

# THE PINSTRIPE MAFIA: How Accountancy Firms Destroy Societies



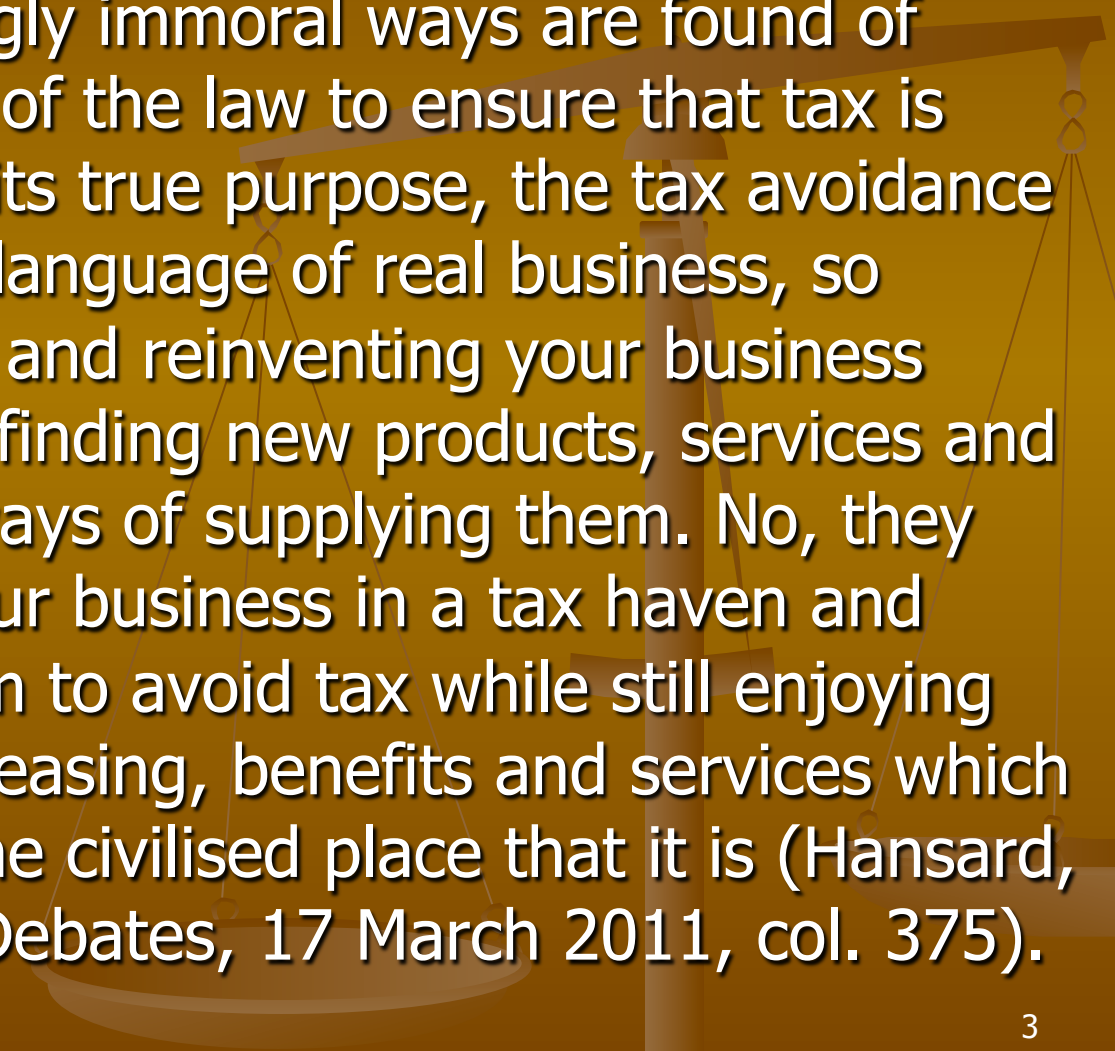
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## The Pinstripe Mafia

