In the wake of the Panama Papers scandal in 2016, tax campaigners turned London's Trafalgar Square into a tropical tax haven, putting pressure on world leaders to take action on tax dodging at an international Anti-Corruption Summit. Photo: Andy Hall/Oxfam

STOPPING THE SCANDALS

Five ways governments can end tax avoidance

When global corporations and the super-rich use tax havens to avoid paying their fair share, it is the poorest countries and people who lose most. The Paradise Papers show that tax havens continue to do a roaring trade, despite government promises to clamp down on tax dodging. This briefing lists five actions governments can take to tackle tax avoidance and end the era of tax havens.

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INTRODUCTION

The Paradise Papers scandal reveals that rich and powerful corporations and the super-rich are continuing to exploit a rigged global system that allows them to avoid paying their fair share of tax.

The world is facing an inequality crisis, with eight men owning the same wealth as the bottom 3.6 billion people.[1] The gap between rich and poor has reached new extremes, and this crisis is made far worse by an epidemic of tax dodging by the richest people and the richest corporations, whilst ordinary people have to pick up the pieces.

When global corporations and the super-rich dodge their tax paying responsibilities, it is the poorest countries and people – particularly women – who lose most. As tax returns from wealth fall, countries are left with the options of cutting back on the essential spending needed to reduce inequality and poverty, or make up the shortfall by levying higher taxes on ordinary people.

The latest leaks show how company profits and the assets of the rich have been sheltered by a network of private banking, legal, accounting and investment industries exploiting the secrecy provided by tax havens. This enables the super-rich to avoid paying up to 30% of the taxes they owe.[2] They have $7.6 trillion hidden from the tax authorities in tax havens,[3] a figure greater than the gross domestic product (GDP) of the UK and Germany combined.

The use of tax havens to avoid tax is unacceptable. Progressive tax policies have a major role to play in tackling inequality. Governments should take action in line with Oxfam's recommendations below, including cooperating to stem the harmful race to the bottom.

Here are five ways that governments can tackle tax avoidance:

1 END TAX HAVENS

- **Establish a clear list of the worst tax havens, based on objective criteria, backed with powerful counter-actions, such as sanctions, to end their use.**

Problem: All international initiatives to agree tax haven blacklists have ended up being an exercise in whitewashing. Vested interests successfully corrupted the process, so all the worst tax havens are conveniently absent from the list. These lists are worthless if they cannot help governments to identify the tax haven activities that encourage tax dodging and the race to the bottom, or agree the right counter-measures, such as incentivizing compliance and applying sanctions, to put an end to these activities.

The Paradise Papers reveal that – despite successive leaks exposing tax dodgers – not enough change has happened and corporate and individual tax dodgers are continuing unimpeded to minimize their tax bills. Most countries are losing considerable tax revenues because of companies shifting their profits to tax havens to dodge paying their fair share in tax. The United Nations Conference on Trade and Development (UNCTAD) found that developing countries lose around $100bn in tax revenues each year as a result of corporate tax avoidance schemes that route investments through tax havens.[4] Corporate tax havens provide tax advantages – such as low to zero corporate tax rates, tax exemptions and loopholes, and financial secrecy – to non-resident companies. Companies minimize their tax bills by making taxable profits 'disappear' by shifting profits to these low-tax jurisdictions where there may be little or no genuine economic or profit-making activity. They can artificially attribute the ownership of assets or the locations of transactions to paper subsidiaries in tax havens. As a consequence, tax havens are driving a harmful race to a bottom on corporate taxation. Oxfam ranked Bermuda, the Cayman Islands and the Netherlands as the world's worst corporate tax havens.[5]

This race to the bottom is not only in corporate taxation. It is also about countries competing with each other to attract the super-rich, enabling them to hide their billions and recycle money tax free to pay for things like private jets, yachts and luxury property. Failure on the part of the international community to agree a definition of a 'tax haven' contributes to their legitimization.

Solutions: A clear list of the worst tax havens, based on objective criteria, and free from political interference, is critical. The criteria must include transparency measures, existence of very low tax rates and harmful tax practices that grant substantial reductions. Strong measures (including sanctions and incentives for compliance) should then be used to stop companies shifting their profits to tax havens, and in turn limit countries losing investment and tax revenues to those tax havens. All countries must implement strong controlled foreign company (CFC) rules, which prevent multinationals based in those countries from artificially shifting profits into tax havens. They can also introduce withholding taxes on risky payments (such as royalties and interests). These can be done without waiting for global agreement.

Governments can take other national level action. For example, following the Panama Papers, Ecuador was the first country to hold a national referendum on instituting legislation that obligated politicians and public servants to repatriate companies' and individuals' offshore accounts.

