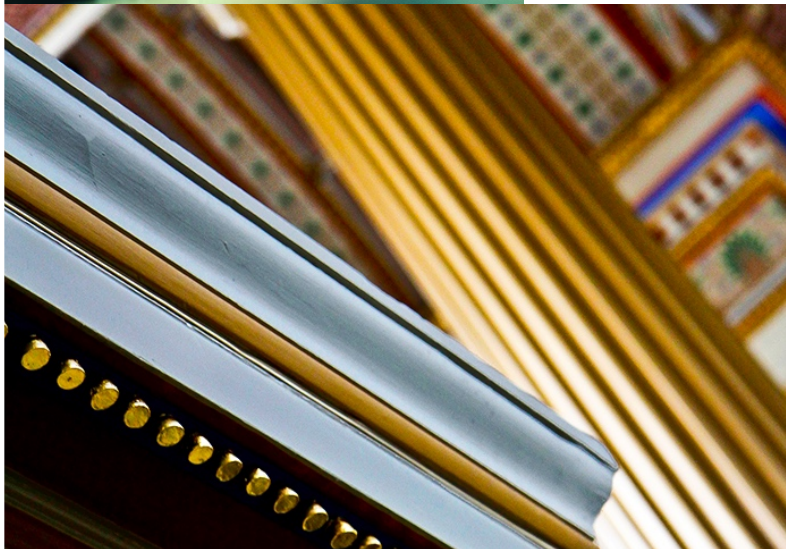




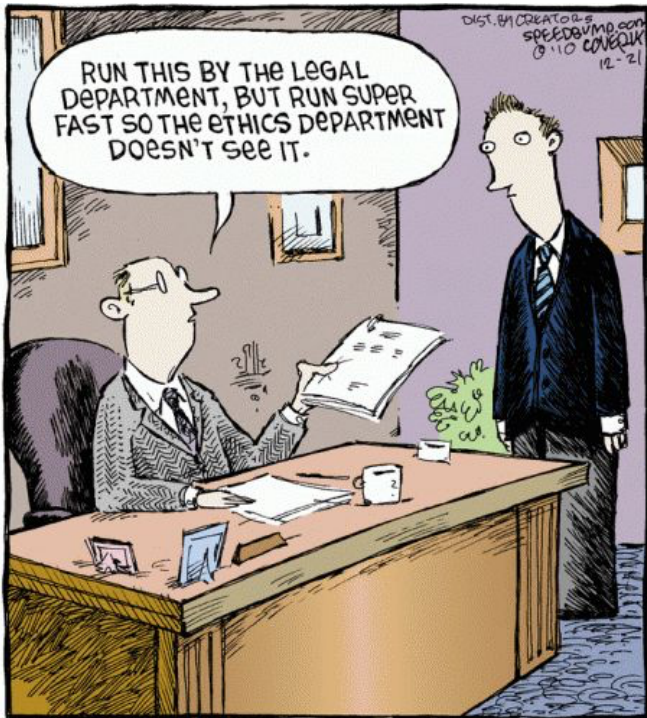
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Corporate Taxation and Social Responsibility

AXEL HILLING, LUND UNIVERSITY SCHOOL OF ECONOMICS AND
MANAGEMENT



Outline



- Regulated Society
- Reasons to Tax
- Tax Planning
- Tax Law
- Rule of Law
- The Problem!
- Ethics
- Profit Maximization
- The Solution?
- Examples
- Challenges
- Conclusion

Regulated Welfare Society



- Capitalistic Market Economy
 - creates prosperity
- Regulations for the function of this economic model, and for the protection from its downside effects
- Government bears the ultimate social responsibility

Reasons to Tax



1. the collection of revenues to finance public expenditures
2. the regulation of social and economic behavior, and
3. the redistribution of income and wealth within a society

General principles:

- Benefits principle
- Fair taxation

The reason for a state to tax is not to maliciously impose a corporate cost on companies that carries on business within their jurisdiction..!

