
CREDITS

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Tax – a corporate responsibility priority

MAPPING THE POLICIES AND PRACTICES OF
MAJOR DANISH INVESTORS AND COMPANIES

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Summary

Politicians, citizens and the media are increasingly linking tax and corporate responsibility, bringing the role of corporate tax in society into the spotlight.

International taxation rules have been shown to be flawed and the EU, the OECD and the G20 are trying to address the shortcomings. However, at the moment we don't have a global tax regime. Corporations can exploit different tax rules in different countries to their own advantage. A grey area between legal and illegal tax exploitation, and where companies can manoeuvre according to the own interpretation of the "spirit of the law", persists.

However, the greater attention tax and responsibility is getting has brought stronger scrutiny of the choices companies make.

Corporates and investors are being asked to be more and more transparent about their tax planning strategies and policies. More communication and clarity about the relationship between tax policies and corporate responsibility is needed.

This report analyses both theory and practice in the context of tax's status as a growing priority on the corporate social responsibility (CSR) agenda.

Looking at well-established and broadly applied CSR guidelines and frameworks we found that:

- Corporate tax is considered a part of corporate responsibility.
- There is only very limited guidance on how to incorporate tax corporate responsibility standards or operationalise responsible tax practices.
- There is more detailed material on tax and corporate responsibility for both investors and corporations outside of these formalised guidelines and frameworks.
- There is potential to establish jointly owned guidance on operationalising responsible tax policies and practices from this material and from the experiences of corporates and investors.

A survey of the most successful corporates and investors in Denmark found that:

- The majority of respondents believe tax is a corporate responsibility and even more have a corporate tax policy.
- There are no consistent references to CSR guidelines and frameworks in the tax policies, which suggests the established systems provide little operational support.
- Only six of the 19 Danish companies and investors have made their policies public and issue regular reports on their implementation. This puts Danish companies and investors at risk of being associated with irresponsible tax behaviour by the media and public.

A series of issues emerged as being particularly relevant for further exploration with relevant stakeholders:

- Transparency and accountability.
- The need for a clear definition of what constitutes “aggressive tax planning”.
- Local tax disputes.
- None of the replies from companies mentioned paying tax in accordance with economic activity, despite it being a major issue of contention in local tax disputes.

Most of the corporates and investors we approached chose not to participate in the survey, leading to some blind spots in our research. Unfortunately, publicly available policies do not give enough detail for us to assess the businesses’ attitude towards tax and CSR.

Their refusal to engage in external dialogue about internal policy perhaps reflects an unwillingness or inexperience in openly discussing internal policies.

Tax, CSR and the relationship between the two is a developing subject. There is a need to further engage on and debate this issue to ensure more transparency and accountability in the future.

OUR RECOMMENDATIONS FOR MOVING FORWARD ARE:

- All stakeholders in this debate should come together to unpack and agree on what constitutes responsible tax policy and practice and how it can be applied by corporates and investors.
 - Corporates and investors should recognise that tax and tax policy is a corporate responsibility and include it in their CSR reporting.
 - Companies and investors must be open and transparent about their policies and practices on tax, and in particular about what underlying principles guide their decision making.
 - As accepted practice develops among corporates, it should be considered whether the applicable CSR guidelines should be updated to explicitly provide guidance on responsible tax policies.
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Introduction

TAX AND CORPORATE RESPONSIBILITY

With the rise of the global corporation and the increase in the pace of globalisation, more and more attention is being devoted to responsible business conduct and corporate social responsibility. Arguably, this has intensified in recent years. Now most international actors have established standards and norms to guide private entities in a world where they can have a massive impact on society. General principles are by definition broad but are also expected to be applied in a changing and developing environment. We also see new features of our globalised world which demand bespoke replies. Tax planning is one such area.

There is no single global tax regime. Instead, tax systems vary from country to country. International corporates make tax decisions based on their

interpretation of local laws and how they interact with those of different authorities.

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Eight out of ten Danes agree that it is just as important for a corporate actor to pay its taxes as it is to limit its pollution.¹

.....

