



# TAX AS A CORPORATE RESPONSIBILITY ISSUE

## The Implications for Multinationals

Richard Hardyment, Peter Truesdale and Mike Tuffrey

May 2011

## Highlights

Tax is becoming a major issue in corporate responsibility that presents fundamental risks to multinationals.

The traditional defence of compliance is dead; the distinction between evasion (illegal) and avoidance (lawful) has dissolved in the eyes of governments, NGOs and citizens.

Politicians, campaign groups and the media have seized on tax as a topical issue in tough economic times.

Companies such as British American Tobacco, McDonald's and ExxonMobil have embraced new approaches to tax.

We believe that companies need a new approach to manage and communicate tax effectively.

For most companies, this does not, in essence, involve paying more tax.

It does require companies to identify a coherent and credible position on tax and find a language to defend it.

Businesses with a reputation to defend will need to explain how paying the right amount of tax, consistently and in the right places, is in the long-term interests of both their shareholders and society.

## What is tax planning?

Tax is all about choices. Multinational companies – by definition operating in several countries– are often faced with alternatives. Where should investments be made, profits realised and tax paid?

Globalisation has increased this flexibility. Legal systems across the world permit the lawful reduction of liabilities through effective planning.

The ability to use different transfer prices between subsidiaries, adjust profits between two countries and set up new companies creates tax management opportunities as well reputational risks.

---

*All choices necessitate a judgment, and the merits of this judgment provide the basis for external scrutiny*

---

All choices necessitate a judgment, and the merits of this judgment provide the basis for external scrutiny, irrespective of the legal or financial soundness of the decision.

Although recent debate has focused on wealthy individuals and headline corporation tax rates, payments to governments take many different forms, including employment contributions, excise duties and eco-taxes.

There is a debate to be had around the appropriate level, form and means of collection of tax. But most large companies have been surprisingly silent on this issue.

## The tax debate

Multinational companies face a multi-pronged attack from governments, concerned citizens and NGOs across the world.

Tax is a political issue. In developed economies, spiralling government deficits have focused attention on tax avoidance.

In a recent exposé naming and shaming several multinationals, the UK's *Daily Mail* summarised the argument:

“While the [UK] Coalition Government is forced to

slash spending on public services ... private companies contrive to cut the tax they hand to the Exchequer... there is something immoral about businesses that can employ expensive accountants to find increasingly complicated ways of paying less tax”<sup>1</sup>.

---

*“The upsurge of recent interest has been sharp and, at times, aggressive”*

---

Civil society is also waking up to the issue. As one NGO has put it: “Nothing better reflects the corporate responsibility of any company than its payment of taxes that are due”<sup>2</sup>.

The upsurge of recent interest in tax has been sharp and, at times, aggressive.

Campaign group “UK Uncut” has led protests against companies including Boots and M&S. Topshop was forced to close its flagship store on London’s Oxford Street in the run up to Christmas after protests<sup>3</sup>. Vodafone’s new Twitter campaign was hijacked by protesters following a legal dispute over controlled foreign companies<sup>4</sup>.

Polls suggest that six out of ten Britons believe that it is “wrong for businesses to employ controversial but legal means of reducing their tax contribution”<sup>5</sup>.

In France, the Conseil des Prélèvements Obligatoires has highlighted how companies in the CAC40 are paying less tax than many small enterprises<sup>6</sup>.

Lawyers in India alleged that Kraft Foods had “completely and illegally avoided” tax during the Cadbury takeover<sup>7</sup>.

---

<sup>1</sup> *The Great Tax Heist*, Daily Mail, 17 December 2010

<sup>2</sup> *Tax us if you Can*, Tax Justice Network, September 2005

<sup>3</sup> *BBC News* 4 December 2010

<sup>4</sup> *The Guardian*, 12 December 2010

<sup>5</sup> *Financial Times*, Harris Poll, 11 February 2011

<sup>6</sup> *Le Figaro*, 14 December 2009

<sup>7</sup> *India examines possible tax evasion in Kraft takeover of Cadbury*, New York Times, 3 January 2011

## New Corporate Approaches to Tax

In recent years, several companies have begun to articulate new approaches to tax:

**British American Tobacco** supports the “gradual and predictable” increase in taxes on tobacco. “By providing information, intelligence and training, we believe we can support governments in establishing appropriate tax policies, strong regulation and effective enforcement”<sup>8</sup>.

**Anglo-American** publishes “taxes borne and claimed” in both developing and developed countries, as well as an effective tax rate by country and weighted average for the company as a whole<sup>9</sup>.

