ASEJ ISSN: 2543-9103 ISSN: 2543-411X (online)

Tax haven as a method for tax optimization in holding structures

Joanna Toborek-Mazur[1]

[1]Cracow University of Economics
Poland

Abstract— **Rapid technological progress and the globalization it has caused have created an excellent environment for business entities, on which they can reach for various legal and economic solutions that will allow them to maximize their profits. Never before in economic history have companies had so many opportunities and tools to operate effectively on every continent. In the paper, the author presents a tax haven as a way to reduce the tax burden of every international corporation, regardless of the industry. She draws attention to the fundamental aspects of the issue of tax optimization using a holding structure. This structure has allowed the world's largest business entities to create such schemes that allowed them to optimize taxes by circumventing taxes (tax avoidance) and sometimes illegally bypassing them (tax evasion). After reviewing the literature, press articles and OECD and IRS reports, the authors describe the mechanisms used by well-known business entities to reduce tax liabilities by creating a holding structure using countries that are tax havens.**

Keywords— tax benefits, economy, CIT, tax haven, taxation, offshore, financial center tax planning

I. INTRODUCTION

Taxes developed along with the development of social life on Earth. The emergence of the first organizational forms of the state was associated with the need to finance people who were involved in exercising power, creating conditions of safety for citizens, establishing legal order. This is how public levies appeared, which currently play a significant role. Initially, they burdened selected social groups (farmers, residents), while other groups were exempt from them (nobility, clergy) (Wolański, 2003, p.11). Over time, levies became a universal benefit, at first they were collected in the form of natural goods, later in precious metals and finally as a cash benefit. The legal definition of tax was specified in the Polish tax system in the Act of August 29, 1997, on the Tax Ordinance, as stated in Art. 6 of this Act, according to which "tax is a public-law, gratuitous, compulsory and non-refundable cash benefit for the benefit of the State Treasury, voivodeship, county or commune, resulting from the tax act" (Dz.U nr 137, poz, 926).Taxes are the main source of state income and allow for financing its activities. It is thanks to taxes that the state has the financial resources to pay for schools, hospitals, build roads or support the poorest. Everyone, whether a natural person or a legal person, is obliged to pay them when they are in a situation covered by tax. Tax has the following character: public law, gratuitous, compulsory, non-refundable, monetary, universal. The basic aspects of tax are: systemic, economic and legal tax. The systemic aspect of tax determines the relationship between the state and the citizen. It is characterized by a systemic structure, as it determines the activities of legislative bodies (Gomułowicz, Małecki, 2002, p.109). The economic aspect consists in the fact that the state or a public law association takes over part of the income, revenue or assets of these taxpayers from entities subordinated to them. In this case, it is worth remembering to maintain the tax capacity of taxpayers, in such a way as not only to maintain existing tax sources, but also to formulate conditions for creating new tax sources. Thus contributing to the increase in own revenues by the public law association, the state or a local government unit (Gomułowicz, Małecki; 2002, p. 134). The legal aspect is closely linked to the systemic aspect and is defined by the legal definition of tax and contains tax features that are to some extent an extension of constitutional norms.

As is known, taxes are a very important source of budget revenues, and their structure and amount are extremely important elements of the state's fiscal policy. Tax is an excellent tool in the scope of intercepting the actually produced national product. Literally, this means that thanks to taxes, public authorities have the opportunity to "exclude" real

ASEJ - Scientific Journal of Bielsko-Biala School of Finance and Law
Volume 28, No 4 (2024), pages 10
https://doi.org/10.19192/wsfip.sj4.2024.14
Received: November 2024., Accepted: December 2024
Published: December 2024

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consumption from the private sector. In this way, they can transfer the funds obtained to the public sector (Grądalski, 2004, p. 20). Due to the fact that it is a compulsory benefit, tax constantly entails income effects, which means that the purchasing power of the taxed decreases. The amount of tax revenues of the state is influenced by, among others:

- the shape of the tax system and the legal structure of individual taxes,
- taxpayers' willingness to bear the burden of taxation,
- the efficiency and effectiveness of the tax administration.

Complicated tax law with repeated changes to the law encourages taxpayers to conduct business illegally. Illegal tax avoidance is not the same as the existence of the grey economy, because tax evasion is only one of the issues related to its existence (Toborek- Mazur, 2010b)

Tax havens, also known as low-tax jurisdictions, are a complex and controversial topic in the context of the global economy. These are countries or territories that offer very low tax rates, favorable legal regulations or other tax breaks that attract investors, companies and individuals. The aim of such havens is to attract capital from abroad by creating attractive conditions for conducting business, which allows for minimizing the tax burden in the country of origin. This phenomenon has its roots in tax avoidance and tax optimization practices that are becoming increasingly common in international trade. However, tax havens are not only the subject of interest of international corporations that have many branches located in different countries (Toborek-Mazur, 2024). They are also often used by individuals who are looking for ways to protect their assets and avoid higher tax rates in their home countries (Toborek-Mazur, 2005, p 17). The use of such legal structures is becoming a common tool in international tax optimization, in which concepts such as income shifting and the use of legal loopholes play a special role (Toborek- Mazur, 2005, p 18). However, the phenomenon of tax havens is controversial. On the one hand, tax havens contribute to the growth of foreign investment, job creation and the development of international enterprises. On the other hand, critics point to their adverse impact on national economies, especially in the context of the loss of tax revenues by states that could spend them on the development of infrastructure, education, healthcare and other public goods. Additionally, there are concerns that tax havens may encourage money laundering, terrorism financing or other illegal activities.

