SUSTAINABILITY FOCUS

Vigeo Eiris Rating

To what extent do companies report on their tax payments?

October 2017

Key takeaways

- ***Only 2.5% of companies report comprehensively on their tax payments.*** *In line with action 13 from the OECD's 'Based Erosion and Profit Shifting' (BEPS) project, these companies provide a geographical breakdown of their tax payments and data on their operations, including sales, operating profit or the number of employees in each zone of operation. They also disclose the actual tax rate they pay and explain differences between this rate and the statutory rate.*
- ***Nearly 1 in 10 companies (9.1%) fails to disclose any information on their tax payments****.*
- ***44.4% of companies only disclose partial information****, generally limited to the gross amount of tax they pay, with no geographical breakdown by operating country or region.*
- ***Less than half of companies provide a breakdown of the taxes they pay by country or region****; for one third of these companies the reporting covers less than half their activities.*
- ***Nearly a quarter of European companies (24.9%) and a fifth of American companies (18.3%) provide comprehensive information on their tax payments, sales, operational results and the number of employees.***
- ***Banks, financial institutions and companies from the extractive sectors seem to disclose their tax payments most extensively.*** *These sectors have been subject to specific regulation ,* **but they are also subject to most controversies,** *with 42.5% of financial companies and 26.2% of extractive companies facing controversies.*
- ***Overall, 336 tax controversies have been identified representing nearly 4% of all cases observed in Vigeo Eiris' database****. Two-thirds of them (224) are considered cases of high severity.*
- ***17.1% of companies face at least one tax controversy****, and of these, 16.4 % have been fined.*
- ***Tax controversies mainly concern European and American listed companies,*** *with 53.6% of European and 34.8% of American companies facing controversies. Cases are more easily identifiable in these continents, where the prevention of tax avoidance and sanctions of abuses correlate to the existence of a democratic framework and the freedom of the press.*
- ***The cost of aggressive tax planning practices is estimated to be between at least USD 70 billion and USD 120 billion per year in developing countries, around USD 135 million per year in the USA, and between EUR 50 to 70 million per year in the European Union.***
- ***In reaction to recent tax scandals, the OECD has launched the "Based Erosion and Profit Shifting" (BEPS) project,*** *consisting of 15 core actions aimed at targeting tax evasion, ending bank secrecy and tax havens, and addressing massive corporate tax avoidance.*
- *In line with action 13 of the BEPS project,* **both the European Union and the United States have adopted regulations requiring multinationals to provide tax authorities with their tax payments on a country-by-country basis.**

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Introduction

Numerous scandals have emerged in recent years revealing large companies' involvement in tax havens and offshore centres – causing outrage amongst citizens and government organisations alike. NGOs have long called for transparency in the tax affairs of large corporations, criticising the tax avoidance schemes which hamper both social and economic development. The United Nations Conference on Trade and Development (UNCTAD) estimates the cost of tax avoidance to developing countries is between USD 70 billion and USD 120 billion per year, whilst International Monetary Fund (IMF) researchers evaluate that developing countries lose more than USD 200 billion per year[1]. Developed countries are affected too. The European Parliament believes EUR 50 to 70 million are lost each year in the EU because of tax abuse[2]. A recent Oxfam report[3] shows that tax dodging by multinational corporations[4] costs the US approximately USD 135 billion each year impeding crucial investments in education, healthcare, infrastructure, and other forms of poverty reduction.

Since 2009, the OECD has been the linchpin of a major overhaul of the international tax architecture, whose aim is fighting against tax evasion, ending bank secrecy and tax havens, as well as addressing massive tax avoidance by multinational corporations. In 2015, with the endorsement of the G20 leaders, the OECD has launched its "Based Erosion and Profit Shifting Project" comprising 15 actions to curb international tax avoidance. The BEPS aims to increase tax transparency, promote information exchange and to close gaps in existing international rules. On June 7 2017, 68 countries signed a multilateral convention implementing tax treaty related to measures to prevent BEPS. In line with the OECD requirements, the European Union and the United States have adopted new regulations requiring multinationals to provide tax authorities with their tax payments and operational figures on a country-by-country basis.

Despite these efforts to encourage tax transparency and prevent tax evasion, the task remains complex and consensus is yet to be reached on a common list of countries considered as tax haven or offshore centres.

This study is based on Equitics©, the exclusive methodology of analysis and rating developed by Vigeo Eiris in 2002. It identifies the tax reporting structures published by companies and gives some examples of detailed tax disclosures. It also describes examples of allegations, investigations or fines resulting from tax avoidance practices or tax fraudulent behaviours. Finally, it establishes a picture of recent developments to international standards.

1 "Financing for development: key Challenges for policy makers" – EURODAD -Jesse Griffiths - July 2015

2 "Commission unveils anti-tax avoidance package" – EU Observer- January 28 2016

3 "Rigged Reform: US companies are dodging billions in taxes but prposed reforms will make things worse" – Oxfam – April 12 2017

4 https://www.oecd.org/g20/topics/taxation/

Vigeo Eiris findings

Tax transparency is assessed by Vigeo Eiris under the sustainability driver "Contribution to social and economic development".

In line with the OECD Base Erosion Shifting Project and the OECD Tax Model Convention, companies are required to adhere the following principles:

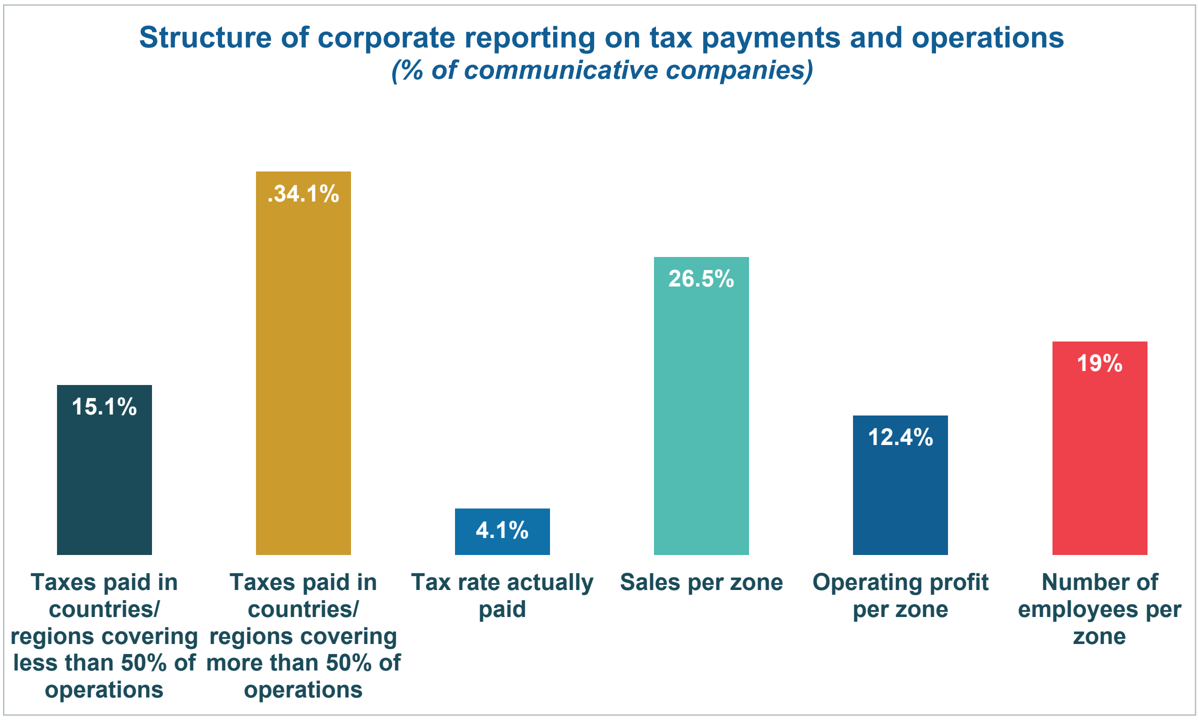
- Promoting a responsible tax strategy and providing detailed information on tax payments and operational activities
- Justifying their presence in offshore financial centers and non-compliant jurisdictions.

I – How do companies report on taxes?

