# Tax Avoidance and CSR

## Introduction

Tax payment is an important undertaking for multinational corporations because it contributes to good citizenship and governance. However, tax avoidance seems to undermine the basic principles of Corporate Social Responsibility. Multinational corporations often engage in tax avoidance by locating their international business operations in countries with little tax obligations, or striking deals with tax authorities that do not have economic basis. For example, the European Commission accused Apple for making tax deals with Ireland that contravened the tax laws of the E.U. This essay examines theories and practices of tax avoidance to determine whether the practicing companies could make any claim of social responsibility. Multinational corporations that base their operations in offshore finance claim to be engaging in socially responsible activities, but their commitment to stakeholders’ interests fall short of international expectations.

## Part 1: Article Review

The article “Brussels Criticizes Apple’s Irish Tax Deals” by Alex Barker, Vanessa Houlder and Tim Bradshaw provides a deep analysis of the legal battle between Apple Inc and the European Commission regarding the tax avoidance claims against Apple. The authors suggest that the Irish tax deals involving Apple and Irish tax authorities were probed by the European commission to provide evidence of tax avoidance. The inquiry found out that the Republic of Ireland gave preferential treatment and sustained state support to Apple through the 1991 tax in Dublin, later reviewed and signed again in 2007. The European Commission suggests that the terms under the two deals were illegal, thus ordering Apple to pay up to $14.5 billion to Ireland as backdated tax. On the other hand, Ireland and Apple suggest that the deal was legal under the EU’s and Irish laws.

The deal between Ireland and Apple is considered illegal way of avoiding tax because it takes advantage of small states that offer favourable terms to multinational corporations in exchange for jobs and investments. The European commission suggests that the deal was based on employment considerations rather than economic basis. In the European tax laws, any tax negotiations should be tied to economic issues rather than employment. Barker, Houlder and Bradshaw (2014) suggest that the tax margins of Apple were negotiated through a reverse engineered deal that did not have any economic basis. Through the 1991 and 2007 tax rulings, Ireland granted Apple a selective advantage. These tax rulings reduced Apple’s tax burden significantly for the past 20 or so years. In 2014, Irish Apple unit paid a tax rate 0.005%, compared to the country’s corporate tax rate of 12.5%. This situation simply led to tax avoidance.

Apple denies the allegations, suggesting that there was no deal on jobs made between Apple and the Irish authorities. Furthermore, Apple argues that it has the right to discuss with governments about how they would be taxed as corporate citizens. The company’s representatives claim that they have not received any selective treatment from the Irish government. The company also maintains that they are committed to benefiting communities where they operate.

Arrangements between countries and multinational corporations that may lead to tax avoidance cause legal and ethical concerns. Dowling (2014) explored the concept of tax avoidance from the CSR perspective. Tax payments may be considered as a way of exercising corporate citizenship. However, the possibility of some companies evading tax obligations through deals with national governments causes the question of whether such companies are socially responsible or not.

Dowling (2014) explores the possible implication of tax avoidance on the measures and definitions/boundaries of CSR. The article suggests that tax avoidance may cause ethical concerns. Companies tend to label their activities including tax obligations as transparent and responsible towards all stakeholders even if they are not. They create a false image of good financial results for shareholders (Ferguson, 1980). These activities are basically intended to create a good image of the organization. In fact, most companies do not include issues related to tax payments in their CSR reports. The failure of companies to do so reflects unethical behavior because payment of publicly agreed tax rates is an important part of corporate social responsibility. Just as organizations have to provide reports of honesty and integrity in business operations, they are also obligated to report the same commitment in tax payments.

## Part 2: Ethical Considerations

Corporations such as Apple, Starbucks, Fiat and Amazon have been accused of arbitraging countries by their corporate tax rates (Barker, Houlder and Bradshaw, 2014). Tax avoidance is an important element of CSR, and should be given serious attention in international business because it has an impact on the lives of citizens. Tax has a corporate significant financial impact on the economy, subsequently affecting the lives of citizens in the countries where the multinational corporations operate. Therefore, tax avoidance practices affect different stakeholders, including communities and shareholders. In an attempt to reduce their costs, corporations may move their headquarters to tax convenient countries (tax havens). Tax havens protect the tax information of MNCs from being accessed by taxpayers. The tax havens also offer preferential tax treatment in exchange for jobs and investment.