The paper aims is to analyze the benefits that an entity gains thanks to the established holding structure using tax havens. In connection with this, the author puts forward a research hypothesis: that holding companies carry out tax optimization processes more quickly and effectively, reducing or reducing tax liabilities to zero. In turn, the use of a tax haven may significantly reduce the state's revenues, but it contributes to the retention of realized profits by the economic entities generating them. From a macroeconomic perspective, the growing use of tax havens raises serious questions about tax justice and social consequences. It is therefore worth considering the following research questions:

From a macroeconomic perspective, the growing use of tax havens raises serious questions about tax fairness and social consequences. It is therefore worth considering the following research questions:

1) What are tax havens and what are the main criteria that distinguish them?
2) What legal and financial mechanisms allow companies to avoid taxes using tax havens?
3) What are the differences between legal and illegal ways of reducing corporate taxation?
4) Why do entrepreneurs decide to transfer their activities or register companies in tax havens?
5) What are the social and political consequences of operating in tax havens?
6) What methods of reducing tax liabilities are used by international group of companies ?

II. Tax haven and its features

The tax systems of individual countries contain different levels of tax burdens. Here we are dealing mainly with tax rates, tax amounts and tax brackets, which change depending on the government's policy. The taxpayer compares the tax legislation in various countries. The result of these comparisons may be the tendency to use the tax regulations of other countries to reduce their own tax burden more effectively. The increasing international competition contributes to this, as some countries consciously implement preferential taxation (Toborek- Mazur, 2024).

The Organisation for Economic Co-operation and Development (OECD) has formulated a commonly used definition of a tax haven, according to which a tax haven is considered to be "an area in which the existing legal system allows foreign entities to reduce the tax burden in their home country" (Obszyńska-Krasnodębska, Krasnodębski,1995, p.14). The encyclopedia definition says that a tax haven is an area where "taxes do not exist under the applicable regulations or do exist but are only of an internal nature and do not burden the income of foreigners and their companies, or burden them to a minimal extent, as well as where special fiscal privileges are granted, which are used by specific taxpayers or which concern a given type of activity" (Kuchciak, 2012, p. 48). According to J. Glukhovsky, "in the common sense, an oasis offers favorable conditions of existence against the background of an unfriendly external environment. In a situation of universal fiscal burdens, an oasis is a place where these taxes do not exist or their amount is insignificant" (Głuchowski, 2001, p.3). In turn, T. Lipowski considers a tax haven to be "a country or territory with a number of characteristic features, the most important of which are relatively lower tax rates compared to other countries, which in practice means a lack of taxation or other significant tax privileges both in the source country and in the country of residence" (Lipowski, 2004, p.137). M Hampton, states that it is "a jurisdiction that is characterized by either a complete lack or low direct and indirect taxation compared to other jurisdictions"(Kuchciak, 2012, p.49). (F. Weyzig and M. van Dijk considered that the concept of a haven

includes "any state or territory whose law can be used to avoid or evade taxation due to another state in accordance with its internal law" (Kudła, 2013, p.249). A. Beauchamp defines a tax haven as a state or area that guarantees individuals and legal entities a favorable level of income or inheritance tax, i.e. allows them to pay a relatively lower tax there and also gives them the chance to avoid tax burdens in the taxpayer's country of residence (Folfas, 2008, p.16). According to Starchild, it is a country that encourages parent companies based in highly developed countries to create branches and branches and at the same time a foreign country that is characterized by favorable tax legislation. The small size of countries, often islands, allows for greater homogeneity of residents and easier achievement of political consensus by establishing low income taxation. One of the main reasons for offering preferential tax rates to legal entities is geographical justification. Tax havens are characterized by very low endowment of natural resources and the lack of neighbors with a common land border. The above-mentioned factors favor high openness of economies within the framework of international exchange, which encourage the development of financial flows (Kudła, 2013, p.251). OECD has identified a number of factors for recognizing a given tax system as a tax haven. The main criteria are:

1) No or low effective tax rates - very low taxes or their complete absence
2) Lack of effective exchange of information - lack of cooperation with other countries in the effective exchange of tax information.
3) Lack of transparency -- lack of transparency in the functioning of legal, judicial and administrative regulations.
4) "Ring fencing" of regimes - selective preference for certain groups of entities through the tax system (Harmful Tax Competition, 1998; p. 27).

The International Monetary Fund (IMF) lists three basic features that define and decide whether a given country can be classified as a tax haven:

1) The presence of financial institutions that are involved in transactions primarily with non-residents
2) The operation of a financial system that is based on foreign assets and liabilities
3) Ensuring low taxation or complete absence, compliance with flexible financial rules and banking secrecy (Zorome, 2007, p.9) (Q1).

Tax haven definitions show that countries that are called havens are countries that have many characteristic features. The most important of them is legislation that provides low or zero taxation and other greater benefits. This approach to understanding tax havens is related to the historical situation, the first countries that are tax havens attracted foreign investors using tax optimization (Toborek-Mazur, 2010b) These are places that are characterized by a lack of transparency of the tax law system, as well as areas that apply legal and administrative actions that counteract the procedures for effective exchange of tax information. The reluctance of the tax administration of a given country to engage in the exchange of information on taxes, what's more, these countries refuse to provide information to other countries' administrations on income transferred to such a country by people who are residents in another country. In addition, the government and citizens of the country that is a tax haven benefit from the lack or low taxation, they do not apply the significant actions required by the OECD (Toborek-Mazur, 2024). The lack of effective exchange of information and the difficulties encountered by countries that want to obtain the information are the most important point among those mentioned above, which make it difficult for tax administrations to set up activities aimed at limiting the use of tax havens to reduce tax liabilities. The mechanism used by tax havens in the case of information exchange is highly limited. The number of established international agreements and treaties that enable the exchange of information on taxes is insignificant compared to countries that are not recognized as tax havens (Kuchciak, 2012, p.66).

