

# Is Tax Payment a Part of Corporate Social Responsibility?

Typological Analysis of Empirical Studies and Implication  
for Transformation of International Tax Behavior

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## Abstract

This paper is inspired by the social or philanthropic behavior of the tax-avoidant US technology companies and by the concept advocated by Kramer and Porter as an improvement of Corporate Social Responsibilities (CSR). Taxonomic analyses of the empirical research published in the 2010s demonstrate the relationships discovered between CSR and the tax behavior of multinational enterprises (MNEs). Then this paper analyses contradictions among those relationships, and reaches a certain proposition to encourage the autonomous improvement of such relationships. As an environment exogenous to the MNEs, CSR is under its conceptual transformation. In line with that, this paper calls for an endogenous transformation toward *firms' tax fairness*, which would guide MNEs to adopt business strategies prioritizing corporate tax payment as a local contribution.

## I Introduction

The corporate tax rate has been on a declining trend globally for a long period of time (OECD 2020, pp. 13–14). The communiqué by the OECD/G20 in July 2021, often referred to as a “historical agreement”, appears to pause or limit such trend. Until recently, the OECD’s fights against international tax avoidance, or Base Erosion and Profit Shifting (BEPS) projects have been in a deep struggle to facilitate any constructive dialogue between the United States and the EU countries: the “digital service tax” was first introduced by the EU countries against Google, Apple, Facebook and Amazon (collectively as GAFAM) and other US companies, then the Trump administration matched with retaliatory tariffs in the US. This conflict was essentially a natural phenomenon resulting from the competition between

capital-exporting versus capital-importing countries; the former aim to maintain and expand their own industrial competitiveness while the latter seeks to improve the environment for inward foreign direct investment. COVID-19 pandemic suddenly started forcing all countries to take every fiscal emergency measures, and the US and EU countries found the BEPS protocol as an opportunity for financial self-help. They no longer have any immediate reason to continue conflicts over global tax structure to maintain industrial competitiveness. However, no fundamental answer is found yet: should the tax behavior of multinational enterprises (MNEs) taking advantage of international tax competition be truly criticized, and if so, why? How does an MNEs' tax behavior put people in a problem? Does the OECD/G20 leave any problems in the international community? What solutions, if any, can we seek for those remaining problems? As the global economy gradually overcomes pandemic and normalizes itself, those critical thoughts over MNEs' tax behavior exists as they were before the "historical agreement".

In December 2015, Mark Zuckerberg, CEO of Facebook<sup>1)</sup>, pledged to donate 99% of his stake in Facebook for charitable purposes. As per reports, a major group of philanthropists is now under 40 years of age in the US, particularly Silicon Valley entrepreneurs who typically made their fortunes in the Internet business (Nikkei, December 3, 2015). The concept of "creating shared value (CSV)" in Kramer and Porter (2011) helps to understand one aspect of the behavior of those entrepreneurs. Kramer and Porter (2011) presented CSV as the framework of policies and practices that simultaneously leverage competitiveness, are unique in the private sector, and are actively engaged in global economic and social problems. Suggesting to move beyond corporate social responsibility (CSR), Kramer and Porter (2011) criticized the long-standing economic trade-offs between businesses and society. They stated that CSV could solve social problems and offer opportunities for firms to utilize their skills, resources, and management capability to lead social progress in ways that even the best-intentioned governmental and social sector organizations can rarely match (p. 17). Kramer and Porter (2011) conclude that businesses can earn the respect of society again with CSV.

Among the existing controversies<sup>2)</sup> over the CSV concept, this paper finds a strong belief in the efficiency of the private sector in CSV. Kramer and Porter (2011) name Google, the Bill & Melinda Gates Foundation (one of the charities of those who founded Microsoft), as the leading CSV example. It is plausible that skepticism, undeniable in the CSV concept, over the efficiency of the public sector might provide GAFA-M (Microsoft often joins GAFA tax avoidance discussions) with a background for their behavior to avoid taxes by any legal

means, which should considerably influence young followers. Notwithstanding the conceptual distinction between CSV and CSR by Kramer and Porter (2011) and many other researchers<sup>3)</sup>, corporate governance generally views these two as essentially interconnected activities. That assuming, as Kramer and Porter (2011) suggest, many young philanthropists emerging from Silicon Valley may be convinced to generate cash-in-hand by avoiding tax globally, to put this cash into CSR or big charities so that they would acquire respect from global society and the legitimacy of their firms. This is the background that motivates this paper to review whether the MNEs' global tax payment is a part of CSR or not.

By introducing antitrust policy as an example, Kramer and Porter (2011) mention the need for regulations to limit the pursuit of exploitative, unfair, or deceptive practices, in which firms benefit at the expense of society (p. 14). Kramer and Porter (2011) certainly do not ignore the taxes: they mention that firms sometimes create externalities, including social costs such as pollution. Society must impose taxes, regulations, and penalties so that firms "internalize" such externalities (p. 5). Kramer and Porter (2011) also stresses that regulation will be needed to limit the pursuit of exploitative, unfair, or deceptive practices in which companies benefit at the expense of society. Strict antitrust policy, for example, is essential to ensure that the benefits of company success flow to customers, suppliers, and workers (p. 14). The BEPS projects has "tax transparency" and "tax fairness" as two of the three pillars of its activity. These BEPS pillars sound to considerably overlap Kramer and Porter (2011). Nevertheless, various research quantifies that BEPS in huge magnitude (USD 100 to 240 billion annually, according to OECD/G20 BEPS Explanatory Statement 2015, as an example of quantification), and tax avoidance is rampant among global industries, not solely among technology firms. Considering firms that are essentially responsible versus what holds them to be responsible about tax payment, the following questions emerge:

RQ 1: What do we know about the relationship between CSR and tax avoidance by MNEs?

