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PHENOMENON OF TAX HAVENS IN THE FOOD CHAIN

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Abstract: *The article deals with the phenomenon of tax havens in the food chain. Tax havens hinder economies and most of the stakeholders with the exception of few who gain disproportionate benefits, mostly multinational companies. Competitiveness and environmental sustainability depend on fair and equal taxation of all stakeholders.*

Key words: *tax havens, food chain, taxation, company, businesses, tax evasion, tax avoidance, corporate income tax, EU.*

ФЕНОМЕН “НАЛОГОВЫХ ГАВАНЕЙ” В ПИЩЕВОЙ ЦЕПИ

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Аннотация: *В статье рассматривается феномен налоговых гаваней в пищевой цепи. Налоговые убежища мешают экономике и большинству заинтересованных сторон, за исключением немногих, которые получают непропорциональные выгоды, в основном транснациональные компании. Конкурентоспособность и экологическая устойчивость зависят от справедливого и равного налогообложения всех заинтересованных сторон.*

Ключевые слова: *налоговые убежища, пищевая цепь, налогообложение, компания, предприятия, неуплата налогов, уклонение от уплаты налогов, корпоративный подоходный налог, Европейский союз.*

Stakeholders in the food chain, from farmers, agents, retailers to end seller are not immune to the phenomenon of tax havens. If we take a look at the fundamentals, at the very beginning of the food chain we will notice two key components: land and water. Together these two matters form as a necessity for human survival and development. Land and water are, by location, inseparably related to a specific country and so should be the stakeholders which thrive on natural resources. In order to maintain environmental sustainability a government system must be based on certain rules to ensure this, so each and every government formation, in order to survive, must collect forced contributions (an. taxes).

Ancient civilizations, the Sumerians for example already had an established method for forced contribution collecting, more than 2500 years ago and collected livestock, grain, labor, etc. (http://www.upenn.edu/almanac/v48/n28/AncientTaxes.html). The human race later invented all sorts of contributions, today commonly known as taxes. And with the occurrence of taxes, inevitably, tax evasions were emerged. Tax evasion should not be confused with tax avoidance. Tax evasion is using illegal means to avoid paying taxes altogether (https://www.law.cornell.edu/wex/tax_evasion) while tax avoidance is a lighter term which is used for legal[1] tax maneuvers that within diversified tax rules and with the intention of paying less tax. Different tax rules apply in each country of the world, although some countries have of course adopted the same rulings as others. Even in the European Union (hereinafter: EU) where we have common provisions in the tax field we find countries with different tax rates, different set of rules that apply to business enterprises, etc. For example, if a business enterprise from Russia, Australia, USA or Japan, which are the so called third countries[2] wants to establish a subsidiary in the EU, they will (looking strictly from the taxation point of view) choose to be tax residents of the EU country with the lowest corporate income tax rate; this can be understood as common sense or tax avoidance. Corporate income tax is the fundamental tax in the field of direct taxation of businesses, although maybe the word “fundamental” can be exaggerating since by region, Europe has the lowest average corporate tax rate, at 18.88 % (http://taxfoundation.org/article/corporate-income-tax-rates-around-world-2016).

A tax resident status can be granted to a person or a business that meets the rules of tax residency in the guest country. Rules differentiate from one EU state to another but are usually associated with where a person is physically located (a person in EU will usually be considered tax-resident in the country where he or she spends more than 6 months a year) and where it receives payment of wages. Place of supply of services and goods can also be the determining factor where businesses have a residence status. That is one of the reasons most EU countries have bilateral tax treaties in place with each other to relieve double taxation when it occurs (http://ec.europa.eu/taxation_customs/frequently-asked-questions/citizens-web-site-faq/double-taxation_en).

The business world is changing faster as never before, new technologies in the food chain (fertilizers, genetic research, new methods and means of transport, etc.) are available and financially accessible for most stakeholders. It seems businesses and individuals can keep (or gain) competitive advantage only with methods of cost reduction. And surely one of the biggest costs out there are taxes. But is this true or even necessary? Knowing that a wheat Farmer in France or a dairy farmer in Germany (most likely) do not have the knowledge to use complicated structures that sharply reduce the amount of tax, McDonald’s, who is one of the biggest players in the food industry, was accused of avoiding paying taxes. McDonald's is the world's leading global food service retailer with over 36,000 locations in over 100 countries (http://corporate.mcdonalds.com/content/mcd/investors/company-overview/company-overview-segment-information.html). McDonald's avoided paying $500 million of tax over five years (http://www.dailymail.co.uk/news/article-3088713/Golden-Dodges-report-finds-McDonald-s-avoided-paying-500-MILLION-tax-five-years-shifting-profits-tax-havens-overseas.html)

[1] Permitted or acknowledge by law as lawful.

[2] Third country is an expression for countries outside the EU (http://ec.europa.eu/justice/data-protection/bodies/authorities/third-countries/index_en.htm).

In today's world where there is demand, there is supply. And so tax havens[3] emerged for the likes of food and other corporate giants around the planet. Supply and demand, the backbone of economics has made it possible for businesses to not just optimize taxes but to minimize it and in some cases avoid them.

