Funding the Future

Microsoft's tax under scrutiny

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The FT has reported this morning, in what appears to be an exclusive, that:

US securities regulators prodded Microsoft earlier this year into disclosing details of how it uses foreign tax planning to reduce its US taxes, the software company has disclosed.

As a result it reports that the bulk of Microsoft's $50.2bn cash mountain is held outside the US. This si the result of the:

SEC's questioning about what it called a "disproportionate" share of Microsoft's profits that come from certain overseas countries. Some 62 per cent of the company's international income came from those countries last year, even though they only accounted for 42 per cent of international revenues.

In a detailed response, the software company said it had benefited partly from a policy of channelling sales through low-tax regional centres in Ireland, Singapore and Puerto Rico.

This had resulted in "a higher mix of earnings taxed at lower rates in foreign jurisdictions", the company revealed in a footnote to its recent quarterly report with the SEC, which was included as a result of the regulatory prodding.

I was involved in the first revelation of this practice in the Wall Street Journal in 2005.

Of course Microsoft maintains that all it is doing is legal. As the SEC suggests though, it is at least questionable. In my opinion it's unethical. It is, I think, tax haven abuse to deliberately undermine the payment of taxes in countries where Microsoft really makes its profits, like the UK.

Such practice would, of course, have become apparent much sooner if we had had country-by-country reporting in operation. The need for this becomes more obvious every day. Country-by-country reporting reveals where a company makes its profits and pays its taxes.

It is interesting to note that this is not the limit of the tax abuse about which questions were asked:

In another query about Microsoft's international financial strategy, the regulators asked why the company had been borrowing through bond issues in the US when it reports large reserves of cash and short-term investments on its balance sheet.

The regulatory questioning prompted Microsoft to reveal for the fist time recently the extent of its overseas holdings, the letters reveal. The company said in its recent quarterly report that $42bn of its $50.2bn in liquid reserves was held outside the US.

US companies face a tax bill on cash they bring back to the US and use for regular corporate purposes such as paying dividends and mounting share buy-backs. That has prompted a growing number to leave cash overseas and instead borrow to meet domestic needs, as Google did last month.

The borrowing therefore had two reasons. One was to avoid paying tax: the other reason was, of course, to get tax relief on the interest paid whilst funds offshore almost certainly accumulated tax free. Arbitraging the two rates almost certainly gave Microsoft a profit on the arrangement. In other words, Microsoft was probably using the US Exchequer to subsidise its offshore profits. That's not though how they put it though. They said:

it had issued the domestic bonds "to take advantage of favourable pricing and liquidity in debt markets."

It also said it believed it had sufficient cash without repatriating any of its overseas cash, but added that it would expand its disclosure to shareholders in future to make clear that it may need to borrow more, or use overseas cash, to meeting future needs.

How they had the gall to say they had enough cash without repatriating when they had to borrow because they had not is very hard to imagine, but perhaps they think we're stupid.

We're not.

The reality is that this whole statement shows what Microsoft is: just a giant tax planning exercise.