An important feature of tax havens is a developed banking system that guarantees bank secrecy as well as regulations protecting information about conducted economic operations. Ensuring strict bank secrecy related to information about the entity holding a bank account, financial operations conducted on it or funds held, ensuring no access to the information. The absolute obligation to maintain secrecy also applies to the sources of funds that are deposited in the bank. In addition, disclosing secret information to third parties is associated with the application of severe sanctions. Despite ensuring bank secrecy, the banking system in tax havens is developed. The main banking functions of tax havens are the provision of services between residents and non-residents as well as intermediation in the international transfer of funds. The liberal nature of the banking system makes it easier to open bank accounts, but the absolute law of secrecy also guarantees full security and discretion of the operations carried out. (Toborek-Mazur, 2005, p.20). Continuing the considerations, it is worth noting that the basic features of a tax haven are: political, economic and economic stability of a given country. A precisely functioning economy, stability of the political system based on democracy, as well as an impeccable economic situation are very important when choosing a tax haven (Kuchciak, 2012,p. 68). Reducing the risk of loss of value by entrepreneurs as a result of political unrest, such as in the case of the risk of the outbreak of war, nationalization, cataclysm, or economic disaster of a given country, e.g. destabilization of the local currency. No one will invest in countries where an economic crisis may occur. The person choosing a tax haven must conduct a political risk analysis, i.e. the probability of damage of a political or social nature while conducting business activity(Toborek-Mazur, 2010,p. 60). When conducting such a risk study, it is necessary to take into account the features of a given political system and the tendencies related to the approach to foreign investors in the past. The political structure, the system of governance and the economic policy pursued in that country are very important (Q2).

Another important factor determining the attractiveness of a tax haven is the lack of foreign exchange controls (lack of currency restrictions), which is related to the functioning of the banking system in countries that are tax havens and also to the

financial operations carried out. Countries often waive any currency controls, which significantly facilitates economic turnover by carrying out financial operations in a selected currency, keeping money in bank accounts outside the tax haven. The condition for the complete lack of currency controls is often not conducting business in the tax haven (Toborek-Mazur, 2009).

A large role is also played by developed infrastructure, transport and telecommunications. Countries that are oases have efficient telecommunications means that ensure quick contact, which is necessary for financial transactions. A tax haven is more attractive to the customer when the level of these services is high, when it ensures free communication and telecommunications, and also guarantees convenient, direct access to qualified staff (lawyers, accountants, translators or tax advisors).

The convenient geographical location of the region, tax havens are located near large markets such as Hong Kong in Asia or Gibraltar in Europe. However, this is not as important as it used to be, thanks to the existence of convenient and fast communication between different countries of the world (Kuchciak, 2012, p.69).

Another criterion that taxpayers take into account when choosing a tax haven is a mild legal system. It provides unformalized and simplified procedures when establishing and running a business. The country's system should easily regulate the rules of running a business and also enable easy registration and operation of companies. The problem of being subject to continental law is related to legal norms - codified civil law, which refers to Roman law or common law (Common Law) or the Napoleonic Code. Continental law is used by: Switzerland, Liechtenstein. On the other hand, common law (Common Law) applies to territories that are under the influence of England, such as the Virgin Islands, Gibraltar, Hong Kong, this system usually requires legal assistance, but it gives more freedom when formulating agreements. An important part of legal regulations are extradition agreements and patent protection (Toborek-Mazur, 2024). Extradition agreements are agreements between countries that have no connection with double taxation treaties. They consist in regulating the conditions when a citizen residing in the territory of one country is transferred to another country when that citizen is suspected of committing a crime or in order to serve a sentence. Most of these agreements do not concern tax crimes. However, patent protection concerns the fact that some countries that are tax havens have not signed agreements on patent protection. If someone has patents or protected trademarks, they cannot be absolutely certain that in that tax haven, the trademark they own will be protected.

III. Tax Optimization and tax havens

Tax optimization is a process in which taxpayers (both individuals and businesses) try to reduce their tax liabilities in a lawful manner, using available tax regulations, reliefs and other mechanisms. The aim of tax optimization is to minimize the taxes paid while maintaining full compliance with applicable tax law. It is therefore a legal action that is different from tax avoidance (which often involves breaking the law) and tax evasion (which is illegal). Table 1 contains the most important mechanisms used in tax optimization.