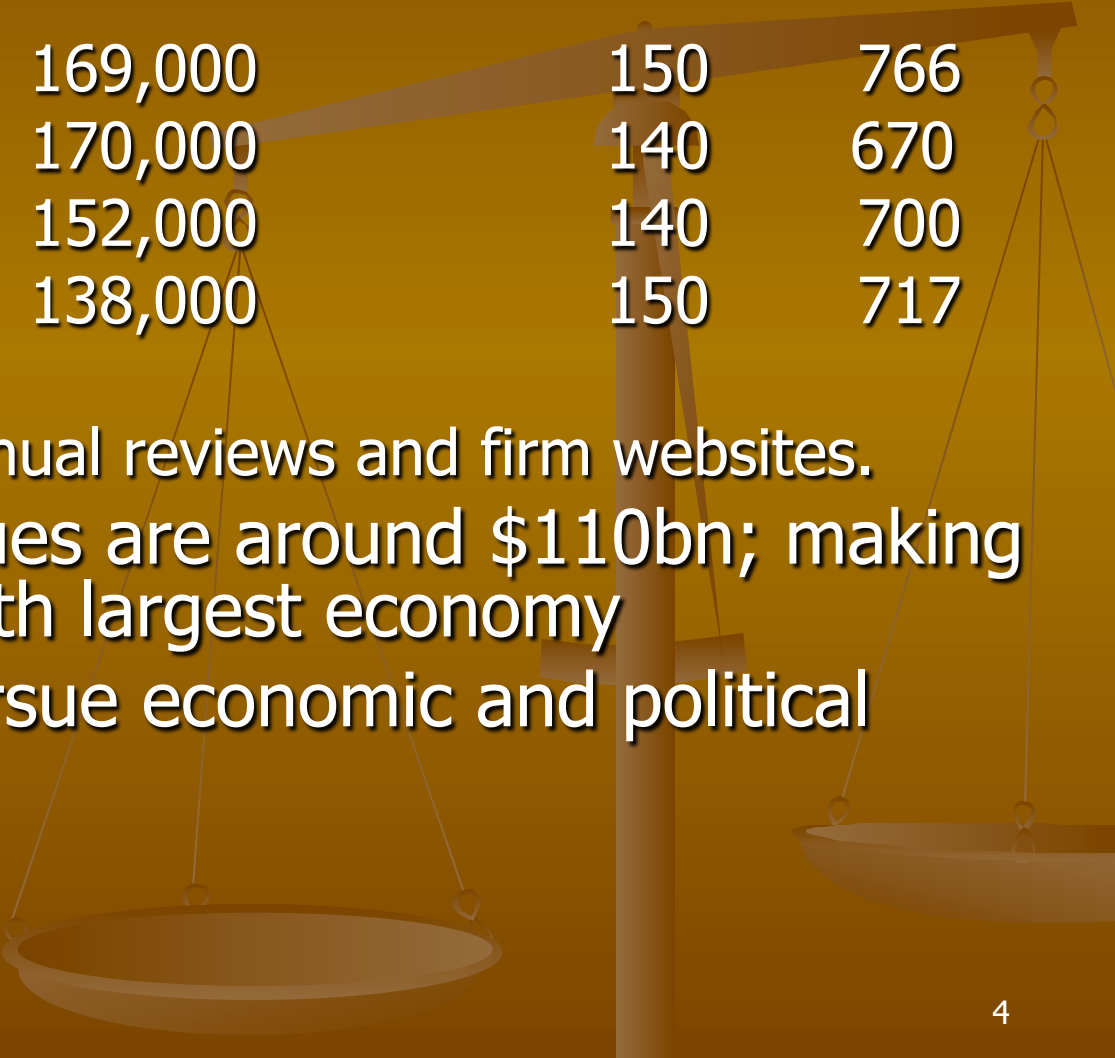
- Tax avoidance is “a very lucrative global industry...This industry has basically been designed and operated for decades, not by shady no name banks located in island paradises, but by the world’s largest private banks, as well as leading law firms and accounting firms. All of these institutions are based, not in island paradises, but in major First World capitals like New York, London, Geneva, Frankfurt, and Singapore’ .
- Henry, J.S. (2012), The Price of Offshore Revisited: New Estimates for Missing Global Private Wealth Income Inequality and Lost Taxes. Tax Justice Network.

