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Corporate Tax Avoidance

Is paying a fair share of taxes a social responsibility?

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Corporate tax avoidance is a phenomenon that affects countries and people all around the world. Big multinational corporations are avoiding taxes by complex, yet legal, tax strategies offered to them by big accountancy firms. Profits of these big corporations are shifted from high-tax jurisdictions into tax havens. Thus, avoiding or minimising their tax bill. This action consequently shifts the tax burden on other taxpayer groups and can harm state's ability to offer its public infrastructure.

This paper will reveal the scale of the issue and show evidence how tax havens, some governments and accountancy firms are all involved in a network that enables corporate tax avoidance to happen. The thesis will present ideas to whom we should pay taxes and why, as well as offer counterarguments and look at the matter using various competing theories.

Tax transparency hasn't been traditionally included in a corporate social responsibility statement. The paper will investigate whether tax transparency as a part of the corporate social responsibility would correlate with a reduced level of corporate tax avoidance.

Finally, the thesis will showcase evidence and arguments about why paying a fair share of taxes can be seen as a company's social responsibility.

Keywords	Tax Avoidance, Tax Havens, Corporate Social Responsibility

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Glossary

BEPS	Base erosion and profit shifting, tax planning strategies used by multinational corporations that exploit gaps and mismatches in tax rules to avoid paying tax
CSR	Corporate social responsibility
FDI	Foreign direct investment
GDP	Gross domestic product
HMRC	Her Majesty's Revenue and Customs, department of the United Kingdom government responsible of collecting taxes
IRS	Internal Revenue Service, revenue service of the United States federal government
MEP	Member of the European Parliament
MNC	Multinational corporation
OECD	Organisation for Economic Co-operation and Development
PFI	Private finance initiative, a way to fund public infrastructure via private funding
REIT	Real-estate investment trust

1 Introduction

This thesis will give an overview of the corporate tax avoidance happening around the world and analyse the problem and its effects in financial, social and ethical perspective. The paper shows the scale of corporate tax avoidance, shows different techniques in performing it and analyses real cases. The importance of tax havens in performing tax avoidance is also presented with numbers and examples.

From the business ethics viewpoint, the thesis will explain to whom we have a duty to pay taxes and why. The thesis will identify different stakeholders that are involved and investigate how morals influence people's behaviour. This paper will be employing a range of perspectives, with a particular reference to the work of McGee (2012). What is a so-called company's "fair share" of taxes and whether a company has a social responsibility to pay it will be discussed and analysed further. Examples of different companies and their tax strategies are provided together with the effects on the society and company's reputation.

Corporate social responsibility and corporate tax avoidance are not usually linked together. The thesis will investigate this issue further and find possible answers to this. In addition, it is considered whether these two could be linked and how would it possibly affect the corporations. Different arguments and views are presented to support the fact why taxes should be included as a part of the corporate social responsibility statement.

2 Corporate Tax Avoidance

Firstly, it is important to define the term corporate tax avoidance. Tax avoidance differs from tax evasion by means that avoidance uses legal processes to avoid or minimise paying taxes, whereas evasion means using illegal methods. Tax evasion is any dishonest or dubious action taken outside the legal framework (Sikka, 2010). Corporate tax is assessed on the profit of a firm to raise taxes. Statutory corporate tax rates vary from country to country, or in some cases even by states. As seen in the Figure 1 the corporate tax rate in the United States is 40 percent compared to the Bahamas for example where it is zero percent. Differentiation in corporate tax rates encourages the corporations to move their profits to be taxed in the more favourable countries, as well as report their losses in high-tax countries.

Table 1. Statutory corporate tax rates around the world, (Payne & Raiborn, 2015)

Location	2008 (%)	2009 (%)	2010 (%)	2011 (%)	2012 (%)	2013 (%)	2014 (%)
Spain	30.00	30.00	30.00	30.00	30.00	30.00	30.00
Sweden	28.00	26.30	26.30	26.30	26.30	22.00	22.00
United Kingdom	30.00	28.00	28.00	26.00	24.00	23.00	21.00
United States	40.00	40.00	40.00	40.00	40.00	40.00	40.00
Bahamas, Bahrain, Bermuda, Cayman Islands, Guernsey, Isle of Man, Jersey, Vanuatu	00.00	00.00	00.00	00.00	00.00	00.00	00.00
Europe avg.	21.95	21.64	21.46	20.81	20.42	20.60	19.68
N. America avg.	36.75	36.50	35.50	34.00	33.00	33.00	33.25
EU avg.	23.17	23.11	22.93	22.70	22.51	22.75	21.34
OECD avg.	25.99	25.64	25.70	25.40	25.15	25.32	24.11
Asia avg.	27.99	25.73	23.96	23.10	22.89	22.05	21.91
Global avg.	26.10	25.38	24.69	24.50	24.40	23.71	23.64

Tax avoidance can also be called “tax planning” and especially in the case of large multinational corporations (MNC) it is commonly expected by the shareholders that the company is to arrange its affairs so that the tax burden is at its absolute minimum. (Payne and Raiborn, 2015) Companies do this to enjoy greater profits and pay higher dividends to their shareholders.

The term, ‘’aggressive tax planning’’ is often used for a type of tax avoidance that is by legal methods aiming to bring the corporate tax rate to a minimum or even to zero. It is the opposite of regular or “acceptable” tax planning. The characteristics of aggressive tax planning can be for instance an intensive use of legal and financial tools, establishments in foreign tax havens, unbalanced capital structures and transfer prices, or a disingenuous use of tax treaties. However, aggressive tax planning is not a legal concept, which leaves us with a question of where to draw the line of moral acceptability,

which runs on the inside of the tax planning area. According to the corporate social responsibility view aggressive tax planning can be defined as actions taken by taxpayers which are in the line of requirements of tax law, but which do not meet the sensible and justified expectations and requirements of the stakeholders. (Knuutinen, 2014)

Tax avoidance is a worldwide phenomenon that affects people from developing to developed countries. Nearly every MNC uses tax havens and 85 percent of international banking and bond issuance happen in the Euromarkets, also known as the offshore market. (Shaxson, 2011) To understand the scale of the problem, Sikka (2010) reports that U.S. Treasury is losing over $345 billion each year due to tax avoidance and between 1998 and 2005 more than 65 percent of domestic and foreign corporations did not pay any federal corporate taxes and that 25 percent of the largest companies in the U.S. had gross sales of over $1.1 trillion, though they did not pay any corporate taxes.

''The race-to-the-bottom'' on corporate tax rates has accelerated in the last few decades. Statutory corporate income tax rates in OECD countries have decreased almost a third since 2000 – falling from 30.4 percent to just 22.3 percent in 2017. The drop of effective tax rates is even more drastic in the EU's digital sector – the current effective rate being less than 10 percent. (Chardonnet and Langerock, 2017)

It is also significant to note that by artificially diminishing tax bills, many of the mega corporations have grown to be so huge they could easily pass as countries. For instance, if the biggest of them all – Wal-Mart – were to be a country, its revenues in 2017 ($485.87 billion) would make it on par with the GDP of the 24th largest economy in the world, surpassing even Belgium. Apple with its $229.23 billion revenue (2017) would be bigger than Portugal with its $205.26 billion GDP (2016), Facebook's revenue in 2017 was greater than Serbia's GDP in 2016, and the list goes on. (Belinchón and Moynihan, 2018) As mentioned earlier, nearly all multinational corporations perform tax avoidance and when the corporations on the economic scale are becoming superior to countries it is time to question whether they are gaining too much power.