At a time of heightened scrutiny, this can make tax planning a risky business. Those pursuing aggressive tax strategies can fall victim to negative publicity. Those risks and a lack of regulatory stability are harmful to jobs and growth. Meanwhile, responsible corporates do not enjoy the rewards from conscious consumers or good publicity they deserve.

Corporate responsibility is not only about what is legal, but also about taking responsibility for ones' financial, environmental and social impact on society.²

What is legal and illegal is also under continuous revision as tax laws are rewritten. Both the EU and OECD have begun work to reform existing rules³. They are supported by global leaders, including the Danish Prime Minister Helle Thorning Schmidt⁴ and the Danish Minister for Taxation, Benny Engelbrecht.⁵

Some argue that the system is already broken and current revisions will only paper over the cracks.⁶ However, campaigns from civil society and world political leaders have established that, "individuals and businesses must pay their fair share", as UK Prime Minister David Cameron put it at Davos in 2013. US President Barack Obama added to the chorus of condemnation. He said, "My attitude is I don't care if it's legal, it's wrong".⁸

.....

89% of tax and finance executives responding to an E&Y tax risk survey are somewhat or significantly concerned about the media coverage of the taxes some companies are paying or their seemingly low effective tax rates.⁹

.....

The world is more aware than ever before of the harmful effects of aggressive tax planning with a steady flow of companies being publicly criticised for their tax minimisation tactics. When economies in the West and in the South alike are struggling to find resources for welfare and investments to spur growth, such practices are no longer acceptable. Corporates and investors are under increasing pressure from society, citizens and politicians to strike a new balance in their operations. The way to do this is by thinking about corporate tax policy in terms of corporate responsibility.

This paper will look into the current state of play among influential Danish corporates on tax policy and corporate responsibility, and finish with recommendations for the future. It will look into whether guidance can be found in the existing international standards and principles for corporate social responsibility (CSR). The most well-known and commonly used guidelines for CSR will be analysed and their ability to guide and govern this area of financial sustainability discussed. A few comments will be made on separate, independent initiatives to link tax and corporate responsibility.

An analysis of the policy and practice of the biggest Danish corporates and investors will be made. This will enable us to establish a policy and practice baseline with regards to tax and corporate responsibility, among some of the most influential Danish private actors.

1 | Analyse Danmark for Mellemfølkeligt Samvirke (2014) “Skattespekulation og Samfundsansvar” published here <http://www.ms.dk/blog/danske-er-siger-nej-til-lovlig-skattespekulation> accessed 17th September 2014

2 | See European Union definition here: http://ec.europa.eu/enterprise/policies/sustainable-business/corporate-social-responsibility/index_en.htm accessed 17th September 2014

3 | See OECD initiative on Base Erosion and Profit Shifting (BEPS) here: <http://www.oecd.org/ctp/beps.htm> and European Union action plan to strengthen the fight against tax fraud and tax evasion here: http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/index_en.htm accessed 16th September 2014

4 | <http://jyllands-posten.dk/international/europa/ECE5504505/thorning-skattely-skal-sortlistes> accessed 17th September 2014

5 | <http://www.skm.dk/aktuelt/presse/pressemeldelser/2014/september/skatteministeren-hils-er-oecd-anbefalinger-mod-aggressiv-skatteplanlaegning-velkomne/> accessed 18th September 2014

6 | Christian Aid et al. (2011) “Fixing the cracks in tax” accessibility at <http://www.christianaid.org.uk/images/policy-brief-g20-fixing-the-cracks-in-tax.pdf> accessed 17th September 2014

7 | <http://www.bbc.com/news/business-21176992> accessed 17th September 2014

8 | <http://online.wsj.com/articles/obama-to-urge-quick-action-on-inversions-1406220197> accessed 17th September 2014

9 | <http://www.ey.com/GL/en/Services/Tax/Tax-policy-and-controversy/EY-2014-tax-risk-controversy-survey-01-summary> accessed 17th September 2014

Guidance on corporate tax in existing CSR frameworks

This section looks over the level of guidance on corporate tax and corporate responsibility in existing CSR frameworks. Looking across these guidelines, there is significant evidence to support that corporate tax should be considered a corporate responsibility. However, there is limited detailed guidance to lean on for operationalising a responsible corporate tax policy or practice.

