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Robert W. Wood

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Did Apple's Tim Cook Just Back Trump Over Clinton? Not Exactly

Apple CEO Tim Cook has had enough of people lambasting Apple for skirting U.S. taxes. Apple is no different from other multinational companies, Cook has suggested. The tech giant simply *has* to keep Apple profits abroad, for they would just be too expensive to bring to the U.S. In an interview with *The Washington Post*, Cook vigorously defended Apple's tax practices in a way that sounded, well, rather Trump-like.

In fact, he intimated that America's 35% corporate tax rate was antiquated and unrealistic. Mr. Cook's interview didn't reveal what Cook thought *would* be a fair tax rate. Yet he was clear that he couldn't advocate Apple bringing money to the U.S. *unless* America adopted a "fair rate." Is the U.S. tax system competitive? Hardly. Not long ago, one study said the U.S. tax system ranked 94th out of 100, right below Zimbabwe, so have a long way to go. Apple and many other global companies say that our tax system is broken, and they are right. It does not appear that Cook was asked what he thought of Donald Trump's proposed 15% corporate tax rate. He is no fan of Trump's, but it isn't a silly question.

Apple chief executive Tim Cook greets onlookers as he leaves the Taj Mahal Palace hotel. Photo credit PUNIT PARANJPE/AFP/Getty Images.

Cook prefers Hillary Clinton to Trump. And yet, his preferred candidate is not making waves to lower corporate tax rates. Indeed, if anything, Ms. Clinton's rhetoric suggests that she could go the other direction. At least on the topic of inversions, she has suggested a new exit tax. Apple reportedly has a staggering $230 *billion* in cash. Too bad most of it is overseas where America can't tax it.

Cook has long tried to distance Apple from tax gimmicks. However, a 2013 report on Apple from the Senate Permanent Subcommittee on Investigations painted a grim picture, saying that Apple avoided $9 billion in U.S. taxes in 2012 alone via offshore units with no tax home.
Cook testified that Apple did nothing illegal. Yet, calling it the "holy grail of tax avoidance," Sen. Levin claimed that Apple saved billions by claiming companies registered in Ireland are not tax resident in any country.

Global companies like Apple, Starbucks and Hewlett-Packard put income in foreign pockets in ways the IRS doesn't like. And the IRS isn't alone in its criticism. The G20 countries and the Organization for Economic Co-operation and Development (OECD) call it tax manipulation. The EU is still mulling over what to do about Apple's tax antics.

Shifting billions of dollars to international subsidiaries with no declared tax residency seemed hard to square with the "we pay all tax we owe" mantra of good citizenship. There is no question that Apple has scrimped on taxes and played a savvy game, perhaps the savviest of all time. Apple and other U.S. companies have trillions parked offshore, ostensibly just because of U.S. tax rates. In the recent Washington Post interview, Cook said it had nothing to do with patriotism. It is about dollars and sense, and he called Apple's moves 'perfectly legal.' But one wonders how he can be "optimistic" that Congress will fix this.And though Cook has criticized Trump, one assumes that the Apple chief might not disagree with Trump's proposed 15% corporate tax rate. As for Ms. Clinton, her Bernie-fueled populist base will surely want to tax the corporations. And there is plenty to tax. Staggeringly, U.S. companies are said to have more than $2 trillion offshore. Most claim that they *have to* keep the money there to avoid the taxes they would face by bringing funds back to the U.S. Sadly, though, even if Congress were able to agree on legislation, this will take considerable time.

For alerts to future tax articles, email me at Wood@WoodLLP.com. This discussion is not legal advice.