3 Tax Avoidance Techniques

MNCs use different techniques to avoid or minimise their taxes. As there is no world government or supranational tax authority, companies can transfer their taxable profits between the countries, park money in beneficial locations (tax havens) and basically choose where they are to be taxed. (Contractor, 2016) These methods are also known

as base erosion and profit shifting (BEPS) that refers to tax avoidance strategies that exploit gaps and mismatches in tax rules and by artificial methods shifting profits to low or no-tax locations. (OECD, 2019)

Some common practices for tax avoidance are offshore tax sheltering, accounting manipulation, and legal obfuscation. (Sikka, 2010) Offshore tax sheltering means performing artificial transactions to move revenue to low-tax countries. Some accounting manipulation methods are transfer pricing, exemption/deferral of foreign affiliate income, royalty payments and intra corporate loans. Legal obfuscation means a practice of confusing the authorities with complicated or overly extensive paperwork. (Contractor, 2016)

3.1 Transfer Pricing

MNCs ship goods and services internationally with unit prices that are frequently biased by tax considerations. Simply the idea of transfer pricing, sometimes called mispricing, is to pay higher amounts to associates in nations where taxes are lower and report lower values where taxes and/or tariffs are higher. (Contractor, 2016) According to the Organisation for Economic Co-Operation and Development (OECD) a transfer price is

> a price, adopted for book-keeping purposes, which is used to value transactions between affiliated enterprises integrated under the same management at artificially high or low levels in order to effect an unspecified income payment or capital transfer between those enterprises. (Fisher, 2014: 344-345)

Transfer pricing does not always involve tax havens and it is a legitimate practice if the corporation follows the ‘’arm’s length principle’’ that requires MNC with subsidiaries in multiple countries to value transactions as if they had been done by unrelated parties, each acting in its own best interest. MNCs can easily abuse the rule of arm’s length principle when assigning artificially low or high value to assets that do not have a comparable market value for instance, intellectual property. (Fisher, 2014)

Shaxson (2011) explains the method of transfer pricing, by using an example of international banana business. A bunch of bananas normally take two routes to the end customer – the real one and the artificial offshore paper trail. The real route could be that the bananas are picked in Honduras by an employee working for a U.S. multinational corporation, produce is then packed and shipped to a supermarket in Britain where the end customer purchases them. The artificial paper trail is very much different. When a

banana is picked in Honduras, sold in Britain and the corporation is from U.S., it is not always clear to identify in which country the taxes should be paid, and which component of the final profit to include. There are ways how accountants can basically choose this themselves.

Using the model of Shaxson (2011), one form of doing transfer pricing can be for example that a corporation runs its purchasing network from the Cayman Islands, have its financial services in a subsidiary in Luxembourg and the brand can be parked in Ireland and other parts of the business can be placed in other so-called tax havens (see Chapter 4). By transferring these 'artificial' payments within the subsidiaries the company can choose under which country's tax jurisdiction they are to be taxed. A corporate accountant in a tax haven will record the payment as a profit and this way the firm will enjoy from zero to a very low corporate tax rate in the high-tax countries.

> The general idea is that by adjusting its internal prices a multinational can shift profits offshore, where they pay little or no tax, and shift the costs onshore, where they are deducted against tax. (Shaxson, 2011: 14)

Some of the most well-known real-life cases of transfer pricing are "Dutch Sandwich" and "Double Irish".

3.1.1 Dutch Sandwich

Dutch sandwich is a common BEPS tool used by many of the U.S. multinationals. Houlder (2013) explains the structure of the Dutch sandwich as follows ''A US multinational forms a Dutch limited partnership and a corporation, both treated in quite different ways by the US and Dutch tax systems. The result is that if the partnership makes a loan or licenses intellectual property to the corporation, little or no current tax is paid in either the Netherlands or the US.'' Basically, MNC can easily avoid taxes by using the Dutch tax loopholes for its own favour.

3.1.2 Double Irish

Double Irish is another BEPS tool – a tax arrangement between two Irish incorporated companies. One of the companies is normally a tax resident of Ireland, and the other company that is headquartered in a tax haven is not. First company (tax resident) pays royalties to the second company (non-tax resident) for a use of intellectual property and

this amount can be deducted from the first company's tax bill in Ireland. The second company collects the royalties in a tax haven, thus avoiding Irish taxes. (Houlder, 2013) Due to international pressure and public's attention the Irish finance minister closed the scheme in 2015. However, companies with existing arrangements were given time to enjoy the benefits until 2020. This type of arrangements has been criticized widely because they can constitute "selective advantage" which violates the EU law regarding free and fair competition. (Morgan, 2016)

3.1.3 Hybrid Model – Google's Double Irish Dutch Sandwich

''Double Irish Dutch sandwich'' is a tax avoidance technique used by large MNCs. The structure uses a mixture of Irish and Dutch subsidiary companies to shift their profits to low or no tax jurisdictions. The idea is to first send profits through one Irish company to a Dutch company and then to a second Irish company which is headquartered in a tax haven. The company in the tax haven will pay no or very little taxes on the initial profit. The technique is thought to have enabled American companies to cut their tax bills by hundreds of billions of dollars. (Helmore, 2020)

One of the most famous users of ''Double Irish Dutch Sandwich'' is a massive MNC Google based in the U.S. Before Google went public in 2004, the company transferred portion of its ''intangible capital'' (search and advertising technologies) to an Irish subsidiary called Google Holdings. Google Holdings then created another subsidiary in Ireland called Ireland Limited, which for Irish tax reasons is headquartered in Bermuda – a recognised tax haven. Ireland Limited then licensed the intangible capital to affiliates in Europe, Africa, and the Middle East. As an example, Google France pays royalties for the use of intangible capital to Ireland Limited. These royalty payments are then transferred to Google B.V. – a shell company – in the Netherlands. Because the Netherlands and Belgium are both members of the European Union, these transfers are tax free. Then Google B.V. transfers all profits back to Ireland Limited, which is headquartered in Bermuda. As the corporate tax rate in Bermuda is zero percent, it results in Google paying an effective tax rate from two to eight percent. For instance, in 2015, by funnelling $15.5 billion of profits through Bermuda, Google avoided $3.6 billion in taxes. (Morgenstern, 2017)

Google's parent company Alphabet Inc. announced in early 2020 that it will no longer be using "Double Irish Dutch Sandwich" loophole (due to Irish officials ending the regime in 2020) and that the company will simplify its tax affairs. Tax experts have warned that

despite the end of the "Double Irish Dutch sandwich" not much has been shared with the public whether the company has already adjusted its tax arrangements in some other way that allow them to basically continue avoiding taxes. (Helmore, 2020)

3.2 Exemption/Deferral of Foreign Affiliate Income

Many nations tax the profits that the MNCs generate in their home-country operations but not their foreign affiliates' profits. Many nations, including the U.S., taxes the MNCs based on their worldwide income.

> However, the U.S. offers a gigantic loophole: after paying each country's taxes, MNCs can defer additional U.S. taxes on foreign affiliates' profits indefinitely by simply not remitting those profits back to the U.S. Instead, the funds are parked in tax havens (like Bermuda) and reinvested in other foreign operations. (Contractor, 2016: 29)

This type of profits that have legally escaped U.S. taxation system are believed to amount to everything from $2.1 to $3 trillion. (Contractor, 2016)

There have been efforts to repatriate the escaped trillions back to the U.S. President Donald Trump signed a tax overhaul in December 2017 that lowered the tax rate of repatriated profits from the previous 35 percent to 15.5 percent on cash and 8 percent on non-cash and illiquid assets. Only time can tell whether paying a smaller amount of tax and being able to bring the profits back to the U.S. will become more favourable over parking the profits offshore and paying zero tax. (Davison and Chandra, 2018).

3.3 Royalty Payments

Contractor (2016) reasons that interfirm royalty payments occur in MNCs for three reasons. Firstly, MNCs are typically technology-intensive, meaning that most of the companies' value lies in proprietary technologies and intangible assets. Secondly, even if the research and development (R&D) costs are incurred in the home country (high-tax country), the existing rules allow the transfer of the patents or brands to a holding company or affiliate in a low-tax or zero-tax country, which then charges royalties to headquarters and other affiliates. Thirdly, most governments give MNCs deductions on royalty payments that reduces the tax liability of the licensee – even if the licensee is part of the same MNC, and even if no R&D was done in the licensee's nation.

