

## Tax need not be an ethics free zone - what we need is a...

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What the PAC report on HMRC's management of the tax affairs of large corporations has shown is that tax management has become an ethics free zone. That need not be the case. I argued very strongly for a Code of Conduct for tax a couple or so years ago, and as a result drafted the [Tax Justice Network](#) and [Association for Accountancy and Business Affairs](#) Code of Conduct on taxation. This is available [here](#).

The actual Code is just two pages long and reads as follows:

### **A Code of Conduct for Taxation**

#### **Objective**

This Code of Conduct relates to the payment of taxes due to a State or other appropriate authority designated by it.

#### **Scope**

This Code applies to:

- \* Governments and their agencies in their role as tax legislators, assessors and collectors;
- \* Taxpayers, whether individuals, corporate bodies or otherwise;
- \* Tax agents, whether they are undertaking tax planning or assisting with tax compliance.

#### **Application**

It is intended that this Code be voluntarily adopted by States and should be used to guide the conduct of taxpayers and their agents who choose to comply with it whether or not they reside in a State which has adopted the Code.

#### **The Code**

The Code is divided under six sections, each of which includes three statements of principle.

## **1. Government**

- a. The intention of legislation is clear and a General Anti-Avoidance Principle ('Gantip') is in use;
- b. No incentives are offered to encourage the artificial relocation of international or interstate transactions;
- c. Full support is given to other countries and taxation authorities to assist the collection of tax due to them.

## **2. Accounting**

- a. Transparent recording of the structure of all taxable entities is available on public record;
- b. The accounts of all material entities are available on public record;
- c. Taxable transactions are recorded where their economic benefit can be best determined to arise.

## **3. Planning**

- a. Tax planning seeks to comply with the spirit as well as the letter of the law;
- b. Tax planning seeks to reflect the economic substance of the transactions undertaken;
- c. No steps are put into a transaction solely or mainly to secure a tax advantage.

## **4. Reporting**

- a. Tax planning will be consistently disclosed to all tax authorities affected by it;
- b. Data on a transaction will be consistently reported to all tax authorities affected by it;
- c. Taxation reporting will reflect the whole economic substance and not just the form of transactions.

## **5. Management**

- a. Taxpayers shall not suffer discrimination for reason of their race, ethnicity, nationality, national origin, gender, sexual orientation, disability, legal structure or taxation residence; and nor shall discrimination occur for reason of income, age, marital

or family status unless social policy shall suggest it appropriate.

- b. All parties shall act in good faith at all times with regard to the management of taxation liabilities;
- c. Taxpayers will settle all obligations due by them at the time they are due for payment.

## **6. Accountability**

- a. Governments shall publish budgets setting out their expenditure plans in advance of them being incurred, and they shall require parliamentary approval;
- b. Governments shall account on a regular and timely basis for the taxation revenues it has raised;
- c. Governments shall account for the expenditure of funds under its command on a regular and timely basis.

## **Enforcement**

States seeking to comply with the Code will voluntarily submit themselves to annual appraisal of their Conduct. These appraisals will in turn be reviewed by a committee of independent experts appointed by participating States. Differences of opinion will be resolved by binding arbitration.

Any taxpayer or agent wishing to comply with the Code may do so. A State should presume that a person professing compliance with the Code has done so when dealing with any tax return they submit. In consequence the administrative burdens imposed upon that person should be reduced. In the event of evidence of non-compliance being found any consequential penalty imposed should be doubled.

I believe that this is the right direction of travel for tax management: those agreeing to not abuse the tax code should get a lighter touch regime from HMRC. Those not signing up should expect the consequences. And we'd need to know who is who.

But note too, I'm not offering a light touch to government: legislation needs improving and so does government accountability to meet the standards set by this Code. Getting this relationship right is a two way street. What's more it's a long street and there's some way to travel down it. I just wish the willingness to make the changes existed, not least on the side of government.