

# ***Tax Avoidance of Multinational Enterprises and Its Countermeasures***

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**Abstract:** With the deepening of the process of globalization, the types and scales of international tax avoidance activities are increasing, and the connections between countries and countries involved are also increasing. The international tax avoidance behavior represented by multinational corporations has become increasingly diversified and common, which Therefore, in order to bring the economy into line with the world and join the ranks of international competition, it is necessary to severely crack down on some unreasonable and illegal tax avoidance behaviors of multinational corporations. The trend of economic globalization in today's world is irreversible. The main carrier of economic globalization is transnational corporations, and transnational corporations are also the most frequent part of economic activities. Therefore, the main tax avoidance activities and tax avoidance methods of transnational corporations naturally become our focus. object. This paper uses case studies, comparative studies and other methods to analyze the tax avoidance of multinational companies, sorts out and summarizes Apple's tax avoidance cases and its main tax avoidance methods , and deduces the common tax avoidance methods of all multinational companies, and concludes that multinational companies are unreasonable. The dangers of tax avoidance. And the impact it will have on the international community, and finally put forward relevant feasible suggestions for the anti-tax avoidance work of various countries.

**Keywords:** Multinational Enterprises, International Tax Avoidance, Apple, Anti-tax Avoidance.

## **1. Introduction**

A growing body of economic literature suggests that multinational enterprises divert their profits to “tax havens” . Over the years, many multinational enterprises have benefited from paying taxes by shifting their profits to low-tax countries. To this end, there have been discussions among many countries on a globally unified minimum corporate tax. Now, the G7 has reached an agreement on the global minimum corporate tax, and a global tax system may be established. But it also means that most companies no longer have "tax havens". On taxation, EU member states and the European Parliament finally agreed in 2021. On June 1, local time, EU member states and the European Parliament reached an agreement on forcing multinational enterprises to publicly disclose profit and tax information. According to the agreement, if a company's global revenue exceeds 750 million euros

(about 914 million US dollars, 5.83 billion yuan) for two consecutive years, it must disclose its pre-tax profits and income tax in the 27 EU countries and other 20 "tax havens" etc. data.

Zhao Yongsheng, director of the French Economic Research Center and professor of finance at the National Institute of Openness at the University of International Business and Economics, said in an interview: "The EU member states have reached an agreement on tax disclosure, which will make the EU take an important step in tax transparency. Yes. One of the ways to address tax inequity, but more importantly, to crack down on 'tax havens' - that's the real solution." This is not only a further step in combating tax avoidance by multinational corporations, but also serves as a warning to multinational corporations around the world.

## **2. Analysis of the Tax Avoidance of Multinational Enterprises (MNES)**

### **2.1. Tax Behavior Classification of MNES**

#### **2.1.1. Legal taxation behavior of multinational corporations**

The so-called legal taxation behavior of multinational corporations refers to the behaviors made by multinational corporations in strict accordance with the provisions of the law to exercise their rights and perform their tax obligations.

#### **2.1.2. Acts that are between legal and illegal**

This is equivalent to a neutral behavior. That is, the behavior of "law without clear text". Such neutral behavior is outside the scope of legal regulation and is neither permitted nor prohibited by law [1].

In practice, this behavior has extremely complex manifestations. It is through illegal acts or measures to avoid taxation, and sometimes the occurrence of tax avoidance is attributed to legal loopholes.

### **2.2. Advantageous conditions of tax avoidance by MNES**

#### **2.2.1. Strong strength and monopoly advantage**

In terms of capital strength, technical level, management experience and technology, international prestige, sales channels, and scale, multinational companies have advantages that domestic companies cannot reach. Countries and regions are often willing to introduce multinational companies and provide them with preferential tax policies, which objectively provides them with tax avoidance conditions.

#### **2.2.2. The geographical distribution is extensive and reasonable, and it has location advantages**

Multinational companies generally have a large scale and conduct business activities in multiple countries. Many multinational corporations find the most favorable tax avoidance conditions to avoid tax by setting up subsidiaries in different countries in the world.

