MAKING TAX VANISH IN NEW ZEALAND

How the practices of consumer goods MNC RB show that the tax system is broken

Big business is able to take advantage of loopholes in global tax laws and avoid tax on a massive scale. This deprives governments around the world of the money they need to tackle poverty and inequality. It means there is less for them to invest in healthcare, education and jobs. This report examines the failings of the global tax system that facilitate mass tax avoidance. It looks at one example of a multinational company (MNC) that Oxfam thinks is not paying its fair share and gives an overview of its practices in New Zealand. It calls on the New Zealand government and business to implement the reforms that are needed to stop MNCs from avoiding paying their fair share of tax in the future.

This country report focuses on RB's practices in New Zealand. To see data and analysis for other countries, see the global report:
O. Pearce. (2017). *Making Tax Vanish: How the practices of consumer goods MNC RB show that the international tax system is broken.* Available at: http://policy-practice.oxfam.org.uk/publications/making-tax-vanish-how-the-practices-of-consumer-goods-mnc-rb-show-that-the-inte-620289

WHAT'S THIS REPORT ABOUT?

In 2017, Oxfam revealed that just eight men own the same amount of wealth as the 3.6 billion people who form the poorest half of the world's population. [1] This stark statistic illustrates the scale of an inequality crisis that undermines the fight against poverty around the world. This briefing examines one of the key drivers of this inequality crisis: the broken tax system that allows multinational companies (MNCs) to systemically avoid tax, robbing countries – rich and poor – of revenue that should rightly be invested to address poverty. Using new research, this country report looks at a FTSE 100 MNC, RB (formerly Reckitt Benckiser), the maker of household-name brands such as Vanish, Durex and Dettol, as an example of an MNC that Oxfam thinks is not paying its fair share of tax, including in New Zealand. This report identifies clear actions the New Zealand government and MNCs can take to act in the interest of their citizens to put an end to the broken tax system.

HITTING THE POOREST HARDEST

Taxing the profits of companies is one of the most progressive forms of taxation. However, MNCs in particular can take advantage of a broken and outdated international tax system to avoid paying their fair share. This deprives governments around the world of the revenue they need to address poverty and invest in healthcare, education and jobs. As a result, tax avoidance hits the poorest the hardest: when public services such as health and education are cut because of low tax revenues, poor people who cannot afford to pay for private services either miss out or are pushed into debt. Reduced quality and accessibility of these essential services means that women and girls often fill the gap through unpaid or low-paid care work. [2] Societies become more unequal, as it becomes harder for those at the bottom to improve their lives and escape poverty. This is especially true in developing countries, where corporate tax revenues account for a higher share of overall revenue. Tax avoidance by MNCs using tax havens[3] is estimated to cost developing countries at least $100bn (*roughly* $154bn NZD) every year.[4]

MAKING TAX VANISH

Tax avoidance by MNCs using tax havens is estimated to cost developing countries at least $100bn USD (roughly $154bn NZD) every year.[5]

Oxfam identified RB as a case study for this briefing through research that surveyed publicly available accounts for FTSE 100 companies that matched preliminary search criteria, looking for evidence of international business activities that may have had tax implications (see Appendix 1 in the main report for details and the full methodology).[6]

RB is a leading MNC producing products for 'health, hygiene and home'. It is a highly successful FTSE 100 company, generating $20bn of revenues in 2016, and its products are sold in over 200 countries. However, Oxfam's research suggests that RB is not paying its fair share of taxes, including in New Zealand. Oxfam is not suggesting that RB has done anything illegal in reducing its tax bills, but the impact of the shortfall in tax revenues means that less money is potentially available for governments to spend on essential public services, an impact felt most keenly in developing countries. RB says that it ‘pays the right amount of tax in each country where we do business around the world’, and that it ‘complies with all our legal obligations and seeks to do what is right by all the company’s stakeholders’ (see **Appendix 2** in the main report for RB’s full response).[7]

RB’S TAX AVOIDANCE GLOBALLYAND IN NZ

Oxfam estimates that RB reduced its global tax bills by around $395m over a period of three years.