Current challenges: Following recent tax scandals, both the European Union (EU)[6] and the G20, led by the Organisation for Economic Co-operation and Development (OECD),[7] have committed to producing a blacklist of tax havens. So far, the G20/OECD has failed to use objective and comprehensive criteria for assessing countries, turning the process into another whitewash. The blacklist published by the OECD in June 2017 only looks at financial transparency criteria, and astonishingly has just one country on its list: Trinidad and Tobago. The EU list is expected to be announced on 5 December 2017. Its criteria are likely to be more ambitious than the OECD ones, including transparency and tax fairness tests, as well as a zero percent corporate tax rate as an indicator.

However, the decision to only assess and list countries outside of the EU will leave countries like the Netherlands, Luxembourg, Ireland and Cyprus out – all countries which rank high in Oxfam's list of the world's worst corporate tax havens.

2 END CORPORATE TAX SECRECY

- **Commit to introduce PUBLIC country-by-country reporting (CBCR) for all multinational companies in EACH country they operate.**
- **Ensure development finance institutions only invest in companies that have adopted responsible tax policies, for example, by publishing financial reports for every country where they do business.**

Problem: For decades, corporations have artificially diverted their profits made in the countries they do their substantial business into countries with very low, or zero, corporate tax rates – or 'corporate tax havens'. Through this shifting of profits, countries around the globe are denied large amounts of potential tax revenue. This is now done by corporations on an industrial scale.

Despite widespread agreement that this behaviour by corporations is destructive, accurate data on the extent to which this is happening has been elusive. This is because corporations have not been required to publish their profits or the tax they pay on a country-by-country basis. Instead they produce aggregate accounts that obscure their use of tax havens. Transparency of key data to show what companies are paying and where would be a powerful tool in demonstrating the scale of the problem.

There is also a lack of transparency in the use of public funds by international development finance institutions. Governments and international institutions advocating for global tax reform need to lead by example by, at minimum, ensuring transparency in public procurement by development finance institutions. In just five years, the World Bank's lending arm – the International Finance Corporation – more than doubled its investments in Sub-Saharan Africa in companies that use tax havens – from $1.20bn in 2010 to $2.87bn in 2015.[8] As a consequence, taxable profits may be shifted out of the developing countries in which they operate resulting in revenue losses.

Solution: All governments should ensure companies publish financial information for every country in which they operate. This will allow the public to see if they are paying their fair share of tax in those countries. Companies that dodge taxes should not receive a single dollar of overseas aid money. Development finance institutions should ensure every company they invest in publishes financial reports (CBCR) for every country where they do business so it is clear if they are paying their fair share of tax.

Current challenges: Current EU and OECD proposals for CBCR for all sectors need improvement. For example, the European Commission proposal limits information to EU countries and deprives the public and developing countries from having a full understanding of where companies make profits and where they pay tax. Worse, while the European Parliament adopted public CBCR back in July 2017, some EU member states are currently blocking the final adoption. The OECD recently agreed on sharing CBCR information between governments, but decided against a public reporting requirement for multinationals. It is vital that CBCR information is made public so that developing countries can access the data. The proposed OECD and EU reporting systems currently prevent many developing countries from accessing the data they need.

3 END TAX SECRECY FOR THE SUPER-RICH

- **Establish a public, centralized register of individuals benefiting from ownership of an asset (including shell companies, bank accounts, foundations, trusts, property etc.).**
- **Automatically exchange data from the central register of beneficial ownership and financial data from their financial institutions with all countries, including developing countries.**

Problem: A global network of offshore financial centres provide opaque structures that allow the super-rich, using shell companies, to hide vast amounts of taxable income and profits offshore to avoid paying tax. It is estimated that 8 percent of the world's financial wealth ($7.6 trillion) is now held offshore in tax havens, untaxed and uncontrolled.[9] Taxing the money hidden in offshore tax havens by wealthy residents in Latin America and the Caribbean could raise enough revenue to lift 32 million people out of poverty.[10] Research estimates that the equivalent of 10% of world GDP is held offshore globally and that the top 0.01% pay 30% less in tax than they should because of tax dodging.[11] Africa alone loses $14bn in tax revenues due to the super-rich using tax havens, enough to put every child in Africa in school.[12] It is also estimated that around 10% of global financial secrecy is held offshore. Tax havens help facilitate corruption, money laundering, and other illicit financial flows, and hamper the ability of financial regulators to identify and mitigate risk in capital markets.

Solution: A public, central register of beneficial ownership of companies, trusts and foundations (the real and ultimate owners), and an automatic exchange of information agreement would provide the information necessary for countries to collect tax from residents offshoring their wealth in countries with whom it has an automatic exchange agreement. Recent improvements in tax transparency have resulted in new government[13] commitments to establishing public registers. The EU's Anti-Money Laundering Directive also requires EU countries to create national-level registers of beneficial ownership information, though data is only available to government authorities. More than 100 countries have also committed to automatically exchanging information about financial assets and income that other country's residents hold in their financial institutions through the OECD's new Common Reporting Standard (CRS), and the US Foreign Account Tax Compliance Act (FATCA). So far, the current model means that only rich economies will take advantage of this exchange of information.[14] It is time for governments to apply monetary penalties for uncooperative financial institutions or individuals, and sanctions (for example additional withholding taxes) against rich countries and tax havens to incentivize their compliance and participation in CRS.