## The Pinstripe Mafia

- “There are armies of bankers, lawyers and accountants who ensure that even though the letter of the law is respected, increasingly immoral ways are found of perverting the spirit of the law to ensure that tax is avoided. ... To hide its true purpose, the tax avoidance industry adopts the language of real business, so technical innovation and reinventing your business model do not mean finding new products, services and markets, and new ways of supplying them. No, they mean registering your business in a tax haven and becoming a non-dom to avoid tax while still enjoying the, admittedly decreasing, benefits and services which make this country the civilised place that it is (Hansard, UK House of Lords Debates, 17 March 2011, col. 375).

# The Tax Avoidance Industry

## ACCOUNTANCY FIRM INCOME AND SIZE 2011/12\*



■ Firm	Global Fees	OPERATIONS		
	<u>US\$bn</u>	<u>Employees</u>	<u>Countries</u>	<u>Offices</u>
■ PwC	31.5	169,000	150	766
■ D & T	31.3	170,000	140	670
■ E&Y	24.4	152,000	140	700
■ KPMG	22.7	138,000	150	717

\*Information as per annual reviews and firm websites.

- Big Four firm revenues are around \$110bn; making them the world's 56th largest economy
- Vast amounts to pursue economic and political interests.



# The Tax Avoidance Industry

- Global Networks: Big Four firms have about 80 offices in offshore tax havens.
- Many have no accounting, auditing, income tax or corporation tax requirements.
- Close relationship with banks and law firms.
- Firms rarely publish meaningful information.
- They have elaborate organisational structures to manufacture tax avoidance schemes.
- Close relationship with policymakers and government departments.
- Capture of the state.

## The Pinstripe Mafia

- Accountancy firms have “moved from providing one-on-one tax advice in response to tax inquiries to also initiating, designing, and mass marketing tax shelter products ... dubious tax shelter sales were no longer the province of shady, fly-by-night companies with limited resources. They had become big business, assigned to talented professionals at the top of their fields and able to draw upon the vast resources and reputations of the country’s largest accounting firms ...”
- US Senate Permanent Subcommittee on Investigations (2005), The Role of Professional Firms in the US Tax Shelter Industry, Washington DC: USGPO

# The Tax Avoidance Industry

## Accountancy Firms

- No regard for the interests of society or the state.
- Transfer wealth from society to capital - tax avoidance.
- Must create demands for their services – manufacture tax avoidance schemes.
- Tax Depts are profit centres – revenue generation targets. Regular performance assessments.
- Must disseminate discourses and ideologies – tax is a cost.
- Facilitate mobility of capital – offshore, race-to-the-bottom, complex corporate structures, etc.

## The Pinstripe Mafia

- **‘Organisational Culture**: ‘Bending the rules’ to make profits at almost any cost is considered to be an entrepreneurial skill.
- **Ideology**: “a firm like ours is a commercial organization and the bottom line is that ... the individual must contribute to the profitability of the business ... essentially profitability is based upon the ability to serve existing clients well”.
- **Research Evidence**: The “emphasis is very firmly on being commercial and on performing a service for the customer rather than on being public spirited on behalf of either the public or the state”.



## The Tax Avoidance Industry

- UK Tax authorities: 2005 internal study - Big Four accountancy firms were “behind almost half of all known avoidance schemes” and that “commercial tax planning” and “artificial avoidance schemes” generated around £1 billion in fees each year.
- “... KPMG, PricewaterhouseCoopers, Ernst & Young and Deloitte – who specialise in exploiting the existence of havens to minimise the tax liability of their clients, [are] impervious to the social consequences” (Christian-Aid, Death and Taxes: The true toll of tax dodging, London: Christian-Aid: 2008, p. 2).