**McDonald’s** publishes a headline figure of \$1.1 billion for “business taxes, licenses and payroll taxes” and also reveals its total bill for social and income taxes in its top nine markets year-by-year<sup>10</sup>.

**HSBC** champions not just its total tax paid by different regions but highlights the bank’s role in collecting taxes such as VAT and stamp duty<sup>11</sup>.

**Vodafone** has identified tax as a key area of operational reporting. It has published a new tax risk policy and revised finance team guidelines to align with corporate values. The company said it will “achieve greater clarity, certainty and transparency in relation to our tax affairs”<sup>12</sup>.

**SABMiller** acknowledges a “widespread and legitimate interest in the amount we contribute directly to economies locally, regionally and globally, and particularly, in our contribution to government finances through taxation”. The company talks of a “tax footprint” and reveals the split of its tax between developed and developing countries as well as the fact that in both Colombia and South Africa it contributes over US\$1 billion in taxation to those governments<sup>13</sup>.

**ExxonMobil** publishes its total UK tax bill and compares this to government expenditure: “[we] paid £5.1 billion in direct and indirect taxes and duties in the UK in 2009/10, about one per cent of total UK government revenue – making the company one of the UK’s largest taxpayers. That could have comfortably funded the entire UK police budget for that year (£5.0 billion), the maintenance and operation of all UK roads (£4.9 billion) or all government expenditure on housing (£4.5 billion)”

<sup>8</sup> *Sustainability Report*, British American Tobacco, 2009

<sup>9</sup> *Delivering Sustainable Value, Report to Society*, Anglo-American, 2009

<sup>10</sup> *Worldwide Corporate Social Responsibility Report*, McDonald’s Corporation, 2010

<sup>11</sup> *Sustainability Report*, HSBC, 2009

<sup>12</sup> *Sustainability Report*, Vodafone, 2010

<sup>13</sup> *Sustainable Development Report*, SABMiller, 2010

Politicians and legislators around the world have begun to articulate a more interventionist stance.

Fifteen international banks – including Goldman Sachs, Barclays and JP Morgan – recently agreed to a new Code in the UK that binds the banks to comply with the “spirit, as well as the letter, of tax law” and “not to undertake tax planning that aims to achieve a tax result that is contrary to the intentions of Parliament”<sup>14</sup>.

The OECD is coordinating international efforts against “aggressive tax planning”<sup>15</sup> and the European Union is consulting on financial reporting on a country-by-country basis for multinationals<sup>16</sup>.

In the United States, President Obama has ordered a review of policy. The Economic Recovery Advisory Board concluded that “US multinationals have a strong incentive to keep their overseas earnings outside the US”<sup>17</sup>.

---

*“The controversy is more nuanced in developing economies”*

---

This is not just an issue in the developed world. The controversy is more nuanced in developing economies where NGOs like Oxfam and Christian Aid have accused multinationals of siphoning off profits abroad. Poorer countries are in greater need of funds for development, the NGOs assert, whilst corruption and inefficiency further hamper revenue collection.

In November 2010, Action Aid published a 40-page dossier on drinks company SABMiller, alleging £20 million a year of “tax dodging” in Africa and India.

Extractive industries operating in Africa have come under particular pressure from *Publish What you Pay* - an international coalition of NGOs – as

---

<sup>14</sup> *A Code of Practice on Taxation for Banks*, HM Treasury, 30 November 2010.

<sup>15</sup> *Tackling Aggressive Tax Planning Through Improved Transparency and Disclosure*, OECD, February 2011

<sup>16</sup> *Consultation on Financial Reporting on a Country-by-Country Basis by Multinational Companies*, European Commission, 26 October 2010

<sup>17</sup> *The Report on Tax Reform Options*, President’s Economic Recovery Advisory Board, August 2010

well as the G20 and European Union<sup>18</sup>.

South Africa's Finance Minister has described "aggressive tax avoidance" as "a serious cancer eating into the fiscal base of many countries"<sup>19</sup>. In India, research has suggested that billions of dollars are lost to the economy from corporate and individual tax evasion and avoidance<sup>20</sup>. Estimates have put the revenue "lost" by developing countries at up to \$160 billion each year<sup>21</sup>.

So multinationals are facing criticism from multiple fronts. The most forceful allegation is that companies are simply too opaque: they do not reveal how their aggregate global tax bill splits between the different countries. Without a clear understanding of how tax is shared between different jurisdictions, no-one can win this debate.

## A Taxing Future Ahead

Tax is now a material issue for responsible businesses and we believe that scrutiny of multinationals' tax decisions is likely to increase.

