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What Do Heavy-Duty Diesel Engines And The Google Tax Have in Common?

William Byrnes (Texas A&M University Law) · Friday, March 4th, 2016

What do these two things have in common? [Dr. Andrew P. Morriss](#), Dean & Anthony G. Buzbee Dean's Endowed Chair, Texas A&M School of Law explains

In 1998, seven US heavy-duty diesel engine (HDDE) manufacturers agreed to pay USD83m to settle a suit by the US Environmental Protection Agency (EPA) contending that the HDDE manufacturers had used clever computer programming in engine controller chips to make the engines minimize emissions during the EPA test cycle and maximize fuel efficiency otherwise, leading to increased emissions. (Recently, Volkswagen was discovered to have done much the same thing in its passenger diesels, raising serious questions about the competence of European and US environmental regulators, who apparently didn't think to check on passenger diesel engines in the more than 17 years since the 1998 EPA suit.)

Google just agreed to pay the UK HM Revenue & Customs GBP130m over the next ten years to settle its dispute with the UK over the amount of tax it owes and its use of aggressive tax avoidance strategies involving booking revenue in low-tax Ireland instead of in higher tax jurisdictions like the UK. Reportedly the company will pay France more than EUR500m in a similar deal. Many British commentators are outraged that France is collecting more, despite being a smaller market for Google than the UK. Similar deals to pay European tax authorities more are likely with companies like Starbucks and Apple. Both are examples of a disturbing trend in which the rule of law is being undermined by regulators' and tax authorities' insistence that regulated entities and taxpayers follow "the spirit" of rules rather than their letter.

Google's Tax Woes (And Starbucks' And Apple's)

A number of multinationals (often American-based) have recently come under fire for use of complex tax structures that relocated revenue to low-tax jurisdictions (Ireland, the Netherlands, Bermuda, etc.) from higher tax jurisdictions (the UK, France, Germany, etc.). In response, politicians and revenue authorities in the high tax countries have expressed outrage, demanded more revenue, and insisted that their tax authorities not only close the "loopholes" but collect

additional revenue for previous tax years.

UK Prime Minister David Cameron, Parliamentary public accounts committee chair Margaret Hodge (who called the company “evil”), and a host of other politicians have denounced Google and other multinationals for not paying their “fair share” of tax. The revenue authorities’ and politicians’ complaint about Google and the others is not that they are breaking the letter of the law, but that they are not living up to its “spirit” by using clever legal and accounting strategies to outwit tax authorities. Indeed, in the current debate over whether Google is stumping up enough, one British MP went so far as to suggest that the company would always be able to outwit the tax authorities because it could hire cleverer accountants than the government could.

What are Google and others supposed to do? They need to pay what is “fair” regardless of the legality of their actions under the rules announced in regulations and statutes. How much is fair? Apparently more than GBP130m in the UK for Google, given the outrage over the settlement with the UK tax authorities. But how much more?

Read the full article [Wolters Kluwer Global Tax Weekly – a closer look](#)

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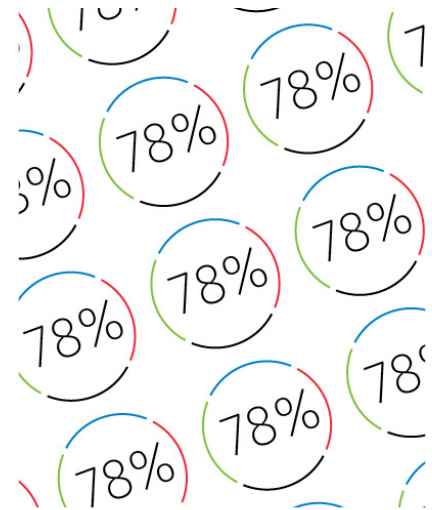
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