Tilburg University

School of Economics and Management

Master Thesis

THE INFLUENCE OF CORPORATE SOCIAL RESPONSIBILITY ON INTERNATIONAL TAX PLANNING

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Second reader: Prof. Dr. S.A. Stevens

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1. Introduction

This study investigates the relationship between corporate social responsibility (CSR) and international tax planning. Currently, CSR is of great concern. Companies have to formulate and implement social goals and programs to stay in the market. This is because customers, governments, non-governmental organizations and other stakeholders put great emphasis on CSR. International tax planning is also crucial for companies to compete in the market. Reducing corporate taxes is nothing illegal and allowed in international tax law. However, it could lead to extreme tax aggressiveness and even tax evasion. The question arises if this is appropriate for a socially responsible company. On the one hand, taxes can be seen as costs which are likely to be reduced by firms to increase profitability and shareholder value. Furthermore, profitable firms could more easily give money to charities. On the other hand, reduction in taxes may affect support for social programs since that is partially where taxes are used for.

The issue whether tax is an aspect of CSR is much debated nowadays. A recent article in The Irish Times states that the irresponsible tax practices of companies are no longer accepted by consumers:

> The inescapable truth is that people, otherwise known as customers, get really annoyed when they hear that companies making billions don't pay tax. . . . You can publish all the glossy CSR reports you want, you can buy as much green energy as you can find and you can recycle the water in the canteen 50 times, but if you don't pay tax it's very hard to argue these days that you are a good corporate citizen.[1]

Further, the article suggests that a CSR report should contain a few pages about the amount of tax paid and why this is ethically justified. This indicates that taxation should be adapted to the CSR goals of a company.

Previous research on the relation between CSR and taxation concludes that companies should imply CSR into their tax strategies. If they do not make their tax policy more responsible this will harm their reputation.[2] However, the paper of Sikka shows that none of the firms investigated communicate their tax avoidance actions to stakeholders or explain the social consequences. He warns people not to believe too easily the CSR claims of firms.[3] Furthermore, Lanis and Richardson conclude that a high

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[1] McManus 2013.
[2] Van Eijsden 2013, p. 61.
[3] Sikka 2010, p. 165.

level of CSR is associated with a low level of aggressive tax planning.[4] Hoi, Wu and Zhang also prove that responsible companies are less likely to engage in aggressive tax avoidance.[5]

To get more insight in the relationship between CSR and taxation, this study will examine the role of CSR in international tax planning. My research question is as follows: *Should corporate social responsibility influence international tax planning?*

This study shows by using theoretical, business and empirical arguments that CSR is connected to international tax planning. Multinationals that engage in CSR cannot leave tax payments out of their CSR policy anymore. The international tax planning should be created in line with their CSR policy.

This research has academic relevance because there has been little research on the relationship between CSR and taxation. This research also has societal relevance because CSR is a popular concept. Firms that do not take social responsibility are now rejected by consumers. Furthermore, international tax planning is an important issue for companies and their shareholders, tax authorities and consumers. Companies are likely to pay as less taxes as possible to increase their profits which will be at the benefit of shareholders. Tax authorities are concerned that companies are evading taxes which will reduce their tax revenues. Tax revenues are used among others for social purposes such as employment programs, programs to get work for people with disabilities and social assistance. Furthermore, consumers want to know if a company is socially responsible and pays their fair share in taxes. Therefore, it is important to have insight in the relation between CSR and international tax planning for all stakeholders.

Critically evaluating and analyzing journal articles, books and other relevant literature, will answer the research question. First, the meaning of the terms CSR and international tax planning are explained. Next, the question whether CSR can be related to international tax planning is examined. The advantages and disadvantages of this relationship are discussed. Further, methods are investigated for multinationals to bring their international tax planning in line with CSR. Finally, a conclusion and an answer to the research question can be given.

[4] Lanis & Richardson 2012.
[5] Hoi, Wu & Zhang 2013.

2. Corporate Social Responsibility

What does corporate social responsibility mean? Why should firms be socially responsible and to whom? This chapter defines the concept CSR and examines the historical development of CSR by analyzing different CSR theories. The neo-classical view, the stakeholder theory, the CSR pyramid and the Integrative Social Contracts Theory are discussed. Further, several CSR business advantages are set out.

2.1 Definition

CSR is a global wide concept that is frequently used. However, the exact definition of CSR is difficult to determine. This is because CSR has different meanings to each individual and has open rules of implementation. According to Wood, the basic idea of CSR is that business and society are connected with each other instead of distinct entities. Therefore, society expects appropriate business behavior and outcomes.[6] This indicates an interaction between business and society that deals with economic, political, social, ethical, environmental and legal issues. The behavior of a company should be ethical and taken responsibility for. Therefore, firms are not only responsible within its organization and to its shareholders but also to other stakeholders like the community and the natural environment.[7] A company can apply CSR by voluntarily showing social and environmental interests in its business processes and interactions with its stakeholders.[8] Business strategies should be communicated to stakeholders and reflect a company's responsibility for society.[9] The World Business Council for Sustainable Development gives the following general definition:

> Corporate social responsibility is the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as the local community and society at large.[10]

A more precise definition depends on the beliefs and attitudes of the company.[11] Therefore, each company should determine which definition matches its aims and intentions and fits best in its strategy.[12] The meaning of CSR thus depends on the view of the company.[13] Over the years, different

[6] Wood 1991, p. 695.
[7] WBCSD 1999, p. 3; Keinert 2008, p. 37-38.
[8] Van Marrewijk 2003, p. 102.
[9] Matten & Moon 2008, p. 405.
[10] WBCSD 1999, p 3.
[11] Keinert 2008, p. 39.
[12] Van Marrewijk 2003, p. 96.
[13] Moir 2001, p. 100.

theories have arisen. Each theory discusses CSR from a different business view. The next paragraph discusses the most important theories on CSR.

2.2 CSR theories

2.2.1 Neo-classical view

The neo-classical view is characterized by profit maximization. The only social responsibility of corporations is to increase profits. This view is mostly reflected by the ideas of Friedman and can be combined with the agency theory.[14] Friedman summarizes his ideas in one sentence: ‘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, which is to say, engages in open and free competition without deception or fraud.’[15]

Friedman states that corporate executives are employees of the business. They are responsible to their employers, in other words the owners of the business. The corporate executives are in charge to maximize the profits of the firm. The executive is the agent and the owners are the principals. The agent is serving the interests of his principal. If the executive is spending money for a social purpose that does not lead to an increase in shareholder value, the executive would be wasting someone else’s money for the general society. This could be the money of the shareholders which will lead to a decrease in their returns, or the money of customers which is reflected by a price increase, or the money of employees which is reflected by a decrease in their wages.[16] Thus, any social investment made should increase shareholder value. If not, the investment only costs money for the firm and the agent is not serving in the best interests of his principal. Therefore, these investments should be rejected.[17] Socially responsible investments should not be done by business but are a task of the government.[18]

2.2.2 Stakeholder theory

The stakeholder theory is based on the assumption that corporations are not only responsible to its shareholders but also to its other stakeholders. Stakeholders are persons or groups that affect or are affected by the corporation: they have a ‘stake’ in the firm.[19] The founder of this theory is Freeman.[20] He states that stakeholders are identified based on their interests in the firm, not on the interests of the

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[14] Friedman 2009, p. 31.
[15] Friedman 2009, p. 35.
[16] Friedman 2009, p. 31-32.
[17] Garriga & Melé 2004, p. 53.
[18] Friedman 2009, p. 31-35.
[19] Garriga & Melé 2004, p. 59-60.
[20] Freeman 1984.

