

### Introduction

Tax paid is, arguably, the strongest indicator of a corporation's social responsibility that there is.

I hope no major corporation evades tax. Tax evasion is illegal. I think that without exception major corporations avoid tax.

### What tax avoidance is

Tax avoidance is legal. Tax avoidance exploits the loopholes in tax law to ensure that less tax is paid than those creating that legislation expected. This can be done in individual states, where, however, it is relatively easy for governments to combat it. For multinational corporations there is a much more lucrative opportunity for tax avoidance. That comes from exploiting the loopholes that exist between the laws of different states.

The opportunity for international tax avoidance is based on three variables. The first is the number of companies making up a multinational corporation: the more companies there are in a group the easier it is to avoid tax.

Second is the willingness of the multinational corporation to use tax haven corporations to hide the true substance of transactions they undertake from view. Tax haven entities never file accounts on public record, and if used solely for intra-group transactions by a multinational corporation are also totally lost from view in the group accounts sent to shareholders. But they can move profit, and so tax savings, almost endlessly around the world.

Thirdly, the greater the opportunity a multinational corporation has to create intangible assets the easier it is to shift profits to avoid tax.

All of this activity is, apparently, acceptable behaviour. Indeed, creating mechanisms to assist corporations avoid tax is seen as an honourable professional activity, to be well rewarded with its practitioners treated as being worthy of esteem.

## Tax avoidance is avoiding your obligations

This is bizarre when viewed from the perspective of society as a whole. The clue to that fact is within the name of the activity. To avoid paying tax means you are avoiding your obligation to a government that represents a society. No other interpretation of the activity is possible. Society expects tax to be paid. Tax avoiders work out ways to not pay. In the process they inevitably value their interests as more important than those of society. As a result it is just not possible to avoid tax and be corporately socially responsible.

## Tax compliance

To be responsible a corporation has to be tax compliant. Tax compliance is seeking to pay the right amount of tax (but no more) in the right place at the right time where right means that the economic substance of the transactions undertaken coincides with the place and form in which they are reported for taxation purposes.

Tax compliance does not bring an end to tax planning. Far from it: the ambiguities in tax law will remain forever; the uncertainties inherent in the interpretation of language guarantee that. But tax compliant behaviour is based on a completely different mindset to tax avoidance.

Tax compliance says that paying tax is the duty a corporation has to all the societies in which it operates, without exception. In addition it says that the payment made should reflect the real value the corporation has generated in the jurisdiction to which the tax is due. This contrasts with tax avoidance where the amount paid will be the minimum amount it can get away with in any place.

## Evidencing tax and corporate responsibility

But like all responsible actions payment of tax must be evidenced. This is also possible. A method of accounting called country-by-country reporting requires multinational corporations to publish profit and loss accounts and limited balance sheet data for every country in which they operate, without exception. That would, of course, reveal tax paid by country. This is essential because it shows what is, in effect, the payment a multinational corporation has made to a state for the right to operate within that jurisdiction.

That right to operate is granted using exactly the same process used to create tax law. Statute law creates the limited liability corporation, with all the privileges that go with it. Statute law creates the obligation to pay tax, with all the responsibilities that go with it. These are two sides of the same coin. The licence to operate inherent in the act of incorporation under law carries with it the obligation to pay the taxes properly demanded by the state that granted that right to operate on behalf of the people of the jurisdiction in question.

That's why tax is the strongest indicator of a corporation's social responsibility that there is. And that's why multinational corporations should report their compliance with the obligation to pay, country by country, without exception, to ensure they are accountable to those people throughout the world who grant them their right to operate.