#### **2.2.3. The parent company has close ties with its subsidiaries and branches, and has the advantage of internalization**

Multinational companies can use internal integration to form internal markets and conduct internal transactions of intermediate products. This mainly refers to multinational companies setting up subsidiaries in different countries, and also using the tax policies of different countries and regions to

conduct transfer pricing within the company, so that the company can avoid the taxation of high-tax countries and thus make profits [2].

#### **2.2.4.Strong awareness of tax planning**

Multinational corporations are usually large and profit-oriented, so they have a strong awareness of tax avoidance, and their internal structures are rigorous and visionary. Multinational companies usually carry out tax planning, and through rigorous planning and setting, they finally achieve the result of successful tax avoidance.

There are differences in the taxation system, financial system, relevant laws and regulations, and the level of taxation administration in each host country.

### **3. Analysis of the common tax avoidance methods of multinational enterprises**

#### **3.1. The taxpayer will move internationally**

For natural persons, most countries in the world mainly rely on their residence and living time as the basis for exercising tax jurisdiction, which provides the possibility for natural persons to avoid international taxation. A natural person can avoid tax obligations in a country by changing his place of residence in a country or shortening his residence time in a country, and ultimately achieve the purpose of tax avoidance.

For legal persons, different countries adopt different standards for whether a legal entity can be recognized as a domestic taxpayer. In the identification of the resident status of a corporate body, the standards adopted by various countries are roughly divided into three categories: the place of registration, the place of actual management and control decision-making, and the location of the main office. Taxpayers can avoid the high tax burden by changing the location of the management agency, controlling the decision-making place, or choosing a country with lower taxation as the place of incorporation, etc., to produce double or multiple non-taxation effects [3].

#### **3.2. The taxable object will move internationally**

By carrying out business activities in collection countries and regions with low or even no international income tax, in the context of increasingly deepening economic globalization, major multinational companies are scrambling to locate their "base enterprises" in world-renowned low-tax locations, MNEs can then transfer their global profits and funds to base companies in low-tax locations. Pay the corresponding income tax and property tax at a lower rate, thereby reducing the high tax burden of the business.

#### **3.3. Transfer pricing of affiliates**

Affiliates are enterprises that have direct or indirect control over each other. Affiliated enterprises do not determine transaction conditions in accordance with the arm's length principle and normal prices when transacting, and often determine a special price when they transact with each other. Because the tax rates vary by country, Affiliates are usually located in high-tax countries and low-tax countries respectively. Those enterprises set in high-tax countries can export goods to affiliates settled in low-tax countries and set prices well below market prices. Transfer pricing, where profits are shifted from a high-tax country to a low-tax country; Likewise, a company in the low-tax country can transfer its administrative costs to its subsidiaries in the high-tax country, thus ensuring that the company is in the low-tax country and gains relatively higher profitability and lower corporate taxes.

### **3.4. Some multinational companies abuse international tax treaties**

An international tax treaty indicates a memorandum of understanding signed by relevant countries to coordinate the distribution of tax revenue and provide international tax administrative assistance to clarify each other's rights and obligations. International tax treaties were originally concluded to avoid double taxation and generally only apply to residents of contracting states. However, tax treaties concluded between countries can be leveraged by companies and ultimately play a role in reducing the tax burden. Third-country companies that are not entitled to the tax incentives stipulated in international tax treaties, as residents of the contracting states, can indirectly enjoy the corresponding tax incentives by establishing pipeline companies in the countries that sign the tax treaties, thereby reducing or reducing or reducing the tax incentives. Avoid the taxes they should pay [4].

## **4. Analysis of "Apple's Tax Avoidance Case"**

### **4.1. Brief introduction of the case**

In the era of economic globalization, the rampant tax avoidance of multinational corporations seriously affects the tax security of a country.

On May 20, 2013, the United States released a report on Apple's tax avoidance. In early September 2016, the European Union ruled that Apple should pay the Irish government up to 13 billion euros in taxes and corresponding interest over the past decade. Apple is the world's largest company by market value, and high profits should correspond to high taxes, so Apple avoids high taxes through various tax avoidance methods.