Among the 1,139 companies under review in our sample between January 2016 and February 2017:

- **9.1% (104) do not provide information on their tax payments.**
- **44.4% (506) report only on gross taxes paid,** with no breakdown by region or country.
- **28.1% (320) of companies only make a partial tax disclosure.** In most cases, disclosure focuses on taxes paid in countries or regions representing more than 50% of their operations.
- **15.9% (181) provide more significant information.** As well as a breakdown of taxes paid by country or region, they report on sales, and/or operating profit, and/ or number of employees per operating region.
- **Only 2.5% of companies provide a comprehensive tax reporting.** In addition to geographical information on taxes paid, sales, operating profit or number of employees, they declare the difference between statutory tax rates and the rate actually paid.

a) Mapping reported information



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Action 13 of the OECD "Based Erosion and Profit Shifting Project" aims to enhance transparency for tax administrations. Multinational companies are therefore required to provide aggregate information annually, in each jurisdiction where they do business relating to the global allocation of income and taxes paid, together with other indicators of the location of economic activity within the MNE group. Companies must also disclose information about which entities do business in a particular jurisdiction and the business activities each entity engages in[1].

Regarding corporate tax reporting, it appears that:

- **Less than half of companies disclose a geographical breakdown of their tax payments, and their reporting is often only partial.** Overall, only a third of businesses (34.3%) report on taxes paid in countries where they have their major operations, while for 15.1% of companies, the information provided covers less than half their operations.
- **Although tax reconciliation forms a primary source of information for stakeholders to understand the relationship between the group's profits and the tax charge, few companies (4.1%) communicate the actual tax rate paid, and explain the reasons of the differences between the actual tax rate and the statutory rate.**
  When actual group tax rates are lower than the statutory rate, this may prompt concerns that tax avoidance strategies are being employed, even where this is not the case. Increased disclosure may therefore prevent stakeholder questions[2].
- **The level of information relating to business' activities is somewhat limited: companies communicate most about sales per zone (26.5%), followed by the number of employees (19%), while operating profit per zone is disclosed by only 12.4% of companies.**

Examples of detailed reporting:

Sanofi reports comprehensively on taxes paid.
Its reporting covers:

- Taxes paid in key operating countries: Sanofi reports that in 2015 the Group's Income Tax charge on Business Operating Income was EUR 2.2 billion worldwide. This was broken down by region as follows: Western Europe (42%), Emerging markets (27%), USA (24%) and other countries (7%).
- Sales per zone: Western Europe (21.7%), Emerging markets (32.4%), USA (36.2%) and other countries (9.7%)
- Number of employees per zone: Western Europe (38%), Emerging markets (42%), USA (15%) and other countries (5%).
- Explanation for significant differences between anticipated tax rate and actual tax rate paid: In a dedicated tax factsheet, Sanofi explains the difference between the actual tax rate (13.5%) and the standard corporate income tax rate applicable in France (34.4%). This difference is explained by several factors such as tax rates applicable to foreign subsidiaries, tax deductions, deferred taxes, or the impact of changes in the taxation of dividends in France.

Huntington Ingalls Industry comprehensively reports on taxes paid. Its reporting covers:

- Taxes paid in key operating countries: The company reports on taxes paid in the US.
- Sales per zone: The company earns approximately 96% of its revenue from the US government.
- Explanation for significant differences between anticipated tax rate and actual tax rate paid: The company explains that in 2015, its actual tax rate (36.1%) differed from the federal statutory rate (35%). This was primarily a result of the amount of the goodwill impairment that is not amortizable for tax purposes and other non-deductible expenses, partially offset by the domestic manufacturing deduction. In 2014, its actual tax rate (33.3%) differed from the federal statutory rate primarily as a result of the domestic manufacturing deduction, partially offset by the amount of the goodwill impairment that is not amortizable for tax purposes.

1 http://www.oecd.org/ctp/beps-frequentlyaskedquestions.htm

2 http://www.ey.com/Publication/vwLUAssets/Tax_Transparency_-_Seizing_the_initiative/$FILE/EY_Tax_Transparency.pdf

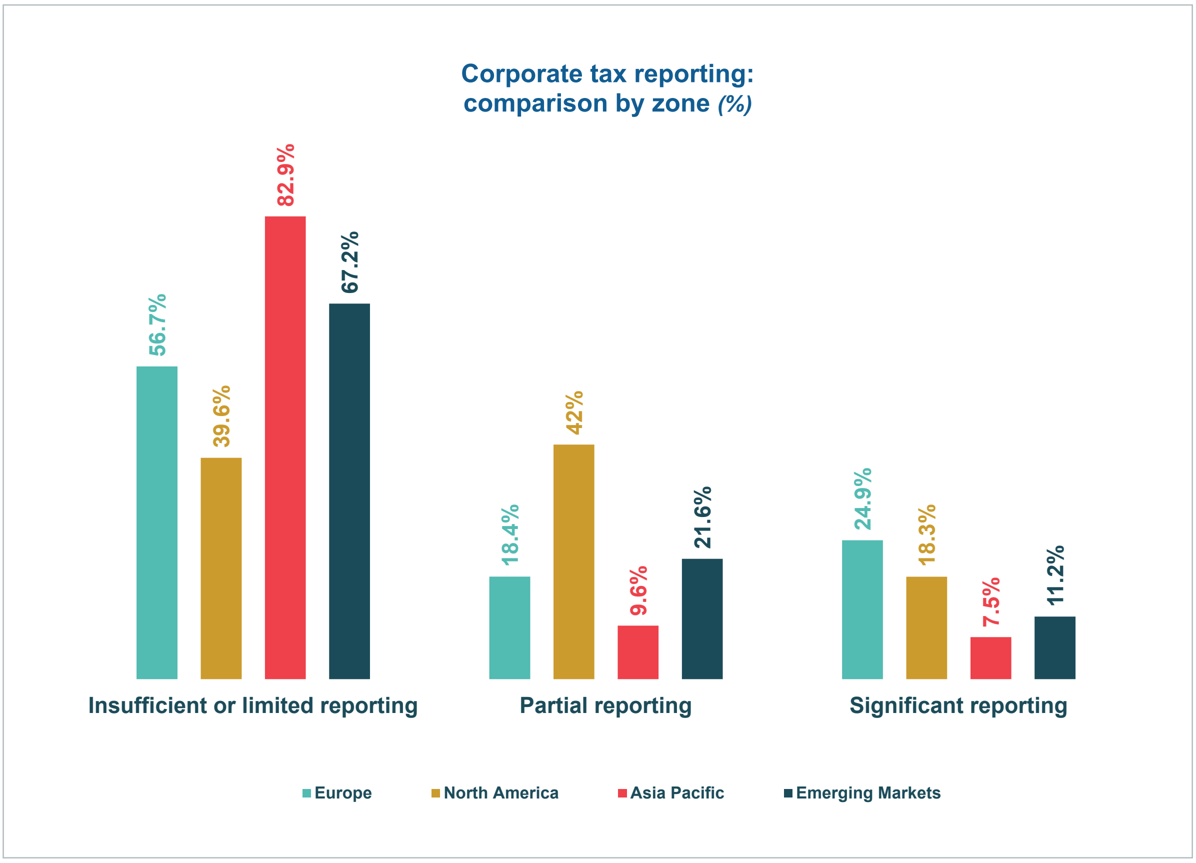
b) Geographic and sectoral specifics

In our questioning, we assess companies' level of reporting on a scale from 1 to 4:

- A score of 1 is granted to companies that either do not report on their tax payments at all, or only report on gross taxes paid with no breakdown by region or country.
- A score of 2 is granted for partial corporate tax reporting with a geographical breakdown of activities, but no reporting on operational figures
- A score of 3 is given when company' tax reports include a geographical breakdown and some operational figures.
- A score a 4 is given when tax reporting includes a geographical breakdown, operational figures, and specifics on the actual rate of tax paid, as well as an explanation when this rate differs from the statutory rate.

Based on 1,139 companies under review, the global average score is **1.67/4.**

- **North American companies** under review **achieve the highest average score (1.81/4),** followed by European companies (1.71/4), companies located in the emerging markets (1.44/4) and Asia Pacific (1.26/4).
- **However the proportion of European companies (24.9%) disclosing a significant or a comprehensive tax report is higher than the proportion of North American companies (18.3%).**
- Asian companies communicate least about the amount of tax paid. For 82.9% of Asian companies, either no tax information was found, or they only report the gross tax paid.