Income Ownership



- Pre-tax income
 - Tax is a *private burden*
- After-tax income
 - Tax is a *public benefit*

Aggressive Tax Planning, Tax Avoidance and Tax Evasion



- Stateless income
 - Double Irish with a Dutch Sandwich
- Debt-Push-Down Strategies
 - G20/OECD: BEPS
 - EU: ATAD

Tax Law



- A tax code, like any system of legislation, contains imperfections. Too often a code is conflicted, ambiguous, gap-riddled, overly-complex, underenforced, and subject to regulatory capture. In the international arena, these imperfections provide opportunities for aggressive-tax planning and regulatory arbitrage.
- Judicial discretion

Rule of Law



- Ideally, the rule of law provides taxpayers with a shield against unfair treatment by the taxing authorities.
- The *tax problem* arises when taxpayers use the rule of law, not as a shield, but as a sword to circumvent the legitimate policy goals sought by the legislature and then tax courts feel unable to address that circumvention. In other words, by defining the rule of law with reference to strict adherence to a literal interpretation of the code, tax planners find it possible to use the letter of the law to defeat the law's underlying policy goals.

What's the problem?



- Social responsibility
 - Public benefit
 - Ethical obligations
- Profit maximization
 - Private burden
 - Game playing

Ethics



- Deontology
 - respecting the rights of others
- Teleology
 - taking responsibility for the consequences of one's own actions
- Virtue
 - requires the acquisition of virtues such as honesty, integrity, and trustworthiness, while avoiding such vices as slovenliness, greed, and spite

The ethical person respects the rights of others, takes responsibility for the consequences of their own actions, and behaves with integrity.

(instrumental ethics: doing the right thing for economic reasons)

Ethics



Professionally Honest Interpretation:

“Corporate citizenship in the area of taxation implies that enterprises should comply with both the letter and the spirit of the tax laws and regulations in all countries in which they operate, co-operate with authorities and make information that is relevant or required by law available to them. An enterprise complies with the spirit of the tax laws and regulations if it takes reasonable steps to determine the intention of the legislature and ***interprets those tax rules consistent with that intention in light of the statutory language and relevant, contemporaneous legislative history.***”

ORG. ECON. CO-OPERATION & DEV., OECD
GUIDELINES FOR MULTINATIONAL ENTERPRISES 60
(2011) (emphasis added),
<http://www.oecd.org/daf/inv/mne/48004323.pdf>.

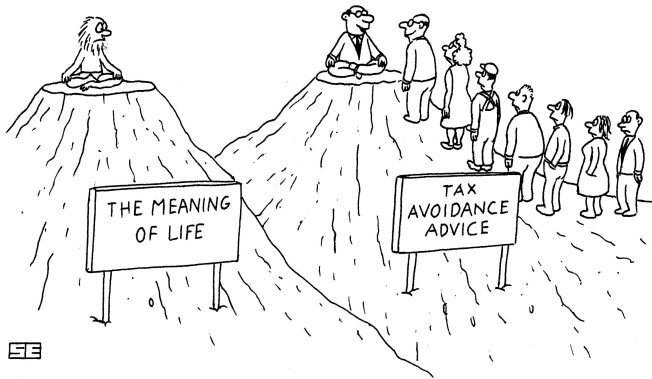
Profit Maximization



“In [a free economy] there is one and only one social responsibility of business—to use its resources and engage in activities designed to increase its profits *so long as it stays within the rules of the game.*”

Milton Friedman, *Capitalism and Freedom*, University of Chicago Press, 2002 Fortieth Anniversary Edition, p 133. (emphasis added).

Profit Maximization



Game Playing:

... tax planners find it possible to use the letter of the law to defeat the law's underlying policy goals...