UN: GLOBAL COMPACT AND GUIDING PRINCIPLES ON BUSINESS AND HUMAN RIGHTS

The UN Global Compact (UNGC) is a strategic membership-based initiative, launched in 2000. The UNGC consists of ten principles in the areas of human rights, labour, environment and anti-corruption. Committing to the principles is voluntary but, once signed up, companies must publish an annual communication on their progress. Failure to do so may result in their expulsion.

The UNGC is the world's largest CSR initiative involving companies, governments, civil society and labour organisations. Since the launch in July 2000, the initiative has grown to more than 12,000 participants, of which 8,000 are companies in 145 different countries.

In 2011, the UN Guiding Principles on Business and Human Rights¹⁰ were endorsed, providing an authoritative global standard for addressing adverse impacts on human rights linked to business activities. It sets out principles concerning a country's duty to protect human rights, corporate responsibility to respect human rights, and access to remedy for victims of human rights abuse. They require companies to have a policy commitment to respect human rights, and to proactively take steps to prevent, mitigate and, if needed, remedy any breaches of human rights.

Neither the Guiding Principles on Business and Human Rights nor the UNGC principles explicitly mention tax as part of the social responsibility of companies and investors. But as taxes and fiscal policies do have a direct and indirect influence on a country's ability to realise its citizens' human rights¹¹, they are relevant to the principles.

This was explicitly underlined in a report by the UN Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona. She stated that fiscal policy, and particularly taxation policies, is a major determinant in the enjoyment of human rights¹², meaning tax can indirectly be understood as part of the two sets of UN Guiding Principles.

10 | United Nations (2011) "Guiding Principles on Business and Human Rights: Implementing the United Nations 'Protect, Respect and Remedy' Framework" accessible at <http://business-humanrights.org/en/un-secretary-generals-special-representative-on-business-human-rights/un-protect-respect-and-remedy-framework-and-guiding-principles/guiding-principles> accessed 17th September 2014

11 | Principle 1: Businesses should support and respect the protection of internationally proclaimed human rights. Principle 2: Make sure that they are not complicit in human rights abuses.

12 | United Nations (2014) "Report of the Special Rapporteur on extreme poverty and human rights, Magdalena Sepúlveda Carmona on fiscal policy and human rights" accessible at http://www.ohchr.org/EN/HRBodies/HRC/RegularSessions/Session26/Documents/A_HRC_26_28_ENG.doc accessed 17th September 2014 accessed 17th September 2014

OECD: GUIDELINES FOR MULTINATIONAL ENTERPRISES AND BEPS

The OECD Guidelines for Multinational Enterprises¹³ are the recommendations on responsible business conduct from OECD country governments to multinational enterprises. The guidelines provide an instrument to address corporate misconduct by means of a grievance mechanism.

The OECD guidelines have a somewhat limited outreach. They are only applicable to companies operating in and from OECD countries, and countries adhering to the OECD Investment Declaration – 46 nations in total. The OECD guidelines are non-binding recommendations for multinational enterprises, but OECD governments are legally bound to implement them and to establish a national contact point for the promotion of the guidelines.

The guidelines include a chapter on taxation but it provides only very limited direction. The focus in regards to tax in the guidelines is on two issues. First, companies should comply with both “the letter and the spirit” of the tax laws. It is not enough to act within the law, a company must follow “the intention of the legislature”. This is elaborated by stressing that tax compliance includes providing relevant information to the authorities in a timely fashion and conforming transfer pricing practices to the Arm’s Length Principle. Multinationals are also encouraged to follow the OECD Transfer Pricing Guidelines.

Second, it is recommended that companies incorporate tax governance and tax compliance into their risk management systems, structures and policies, and that corporate boards take the responsibility for the implementation and compliance with the principles.

In addition, the guidelines ask the companies to, “refrain from seeking or accepting exemptions not contemplated in the statutory or regulatory framework related to...taxation, financial incentives, or other issues”¹⁴. This highlights the fact that companies should not – neither actively nor passively – circumvent the letter and spirit of the law, linking tax to companies’ corporate responsibilities.