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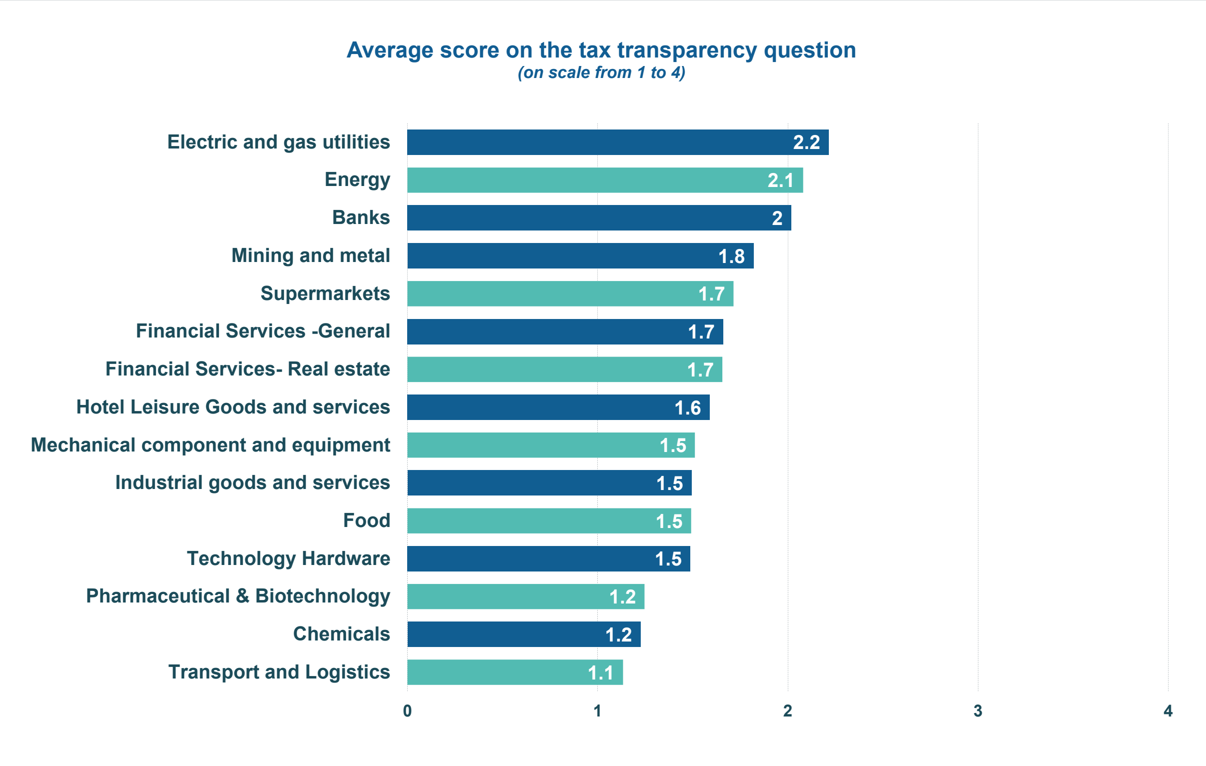
Looking at 15 sectors having with a sample of at least 30 companies each, it appears that **companies from the extractive industries** (Electric and Gas Utilities, Energy, Mining and Metals) and **financial sectors** (Banks, Financial Services) **disclose their tax payment reports most extensively.**



This can be explained by the fact that **these sectors have been subject to specific regulations** and country-by-country reporting requirements earlier than other sectors.

1. In the extractive sectors, advocacy for companies to disclose their payments to government[1] came from:

- **the Extractive Industries Transparency Initiative (EITI)**[2-3]**:** created in 2002, the EITI Association was set up by a number countries, natural resource extractive companies, and civil society organisations to develop a framework for the disclosure of payments to governments. Updated in 2013, the EITI Standard, requires countries to publish information on key aspects of their natural resources management, based on companies disclosure. This includes how licences are allocated, how much tax and social contributions companies pay and where this money ends up in the government at both national and regional level.
- **the U.S Dodd-Frank Wall Street Reform and Consumer Protection Act** (Dodd-Frank Act): Under Section 1504 of the Dodd-Frank Act, all companies subject to the Securities Exchange Commission (SEC) rules and engaged in the commercial development of oil, natural gas or minerals are required to annually disclose payments to federal and foreign governments. Under the rule, companies disclose the type and amount of payments by project and by government for all payments that equal or exceed USD 100,000 individually or in total.
- **the European Union Amendments to the EU's Transparency and Accounting Directives,** which require payments to be disclosed to governments by certain large undertakings and public interest entities engaged in natural resource extraction or logging.

1 Disclosing government payments- implications for the oil and gas industry- Ernst &Young (2013)
2 https://eiti.org/sites/default/files/documents/eiti_factsheet_en.pdf
3 https://eiti.org/sites/default/files/documents/english-eiti-standard_0.pdf

Examples of detailed tax reporting:

The South32 Underlying Effective Tax Rate (ETR) for FY2016 was 36.6%. This reflects the geographic distribution of the Group's profits.

The corporate tax rates applicable to South32 include: Australia 30%; South Africa 28%; Colombia 40%; and Brazil 34%. Should current conditions prevail, the Group's Underlying ETR is likely to continue to exceed 30%.

Algonquin Power & Utilities reports on:

- taxes paid in key operating countries, the U.S. and Canada
- operating profit per zone
- explanation for significant differences between anticipated tax rate and the actual tax rate paid: The Company reports that the provision for income taxes represents an effective tax rate different than the Canadian enacted statutory rate of 26.5% (2014 - 26.5%). The differences were due to the recognition of deferred credit, the effect of differences in tax rates on transactions in and within foreign jurisdictions and changes to tax rates, the non-taxable corporate dividend, non-controlling interests share of income, and production tax credit among others.

2. In banking and financial sectors, our last survey of the Diversified Banks sector, published in December 2016, showed that: 51% of the banks under review commit to encourage clients' responsible tax pratices and to prevent tax avoidance; 45% of banks reported some measures to mitigate the potential negative effects stemming from clients tax advisory services. However, only four of these banks showed evidence of comprehensive measures to promote responsible tax practices by clients. As reported in the second part of this paper, tax allegations are common in financial sectors despite 71% of diversified banks reporting transparently on taxes paid.

Examples of tax policies and detailed tax reporting:

a. Commitments related to the adoption of a responsible tax strategy:

Rabobank has issued a tax policy statement which includes:

1-How does Rabobank's tax policy come about?
2-Rabobank's relationship with tax authorities
3-Tax planning policy
4-Developing Country Policy
5-Clients Policy
6-Rabobank's view of international discussions on the tax policies of multinational companies

Rabobank's tax policy is developed and implemented by a specialised tax department. This department is responsible for all tax matters within the entire group. This responsibility includes, for example, providing Rabobank clients with tax-related information, ascertaining that the bank's products meet applicable tax regulations and ensuring that Rabobank itself complies with all its tax obligations.

Intesa Sanpaolo's tax strategy includes:

- Guaranteeing compliance with the spirit as well as the letter of the tax laws and regulations in all the countries where the Group operates.
- Paying taxes according to where value is created.
- Initiatives aimed at combatting assets in tax havens are also under implementation. Specific supervisory measures and tax risk assessments are introduced upon the Group's entry into new markets, even if operations are located in in jurisdictions that are not transparent on tax rules, or when these operations are part of complex corporate structures
- A comprehensive Group-level policy for monitoring and managing client fiscal risks has been in place since September 2015. The policy provides rules on taxation compliance and applies to all products, services and operations offered to customers including bespoke products and advisory services. The policy applies to all situations where the bank plays an active role with customers, and states that all products and services are subject to compulsory review by the Tax Department. For special operations, the policy provides a checklist based on national and international standards to allow any inconsistencies to be detected.
- Finally, a specific policy has been in place since 2013 which applies to private banking operations in the international subsidiaries of Switzerland and Luxembourg, focusing against money laundering but also incorporating aspects of tax.

b. Detailed tax reporting

The Royal Bank of Scotland reports the amount of taxes paid globally, as well as in the UK where most of its activities are based. It also discloses the amount of taxes paid by region: UK, EMEA, Asia-Pacific, Americas net of Corporation tax refund.

In compliance with the European Commission's Capital Requirement Directive IV, RBS discloses its full country-by-country tax payments online. For each country in which it operates, RBS discloses: the income, profit or loss before taxes, taxes paid/ received, subsidies received and headcount.

In addition, Deloitte has issued an independent 'Country-by-Country Reporting Assurance Report' to the members of The Royal Bank of Scotland Group Plc and Ulster Bank Ireland Limited.