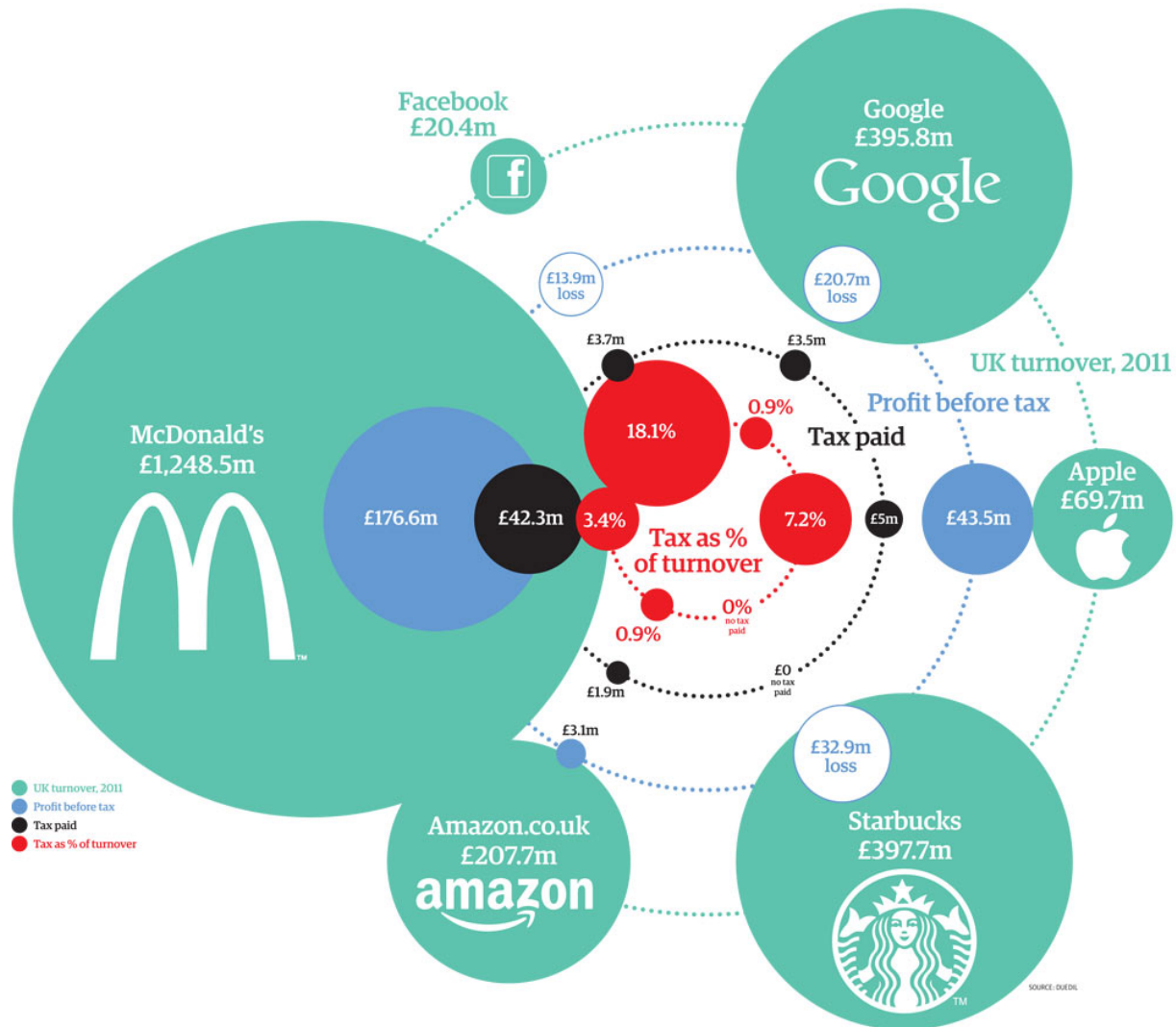


*"I deal with tax avoidance - **he** deals with tax evasion."*

What's the solution?



Examples



Challenges



Vito Tanzi (IMF) 2001:

Fiscal Termites:

- **E-commerce and transactions**
- **Electronic money**
- **Intracompany trade**
- **Offshore financial centers**
- **Derivatives and hedge funds**
- **Inability to tax financial capital**
- **Growing foreign activities**
- **Foreign shopping**

Fiscal Termites 2017?

Conclusion



- Corporate Taxation and Social Responsibility:
- *to embrace the ethical obligation to **cooperate** with the creation, implementation, and reform of business regulations in local, national, and global arenas. This includes the obligation to **comply** with corporate taxation*



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