FACTCOALITION
Financial Accountability & Corporate Transparency

FACT Sheet: U.S. Must Improve Corporate Tax Transparency to Protect Investors and Inform Better Tax Policy

Questionable tax planning practices by large multinational corporations put investors at risk and rob us all of much-needed public revenues. The secrecy surrounding these practices enables and exacerbates their harms. As key jurisdictions around the globe implement enhanced tax transparency measures for major multinational corporations, the U.S. risks falling behind to the detriment of American investors and workers, at a time when U.S. policymakers are considering important tax reforms.

To correct this disparity, FACT recently filed a petition on behalf of 87 investors with more than $2.3 trillion in assets under management, calling on the U.S. Securities and Exchange Commission (SEC) to issue a rulemaking requiring public companies to disclose their profits, employee headcount, and other basic financial information for every country in which they operate. This practice is called public country-by-country reporting (CbCR), and is a part of the world-leading Global Reporting Initiative tax standard, developed under the leadership of investors, accountants, and tax experts.

Though the SEC already has the authority to require public CbCR, Congress should move quickly to provide a mandate for rulemaking, as proposed in the **Disclosure of Tax Havens and Offshoring Act (S.638, H.R.4938)**.

Transparency to Deter Growing Tax Risks

Investors have led the charge in recent years for greater corporate tax transparency. Corporate tax risk is a critical variable for financial analysts to consider when they model and evaluate risk, and to ensure better-informed capital allocation. As tax authorities and lawmakers around the world ramp up enforcement and reform policies to crack down on international tax avoidance, investors increasingly face unknown risks.

These risks can be massive: high-profile, ongoing transfer pricing cases against household names could cost investors tens of billions in the coming years. For instance:

- Coca Cola will pay $6 billion in an ongoing transfer pricing case, and faces a potential total liability of up to **$16 billion**, which would wipe out the equivalent of a year and a half of profits.

- Amgen pharmaceutical company's share price fell by 6.5% on August 4, 2021, and again by 4.3% on April 28, 2022, after a **$10.7 billion** tax dispute with the IRS over profit shifting to Puerto Rico. Amgen has since been sued by shareholders for failing to adequately disclose the dispute.

- Microsoft has disclosed that the IRS had levied a record **$28.9 billion** in back taxes on the company for 2004-2013 tax years. Taking into account penalties, independent tax experts estimate that Microsoft's total liability could balloon into a sum as high as **$168.7 billion**, more than Microsoft's 2022 and 2023 income combined.

- Apple had to pay **$14 billion** in back taxes relating to transfer pricing arrangements that were approved by the Irish government in violation of the EU prohibition against state aid, according to the European Court of Justice.

If these companies had been required to publish country-level tax data for relevant years, these risky practices may have never been adopted at all in the face of investor scrutiny. Transparency may dissuade image-conscious corporations from abusing tax havens entirely.

Minimal Compliance Costs Outweighed by Significant Benefits

Public CbCR will not impose significant additional compliance costs on most companies, given that they already collect much of this information internally for business, payroll, and tax purposes, and compile and file CbCR reports privately with the Internal Revenue Service (IRS Form 8975).

Indeed, many leading companies – including Shell, Vodafone, Lush, and BHP – have opted to publish their CbCR disclosure voluntarily, in some cases going back for many years, without any negative consequences. Contrary to initial concerns, Shell found that public tax reporting had actually built trust and helped to "strengthen our relationships with our customers, investors, policymakers, and others."

Critical Information to Inform the 2025 Tax Debate

As lawmakers consider the expiration of much of the 2017 tax reform, further international tax changes are once again in the policy mix, yet secrecy hinders the debate.

Some country-level tax data is currently available to the public, but only on an aggregated basis, rather than separately for each company. As such, this information is of no use to investors, and only limited use to policymakers. Given the high concentration of the U.S. corporate tax base, with less than 0.5% of companies accounting for more than 85% of the U.S. corporate tax base, understanding the behavior of the largest firms is critical to effectively raising revenue through international tax reforms.

Global adoption of the OECD's 15% global minimum tax is already affecting the tax planning behavior of major multinationals. Public access to country-level tax data will allow policymakers to better address developing trends in international taxation.

For more information, contact Zorka Milin (zmilin@thefactcoalition.org).