Ten Reasons to Defend the Corporation Tax.

How the corporate income tax protects democracy and curbs inequality.

. . . and seven myths, busted.

tax justice network

Contents

Photo: John Christensen

Revenue collection is the one which can emancipate us from begging, from disturbing friends… we should not need to disturb anybody by asking for aid….instead of coming here to bother you, give me this, give me this, I shall come here to greet you, to trade with you.

Yoweri Museveni, President of Uganda, 2005.

Taxation, in reality, is life. If you know the position a person takes on taxes, you can tell their whole philosophy. The tax code, once you get to know it, embodies all the essence of life: greed, politics, power, goodness, charity. Everything's in there. That's why it's so hard to get a simplified tax code.

Sheldon Cohen, former U.S. Internal Revenue Service Commissioner

The corporate income tax is **under attack,** like never before

Summary

The corporate income tax is one of the most precious of all taxes. Yet it is under attack, like never before.

As this document explains, it holds your country's whole tax system together. It is one of the best ways to tax capital, and it can powerfully curb political and economic inequalities. It helps rebalance distorted economies, boosting broad-based economic growth and prosperity. It protects democracy. It boosts financial transparency and accountability and curbs criminal behaviour and rent-seeking. It stops large multinational corporations and their wealthy owners from extracting wealth from societies by free-riding off taxpayer-funded roads, education systems, courts and health services. It protects developing countries in particular, boosting self-reliance and curbing their dependence on foreign aid. And of course it raises trillions in revenue, worldwide, which governments use as a basis for providing essential public services.

Many of these things are hard to measure, and often get airbrushed out of the equation. Politicians, and the general public forget them. But they are always there.

In short, corporation taxes make your country a better place to live. It is worth fighting for. The best and easiest approach to the corporate tax is not to abolish it, but to tackle its shortcomings.

This document outlines ten solid reasons to defend the corporate income tax. It also explodes seven popular myths about the tax.

Note to readers: This is a generic document aimed at countries around the world, rich or poor. Please feel free to use or republish any of this material as you see fit: cut and paste sections, adapt it to your country's circumstances, or make it your own. Attribution to TJN would be nice, but we don't insist.

A short summary of this document is available here.

This remains a work in progress. Comments are, as ever, welcome: info@taxjustice.net

The problem

Politicians, commentators, accountants, corporations, think tanks, lobbyists and even some economists push the idea that the corporate tax is a bad, inefficient, growth-killing tax. Many of them urge draconian cuts, and some are even calling for its complete repeal.[1]

Large sections of the world's media, and wider populations, have accepted this story.

Corporate tax rates have been falling around the world.[2] Headline rates, averaging 50 percent in OECD countries in 1980, currently average half that – and falling. For low-income countries the fall has been even more vertiginous.[3]

Meanwhile, a growing feast of loopholes, incentives and other back-door methods are available to help multinational corporations cut their tax burdens, often using tax havens like Luxembourg or Ireland. International efforts to plug some of the gaps are being undermined by lobbying from large global accountancy and law firms, which earn billions from designing ever more elaborate shenanigans to game the global system.

The effective tax rates on multinational corporations are being pushed steadily downwards, allowing multinationals increasingly to free-ride on the public services that everyone else pays for. This free-riding doesn't stop when tax payments hit zero: their effective contributions are in many cases turning negative, with no end in sight.

Box 1: what is the corporate income tax?

When corporations make profits, governments generally seek to levy a portion of those profits as tax, to ensure the corporation pays its fair share towards the public services and protections that have contributed towards those profits. It is generally assessed on the basis of net profits: that is, profits after costs have been deducted. Typical corporation tax rates in countries that are not tax havens range between 20 and 35 percent. We will often call it "corporate tax" in this report.

Box 2: what is a tax haven?

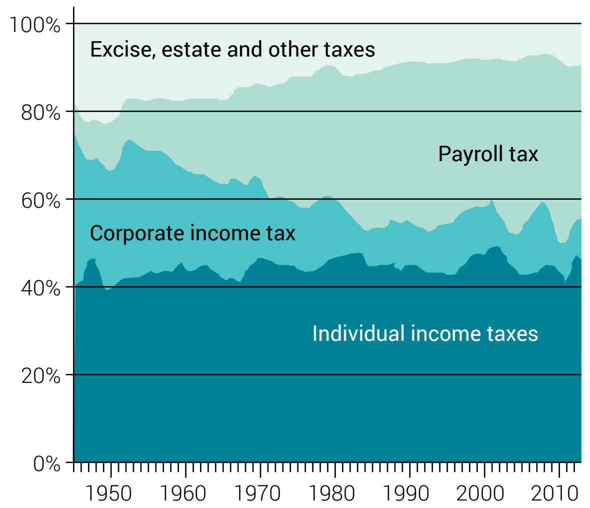
There is no general agreement on what a tax haven is. They are best known for offering low or zero tax rates and loopholes, and secrecy - but they offer other things too: in this report when we say 'tax haven' we are focusing only on the tax aspects unless we indicate otherwise. See our general explainer on tax havens for more details.[4]

Corporate income tax is

worth fighting for...

The benefits of the corporate income tax

Chart 1: The incredible shrinking U.S. corporation tax



Graph created by Center on Budget and Policy Priorities, April 2013

> They're so broke that they've actually cut essential services. In many places, they've cut policemen, because, who the fuck needs them? Or firemen, son of a bitch, it's much more fun watching something burn down.
>
> Lewis Black, U.S. stand-up comedian

1 Revenue

The most widely understood reason to tax corporations is to earn revenue. Governments tend to spend roughly or nearly what they earn over the long term.[6]

Corporate tax revenues make up some ten percent of total tax revenues in OECD countries but in developing countries, conservatively measured, they make up typically 15 percent.[7]

The potential for corporate tax revenues is very large. Taxable corporate profits have soared in most countries since the 1980s, as workers have lost political battles with the owners of capital; as technology has boosted returns to capital; as transnational corporations have used global arbitrage to shake off tax and regulations; as rising commodity prices have boosted commodity-related profits; as inflation has fallen, and amid transfers of widespread public assets to private hands in privatisation programmes.

And yet because of falling tax rates and rising tax avoidance and evasion, corporate tax revenues as a share of national economies have generally stagnated in rich and poor countries, meaning governments are capturing a steadily smaller share of the growing pile of accumulated, uninvested corporate profits and wealth. Lost corporate taxes are increasingly replaced with other taxes that tend to hit the poor hardest.

Chart 1 provides an example of how the corporate tax as a share of total tax revenue has been squeezed in the United States.

Tax-cutters and repealers often advocate replacing the corporate tax revenues with other revenues. But they almost never outline a serious plan to achieve that. U.S. corporate tax revenues alone are forecast at $450 billion in 2015.[8] recouping that would mean fighting battles against armies of other stakeholders elsewhere – made all the more impossible because of the role the corporate tax plays in holding together the whole tax system, as Section 2 explains.

2 Corporate taxes hold the whole tax system together

Corporate income taxes are a crucial backstop to the personal income tax.

If the corporate income tax were abolished, as some have suggested, the corporate structure would become a gigantic tax shelter for the wealthy. They would form shell corporations then claim that their earnings are the income of the corporation, and thus not subject to the income tax. In fact, when the corporate income tax was introduced in many high income countries just before or during the First World War, it was designed to prevent exactly this kind of behaviour.[9]

If the corporate rate is zero or very low, then people — and here we are talking mostly about wealthy individuals — could leave their earnings inside the corporation and defer paying personal income tax on them indefinitely until the corporation pays them a dividend at a date of their choosing, or perhaps never. Those corporate profits will not be effectively taxed over that period.

Wealthy people in many countries could use many ruses to extract wealth from their personal shell companies without paying personal income taxes either. The company could buy things for them, say, or provide "loans" that are never repaid.[10] In some countries, most dividends are already paid out to tax-exempt entities.[11]

So if the corporate tax were abolished, the tax authorities would first need to send out inspectors with butterfly nets to try and track all those proliferating shell companies.

Next, if they wanted to recoup even a fraction of those potential income taxes trapped inside shell companies, they would have to figure out new ways to tax those corporate

> Repealing the corporate tax risks turning the corporate structure itself into a big tax shelter[12]
>
> Jared Bernstein, New York Times

> Only the little people pay taxes
>
> Leona Helmsley, U.S. real estate tycoon

profits on an ongoing basis, requiring heavy-handed games of whack-a-mole to tackle all the devious loopholes that would spring up.[13] The tax system would grow ever more complex, and would increasingly subsidise the rich at the expense of the poor.

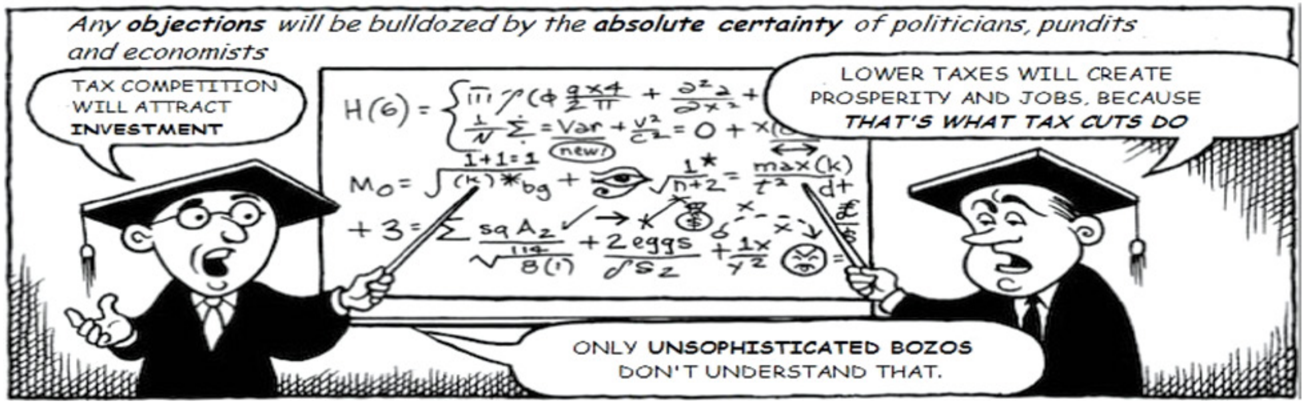
There would be terrible further knock-on effects.

Once people start using the corporate vehicle as a tax shelter, then the tax authorities would come under enormous pressure to cut top personal income tax rates, to reduce peoples' incentives to set up shell companies. As top personal income tax rates fall, the whole tax system becomes compressed: the rich pay less and the poor more to compensate, or fewer schools and roads are built, or deficits rise - or some combination of all these things.

To summarise: A healthy and effective corporate income tax stops the personal income tax being hollowed out and makes sure wealthier people don't escape tax.

The "backstop" role played by the corporate tax is a killer reason that single-handedly demolishes the arguments of the repealers.

Figure 1: Tax cuts and bamboozlement



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3 The corporate tax curbs inequality and protects democracy

The corporate income tax is one of the most progressive taxes a state can levy. It can help curb inequality in and between countries. Research suggests that inequality is not just a problem in itself: it hurts long term economic growth and worsens development outcomes generally.[14]

Corporations are predominantly owned by the wealthiest sections of society in all countries. In the United States, for example, the wealthiest ten percent of people in the country own an estimated 90 percent of corporate stock; the top 1 percent own over half. In some other countries, this may be more extreme.[15]

When developing countries tax TNCs, this nearly always involves net wealth transfers from rich-world shareholders to developing countries.

Many corporate tax-cutters claim that it is workers who shoulder the burden of corporate taxes. This is quite false: the lion's share of corporate tax generally falls on shareholders or owners of corporate capital. (This is explained lower down in this section.)

Unless the corporate income tax could be fully replaced by higher taxes on those same wealthy and influential households – which we've shown is politically unfeasible in the current climate — then corporate tax cuts make inequality worse.

3.1 Corporate taxes also curb concentrations of political and economic power

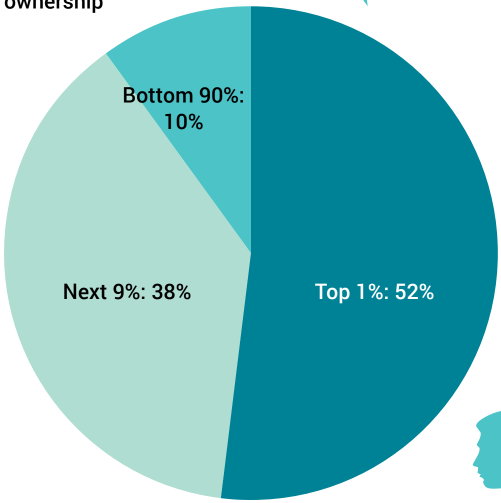
As corporate bosses have won political battles with workers and other stakeholders in their businesses, corporate owners have been able to muscle in on economic returns that would otherwise have gone to employees and society generally through wages, taxes and benefits. This has contributed to widening political and economic inequalities.

It is *after-tax* profits that most directly translate into political (and economic) power, so corporate taxes are logically an

Where there is an income tax, the just man will pay more and the unjust less on the same amount of income.

Plato

Figure 2: The distribution of U.S. corporate stock ownership



Source: Ponds and Streams: Wealth and Income in the U.S., 1989 to 2007, Arthur B. Kennickell, U.S. Federal Reserve; graphical representation created by the Institute for Taxation and Economic Policy (ITEP), Guide to Fair State and Local Taxes, p45

essential tool for rebalancing political and economic power in democracies. Some have argued that this is the most important role of all for the corporate tax.[16]

These problems are widely known, and it seems especially true for the financial sector.[17]

> "There are over 1700 financial lobbyists working at EU level – four for every financial civil servant."
>
> Corporate Europe report, 2014

All this would suggest, too, that corporate taxes in the countries affected by this political 'capture' need to be higher than they are today.

3.2 Who pays the corporate tax? The tax 'incidence' hoax

Some politicians and pundits like to claim that the burden (or "incidence") of corporate taxes falls mainly on workers – implying that the corporate tax is a bad, regressive tax that strikes the poor hardest.[18]

This is quite untrue – as one leading US economist puts it, 'there is simply no persuasive evidence of a link between corporate taxation and wages'. But the argument is commonly made so it is worth addressing here, in theory and in practice.

First, the theory. Those who claim that the burden falls not on owners/shareholders but on 'workers' need to answer the questions below.

- Do they seriously believe that corporate bosses, in this era of weak collective bargaining, would voluntarily pass the benefits of a tax cut onto their workers, instead of feeding the share price and their own stock options? All the evidence points the other way.
  - Corporate bosses always behave as if tax burdens fall on shareholders. Would they spend so much time and energy finding clever ways to dodge tax if they believed that taxes didn't fall ultimately on their shareholders, to whom they are accountable?[19]
- If corporate taxes don't fall on shareholders, then why do shareholders and investment intermediaries behave as if they do? It is easy to demonstrate that share prices respond strongly to sudden unexpected changes in expected corporate tax bills.[20]

> "Most, if not all, of the corporate income tax is borne by shareholders in the form of reduced stock dividends, and high-income Americans receive the lion's share of these dividends."
>
> Citizens for Tax Justice, Washington, D.C, 2013[21]

- Corporations are sitting on oceans of idle cash, as Section 7 explains. Wages are stagnant in many countries: when, exactly, are corporate bosses planning to pass these idle cash hoards on to "workers?" And how would tax cuts change their behaviour?
- If wage rates are set in labour markets, as classical theories suggest, then why would companies change their pay policies by ignoring labour markets and instead responding directly to corporate tax changes? Why haven't they paid them more already?
- Why do the proponents of tax cuts focus only on the narrow issue of labour anyway? The fact that corporation taxes fall (as they do) on different groups in different ways is only a first step in exploring the distributional implications of these taxes. This should instead be viewed in the context of broader society: do or can corporation taxes make the whole tax system more progressive?
- Who are the "workers" on whom these corporate taxes fall, anyway? If it's a profitable capital-intensive firm with a small wage bill and high returns to capital, it will be mathematically impossible for anything more than a small slice of the tax burden to fall on 'workers.' If it's a

hedge fund, or a single-person shell company set up as a vehicle to help its owner avoid tax, then if there is a portion of the corporate tax charge that falls on 'workers,' then it would make the system more progressive overall anyway. If it is highly paid bankers, then corporate taxes will curb the wealth-extracting bonus culture that has fostered widespread risk-taking at taxpayers' expense.

- Many of the 'incidence' arguments rest on the idea that corporate taxes scare away 'investment.' But as Section 3.3 explains, tax-sensitive investment is by definition the least useful stuff: accounting nonsense and paper-shuffling that does not involve very much employment-creation at all.
- If corporate taxes force wages down, doesn't this sit uncomfortably with the fact that effective corporate tax rates have fallen steadily in most countries of the world since the 1980s (see the Introduction), but wages have fallen too, while corporate profits have soared?
- Tax cuts increase the economic resources of corporations. Corporate bosses manage those resources, so tax cuts increase the powers of corporate bosses. Leaving aside the economic arguments, how could corporate tax cuts not boost *political* inequalities?[22]

Now consider how all this plays out internationally. Will tax rises choke off foreign investment, hurting workers?

Consider an African oilfield or a gasfield in Australia. A corporate tax won't scare away the oil company: they will go where the oil is, not where the tax breaks are. This is true of many profitable investment opportunities: an Indian telecommunications licence, say, or a supermarket franchise in Turkey. These are all largely immobile, rooted in the local economy, and won't flee if taxed.[23] And those relatively few that do, in a world awash with idle corporate capital looking for investment returns (Section 7), will generally be replaced soon enough.

3.3 And now, the evidence

On the evidence side, all the lobbying and corporate opinion wielded in support of the proposition that the corporate tax burden largely falls on workers has muddied the debate. Yet as the footnote here shows, numerous independent bodies have concluded after exhaustive studies that the burden largely falls on the owners of capital — that is, predominantly wealthy people.[24]

In short, the corporate tax falls largely on wealthy capital owners. It is a powerful and precious vehicle for reducing inequality, within and between countries.

Given the role that corporate taxes play in curbing economic inequalities, and the growing literature highlighting the fact that higher inequality tends to cause lower economic growth, there is a plausible case for suggesting that corporate tax cuts may hurt economic growth.

4 National tax 'competitiveness' is fool's gold: corporate taxes enhance welfare

Corporate tax cuts, it is commonly said, will make a country more 'tax competitive.' And competition is a good thing, right?

These ideas have been repeated so often that few people stop to question them.

Yet on examination, the 'tax cuts for competitiveness' ideology turns out to be intellectual house of cards founded on simple economic fallacies, woolly thinking, policy-based evidence-making and bamboozlement.[25] And, of course, a strong degree of lobbying.

4.1 Nothing to do with competition

The first thing to understand is that when countries "compete" on tax this has nothing to do with competition as people normally understand it.