RB restructured its business in 2012 and 2014 to create regional hubs in the Netherlands, Singapore (now closed) and Dubai. In doing so, Oxfam estimates that RB reduced its global tax bills by around $395m from 2014 to 2016, including by up to $118m in developing markets. RB says ‘none of its operations are linked to tax avoidance in developing countries’, and that these restructures were motivated by a desire to ‘be close to our customers’ (see **Appendix 2** in the main report for RB’s full response).[8] However, Oxfam believes that a significant business reason was to save tax. Oxfam's research suggests that RB restructured its transfer pricing (manipulating the price of transactions between subsidiaries of the same group) model to avoid taxes. This has been done by funnelling intra-company transactions through the low-tax jurisdictions of the Netherlands, Dubai and Singapore, such that more profit accumulates there, rather than in the countries in which the MNC’s core business activity takes place—and where tax rates are higher.

Tax loss in New Zealand

Oxfam estimates that in the period 2013–15, RB avoided $15.2m of tax in New Zealand.

Oxfam analysed the financial accounts of individual countries where RB conducts business, including Australia, Bangladesh, Belgium, France and New Zealand). Australia and New Zealand were previously covered by the Singapore hub, but this function was transferred to the Netherlands in 2014.

Oxfam has estimated the tax losses for New Zealand based on the differences between the actual net profit margin before tax and a benchmark net profit margin before tax calculated from the company’s net profit margin prior to restructure and applying the NZ statutory corporate tax rate of 28%.

Using this methodology the operating margin and tax costs of New Zealand subsidiary Reckitt Benckiser (New Zealand) Limited dropped after the restructure of 2012. Oxfam estimates that New Zealand lost a total of $15.2m in 2013–15 due to the restructures.

New Zealand							
RB New Zealand	**2009**	**2010**	**2011**	**2012**	**2013**	**2014**	**2015**
Exchange rate: NZD/GBP	0.44563	0.492300	0.49887	0.5198	0.49806	0.501600	0.463430
Operating revenue	110.9	105.0	116.1	125.8	116.7	121.8	126.9
Operating profit	26.7	24.0	25.7	21.4	8.2	8.4	6.3
Operating margin	24.0%	22.8%	22.1%	16.9%	7.1%	6.8%	4.9%
Average operating profit margin 2009 - 2012 (%)	21%						
Tax	6.3	5.7	7.0	4.8	1.2	1.2	1.1
New Zealand tax rate	30.0%	30.0%	28.0%	28.0%	28.0%	28.0%	28.0%
Theoretical operating profit @21% margin (NZ$m)	23.6	22.1	24.5	26.5	24.7	25.7	26.8
Difference in operating profit	-3.1	-1.8	-1.0	5.4	16.5	17.3	20.5
Tax savings on actual operating profit Vs 21% margin ($NZm)	-0.9	-0.6	-0.2	1.5	**4.6**	**4.8**	**5.8**
TOTAL TAX SAVINGS 2013-2015 (NZ$m)							**15.2**

Note: The full name of the subsidiary is Reckitt Benckiser (New Zealand) Limited. Non-deductible impairment expenses excluded from operating profit

Source: The figures are based on Orbis data and the original financial statements.

A CLEAN BREAK

RB states that it is 'inspired by a vision of a world where people are healthier and live better'. [9] Its core business is to develop and market consumer products 'for healthier lives and happier homes'.[10] The MNC runs education and hygiene promotion programmes, such as hand-washing campaigns in India, Nigeria, Indonesia and Pakistan to prevent diarrhoea. RB states that it is committed to helping deliver the UN Sustainable Development Goals[11] three and six, on 'good health and wellbeing' and 'clean water and sanitation', respectively.[12] These commendable commitments and actions are, however, undermined by the MNC's tax avoidance, which deprives governments of the revenues they need to fund essential public services for their poorest and most vulnerable citizens.