RQ 2: Building on RQ 1, what concept might contribute to accelerating the autonomous improvement in such a relationship if required?

To address these questions, this paper reviews and categorizes the thought processes employed in 15 precious empirical studies in 2010–2020, attempting to discover the structural and/or functional relationship between CSR<sup>4)</sup> and MNEs' tax behavior.

## II Analysis of Empirical Research

This paper refers to the studies published in the 2010s because of the following two reasons: the RQs are generated from Kramer and Porter (2011), and the OECD's BEPS projects (2012–2015) significantly impacted both MNEs' tax behavior and the research design. The empirical studies are individually tagged with study numbers [1] to [15] in the following section.

**Table 1 List of Empirical Studies Reviewed**

Res. no.	Author(s) (published in)	Empirical results
	Research period	
	Sample scope specified	
[1]	Lanis and Richardson (2012) 2008–2009 Australia	The higher the level of CSR disclosure of a corporation, the lower is the level of corporate tax aggressiveness.
[2]	Lanis and Richardson (2015) 2003–2009 US	The higher the level of CSR performance of a firm, the lower the likelihood of tax avoidance.
[3]	Hoi et al. (2013) 2003–2009 —	Firms with excessive irresponsible CSR activities have a higher likelihood of engaging in tax-sheltering activities and greater discretionary/permanent book-tax differences.
[4]	Davis et al. (2013) 2002–2010 —	The importance of CA (Corporate Accountability) reporting is negatively related to five-year cash effective tax rates.
[5]	Davis et al. (2016) 2002–2011 US	CSR is negatively related to five-year cash effective tax rates and positively related to tax lobbying expenditures: suggests that, on average, corporate social responsibility and tax payments act as substitutes.
[6]	Watson (2015) 2003–2009 —	Lack of social responsibility is positively associated with tax avoidance in firms with low current or future earnings performance, but this effect is diminished when current or future earnings performance is high: suggests that attention to the demands of nonshareholder stakeholders is curtailed when firms face scarce resources.
[7]	Johns et al. (2017) 2014 —	The CSR-tax avoidance relationship was found to be significant on the Asian (including Oceania) sub-sample, but is largely insignificant on the North American, European and UK sub-samples.
[8]	Kato et al. (2015) 1987–2012 Japan	Market in Japan positively appreciates the firms with higher ETR for the news of transfer pricing assessment.
[9]	Brooks et al. (2015) 1991–2014 UK	No discernible link between tax rates and stock returns for the UK; negative news relating to tax payment experience very small negative stock returns, which are fully reversed within a month.
[10]	Dyregang et al. (2016) 2010 UK	The public scrutiny by ActionAid sufficiently changed the costs and benefits of tax avoidance such that tax expense increased for scrutinized firms.
[11]	Gallemore et al. (2014) 1995–2005 US	Does not find evidence that firms or their top executives face significant reputational costs from tax shelter involvement.
[12]	Austin and Wilson (2017) 2006–2011 US	Firms with valuable brands will engage in less tax avoidance.
[13]	Kiesewetter and Manthey (2017) 2005–2014 Europe	Tax avoidance does not create value for the European companies; could not find evidence that the agency costs-based framework developed for samples in the USA is transferable to European companies
[14]	Inger and Vansant (2019) 2000–2013 —	CSR and tax avoidance are viewed as inconsistent with one another when engaged upon contemporaneously, where increased activity of one diminishes the value of the other.
[15]	Davis et al. (2017) (Lab experiment) (MBA students)	When investors have access to both tax information and CSR ratings, investors perceive paying more taxes as socially responsible if the firm has an otherwise poor CSR performance. However, when CSR performance is high, tax management does not influence perceptions about CSR.

(Prepared by the author.)

### **1 Negative correlation discovered between CSR rating and tax avoidance**

Lanis and Richardson (2012 [1], 2015 [2]) empirically found that firms with better CSR ratings are less tax-avoidant. Hoi *et al.* (2013) [3] found that firms with poor CSR ratings are more likely to engage in tax shelter transactions<sup>5)</sup>, discretionary adjustments, or permanent-item recording to reduce the tax burden. Lanis-Richardson's two studies summarized below, provide several points to develop a discussion.

Based on a sample of 408 publicly listed Australian firms for the financial year 2008–2009, the regression results by Lanis and Richardson (2012) [1] showed that the higher the level of CSR disclosure of a firm, the lower the level of tax aggressiveness. Lanis and Richardson (2015) [2] developed this research method for US firms, creating 434 firm-year observations from the KLD database for 2003–2009. Of the 434 observations, 217 were defined as tax avoidant, being involved in a major tax dispute involving federal, state, local, or non-US government authorities, or being publicly involved in a controversy over its tax obligations. Then, 217 non-tax-avoidant firms were matched to produce a sample. The logit regression results in Lanis and Richardson (2015) [2] showed that the higher the level of CSR performance, the lower the likelihood of tax avoidance among firms listed in the US (p. 439).

From the corporate governance perspective, it is worth noting that Lanis and Richardson (2015) [2] adopted a more inclusive view than what is suggested by agency theory; a firm is more than simply a nexus of contracts<sup>6)</sup> and should consider stakeholders other than shareholders important for its ongoing operations (p. 440). Lanis and Richardson (2015) [2] assumed that a firm exists above and beyond management, shareholders, and any specific stakeholder. Based on the fact that CSR activities are not compulsory, that is, not legislated in most developed countries, Lanis and Richardson (2015) [2] conclude that CSR provides a set of guiding principles that can be used to determine how the adopted ethical stance applies to specific business situations affecting stakeholders (other than shareholders) and society in general (p. 442).