Competition between firms in a market, a microeconomic phenomenon, is generally taken to be a good thing. If a company fails to compete, it goes bust. A failed company is sad, but the 'creative destruction' involved in this process is also a source of the dynamism of markets. People who lose their jobs hopefully find other work. The world moves on.

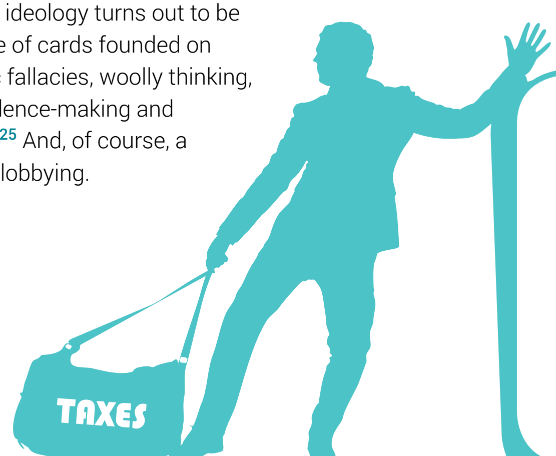
But now consider this.

What is the result if a *country* cannot 'compete'? A failed state?

This process is clearly a completely different beast.[26] A country can't go out of business and disappear.

The subzero-sum game that happens when *countries* pick each others' pockets bears no resemblance to the real gains that can ensue when *companies* beat their competitors by producing things more efficiently.

Tax 'competition' has nothing to do with competition but has more in common with currency wars or trade wars. We prefer the term 'tax wars,' which is more economically literate and more accurately reflects the harm that the process causes.



> I have worked with investors for 60 years and I have yet to see anyone — not even when capital gains rates were 39.9 percent in 1976–77 — shy away from a sensible investment because of the tax rate on the potential gain.
>
> Warren Buffett[27]

"The notion of the competitiveness of countries, on the model of the competitiveness of companies, is nonsense... Lack of competitiveness is nowhere to be found in these highly taxed countries... Competition across the globe in offering such incentives is wasteful and foolish."
Martin Wolf, chief economics commentator, *Financial Times*[28]

4.2 What's good for corporations may not be good for the country

The 'tax competitive' ideology is so popular because it is so easy to sell to a gullible public the old argument that "what is good for General Motors is good for America".

This argument confuses the fortunes of one sector with the fortunes of the economy as a whole. Economists call this the "fallacy of composition."

If one sector in an economy gets ahead by extracting benefits from other sectors, then there is no obvious net benefit to the economy. And this is exactly what happens with corporate taxes: taxes are not costs to an economy, but transfers within it.[29]

Corporate taxes transfer wealth from one wealth-creating domestic sector (corporations) to another (government), which creates wealth through education, roads, sewage systems, courts, the rule of law, and so on. It isn't at all obvious how this internal transfer automatically makes the economy as a whole more 'competitive'.

Corporate tax cuts can create a *loss* of national wealth. For one thing, many of those who receive the benefits of a corporate tax cut will be foreign shareholders:[30] an issue that is pertinent for all countries, but especially developing countries which host investment from largely foreign-owned multinationals. And of course corporate taxes can reduce externalities and rent-seeking, as Section 8 explains.

"Popular incentives, such as tax holidays, subsidised financing or free land, serve only to detract value from those investments that would likely be made in any case."
Mckinsey's Quarterly, 2004 vol. 1

"Taxation is not a significant driver for the location of foreign firms."
IMF[31]

One can make this argument more broadly, by considering all the other costs associated with corporate tax cuts, and the many benefits of the corporate tax outlined in the rest of this document: it holds the tax system together; it regulates and rebalances economies; it curbs inequality and protects democracies against oligarchy and excessive corporate power; and so on.

The arguments don't end here, of course. Many say that even if corporate tax cuts are merely internal transfers, they may still attract or retain enough "investment" to make them worthwhile. Yet these arguments are largely wrong too.

4.3 Real investors don't chase tax breaks

Corporate tax cuts certainly *can* sometimes attract 'investment': and this effect can be particularly strong, on a per-capita basis, in smaller economies. Business people often threaten that they won't invest if taxes aren't cut. But talk is cheap.

So what kind of 'investment' would we expect tax cuts to attract?. Both theory and evidence show that these cuts tend to attract the *least* useful kind of investment: portfolio shuffling and accounting nonsense.[32]

"Google will continue to invest in the UK no matter what you guys do [on tax] because the UK is just too important for us."
Eric Schmidt, Google's boss, on the possibility of the UK raising taxes.[33]

"If Boeing is not naturally inclined, in the absence of a tax incentive, to make its planes safe, you might want to consider that before you book your next flight."
CTJ, after Boeing executives testified that their company it should get a tax break for performing safety tests on its new planes.[34]

Survey after survey finds that genuine foreign greenfield investment - the good stuff that brings jobs, supply chains and long-term engagement and skills transfers to an economy - pays relatively little attention to tax.[35] Oil companies invest where the oil is, supermarket chains go where the consumers are, and technology companies go where the skilled, educated workers are. Niger won't attract car factories just by offering a nice tax package. First-order concerns for investors are usually political stability and the rule of law; healthy and educated workforces; strong infrastructure and good access to markets and resources. Most are substantially tax-financed.

Foreign investment that is tax-sensitive is — by definition — footloose. Skittish, tax-sensitive capital is *least* likely to be well embedded in the local economy. It is *most* likely to be corporate profit-shifting and portfolio shuffling: accounting nonsense that involves profits earned in real countries which are made to reappear, through the magic of accounting, as if they had been earned locally.

This activity is rent-seeking and wealth-extracting, rather than genuinely wealth- and job-creating.[36] And if it is unusually aggressive on seeking tax 'rents', all the evidence shows that it is *also* more likely to be rent-seeking on other areas such as wages, safety, environmental factors, monopoly-seeking and plenty more.[37] The net result of a "locust-style" inward investment well may be harmful to an economy.

4.4 Problems with the studies on tax and investment

Many studies exist looking at whether investors respond to “competitive” corporate income tax cuts. Some suggest that tax cuts boost investment. Others find that there isn’t much of an effect.

Some studies, of course are better than others. Sometimes, measured investment is of the least useful kind, while others are influenced by corporate sponsors and some rely on heroic assumptions.[38]

Many studies ignore a major factor, particularly pertinent for developing countries: much “foreign” investment is in reality ‘round-tripped’ local capital, sent off to a tax haven, cloaked in anonymity, then reinvested back home dressed up as foreign investment to secure tax breaks.[39] The ‘round-tripping’ factor alone means that many studies heavily overestimate investment levels - not to mention the fact that it further underlines the negative impacts of tax breaks, which go to investors who would have invested anyway.

Many of these studies focus on *gross* benefits stemming from a tax cut (i.e. they measure investment levels), without also considering all the tax and other costs as outlined in the rest of this document: lost revenue, damage to other parts of the tax system, steeper inequality, greater rent-seeking and externalities, and so on.

From the perspective of those designing national tax policies - which is the perspective that matters most – it’s the benefits **net of these costs** that matter.

So it is far more useful to look at broader economy-wide measures, such as the effect of corporate tax cuts on overall economic growth.[40]

4.5 Do corporate tax cuts *really* create economic growth?

Here, the evidence of the last 50 years does not readily support the corporate tax-cutters’ case. Studies have found that while corporate tax rates and incentives may in some cases increase investment levels, up to a limited point, they don’t obviously appear to affect long-term economic growth.[41]

The lack of any obvious growth effect for tax cuts may simply be because corporate taxes are typically a relatively small share of the economy[42] relative to the many other key ingredients of economic growth, that it would be surprising if a study could tease out a robust and meaningful effect amid all the background noise.

Yet bigger trends and measures don’t support the tax-cutters’ case either.

One might find more sensible correlations from looking at overall taxes as a share of the economy, which are typically ten times as big a factor as corporate taxes alone. Here, however, tax cuts don’t seem to hinder (or boost) growth either. The results are consistent with the idea that tax is not a cost to an economy but an internal transfer, whose net effect may be neutral, as Chart 2 suggests.[43]

A detailed study by the U.S. Congressional Research Service (CRS) finds similar results, concluding:

> “Changes over the past 65 years in the top marginal tax rate and the top capital gains tax rate do not appear correlated with economic growth.”[44]

As does the OECD:

> “Redistribution (through taxes and benefits) has not led to bad growth outcomes.”[45]

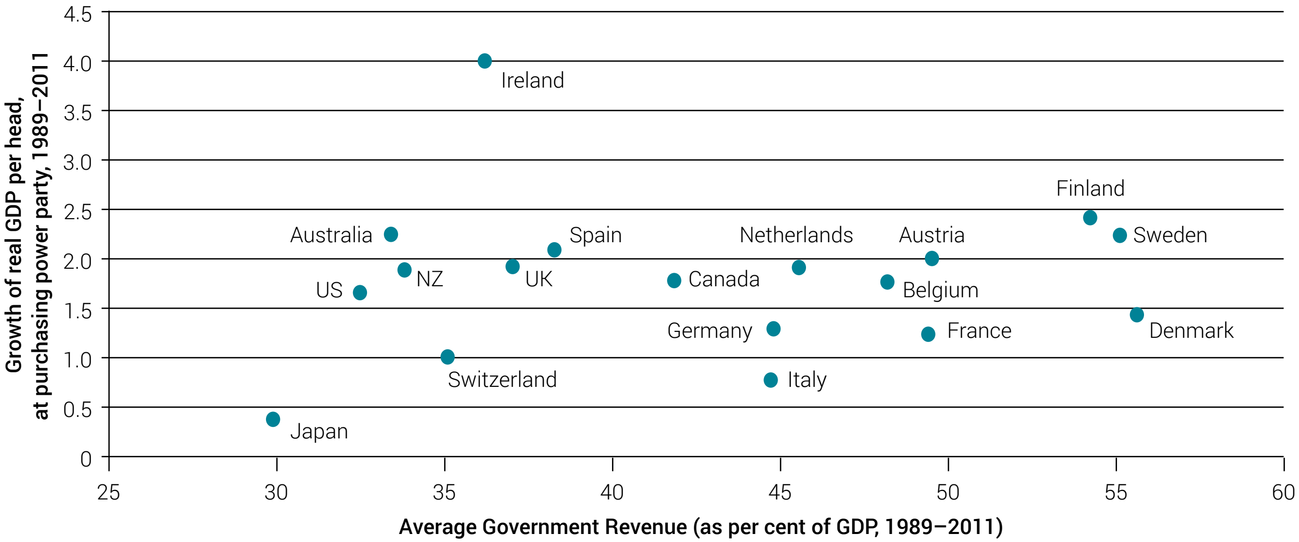
> Most people who use the term “competitiveness” do so without a second thought…. yet countries do not compete with each other the way corporations do… It is simply not the case that the world’s leading nations are to any important degree in economic competition with one another, or that any of their major economic problems can be attributed to failures to compete in world markets.

Paul Krugman, in his 1994 classic article “Competitiveness - a Dangerous Obsession.”

> The evidence that tax treaties attract new FDI into developing countries is inconclusive at best… most of the academic literature on tax treaties and developing countries consists of econometric papers often making herculean assumptions, [or] legal papers that do not always consider realities “on the ground.”

Martin Hearson[47]

Chart 2: Tax and GDP growth



Source: Taxation, Productivity and Prosperity, Martin Wolf, *Financial Times*, May 31, 2012.

What is more, the corporate income tax strongly curbs inequality (Section 4), and there is now ample evidence that inequality hurts economic growth.[46] And, as Section 7 explains, corporations in many countries are hoarding cash and not investing because there isn't sufficient demand for their products as consumers' incomes stagnate or fall; corporate taxes rebalance this equation, cutting into idle cash piles and feeding public investment and consumption, thus boosting demand. All this also pushes against the notion that corporate tax cuts would create growth.

For developing countries, the evidence against corporate tax cuts seems stronger still.[48]

The "Golden Age" of capitalism - the roughly quarter century of high and broad-based economic growth in OECD (and some other) countries that began just after the Second World War - was an era of high corporate taxes (and highly progressive personal income taxes) by modern standards.

When taxes fell after the 1970s, growth fell too. Correlation isn't causation, of course, but this era *does* show that it is possible to have high growth amid high corporate taxes.

To summarise, neither the theory nor the evidence supports the idea that corporate tax cuts will necessarily make an economy more "competitive". Anecdotes regularly wheeled out about tax incentives – notably Ireland and Hong Kong - are not at all what they seem. Box 3 explains.

We can either have democracy in this country or we can have great wealth concentrated in the hands of a few. But we can't have both.

Louis Brandeis, U.S. Supreme Court justice, 1916–1939

I have long dreamed of buying an island owned by no nation and of establishing the World Headquarters of the Dow company on the truly neutral ground of such an island, beholden to no nation or society.

Carl Gerstacker, Chairman of Dow Chemical, 1972

Concentration of income and wealth at the top continues to be the crux of America's economic predicament.

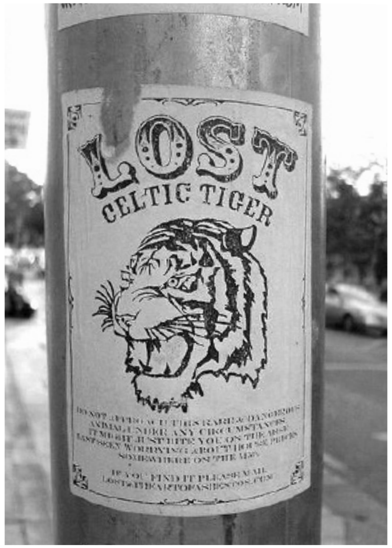
Robert Reich, former U.S. Labor Secretary[49]

Box 3: Ireland, the UK and Hong Kong as anecdotes

Tax-cutters routinely wheel out the example of tax havens such as Ireland as models to follow - and, more recently, the United Kingdom, which has rapidly been turning itself into a tax haven by moving its tax system towards a more ‘territorial’ one (many in the U.S. approvingly cite the UK’s moves as reasons to adopt its own ‘territorial’ tax system.) Hong Kong and other smaller tax havens are also often cited as models.

These are bad models to try and emulate, for several reasons.

- Ireland’s success cannot easily be replicated. Its pre-crisis foreign investment-led growth was most importantly not because of its tax lures, but due to its unique position as an English-speaking gateway into the Eurozone for U.S. corporations, boosted by a multitude of old cultural and family links to the United States. Tax has been a factor in its offering, but if Irish people spoke Swahili instead, and there wasn’t the same depth of cultural and family links to the old country, the U.S. corporate pickings would be a fraction of what they are today. Note that Ireland started offering corporate tax incentives in 1956, but its growth did not start accelerating until around the time when the European Single Market emerged in 1992.[50]
- Another big reason for Ireland’s growth rate, pre-crisis, is massive European subsidies, especially through its Common Agricultural Policy, which helped the once poor country fund infrastructural development and many other public goods.
- A fourth factor in Ireland’s earlier growth was massive immigration of educated Irish and other people, allowing Ireland to free-ride off the taxpayer-funded education systems of other countries.
- The crisis itself revealed the Celtic Tiger to be partly if not mostly made of paper. A huge part of its “miracle” was down to consumption booms predicated on a giant house price bubble, which has now burst.[51] Ireland’s per capita national statistics aren’t *quite* as appalling as they were soon after the crisis hit, but that is partly because there has been such enormous emigration since then.
- Ireland is a tax haven, which has made a substantial living out of picking the pockets of other countries. (It also has a large industry of tax haven deniers.[52]) This isn’t a healthy model to replicate anyway.
- The race to the bottom between countries mean that the activity that Ireland has attracted is constantly under threat, as countries like the UK seek to wrest a piece of the tax avoidance action away from Dublin.[53]
- In many tax havens, particularly smaller ones, flattering GDP growth and income and wealth figures mask a fundamental point: that in many cases much if not most of this wealth and income tends to accrue to a relatively small number of skilled mainly white, male expatriates, only a fraction of which trickles down to the original populations. It’s debatable whether the income and wealth of imported expatriates constitutes should count fully as “national development”.
- Many league tables of wealthy countries, showing tax havens in a flattering light, use Gross Domestic Product (GDP) as a basis for their rankings. Yet this tends to heavily overstate their wealth and income: for tax havens GNP (Gross National Product) is generally the best measure. GDP includes the profits of multinationals recorded there, which (because they are tax havens) cannot effectively be taxed (since their untaxed or hardly-taxed nature is the very reason they are routed through that country.[54]) GNP for tax havens is generally much smaller than GDP.
- The UK’s tax-cutting corporate model since 2010 is a terrible model for anyone to copy - for all the evidence so far suggests that the experiment has been a disaster. The UK government itself estimated that the cuts to the headline rates alone would lose the UK Treasury £7.8 billion annually by 2016/17; other estimates have ranged as high as £10 billion annually. Other aspects of the changes would produce further tax losses to the UK. A Reuters investigation by Tom Bergin in 2014 found seven multinationals that had relocated to the UK and positively identified fewer than 50 jobs that had been directly created from tax-led locations to the UK; one of the tax-based relocations had involved the loss of 600 UK jobs.[55] Bergin could only positively identify one $200,000 tax payment from the seven companies.
- Hong Kong is often cited as a model for tax-cutters: most famously by the U.S. economist Milton Friedman. Again, like Ireland, Hong Kong is rich because of its unique historical position as the pre-eminent offshore gateway into China, and a purveyor of many sleazy practices. Other countries couldn’t possibly replicate this role, even if they wanted to.[56]



5 Corporate tax cuts ricochet around the world

Changes in one country's tax system can affect other countries, directly and indirectly.

As mentioned, some countries cut tax rates on capital in an attempt to attract foreign investment. This happens in several ways, such as cutting corporate tax rates; creating special tax breaks and loopholes; or via lax enforcement of tax laws. Generally, as Section 3 notes, these tax incentives not only don't generally make the host country more 'competitive' but do always actively harm other countries by sucking taxpaying capital out of them.

Countries, browbeaten by multinational corporations and their advisers in the Big Four Accountancy firms, feel that they simply have no choice but to follow suit. Half of all African countries, for example, have laws for tax-free zones today, compared with less than five percent in the early 1980s – and despite all the evidence that free zones are a particularly pernicious form of tax incentive for developing countries.[57]

To take a different example, the United Kingdom has been reforming its corporate tax system since 2010, providing a great tax bonanza for multinational corporations, but at a substantial tax cost to other nations (and to itself, as Box 3 in Section 3 explains). Just one aspect of these changes to the UK tax regime has been estimated to cost developing countries alone some £4 billion directly (over $6 billion) annually,[58] equivalent to nearly a third of the entire UK aid budget.

