SUSTAINABILITY FOCUS

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Tax avoidance: A changing mindset?

On 18 June the G8 leaders issued the 10 principles in the Lough Erne Declaration[1], focusing on fair taxes, increased transparency and open trade. Some observers evaluated it as too vague, but of note is that the interests of developing countries are mentioned explicitly, both with regard to fair tax collection and with regard to financial flows in extractive industries. Just three days before, the International Consortium of Investigative Journalists (ICIJ) released The Offshore Leaks Database, which allows users to search through more than 100,000 opaque structures created in offshore financial centres. Prior to which, in April of this year, the ICIJ revealed the names of several banks that were involved in secret companies, trusts and funds.

The cost of tax evasion

According to Christian Aid[2], tax evasion deprives poorer countries of some USD160 million annually. This represents almost twice the amount developing countries receive in international aid. According to the latest report[3] from Global Financial Integrity (GFI) (December 2012), the developing world lost USD859 billion in illicit outflows in 2010 and USD5.86 trillion from 2001 to 2010. These sums of dirty money continue to flow into offshore tax havens and developed country banks. Poor countries lost nearly a trillion dollars that could have been used to invest in healthcare, education, and infrastructure. The European Commission estimates lost revenues to public budgets amounting to EUR1 billion a year, which is nearly double the 2012 combined annual budget deficit of all 27 EU countries. In a very recent report[4], CCFD–Terre Solidaire provides details on the presence of the top 50 European companies in offshore financial centres.

[1] G8, Lough Erne Declaration, 18 June 2013
[2] Christian Aid, Who pays the price? Hunger: the hidden cost of tax injustice, March 2013
[3] Global Financial Integrity, Illicit Financial Flows from Developing Countries: 2001-2010,
[4] CCFD-Terre Solidaire « Au paradis des impôts perdus », June 2013

Vigeo's research

There is an increasing pressure from civil society on public authorities, companies and the financial world to end tax evasion, and the economic and social costs of this practice are extremely high. Vigeo have addressed the issue of tax avoidance in our 2013 review of the European Diversified Banks sector. This sector consists of 28 large European banks with total assets of approximately EUR200 billion or more.

Research findings

Leadership:

Less than half of the banks (12 out of 28) refer to tax avoidance or tax evasion in their policy documents. When looking more closely at these statements, none of the banks highlight the problem of tax avoidance or their position in mitigating negative societal impacts. In fact no bank goes beyond legal compliance. They refer to correctly paying taxes, to avoid tax evasion, or they state that they will not enter in to transactions with the sole purpose to reduce or avoid tax payments.

- Four banks, **Crédit Suisse**, **KBC**, **Svenska Handelsbanken** and **Uncredit**, state that they will not assist in circumventing tax regulations.

- Best practice is observed at **Société Générale,** who have elaborated a Tax Code of Conduct, and Swedbank who link tax evasion to human rights.

Bank	
Swedbank	In its Policy on Human Rights and Transparency, Swedbank states that 'we acknowledge tax revenues can be an important contribution to societies' work on human rights. We therefore contribute with our fair share in the countries where we operate, by paying the correct amount of tax in due time. We encourage our business partners to do the same".
Société Générale	In its Tax Policy, the company commits not to maintain entities (company, branch or representative office) within any territory included on the French Tax Administration's official list of non-cooperative jurisdictions. Société Générale has also decided to implement a specific review of an enlarged list of specific former non-cooperative jurisdictions and to put under supervision the implementation of the tax group policy within these specific jurisdictions. In addition, Société Générale requires employees not to provide assistance or encouragement to clients to breach tax laws and regulations.

Prevention programs

Programs on coping with tax avoidance and evasion are almost completely absent.

The few banks that comment on their programs to combat tax evasion focus on their limited presence in offshore financial centres (BNP Paribas, Société Générale). Intesa Sanpaolo and DnB state to be present in the Cayman Islands, but with a banking license to only conduct banking business with non-residents. Société Générale refer to its internal guidelines that state a requirement not to assist or encourage clients to breach tax laws and regulations. KBC state they have implemented special group-wide compliance rules to prevent fiscal irregularities including special mechanisms for tax evasion. None of the banks report on safeguards against abuses in their tax advisory services.

Allegations

According to the International Consortium of Investigative Journalism, five banks included in Vigeo's diversified banks sector (**BNP Paribas**, **Crédit Agricole**, **Deutsche Bank**, **Crédit Suisse** and **UBS)** were identified as having created secret companies, trusts and funds in offshore financial centres. Four UK banks, **HSBC**, **Barclays**, **Lloyds** and **Royal Bank of Scotland** were heavily criticised for their strong presence in 'oversea territories'. Finally, two Italian banks, **Intesa and Unicredit** are under investigation for tax evasion.

In their replies most banks state that their tax advisory services are fully in line with legal tax requirements. In case of investigations, all banks report to fully cooperate with the respective authorities.

Only two banks provided a more precise reply:

- BNP Paribas said it has stopped setting up trusts for Europeans in exotic countries.
- In February 2013, Barclays announced they will shut down their structured capital markets tax avoidance unit which has been described as facilitating "industrial scale tax avoidance".

Conclusion

Tax avoidance is of course not the monopoly of the financial sector. Only a few weeks ago Apple, Starbucks, Google and Amazon have come under fire for avoiding paying taxes via extreme and aggressive pursuit of tax avoidance.

In the context of social responsibility the distinction between tax avoidance or evasion is quite meaningless. Even when avoidance is not considered as unlawful, tax avoidance deprives governments from financial resources in times of austerity and public deficit problems. As detailed above, tax evasion is most devastating for developing countries.

A more fundamental concern relates to the banks' credibility as supported for economic and social development of communities. They play a pivotal role in the financing of SME's, public infrastructures and micro-finance. Involvement in tax avoidance creates the impression that community support is only relevant when it fits into a commercial logic. When fundamental and legitimate collective rights are in conflicts with commercial interests, the latter prevail.

Finally, banks should also realise that their license to operate is at stake. It is not only a question of increasing public discontent, networks of stakeholders are formed to combat irresponsible bank practices. The recent events indicate that their influence on political decision making should not be underestimated.

Contacts

For further information, please contact the analyst:

Jan Vandenhove jan.vandenhove@vigeo.com
Member of Vigeo's banks team

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