Case Study
Is the United States getting a good deal on its natural resources? A taxing question.

PUBLISH WHAT YOU PAY

Is the United States getting a good deal on its natural resources? A taxing question

JANA MORGAN

PWYP US

CONTEXT

This case study began with a not-so-simple question: Is the United States getting a good deal for the depletion of its natural resources?

Publish What You Pay - United States (PWYP-US) has worked for 13 years to open the books of oil, gas and mining companies to create a more open and accountable extractives sector. More than a decade into this effort, many of the world's largest oil, gas and mining companies now disclose their project-level payments to governments, either voluntarily or in compliance with legal requirements. Yet, a few major US oil companies - namely ExxonMobil, Chevron and ConocoPhillips - remain strongly opposed to these simple financial disclosures.

Like the citizens in resource-rich countries around the world, citizens of the United States also need to know if they are getting a good deal on their natural resources. Thoroughly answering this question, however, is incredibly complex and involves the careful analysis of contracts, as well as relevant tax and royalty regimes governing the extractives sector. As a starting point, this case study focuses on how much some of the largest extractives companies paid in taxes to the US federal government in 2015.

USING THE DATA

The 2015 state and federal tax payments made by nine major extractives companies operating in the United States were compiled and analyzed using the financial disclosures made by companies in compliance with transparency laws in the European Union and Norway, as well as voluntary disclosures.

Table 1
Nine major extractives companies operating in the United States and where they disclose taxes (as of February 2017)

COMPANY NAME	JURISDICTION
BHP Billiton	Australia (voluntary)
British Petroleum	United Kingdom (UK disclosure)
Chevron	USA (refused to disclose to USEITI)
Conocophillips	USA (refused to disclose to USEITI)
ExxonMobil	USA (refused to disclose to USEITI)
Rio Tinto	Brazil (UK disclosure)
Shell	Netherlands (UK disclosure)
Statoil	Norway (Norway disclosure)
Total	France (US 20-F Form)

The UK disclosures available in .csv format on the UK Companies House website were the easiest to access and sort. The 2015 payment reports by BHP Billiton and Statoil were only available in .pdf format on the companies' own websites, so Tabula was used to scrape and organize the data. Total disclosed in compliance with the EU Directives in France, but the data was accessed using their 20-F disclosure to the SEC.

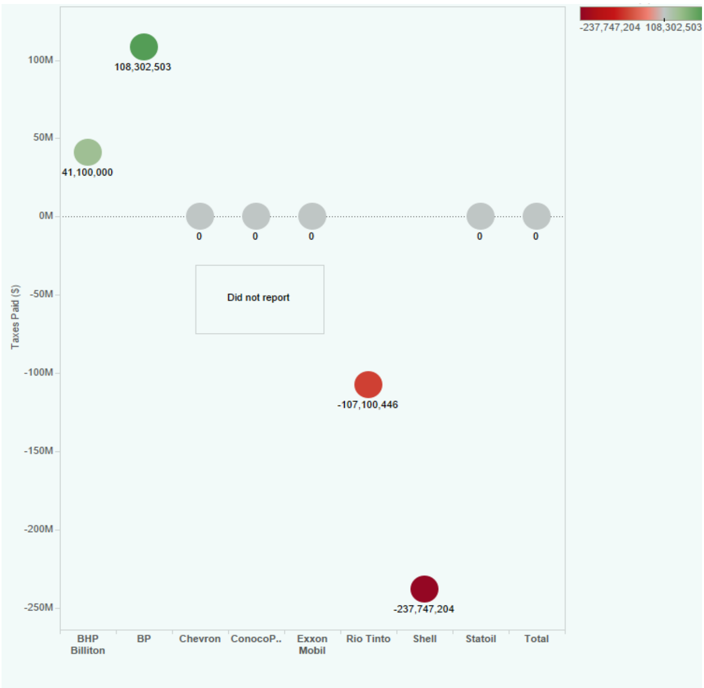
What is the EITI
The EITI is a framework to promote and facilitate revenue transparency by governments and companies. When a country signs up to EITI, they commit to publishing what they receive from extractive companies, and extractive companies within their jurisdiction have to publish what they pay.

It is important to note that there is no U.S. tax data available for ExxonMobil, Chevron or ConocoPhillips under any of the relevant payment disclosure regimes.

These companies sit on the governing bodies of transparency initiatives, like the Extractive Industries Transparency Initiative (EITI), yet have refused to comply with the most basic requirement of the EITI standard in the US: to disclose [their federal income tax payments] to the US government. This reluctance is especially puzzling given that these companies have disclosed tax payments through the EITI in other countries.

While these companies are required to make some tax disclosures in their reports to the Securities and Exchange Commission (SEC), there is an important difference between these SEC disclosures and those required through the EITI and mandatory disclosure laws. The SEC requires tax payments to be disclosed in the year when the obligation is accrued, whereas EITI and mandatory disclosure laws require disclosure of the actual payments that are made to the government. This is a significant difference that results in discrepancies between tax obligations that are accrued in one year but whose payment is allowed to be delayed until much later, especially under the US corporate income tax regime that permits multinational corporations to defer US taxes on their offshore income.