Table 1. Selected tax optimization mechanisms

Tax breaks	Tax systems in many countries offer a range of reliefs and deductions that can help reduce your tax base. Examples include research and development (R&D) relief, investment relief, charitable relief, family relief, and mortgage relief. Using these reliefs and deductions can help reduce your tax liability.
Tax deductions	Companies can optimize their financial structures by managing debt and equity. An example is a structural approach to financing a business: a company may prefer external financing (e.g. through loans) because interest on loans is usually deductible from pre-tax income, which reduces income tax. In contrast, financing from equity may entail higher tax burdens.
Financial structure planning	Multinational companies can transfer income to countries with lower tax rates by using so-called transfer pricing. This involves setting the sales prices of products and services between company branches in different countries in such a way that profits are generated in countries with lower tax rates and costs in countries with higher rates. An example would be the transfer of profits from intellectual activities (e.g. patents, licenses) to so-called tax havens.
Tax loss management	Companies can use tax losses from previous years to reduce their income tax in the current year. Losses can be carried forward or, in some tax systems, they can be used to reduce income from previous years (carryback), allowing them to reclaim previously paid tax.
Tax havens and offshore structures	As part of tax optimization, companies can create subsidiaries in tax havens or use other offshore structures. Thanks to this, income generated in such places can be taxed at lower rates or not at all. Such actions are particularly common in the case of international corporations, which can transfer part of their activities (e.g. intellectual, holding activities) to countries with more favorable tax regulations.
VAT optimization	Businesses can also use various methods to optimize value added tax (VAT), for example by using VAT exemptions for specific services or products, postponing the VAT settlement deadline, or using intra-Community procedures. An example is the so-called optimization in international transactions, where VAT is not charged when goods are sold between EU countries.
Optimized retirement planning	Many countries offer tax relief for retirement savings, which can be used in the process of tax optimization. Companies and individuals can invest in retirement plans that offer benefits in the form of reducing the tax base (e.g. by writing off contributions to such funds). Such actions allow for reducing current tax liabilities and ensuring long-term financial security.

Source: Toborek-Mazur, Impact of tax havens on the global economy: Impact of tax havens on the global economy, Scientific Journal of Bielsko-Biala School of Finance and Law. Bielsko Biala, 28 (3), https://doi.org/10.19192/wsfip.sj3.2024.4 (access date: 05.01.2025), Toborek-Mazur, 2010b, 2009)

The mechanisms presented in the table are key tax optimization methods that companies and individuals can use to reduce their tax burdens. Each of them offers a different approach to effectively managing tax liabilities. It is worth repeating that tax optimization is a legally permitted activity, although it is perceived as a desire to avoid paying taxes. Optimization in its essence involves using legal solutions that cause the tax burden to be lower.

IV. MINIMIZATION OF TAX BURDEN

The history of tax havens is one of myth and legend. Their goal, of course, is tax avoidance, which is as old as tax collection itself, as far as can be determined. Tax havens are seen by some as the latest incarnation of a centuries-old system, and in many cases, this is indeed the case. However, modern tax havens are sovereign states (or sovereign entities, such as the Channel Islands in the English Channel, which have considerable autonomy) that exercise their sovereignty to create laws that attract investors to their country. They should be seen as a distinct state development strategy that could only evolve in the context of a robust international system of statehood, while respecting the sovereign right of states to create and shape their own laws. One of the most fascinating aspects of the development of tax haven strategies is that they have evolved in different locations, often for reasons that have little to do with how they ultimately work.

As indicated by M. Cipkowska, S. Gontowska and R. Kwaśniewski, there are three legal ways of minimizing tax burdens:

a. tax planning,
b. tax avoidance,
c. tax savings. (Cipkowska, Gontowska, Kwaśniewski, 2018, p. 24-26)

Tax planning is the process of legally organizing business activities in such a way as to optimize tax liabilities. The main goals of tax planning are to increase financial efficiency by reducing tax burdens in a manner consistent with the law, using reliefs, deductions and preferential tax rates available in the tax system. Structuring business activities in such a way as to minimize tax burdens, for example by choosing the appropriate legal form of business, using holding structures, optimizing income transfer or managing tax losses.

Tax avoidance is activities aimed at reducing or eliminating the obligation to pay taxes, which are often the boundary between legality and illegality. In this context, two forms of tax avoidance can be distinguished: Legal tax avoidance. Although some techniques are compliant with the regulations, they exploit loopholes in the law or abuse the interpretation of regulations, which often leads to controversy in terms of morality and ethics. Using aggressive tax strategies. Examples include transactions using tax havens or transfer pricing, which, although they may be compliant with the regulations, are often perceived as unethical and may be questioned by tax authorities.

Tax saving, although similar to tax planning, mainly refers to the activity related to individual financial management and optimizing tax liabilities in everyday life. It is a way to minimize taxes within the available possibilities, without entering the area of tax avoidance (Cipkowska, Gontowska, Kwaśniewski, 2018, p. 27). Examples of tax saving are: Optimization of tax expenses, e.g. by appropriately managing expenses in the company to take advantage of maximum tax deductions. Tax saving is a more simple form of tax minimization, the aim of which is to reduce tax liabilities through legal mechanisms available in the tax system, without the need to enter risky zones.

V. DIFFERENCES BETWEEN LEGAL AND ILLEGAL WAYS OF REDUCING TAXATION

The boundaries between legal and illegal tax avoidance are complicated and depend largely on the interpretation of legal regulations and the intentions of the legislator. Legal tax avoidance, also called tax optimization, involves using available legal tools in a manner consistent with the regulations, but in order to reduce tax liabilities. Such actions are based on gaps or imperfections in the tax system, but do not exceed the limits of compliance with the law. Often, entrepreneurs or individuals make economic decisions that aim to minimize the amount of taxes, such as using tax reliefs, structuring business activities. Although these actions are in accordance with the letter of the law, they may be considered aggressive tax optimization and expose entrepreneurs to greater attention of tax authorities, which may decide to audit or reinterpret them. On the other hand, illegal tax avoidance, which is often referred to as tax fraud or avoiding paying taxes in an unlawful manner, goes beyond the limits permitted by law. These are actions that are intended to deliberately mislead tax authorities, falsify documents or create artificial structures in order to avoid taxation. Examples include, for example, overstating costs, concealing income or using fictitious transactions that have no real economic or legal character. In such cases, entrepreneurs act consciously to conceal the true state of affairs and avoid mandatory tax payments. Such actions are illegal and lead to serious legal consequences, including financial penalties, default interest and, in extreme cases, criminal liability (Kurzac, 2017, p. 16–17).