> ". . . conflating the real gains that arise when things are produced more efficiently with the subzero-sum game that results when exchequers pick each other's pockets."
>
> The Guardian editors 2009[59]

If a larger country like the United States were to adopt a territorial system (or, far worse, repeal the corporate tax, as some have argued), then the damage to foreign countries' tax systems would be many times greater. The U.S. Is already something of a zero-tax haven for non-residents; this would multiply the problems.[60]

Yet the damage does not stop there.

As other countries feel pressure to follow suit, the ricochet effect spreads back to the first mover, which comes under pressure to take further action to stay ahead of the pack. A vicious and devastating new round in the global race to the bottom on tax would ensue - and, as a reminder, this process doesn't not stop at zero (see Section 9): it keeps going downwards, with no end in sight, as subsidies to capital just continue to pile up.

> "A race to the bottom is evident among special regimes, most notably in the case of Africa, creating effectively a parallel tax system where rates have fallen to almost zero."
>
> IMF, 2012[61]

This would affect all countries, with developing countries especially vulnerable, as Section 6 esxplains.

While this is happening, falling corporate tax rates in each country would put pressure on them to cut top personal income tax rates too, as Section 2 above explains.

Overall, the world would see a rapid acceleration of an already vigorous race to the bottom which is lifting more and more wealthy people out of tax, damaging democracy and worsening inequality.

We think this 'ricochet' problem is another killer reason that is sufficient, on its own, to justify a robust corporate income tax.

> "All the evidence suggests that the disadvantages of tax incentives vastly outweigh the advantages and that such incentives are not needed to attract FDI . . . The poor are the ones bearing the biggest burden of these tax incentives. The only ones benefiting from "tax competition" are large corporations.
>
> TJN/ActionAid report, 2012[62]

6 Corporate taxes are particularly important for developing countries

Corporate income taxes tend to be more important for developing countries than for rich ones. Even when natural resource revenues are excluded, corporate income taxes account for some 15 percent of all tax revenues.

Pressures to offer tax cuts, tax incentives and tax loopholes are generally larger and more harmful for them than for rich countries.[63]

> "It is a contradiction to support increased development assistance, yet turn a blind eye to actions by multinationals and others that undermine the tax base of a developing country."
>
> Trevor Manuel, South African Finance Minister, 2008[64]

> "Pay your taxes, and set your country free"
>
> **Michael Waweru, head of Kenya Revenue Authority, Nov 2007**

I know there's empirical evidence that it [a treaty] has no effect on investment, but the reality country-to-country is that there's a bluff that goes on, and countries don't want to take the risk of losing big investments.

Unnamed African treaty negotiator[65]

Taxation, in reality, is life. If you know the position a person takes on taxes, you can tell their whole philosophy. The tax code, once you get to know it, embodies all the essence of life: greed, politics, power, goodness, charity. Everything's in there. That's why it's so hard to get a simplified tax code.

Sheldon Cohen, former IRS Commissioner

Taxes are the primary platform for political negotiations amongst a country's stakeholders.

African Economic Outlook, 2010[66]

For one thing, taxing large, centralised corporations is far easier than chasing after large numbers of poor people, which is made all the harder given the weakness of tax administrations: according to one estimate, Sub-Saharan Africa has one twentieth of the world average ratio of tax officials.[67]

What is more, many developing countries have been pressured by the IMF and others to curb or abolish trade taxes and tariffs, as part of general trade liberalisation measures. The idea was to replace these with VAT-styled consumption taxes, but this led to two major problems. First, the burden of consumption taxes falls most heavily on the poor; second, these consumption taxes typically never made up the shortfall from lost trade taxes. Cutting the corporation tax at the same time would only worsen these issues.

And it is especially true in developing countries that a large slice of the corporate tax falls on (mostly wealthy) foreigners, as Section 3 explained: most multinational shareholders are wealthy people in rich countries. So corporate taxes on TNCs levied by developing countries usually transfer wealth internationally, from rich capital owners to poor countries.

These foreign shareholders benefit from a country's infrastructure and other public goods: the corporate tax is one of the only opportunities to get them to contribute towards this. Multinational companies and their mostly foreign shareholders benefit from massive investment and infrastructure, provision of law and order, development of strong domestic markets with productive workforces; all these facilities are provided through taxpayer funding and companies that don't contribute to that are free riding off others' contributions.[68]

They also tend to make a large share of their profits through arbitraging wage and cost differentials between developing and developing countries: manufacturing goods in low-cost countries and selling them in high-cost ones: the corporate income tax is in many cases the developing countries' only chance to capture a share of those super-normal, arbitrage-related profits.

Some developing countries feel they have to shout louder to get noticed by multinational corporations because of reputational issues, so they feel stronger pressures to take outsize gambles on offering tax subsidies - even though all the evidence shows (Section 3) that these gambles generally don't pay off in the long run. Another major factor causing them to offer tax incentives is corruption and general vulnerability to pressure from powerful global players.[69]

7 A vital tool for rebalancing distorted economies

Corporate taxes play a powerful ongoing role in reducing economy-wide distortions.

First, like some other taxes, they can serve a useful counter-cyclical purpose by rising during economic expansions and decreasing during slumps.

More generally, as Sections 2 and 4 explain, corporate taxes hold the whole tax system together, and curb economic and political inequalities.

It is also fair to say that, as U.S. tax expert Lee Sheppard puts it, "we have an industrial policy in our tax code". Beyond the headline corporate tax rate, there are corporate tax preferences for various activities, creating an overall system that can be tweaked to support or discourage some activities relative to others, and to rebalance economies in various directions. This is an essential mechanism, even if the tool is often poorly wielded.[70]

These roles for the corporate income tax are all fairly well known. But another is often overlooked.

Corporations worldwide are currently awash with cash. Listed companies worldwide held some $3.5 trillion worth in 2014, and this appears to be a long-term trend: consultants Bain & Co. call this an era of "capital superabundance." In addition, they are engaging heavily in using their cash to buy back their own stock, rather than investing. This cash hoarding and stock repurchasing, rather than investing productively (or paying higher wages), is a key reason why wealth is not trickling down, and why economic growth in many countries has been disappointing for so many years.[71]

Traditionally, corporate tax cuts are supposed to spur investment. But in this era of capital superabundance, corporate tax cuts are likely to have the effect of pushing on a string. At what point exactly — and for what reasons — are corporate tax cuts supposed to prompt corporations to suddenly stop adding to their cash piles and invest productively?

Furthermore, this rhetorical question suggests that corporate taxes in the current environment should be just the tonic that sluggish economies need.

This is because corporate taxes transfer money away from a corporate sector that is letting it sit idle, into the hands of a government sector that has a democratic mandate to put revenues straight to work.[72] Government spending on children's education and building roads, and so on, transfers money into the hands of workers and stimulates demand for private sector output.

Corporate taxes, boosting spending and thus consumer demand, are thus likely to rebalance economies and spur corporate investment, economic growth, and welfare: exactly the kind of stimulus that demand-deficient countries need right now, and perhaps for the foreseeable future.

Indeed, some governments are starting to recognise these arguments and are explicitly targeting corporate cash piles through conditional tax hikes.[73]

One might argue that corporate taxes should be seen explicitly as a long-term tool for rebalancing economies: when capital is scarce, as in the 1970s, corporate taxes could be cut; and in times of over-abundance of capital, such as today, higher corporate taxes could help bring the economy back to balance.

8 The corporate income tax helps addresses rent-seeking

Many corporations earn what economists call rents: unearned windfalls that are, as Adam Smith put it, the income of men who "love to reap where they did not sow."

Rent-seeking involve getting something for nothing: wealth *extraction* rather than wealth creation.

Examples include profits obtained by using monopolistic control over markets to raise prices and extract wealth from consumers; or rigging foreign exchange markets; or reaping huge rewards for lobbying to extract a subsidy from a government; or engaging in an unproductive tax avoidance scheme, or receiving extra oil windfalls when the world oil price goes up.[74]

Rents foster bad governance, damage entrepreneurialism, and sap innovation and the will to work. Economists since Adam Smith generally advocate taxing rents especially heavily, if possible.

The corporate income tax is a superb way to tax rents. Although the tax in itself doesn't directly differentiate between rents and more productive form of income,[75] it will tend to target rents disproportionately. This is because wealth extraction is generally more rapidly profitable than wealth creation, since the latter generally requires (often costly) investment, while the former rarely requires significant investment, allowing very high rates of return on capital.

In fact, when corporations avoid or evade tax and free-ride off the public services paid for by others, they are extracting wealth from taxpayers and rent-seeking.

So the corporate tax, by taking a bigger bite out of wealth-extracting activities than more productive ones, helps rebalance economies towards more productive ends.

9 Tax cuts and subsidies don't stop at zero

The main reason why corporate tax rates have fallen so far since the 1980s is a process that has come to be known as 'tax competition'. Countries mistakenly think it is generally a good idea to try and tempt investment from around the world by cutting taxes on corporate income and on capital. This promotes a 'race to the bottom' a race that as Section 3 explains has nothing to do with market competition but is more like currency wars or trade wars. (We prefer the more economically literate term 'tax wars,' like the Brazilian term *Guerra Fiscal*,) instead of the traditional tax 'competition'.)

Tax wars have no redeeming features.[76] They harm other countries, generate a subservient attitude to mobile global capital, generate higher inequality with no corresponding growth benefit, and tend to delivers no overall prosperity among those countries that engage in the game.

As tax wars progress, corporations harvest a growing cornucopia of tax and non-tax subsidies. Their direct fiscal contributions to the societies where they operate do not stop at zero: they turn negative, and get steadily more so.[77] There is no limit to the extent to which many corporate actors wish to free-ride off taxpayer-provided public goods and services.

One might ask: if it is a good idea to tax corporation income only at 10 percent, why not 5 percent? If 5 percent were a good idea, then why not zero? And if zero is a good idea, why not minus five: why not give them a dollar for every dollar of profit they report locally. And why stop there?

Clearly, engaging in the race to the bottom on corporate tax is a fools' errand.

For example, many of the U.S. 288 Fortune 500 companies that have been consistently profitable between 2008 and 2012 paid negative taxes over some or all of that period, as Figure 3 shows.

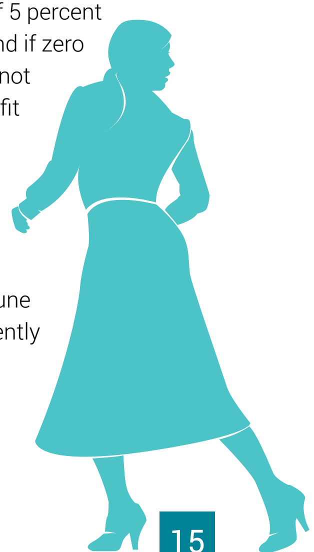


Figure 3: The fall to below zero

26 U.S. Corporations paying no total income tax in 2008–20012			
Company ($millions)	08–12 Profit ($)	08–12 Tax ($)	08–12 Rate (%)
Pepco Holdings	1,743	−575	−33
PG&E Corp.	7,035	−1,178	−16.7
NiSource	2,473	−336	−13.6
Wisconsin Energy	3,228	−436	−13.5
Gerenal Electric	27,518	−3,054	−11.1
CenterPoint Energy	4,078	−347	−8.5
Integrys Energy Group	1,623	−133	−8.2
Atmos Energy	1,486	−114	−7.7
Tenet Healthcare	854	−51	−6.0
American Electric Power	10,106	−577	−5.8
Ryder System	1,073	−51	−4.7
Con-way	587	−21	−3.5
Duke Energy	9,026	−299	−3.3
Priceline.com	557	−17	−3.0
FirstEnergy	7,236	−216	−3.0
Apache	7,580	−184	−2.4
Interpublic Group	1,305	−28	−2.1
Verizon Communications	30.203	−535	−1.8
NextEra Energy	11,433	−178	−1.6
Consolidated Edison	7,581	−87	−1.1
CMS Energy	2,471	−26	−1.1
Boeing	20,473	−202	−1.0
Northeast Utilities	2,820	−19	−0.7
Corning	3,438	−10	−0,3
Paccar	1,711	−1	−0.1
MetroPCS Communications	1,956	−1	−0.1
Total	**$169,504**	**$−8,676**	**−5.1%**

Table source: Citizens for Tax Justice, *The Sorry State of Corporate Taxes, 2014.* These negative rates are substantially due to timing differences; over the very long term, aggregate corporate tax payments are unlikely to fall much beyond zero. Factor in non-tax subsidies, however, and net direct contributions can be very negative.

10 The corporate income tax spurs transparency and accountability

States that tax corporations have strong incentives to make sure corporations keep proper accounts of their activities, and to penetrate the corporate veil to find out who are the genuine, warm-blooded owners behind them. In fact, this has been one of the declared purposes of the corporation tax in some countries.[78]

As one account puts it: "From the very earliest history of the corporate income tax, people have praised its ability to serve as a tool to regulate the corporation. Proponents of a corporate income tax in 1894 [in the U.S.] predicted that one of its benefits would be the 'salutary' influence it would have on corporations by establishing a means of federal oversight… President Taft noted that one of the merits of the tax was "the federal supervision which must be exercised in order to make the law effective over the annual accounts and business transactions of all corporations."

It is no coincidence that in many tax havens, a lack of corporate taxes goes hand in hand with a lack of information about accounts or underlying economic activities or corporate owners. Tax havens often charge corporations simple annual registration fees but little more. Without a corporate income tax they don't feel the need to vet corporations properly and demand proper accounts to find out if they are paying what they owe.[79] The result is secrecy, which in turn creates a criminogenic environment, thus encouraging criminal behaviour.

So the corporate tax can spur the development of accountable systems that are able to track not only corporate profits, but nefarious activity too.

"On current trends, the corporate tax is set to disappear from the world".

Adapted from Keen, Konrad (IMF), 2012.

Subsidy packages routinely exceed $100,000 per job. Guess who's getting stuck with the tab.

Greg LeRoy, Good Jobs First, 2005

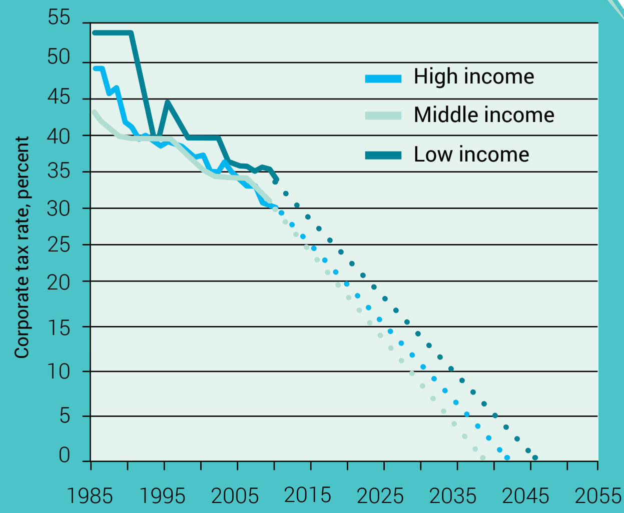
Every citizen of the state of Washington can proudly say that they pay more taxes than Boeing

Bob McIntyre, Citizens for Tax Justice

One woman selling beer outside SABMiller's brewery in Ghana paid more income tax last year than the multi-million pound brewery.

Calling Time: ActionAid report on SAB Miller's tax affairs

Chart 3: The Road to Plutocracy: how corporate tax rates are falling



Mythbusting

The previous section outlined ten positive roles that the corporate income tax plays in an economy and society.

The next sections provides responds to the many and varied attacks that have been made on the corporate income tax, and to those who argue that tax avoidance and evasion are perfectly acceptable.

1 Myth: "Tax avoidance is legal, so what's the problem?"

Tax evasion, by definition, involves illegal activity. Tax avoidance, by definition, involves activity that is not illegal but also (by definition) involves getting around the spirit of the law.[80]

Journalists and pundits investigating or reporting on a particular company's tax shenanigans will often call this activity 'tax avoidance' and may go on to label it as "perfectly legal" or, worse, "perfectly legitimate."[81]

They are usually factually wrong to say this.

When a corporation takes special steps to minimise its tax bill, whether using offshore tax structures or not, they frequently obtain a legal opinion that says it should *probably* succeed if challenged in court — but that there is a risk that it might fail. Common schemes, often aggressively marketed by Big Four accountants and others, range from the mildly off-colour to the downright fraudulent.[82]

Corporations often go ahead despite the risk and hope to get away with it: they know that relatively few arrangements get challenged.[83]

But the tax shenanigans that get exposed and investigated by journalists and others typically cannot be shown to be either legal evasion or illegal avoidance.

The best that can be said for most of this activity is that it has **not been shown** to be illegal. That is not at all the same as saying it's 'perfectly legal'.

It is an uncertain area of 'tax risk.' Mostly, this stuff doesn't get challenged, and we never find out where to draw the line.

In the ongoing "Luxembourg Leaks" scandal, for instance, many reported without question the claims by former Luxembourg Prime Minister Jean-Claude Juncker that, as the BBC summarised, "nothing that happened in Luxembourg was illegal."

This statement is not just disingenuous, but false. Indeed, a UK tax expert told us that what had been exposed in Luxembourg was "possibly the biggest mass tax crime ever."[84]

There are cases where the commentator can establish beyond doubt that the scheme was merely taking advantage of existing facilities deliberately set up by parliament for that very purpose.[85] But even here this is often not the end of the story: multinational tax

> "The Luxembourg Leaks scandal may have exposed "possibly the biggest mass tax crime ever."
>
> Richard Brooks, former UK corporate tax inspector and journalist

> As a businessman I never made an investment decision based on the tax code... If you are giving money away I will take it. If you want to give me inducements for something I am going to do anyway, I will take it. But good business people do not do things because of inducements."[86]
>
> Paul O'Neill, former head of Alcoa and U.S. Treasury Secretary under President George W. Bush

avoidance often involves complex structures involving three or more jurisdictions: what was legal in Luxembourg is not necessary legal in all the other jurisdictions involved.

But unless the commentator is very sure of his or her ground, it's preferable to use other terms, such as 'tax abuse' or 'tax cheating,' instead of 'tax avoidance.' Using this language brings into the frame the all-important *economic* questions of who is escaping the economic burdens of taxation, and sidestepping the narrow questions of legality, which has probably not been established one way or another. A tax avoidance scheme by a global oil multinational that has the purpose of depriving a developing country of large revenues is clearly abusive and wrong, whether or not it would stand up if challenged in court.

Once all this has been considered, then also remember that what is legal is not necessarily *legitimate* (think Apartheid or slave trading in their day.) And quite often the laws have been shaped by extensive corporate lobbying.[87]

2 Myth: taxes are too high; tax cuts won't stop avoidance or curb 'offshore'

It is often asserted that corporate tax rates are 'too high' and that, if only they were lower, and countries were more like tax havens, then corporations would avoid less tax and would 'bring the money home' from tax havens.

These alluring ideas are demonstrably false. The truth may, counter-intuitively, be exactly the opposite.