But apart from some guidance as to how tax issues can be integrated into a company’s work, the OECD guidelines do not offer a more detailed format for their implementation.

The OECD is also currently developing the base erosion and profit shifting project (BEPS). This project concerns itself with whether or not the current rules are adequate for today’s corporations and their business activities, but does not offer detailed advance on tax and corporate responsibility.¹⁵

THE INTERNATIONAL ORGANISATION FOR STANDARDISATION: ISO AND DS STANDARDS

The International Organisation for Standardisation has published the ISO 26000¹⁶, which is voluntary guidance to companies on implementing a social responsibility policy. National Standard Bodies in 72 countries have adopted the ISO 26000. 60 bodies, of which about half were based in developing countries, have translated them into national standards. The ISO 26000 (2010) pointed out how governments rely upon companies meeting their tax obligations to obtain revenues for addressing critical development

¹³ | OECD (2011) “*Guidelines for Multinational Enterprises*” accessible at <http://mneguidelines.oecd.org> accessed 17th September 2014

¹⁴ | OECD (2011) “*Guidelines for Multinational Enterprises*”: p. 19, accessible at <http://mneguidelines.oecd.org>

¹⁵ | See more about the BEPS project on the OECD website www.oecd.org

¹⁶ | See more on <http://www.iso.org/iso/home/standards/iso26000.htm> accessed 17th September 2014

issues. Companies must provide authorities with the necessary information to correctly determine taxes due, it said.

In Denmark, the ISO 26000 was translated into two Danish standards (DS 49001 and DS 49004) by Dansk Standard (DS).¹⁷ The standards state that organisations should promote local community development through financially responsible behaviour and support for local business and income. This can be done in many ways. One is to fulfil tax responsibilities and provide authorities with the necessary information to correctly determine taxes on a “country-by-country” level, which is an addition to the requirements of the ISO 26000. Danish standards also state that transactions moving a company’s profits to so-called tax havens to reduce or prevent payment should be avoided.

Both the recommendation on country-by-country reporting on financial data, including but not limited to taxes, as well as the recommendation on avoiding the use of tax havens are clear examples of combining tax with corporate responsibility. However, the standards do not clarify in detail how companies can integrate responsible tax behaviour into their reporting.

THE EUROPEAN UNION: STRATEGY FOR CORPORATE SOCIAL RESPONSIBILITY 2011-14 AND ACTION PLAN ON TAX FRAUD AND TAX EVASION 2012

The EU’s 2011-2014 Strategy for Corporate Social Responsibility builds on the UN Guiding Principles on Business and Human Rights, ISO 26000, the International Labour Organisation Tripartite Declaration of Principles concerning Multinational Enterprises on Social Policy, and the OECD Guidelines for Multinational Enterprises. The strategy focuses on social and environmental CSR. But it also promotes disclosure of information related to the implementation of the three principles of good tax governance; transparency, exchange of information, and fair tax competition between states.¹⁸

In the EU action plan to fight tax fraud it is also stated that companies can have an important positive impact on the rest of society by paying taxes and that aggressive tax planning could be considered contrary to the principles of CSR.¹⁹

In 2013, country-by-country reporting for large corporations was included in the EU’s debated proposals for a non-financial reporting directive.²⁰ Although this was ultimately dropped from the bill, it did show that transparency around tax payments was considered increasingly relevant to the CSR agenda.

THE GLOBAL REPORTING INITIATIVE: G4 SUSTAINABILITY REPORTING GUIDELINES

The Global Reporting Initiative (GRI)²¹ promotes sustainability reporting and has, through a global multi-stakeholder process, developed guidelines for effective sustainability reporting. GRI includes four key areas for organisations’ performance and impact; economic, environmental, social and governance.