3.3.1 Ikea's Royalty Payments

One of the notable users of royalty payments to aggressively reduce their tax liability is a Sweden-based furniture retailer Ikea. Ikea consists of a complex ownership structure and different business entities but in short it can be divided into 'Inter Ikea' that oversees the brand value and 'Ikea Group' that sells furniture. Inter Ikea that is based in the Netherlands is entitled to collect 3 percent of Ikea Group's (franchisees) annual revenues for the use of a brand concept. Under the Dutch law, the royalties of Inter Ikea are not subject to taxation and therefore Ikea Group is able to escape with a large sum of non-taxable money. (Webb, 2017)

A study commissioned by the Greens/EFA Group in the European Parliament, led by Marc Auerbach (2016) estimates that these royalty payments which were meant to reduce Ikea's overall profits amounted to €11.1 billion between 1991-2011, which Ikea Intel then paid €10.5 billion in ''other charges'' to undisclosed entities, not taxed in the Netherlands. Auerbach (2016) suggests that is possible that some or all these €10.5 billion payments were directed to tax haven subsidiaries, including the Interogo Foundation in Liechtenstein (owner of Inter Ikea Holding S.A. and Inter Ikea Systems B.V.). With the profit shifting measures, for instance, during the period of 2002-2013 Ikea stores in Australia made over AUD$1 billion in profit but paid less than AUD$31 million in tax. This meant that Ikea had a tax rate of 3 percent compared to Australian corporate tax rate of 30 percent. Additionally, the study estimates that with the help of various tax avoidance techniques Ikea uses, the company was able to avoid at least €1 billion in taxes in Europe between 2009-2014.

3.4 Intra Corporate Loans

Mostly, governments allow companies to deduct interest payments on loans as an expense. Deductions are made on the profits which will make company's profits and therefore tax burden smaller. MNCs can use their own companies in different countries as a lender and a borrower. When these companies are in different tax nations, the MNC can shift their profits into more favourable tax jurisdictions in the form of an intercompany loan. MNC can reduce taxes in high-tax jurisdictions, for example by making its lower-taxed affiliates extend loans to affiliates in higher-tax nations, thus enjoying a greater tax deduction on the interest payment. (Contractor, 2016)

4 Tax Havens

"A tax haven or offshore financial center is any country or jurisdiction that offers minimal tax liability to foreign individuals and businesses." (CFI: What is a tax haven?) Some of the features of a tax haven include that the country does not need a business or an individual to have residency to enjoy their tax policies. In addition, for having relatively smaller taxes compared to non-tax havens, they also share very limited or no financial information with foreign tax authorities. There are around 60 of these secrecy jurisdictions around the world. The banking secrecy laws enable not only tax avoidance, but also hiding money sourcing from criminal activities - money laundering, fraud, drug trafficking and terrorism. (Shaxson, 2011; CFI: What is a tax haven?)

Shaxson (2011) divides tax havens roughly into four groups: continental European havens (e.g. Luxembourg and the Netherlands), a British influence zone that is loosely shaped around the former British empire (e.g. Jersey and the Cayman Islands), U.S. influence zone (includes some U.S. states and offshore locations such as the U.S. Virgin Islands) and finally, unclassified countries such as Somalia and Uruguay.

First group – continental European havens – started around the First World War as governments raised taxes to pay for their war costs and rich individuals were looking for more favourable locations to park their money, such as in the neutral state Switzerland. Luxembourg has been operating as a tax haven since 1929 and is today with its $2.5 trillion of parked offshore money, one of the biggest tax havens in the world. Another major European tax haven is the Netherlands that is famous for its ''Dutch sandwich'' tax regime (see Chapter 3.1.1). European microstates: Andorra, Monaco, Liechtenstein and Cyprus are also notorious tax havens. (Shaxson, 2011)

Shaxson (2011) explains that the second group – based on the former British Empire – is by far the biggest. The group is centred on the City of London (see Chapter 4.1), the most important part of the global offshore system, and the group consists of three main layers. The inner ring includes Britain's three crown dependencies: Jersey, Guernsey and the Isle of Man. The U.S. publication *Tax analysts* estimated in 2007 that just these three islands together hosted about $1 trillion of potentially tax-evading assets.

The next ring consists of Britain's 14 overseas territories that are considered world's top secrecy jurisdictions: the Cayman Islands, Bermuda, the British Virgin Islands, Turks and Caicos and Gibraltar. These places are partly independent from Britain, though Britain is in control behind the scenes. The Cayman Island has a population of sixty thousand, yet

it is still the world's fifth largest financial centre that has eighty thousand registered companies, more than three-quarters of the world's hedge funds and $1.9 trillion in deposit – four times as much as the banks in New York City. (Shaxson, 2011)

The third ring includes tax havens such as Hong Kong and the Bahamas that are not in direct control of Britain but share a history and have strong present links to the City of London. Shaxson (2011) estimates that these three rings together hold over a third of international banking assets worldwide, and when the City of London is added to the sum, it amounts up to nearly a half. The outer reaches of the British influence zone – the ''spiderweb'' – includes other havens such as Singapore, Dubai, Vanuatu, Mauritius and Ireland.

Shaxson (2011) explains that the third group ''U.S. influence zone'' consists of havens such as the U.S. Virgin Islands, Marshall Islands and the biggest haven of the zone Panama. Panama's history as a tax haven began early in the 20th century when it began registering foreign ships to avoid U.S. taxes and regulations and later it caught Wall Street's attention when it allowed basically anyone to open tax-free, anonymous and unregulated Panama corporations. The United States has also its own ''onshore'' tax haven states – Wyoming, Nevada and Delaware – that have become well-known for providing low-cost and very strong forms of almost unregulated corporate secrecy.

Delaware is the second smallest of the U.S. states, yet more than half of the public U.S. corporations and around 60 percent of Fortune 500 companies (500 of the largest U.S. corporations by total revenue) are registered there. As of 2012, Delaware had more corporate entities than people. The most famous – or infamous – address in Delaware is 1209 North Orange which is a legal address to around 285,000 separate businesses. The businesses include big corporations such as American Airlines, Apple, Bank of America, Berkshire Hathaway, Cargill, Coca-Cola, Ford, General Electric, Google, JPMorgan Chase, and Wal-Mart, as well smaller companies, shell companies, and corporate citizens involved in criminal activities. What they all have in common is that they simply have a drop box in this address. (Wayne, 2012)

Companies have moved to Delaware in favour of reducing their taxes, avoiding regulations and seeking secrecy. Opening a shell company — a firm with no employees, no assets and, in fact, no real business, is easy to establish in Delaware. The state does not tax certain profit-making intangible items, for instance; trademarks, royalties, leases and copyrights. Therefore, a company can shift its profits through royalty payments and similar revenues to a holding company in Delaware, where they are not taxed – even

though its business would take place in another state. This is known as ‘’the Delaware loophole’’ which has over the past decade enabled corporations to reduce their tax bill by approximately $9.5 billion. Of course, at the expense of other U.S. states. Furthermore, Delaware offers one of the best banking secrecy laws in the world, and it is the biggest single source of anonymous corporations in the world. (Wayne, 2012)

Shaxson (2011) describes that some of the jurisdictions serve as conduit havens that offer services that transform the identity or character of an asset specifically for a route to somewhere else. One of the biggest conduit havens is the Netherlands which had in 2008 about €4.5 trillion flowing through Dutch Special Financial Institutions. To compare, this amount is nine times bigger than the Dutch GDP. Mauritius has become a fast-growing conduit haven and it serves over 40 percent of the foreign investments into India. The nation specialises similarly in directing Chinese investments into Africa’s mineral sectors.