This action is considered unethical because it neglects the interests of shareholders, competitors, and the community at large. Competitors suffer the most because they gain undue advantage through the favourable considerations of a few multinationals on tax payment. Bowers (2016) suggests that generous rulings offered by countries to a few multinational corporations results in special tax treatments that may not be available to competitors; hence disadvantaging competitors. The deals cause unfair competition, so they may be considered unethical.

A study carried out by Preuss (2010) suggests that companies with offshore finance centres claim to be engaging in responsible business practices. The study also found out that these companies claim to be committed towards major stakeholders’ interests. Multinational companies operating in tax havens also make efforts to design codes of conduct, create value for the shareholders’ investments, protect employees’ interests, promote work diversity, and safeguard work safety and health. Preuss (2010) suggest that MNCs make these efforts to gain strategic legitimacy and to be seen as socially responsible organizations. However, these organizations fail to report their tax avoidance practices to their shareholders.

Tax evading organizations basically operate in a culture of corporate hypocrisy which involves two principles: promising ethical conduct to stakeholders, and improving profits through tax avoidance practices (Sikka, 2010). Therefore, tax avoidance is being dishonest and insincere; hence unethical and socially irresponsible.

Multinational corporations involved in tax avoidance practices do not disclose to stakeholders the possible economic and social consequences of tax evasion. For example, Apple did not disclose its tax payments in Ireland. It also failed to explain the socioeconomic consequences of tax avoidance. Fisher (2014) suggests that there is no moral or ethical link between tax CSR policies and TAP avoidance. Organizations simply avoid taxes to make profits without concern to the needs and interests of stakeholders.

Corporate social responsibility is based on the belief that organizations should not only consider making profits; but also think about the social implications of their actions. By avoiding tax, such organizations are only focusing on making profits without thinking about the social consequences of doing so Hampton and Christensen (2002) argue that tax avoidance is just as unethical as cutting costs by damaging the environment or providing poor working conditions.

Some people argue that aggressive tax avoidance practices are important for multinational corporations to achieve competitive advantage. Galica (2015) suggests that tax avoidance creates a good image for investors. If investors see the company to be making profits, they become confident about it and continue to invest in the company. However, this argument points to the fact that tax avoidance serves the interests of the company at the expense of the society and other stakeholders.

Tax avoidance can be regarded as a legal activity, but it is socially irresponsible and unethical. If multinational corporations have the responsibility to protect environments and societies, they should also have the responsibility of paying taxes although they have legal options to avoid them. The companies are not legally mandated to offer charities to communities, but they do so to demonstrate corporate social responsibility (Jackson, 1996). If MNCs are genuinely concerned with the communities they support through charities, they should also pay taxes to support governments that provide public services to those communities.

## Part 3: Economic, Social and Moral Implications

Engaging in socially responsible activities does not only influence morality, but also produces long term economic and social effects. Tax avoidance enhances short-term financial gains through increased profits, but the long term financial impact may be greater than the short term benefits (Hampton and Christensen, 2002). For example, the short term tax evidence enjoyed by Apple in the past could be overridden by the billions of money it might lose following the EU’s order. Socially irresponsible activities might face legal risks and other social costs, which exceeds the short term gains (Monshipouri et al, 2003). One of the CSR principles is that organizations should do the right thing instead of profit maximization when such tradeoffs emerge.

Corporate social responsibility is also based on the avoidance of externalities and enhancement of positive social benefits. Socially responsible companies should not practice tax avoidance if its costs to the society exceed the actual benefits. Fisher (2014) argues that tax arbitrage activities cause long term financial risks to MNCs, shareholders, governments, and citizens. Therefore, tax avoidance should be treated the way other socially irresponsible activities such as environmental pollution are treated.

One of the moral implications of special tax treatment for MNCs is that it may harm the corporate reputation of the company. The practice of providing MNCs with tax havens is receiving significant public scrutiny, leading to a lot of pressure from the public. Such scrutiny may affect consumer and shareholders’ perception. For example, when the controversy surrounding Apple and Ireland was brought to the public in 2014, company’s the share price dropped by 0.6% as people lose confidence in the company. Consumers are sensitive to irresponsible behavior (Murray, 2016). Therefore, an increased publicity of a company’s tax arbitrage with a tax haven leads to negative effects on the company’s reputation. There is an increasing public pressure for multinational corporations to engage in socially responsible tax practices. For this reason, Starbucks is said to have paid the UK ten million pounds more than its tax obligations to restore the company’s public image following the controversy that it does not incur any tax expense. Public pressure is mounting on special tax treatments by governments because it causes unfair competitive advantage to the preferred organizations.

