

# In the aftermath of Panama and Paradise Papers: How do the offshore tax avoidance & evasion work and how can they be prevented?

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## ABSTRACT

The Panama and Paradise Papers reminded the public that tax avoidance and evasion are not some distant and marginal concepts, reserved to dubious businessmen and criminals acting at the edge of law. The recent data leaks showed that renowned corporations as well as publicly known individuals do not content themselves with the tax reliefs granted by tax law. They are exploring gaps and loopholes in the existing tax provisions in order to further reduce their tax burden or avoid it altogether. This paper focuses on offshore tax avoidance practices carried out by MNCs. In their mildest form, tax-planning activities merely correspond to benign tax mitigation. However, the more aggressive their approach is, the more they depart from what one can see as being in line with ethical as well as legal standards. As shown in this paper, legality is the fine line, which separates tax avoidance from illegal tax evasion practices.

Even though tax avoidance is not illegal, we cannot ignore its obvious financial and non-financial impact on global welfare. When computing the financial impact of tax avoidance, scholars usually provide wide ranges, which is symptomatic of difficulties to define tax avoidance as well as of its secretive nature. For instance, the OECD estimates the annual cost to be between 100 and 240 billion US dollar. Similarly, the EU Parliament Research Service suggests a range between 50 and 190 billion euro. Whilst tax revenue losses are the most immediate consequence of tax avoidance, these practices also provide wrong incentives to other taxpayers, thereby having a negative impact on overall tax compliance.

This paper further shows that the traditional unilateral or multilateral solutions to counter offshore corporate tax avoidance are not able to face the challenges of the today's globalized world, consisting of a web of mutually dependent national economies. Alternative approaches, which would rethink the bases of international taxation, as we know it nowadays, appear to be necessary, whereby persisting tax competition between countries could be a double-edged sword. On the hand, tax competition could push countries to act unilaterally in order to secure a competitive advantage against other tax jurisdictions, thereby defeating the universal adoption of the tax reform. On the other hand, tax competition could also lead to a convergence of strategies in order to benefit from advantages offered by the alternative system.

Whilst the discussions regarding the reform of the international tax system are ongoing, we should not underestimate the impact of the public opinion, which has become aware of the tax avoidance issue and could have the potential to push MNCs to abandon at least the most blatant practices.