Committee: General Assembly 2 – Economic and Financial

Issue: The question of tax evasion by multinational corporations (MNCs)

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Introduction

The concept of taxation started from Lagash (Iraq in modern days) in 6,000 B.C. where people had to pay a regular amount in the form of clay tablets. After that, the tax system spread over to Egypt, imposing tax on cooking oil, and over to Greece where citizens had to pay tax on special wartime expenditures called *eisphora*. Since tax payment is a compulsory duty nowadays, every individuals and corporations are required to make a regular payment to the government. Tax evasion and tax avoidance both have the meaning of not paying the right amount of tax on time but there is a difference between the two terms. Tax evasion is an illegal activity when a person or corporation purposely avoids paying tax whereas tax avoidance is using legal activities to change a person's or a corporation's financial status to minimise the amount of tax needed to pay.

Tax evasion by multinational corporations (MNCs) has mostly impacted the developing economies because of the most popular method used by firms, which is moving their locations of the profit to tax havens on papers so that it is unnecessary for them to pay taxes in the country where they are physically located at. Statistically, 9 out of 10 countries with the largest amount of tax evasion happen in developed countries such as USA, Italy and Germany which shows that the multinational corporations with tax evasion schemes are from developed countries. Due to this, governments of lower-income countries experience a reduction in their tax revenue therefore they are unable to invest in their economies for infrastructural development. For instance, places like Bermuda and Cayman Islands (Caribbean Sea) have zero corporate taxes which attract large multinational firms to change locations of their profits to these areas.

Definition of Key Terms

Tax Evasion

Tax evasion is an illegal activity when a person, organisation or corporation intentionally avoids paying full tax payment claimed by the government.

Tax Avoidance

Tax avoidance is the use of legal activities to change financial situations of an individual, organisation or corporation to minimise the amount of tax needed to pay.

Tax Haven

A tax haven is a country or an area that offers foreigners or foreign corporations a lower rate of tax.

Multinational Corporation (MNC)

Multinational Corporation is a worldwide commercial organisation which operates its production of goods and services in two or more countries.

Examples: Apple, Coca-cola, Nike etc.

Base Erosion and Profit Shifting (BEPS)

Base Erosion and Profit Shifting include tax planning and avoiding strategies used by multinational corporations to locate their profits to areas where there is low or no corporate tax.

Base Company

Base company is a firm located in a country where there is a low-rate or no rate of tax, a tax haven, which is based in order to reduce the amount of tax needed to pay in the home country where the company is originally situated.

Tax liability

Tax liability is the amount of tax that an individual or a firm is required to pay based on the tax laws of the country they are located in.

Background Information

Case study of a multinational corporation (HSBC)

In multinational corporations, there are firm-affiliated lawyers who manage and handle law-related activities of the firm. A major role of the lawyers is to help the firm pay the least amount of tax whilst avoiding any illegal activities. This explains why there are many companies caught for carrying out tax avoidance but not tax evasion, as tax avoidance is still legal and can be resolved through paying fines.

Who is HSBC?

HSBC (Hong Kong and Shanghai Banking Corporation) is world's seventh largest bank that provides multinational banking and financial services around the world. It was first founded in British Hong Kong in 1865 and has about 3,900 offices in 67 countries with 38 million customers.

HSBC tax evasion scandal

It was reported that a branch of HSBC in Swiss implemented a tax evasion scheme to allow some of their customers to commit tax evasion activities. The incident initiated from whistle-blowing by a former employee, Herve Falciani, who handed over confidential files of the bank to the French tax authorities in 2008, which included personal information of more than 8,000 French citizens and 3,600 UK citizens. After that, several tax authorities in France, Spain and UK collected £500 million from Swiss accounts at HSBC to cover up the amount of tax they have evaded however this still incurred resentments from the public as the aggregate value was revealed to be £78 billion. Despite HSBC's public apology on media and a full page article in national newspapers the investigation is still ongoing, and recently in November 2017, they agreed to pay €300 million to support the probe into tax evasion.

