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THE IFC AND TAX HAVENS

The need to support more responsible corporate tax behaviour

Oxfam analysis reveals that 51 of the 68 companies that were lent money by the World Bank's private lending arm in 2015 to finance investments in sub-Saharan Africa use tax havens. Together these companies, whose use of tax havens has no apparent link to their core business, received 84 percent of the International Finance Corporation's investments in the region last year. As the World Bank and IMF prepare for their Spring Meeting in Washington 13–15 April, and in the wake of the Panama Papers scandal which reveals how powerful individuals and companies are using tax havens to hide wealth and dodge taxes, Oxfam is calling on the World Bank Group to put safeguards in place to ensure that its clients can prove they are paying their fair share of tax.

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INTRODUCTION

Inequality is rising around the world and it is increasingly recognised that this not only has a multitude of negative impacts on women and men globally, but also on economic growth[1]. Fighting inequality must be an integrated priority for everyone in development, to promote and achieve sustainable development. One of the most effective means to fight inequality in societies is through greater fiscal justice. However, a major threat to states' sovereignty to do this is the corporate tax dodging of multinational enterprises (MNEs or MNCs) and the persistent presence of tax havens in the international system.

The World Bank president has himself characterized tax dodging as 'a form of corruption that hurts the poor'[2]. The International Monetary Fund (IMF) has calculated that profit shifting of MNEs should be a bigger concern of developing countries[3]. Meanwhile, the financing gap to reach the sustainable development goals (SDGs) is estimated at US$2.5 trillion. Undoubtedly the private sector will need to play a role to complement public financing for sustainable development. Development finance institutions (DFIs) and private sector lending by publicly backed banks will play a crucial role in this. However, Oxfam is greatly concerned that these institutions currently do not do enough to shield themselves from being potential accomplices in harmful tax practices and appear to be doing too little to encourage responsible corporate tax behaviour.

This briefing uses new research to show that a significant proportion of the International Finance Corporation's (IFC) investments are linked to tax havens. Oxfam has undertaken research to map the institution's exposure to MNEs. The findings place MNEs at the centre of the majority of the IFC's investments. Looking at IFC investments in sub-Saharan Africa (SSA) over the past six years, there is a consistently high level of association with MNEs in these investments. Furthermore, the vast majority of these MNEs have an indisputable presence in tax havens. Oxfam's analysis of the IFC's portfolio shows that there is significant risk that the IFC is supporting MNEs that might be engaged in aggressive tax planning.

This leaves the IFC and other DFIs with an important task and opportunity. First, the IFC needs to be able to ensure that it does not support MNEs that are engaged in harmful tax practices. Second, the IFC needs to do a better job of supporting responsible corporate tax practices.

INEQUALITY, TAX HAVENS AND DEVELOPMENT

Rising inequality and its effects

The global inequality crisis is reaching new extremes. Oxfam research has shown that the richest 1% in the world now has more wealth than the rest of the world combined. Power and privilege is being used to skew the economic system to increase the gap between the richest and the rest.[4]

Gender inequality is a cause and consequence of economic inequality. When workers lose wealth and power, women – who are already over-represented in low paid, informal, vulnerable, and precarious work – lose the most.

However, progressive fiscal policies which enable these investments can support equality between women and men; addressing tax avoidance to support domestic resource mobilization is a crucial part of this.

Box 1: Oxfam's Even It Up campaign[5]

Research by Oxfam recently revealed that the top 1 percent have now accumulated more wealth than the rest of the world put together. Such extreme inequality makes no moral or economic sense and is hampering efforts to end extreme poverty. Decades of experience in the world's poorest communities have taught Oxfam that poverty and inequality are not inevitable or accidental, but the result of deliberate policy choices. Inequality can be reversed. When Oxfam launched its Even It Up campaign in 2014, calling for action on taxation, investment in public services and decent jobs and wages for all to tackle the rising tide of extreme inequality, it joined a groundswell of voices calling for action. These include the diverse voices of faith leaders, individual billionaires and the heads of institutions such as the IMF and the World Bank, as well as trade unions, social movements, women's organizations and millions of ordinary people across the globe. These voices are all calling for world leaders to take action to end extreme inequality.

Some people claim that concerns about inequality are driven by the 'politics of envy'. They often cite the reduction in the number of people living in extreme poverty as proof that inequality is not a major problem. But this is to miss the point. As an organization that exists to tackle poverty, Oxfam is unequivocal in welcoming the fantastic progress that helped to halve the number of people living below the extreme poverty line between 1990 and 2010. Yet if inequality within countries had not grown during that same period, an extra 200 million people would have escaped poverty. That could have risen to 700 million had poor people benefited more than the rich from economic growth. We cannot end extreme poverty unless we tackle extreme inequality.