## The Pinstripe Mafia: Extent of Tax Avoidance

- UK and USA require registration of tax avoidance schemes
- UK losing £35bn - £150bn revenues each year?
- EU: Tax evasion and avoidance in Europe to be around €1 trillion [£830 billion or US\$1.25 trillion]”.
- USA losing \$345bn - \$500bn?
- Developing countries \$500bn each year?
- Variety of techniques: Offshore tax havens, transfer pricing, subsidiaries, affiliates, complex corporate structures, charitable foundations, royalties, trusts, tax holidays, Research and Development claims, novel interpretation of tax laws

## The Pinstripe Mafia

- Limits to what law can achieve.
- 30%-40% of the UK Finance Bill strives to deal with abusive schemes designed by the tax avoidance industry.
- Around 22,100 UK tax disputes is awaiting hearing – many relate to schemes devised by the Big Four firms.
- When challenged – many avoidance and planning schemes turn-out to be “evasion”.
- Huge public expenditure
- How many abusive schemes escape?

## The Pinstripe Mafia: KPMG

- **KPMG AND ITS WORLD OF TAX AVOIDANCE:**
- Auditor silence on tax avoidance schemes operated by auditees (General Electric, Citigroup, .... others)
- WorldCom and “Management Foresight”
  - Companies pays royalties to itself
  - Royalties parked in low tax jurisdiction
  - US\$20bn income escaped taxes.
- The case of John Astall and Graham Edwards
  - Using trusts to avoid taxes

## The Pinstripe Mafia: KPMG

- The case of Jason Drummond
  - Creating losses by using rules concerned with the taxation of surrendered second-hand life assurance policies.
- The case of Spectrum Computer Supplies Ltd and Kirkstall Timber Ltd
  - Avoiding income tax and National Insurance Contributions - Paying directors with the debts of the company instead of cash
  - Avoid income tax and National Insurance Contributions
- The case of RAL (Channel Islands) Ltd
  - Avoiding VAT by using offshore structures

## The Pinstripe Mafia: KPMG

- KPMG – rotten organisational culture exposed by US Senate hearings.
- Inventory of 500 tax avoidance schemes
- Staff trained to sell tax avoidance schemes and meet profit targets; cold-calling; secrecy
- Firm knowingly violated laws because profits were greater than the costs/fines.
- Firm admitted “criminal wrongdoing”.
- Fined US\$456 million and put of probation
- A number of partners and employees sent to prison.
- KPMG still heavily into tax avoidance.



## The Pinstripe Mafia: Ernst & Young

- **ERNST & YOUNG AND ITS WORLD OF TAX AVOIDANCE**
- History of aggressive tax avoidance schemes
- Phones4U directors paid in gold bars, fine wine, and platinum sponge – avoid income tax and National Insurance Contributions.
- Pay directors through an offshore employee benefit trust and complex foreign currency loans -avoid income tax and National Insurance Contributions.

