

Apple's Cook to face Senate questions on taxes (Update)

May 21 2013, by Marcy Gordon

A Senate panel says Apple Inc. is [avoiding billions of dollars in U.S. taxes](#) by shifting profits to foreign affiliates and is prepared to question the company's chief executive Tuesday about the "loopholes."

Apple CEO Tim Cook is expected to explain the company's tax strategy to the Senate Permanent Subcommittee on Investigations, which released a detailed report Monday on the company's practices.

The world's most valuable company says it complies with the laws and pays "an extraordinary amount" in U.S. taxes.

Sen. Carl Levin, the panel's chairman, says Apple's use of loopholes in the U.S. tax code is unique among multinational corporations.

"Apple is exploiting an absurdity," Levin said at the start of the hearing.

The tone of the hearing turned tense before the Apple executives were scheduled to appear, as Sen. Rand Paul, an anti-tax hawk, insisted that the subcommittee apologize to Apple for unfair scapegoating.

"If anyone should be on trial here it should be Congress ... for creating a bizarre and byzantine tax code," said Paul. "If you want to assign blame, this committee needs to look in the mirror and see who created that mess."

Levin countered angrily that no such apology would be forthcoming.

"Apple's a great company, but no company should be able to determine how much it's going to pay in taxes by using gimmicks," he said.

The spotlight on Apple's tax strategy comes at a time of fevered debate in Washington over whether and how to raise revenues to help reduce the federal deficit. Many Democrats complain that the government is missing out on billions of dollars because companies are stashing profits abroad and avoiding taxes. Republicans want to cut the corporate tax rate of 35 percent and ease the tax burden on money that U.S. companies make abroad. They say the move would encourage companies to invest at home.

Cook and the other Apple executives are expected to face tough questions. Levin and other panel members could hold up Apple as an example of a powerful company using its privileged position to avoid taxes while ordinary Americans must pay them. The subcommittee last fall derided executives from other technology giants over similar allegations.

Apple is holding overseas some \$102 billion of its \$145 billion in cash, according to the subcommittee's report.

Apple's strategies are legal, and many other multinational corporations use similar tax techniques to avoid paying U.S. taxes on profits they reap overseas. But Apple uses a unique twist, the report found. The company's tactics raise questions about loopholes in the U.S. tax code, lawmakers say.

Apple refuted the subcommittee's assertions in testimony prepared for the hearing. Apple said it employs tens of thousands of Americans and pays "an extraordinary amount" in U.S. taxes, citing the roughly \$6 billion it paid in fiscal 2012.

Apple "complies fully with both the laws and the spirit of the laws," the testimony says. "And Apple pays all its required taxes, both in this country and abroad."

"Apple does not use tax gimmicks," the statement says.

The company has made clear that given current U.S. tax rates, it has no intention of repatriating its overseas profits to the U.S. Apple reiterated in its testimony its support for comprehensive tax reform as a way to support economic growth and boost U.S. companies' competitiveness.

The subcommittee also has examined the tax strategies of Microsoft Corp., Hewlett-Packard Co. and other multinational companies, finding that they too have avoided billions in U.S. taxes by shifting profits offshore and exploiting weak, ambiguous sections of the tax code. Microsoft has used "aggressive" transactions to shift assets to subsidiaries in Puerto Rico, Ireland and Singapore, in part to avoid taxes. HP has used complex offshore loan transactions worth billions while using the money to run its U.S. operations, according to the panel.

The subcommittee's report estimates that Apple avoided at least \$3.5 billion in U.S. federal taxes in 2011 and \$9 billion in 2012 by using the strategy. The company, based in Cupertino, California, paid \$2.5 billion in federal taxes in 2011 and \$6 billion in 2012.

Apple uses five companies located in Ireland to carry out its tax strategy, according to the report. The companies are located at the same address in Cork, Ireland, and they share members of their boards of directors. While all five companies were incorporated in Ireland, only two of them also have tax residency in that country. That means the other three aren't legally required to pay taxes in Ireland because they aren't managed or controlled in that country, in Apple's view.

The report says Apple capitalizes on a difference between U.S. and Irish rules regarding tax residency. In Ireland, a company must be managed and controlled in the country to be a tax resident. Under U.S. law, a company is a tax resident of the country in which it was established. Therefore, the Apple companies aren't tax residents of Ireland nor of the U.S., since they weren't incorporated in the U.S., in Apple's view.

The subcommittee said Apple's strategy of not declaring tax residency in any country could be unique among corporations.

Levin and Sen. John McCain, the subcommittee's senior Republican, are proposing legislation to close loopholes in the tax code.

© 2013 The Associated Press. All rights reserved.

Citation: Apple's Cook to face Senate questions on taxes (Update) (2013, May 21) retrieved 9 April 2024 from <https://phys.org/news/2013-05-apple-cook-senate-taxes.html>

<p>This document is subject to copyright. Apart from any fair dealing for the purpose of private study or research, no part may be reproduced without the written permission. The content is provided for information purposes only.</p>
--