The offshore financial structures usually work with a ‘’laddering’’ method that provides secrecy and complexity protecting the assets. Shaxson (2011) gives an example: a person may have $20 million in a Panama bank account but instead of using the person’s own name, it is set up under a trust in the Bahamas. The trustees may live in Guernsey and the trust beneficiary can be a Wyoming corporation. Even if the names of the company’s directors are available, they are probably professional nominees who direct hundreds of similar companies. The directors are connected to the next step of the ladder by a company lawyer, who is prevented from giving any information by attorney-client privilege. If the names are eventually found out, it may be only to discover that the company is held by a Turks and Caicos trust with a flee clause, meaning it can automatically transfer the trusteeship of a trust on the occurrence of certain triggering events to an alternative ‘’safe’’ jurisdiction. Basically, because of the laddering the search takes too long to find a certain name or a company, before they are to disappear.

4.1 City of London

Michael Oswald’s independent documentary *The Spider’s Web: Britain's Second Empire* (2017) describes the City of London as the epicentre of Britain’s “spiderweb” offshore system. It is a “city within in a city, state in a state”. Essentially it is London’s financial district about a size of a square mile. The modern City started to form after the crisis of Suez Canal in the 1957 when Britain started to lose its power as a worldwide Empire. Financiers started to withdraw their money from Britain which consequent the value of

British pound to decrease. In order to save the pound Britain limited the British banks' overseas lending. The representatives of the banks and Bank of England came to an unwritten agreement that if the banks intermediated between two foreign residents in a foreign currency, this transaction would not be considered under the British jurisdiction and the Bank of England. (The Spider's Web: Britain's Second Empire, 2017)

The newly created market was called the London Eurodollar Market, also known as the Euromarket. The banks in London had two sets of accounts, local British and the Euromarket accounts that where located elsewhere which meant that the Bank of England was not responsible of regulating them. (The Spider's Web: Britain's Second Empire, 2017) American banks were quickly moving their international banking operations to the Euromarket in order to avoid the U.S. financial system and to earn higher interest rates. (Palan, 2010) At the same time in the 1960s British lawyers and bankers started to arrive in the Caymans and other British Overseas Territories to attract international clients under the banking secrecy jurisdictions. The Euromarket grew fast and in 1988 it was already the size of $4.8 trillion and in 1997 almost 90% of all international loans were made through this market. (The Spider's Web: Britain's Second Empire, 2017)

The City of London still today operates the same way as it used to in the beginning of Euromarket era. It is a private entity run by an organisation called City of London Corporation that offers all the services a normal council would except all of them being private, for instance the City's police force and the courts. The City has its own Lord Mayor who is chosen by the heads of medieval guilds. Controversially, the City has also its own permanent representative in the Britain's House of Commons. In contradistinction to all the other representatives, the City of London's representative is not chosen by the people but by the private businesses that operate in the City. This means that the businesses have a say and a permanent place in the lower house of the Parliament as opposed to the ordinary lobbyists. (The Spider's Web: Britain's Second Empire, 2017)

The power of the City of London and its offshore satellites is remarkable. Nearly 40 percent of the world's financial assets are still placed in locations under loosely defined British Empire city-state jurisdictions. (Palan, 2010) Being a separate entity from London, having exemption laws compared to the rest of Britain and a direct connection to British tax havens, the City of London is able to funnel large amounts of money through its banks. The business deals are often made in London, but the money is handled elsewhere to provide secrecy and to avoid British jurisdiction. (The Spider's Web: Britain's Second Empire, 2017)

One could argue what was the principal reason for Britain to develop the financial system of the City of London and its satellites and what is the true value it brings. Was it the Britain's best effort to transform from colonial power into a global financial power? Economist and professor of international political economy from the City University London, Ronen Palan, (2010; 174) explains why small colonial outposts and dependencies - offshore financial centres - began to develop:

> They did so for a number of reasons, of which avoiding tax must be counted as the principal one. The success of this process can be gauged by the results, which are a British-led international financial system.

4.2 Tax Havens and Developed Nations

MNCs in developed nations can easily avoid the tax regimes of their own country by simply relocating to a tax haven. This creates growing pressure for governments to lower their taxes on capital businesses and creates competition between countries and states. This can pressure the countries to lower the taxes, and hence collect less taxes and put less money on their public spending. (Fisher, 2014) In the socio-economic context one might wonder: if corporations don't pay their taxes why should I? This on the other hand can encourage grey economy as well as populist backlashes against particular firms, while the general problem remains. (Morgan, 2016)

One of the criticisms is for instance, when a U.S. based MNC is using a tax haven, it can benefit from the stability and security of the U.S. government, the productivity and expertise of the U.S. workers and the strength of U.S. infrastructure, but simultaneously avoid paying taxes that help to create and support these factors. Alarmingly, the commonly practiced tax avoidance of U.S. companies has increased the tax burden of its citizens, which has grown from 9.7 percent of federal revenue to 40 percent between 1952 and 2009. (Fisher, 2014)

Europe is the region with the lowest nominal average corporate tax rate in the world, yet a lot of companies that operate in Europe use tax havens. In fact, Europe is a home to many well-known tax havens, such as the Netherlands, Luxembourg, Ireland and Cyprus. Interestingly, none of these countries was featured on the EU's tax haven blacklist. This raises a question whether the EU should also address the practices of its own member states in order to encourage fair taxation. (Chardonnet and Langerock, 2017)

4.3 Tax Havens and Developing Nations

Although tax avoidance practices by MNCs are a global problem in developing and developed countries alike, they remain of greater concern to the Global South. An estimated $100 billion in tax revenues is lost annually in the developing countries. This amount is related to inward investment stocks directly linked to offshore hubs (tax havens). (UNCTAD, 2015) In comparison, just one-third of this amount would be enough to provide essential healthcare that could prevent needless deaths of eight million people in the developing countries. (Chardonnet and Langerock, 2017) Nearly a third of the amount would likewise be enough to cover the cost of the agricultural investment needed to reach a world free from hunger and just a twelfth would be enough to end the global malnutrition that takes the lives of 2.3 million children annually. (ActionAid, 2013)

Western corporations use the national resources and labour force of developing countries but with the use of complex tax systems and tax havens, they can transfer most of the profits that the resources generate out of these countries into secrecy jurisdictions or rich countries whilst paying very little or no taxes to the source country. (Shaxson, 2011) Profit shifting out of developing countries can have a significant negative effect on their sustainable development prospects. The less developed the country is, the harder it is to deal with highly complex tax avoidance practices because of resource limitations and/or lack of technical expertise. (UNCTAD, 2015)

Exchequers of developing countries are more dependent on the corporate taxes they collect than developed countries, accounting for 16 percent of all tax receipts compared to 8 percent for high-income countries. (Chardonnet and Langerock, 2017) Every dollar MNCs shift from the developing world harms not only the governments fighting against poverty and trying to build better infrastructure, but also the domestic businesses that do not have the advantage to shrink their tax bills with the same methods that the MNCs use. This puts local businesses in an unfair position and lets MNCs freeride at the expense of other individuals and businesses in developing countries. (ActionAid, 2013)

> Many tax havens are developing nations, where a lack of centralized taxation prevents the formation of a beneficial tax infrastructure and paralyzes growth efforts. (Fisher, 2014: 344)

Tax haven policies might seem attractive to the developing nations as they appear to significantly increase the amounts of foreign direct investment (FDI) in the host countries. The numbers are misleading as the transfers are normally one directional (out of the country) or make ‘a round-trip’ which means that the FDI is invested somewhere else but

disguised as coming from the host country. This on the other hand creates false statistics that can for example, appear as a higher GDP of the host country than it is in reality. Tax haven policies also bring along criminal activities; thus, they are often made to seem as legitimate transfers of funds. (Fisher, 2014)

