Europe Takes On Tech Giants And Tax Havens

Lori Hinnant, Associated Press

PARIS (AP) -- A storm is brewing in Europe over how little Internet powerhouses like Google and Amazon are paying in tax.

Governments, hungry for money to prop up their struggling economies, are accusing the technology giants of incorporating themselves up in low-tax countries so they can avoid paying hundreds of millions of dollars to countries such as Germany, Britain and France — where most of their European income is derived.

In Britain on Monday, a lawmaker pushing to tighten laws said the multinationals' ability to escape corporate taxes "is outrageous and an insult to British businesses and individuals who pay their fair share."

According to court documents, French authorities raided Google's offices in Paris over the summer and seized documents in a tax dispute. More recently, according to a published report, the French government presented Google with a €1.7 billion ($2.18 billion) tax bill; Amazon acknowledged one for $252 million. Facebook is also in the line of fire.

In Italy, the undersecretary of the Economy Ministry revealed during questioning in parliament on Wednesday that the tax police inspected Google's books, adding that it found millions in undeclared income and unpaid sales tax.

The politicians are cracking down on U.S.-based multinational companies such as Google, Apple, Facebook and Amazon, claiming they pay paying little or no tax in Europe in spite of generating billions in revenue there.

But there is nothing illegal to the multinationals' actions. Thanks to the way the European Union is run, companies operating in Europe can base themselves in any of the 27 member countries, allowing them to take advantage of a particular country's low tax rates.

By setting up overseas headquarters in low-tax jurisdictions such as Ireland or Luxembourg and shifting the profits out of the countries they've done business in, the online companies have managed to keep down both sales taxes and corporate income taxes on their overseas income.

Google's British chief, Matt Brittin, said last week that the company "plays by the rules set by politicians."

"The only people who really have choices are politicians who set the tax rates," he told the U.K's Channel 4 News.

The fact that the methods are legal hasn't stopped resentment brewing among governments, other brick-and-mortar businesses, and households feeling ever higher tax burdens.

The British Parliament's public accounts committee said Amazon, by accounting for the profits made in the U.K. elsewhere in the EU, paid 1.8 million pounds ($2.9 million) in British tax in 2011, on revenue of 207 million pounds. In Italy, the government said tax police determined Google had undeclared earnings of €240 million ($311 million) from 2002-2006 and had not paid value added tax of €96 million in the period.

Philippe Marini, the French senator who leads the country's finance commission, estimated France is missing out on some €1.3 billion in taxes from Google, Apple, Facebook and Amazon. And, Marini noted, that amount would pale in comparison to what they likely owe Germany and Britain where sales figures are even higher.

"A bakery across the street is easier to control," Marini said. "And households can't relocate to Ireland just like that."

The companies say they comply with the law and are cooperative in countries where they operate, but do not elaborate. Even people critical of their tactics say ultimately the job of an accountant is to keep a client's tax bill as low as possible. The companies also stress that they do pay some taxes - contributions to their employees' social security, for example.

France, however, is going after the tech companies aggressively: On June 30, tax authorities raided Google's Paris offices, according to court documents posted online after Google contested the seizure of its files. The tech giant has denied receiving a €1.7 billion bill from the French government and says it pays all legally required taxes.

Taxes fall under French privacy law, so specific amounts are not made public. But the raid on Google's Paris offices is a sign the French government believes the tech company has more than just incidental support staff in the French capital. France's budget minister, Jerome Cahuzac, said "a certain search engine needs to regularize its situation in France".

Facebook, Amazon and Apple have come under similar French scrutiny, according to published reports and public filings. Marini said French law is lagging behind, but hopes to catch up. Tech companies differ from, say, a grocery store in that their product is stored on servers and not on a shelf. And unlike a family, the companies can essentially locate — and re-locate — anywhere.

Both Amazon and Google are contesting the French actions, though Cahuzac said he's confident the government will win in court.

Britain and Germany have joined France in aggressively targeting the tech giants and, officials say, are coordinating against what one official calls "stateless income."

The G-20 meeting in Mexico earlier this month showed a measure of international support for tightening the rules. The U.K. Treasury chief George Osborne and German finance minister Wolfgang Schaeuble called for a common front "to strengthen international standards for corporate tax regimes."

"Governments have to keep up in the race," said Marini, the French senator. "Companies have a much faster pace than either national or European law."

Helping the governments keep tabs on the tech multinationals is the Organization for Economic Cooperation and Development. Originally set up in 1948 with the aim of stimulating world trade, the OECD now is taking the lead role in fighting tax evasion, said Pascal Saint-Amans, director of the organization's Center for Tax Policy since February.

The OECD has established a locked database detailing some of the world's most sophisticated tax schemes to allow government tax authorities to privately share revenue-shifting schemes they encounter.

The main problem, for Saint-Amans, is that tax havens within Europe such as Ireland and Luxembourg ease the process that allows multinationals to send profits even further offshore to places like Bermuda. That makes it harder for the countries with the most staff and sales to track. Google, Apple, Microsoft and Facebook have international headquarters in Ireland; Amazon's international offices are in Luxembourg. But the biggest European markets for all those companies are Germany, France and Great Britain.

"At some point again you're back to the basics, which is where is the real activity? And that's something that we may have lost sight of," said Saint-Amans. "The low-tax regimes are more the consequence than the problem."

Saint-Amans, who previously worked on ending bank secrecy regulations, believes the problem of taxing "intangibles" can be similarly resolved in a year or two with a concerted effort from all the governments involved, including in the U.S. In the short-term, he said, the coordinated approach of France, Germany and Britain serves as a warning to multinationals trying to avoid taxes, as is the secure OECD database.

Governments, including in the U.S., have long tinkered with effective tax rates in order to attract and keep businesses. But there are signs of change even in the U.S., where all the major tech companies got their start.

"The ability not to pay tax on income that's booked offshore is now the single biggest corporate tax loophole in the code," said Reuven Avi-Yonah, an international tax expert at the University of Michigan who has testified before Congress.

The amounts booked offshore are considerable: For Apple, 61 percent of revenues come from outside the U.S. — and fully a quarter of that from Europe alone. "Apple doesn't have a single store in Ireland," Avi-Yonah said.

In a filing to the U.S. Securities and Exchange Commission, Apple said it had set aside $713 million for its 2012 foreign tax bill on overseas pretax earnings of $36.8

billion — a provision of almost 2 percent of what it made.

Google's overseas revenues accounted for 54 percent of its total, including more than 10 percent in Britain alone. Meanwhile Google is tackling government action on another front. German politicians are considering imposing a so-called Google Tax — a levy that would require search engines to pay each time they link to media content like newspaper articles or photographs.

According to a Senate committee memo from September, Microsoft used aggressive asset shifting to avoid $4.5 billion in American taxes from 2009 to 2011.

Avi-Yonah estimated the effective tax rate on overseas income at around 2 or 3 percent for multinational tech companies: Both in the U.S. and abroad, he said, "there's a general sense that these companies pay too little and don't really contribute their fair share."