Those arguing that corporate tax rates are 'too high' might also like to explain why tax avoidance and evasion, and the use of tax havens, has exploded around the world since the 1980s – amid tumbling tax rates.[88]

This trend is not particularly surprising: all the evidence demonstrates that tax avoidance generally happens for reasons other than the tax rate: notably the ease of doing so, the rising availability of widespread tax 'planning' advice, the 'shareholder value' revolution making corporate bosses disregard other stakeholders, the pressures of 'tax wars' (see Section 3) - along with prevailing ideology, culture and attitudes towards the acceptability of tax avoidance.

As tax cuts, loopholes and special tax incentives proliferate, the ease and frequency of tax avoidance grows, and it becomes more acceptable.

> "Tax cuts are fun, but I never saw a tax cut put out a fire. I never saw a tax cut make a bridge"
>
> Barney Frank, U.S. Democrat member of the House of Representatives, 2011

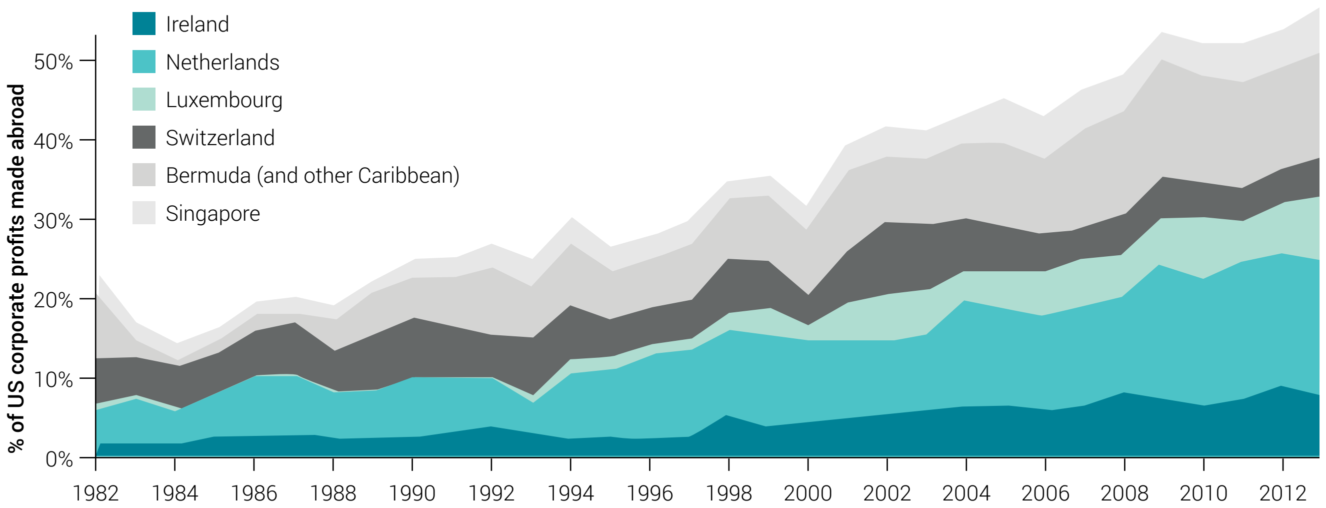
And, as Section 2 explains, if corporate tax rates fall far enough below personal income tax rates, wealthy folk start reclassifying their personal income as corporate income, to avoid the higher rate. The provision of special tax incentives to attract overseas money often generates substantial 'round-tripping' (see Section 3.4) that involves widespread tax evasion.

For all these reasons, corporate tax cuts and offering special tax incentives and loopholes may well lead to *more* avoidance activity overall, not less.

Not only that, but why would a corporation paying 25 percent be any less energetic in reducing its tax bill than one paying 30 percent? Corporate bosses constantly aim to cut their tax bills, in line with what they can get away with. Cutting corporate tax rates merely moves the bar lower. There are already plenty of zero-tax havens: and cutting rates won't help if the other choice is zero.

Going further, Section 3 explains how tax cuts or loopholes won't generally make countries more 'competitive' or bring genuine and useful business "back home" either: it merely attracts accounting nonsense, since most of the genuine activity was never happening offshore anyway.[90]

Chart 3: the share of tax havens in US corporate profits made abroad



Source: Gabriel Zucman, 2014[89]

Tricky tax incentives and "territorial tax" aren't the answer.

There are proposals out there that don't seek to abolish the corporate income tax or even cut the headline rate, but seek to achieve similar ends in trickier, less visible ways.

Myriad tax incentives exist, such as the "patent box" which is supposedly to encourage "innovation" but as tax advisers admit, is really a way of getting around democratic debate[91] so as to achieve tax cuts for a favoured sector.

Another widespread approach, going by the name "territorial taxation," works as follows.

Countries tend to tax their multinationals under two broad approaches: 'worldwide' taxation and 'territorial' taxation.

Under a 'worldwide' approach, a locally-headquartered corporation pays tax on all its worldwide income, but with credits for foreign taxes paid so the same income isn't taxed twice. Under a pure 'territorial' approach, the country only taxes that portion of the multinational's income that is sourced locally; income derived from foreign sources is exempted from tax. In theory, other countries should tax that income anyway; but in practice it's typically sent to tax havens so it doesn't get taxed. In fact, adopting a purely territorial tax system is a partial step towards full repeal of the corporate income tax, by the back door, via a mechanism that is complex and not widely understood - and therefore less likely to be subject to strong democratic pushback.

Most countries' tax systems are a hybrid of both kinds.[92] But under a pure or mostly pure 'territorial' system, corporations would have a world of new opportunities to escape tax, simply by shifting their profits offshore.[93]

Territorial tax systems tend to encourage companies to invest abroad, and to shift profits artificially into low-tax countries, and also encourage countries to 'compete' to attract investment by offering tax breaks.[94] The primary beneficiaries of territorial taxation systems tend to be banks and multinational corporations.

It should be no surprise, then, that lobbyists are successfully pushing some countries, notably the U.K. at the moment, down this route; there are powerful efforts to try and push others, notably the United States, to follow suit.

For all the reasons outlined in this document, territorial taxation, implying hefty corporate income tax cuts, triggering other countries to follow suit — is generally a terrible idea.[95]

3 Myth: tax is theft

Some people argue that tax is a form of theft from people who have earned their wealth or income through hard work. This generic argument is complemented with a second, more specific one, that "The people who run my government are all thieves."

Lets deal with the first argument first. Put most simply, tax is not theft if you receive something in return. It is a payment for services provided: roads, educated workforces, police and armed forces, courts, universities, and so on.

From another perspective, states are, made up of citizens. If tax were theft, then one would in this sense be stealing from oneself.

The corporation is the core institution of modern capitalism. Incorporation (that is, being legally recognised and accepted as a corporation) confers a bundle of privileges — including limited liability, which protects shareholders from suffering bottomless financial losses from the companies' mistakes and miscalculations. Other protections include taxpayer guarantees for large banks, and bailouts when things go wrong.

These protections are a central factor underpinning corporations' growth and profits. They directly shift significant risks onto wider society - and so

> Taxes are the price we pay for civilization.
>
> Oliver Wendell Holmes Jr., U.S. Supreme Court justice

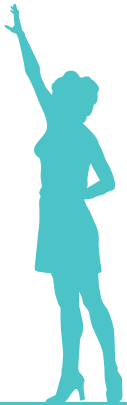
> (News Corp's) profits, declared in Australian dollars, were A$364,364,000 in 1987, A$464,464,000 in 1988, A$496,496,000 in 1989 and A$282,282,000 in 1990. The odds that such figures were a happy coincidence are 1,000,000,000,000 to one. That little grace note in the sums is accountant-speak for 'Fuck you.' Faced with this level of financial wizardry, all the ordinary taxpayer can do is cry 'Bravo l'artiste!'
>
> John Lanchester, London Review of Books, February 2004

Tax is not a cost to a company. It is a distribution out of profits. That puts tax in the same category as a dividend – it is a return to the stakeholders in the enterprise. And companies do not make profit merely by using investors' capital. They also rely on the societies in which they operate.

Richard Murphy, Director, Tax Research, November 2007

The grand art consists of levying so as not to oppress.

Frederick the Great of Prussia



corporations should pay society for these, a bit like buying an insurance policy.

Consider this from the perspective of society.

The production process generates economic surpluses, which need to be apportioned to those that contributed to them. The providers of finance capital receive a return; the providers of human capital (workers) receive a return through salaries and other compensation; and the providers of social capital (education, healthcare, security, social infrastructure and so on) receive a return. Again, most people would recognise this basic bargain as perfectly fair.[96]

The way these returns are shared out depends on politics, power, negotiations and bargaining. But there should be no presumption that any one set of stakeholders (i.e. the shareholders) are the default recipient of profits.

Whose rights to tax?

One can also make a more philosophical set of arguments here. Some anti-taxers argue that people have full rights to their pre-tax income, and that governments extract taxes via theft.

But what kind of rights could people or corporations have to their full pre-tax incomes? Legal rights? Or moral rights?

Obviously there is no legal right: the law says you must pay your taxes.

Is there a moral right?

No. The rest of this document provides enough material to rule out such a moral right. And few would accept that there is morality in a situation where a global oil giant extracts large profits from an oilfield in a desperately poor country, but pays few or no taxes on those profits, stripping out its wealth.

One can apply that more generally to a range of situations.

"Paying taxes is a pain, no doubt about it, but its less of a pain if everyone bears their fair share. Its intolerable, however, when not everyone pays their contribution: and the poor end up paying for the rich… One thing that amazes me, in these conditions, is that all the poor and the native peoples haven't simply switched sides to the Barbarians."

Salvien of Marseille, 5th Century, a priest who studied the underlying causes of the fall of the Roman empire.[97]

Finally, markets and the property rights that anti-taxers appeal to, depend utterly on states. States create property rights: to appeal to property rights is to appeal to the state to argue that tax involves theft by the state. The reasoning does not stand up either.[98]

The people in my government are thieves.

State funds often are wasted or even stolen, particularly in poorer countries. But they usually provide some useful services, such as paying teachers or police to keep criminals at bay. Tax has also historically always played a central role in the long, often painful process of state-building. The slogan 'no taxation without representation' reflects that when people are taxed, they demand accountability in return. And the more unfair and tilted towards the wealthy a system feels, the more that corporations extracting profits there should shoulder some taxes. What is really needed is more transparency over tax payments."

To tax and to please, no more than to love and to be wise, is not given to men.

Edmund Burke, 18th Century Irish political philosopher and British statesman

"Why is it that if you take advantage of a corporate tax break you're a smart businessman, but if you take advantage of something so you don't go hungry you're a moocher?"

Jon Stewart, U.S. comedian[99]

4 Myth: the corporate tax is unfair "double taxation"

In many countries, individuals are taxed on the dividend income that they receive from corporations, which also pay the corporate income tax.

Some people argue that this constitutes unfair 'double taxation.'

This argument is a blind alley, for two reasons.

First, much if not most dividend income never gets taxed.
For example, in the U.S., two thirds of the profits corporations pay out as stock dividends go to tax-exempt entities like retirement plans.[100]

When the owners of shares live overseas their dividend payments generally are not taxed at source. All too often,
the owners' holdings are structured via tax havens so as to find ways to evade or avoid taxes in their home countries. The corporate tax ensures the multinationals pay some tax.

"Most of the clients I worked with held their wealth through offshore holding companies and trusts; dividends were paid to these offshore structures, which rarely paid tax. It is so easy to evade tax like this."

John Christensen, formerly an offshore company and trust administrator, now Director of the Tax Justice Network

If the corporate income tax were abolished, a large slice of corporate profits would never get taxed at all: alleged 'double taxation' would become 'no taxation' for the wealthy.

Second, Economics 101 explains that there is a circular flow of income in an economy.

To over-simplify, companies earn economic profits, which they pass on to their employees and their shareholders, who spend it and contribute to corporations' profits. Money goes round, and it gets taxed periodically as it pops up in different places.

If one says that taxing corporations means indirectly taxing someone else, then it is true of every tax. People pay tax on their salaried income, then pay tax again when they buy things: through VAT, excise duties, fuel surcharges, car taxes and so on. Equally, income taxes paid by humans could be seen as an indirect tax on the shops there they might otherwise spend the money.

This argument goes nowhere useful.

And why are those complaining about 'double taxation' only focusing on the corporate income tax, which falls largely on wealthy people, but not complaining about "double taxation" involved in VAT, which falls heavily on the poorer sections of society?

In short, this 'double taxation' argument is not even meaningful.[101]

A better way to think about tax comes via what is known as "Colbert's Goose:"

"the art of taxation consists in so plucking the goose as to obtain the largest possible amount of feathers with the smallest possible amount of hissing."

Repealing the corporate tax, and trying to recoup those lost taxes elsewhere, would result in a lot of purring from the wealthiest citizens, accompanied by a lot of hissing from those lower down the income and wealth ladder.

Corporations are people, my friend

Some also claim that corporations are merely bundles of contractual obligations or "nexus of contracts" - and therefore that the corporate tax is merely an indirect tax on people - with the implication that it's better just to tax the people directly instead.

It is important to unpack this thinking.

First, from an economic perspective a corporation is clearly more than the sum of its parts. Why would anyone set them up otherwise? (See Section 4 discussing tax 'incidence' for more on the economic aspects of this question.)

Legally, they are separate persons. From the point of view of the legal machinery underpinning the economy, corporations play their own role, just as humans do. They own money

It is not very unreasonable that the rich should contribute to the public expence, not only in proportion to their revenue, but something more than in that proportion.

Adam Smith on progressive taxation

themselves, not just on behalf of their shareholders. They can save it, spend it, pay workers more, waste it, invest more or less of it, give it away, or hoard it — just like a person can.

They should be taxed as separate persons. Myth 4 also explains how the corporate income tax is not usefully seen as 'double taxation', as some claim.

5

Myth: the corporate tax is inefficient and should be replaced by VAT

Much ink has been spilled in efforts to paint the corporation tax as inefficient: that it distorts economic activity from some hypothetical 'pure' state, and that it is messy and complex to administer.

On a narrow perspective, these statements hold some truth. In a world full of tax havens, the corporate income tax is certainly complex and very difficult *to administer*, particularly for multinational corporations — as the recent Luxembourg Leaks story reminds us.

Yet it is also true that the corporation is efficient by virtue of being a centralised tax collection agent. The alternative to taxing a corporation would be to send out tax inspectors with butterfly nets to tax large numbers of shareholders spread across many countries, which would also be very complex to administer, particularly for developing countries.

Many people have argued that corporation taxes should be cut and replaced with Value Added Tax (VAT.) This has long been the advice of the IMF and others. There is a place for VAT within a tax system, but its biggest drawback is that it is regressive: it falls most heavily on the poor and most lightly on the rich. Getting the poor to pay the taxes that the rich don't feel like paying is a bad general prescription for broad-based prosperity.

Ease of administration is still just one particular aspect of overall efficiency. For all the many reasons outlined in this document, abolishing the corporate tax or cutting it to very low levels would amplify and produce a range of other costs, distortions and inefficiencies.

> "The idea of repealing the corporate tax seems to have just one virtue, which is that it's simplistic enough to fit into a blog post or op-ed. In every other way this idea is terrible."
>
> Steve Wamhoff, August 2014[102]

Corporate tax cuts or avoidance also cause losses, distortions and inefficiencies in other areas.

If workers or consumers pay higher taxes (or there are fewer roads and schools, or higher deficits) on account of lower corporate tax revenues, then according to economic theories this reduces their incentives to work and consume, and will create 'deadweight' losses elsewhere.[103] Factor in the deadweight costs of all those tax consultants making jam out of the complexity that would ensue from abolition of the corporate tax — not to mention all the other factors outlined in this document — and the "deadweight costs" of abolishing or severely cutting the tax become larger still.

What does 'tax efficient' mean anyway?

While on the subject of tax avoidance, it is worth considering corporate tax avoidance, which is commonly described as "tax efficient."

The question is: efficient for whom?

Taxpayers elsewhere shoulder the burden of corporate tax cuts. Corporate tax cuts or avoidance don't do anything to help anyone, anywhere, produce a better product or service: instead, corporate tax cuts or special tax regimes help capital holders extract subsidies from other taxpayers, elsewhere.

For corporate bosses, tax avoidance is like refined sugar in the human body: empty financial calories with adverse long-term health effects for the corporations. It lets corporate managers take their eyes off the primary responsibility – producing better or cheaper goods or services – to focus instead on the short-term sugar hit of tax engineering to boost this quarter's Earnings Per Share.[104]

Worse, tax-avoiding multinationals use these tax subsidies and schemes to out-manouevre and eliminate their smaller, locally-based competitors, which are typically the true innovators and job creators. The cheats and free-riders prosper and the innovators and job creators suffer. It promotes the big at the expense of the small, boosts monopolistic market powers, thus distorting and corrupting markets and stifling true market competition.

> "When they do not pay their taxes, someone else does—you and me."
>
> Ronald Reagan, 1983[105]

> "The greater the loss that could be concocted for the taxpayer or investor, the greater the profit for the tax promoter. Think about that -- greater the loss, the greater the profit. How's that for turning capitalism on its head!"
>
> US Senator Carl Levin, Feb 2007[106]

All this pushes against the grain of David Ricardo's theory of comparative advantage, which says that capital and production ought to gravitate to where it is most genuinely productive: cheap manufactures from Bangladesh or China, say; or fine wines from France and Chile. Instead, companies relocate or shift profits to where they can get the biggest tax subsidies.

Tax avoidance and evasion and tax haven activity distort markets, undermine respect for the tax system and the rule of law, and corrupt faith in the market economy.

Why would anyone want to encourage *any* of this for reasons of 'efficiency'?

The president and his advisers seemed to believe that tax cuts, especially for upper-income Americans and corporations, were a cure-all for any economic disease—the modern-day equivalent of leeches.

Joseph Stiglitz, December 2008[109]

6 Myth: corporate bosses have a fiduciary duty to minimise taxes

It is sometimes asserted that corporate managers have a fiduciary duty to their shareholders to avoid tax.[107] This is false.

For the United Kingdom, the Tax Justice Network obtained a formal legal opinion from the Queen's own law firm demonstrating that there is in law no such fiduciary duty. It seems, too, that the same is the case in the U.S.: the all-important Delaware courts have explicitly asserted that "there is no general fiduciary duty to minimise taxes." U.S. law is generally less shareholder-friendly than in the U.K.[108]

This is hardly surprising. Imagine if fiduciary duties required corporate bosses to despoil the environment, or use slave labour in foreign factories, because this maximised profits and shareholder value, and that this was their only corporate responsibility. It is pretty much unthinkable in enlightened society. Clearly, managers have responsibilities to stakeholders other than shareholders.[111]

Indeed, there is a rising body of literature and analysis showing that the whole "shareholder value" ideology (for that is what it behind this) that has underpinned corporate tax avoidance is misguided and, as one analyst puts it, 'poised for collapse' as a theory of corporate purpose.[112]

7 Myths and bamboozlement: the Laffer Curve and "dynamic scoring"

The "Laffer Curve" is an argument often wielded to try and persuade people that tax cuts can *increase* revenue.