### **2 Empirical criticisms against the high-CSR-low-avoidance correlation**

#### (1) Determinant analysis research group

The two studies by Davis *et al.* (2013 [4], 2016 [5]), Watson (2015) [6], and Johns *et al.* (2017) [7] share a skeptical view and challenge that firms' CSR activities could function as a determinant of a firm's tax behavior. This paper characterizes these in the group of determinant analysis research based on such common characteristics.

Davis *et al.* (2013) [4] found that the corporate accountability (CA) reporting quality measure and the CSR index are both negatively related to five-year cash-effective tax rates (ETRs) for 2002-2010 (p. 28). The results suggest a positive relationship between CA reporting and tax avoidance; firms that value CA reporting pay lower corporate taxes. According to Davis *et al.* (2013) [4], this evidence shows that managers and other stakeholders do not view corporate taxes as a positive indication of a corporation's socially responsible behavior (p. 4). Davis *et al.* (2013) [4] also suggest that using legal means to reduce taxes is not considered a socially undesirable activity (p. 28).

Davis *et al.* (2016) [5] directed their research attention to the Global Reporting Initiative (GRI) Guidelines (2011 edition), which recommended detailed disclosures of tax payments by firms. By referring to "what is frequently desired by users of sustainability reports is the organization's contribution to the sustainability of a larger economic system", Davis *et al.* (2016) interpret the posture of the 2011 GRI guidelines to consider corporate tax payments as positive contributions to social welfare. Davis *et al.* (2016) [5] researched firms that argue in their sustainability reports that taxes hurt innovation, production, job creation, and economic development, suggesting that tax payments detract from social welfare. Similarly, some firms state that they actively lobby to lower corporate taxes because lower corporate taxes will increase economic development (p. 47). Davis *et al.* (2016) [5] found consistent evidence that CSR is negatively related to five-year cash ETRs and positively related to tax lobbying expenditures. According to Davis *et al.* (2016) [5], the evidence suggests that, on average, CSR and tax payments act as substitutes. Their results provide evidence that high-CSR firms avoid more taxes (p. 49), contradictory to the findings of Lanis and Richardson (2012 [1], 2015 [2]).

The evidence discovered by Watson (2015) [6] showed that a lack of social responsibility is positively associated with tax avoidance in firms with low current or future earnings performance (EP). This effect diminished when current or future earnings performance was high. Watson (2015) [6] concluded that the demands of non-shareholder stakeholders are curtailed when firms face scarce resources (p. 1).

The CSR rating database adopted by the above three studies mainly recorded only the US firms, whereas Johns *et al.* (2017) [7] extended their study by using global sustainability rating data. With some limited evidence of a negative relationship between CSR levels and tax aggressiveness, even after controlling for firm size, industry, region, risk, financial performance, and other factors, the association observed by Johns *et al.* (2017) [7] was not consis-

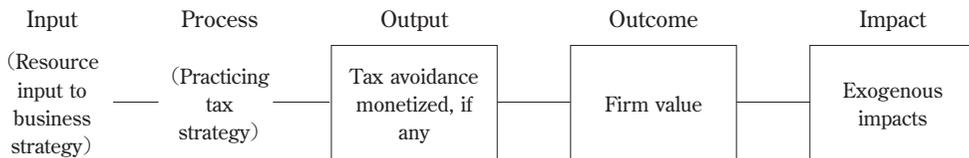
tent across all tax avoidance proxies tested or CSR metrics utilized (p. 96). Furthermore, separating the regression analysis by region, the CSR-tax avoidance relationship was significant in the Asian (including Oceania) sub-sample and largely insignificant in the North American, European, and UK sub-samples. Specifically, referring to the results presented by Lanis and Richardson (2013) [1], Johns *et al.* (2017) [7] concluded that, beyond the Asian region (including Oceania), there was little empirical evidence of a strong relationship between CSR and tax avoidance (p. 122).

Unlike the above determinant analysis research group, the following section (2) explores studies attempting to empirically find the CSR-tax avoidance relationship through retrospective observation from the market or other consequences.

## (2) Consequence analysis research depicted in the logic model

Unlike the determinant analysis research group observed in the previous section, this section reviews consequence analyses, which can be visualized along the following logic model.

**Chart 1 Logic Model Template Focusing on Tax Avoidance**



(Prepared by the author.)

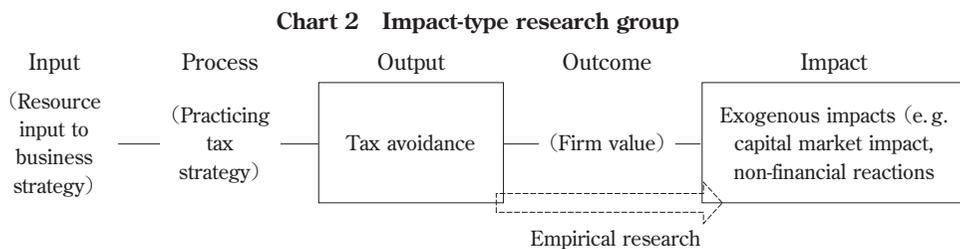
A Company invest (*input*) various resources into its business strategies. The business results are *processed* in the financial statements and then in the tax returns along the tax strategy implemented. The tax strategy is officialized by the tax payments and then tax audits. Here the monetization (*output*) of the tax behavior, either avoidant or not, is the core consideration of this paper. All companies continue to convert the *input-process-output* into their current corporate value (*outcome*), which is occasionally demonstrated outside the company as *impact* that expresses the current status and future potential of the company. In the logic model, feedback loops generally emerge and *input* may be influenced as *impact* changes the internal/ external environment. Organizational activity rarely follows a linear logic model, and various feedback loops can occur at each stage. Seeking for an understanding from the side of the process opposite from the Determinant analysis research group in the previous section, this section puts monetization of tax avoidance as *output*, and focuses on the empiri-