There is always going to be a debate over the nature and structure of tax; its systems of collection; and the optimal level of taxation in societies.

Most companies have been woefully silent on the issue. They have failed to put in the public domain a clear position on why their tax policy is sensible for investors or society at large.

It is in the long-term interests of shareholders for companies to do some fundamental thinking - not about the legality and financial benefits of their tax

---

<sup>18</sup> *Britain backs 'publish what you pay' rule for oil and mining firms in Africa*, The Observer, 20 February 2011.

<sup>19</sup> Cited in *Financial Times*, 29 May 2009 and *Calling Time on Tax Avoidance*, Action Aid, 29 November 2010

<sup>20</sup> *The Drivers and Dynamics of Illicit Flows from India: 1948-2008*, Global Financial Integrity, November 2010

<sup>21</sup> *Tax Evasion, Tax Avoidance and Tax Expenditures in Developing Countries: A Review of the Literature*, Clemens Fuest and Nadine Riedel, Oxford University Centre for Business and Taxation for UK Department for International Development (DFID), 19 June 2009

---

practices, but about a policy and communications framework in which they can credibly defend their practices as reasonable in the eyes of fair-minded members of the public.

---

*“Clarity around tax is not just about reputation; there is a wider business case too”*

---

Clarity around tax is not just about reputation; there is a wider business case too. Reducing long-term uncertainties, avoiding sudden changes in regulation and minimising costs from legal challenge are in the company’s interests. The efficient and orderly collection of taxes makes for a better company and a stronger society.

Businesses are failing to put in the public domain a clear ‘stance’ on corporate tax policy. For example, does the company seek to minimise liabilities in each and every case? This seems at odds with many public commitments – and private conversations – we have observed where companies decide not to relocate to offshore havens, boards vote down complex new subsidiary arrangements and the payment of certain taxes (often for social or environmental reasons) is proudly championed.

There is a vacuum at the heart of corporate approaches to tax. There is little clarity over principles, little understanding of internal policy and fewer still examples of effective communication.

It seems that many companies are sitting tight and hoping that this issue will go away. We believe that the opposite is likely. Scrutiny is increasing, demands for transparency are rising and companies that don’t have a clear position will lose this debate.

## What should companies do?

The prudent company needs to take steps to understand its position and communicate it effectively.

Before speaking publicly about tax, it is crucial to understand how decisions are currently made as well as what policy the company wishes to adopt.

Corporate Citizenship has developed a “Tax Map” that defines six different types of policy. This clearly distinguishes between the different forms that companies have adopted and the ways in which decisions are made.

The categories are not ‘hard and fast’ in reality. Indeed, companies with no consistent approach or policy may find that decisions fall into several categories depending on the time, tax, jurisdiction or business division – exposing themselves to a range of criticisms.

## The Corporate Citizenship Tax Map

Type	Definition	Example
<b>1. Risking Evasion</b>	A policy that a Court might consider illegal, fraudulent and deceptive, such as declaring less income or hiding profits	Deliberately complicating transactions in an attempt to hide financials from authorities – with potentially catastrophic effects on the shareholders as Enron discovered
<b>2. Trading for Tax</b>	The systematic creation of new business activity solely for the purpose of profiting from tax discrepancies	Creating temporary, cross-border trades with offshore entities, designed solely to profit from tax differences
<b>3. Surprising Structures</b>	<p>Widespread use of structures and ad hoc decisions to minimise tax, often resulting in activity that bears little relation to the underlying economic reality</p> <p>The normal course of business is distorted and the results would appear surprising to an impartial outsider</p>	<p>Realising profits in a new, offshore subsidiary when little economic activity actually takes place there</p> <p>Moving company headquarters to a new country in which there is no business history</p>
<b>4. Balanced Compliance</b>	<p>Tax is minimised within the normal course of business activity and considered as one component of any business decision</p> <p>Decisions have a genuine commercial purpose separate from tax – new transactions or subsidiaries are not created solely for tax purposes</p>	<p>Choosing to realise profits from a one-off transaction in the lowest tax jurisdiction when faced with a choice between two or more places</p> <p>Locating centralised procurement in the lower of several tax jurisdictions with which the company has established operations</p>
<b>5. Active Engagement</b>	<p>Systematic and consistent declaration of tax to match underlying commercial activities</p> <p>Tax is paid where profits are made – aiming to follow the spirit as well as the letter of the law</p> <p>Tax is still minimised within this framework, but not at the expense of one country over another</p>	Deciding how much tax to pay relative to the proportion of sales that the business makes in different jurisdictions worldwide
<b>6. Principled Obligation</b>	Effectively paying more tax than the legally permissible minimum in certain jurisdictions for ethical, principled or political reasons	Deciding not to save tax by relocating company headquarters overseas due to “economic patriotism”

## Using the Tax Map

Companies that want to develop a clear, consistent and communicable position on tax should do five things.