The guidelines cover integrated reporting on financial and sustainability results. They stress that a company needs to integrate these areas into its

17 | See more <http://www.ds.dk/da/> accessed 17th September 2014

18 | European Union (2011) “A renewed strategy for CSR 2011-2014” accessible at <http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=COM:2011:0681:FIN:EN:PDF> accessed on 17th September 2014

19 | European Union (2012) “Action plan to strengthen the fight against tax fraud and tax evasion” accessible at http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/index_en.htm accessed 16th September 2014

20 | IBIS (2013) “Analyse land-for-land-reportering” accessible at <http://ibis.dk/analyses/land-land-rapportering-i-det-kommende-direktiv-om-ikke-finansiel-rapportering/> accessed on 17th September 2014

21 | See more on <https://www.globalreporting.org/Pages/default.aspx>

processes to insure short and long-term business success and risk management. GRI does include reporting on tax in the guidelines. Companies are especially recommended to report on tax reliefs, tax credits and royalty holidays on a country-by-country basis.

This initiative is focussed on reporting, and does not offer guidance on driving principles or other advice for developing content of tax policies in relation to CSR. It rather suggests various ways in which reporting on tax issues is relevant for corporates.

GUIDELINES COMBINING TAX AND CSR

There are a number of proposals for guidelines and principles, drafted by various stakeholders in the field, which combine tax and CSR. These include but are not limited to: Sustainability (2006) “Taxing issues: responsible business and tax”, Christian Aid (2011) “Tax and sustainability: a framework for businesses and socially responsible investors”, Corporate Citizenship (2011): “Tax as a corporate responsibility issue”, and from IBIS & Global CSR (2012), “A brief on tax and corporate responsibility”.

These guidelines have a number of principles in common. Tax payments should reflect economic substance (taxes should be paid and reflect where the companies’ business activities take place), companies should be transparent about their tax policies, and certain abusive practices should be stopped (for example, a company should not misuse opaque structures for tax benefits). However, the guidelines also differ in some areas. For example, only the guidelines developed by NGOs (Christian Aid and IBIS) include the principle that companies should not use tax havens in order to obtain tax benefits.

Corporate tax policies and practices – a survey of Danish companies and investors

METHODOLOGY

This chapter analyses the results from an online questionnaire of 50 of the largest companies and investors in Denmark. It is combined with analysis of annual reports, sustainability reports and other web-based public material. The study provides the first overview of corporate tax policies and practices among some of the most influential companies and investors in Denmark and highlights some examples from the companies involved.

40 Danish and international companies operating in Denmark and ten investors were approached with a survey of ten questions. Our entry point was the person responsible for CSR, who was found through a webpage or by contacting the company. A reminder email was sent a few weeks afterwards. Companies who did not respond were contacted by telephone and alerted to the survey. The survey was open over two-and-a-half months and 19 investors and companies responded. However, some gave more elaborate information than others. The remaining chose not to participate out of a lack of resources or willingness.

In addition to this survey, research on publicly available material was performed for all 50 targeted actors. Tax is mentioned in one way or another by 20 of the actors. 15 of those actors participated in the survey. However, the degree of detail and insight given into the company or investor's policy on tax and corporate responsibility varies significantly.

Given the relatively low response from investors, the analysis combines the company and investor responses. They were asked the same questions.

MAIN FINDINGS ON DANISH COMPANIES AND INVESTORS

It is difficult to assess whether corporate rationale for developing tax policies is based on social responsibility, the fear of bad publicity, or a combination of both. It is noteworthy that almost half of the companies in the survey developed and implemented their corporate tax policies within the last three to four years, which coincides with the increased media attention and public debate on aggressive tax planning.

15 OF THE 19 Danish companies and investors have a corporate policy or systematic practices on tax. From the online questionnaire it is clear that a majority of the companies and investors have formulated specific policies and practices on corporate tax. They believe that tax is an important part

of their CSR, although their policies are not necessarily public. This lack of transparency undoubtedly places Danish companies and investors at high risk of being associated with irresponsible tax behaviour by the media and the general public.

SIX OF THE 19 Danish companies and investors have disclosed their corporate tax policy publicly and report regularly on its implementation. However, from the information we have received, it is impossible to assess if they actually comply with their own policies and act responsibly. It must be concluded that Danish companies and investors currently have limited interest in disclosing their corporate tax policies and sharing their assessments of performance in this area.