cal conclusions that may appear downstream of it. Here, two arguments are noted as possible about feedback loops downstream of output. First, location of *impact* of sample companies is arguable. This section looks into the empirical studies that dealt with various phenomena such as stock prices, corporate reputation, etc. Contrary to Chart 1, one may argue that certain phenomenon / influence may be more appropriate as *outcome* and the firm value may be more appropriate as *impact*. This section defines the firm value as the mid-to-long term significance, which should be placed upstream of short-term / sporadic phenomena. Then this section focuses on any interpretations the researchers made on their empirical results about mechanism of *impact*, if any, that may provide any feedback to *outcome* in this logic model. Another possible argument is that stock prices, characterized as *impact* in this logic model, should essentially be serving as firm value (*outcome*). This section covers two empirical studies that use stock prices as explanatory variables, both of which observe stock prices of sample companies over the short terms. Again, considering firm value as mid-to-long term significance, this section reasonably separates the stock prices (*impact*) from firm value (*outcome*).

As part of the consequence analysis research group, the following section first reviews the Impact-type research group, and then Output-Outcome type research group. Each will be pictured by the respective logic models.

### (3) Impact-type research group

As presented below in Chart 2, the research in this section commonly views tax avoidance as an output, while various external consequences from tax avoidance as impacts. This paper groups those in the impact-type category. Compared to the Output-Outcome (OP-OC) type research group, which is presented later in Chart 3, this impact-type of research observes an indirect relationship; they do not specify the process equivalent to “outcome” in the firm’s activity chain.



(Prepared by the author.)

First, Kato *et al.* (2015) [8] and Brooks *et al.* (2015) [9], two studies that adopted similar shock events, are being compared in this section. After reviewing Dyreng *et al.* (2016) [10], this section considers Gallemore *et al.* (2014) [11] and Austin and Wilson (2017) [12], which deal with non-financial consequences.

(a) Event studies

In their corporate governance study, Kato *et al.* (2015) [8] covered 51 cases of transfer pricing taxation reported in the Japanese press on or before February 2012, in which stock price information was available. Kato *et al.* (2015) [8] analyzed how firms' stock prices reacted in the ten days before and after taxation was made public (20 days in total). Despite the intuitive nature that the transfer pricing assessment news could have been accepted as socially distrustful, the stock price was found to respond positively if the firm showed high ETRs. As Kato *et al.* (2015) [8] conclude, the Japanese market views firms with high ETR as good corporate citizens, even when transfer pricing taxation is assessed (p. 16).

Similarly, Brooks *et al.* (2015) [9] studied a sample from the UK securities market, in which they set a stock price observation period of 30 days before and after the date on which news of the transfer price assessment was released (61 trading days), longer than that set by Kato *et al.* (2015) [8]. Using the 1998–2014 information in the FTSE All Registered Stock Index (excluding investment trusts and REITs), Brooks *et al.* (2015) [9] found no discernible link between tax rates and stock returns in the UK regardless of how tax payment or tax avoidance was measured. This was true throughout the sample period and for both customer-facing and non-customer-facing firms. According to Brooks *et al.* (2015) [9], firms reported in the newspapers in a negative way in relation to their level of corporation tax payment were experiencing very small negative stock returns, which were fully reversed within a month (page xi).

Dyreng *et al.* (2016) [10] observed the impact of the 2010 accusation by ActionAid International against firms that did not fully comply with the disclosure obligation of the UK Firms Act, which required disclosure of all their subsidiary locations. Dyreng *et al.* (2016) estimated a 2.7 percentage point increase in the ETRs of non-compliant firms, representing approximately £34.34 million in higher tax expense than the ETRs of compliant firms in the years following the initial public pressure. Dyreng *et al.* (2016) also found that the decrease in tax avoidance for non-compliant firms in the post-pressure period was most pronounced for firms that experienced a decrease in the percentage of total subsidiaries located in tax

haven countries. Based on these findings, Dyreng *et al.* (2016) [10] concluded that public pressure from outside activist groups could exert a significant influence on the behavior of large, publicly traded firms (p. 148).

(b) Non-financial impacts studied

Gallemore *et al.* (2014) [11] analyzed 118 firms subjected to media scrutiny for participating in a tax shelter during 1995–2005 for executive turnover, auditor turnover, sales revenue / advertising expenses, and media treatment in the *Fortune* magazine. Gallemore *et al.* (2014) found no significant evidence of tax shelter revelation. With the absence of ex-post reputational costs and the insignificance of a reputation as a determinant of tax shelter use, Gallemore *et al.* (2014) interpreted that reputational costs are not likely to be responsible for the significant variation in tax sheltering (p. 1106).

Austin and Wilson (2017) [12] attempted research based on consumer-based brand equity (CBBE) from EquiTrend's 2006–2011 surveys, a measure of consumer reputation used as an explanatory variable in the marketing literature. Austin and Wilson (2017) [12] found a positive and significant association between the measure of reputation and tax rates (both in GAAP and in cash) while finding mixed evidence on whether there is a negative and significant association between reputation and the probability that the firm is engaging in tax sheltering. Overall, Austin and Wilson (2017) concluded that the results support the hypothesis that firms with more valuable brands engage in less tax avoidance (p. 77).