The basic idea is that at a zero tax rate you will get no revenue, and at 100 percent nobody will do any work and everyone will try and dodge tax, so you will also get zero revenue. In between lies the 'sweet spot' of maximum revenue, as this tongue-in-cheek version of the Laffer Curve graph below suggests. If your country lies on the right-hand side of the curve, the story goes, then cutting taxes should boost revenue.

Laffer's idea got traction, the story goes, when he drew this graph on a cocktail napkin for Dick Cheney in Washington, D.C. in 1974. Dick Cheney was then deputy assistant to U.S. President Ford, and he helped the idea to spread like wildfire through Conservative ranks.[113]

The political allure of Laffer's idea is clear. As Martin Wolf, the *Financial Times*' chief economics commentator noted:

Charlatans and cranks

Greg N. Mankiw, former chair of U.S. Council of Economic Advisers under President George W. Bush, describing true believers in the Laffer Curve[110]

"… perhaps the most politically brilliant (albeit economically unconvincing) idea in the history of fiscal policy: "supply-side economics". Supply-side economics liberated conservatives from any need to insist on fiscal rectitude and balanced budgets. Supply-side economics said that one could cut taxes and balance budgets, because incentive effects would generate new activity and so higher revenue.

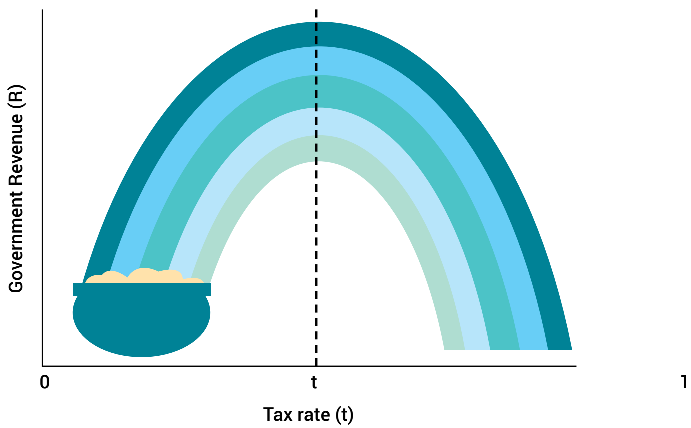
The political genius of this idea is evident. Supply-side economics transformed Republicans from a minority party into a majority party. It allowed them to promise lower taxes, lower deficits and, in effect, unchanged spending. Why should people not like this combination? Who does not like a free lunch?"

Indeed.

Unfortunately the Laffer Curve is, like many other free lunches, a mirage.

Once again, the problem lies with both the theory and all the evidence.

The Laffer Rainbow



With thanks to www.and-smith.com.

The key underpinnings of the theory are wrong. In wartime you can have marginal tax rates of 100 percent and patriotic populations will continue to work, generating plenty of tax revenues. Even in peacetime many people still enjoy working — they'd still get income once their tax allowances are considered — so there will still be tax revenues. The curve clearly does not strike zero on the right hand side.

It's also commonly asserted that higher tax rates lead to greater avoidance activity. But, as Myth 2 explains, the opposite may well be true, and "high" tax rates aren't the main reason for corporate tax avoidance activity. Section 3 adds that corporate tax cuts don't seem to boost economic growth either.

Next, if there *is* such a curve, all the evidence suggests that most real-world situations, particularly in larger economies, exist far on the left hand side of the curve, and continuing to move further left, as tax rates fall. Even if incentive effects sometimes mean that an x percent rise in tax *rates* won't necessarily produce an x percent rise in tax *revenue*, tax cuts generally produce lower tax revenues.[114]

There is also generally a central contradiction in the arguments of those wield the Laffer Curve. Put simply, some say that tax cuts boost revenues. Others think tax cuts are a great way to "starve the beast" of government. They can't both be right.[115]

Moreover, the curve can't exist in any useful form. Different kinds of tax cuts have very different effects at different tax levels in different countries at different times. The Laffer Curve is best understood as a plate of dancing spaghetti. It's fine to think about how taxes might affect avoidance and incentives for work and so on, but the Laffer Curve is a terrible tool for doing this, as it brings all sorts of unwanted baggage into the equation.

The Laffer Curve is fundamentally not useful for understanding the real world. What it *is* useful for is bamboozlement.

Far better to treat it as a cautionary tale about free lunches.

The problem with dynamic scoring

Another tool of bamboozlement, similar to the Laffer Curve in some respects, is a fashionable policy tool called "dynamic scoring".

This involves running tax policy through fancy models, nearly always designed to shift opinions towards tax cuts. U.S. tax expert Ed Kleinbard has called Dynamic Scoring "A ruse to make tax cuts look good."[116]

The basic idea is that when you put together a tax policy plan you need to consider the policy's "dynamic" effects on the economy. If you expect your plan to make the economy grow faster than it would otherwise have done, then tax revenues will presumably be higher than they would otherwise have been. And that feedback needs to be taken into account in the 'dynamic' model.

In theory, this is eminently reasonable. But there are three big problems.

The first is the evidence.

Each country and situation is unique, economic forecasting is famously hopeless, and the effects of tax cuts are so complex and disputed that anyone can cook up the evidence.[117] The fancier the model, the more assumptions are needed, and the greater the potential for "policy-based evidence-making," as Section 3 describes. And Section 4 above shows, for instance, that tax cuts don't generally generate economic growth; Myth 2 suggests strongly they may well increase avoidance, rather than reduce it."[118]

The second related problem is that those using dynamic scoring sometimes engage in circular arguments. For instance, they might start with an assumption that a tax cut will lead to growth, then feed that assumption into their model, to produce a result that might say a tax cut is a good idea, because 'dynamic scoring' shows it will lead to a more beneficial outcome than a static model might suggest.

The third problem returns us yet again to the point that tax is not a cost to an economy but a transfer within it.

Those who use "dynamic scoring" to assess tax policy will typically only assess the effects on one side of the equation: the effects on investment, for example. But they rarely consider the other side of the ledger: that tax cuts lead to lower overall direct revenues, and thus fewer schools and universities and courts and roads and other useful stuff. Penny wise, pound foolish: these good things often pay off only over many years, even decades.

How does one score for all that? Easiest just to pretend it isn't there!

This lopsided approach, properly considering only one side of the equation, inevitably leads to conclusions that tax cuts are a good idea. Many dynamic scoring models, in fact, also rely on a starting assumption that tax cuts produce economic growth, raising problems of circular reasoning.

For these and other reasons, be very, very sceptical about any policy based on dynamic scoring — or any politician who cites the Laffer Curve as a reason for doing anything at all.[119]

How to fix the problems?

The list of possible fixes for the problems outlined here is seemingly endless. We will highlight just one. It involves the large accountancy firms, especially the Big Four of PWC, Deloitte, KPMG and EY (Ernst & Young.)

Their core business model involves helping corporate clients escape tax, and they have imbibed an anti-tax world view.

These firms actively push tax avoidance schemes onto corporate clients, knowing that some of these schemes are likely to be unlawful (see Myth 1). They lobby governments constantly for tax cuts and new loopholes, around the world, and sometimes simply write tax laws for governments, wholesale – and often in their own interests. They all have hundreds of affiliates in tax havens, and help those tax havens set up and implement noxious tax and secrecy laws, and defend them against attack. They help wealthy individuals commit tax abuses, on a monumental scale. Their influence is everywhere. We can't stress enough how *everywhereish* they are, around the globe.

When a journalist wants to understand a tax story, they call up one of these accountancy firms, and imbibe the anti-tax world view. When a politicians wants advice on tax policy, they will turn to one of these anti-tax firms. And so on.

The large accountancy firms are best viewed as an integral part of the financial sector that has proved so good at extracting wealth from the world economy for the benefit of an élite few, at great cost to billions of people.

We need accountants, but the large modern accountancy firms are out of control and need to be called to account. When shown to have facilitated tax avoidance or evasion, they should be stripped of government contracts. Campaigners have ignored these players for too long.

I have talked to somebody who works in PwC, and they say you will approve a tax product if there is a 25% chance—a one-in-four chance—of it being upheld. That means that you are offering schemes to your clients—knowingly marketing these schemes—where you have judged there is a 75% risk of it then being deemed unlawful.

Margaret Hodge, chair of UK parliamentary commission into corporate tax[120]

There are "a couple thousand people in the world who run this industry, and if they were to be prosecuted, tax collections would rise without an increase in tax rates.

John Moscow, veteran crime-fighting lawyer, 2009[121]

Endnotes

1 Examples are ten a penny; for an example of a piece particularly rich in myths and falsehoods, see David Gauke, HM Treasury: Speech by David Gauke on the PwC total tax contribution report, HM Treasury speeches, Nov 26, 2014, in which he states, among many other things: "there is a broad consensus that CT is one of the most distortive and growth damaging taxes." This is untrue. Recent notable articles calling for repeal in the *New York Times* alone include one entitled One Way to Fix the Corporate Tax: Repeal It, by Harvard Professor Greg N. Mankiw, and Abolish the Corporate Income Tax, by Prof Lawrence J. Kotlikoff, as well as Why we should eliminate the corporate tax, by Megan Mcardle in The Atlantic. In the UK's *Financial Times*, tax expert Michael Devereux penned a piece entitled "The best reform of corporation tax would be its abolition;" Paul Ormerod wrote an article in the UK's CityAM entitled Corporation tax is getting easier to avoid: It's time to abolish it. Some opinion pieces wield 'state of the art' economic models resting on highly unrealistic and unworldly assumptions (see Section 3 pt. iv.) All ignore many the many important roles the tax plays, laid out in the rest of this document.

2 See, for instance, OECD, Corporate and Capital Income Taxes, 2014, Table II.1, and Historical Table II.1 (1981) which produces an unweighted average 25.3% corporate tax rate for OECD countries in 2014, versus 50.0 percent in 1981. The standard recipe from many international institutions, economists and others, is to combine headline tax cuts with 'base-broadening' - that is, to bring a greater range of things into the tax net. This is problematic. First, 'tax cuts with base-broadening' tends to shift the tax burden away from large multinationals towards smaller and medium enterprises (SMEs), which are typically the job creators and innovators, and which can intensify oligopolistic and monopolistic practices. Second, this package tends to be regressive, and increase inequality.

3 Keen, Michael and Kai A. Konrad, 2012, International Tax Competition and Coordination, Max Planck Institute for Tax Law and Public Finance, Working Paper 2012, Fig. 1 p3. It shows low income countries' median statutory corporate income tax rates falling from around 50 percent in 1980 to around 25 percent in 2010. For lower-middle income countries, the rate has fallen from some 40 percent to around 25 percent.

4 See What is a secrecy jurisdiction? Financial Secrecy Index, 2013

5 Scholars have described four or five main "Rs" as outcomes of tax - Revenue, Repricing, Redistribution, Representation: all are relevant here. See Alex Cobham outline the Four Rs of taxation in The Tax Consensus has Failed! Oxford Council on Good Governance, Jan 2007. Tax Justice Focus, 2007, vol. 3. no. 2. Cobham originated the ideas in his paper. Richard Murphy suggests a fifth, "Reorganising an economy." See "The Five 'Rs' of tax' , Richard Murphy, Tax Research blog, March 26, 2012. This fifth "R" could also be called "Rebalancing:" see Section 7 in this paper.

6 Governments don't necessarily have to earn revenue in order to spend: deficit spending is also quite possible and sustainable - and common. As U.S. tax expert Lee Sheppard notes, "It is manifestly not true that the numbers by the window have to match the numbers by the door. . . taxes are not a precondition to spending." See *Taxation as Monetary Policy*, by Lee A. Sheppard, Tax Notes International, Oct 20, 2014. According to proponents of Modern Monetary Theory (MMT), the key purpose of taxes is not to earn revenue for spending purposes, but to "drive the currency." A short version of the argument goes like this. When a country has its own 'fiat' currency (i.e. when it isn't pegged to something like gold, or another currency, but is created by that country's government,) why would anyone accept that currency as a medium of exchange? The answer is that the government's currency is ultimately the only thing accepted by government in payment of taxes. To avoid penalties for non-payment of taxes, which can include prison, the taxpayer needs to get hold of the government currency. All other reasons for holding currency - to settle private debts, to buy things from vending machines, or whatever - are subsidiary to this original reason. See, for instance, the series by L. Randall Wray including Taxes Drive Money, New Economic Perspectives, July 24, 2011, and the follow-on Response to Blog 8: More on Why Taxes Drive Money, New Economic Perspectives, July 27, 2011. This MMT perspective on tax is highly contested. Even if one were to accept it as correct, however, political imperatives mean governments generally want to be seen to be spending more or less what they earn, and to curb deficits. So revenues do generally drive spending, whether or not they need to.

7 See Spillovers in International Corporate Taxation, IMF, May 9, 2014, p7 and Taxation and Developing Countries, ODI, Sept 2013. The 15 percent figure for developing countries exclude resource-rich countries because of divergences in how corporate tax revenues are measured; if resource-rich countries were included, the figure for developing countries would be substantially higher.

8 Corporate income tax revenues averaged 3 percent of GDP and nearly 9 percent of total taxes in OECD countries in 2011. (OECD Revenue Statistics, Comparative Tables.)

The U.S. figure is from Kleinbard, Ed. "We are Better than This: How Government Should Spend Our Money," OUP, 2014, Uncorrected advance reading copy, p220.

9 As one account puts it: "In most high-income countries, the corporate income tax was born just before or during World War I at about the same time as the personal income tax (Ardant 1972). That correspondence of timing is not a coincidence. Absent corporate taxes, personal taxation could be dodged or greatly postponed by people who would incorporate and shareholders who would keep their income within companies. The easiest way to prevent that scenario is to tax profits directly at the corporate level. The corporate tax is thus fundamentally a backstop, although it has also come to serve other purposes over time." See Taxing across Borders: Tracking Personal Wealth and Corporate Profits, Gabriel Zucman, Journal of Economic Perspectives—Volume 28, Number 4, Fall 2014, p122.

10 Some countries like the United States have quite strong protections against this kind of activity. Most other countries are more vulnerable. If complex structures such as offshore trusts are brought into the picture, matters can become even more complex and hard for the tax authorities to deal with. See In Trusts We Trust, Tax Justice Blog, uly 22, 2009 for a brief explainer of how slippery trusts can be.

11 For example, in the U.S. today up to 70 percent of the profits corporations pay out as stock dividends go to tax-exempt entities like retirement plans. See Fact Sheet: Why we Need the Corporate Income Tax, Citizens for Tax Justice, June 10, 2013, and Marty Sullivan figured out how the world's biggest companies avoided billions in taxes. Here's how he wants to stop them, Stephen Pearlstein, Washington Post, Oct 26, 2013, which notes that the U.S. Treasury has estimated that up to 70 percent of all business income escapes the corporate income tax.

12 Cutting the Corporate Tax Would Make Other Problems Grow, Jared Bernstein, New York Times, August 25, 2014

13 Some have argued that the way forward is to find ways to tax undistributed corporate profits, such as by taxing corporations on annual capital gains. This would not only be politically very tough to enact, but would be fiendishly complex and subject to widespread evasive manoeuvres. Jared Bernstein in the New York Times provides examples of problems that could spring up. "*To see the relative efficiency of the current arrangement, think about alternative ways of designing a system to tax undistributed corporate profits. What if I held shares for a day? A week? Suppose dividends were paid out that week? It would be very hard for the I.R.S. to keep track of this, which some of the corporate tax abolitionists acknowledge. You could tax the accrued earnings on corporate stock held over the course of a year, but taxing shareholders on unrealized gains represents a huge change in tax policy that would be aggressively resisted by patient holders of equity. They'd view this trade-off — a tax on unrealized capital gains in exchange for ending the corporate tax — as an awfully big stick for a pretty scrawny carrot.*" See Cutting the Corporate Tax Would Make Other Problems Grow, Jared Bernstein, New York Times, August 25, 2014. Another suggestion for an alternative to the corporate income tax would be to follow U.S.-style rules for "pass-through" businesses. These businesses pay no corporate income tax: their profits "pass through" to the individuals who own them, and those profits are then supposed to be subject to the personal income tax. Citizens for Tax Justice explain from a U.S. perspective why this would be a disaster. "*Two-thirds of the profits that corporations pay out today (as stock dividends) go to tax-exempt entities like retirement plans and university endowments. In other words, if the personal income tax was the only tax applied to the profits of large, currently taxable corporations, then two-thirds of those profits would never be taxed.*" Other countries that attempted this would likely face similar problems. See Fact Sheet: Why we Need the Corporate Income Tax, Citizens for Tax Justice, June 10, 2013

14 See The Spirit Level: why equality is better for Everyone, Richard Wilkinson, Kate Pickett, 2009

15 Many other countries have less developed financial systems; so fewer people own shares, and those that do are likely to be more concentrated at the top of the income scale.

16 U.S. tax expert Reuven Avi-Yonah believes that this is an even stronger reason for defending the corporate tax than the fact that not taxing corporations would make it easier for people to shelter income by stuffing it into their own personal corporations (Section 2). As he puts it: *"the corporate tax is justified as a means to control the excessive accumulation of power in the hands of corporate management, which is inconsistent with a properly functioning liberal democratic polity."* From Should we abolish the corporate income tax? Peter Coy, Bloomberg Businessweek, Feb 26, 2012

17 For examples exploring financial capture and its mechanisms, see "The Finance Curse," Nicholas Shaxson and John Christensen, Tax Justice Network, May 2013; or The Quiet Coup, Simon Johnson, The Atlantic, May 2009, or the film Inside Job, Sony Pictures, 2010.

18 For example, David Gauke, exchequer secretary to the UK Treasury, asserted in a speech in 2011 that: "The consensus, among economists at least, is that it's predominantly the employee who foots the bill [for the corporation tax.]" See Speech by David Gauke, Exchequer Secretary to the Treasury, to the Hundred Group, London, David Gauke MP, March 11, 2011. Given the quantity of corporate money thrown at 'independent' studies of this question, it's hardly surprising that arguments like this circulate widely. Ed Kleinbard notes: "Unseemly scuffles break out when this question is posed at academic conferences. *See We are Better Than This:*

How governments should spend our money, uncorrected draft, Edward D. Kleinbard, OUP 2014, p220. There is no consensus. One argument made by the "tax cuts hit workers" theorists is that tax cuts provide more resources to corporations, thus enabling them to compete more with each other to attract better staff, driving up wages. Another argument is that high taxes drive companies to invest elsewhere, thus reducing local demand for workers and hence their wages. The first argument assumes little or no unemployment in the relevant sector; in OECD countries unemployment tends to be lowest (and therefore these arguments most relevant) in the high-skilled, high wage sectors. So if there is any effect on workers, a tax cut will increase returns to high-skilled workers but not to low-skilled ones, thus increasing inequality. The main response to the second argument comes in Section 3 on competitivess, which explains how tax cuts do not tend to bring genuine good investment and do nothing to make an economy as a whole more "competitive."