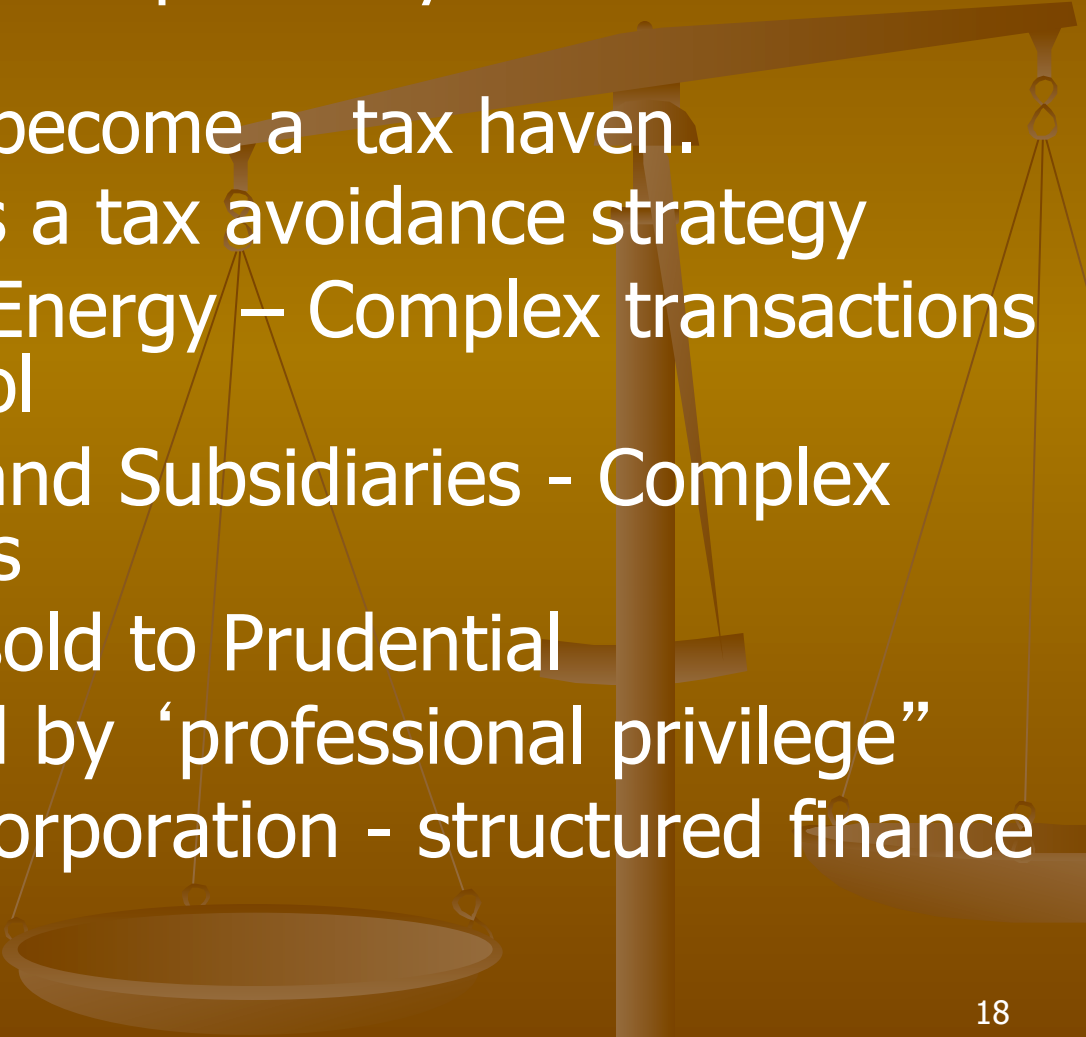
## The Pinstripe Mafia: Ernst & Young

- "Project Pita" or "Pain in The Arse" – sold to major UK retailers, including Tesco and Debenhams
- VAT avoidance by exploiting rules on taxability of financial services – 2.5% of all credit card billing to be exempt.
- Tax-Efficient Off-Market Swaps (or TOMS)
  - Sold to Prudential and 30 other companies
  - Complex hedging transactions developed to generate losses.

## The Pinstripe Mafia: Ernst & Young

- Predatory culture exposed by US Senate Hearings
- Little regard for the public interest.
- A number of partners and employees sent to prison
- But no end of tax avoidance
- Crafted tax avoidance schemes for Wal-Mart
  - Reinvestment Trusts (REITs) to avoid corporate taxes
  - Company effectively paid rent to itself.