(c) Impact-type researches reviewed and further development

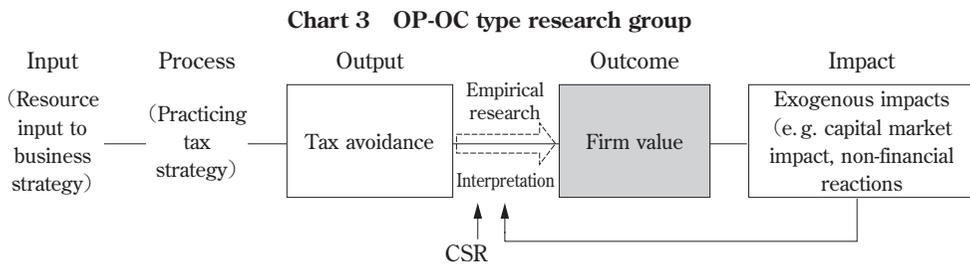
As reviewed above, impact-type research has provided mixed empirical observations on firms' tax behavior depending on the research design: news that can be potentially associated with tax avoidance, NGO accusations, or potential consumer-based sensitivity of the firms' brand. Some studies have found that non-financial consequences (actual or potential) may affect corporate tax behavior.

An advanced research method has been developed by integrating Determinant and Impact-type research to discover the influence on firms' tax behavior in a more structural manner. The following section reviews this research method.

(4) Output-Outcome (OP-OC) type research group

Chart 2, depicted in section (3), shows that the Impact-type research finds only an indirect

relationship between a firm's tax avoidance and its impacts. Here, as described in Chart 3, this section reviews those seeking to find a more direct correlation with tax avoidance (*output*) by bringing firm value as an *outcome* in the activity chain. This study groups those studies that share such characteristics as the output-outcome (OP-OC) type. Since the latter half of the 2010s, particularly upon interpreting their empirical findings, the researchers sought to integrate the Determinant and Impact-type methodologies by employing the variables from CSR ratings and impacts exogenous from the firm's tax behaviors. This section explores three studies: Kiesewetter and Manthey (2017) [13], Inger and Vansant (2019) [14], and a laboratory experiment conducted by Davis *et al.* (2017) [15].



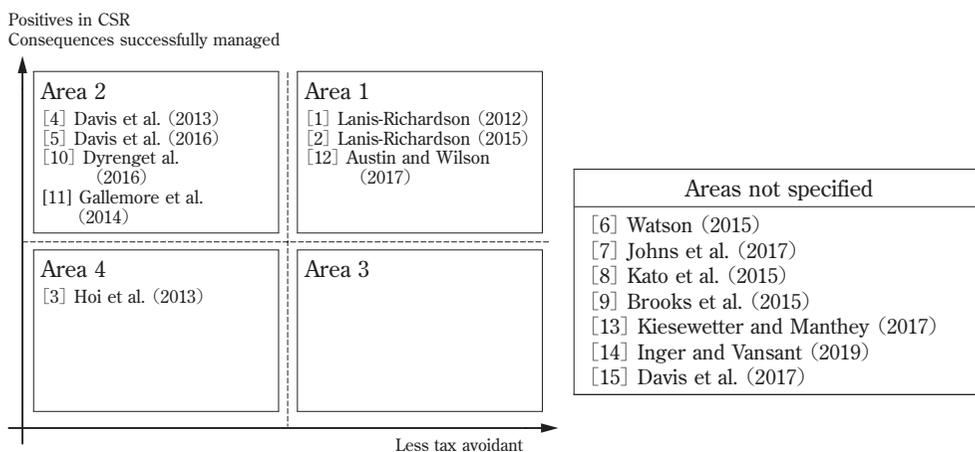
Kiesewetter and Manthey (2017) [13] tested the relationship between value creation and tax avoidance by grouping the sample into high and low CSR performers using a panel data set for European firms from 2005 to 2014. Kiesewetter and Manthey (2017) [13] concluded that in the European sample, there was no evidence that tax avoidance creates value (p. 819). Moreover, they mentioned that the “success” of tax avoidance did not depend either on corporate governance or on CSR and that the classic agency concept, suggesting that tax avoidance creates value for firms with superior corporate governance, could not be confirmed for the European sample (p. 804). Kiesewetter and Manthey (2017) [13] deliberately declined to offer a definitive interpretation of a firm's endogenous mechanism.

Using a sample of US public firms during 2000–2013, Inger and Vansant (2019) [14] generally found, *ceteris paribus*, that (1) tax avoidance and CSR were positively associated with firm value; however, (2) the interaction between tax avoidance and CSR was negatively associated with a firm value (p. 76). Inger and Vansant (2019) [14] suggest that (1) CSR activities may signal to investors that cash generated via tax avoidance has not been used toward investments that will generate a return sufficient to offset the risk associated with tax-planning strategies, and (2) investors may view tax avoidance as inconsistent with a firm's repu-

tation building strategy, which could mitigate the potential positive effect on future profits stemming from improved reputations with other stakeholders (pp. 90–91).

All empirical studies reviewed in this study have used data and rating information from actual sample firms from multiple databases. Davis *et al.* (2017) [15] conducted an experiment where all participants were requested to behave as investors based on the financial and industry information, ETR and CSR information, and stock price information, hypothetical and virtual. The results show that, although investors might perceive firms that pay more taxes as being more socially responsible, they do not differentially price firms for taxes paid (or tax managed) when CSR performance is low. When CSR performance is high, investors rewarded firms that most effectively manage taxes, not firms that pay more taxes. Davis *et al.* (2017) [15] result found a price premium (i. e., premium in a firm's value) for firms with good CSR ratings and effectively manage their taxes. They concluded that good tax management cannot compensate for poor CSR performance, and good CSR performance cannot compensate for poor tax management (p. 29). Davis *et al.* [15] mention that these results highlight the importance of examining investor behavior around taxes, considering other CSR performance.