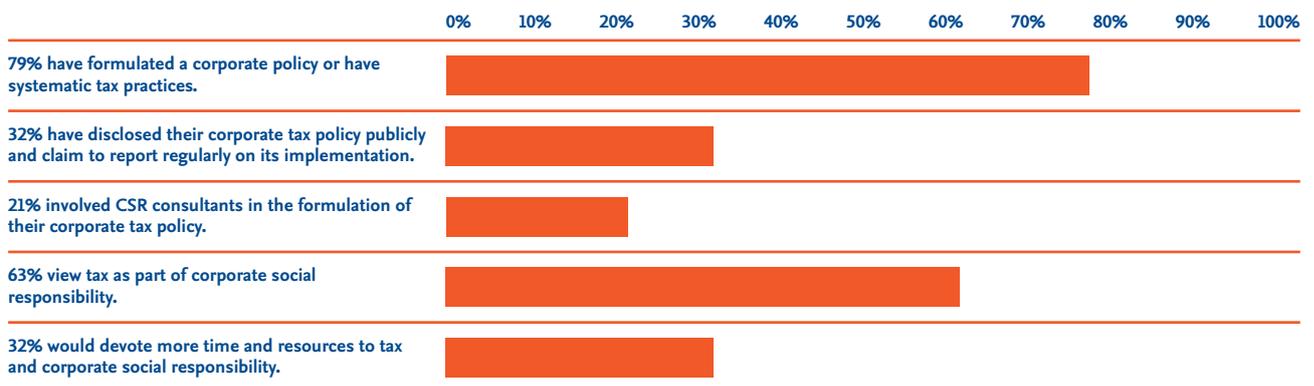
11 OF THE 19 Danish companies and investors viewed tax as a corporate responsibility. The majority of companies and investors stressed that avoiding aggressive tax planning is a key element of their tax policies. While companies naturally avoid labeling their tax planning as aggressive, it is practically impossible to assess which principles and internal guidelines they use for their tax payments. This is due to a lack of publicly available information on what these policies contain and the lack of a clear definition of aggressive tax planning.

NINE OF THE 19 Danish companies and investors said that their tax policy was approved by the company board. Approval at board level is clearly an indication of tax’s importance. It requires strategic discussions among parties who are not tax experts, but who can assess the moral and ethical aspects and values of a corporate policy.

SIX OF THE 19 Danish companies and investors would like to devote more time and resources to tax and corporate social responsibility. And while most companies find their existing resources sufficient, they also acknowledge they will potentially require more in the future. Companies without a tax policy are aware of the changing public opinion and acknowledge that tax is becoming part of their corporate social responsibility. Only a few companies argue that tax is only a regulatory matter, and neither a political, nor a moral issue.

ONLINE QUESTIONNAIRE AMONG THE 50 LARGEST COMPANIES AND INVESTORS

(based on 19 respondents)



MOVING FROM POLICY AND TO PRACTICE

It is fair to conclude that tax policies are given a relatively high priority by many Danish companies and investors in the survey, exemplified by the boards' involvement in their approval. Tax policies and practices are therefore also likely to be high on corporates' agendas in the coming years. But the research also showed that, while the vast majority of respondents have formulated specific policies and practices on corporate tax and consider tax as an important part of their corporate responsibility policy, their monitoring and reporting is at best scarce and random.

The web-based research on annual reports, sustainability reports and websites found that only a small minority of the companies make explicit references to their own tax policies and practices. Even companies and investors that have disclosed their corporate tax policies and claim to report regularly on practices, only include general references to them, often just a few sentences, without a real assessment of the company's performance.

EXAMPLES OF CORPORATE TAX POLICIES AND REPORTING

Most companies and investors in the survey see tax as a cost. At the same time, they recognise their responsibility to contribute positively to societies. We have highlighted three examples from companies that included references to tax policies and practices in their corporate annual reports.