The role of corporate income tax for development

Achieving the ambitious SDGs has been estimated to require an additional $2.5 trillion[6] a year in developing countries. Tax revenues will be a critical part of this financing, alongside international trade, aid and private finance; all of which should fulfill the criteria of sufficiency, equity and accountability[7].

Tax revenues derive from a variety of sources; however for developing countries MNEs is a very significant one. MNEs account for a very large part of the tax base in developing countries; their tax payments are thought to be roughly twice as important as they are in rich countries as a share of total tax revenue[8]. This means that MNE tax payments in developing countries already contribute to government revenue and thereby the financing of essential services such as free, quality education, health services, and much more.

Burkina Faso: Tax revenues and essential services

Photo; Aristide Ouedraogo

Arsene is a 46-year-old farmer from Bérégadougou in Burkino Faso. Like many in his country, he is deeply concerned about the lack of many basic services in his community: the absence of doctors which means a 30 km round trip to get even a simple prescription; the reliance on private schools whose fees put education out of reach for so many families; and a lack of infrastructure which means many families are forced to walk at least one kilometre to fetch drinking water. And while Arsene dutifully pays his taxes, many multinational companies across Africa are doing everything they can to avoid paying their fair share – depriving governments of millions of dollars in revenues which are desperately needed to tackle poverty and inequality.

However, tax administrations across the world are challenged to ensure effective tax payments by MNEs, as MNEs increasingly engage in complex corporate tax structures and aggressive tax planning measures. This might not always be technically unlawful behavior, but it significantly challenges the collection of corporate tax and the tax bases of countries, in particular for developing countries. The IMF has recently estimated that the costs of tax base erosion and profit shifting by MNEs which avoid paying their taxes where their economic activities take place are 30 percent higher in developing countries than in OECD countries. Tax havens play a crucial role in facilitating this.

Why tax havens matter for development

Paying taxes will always involve a number of choices no matter what the tax system is. Tax regulation between countries is particularly vulnerable to such choices, as the rules in the different countries might allow for exploring loopholes or mismatches between the different sets of regulations. Multinational companies have a particular responsibility to clarify what and how they make such choices with tax impacts, as they have the option, from being in more than one country, to structure their operations in multiple ways. They can often also negotiate special

treatment from host governments and this enables them to engage in aggressive tax planning through corporate profit shifting by the use of tax havens. The grey zones between different countries' legislation or tax rules will persist for the foreseeable future, and businesses will need to navigate this by making choices. Right now, a global network of tax havens still enables rising inequality through tax avoidance and the irresponsible tax practices of multinational enterprises.

The scale of the revenue lost around the world because of multinationals not paying their fair share of tax is having a huge impact on development. It is impossible to calculate the true extent of such financial losses, but UNCTAD estimates that developing countries lose at least US$100bn[9] a year because of corporate tax dodging by MNEs.

Artificial corporate profit shifting to tax havens is clearly happening now on a massive scale, as has been widely recognized by international organizations, developing countries and civil society. There is a critical misalignment between where large companies declare their profits and where their real business is located. For example, in 2012, US multinationals alone shifted $500–700bn, or roughly 25 percent of their annual profits, mostly to countries where these profits are not taxed, or taxed at very low rates.[10] In a paper released ahead of the World Economic Forum in Davos in 2016, Oxfam reviewed publicly available data on more than 200 companies, which included the 100 largest firms in the world and the World Economic Forum's strategic partners, and found evidence that nine out of ten of them have a presence in at least one tax haven.[11]

Tax havens create an uneven playing field and contribute to the race to the bottom on tax: countries end up competing among themselves for the most attractive conditions to leverage international investment as a way to feed their domestic growth. And some multinational companies are well positioned to take advantage of tax havens, while other businesses, whether large domestic companies or smaller businesses, are unable to do the same. This creates unfair competitive advantages for the already most powerful MNEs.

The critical drop in tax collection on corporate profits around the world[12], the increase in global investment through tax havens and the recurrent use of subsidiaries in tax havens makes it more necessary than ever for the IFC to incorporate responsible tax safeguards.

In theory, there might be legitimate reasons for any company being incorporated in a tax haven, with real productivity and employment and paying their fair share of taxes. But since tax scandals have revealed how large companies are abusing the weakness of the international tax system in their own interests through tax havens, it is absolutely imperative that any real and legitimate reasons for being in tax havens can always be documented, is clearly explained, and that transparency into key account data for those companies gives stakeholders the ability to see how taxable income, profits and gains are distributed internationally and that no profit shifting or aggressive tax planning is happening.

Box 2: What is a tax haven?

Tax dodging encompasses both tax avoidance and illegal tax evasion, both of which minimize the contributions companies and individuals make to society. It is often difficult to distinguish between the two, and there is certainly some tax planning that may be legal according to the letter of the law but that goes against the spirit of the law.

Oxfam considers that tax havens are jurisdictions or territories which have intentionally adopted fiscal and legal frameworks that allow non-residents to minimize the amount of taxes they pay in countries where they perform substantial economic activity.