## The Pinstripe Mafia: PwC

- **PRICEWATERHOUSECOOPERS AND ITS WORLD OF TAX AVOIDANCE**
  - Organisational culture exposed by US Senate hearings.
  - Advised Jamaica to become a tax haven.
  - Patent donations as a tax avoidance strategy
  - Enbridge Midcoast Energy – Complex transactions for corporate control
  - Canal Corporation and Subsidiaries - Complex corporate structures
  - Complex schemes sold to Prudential
    - Details concealed by ‘professional privilege’
  - Westpac Banking Corporation - structured finance transactions
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## The Pinstripe Mafia: PwC

- In the US case of *Enbridge Energy Co. and Enbridge Midcoast Energy LP v United States*, 10 November 2009, the presiding judge referred to a PwC designed scheme as “a sham conduit transaction ... the transaction was designed solely for the purpose of avoiding taxes ...”
- UK case of *Schofield v Revenue & Customs* (Rev 1) [2010] UKFTT 196 (TC) - a taxpayer sold his business, making a profit of about £10 million. For a fee of £200,000, a PwC tax avoidance scheme created an artificial loss. The loss was created by using complex financial instruments (such as options, derivatives, gilts) in a series of circular transactions.



### Taxes and Creative Accounting:

- **SABMiller** - year ended 31 March 2010
  - Group revenue of US\$26,350 million.
  - Pre-tax Profits US\$2,929 million
  - Total tax contribution US\$7,000 million.
- **ExxonMobil** profits \$36 billion; Taxes \$99 billion
- **US Business Roundtable** : US corporations have an effective tax rate of 27.7%.
- **US govt statistics**: 1960s - corporate taxes amounted to about 22% of overall tax receipts; 3.9% of GDP.
- 2010- Corporate taxes 12% of total taxes and 2.2% of GDP.

## The Pinstripe Mafia: PwC

- UK 2010 - 100 largest companies
  - Total tax contribution £56.8bn, which is 11.9% of government receipts from all taxes.
  - PwC spin includes £39.2 billion which is not borne by companies.
  - Income tax, VAT, NIC and fuel duty is included.
- PwC sells “Total Tax Contribution” described by New York Times as “blatantly misleading”.
- No information about taxes paid by companies in each jurisdiction.

