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EU's Amazon Probe Puts Scrutiny On Global Tax Shifting Schemes

BY PAUL MCDOUGALL ON 10/07/14 AT 3:28 PM

Jeff Bezos' e-commerce giant Amazon is under fire from EU and US regulators, who say the company may be dodging billions of dollars in taxes through improper avoidance schemes.
PHOTO: REUTERS

EU authorities have launched a probe of Amazon.com Inc.'s finances as Brussels broadens its investigation into U.S. companies it suspects are using the Continent as a tax haven. In recent weeks, the European Commission has also launched inquiries into the tax practices of Apple Inc. and Starbucks Corporation, among others.

The probes come as cash-strapped governments around the world look for ways to recoup what may add up to billions of dollars in unpaid taxes from global companies that employ armies of experts to exploit loopholes in local and international regulations.

The EU has said that corporate tax-avoidance schemes cost its member states about $1.3 trillion per year in lost revenue.

Amazon's international tax strategy has also been challenged by the U.S. Internal Revenue Service, and a case set for trial in Seattle in November could see the e-commerce giant owing the federal government more than $1.5 billion for the tax years 2005 to 2012.

For its part, the EC is concerned that Amazon may have arranged a sweetheart deal with Luxembourg, where its European subsidiary, Amazon EU Sarl, is domiciled. Investigators claim the subsidiary pays artificially low taxes of less than 1 percent on profits that Amazon earns throughout Europe.

"National authorities must not allow selected companies to understate their taxable profits by using favorable calculation methods," said Joaquín Almunia, the European Commission's VP for competition policy, in a statement Tuesday. "It is only fair that subsidiaries of multinational companies pay their share of taxes and do not receive preferential treatment," said Almunia.

The case puts scrutiny on so-called transfer pricing, a method by which global companies can steer the bulk of their profits to subsidiaries that operate in countries with the lowest tax rates while minimizing taxable profits in highly taxed jurisidictions. In a typical arrangement, a subsidiary in a low-tax region will charge more highly taxed divisions an inflated rate for internally supplied goods and services. The practice lowers tax liabilities for the latter while shifting profits to units in tax havens.

The EC said it's investigating whether Amazon used transfer pricing to place the bulk of its European profits in Luxembourg. "Fair tax competition is fundamental for a healthy Single Market and our common economic prosperity," said Algirdas Šemeta, the EC's commissioner for taxation, also in a statement.

In an email to International Business Times, an Amazon spokesman said the company has received "no special tax treatment from Luxembourg -- we are subject to the same tax laws as other companies operating there."

Experts say the intensifying political debate over inversions, whereby a company moves its headquarters to a lower-cost region by merging with a foreign rival, may be behind Europe's renewed vigilance on tax compliance. "The Europeans are saying we no longer wish to be a tax haven for American companies. That they can flex their muscles just as well as any other jurisdiction," said Jeffrey Katz, managing partner at the law firm of JDKatz in Bethesda, Maryland.

The EC this past summer opened similar tax investigations into several other companies. It's questioning Starbucks' arrangements with the Netherlands and Apple's tax payments in Ireland. In its most recent quarter, Apple paid an effective tax rate of 26.1% on profits of $7.7 billion, according to filings with the Securities and Exchange Commission. The rate was well below the federal income tax rate of 35%, because a substantial portion of the company's revenue is generated by subsidiaries in Ireland, where the corporate tax rate is 12.5%.

The EU last month said Ireland's tax arrangements with Apple may constitute unfair "state aid." The iPhone maker's overseas liabilities could top $8 billion.

Katz, an international tax attorney, said multinationals should be prepared to have their tax deals further scrutinized as debates over inversions, offshore profits and creative transfer pricing heat up. "I would expect to see more of these actions. In some cases, this will be easy money for governments to come in and look for whatever dollars they can find."

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