Should U.S. and Global Regulators take a Bigger Tax Bite Out of Technology Companies?  
A Case on Apple Inc.’s International Tax Minimization and Reporting Strategies
1. Introduction
2. Senate Hearings, Offshore Profit Shifting
3. Apple’s Strategies for Tax Minimization
5. Tax Protest Groups vs. Apple & Tech Co.'s
6. U.S. and Global Regulatory Efforts
7. Case Questions
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7. Case Questions
According to my iPad, Apple earned £22.9bn outside of the USA...

And according to my Samsung Note, Apple's paying less than 2% in tax on overseas profit...

Ooopsy!
Apple’s profits have soared, but tax payments have risen much more slowly.

$3.3 billion
Cash paid for income taxes, worldwide in 2011

$34.2 billion
Profit before taxes, worldwide in 2011
Should U.S. and Global Regulators take a Bigger Tax Bite Out of Technology Companies?

A Case on Apple’s International Tax Minimization and Reporting Strategies

ABSTRACT: This case discusses the international tax minimization and reporting strategies of Apple Inc. (Apple) and other technology companies as well as the related U.S. congressional investigations into “Offshore Profit Shifting and the U.S. Tax Code.” The case also examines supranational and foreign governmental efforts addressing these global tax issues.

The profits of Apple have experienced exceptional growth due to its successful sales of the iPhone, iPad, and related digital products and services. However, Apple has been able to minimize its overall tax bill by utilizing techniques to shift income to lower tax jurisdictions. Strategies used by Apple involve transfer pricing, international corporate tax structures, and financial accounting techniques.

This case requires students to research and critically analyze tax and accounting issues related to Apple’s tax minimization strategies, as well as the related U.S. and international regulatory investigations. We have created an accompanying website (GlobalAccountingCases.com) which contains research documents, videos, tax structure graphs, articles and powerpoints related to Apple’s tax strategies and the U.S. and international regulatory investigations.

Keywords: international taxation; transfer pricing; Subpart F; tax repatriation holiday; deferred taxes; offshore profit shifting.
Apple Taxation Case Resources

Documents


Exhibits to Sept. 20, 2012 Senate Hearing on Offshore Profits Shifting and the U.S. Tax Code

May 21, 2013 United States Senate Hearing: Offshore Profit Shifting and the U.S. Tax Code – Part 2 (Apple Inc.)

Exhibit 1(a) to May 21, 2013 Subcommittee memo on Offshore Profit Shifting – Part 2 (Apple, Inc.)

Exhibit 1 – 19 to May 21, 2013 Subcommittee memo on Offshore Profit Shifting – Part 2 (Apple, Inc.)


APB 23: Accounting for Income Taxes – Special Areas (integrated into ASC 740-30-25)

FASB Accounting Standards Codification for accessing ASC 740-30-25 (academic access only)
Graphs & Explanation of ‘Double Irish with a Dutch Sandwich’

Double Irish with a Dutch Sandwich (the general strategy)

Google Inc.'s Double Irish with a Dutch Sandwich Strategy

Apple Inc. and Other Tech Co.'s Double Irish with a Dutch Sandwich Strategy

International Tax Planning: Double Irish More Than Doubles the Tax Saving (article by Joseph Darby)
News Articles


Google’s tax avoidance is called ‘capitalism’, says chairman Eric Schmidt (The Telegraph, December 12, 2012)

Senate Report Details HP & Microsoft Offshore Tax Ploys (Forbes, September 20, 2012)

Cash Hoard Grows by $187 Billion in Untaxed Overseas Profits (Bloomberg, March 2, 2012)


Apple tax probe helps drive to build consensus on global regime (Financial Times, May 23, 2013)

Ireland readies diplomatic corps to rebuff tax haven claims (Reuters, May 27, 2013)

Nobody In Congress Dares To Close The Trillion Dollar Loophole That Apple, Google And Microsoft Use To Reduce Taxes (Business Insider, December 6, 2012)

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Senate Committee Says Multinationals Heading Offshore To Avoid Billions In Tax

Senator Carl Levin’s (D-Michigan) Permanent Subcommittee on Investigations will hear testimony today starting at 2:00 p.m. on the tax avoidance and possible tax evasion activities of multinational corporations. Microsoft, Hewlett Packard, IRS officials, accounting firm Ernst & Young and accounting standard setters will testify. Levin and the Committee believe many big corporations send profits offshore to avoid, and possibly evade, billions in tax by taking positions of “dubious validity”. Auditors, tax accountants and lawyers are signing off on “egregious” abuses of tax loopholes for their clients, according to Levin.