Specific sectorial regulations for financial companies on tax transparency have also been adopted:

- **In April 2013, the European Union adopted the Capital Requirement Directive (CRD IV),** whose article 89[1] requires banks and financial institutions (investment banks, brokers dealers, asset managers etc.) to disclose profits made, taxes paid and subsidies received, as well as turnover and number of employees for each country where they operate. This information, which is included in banks' audited annual reports, has been public since July 2015. The purpose of CRD IV was to regulate banking and investment activities in the EU, but late in the legislative process a CBCR requirement was introduced into the Directive.
- **On June 21 2017, the European Commission also adopted new tax transparency rules for intermediaries**[2]**,** such as lawyers, accountants, tax and financial advisors, banks and consultants, since certain intermediaries actively design, promote and sell schemes with the specific aim of helping their clients to escape taxation. Such practices were highlighted in particular by the Panama Papers scandal that emerged in April 2016 when the Süddeutsche Zeitung and the International Consortium of Investigative Journalists (ICIJ) released internal documents from Mossack Fonseca, a Panamanian law firm that sells anonymous offshore companies around the world. Five months after the release of the Panama Papers, a new scandal – known as Bahamas Leaks - came to light. This new source of information from the world of offshore tax havens contained the names of directors and some shareholders at nearly 176,000 shell companies, trusts and foundations.

Encourage by stricter regulations, companies from the extractive and financial sectors tend to issue better country-by-country tax disclosure. However, they also face the most controversies.

1 Directive 2013/36/EU
2 "Questions and Answers on new tax transparency rules for intermediaries"- European Commission, in http://europa.eu/rapid/press-release_MEMO-17-1677_en.htm

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Rating

2-Corporate tax controversies: what do they reveal?

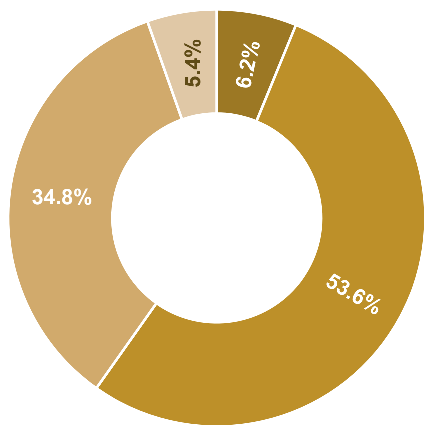
Based on Vigeo Eiris' database:

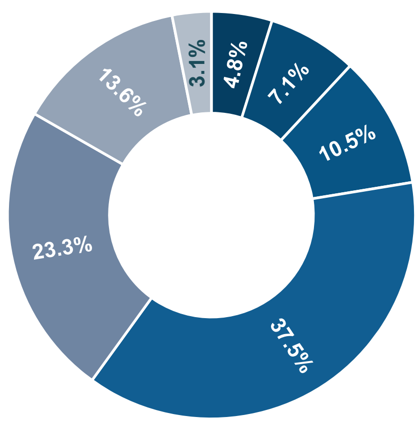
- **336 controversies have been identified,** mainly related to companies' lack of transparency, tax avoidance schemes, tax fraud, presence in offshore centers, or disputes over royalties.
- **17.1% of companies face at least one tax controversy,** and of these 16.4% have been fined.
- **Tax controversies represent 3.89% of all controversies of our database.**
- **In 66.6% of cases, the controversies' severity is assessed as 'high'** - taking into account the nature of the alleged facts, the scale of impact on stakeholders, the level of management involved, and the reputational, financial, legal and operational implications for the company. Such cases involve, example, a significant and non-justified presence in a tax haven, tax avoidance practices such as transfer pricing and disputes over royalties. These facts are either revealed by the media or NGOs or investigated by regulators.
- **In 60.7% of cases companies simply reacted to controversies,** issuing a general statement in which they acknowledge investigations in process or refer to respecting of regulations, but provide no further details on corrective measures or engagement with stakeholders.
- **Remediative actions have been taken in 5.7% of the cases under review.**
- **No reaction was observed in 33.6% of cases.**
- **Tax controversies mainly concern European and American listed companies,** with 53.6% of European and 34.8% of American companies facing controversies. Cases are more easily identifiable in these continents, where the prevention of tax avoidance and sanctions of abuses are correlated to the existence of a democratic framework and the freedom of the press. There is still an overall lack of information and traceability concerning tax avoidance in developing countries, and controversial behaviours remain only marginally sanctioned.
- **Companies most affected by tax controversies belong to the financial and the extractive industries,** with 42.5% of financial companies and 26.2% of extractive companies facing controversies.

a. Geographic specifics

- **53.6% of controversies cases** (180/336) **are faced by companies headquartered or listed in Europe.** UK companies are cited in 11.3% cases, followed by French companies (11%), Italian companies (8.9%), German companies (6.5%), and Swiss companies (5%).
- **34.8% of controversy cases involve companies listed in North America.** In 29.8% of cases these are American companies.

Regarding the location of controversies[1], reported cases occur most frequently in Europe (37.5%), North America (23.3%), Latin America (13.6%), Asia (10.5%) and the Caribbean (7.1%).





1 Countries where controversies happen:
Asia: Singapore, Hong Kong,; South Korea, Indonesia, Timor Leste, India, China, Japan, Malaysia, Vietnam
Africa: Niger, Tchad, Algeria, Nigeria, Zambie, Tanzanie, Angola, Burkina Faso, Angola, Uganda, Mauritius
Europe: Switzerland, the Netherlands, Ireland, Belgium, UK, Italy, Luxembourg, France, Germany, Spain, Malta, Monaco, Finland, Romania, Poland, Hungary, Norway, Austria, Denmark
Oceania: Australia
North America: United States, Canada
Latin America: Panama, Brazil, Argentina, Mexico
Caribbean: Cayman Islands, Bahamas, Virgin Islands, Trinidad and Tobago, Bermuda, Antigua and Barbuda, Barbados, Dominica, Jamaica, Grenada; Saint Kitts and Nevis; Saint Lucia; Saint Vincent and the Grenadines

Examples of controversies

On 29th January 2015, the NGO Coalition against Bayer Dangers (CBG Network) accused **Bayer** of tax practices that damage taxpayers and local municipalities in several countries.

The NGO states that Bayer has systematically transferred profits to low tax countries to reduce its tax burden, allegedly damaging contributors in Germany, the United States and France. The NGO states that the Company opened fifteen subsidiaries and transferred trademarks and shares worth EUR 1.4 billion to the Netherlands, doubled the funds of one of its affiliates in Belgium, and profits from concessions for insurances in Luxembourg. This has been done, according to the NGO, to benefit from these countries' reduced business taxes.

It also claims that Bayer conducts tax dumping by changing the distribution of results to make profits where they won't lead to costs, and losses where taxes are higher. According to CBG Network, Leverkusen, the city where Bayer is headquartered, had to create emergency budgets because of tax losses incurred by the fact Bayers paid almost no taxes for years.

The NGO considers Bayer's practices a "destructive tax race", alleging minimal contributions to community financing, as the company eschews its responsibility towards the general public at the expense of taxpayers, who are left with rising taxes and levies.

Bayer reacted to the accusation stating that taxes are paid in all relevant countries on the basis of the added value generated there and according to local legislation. The Company also claimed that, in 2013, it paid EUR 795 million in taxes in Germany, accounting for 48% of all income tax paid over the year, even though only 12% of the Group's sales were generated in the country. Furthermore, Bayer says that there are "several factual errors" in the NGO's accusations. For example, contrary to CBG Network claims, the Company states that it has not reduced its tax liability by ceasing to use the Schering brand name after acquiring Schering AG in Germany, and that the brand name and trademark rights for its Aspirin brand have not been transferred to the Netherlands. Bayer claims that "these trademarks are registered in Germany and lead to taxable income there".

In April 2015, **Metro**'s Vietnamese stores received a fine of almost USD 3 million for tax evasion. According to the English edition of the Tuoi Tre (Youth) newspaper in Vietnam, Metro first came under scrutiny over suspicions of transfer pricing back in 2012.