**Chart 4 Distribution of empirical research results reviewed in this paper**



(Prepared by the author.)

### 3 Distribution of empirical research results

By reviewing the researches typologically in the groups of research logic of Determinant versus Consequence analyses, it is clearly explained how complex the phenomena can occur

when the company takes certain tax behavior, either tax avoidant or tax conservative. Chart 4 captures the 15 empirical conclusions distributed in the fields with the horizontal axis for the firms' behaviors demonstrated in tax avoidance restraint. The vertical axis for the firm's CSR rating/positive exogenous impacts (including negative impacts managed favorably). In the following, RQ 1 will be discussed by reviewing Chart 4, where the research is distributed over the appropriate sub-areas divided into four, as indicated by the research numbers [1]-[15]. The set of the findings by means of Determinant analysis research (research number [1]-[7]) appears to be relatively linear. On its one hand, it has two Lanis and Richardson studies (2012 [1] and 2015 [2]) that demonstrate that companies with better CSR ratings are more restrained in tax avoidance, as well as Hoi et al. (2013) [3], which finds that the less socially-responsible companies are more tax-avoidant. On its other hand, Determinant analysis research also has two Davis et al. studies (2013) [4] and (2016) [5], which repeatedly challenge the former relationship by demonstrating the socially responsible tax avoiders. Contrarily to the Determinant analysis research, the conclusions from Consequence analysis research (research number [8]-[15]), namely the Impact-type and the OP-OC-type of researches are more diffuse.

Overall, only eight out of the 15 empirical conclusions could find one of the four areas in Chart 4. Area 1, where firms with better CSR ratings are more restrained in tax avoidance, houses the two studies by Lanis and Richardson (2012 [1], 2015 [2]) and Austin and Wilson (2017) [12], with their findings specific to customer-based businesses. Hoi *et al.* (2013) [3] found Area 4, resulting from the relationship opposite to Area 1. Additionally, Area 2 stands for those findings that empirically observed firms' tax avoidance while enjoying positive CSR ratings, enjoying positive exogenous impact, or successfully managing negative impact intuitively anticipated from tax avoidance events. This paper reviewed four empirical results that found Area 2, including two by Davis *et al.* (2013, [4] and 2016 [5]), which interpreted CSR activities and tax payments as substitutes. The firms' behavior observed in studies belonging to Area 2 contradicts the correlations the Area 1 studies: this contradiction offers profound research interests.

Seven of the 15 studies did not find any particular area in Chart 4. Johns *et al.* (2017) [7] showed that the conclusions presented by Lanis-Richardson (2012) study is not significant outside the Asia-Pacific region; Watson (2015) [6] mentioned that CSR activities are subject to the firm's EP; Davis *et al.* (2017) [15] highlighted that an investee firm's original CSR rating level affects the investor's position on the inclusion of tax payment as a part of

social responsibility.

The event studies observed how stock prices fluctuated when the tax case was made public. Corporate governance research by Kato *et al.* (2015) [8] specifically discovered that in the Japanese stock market, the stock prices of firms with high tax burdens could be resistant to their news of tax avoidance. In contrast, in Brooks *et al.* (2015) [9], the firms listed in the UK have generally found the recovery of stock prices within one month from the tax case exposure, regardless of the tax burden. From here, a sophistication in research thought was required for seeking more structural interpretation over direct relationships: whether tax avoidance creates firm value, and how the firm's sense of responsibility and governance are related to creating value if any. This move can be viewed as a critical elaboration of the empirical results in Area 2. Research design started integrating Determinant and impact-type methods; Kiesewetter and Manthey (2017) [13] and Inger and Vansant (2019) [14] skeptically concluded that tax avoidance does not necessarily contribute to firm value.

To answer RQ 1, empirical research does not generally agree with the direction. The mixed results included certain conjectures that many empirical researchers were forced to provide from their results; the mixture appears too vague to obtain any articulate evidence. In the next section, with the spirit of post-BEPS<sup>7</sup> “global inclusiveness” demonstrated by OECD since 2016, RQ 2 is discussed.

### **III Drivers that could promote the autonomic improvement of the firms' tax behavior**

The overwhelming business competitiveness of GAFA-M is supported by the cash generated by their business models. Part of that cash comes from ongoing tax avoidance, making their social or philanthropic behavior possible in huge magnitude, having an extra impact on their popular brands globally. Accounting research should note that the behaviors of founders of Facebook and Microsoft are anecdotal cases. International tax avoidance is not limited to a few symbolic technology firms such as GAFA-M. Difficulties in explaining any possible causality for the tax avoidance-CSR relationship will lead to RQ 2, where a critical perspective on the CSR concept regarding tax avoidance makes significant sense, as discussed in the following.

### **1 Priority of tax payment to CSR premised on democracy**

Dowling (2014) calls for a spectrum of independence between the notions of abiding “by the spirit of the law” and “by the letter of the law”<sup>8)</sup>; a firm may choose the options such that it is the tax authorities that define<sup>9)</sup> the spirit of the law (i. e., its intension) from the preamble, explanatory memoranda, and the set of principles used to design the legislation; another firm may choose that “there is no spirit of the law independent of the language of the law, and that any ambiguities will be resolved by the plain meaning of the words in the context of the law and by court decisions” (p. 175). In connection with the fact that many business academics do not consider it socially unacceptable to legally minimize corporate tax, Dowling mentions the perspective of financial versus social responsibility, which is deemed to be separate and should be neither confounded nor confused (p. 177). Additionally, Dowling criticizes, in the scholarly literature, that the “nexus of contracts” view of the firm provides most corporate governance support for tax avoidance, where tax is assumed to be an expense and tax avoidance becomes a simple cost-benefit calculation (p. 180).