firm in them.[21] These stakeholders could be internal such as shareholders, customers, employees and suppliers, and external such as governments, competitors, environmentalists and the media.[22] The stakeholder theory implies that a socially responsible firm does not only act in the interest of its owners but responds to the needs of all identified stakeholders.[23]

2.2.3 The pyramid of corporate social responsibility

The pyramid of CSR is created by Carroll who shaped CSR by four kinds of social responsibilities, namely economic, legal, ethical and philanthropic responsibilities. These four categories are part of his pyramid. The fundament of the pyramid is the economic responsibility of a firm. Maximizing earnings per share, be consistently profitable and operating efficiently are examples of economic responsibilities. The next category in the pyramid is the firm's legal responsibility. The firm is expected to obey the law since the law represents society's acceptable and unacceptable actions. Next is the ethical responsibility of business: going beyond obeying the law and behaving to moral and ethical norms. The top of the pyramid entails philanthropic responsibilities. This could be, for example, participation in voluntary and charitable activities.[24] Each category of the pyramid can be simultaneously implemented. The preceding category has not to be completed before moving to the next one.[25] Thus, the total corporate social responsibility of business consists of the implementation of economic, legal, ethical and philanthropic responsibilities. A CSR company is profitable, ethical, obeys the law and a good corporate citizen.[26]

2.2.4 Integrative Social Contracts Theory

The Integrative Social Contracts Theory (ISCT) is a theory of business ethics originated by Donaldson and Dunfee under the assumption that there is a social contract between business and society. Under this contract, society expects business to operate in a responsible manner. ISCT has three important building blocks. The first block that the theory is based on are hypernorms. Hypernorms refer to universal moral and ethical norms. They are the foundation of every social contract. These principles make social contracting possible and set limits on social contracts. Donaldson and Dunfee distinguish between a macrosocial and a microsocial contract. The macrosocial contract is the second building block. This contract provides general principles, the hypernorms, to which rational contractors would agree. Its main function is to determine the justifying conditions for the creation of the microsocial contract which is the third building block. Contractors do have a 'moral free space' in forming the macrosocial contract in order to create ethical norms for their own members of the community. The microsocial contract is an agreement between an identified community such as an industry or

[21] Garriga & Melé 2004, p. 60.
[22] Keinert 2008, p. 66.
[23] Keinert 2008, p. 69; Garriga & Melé 2004, p. 60.
[24] Carroll 1991, p. 40-42.
[25] Keinert 2008, p. 69.
[26] Carroll 1991, p. 43.

company. This contract is used in business practice and is based on the norms and values of the members of the identified community. The microsocial contract is legitimate when it is in line with the hypernorms of the macrosocial contract.[27]

2.3 Business advantages

There are several benefits by engaging in CSR activities for business. CSR has a positive effect on the image and the reputation of a firm. This is important since a good reputation brings a good position against competitors. Reputation and image are intangible assets of a company. Several years are needed before a reputation is built. However, it can easily be destroyed when, for instance, a company gets negative attention in the media.[28] For example, the study of Fombrun and Shanley find that media scrutiny has a strong negative effect on firms' reputations. They suggest as an explanation for this result that media reporters only find negative information on companies newsworthy.[29]

A better reputation also leads to more attention from consumers and investors. This can result in an increase in sales, more growth and a higher market share.[30] Further, companies with a good CSR policy have a better working environment since they take good care of their employees and provide more secondary working conditions. This leads to higher labor productivity and the company becomes more attractive for potential employees.[31] Another competitive CSR advantage is cost savings. This may be due to a more efficient use of natural resources or by saving disposal and purchase costs when materials are donated or recycled. All these benefits results in increased company competitiveness and a strong position on the market.[32] These CSR benefits are advantageous for the profitability of companies. However, a company should not engage in CSR only because of profitability benefits. Companies should choose for CSR because they are responsible, ethical and do care for their employees, the environment and the community. They are aware of the pressure that these times of competition and globalization put on society. They want to act socially responsible because they are long term minded. They think of future generations that also would like to benefit and live on a healthy planet.

2.4 Conclusion

Corporate social responsibility means that companies behave ethically and take responsibility for their impacts on society. CSR consists of economic, social, environmental, political, legal and consumer concerns. An exact definition of CSR depends on the norms and values of a firm. Over the years,

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[27] Moir 2001, p. 102-103; Garriga & Melé 2004, p. 56; Donaldson & Dunfee 1994.
[28] Keinert 2008, p. 89-90; Weber 2008, p. 249.
[29] Fombrun & Shanley 1990, p. 253.
[30] COM(2001) 366 final, p. 7.
[31] Weber 2008, p. 249.
[32] Keinert 2008, p. 90; Weber 2008, p. 249.

several attempts have been made to create theories on CSR by using different beliefs and attitudes. According to the neo-classical view, the only responsibility of business is to maximize profits. Other CSR activities are seen as a responsibility for the government. By contrast, the stakeholder theory implies that a firm should be responsible to all stakeholders of a firm and take all their wishes into account. Carroll explains CSR as a pyramid shaped by four kinds of social responsibilities, namely economic, legal, ethical and philanthropic responsibilities. The Integrative Social Contracts Theory assumes that there is a social contract between business and society. Therefore, it is expected from business that they operate in a responsible manner.

I would say that CSR consists of awareness of the social problems and the desire to be part of solving these problems. Furthermore, CSR consists of the desire to improve society and take care of it like it is one of your children. Each company should take their norms and values into account when developing a CSR strategy. By critically looking at their stakeholders and their CSR strategy, a company should be able to determine to whom it should be responsible. Companies that have implemented CSR have encountered several advantages. In general, a firm’s reputation is enhanced, profits are increased, costs are lowered and a firm’s competitiveness is increased. However, the most important reason to engage in CSR is because you care about your stakeholders, the community and the environment.

3. International tax planning

This chapter is about international tax planning. First, it is explained what international tax planning entails. Further, the difference between the territorial and worldwide tax system are explained. Next, several tax planning techniques, namely profit shifting, treaty shopping and tax havens, and their limitations are clarified.

3.1 Definition

International tax planning is used to reduce a multinational's tax liability within the limits of the law. It requires a detailed knowledge of the different tax systems and tax treaties of countries the multinational is operating in. Also, the tax systems of other countries should be known since, for example, a company's tax liability could be reduced by moving its head office to another country. Thus, international tax planning consists of different structures to reduce the effective corporate tax rate.[33] Examples of these tax planning structures will be discussed below. Whether a tax planning structure is acceptable depends on the different norms and values of each country. The minimal tax expenses that the tax plan provides should in any case be legitimate. Furthermore, international tax planning is necessary for companies to reduce the distortions caused by differences in domestic tax systems which could lead to double taxation. A company cannot be penalized for operating in more than one country.[34]

International tax planning thus reduces the overall tax liability of a multinational. Another term that is linked to reducing corporate taxes is tax avoidance. Tax avoidance also does not imply that companies are doing anything illegal. Reducing the corporate tax liability is allowed in the tax law. The law provides different provisions to lower the tax liability. Examples are investment tax deductions and the participation exemption.[35] However, tax planning could turn into aggressive tax planning and lead to tax evasion. Tax evasion is an illegitimate way of avoiding taxes where not all the facts and circumstances are disclosed in the financial statements and to the tax authority. Aggressive tax planning takes advantage of the different tax systems and their mismatches to reduce the tax liability. This could result in double deductions and double non-taxation. These tax schemes erode the tax base of countries and affect the functioning of the market. The European Commission and the OECD find

[33] The effective tax rate is the tax expense (or income) as percentage of the profit (or loss) before taxes.
[34] Watanabe 2011.
[35] Dyreng, Hanlon & Maydew 2008, p. 62.

base erosion through aggressive tax planning a serious problem and a risk for tax revenues, tax sovereignty and tax fairness.[36]