Tax havens tend to specialize, and most of them do not tick all the boxes, but they usually fulfill several of the following criteria:

- They grant fiscal advantages to non-resident individuals or legal entities only, without requiring that substantial economic activity be carried out in the country or dependency.
- They provide a significantly lower effective level of taxation, including zero taxation.
- They have adopted laws or administrative practices that prevent the automatic exchange of information for tax purposes with other governments.

They have adopted legislative, legal or administrative provisions that allow the non-disclosure of the corporate structure of legal entities (including companies, trusts, and foundations) or the ownership of assets or rights. It is common to make a distinction between 'corporate tax havens', which adopt particular rules that enable corporations to avoid paying their fair share of tax in other countries, and 'secrecy jurisdictions', which provide the necessary secrecy for individuals or entities to avoid paying tax. The Tax Justice Network (TJN) defines secrecy jurisdictions as those that enable people or entities to escape the laws, rules and regulations of other jurisdictions, using secrecy as a prime tool.

The reform of the international tax system: in the interest of developing countries?

The fight against aggressive tax planning has been taking a prominent place in the global agenda, especially in the aftermath of the financial crisis. Steps have been taken to reform or amend the international tax system to meet the challenges of the new ways corporations are structuring through multiple jurisdictions and thereby gaining tax advantages unrelated to economic activity. Governments have a clear responsibility to continue this work and enable more reforms that pay particular attention to the challenges related to developing countries' tax bases and ending the era of tax havens.

However, the current system of dysfunctional international rules and treaties allows many MNEs to pay minimal tax bills relative to their real profits and avoid paying their fair share. The rules will be imperfect for the foreseeable future, and will most likely always allow for grey zones for corporations to use or abuse to minimize their tax bills. Impacts of this on developing countries' tax bases are likely to be significant.

In the recently adopted financing for development framework known as the Addis Agenda for Action[13], an emphasis is placed on the ability of governments to raise revenue. It also includes recognition that this is challenged among other things by

capacity. At the adoption of this framework, 30 international donor governments and international institutions pledged to meet these challenges by doubling existing support for capacity building and calling for multinational corporations to shift their culture and attitude on corporate tax practices to become more responsible and to recognize the clear impact this can have on sustainable development. They specifically called for a new principle on responsible tax in the UN Global Compact, the most comprehensive initiative to date on corporate responsibility.

Aggressive tax planning is a barrier to sustainable development. It is clear that government revenues, raised through taxes and other forms of domestic resource mobilization is squarely on the agenda of development, as is the role of the private sector in mobilizing investments for inclusive growth. For these priorities to work together effectively, development finance institutions such as the IFC have a key role to play. Publicly backed investments and business should not feed the cycle of aggressive tax planning by multinationals (even unintentionally) but rather grasp the opportunity to push for more transparency and for tax-responsible practices to become the standard.

With the increased focus on private sector in sustainable development, and development finance institutions as the means to achieve this, we have arrived at a crucial turning point. It is time to look at what the role of responsible investors with development mandates should be in encouraging and ensuring responsible corporate tax practices.

2 THE IFC AND TAX HAVENS

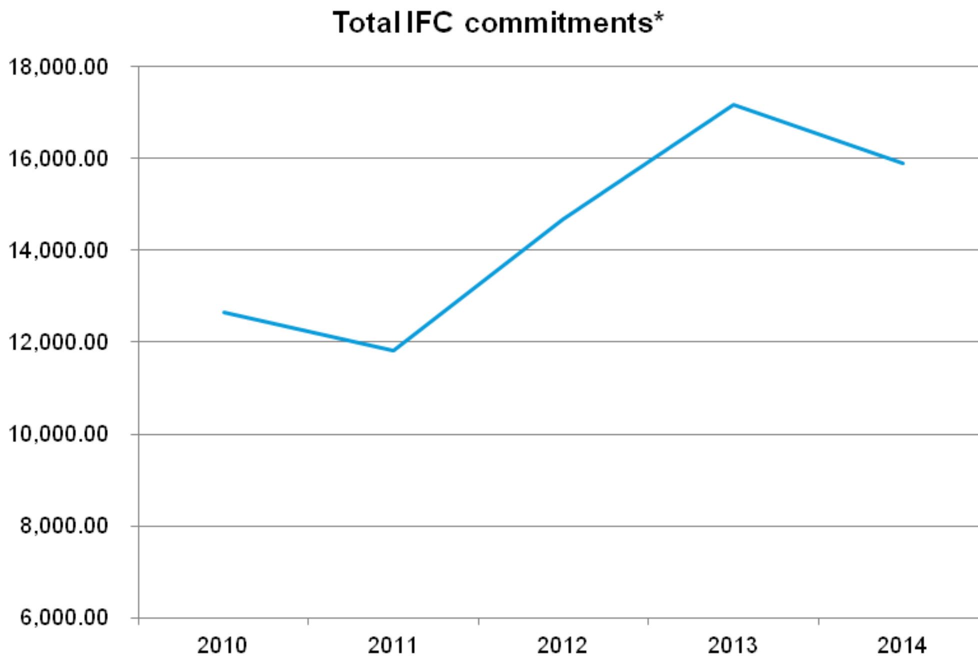
The IFC, the private sector arm of the World Bank Group (WBG), is a major actor in private sector development and its portfolio has increased significantly over the past years, underlining the focus from donors on securing the role for the private sector in development.