Kramer and Porter (2011) emphasize that, from society’s perspective, it does not matter what types of organizations created the value; what matters is that benefits are delivered by those organizations that are best positioned to achieve the most impact for the least cost (p. 12). It also mentions that, if all firms individually pursued shared value connected to their particular businesses, society’s overall interests would be served, and firms would acquire legitimacy in the eyes of the communities in which they operated, which would allow democracy to work as governments set policies that fostered and supported business (p. 17).

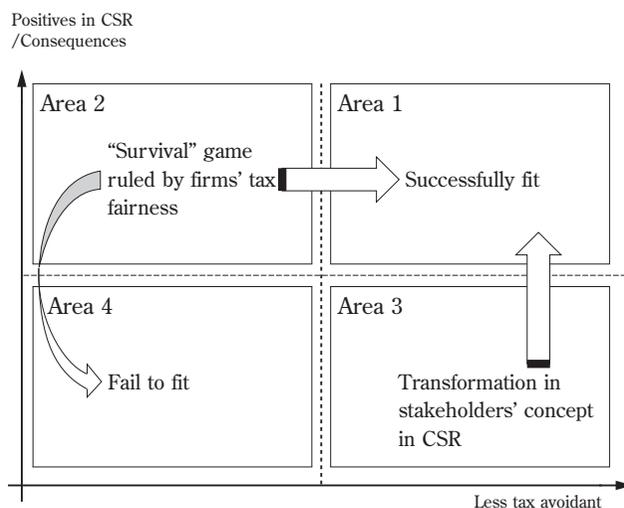
This paper does not necessarily disagree that the conglomeration of competitive and efficient individual solutions from the private sector has great potential. However, returning to the fundamental fact that the democratic society is created and maintained by the people of the country, this paper argues that tax revenue must be secured and left to the democratic disposal of the people. Dowling reveals that the issue is whether corporate tax is largely at the discretion of the company or whether it is a State’s responsibility to collect what it deems to be its “fair share.” In the former case, many large firms are required to state if corporate tax is a prime deliverable of their CSR, according to Dowling (p. 182). Kramer and Porter (2011) focus on developing countries, especially low-income countries. In those countries, corruption or other serious administrative inefficiencies are known to interrupt tax revenues from being effectively utilized for individual policies. However, under the premise of democracy, taxes are a source of rights exercised by the people as the only nation builder. Kramer

and Porter (2011) criticize the trade-offs between firms and society in CSR and then propose CSV to eliminate them (p. 4). With the reference of responsibility premised on democracy, any tax avoidant behavior relying solely on “the letter of the law” bothers the local societies with another kind of trade-off which the tax-avoiding firms newly generate, different from what Kramer and Porter (2011) meant to resolve. Corporate tax payments should be prioritized over corporate CSR activities. CSR activities executed with cash maximized through tax avoidance are unacceptable. A thought process is needed to inspire any improvement of the relationship of CSR over tax as demonstrated by many tax-avoidant MNEs like GAFA-M.

## 2 Firms’ tax fairness concept

Dowling suggests that firms take responsibility for paying a fair share of taxes. Similarly, making commitments to sustainable development in all the communities where firms operate, MNEs are required to endorse tax policy, which calculates the tax burden that is fair from long-term business competitiveness standpoints and excludes any structures/transactions deviating from such tax calculations. This paper calls the above concept as *the firm’s tax fairness* and presents it as the answer to the RQ 2. As in Chart 5, under the condition that *firms’ tax fairness* is universally supported and embedded in their management strategies, ‘survival of the fittest’ could occur among those currently in Area 2. Some firms may suffer from maintaining the previous CSR level, therefore downgraded to Area 4, while other firms may

**Chart 5 How the transformation of firms’ behaviors can be observed**



(Prepared by the author.)

succeed in transforming their strategy by embracing *firms' tax fairness*, moving to Area 1. As the concept of CSR properly matures, the concept of *firms' tax fairness* can also contribute to accelerating the autonomous improvement in the relationship between the CSR practice and tax avoidance.

### 3 CSR concept with the scope of stakeholders redefined

According to Dowling, although few scholars and advocates of CSR have examined the issue, the scrutiny of corporate tax practices raises some uncomfortable questions about the integrity of CSR (p. 174). As Dowling also criticizes, most advocates of stakeholder theory suggest that the three most important groups are employees, customers, and investors. Across these three groups, tax avoidance has a positive outcome because there is more money available to support low prices, pay employees more, and make the company more profitable. Dowling agrees to expand the number of important stakeholders to six groups to add competitors, suppliers, and the public, and further stresses that the interests of the general public and government must be considered against that of the other groups (p. 183).

Among the 15 empirical studies reviewed in this paper, common struggles in discovering the tax behavior-CSR relationship were identified (Johns *et al.*, 2017, [7]; Kiesewetter and Manthey, 2017, [13]; and Inger and Vansant, 2019 [14]). This empirical indecisiveness may be symptomatic, resulting from a change in the stakeholder definition of the CSR concept, later exemplified in the rapid growth of ESG investment, as suggested by Dowling. Such an evolution of the CSR stakeholder concept may transform the previous performance evaluation norm into an appreciation of the tax behavior, which has been ignored to date. Looking at the evolution in Chart 5, those firms previously residing in Area 3 will move to Area 1 as they strive.