3.2 Worldwide versus territorial tax systems

The incentives for tax avoidance depend on the differences in corporate tax rates and the tax system that is used to avoid double taxation. In general, countries use two tax systems to avoid double taxation namely the worldwide taxation system and the territorial taxation system. Under the worldwide taxation system all income of a multinational including income earned abroad is taxed by the resident country. To avoid double taxation, a credit equal to the amount of foreign taxes paid is given to the multinationals. This credit can be deducted from the tax liability at home with mostly a maximum of the home country tax rate. The worldwide taxation system is used in, for example, the United States, Mexico and Ireland. Under the territorial taxation system, worldwide profits are also subject to corporate income tax in the resident country. However, to avoid double taxation a participation exemption system is used. This means that income earned abroad by foreign subsidiaries is wholly or partially exempt from the domestic tax liability. This system is used in, for example, the Netherlands, the United Kingdom and Australia. In countries that use a territorial tax system income can be brought home without or with little taxation, whereas in countries that use a worldwide tax system repatriated income is subject to tax if the foreign tax rate is lower than the domestic tax rate.[37] Therefore, multinationals in countries with a worldwide tax system have fewer incentives to shift their income to countries with a lower tax rate. By contrast, multinationals in countries with a territorial tax system have many incentives to shift their income to the country with the lowest tax rate to reduce their worldwide taxes.[38]

3.3 Tax planning techniques

3.3.1 Profit shifting

When a company knows how the different tax systems of its operating countries are structured, the next step is to design a tax plan where tax expenses are reduced and double taxation avoided. A method that is often used to reduce tax expenses is profit shifting. Profit shifting is used to reduce taxes by reporting income in another country than in the country it was earned. The main ways to do this is through the location of a company’s debt and transfer pricing.

[36] C(2012) 8806 final, p. 2.
[37] PwC 2013, p. 1; Bartelsman & Beetsma 2003, p. 2228-2229.
[38] Bartelsman & Beetsma 2003, p. 2228-2229.

3.3.1.1 Debt location

Debt capital and equity capital are treated differently for tax purposes. The return on equity capital to shareholders is not tax deductible for the paying company whereas the return on debt capital, often in the form of interest payments, to lenders is tax deductible for the paying company. This different treatment results in an incentive for companies to increase their debt capital. Because of its tax deductible interest payments debt is a popular tax planning instrument. Multinationals can use their debt to shift profits from jurisdictions with a high tax rate to jurisdictions with a low tax rate. Multinationals that strategically locate their debt in high tax rate countries and their equity in low tax rate countries are able to deduct their interest expenses against a high tax rate. This results in a lower overall tax liability.[39] This is proved by the study of Desai, Foley and Hines. Their results show that internal debt, debt that is used within the multinational group, is used more than external debt when external debt is costly and tax advantages exist. Higher tax rates increase the use of both internal and external debt but internal borrowing is more sensitive to taxes.[40]

However, this could lead to extensive use of debt. A company may have more debt than it would or could lend if it would act only in its own interests. The reason that the company is able to lend more is because it is borrowing from connected companies such as subsidiaries. This company is then called thinly capitalized.[41] This could erode the tax base of high tax rate countries and lead to less tax revenues. In order to prevent this, many countries developed rules against thin capitalization. Thin capitalization rules limit the amount of interest payments on debt that is deductable for tax purposes.[42] Thin capitalization rules combat cross-border profit shifting through debt location and protect a country's tax base. In general, two tests are used to determine whether a company is thinly capitalized. The first test to determine whether the debt-to-equity ratio is too high is the arm's length principle. Under the arm's length principle the financial structure of the company is compared with the structure that would have existed if all parties were unrelated. The arm's length level of debt is the amount of debt that a company could and would borrow from a third party. The other test that is more often used compares the debt-to-equity ratio with a fixed debt-to-equity ratio, also called a *safe haven* debt-to-equity ratio. In general, interest on the amount of debt that exceeds the safe haven ratio or the arm's length amount of debt is not tax deductible. Other countries re-characterize the debt as equity and the interest payment is then treated as dividend for tax purposes.[43]

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[39] Klassen & Laplante 2012, p. 931; Rousslang 1997, p. 926.
[40] Desai, Foley & Hines 2004, p. 2484.
[41] HM Revenue & Customs, www.hmrc.gov.uk/manuals/intmanual/INTM571015.htm.
[42] Haufler & Runkel 2012, p. 1088.
[43] Dourado & de la Feria 2008, p. 4-5; Haufler & Runkel, p. 1088; IBFD, http://online.ibfd.org/kbase/#topic=doc&url=/highlight/collections/itg/html/itg_thin_capitalization.html&q=thin+capitalization+capitalizations&WT.z_nav=Navigation&colid=4949.

3.3.1.2 Transfer pricing

The other way to shift income is by manipulating transfer prices. Transfer pricing consists of prices charged for products, services or intangibles by one part of a company to another part of the company. By charging incorrect transfer prices a company is able to shift its profits to a subsidiary in another country.[44] However, if a company is deliberately charging incorrect prices, one could ask if this is within the law which is required for tax planning. Incorrect transfer prices erode the tax base and are a risk for tax revenues and tax fairness. This concern is shared by the OECD. To combat base erosion through transfer pricing they established transfer pricing guidelines. Furthermore, the establishment of appropriate transfer prices can also be a difficult task for multinationals that do not want to charge incorrect transfer prices. The guidelines are also developed for these multinationals. Under these guidelines, intercompany transactions in different countries should be based on arm's length prices, prices that would apply if the transactions were between unrelated parties.[45] However, there is no outside market for all goods, services and intangibles. Some intangibles such as brand names and intellectual property are unique and not comparable with other intangibles. This makes it impossible to determine arm's length prices for them. Therefore, transfer pricing could be used as a tax planning instrument since companies do have some freedom to determine transfer prices of unique goods, services or intangibles. A multinational could charge a high price for an intangible transferred from a low tax jurisdiction to a high tax jurisdiction. This would reduce the worldwide tax liability of the multinational company.[46]

3.3.2 Treaty shopping

Countries have entered into bilateral tax treaties to prevent double taxation. Tax treaties determine which of the contracted countries gets the right to tax. Multinationals do not only use tax treaties to prevent double taxation but also as a tax planning structure to minimize their tax liability. This could lead to 'treaty shopping'.[47] The OECD Commentary on the Model Conventions explains treaty shopping as 'artificial legal constructions aimed at securing the benefits of both tax advantages available under certain domestic laws and the reliefs form tax provided for in double taxation conventions' and 'improper'.[48] An example is a situation where a person has created a legal entity in a state mainly to obtain treaty benefits that are not directly available.[49] The meaning of 'a person' includes an individual, a company and any other body of persons according to article 3 of the OECD Model Convention on Income and Capital.[50] Furthermore, the OECD Model Convention states that the

[44] Klassen & Laplante 2012, p. 931; Rousslang 1997, p. 926.
[45] OECD Transfer Pricing Guidelines for Multinational Enterprises and Tax Administrations, 2010.
[46] De Mooij 2005, p. 292.
[47] Krishna 2009, p. 129.
[48] OECD Commentary, art. 1 para. 8.
[49] OECD Commentary, art. 1 para. 9.
[50] OECD Model, art. 3.

convention is only applicable for persons who are residents of one or both the contracting States.[51] For example, a multinational that is situated in country A could not directly benefit from the tax treaty between country B and C. The multinational could create a legal entity in country B to take indirectly advantage of the tax treaty between country B and C. This could result in lower withholding taxes, exemption of income, higher profits, double deductions and double non-taxation. In general, there are three characteristics of treaty shopping. First, the owner of the treaty shopping entity is not a resident of the country where the entity is created. Second, the treaty shopping entity has few or no economic activity in the country where it is located. Third, the income of this entity is subject to minimal or no tax in the country where it is located.[52]