The boundaries between these two forms of tax avoidance are also set by the principle of abuse of law, which states that even if a transaction formally falls within the framework of applicable regulations, it may be considered illegal if its main purpose is to avoid taxation. If an entrepreneur undertakes actions that are fully compliant with the regulations, but their actual purpose is only to avoid taxes, such action may be considered an abuse of law and considered illegal, even if it formally meets the conditions provided for in the regulations (Kurzac, 2017, p. 17–18).

The boundaries between legal and illegal tax avoidance are therefore difficult to clearly define. While legal tax avoidance is legal and often used within the framework of widely available tax reliefs and structures, illegal tax avoidance is an activity aimed at falsifying data, concealing income or creating fictitious structures that go beyond the intentions of the legislator. Therefore, tax authorities have the right to interpret the regulations and control such activities to ensure that they are in line with the real objectives of the tax law.

Methods of combating tax avoidance vary and depend on the tax policy of a given country, as well as on international cooperation in the fight against tax avoidance. Countries and international organizations introduce various tools and regulations aimed at limiting both legal and illegal tax

optimization, which leads to a reduction in budget revenues. Below are the key methods used for this purpose.

One of the basic tools is transfer pricing regulations. In the case of companies operating within capital groups, transactions between related entities are monitored to prevent artificial transfer of income to countries with lower tax rates. Tax authorities may require detailed transfer pricing documentation, which will prove that the transactions are carried out on market terms. Another important tool is the General Anti-Avoidance Rule (GAAR) regulation. This rule allows tax authorities to challenge transactions that are formally legal, but whose main purpose is tax avoidance. This can be used to counter artificial tax structures that have no real economic justification (Lanis, Richardson, 2014).

International cooperation is also an important element in the fight against tax avoidance, in particular initiatives undertaken by the Organisation for Economic Co-operation and Development (OECD) and the European Union. An example is the BEPS (Base Erosion and Profit Shifting) project, which includes activities aimed at counteracting the erosion of the tax base and profit shifting. It introduced solutions such as automatic exchange of tax information between countries or rules on limiting the deduction of financing costs in capital groups.

Another tool is regulations limiting the possibility of using tax havens. Countries use lists of countries and jurisdictions that are considered unwilling to cooperate with taxes. Transactions with entities from such countries may be subject to additional reporting obligations or restrictions on the recognition of tax costs.

Special regulations on hybrid financial structures that can be used for double taxation are also an important measure. These regulations are intended to prevent a situation in which income is exempt from taxation in both the source country and the country of residence.

Countries are also introducing electronic transaction monitoring systems, such as the Standard Audit File (JPK), which allows tax authorities to track detailed data on the activities of companies. This makes it easier to detect abuses and tax frauds.

Another method is to introduce limits on financial costs and other types of deductions that can be used to artificially reduce the tax base. Thanks to such regulations, companies cannot increase costs indefinitely through internal transfers within the capital group.

Educating taxpayers and increasing public awareness of tax obligations is equally important. Thanks to this, social acceptance of aggressive tax optimization is decreasing, and understanding of the benefits of compliance with the regulations is growing (Q3).

VI. Criteria for selecting a tax haven for a holding structures

Tax havens are jurisdictions that offer favorable tax conditions for companies and individuals, attracting capital from all over the world. Their main feature is a low or even zero income tax rate, which makes them an attractive place to do business, invest capital or register a company. In addition to low taxes, these countries provide a high level of financial confidentiality, limited reporting requirements and favorable profit repatriation rules.

One of the key features of tax havens is a friendly legal and administrative environment. They often offer a simple procedure for registering companies, reducing formalities to a minimum. Many of these jurisdictions also provide protection from international tax regulations, allowing companies and investors to avoid the more stringent requirements of their home countries.

The most popular tax havens include the Cayman Islands, Bermuda, the Bahamas, Cyprus, Luxembourg, Monaco, as well as Singapore and Hong Kong. Tax havens differ from each other, offering different forms of benefits, such as tax exemptions for holding companies, no dividend tax or favorable profit repatriation rules (Toborek- Mazur, 2024).

Tax is a cost that does not contribute anything from the perspective of a company. The fixed costs incurred by legal entities are primarily: employment costs, advances on employee salaries and income tax. Of these three categories, employment is a cost that is not flexible when it comes to the choice of jurisdiction to which it is subject, because employment is closely related to the location in which it is performed. However, when it comes to income tax, optimization methods are independent of the place of income taxation and the place of its creation.

Companies' decisions on the choice of tax jurisdiction are made based on two criteria:

- is there low taxation of the company's income there?
- is income earned abroad untaxed?

