Nobody knows what multinational companies actually pay in taxes. In a recent *New York Times* story on Apple’s now infamous tax planning successes, Kimberly Clausing, a professor of economics at Reed College, was quoted as saying, “The information on 10-Ks is fiction for most companies, but for tech companies it goes from fiction to farcical.” (Charles Duhigg and David Kocieniewski, “How Apple Sidesteps Billions in Taxes,” Apr. 29, 2012.) No doubt this is an accurate and possibly even charitable description. But despite the fiction, people who wish to write about the actual, on-the-ground taxation of multinationals typically have little choice but to use 10-Ks as a frame of reference. That is because the actual tax information of companies, like tax information for individuals, is a confidential matter between the tax authority and the taxpayer. Taxpayer confidentiality is the general rule around the world and is often viewed as absolutely indispensable to ensure that taxpayers cooperate in filing their returns — an especially important factor in a voluntary tax system like that in the U.S., which relies on taxpayers to be forthcoming. Yet it is increasingly clear that the broader population has an interest in knowing that everyone in their society is paying a fair share of the tax burden, and this includes multinationals, perhaps especially when they are associated with well-known consumer brands.

When the media produces stories about the tax affairs of companies like Apple, along with GE, Google, and others, we see provocative headlines about very low rates of taxes paid by those companies but no way to confirm the facts. In all probability, the stories are very close to accurate, especially considering the official responses that sometimes follow. In the case of GE and Apple, these responses have ranged from the confusing (GE suggested that it did pay more tax, then suggested it did not, and then again that it did) to the patronizing (companies repeatedly assure the public of their full compliance with all applicable laws) to the completely irrelevant (in response to the *New York Times* coverage, Apple sought to remind the reader of how many jobs it has created). What the companies don’t do is rebut the tax claims made in the articles with contrary evidence, and this sets up a perpetual “he said, she said” of speculation, recrimination, defensive-ness, and hyperbole on a subject that really matters to the reader — namely, how does the tax system really work when it comes to our multinational companies?

GE, Apple, and the others caught in the spotlight of media attention never reveal the information that would instantly end all of the speculation. That is because they don’t have to, and no one has all the information but them — not most of their shareholders, not the pundits or journalists, not the economists or the tax wonks, not the SEC, and maybe not even the tax authorities.

The lack of public information on the tax matters of companies has not always been the status quo, at least in the United States. Corporate tax returns were subject to publicity without question in the original Civil War Income Tax Act of 1862, and newspapers routinely listed tax assessments of America’s corporations as a result. Over time, resistance to disclosure took hold and eventually confidentiality became the norm. There are a few exceptions to this norm, even today. For example, in Wisconsin, any resident may request information about the amount of net income tax or gift tax reported by another Wisconsin individual or corporation. The resident must pay $4 per request and state the exact name and
address of the company for which the information is requested. Further, the obtained information may not generally be divulged to another person, but nothing prevents information lawfully obtained from being published in a newspaper or spoken in a public address. Public interest advocates in the state, such as the Institute for Wisconsin’s Future, have used the disclosure law to demonstrate that many well-known and well-respected companies with a heavy local presence do not pay any taxes to the state. No other state has a general disclosure rule like Wisconsin’s, but a few states have restricted disclosure rules. For example, in Massachusetts, information about whether an individual or company has filed a tax return in the state can be obtained upon request (no actual return data may be disclosed, however).

But even if Wisconsin’s disclosure law was to be adopted federally and expanded to include the underlying data that led to the calculation of net tax paid in the U.S., the public would not likely get the full picture concerning the taxes paid by U.S. multinational companies. Rather, the picture would be limited to information actually collected by national and state authorities. In states like Delaware, Nevada, and Wyoming, lack of reporting requirements, tax rules for incorporating entities, and the ability to issue bearer shares have all been viewed as features purposefully designed to obfuscate business practices from view.

A contemporary solution has been offered to provide the public with more tax information regarding public companies. That solution is broader disclosure in securities filings, such as those farcical 10-Ks. An international movement is currently developing in which a group of activists is calling upon governments to require companies to disclose information about their multinational business structures, inter-company dealings, and cash tax payments, among other details. This movement began about 10 years ago, after Global Witness, a resource-industry watchdog group, identified undertaxation of multinational companies in this sector as a key component of corruption and development failure in resource-rich countries. The group called on voluntary transparency as a remedy, to be launched and monitored through an “Extractive Industries Transparency Initiative,” or EITI. EITI grew to encompass additional participants and led to pressure on governments to adopt “publish what you pay” principles in line with EITI standards. Despite industry resistance, EITI legislation emerged in the U.S. in the form of a two-page addendum to the Dodd-Frank Wall Street Reform Act of 2010. The legislation is ineffective until regulations are issued, which has still not occurred despite a deadline of April 15, 2011. Even so, the groundwork has been laid for greater disclosure, at least in the extractive industries sector.

On the strength of the growing EITI movement, activists in the U.K. began calling for broader disclosure beyond the resource sector, and for purposes of informing the public about the realities of the global tax system rather than solely for rooting out possible instances of corruption. This broader disclosure regime, called country-by-country reporting by its initial drafter, Richard Murphy, seeks to change the norms regarding what information governments collect from public companies and disseminate through securities disclosure laws. Country-by-country reporting is gaining momentum as an international policy reform initiative, but it faces strong resistance both from representatives of multinational companies like GE as well as from some academics and commentators, who view it as a distraction from other important policy goals.

A main objection to broad tax information disclosure seems to be the fear that if the desired information were made public, the only plausible outcome is additional confusion and misunderstanding regarding the tax practices of multinationals. Tax law, especially international tax law, is so complex, it is argued that even scholars like Clausing could not make sense of the mountains of data that would emerge through broad disclosure. Tax authorities typically require teams of experienced personnel to analyze and assess the tax matters of multinational companies; without considerable resources, few and maybe no outsiders could make sense of things. Because of all of this complexity, industry executives often suggest that what is needed is not transparency but assistance for tax authority administration, especially in poor countries. Yet in recent U.K. parliamentary hearings on the matter, Tim Scott, head of tax at Glencore, opined that “taxation of profits is not something that we have found...tax authorities in...developing or developed countries, to have phenomenal problems with.”

The quest for more public disclosure of details about when, how much, and to whom multinationals pay tax comes at a time when countries around the world are experiencing large revenue shortfalls and cuts to public-sector programs through austerity-based reforms. It is perhaps not surprising that the public seeks greater accountability not only regarding the taxes paid by multinationals, but also those demanded to be paid by governments. It is likewise not surprising that multinationals themselves fear public recrimination should that data be provided, especially if the data is easily misunderstood given the great complexity involved in tax compliance.

The question is whether corporate tax transparency such as that contemplated by country-by-country reporting would provide analysts like Clausing the tools to confirm or deny the facts for stories like the ones on Apple, GE, and others, and thereby improve public discourse on how the tax system actually functions. If the data would indeed prove incapable of independent analysis, that fact itself may be an important part of the ongoing national conversation about the need for tax reform. The social cost of ignorance appears too high to be sustainable, as suggested by the growing demand for accountability. It may well be time to revisit the norm of publicity and test its appropriateness and efficacy in the context of our complex, economically integrated global economy.