3.3.3 Tax havens

A tax haven is a jurisdiction that has no tax rate or a low tax rate and offers tax incentives to individuals and companies to invest or bank in the country.[53] These jurisdictions offer to non-residents a place to escape from the taxation of their home jurisdiction. Next to no or low tax rates, tax havens are characterized by the secrecy about banking information they offer to protect investors from outside tax authorities. Tax havens generally refuse to enter into tax treaties or agreements with other countries in order to keep their bank and business record a secret.[54] They are unwilling or unable to exchange information with tax authorities of other countries. This lack of effective exchange of information and lack of transparency is seen as the major criticisms of tax havens since this does not only lead to tax avoidance but could also encourage illegal practices such as fraud or money laundering. Furthermore, tax havens are identified by having no requirement that the activities to be undertaken within their jurisdiction have to be substantial. This means that investments and transactions may not have real economic activity and are only tax driven.[55]

Tax havens could be the result of the intense fiscal competition of the last decades. National governments offer tax incentives to attract foreign investment. They offer low tax rates and/or other attractive tax measures to attract capital and labor. They are stimulated by competitive forces to offer these tax incentives to not only encourage the inflow of capital and labor but also discourage the outflow of these productive resources. If a government does not make their tax policy attractive, taxpayers will leave the country and move to a more attractive tax country.[56] Capital and labor can be easily moved across countries especially since the introduction of the European Union. The disappearance of the borders across Member States made it easier to transport capital and labor to the State with the most attractive tax law. It is not only attractive to move capital since the variation in

[51] OECD Model, art. 1.
[52] Krishna 2009, p. 130-132.
[53] Nelson 2008, p. 2055.
[54] Nelson 2008, p. 2056.
[55] Preuss 2012, p. 2; OECD 1998, p. 21-24.
[56] Nelson 2008, p. 2055; Mitchell 2009, p. 2.

personal income taxes has also made the movement of labor attractive.[57] Some countries consider that tax practices are an important way to combat their structural disadvantages such as a bad geographical location, little natural resources and political difficulties.[58] These countries could be tax havens that benefit politically and economically from the foreign investments they receive in exchange for low tax rates and secrecy.[59]

However, other countries than tax havens could consider them as harmful since tax havens take away their tax base, leaving them with less tax revenues. The tax revenue taken away belonged initially or even rightly to the other countries.[60] Illegal use of tax havens are of course no part of tax planning since the only purpose of this is to defraud creditors, investors and tax authorities, even if it is within the boundaries of the law.[61] The OECD has many discussions on how to combat harmful tax competition such as the illegal use of tax havens. They have discussions with tax haven jurisdictions to better understand their purpose and to eliminate the harmful use of them. Furthermore, they try to commit jurisdictions to transparency and effective exchange of information.[62] In their report on harmful tax competition they recommend that countries could not grant the participation exemption on income originating from a tax haven. Further, countries could decide to terminate their tax treaties with tax havens and not enter in new treaties with tax havens. This is a kind of boycott of tax havens. Overall, it is recommended that countries should encourage programs to intensify exchange of relevant information in tax havens. If many countries take this position, this has the most effect on tax havens.[63]

Ethical individuals and companies that use tax havens as a tax planning method would report this income at their home country and pay tax on it if the home tax authority imposes tax on this income. Unethical individuals and companies that use tax havens for illegal purposes would hide their income and evade taxes. The latter case cannot be considered as tax planning since companies are deliberately evading taxes.[64] It is questionable whether companies that use tax havens could be considered as socially responsible because of the many illegal purposes for which tax havens are used. Does a responsible company want to be associated with tax havens even if they report their income? Tax havens are negatively represented and disapproved in the media. General Electric, for example, has the most money offshore of all U.S. companies. CBS News states that GE has 18 billion dollar and 18 subsidiaries in tax havens and paid no income taxes for four years between 2002 and 2011 while they are receiving subsidies from the government. Another multinational that extensively uses tax havens is

[57] Roháč 2006, p. 88.
[58] OECD 1998, p. 15.
[59] Nelson 2008, p. 2055.
[60] OECD 1998, p. 16.
[61] Nelson 2008, p. 2055.
[62] OECD 2001, p. 7-12.
[63] OECD 1998, p. 43, 46, 49, 50.
[64] Nelson 2008, p. 2058.

Microsoft. They pay 47 percent of the revenue generated from American sales to its Puerto Rican subsidiary even though these products are developed and sold in the U.S. CBS News find out that Microsoft would have to pay 19.4 billion dollar on offshore income if it had to pay U.S. tax.[65] Tax havens do offer a large tax avoidance advantage and thus more profits. However, tax havens are the solution for illegal drug revenues and a hiding place for money. Companies that are associated with tax havens are quickly linked to illegal activities. Responsible companies should not deal with tax havens and keep their name clean by operating in other countries.

3.4 Conclusion

International tax planning is used by multinationals to reduce the overall tax liability within the boundaries of the law. International tax planning is thus a legal way to limit tax expenses. It requires detailed knowledge of different tax systems, tax treaties and international law in order to know which structure is the best for your company. Deliberately evading taxes is not part of international tax planning but an illegal activity that should be addressed and eliminated. Unfortunately, in practice there will be always some companies that flout the rules and engage in illegal activities.

The most important difference in tax systems across countries is whether it is based on a worldwide taxation system or a territorial taxation system. The first system taxes all income earned even if it was abroad. The second system also taxes all income earned but exempts foreign income. The second system seems fairer to me since income is taxed where it is earned and not taxed again at the resident country. However, this system leads to more incentives to engage in international tax planning which could result in lower tax revenues in the resident country. Companies that are resident in countries with a worldwide taxation system have a tax disadvantage over companies resident in territorial taxation system countries. This disadvantage could be seen as ‘unfair’ and decrease their competitiveness. This disadvantage could be eliminated by making one tax system dominant for all countries; in other words harmonize the different tax systems. However, this is not feasible in practice. Every country has its own sovereignty, ideas, norms and values and thus its own tax system. Furthermore, the whole idea of tax planning would disappear since there is nothing to be planned if all tax systems were the same.

This chapter has also discussed several tax planning techniques. Profit shifting is often done to reduce the overall tax liability. Strategically locating your debt in high tax rate countries and smartly determining transfer prices for intergroup transactions are ways to shift your profits. Treaty shopping is used to indirectly benefit from a treaty that you would not benefit from in your resident country. Furthermore, tax havens are widely used by multinationals to pay minimal taxes. All these techniques have their extreme that could lead to tax evasion. Therefore, domestic tax authorities, the OECD and

[65] Skeen 2014.

the EU have developed different rules, reports and recommendations to eliminate tax evasion through these techniques. However, when tax avoidance turns into deliberately evading taxes this cannot be called tax planning anymore.

4. The relationship between CSR and international tax planning

This chapter explains how CSR can be linked to international tax planning. First, the accounting perspective on taxes is given. Next, a link between CSR and tax planning is drawn using several arguments. The business case for connecting CSR with taxation is discussed. Further, previous empirical research on this relationship is provided.