19 As Lee Sheppard has put it, "If labor bore 80 percent of the burden of the corporate income tax, corporations wouldn't care about it at all. They don't fight high value added taxes in Europe, because the burden is clearly borne by consumers." See Corporations are people… who should pay more taxes. CTJ, Aug 25, 2011.

20 An entertaining experiment involving the Yes Men provides further strong evidence that shareholders and investment intermediaries believe that the burden of tax falls on the owners of capital. See Does the GE hoax give a clue about tax incidence? Treasure Islands blog, Aug 29, 2011. It examines a hoax press release, supposedly from General Electric Corp. but actually sent by the Yes Men and the tax avoidance protest movement US Uncut, stating that GE would voluntarily pay the U.S. government a $3.2-billion tax "refund" as an act of contrition for past tax abuses. The story was picked up by a wide range of news media before the hoax was uncovered; while the story was 'live' GE shares fell suddenly by some $3.5 billion, roughly the same size as the "tax cut". This is strong evidence, even if not final proof, that investment intermediaries often behave as if tax cuts fall on shareholders.

21 Fact Sheet: Why we Need the Corporate Income Tax, *CTJ, June 10, 2013.*

22 Tax expert Reuven Avi-Yonah puts it like this: "The corporate tax is imposed on corporate income, which adds to the economic resources of the corporation. These resources are managed by individual corporate managers, and their control over such resources gives them significant economic, social, and political power. In that sense, imposing a corporate tax reduces the economic resources and therefore also the power of corporate management. Whatever the economic incidence of the corporate tax, from this perspective its most immediate burden falls on corporate management, and not surprisingly they are the strongest supporters of corporate tax repeal." From Should we abolish the corporate income tax? Peter Coy, Bloomberg Businessweek, Feb 26, 2012.

23 A small proportion of individual investors may relocate elsewhere in some cases, but in a world awash in idle corporate capital that is unlikely to matter so much, since other investors will be there to take their place, and (as Section 3 explains) tax-sensitive investment is generally the least useful kind. OPEC countries learned in the 1970s that they can levy extremely high effective tax rates on powerful oil multinationals, often at marginal rates of over 90 percent. Capital owners have little choice but to bear the taxes: the multinationals go where the profits are, not where the tax breaks are. (See Section 3 on 'competitiveness' for further discussion on this.)

24 The idea that the corporate tax could fall on workers stems partly from the idea that in an open economy, the corporate tax will scare away investment, thus hurting workers. But this does not hold up in the evidence, particularly in larger economies. See, for instance, Distribution of Household Income and Federal Taxes, U.S. Congressional Budget Office, 2012, p16, which works on the basis that 75 percent of the burden of the corporate tax falls on capital. Also see Corporate Tax Incidence: Review of General Equilibrium Estimates and Analysis, U.S. CBO, May 2012, Jennifer C. Gravelle, highlighting models that either find "capital bears the majority of the corporate tax burden" or that "even in an open economy, capital could bear virtually the entire tax burden and that the open-economy assumption is not sufficient to shift the burden of the corporate tax from capital to labor." Gravelle, Jane G. and Kent A. Smetters. 2006. "Does the Open Economy Assumption Really Mean That Labor Bears the Burden of a Capital Income Tax." Advances in Economic Analysis & Policy vol. 6:1. Also see In search of corporate tax incidence, Kimberley A. Clausing, Tax Law Review, 2012 ("there is simply no clear and persuasive evidence of a link between corporate taxation and wages.") See also How the TPC distributes the corporate income tax, Urban Institute and Urban-Brookings Tax Policy Center, Sept 13, 2012, which finds that 80 percent of the burden falls on capital. The U.S. Treasury uses a rate of 82 percent: see Distributing the Corporate Income Tax: Revised U.S. Treasury Methodology, May 17, 2012. Higher corporate cash piles in recent years presumably will shift the burder still further away from workers. See also Sharing the Burden: Empirical Evidence on Corporate Tax Incidence, Nadja Dwenger, Pia Rattenhuber, Viktor Steiner, Max Planck Institute for Tax Law and Public Finance, Working Paper 2011 – 14 October 2011, which finds empirically that labour bears 19-29 percent of the burden of the corporate income tax. In small countries and tax havens, tax rates will have more impact on wages, but even then — and this applies to large as well as small countries — these

effects, such as they are, will disproportionately impact the skilled, highly remunerated professions such as accountancy and law firms, meaning that tax cuts will tend to increase inequality.

25 See Policy Based Evidence Making, Simon Wren-Lewis, Mainly Macro blog, Aug 12, 2014. As he puts it: "Policy makers know a policy is right, not because of any evidence, but because they just know it is right. However they feel that they need to create the impression that their policy is evidence based, if only because those who oppose the policy keep quoting evidence. So they go about concocting some evidence that supports their policy."

26 There is a school of thought that states that countries can 'compete' on things like tax. These claims are generally based on a paper published in 1956 by the economist Charles Tiebout. He argued that tax 'competition' between jurisdictions is a beneficial process where populations are sorted into optimal communities with tax mixes tailored to suit them. Governments are "cartels" or natural monopoly suppliers of services, requiring 'competitive' discipline. Tiebout's model is, to put it politely, a joke, resting on some spectacular assumptions. Jurisdictions must be comprised of perfectly mobile, perfectly informed and farsighted citizens, willing to rip their children out of schools and relocate costlessly in great shoals to more tempting jurisdictions at the drop of a tax inspector's hat. The model ignores commuting to different tax zones; it assumes that tax havens don't exist; and that neither public goods nor negative externalities (such as pollution) spill into other jurisdictions. And so on.

27 See, for instance, Empirical Evidence of the Effects of Tax Incentives, Alexander Klemm and Stefan Van Parys, IMF Working Paper WP/09/136, July 2009, where they state: "we find evidence that lower corporate income tax rates and longer tax holidays are effective in attracting FDI, but not in boosting gross private fixed capital formation or growth. . . . This suggests either crowding out, or, that especially the part of FDI, which concerns transfer of ownership rather than green field investment, is affected." An exhaustive 50-year study on U.S. states in 2013 by Rubin and Boyd, cited above, is summarised: "There is . . . no conclusive evidence from research studies conducted since the mid-1950s to show that business tax incentives have an impact on net economic gains to the states." See "New York State Business Tax Credits: Analysis and Evaluation," Marilyn M. Rubin, Donald J. Boyd, Nov. 2013, summarised in Billions of Tax Dollars Later, No New Jobs for New York, David Cay Johnston, Tax Analysts, Dec 9, 2013.

28 In *Why Globalisation Works*, Martin Wolf, pp 240 and 260.

29 A different way of looking at it goes like this. A multinational corporation's boss may well say, with justification, that tax attractions may make one country look more 'competitive' than another. But this is the wrong perspective. The correct perspective when considering corporate tax policy is from a national policy-maker's perspective. If there is a good economic opportunity in a country, then if that multinational doesn't invest, another one most likely will. This is particularly true in the current era of 'capital superabundance.'

30 We don't have comprehensive international data, but latest data from the United Kingdom's Office for National Statistics said that 53% of quoted stock in the UK was owned by foreigners in 2012. See Ownership of UK Quoted Shares, 2012, ONS, Sept 25, 2013 The share in other large countries may be smaller, but still significant. For capital-importing developing countries, the shareholders of multinationals paying tax are frequently almost exclusively foreign. The "incidence" of the corporate income tax predominantly falls on capital owners, as Section 4 explains.

31 The Quest for Non-Resource-Based FDI: Do Taxes Matter? *Tidiane Kinda, IMF Working Paper 14/5, Jan 2013. It notes in a study of Sub Saharan African countries that "Taxation is not a significant driver for the location of foreign firms in SSA, while other investment climate factors, such as infrastructure, human capital, and insitutions, are."*

32 An unfortunate experiment by the United States in 2004 illustrates the point. The administration of George W. Bush in 2004 created a "repatriation holiday" - a tax amnesty - that let multinationals bring their offshore profit stashes back into the United States and pay a tax rate of just above five percent. This move, temporarily turning the U.S. into a low-tax haven, was supposed to kick-start a wave of investment back home. Research since then has shown that they used over 91 percent of the money not for investment but to "enrich shareholders and executives by paying dividends and buying back their own stock. At the same time, the corporations cut jobs and research spending. A Senate subcommittee called the whole affair a "failed tax policy" that shouldn't be repeated. See Watch What I do, Not What I say: the unintended consequences of the Homeland Investment Act, Dhammika Dharmapala. C. Fritz Foley, Kristin J. Forbes, NBER Working Paper 15023; or Report: Repatriation Tax Holiday a 'Failed' Policy, Wall St. Journal, Oct 10, 2011, or Senate Report Says 'Failed' Tax Holiday Shouldn't See Repeat, Bloomberg, Oct 12, 2011, or A Repatriation Tax Holiday for US Multinationals? Four Contagious Illusions, Chris Sanchirico, TaxPolicy Center, Dec 10, 2014.

33 Google boss Eric Schmidt hits back at Ed Miliband and vows to invest in UK even if it has to pay more tax, *The Independent, May 22, 2013*

34 Should It Bother Us that Boeing Says It Needs a Tax Incentive to Make Its Planes Safe? *Citizens for Tax Justice, Jan 13, 2014*

35 The OECD states: “There is a consensus in the literature about the main factors affecting (foreign) investment location decisions. The most important ones are market size and real income levels, skill levels in the host economy, the availability of infrastructure and other resource that facilitates efficient specialisation of production, trade policies, and political and macroeconomic stability of the host country . . . [tax incentives] “play only a limited role.” See See Tax Incentives for Development - a Global Perspective: *experiences in MENA and non-MENA countries*, OECD, June 2007. There is presumably *some* effect, though empirical studies have yielded contradictory and inconclusive results. For example, Hines (1999) contends that each percentage reduction in the corporate income tax rate yields a 2 percent increase in FDI. Hines, J. R., Jr., 1999, *Lessons from Behavioral Responses to International Taxation*, National Tax Journal, Vol. 52, pp. 305-22. More recently, a meta analysis suggests that a 10 percentage-point reduction in a country's effective average tax rate increases its long-run stock of FDI, by some 30 percent. See De Mooij, Ruud A. and Sjef Ederveen “*Corporate Tax Elasticities: A Reader's Guide to Empirical Findings,*” Oxford Review of Economic Policy, Vol. 24 (4), pp. 680–97. Other studies find lesser effects on gross FDI flows. For example, U.S. states are a useful place to measure the FDI effects of tax wars, partly due to the quantity of good available historical data. A 2013 study into 50 years of U.S. state tax incentives is summarised: “There is no. . . conclusive evidence from the research that taxes, in general, have an impact on business location and expansion decisions.” See “New York State Business Tax Credits: Analysis and Evaluation,” Marilyn M. Rubin, Donald J. Boyd, Nov. 2013, summarised in *Billions of Tax Dollars Later, No New Jobs for New York*, Tax Analysts, Dec 9, 2013. The IMF, in a meta-survey, notes that “more than half” of the measured “investment” flows responding to tax incentives likely are merely mergers and acquisitions which may not result in any new greenfield investments. See IMF, 2014, Spillovers in international corporate taxation, IMF Policy Paper, May 9, 2014. An IMF study of tax incentives in the Caribbean put it particularly bluntly: “The costs are very large, while the benefits appear to be marginal at best. Forgone tax revenues range between 9½ and 16 percent of GDP per year, whereas total foreign direct investment does not appear to depend on concessions. A rethinking of the use of concessions in the region is needed urgently.” See Chai, Jingqing and Rishi Goyal, Tax Concessions and Foreign Direct Investment in the Eastern Caribbean Currency Union, IMF Working Paper WP/08/257, Nov 2008.

36 As Professor Jim Stewart of Trinity College, Dublin, explains: “The more dependent a company is on low corporate tax rates, the more ‘footloose' the company. The greater the importance of tax factors the less likely they are to have linkages with local firms, - the degree of embeddedness will be much lower.” See Corporation Tax: How Important is the 12.5 % Corporate Tax Rate in Ireland? Jim Stewart, IIIS discussion paper No. 375, Trinity College, Dublin, Sept 2011. Taxes and Economic Development 101, Institute on Taxation and Economic Policy, Policy Brief, Sept 2011. See also Section 3 showing how little impact the UK's ‘competitive' tax changes seemed to have had on genuine economic investment. See also, for example, Peter Cohan in Forbes (May 3, 2011: Do Tax Cuts Create Jobs?) “Based on my October 2010 interviews with 17 start up CEOs, my conclusion is that not a single one of them would create a job based on tax cuts. All of them told me that their decision to create a new job would be based on whether the long-term cost of that new job would be offset by higher revenues and profits.”

37 The classic example involves private equity companies. Popular perceptions hold that private equity firms are venture capitalists, but very few are. Most commonly, they take robust existing businesses with solid cash flows, then work as hard as they can to extract rents from them: re-engineering cash flows to extract ‘special dividends' for their investors, at the cost of higher debt levels and company fragility; cutting workers' rights and insurance policies and wages; not to mention tax engineering. It is not for nothing that they have been called “locusts.”

38 E.g. see The Future of the Corporate Tax, Kimberly A. Clausing, October 2012 prepared for the NYU/UCLA conference on “TheIncome Tax at 100.” It says: “aspects of these canonical models are highly unrealistic, including infinitely lived households, perfect foresight, perfect capital markets, and so on.” One good and extensive debunking study, looking at U.S. states (which make a good petri dish for these dynamics) is Grading Places: What Do the Business Climate Rankings Really Tell Us? by Peter Fisher for Good Jobs First, May 2013. In the United States, sponsored “Business Climate” studies are a mini-industry, and the report finds them to be “deeply flawed and of no value to informing state policy.” Browse the academic papers and some remarkably heroic assumptions come to light. Here is a particular example, somewhat randomly selected, from a high-profile corporate tax paper: “We ignore complications which would arise if we allowed the hypothetical investment to be risky. We consider the tax system only as it applies to a mature manufacturing firm – so the measures do not reflect the position for services or for hi-tech industries. The measures presented here also apply only to an investment in plant and machinery, financed by equity; we do not present estimates for investment in other assets (land or inventories, for example), nor for other forms of finance. We do not consider the treatment of losses or other forms of tax exhaustion. We analyse only source-based corporate income taxes – we do not include taxes levied in the country of residence of the parent company, nor do we include any source-based taxes paid by corporations that are not based on profit. We generally exclude industry-specific measures and we do not allow for any forms of tax shifting. We have not included personal taxes levied on corporate source income.” From Devereux, Michael P., 2006, Developments

in the taxation of corporate profits in the OECD since 1965, Oxford University Centre for Business Taxation, WP 07/04, revised Dec 2006. Many pro-tax cut studies also consider only limited time frames and rely on fairly short term effects, ignoring the fact that tax cuts are typically introduced during times of economic weakness, at the bottom of economic cycles - which is precisely when future economic growth is likely to be higher. We've not seen a study that credibly takes this potentially large factor into account.

39 Statistics on round-tripping are rare and difficult to estimate, but one IMF paper reckons that 40 percent of total FDI inflow to Hong Kong between 1998 and 2002 was related to round tripping. See IMF Committee on Balance of Payments Statistics and OECD Workshop on international investment statistics, Issues Paper (DITEG) # 13: Round Tripping, Prepared by the Census and Statistics Department, Hong Kong, China. Sept. 2004

40 More generally, most sensible economists recognise that GDP growth cannot be the *ultimate* goal of policy: GDP growth is merely a means to bigger goals such as better lives for the majority of citizens through sustainable development. As John Kay puts it: "After all, we could raise GDP further by cancelling Christmas, taking shorter vacations, and by working till we drop from exhaustion. But why would we want to?" Scrap the Jubilee? Why not Christmas too? John Kay, *Financial Times*, May 29, 2012.

41 Typically 2-3 percent of GDP in OECD countries: see OECD Revenue Statistics - Comparative Tables

42 Stop Coddling the Super-Rich, *Warren E. Buffett, New York Times, Aug 14, 2011*

43 We aren't going to get into arguments here about austerity and deficit spending, other than to say that if (as seems likely) austerity in the current era of demand deficiency seems to have been generally harmful, it is personal tax cuts (putting money into consumers' hands directly) rather than corporate tax cuts (which may merely add to corporate cash hoards) that seem most likely to create the positive stimulus effects.