SHELL

Shell is a frontrunner on tax transparency as one of the founders of the Extractive Industries Transparency Initiative (EITI). In 2003 and with the Nigerian government's support, Shell became the first company to publish its royalties, taxes and other payments made to the Nigerian government. Shell started to voluntarily publish an annual revenue transparency report in 2012. It gives an overview of the revenues paid to host governments in certain key countries, where such disclosure is not prohibited by the host government. Shell supports a mandatory global reporting rule for extractive industries, in line with EITI goals. In 2012, Shell paid globally \$21 billion USD (120 billion DKK) in corporate taxes, and \$3.6 billion USD (20 billion DKK) in royalties. Shell's Sustainability Report is being reviewed by an external review committee (Shell Annual Report 2013).

NOVOZYMES

Novozymes' tax strategy and transfer pricing policy, developed in 2010, stressed the positive contribution of tax payments to society and governments in the countries it operates. The tax strategy followed national and international tax laws, as well as the OECD guidelines on transfer pricing. Novozymes acknowledged that tax is part of its corporate social responsibility. It also admitted that tax is a complicated area, subject to political judgment in each individual country. Novozymes tries to establish a good relationship with tax authorities to ensure compliance and to minimise risk of disagreements. In 2011, Novozymes paid \$330 million USD (1,900 million DKK) in taxes (Novozymes Annual Report 2013).

DSV

DSV argued that it has a responsibility to generate the highest possible long-term profit for its shareholders. That justified its occasional use of methods to prevent excessive taxation within the framework of local and international tax laws, it said. DSV stressed that tax laws are a matter of interpretation, and specific payments may lead to tax disputes from time to time. Such disputes usually concern inter-company transactions and their transfer prices. DSV views taxes as an important element of corporate interaction with society and there has been an increased focus on the level of information on corporate strategies and corporate tax payments in recent years. The effective tax rate for DSV was 26% in 2013 (DSV Annual Report 2013).

The three examples show the variety of approaches and strategies towards corporate tax. From the survey responses we have also identified a number of key issues that companies and investors have on their radar or are absent from their thinking.

KEY ISSUES TO FURTHER EXPLORE

TRANSPARENCY AND ACCOUNTABILITY

The lack of transparency and publicly available information on corporate tax policies and practices is worrying. Only one out of three companies and investors disclose their corporate tax policy and report regularly on its implementation. To our knowledge, none of the companies or investors in the survey and mapping study has implemented external evaluations of adherence to own tax policies and guidelines. Besides the statement from DSV admitting to using methods to prevent excessive taxation (see above), companies and investors generally praise their own efforts, and claim to adhere to the highest local or international standards.

AGGRESSIVE TAX PLANNING

Public opinion on tax and corporate social responsibility has changed in recent years and most Danes now strongly condemn the aggressive tax planning of multinational companies. A majority of Danes believe that tax is just as important as other CSR concerns and that tax avoiding companies cannot be characterised as socially responsible.²² Corporate tax planning has become a moral issue. Several of the companies and investors underlined that avoidance of aggressive tax planning is a central part of their tax strategies. Yet none provided any specific details or definitions on what they consider aggressive planning or how they would avoid engaging in it, besides simply complying with local tax laws and regulations. Aggressive tax planning has been defined by the European Union in 2012²³, and it is not clear if this is the definition they refer to.

TAX DISPUTES AND THE SPIRIT OF THE LAW

Some companies in the study stressed that disputes with local tax authorities on tax and transfer pricing are regular events. While disputes over existing tax rules are beyond the scope of this brief, it is interesting that companies and investors openly admit that tax disputes happen because of complicated and unclear tax laws. It underlines the difficulty in interpreting

22 | Analyse Danmark for Mellemfolkeligt Samvirke (2014) "Skattespekulation og Samfundsansvar" published here <http://www.ms.dk/blog/danskerne-siger-nej-til-lovlig-skattespekulation> accessed 17th September 2014

23 | European Union (2012) "Commission recommendation on aggressive tax planning" accessible at http://ec.europa.eu/taxation_customs/resources/documents/taxation/tax_fraud_evaluation/c_2012_8806_en.pdf accessed 17th September 2014

the law, and in following the spirit and not only the letter of the law, as recommended by the OECD guidelines²⁴. Companies and investors are not being transparent about how to resolve these disputes. Some highlighted the need to have a constructive dialogue with the local tax authorities in the countries they operate in.