The twin goals of the World Bank Group[14] are also the focus of the IFC: eliminating extreme poverty by 2030 and boosting shared prosperity. However, as Oxfam has showed, corporate tax abuse and use of tax havens are key obstacles to this goal. While developing countries are losing at least US$100bn a year because of corporate tax dodging, the IFC needs to take a more active role in ensuring that it does not support companies that take advantage of the weakness of the system to reduce their tax bill to the minimum, especially through the artificial shift of profits to tax havens.

Oxfam has found that more than 80 percent of the dollars invested by IFC in SSA in 2015 were channelled to companies that are present in at least one tax haven, without any apparent link to their core business and with a very low level of transparency on such sophisticated structures.

The IFC: private sector lending

Figure 1: Rise in IFC commitments



* In constant 2010 prices (US$ millions)

The IFC offers a variety of financial products for private sector projects in developing countries. There is a limit to the total amount of own-account debt and equity financing the IFC will provide for any single project, to ensure the participation of investors and lenders from the private sector. The IFC does not lend directly to micro, small or medium-sized enterprises, but many of the IFC's clients are financial intermediaries that lend on to smaller businesses[15].

Therefore the IFC does not only invest in private sector companies, but also partners with, and has extensive business relations with, various types of private sector actors. The IFC publishes full lists of the projects that it has invested in and important information on sponsors and other shareholders, but does not give systematic details on the type of corporate structure of its clients or types of other business partners.[16]

IFC investments in sub-Saharan Africa

Oxfam has analysed IFC's portfolio of investments in sub-Saharan Africa (SSA) from January 2010 to December 2015 (latest available data) with the aim of understanding the types of corporations that are supported directly or indirectly through IFC investments. Furthermore, we have looked into the extent that these investments go to companies that are potentially creating artificial intermediate subsidiaries in tax havens to reduce their tax bill to the minimum in countries where they are really operating, especially in the SSA region.

Box 3: Sub-Saharan Africa, the region where the development challenges remain highest

Given resource constraints, Oxfam decided to focus the scope of its research on world's poorest region in terms of per capita income. The intent of this research is to highlight how important responsible tax practices are in reducing poverty and inequality, as well as the importance of comprehensive, coherent and coordinated action from international donors and the international community.

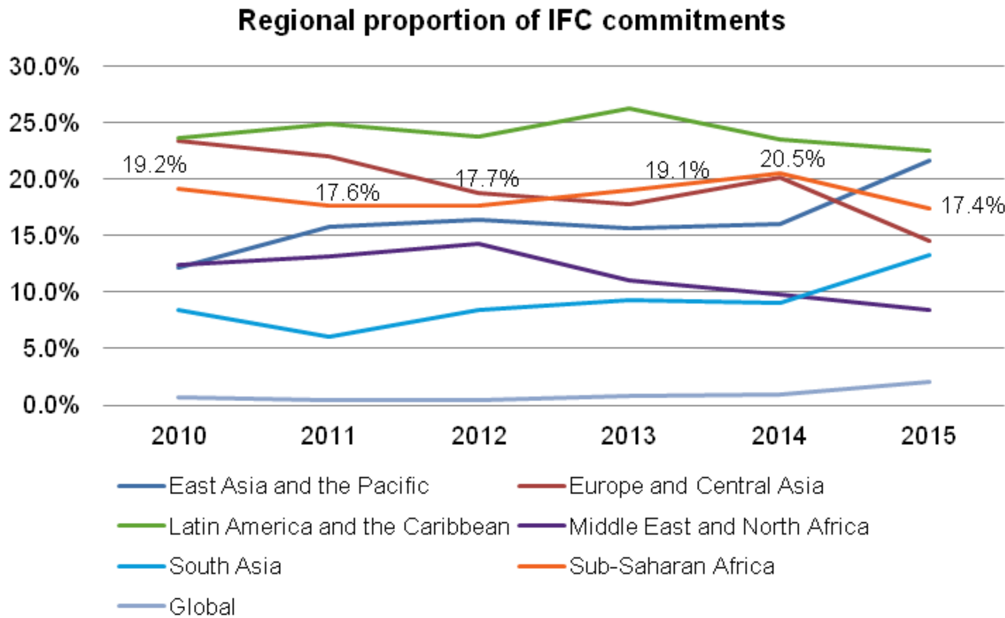
SSA is the region of the world where the most significant development challenges remain. It is the region where almost half of world's under-5 mortality occurred in 2012[17]. School enrolment levels are low, particularly at lower secondary education level: it was only 49 percent in 2011.[18] Inequality in SSA is negatively impacting human development, and unequal access to health and education is the underlining driver.[19] It is estimated that extreme poverty will be concentrated in this region.[20]