44 Taxes and the Economy: An Economic Analysis of the Top Tax Rates Since 1945, *Thomas L. Hungerford, U.S. Congressional Research Service, Dec 12, 2012, p17.*

45 Inequality hurts economic growth, finds OECD research, *OECD, Dec 9, 2014*

46 Inequality hurts economic growth, finds OECD research, *OECD, Dec 9, 2014*

47 See Uganda's tax treaties: a legal and historical analysis, Martin Hearson and Jalia Kangave of the East African School of Taxation, presented at the ICTD annual conference, Dec 2014. It quotes an unnamed Ugandan treaty negotiator as saying: "*Most of the time developing countries are disadvantaged by treaties. Treaties do not attract investment. It is other factors… I know there's empirical evidence that [a treaty] has no effect on investment, but the reality country-to-country is that there's a bluff that goes on, and countries don't want to take the risk of losing big investments.*"

48 The evidence here is not as well-sourced as for OECD countries. IMF research states that "Empirical evidence on corporate income tax developments in developing economies remains scant." See Abbas, S.M. Ali and Alexander Klemm, with Sukhmani Bedi and Junhyung Park, 2012, A partial race to the bottom: corporate tax developments in emerging and developing countries, IMF Working Paper WP/12/28. For more fine-grained examples, an IMF study on the Eastern Caribbean Currency Union found that tax-cutting led to annual tax losses of 9-16 percent of GDP but did not seem to boost FDI flows; tax concessions were not among the top 15 of the 40 areas companies said were critical for investment (See Chai, Jingqing and Rishi Goyal, 2008 Tax Concessions and Foreign Direct Investment in the Eastern Caribbean Currency Union, IMF Working Paper WP/08/257, November 2008). A survey on Kenya found that 61 percent of 159 businesses surveyed cited the regional market and Kenya's overall political and economic stability as the core factors underpinning their investment - versus just one percent who cited special concessions from the tax-light Export Processing Zone, a cornerstone of Kenya's exports strategy. See Appendix 3, ActionAid & TJN-Africa, 2012, Tax competition in East Africa: A race to the bottom?, ActionAid International and Tax Justice Network - Africa, April. See also IMF, 2006, *Kenya, Uganda and United Republic of Tanzania: Selected Issues*, IMF, Dec 1 2006, p11, and Table 13, Kinuthia, Bethuel Kinyanjui, 2010, *Determinants of Foreign Direct Investment in Kenya: New Evidence*, Africa Studies Centre, Leiden & University of Nairobi, School of Economics, August. For Sub-Saharan Africa, the limited literature finds that special tax regimes and incentives cost revenues, but do not generally attract useful FDI. A January 2014 IMF Working Paper summarises: "Taxation does not significantly affect foreign firms' locations, while the other main aspects of investment climate (infrastructure, finance, human capital, and institutions) do." (see Kinda, Tidiane, 2014, *The Quest for Non-Resource-Based FDI: Do Taxes Matter?* IMF Working Paper WP 14/15, January). In Latin America, tax cuts seem to have been associated with some increased FDI, though again this is typically in short-term portfolio flows, not long-term investments. See Wibbels, Erik and Moisés Arce, 2003, *Globalization, Taxation and Burden-Shifting in Latin America*, International Organization, Vol. 57 (1), Winter 2003, ppp111-136. Estache and Gaspar (1995) found that any benefits flowing from tax incentives offered by Brazilian states were significantly outweighed by the resulting revenue losses. Estache A. and Vitor Gaspar, 1995, *Why Tax Incentives Don't Promote Investment in Brazil*, Draft 2, Universidade de Novo Lisboa, 1990, in Fiscal Incentives for Investment and Innovation, ed. by A. Shah, pp. 309-40 (New York: Oxford University Press). Studies in Malaysia and Thailand found that the tax incentives were of little value to the target firms, which would have

invested regardless of the available subsidies (Boadway, R., Chua, D., & Flatters, F., 1995, *Investment Incentive and the Corporate Tax System in Malaysia*," in Fiscal Incentives for Investment and Innovation, ed. by A. Shah, pp. 341-73 (New York: Oxford University Press)

49 Aftershock: The Next Economy and America's Future, *By Robert B. Reich, 2011, p2*

50 The data for Irish economic growth paints a dramatic picture. EU data showing Irish gross domestic product as a share of the EU-15 average shows it more or less flatlining at around 55-65 percent from 1960-1980, following the introduction of the first tax haven facility (Export Profits Tax Relief) in 1956, and then a continued flatline at about 60-70 percent all the way through until 1993, when Ireland joined the EU Single Market. After that, the share suddenly climbs dramatically, rising as high as 147 percent just ahead of the crisis in 2007. See Statistical Annex of European Economy, European Commission, Autumn 2014, p24, and Statistical Annex of European Economy, European Commission, Spring 2002, p27, for more fine-grained detail of the early years. See also Corporation Tax: Northern Ireland is walking into a disaster of its own making, Richard Murphy, Belfast Telegraph, June 4, 2014. See also 'Rethinking Growth Strategies: How State and Local Taxes and Services Affect Economic Development', Robert Lynch, Economic Policy Institute, 2004. It states: "There is little evidence that state and local tax cuts - when paid for by reducing public services - stimulate economic activity or create jobs."

51 For more on this, see Bono: tax haven salesman for the Celtic Paper Tiger, Nicholas Shaxson, Naked Capitalism, Oct 15, 2014

52 *The Economist's* Global House Price Index shows Ireland's bubble as standing out among 21 nations measured: only Spain's boom and bust and South Africa's boom have shown a greater rise than Ireland's 30-fold increase since the 1970s.

53 See "If Ireland is not a tax havens, what is it? Marty Sullivan, Forbes, June 11, 2013 and the follow-up discussion "If Ireland is not a tax havens, what is it? A bagel?Treasure Islands blog, Jan 8, 2014.

54 Ireland fears UK tax competition, *AccountingWeb, April 23, 2013.*

55 See, for instance, Simon Johnson's testimony to the US Senate Committee on Foreign Relations Subcommittee on European Affairs hearing on "The Future of the Eurozone: Outlook and Lessons", Aug 1, 2012. As he explains: "Ireland's GNP is substantially smaller than its GDP. Due to its role as a tax haven, many foreign companies have set up operations in Ireland, with a controlling shell company located in a tax-free nation, in order to take advantage of Ireland's regulations that specify that the controlling owner, rather than the resident company, is subject to tax. For this reason companies such as Google, Yahoo, Microsoft, Forest Labs, and many others channel license revenues and royalties through Irish subsidiaries. These royalties and revenues are in large part excluded from the tax base in Ireland. These companies would move if Ireland changed rules and made such revenues taxable. Since the relevant concept for fiscal sustainability is the taxable base, it makes sense that this should be used to measure Ireland's indicators… The IMF regularly reported Irish GNP in its staff reports but recently removed all reference to GNP. This raises concerns that the IMF is attempting to mask fiscal sustainability problems by not reporting these data."

56 For the £7.8 billion figure see Seely, Antony, Corporate Tax Reform, UK House of Commons Library, Standard Note: SN5945, 23 May 2014; for the £10 billion figure see Richard Murphy, 2014 George Osborne's £10 billion a year tax giveaway to big companies, Tax Research UK, Jan 30, accessed Sept 8, 2014. Subsequent (latest) official UK data in August 2014 saw corporate tax revenues fall 4.8% year-on-year, though falling oil receipts were a key factor. See Commentary on the Public Finances Release: July 2014, UK Office for Budget Responsibility (OBR), July 2014. This followed data in January 2014 showing corporation tax receipts plunging by a quarter year on year from 2012 to 2013. See Corporation Tax Revenues from Big Business Plunge, Vanessa Houlder, *Financial Times*, Jan 30, 2014. See also Britain becomes haven for U.S. companies keen to cut tax bills., Tom Bergin, Reuters, Jun 9, 2014. He identified seven multinationals – Rowan Companies, Aon, CNH Global, Delphi Automotive, Ensco, Liberty Global and Noble Corp. – that had moved their tax base to Britain. Of these, Ensco, Noble and Aon had each moved some 15 jobs to London. He found no new jobs at Delphi or Rowan; CNH said it would base 'some' senior managers in London but gave no details. Liberty's takeover of Virgin media, cited as a reason for moving to Britain, is leading to 600 job cuts. No company would identify any genuine new investments tied to their tax-driven corporate relocations. Three firms reported UK tax credits (tax refunds, essentially): Aon, Liberty Global and CNH; Ensco had a $200,000 tax charge, while Delphi is a partnership so pays no tax. Rowan and Noble declined to say. See also *Tax, Lies and Videotape: Britain's shadow tax system revealed*, Private Eye special report, Richard Brooks, Sept 20 2013. KPMG tax director Kashif Javed told Brooks, who was operating undercover, that the changes to UK law could achieve "a net sort of minus 15 [percent tax rate] for a multinational company. Brooks summarised the general arrangements: "In return for no investment at all in Britain, in other words, British companies can artificially wipe out their UK tax bills."

57 See Corporate Tax Competition and Coordination, Mario Mansour, IMF Conference on Revenue Mobilization and Development, Washington DC April 17-19, 2011

58 The reforms involve a headline corporate tax rate cut from 28 percent to 20 percent; and moving away from a 'worldwide' tax system (where corporations are taxed on income wherever in the world it is earned, with credits

given for foreign taxes paid) towards a 'territorial' system where only profits earned locally are taxed (Myth 2 gives more details on territorial tax systems). A study by ActionAid estimated that just the 'territorial' element of these UK tax changes will cost developing countries £4 billion annually. See Collateral damage: How government plans to water down UK anti-tax haven rules could cost developing countries – and the UK – billions. Richard Brooks and ActionAid, March 2012. Here is why the UK's tax changes are a problem for developing countries. If a MNC shifts its profits into a tax haven to lower its bills in a foreign country, previous UK rules top up its tax bill at home, bringing the rate into line with the standard UK rate.

This protects developing countries, because it makes it rather pointless for a multinationals to strip income out of developing countries if its tax bill is simply going to be topped up back home. This covers all UK companies. Under the new 'competitive' UK tax regime, however, these rules will be gutted: greatly increasing multinational corporations' incentives to strip taxable profits out of developing countries and into tax havens. The UK Treasury was asked to conduct a 'spillover analysis' of the moves' impacts on developing countries, but refused.

59 Tax Havens: Let in the Light, *The Guardian, April 3, 2009.*

60 For a detailed exploration of how the United States became a tax haven, see the chapter *The Fall of America in Treasure Islands: Tax Havens and the Men Who Stole the World*, Nicholas Shaxson, Vintage Books, 2012, or Narrative Report on USA, Financial Secrecy Index, 2013.

61 A Partial Race to the Bottom: Corporate Tax Developments in Emerging and Developing Economies, *Abbas, S. M. Ali ; Klemm, Alexander ; Bedi, Sukhmani ; Park, Junhyung, IMF, Jan 1, 2012*

62 Tax Competition in East Africa: A Race to the Bottom? *TJN Africa/ ActionAid International, April 2012*

63 Key reasons why developing countries may be more vulnerable than rich countries to corporate tax cuts include:

a) they tend to rely more heavily on corporate income taxes than OECD countries, since the alternative is to tax large numbers of relatively poor people - which is particularly difficult when tax administrations are weaker.

b) corporate tax losses represent a geographical transfer from poor countries to corporate shareholders in rich countries - which is not the case when this happens within the OECD constellation;

c) Typical developing country markets are smaller, face a more elastic supply of international capital and have a smaller base of local investors, as well as a greater need to overcome country reputational issues - so they face stronger pressures to take outsize gambles on offering tax subsidies;

d) In developing countries tax administration and enforcement are weaker, and the creation of special tax regimes are more vulnerable to special-interest lobbying and corruption. As one account puts it, tax policy-making is not part of the daily cut and thrust of public political debate as in OECD countries but instead tends to be "narrow, specialised and concentrated in non-public spaces: the manoeuvrings of small pressure groups lobbying for exemptions from import duties, or individual large companies bargaining with ministers and tax officials about their assessments and liabilities." Thomas Rixen puts it in his own summary of tax wars and their consequences: "the adverse effects [of tax competition] are strongest in developing countries" See Rixen, Thomas, 2008, The Political Economy of International Tax Governance, Palgrave MacMillan, Basingstoke, U.K.

See Taxation and the Political Agenda, North and South, Forum for Development Studies, June 1, 2004. For more evidence on tax wars, tax incentives and developing countries see Is Tax Competition Harming Developing Countries more than Developed? Michael Keen, Alejandro Simone, IMF Fiscal Affairs Division, Reprinted by Tax Analysts, 2004; Tax Incentives for Development - a Global Perspective: experiences in MENA and non-MENA countries. OECD, June 2007; Revenue Mobilization in Sub-Saharan Africa: Challenges from Globalization, Keen, Michael, Mansour, Mario, IMF Fiscal Affairs Department, July 2009; African Development Bank (2010,) Rixen (2011,) Revenue Mobilization in Developing Countries, IMF Fiscal Affairs Department, March 8, 2011; Abbas and Klemm, 2013.

64 Address by Trevor Manuel *to the 4th OECD Forum on tax administration, Jan 2008*.

65 For instance, research by Öner Tulum at the Academic-Industry Research Network (AIRNET) has shown that all of the technologies in the iPhone – things like touch-screen technology, GPS, and so on – originated with government spending, funded by taxpayer money. See How Superstar Companies Like Apple are Killing America's High-Tech Future, Bill Lazonick, Institute for New Economic Thinking (INET) blog, Dec 9, 2014

66 See *Taxation as Monetary Policy*, by Lee A. Sheppard, Tax Notes International, Oct 20, 2014, p3. Korea, for instance, has adopted tax hikes combined with exemptions or reductions for activities considered beneficial, as discussed lower down in this section. A further potentially powerful argument is that taxes on capital curb capital owners' tendencies to bid up the price of investment assets. Central banks (and many governments) may not like this idea in the current post-crisis environment, as they like banks' assets to remain highly valued, so as to ensure they stay solvent. This of course may preserve short term stability at the expense of long term stability: it is a strategy for blowing bubbles to cushion economic headwinds.

67 See Invested Interests: The UK Overseas Territories' Hidden Role in Developing Countries, Christian Aid, 2012. It is of course important that developing countries do tax their citizens as far as is fair and reasonable, because taxing citizens can create powerful democratic effects. As one analysis summarises: "Taxation is the new frontier for those concerned with state-building in developing countries. The political importance of taxation extends beyond the raising of revenue. We argue in this book that taxation may play the **central** role in building and sustaining the power of states, and shaping their ties to society. The state-building role of taxation can be seen in two principal areas: the rise of a social contract based on bargaining around tax, and the institution-building stimulus provided by the revenue imperative. Progress in the first area may foster representative democracy. Progress in the second area strengthens state capacity. Both have the potential to bolster the legitimacy of the state and enhance accountability between the state and its citizens." See Taxation and State-Building in Developing Countries: Capacity and Consent, Deborah Brautigam, Odd-Helge Fjeldstad, Mick Moore, Cambridge, 2008. This "no taxation without representation" relationship does not hold in the same way with corporate taxation, of course. However, given the extreme difficulties many countries face in taxing large numbers of poor citizens, the corporate tax is an essential revenue-raiser, helping these countries pay for public services without having to beg for foreign aid.

68 Uganda's tax treaties: a legal and historical analysis, *Martin Hearson (London School of Economics) and Jalia Kangave (East African School of Taxation), presented at the ICTD annual conference, Dec 2014.*

69 Public Resource Mobilisation and Aid, *African Economic Outlook, 2010*

70 Joseph Stead of Christian Aid adds, in comments on this text: "Companies will negotiate deals with one minister/ ministry, but not include the revenue authority in such discussions, thus the overall budgetary needs are not considered in the individual contracts that are signed (invariably in secret). There's a related aspect of corruption in here too. There is also the power dynamic that exists, many of these companies have more power than the countries they are negotiating with and can exploit this to get tax breaks that they would not be able to get in negotiations with more powerful countries where the officals would feel better able to stand up to corporate lobbying.

I guess a final point is a sad consequence of the reliance developing countries have on corporate taxes is that often there are a small number of very big taxpayers, and those taxpayers leverage that power to enforce concessions.

71 For the $3.5 trillion figure, see Europe's Titans Hold on to their Cash, Sarah Gordon, *Financial Times*, Sept 14, 2014. A world awash in money: capital trends through 2020, Bain & Co., 2012. This cash hoarding has two overlapping elements: first, corporations (especially U.S. corporations) holding cash offshore for tax reasons; and second, the more general phenomenon of corporations building up cash reserves instead of investing. Some in the U.S. have argued that corporations are hoarding cash offshore because of high taxes at home, which force them to keep their profits offshore. They argue that if they could bring that foreign-sourced income home untaxed, either under a 'territorial' system or under full repeal of the corporate tax, that would solve the problem. Yet Section 3 describes what happened when that was (temporarily) allowed: it led to a bonanza for executive stock options and capital owners, with few jobs created. The right solution to the problem is - taking into account all the other reasons outlined in this paper - to tax offshore profits too, removing this incentive to shift profits and even genuine business activity offshore. The *Financial Times* cites one expert as highlighting how this may be a long-term trend: "Preserving cash instead of investing is a radical change since the financial crisis, and is a behaviour that looks set to stay. Europe's Titans Hold Onto their Cash, *Financial Times*, Sept 14, 2014. Or, as Richard Murphy notes more colourfully, summarising a conversation with a public sector UK economist: "Anyone who believes that in the current circumstance where demand is disappearing around a U-bend seemingly to never be seen again the chance that any business is going to take advantage of low interest rates, low tax rates and high investment incentives to decide now is just the perfect time to build a new factory or office or to innovate new products needs their head examined. It's just not going to happen." See Demand goes around the U-Bend, Richard Murphy, Forbes, Aug 2, 2011. Furthermore, according to an estimate by Bill Lazonick, the 449 companies in the U.S. S&P 500 index used an astonishing 91 percent of their earnings from 2003-12 to buy back their stock and pay dividends, leaving only nine percent for other uses such as increasing wages or investment. From 2004 to 2013 about 9,000 companies in the Compustat database, he said, wasted $6.9 trillion on stock buybacks — equivalent to nearly half their profits; they also spent $7.5 trillion on dividends. He says the biggest reason for this behaviour is that stock-based instruments make up the majority of corporate bosses' pay, and in the short term buybacks drive up their remuneration via stock prices. See Profits without prosperity, William Lazonick, Harvard Business Review, Sept 2014; and How Superstar Companies Like Apple are Killing America's High-Tech Future, Bill Lazonick, Institute for New Economic Thinking (INET) blog, Dec 9, 2014. He asks: "why give tax breaks to companies whose profits are used for this purpose?"

72 It's true that these revenues aren't always spent directly: they can be used to reduce deficits and debts too. It's also true that Modern Monetary theorists dismiss the idea that you need taxes for spending (to put it crudely, you can simply run deficits and borrow to spend) but whatever the merits of those arguments the fact is that this is how governments behave (and how their voters

expect them to behave): when revenues fall, spending tends to fall, and vice versa.

73 Some countries already recognise this issue. Korea, for instance, said in September 2014 that corporations awash in cash would pay a 10 percent surcharge on their corporate tax rate unless they have spent a certain proportion of their income on dividends, investment and wages. The finance ministry has said it wishes to see "zero revenue" from the scheme - in other words, it wants to see higher wages and so on. See "South Korea's government tries to get firms to spend their accumulated riches," *The Economist*, Sept 27, 2014. It should be noted that this particular policy may not have much of a beneficial effect if the companies opt for paying dividends instead of wages and dividends. An anonymous member of Korea's trade union movement, in an email forwarded by Mark Zirnsak in November 2014, summarised: "In short, the finance minister's plan looks like a plan for a income-led growth but in real contents it is in line with the interests of asset owners. In general the minister is focusing more on capital income rather than labour income as sources of household income." More generally, see also The Corporation Tax Is Under Attack. It Must be Defended, LSE blogs, Feb 29, 2012. Some private sector officials are making similar arguments. The FT's chief economics correspondent Martin Wolf, in an email exchange with TJN officials (Dec 20, 2013), endorsed a combination of higher corporate taxes along with investment allowances. It is also worth noting there that corporate cash surpluses are to a large degree a natural counterpart of government fiscal deficits. Noting this, David Bowers of London's Absolute Strategy Research comments: "attempts to reduce budget deficits are being thwarted by the 'rent-seeking' behaviour of the corporate sector. One response would be to increase corporate taxation." The quote is cited in Understanding sectoral balances for the UK, Rebecca Sharp, Martin Wolf Exchange, *Financial Times*, Dec 5, 2011.