Tax havens can be used by companies in various ways. One of them is the creation of offshore companies that formally register their business in a tax haven, even though they actually conduct it elsewhere. Another method is to use loopholes in international tax treaties to avoid double taxation and transfer income to jurisdictions with lower tax rates. Individuals can, however, place their wealth in trust funds or bank accounts in tax havens, allowing them to hide assets and income from taxation (Toborek- Mazur, 2010b).

Another mechanism already presented used in the holding structure is internal (transfer) prices (Toborek- Mazur, 2005, p. 21-23). According to the OECD definition, this is the value of goods, intangible assets and services sold between entities related by capital, as specified by the definition. They provide more information when compared with market prices. Intangible assets and intellectual property rights are particularly difficult to value, and it is in this area that the most significant abuses can occur. The mechanism using them, which many companies (especially American ones) have used with positive results for themselves, consists in concluding a license agreement between the American company holding the patent and a subsidiary in a country with low taxation. If the license fee is lower than the actual value of the license, the income is also lower. In the United States, investing in intangible assets is

treated especially because the costs of conducting research are subject to a tax credit. The entire investment can also be taxed at a low, 0% or negative rate. Therefore, the USA is an interesting country in terms of attracting research and development.

When describing the next mechanism, it is necessary to present two theories used to determine the company's residence, which may be provided for by national legislation and which affect the legal and tax situation of an international company as well as the choice of jurisdiction:

According to the theory of incorporation (foundation) - the company is subject to the law of the country in which it was founded (recognized by the Netherlands, Switzerland and Liechtenstein). In turn, according to the theory of headquarters - the law applicable to the company's headquarters decides on its legal capacity and other personal issues. In this case, we are talking about the actual headquarters, the place of the main decision-making center, something different is the statutory headquarters specified in the company's articles of association, entered in the appropriate register. However, in practice, most countries require that the statutory and actual headquarters be the same (Sylwestrzak, 2007) (Q4).

Among others, Google used the Double Irish-Dutch Sandwich scheme (Irish-Dutch scheme). Based on the theory of incorporation and the theory of headquarters, Google Inc. from the United States, in 2003. transferred its intangible assets, namely search engine and advertising technology, to Google Holding, a subsidiary established in Ireland, which from the perspective of Irish tax law was headquartered (resident) in Bermuda, where "its mind and management" were supposed to reside. The operation took place before Google decided to announce its initial public offering. The main motivation must have been to generate taxable income for the company just before entering the stock exchange. Google US must have wanted to carry out this transfer below the market price of its technologies that would apply on the market, but to this day it is not known what the transfer price was, because it was not made public.

In turn, the Irish-Bermudian hybrid company established a subsidiary "Google Ireland Ltd" in Ireland and provided it with the rights to license the use of Google technology, and the task of this company is to continue to license the technology to Google affiliates in Europe, Africa and the Middle East.

The next step is the payment of royalties, which Google Ireland Ltd must make to Google Holding. To do this, the payment will be made to the company Google BV established in the Netherlands. This assembly is used to circumvent the tax that would have to be withheld at source in Ireland because the transaction is made, as it were, for the benefit of an entity in Bermuda.

When the Irish company paid the Dutch company, there will be no tax because this transaction takes place between legal entities in the European Union. Then the Dutch company Google BV paid everything back to Google Holding also without any tax, because Dutch law qualifies the holding as an Irish company and not a Bermudian company.

The United States has developed many rules to prevent tax avoidance by foreign companies of American companies (controlled foreign corporations), so that transactions between an Irish company and a Dutch company can be effectively taxed with corporate income tax. However, the taxable transaction was not taxed because Google provided the IRS with form 8832 and took care of the possibility provided by American regulations based on the "check the box rule" principle, under which Google Ireland Ltd and Google BV are treated as divisions - branches of Google Holding.

This rule allowed the creation of entities that were treated differently in the US and abroad.

Hybrid structures remain the focus of international companies. The rule primarily allows entities not resident in the United States to determine whether, from the point of view of American law, they want to be transparent - do not have legal personality (or non-transparent - have legal personality). Thanks to this method, the same company could be treated differently depending on the classification in the tax jurisdiction, which may lead to a tax deferral. Hybridization of legal personality, especially in the case of holdings, is mainly aimed at reducing all tax costs and achieving maximum tax optimization.

To sum up: for the tax authorities in the United States, Google Ireland Ltd and Google BH do not exist, but they do for those in Europe, which nevertheless do not collect tax from them. Google Holding for the Irish tax authorities is a Bermudian company, and for the USA it is an Irish company.

Using the Double Irish-Dutch Sandwich, it was shown how it is possible to ruthlessly play with bilateral agreements and take advantage of the discrepancy in the definition of "residency" and obtain income that neither country taxed.

The scheme used allowed income to be transferred to tax havens. The Netherlands decided to adopt rules different from the treaties, in exchange for providing partners with information about economic entities incorporated into it. In fact, the tax system of the Netherlands makes it an intermediary in transferring funds, without the need for actual activity in that country. Thus, goods and services are exported at lower prices to subsidiaries in countries with a low tax rate and are imported at high prices. The fact that it is not only international corporations that ruthlessly use this method is proven by an example from show business. Namely, the band U2 used it. In 2006, the band moved their record company to the Netherlands after changes in tax law in Ireland brought with it the necessity of taxation (Death of the Double Irish", 2014) Another optimisation mechanism used in tax havens is Profit Shifting - literally "profit shifting". In practice, it is the allocation of income and expenses between related companies or branches belonging to the same legal entity in order to reduce the group's tax base, e.g. by using the internal pricing method. Characteristic for the United States is the taxation of foreign income of American companies when they "return" to the US financial system, e.g. in the form of dividends to the US. The rate is 30% and a tax credit taking into account previously paid taxes. Therefore, companies are looking for opportunities to reinvest profits outside the territory of the United States. Dividends are taxed at source at the appropriate tax rate

(currently, e.g. Great Britain – 0%, Germany – depending on the legal form of the entity paying the dividend – 26.375% or 0%, Ireland – 25% or 0%, Luxembourg – 15% or 0%).