Chairman Levin and the Committee are raising this issue now for one reason: The U.S. needs the money. “At a time when we face such difficult budget choices, and when American families are facing a tax increase and cuts in critical programs from education to health care to food inspections to national defense,” say Levin, “these offshore schemes are unacceptable.”

Levin described "a system used to shift billions of dollars of profit offshore and avoid billions in taxes“ (Duke, 2012).
NATION: Sen. Carl Levin aims at closing corporate tax loopholes as a deficit reduction strategy (VIDEO)

Published: Friday, April 05, 2013
The Senate investigation explains that, to exploit the loophole, a company will "sell" their intellectual property rights to a foreign, controlled company in a tax shelter (Hickey, 2012).

The controlled foreign company gains the profits from domestic and international sales without the burden of American taxation. The multinational will then occasionally repatriate some of the income through permissible short term loans between the controlled foreign company and the American corporation (Hickey, 2012).
Offshore Profit Shifting and the U.S. Tax Code

Permanent Subcommittee on Investigations

September 20, 2012 02:00PM
Location: Room G-50, Dirksen Senate Office Building

Member Statements

Chairman, Permanent Subcommittee on Investigations CARL LEVIN D (MI)

Download Statement (454.5 KB)

Agenda

The Permanent Subcommittee on Investigations has scheduled a hearing, "Offshore Profit Shifting and the U.S. Tax Code" on Thursday, September 20, 2012, at 2:00 p.m., in Room G-50 of the Dirksen Senate Office Building.

The Subcommittee will examine the shifting of profits offshore by U.S. multinational corporations and how such activities are affected by the Internal Revenue Code and related regulations. Witnesses will include representatives from the Internal Revenue Service, the Financial Accounting
The Permanent Subcommittee On Investigations > Hearings

Offshore Profit Shifting and the U.S. Tax Code - Part 2 (Apple Inc.)

Permanent Subcommittee on Investigations

May 21, 2013 09:30AM
Location: Room 106, Dirksen Senate Office Building

Member Statements

CARL LEVIN D (MI)
Download Statement (53.5 KB)

JOHN McCAIN R (AZ)
Download Statement (77.7 KB)

Agenda

The Permanent Subcommittee on Investigations held a hearing, “Offshore Profit Shifting and the U.S. Tax Code - Part 2 (Apple Inc.)” on Tuesday, May 21, 2013, at 9:30 a.m. in Room 106 of the Dirksen Senate Office Building.

The Subcommittee continued its examination of the structures and methods employed by multinational corporations to shift profits offshore and how such activities are affected by the Internal Revenue Code and related regulations. Witnesses included representatives from the Department of the Treasury, the Internal Revenue Service, representatives of Apple Inc., and tax experts.

Witnesses

PANEL 1
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How Apple Sidesteps Billions in Taxes

RENO, Nev. — Apple, the world’s most profitable technology company, doesn’t design iPhones here. It doesn’t run AppleCare customer service from this city. And it doesn’t manufacture MacBooks or iPads anywhere in the state.

Braeburn Capital, an Apple subsidiary in Reno, Nev., manages and invests the company’s cash. Nevada has a corporate tax rate of zero, as opposed to the 8.84 percent levied in California, where Apple has its headquarters.

By CHARLES DUHIGG and DAVID KOCIENIEWSKI
Published: April 28, 2012 | 1370 Comments
Apple Inc.’s Strategies for Global Tax Minimization (NYT article quotes)

“Although Apple Inc. is based in the United States, its profits - on paper, at least - are largely foreign. While Apple contracts out much of the manufacturing and assembly of its products to other companies overseas, the majority of Apple’s executives, product designers, marketers, employees, research and development, and retail stores are in the United States” (Duhigg & Kocieniewski, 2012).