Smaller countries that have not been subjected to pressure from foreign governments have recognized the opportunity and attracted large amounts of capital. These countries have created a niche market where international businesses can artificially shift profits from high-tax to low-tax jurisdictions using a variety of techniques, such as shifting debt to high-tax jurisdictions and shifting profits to low-tax jurisdictions using intellectual property rights (IP) methods. Intellectual property rights (IPR) include trademarks, copyright, patents, design rights, etc. Businesses can shift profits from other countries to (example) Ireland via so called intellectual property rights fees. Example: A company makes 1000 units of profits in country X where it has to pay corporate tax at 25 % rate. But, if they have to (and usually they do have to) pay for IPR they can pay 999 units of profit for such rights to their parent company in country Y where tax on such transactions is not levied. Ireland is now a key low tax European business hub involving intellectual property rights. Ireland offers a low corporate tax rate of 12.5% (25% for non-trading income (e.g. investment income, rental income)) and provides significant tax incentives for businesses exploiting intellectual property rights as it was the recent case with the American company Apple. Similar treaties were made by Luxembourg with McDonald's.

Globalization made it possible that no economy or country is immune to such illicit tax planning. Some tax havens even adapted and created a set of rules that benefits specific industry and businesses can choose different factors of selection of tax havens. If we summarize all the factors and divide them into groups, we identify the following factors of selection of tax havens: political and economic stability, language, legislation, telecommunications infrastructure and operating costs.

What are the definitions of these factors:

- Intellectual property rights (IPR) include trademarks, copyright, patents, design rights, etc. Businesses can shift profits from other countries to (example) Ireland via so called intellectual property rights fees. Example: A company makes 1000 units of profits in country X where it has to pay corporate tax at 25 % rate. But, if they have to (and usually they do have to) pay for IPR they can pay 999 units of profit for such rights to their parent company in country Y where tax on such transactions is not levied. Ireland is now a key low tax European business hub involving intellectual property rights. Ireland offers a low corporate tax rate of 12.5% (25% for non-trading income (e.g. investment income, rental income)) and provides significant tax incentives for businesses exploiting intellectual property rights as it

[3] There is no generally agreed definition of what a tax haven is but a tax haven is a jurisdiction which has low tax rates or no taxes at all. Tax havens normally provide services to foreigners or non-residents (http://www.taxhavens.biz/what_is_a_tax_haven/). An appropriate definition of tax havens would be: Tax havens are administratively and politically independent jurisdictions, where legislation is adapted to capital. The more the capital the greater the adaptability.

was the recent case with the American company Apple. Similar treaties were made by Luxembourg with McDonald’s.

- Personal safety along with political stability (without internal disagreements) and an economy resistant to recession.
- Legislation is flexible and adaptable to the user. Most tax havens have little will not cooperate when it comes to the exchange of information, although this is changing due to the OECD list of unco-operative tax havens (http://www.oecd.org/countries/monaco/listofunco-operativetaxhavens.htm). Key components still remain: privacy and secrecy that provides stakeholders with the anonymity they search for.
- Many tax havens are based outside the EU in remote corners of the world so communication with the rest of the world is needed.
- Although the purposes of tax havens are low taxes, administrative costs, registration costs, commission expenses and other expenses can be significant.

As land and water are inseparably related to a specific country so should taxes be inseparably related to all the stakeholders in the food chain of a specific country. Taxes fuel economy and increases economic growth but can hinder economy if are not imposed equally. Some might agree taxes are redundant but they are very necessary. The economic growth[4] as we know it today, would not be possible without distribution of wealth through taxes. The negative effects of tax havens could be seen throughout the global economy and the welfare of the people especially in developing countries (Tax havens cause poverty, 2013). Tax havens not only offer low or zero tax rates but provide shelter for stakeholders who violate tax rules and other laws in order to gain disproportionate benefits. The organization Tax Justice Network estimates (Tax havens cause poverty, 2013) that stakeholders have stored unimaginable sums[5] of capital in tax havens. Therefore governments have magnified appetites for taxes, as they have increased in recent years[6], due to larger state administration which, in general, increased to extend the scope of taxation on other goods and services in the food chain or to provide new solutions for existing taxes. It is Shameless that some stakeholders make use of illicit tax actions in the way they are doing it. If a fair amount of capital, which fled to tax havens, would be repatriated and taxed in the country of origin, it would have significant impacts on commerce and trading. Tax rates would be reduced because everybody would pay their fair share, so competitiveness would improve not to mention public services which would gain on quality and diversity. Such actions would lead towards a more sustainable world of food chain.

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[4]The World Economy has grown for 54 out of the past 55 years. (http://www.worldeconomics.com/papers/Global%20Growth%20Monitor_7c66ffca-ff86-4e4c-979d-7c5d7a22ef21.paper).

[5] By Oxfam report only the 50 biggest US companies have more than a trillion dollars hidden offshore. This is more than the entire GDP of countries such as Spain, Mexico or Australia (https://www.oxfam.org/en/pressroom/pressreleases/2016-04-14/fifty-biggest-global-us-companies-stash-13-trillion-offshore).

[6] As a ratio of GDP tax revenue increased in recent years (http://ec.europa.eu/eurostat/statistics-explained/index.php/Main_Page)

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