With exceptions, MNEs headquartered in Japan are generally inferred to be reluctant to behave aggressively on tax<sup>10</sup>. This has been viewed in general as immaturity in the cash-flow-based competitiveness of their business strategy compared with Western MNEs. Additionally, comparing corporate culture, the lack of philanthropic strategies of Japanese firms, in general, has been critically discussed. Now, if *firms' tax fairness* concept can be naturally embedded in the management strategy of averaged Japanese MNEs residing in Area 3 of Chart 5, a business transformation required to them would be minimal compared with Western firms in the process naturally upgrading themselves to Area 1.

As the CSR concept evolves and expands in the direction suggested by Dowling, *firms' tax*

*fairness* could be at the core of MNEs' tax behavior, expected by the international community to ensure a positive outcome in the era of post-BEPS global inclusiveness.

#### IV Conclusion

The MNEs' tax behavior is surrounded by conflicts of interest among tax authorities of their home and destination countries, various investors, and rating agencies; activists observe their actions as influential speakers. Under the post-BEPS environment, there is an urgent need for MNEs to acquire clear accountability based upon the coherent explanation about their own tax behavior. In response, RQ 2 finds that research is required to theorize the international tax strategy based on *firms' tax fairness* and to integrate it with MNEs' competitive management strategies.

This paper has some limitations; for example, the empirical studies sampled in this paper were limited in number and length of period, which may affect the comprehensiveness of the discussion. However, along with the *exogenous* evolution of the CSV exemplified by recent enthusiasm for ESG investments, this paper assembled the limited evidence and showed, as the conclusion, that theoretical research regarding *firms' tax fairness* can be a significant catalyst for the *endogenous* transformation of the MNEs' behavioral backbone to seek a sustainable international tax strategy. Researchers are invited to academically facilitate exogenous and endogenous drivers, ensuring that the required transformation gains autonomic momenta considering the potential influence on the global economic community.

#### Notes

- 1) Facebook was renamed Meta in October 2021.
- 2) For example, Crane *et al.* 2014 criticizes the CSV concept for some serious shortcomings, including that it ignores the tensions inherent to responsible business activity and is based on a shallow conception of the corporation's role in society.
- 3) For example, Adachi (2018) shows an analysis that "Porter's CSV is incompatible with CSR" (p. 115). Adachi also calls for clarifying the relationship between sustainable growth and CSR, for critically reviewing the theoretical features of Porter's CSV, thereby the difference between Porter's CSV and CSR (p. 122).
- 4) An investigation for this paper did not find any empirical research that critically questions the relationship between CSV and CSR. Most empirical researches rely on CSR ratings provided by database companies, which appears to be one of the reasons that CSV is not empirically tested. Therefore this paper does not distinguish CSV from CSR in its analysis.

- 5) Lietz (2013) embraces a general definition of tax shelter transaction as that a strategic instrument of tax avoidance that is often considered to be highly “aggressive” since it regularly serves little or no business purpose, while generating tax benefits that the tax authority will most likely disallow (p. 4).
- 6) The nexus of contract theory is a view of corporate organization in the field of legal economics, established by Jensen and Meckling (1976) as a modern academic ideology. It explains that most organizations are simply legal fictions that serve as a nexus for a set of contracting relationships among individuals. Therefore it conceptually denies asking a corporate organization for any objectives or responsibility (p. 1976). Later, Scholes *et al.* (1992) imported this view into their tax strategy theory and defined the corporate income tax burden as one of the various kinds of transaction costs to be minimized (Scholes *et al.* 2015, p. 2). Such development has been subject to criticism, as providing a basis for corporate tax avoidance, by Boatright (2002), Dowling (2014), Avi-Yonah (2014) for instance.
- 7) In 2015, various studies results from OECD Base Erosion and Profit Shifting (BEPS) project were collectively announced as the G20 final report. Since the Kyoto meeting in June-July 2016, the project is re-defined as post-BEPS and has welcomed a large number of emerging and low-income countries, counting over 130 participant countries. In July 2021, OECD announced an international agreement was reached on “Statement on a Two-Pillar Solution to Address the Tax Challenges Arising From the Digitalisation of the Economy” as the new framework to mitigate the problems from tax avoidance.
- 8) Contrary to Dowling (2014), there is an argument to deny recognizing the spirit of the law. For example, Hasseldine and Morris (2013) argues that suggesting that the ‘letter’ of the law is distinct from the ‘spirit’ of the law, particularly in the context of the tax code, appears to ignore the purpose of the tax code, which among other purposes, is to identify in a reasonably clear manner events that are to be taxed or events that lead to a tax benefit or credit (p. 11).
- 9) Dowling (2014) uses the word “divine(s)” instead (p. 175).
- 10) The following two survey results are helpful to infer that Japanese firms are generally reluctant to actively avoid taxation, despite their high tax burden rate worldwide. First, Markle and Shackelford (2011, p. 16) found from 2005 to 2009 that Japan has the highest effective tax rate to resident firms: 8-9% higher of the tax rate compared with the US which follows the second. Next, the research by the Ministry of Economy, Trade, and Industry of Japan (2017, pp. 251-258) describes the fundamental differences in how Japanese and Western firms operate their in-house tax team. US firms, as extreme examples, have operated their in-house international tax team as a profit center with KPI set based on the minimization of the effective tax rate and tax cost, whereas Japanese multinationals generally do not have KPIs in their in-house international tax department themselves. Certain US multinationals run their head office tax department with hundreds of specialists (maximum), whereas around 60% of the largest group of Japanese multinationals have less than 10 employees in their head office tax department.

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