However, Apple believes that it is reasonable to use the loopholes in the current international tax system to avoid tax through complex tax system design, and there is no illegal tax evasion. He denies the series of allegations, and believes that Apple has paid the full tax burden. As a major taxpayer in the United States, Apple has provided a large number of employment opportunities in the United States and fulfilled its social responsibilities [5].

### **4.2. Analysis of the main methods of Apple's international tax avoidance**

#### **4.2.1. Making use of different taxpayer identification standards to make the company a "non-tax resident"**

Apple is registered in the U.S. and is a U.S. taxpayer according to U.S. tax-related laws. In 1980, the company set up a wholly-owned subsidiary in Ireland, Apple International Operations. After that, Apple International Operating Company, as the parent company, established Apple European Operating Company, Apple Retail Europe Holding Company and other companies in Ireland. Although most of these enterprises are based in Ireland, almost all of their operations are not in Ireland but the United States. These enterprises are not registered in the US for the US and Irish tax purposes, so they are not resident enterprises for US tax purposes; the enterprises mentioned above, although registered in Ireland, do not operate in Ireland. These enterprises are not resident enterprises for Irish tax purposes. The double negative of corporate residency makes multiple Apple subsidiaries incorporated in Ireland the best tool for corporate tax avoidance, and no state has the right to tax the entire income of the company.

The United States identifies a resident enterprise based on the place of registration. As long as the place of registration is in the United States, it is a resident enterprise in the United States; Ireland takes the place of core management control of the company as the only criterion for defining a resident enterprise. Therefore, the different and unique definition standards of the two countries have created great space for multinational companies such as Apple to avoid tax.

#### **4.2.2. Affiliated enterprises avoid tax through transfer pricing**

Apple has artificially divided its business around the world into the Americas, which is dominated by the United States, and the rest of the world, of which Apple is responsible for the Americas and Apple International, which is established in Ireland, for the non- Americas.

Apple entrusts third-party manufacturers around the world to manufacture a large number of products, including iphones, ipads, etc., which are purchased by Apple International Sales Company at low prices, and then resold to other distribution companies at high prices. Profits from Apple's International Sales Company remained in low-tax Ireland instead of entering high-tax America. Not only that, through entrepot trade, some goods are directly resold to third parties without entering Ireland, thus reducing the corresponding tax burden.

#### **4.2.3. Use the agreement to share the components and transfer the profits generated from the intellectual property to avoid tax**

A very important aspect of Apple's ability to become a world-renowned company is its focus on intellectual property. As the world's most famous high-tech enterprise, its massive intangible assets, including intellectual property rights, are the key to ensuring its steady profits. All the technologies developed by Apple and its intellectual property and other assets are completed in the United States, and its ownership and the resulting profits should have belonged to Apple in the United States. However, in order to reduce the tax burden, Apple has signed an agreement with its two subsidiaries, Apple International Operating Company and Apple International Sales Company, to share costs. Apple International Operating Company and Apple International Sales Company are responsible for Apple's research and development expenses, and Apple International Sales Company. The company obtains the right to use various intangible assets of Apple and obtains the resulting profits. The ownership of intellectual property rights is allocated to Apple in the United States in order to obtain the protection of highly developed intellectual property rights in the United States. Therefore, the huge profits generated by intellectual property rights are placed under the name of Apple in Ireland. At the same time, combined with the combined effect of the non-taxation caused by the identification of taxpayers and the low tax rate in Ireland, the huge profits generated by intellectual property rights are Excluded from country taxable items.

#### **4.2.4. The United States uses the “check-the-box regulations” to escape national supervision**

The “check-the-box regulations” was developed by the well-known Internal Revenue Service and passed by the US Congress in 1996. According to this rule, taxpayers can independently choose the identification of an entity in tax law, and the options include several situations such as “company, partnership or not regarded as an entity” (from the perspective of U.S. federal taxation, a substantial company is shall at all times be considered and cannot be changed. Such companies include entities or corporations incorporated under federal or state laws, insurance companies, and entities registered in the United States and other jurisdictions with foreign registered entities listed on the A "substantial company" list of foreign entities or a "substantial company" list of domestic entities. A domestic business entity not on the " substantial company" list is considered a partnership if it has two or more owners; if there is only one owner, it is regarded as a “disregarded entity”), in the United States only “qualified entities” can “tick”.

