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# Deloitte in Africa – Advising big businesses on how to avoid tax in some of the world’s poorest countries

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“It is unconscionable that some companies... are using unethical tax avoidance, transfer pricing and anonymous company ownership to maximize their profits, while millions of Africans go without adequate nutrition, health and education.”

Kofi Annan, Africa Progress Report 2013<sup>1</sup>

## **An ActionAid Investigation**

### **SUMMARY**

Deloitte is one of the biggest financial services companies in the world. Originally starting in the United Kingdom it is today headquartered in New York. It provides audit, tax, consulting, enterprise risk and financial advisory services and employs more than 200,000 employees internationally and operates in more than 150 countries<sup>2</sup>. In the last financial year it earned \$32 billion in revenues.<sup>3</sup> It is one of the ‘Big Four’ accountancy firms.

One of Deloitte’s fastest growing markets is Africa<sup>4</sup>. It has operations in 50 African countries including some of the poorest in the world – among them Mozambique, Zambia, Sierra Leone, Tanzania and Kenya. Deloitte offers African and international businesses advice on a key range of financial services.<sup>5</sup>

ActionAid has uncovered documentation showing that Deloitte is providing information on tax avoidance strategies for use by wealthy corporations in extremely impoverished countries. This is advice that could potentially be used to avoid hundreds of millions of dollars in tax.

The document gives specific advice on how to structure businesses via Mauritius in order to avoid tax across parts of Africa.

To illustrate this it uses the example of how to avoid tax in Mozambique, where it advises companies on how it is possible to achieve a 60 percent reduction in

withholding tax and a 100 percent reduction on any capital gains tax. Mozambique is one of the poorest countries in Africa where over 50% of the population live below the poverty line and the average life expectancy is just 49 years.<sup>6</sup>

Mauritius has been described as the “gateway to Africa” for international businesses. It currently has 14 double taxation treaties in place with African countries and a further 10 others under negotiation, but the terms of these treaties can easily be abused by companies seeking to minimise their tax bills.

Deloitte presented this information as part of a major conference of international businesses just two weeks before the G8 conference in Loch Erne, Northern Ireland, when the world’s leaders promised action to combat the impact of tax avoidance internationally.

Tax avoidance in Africa, while legal, has been condemned by Kofi Annan.<sup>7</sup> Aggressive tax avoidance has been described by UK Prime Minister David Cameron as morally wrong.<sup>8</sup> ActionAid has been campaigning for a global clamp-down on tax avoidance which costs developing countries hundreds of billions of pounds a year in lost revenue. These enormous losses mean millions of children don’t receive a decent education, poor roads prevent farmers getting crops to market, and whole countries remain dependent on international aid.

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## Deloitte and Tax Avoidance - the evidence

ActionAid's allegations are based on a Deloitte document dated 2013 and entitled

***"Investing in Africa through Mauritius"***<sup>9</sup>.

In a key section, composed of three diagrams, the document gives information on how tax can be avoided in the example of Mozambique. Specifically it shows how withholding tax can be reduced by 60% and capital gains tax can be reduced from as much as 32% to zero.

These tax avoidance strategies could substantially affect how much a company pays in a particular country – and could be replicated when investing in a number of poor countries in Africa that have signed tax treaties with Mauritius.

The potential value of capital gains tax to a developing economy is huge. This year, for example, an Italian oil company was reportedly required by the Mozambique government to pay \$400 million dollars in capital gains tax.<sup>10</sup>

The three diagrams which appear in the Deloitte document highlight how Mauritius can be used to avoid tax in Mozambique:

### 1. Investing directly in Mauritius

The following diagram shows what would happen if a company invested directly in a company in Mozambique. The profits from the Mozambique subsidiary, which have already been taxed at 32%, are subject to a 20% withholding tax (WHT) when they are remitted to the Chinese parent company as dividends. If the Mozambique company is sold on to another investor, any capital gain is also taxed at 32%. This is a standard tax treatment for international investments.

### 2. Investing in Mozambique through Mauritius

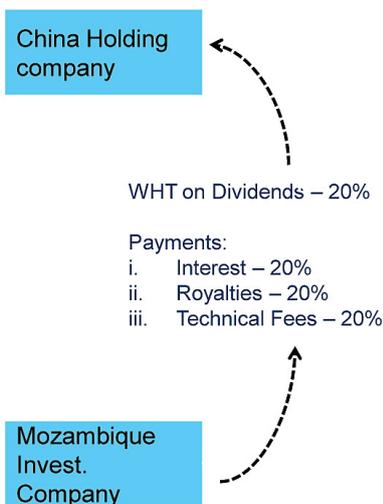
The following diagram illustrates what would happen if a company routed the same investment through a Mauritius holding company. In such a scenario the company could reduce the withholding tax paid when dividends are remitted from Mozambique from 20% to 8%. This equates to a 60% reduction in WHT. It would also pay no capital gains tax if it sold the Mozambique subsidiary, because the treaty prevents Mozambique from charging any capital gains.