Common methods of tax evasion

Overdue payment

This is the simplest method of tax evasion where an individual or a corporation fails to pay the tax on time, even if the government has called for the delayed payment. There are penalties for late tax returns: In Canada, the government will charge 5% of your owing balance of the year as well as 1% of your owing balance for each full month of late returns. In the United Kingdom, the amount of penalty depends on how late your payment was made: 5% of tax due if 30 days late but £10 per day for up to 90 days late.

Inaccurate financial statements

The taxpayer might counterfeit his financial statements by modifying the amount of income he earns and thus he only needs to pay a small amount based on the national tax system, especially in progressive tax system.

Not reporting income

Rather than submitting inaccurate financial statements to the government to minimise the amount of tax needed to pay, people also choose not to report their incomes. This is the most common method of tax evasion as it makes them unnecessary to pay any taxes. However, in Republic of Korea, by not reporting their general income tax, the person is not only excluded from any tax exemption benefits, but is also required to pay additional tax which includes "additional tax on insincere tax returns" calculated by amount of tax multiplied by 40% of the original amount.

Storing wealth outside the country (Offshore tax evasion)

This method is used more often by firms than individuals when firms move their locations to other countries to avoid paying large amounts of tax because those countries have very low or no corporation tax. This is defined as offshore tax evasion.

Timeline of Events

Date	**Description of event**
2008	G20 Summit Communique of 2008 (Pursuing improved tax information exchange and transparency)
Dec 2008	HSBC Scandal: Herve Falciani, a former employee of HSBC, handed over official documents to the tax authorities in France which initiated the scandal
2012	The Council of European Union (EU) initiated discussions on the proposals for EU Directives on Transparency and Accounting
2013	OECD members launched the Base Erosion and Profit Shifting (BEPS) initiative with G8 and G20 countries to tackle corporate tax evasion issues
2014	OECD released first BEPS recommendations to G20 for international approach to combat tax avoidance by multinational corporations (MNCs)
Nov 2014	HSBC Scandal: HSBC was placed under an official investigation for 'illicit financial and banking practices'
Mar 2015	A legislation 'new corporate criminal offences of failure' has been added to the Criminal Finances Act in order to prevent tax evasion and bribery in UK
Sep 2017	HSBC Scandal: French tax authorities formally requested that HSBC's Swiss branch should be sent to criminal trial

Nov 2017	HSBC Scandal: HSBC paid €300 million to support the investigation on the tax evasion issues

UN Involvement, Relevant Resolutions, Treaties and Events

Due to the severity of the problems caused by tax evasion by Multinational corporations, UN involvement has been increasing. In 2015, the president of Economic and Social Council (ECOSOC), Oh Joon, has urged the member states for stronger cooperation in order to regulate tax evasion and avoidance around the world. He has stressed that the impact arising from the lost tax revenue is stronger in the developing countries and thus asked for more information exchange between nations to avoid more incidents occurring in regards to tax evasion. In addition, *United Nations Practical Manual on Transfer Pricing for Developing Countries* was published by the United Nations Committee of Experts on International Cooperation in Tax Matters, a subsidiary body of ECOSOC, to guide developing countries on policy-making in transfer pricing analysis in the transactions of multinational corporations. Relevant resolutions and events regards to this issue include:

- ECOSOC resolution on "United Nations code of conduct on cooperation in combating international tax evasion" **(E/RES/2017/3)** – April 2017
- ECOSOC resolution on "Committee of Experts on International Cooperation in Tax Matters" **(E/RES/2017/2)** – October 2016
- Note by the Secretary-General on "Appointment of 25 members to the Committee of Experts on International Cooperation in Tax Matters" **(E/2013/9/Add.10)** – June 2013
- Statement on programme budget implications of draft resolution **(E/2010/L.28)** – July 2010
- ECOSOC decision 2007/267 on "Report of the Committee of Experts on International Cooperation in Tax Matters" **(E/2007/INF/2/Add.1, page 156)** – July 2007

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