Funding the Future

Cyber Monday's tax gaps: what the big six tech companie...

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The Guardian has reported this morning that:

The big six US tech firms have been accused of "aggressively avoiding" $100bn (£75bn) of global tax over the past decade.

Amazon, Facebook, Google, Netflix, Apple and Microsoft have been named in a report by tax transparency campaign group Fair Tax Mark as avoiding tax by shifting revenue and profits through tax havens or low-tax countries, and for also delaying the payment of taxes they do incur.

The companies have, of course, denied the suggestions made by the Fair Tax Mark, which I advise. For the record, the Fair Tax Mark press release is reproduced below. What researchers might like to focus on is the difference between cash provided as a liability and cash actually paid for tax liabilities. Questions about the accounting would seem to arise:

TAX GAP OF SILICON SIX OVER $100 BILLION SO FAR THIS DECADE

* ***- Amazon ranked as the business with the poorest tax conduct, having paid just $3.4bn in income taxes this decade.***

* ***- Microsoft, by a slim margin, found to have the least aggressive approach to tax avoidance of the Silicon Six.***

The Fair Tax Mark has today, 2nd December (Cyber Monday), released the report The Silicon Six and their $100 billion global tax gap, which examines the tax conduct of Facebook, Apple, Amazon, Netflix, Google and Microsoft over the last decade.

The report questions whether the companies, collectively referred to as the 'Silicon Six', are paying their way on tax. Together they have a combined market capitalization of $4.5 trillion and are worth more than the 1,000

companies listed on the London Stock Exchange.

The report finds that there is a significant difference between the cash taxes paid and both the expected headline rate of tax and, more significantly, the reported current tax provisions. It concludes that the corporation tax paid by the Silicon Six is much lower than is commonly understood. Over the period 2010 to 2019:

* ***- the gap between the expected headline rates of tax and the cash taxes actually paid was $155.3bn***

* ***- the gap between the current tax provisions and the cash taxes actually paid was $100.2bn***

The report suggests that the bulk of the shortfall almost certainly arose outside the United States, given that the foreign current tax charge was just 8.4% of identified foreign profits over 2010-19.

Profits continue to be shifted to tax havens, especially Bermuda, Ireland, Luxembourg and the Netherlands.

Investors are warned that the collective tax contingencies of the Six have rocketed in recent years, increasing fourfold from $8.9bn at the end of 2010 to $47bn in 2019. They have also accrued a further $5.7bn in connected interest and penalties. In total, the Six have more than $50bn of unrealised net income due to their aggressive tax positions.

In terms of ranking, none of the Six is an exemplar of responsible tax conduct. However, the degree of irresponsibility and the relative tax contribution made does vary. Amazon has paid just $3.4bn in income taxes this decade, whilst Apple has paid $93.8bn and Microsoft has paid $46.9bn. This is a staggering variance, especially as Amazon's revenue over this period exceeded that of Microsoft's by almost $80bn.

Chief Executive of the Fair Tax Mark, Paul Monaghan said: "Our analysis of the long-run effective tax rate of the Silicon Valley Six over the decade to date has found that there is a significant difference between the cash taxes paid and both the headline rate of tax and, more significantly, the reported current tax provisions. We conclude that the corporation tax paid has been much lower than is commonly understood.

"The international tide is turning on the acceptability of corporate tax avoidance. The idea of countering the profit-shifting of Big Tech multinationals via the introduction of digital sales taxes has taken root in many countries. Investors need to look afresh at the future impact that this

will have on company valuations and income flows. Not least because the OECD is now leading multilateral efforts to address the tax challenges from digitalisation of the economy, and is looking to ensure that profitable multinationals pay tax wherever they have significant consumer-facing activities and generate their profits."

The report concentrates on the information contained in the Form 10-K annual filings in the United States, where the companies are incorporated. It has also selectively reviewed Form 10-Q quarterly filings and the company accounts of various European and UK subsidiaries, focussing our attention on the cash taxes paid (as opposed to the total tax and / or current tax provisions, which are predominantly the focus of media analysis and policy consideration to date).

Alex Cobham, Chief Executive, Tax Justice Network, said: "This report demonstrates why we need a fundamental reprogramming of the world's approach to tax, based on a unitary taxation. When multinational corporations abuse their tax responsibilities to society, they weaken the supports that our economies need to work well and create wealth. A unitary approach to tax means we can finally make sure multinational corporations contribute tax based on where they employ workers and do business, not where they rent mailboxes and hide ledgers. By ensuring multinational corporations pay their fair share locally for the wealth created locally by people's work — based on an agreed formula and supplemented by a minimum effective tax rate — governments can strengthen their economies to run smoothly and make a good life possible for everyone."

Notes to editors:

Ranking of poor tax conduct

* ***1st Amazon.*** Stands out as the business with the poorest tax conduct, having paid just $3.4bn in income taxes this decade. The cash tax paid was 12.7% of profit over the decade, at a time when the federal headline rate of tax in the United States was 35% for seven of the eight years under examination. The company is growing its market domination across the globe on the back of revenues that are largely untaxed, and can unfairly undercut local businesses that take a more responsible approach. The situation is unlikely to reverse soon given the $9.3bn of operating loss carryforwards available to offset against future profits and taxes.

* ***2nd Facebook.*** The cash tax paid as a percentage of profit was just 10.2% over the period of study (the lowest of any of the Silicon Six) at a time when the federal headline rate of tax in the United States was 35% for seven of the eight years under examination. Has the lowest foreign current tax charge ratio of the Silicon Six over the

decade, at just 5% of profits. Reported contingencies for uncertain tax positions have quadrupled over the last six years, and now stand at a significant $7.16bn.

* ***3rd Google.*** In June 2019, sought to put the record straight on their tax conduct and asserted that: “Google’s overall global tax rate has been over 23% for the past 10 years, in line with the 23.7% average statutory rate across the member countries of the OECD.” In fact, the cash tax paid as a percentage of profit was just 15.8%. The trend of low current tax provision in connection with foreign profits continues in 2018, with just $1.25bn booked on $19.1bn of foreign profit, giving a booked current tax rate of just 6.5% - this is less than the company’s already low average for the decade, which is 7.1%.

* ***4th Netflix.*** Proved to be the most difficult to rank. The cash tax paid as a percentage of profit was just 15.8% (the same as Google). Operate thin margins (just 5.3%) and as a result the cash taxes paid as a percentage of revenue are a tiny 0.8% - which is less than a fifth of the ratio generated by Microsoft, Apple and Google. Reported foreign profit margin is even slimmer, at 4.3%.

* ***5th Apple.*** Presents itself as “the world’s largest taxpayer” and it certainly makes the largest tax contribution of the Silicon Six, having paid $93.8bn in income taxes this decade (albeit on profits of $548.7bn and revenue of $1,888.0bn). However, cash tax paid as a percentage of profit over the decade is still a relatively low 17.1%. The trend of low current tax provision in connection with foreign profits continues in 2019, with just $3.9bn booked on $44.3bn of foreign profit, giving a booked current tax rate of just 8.9%.

* ***6th Microsoft.*** Our analysis suggests that Microsoft, by a slim margin, has the least aggressive approach to tax avoidance of the Six. Makes the second largest tax contribution of the Silicon Six, having paid $46.9bn in income taxes this decade (on profits of $278.5bn and revenue of $882.5bn). However, the cash tax paid as a percentage of profit is still a relatively low 16.8%. Microsoft’s tax contingencies continued their annual growth through to 2019, to hit a significant $13.1bn — and were the highest of the Silicon Six for most of the decade.