### 3. Zero tax charge in Mauritius

In theory, Mauritius could tax the holding company's profits at 15%, but the final slide shows how this tax rate

#### 1. Investing Directly in Mozambique

- **Case Study** – China Co investing directly in Mozambique

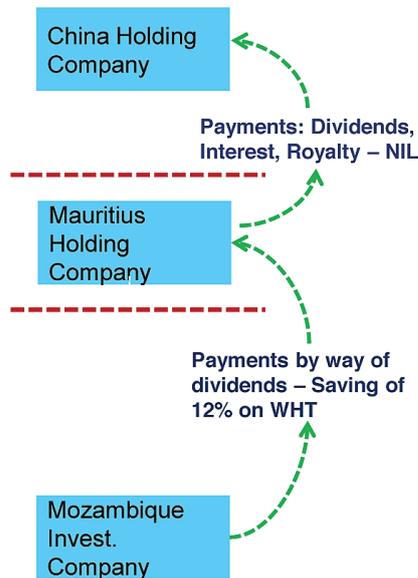


#### Tax Suffered

- Corporate Taxation at 32% in Mozambique
- WHT on dividend – 20%
- If China Holding Co disposes of its investment interests in Mozambique, this would trigger a capital gain tax of 32% in Mozambique

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## 2. Investing in Mozambique through Mauritius

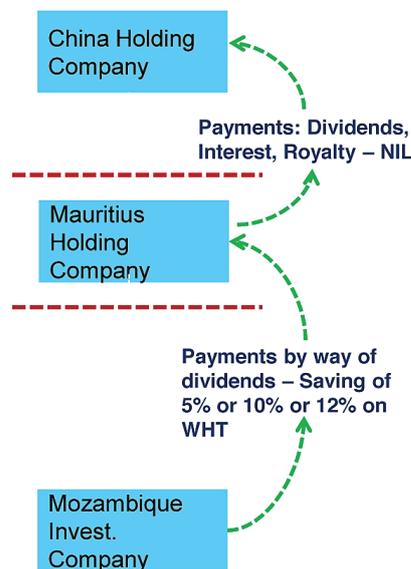


### Tax Implications

- Reduce WHT applying the Mauritius Treaty
- No WHT on outbound payment from Mauritius
- No Capital Gains Tax in Mauritius – **Capital gains taxation on share transfer under the Mauritius – Mozambique DTA: taxed only in the state where the alienator is resident**

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## 3. Illustration of Tax Computation in Mauritius



### Tax Implications

- Corporate Taxation at 32%
- WHT on Dividend under Treaty – 8%

Net Income	920
Gross Income	1,000
Foreign Taxes	
WHT (8%*1000)	80
Underlying Taxes (32%*1000)	320
Total FTC	400
Chargeable Income	1,000
Tax at 15%	150
FTC	(150)
Tax Liability	NIL

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is reduced to zero in practice. Any tax liability in Mauritius is wiped out by a 'foreign tax credit' (FTC) earned because the income has already been taxed in Mozambique.

### What else do we know about the report?

Two weeks before the start of the G8 conference, when tax avoidance was condemned by David Cameron and

others, representatives from Deloitte Mauritius and Deloitte China attended a conference in Beijing. The one-day conference was hosted by the International Financial Law Review (IFLR).<sup>11</sup>

The Deloitte representatives addressed a one-hour focus group on Mauritius.<sup>12</sup> The Deloitte report **"Investing in**

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***Africa through Mauritius***” was later listed by the IFLR on its website under “presentations” and published as a key takeaway document.

The conference delegate list for that day included representatives from more than 80 major international organisations. Among them was the Mauritius Ambassador and senior executives from large Chinese firms. They also included representatives from major banks and legal firms including Clifford Chance, Citibank, JP Morgan, the World Bank and Standard Bank.<sup>13</sup>

### **Why does this matter?**

*“It’s a world where some companies navigate their way around legitimate tax systems and even low tax rates with an army of clever accountants.”*

*“...there are some forms of avoidance that have become so aggressive that I think it is right to say these raise ethical issues,”*

UK Prime Minister David Cameron, speech at the World Economic Forum, April 2013<sup>14</sup>

Deloitte provided information on tax avoidance strategies at the IFLR conference, which was attended by a large number of companies with interests in Africa.

Tax avoidance is causing developing countries to lose many billions of dollars in revenue every year. According to ActionAid research, almost half of all investment into developing countries goes through tax havens.<sup>15</sup> Meanwhile the OECD estimates that developing countries lose three times more to tax havens than the amount they receive in aid each year.<sup>16</sup>

If companies paid their fair share of tax, this money could be used to fund food programmes and build vitally needed schools, health services, transport infrastructure and education programmes. The revenue has the potential to be transformative. In a single case previously uncovered by ActionAid a British sugar company was avoiding enough tax in Zambia to put an additional 48,000 children through primary school every year.<sup>17</sup> Lost tax revenue could also be used to build self-sustaining economies and to reduce aid dependency in parts of the world.