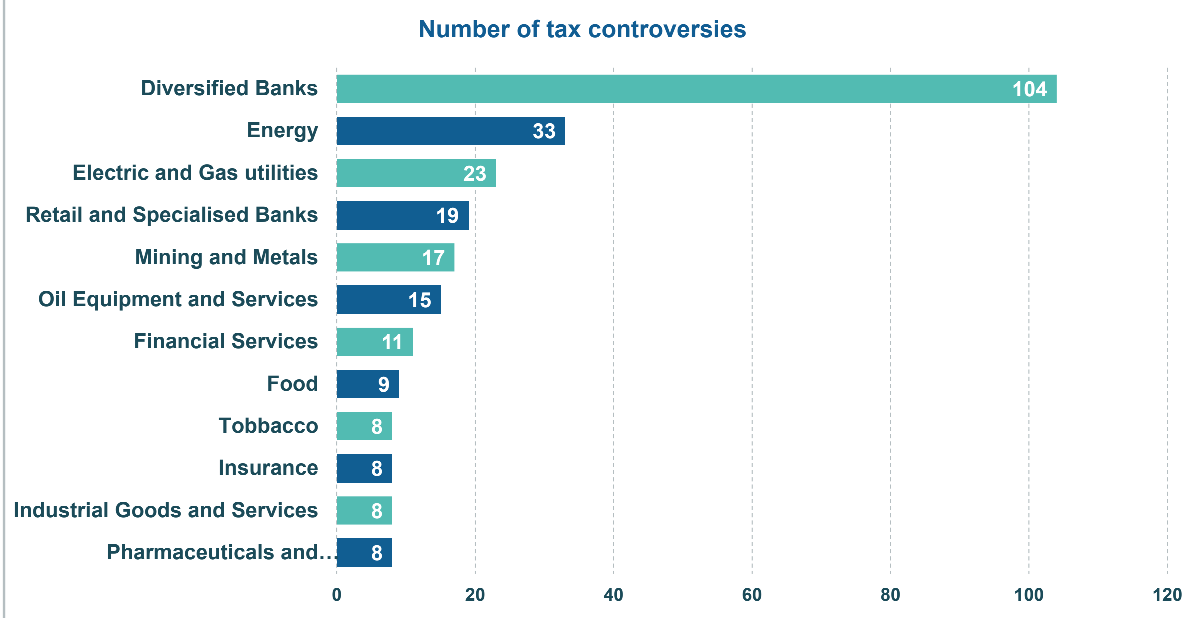
Independent investigations cleared the company of wrongdoing. But the General Department of Taxation launched its own investigation and after two months concluded the company had "committed wrongdoings worth VND507 billion (USD 23.63 million) in a transfer pricing inspection". Metro Vietnam has been ordered to pay VND62.64 billion (USD 2.92 million) in tax arrears, a deputy minister of finance confirmed to Tuoi Tre.

The company did not react to the case

1. On August 30, 2016, the European Commission ordered **Apple** to pay up to EUR 13 billion (USD 14.5 billion) in taxes and interest to Ireland after ruling that Ireland granted illegal tax benefits to Apple, allowing it to pay substantially less taxes than other businesses for several years. The investigation, launched three years ago, found that Apple had paid 1% tax on its European profits in 2003 and about 0.005% in 2014, while the standard rate of Irish corporate tax is 12.5%. In addition, the commission concluded that Ireland's tax arrangements with Apple between 1991 and 2015 enabled Apple to attribute sales to a "head office" that only existed on paper and therefore could not have generated such profits.
2. In December 2015, following a tax investigation conducted by the Italian tax office, Apple has been fined EUR 318 million (USD 347 million) for moving funds to Ireland in order to avoid paying tax.
   Apple has agreed to settle the case after months of negociations, having been accused of failing to declare income generated in Italy between 2008 and 2013 worth EUR 879 million by transferring this amount to its Irish subsidiary benefitting from the country's lower tax rate. Ireland's corporate tax earnings from normal business activities are reported to be at 12.5% while this rate is 27.5% in Italy. Apple will also sign a new tax accord for fiscal years 2015 onwards.
   In early December, Apple's CEO, Mr. Tim Cook, reported that "Apple pays every tax dollar" it owes. However, the company declined to comment on the settlement and tax officials only confirmed media reports on Apple's tax settlement agreement.

b. *Most exposed sectors*

More than two thirds of identified tax controversy cases come from either the financial sectors (42.5%) or the extractive sectors (26.2%).



The diversified banks sector, consisting of global banks with assets totalling at least EUR 200 billion, counts for more than 30% of total cases. Only eight out of 31 banks[1] under analysis are not involved in such controversies. Many of these banks have been involved in most recent scandals such as the Bahamas Leaks (September 2016), the Panama Papers (April 2016), or Luxleaks (November 2014) revealed by the International Consortium of Investigative Journalists (ICIJ). Some of them are subject to enquiries regarding tax fraudulent behaviours or for their involvement in strategies that led to client tax evasion. In addition, they are also carefully scrutinised by NGO's such as Oxfam[2], CCFD[3], or Action Aid[4], which condemn profits made in tax havens.

1 CaixaBank, RABOBANK, Svenska Handelsbanken, ING Group, Danske Bank, Standard Chartered, Swedbank, BANKIA

2 "Opening the vaults: the use of tax havens by Europe's biggest banks " – Oxfam – March 2017, https://www.oxfam.org/sites/www.oxfam.org/files/bp-opening-vaults-banks-tax-havens-270317-en_0.pdf

3 « Sur la piste des banques françaises dans les paradis fiscaux » - Comité Catholique Contre la faim (CCFD)- 16 Mars 2016

4 http://www.actionaid.org/cat/tags/tax-havens

Examples of controversies[1]:

On 21st September 2016, the International Consortium of Investigative Journalists (ICIJ) released a set of nearly 1.5 million documents from the Bahamas corporate registry. The 'Bahamas Leaks' have been included in the larger 'Offshore Leaks Database', which has information on half a million offshore accounts and businesses, and gathers the data published in previous leaks, such as the Panama Papers. The leaked documents provide names of politicians and others linked to more than 175,000 Bahamian companies registered between 1990 and 2016. According to the data, **Credit Suisse** is among the banks that created offshore companies for their clients (9,516 companies).

The Bahamas has long been on the radar of tax officials and governments around the world. It is considered as a financial offshore center by the International Monetary Fund (IMF). In June 2015, the European Union placed it, along with 30 other countries, on a list of un-cooperative tax havens. In 2000, the OECD placed the Caribbean nation on a blacklist of countries that aid tax dodging. It was removed from the list the following year, after it rushed through nine new laws. However, the Bahamas was placed on the OECD's 'gray list' in 2009, a less severe category which "nonetheless signified nonconformity with international standards," according to the ICIJ.

Credit Suisse stated that the Bahamas Commercial Register is accessible to the public and information on company start-ups is provided on request. The bank claims to comply with the applicable laws, rules and regulations of the countries in which it conducts business and pursues a policy of tax compliance. The bank added that, since 2013, it has introduced and concluded programmes for tax regulation in many countries, where private clients must provide evidence of their tax compliance. For companies, the identity of third-party beneficial owners must be established in accordance with statutory provisions governing the prevention of money laundering.

In February 2016, Belgian state prosecutors escalated a probe into **UBS** over allegations of money laundering and organised tax fraud at the Swiss bank. The Brussels state prosecutor's office said that the "bank is suspected of having directly approached Belgian customers (without going through its Belgian subsidiary) with the goal of encouraging them to sign up to tax-evasion structure". The investigation includes "laundering, exercising illegally the profession of financial intermediary in Belgium, and serious and organised tax fraud".

Belgian prosecutors said they were able to firm up the case against UBS through cooperation with French authorities and the work of an inquiry committee.

In 2014, Belgian police carried out raids at the bank and at the homes of a client and of UBS Belgium Chief Executive Marcel Bruehwiler, who was charged at the time. The bank's Belgian subsidiary, which employed some 60 staff including 20 private bankers, has since been sold to Belgian private bank Puilaetco Dewaay.

Reacting to the case, UBS said in a statement: "The Belgian authorities have confirmed today by way of a press release that the investigating magistrate has opened a formal investigation against UBS AG". "Any discussion of potential charges at this stage is premature".

In April 2015, French authorities ordered HSBC Holdings Plc to pay USD 1.07 billion in bail for a criminal tax-evasion investigation involving its Swiss private bank. **HSBC** said in a statement that: "It has been placed under formal criminal investigation by the French magistrates in connection with the conduct of HSBC's Swiss Private Bank in 2006 and 2007 for alleged tax-related offences".

The announcement followed the bank's November disclosure that its HSBC Private Bank unit in Switzerland had been placed under preliminary investigation by French authorities examining whether it had helped wealthy clients duck France's tax-reporting requirements. HSBC was then required to post a bail bond of EUR 50 million then.

French tax authorities have been examining HSBC since Herve Falciani, a former information technology worker at its private bank in Geneva, stole data from client accounts opened before 2006 and turned it over to investigators.

