FACTCOALITION
Financial Accountability & Corporate Transparency

Catching Corporate Tax Dodgers and Informing Investors: The Case for Public Country-by-Country Reporting

As concern with the national debt has reached new heights among lawmakers and the public, so too has interest in making sure that the nation's largest corporations pay their fair share of taxes. Meanwhile, investors across the nation are wondering how new tax regimes and enforcement efforts, both at home and across the globe, will affect the companies in their portfolios. **In order to improve tax enforcement and arm investors with the information they need to allocate their funds wisely, it is time to make large multinational corporations publicly report on their global tax practices**.

The Disclosure of Tax Havens and Offshoring Act (S.638)[1] requires large multinational corporations to begin public country-by-country reporting of tax and operational data to the Securities and Exchange Commission (SEC). All data required to be reported by these entities is already reported to the Internal Revenue Service (IRS), meaning that compliance with these new requirements will represent a negligible additional cost to reporting companies.

Why Public Country-by-Country Reporting?

- **Public country-by-country reporting is advancing around the world**. The European Union[2] has already adopted measures to promote tax transparency, and **Australia[3] is expected to pass the world's first comprehensive public reporting regime this year**, which would require large multinationals doing business in the country to provide details on their global operations. As both plans will capture certain U.S.-headquartered multinationals under their respective reporting requirements, the Disclosure of Tax Havens and Offshoring Act would also serve to clarify and standardize reporting requirements for affected companies.

- Investors need this information to assess risk, and they know it. **Investors with over $10 trillion[4] in assets under management have endorsed public country-by-country reporting**, and many

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[1] Required information includes, but is not limited to: a list of subsidiaries, main activity, revenue, profit, tax, number of employees, stated capital, accumulated earnings, and tangible assets.
[2] The FACT Coalition, "European Action on Multinational Tax Transparency Requirements Underscores Need for Strong U.S. Action," June 2, 2021. https://thefactcoalition.org/european-action-on-multinational-tax-transparency-requirements-underscores-need-for-strong-u-s-action/
[3] Department of the Treasury, "Public country-by-country reporting," April 6, 2023. https://treasury.gov.au/consultation/c2023-383896.
[4] Oxfam America, "Methodological note and list of investors, $10 trillion AUM in support of pCbCR," May 2023. https://www.oxfamamerica.org/press/press-releases/exxonmobil-chevron-and-conocophillips-shareholders-must-vote-to-ditch-secretive-tax-practices/

major U.S.-based multinationals have recently faced shareholder resolutions demanding greater tax transparency, including Amazon, Microsoft, Cisco, ExxonMobile, and Chevron. Foremost among investors' concerns are the potential ramifications of the OECD's global 15% minimum tax, which is currently being adopted by the European Union and other key jurisdictions.

- **Eye-popping enforcement fines against big multinationals engaged in tax dodging are only becoming more frequent**:
  - In 2022, McDonald's agreed to pay French tax authorities **$1.3 billion**[5] to settle allegations regarding transfer-pricing practices moving French profits into Luxembourg.
  - In 2020, the U.S. Tax Court ruled that Coca-Cola used profit-shifting to underpay $3.3 billion in taxes from 2007 through 2009. Correcting these transfer pricing practices may result in the company facing a possible **$14 billion**[6] in additional tax liability.
  - Apple was fined a staggering **$14.2 billion**[7] by the European Commission in 2016 for using Irish tax breaks found illegal under EU law. While the EU's highest court reviews the decision, Microsoft and Facebook are separately under IRS investigations that could lead to billions of dollars in fines.
- **Lawmakers need this information to close loopholes**: Relying on public pressure to curb tax dodging is unsustainable. Tax law must change, but secrecy hinders the debate. The real impact of new offshore taxes, such as the Global Intangible Low Income Tax (GILTI) and Corporate Alternative Minimum Tax (CAMT) introduced in 2017 and 2022, respectively, can be difficult to gauge without public access to country-by-country data.
- **Developing countries need this information to raise more tax revenue**: Though many tax authorities collect and exchange this information among themselves, most developing countries are effectively shut out of the system. Developing countries rely proportionally more on corporate tax to pay off accumulated debt, build critical infrastructure, and fund public services.
- **We must restore public trust**: Repeated scandals like the Panama and Paradise Papers have shown the public in no uncertain terms that current tax law favors wealthy and powerful corporations over America's small businesses and ordinary taxpayers.

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[5] Associated Press, "McDonald's to pay France $1.3 billion in tax fraud case," June 16, 2022. https://apnews.com/article/politics-paris-france-cb44909c2c59aa9e62817565b91336a0

[6] Securities and Exchange Commission, "Form 10-K, Commission File Number 001-02217, The Coca-Cola Company," February 21, 2023. https://www.sec.gov/Archives/edgar/data/21344/000002134423000011/ko-20221231.htm

[7] Reuters, "EU seeks top court backing in $14 billion tax fight against Apple," May 23, 2023. https://www.reuters.com/technology/eu-seeks-top-court-backing-14-billion-tax-fight-against-apple-2023-05-23/