PAYING TAX WHERE THERE IS ECONOMIC ACTIVITY

None of the surveyed companies made specific references to the challenges of allocating taxing rights between countries they operate in, or the principles underlying their policy in this area. That's in contrast to Ecco, which earlier this year commented on a taxing rights dispute it was involved in. They said that they paid taxes locally in Indonesia and Thailand, at a higher rate than they would in Denmark, out of a desire to be a responsible corporate actor in the societies where they generate economic activity.²⁵

LIMITED USE OF CSR GUIDELINES AND COLLABORATION WITH CSR COLLEAGUES ON TAX

The majority of Danish companies are members of the UN Global Compact and argued that they strive to avoid aggressive tax planning, in line with the recommendation of the EU's action plan on fighting tax fraud²⁶. However, very few made specific reference to which international guidelines or standards they use or they feel support their policy or tax practices.

Less than one quarter of the respondents have elaborated their tax policy in cooperation with their CSR colleagues, despite most of them considering tax as a corporate responsibility issue.

Overall, less than half of the Danish companies and investors asked responded to the online questionnaire. Even fewer have information on tax and corporate responsibility available online. The relatively low response from companies and investors to the online questionnaire and the lack of references to tax policies in publicly available information, demonstrates how new the issue is. It potentially reflects inexperience or even unwillingness to engage in dialogue about this area of internal policy on behalf of the companies. It also highlights the discrepancy between the relatively high priority tax receives internally and the reluctance to engage in open external dialogue.

Nevertheless, this survey and mapping study concludes that corporate tax policies are an important part of the surveyed companies' processes and are considered part of Danish companies' corporate social responsibility.

However, transparency and public accountability is seriously lacking, which places companies and investors at high risk of reputational damage. The lack of transparency makes it impossible to assess what minimum standards Danish companies consider important in formulating a responsible tax policy. There is, though, common agreement that aggressive tax planning is incompatible with such a policy.

24 | OECD (2011) "Guidelines for Multinational Enterprises", accessible at <http://mneguidelines.oecd.org> accessed 17th September 2014 accessed 17th September 2014

25 | <http://www.dr.dk/Nyheder/Penge/2014/04/02/211550.htm>

26 | European Union (2012) "Action plan to strengthen the fight against tax fraud and tax evasion" accessible at http://ec.europa.eu/taxation_customs/taxation/tax_fraud_evasion/index_en.htm accessed 16th September 2014

Conclusion

A reasonable and fair tax policy is a part of corporate responsibility. This is the case in theory and in practice, as our analysis has shown. However, it is an evolving area, which is reflected in the limited established practice and the lack of detailed guidance among the established CSR guidance documents.

Tax is, to a certain extent, reflected in international strategies and guidelines, and can be considered part of the CSR agenda. But all of these guidelines are very limited in describing how to put them into practice.

Some of largest Danish corporates and investors still see CSR and tax as a developing field. Respondents have explicitly said that they consider tax to be a corporate responsibility. However, only a few of them involve their CSR colleagues in elaborating their tax policies. A significant number could not communicate about the underlying principles and practices guiding their policies.

Public attention to this issue is increasing. Danish citizens are interested and engaged. They consider having a responsible tax policy to be as important as being responsible about environmental issues such as pollution.

However, with so little communication and publicly available information about corporate and investor tax policies, the risks remain high for reputational damage for the responsible as well as the irresponsible corporate tax payers, and there is no advantage for those corporations who believe and practice that tax is a part of corporate responsibility.

RECOMMENDATIONS:

- All stakeholders in this debate should come together to unpack and agree on what constitutes responsible tax policy and practice and how it can be applied by corporates and investors.
 - Corporates and investors should recognise that tax is a corporate responsibility and include it in their CSR reporting.
 - Corporates and investors must be open and transparent about their policies and practices on tax, and about what underlying principles guide their decisions.
 - As accepted practice develops among corporates and investors, it should be considered whether existing CSR guidelines should be updated to explicitly provide guidance on responsible tax policies.
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