax experts and industry officials say.

Ten years ago, when crude oil was $10 a barrel compared with over $60 now, the focus of offshore incorporation was on transnational subsidiaries such as shipping units or pension funds. Now, oil companies increasingly use countries such as Bermuda to incorporate their country-based units operating in Africa, South America, the Middle East and Asia, as they scramble to invest amid the oil-price boom.

With host countries such as Venezuela, Bolivia and Russia increasing fiscal pressure through back-tax claims or by hiking their tax take in order to capture more of the oil-price windfall, offshore incorporation affords some protection, tax experts say.

Offshore locations also benefit from a unique combination of robust legal systems based on the U.K. model and dollar-pegged currencies, they say. Also, unlike in the U.K., the units incorporated in tax havens do not have to disclose their accounts, notes Richard Murphy, a director of U.K.-based consultancy Tax Research LLP.

Still, the principal attraction amid high oil prices is that "Bermuda's corporate tax is zero," says Robert Stewart, head of Shell Bermuda between 1985 and 1998.

Bermuda formally is home towhat may be the largest concentration of units of major oil- and gas-producing companies in the world. The island is home to at least 61 units of Occidental, including every block awarded in Libya in Jan. 2005; Chevron Corp.'s (CVX) Angolan and Nigerian businesses; and several of Total SA's (TOT) Iranian subsidiaries.

In addition to his role at the local Shell service station business, Shell Company of Bermuda Ltd., Shell veteran Philip Burton has a variety of titles. He is a director for Shell Qatar GTL and the president of Bermuda-registered Shell Iran Offshore Ltd. and president of Shell International Gas and Power Ltd. Sakhalin Energy Investment Co. Ltd., the $20 billion venture in the Russian Far East which is Shell's largest project,is also registered in the subtropical island, as is the South Rub al-Khalil Co. Ltd., a Shell-led Saudi exploration venture. And Shell isn't the only company increasingly to register company units in tax havens.

According to the Bermuda registry of companies, Occidental has incorporated 37 vehicles since the beginning of 2005, out of a total of 61 registered in the tax haven. ExxonMobil, which incorporated a Singapore unit in Bermuda as recently as February, had 14 Bahamas-registered units as of 2005, up from 11 in 2001, according to its U.S. Securities and Exchange Commission annual report. It also transferred its key Indonesian unit from Delaware to the Cayman Islands just last year, its SEC filings show.

The chief benefit, and the reason more oil and gas company units are being incorporated offshore, is that tax havens can shield companies against higher income tax, a more acute problem amid high oil prices. Robert McIntyre, of Washington-based Citizens for Tax Justice, a non-profit research and advocacy group, says fast-rising profits mean large corporations may not be agile enough to quickly adjust their tax exposure, for instance by increasing their tax-deductible U.S.-refinery investments.

But if companies transfer the final profit of a local subsidiary to a Bermuda corporation, instead of repatriating the profit to its parent company, the income will be exempt from income tax, which is levied at 30% on corporate profits in the U.K. and 35% in the U.S.

How does disclosure work for offshore units? Look at the parent company's consolidated financial reports and the revenue from the offshore units will be included in the figures, but not detailed. Put simply, there will be a portion of revenue in the figures - that from the offshore units - against which corporate tax will not be paid. The offshore units aren't obligated to disclose their financial position in full, making any calculation of the dollar-value to companies of offshore incorporation problematic.

Shell and ExxonMobil declined to directly comment on their offshore tax strategy, but an Exxon spokesman noted that while the company's "U.S. net income has increased in the range of threefold over the last four years, its U.S. income-tax liabilities have increased fivefold over the same time frame," making offshore incorporation even more attractive.

Paul Rogerson, a London-based expert at CW Energy Tax Consultants Ltd., which specializes in advising oil companies, says that the incorporation of company units in places like Bermuda does offer a level of tax efficiency and is "likely to help companies ... avoid double taxation (on income, on top of production taxes) rather than to avoid tax per se."

Double taxation would typically apply in countries such as Angola, Iran or Libya, which do not have a double taxation treaty with the U.K. and where, as a result, companies have to pay taxes on the same profits in both the host country where production takes place and in the country where the company is headquartered, Rogerson said.

Oil companies, by registering units offshore, also maintain the benefits of fiscal holidays, for instance when profits made in 10-year, tax-free exploration concessions could be subject to taxation when they are repatriated, says Tax Research LLP's Murphy.

Still, some company officials say that tax havens are rather preferred due to their robust legal systems and dollar-pegged currencies than their tax benefits. BP's 50%-owned Russian joint venture TNK-BP (TNBP.RS) is registered in the British Virgin Islands but the incorporation "has no effect on the taxes paid by the preexisting organizations beneath it," a BP spokesman said.