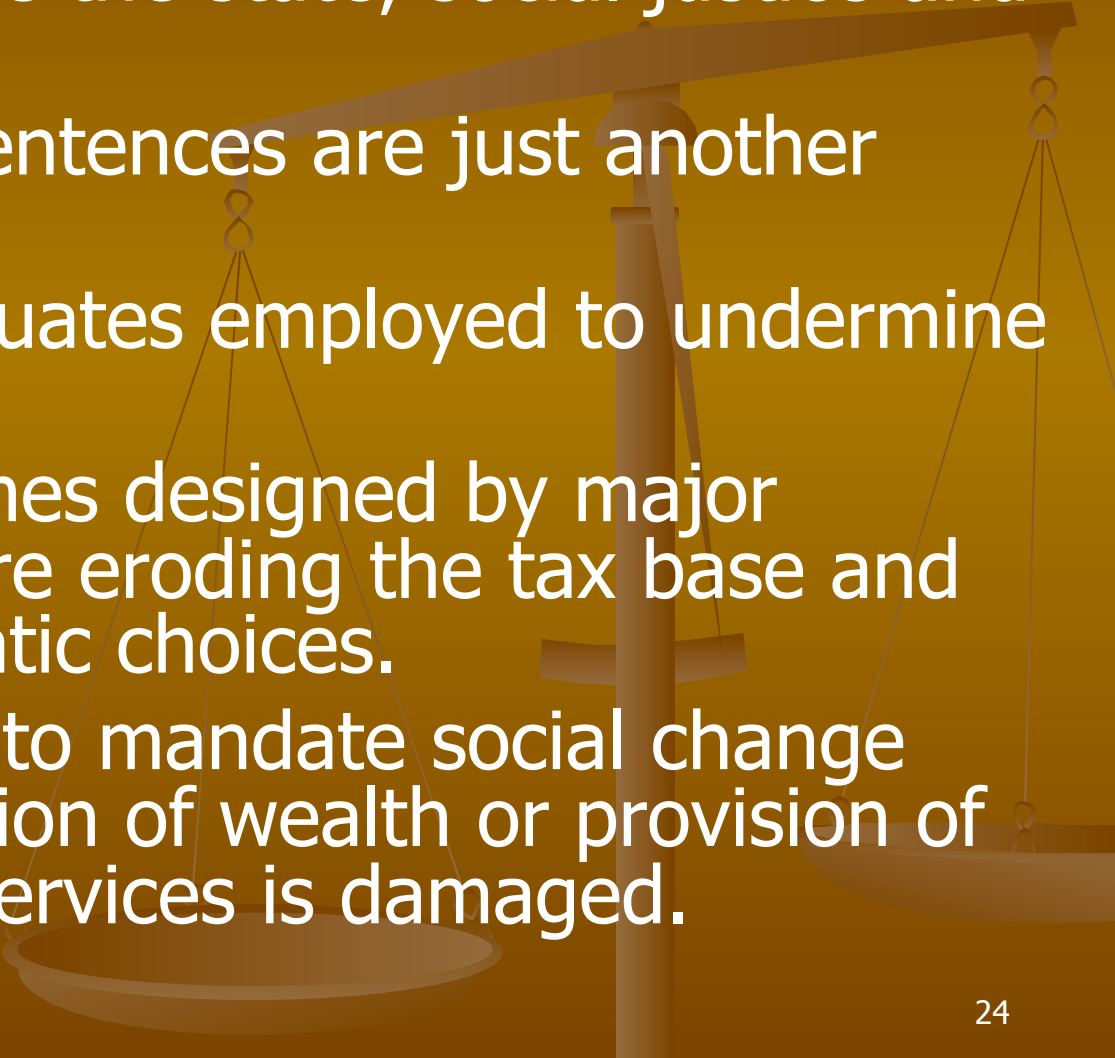
## The Pinstripe Mafia: Deloitte

- **DELOITTE & TOUCHE AND ITS WORLD OF TAX AVOIDANCE**
- Advised Enron on tax avoidance
  - Deloitte & Touche was a key adviser to Enron and was one of the promoters behind exotic schemes known as Condor, Valhalla and Tammy
  - US Senator Charles Grassley: Enron's tax avoidance schemes read "like a conspiracy novel, with some of the nation's finest banks, accounting firms and attorneys working together to prop up the biggest corporate farce of this century"
- Royal Bank of Scotland and its tax avoidance

## The Pinstripe Mafia: Deloitte

- Vodafone - Offshore entities and debt structuring
- MG Rover - leasing, loans and offshore entities
- Deutsche Bank - Offshore trusts to dodge income tax and National Insurance Contributions
- Glencore International – transfer pricing strategies to avoid taxes in Africa.
- WHA – VAT avoidance on motor breakdown Insurance by using offshore entities.
- VAT avoidance on holiday homes in Ireland

## Getting to Know The Pinstripe Mafia

- Major firms are not what they claim to be.
  - Culture: Make money at almost any cost and routinely undermine the state, social justice and democracy.
  - Fines and prison sentences are just another business cost.
  - Thousands of graduates employed to undermine public policies.
  - Tax dodging schemes designed by major accounting firms are eroding the tax base and damaging democratic choices.
  - The citizens' right to mandate social change through redistribution of wealth or provision of public goods and services is damaged.
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## The Tax Avoidance Industry: Concluding Thoughts

- Investigate the Pin Stripe Mafia
- No public contracts for firms selling avoidance schemes.
- State to licence tax advisers – those peddling aggressive avoidance schemes to lose licence.
- Deprive partners of the benefit of limited liability (no LLP status)
- Force firms to reveal income from selling tax avoidance schemes.
- When tax avoidance schemes rejected by the courts – also fine the promoters of schemes.
- Tax files at accounting firms to be automatically available to tax authorities.
- Tax returns of all corporations to be publicly available

**“Hell is empty,  
And all the devils  
are here”**

William Shakespeare, *The  
Tempest* (Ariel, scene ii)