Responsible Taxation and Business

18 February 2016 at 9 am ET
1. Welcome Remarks
   - Shubha Chandra, UN Global Compact

2. Overview of the relationship between corporate tax and human rights
   - Elodie Aba, Business & Human Rights Resource Centre

3. Introduction to corporate tax responsibility
   - Michelle de Cordova, NEI Investments, and PRI Taskforce on Corporate Tax Responsibility

4. Recommendations for better corporate tax behavior: an NGO perspective
   - Troels Boerrild, ActionAid

5. Q&A

6. Closing Remarks
   - Shubha Chandra, UN Global Compact
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**Example:** *Question for John Doe: What are land rights?*
UNITED NATIONS GLOBAL COMPACT

8,000+
Business participants

4,000+
Non-business participants

28,000+
Disclosure reports submitted

Stakeholders
- Business
- Industry Associations
- Investors
- Civil Society
- Labour
- Academia
- Government

Global Network
- Europe
- Latin America
- North America
- Asia & Oceania
- Africa
- MENA

160+
Countries
85+
Local Networks

Platforms & Programmes
- Human Rights & Labour
- Women’s Empowerment Principles
- Children’s Rights and Business Principles
- Child Labour Platform
- Caring for Climate
- CEO Water Mandate
- Food + Agriculture Business Principles
- Anti-Corruption
- Business for Peace
- Business for the Rule of Law
- Business and Education
- Supply Chain Sustainability
- Global Compact LEAD

Sister Initiatives
- Global Compact Cities Programme
- Principles for Responsible Investment (PRI)
- Principles for Responsible Management Education (PRME)
- Sustainable Stock Exchanges (SSE)

Business Partnership Hubs
- Water
- Climate and Energy
- Social Enterprise
- Anti-Corruption Collective Action
- UN-Business Partnership
Act Responsibly

HUMAN RIGHTS
Principle 1  Businesses should support and respect the protection of internationally proclaimed human rights; and
Principle 2  make sure that they are not complicit in human rights abuses.

LABOUR
Principle 3  Businesses should uphold the freedom of association and the effective recognition of the right to collective bargaining;
Principle 4  the elimination of all forms of forced and compulsory labour;
Principle 5  the effective abolition of child labour; and
Principle 6  the elimination of discrimination in respect of employment and occupation.

ENVIRONMENT
Principle 7  Businesses should support a precautionary approach to environmental challenges;
Principle 8  undertake initiatives to promote greater environmental responsibility; and
Principle 9  encourage the development and diffusion of environmentally friendly technologies.

ANTI-CORRUPTION
Principle 10  Businesses should work against corruption in all its forms, including extortion and bribery.
Global Compact resources mentioning tax
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Business and Responsible Taxation:
Overview of the relationship between corporate tax and human rights

Elodie Aba, 18 February 2016
• Created in 2002

• Fair & objective information hub on business & human rights

• Network of 12 Regional Researchers
Company response mechanism
Why cover tax avoidance?

• Section launched in 2009

• Highlights aggressive practices by companies through agreements with govts., creative accounting, transfer-pricing etc.
Responsible taxation & human rights

• Objective of taxes:
  - raise money to finance essential public services
  - help to fight inequalities within a society

• IMF: Developing countries lose over $200 bn a year to corporate tax avoidance

• Revenue lost could serve to finance housing, schools & hospitals
Opportunities for companies

• Contribute to alleviation of poverty & make positive contribution to development, incl. UN Sustainable Development Goals (SDGs)

• Prevent reputational damage

• Regain trust of consumers & general public
Good practice

• Rio Tinto - voluntary disclosure of total tax & royalty payments made in the main countries where it operates

• BHP Billiton - voluntary disclosure of payments to govts. & called for a mandatory disclosure framework globally
Challenges

• Tax competition between countries

• Mechanisms to deal with tax abuses

• OECD Base Erosion and Profit Shifting Project to fill gaps in tax systems of OECD countries
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Business & Responsible Taxation: PRI Guidance

Michelle de Cordova
Director, Corporate Engagement & Public Policy, NEI Investments
February 18, 2016
Changing investor perspectives: tax is not just a cost to be minimized

NEI Investments engagement on tax responsibility

Mid-2000s: dialogue with Canadian banks on tax havens
2014: OECD/G20 tax base erosion project; political, media and NGO scrutiny
• shareholder proposals at U.S. digital companies on tax policy (with Domini)
• dialogue with Canadian banks on tax policy disclosure

2015: PRI Global Investor Taskforce on Corporate Tax Responsibility

Alliance Trust plc - Arisaig Partners (Asia) Pte Ltd – Bâtirente - Domini Social Investments LLC
ERAFP - Legal & General Investment Management - MFS Investment Management
NEI Investments - Rathbone Brothers plc - RobecoSAM - Triodos Investment Management

2016: PRI Guidance: why and how to engage investee companies on tax

• Overview of tax-related ESG risks
• Analyzing companies for tax risk – red flags and good practices
• Suggested questions to address in engagement with investee companies
Aggressive tax planning – scope of ESG risks