As the World Bank recognizes, 'the absolute number of people living in extreme poverty in sub-Saharan Africa is projected to increase by over 50 million people between 2011 and 2030, to 470 million[21].' That should raise alarms and serious concerns about the future of the region. In 2015, after a decade of solid growth, for the first time growth in SSA has weakened; some countries being very negatively affected by falling prices of commodities.[22] Policy actions that can help to protect tax bases and increase tax revenues will become an absolute priority, considering the persistently high income and gender inequality.

From a regional perspective, according to Global Financial Integrity, 5.7 percent of GDP from African countries is flowing out of Africa due to corruption and illicit financial flows. Almost one-third (30 percent) of rich Africans' wealth – a total of US$500bn – is held offshore in tax havens. Oxfam calculates that this hidden wealth in tax havens could represent about US$14bn in tax loss a year; enough to pay for healthcare that could save the lives of four million children and employ enough teachers to get every African child into school.[23]

IFC investments in SSA[24] constituted between 15 and 20 percent of the IFC portfolio over the years 2010–2015[25].

Figure 2: IFC commitments per region



What have we found?

Oxfam's research shows that the IFC as a large private sector investor is extremely exposed to the use of tax havens in the corporate structures of their client companies without any apparent link to the core business of these companies.

The analysis of the IFC investments in SSA over the years 2010–2015 has shown that:

Evidence 1: The IFC invests primarily in MNEs

There is consistently a large proportion of IFC investments in SSA linked to MNEs, either directly (client is an MNE or part of an MNE) or indirectly (through sponsors, technical partners, shareholders or fund managers). The vast majority of those MNEs have a corporate structure that includes tax havens.

Table 1: IFC projects with links to MNCs

	2010	2011	2012	2013	2014	2015
Percentage of IFC projects with links to MNCs	87%	74%	66%	78%	73%	91%

Evidence 2: Almost all of the MNCs that IFC invests in or with are in at least one tax haven

In 2015, seven out of 10 IFC investments in SSA went to multinational companies that use tax havens in their corporate structure for no apparent business-related reason. This is up from being less than half of the IFC investments in SSA in 2010 that went to MNCs which use tax havens.

In 2010, 42 of 67 IFC projects in SSA had the involvement of an MNC with a

presence in tax havens. Of these, 31 were directly linked to tax havens through the IFC client. For the 11 others the MNC with a presence in a tax haven was an indirect link through a business partner or technical operator.

Evidence 3: The exposure of IFC corporate investment to tax havens is rising dramatically

The value of IFC investments in SSA linked through companies that are incorporated in tax havens, or are part of an MNC with subsidiaries in at least one, has dramatically increased from US$1.20bn in 2010 to US$2.87bn in 2015.

In 2010, the IFC portfolio for SSA was 67 projects with a total value of US$1882m, of which US$1203m were associated with tax havens through IFC clients.

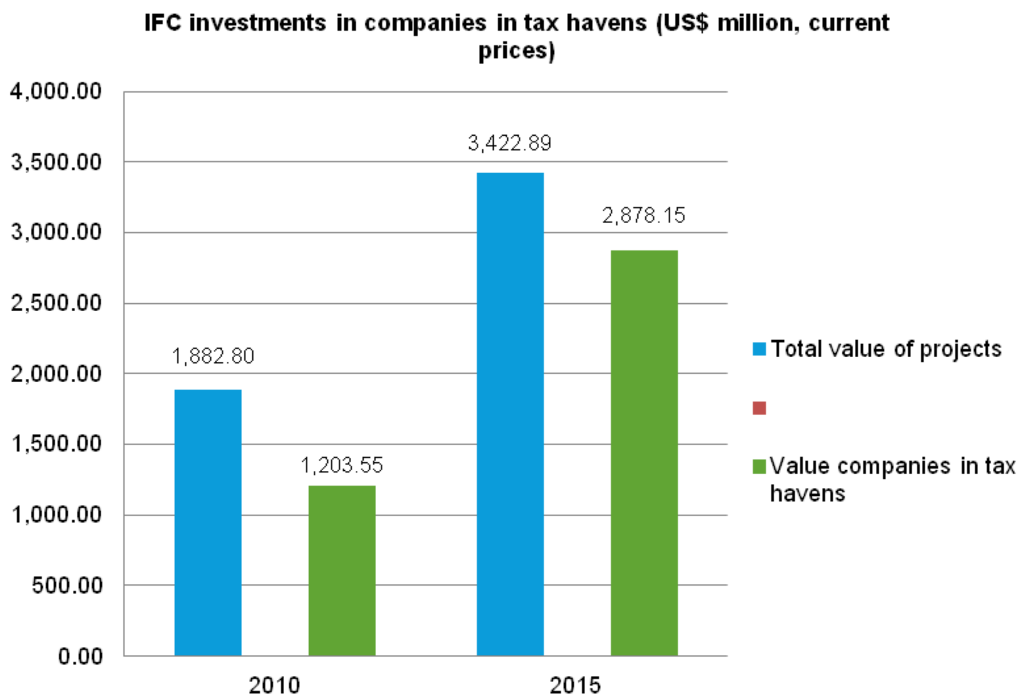
In 2015, the IFC portfolio for SSA was 68 projects of a total value of US$3422m of which US$2878m were associated with tax havens through IFC clients.