In general, tax is not associated with CSR. From an accounting perspective, taxes are seen as a cost item to business that should be kept as low as possible. Corporate tax payments are one of the largest cost items in the income statement.[66] Multinationals are constantly looking to reduce costs and since tax is a major cost, they do a lot of effort to reduce taxes.[67] Costs are to be reduced to increase profitability and shareholder value. Most firms see reducing tax payments as their duty to their shareholders to maximize the returns on their investment. Shareholders could see tax payments as a transfer of their money to the state. Therefore, there is a noticeable tension both between multinationals and tax collectors and shareholders and tax collectors.[68]

4.1 The link between CSR and tax planning

4.1.1 Shareholders' trust

How can tax planning then be linked to CSR? First of all, it is beneficial for shareholders that a company has a responsible tax strategy. Another way to see tax payments is as a distribution out of the profits of the company. This puts tax in the same category as dividend. Both are a return to the stakeholders in the multinational.[69] Maximizing shareholder value and paying taxes are then not a contradiction. If a multinational is not paying its taxes, it is doubtful for the shareholders to trust the multinational to pay proper dividends. A multinational with a high degree of tax compliance is attractive for investors since this indicates that the company can be trusted and is a safe investment.[70]

4.1.2 The use of social capital

Furthermore, tax is a return on the investment in society. Investments in society are beneficial for multinationals. Multinationals use the social opportunities that are offered by the country in which they operate. This could be the infrastructure, the people educated by the state, the legal system,

[66] Desai & Dharmapala 2006, p. 4.
[67] Van Eijsden 2013, p. 56.
[68] Hartnett 2008, p. 5; Desai & Dharmapala 2006, p. 4.
[69] Van Eijsden 2013, p. 58.
[70] Desai & Dharmapala 2006, p. 5.

healthcare, security, subsidies and public goods.[71] The state is actually supplying goods and services to the multinationals. It is logical that a price, taxes, must be paid for the use of the social capital. Fair dealing with suppliers is also a component of CSR. With the state as supplier, it is fair that taxes are paid just as other suppliers are paid for their goods and services delivered.[72] Moreover, all stakeholders that provide capital need to receive a return on their investment. Shareholders provide financial capital and receive their return in the form of dividends. Employees provide human capital and receive in return wages and salaries. The state provides social capital and should receive in return taxes which are used to finance and maintain this social capital.[73] Besides dividend, taxes and wages are thus part of the company's total value produced. Moreover, tax revenues are important for the development and maintenance of the social capital and the welfare of a country. Without tax revenues, the welfare will go down which will result in more negative consequences such as poorly maintained roads and poor education.[74] This is also disadvantageous for multinationals since they are using the social capital. A company that is avoiding taxes in a country is thus acting irresponsible since it is using the social capital without paying for it and ignoring the importance of the society where its stakeholders live and work.

Furthermore, a multinational that is shifting its profits is not paying the return on social capital in the right country which is also an irresponsible act. Tax should be only paid to the state in which the company has earned its profit. This is the most fair and corporate responsible allocation of taxing rights.[75] This is also in line with the origin principle which states that the allocation of taxing rights to a state depends on the substantial income created within the territory of that state. Income is substantial when the activity is an essential and significant part of the whole activity. However, the principle of origin is not (yet) dominant when allocating taxing rights. Currently, the principle of residence is mostly used in national law, tax treaties and EU law. The principle of residence allocates taxing rights to the country where the company is a resident of. The principle of source is sometimes also applied. This principle allocates taxing rights to the country where income is derived from sources within the territory of that country. The principle of source is not the same as the principle of origin. Under the principle of origin the causal relationship between the creation of income and the state is important whereas under the principle of source income not generated but physically appearing from a state could be allocated to that state.[76] Both the principle of residence and the principle of source could lead to an unfair distribution of taxes among countries. For instance, a high tax rate country with a high quality infrastructure could receive less tax revenues whereas countries with a bad infrastructure but a low tax rate could receive relatively more tax revenues. A multinational that is operating in both

[71] Van Eijsden 2013, p. 58; Sikka 2010, p. 155.
[72] Jenkins & Newell 2013, p. 387.
[73] Sikka 2010, p. 155.
[74] SustainAbility 2006, p. 7.
[75] SustainAbility 2006, p. 18.
[76] Kemmeren 2001, p. 31-36.

countries but is a resident of the low tax rate country, is probably taking advantage of the high quality of the infrastructure and of the low tax rate. In this case, they are not paying for the investment, development and maintenance of the high quality infrastructure. From a CSR perspective, this is an unfair situation since the return on social capital is paid in the wrong country.

4.1.3 Reputation

CSR is nowadays an important element for a good reputation. Another component of a good reputation is a positive relationship with tax authorities. This will create a good reputation with customers, employees, suppliers and the general public.[77] A company's reputation is very important since this is the basis for their income and capital. A multinational should be able to explain how their tax planning strategies are in line with their corporate social responsible policy to their stakeholders. If the multinational can neither explain nor establish a responsible tax planning this will harm their reputation.[78] Especially, when it is known, it is immediately published by the media. Consumers who are decently paying their taxes will react by abandoning that particular company. This loss in reputation will also lead to a loss in trust and profits.[79] A recent example of a multinational that has experienced this is Starbucks. After it became known that Starbucks received 3 billion pounds in sales over 14 years but claimed to have made a loss each year in England, they were punished for it by their customers. The campaign group UK Uncut alone has organized 45 protests against Starbucks and tax avoidance. In one protest in London about 60 people were screaming at Starbucks: 'If you don't pay your taxes we'll shut you down.' Another protester said: 'People are incredibly angry when they see multinational companies getting off scot free when they are the ones feeling the pinch.'[80]

4.1.4 Government and NGO's

Currently, the government, non-governmental organizations (NGO), the media and the general public are encouraging corporate social responsibility and emphasizing the problem of aggressive tax planning. They are concerned that corporate tax avoidance practices have damaging consequences for the community and the society. Tax practices that meet the letter of the law but are infringing the spirit are now rejected.[81] The European Commission states that business can have an important positive impact on the rest of the society by paying taxes. Aggressive tax planning is considered as the opposite of the principles of corporate social responsibility.[82] In addition, the European Commission made the connection between taxation and CSR by promoting good tax governance as a principle of CSR. Good tax governance consists of transparency and exchange of tax information and fair tax competition with

[77] Hartnett 2008, p. 5.
[78] Van Eijsden 2013, p. 61.
[79] Sikka 2010, p. 156-157.
[80] Excobales & McVeigh 2012, www.theguardian.com/business/2012/dec/08/starbucks-uk-stores-protests-tax.
[81] SustainAbility 2006, p. 12.
[82] COM(2012) 722 final, p. 6.

the states the company are operating in.[83] Governments are encouraging responsible corporate tax behavior and improving their services to tax payers to promote good compliance. Furthermore, they are creating tax rules aimed at encouraging specific behavior to achieve social and environmental targets such as carbon taxes.[84]

4.2 The business case

4.2.1 Generalized cost

A theoretical connection between taxation and CSR is made. It can also be argued that there are arguments in practice for applying a responsible tax approach. The first argument is that the generalized cost can be lowered through corporate responsible tax planning. The generalized cost emerges across the business community. This cost is growing each year through the complexity of the tax legislation that is updated regularly to combat aggressive tax avoidance. The tax legislation consists of thousands of pages in national law, tax treaties and EU law. This magnitude of tax legislation is a costly burden for both multinationals and tax authorities since all laws have to be checked before a taxable profit can be prepared. New tax rules are added to the legislation to address aggressive tax planning by trying to fill loopholes in the law. If more multinationals engage in corporate socially responsible tax planning, then the growth of the tax legislation can be reduced and thus the administrative burden.[85]

4.2.2 Reputational risk

Furthermore, the reputational risk that companies face will be reduced. This risk can come from negative publicity if the company engages in aggressive tax planning. A multinational's relation with their stakeholders can be damaged through negative attention in the media as mentioned in paragraph 4.2.3.[86] PwC find that 97 per cent of the companies surveyed said that they would be concerned about negative press coverage of their tax planning.[87] Furthermore, 40 per cent of the companies indicate CSR as the most important driver for measuring a company's total tax contribution.[88] One could reason that since detailed information about a multinational's tax practice is not available in public reports, a multinational can avoid taxes without letting the customers know. However, there will always be a risk that the multinational will be exposed. A former employee, an investigative journalist or the state could expose the multinational and create negative publicity and a bad reputation.[89]

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[83] COM(2011) 681 final, p. 7.
[84] Owens 2008, p. 10; SustainAbility 2006, p. 2.
[85] SustainAbility 2006, p. 16.
[86] SutainAbility 2006, p. 16; Jenkins & Newell 2013, p. 388.
[87] PricewaterhouseCoopers 2004, p. 12.
[88] PricewaterhouseCoopers 2004, p. 19.
[89] Sikka 2010, p. 156-157.