1 "Bahamas files: new leak exposes offshore 'tax haven' dealings of politicians, companies" - RT - 22/09/2016
"Bahamas files leaks expose politicians' offshore links" - The Guardian - 21/09/2016
"Bahamas Leaks' puts spotlight on UBS and Credit Suisse" - Swissinfo - 22/09/2016
Credit Suisse's feedback to VigeoEiris -27/10/ 2016
"Michel Sapin: «La Société Générale s'engage à la transparence» sur les «Panama papers»" - Le Monde - 06/04/2016
"Société Générale Group position"- press release - 04/04/2016
"Societe Generale reaction to "PANAMA PAPERS" - press release -04/04/2016
"French bank chief OUdea to meet senators over Panama Papers"- Reuters- 12/04/2016
"Belgium deepens money laundering and tax fraud probe into UBS" – Financial Times – 26/02/2016
" HSBC faces French criminal tax probe" – BBC News– 09/04/2015
"Opening the vaults: the use of tax havens by Europe's biggest banks" – Oxfam/ Fair Finance Guide International– 27/03/2017

Preliminary reports on the Panama Papers leak of 4th April 2016, indicated that **Societe Generale** was among the 10 banks that requested the most offshore companies for clients.

The leak was dubbed the Panama Papers by the International Consortium of Investigative Journalists (ICIJ), a non-profit group based in the US that originally published them. The group said an anonymous source provided internal documents from the Panama-based law firm Mossack Fonseca, one of the world's biggest creators of shell companies.

The data stretches over 40 years- from 1977 to the end of 2015, and included 214,000 offshore entities.

The reports, based on 11.5 million leaked documents, put Societe Generale among the top banks creating shell companies in Panama since the late 1970s, with a total of 979 created by the French bank.

Tax police raided the bank's offices and the bank's CEO, Frédéric Oudéa summoned to meet Finance Minister Michel Sapin, after the Panama Leak. Frédéric Oudéa and Didier Valet, head of corporate and investment banking, private banking and asset management, also met French unions to answer questions about the Panama Papers.

On its website, the bank reported that:

- Within the framework of its private banking activity, Societe Generale provides banking and fiduciary services to asset-holding companies on behalf of its clients. This activity, entirely marginal, is carried out in a transparent manner, respecting the rules in force concerning the fight against fraud and tax evasion. Today, the number of active structures created via the firm Mossack Fonseca for clients amounts to a few dozen. These companies are managed as totally transparent structures".
- With regard to the banking activities carried out by its clients, the Group has had a Tax Code of Conduct in place since 2010 which sets out a clear framework for relations with clients to ensure that the highest standards of transparency and tax compliance are adhered to. The bank has therefore decided to carry out its private banking activities exclusively in jurisdictions which have adopted the automatic exchange of information standard drawn up by the OECD, known as the Common Reporting Standard, which demonstrates the bank's firm intention not to take part in operations which aim to contravene tax laws or regulations. The standard enables tax authorities to be aware of overseas financial accounts held by their taxpayers, whether these accounts are held directly or via offshore wealth companies.

According to a new report published by Oxfam and the Fair Finance Guide International on March 27th 2017, 20 Europe's largest banks routed EUR 25 billion – 26% of their profit - through tax havens in 2015.

The research, made possible by new EU transparency rules that require European banks to publish information on the earnings on a country-by-country basis, also found the following:

- In 2015 European banks posted at least EUR 628 million in profits in tax havens where they employ nobody.
- Luxembourg and Ireland are the most favored tax havens, accounting for 29% of the profits banks posted in tax havens in 2015. The 20 biggest banks posted EUR 4.9 billion of profits in Luxembourg in 2015 – more than they did in the UK, Sweden and Germany combined.
- European banks paid no tax on EUR 383 million of profit they posted in seven tax havens in 2015. In Ireland, European banks paid an actual tax rate of no more than 6 percent – half the statutory rate – with three banks (Barclays, RBS and Crédit Agricole) paying no more than 2 percent.
- Banks' subsidiaries in low-tax jurisdictions are twice as profitable as offices elsewhere and employees are four times more productive, generating an average profit of EUR 171,000 per person annually compared to EUR 45,000 on average.

Some of the world's largest companies have been criticized for funneling profits through places such as the British territories of Bermuda, the Cayman Islands and Ireland, prompting promises of harsher measures from governments to ensure they collect more tax.

"Governments must change the rules to prevent banks and other big businesses using tax havens to dodge taxes or help their clients dodge taxes", Manon Aubry, Oxfam's senior tax justice advocacy officer. "All companies and individuals have a responsibly to pay their fair share of tax. Tax dodging deprives countries throughout Europe and the developing world of the money they need to pay for doctors, teachers and care workers".

Allegations in the extractive sectors (Energy, Mining, Electric and Gas Utilities, Oil and Gas equipment), mainly concern tax evasion schemes, tax fraud or disputes over royalties payments.

Examples of controversies[1]*:*

In August 2016, London-based International Transport Workers Federation (ITF) released a report showing alleged secret corporate structures and aggressive tax evasion schemes used by **Chevron** and other major North Sea oil producers. ITF released its report named "Offshore Oil, Offshore Tax" accusing Chevron of using off-grid schemes for tax evasion purposes. In the 2016 Budget, the UK Chancellor announced major new tax cuts to the benefit of North Sea oil producers. ITF says that a Chevron executive was the honorary treasurer of the oil and gas lobby that demanded these cuts. On top of further reductions in the overall corporate tax rate, the Petroleum Revenue Tax was eliminated and the supplementary charge for oil companies was cut in half.

The Company did not react to this allegation.

On 27th September 2016, **Weatherford International** agreed to pay a USD 140 million penalty to settle fraudulent tax accounting charges.

According to the Securities and Exchange Commission (SEC), the company used deceptive income tax accounting to lower its tax bill. It lowered its provision for income taxes by USD 100m to US 154 million each year so its earnings could be aligned with earlier projections.

James Hudgins, Weatherford's vice president of tax, and Darryl Kitay, a tax manager, also agreed to settle charges for USD 334,067 and USD 30,000, respectively. Both were barred from auditing and performing financial reporting on public companies for five years.

The company will pay the SEC in four installments spread over the next 12 months.

On 5th October, 2016, the High Court of N'Djamena in Chad ordered **Esso**, part of ExxonMobil, and other companies of a consortium it operates, to pay a USD 74 billion fine in a dispute over royalties. The decision followed a complaint submitted by the Ministry of Finance, which claimed that the consortium, which also includes Petronas (35%), and Societe des Hydrocarbures du Tchad (25%), had not met its tax obligations in the country. The dispute lies in the difference between the amount of export taxes paid by the company, fixed at 0.2% through an agreement signed with the government in 2009, and the rate fixed by law at 2%. The USD 74 billion fine notably inlcudes USD 819 million in overdue royalties.

The national company Societe des Hydrocarbures du Tchad has bought back Chevron shares in the consortium and will reportedly bear costs related to the fine instead of Chevron.

Estimations made by the customs in the country point out USD 638.6 million in missing profits since 2009 linked to ExxonMobil's exports to Cameroon. The fine is considered the highest ever imposed on an energy company worldwide

1 ITF accuses North Sea oil majors of secretive tax evasion schemes" - Offshore Energy Today - 25/08/2016
"Weatherford International to pay USD 140 million for accounting fraud" – Reuters – 27/09/2016
"Esson hit with fine from Chad five time's country GDP" – Bloomberg – 07/10/2016

Corporate tax and its implications

1-Why do tax fairness and tax transparency matter?

Tax play a crucial role in development and social justice with tax revenues financing public services and institutions. With these revenues, States are expected to grant citizens access to primary healthcare, basic education, home, food etc. in line with international standards. The redistribution of tax is an additional way to reduce inequalities and fight poverty.

In terms of governance and accountability, taxation is a mean for citizens to hold governments accountable for the way they spend public revenues.

Finally, taxes can also be a way to ensure that social and or environmental costs and benefits of production or consumption of particular goods are well reflected in the market price.

From an economic perspective, as underlined by the World Bank[1], "the amount of the tax cost for businesses matters for investment and growth. Where taxes are high, businesses are more inclined to opt out of the formal sector. (…) Keeping tax rates at a reasonable level can encourage the development of the private sector and the formalization of businesses. This is particularly important for small and medium-size enterprises, which contribute to growth and job creation but do not add significantly to tax revenue (…)."