Tax havens are harming developing countries and bringing only few benefits to the local people. The Panama Papers (leaked documents of offshore entities in Panama) brought Panama to the spotlight in 2015. The majority of the population in Panama had nothing to do with the case though. In fact, almost 32 percent of Panamanians were living under the poverty line, of which 10.3 percent were in extreme poverty in 2015. United Nations Development Programme (UNDP), as cited by Chardonnet and Langerock (2017) estimates that 90 percent of Panamanians living in rural areas can be considered poor or extremely poor. Moreover, Panama spent just 8.4 percent of its GDP on social public expenditure, which is far less than the average of 14.5 percent in Latin America in 2014 – and Panama's number is constantly declining. Therefore, we can say that the tax havens are not beneficial to the local public of the host country but rather to a small elite composed of rich individuals and large MNCs. (Chardonnet and Langerock, 2017)

5 The Ethics of Corporate Tax Evasion

5.1 Four Views on Tax Evasion

By legal, ethical and practical definition tax evasion and tax avoidance are different matters. Considering that multinational corporations pay very low to zero corporate tax rates when performing tax avoidance activities (aggressive tax avoidance), the both actions – tax evasion and tax avoidance – will result in more tax burden in other taxpayer groups. Although, tax avoidance would not have required anything illegal. Therefore, McGee's theory can be used as a framework to look at four ethical views around these types of actions that are intended to aggressively minimise one's own tax bill.

McGee (2012) states that there are four views to answer whether tax evasion is ethical or not. These are: tax evasion is never ethical, always ethical, sometimes ethical or there is an affirmative duty to evade taxes. Furthermore, as the four rationales mention "individual", it is important to clarify that a corporation is comparable to an individual taxpayer for tax purposes. For instance, according to the Internal Revenue Service (IRS)

a domestic corporation is included in the category of "United States person" for tax purposes, and vice versa a foreign corporation qualifies as a foreign person.

Firstly, view one states that “tax evasion is never ethical” and “that individuals owe a duty to the state to pay whatever taxes the state demands. There is no such thing as taxes that are too high because the people determine the level of taxes.” (McGee, 2012: 22) In a democracy, this view is justified under the consent theory. Consent theory of political obligation supports the idea that there is a moral requirement to obey the law of one’s country. (Klosko, 2016) Who is the right lawmaker is reasoned so that the people’s representatives: the legislators, chief government executives, and the government bureaucracy are specialists and much more knowledgeable than private citizens who have no time nor expertise needed to run a government. (McGee, 2012)

McGee’s theory is conditional on the democratic accountability of the government. As was proclaimed at the beginning of the American War of Independence, “no taxation without representation!”. The slogan refers to Americans Colonists who felt like the English Crown had no right to tax them because they lacked representation in British Parliament. (NCC, 2019) Thus, if the government is democratically elected and accountable to the electorate, McGee’s first view supports the payment of taxes.

The second view “tax evasion is always ethical” takes its foundations from anarchist view of thinking that all governments are illegitimate.

> Government is a mere thief, which confiscates assets, percentages of paychecks, etc., without the consent of the owners of the property. The definition of theft is the taking of property without the owner’s consent. The fact that it is sometimes some government that does the taking does not alter this basic definition. (McGee, 2012: 11)

Counterargument to this rationale is that governments, especially the welfare states, provide functions for the common good such as: education, healthcare and police force, that could not exist without tax money.

The third view “tax evasion is sometimes ethical” states that in some cases tax evasion can be ethical and unethical. What is the case in each situation depends on whether the government collects taxes to provide common good or not? (McGee, 2012) Common good should be at least in a democratic system defined and pursued by the government - the people’s representatives - but even democratic systems are not always immune to corruption or subterfuge. Constitutional law is supposed to protect against this, but as the U.S. demonstrates, this is not always straightforward.

The fourth view “there is an affirmative duty to evade taxes” means according to McGee (2012: 17)

> …the government is evil and funding to evil governments must be cut off to reduce further perpetrations of evil; society benefits by evasion because the result is a positive-sum game; and evading taxes reduces injustice in society because taxes violate property rights and the fewer times property rights are violated, the more justice there is.

Meaning, if the government is embodied as evil it is our only duty to resist, therefore evading taxes is part of the resistance. The argument could be easily undermined with the fact that the government enforces property rights. Without the government’s protection property rights would not exist.

5.2 Duty to Whom?

According to McGee (2012), the duty to whom we need to pay taxes has three possibilities: God, others or the state. Some religious literature states that we have a duty to God to pay taxes. For instance, the Christian Bible notes that

> Let every soul be subject unto the higher powers. For there is no power but of God: the powers that be are ordained of God. Whosoever therefore resisteth the power, resisteth the ordinance of God: and they that resist shall receive to themselves damnation. (Romans 13:1–2)

Furthermore, when Jesus was asked about whether it is lawful to give tribute to Caesar. He replied:

> Render therefore unto Caesar the things which are Caesar’s, and unto God the things which are God’s. (Mark 12:17)

But since God did not write the Bible himself, the motives of the person who did write it must be taken in consideration. Moreover, there is not too many people in the modern society who would believe that the reasoning to pay taxes must come from God, and if an individual is an atheist can they be required to obey the God’s demands?

The second argument “duty to others” means that the duty to pay taxes is either to a religious community or other taxpayers. McGee (2012) explains the rationale that we as individuals have a duty to others based on the belief that we owe a duty to other taxpayers to pay our fair share and if we pay less of our fair share that would mean that the others must pay more. Thus, according to “duty to others” it would be socially irresponsible to avoid tax. The problem with this theory is to determine what is a fair share (see Chapter 10.). As the corporate tax rates vary among the states it is difficult to

say what is an actual fair share. Furthermore, it can be that one is paying too much taxes because the taxes are too high, or the government might be asking a lot of taxes to use them for some suspicious purposes.

The last argument, “duty to the state”, signifies that the duty comes from maintaining the common good, peace and legal justice. However, not all states pursue these common goods. The state might be evil, corrupt or inefficient. (McGee, 2012) The counterargument is that companies would not exist without states and “corporations as private entities bear heightened responsibilities toward the public.” (Ciepley, 2013: 153) As the corporations are given special rights to legal existence: a corporation can (like an individual) buy, sell, own and enter into a contract on the grounds of public benefit. What is the public benefit to justify the special privilege if they do not even pay taxes to the society? (Ciepley, 2013) One could argue that lower corporate taxes may correlate in lower product prices and thus benefit the public. Ciepley (2013: 153) concludes

> Corporations may offer heightened productivity. This is a public benefit, however, only if the fruits of increased productivity are widely spread. Without charter restrictions assuring public benefits, the practice of catering solely to the interests of shareholders (or managers) loses legitimacy.

6 Corporate Social Responsibility

Corporate social responsibility (CSR) has traditionally been linked to three areas: economic, environmental and social. Society is expecting the company to behave in a responsible manner and to consider the economic, environmental and social impact in their operations and activities that are above or independent of the limits or minimum requirements set by legislation. In the past, the environmental and social issues were the main areas of companies’ CSR practices. Since the MNCs’ tax avoidance has caught much more publicity in the recent years, several stakeholder groups have started to wonder whether tax strategies and tax planning activities should be included in the economic responsibility. CSR is still today a controversial topic and it is also important to remember that CSR itself is not a legal concept, rather it concerns morality and ethics. (Knuutinen, 2014)

Dowling (2013) states that tax avoidance could be comprehended as a moral issue (it is the right thing to do), amoral (they are unaware of, or indifferent to, or they separate it from right or wrong), or to see it as immoral (they are actively opposed to paying tax). Within the business community there is resistance to frame corporate tax avoidance as a moral issue rather than treating it in the financial perspective – as a cost. The question,

whether corporate tax avoidance should or should not be included in CSR depends now mostly on the company itself. Firstly, most of the CSR industry has consistently avoided the issue of the role of these payments and secondly, in existing literature on accounting, economics, tax practice, and public policy, corporate tax paying behaviour is seldom linked directly to CSR. (Payne and Raiborn, 2015) There is no current regulation on the matter, which basically lets the company itself to choose if it is to include it or not.

