Funding the Future

All The Biggest Spanish Companies Use Tax Havens, Says ..

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The following blog has been reposted from the blog of the Task Force on Financial Integrity and Economic Development, of which Tax Research LLP is a member. It was written by Mar??a Jos?© Romero and Susana Ruiz of Euordad - another Task Force member: Practice Costs Spain, Developing Countries Dearly in Much-Needed Tax Revenue

A recent report by the Spanish observatory on Corporate Social Responsibility, which comprises several civil society organisations, reveals that ALL companies listed in the Spanish stock exchange operate directly or indirectly through jurisdictions which are considered opaque by theFinancial Secrecy Index of the Tax Justice Network.

The report entitled, "Corporate Social Responsibility in the annual report of companies in the IBEX35," highlights that more than 80% of companies that are part of the benchmark stock market index (IBEX 35) in the Spanish stock exchange (the Bolsa de Madrid) operate through tax havens. The remaining companies either have shareholders that are based in or have shares in tax havens. This means that **all listed companies operate either directly or indirectly through tax havens.**

The report finds that 28 Spanish companies have as many as 272 subsidiaries in 27 secrecy jurisdictions, from where they can operate without disclosing relevant financial information about their activities (such as the taxes they pay, profits they make and people they employ in the countries where they operate).

The extractive company **Repsol stands out as the group with the highest number of subsidiaries domiciled in tax havens, with as many as 38; it is closely followed by Santander Bank with 34, BBVA Bank with 23 and the infrastructure company Ferrovial with 22. The secrecy jurisdictions with the highest concentration of Spanish company subsidiaries are the Netherlands, Delaware, Luxembourg, Cayman Islands, Switzerland, Puerto Rico and Panama.**

Spanish company Abertis, for example, obtained the license to operate three airports in Bolivia. But between the operating company in Bolivia and the headquarters in Spain, it owns no less than eight intermediary companies located in tax havens, such as Delaware.

Tax dodging: Are companies complying with their commitments on corporate social responsibility?

This dramatic increase in investments from the IBEX35 companies in tax havens could have had a harsh impact on the Spanish public coffers, as Spain's corporate income tax revenue has more than halved between 2007 and 2009. However, during the same period, these companies have continued to **make huge profits. [1]**

The damage could be even bigger in developing countries where they operate. Their systematic use of tax havens makes it practically impossible for poorer countries' tax authorities to collect the type of information that they would need to fairly tax the Spanish companies.

Legal but unethical, and against the spirit of the law

This lucrative search for ways to pay less — creating complex corporate structures, routing money through opaque tax havens, and employing highly paid professionals to find loopholes — is legal. However, it is not only ethically questionable, as some **CSO recent reports conclude, but it also goes against the spirit of the law, which is established to ensure that companies pay their fair share of taxes, not to encourage them to use the loopholes in the law to minimise their tax liabilities. This strategy is clearly incoherent with principles of responsible investment, and public statements from these companies that claim that they contribute to sustainable economic social and environmental development.**

Legally binding laws are needed to make companies pay their fair share of taxes

The report highlights the lack of transparency in the ways these companies report financial information, but it also highlights other non-financial issues such as their social and environmental impact. This proves that voluntary reporting standards are not enough: mandatory reporting standards are urgently needed to radically enhance transparency on corporate performance.

This is even more the case when companies, including those in the IBEX35, operate and make profits through their**subsidiaries in developing countries. Paying taxes in developing countries is one of the most important contributions made by foreign investors in return for the profits made in those same countries. So far, it is completely unknown what their contribution to the public coffers is in developing countries where they operate.**

This could be easily fixed if companies were to report the profits they make, and taxes they pay (among other crucial financial information) on a country-by-country basis. This reporting standard would allow for assessing the performance of individual companies within a group, thereby increasing transparency and helping fight tax avoidance.

Financial transparency is crucial to providing the right information to any country's tax authorities on the profits made and staff employed, so tax authorities can determine whether companies are paying their fair share of taxes. However, for countries where the capacity of tax authorities is relatively weak, such as in developing countries, financial transparency is — if possible — even more important.

The report concludes that in times of crisis, with a decrease in social rights, with freezes in salaries and pensions, and with public money used to rescue private companies, citizens demand transparent information; however, voluntary guidelines are not making the grade. That is why civil society is calling for clear and harmonised, legally binding rules.

Notes:

[1] Whilst profits actually dropped by 14% over this time-span (2007-2009), they still remained quite large, and the loss in profit margins was dramatically less than the loss in corporate tax revenue that the Spanish tax authorities experienced.