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TAX AVOIDANCE AND TAX EVASION BY MULTINATIONAL CORPORATIONS IN UKRAINE: METHODS, SCALE AND TAX OPTIMIZATION

To most executives, scholars, and teachers, global taxation may appear to be an obscure topic. But actually, it is central to global decision-making because most foreign direct investments and global operations these days are biased by tax considerations. Our world fragmented into more than 190 nations is in tension with multinational corporations (MNCs) that look upon the entire planet as their blank canvas and fall prey to the temptations of using different tax-avoidance and tax-evasion techniques. Of course, it is executives' fiduciary duty to maximize shareholder value by taking every advantage of provisions and loopholes available under various countries' laws. But the tax-avoidance phenomenon, amounting to hundreds of billions each year, affects global operations, supply chains, and location decisions – placing this issue at the heart of global strategy.

MNCs, as well as large companies, are often considered to be less likely to avoid taxes or have fewer opportunities to do so than, for instance, small businesses. This is due to the fact that medium and large firms are not only required to keep accounting under the law, but also cannot even operate properly without accounting for purely objective reasons. However, none of these factors have place in Ukraine. Accounting in many companies is duplicated: next to the official balance sheet there is the true one for the owner. Public joint stock companies are unpopular. Instead, large 'oligarchic' companies, for the most part, have actual immunity from genuine control by law enforcement and tax authorities. As a result, they can avoid taxes much easier.

In international practice, there are a lot of different both legal and illegal ways of tax burden reductions: transfer pricing, royalty payments, intracorporate loans, concealment of income, and so on. Implementations of these or other techniques are quite logical: profits maximization. However, it is important to say that tax-evasion methods (illegal tax avoidance) are usually applied only by those who have either nothing left to lose, or influential friends, as litigations or bad news on the issue may result in the stock prices fall and the outflow of investors. Therefore, most MNCs prefer applying tax-avoidance techniques. And our country is not an exception [1].

According to my research, there are three main tax-avoidance methods that have become very popular among MNCs in Ukraine. The first and the largest one is the use of offshore schemes. Here Ukraine has not lagged far behind from the world trends. By applying this approach the biggest 50 MNCs in our country shifted approximately 15 billion dollars (38% of the total exports) to subsidiaries located in lower-tax jurisdictions in 2015. Transferring money to offshore states, such as Ireland or Bermuda, has become one of the routine tasks for financial managers. Under the alternative calculations of the Global Financial Integrity – the international organization – about 116 billion dollars were withdrawn from Ukraine without tax deductions during 2004-2014. The second technique consists in avoiding VAT: the idea is that the goods are repeatedly resold and exported, and as a result, the exporter refunds the VAT, and the supplier disappears without paying the tax. This method helped MNCs to hide about 3 billion dollars in 2016. And the last approach, but not the least, is profit shifting through so-called ‘conversion centers’. The use of such centers for tax avoidance became one of the most widespread money laundering schemes in our country. A ‘conversion center’ is a company that was created for a single purpose – construction of a ‘financial corridor’ (artificial firms, banks, accounts, documents) for shredding funds into parts and final withdrawal of cash for a client without paying any taxes. This clear fraud is widely used by MNCs that operate in Ukraine, and amounts to about 3-5 billion dollars every year. The overall loss of the Ukrainian budget is between 100 and 160 billion in national currency per year. This money could be spent on education or some social projects, but thanks to the obsolete legis-

lation and not careful control by the fiscal bodies someone continues using the loopholes for generating additional interests [2].

The numbers are huge. Our government loses billions of dollars every year. Thus, tax optimization is inevitable. However, the first step in this difficult task is to fight corruption, as it can annul any changes. Tax avoidance through the use of tax havens is a world-scale problem. Therefore, improving tax law with some sort of bans on money transfers that have not been approved by the state bodies or the implementation of the double taxation may have even worse effects on the economy: companies might go further into the 'shadow' or leave the market altogether. That is why struggling against offshore jurisdictions is not a top priority. The first challenge, I guess, consists in the elimination of the corrupt Tax Police that turns a blind eye to the facts of violations. The creation of an independent analytical service for financial investigations, whose employees will cooperate with 'The big four' auditors and look for illegal tax avoidance and 'conversion centers', will surely have a good impact. Toughening the criminal liability for tax avoidance, as well as, the accession of Ukraine to the Common Reporting Standards – the mechanism of automatic exchange of tax information – will also increase tax revenues.

Ways out are diverse, but actions are infrequent. Ukraine needs money: there is a war going on in the east of the country and reforms are awaiting their time. Tax optimization is an easy way to gain that money. However, it has to be done properly, as we all know perfectly well what the results of bad state initiatives can be.

References

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