1. **Gather the data.** Ascertain how much tax the business is paying or collecting – of all types, not just corporation tax. A breakdown by jurisdiction is fundamental and should be mapped alongside a measure of business activity.
2. **How are decisions on tax currently made?** Identify where you are on the Tax Map. Is the approach consistent across the company? This should be accompanied by an audit of the practices used to minimise tax in order to distinguish between rhetoric and reality.
3. **Decide your principles.** Before deciding on the specifics of a tax policy, it is essential to answer some broader questions. Between high tax on everything and no tax at all, there is a debate on the appropriate level, form and nature of tax. The business should consider whether it has an opinion on these issues – or a calculated indifference.
4. **Develop your policy.** Next, decide where on the Tax Map the business wants to be. Can new trades be initiated for the sole purpose of tax minimisation? Are decisions permitted that might appear inconsistent or surprising to an outsider? Strong governance around tax is crucial; internal consistency is vital.
5. **Define your story.** It is only after the internal house is in order that the company is ready to speak to the outside world. The corporate position on tax needs to be clearly communicable. Executives should be able to explain in straight-forward, clear language what their view is on tax and why certain decisions have been made. This needs to be understood by stakeholders like your employees and customers – not just the lawyers and tax authorities.

---

*“It is only after the internal house is in order that the company is ready to speak to the outside world”*

---

---

Businesses that do not communicate a position in simple terms will find that others choose the words and define the debate for them.

If you do not have a policy, others will write one for you. If you do not describe your position in your own words, others will tell the story for you.

## The wider picture

Tax is part of a wider conversation about the wealth created by a business and how this is shared between shareholders, employees and governments. This may vary over time (short versus long-term) and between different geographies, but it is important to recognise that tax is one part of a wider narrative on economic impacts.

Over the coming years, companies that have a reputation to defend will need to use a new language. This will be honest about the balance between competing claims on tax. Ultimately, the most successful businesses will need to tell a confident story about how wealth is created and the benefits are shared – and taxed - in the long-term interests of both their shareholders and society.

## About Corporate Citizenship

Corporate Citizenship is a specialist global corporate responsibility and sustainability consultancy. We believe our clients will achieve long-term, sustainable success if they are also creating beneficial change for business and society.

We exist to help our clients make the smart choices that will enable them to survive and thrive in an increasingly challenging business environment. Corporate Citizenship promotes the idea that companies can be a force for good.

We advise a global client list on: strategy, reporting, assurance, stakeholder engagement, management of environmental risk, community investment, corporate giving, supply chain, brand communication and economic impact. Our longstanding clients include Unilever, Barclays, Pearson, Abbott, Diageo, Lafarge and Vodafone.

We also manage LBG on behalf of its 100+ corporate members and publish the leading journal, *Corporate Citizenship Briefing*.

## About the Author(s)

**Richard Hardyment** is a Senior Consultant at Corporate Citizenship and was previously at Forum for the Future where he specialized in long-term strategy planning and identifying emerging issues in corporate responsibility. He has an MBA from Imperial College and an MA from the University of Cambridge.

**Peter Truesdale** is an Associate Director. Prior to joining Corporate Citizenship he spent seven years managing Esso UK's community programme. By background, Peter is a human resources professional with significant expertise in conducting competitive salary surveys. Peter has developed specialisms in reporting and external standards. He is a graduate of Oxford University in Modern History.

**Mike Tuffrey** is a founding director of Corporate Citizenship and has worked with companies on their responsible business practice since 1987. He is an economics graduate and chartered accountant by profession, having qualified with KPMG. He was previously a director of finance for a national charity and an elected local councillor.



## Corporate Citizenship

Holborn Gate  
330 High Holborn,  
London WC1V 7QG  
UK

Tel +44 (0)20 7861 1616  
Fax: +44 (0)20 7861 3908

[www.corporate-citizenship.com](http://www.corporate-citizenship.com)  
[www.twitter.com/ccitizenship](http://www.twitter.com/ccitizenship)

241 Centre Street  
4<sup>th</sup> Floor  
New York, NY 10013  
USA

Tel: +1 212 226 3702  
Fax: +1 212 714 1590

Copyright © 2011 Corporate Citizenship  
All rights reserved