74 The financial services sector is a prolific source of rents: as Matt Taibbi put it, in Rolling Stone magazine, "Everything is Rigged." See "Everything is Rigged," Matt Taibbi, Rolling Stone, April 25, 2013. The best-known example comes via the "Too Big To Fail" problem, where banks take outsized bets, subsidised by taxpayers: they keep their winnings in good times, and get bailed out when their bets go wrong and they crash the economy. The Polish author Ryszard Kapuscinski summarises oil rents effectively:" Oil is above all a great temptation. It is the temptation of ease, wealth, strength, fortune, power. It is a filthy, foul-smelling liquid that squirts obligingly into the air and falls back to earth as a rustling shower of money. Oil creates the illusion of a completely changed life, life without work, life for free. Oil is a resource that anaesthetizes thought, blurs vision, corrupts. Oil is a fairy tale and, like every fairy tale, it is a bit of a lie. It does not replace thinking or wisdom."

75 Certain tax rules such as effective "controlled foreign corporation" (CFC) rules that bring offshore income into the corporate tax net do directly catch wealth extraction with minimal impact on genuinely productive industry, making them especially good rules. But this cannot be generalised for the corporate tax as a whole.

76 See Tax Wars, permanent web page, Tax Justice Network, and associated links.

77 By "net contributions" we mean tax contributions, minus non-tax subsidies. Organisations such as Good Jobs First and the Pew Charitable Trusts in the United States, and Kevin Farnsworth in the United Kingdom, have provided useful studies of non-tax subsidies this respect. For example, Good Jobs First subsidy tracker identifies 240 "megadeals," or subsidy awards from individual U.S. states, with a cumulative cost over $64 billion. The deals typically involve little if any job creation. They reported in 2014 that the average number of megadeals per year had doubled since 2008. See Megadeals: The Largest Economic Development Subsidy Packages Ever Awarded by State and Local Governments in the United States, By Philip Mattera and Kasia Tarczynska With Greg LeRoy, Good Jobs First, June 2013. One case study highlights Walmart. As Good Jobs First explains: "A secret behind Wal-Mart's rapid expansion in the United States has been its extensive use of public money. This includes more than $1.2 billion in tax breaks, free land, infrastructure assistance, low-cost financing and outright grants from state and local governments around the country. In addition, taxpayers indirectly subsidize the company by paying the healthcare costs of Wal-Mart employees who don't receive coverage on the job and instead turn to public programs such as Medicaid." If one were to consider corporations as receiving benefits from society, and suppose that they should pay for those benefits at the same effective rate that individuals do, then any effective corporate income tax rate that is below the average effective individual income tax rate might be considered a subsidy.

78 From Sword to Shield: The Transformation of the Corporate Income Tax, 1861 to Present, Steven A. Bank, Oxford, 2010, pxvi. See also Taxation, Non-Tax Revenue and Democracy: New Evidence Using New Cross-Country Data Wilson Prichard, Paola Salardi and Paul Segal, International Center for Tax and Development, September 2014.

79 Corporations incorporated in tax havens are sometimes forced by international pressures to track ownership and accounts, but they often only do so grudgingly and imperfectly. Some tax havens make little or no effort at all: they simply don't need to know the information for their own tax purposes. Money laundering authorities generally won't check whether corporations have been filing their books accurately; usually it is only tax departments that carry out that role, and have the incentive to do so. In fact, many tax havens deliberately try not to know who is behind the corporations incorporated in their

territory - because if they did, the haven might be obliged under its international obligations to hand that information over to foreign tax authorities who need it to tax their wealthy citizens. And if they started doing that, then the corporations would incorporate somewhere else, and the haven would lose out on annual registration fees.

80 Denis Healey, former UK Chancellor of the Exchequer once illustrated the difference: "The difference between tax avoidance and tax evasion is the thickness of a prison wall."

81 Frequently, journalists write these things because they fear being sued for libel: it is safer to write 'this is perfectly legal' even if it is factually incorrect. Libel suits can be terrifying, but we'd argue that factual inaccuracy isn't the right way to address this problem.

82 Big Four firms, for instance, have been marketing schemes to clients even when they have judged that they have had a 75 percent chance of being found unlawful if challenged. See Tax avoidance: the role of large accountancy firms, UK House of Commons Committee of Public Accounts, Forty-fourth Report of Session 2012–13 Report, together with formal minutes, oral and written evidence, p4. It can be even worse. See also UK barrister Jolyon Maugham, in post (on his blog Waiting for Godot: musings on tax) entitled Weak Transmission Mechanisms - and the Boys Who Won't Say No (Aug 7, 2014). It begins: "I have on my desk an Opinion – a piece of formal tax advice – from a prominent QC at the Tax Bar. In it, he expresses a view on the law that is so far removed from legal reality that I do not believe he can genuinely hold the view he says he has. At best he is incompetent. But at worst, he is criminally fraudulent: he is obtaining his fee by deception. And this is not the first such Opinion I have seen. Such pass my desk All The Time." For another among many possible examples, see Manhattan U.S. Attorney Announces Agreement With Ernst & Young Llp To Pay $123 Million To Resolve Federal Tax Shelter Fraud Investigation, Southern District of New York U.S. Attorney's Office, March 1, 2013.

83 They are seldom challenged because tax authorities find it costly and complex and difficult to litigate these things, and because sometimes their political masters don't really want them. The United Kingdom is a case in point; it has been trying to tempt foreign companies to relocate to the UK with the promise that their tax affairs will be treated with kid gloves. This is outlined in great detail in Richard Brooks' book *The Great Tax Robbery: how the UK became a tax haven for fat cats and big business*, Oneworld, 2013.

84 See, for example, Juncker tax scandal fails to gain heat in European Parliament, Damian Grammaticas, BBC News, Nov 24, 2014. Richard Brooks, a former UK corporate tax inspector and now a tax writer, explained via an email to TJN that the exposed Luxembourg schemes were "possibly the biggest mass tax crimes ever." This is because, as he put it, all those schemes depend on the Luxembourg companies in the schemes being treated by other tax authorities as being tax resident in Luxembourg: that is, centrally managed and controlled there. Although company documents insist that they are controlled there, tax authorities may well take a different view. Typically, it will be a finance director in London or Berlin, who say, decides to invest $1 million in the United States via a Luxembourg company (call it Luxco). The Luxco directors may, in reality, be merely nominees rubber-stamping decisions. The companies may argue in response that the Luxembourg officials have to agree that "their" Luxco may be used for the scheme. The courts in the UK or Germany may well then take the view, however, that the company boards in London or Berlin decided on the use of their companies for them too. A further nuance of these arrangements can be that the UK or German directors, even if not on the board of the Luxco, are most likely acting as shadow directors. These arguments, of course, can get complex, and tax authorities' willingness to go after these schemes face the challenges of a lack of resources or political will, lobbying and more. For a deeper exploration of the general question of tax risk, see Risk Mining: what tax avoidance is, and why exactly it's anti-social, Tax Justice blog, Aug 26, 2014. It is a concise summary of a longer paper by UK tax barrister David Quentin entitled Risk-Mining the Public Exchequer. He argues that when corporations assume tax risks on a systematic basis, this involves a steady one-way transfer of wealth away from ordinary taxpayers towards corporations, deploying schemes that would fail in court but which never get challenged.

85 For example, a number of tax avoidance structures set up by the likes of Starbucks and Amazon have depended on the definition of a tax concept called "permanent establishment" - roughly, whether the office around which the abuses was 'genuine' enough to be accepted, or whether it was a sham. See, for example, the Amazon UK case, described in A tax avoidance penalty regime that would make Amazon sit up and take notice, David Quentin's Tax Blog, Nov 18, 2014. This case involves the deliberate creation of tax risk by Amazon, which could easily be challenged in court. By contrast, tax schemes that take advantage of a country's "patent box" regime which explicitly gives preferential treatment to certain forms of intellectual property are probably risk-free and therefore can safely be called "avoidance" but even then, only assuming that the scheme does not fall foul of other countries' tax laws.

86 See Narrative Report on Hong Kong, Financial Secrecy Index, TJN, 2013.

87 For a longer discussion of tax and morality, see Tax and the Common Good: a study of tax and morality, Christian Aid, Oct 2014. For a short example of corporate law-making, see The Principles of Tax Policy: Written Evidence Submitted by Richard Brooks, UK Parliament, Session 2010-2011, Jan 31, 2011. For more details, see Brooks' book *The Great Tax Robbery: how Britain became a tax haven for fat cats and the super-rich*, Oneworld, 2013. Developing countries with weak tax administrations, of course, are especially vulnerable to this.

88 Taxing across Borders: Tracking Personal Wealth and Corporate Profits, Gabriel Zucman, Journal of Economic Perspectives—Volume 28, Number 4, Fall 2014, p128

89 Estimates of the growth rate of these phenomena range above 10 percent annually, far above world economic growth rates. See, for instance, Cash abroad rises $206 billion as Apple to IBM avoid tax, Bloomberg, March 12, 2014, estimating 11.88 % annual growth recently; or The Price of Offshore, Revisited, estimating that aspects of the offshore system growing at 16% annually. Corporate income tax rates in OECD countries have fallen from a weighted average of nearly 50 percent in 1981 to a little over 30 percent today. (Effective tax rates in the US are close to half the headline 35 percent corporate tax rate.) Developing countries have seen a sharper fall: see Keen, Michael and Kai A. Konrad, 2012, International Tax Competition and Coordination, Max Planck Institute for Tax Law and Public Finance, Working Paper 2012. See OECD Corporate Income Tax Rates, 1981-2013, Tax Foundation, Dec 18, 2013, and 'Competitiveness has nothing to do with it," Edward D. Kleinbard, tax notes, Sept 10, 2014.

90 For further discussion in a U.S. context about how offshore profits are not 'locked' offshore either, see Citizens for Tax Justice, "Delaney's Delusion," June 25, 2013. In the nightmare scenario where the U.S. were to *repeal* the corporate income tax, as some commentators are urging (see the Intro Section), this would create a gigantic new global "black hole" tax haven, encouraging many other countries rapidly to follow suit (Section 5) and opening up the corporate tax as a giant loophole for U.S. taxpayers (Section 2).

91 See, for instance, The UK's "Patent Box" - a really nasty, disingenuous and hypocritical piece of tax law, David Quentin's tax & law blog, Sept 26, 2014.

92 The United States, for example, adopts a 'worldwide' system where all profits of U.S. corporations are subject to U.S. taxes, but it allows taxes on offshore profits to be "deferred" until they are repatriated to the U.S. by a foreign subsidiary paying a dividend to the U.S. parent. Many countries with supposedly "territorial" systems, by contrast, often have strong elements of "worldwide" taxation, notably "CFC" (Controlled Foreign Corporation) rules which reach out and tax substantial portions of the overseas income of their multinationals as if it were locally-sourced income. Lobbyists' efforts to move further towards a "territorial" tax system generally do not envisage these strong CFC rules; the UK has recently moved to guts its own CFC rules, with very large impacts on tax revenues. See also Tax, Lies and Videotape: Britain's shadow tax system revealed, Private Eye special report, Richard Brooks, Sept 20 2013.

93 In an article for Economia magazine, Michael Devereux of the Oxford Centre for Business Taxation explains one such possibility, as it applies to the UK's newly territorial tax regime: "Imagine for example that a UK multinational puts equity into a subsidiary in an ultra low tax country," he says. "This subsidiary could then lend money to other subsidiaries for operations and investment, with interest on this money flooding back to the tax haven in high profits." These profits will then be taxed at around 5.5% – about a quarter the rate charged on normal corporate income tax rate. Such a generous rate is close to being government sanctioned tax avoidance, according to some critics.

94 This is because under a pure worldwide tax system, it doesn't make much sense to engineer tax breaks from a foreign country, since any taxes not paid overseas will be topped up at home. With territorial taxes, corporations have every incentive to lobby and dodge to secure foreign tax breaks, putting pressure on other countries' tax systems. For more detailed discussion of this, see The Fiscal and Economic Risks of Territorial Taxation, By Chye-Ching Huang, Chuck Marr, and Joel Friedman, U.S. Center on Budget and Policy Priorities January 31, 2013.

95 A better approach than 'pure' territorial taxation is to push towards a stronger worldwide system: in the U.S.' case, as Citizens for Tax Justice explain, this means ending 'deferral.' See Congress Should End "Deferral" Rather than Adopt a "Territorial" Tax System, Citizens for Tax Justice, March 23, 2011, and for more details also see "Throw Territorial Taxation from the Train," Ed Kleinbard, Tax Analysts, Feb 5, 2007.

96 Putting it a slightly different way, Corporate income taxes are returns to the stakeholders in the enterprise, rather like dividends. And in fact, from both a legal and an accounting perspective, the corporate income tax is treated as a distribution out of profits, like a dividend.

97 Translated from the original French, Lucien Jerphagnon, "*Les Divins Césars. Idéologie et pouvoir dans la Rome impériale*", Ed. Tallandier, 2004, pp.481–82.

98 See The Social Injustice of Corporate Tax Avoidance, Martin O'Neill, Tax Justice Focus, Vol 5, No. 2, and No it's not your money: why taxation isn't theft, Philip Goff, Oct 8, 2014. See also Tax for the Common Good: a stuy of tax and morality, Christian Aid, October 2014.

99 See Stewart to O'Reilly: why are tax break recipients "savvy" and welfare recipients "moochers?" Daily Kos, Oct 7, 2012.

100 See Fact Sheet: Why we Need the Corporate Income Tax, Citizens for Tax Justice, June 10, 2013. See also Where the Money Lives, Nicholas Shaxson, Vanity Fair, Aug 2012, an investigation of Mitt Romney's accounts, demonstrating some of the mechanisms by which wealthy people can build up large tax-exempt retirement accounts despite limits on contributions.

101 See also Are Corporations Unfairly Double Taxed? Richard D. Wolff, which provides further arguments.

102 See Everyone Who Calls for Repealing the Corporate Tax Is Wrong, Steve Wamhoff, Tax Justice blog (ctj.org), Aug 28, 2014.

103 The so-called economic "theory of the second best" holds that when it is impossible to remove all distortions, as is usually the case (tax must be levied somewhere), it is generally better to have several smaller distortions, or distortions that partly cancel each other out, than one big uncorrected distortion. This suggests that overall distortions and disincentives are likely to be lower if tax is levied at similar rates on corporate profits, on labour, on consumption, and so on.

104 For further discussion of the 'refined sugar' point, see The UK Law Commission consultation on the fiduciary duties of investment intermediaries: Response from the Tax Justice Network, March 24, 2014.

105 Statement of Senator Carl Levin on Introducing the Stop Tax Haven Act, Part II, Feb 17, 2007.

106 Quoted in U.S. Senate Subcommittee on Investigations hearing "What is the U.S. position on offshore tax havens?" July 18, 2001.

107 As Greg N. Mankiw wrongly asserted in the New York Times: "A corporate chief who arranges a merger that increases the company's after-tax profit is doing his or her job. To forgo that opportunity would be failing to act as a responsible fiduciary for shareholders."

108 Formal legal opinion: company directors have no fiduciary duty to avoid tax, *Tax Justice Blog, Sept 9, 2013 and the original* Fiduciary Duties and Tax Avoidance, Opinion, *Farrer & Co., June 7, 2013*. See also Directors' Duties and Tax Avoidance: a View from the U.S., *Tax Justice Blog, May 30, 2014* and Civil Action No. 6462-VCG, *Delaware Court of Chancery, June 29, 2012*. Also see The Fig Leaf of Shareholder Value Covering Corporate Tax Avoidance, Removed, *Tax Justice Blog, June 5, 2013*, and associated links.

109 For a good discussion of the history of the Laffer Curve, and an exploration of its shortcomings, see Feast of the Wingnuts, Jonathan Chait, *The New Republic*, Sept 10, 2007.

110 See, for instance, Taxing Job Creators, Paul Krugman, New York Times, Nov 22, 2011, and associated links. It cites studies showing that the revenue-maximising top marginal tax rate for the United States would be at around 70 percent. Of course, there are many anecdotes about tax cuts (or tax hikes) being followed by economic growth or tax revenue rises - examples which are routinely cherry-picked by tax-cut zealots. But there are many more examples in the other direction.

111 Capitalist Fools, Joseph E. Stiglitz, *Vanity Fair,* January 2009.

112 See On charlatans and cranks," Greg Mankiw's blog, July 2, 2007.

113 As one U.S. investor put it: "Imagine a legal obligation, based on principles of prudence and loyalty, that compels us to condone behavior that stifles innovation, destroys local and national economies, and shifts heavy financial burdens to our own clients and beneficiaries. Fortunately, this obligation to minimize tax payments does not exist."

114 See, for instance, the several links associated with Quote of the Day: the Purpose of Corporations, Tax Justice Blog, Aug 27, 2014.

115 These views are often held simultaneously. Robert McIntyre of Citizens for Tax Justice in the U.S. says this cognitive dissonance is particularly prevalent in the U.S. Republican Party and offers a suggestion as to how they reconcile it: "On Mondays, Wednesdays and Fridays Republicans say that cutting taxes raises revenues. On Tuesdays, Thursdays and Saturdays they say cutting taxes reduces revenues so much that it forces government to cut back - to starve the beast. And on Sundays they rest." Quoted in Treasure Islands: Tax Havens and the Men Who Stole the World, Nicholas Shaxson, Vintage Books, 2012, p204 (UK edition).

116 A Republican Ruse to Make Tax Cuts Look Good, Edward D. Kleinbard, *New York Times,* Jan 2,2015. Kleinbard talks about certain assumptions typically invoked by dynamic scorers: "Economists describe such a move as "making counterfactual assumptions"; the rest of us call it "making stuff up."

117 Just for example, see An Astonishing Record - of Complete Failure, Tim Harford, *Financial Times*, May 30, 2014.

118 As one recent study puts it: "Claims that the cost of tax reductions are significantly reduced by feedback effects do not appear to be justified by the evidence. See Tax Rates and Economic Growth, by Jane G. Gravelle and Donald J. Marples, U.S. Congressional Research Service, January 2, 2014. See the summary page for this quote. See in particular the section "Dynamic Revenue Estimating" which notes, among other things: "The models with responses most consistent with empirical evidence suggest a revenue feedback effect of about 1% for the 2001-2004 Bush tax cuts." For top personal income taxes, see also Tax Flight is a Myth: Higher State Taxes Bring More Revenue, Not More Migration, U.S. Center on Budget and Policy Priorities, Aug 4, 2011. See also Carter, Reagan, Revenue, Paul Krugman, New York Times, July 15, 2010; or Five Critiques of Arthur Laffer's Supply-Side Model Show Tax Cuts as Junk Economics, ITEP, 2012, and associated links.

119 See The Problem with Dynamic Scoring, Josh Barro, Forbes, April 14, 2012.

120 See Tax avoidance: the role of large accountancy firms, UK House of Commons Committee of Public Accounts, Forty-fourth Report of Session 2012–13 Report, together with formal minutes, oral and written evidence, p4.

121 American Lawyer. How Vulnerable Are Lawyers? *Baker Hostetler, Aug 21, 2009*.

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