It's no wonder Apple tries to avoid paying tax

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The complex tax rules still enforced in America have led to the scandal of multinationals bending every rule possible

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If you're one of those people who likes to believe that we are gradually working our way towards a fairer tax system, you might want to steer clear of a book published this year.

The overarching conclusion of *Taxing the Rich* by Kenneth Scheve and David Stasavage goes roughly as follows: you know the idea that everyone should be taxed in accordance with their ability to pay; that higher inequality will, in time, lead to more progressive taxes? Well, it's plain wrong. In fact, if you want a fairer tax system, it turns out the best thing you could do is to wage a war. Throughout history, from the American Civil War to the world wars of the past century, redistributive taxes were in large part a consequence of mass conscription, not political pressure.

Since the 1970s stratospheric tax rates for the wealthiest have, for the most part, disappeared. Nor is there much likelihood of that changing, if you believe the authors' thesis. In the age of drone warfare and cruise missiles, there is little immediate prospect of mass military mobilisation. It is one of the more unexpected ways in which technology has allowed some of the wealthiest to pay less tax.

There was yet more evidence of the other, more obvious, version earlier this week when the European Commission revealed that Apple, the world's richest company by most measures, had enjoyed an effective rate of 0.005 per cent on its European profits.

What's especially intriguing about the Apple dodge is how simple it was, as these things go. There was no shifting cash back and forth between subsidiaries, no converting money into debt and equity and offsetting it through complex legal structures, as is fashionable among multinational firms these days. Instead, Apple simply declared itself stateless, sat back and enjoyed its next-to-zero tax rate on its European profits.

In practice, for all the fuss it made this week, there isn't all that much the commission, or indeed any individual state, can do about it. The EC's case, which involves encouraging Apple to pony up €13 billion of unpaid taxes, is likely to flounder in the courts, since it is not altogether obvious that Apple was enjoying unique privileges (in other words, was receiving state aid). On the contrary, the more one looks at the accounting behaviour of today's breed of multinationals, the clearer it is that, to a greater or lesser degree, everyone is at it.

'Twas ever thus. Back in the 1920s, around the time the "modern" system of international business taxation was established, British oil companies in Persia and Iraq were notorious for setting up subsidiaries and shifting around profits to minimise the amounts owed.

> Companies pay less than they should, so individuals pay more

The problem today is the same as it always was: corporate taxes are levied on profits, but it is very easy for a company to disguise where those profits are being made and very difficult for a government to call them up on it. Except that these days the trend is greater than ever before. Since 1952 the proportion of revenues accounted for by corporate taxes has dropped from 32.1 per cent to 8.9 per cent in the US. In the UK, that share is down from 10 per cent in 1989 to less than 6 per cent this year.

For the most part everyone agrees on two things: first, the system as it stands is not fit for purpose. Second, the multinational companies avoiding tax are nonetheless bending the rules, even if they are sticking to the letter of them. The upshot is that some companies pay less tax than they should, which in turn means individual income taxpayers end up picking up the tab.

On this front, there is little hope of a resolution any time soon. Even if Europe is at all successful in clamping down on Apple's jiggery-pokery, there is little to prevent the company simply shifting profits to a friendlier jurisdiction in the future. Meanwhile, the OECD's avoidance scheme does little more than apply sticking plaster to loopholes.

However, there is another frequently overlooked explanation for the current trend in avoidance — the medieval tax rules still enforced by the United States. The chief reason companies such as Apple, Microsoft and Alphabet (Google's parent) keep so much money floating around outside the US is because the minute they repatriate it they will be met with a gargantuan tax bill. While almost every other country around the developed world is cutting corporate tax rates, the average combined rate across US states is 39.1 per cent — higher than any other major economy. The system, which, unusually, attempts to tax companies even when they have already paid taxes overseas, has been more or less unchanged for three decades.

It is this, rather than corporate greed or dodgy accounting, that explains why US multinationals have $1.7 trillion in cash balances in overseas limbo. It is not that the money is tax-free, it is that it simply hasn't been taxed yet. As Apple's chief executive Tim Cook puts it, this "is not about how much Apple pays in taxes. It is about which government collects the money."

All the same, the fact that this money remains locked up in stateless subsidiaries rather than being invested in the stuttering global economy is one of the great tragedies and scandals of modern economics.

To the surprise of some commentators, the person making the most encouraging noises about this is Donald Trump. The Republican presidential candidate wants to bring the corporate tax rate down to 15 per cent, at which level some of that money might come back home, and finally be taxed. The problem is that we still don't know how Mr Trump would afford it or whether it will actually happen.

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