Sikka (2010) claims that there are number of cases where the organisations had sworn to behave ethically and in a socially responsible way, but simultaneously indulged in tax avoidance, and even in some cases tax evasion. Why is this the case? The answer could be found in the stakeholder theory. The theory proposes that three most important groups for a corporation are employees, customers and investors. In all of these groups tax avoidance should correlate positively – higher salaries, lower product prices, and more profit. If the list of stakeholders is expanded also to the public, tax avoidance can be acknowledged as a negative outcome for the society. (Dowling, 2013) When implementing utilitarian analysis (most benefit to the most) in the case of tax avoidance it is clearly unethical and socially irresponsible as it does not provide the best possible outcome for the greatest number of everyone affected by the decision, meaning the public. (Payne and Raiborn, 2015)

Economist Milton Friedman argues in his *New York Times* article in 1970 that ‘’the social responsibility of business is to increase its profits’’, adding that the company should perform within the legal framework though. If the issue of tax avoidance is only justified by legal matters, we must consider whether the companies should challenge the social agenda of elected governments that accept these laws?

> From this perspective personal and corporate tax avoidance can be framed as a form of civil disobedience. An alternative perspective is that tax avoidance is a form of anti-democratic behavior. (Dowling, 2013: 183)

Different pressure groups and non-governmental organisations (NGOs) have started to acknowledge the differences between MNCs’ claims of being socially responsible and at the same time avoiding taxes, thereby disabling governments’ ability to provide education, healthcare, security, pensions, clean water or redistribute wealth to eliminate poverty, all of which can be considered as socially responsible actions. (Sikka, 2010) David Williams, of KPMG's tax business school (as cited by Sikka, 2010: 4) states that ‘’…it is rare for big business to see the payment of taxes as an explicit social duty’’.

Not offering transparent financial information is problematic as it raises concerns whether the company is involved in ethically obscure behaviour. Timonen (2008) claims that if a

firm is unwilling to expose its intent, the action should be avoided. Furthermore, a study of 408 Australian public companies conducted by Lanis and Richardson in 2012 (cited by Stephenson, 2015) found out that companies that had a broader CSR disclosure were associated with lower tax avoidance. The argument and the study support the fact, that the most effective way to minimise tax avoidance is to avoid secrecy in taxation matters. Additionally, clear guidelines that would include taxes as an explicit part of the CSR agenda should be imposed.

6.1 Three Views on CSR and Corporate Taxation

Avi-Yonah (2014) reasons that there are three different ways to comprehend CSR and corporate taxation. He calls them the “artificial entity view'', the “real entity view'' and the “aggregate view''. These views will help us answer the question whether corporations are obligated to pay corporate tax (if a corporate tax is imposed)?

The first view – artificial entity view – perceives a corporation as a creature of the state that includes legal advantages such as legal personality and limited liability. The state generates the conditions for a corporation to operate in the market and provides defence, the property rights regime, built infrastructure and it educates workers. (Avi-Yonah, 2014) The corporation owes its existence to the state and is for this reason obligated to include CSR in its mission. Paying corporate tax is a way to fulfil company’s CSR obligations. (Knuutinen, 2014)

> A corporation could not operate without the protection of property ensured by the law, public order and infrastructure. Therefore, under the artificial entity view, corporations have an affirmative obligation not to engage in aggressive tax planning designed to reduce their tax burden. (Knuutinen, 2014: 48)

If a corporation is to involve itself in aggressive tax planning, under the artificial entity view it is regarded as a breach of an implicit bargain with the state that created it. (Avi-Yonah, 2014)

The second view – real entity view – states that a corporation is comparable to an individual. Corporate managers and employees make up an own entity (corporation) that is separate from the state and from its shareholders. According to the real entity view, a corporation’s engagement to CSR activities that are unrelated to the corporation but beneficial for the society at large, should be treated the same as if the actions were done by an individual. This means that a corporation’s CSR involvement should not be legally required but rather encouraged and praised when it happens. Under the real entity view,

the corporation (same as an individual) is legally obligated to pay its taxes and is expected not to deliberately engage in strategic tax behaviour designed solely to minimise its tax burden. (Avi-Yonah, 2014; Knuutinen, 2014)

The third way – the aggregate view – means simply that the corporation's only function is shareholder profit maximisation and the corporation should perform in a way that it would reach this goal.

> …any CSR activity that is not related to long-term profit maximization is an illegitimate "tax" imposed by management on the shareholders, without the accompanying democratic accountability. (Avi-Yonah, 2014: 24)

The idea is basically the same as the one represented by economist Milton Friedman in 1970 (see Chapter 6.). Tax is a cost for the company, and like any other cost it should be minimised or even turned into a profit. In terms of shareholder profit maximisation, it means minimising taxes will correlate in higher earnings per share. Problems arise as the aggregate view perceives most CSR activities to be illegitimate, leaving the state to bear all the responsibilities, and as corporations are aggressively trying to minimise their taxes, the state will not be able collect enough funds to fulfil its exclusive social responsibility functions. (Avi-Yonah, 2014)

7 The Meaning of Reputation

A potential risk of losing reputation can outweigh the financial gains MNCs would receive from using tax avoidance practices. If the public sees tax avoidance as a socially irresponsible activity, it can potentially harm a corporation and its shareholders by damaging the corporate reputation and hampering its branding efforts. Consequently, the harm of reputation may cause financial harm to the firm and its shareholders.

If a company's success depends strongly on the reputation, it is more likely to experience the harm of a hit to its reputation. For that reason, Starbucks – a company very much in the public eye – decided in 2012, after receiving a fine from its tax avoidance behaviour, to pay the U.K. tax authorities around ten million pounds ($16 million) more in taxes than it was initially required to pay in order to quell the controversy around its almost non-existent tax bill. (Fisher, 2014) It is interesting to note that the UK tax authorities allowed Starbucks to pay this sort of voluntary contribution that helps creating an atmosphere where companies once confronted about their tax avoidance behaviour, are given a

chance to use this sort of option to pay extra in order to save their reputation and possibly to avoid full prosecution.

Some states together with the MNCs have even taken an action to oppose the European Commission's efforts in making the companies to pay appropriate level of tax. For instance, Apple and Ireland appealed in 2019 to the European Union's order that was accusing Apple for receiving "illegal" tax benefits in Ireland over the course of two decades and ordered them to pay the country back €13 billion ($14.3 billion) in taxes. Similar appeal was made together by Apple and the U.S. in 2017, except then the U.S. officials' intervention was denied by the EU court. (Schulze, 2019)

As evidenced earlier some companies are every now and then confronted about their complex tax strategies aiming to minimise their tax bill. Usually the problem with catching a company with irresponsible tax behaviour, is that the tax payments of most big companies are not widely known. MNCs can report their tax obligations in obscure ways that would require a tax expert to understand what is going on. In the CSR reports companies tend to put more emphasis on the other areas of social behaviour or as usual not discuss tax obligations at all. (Dowling, 2013)

A positive example of using the adoption of anti-tax avoidance practices and policies in the same way it would any CSR activity, is Patagonia – an American outdoor clothing company. Patagonia's COO and CFO Rose Marcario stated (cited by Fisher, 2014: 364) that, whilst working for other companies, she

> …might have looked for ways to defer taxes in the Cayman Islands. Here [at Patagonia], we are proud to pay our fair share of taxes. It's a different philosophy.