Table 2: IFC investments linked to tax havens in 2010 and 2015*

2010	**Number of Projects**	**Percentage of total projects**	**Value of Projects (Million USD)**	**Percentage of total value**
Clients in SSA with presence in tax havens 2010	31	46%	1,203.55	64%
Total number and value of projects in 2010	67	100%	1,882.80	100%
2015	**Number of Projects**	**Percentage of total projects**	**Value of Projects (Million USD)**	**Percentage of total value**
Clients in SSA with presence in tax havens	51	75%	2,878.15	84%
Total number and value of projects in 2015	68	100%	3,422.89	100%

* In current prices

Figure 3: Rise in IFC investments directly and indirectly to MNCs in tax havens in 2010 and 2015



Evidence 4: IFC money goes directly to tax havens

No matter the scope of the business, in 2015 25 percent of the IFC investment projects in SSA have directly been allocated to a company incorporated in a tax haven, like Mauritius (6 projects out of a total of 67), Netherlands or Jersey for operations happening ultimately in a SSA country. In 2010, only 12 percent of total projects were primarily allocated to a company incorporated in a tax haven.

Evidence 5: Mauritius is the most preferred offshore destination for IFC clients

In 2015, 40 percent of total projects included companies with a subsidiary or headquarters in Mauritius. This is either clients themselves or indirectly through sponsors, technical partners or others involved in the project and thereby indirectly benefitting from the investment. But this small island is widely recognized for facilitating 'round-tripping' investment, which allows companies and individuals to take their money offshore, shroud it in financial secrecy, and then bring it back into the country disguised as FDI. This allows them to reap the reward of tax benefits only available to foreign investment; the money is subject to tax breaks rather than capital gains and income tax that should rightly be charged on domestic investment. As an example, 34 percent of total investment to India from 2000 to 2015 has come from the small island of Mauritius, most of it from the same building in Port Louis, the capital[26].

Tax havens: legal or illegal?

It is not illegal to use offshore companies, but the public disclosure of so many abuses in recent times has intensified calls for more transparency at least, and the reform of international standards at best. Obviously, there can be legitimate reasons for being incorporated in tax havens. Some countries can offer a safer

environment for investment or even a better access to financial conditions, especially for investments going to countries with a fragile or inadequate financial infrastructure.

But very often tax havens are just used as a (legal) way to minimize the tax bill of the company. This is technically legal, but ethically questionable.

International donors like the IFC, operating with public funding, should be fully committed to distinguishing when the use of tax havens is only intended to reduce tax bills or countervail more restrictive legislation. And the IFC has a clear responsibility to help to put an end to this shadowy, unproductive world of offshore companies.

Complete transparency and public access to information should be ensured when the use of tax havens is for real and necessary economic business purposes (and not simply artificial tax structures) which might have been the enabling factor for the investment to go ahead. This would also enable the ultimate beneficiary country to see the type of financial services that are missing in the country that necessitates the use of an intermediary jurisdiction. However, this is not the case today.

IFC and financial intermediaries in tax havens

Criticisms have been raised before of the IFC's use of tax havens, notably related to its use of intermediary jurisdictions. For this, the IFC has a policy dating from 2014[27] heavily reliant on the Global Forum on Transparency and Exchange of Information in Tax Matters (hereafter the Global Forum) peer review system.[28] However, this system has been criticised on numerous occasions by civil society as being insufficient to capture the real nature of tax havens and the risk they pose to development and human rights.[29]

The IFC OFC policy speaks of a commitment to 'advancing the international tax transparency agenda' and 'addressing potential risks to its private sector operations', including by 'jurisdictions with low or no tax'. However, in effect this policy only applies due diligence to the use of intermediary jurisdictions, and it is not clear how the due diligence goes beyond screening for legal compliance. In addition, the major source for judging jurisdictions is the peer review system of the Global Forum, which uses a relatively low standard focussed on exchange of information, but not on other harmful features of tax havens.