“Furthermore, even though 54 percent of Apple's long-term assets, 69 percent of its retail stores, and 39 percent of its sales are in the United States, Apple’s accountants have found legal ways to allocate about 70 percent of its profits overseas, where tax rates are often much lower” (Duhigg & Kocieniewski, 2012).
TAX MINIMIZATION STRATEGY

• Double Irish With a Dutch Sandwich
Bloomberg
Inside Google's $1 Billion-a-Year Tax Cutting Strategy
By Jesse Drucker. Designed by Hermann Zachegner. October 21, 2010
Click or move mouse over orange areas for interactive content.

Google Inc. has cut roughly $3 billion from its income tax bill since 2007. It relies on a strategy that assigns most profits from its foreign advertising sales to Bermuda and involves techniques known to tax planners as the "Double Irish" and the "Dutch Sandwich."

Click here to see how.

Google's Overseas Tax Rate
2.4%

Google Inc.
MOUNTAIN VIEW, CA

Google Ireland Ltd.
DUBLIN

Google Ireland Holdings
BERMUDA

Google Netherlands Holdings BV
THE NETHERLANDS

Conyers Dill & Pearman

License Fees
Intellectual Property License
License Fees
Intellectual Property License
License Fees
Five-Story Cayman Islands Building That 18,857 Companies Call Home
How Apple, Other Tech Companies Take Advantage of the U.S. Tax Code
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On November 4, 2012, the following headline appeared in the British newspaper, The Telegraph.

Apple pays less than 2pc tax on overseas profits

Apple is paying less than 2pc tax on its overseas profits, as it moves money through offshoots in low-tax countries and secretive tax havens, such as the British Virgin Islands.

The Sunday Times reports that new documents have revealed that the world's biggest company paid $713m (£445m) in corporation tax abroad in the year to September 30, as profits grew to a $36.8bn outside America, according to regulatory filings lodged last week.

The technology giant's overseas tax rate fell to 1.9pc from 2.5pc the year before, significantly below the corporate tax rate of 35pc in the US and 24pc in Britain.
The regulatory document that The Telegraph is referring to is Apple’s 10-K. The relevant information is in the note on income taxes. The note from the 2013 10-K discloses that Apple’s effective tax rates were approximately 26.2%, 25.2%, and 24.2% for 2013, 2012, and 2011.

The Company’s effective rates for these periods differ from the statutory federal income tax rate of 35% due primarily to certain undistributed foreign earnings for which no U.S. taxes are provided because such earnings are intended to be indefinitely reinvested outside the U.S. (U.S. SEC, 2012)
# Apple’s Note 5 — Income Taxes for 2013, 2012, and 2011

## Note 5 — Income Taxes

The provision for income taxes for 2013, 2012 and 2011, consisted of the following (in millions):

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2012</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Federal:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current</td>
<td>$9,334</td>
<td>$7,240</td>
<td>$3,884</td>
</tr>
<tr>
<td>Deferred</td>
<td>1,878</td>
<td>5,018</td>
<td>2,998</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>11,212</td>
<td>12,258</td>
<td>6,882</td>
</tr>
<tr>
<td><strong>State:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current</td>
<td>1,084</td>
<td>1,182</td>
<td>762</td>
</tr>
<tr>
<td>Deferred</td>
<td>(311)</td>
<td>(123)</td>
<td>37</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>773</td>
<td>1,059</td>
<td>799</td>
</tr>
<tr>
<td><strong>Foreign:</strong></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Current</td>
<td>1,559</td>
<td>1,203</td>
<td>769</td>
</tr>
<tr>
<td>Deferred</td>
<td>(426)</td>
<td>(490)</td>
<td>(167)</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>1,133</td>
<td>713</td>
<td>602</td>
</tr>
<tr>
<td><strong>Provision for income taxes</strong></td>
<td><strong>$13,118</strong></td>
<td><strong>$14,030</strong></td>
<td><strong>$8,283</strong></td>
</tr>
</tbody>
</table>