Additionally, in 2018 Patagonia donated $10 million (tax savings by President Donald Trump) to non-profit groups that work on conservation and climate issues. (Roston, 2018)

8 The Role of Accountancy Firms

When we are talking about the role of accountancy firms, a certain group is worth mentioning. The group is called "Big Four" and it consists of Deloitte, Ernst & Young, KPMG, and PricewaterhouseCoopers or PwC. These four companies are relatively similar in size and they offer accountancy and auditing services. The biggest one of them by revenue in 2019 was Deloitte with its $46.2 billion revenue, second was PwC with

$42.2 billion, third was Ernst & Young with $36.4 billion and the smallest was KPMG with its $29.75 billion of revenue. All of the four companies operate worldwide, the main difference being that the top three companies by revenue have a bigger market share in the Americas whereas KPMG earned a larger share of their revenue in Europe, the Middle East and Africa. (Mazareanu, 2019)

The role of accountancy firms in MNCs' tax avoidance is integral. Sikka and Hampton (2005: 2) state that

> As entrepreneurial businesses, accountancy firms have supplemented their traditional trade of selling accounting and auditing services by diversifying into a variety of other products and services. They have developed organisational structures and strategies to sell tax avoidance schemes to corporations and wealthy individuals. The sale of such services shifts tax burdens to less mobile capital and less well-off citizens.

Without getting into too much in detail with the techniques the accountancy companies use (see Chapter 3.) they sell companies schemes that are specifically designed to minimise corporate, sales and payroll tax burden and this way to shift the tax burden on the shoulders of poor and middle-class citizens. (Sikka and Hampton, 2005)

When it comes to tax avoidance, the critics often point their finger at the policy makers, not the big accountancy firms facilitating tax avoidance schemes. The truth is that the accountants are cooking up and then selling tax avoidance schemes to multinational companies. The accountancy companies represent the perfect example of "enterprise culture" where "bending the rules" is acceptable and looked up on if it creates greater profits. Since accountancy firms are selling a service their main goal is to please the customer by giving them the opportunity to the biggest profit possible, right? (Sikka and Hampton, 2005)

Ethics aside and dollar signs on their mind, the accountants create more wealth on behalf of the less-fortunate citizens. It is also interesting to think whether when MNCs exclude themselves on the handling of their financials, they can also in their mind shift the moral responsibility to the accountancy firms and turn a blind eye to it. If a company is only buying a service and an accountancy firm is providing it - no matter how socially irresponsible it is - they can always sort of blame the actions on the other party. Especially when the services that the accountants provide are legal and the result being consistent with the company's goal of shareholder value maximisation.

Example of a case involving a Big Four company providing tax avoidance schemes to a MNC happened in the U.S in the beginning of 2000s. Ernst & Young provided a number

of schemes to Walmart - the largest corporation and private sector employer in the U.S. One of the schemes included a specially created subsidiary and a real-estate investment trust or REIT. With the special arrangement of Walmart paying its own property taxes to the subsidiary that mostly owned the REIT, the property rents were possible to be made tax deductible and hence Walmart reduced its tax liability in the relevant tax jurisdiction. During the four-year period when the scheme was active Walmart‘s tax bill was estimated to reduce by around $230 million. (Sikka, 2010)

The most astonishing fact is that Big Four do not only offer their services to private corporations but to also to governments and public authorities. For instance, the case of private finance initiative or PFI. PFI is a way to fund the public infrastructure (schools, roads, hospitals etc.) via private capital instead of via traditional method of central government. The financing costs of using private capital will be over period of 30 to 40 years three or four times higher than borrowing from the central government. When the PFI is set up Big Four advisers are then hired within the treasury department and they are then selling and advising upon implementation of PFI contracts by public authorities. Basically, the goal is to get the most benefit of these contracts and possibly exploit the legislation. (The Spider’s Web: Britain's Second Empire, 2017)

The UK tax department that is responsible for the collection of taxes - Her Majesty's Revenue and Customs or HMRC - has its offices owned by an off-shore private company Mapeley Steps based in Bermuda. The company that owns the PFI contract to run HMRC's head office borrowed money from offshore investors with a 15 percent interest rate. The same company didn’t pay taxes because they ended up losing money with the loan’s high interest rate. In 2011, HMRC could not prove that any PFI company was paying any tax in the UK. Hence, UK’s public infrastructure is funded by private companies that do not pay tax in the country (The Spider’s Web: Britain's Second Empire, 2017). Joel Benjamin, a campaigner from the organisation “The People vs PFI” (The Spider’s Web: Britain's Second Empire, 2017: 1:10:55) called out PFI for being “...basically a giant accounting scam”. After all the evidence it is rather hard to say that PFI was solely created to serve the public’s best interest.

Gaffney et al. (1999) claim that PFI significantly increases the cost to the taxpayer of NHS (National Health Service) capital development and the higher cost translates into service and workforce cuts. The UK government has consistently denied that, and it argues that PFI is nothing more than a procurement policy and it does not affect the services provided other than with increased efficiency. Government’s main argument for

promoting private funding for public infrastructure is that it is less risk averse, thus the projects will be more structured and managed more efficiently. Counterargument is that the private contractors if any want to protect their income, so the ultimate risk still lies with the public sector.

When funding public services via private sector with the costs to the taxpayer being higher, it is quite difficult to reason how that would improve the quality of services provided. When concerning a public service, especially such as healthcare, it is quite an awful concept that a government would turn their hospitals into money-making machines for private investors at the taxpayers' expense.

9 The Role of Governments

Governments have the right to levy taxes, for business operations that happen in their state and they also create the laws that regulate taxation.

> And for a host of political and economic reasons most countries tax companies as well as labor and expenditure. Once this decision has been made there is a political imperative for companies to pay a ''fair share'' of tax, both in appearance and substance. (Dowling, 2013: 180)

In theory, if the governments have well-established corporate taxation laws and they regulate them, tax avoidance should not be possible. As noted earlier, tax avoidance is very much a real issue in governments such as the U.S. and the U.K which is mostly due to their overly complex tax systems that are full of loopholes. The paradox is that these tax systems were also created by the same governments. (Dowling, 2013)

MNCs can easily avoid the legislation of a high-tax country by shifting their profits to a low-tax country, which lowers their tax bill. Some governments can also poach international tax paying companies. (Dowling, 2013) A fight between states for MNCs' profits and FDI that was generated elsewhere can be sometimes called "virtual tax competition" versus "real tax competition" which means attracting actual investments for production or other economic activities. When states are playing the game of virtual tax competition by reducing tax rates on the mobile tax base (corporate profits) they willingly shift the tax burden to immobile economic factors, such as labour and consumption. (van Apeldoorn, 2018)

Snape (2007) reasons that tax sovereignty (the government's ability to use its tax law to regulate companies and get them to help fund the state's social objectives) is ultimately depended on the credibility of the government to set appropriate rules for corporate taxation, to administer the tax system fairly and effectively, and to spend revenues wisely. Ultimately, it is the government's job to set the appropriate level of tax and to apply the laws and rules that empower fair taxation, and at least in a democratic society it is the people who choose the lawmakers – the politicians.