The IFC also has an elaborate set of environmental and social performance standards which its clients must adhere to[30]; however, these standards do not cover issues related to taxation, despite it being shown that this can have significant impact on sustainable development. They are thus not useful in screening for clients making use of tax havens. Moreover it is unclear whether stakeholders who believe that tax dodging has occurred by a client of the IFC can file grievances with the IFC CAO or integrity unit of the World Bank.

The existing policies of the IFC need significant revision to include responsible corporate tax considerations – beyond legal compliance – to be included in sustainability considerations and development impacts. Furthermore, the IFC should develop a specific tax-responsible investment policy,

The remainder of this paper discusses the role of the IFC and other DFIs or responsible investors in promoting and securing responsible corporate tax practice among their clients, and how the IFC as a responsible investor can take on a greater role in ensuring that its investment portfolio's tax risk is significantly reduced and thereby contributing to sustainable development and promoting responsible corporate tax practice.

3 RESPONSIBLE CORPORATE TAX PRACTICES AND INVESTORS' ROLE

It is through respecting, protecting and fulfilling civil, political, economic, social, cultural and environmental rights that the state earns its legitimacy to tax, but it cannot properly fulfill those rights without adequate tax revenue. For this, subjects to tax are necessary. This chapter will focus on the role of businesses and investors in supporting these efforts by taking steps beyond their legal compliance to engage in or encourage responsible corporate tax behaviour.

A business case for responsible corporate tax

For investors with a development mandate, such as the IFC, the importance of the payment of taxes is clear. The link to human development and the impact on human rights is straightforward. However, there is also a business case for looking at responsible corporate tax behavior. Managing risk and ensuring a sound business case for all investments is crucial for investors, especially those seeking development impacts for their investments.

The business case for looking at responsible corporate tax practice beyond legal compliance is still mounting. Responsible investors are taking an increasingly active role in encouraging responsible corporate tax behaviour beyond legal compliance from their investee companies. Nordea Asset Management[31] began this development in 2014[32] and in late 2015, UN PRI released their guidance on corporate tax responsibility.[33] Recent research by MSCI (a risk and reputation assessment consultancy), found that 22 percent of companies had such a low effective tax rate that it exposed investors to reputational risk.[34] Recent research from the Insead Business School has revealed that shareholder value is undermined by lack of transparency linked to subsidiaries in tax havens. The study finds that greater transparency around subsidiaries increases shareholder value and recommends that pension funds and institutional investors should actively seek transparency.[35]

Among the drivers of this agenda are the relentless media stories that consumers read and respond to, creating material risk for company brands and thus investments. Also influencing the agenda are clear political attention and a tsunami of legislative initiatives that constantly change the certainty of legality of tax strategies. Legislators are punishing aggressiveness in tax strategies as soon as the nature of the schemes or sweetheart deals are revealed. This presents a very real governance and earnings risk to investors.

High profile politicians and economists are highlighting that this is not only a matter of legal ruling on the letter of law, but a matter of complying with the spirit of the law[36] and following 'corporate responsibility in its truest form 'to pay your fair share of taxes'.[37]

The long-term risk to materiality also makes a compelling case; that is probably more true for development impact investors – the negative impact on the societies and human rights in which the companies operate, if they continuously and systematically undermine the tax base. Paying taxes should be viewed as an investment in societies to ensure well-functioning governments and governance, infrastructure, a healthy and skilled workforce, etc. In this sense, corporate tax payments should in the first regard be viewed as a positive impact on human rights.

'I believe that we need a more fundamental shift in corporate philosophies – if it isn't part of it already, paying one's fair share of tax should be firmly integrated in a company's corporate social responsibility.'

Margrethe Vestager, 21 October 2015[38]

A particular role for DFIs

DFIs such as the IFC are government-controlled institutions which invest billions of Euros in private sector projects in developing countries every year – often using scarce aid money to 'leverage' this finance. DFIs are set to be the bridge between development outcomes and leveraging investments in the private sector. Their role is to target projects that have significant development potential, but fail to secure investments from market-based sources of financing alone or other traditional sources. This can create a race to the top in sustainable thinking and long-term development impacts.

Standards and requirements for the investments are also necessarily higher, given the particular role of DFIs as investors that seek development outcomes and only act in complementarity, not competition, to the traditional and market-based investors. This is the cost of having access to finance not otherwise available under market conditions. This has been the standard for economic and social conditions where an institution such as the IFC prides itself on having some of the highest standards in the world. While this can be challenged in itself, for tax matters they have a glaring gap. As shown, existing policies are far from adequate.

Institutional investors backed by public money also have a particular responsibility to ensure that the money they manage is spent responsibly and in an accountable and transparent manner. The private sector has a responsibility to respect human rights and act responsibly, particularly in tax matters, and business and investors can in turn improve the rule of law and reduce the scope for corruption – crucial conditions for investors.

What does responsible corporate tax behavior look like?