4.2.3 Regime risk

Another risk that aggressive tax planning multinationals are facing is regime risk. This risk includes the risk of litigation when a multinational's tax strategy is challenged by one or more of the tax authorities. The outcome could be a high penalty for the multinational and negative publicity which relates with the reputational risk. Moreover, multinationals are facing the risk of losing access to government contracts when the government of the country offering these contracts sees the tax behavior as unacceptable.[90]

4.2.4 Cash flow risk

Aggressive tax planning increases uncertainty about future cash flows. Future cash flows are important for the valuation of the company and to estimate earnings. Intensive tax planning could lead to uncertainty about tax liabilities and their impact on future cash flows. This will have a negative effect on shareholder value. A responsible tax strategy can give more certainty and thus more value for the firm.[91]

4.2.5 Investors' risk

For investors it is also beneficial if a company has incorporated a responsible tax strategy. The risks ascribed above also apply to investors. Aggressive tax planning is associated with a high degree of these risks and is therefore disadvantageous for the shareholders of the company. Most performance indicators, such as price-earnings ratio, are based on after-tax earnings. Changes in tax liabilities have effect on these performance indicators and the value of the firm creating an extra uncertainty for investors. Moreover, the difference between tax charged on accounting profit and tax charged on taxable profit, the tax actually paid, is treated as a deferred tax liability. Investors do not know if this tax liability will become definite or has to be paid in the future. All these uncertainties have a large impact on the confidence of investors. A company could even be trading at a discount value once a pattern of uncertainty in taxation is recognized by investors.[92]

4.3 Previous research

The empirical research on the relationship between corporate social responsibility and taxation is scarce since this topic has recently arisen. Previous research concludes that a relationship between CSR and taxation exists and that CSR should be implied in a multinational's tax planning. The research is however mixed. Some studies claim that the relationship between CSR and tax avoidance is positive (Sikka 2010; Huseynov and Klamm 2012). Other studies find that CSR negatively

[90] SustainAbility 2006, p. 17; Jenkins & Newell 2013, p. 388.
[91] SustainAbility 2006, p. 17; Jenkins & Newell 2013, p. 388.
[92] SustainAbility 2006, p. 17

influences tax avoidance (Lanis and Richardson 2012; Hoi, Wu and Zhang 2013). These studies are explained below.

Many corporations are claiming they are practicing CSR in the media and in their annual reports. However, often detailed information of their tax planning is missing. Shareholders, investors and other stakeholders are not informed about the extent to which taxes are avoided and where taxes are paid. Multinationals may claim they are responsible but at the same time are avoiding or evading taxes. Sikka draws attention to this gap between responsible talking and tax actions. He investigates corporate responsibility statements and contrasts them with tax avoidance practices. The result is that none of the firms investigated inform their stakeholders about their tax avoidance practices or explain the social consequences. A contradiction between corporate responsible talk and actions exists. Therefore, CSR statements should not be believed too easily.[93] However, there are insufficient firms investigated to consider this result as significant.

The study of Huseynov and Klamm investigates the effect of CSR on tax avoidance. They establish three CSR categories, corporate governance, community and diversity, and separate strengths and concerns of each category. With the strengths and concerns they can examine the impact of negative and positive social actions on tax avoidance. They research the interactive impact of CSR on tax avoidance by conducting a multivariate regression analysis where they control for the three CSR categories. Furthermore, they divide their sample into portfolios with different CSR levels and analyze tax behavior in each portfolio. Their empirical results show that firms with strong governance, community or diversity reduce their tax expense and therefore are engaging in tax avoidance. As an explanation for this behavior they provide the argument that profitable firms have more money to donate to charities. Nevertheless, this study provides evidence that CSR has influence on tax avoidance.[94]

On the other hand, there are empirical studies that find a negative relation between CSR and tax avoidance. For example, the study of Lanis and Richardson examines the influence of CSR on corporate tax aggressiveness. They find that a high level of CSR disclosure is associated with a low level of corporate tax aggressiveness. Therefore, it can be concluded that a socially responsible firm is less likely to engage in aggressive tax planning.[95] Another study that empirically investigates the relation between CSR and tax avoidance is the study of Hoi, Wu and Zhang. They focus on the irresponsible CSR activities to determine the influence on tax avoidance. Their outcome is that corporate socially irresponsible firms are more likely to engage in aggressive tax avoidance. And so,

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[93] Sikka 2010.
[94] Huseynov & Klamm 2012.
[95] Lanis & Richardson 2012.

more responsible firms are less likely to engage in aggressive tax avoidance. Therefore, CSR negatively influences aggressive tax avoidance.[96]

4.4 Conclusion

The view that taxation can only be seen as costs is refuted in this chapter. Tax payments are an important element of CSR. Shareholders do benefit from a responsible tax strategy. A responsible tax multinational displays an air of confidence to their shareholders. Furthermore, it is logic that multinationals pay for the use of the social capital of the jurisdictions they are operating in. Infrastructure, education, legal services, healthcare etc. all need to be maintained and developed which is done by the state with tax revenues. The more companies engage in aggressive tax avoidance, the less money will be available for the social capital. I would compare this with stealing. It is the same as taking a laptop out of the shop without paying for it. The same goes for profit shifting. In my example, I would take the laptop out of the shop without paying for it in that shop but instead pay for the laptop in the shop of the competitor. This is not fair for the owner of the first shop since he has put all the effort and money in his shop in order to sale his goods and does not receive anything in return for it. A solution to this problem could be the principle of origin. The principle of origin allocates the taxing rights to the country where profits are generated thus not to countries that are just more tax attractive to multinationals. However, the functioning of the principle of origin would only work if all countries would implement this principle. In practice, this is not achievable. For instance, the European Commission has proposed a Common Consolidated Corporate Tax Base as a step towards tax harmonization and an internal European market. This idea was proposed in 2011 but is still not even close to implementation.[97]

Furthermore, relating CSR to international tax planning is important for the reputation of a multinational. NGO's, media and consumers are now paying more attention to the behavior of the company. They particularly look if the behavior is responsible and if taxes are correctly paid. They share the opinion that it is not fair that they are paying taxes while multinationals with large earnings are avoiding taxes. A multinational that is not paying attention to this, will harm their reputation which leads to less customers and less sales.

There are also arguments for business, community and investors to relate CSR to international tax planning. First, the generalized cost will go down. The reputational risk, regime risk, cash flow risk and investor risk will be reduced. This will lead to more certainty and more investor confidence. Furthermore, previous research indicates that CSR does influence tax avoidance and that international tax planning and CSR are related. Overall, theoretical, business and empirical arguments are discussed

[96] Hoi, Wu & Zhang 2013.
[97] COM (2011) 121 final.

that CSR is connected to tax planning. Paying appropriate returns to the government have to be part of a multinational's responsibility in the form of taxes. CSR goes beyond the letter of the tax law and also understands the spirit of the law. The spirit of the law means that a company is not testing the boundaries of the law. A company should think about the intention and the wanted effect of the provisions.[98] All this does not have to mean that higher tax amounts have to be paid. It could be possible that the countries where tax is paid will change. Important is that the international tax planning has been broadly and deeply evaluated in the context of CSR.