10 Politicians or Lobbyists?

It is not uncommon to see that same lawyers and accountants who set up and administer offshore trusts also occupy senior political positions, and in Britain's offshore jurisdictions most of the politicians are in business. These politicians lobby for businesses and promote business interests and at the same time sit in the boards of the corporations that they are meant to regulate. In the UK there are many politicians too that have personal and business ties to the City of London and its crown dependencies, and they promote the interests of the companies in the City. Which raises a question whether they are in reality politicians or the City's lobbyists? (The Spider's Web: Britain's Second Empire, 2017)

Interestingly, a lot of ex-politicians have been hired by accountancy firms to work as their advisers. The ministers of specific sector can easily use their obtained expertise for advising in investment choices and tax matters. Dave Hartnett was the former head of HMRC known for his "sweetheart deals" that gave for example British company BT Group (former: British Telecom) a tax refund of over 1 billion pounds. After his retirement Hartnett moved to the private sector and since 2013, he has worked as a consultant to a Big Four accountancy firm - Deloitte. His job is to advise foreign governments in corporate taxation. (The Spider's Web: Britain's Second Empire, 2017) His appointment was criticised by tax campaigners and MPs (members of parliament) that claimed that even though

> Hartnett cannot advise UK organisations; he could use his knowledge to strengthen the positions of offshore tax havens. (Neville, 2013)

A similar case happened in Finland when Anne Berner (Centre Party), at the time (in 2019) the Minister of Transport and Communications, was to become a member of the board of directors at SEB, a financial group headquartered in Stockholm, Sweden. Berner was serving SEB as a non-active member until her ministerial term was over and

then quickly became an active member of the board in June 2019. Frank Hojem, the head of media relations at SEB, said about Berner's appointment that

> She offers unique expertise about Finland given her business background and role in the Finnish government…. We want to grow our presence in Finland. We're a Nordic corporate and investment bank. The Finnish perspective is very important to us. (Teivainen, 2019b)

The spokesperson of SEB, basically says that Berner's obtained knowledge in her role in the Finnish government was a significant factor in her appointment. It makes one wonder how many politicians actually visit politics only to boost their own career, not to promote the interest of ordinary people.

Anne Berner was heavily criticised by other Finnish MPs for her decision to only stay in politics for one term until returning back to the business world. Paavo Arhinmäki, an ex-chairperson of the Left Alliance stated that

> Anne Berner is a consultant-politician. Berner makes a visit to politics. Others will have to clean up after her…there have been vocal calls to bring people from the world of business to politics. We have now tried Sipilä (ex-prime minister of Finland) and Berner. Maybe it is not business executives we need but people whose passion it is to take care of the everyday life of ordinary people? (Teivainen, 2019a)

It seems that many politicians and the elite have dissociated them from the life of ordinary people. Different rules apply to the elite and bending the rules and cheating governments is not an issue - instead sort of a goal to achieve - if you are part of the right network. Politicians are not acting on tax havens because they are using offshore services as well. (The Spider's Web: Britain's Second Empire, 2017) Eva Joly, MEP (2009-2019) and vice chair of the Panama Papers committee (The Spider's Web: Britain's Second Empire, 2017: 1:00:28) shares her opinion:

> We need the citizens to understand what is happening, that they are the ones who are carrying the burden and that some individuals having the power are exonerating themselves. Ordinary people are paying taxes, and rich people are not. This is inequality and it is leading up to populism because it shows so clearly that the people today leading the world are not able to take care of the interest of the ordinary people.

11 What is a "fair share" of tax?

It is often heard in the tax avoidance discussions that the company should pay their fair share of tax. What is a company's "fair share" of tax? Generally, a company's tax is tied to the profit their make together with abatements, incentives, and deductions. Debate around the companies' taxes usually focuses on the government's statutory tax rate rather than any other factors. If statutory tax rate is used as a reference point and it is accepted by the society as "fair", then any effective tax rate below that could be perceived as "unfair" and loss to the society. (Dowling, 2013) Kahneman (2011, Chapter. 28) (as cited by Dowling, 2013: 181) suggests

> ...that most members of society think that the exploitation of market power (say by a large company) that imposes a loss on others (by shifting the tax burden to other groups) will be judged to be morally unacceptable.

Knuutinen (2011) argues that because the state created the corporation and it provides the conditions for it to operate in the market, a corporation should not impose additional burdens on it. The state must also fulfil its obligations to its citizens, and it expects the corporation to help by paying their fair share. Therefore, a fair share of tax is not an amount of tax paid that was intentionally minimised to harm the state's social objectives and to shift the tax burden to other groups.

The close relation of big companies and tax authorities in some states, such as the U.S. plays a huge role considering what is a fair share of tax. Dowling (2013: 181) explains

> …in practice few large US companies pay at or above the current statutory rate of tax. This state of affairs has arisen because of the active role of the tax authorities. Through their negotiations with large companies, the use of litigation or the threat thereof, and the use of no-fault penalties, they effectively determine whether a company's tax payments are fair.

The problem with tax authorities defining the companies fair share is that they can be openly accused for setting inappropriate standards and for abusing their power. Furthermore, while MNCs can seek a direct remedy through the courts, society cannot, which yet again places the society in unfair position. (Dowling, 2013)

To conclude, for these previously mentioned reasons a fair share of tax should be determined by the state taking in consideration that this share is a fair price compared to the services and the environment that the state provides. Tax burden should be distributed fairly between all the groups and no one should deliberately shift their tax burden to others – that is a real fair share.

12 Research Question

The research topic *Corporate Tax Avoidance - Is paying a fair share of taxes a social responsibility?* is an important topic as the corporate tax avoidance affects billions of people around the world and enables unfair wealth distribution to continue. Looking at the problem in ethical perspective will not be an easy task, as many contrary arguments and theory about the topic exists. The society's argument is "We all pay our share of taxes, why not the big companies?". It is significant to bring these different viewpoints together and try to find reasoning behind it all. Why taxes are not part of most companies' CSR, is an important question too. If taxes were to be part of the CSR, it would provide more transparent information and bring the issue to the public's eye.

Shaxson (2011) gives an example of a system hidden from the public that includes France and a former French colony and oil-rich country Gabon in Central Africa. Gabon was since its independency in 1960 ruled for decades by president – Omar Bongo – that was essentially appointed by the French. In return for France's backing, president Bongo offered French companies access to the country's minerals on highly preferential terms. In addition to its natural resources, Gabon provided secrecy and it served as a giant slush fund for French elite. France was able to exploit gaps in between the two jurisdictions and its offshore system flourished. This helped France to punch above its weight in global political and economic affairs, but Gabon remained poor. Gabon was not on any official list of tax havens, although it had similar characteristics than a tax haven would.

France's postcolonial power in Gabon was sort of an "open secret" that only some well-connected French people knew about, but almost no one could see the whole picture. The system was driven by corruption and powered by tax havens, and it affected ordinary people both in Gabon and France. (Shaxson, 2011) The system was kept well-hidden and it proves that whenever something is kept away from the public's eye there is usually a reason for it. If the public would have known what was happening, they could have protested and demanded for a change – but they didn't know. For that reason, today's protests should begin with demanding transparent and truthful information – such as including tax affairs as a mandatory part of the CSR.

13 Conclusion

As an ethical problem, we cannot claim corporate tax avoidance to be clearly unethical or ethical. The evaluation depends on the perspective and person's motives, morals and reasoning for ethical issues. Since there is no universal law for business ethics viewpoint, the question remains unresolved. The effects of tax avoidance on the other hand are very real, take for instance organised tax avoidance of multinational corporations in the developing countries. Someone should take responsibility, but companies are too concentrated in increasing profits and pleasing their shareholders. When even some governments and politicians organise their affairs in a "tax efficient way", can we even trust the law makers?

As mentioned earlier, if a corporation is to utilise the environment that the state offers so that it can operate, it is only fair that the corporation has a social responsibility to give back to the state. In order for the state to operate and to be able to offer its social services it needs funds to operate. Let this be a fair share of corporate taxes then. If a corporation is only interested in increasing its profits in the form of tax avoidance, the extra profit must be consisted of something that is taken away from the public and the state. Therefore, if paying a fair share of taxes is a social responsibility, one could claim that tax avoidance is socially irresponsible.

Tax transparency may not become a part of CSR anytime soon and tax havens are unlikely to disappear. Some actions should still be taken. State and public can put pressure on the companies to make their operations more transparent and socially responsible and maybe this way encourage companies to decrease the current level of tax avoidance. If corporate boards, shareholders, and other stakeholders were to approach tax avoidance as a CSR issue, corporations would be less likely to be involved in tax avoidance behaviour. Paying a fair share of taxes should be instead expected to be demanded, in order to reduce inequality in the world.

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