

Transparency is key - and here's how to deliver it

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Transparency

Sarah Montague argued from an unanticipated angle in the debate that she chaired between me and Ian Liddell-Grainger, Conservative MP and Chair of the All Party Group on Tax on [BBC Radio 4's Today programme this morning](#). **Her point was that transparency might solve a great many of the problems that arise with regard to tax avoidance, and she is undoubtedly right. The moral pressure that results from having your tax affairs put into the public domain, or even having your accounts put into the public domain, is an enormous influence upon behaviour.**

I did, immediately, offer some words of caution though. For example, putting tax returns into the public domain does not stop tax avoidance. As I pointed out on the programme, one of the first objectives of anybody undertaking tax avoidance is to divest themselves of the apparent legal ownership of their income, whilst retaining the benefit of it. So they part with their income to companies and trusts or into offshore arrangements that will ensure that they can continue to fulfil their objectives whilst not putting their income on their own personal tax return, at least for the time being.

Secondly, as I also pointed out, given that we are not at present monitoring the existing demands for transparency, extending those demands to putting personal tax returns online may be a step too far right now, even if a current debate on how that could be done would be an undoubted indication of progress.

Instead I suggest that it is more important to set out now the steps we need to take to ensure that there is as much tax transparency as possible before we go near the contentious issue of putting personal tax returns online. The best reason for saying so is that there is a great deal to be done!

Multinational corporations and country by country reporting

The first and most obvious area where we lack any form of transparency at present is with the activities of multinational companies. We quite simply do not know what any multinational company does in each and every country in which it operates. So we do not know, for example, what level of sales it undertakes in any country, whether to third parties (i.e. genuine customers) or to other members of the same group that make up the multinational corporation.

Secondly, we do not know how many people multinational corporations employ in each country in which they operate, let alone what profit they make and (perhaps most importantly) how much tax they might owe, and as importantly, how much they do not owe. And this is not only true for countries like the UK, we also need this data for tax havens as well where it's quite possible the vast majority of transactions will be undertaken on an intra-group basis with the intention of shifting profits out of the sight of organisations like HM Revenue & Customs so that no taxes are due. This is why it is vital that we have country by country reporting, [explained in more depth here](#).

Getting small company regulation right

Secondly, it is vital that we now properly regulate all limited liability entities in this country. As I have [shown in my research](#) **vast numbers of limited companies that exist in the UK never file accounts. In addition, hundreds of thousands of companies simply disappear each year without ever having accounted for their trade either to the Registrar of Companies, to whom they have a duty to send accounts, or to HM Revenue & Customs. In addition, when they do file accounts with Companies House a significant number make use of the available option to not file their profit and loss account, the result being that we know almost nothing about the level of trade that they undertake. This in my opinion is an abuse of the principle of limited liability, because the privilege that represents is not being properly accounted for.**

We've seen the consequence in the debate between Ken Livingstone and Boris Johnson in the run-up to the London mayoral election. If only Ken Livingstone had decided to be open and transparent about his affairs then he would have a much greater chance of being elected now than he has.

So, as a consequence there are three reforms necessary in this area. The first is to require the proper accounts be prepared and filed with regards to the use of limited liability companies - abbreviated accounts must go. The second is to ensure that the resources are allocated to demand that these accounts are always put on public record and that no company can be struck off without being held to account for the taxes that it owes. The third is that we need to make sure that the information gathering entitlements of HMRC are extended so that they can see through such companies to ensure that they can collect tax from the people who really owe it. Unless we do this then frankly any other discussion of tax transparency becomes fairly meaningless.

Putting trusts on record

The third process that we need to address with regard to tax transparency is making sure that other structures use of tax planning, such as trusts, are accounted for both to our tax authority and on public record. Trusts are complex arrangements used by relatively few people. They can, of course, have a completely legitimate purpose. My own will has a trust arrangement built into it so that if I were to die and my wife were to also die before the time that our children reach adulthood anything that I might wish to leave to them will be held in trust until they can be considered responsible for the management of the money in question. This is sensible and no one would wish to stop that but equally it is vital that such arrangements be known about, be accountable and be taxable in full and there is a real risk that given the current absolute absence of any record keeping with regard to these arrangements that substantial amounts of tax light be lost as a result. When we're moving to a situation where discussion of having individual people's tax returns online is taking place then we can now very clearly take the prior step of demanding that the tax returns of all artificial structures created under statute law be online before individuals are required to make a similar disclosure. As such a Register of Trusts, equivalent to the Register of Companies, is now an essential part of the regulation of tax in the UK if abuse is to be tackled.

Tackling offshore

But of course, none of this has much benefit if anyone can get round it by moving their affairs offshore, as some would undoubtedly do. We therefore have to promote standards of transparency not just in the UK but inside the European Union too and way beyond it in the world's tax havens. Such standards are being created. For example, the European Union Savings Tax Directive would, if revised as currently proposed, shatter much of the secrecy that now surrounds the operation of companies, trusts, foundations and other abusive structures in places as far apart as Switzerland and the British Virgin Islands, as well as within the European Union itself.

There are, of course, obstacles to this progress and they are easy to name: the most obvious are the governments of Luxembourg and Austria who are standing up for tax criminals by outrageously blocking progress on this issue to ensure that those who wish to abuse democracy, the tax systems of their home states, and the rule of law can do so. This is criminal activity on the part of those governments, and they must be named and shamed for doing this. In the long-run EU may have to consider whether such criminal behaviour on the part of the government can be reconciled with membership of the European Union.

Real reform - on the laws of beneficial ownership

Then what? Well actually, the next step is to reform company law. All the recommendations so far basically simply put on record what already exists. But what exists is not good enough. So, for example, as I showed in a recent [Tax Justice](#)

[Network podcast](#), it is incredibly easy to form a company in the UK which is virtually anonymous. It is a straightforward matter to buy a company, to record its address at a nominee's office, to use the services of nominees as both director and company secretary, to have nominee shareholders own the company, and to have that company open a bank account outside the UK which can be used to record transactions which would then be entirely hidden from view within our tax system. All of this can be set up for less than £1,000. If that is the case then demanding transparency is pointless; a crooks charter already exists in the UK because we do not demand that the real owners of a company be identified on public record or that the real people who actually control the affairs of the company be identified at Companies House, and that the identity of the bankers to each and every company be recorded on public record so that the transactions that it undertakes can be identified and traced if necessary. All these issues have to be addressed if we believe in an agenda of transparency that ensures the tax abuse cannot arise.

Accounting for charities

And finally, and within the current discussion, the regulation of charities has to improve just as much as the regulation of companies has to improve because the Charity Commission is, just like the Registrar of Companies, massively under resourced at present so that they can hardly process the paperwork they get, let alone review its usefulness or accuracy, or chase missing documents, of which there are far too many within the UK charity system. As a result this sector can at present be used by the unscrupulous and the acts of those who are unscrupulous can be swept under the carpet by anyone without fear of being found out. That is ludicrous and yet is commonplace and shows a fundamental lack of faith in our political system in the power of regulation to deliver social benefit.

My point is simple: we may well want to move to a position where individual tax returns are on public record, as is already the case in some countries, such as some of those in Scandinavia. However, before doing so we have a lot of work to do on the structures most commonly used for tax abuse, and that's where the transparency agenda must begin.

Now who is going to pick up and run with it?