[98] Van Eijsden 2013, p. 61.

5. Approaches to the integration of CSR and international tax planning for multinationals

Chapter 4 has indicated that CSR should be incorporated in multinationals' tax planning. This chapter shows how the incorporation of CSR in tax planning can be done. This is done by analyzing the fair share of taxes and the key principles of a responsible tax planning. Further, it will give several recommendations on how CSR can best be integrated in a multinational's tax planning.

5.1 Fair share

Governments, NGO's, organizations, the media and consumers are advocating that a company should pay its fair share of taxes. There is also a lot of debate what exactly a 'fair share' is. Each stakeholder has a different opinion about what a fair amount of taxes is. Therefore, a multinational should evaluate its stakeholders and the risks described in chapter 4[99] to determine which position it should take regarding fair taxes.[100] Happé argues that a company should choose the mean of its desire to keep taxes as low as possible and the interests of the community where the company operates.[101] Furthermore, multinationals could compare their effective tax rates (ETR) with other companies in the same branch or market. If the ETR is below that of its competitors then it could indicate that its tax payment is not corporate responsible.[102] The Fair Tax Mark explains a fair tax as follows: 'A fair tax means that a business seeks to pay the right amount of tax in the right place at the right time.' This means that a company should be transparent about its tax payments and will not use artificial transactions to avoid taxes. A multinational should pay their taxes where their profits are generated. This means that profits should not be shifted to be taxed in a country with a lower tax rate. A multinational should be able to explain its ETR and how this is in line with CSR.[103] Thus, it is not the goal of a responsible tax strategy to discuss which level of tax is fair or not but to find a responsible decision making process for tax purposes.[104]

[99] These risks are the reputational, regime and cash flow risk.
[100] Christian Aid 2011, p. 3.
[101] Happé 2007, p. 545.
[102] Van Eijsden 2013, p. 60.
[103] Fair Tax Mark, www.fairtaxmark.net/what-is-it/.
[104] Van Eijsden 2013, p. 60.

5.2 Key principles

SustainAbility's report *Taxing Issues: Responsible Business and Tax* highlights three key principles that are essential in a framework of corporate responsible tax planning. The international tax policy and planning should be accountable, transparent and consistent with the corporate principles and values.[105]

5.2.1 Accountability

Accountability in a tax perspective means that companies are expected to make an economic contribution to the community through their tax payments. The next example illustrates why companies are expected to care about the community. In 2012, Apple was in the news for discovering a Chinese supplier that has hired 74 underage employees. If we look only within Apple, the issue of child labor is not of their concern. However, for the community Apple has everything to do with the Chinese company since it is their supplier. Apple is held accountable for this issue even if it is indirectly. So, from a broader perspective child labor within Apple's supply chain is of Apple's concern. They have the power and the money to change the bad things of the community. Apple has responded by breaking the contract with the Chinese supplier, made the company return the children to their families and offering them a remediation program. Apple saw this case as an opportunity to warn other suppliers and improve their reputation. Apple has acted responsible to this situation. If Apple did not do anything with the issue of child labor this would have harmed their reputation.[106] The same goes for tax issues. Multinationals have a great impact on the community and are held accountable for their economic impacts in their supply chain or in their tax policy. Tax should not be treated as a cost item but as a component of their economic impact. In order to meet the accountability principle, tax planning should not shift tax payments out of the country in which earnings are made. Furthermore, tax planning should not be a way to earn money. It is inferior to commercial purposes of the multinational.[107]

5.2.2 Transparency

Nowadays, stakeholders do not blindly trust companies to behave responsible. Multinationals need to prove to their stakeholders that they are responsible. Transparency is the best way to do that and to earn trust. KPMG argues that the 'assumption that tax is under control cannot provide the transparency demanded in these times of heightened sensitivity to corporate governance and responsibility issues.'[108] PwC also advocates for more transparency around tax policies. They believe that greater transparency will help stakeholders to determine what a responsible tax strategy is.[109] Transparency

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105 SustainAbility 2006, p. 22.
106 Fernholz 2014.
107 SustainAbility 2006, p. 22.
108 KPMG 2004, p. 1.
109 PricewaterhouseCoopers 2004, p. 56.

should require more than just the amount of tax payments made. A responsible tax policy would require detailed information about the tax payments. Why did the company choose for this tax policy? On what data are the tax payments based? In what country are these payments made?[110]

5.2.3 Consistency

Multinationals are expected to be consistent in their business strategies but also in their tax strategies. Paying taxes should be part of their business principles and values. They should disclose what their social, environmental, economic and tax impact is on society. Multinationals that apply the principle of consistency in their business strategies and tax policies earn greater trust and understanding of their corporation. This principle is important for investors since they are looking for a safe investment not only on a short term basis but also for future years.[111]

5.3 Responsible tax strategy

According to Murphy, there are three elements of tax responsibility. The first is to pay taxes where they are earned. This eliminates profit shifting. The second is to work not only in the letter of the law but also within the spirit of the law. The third is transparency to prove that the first two elements have happened. Multinationals should not focus on what is legal and illegal according to the tax law but they should focus on what is responsible and irresponsible for tax purposes. A responsible tax planning does not see tax as a cost to be avoided but as a return to the investment in social capital that help multinationals make their sales. Companies should engage in responsible tax planning because it is consistent with their own goals and strategy.[112]

5.3.1 The approach

First of all, companies should comply with the tax laws of the different countries in which it operates. They should go beyond the law and understand the spirit of the law. Abusive tax practices such as the use of tax havens should be removed from the tax planning. This also includes the exploitation of loopholes in the law and transactions solely undertaken for tax advantages.[113] Furthermore, it is important to pay attention to the development of a responsible tax in order to know what risks the multinational has and how they could address them. Further, a multinational should make a stakeholder analysis before making a responsible tax planning. This analysis consists of the multinational's stakeholders and the way they think about CSR and taxation. Also take broader

[110] SustainAbility 2006, p. 22-23.
[111] SustainAbility 2006, p. 23.
[112] SustainAbility 2006, p. 4, 14, 18, 21.
[113] Christian Aid 2011, p. 4.

interests into account since tax is seen as an economic contribution to the community. When this is known a tax planning based on the interests and approaches of these stakeholders could be created.[114]

Furthermore, tax payments should be made where the company has substantial income. This means that earnings and costs should be reported in the country where they are made. The use of profit shifting is not responsible from a CSR tax perspective. The impact that the tax planning could have on the community should also be well considered.[115] Multinationals should recognize tax as an important element of their impact on the community and how they can positively use this impact. Their tax planning and business policy should be integrated. Responsible tax policies should be implemented in all the jurisdictions where they operate irrespective of the different tax rates. Tax consequences of a transaction should be consistently reported to all countries affected by it.[116]

An important element of making a tax planning responsible is to make it transparent. Transparency should be the central element of tax policy. In order to do this, a company should disclose all details of tax payments including in what country they are paid.[117] By this, a multinational could generate greater trust from stakeholders which also reduces the reputational risk. There are different levels of transparency in reporting. SustainAbility divides them among five different levels. The first one is reporting at a compliance level. This level complies with the law and the accounting standards but provides no additional information on corporate tax responsibility. The second level is reporting at a basic level. This level provides additional basic information about the tax planning and payments as part of a company's CSR strategy. Next is reporting at a systematic level. Companies that report at this level provide a more clear explanation of their tax payments in line with their CSR policy. The multinational have also included in their report in what country they have paid taxes and how much. In the extensive level of reporting companies provide extensive information about their tax planning in relation with their CSR policy and the different tax payments in the countries they are operating in. In addition, there are different levels of tax payments included such as current and deferred taxes, opening and closing tax liabilities, capital tax and custom duties. The last level is reporting at an integrated level. At this level reporting is very extensive. It addresses all the issues of the other levels. In addition, the company provides evidence that business processes are integrated with future corporate responsible tax planning.[118] Most companies report tax at the basic level since corporate responsibility in relation with tax payments is quite new. The most desirable level is the integrated level since stakeholders then have insight in all information available regarding corporate responsible tax planning. However, if we look realistic at the situation, it would take several years before companies would report with such transparency.

