Transparency International EU

The global coalition against corruption

Why business bailouts must be conditional on responsible tax commitments

Alessandro · Tuesday, May 12th, 2020

Coronavirus and tax avoidance

Europe is experiencing its greatest healthcare and economic crisis since World War II. The current crisis has put additional strain on underfunded healthcare and social welfare systems and has exposed the true cost of secrecy and dysfunction in our tax system.

Tax avoidance by large multinational companies cost governments around the world over $500 billion annually (€462 billion), [1] and is made possible by a systemic lack of transparency and accountability, as well as by a lack of political will to tackle the problem.

EU tax havens

As they attempt to limit the economic impact of the crisis,[2] EU Member States like Denmark [3] and Poland [4] have pledged not to bail out companies that use tax havens. Other countries all over the EU, such as Austria, Belgium, France and Italy, among others, are considering similar measures. While this is an important symbolic first step and helps in putting the issue back on the forefront of the European political agenda, such commitments lack teeth because they are likely to rely on the EU's own list of 'non-cooperative jurisdictions' [5]. This list is the result of a flawed and opaque [6] political exercise and, by design, does not include EU Member States in its scope, despite extensive evidence showing how some of them, such as Ireland, Luxembourg and the Netherlands, among others, play an important role in corporate tax avoidance and would have ended up on the EU's list had the same screening criteria and processes applied to Member States as opposed to third countries only. [7]

Recent research by the Tax Justice Network shows that EU states are losing over $27 billion (€24 billion) in corporate tax every year to the UK, Switzerland, Luxembourg and Netherlands, [8] thanks to US firms shifting profits into these countries. The states that lose most to corporate tax avoidance each year are among the hardest hit by COVID-19: France (€6.4bn), Italy (€3.6bn) and Spain (€2.3bn). As an example, the money lost by France in just one year would be sufficient to cover the extra healthcare spending announced by the French government as part of its coronavirus measures. [9] It appears that banning bailouts of companies based in certain EU states would also not be possible, [10] as it would breach EU freedom of capital rules.

The road to economic recovery

The economic impact of the crisis will be huge. We understand European governments will need to provide strong financial support to businesses and workers, now and in the near future. However, it is imperative now more than ever that governments are transparent about how public money is spent and whom it benefits.

These measures must be effective and proportionate. We call on EU leaders to ensure that any bailouts agreed for business will be conditional on responsible tax conduct commitments. These conditions are necessary to ensure a level playing field for companies is maintained during the crisis, and to prop up the tax base as the economy recovers.

Recommendations

Transparency International EU believes that EU decision makers should ensure that companies receiving national or EU-level bailouts meet the following preconditions:

- They must explicitly commit to not making artificial use of tax havens and to declaring their profits where economic activities take place.

- They cannot have been compromised by any financial or tax scandal, such as the LuxLeaks or the Paradise Papers, or have been judged by the European Commission to have received illegal state aid.

- They must commit to full tax transparency and publish country-by-country reports for all states in which they operate, in line with EU legislation such as the Capital Requirement IV Directive and Accounting Directive, if applicable, and with the Global Reporting Initiative standard. [11]

- They must publish the ultimate beneficial owners of the company as well as those with significant control over it in all jurisdictions where it operates.

- They must Disclose their organisational structure by publishing all fully consolidated subsidiaries, affiliates, joint ventures and non-fully consolidated holdings, as well as the percentages owned in these entities.

In addition, we call on the EU Council of Ministers to urgently:

- Adopt its negotiating position ("General Approach) and begin negotiations with the Parliament on the proposed public country-by-country reporting legislation that is still awaiting approval. Requiring multinational companies to disclose tax payments and financial data on a country-by-country basis would reveal where they are making profit and paying (or not paying) taxes. [12]

- Start discussions on further harmonisation of EU corporate taxation rules with a view to strengthening the fight against tax avoidance and preventing further erosion of the tax base.

Contact

For more info, contact Elena Gaita, Senior Policy Officer at Transparency International EU: egaita@transparency.org

Citations

1. Tax Justice Network, *New ranking reveals corporate tax havens behind breakdown of global corporate tax system*, May 2019: https://www.taxjustice.net/2019/05/28/new-ranking-reveals-corporate-tax-havens-behind-breakdown-of-global-corporate-tax-system-toll-of-uks-tax-war-exposed/ The Tax Justice Network has estimated that $500 billion in tax is avoided by multinational corporations annually. This is more conservative than the IMF's estimate of $600 billion in tax avoided each year.

2. Some of these measures have been outlined here: Transparency International EU, *Money lost to corporate tax havens could be funding our health services through the crisis*, March 2020: https://transparency.eu/corporate-tax-covid19/

3. Law 360, *Denmark Denying Pandemic Aid to Cos. Using Tax Havens*, April 2020: https://www.law360.com/tax-authority/international/articles/1265237/denmark-denying-pandemic-aid-to-cos-using-tax-havens?

4. Business Insider, *Denmark and Poland are refusing to bail out companies registered in offshore tax havens*, April 2020: https://www.businessinsider.com/coronavirus-companies-tax-havens-banned-denmark-poland-bailout-2020-4?

5. The EU list of non-cooperative jurisdictions for tax purposes is accessible through this link: https://www.consilium.europa.eu/en/policies/eu-list-of-non-cooperative-jurisdictions/

6. Transparency International EU, *EU tax havens blacklist needs transparency to succeed*, December 2017: https://transparency.eu/blacklist/

7. Oxfam, *Blacklist or Whitewash? What a real EU blacklist of tax havens should look like*, November 2017: https://oi-files-d8-prod.s3.eu-west-2.amazonaws.com/s3fs-public/file_attachments/bn-blacklist-whitewash-tax-havens-eu-281117-en_0.pdf

8. Tax Justice Network, *EU loses over 27 billion USD in corporate tax a year to UK, Switzerland, Luxembourg and the Netherlands*, April 2020: https://www.taxjustice.net/2020/04/27/eu-loses-over-27-billion-in-corporate-tax-a-year-to-uk-switzerland-luxembourg-and-netherlands/

9. Reuters, *France more than doubles crisis package cost to 100 billion euros*, April 2020: https://www.reuters.com/article/us-health-coronavirus-france-budget/france-more-than-doubles-crisis-package-cost-to-100-billion-euros-idUSKCN21R2J2

10. EU Observer, *Firms in EU tax havens cannot be denied Covid bailouts*, April 2020: https://euobserver.com/coronavirus/148220?

11. In 2017, the Global Reporting Initiative, an independent standard-setting body, initiate a project to develop new corporate disclosures related to tax. In September 2019, the new standard – *GRI 207: Tax 2019* – was approved. More information may be found here: https://www.globalreporting.org/standards/work-program-and-standards-review/development-of-gri-207-tax-2019/

12. In 2016, the European Commission released a legislative proposal on public country-by country reporting (CBCR) for multinational corporations *('Disclosure of income tax information by certain undertakings and branches')*. In July 2017, the European Parliament adopted its position on the draft proposal in plenary. In the past years, the Council of EU Member States has discussed its proposed amendments to the Directive. A lack of consensus between EU Member States about the European Commission's proposed rules and disagreements about the legal basis of the legislative proposal have delayed the adoption of a 'general approach', or a final negotiating position that would allow the commencement of trilogue negotiations with the European Parliament and the Commission. The negotiations are currently stalled. For more details on this legislative process, please see: https://transparency.eu/wp-content/uploads/2020/05/From-tax-secrecy-to-tax-transparency.pdf

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