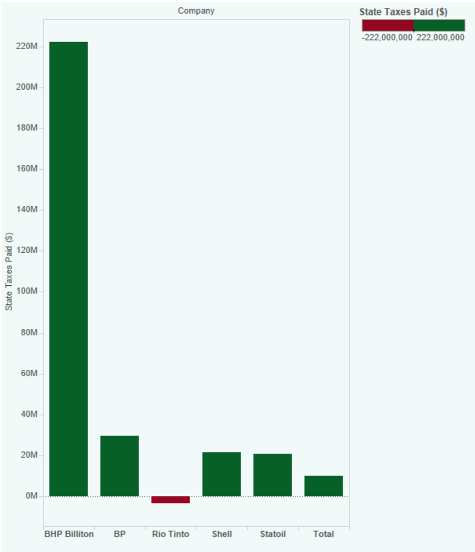
Graph 1
Federal Taxes 2015



Therefore, the disclosures made to the SEC do not provide an accurate tally of the taxes a company in fact paid to the US government.

"TAXES, AFTER ALL, ARE DUES THAT WE PAY FOR THE PRIVILEGES OF MEMBERSHIP IN AN ORGANIZED SOCIETY."
FRANKLIN D. ROOSEVELT

Graph 2
State Taxes Paid 2015



So while there is some data available about taxes paid by US-listed companies through their SEC disclosures, it is not comparable to the tax information disclosed by companies in compliance with mandatory disclosure laws or EITI. Despite this, it is important to include them in the analysis as they are major American companies, profiting substantially from US natural resources, and should thus be eager to disclose the contributions they make to federal coffers.

DISCOVERY

Compiling and visualizing the data using Tableau Public, raised more questions than answers. Of the six companies that disclosed federal tax data, two listed tax payments in the negative hundreds of millions of dollars, two listed tax payments as zero, and two disclosed positive amounts.

Why was there such a wide distribution in the taxes paid by some companies? Some possible explanations:

- Shell, which had a negative tax payment, reported large losses in 2015 due to the global drop in oil prices, which likely influenced its federal tax burden. It will be important to follow up with Shell to gain further insight, and to compare 2015 tax data with the 2016 data when it is released.
- Total and Statoil US federal tax payments were each $0, but they did pay taxes to state governments. To understand why these companies have paid tax on state land, but not federal, further inquiry is required.
- This analysis looks at both mining and oil/gas companies, yet these industries are subject to different fiscal regimes. To asses if the US is getting a good deal on its natural resources, these industries must be analyzed separately.
- The US government provides massive tax subsidies to the oil, gas and mining sectors. Fossil fuel companies get over $4 billion a year in tax subsidies, which could help explain the low tax figures.

Section 1504
Section 1504 requires any oil, gas or mining company filing an annual report with the SEC to disclose their project-level payments to host governments each year. It covers companies listed on US stock exchanges.

Of course, taxes alone cannot tell the complete story of company contributions to state and federal governments; one must also analyze other types of payments including royalties, bonuses, and fees. This is proving difficult to do in the United States because consistent payment information at the project-level is either unavailable or limited, in part because a few regressive companies, such as Exxon-Mobil and Chevron, and their lobbyists are fighting against legal requirements like the Cardin-Lugar Provision (Section 1504) of the Dodd-Frank Act.

For the companies unwilling to disclose their US tax payments through the USEITI, it is important to ask what exactly is motivating them to refuse.

CONCLUSION

While the question, "Is the United States getting a good deal on its natural resources?" cannot yet be answered, this case study presents an excellent springboard for further analysis. It also highlights the importance of having access to complete, comparable and machine-readable data. And for those companies that refuse to provide their tax data through USEITI - Chevron, ExxonMobil and ConocoPhillips - it is impossible to even begin this analysis.

In fact, research by Taxpayers for Common Sense has shown that these three companies pay a much lower effective tax rate than they claim because of overly generous provisions in the US tax code that allow for subsidies and deferral of tax payments.

While not necessarily doing anything illegal, companies with savvy accountants can take advantage of favorable tax laws, including the many subsidies available to oil, gas and mining companies in the United States, to ensure that their tax bills are minimal - or even nothing at all. The Obama administration and the G20 committed to eliminating fossil fuel subsidies, but weren't able to get far due to Congressional gridlock.

As a continuation of this case study, company tax payment data for 2016 will be compiled, explanations from companies about these tax bills will be sought, and further analysis of US tax subsidies will be conducted. To follow along as we continue to explore tax and other extractives data, please visit PWYP-US at Extract-A-Fact.

This case study is part of Publish What You Pay's Data Extractors programme, a global initiative which trains PWYP members and activists from across our network to use extractives data.

Thank you to the Omidyar Network for their generous contributions, which have helped make this programme happen. Thank you also to Open Oil, who have helped run the Data Extractors programme, for contributing their skills and expertise.

WORK WITH US TO UNCOVER THE STORIES HIDDEN BEHIND EXTRACTIVES DATA!

DATA@PUBLISHWHATYOUPAY.ORG

PUBLISH WHAT YOU PAY

CAN Mezzanine 7-14 Great Dover Street,
London, SE1 4YR, United Kingdom

info@publishwhatyoupay.org
www.publishwhatyoupay.org

Publish What You Pay is a registered charity (Registered Charity Number 1170959) and a registered company in Wales and England (No. 9533183).