The OECD is concerned by strategies that exploit gaps and mismatches in tax rules to make profits 'disappear' and by strategies that shift profits to locations where taxes are low. Firstly, these strategies distort competition: businesses that operate cross-border may profit from base erosion profit shifting opportunities, giving them a competitive advantage over enterprises that operate at the domestic level. Secondly, they may lead to inefficient allocation of resources by distorting investment decisions towards activities that have lower pre-tax rates of return, but higher after-tax returns. It is an issue of fairness: when taxpayers (including ordinary individuals) see multinational corporations legally avoiding income tax, it undermines voluntary compliance by all taxpayers[2].

2-Challenges

Despite the crucial role of corporate tax, international tax avoidance and tax evasion remain global and critical issues. As mentioned in the last Oxfam report1[3], tax competition between countries is fierce, and "some countries, considered as tax havens, do not hesitate to attract global corporations by proposing low tax rates; offering tax loopholes and special incentives; providing financial secrecy to facilitate tax evasion; impeding scrutiny; or being deliberately lax about tax enforcement".

In addition, there is currently no consensus from the international community to agree on a definition of a 'tax haven'; a common list of countries is therefore yet to be established. This situation indirectly contributes to legitimate jurisdictions or territories promoting harmful competition by adopting legal or fiscal frameworks allowing non-residents to minimise the amount of taxes paid where they undertake substantial economic activity.

3-Current trends and the lastest development on tax transparency: regulators and stakeholders perspectives

Evolution of the international normative framework

According to the OECD[4], annual revenue loss due to base erosion and profit shifting (BEPS), was estimated at USD 100 to 240 billion. BEPS refers to tax avoidance strategies that exploit gaps and mismatches in tax rules to artificially shift profits to low or no-tax locations. With the political support of G20 leaders, the international community has taken joint action to increase transparency and promote information exchange in tax matters, addressing weaknesses of the international tax system that create opportunities for BEPS. The impact of BEPS on developing countries, as a percentage of tax revenues, is estimated to be even higher than in developed countries. Based on an action plan set in 2013, the OECD and G20 agreed in November 2015 on a package of 15 actions[5].

1 http://www.doingbusiness.org/data/exploretopics/paying-taxes/why-matters
2 http://www.oecd.org/ctp/beps-frequentlyaskedquestions.htm
3 Tax battles : the dangerous global race to the bottom on corporate tax' – Oxfam – 12 December 2016, p. 10
4 http://www.oecd.org/tax/beps/background-brief-inclusive-framework-for-beps-implementation.pdf
5 For more details, see http://www.oecd.org/tax/beps/beps-actions.htm + Annexe 3

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On 7th June 2017, representatives of 68 countries signed the multilateral convention to implement tax treaty related measures preventing Base Erosion and Profit Shifting[1], the first multilateral agreement of its kind to amend multiple tax treaties with changes intended to reduce double taxation and also nontaxation through tax evasion or avoidance by multinational enterprises. Mandatory and binding dispute resolution mechanisms are to be extended to employers and individuals in signatory countries under the treaty. Employers may present double-taxation disputes to applicable authorities through a mutual agreement procedure within three years from the first notification of the action resulting in taxation irrespective of the remedies provided by domestic law.[2] Expected signatories include most OECD and G-20 countries, with the exception of the United States.

On the 4th July 2017, the EU Parliament voted new rules to oblige multinationals with a turnover of at least EUR 750 millions to publish details of their activities on a country-by-country basis, even in countries outside the EU[3]. These new rules follow the adoption of Council Directive (EU) 2016/881 on 25th May 2016, which provides for country-by-country reporting (CBCR) to tax administrations, and amends the Accounting Directive 2013/34 providing for public country-by country reporting.

As part of the EU Commission's Anti-Tax avoidance package4[4], in June 2016, the EU Council also adopted an Anti-Tax Avoidance Directive (ATAD)[5] laying down rules against tax avoidance practices that directly affect the functioning of the internal market. This Directive has been completed by an agreement on rules to stop companies from escaping tax by exploiting the differences between Member States' and non-EU countries' tax systems ("hybrid mismatches") on May 29th 2017[6]. The new rules are set to go into effect in January 2020.

Since January 2017, Member States have been obliged to automatically exchange information on financial accounts, as an important step against offshore tax evasion. From July this year, similar transparency rules will apply for tax rulings, while multinationals will have to provide country-by-country reports to tax authorities by the end of the year.

In the United States, on 29th June 2016, the U.S Treasury Department and Internal Revenue Service (IRS) released final country-by-country regulations modeled on the OECD recommendations under Action 13 of the BEPS project. Ultimate parent entities of a U.S multinational group with annual revenue of USD 850 million or more must file Form 8975, "Country-by-Country Report," containing information, on a country-by-country basis, related to the U.S MNE group's income and taxes paid, together with specific indicators of economic activity within the U.S MNE group.

1 "OECD Moves to Limit Tax Avoidance by Multinationals" Wall Stress Journal- 07/06/2017
"Signatories parties to the multilateral convention to implement Tax Treaty related measures to prevent base erosion and profit shifting, in http://www.oecd.org/tax/treaties/beps-mli-signatories-and-parties.pdf
http://www.oecd.org/tax/treaties/multilateral-convention-to-implement-tax-treaty-related-measures-to-prevent-beps.htm

2 "OECD Countries Sign Multilateral Treaty on Double Taxation" – Bloomberg- 07/06/2017

3 MEPs pass new rules to tackle multinationals' tax avoidance" – Euractiv -04/07/2017 -https://www.euractiv.com/section/economy-jobs/news/eu-lawmakers-pass-new-rules-to-tackle-multinationals-tax-avoidance/

4 http://ec.europa.eu/taxation_customs/business/company-tax/tax-transparency-package_en

5 Directive (EU) 2016/1164 - http://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32016L1164&from=EN

6 http://europa.eu/rapid/press-release_IP-17-1433_en.htm

Stakeholders' diligence and concerns

In addition to media scrutiny, numerous reports have been published by NGOs and civil society organisations[1] in recent years on companies' tax avoidance strategies and on the importance of stopping tax avoidance, and support development.

Stakeholders generally welcome the OECD and the EU's support for global tax transparency and efforts to put an end to the secrecy surrounding multinational companies' activities, structures and tax payments, even though concerns continue to be raised and further work needs to be done.

For instance, Oxfam[2] calls upon governments to adopt "a new generation of international tax reforms", to create "a global body to lead and coordinate international tax cooperation that includes all countries" and to establish "a clear list of which are the worst tax havens based on criteria including transparency measures, very low tax rates and the existence of harmful practices granting substantial reductions". It also pleads for the adoption of strong defensive measures, including sanctions against listed corporate tax haven to limit BEPS. Finally, Oxfam, requests governments and international institutions to work together to set fair and progressive corporate tax rates and ensure that all countries are able to deliver their commitment under the Sustainable Development Goals (SDGs), reduce their dependency on regressive taxation, and effectively set public spending to reduce the inequality gap.

Transparency International also reacted to the country-by-country rules voted by the EU Parliament in July 2017, regretting exceptions and loopholes introduced in the last version adopted[3]. In particular, Transparency International worried that a 'get out clause' introduced by Members of the European Parliament during the vote in Committee would allow them to avoid disclosing crucial information they consider "commercially sensitive"[4].

1 Tax Justice Network, the International Center for Tax and Development, CCFD, Action Aid, Christian Aid, Eurodad, Oxfam, Transparency International, Eurodad
http://www.eurodad.org/files/pdf/5630c81b03d89.pdf

2 Tax battles: the dangerous global race to the bottom on corporate tax' – Oxfam – 12 December 2016, p. 10

3 https://transparency.eu/cbcr-ep-vote/ + http://transparency.eu/european-parliament-plenary-vote-tax-transparency/

4 http://www.diplomaticintelligence.eu/european-union-news/2545-european-parliament-votes-for-corporate-get-out-clause-on-tax-transparency

Conclusion:

The fact that only 2.5% of companies provide comprehensive tax disclosure reports, and that these companies mainly operate in sectors that are subject to more stringent regulatory frameworks, raises concern. These companies are also the most subject to controversies.

Preventing tax avoidance and reporting transparently on tax are a fiduciary duty for businesses, which have to exercise their social responsibility on these sensitive issues. It is a part of companies' duty of vigilance to prevent tax avoidance, as well as to guarantee fair tax payment in countries where they operate. Corporate transparency is expected not only on tax payments, but also on the strategic motives behind local operations or the location of assets in offshore financial centers and secret jurisdictions.

Responsibility for ensuring tax transparency and preventing tax avoidance lies with executives and directors, and any assurances from external auditors should not prevent senior management from proactively addressing tax issues. Both should be integrated into risk management frameworks and corporate responsibility processes.