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[114] SustainAbility 2006, p. 25.
[115] Christian Aid 2011, p. 4.
[116] SustainAbility 2006, p. 24; Christian Aid 2011, p. 4.
[117] Christian Aid 2011, p. 4.
[118] SustainAbility 2006, p. 27-28.

If it turns out that a company has a low effective tax rate in comparison to its competitors and it has nothing to do with aggressive tax avoidance, the best way to handle this situation is to be open about it. This is because the company's responsibility will not be called into question. Low effective tax rates could be the consequence of losses or the use of tax relief facilities a country is offering to reward companies that engage in corporate responsibility. This could be in the form of a deduction for investments in environmentally friendly assets.[119]

When a responsible tax planning is made, companies should review it before implementing the planning. They could ask themselves a couple of questions to review the responsibility of the tax planning. These questions could be as follows. Is the tax planning consistent with our CSR policy and business values? Do I mind if my tax strategy will be in the newspaper? What would my stakeholders think of this tax planning? Who or what is affected by this tax planning? Would others consider this tax planning as 'fair'?[120] When an international tax strategy is implemented, it should not be forgotten to regularly review the strategy and check if it is still up to date.

Responsible tax planning does not mean that more taxes have to be paid. Important is that the international tax planning is well thought about in not only an accounting perspective but also in a CSR perspective. This could mean that the jurisdictions where tax is paid will change.[121]

5.4 Conclusion

This chapter has provided approaches how multinationals could bring their tax planning in line with CSR. An exact amount of what the fair share of taxes is that multinationals have to pay, does not exist. Each multinational should decide for its own what his fair share is. This can be done by extensively analyze its stakeholders. International tax planning should consist of the three key principles accountability, transparency and consistency. The tax planning should comply with the spirit and the letter of the law. Further, multinationals should know what tax risks they are facing and how they can address them. They should also know what impact their tax policy has on the society. A tax planning is not responsible when a multinational does not pay taxes where it has earned its profits. Reducing tax payments through profit shifting is considered as irresponsible. Furthermore, the international tax planning should be consistent with the values of the multinational. Multinationals make their tax planning most responsible by making it transparent. Detailed communication to stakeholders about their tax planning proves the responsibility of the multinational and earns confidence. Multinationals should be able to explain to their stakeholders what their international tax strategy is and how it is in line with their CSR policies. This integration of CSR in tax planning provides a strong position against competitors, exudes confidence to their stakeholders and supports the problems of the modern society.

[119] Van Eijsden 2013, p. 60-61.
[120] SustainAbility 2006, p. 26.
[121] SustainAbility 2006, p. 21.

6. Recommendations

This study investigates the role of CSR in international tax planning. Currently, CSR is put great emphasis on. CSR means that companies take economic social, environmental, political, legal and consumer concerns into account. A CSR multinational behaves ethically and takes its responsibility towards society. Furthermore, CSR consists of the awareness of the social problems and the desire to solve these problems and to improve society. Each multinational should develop their CSR strategy on the basis of their norms and values and stakeholders. A stakeholder analysis helps the multinational to determine to whom it should be responsible and how their stakeholders think of CSR. The implementation of CSR brings business advantages but a multinational should engage in CSR because they *want* to. If you engage in CSR only because of the advantages and the media, you cannot sustain it for very long. Multinationals should engage in CSR because they do care about their customers, employees, shareholders, suppliers, the community, the environment and other stakeholders.

International tax planning is used by multinationals to reduce their worldwide tax liability within the limits of the law. They use the differences in the tax law of different countries to reduce their tax expenses. Tax avoidance is seen as a legal way to limit your costs. International tax planning is important to compete and keep costs low. The question arises if a multinational should combine their CSR policy with their international tax planning.

Taxes are not only costs that need to be reduced. Multinationals that are responsibly paying their taxes show confidence to not only their shareholders but also to other stakeholders such as consumers, tax authorities, NGO's and the media. The tax policy is part of the CSR strategy. It is logic that multinationals pay for the use of the social capital in the form of taxes to the countries they are operating in. Multinationals are using the infrastructure, education, legal services, healthcare etc. which need to be maintained and developed. This is done by the state with tax revenues. Responsible multinationals are aware of this and find it more than fair that they need to pay for their use of the social capital. Additionally, a responsible tax planning reduces many risks for the multinational. The reputational risk, regime risk, cash flow risk and investor risk will be reduced. This will lead to more business certainty and more stakeholder confidence. Furthermore, previous empirical research indicates that CSR does influence tax avoidance and that international tax planning and CSR are related. The responsibility of multinationals consists of paying appropriate returns to the tax authorities.

Overall, theoretical, business and empirical arguments show that CSR is connected to tax planning**.** Multinationals that engage in CSR cannot leave tax payments out of their CSR policy anymore. They should make their international tax planning in line with their CSR policy. Therefore, CSR should influence the creation of the international tax planning. Multinationals could bring their tax planning in line with CSR by deciding what their fair share in taxes should be. This can be done by analyzing its stakeholders and know how they think about taxes and CSR. The international tax planning should consist of the principles accountability, transparency and consistency. The tax planning should comply not only with the letter of the law but also with the spirit. Multinationals should know what tax risks they are facing and how they can address them. They should also know what impact their tax planning has on the society. Furthermore, multinationals should be aware that it is not responsible to pay taxes in another country than in the country where profits were earned. Profit shifting is not a responsible way to reduce taxes. A transparent tax planning to stakeholders proves the responsibility of the multinational and earns their trust. Multinationals should be able to explain to their stakeholders what their international tax planning is and how it is in line with their CSR policy. An international tax planning that is in line with CSR should be beneficial to the society and provides no harm to stakeholders. A responsible tax planning does not have to mean that tax expenses will increase. It could be possible that the countries where tax is paid will change because of the decision that a multinational stops with profit shifting. Important is that the international tax planning has been broadly and deeply analyzed in the context of CSR.

This study extends the sparse prior research on the relationship between CSR and taxation. This study is moreover socially relevant because of the attention CSR gets nowadays. Consumers are highly interested in the CSR and tax policy of multinationals. Furthermore, tax authorities are concerned about the erosion of their tax base. A responsible tax approach would lower tax base erosion since profit shifting is not allowed in a CSR tax policy. Tax authorities could emphasize the benefits of a CSR tax policy and offer help to companies to make their tax policy in line with CSR. Moreover, multinationals that adopt a responsible tax approach will reduce compliance costs. Multinationals could earn the trust of tax authorities and will be less controlled by the authorities. Furthermore, this study has rejected the assumption that tax avoidance is beneficial for shareholders. Multinationals could use this study to think about whether or not to engage in CSR and implement CSR in their international tax planning. All multinationals' stakeholders benefit from an insight in the relationship between CSR and international tax planning.

However, this study is descriptive and based on existing literature. The results would be more reliable if they were based on an empirical research. Therefore, a suggestion for future research could be an empirical research on the effect of CSR on international tax planning. Furthermore, a case study could be done on a multinational that has implemented CSR in their international tax planning.

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