- Financial risk to the company?
  - Earnings vulnerability
  - Governance risk - structure and acquisitions, compensation
- Regulatory risk to the company?
  - Labelled “high-risk” by tax authorities
  - Tax positions challenged – increased liabilities
  - Tax regulatory changes targeting loopholes
- Reputational risk to the company?
  - Consumer boycotts
  - Undermining brand values
- Systemic economic and social risk?
  - Factors for corporate success (health, education, infrastructure, security, legal system, IP protection)
  - Competitive disadvantage to domestic companies – threat to innovation
- Systemic human rights risk?
Defining the scope of investor responsibilities – a work in progress

Fiduciary duty embraces consideration of direct ESG risks to value of portfolio investments

Aggressive tax planning as systemic human rights risk

Systemic ESG risk to the economy (e.g. climate change)  Investor absolute “responsibility to respect” human rights

Generally-agreed among investors

Under debate among investors
<table>
<thead>
<tr>
<th></th>
<th>Agenda</th>
</tr>
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<tbody>
<tr>
<td>1.</td>
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<tr>
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<tr>
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<td></td>
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GETTING TO GOOD
Towards Responsible Corporate Tax Behaviour

Webinar, 18 February, UN Global Compact and BHRRC
By Troels Boerrild, ActionAid
Points to cover

• Our motivations
• The case for responsible corporate tax behaviour
• Beyond legal compliance?
• Tax requires ongoing due diligence
• One-size-fits-all?
• Examples of positive behaviours
• Tax & human rights due diligence
• Conclusion
Our motivation

• Bridging our work on responsible business practice and tax justice / financing for development

• Engaging with business: an opportunity for positive impacts in developing countries and for business itself

• Progressing the discussion on what ‘good looks like’
The case for responsible corporate tax behaviour

- Tax revenues are critical to pay for sustainable development

- Government-led reforms are vital but will take time and will still leave room for choices

Therefore, there is a role for companies to help achieve equitable tax outcomes, to be guided by values and to re-conceive their tax responsibilities
Why should companies care?

• It’s in companies’ own long-term interest. Paying tax is an investment.

• It is part of corporate responsibilities on human rights.

• It mitigates risk and builds investor confidence.
**Tax requires ongoing due diligence**

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<th>Tax responsibility as a process</th>
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<tbody>
<tr>
<td><strong>Key principles:</strong></td>
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<tr>
<td><strong>Transparency</strong></td>
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<td><strong>Assessment</strong></td>
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<td><strong>Progressive and measurable improvement</strong></td>
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One-size-fits-all?

• Our proposals are directions of travel

• For each issue area, we suggest a wide range of positive behaviours and actions that companies can undertake

• Some of our examples are straight-forward and immediately implementable, others are more challenging and require methodologies

• Not a one-size-fits-all standard
Examples of what is in the paper
Public transparency and reporting

Proposition

A tax-responsible company will publish information which enables stakeholders to see how its taxable income, profits and gains are calculated and internationally distributed.

Example behaviour

A company adopts and publishes the OECD BEPS country-by-country reporting template before being legally required to do so.
Tax function management and government

Proposition

A tax-responsible company’s tax operations will become a mechanism not simply for reducing tax liabilities while managing tax risk, but also for implementing responsible tax behaviour.

Example behaviour

A company develops a tax strategy that is linked to its corporate responsibility or sustainability strategy, which is approved at board level and published.
Proposition

A tax-responsible company seeks a level playing field:

to be treated under a country’s tax regime like any other corporate taxpayer.

Example behaviour

A company publishes all tax incentives, and audits its use of incentives on a regular basis to ensure it is delivering the investment, jobs, R&D.
Relationship with revenue authorities

Proposition

A tax-responsible company will progressively increase the transparency of its relations with tax authorities.

Example behaviour

A company publishes the outcomes of any significant tax settlement with revenue authorities.
Impact evaluation on tax policy and practice

Proposition

A tax-responsible company will design systems to assess the impact of its tax-related decisions on the tax charge to the company, on the revenue due to different govt’s, and on human rights.

Example behaviour

A company works to develop methodologies for assessing the socio-economic impacts of tax decisions on employees, shareholders, consumers, and tax authorities.
The corporate responsibility to respect human rights

- Corporate tax avoidance has impacts on govts’ abilities to uphold human rights of their citizens
- But companies can also have more direct impacts on human rights
- Calls for integration with HuRi due diligence process
Example:

- A company’s decision to use tax-motivated debt financing to (artificially) depress the profits of a particular subsidiary could result in reduced wages or job losses.

- UN Guiding Principles for Business and Human Rights call for prevention and mitigation of adverse impacts.

- Indirect ‘access to remedy’ (through gov’t, courts)
Conclusion

- Tax-responsibility is more than the amount of tax paid at year end

- It is an ongoing process, not a check-list

- Ultimate test is how well corporate tax behaviour contributes not only to profit maximisation but also to sustainable development
Get in touch

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Resources

- **ActionAid/Christian Aid/Oxfam**: [Getting to Good – Towards Responsible Corporate Tax Behaviour](#)
- **Business and Human Rights Resource Centre**: [Tax Avoidance Portal](#)
- **International Monetary Fund**: [Spillovers in International Corporate Taxation](#)
- **OECD/G20**: [Base Erosion and Profit Shifting (BEPS) Project](#)
- **Principles for Responsible Investment**: [Engagement Guidance on Corporate Tax Responsibility](#)
Thank you!

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