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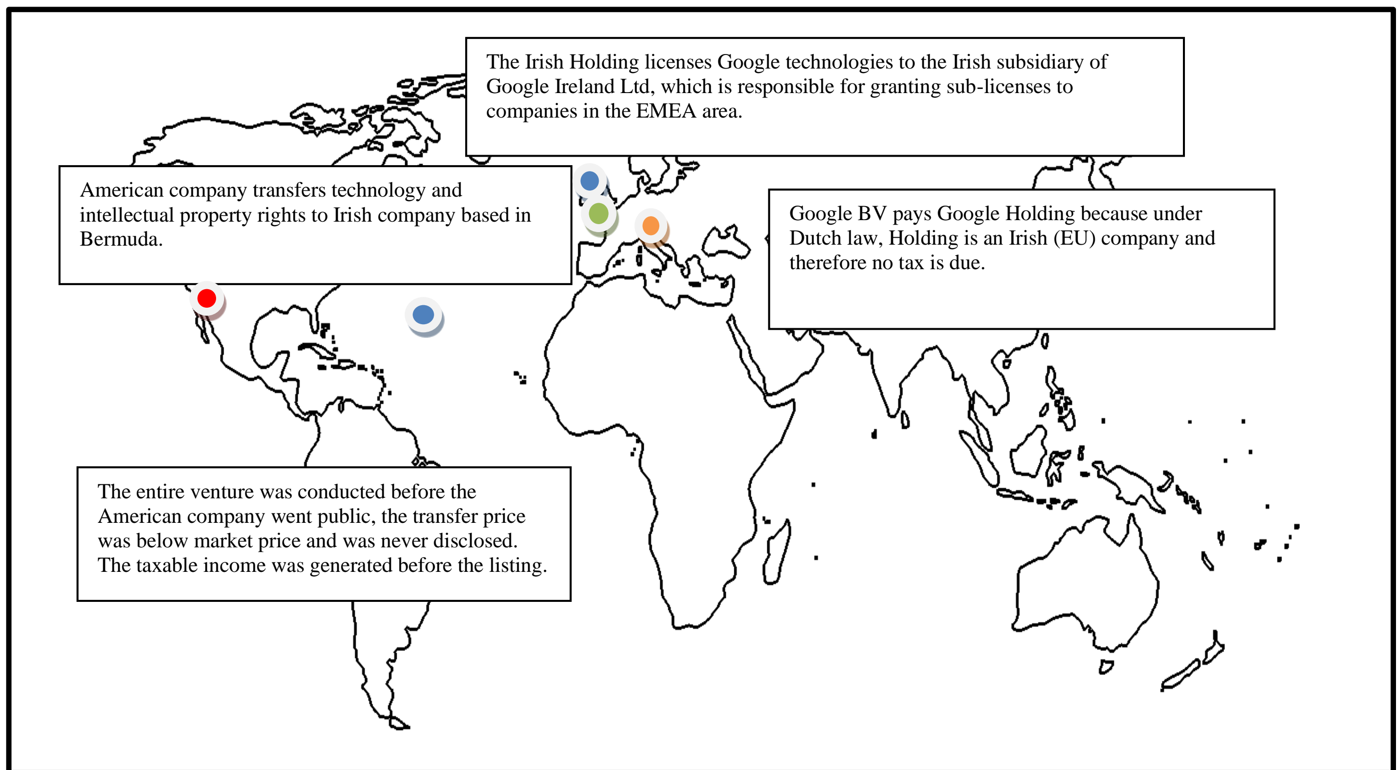
CHART 1. SELECTED TAX OPTIMIZATION MECHANISMS IN THE WORLD



Source: Author own study

The most effective solutions in recent years have included:

1) Purchase of existing companies abroad (Microsoft - Skype)
2) Collateral loans - issue of bonds to buy out shares (Apple)
3) Transfer of the company's headquarters abroad (tax inversion) - after the purchase and merger with a foreign company.
4) Manipulation of prices at which companies sell goods to each other.
5) Exploiting discrepancies in definitions and legal regulations.
6) Relying on the principle of income taxation at source.

Sometimes companies decide to repatriate their profits to the US, as was the case especially during the tax holiday announced in 2004. International companies took advantage of the offer to repatriate their accumulated income earned abroad, which was to be taxed at a rate of 5.25%. This resulted in the return of about 20% of the profits of American companies frozen in tax havens. This has significantly contributed to the US economy, which has seen an increase in employment in the country and the number of research projects and investments (Zuckman, 2014, p.122-128) (Q5).

A method for "tax-optimized" return of capital to the American parent company is to disguise it under the guise of "a loan from a daughter to a mother". Large American companies have had dilemmas in the past about how to invest most effectively, so that the profit earned could be returned as much as possible before the tax authorities impose a tax on it, at a rate that discourages investment. The American company had USD 1 billion, from which it could obtain a profit of USD 100 million by investing it. In this situation, USD 1 billion was placed in a tax haven, the assumed profit appeared and then the company had to carry out such an operation so that the IRS could not qualify USD 100 million as a dividend returning to the country.