The use of tax havens also causes economic burdens to governments and companies. Countries that provide tax havens to multinational corporations tend to dishonor international financial regulations, leading to poor diplomatic relations and allocation of costs and benefits globally. If a country gives preferential treatment to some MNCs, the host country will lose tax revenue that would have been used for public expenditure. Fisher (2014) suggests that the countries offering tax havens to multinational corporations are usually among the poorest countries of the world.

Some theories suggest that countries giving special treatment may benefit from the tax avoidance of MNCs. The amount of tax diverted in tax havens may be used in investment, infrastructure and employment. However, Fisher (2014) claims that the multinational companies that benefit from tax sheltering activities cause crowding out of the local populations and industries by bringing workers from their home countries and raising the prices of products beyond the purchasing power of locals. The income brought in by the MNCs is only concentrated in the hands of few managers and individuals working for them. Therefore, favorable tax treatment of MNCs causes exploitation and income inequality in the economy.

## Part 4: International Coordination to Combat Tax Avoidance

Due to the negative effects of tax avoidance, it is necessary for all countries and multinational corporations across the world to engage in coordinated activities to combat the vice. Combating tax avoidance faces significant challenges because it faces opposition from stakeholders and investors. Anti-avoidance policies also lead to the loss of competitive advantage of MNCs. Tax payment usually conflicts with shareholder’s wealth maximization. In this regard, any organization engaging in CSR activities encounter resistance from investors who demand increased value for their investments (Panayi, 2015). Because the major goals of multinationals are to remain competitive and appeal to shareholders, they might continue pursuing aggressive tax avoidance practices. In this regard, MNCs are the major hindrance to combating tax avoidance; hence it is important to engage in international coordination to address this problem.

One of the ways of combating tax avoidance is to emphasize the CSR perspective. All countries of the world and concerned legislative bodies should agree and spread the ideology that tax avoidance is a CSR issue (Alstadsæter & Jacob, 2013). The idea of treating tax avoidance as a CSR issue should be promoted through coordinated approach involving consumer activism, voluntary measures, and investor influence.

All interested parties internationally should promote anti-avoidance practices through consumer awareness or activism. In this case, CSR supporters should engage in public awareness drives to shame MNCs that engage in tax avoidance. Concerned governments and international organizations should use the media to educate the public about the costs of tax avoidance, and the need to approach tax payments from a CSR perspective. This consumer activism will pile pressure on MNCs and encourage them to change their tax avoidance activities (Cox, 2003). It also puts pressure on governments to avoid providing tax havens to multinational corporations. For instance, there was a widespread publicity about Nike’s involvement in human rights abuses in overseas factories, prompting the company to change its ways and adopt effective supply chain initiatives.

Similarly, the international community should treat tax avoidance as a CSR violation and campaign seriously against it. People need to understand that all multinational corporations should pay their share of tax to promote fair competition (Dietsch, 2015). Publicity and activism allows the public to develop negative views of tax avoidance practices, leading negative image and poor reputation of organizations engaging in tax avoidance. It is also important to develop common tax reforms across the world to prevent tax avoidance practices.

Investors across the world may also be engaged in a coordinated drive to pressurize firms engaging in tax avoidance to avoid the vice. Investors encourage firms to engage in tax avoidance by requiring increased profits and shareholders’ value (Gravelle, 2013). In this regard, investors should be mobilized through forums and the media to use AGMs as avenues to demand ethical and responsible behaviors in organizations. Investors may influence MNCs to adopt CSR policies that include appropriate tax payments and anti-avoidance measures. For this initiative to be successful, all investors across the world should be well coordinated to speak one language and promote fair competition.

## Conclusion

The allegations that Apple collaborated with the Irish government to avoid tax payment has become a serious concern for the European Union and anti-avoidance crusaders. In this regard, there has been a mounting postulation that tax avoidance through MNCs’ arbitrage with government authorities should be treated as a CSR issue. Tax payment is a responsible way of serving the interests of all stakeholders, including governments and societies. Tax avoidance could lead to long financial losses, social welfare costs and unfair competition in the market. Therefore, interest groups across the world should engage in coordinated activities to combat tax avoidance. Some of the ways of doing so include investor influence, voluntary measures and consumer activism.

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