RB is certainly not the only example of an MNC not paying its fair share of taxes, and Oxfam does not consider it to be the worst offender.[13] Rather, Oxfam is highlighting the fact that it remains easy for MNCs of many kinds and in many countries to reduce their tax liabilities. A lack of transparency over what profits are made and what taxes are paid by MNCs in every country in which they operate makes it hard to identify abusive tax practices.

RB has an opportunity to put its tax-avoiding ways behind it, and become a champion for fairer tax. As is the case with many issues of corporate responsibility, responsible corporate tax behaviour is not just about regulation, but about values. If RB becomes transparent about its tax strategies and payments, and pays tax in line with where its real economic activity takes place, it can help to tackle poverty and inequality. Likewise, if it becomes a public champion for tax transparency, it could become a leader in international business tax debates, ensuring ‘healthier lives and happier homes’ for millions.

TIME FOR TAX REFORM

While business action is needed, ultimately governments must take responsibility to ensure that all MNCs are transparent about their tax affairs and pay their fair share of tax. Recent years have seen a number of multilateral initiatives aimed at curbing MNC tax avoidance. The most visible of these has been the Base Erosion and Profit Shifting (BEPS) project, led by the Organisation for Economic Co-operation and Development (OECD), which aims to limit the ways in which MNCs can manage their business to avoid taxes. However, its recommendations are a mere sticking plaster on a broken global corporate tax system.

At the European Union (EU) level, discussions are ongoing to introduce public country-by-country reporting (CBCR). But more must be done. The New Zealand government, and other governments, must commit to introducing mandatory public CBCR for all MNCs by the end of 2019, either multilaterally or unilaterally. Many investors, including a number of RB’s,[14] are calling for public CBCR. For example, Legal & General Investment Management Limited – RB’s fourth biggest investor – and Norges Bank Investment Management – RB’s fifth biggest investor – have called for public CBCR.[15] Many of RB’s investors have signed up to the UN Principles for Responsible Investment, which supports comprehensive disclosure on corporate tax payments.[16] This reporting must be public to ensure that civil society and developing country governments get access to the reporting information and can hold multinationals to account. MNCs are also less likely to engage in tax avoidance if they know this information will be made public.

RECOMMENDATIONS

RB’s apparent tax avoidance – using methods that will remain perfectly legal even once current regulatory reforms are put in place – demonstrates the need for new and substantive tax reform. To their credit, the New Zealand Government and many OECD member countries have been working to reduce the tax losses that result from tax avoidance by MNCs. However, the vast majority of measures neglect the impact on developing countries. Oxfam is especially concerned that developing countries have not benefited enough from existing international tax reforms. A new round of tax reforms should therefore prioritize their needs and interests. This will be most easily done through a new, UN-based global tax body, as developing countries will be represented on an equal basis.

In the meantime, there are a number of policy changes that the New Zealand and other governments can instigate to tackle corporate tax avoidance, increasing the likelihood that tax revenues will stay in countries where MNCs like RB actually make and sell their products.

Oxfam calls on governments to implement public CBCR for all MNCs:

- The New Zealand government must set out a timeline for when it will introduce public CBCR in the absence of a multilateral agreement, to ensure implementation by the end of 2019.[13]

Oxfam calls on governments to agree a new round of domestic and international tax reforms that will prevent MNCs from shifting profits.

The New Zealand government should:

- urgently update and strengthen New Zealand's transfer pricing rules to address profit shifting; and
- expand Inland Revenue's Significant Enterprises programme to include all foreign owned companies with turnover in excess of $1 million; and
- join with other governments to adopt more stringent measures to prevent the use of tax loopholes, such as debt-related deductions, to shift profits to low tax jurisdictions.