Current challenges: Loopholes and flaws remain, allowing those who want to hide their money to avoid paying tax to continue undeterred. Most countries still choose to not have central, *public* registers of beneficial owners, including those countries that operate as a tax haven – where most of the hidden wealth is stashed.

4 RE-BALANCE TAX DEALS

- **Ensure negotiations on tax treaties avoid exploiting developing countries' tax bases.**
- **Ensure cooperation agreements brokered by donors and international financial institutions avoid exploiting developing countries' tax bases.**

Problem: Many agreements between developed and developing countries have unfair terms on tax for developing countries. Tax treaties are agreements between two countries, which determine, among other things, which country has the taxing rights for a foreign-owned company. Tax treaties between lower and higher income countries generally unfairly allocate more taxing rights to the higher income country, ensuring that money flows untaxed from developing countries to high income countries. Many treaties result in multinational companies not paying certain types of tax at all in any country. Rich countries have a responsibility in ensuring fair taxation with their investments and the projects they finance.

Solution: Tax treaties negotiated with developing countries should align with development cooperation objectives, and contribute to progress towards Agenda 2030's Sustainable Development Goals.

Current challenges: The G20/OECD's Base Erosion and Profit Shifting (BEPS) action plan failed to address the allocation of taxing rights and the imbalances in tax treaties that continue to reward OECD-based companies at the expense of developing countries. One of the reasons for this is because developing countries did not set the agenda for the BEPS negotiations, and did not participate in the negotiations and decision-making process on an equal footing.

5 LEAD THE WAY ON TAX REFORM

- **Support a new generation of tax reforms that lead to tax systems that deliver in the public interests of all countries.**
- **Create a global tax body to lead and coordinate international tax cooperation that includes all countries on an equal footing.**

Problem: International initiatives to address the financial recklessness and murky tax rules that plunged the world into financial crisis, and end banking secrecy and industrial scale tax abuse, are not working. The Paradise Papers again reveal that corporate and individual tax dodgers are still carrying on their business as usual, and by escaping their tax liabilities, are constraining the ability of governments to tackle inequality – particularly that of developing countries. Despite recent reforms in transparency and tax rules, the financial and tax system is rigged in favour of corporations and wealthy interests. Disproportionate influence of corporate lobbyists and vested interests, and the fact that developing countries are either excluded or are not on an equal footing in tax and transparency rule-making, have meant reforms continue to replicate the same defects that have afflicted the current international tax system.

Solution: At a global level, a new generation of global tax reforms is needed that create an international tax system that works in the interest of the majority. This second-generation reform process should include all countries on an equal footing and tackle a number of key issues that have not been sufficiently addressed by the recent global tax reform led by the OECD under the mandate of G20 (BEPS process), such as:

- the competitive granting of tax incentives and lowering of tax rates;
- tackling corporate tax havens and harmful tax practices;
- the reallocation of taxing rights between countries, for example by revising tax treaty terms and transfer pricing and permanent establishment rules;
- addressing avoidance of capital gains tax;
- preventing manipulation of internal transaction prices and developing alternative approaches to the arm's length principle; and
- the taxation of commodities.

A global tax body is required to oversee the global governance of international tax matters, while respecting democratic national sovereignty on taxing multinational companies. Until such a global forum is created, all countries and global institutions, including the UN, the International Monetary Fund, the World Bank and the OECD should work towards an agreement on how to curb the corporate tax race to the bottom and to ensure companies pay their fair share of tax.

Current challenges: G20 and OECD members are displaying no appetite to engage in another round of comprehensive tax reform negotiations, at least outside the G20 and OECD, with all countries on an equal footing. Most of these same governments have resisted the creation of an independent global tax body. In Addis Ababa in 2015, developing countries' demands for commitments on a global tax body at the UN Financing for Development Summit's delayed agreement on the Summit's final text until a group of powerful nations exerted significant pressure on developing countries to concede to weaker language on tax cooperation.

Until all countries have a forum for negotiations, where all governments participate on an equal footing, and where all fundamental issues are on the table for reform, tax avoidance will not be going away, and the race to the bottom will continue.

These five clear steps are what needs to be done to end tax havens and stop tax dodging by corporations and the super-rich. The Paradise Papers are another stark reminder that, when it comes to tax, too many big companies and wealthy individuals play by different rules to the rest of us. It is time for our leaders to put the interests of the public over corporates and the super-rich.

NOTES

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13 The UK committed to creating a central public beneficial ownership register of companies incorporated there (although is yet to include foundations and trusts). Other countries like Ukraine, Denmark, Austria, and France have also signalled their support for public registers.

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