Continuing the considerations, it is worth noting that each holding company has an interest in organizing its affairs and structure so that its income is reported in low-tax jurisdictions. This explains why companies borrow money intensively between themselves in high-tax jurisdictions and use such procedures as selling their intangible assets for a low price to their entities in havens and achieving a high value there(Kurdle, 2009).

A popular method used in recent years is Tax Inversion - a tax inversion, which involves changing the company's headquarters to a country where the taxation of its income will be more favorable. The tactics primarily consist of a merger in the form of an acquisition or merger with an existing company, as a result of which the transferring company will be able to benefit from preferential taxation. Often, the previously dominant American parent company loses this status in favor of the previously dependent foreign branch. Thanks to this, for example, the American company reduces taxation in the States. What the company previously earned in the USA will still be subject to taxation there, while income earned abroad will no longer be taken into account by the American tax authorities and will be taxed according to the tax law of that country.

For holding companies, the most interesting solutions were

also proposed by European countries such as the Netherlands, Switzerland, Cyprus and Lichtenstein. All of them propose very interesting taxation of holding companies with an international structure.

Among Polish companies, Cyprus was particularly attractive, where branches of foreign companies were not taxed at all and Cypriot companies were taxed only at the level of 4.25%.

In recent years, Luxembourg has been favorable, as it is a very friendly country for holding companies. The entire sector that has grown in this country allows it to survive, and without it the country would neither be self-sufficient nor competitive on the markets, taking into account the poorly developed other sectors of the economy such as industry or agriculture. Therefore, the income of holding companies registered in Luxembourg, which have income from dividends, capital gains, royalties, is not subject to taxation. 80% of the income obtained by the Luxembourg holding from royalties will not be taxed. It is worth recalling that this includes trademarks and patents of companies such as Pepsi, LVMH, Walt Disney. In recent years, Luxembourg has provided many foreign companies with guarantees in the form of tax rulings, which provided them with a number of privileges, like Pepsi, Ikea, Accenture, AIG, Amazon, Blackstone, Deutsche Bank, H.J. Heinz, JP Morgan Chase, Burberry, Procter & Gamble and Abu Dhabi Investment Authority. The accounting and auditing firm PricewaterCoopers alone has helped obtain over 548 such agreements.

Over than 340 companies from countries around the world have received from the Luxembourg government assurances of the most favorable taxation and interpretation of taxation rules, which affected their global income and in most cases served as a pillar of their tax strategy to the detriment of other jurisdictions in which they would be subject to taxation. The accounting and auditing firm PricewaterCoopers alone helped obtain over 548 such agreements (The International Consortium of Investigative Journalists 2015) (Q6).

VII. Conclusions

Approximately 37.1% of global net amounting to $6.5 trillion (£5.1 trillion) were estimated to have been taxed at rates below 15% in 2022, mostly in countries where headline tax rates were much higher (https://www.theguardian.com/world/2023/nov/22/push-to-give-un-more-say-on-global-tax-rules-likely-to-stumble-at-vote).

Although the use of tax havens is legal in many cases, it is controversial due to its impact on the economies of the home countries. Shifting income to tax havens leads to a decrease in budget revenues in the countries where the income was earned. In response to these practices, many countries and international organizations, such as the OECD and the EU, are taking action to limit the possibility of using tax havens. An example of such actions is the BEPS (Base Erosion and Profit Shifting) project, which introduces solutions to prevent the erosion of the tax base and the shifting of profits to low-tax jurisdictions.

BEPS is an international project coordinated by the Organization for Economic Co-operation and Development (OECD) and the G20. Its aim is to combat tax practices that lead to the shifting of profits by multinational companies to lower-tax countries and tax avoidance in countries where the income was actually earned. BEPS focuses on identifying and eliminating legal loopholes and inconsistencies in tax systems that allow tax avoidance.

The BEPS programme is based on 15 actions that aim to increase tax transparency, reduce the possibility of aggressive tax optimisation strategies and ensure that companies pay taxes where they actually generate profits. In Poland, a new list of countries applying harmful tax competition has been in force since 2025, which has been supplemented with more countries - there are not many listed and known tax havens on it.

In conclusion, the author has fully confirmed the research hypothesis. When analyzing the tax optimization mechanisms used by international holdings, it is worth paying attention to the Double Irish-Dutch Sandwich and Profit Shifting schemes, which have had a decisive impact on the reduction of taxation in companies and allowed the retention of generated profits in the holding structure. Therefore, hybrid structures remain in the center of interest of international companies. All the described methods allowed entities not resident in the United States to determine, first of all, whether from the point of view of American law they want to be transparent - they do not have legal personality (or non-transparent - they have legal personality). Thanks to the Double Irish-Dutch Sandwich method, the same company could be treated differently depending on the classification in the tax jurisdiction, which may lead to tax deferral. Hybridization of legal personality, especially in the case of holdings, is mainly aimed at reducing all tax costs and achieving maximum tax optimization. A tax haven, i.e. a jurisdiction offering favorable tax conditions, is in turn an excellent place to use many tools to reduce or minimize tax liabilities, which is also confirmed in the paper.

The paper presents the result of Project no 062/ZIR/2024/POT financed from the subsidy granted to the Krakow University of Economics

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