The foreign provision for income taxes is based on foreign pre-tax earnings of $30.5 billion, $36.8 billion and $24.0 billion in 2013, 2012 and 2011, respectively. The Company’s consolidated financial statements provide for any related tax liability on undistributed earnings that the Company does not intend to be indefinitely reinvested outside the U.S. Substantially all of the Company’s undistributed international earnings intended to be indefinitely reinvested in operations outside the U.S. were generated by subsidiaries organized in Ireland, which has a statutory tax rate of 12.5%. As of September 28, 2013, U.S. income taxes have not been provided on a cumulative total of $54.4 billion of such earnings. The amount of unrecognized deferred tax liability related to these temporary differences is estimated to be approximately $18.4 billion.

As of September 28, 2013 and September 29, 2012, $111.3 billion and $82.6 billion, respectively, of the Company’s cash, cash equivalents and marketable securities were held by foreign subsidiaries and are generally based in U.S. dollar-denominated holdings. Amounts held by foreign subsidiaries are generally subject to U.S. income taxation on repatriation to the U.S.

A reconciliation of the provision for income taxes, with the amount computed by applying the statutory federal income tax rate (35% in 2013, 2012 and 2011) to income before provision for income taxes for 2013, 2012 and 2011, is as follows (in millions):

<table>
<thead>
<tr>
<th></th>
<th>2013</th>
<th>2012</th>
<th>2011</th>
</tr>
</thead>
<tbody>
<tr>
<td>Computed expected tax</td>
<td>$17,554</td>
<td>$19,517</td>
<td>$11,973</td>
</tr>
<tr>
<td>State taxes, net of federal effect</td>
<td>508</td>
<td>677</td>
<td>552</td>
</tr>
<tr>
<td>Indefinitely invested earnings of foreign subsidiaries</td>
<td>(4,614)</td>
<td>(5,895)</td>
<td>(3,898)</td>
</tr>
<tr>
<td>Research and development credit, net</td>
<td>(287)</td>
<td>(103)</td>
<td>(167)</td>
</tr>
<tr>
<td>Domestic production activities deduction</td>
<td>(308)</td>
<td>(328)</td>
<td>(168)</td>
</tr>
<tr>
<td><strong>Other</strong></td>
<td>265</td>
<td>162</td>
<td>(9)</td>
</tr>
<tr>
<td><strong>Provision for income taxes</strong></td>
<td><strong>$13,118</strong></td>
<td><strong>$14,030</strong></td>
<td><strong>$8,283</strong></td>
</tr>
<tr>
<td>Effective tax rate</td>
<td>26.2%</td>
<td>25.2%</td>
<td>24.2%</td>
</tr>
</tbody>
</table>

Source: Apple 10-K 2013
APB 23 – Accounting Standards Codification 740-30-25
APB 23: Accounting for Income Taxes—Special Areas

APB 23 STATUS

Issued: April 1972

Effective Date: For fiscal periods beginning after December 31, 1971

Affects: Deletes ARB 51, paragraph 16
          Deletes APB 11, paragraphs 38, 39, and 41
          Deletes APB 18, paragraph 19(j) and footnote 11

Affected by: Paragraph 2 amended by FAS 9, paragraph 16
             Paragraph 4 deleted by FAS 71, paragraph 26(i)
             Paragraph 9 and footnote 9 amended by FAS 96, paragraph 205(e), and FAS 109, paragraph 288(f)
             Paragraph 10 amended by FAS 96, paragraph 205(e)
             Paragraph 10 replaced by FAS 109, paragraph 288(f)
             Paragraphs 11, 14, and 24 replaced by FAS 96, paragraph 205(e), and FAS 109, paragraph 288(f)
             Paragraph 13 amended by FAS 96, paragraphs 204 and 205(e), and FAS 109, paragraphs 287 and 288(f)
             Paragraphs 21 and 23 amended by FAS 109, paragraph 288(f)
             Paragraphs 26 through 30 and footnote 11 deleted by FAS 60, paragraph 62
             Footnote 3 deleted by FAS 109, paragraph 288(f)
             Footnotes 4, 6, and 10 deleted by FAS 96, paragraph 205(e), and FAS 109, paragraph 288(f)
APB 23 contains one important presumption. Consider it to be the normal route for reporting undistributed earnings of a subsidiary:

“It shall be presumed that all undistributed earnings of a subsidiary will be transferred to the parent entity. Accordingly, the undistributed earnings of a subsidiary included in consolidated income shall be accounted for as a temporary difference unless the tax law provides a means by which the investment in a domestic subsidiary can be recovered tax free.” (From Accounting Standards Codification 740-30-25-3)

The APB 23 exception as currently framed in the Accounting Standards Codification:

“The presumption in paragraph 740-30-25-3 that all undistributed earnings will be transferred to the parent entity may be overcome, and no income taxes shall be accrued by the parent entity … if sufficient evidence shows that the subsidiary has invested or will invest the undistributed earnings indefinitely or that the earnings will be remitted in a tax-free liquidation. A parent entity shall have evidence of specific plans for reinvestment of undistributed earnings of a subsidiary which demonstrate that remittance of the earnings will be postponed indefinitely. These criteria required to overcome the presumption are sometimes referred to as the indefinite reversal criteria. Experience of the entities and definite future programs of operations and remittances are examples of the types of evidence required to substantiate the parent entity's representation of indefinite postponement of remittances from a subsidiary …” (From Accounting Standards Codification 740-30-25-17)
• Apple does not maximize reported profit like most other companies.

• Perhaps because it is breaking all records for profitability now, it is saving some profits for less fortunate times in the future. Another possible reason is to avoid negative publicity.
<table>
<thead>
<tr>
<th>Apple’s Financial Information</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
</tr>
<tr>
<td><strong>Market value (Feb. 8, 2012)</strong></td>
</tr>
<tr>
<td><strong>Reported effective tax rate</strong></td>
</tr>
<tr>
<td><strong>Before-tax profits</strong></td>
</tr>
<tr>
<td><strong>Foreign effective tax rate</strong></td>
</tr>
<tr>
<td><strong>Before-tax foreign profits</strong></td>
</tr>
<tr>
<td><strong>Accumulated foreign earnings</strong></td>
</tr>
<tr>
<td><strong>U.S. share of before-tax profits</strong></td>
</tr>
<tr>
<td><strong>Permanently invested foreign earnings</strong></td>
</tr>
<tr>
<td><strong>U.S. share of sales</strong></td>
</tr>
<tr>
<td><strong>Accumulated foreign earnings not permanently invested</strong></td>
</tr>
<tr>
<td><strong>U.S. share of long-lived assets</strong></td>
</tr>
<tr>
<td><strong>Deferred tax liability of not permanently invested foreign earnings, end of 2011</strong></td>
</tr>
<tr>
<td><strong>U.S. share of retail stores</strong></td>
</tr>
<tr>
<td><strong>Deferred tax liability of not permanently invested foreign earnings, end of 2010</strong></td>
</tr>
<tr>
<td><strong>U.S. sales margin</strong></td>
</tr>
<tr>
<td><strong>Estimated book U.S. tax expense on foreign profit</strong></td>
</tr>
<tr>
<td><strong>Foreign sales margin</strong></td>
</tr>
<tr>
<td><strong>Estimated foreign profit with booked U.S. tax expense</strong></td>
</tr>
<tr>
<td><strong>Additional U.S. tax if 50% profits in U.S.</strong></td>
</tr>
<tr>
<td><strong>Estimated U.S. tax rate on repatriated foreign earnings</strong></td>
</tr>
<tr>
<td><strong>Additional U.S. tax if 70% profits in U.S.</strong></td>
</tr>
<tr>
<td><strong>Adjusted effective tax rate</strong></td>
</tr>
</tbody>
</table>