Deloitte’s presentation also sheds light on how Mauritius is being viewed by companies seeking to invest in Africa. Mauritius has signed double taxation treaties with 14

African countries, with a further 10 in the pipeline. Double taxation agreements are designed to avoid a company paying tax twice on the same earnings and encourage investment. But they can also be utilised to create a situation where a company avoids tax where its economic activity occurs. The document highlights that treaties are currently being negotiated or awaiting ratification with Congo, Egypt, Kenya, Nigeria, Ghana, Gabon, Algeria, Burkina, Malawi and Tanzania. All of these countries could be hit by similar tax avoidance schemes unless they retain the right to charge withholding and capital gains taxes.<sup>18</sup>

Responsible and profitable businesses are vital to the future of Africa. Financial services are clearly important in helping economies grow. However in order to contribute these organisations need to behave in a socially responsible way, and that includes paying a fair share of tax.

The tax avoidance strategy being promoted by Deloitte - while legal - could lead directly to the loss of millions of dollars of vitally needed tax revenue from a very poor country like Mozambique.

Shortly before publication a Deloitte spokesperson responded to ActionAid’s allegations saying: “It is wrong to describe applying double tax treaties, such as the treaty between Mauritius and Mozambique, as tax avoidance. Such treaties are freely negotiated between the Governments of the countries involved.

### **Deloitte Response**

*“Double tax treaties exist to enable the countries concerned to strike a balance between the need to encourage investment, including cross-border investment, to raise tax revenue, and to work together with other countries who have the same legitimate concerns to raise revenue and promote business.*

*“The absence of such treaties could result in a reduction of investment, and less profit subject to normal business taxes in the countries concerned. Any discussion of tax treaties by tax professionals would typically be around the technical and administrative aspects of the treaties and not an expression of favour of any particular country at the expense of any other country.”*

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- 1 <http://www.africaprogresspanel.org/publications/policy-papers/africa-progress-report-2013>
  - 2 [http://www.deloitte.com/view/en\\_GX/global/press/facts-figures/index.htm](http://www.deloitte.com/view/en_GX/global/press/facts-figures/index.htm)
  - 3 [http://www.deloitte.com/view/en\\_GX/global/press/facts-figures/index.htm](http://www.deloitte.com/view/en_GX/global/press/facts-figures/index.htm)
  - 4 <http://www.deloitte.com/assets/Dcom-SouthAfrica/Local%20Assets/Documents/IntoAfrica/Africa%20Risk%20Map.pdf>
  - 5 <http://www.deloitte.com/assets/Dcom-SouthAfrica/Local%20Assets/Documents/IntoAfrica/Africa%20Risk%20Map.pdf>
  - 6 <http://data.worldbank.org/country/mozambique>
  - 7 <http://www.africaprogresspanel.org/publications/policy-papers/africa-progress-report-2013>
  - 8 <http://www.telegraph.co.uk/finance/globalbusiness/9877045/David-Cameron-attacks-aggressive-corporate-tax-avoidance.html>
  - 9 [http://www.iflr.com/pdfs/events/ChinaAfrica13/14.40\\_Mauritius\\_Dauhoo.pdf](http://www.iflr.com/pdfs/events/ChinaAfrica13/14.40_Mauritius_Dauhoo.pdf)
  - 10 <http://www.bbc.co.uk/news/business-23726882>
  - 11 <http://www.iflr.com/stub.aspx?stubid=21553>
  - 12 <http://www.iflr.com/stub.aspx?stubid=21553>
  - 13 <http://www.iflr.com/stub.aspx?stubid=21633>
  - 14 <http://www.actionaid.org.uk/news-and-views/actionaid-exposes-tax-avoidance-by-associated-british-food-group-in-zambia>
  - 15 [http://www.actionaid.org.uk/sites/default/files/publications/how\\_tax\\_havens\\_plunder\\_the\\_poor\\_2.pdf](http://www.actionaid.org.uk/sites/default/files/publications/how_tax_havens_plunder_the_poor_2.pdf)
  - 16 <http://www.theguardian.com/commentisfree/2008/nov/27/comment-aid-development-tax-havens>
  - 17 <http://www.actionaid.org.uk/news-and-views/actionaid-exposes-tax-avoidance-by-associated-british-food-group-in-zambia>
  - 18 [http://www.iflr.com/pdfs/events/ChinaAfrica13/14.40\\_Mauritius\\_Dauhoo.pdf](http://www.iflr.com/pdfs/events/ChinaAfrica13/14.40_Mauritius_Dauhoo.pdf)
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