Indeed, spokesmen for Shell, BP and Total all say that offshore registration has more to do with the existence of a U.K. legal framework. Bermuda, the Cayman Islands and British Virgin Islands are overseas territories of the U.K. and follow the English legal model.

Offshore jurisdictions "can provide a high degree of legal protection," which laws in countries such as Iran could not, says David Marchant, publisher of Offshore Alert, an investigative research specialist in tax havens.

Also, the islands are used to escape litigious corporate environments in countries such as the U.S. or Russia. By registering offshore, companies can argue that they are not bound by the laws of the country in which they may be headquartered. However, this may not always work.

In a case lodged by Burmese citizens against Unocalfor its alleged responsibility in human-rights violations, those bringing the action argued it should be heard in Bermuda, where the company had incorporated two units relevant to the case. A U.S. judge, however, decided in 2003 that it should be tried in California, where the parent company was headquartered. Unocal, which has since been acquired by Chevron, settled for an undisclosed amount last year.

More tangible financial advantages of offshore incorporation relate to currency-risk management, oil company officials say.

"In an oil-industry environment where business is essentially conducted in dollars, (a Bermuda incorporation) brings a certain advantage to manage currency risks," a spokesman for Total SA (TOT) said.

Currency risk management was the reason behind BG Group PLC's (BRG) decision to register its key Egyptian and Indian units in the Caymans, its Chief Executive Frank Chapman said in a press conference call last year. The Indian rupee was one of Asia's worst-performing currencies in 2004 after the election of a new government sparked investment fears. BG's Indian unit was shielded against the fluctuation by its incorporation in the dollar-based Cayman Islands.

-By Benoit Faucon (+44) 207 842 92 66; benoit.faucon@dowjones.com [22-09-06 1251GMT]

5008

-----Original Message-----
From: Richard Murphy [mailto:richard_murphy@btconnect.com]
Sent: 28 March 2006 15:57
To: Faucon, Benoit
Subject: Re: Oil companies and tax havens

Sorry - if you tried to call I've been on line just about everywhere

Please try again in 10 minutes - I'll be free for maybe an hour

Richard
----- Original Message -----
From: "Faucon, Benoit" <Benoit.Faucon@dowjones.com>
To: <richard_murphy@btconnect.com>
Sent: Tuesday, March 28, 2006 11:03 AM
Subject: Re: Oil companies and tax havens

Many thanks.

Can I call you today?

Sent from my BlackBerry Wireless Handheld

-----Original Message-----
From: Richard Murphy <richard_murphy@btconnect.com>
To: Faucon, Benoit <Benoit.Faucon@dowjones.com>
Sent: Tue Mar 28 11:00:36 2006
Subject: Re: Oil companies and tax havens

It may be best to call me about this so we focus on the issues.

My details are below

Happy to talk about it - I have ideas that may at least help, and I have
looked at some of the companies

Remember in your thinking that tax is not the only reason for using a
tax
haven. the four reasons are:

1) wealth protection (e,g, political risk, or your ex-wife)
2) tax saving
3) avoiding regulation (financial services, health and safety, shipping,
environmental etc)
4) secrecy

Don't dismiss 3 and 4 in your thinking - they play a bigger role than
most
people think

Richard

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----- Original Message -----
From: "Faucon, Benoit" <Benoit.Faucon@dowjones.com>
To: <richard_murphy@btconnect.com>
Sent: Saturday, March 25, 2006 11:08 AM
Subject: Oil companies and tax havens

Dear Sir,
My colleague Glenn Simpson from the Journal kindly passed on your details.
I am a journalist with Dow Jones Newswires and currently writing a story on
how oil companies are using tax havens to avoid paying more to to governments at a time of record profits.
As you may know, oil majors such as Shell, BP or Exxon have registered their
largest international operations -Sakhalin, Iran, Qatar, Nigeria,...- in Bermuda.
I will be in Bermuda early April -to assess how much is transiting via those
SPVs.
But I still wonder what is the rational behind those vehicules.
They are based in lesser-opaque tax havens -Bermuda- so it points more to
basic tax savings or protection against political risk than money laundering.
But where are they saving tax on?
Is it on the producing country's side (Iran, Qatar,...) or the headquarters'
side?
Also what could be the rationale behind the location? Shell tends to locate
its vehicules in Bermuda, BG in the Caymans and Exxon in the Bahamas. But
some other vehicules are in Turks and Caicos, BVI or Panama.
Many thanks for your interest and your time!
Benoit

Sent from my BlackBerry Wireless Handheld