Oxfam, ActionAid, and Christian Aid have produced a discussion paper which outlined what 'good' looks like in terms of a journey towards responsible corporate tax behavior.[39] The paper includes steps that can be taken immediately, as well as some longer term shifts in behavior and practices across eight areas: tax planning practices; public transparency and reporting; non-public disclosure; relationships with tax authorities; tax function management and governance; impact evaluation of tax policy and practice; tax lobbying; and tax incentives. As well as examples of concrete steps to take, it underscores what we believe are the underlying principles of a tax-responsible company:

A tax responsible company:

- Is radically and proactively **transparent** about its business structure and operations, its tax affairs and tax decision-making;
- **Assesses** and publicly reports the fiscal, economic and social impacts (positive and negative) of its tax-related decisions and practices[9] in a manner that is accessible and comprehensive;
- Takes steps – **progressively, measurably** and in dialogue with its stakeholders – to improve the impact of its tax behaviour on sustainable development and on the human rights of employees, customers and citizens in the places where it does business.

Source: Oxfam, ActionAid, Christian Aid, 2015, Getting to Good. Towards responsible corporate tax behaviour

To achieve the new development agenda it will be necessary to mobilize public as well as private finance; something all countries are committed to in the Addis Agenda for Action.[40] DFIs can play a crucial role in mobilizing private finance for sustainable development by creating a race to the top in responsible taxation, adopted by a host of businesses and other investors with which DFIs collaborate on a routine basis, as well as raising the bar for regulatory moves to level the playing field on transparency.

However, a vast improvement on existing ways of working will be necessary to ensure responsible corporate taxation from these investments, as currently few DFIs consider the explicit tax risk or tax revenue mobilization impact of their investments – an oversight, given their sustainable development mandate.

CONCLUSION AND RECOMMENDATIONS: THE WAY FORWARD

As tax havens continue to play a facilitating role in corporate tax dodging, which has a harmful effect on sustainable development, the significance of responsible corporate tax behaviour increases. The role for impact investors such as the IFC in ensuring such responsible behaviour still leaves a lot of room for improvement.

Research for this briefing has shown that the IFC's investments in SSA are to a large degree going directly to or are made possible in partnerships with MNEs. The vast majority of these MNEs also have a presence in tax havens. Oxfam has no reason to believe that this should not be the case for the rest of the IFC's portfolio. As the size of the IFC investments continue to rise and the role of the DFIs does too, Oxfam considers it an urgent task for DFIs such as the IFC to play a role in ensuring and promoting responsible corporate tax practice and to rise to the top in these. However, the IFC does not, it appears, have sufficient policies or safeguards in place to ensure that these MNEs are not engaged in aggressive tax planning, let alone encourages particular responsible or transparent behaviour beyond legal compliance among its clients or partners.

Where Oxfam welcomes the convening role the IFC has played on the issue of responsible tax among other DFIs, it feels that one of the best ways to move the forward is to lead by example and working to adopt the following recommendations. Oxfam considers that the performance standards are potential entry points for including such issues, considering their impact on sustainable development.

Oxfam calls on the IFC to:

Ensure, in consultation with stakeholders including civil society, to develop

- A policy on tax-responsible investment which includes a commitment to promote domestic resource mobilization and responsible corporate tax behaviour. That should be applied to existing as well as new investments once adopted;
- An update to the OFC policy that encompasses the harmful features of tax havens discussed in this paper;
- Standards for more transparency and responsibility in tax matters (see below) which apply to existing as well as new clients, that ensures that the IFC can only invest in, partner with, or give funding to tax-responsible MNEs as well as encourage progressive measures for more transparency and tax responsibility;
- Gather better data of impacts of IFC investments on domestic resource mobilization and report on this more systematically for the public and board;
- Ensure in-house capacity to oversee and promote these activities.

Suggested elements to include in a tax-responsible investment policy to apply to clients, partners and business relations

Below are suggested elements of due diligence to ensure responsible corporate tax policy and practice from all IFC's multinational clients, partners and business relations. The IFC should ensure through active ownership engagement that these elements are not only ensured ex-ante, but are continuously followed up on and improved.

That the client:

- Publishes country-by-country information on the sales, assets, employees, profits and tax payments in each country in which the MNE operates and are transparent about beneficial ownership and company structure and purpose;
- Publishes a responsible corporate tax policy approved by the board;
- Publishes all discretionary tax treatments such that substantially affect either the tax base or taxable profits;
- Ensures stakeholder engagement on corporate tax practice which includes engaging openly and in a transparent manner with their stakeholders on tax issues and tax impacts.

In addition, Oxfam calls on all decision makers to ensure an end to the era of tax havens by:

- Enacting a new set of tax reforms, where the agenda is set by and with all countries affected;

- Reforming of the international tax system to minimize grey zones and ability of MNEs to engage in aggressive tax planning;
- Redefining CSR and sustainable finance to ensure fiscal justice is part thereof.

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