Apple uses this rule to select each of its subsidiaries as “non-taxable entities”. Since each of Apple's subsidiaries is recognized as a "non-taxable entity", transactions between Apple and its foreign subsidiaries And transactions between multiple foreign subsidiaries are recognized as transactions within a taxable entity, and each subsidiary is no longer an independent entity from the

perspective of U.S. tax law. Therefore, the profits and dividends generated by each subsidiary during this period are also No need to pay taxes in the United States [6].

## **5. The negative impact of international tax avoidance and the dilemma faced by Legal Control of such behavior**

### **5.1. The negative impact of international tax avoidance**

#### **5.1.1. Affect a country's fiscal revenue**

Taxation is an important source of national finance, and ensuring a country's taxation security plays a very important role in the country's financial stability. Whether from a macro perspective or a micro perspective, tax issues must be paid great attention to [7].

#### **5.1.2. It is not conducive to the fair competition of other enterprises in the market economy**

As a product of the commodity economy developing to a certain stage, the market has the attributes of seeking benefits and avoiding disadvantages. A company's tax avoidance will affect the relatively fair and stable market order, discourage other companies from strictly fulfilling their tax obligations, and even cause other companies to fail. Following suit will ultimately endanger the market itself in the long run.

### **5.2. The Dilemma Facing the International Legal Control of the Tax Avoidance of MNEs**

Facing the fierce competition in the international market, driven by the interest mechanism, multinational taxpayers carefully study the national tax laws and regulations to seek more benefits. It uses transfer pricing and other methods to avoid tax across borders [8].

#### **5.2.1. Tax avoidance by exploiting loopholes in international tax laws**

There is an essential difference between tax planning and tax avoidance. The purpose of corporate tax planning is to obtain the greatest tax benefits. It is an operation and planning behavior, and it is an integral part of the overall business strategy of the enterprise. Although tax planning is legal and does not conflict with national laws, taxpayers avoid tax by exploiting loopholes in the tax law, which goes against the intent of national legislation.

#### **5.2.2. Maximize the use of tax avoidance in countries that are beneficial to your own tax avoidance**

Some multinational corporations ignore the long-term plan of sustainable development of the company, and set up a large number of subsidiaries or branches in tax-friendly country, and at the same time flow or transfer capital internationally. Although multinational enterprises have achieved the effect of tax avoidance, it may lead to excessive dispersion of capital of multinational corporations and complicated international division of labor, which is not conducive to the long-term development of multinational corporations [9].

#### **5.2.3. Use some preferential tax policies of developing countries to maliciously conduct reverse tax avoidance**

Nowadays, with the deepening of economic globalization, in order to better obtain global welfare from it, we can get some inspiration from the Apple tax avoidance case.



First, from the perspective of tax competition, we cannot blindly follow developed countries in tax competition. In the current situation of the new normal of the economy of each country, compared with developed countries, consider whether the public services of each country are perfect. Compared with other developing countries, whether the country's cost advantages such as manpower and raw materials are gradually disappearing. If you blindly pursue tax avoidance or competition, there will not be enough resources. Comparative advantage can win the favor of foreign capital, but it will lead to the loss of national tax revenue.

Secondly, from the perspective of global tax extraction, countries need to strengthen the pace of independent research and development of intangible assets and foreign investment. It is necessary to speed up the transformation and upgrading of enterprises, encourage the development of high-tech enterprises, and strengthen the protection of property rights [10].

## 6. Conclusion

With the rapid development of economic globalization, tax avoidance and anti-tax avoidance have also become issues worthy of study. Taxation is the main source of fiscal revenue in various countries, and it is related to the development of the economy, society and people's livelihood of each country. At the same time, economic globalization has an irresistible impact on all countries in the world, and the interaction between countries is becoming more and more obvious. In the context of globalization, the number of multinational corporations is increasing, and more and more countries are involved, and its tax avoidance by taking advantage of the differences in the systems of various countries has caused losses to many countries. Countries can no longer be bound by their own interests, but should cooperate from a long-term perspective to jointly maximize their interests, strengthen communication and cooperation, and promote stable economic growth while strengthening tax supervision.

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