**Notes:**
- Asterisk (*) means information is directly from 2011 annual report.
- Market value. From Yahoo Finance. Second in market capitalization is Exxon Mobil at $403.9 billion.
- U.S. share of before-tax profits. Calculated from 2011 reported total before-tax profits ($34.2 billion) and 2011 reported before-tax foreign profits ($24 billion).
- Additional U.S. tax if 50% profits in U.S. The difference between 50 percent and 29.8 percent multiplied by $34.2 billion (before-tax profits) and 35 percent (the marginal U.S. federal corporate tax rate).
- Foreign effective tax rate. Total foreign tax liability ($602 million) divided by total before-tax foreign profits ($24.0 billion).
- Accumulated foreign earnings not permanently invested. The difference between accumulated foreign earnings at the end of 2011 ($54.3 billion) and permanently invested foreign earnings at the end of 2011 ($23.4 billion).
- Estimated foreign profit with booked U.S. tax expense. Increase from 2010 to 2011 (from $18.5 to $30.9 billion) in accumulated foreign profit not permanently reinvested.
- Estimated book U.S. tax expense on foreign profit. Increase from 2010 to 2011 (from $5 to $8.9 billion) in deferred tax liability related to foreign earnings not permanently invested.
- Adjusted effective tax rate. The difference between booked tax expense ($8.238 billion) and estimated book tax expense on foreign profits ($3.9 billion) divided by before-tax profits ($34.2 billion).
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• Citizens for Tax Justice

• U.S. Uncut
Facebook Status Update: A $429 Million Tax Rebate, Compliments of U.S. Taxpayers

Recent Reports

Six Things You Need to Know on Tax Day
The critical facts you need to know about our tax system.
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The Impact of Government Actions on Apple’s Tax Strategy

(1) U.S. Senate Investigation
(2) OECD Study (supported by G-20)
(3) European Union (EU)
(4) U.S. Tax Repatriation Holiday
U.S. Senate investigation on “Offshore Profit Shifting and the U.S. Tax Code”

Tens of billions of dollars of revenue that could and should be going toward reducing the federal deficit and keeping the budget afloat are being hoarded offshore, according to the Senate subcommittee report (O’Donnell, 2012).

In 1952, corporate tax generated 32.1% of all federal tax revenue and individual tax generated 42.2%. Individual tax has remained nearly the same, accounting for 41.5% today, while corporate tax has dropped to a meager 8.9%. The subcommittee report attributes this drop largely to the tax loopholes and offshore shelters (O’Donnell, 2012).
Table 3: Sources of Federal Revenue, 1950 to 2010

Source: Budget of the United States Government, Fiscal Year 2012, Historical Tables: Table 2.1; http://www.whitehouse.gov/omb/budget/Historicals
OECD urges stronger international co-operation on corporate tax

12/02/2013 - Global solutions are needed to ensure that tax systems do not unduly favour multinational enterprises, leaving citizens and small businesses with bigger tax bills.

An OECD study commissioned by the G-20 - Addressing Base Erosion and Profit Shifting (BEPS) - finds that some multinationals use strategies that allow them to pay as little as 5% in corporate taxes when smaller businesses are paying up to 30%. OECD research also shows that some small jurisdictions act as conduits, receiving disproportionately large amounts of Foreign Direct Investment compared to large industrialised countries and investing disproportionately large amounts in major developed and emerging economies.

“These strategies, though technically legal, erode the tax base of many countries and threaten the stability of the international tax system,” said OECD Secretary-General Angel Gurría. “As governments and their citizens are struggling to make ends meet, it is critical that all tax payers - private and corporate - pay their fair amount of taxes and trust the international tax system is transparent. This report is an important step towards ensuring that global tax rules are equitable, and responds to the call that the G-20 has made for the OECD to help provide solutions to the global economic crisis.”

Many of the existing rules which protect multinational corporations from paying double taxation too often allow them to pay no taxes at all. These rules do not properly reflect today’s economic integration across borders, the value of intellectual property or new communications technologies. These gaps, which enable multinationals to eliminate or reduce their taxation on income, give them an unfair competitive advantage over smaller businesses. They hurt investment, growth and employment and can leave average citizens footing a larger chunk of the tax bill.
G20 vows to crack down on corporate tax evasion
Global Tax-Avoidance Rules to Be Aimed at Digital Economy

By Richard Rubin and Jesse Drucker - Jan 23, 2014

An international economic group seeking to ensure that multinational companies pay their taxes says it will publish a proposal focused on the digital economy in the next two months.