Oxfam calls on MNCs, including RB, to be transparent about their tax strategies and payments, and to pay taxes in line with relevant economic activity:

- MNC's should publish tax strategies which sets out their approach to tax, and explain how these approaches align with their business purpose and sustainability strategies; and
- publish accounts of all their subsidiaries, including those in developing countries.

NOTES

1 D. Hardoon. (2017). *An Economy for the 99%: It's time to build a human economy that benefits everyone, not just the privileged few*. Available at: https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-economy-for-99-percent-160117-en.pdf

2 K. Donald and R. Moussie. (2016). *Redistributing Unpaid Care Work: Why Tax Matters for Women's Rights*. Available at: https://opendocs.ids.ac.uk/opendocs/bitstream/handle/123456789/7996/PB109_AGID320_UnpaidCare_Online.pdf;jsessionid=5C00113FCEA177205B0CB4F86053535D?sequence=1

3 Tax havens are jurisdictions or territories which have intentionally adopted fiscal and legal frameworks allowing non-residents (physical persons or legal entities) to minimize the amount of taxes they pay where they undertake substantial economic activity. Oxfam's list of tax havens can be found in the report: E. Berkhout. (2016). *Tax Battles: The dangerous global Race to the Bottom on Corporate Tax.* https://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/bp-race-to-bottom-corporate-tax-121216-en.pdf

4 United Nations Conference on Trade and Development (UNCTAD).(2015). *World Investment Report 2015*. Available at: http://unctad.org/en/PublicationsLibrary/wir2015_en.pdf

NZ exchange rate on 30 June 2014 (GBP1: NZD1.97)

5 Ibid.

6 O. Pearce. (2017). *Making Tax Vanish: How the practices of consumer goods MNC RB shows that the international tax system is broken.* Appendix 1. Available at: http://policy-practice.oxfam.org.uk/publications/making-tax-vanish-how-the-practices-of-consumer-goods-mnc-rb-show-that-the-inte-620289

7 O. Pearce. (2017). *Making Tax Vanish: How the practices of consumer goods MNC RB shows that the international tax system is broken.* Appendix 2. Available at: http://policy-practice.oxfam.org.uk/publications/making-tax-vanish-how-the-practices-of-consumer-goods-mnc-rb-show-that-the-inte-620289

8 Ibid.

9 RB. *About Us.* Available at: http://www.rb.com/about-us/

10 RB factsheet. (2016). *Healthier Lives, Happier Homes*. Available at https://www.healthier-lives.com/media/1074/rb_factsheet_2256_eng.pdf

11 United Nations. (2015). *Sustainable Development Goals*. Available at http://www.un.org/sustainabledevelopment/sustainable-development-goals/

12 RB Annual Report 2016. *Purpose with a passion*. Available at http://annualreport2016.rb.com/

13 See Appendix 1 in the global report for an explanation of how RB was identified for this case study. O. Pearce. (2017). *Making Tax Vanish: How the practices of consumer goods MNC RB shows that the international tax system is broken.* Appendix 1. Available at: http://policy-practice.oxfam.org.uk/publications/making-tax-vanish-how-the-practices-of-consumer-goods-mnc-rb-show-that-the-inte-620289

14 Information on RB's investors accessed from S&P Capital IQ on 30 May 2017. RB's UK share register as of register date 3/1/2017.

15 Norges Bank Investment Management. (2017). *Tax and transparency.* Available at: https://www.nbim.no/en/responsibility/risk-management/tax-and-transparency/

Legal and General Investment Management. (2015). *Active ownership: positive engagement to enhance long-term value*. Corporate governance report. Available at: http://www.lgim.com/library/capabilities/CG_Annual_Report_2015.pdf

16 A. Karananou and A. Guha. (2015). *Engagement guidance on corporate tax responsibility: why and how to engage with your investee companies.* Available at: https://www.unpri.org/download_report/8531

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