Tax avoidance and lack of transparency represent risks for companies, investors, and communities, but also for social and economic public order, at global, regional and national levels. Such practices can affect corporate reputation and raise legal risks, illustrated by the scandals and legal disputes that have emerged over recent years. These events also reveal increasing scrutiny from civil society, the media and regulators, as well as a desire to end damaging and unfair practices that hamper local governments, distort competition, and hinder sustainable development. Tax avoidance also reinforces inequalities among countries and citizens.

In coming years and in line with the OECD Base Erosion Profit Shifting project, regulations will demand transparency from large corporations on the taxes they pay. Anticipating these behaviour changes can be an asset for companies. However, as noted by civil society and different stakeholders, there is much work to be done to effectively tackle tax avoidance, harmful tax practices, and to change current controversial behaviours. The participation and cooperation of all stakeholders, including companies, states and international organisations will be necessary to change such practices.

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Annexe 1: chronology

Recent key dates

4 July 2017
Country by Country (CbC) reporting is adopted by the EU Parliament.

7 June 2017
Representatives from 68 OECD countries sign the first Multilateral Convention to implement tax treaty related measures to prevent base erosion tax shifting.

29 May 2017
The EU Council adopts the directive on hybrid mismatches, preventing corporate groups from exploiting disparities between two or more tax jurisdictions to reduce their overall tax liability.

29 June 2016
The United States adopts CbC reporting regulations for multilateral companies.

June 2016
The EU Council adopts the Anti Tax Avoidance Directive.

27 January 2016
31 countries sign the Multilateral Competent Authority Agreement (MCAA) for the automatic exchange of country-by-country reports.

November 2015
G20 leaders endorse the OECD Base Erosion and Profit Shifting Project (BEPS).

July 2015
Third Financing for Development (FfD) conference, including launch of the 'Addis Ababa Tax Initiative' which aims to double support for technical taxation cooperation by 2020. Partner countries commit to strengthening revenue mobilisation in order to achieve the Sustainable Development Goals.

March 2015
The EU Commission endorses its Tax Transparency Package.

Annexe 2: Recent tax scandals

Bahamas Leaks
In September 2016, the International Consortium of Investigative Journalists (ICIJ) released a set of nearly 1.5 million documents from the Bahamas corporate registry. The Bahamas Leaks have been included in the larger 'Offshore Leaks Database', which has information on half a million offshore accounts and businesses, and gathers data published in previous leaks such as the Panama Papers. The leaked documents provide names of politicians and others linked to more than 175,000 Bahamian companies registered between 1990 and 2016.

Lux Leaks
This scandal emerged in November 2014 when the ICIJ exposed several hundred secret tax rulings from Luxembourg, which had been leaked by Antoine Deltour, a former employee of PricewaterhouseCoopers (PwC). The LuxLeaks dossier documented hundreds of multinational corporations that were using the system in Luxembourg to lower their tax rates.

Malta files
In May 2017, the network European Investigative Collaborations released hundred of thousands of documents showing how Malta's tax system allows companies to pay the lowest tax on profits in the EU.

The information included extensive details of over 70,000 companies in Malta's public company register and show how Malta works as a base for tax avoidance inside the EU. Although profiting from the advantages of EU membership, Malta also welcomes large companies and wealthy private clients who try to evade taxes in their home countries. This damages the budgets of other EU countries and reveals a weakness of the European Union, which allows member states sovereign rights over their taxation.

Offshore Leaks
In April 2013 this report disclosed details of 130,000 offshore accounts. It originated from the International Consortium of Investigative Journalists (ICIJ), who collaborated with reporters from around the world to produce a series of investigative reports. The investigation is based on 2.5 million secret records about the offshore assets of people from 170 countries and territories, obtained by ICIJ's director, Gerard Ryle.

Panama papers
The Panama Papers are an unprecedented leak of 11.5m files from the database of the world's fourth largest offshore law firm, Mossack Fonseca. The records were obtained from an anonymous source by the German newspaper Süddeutsche Zeitung, who shared them with the International Consortium of Investigative Journalists (ICIJ). In April 2016 the ICIJ shared the papers with a large network of international partners including over 50 media outlets around the world.

Swissleaks
This scandal broke on 8 February 2015 when the ICIJ exposed leaked files detailing more than 100,000 clients of HSBC bank in Switzerland. Accounts from 106,000 clients in 203 countries were previously leaked by whistle-blower Hervé Falciani in 2007.

Among other things, the data showed how HSBC helped clients set up secret bank accounts to hide capital from tax authorities around the world, and assisting individuals engaged in arms trafficking, blood diamonds and corruption to hide their illicitly acquired assets. The 'SwissLeaks' scandal brought banking secrecy into the public spotlight.

Annexe 3: Summary of the OECD BEPS package[1]

Summary of BEPS package

Action 1
Addressing the Tax Challenges of the Digital Economy (DE): Action 1 addresses the tax challenges of the digital economy and identifies the main difficulties that the digital economy poses for the application of existing international tax rules. The Report outlines options to address these difficulties, taking a holistic approach and considering both direct and indirect taxation.

Action 2
Neutralising the Effects of Hybrid Mismatch Arrangements: Action 2 develops model treaty provisions and recommendations regarding the design of domestic rules to neutralise the effects of hybrid instruments and entities (e.g. double non-taxation, double deduction, long-term deferral).

Action 3
Designing Effective Controlled Foreign Company (CFC) Rules: Action 3 sets out recommendations to strengthen the rules for the taxation of controlled foreign corporations (CFC).

Action 4
Limiting Base Erosion involving Interest Deductions and Other Financial Payments: Action 4 outlines a common approach based on best practices for preventing base erosion through the use of interest expense, for example through the use of related-party and third-party debt to achieve excessive interest deductions or to finance the production of exempt or deferred income.

Action 5
Countering Harmful Tax Practices More Effectively, Taking into Account Transparency and Substance: Action 5 revamps the work on harmful tax practices with a focus on improving transparency, including compulsory spontaneous exchange on rulings related to preferential regimes, and on requiring substantial activity for preferential regimes, such as IP regimes.

Action 6
Preventing the granting of treaty benefits inappropriate circumstances: Action 6 develops model treaty provisions and recommendations regarding the design of domestic rules to prevent treaty abuse.

Action 7
Preventing the Artificial Avoidance of Permanent Establishment (PE) Status: Action 7 contains changes to the definition of permanent establishment to prevent its artificial circonvention, e.g. via the use of commissionaire structures and the likes.

Action 8-10
Aligning Transfer Pricing Outcomes with Value Creation Actions 8 – 10 contain transfer pricing guidance to assure that transfer pricing outcomes are in line with value creation in relation to intangibles, including hard-to-value ones, to risks and capital, and to other high-risk transactions.

Action 11
Measuring and Monitoring BEPS: Action 11 establishes methodologies to collect and analyse data on BEPS and the actions to address it, develops recommendations regarding indicators of the scale and economic impact of BEPS and ensure that tools are available to monitor and evaluates the effectiveness and economic impact of the actions taken to address BEPS on an ongoing basis.

Action 12
Mandatory disclosure rules: Action 12 contains recommendations regarding the design of mandatory disclosure rules for aggressive tax planning schemes, taking into consideration the administrative costs for tax administrations and business and drawing on experiences of the increasing number of countries that have such rules. .

Action 13
Re-examining Transfer Pricing Documentation and country-by- country reporting: Action 13 contains revised guidance on transfer pricing documentation, including the template for country-by-country reporting, to enhance transparency while taking into consideration compliance costs. .

Action 14
Making Dispute Resolution Mechanisms More Effective: Action 14 develops solutions to address obstacles that prevent countries from solving treaty-related disputes under MAP, via a minimum standard in this area as well as a number of best practices. It also includes arbitration as an option for willing countries.

Action 15
Developing a Multilateral Instrument: On 7 June 2017, over 70 Ministers and other high-level representatives participated in the signing ceremony of the Multilateral Instrument

1 http://www.oecd.org/tax/beps/beps-actions.htm

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Enterprise

Vigeo Eiris is a global provider of environmental, social and governance (ESG) research to investors and public and private corporates. The agency evaluates the level of integration of sustainability factors in the strategy and the operations of organizations and undertakes a risk assessment to assist investors and companies in decision-making.

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- **Vigeo Eiris rating** offers databases, sector-based analyses, ratings, benchmarks and portfolio screening, to serve all ethical and responsible investment strategies.
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