The Organization for Economic Cooperation and Development, supported by 34 member countries including the U.S., U.K., Germany and Japan, aims to address issues raised by digital businesses in a world that taxes activities based on their physical locations.

“We’d better have strong and robust rules which do not give ground” and allow companies to avoid paying taxes anywhere, Pascal Saint-Amans, director of the Paris-based organization’s tax policy and administration center, said during a webcast today.

In July, the group proposed developing rules over the next two years to prevent companies from avoiding taxes. Such rules would be offered for adoption by its member countries. The idea was endorsed by the Group of 20 major economies.

The rules would try to keep companies from putting patent rights into mailbox companies or taking interest deductions in one country without reporting taxable profits in another. Another would require companies to disclose to regulators their income in subsidiaries around the world.

In a letter to the Paris-based organization, a group of technology companies said officials shouldn't propose separate rules for their industry.

Source: Rubin & Drucker 2014
Infrastructure Bill Includes 'Tax Amnesty' For Companies With Offshore Cash

As concerns about crumbling roads and bridges mount, one Congressman believes he has an answer. Sen. Michael F. Bennet (D-CO) has introduced a bill, Partnership to Build America Act of 2014 (S. 1957), that would provide for investments and improvements in infrastructure projects. To make it more palatable, funding would not come from a boost in income taxes but from bond sales.

Initially it feels like a win-win for taxpayers. To sweeten the pot, the bill, which creates a new fund, the American Infrastructure Fund (AIF), states, that it will “always make clear that no taxpayer money supports the AIF or ever will support the AIF.”

So far, so good.

But there has to be a catch, right? There is. Under the bill, multinational corporations would be granted the equivalent of a repatriation tax holiday for supporting the AIF. The tax holiday is on top of the return in investment from purchase of a bond (bonds are interest bearing).
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Case Questions

1. In your own words, describe: (a) What is Apple attempting to achieve? (b) How is it possible that Apple as a U.S. company does not pay the regular corporate tax rate?

2. In your opinion, to what extent should the design and creation of intellectual property in the U.S. influence and trigger U.S. taxation? What are the possible consequences for Apple if these events would be the criteria for taxation?

3. Provide examples for cases in which Apple has been criticized for not paying appropriate taxes in other countries that it conducts business in.

4. Why does General Motors not use the same Double Irish with a Dutch Sandwich technique of tax minimization as Apple?

5. Does Apple have an ethical responsibility to pay appropriate taxes in the U.S.? To what degree does the formal compliance with the tax code hinder a further moral analysis?

6. The case and Senate subcommittee hearings mention that other technology companies are using tax minimization techniques similar to Apple.

   Required: Identify one other global company that engages in similar tax minimization strategies. Provide: (a) article citations; (b) description of techniques used; (c) description of criticism the company may receive from foreign governments.

7. Research the concept of the “Tax Repatriation Holiday” that Apple and other technology companies support. What is the recent history of this proposal? Do you support the
implementation of a tax holiday to help bring foreign earnings back to the U.S.? Why or why not?

8. Use your business school subscription to the Accounting Standards Codification to access and research ASC 740-30-25: “Undistributed Earnings of Subsidiaries and Corporate Joint Ventures”.

Required: (a) In your opinion, how does ASC 740-30-25 provide incentive to U.S. multinational corporations to shift or keep profits offshore? (b) How can this financial accounting standard be used as a tool for earnings management? (c) What evidence exists that corporate tax executives favor the Indefinite Reversal Exemption?

9. There are numerous international and supranational efforts underway to curb multinational corporations’ tax avoidance. The organizations involved in such efforts include the: (1) Organization for Economic Cooperation and Development (OECD); (2) Group of Twenty Finance Ministers and Central Bank Governors (G-20); (3) European Union (EU); and the (4) Global Forum on Transparency and Exchange of Information for Tax Purposes.

Required: (a) What specific activities related to addressing multinational corporate tax minimization are each of these organizations involved in? Prepare a brief report of your findings. (b) What is the current status of each organization’s progress in achieving its goals? (c) Based upon your research, what is your opinion of the potential for success of global regulatory efforts in curbing multinational corporate tax avoidance?
Thank You!