

That Olympic tax wheeze - and the Daily Mail's comments...

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The Daily Mail [has published an article today saying](#):

Tax campaigners hailed it as an extraordinary victory for public pressure and a rare act of conscience from the corporate world. But an announcement from Olympic sponsors McDonald's, Coca-Cola, Visa and GE that they would 'waive' 2012 tax breaks, garnering positive publicity, was not all it seemed because they were not entitled to the tax breaks in the first place.

They continue:

The pressure group 38 Degrees has mounted a huge campaign against the supposed tax breaks, getting almost 200,000 people to sign a petition calling for the sponsors to give them up. But Revenue & Customs told Financial Mail last week that Olympic sponsors did not qualify for corporation tax exemptions at the Games. 'All sponsors that are UK resident companies will be liable to corporation tax in the normal way,' it said.

And as example they noted:

McDonald's UK, the burger giant's British company, will be operating restaurants on the Olympic site. Because it is resident in the UK it cannot get the tax exemption. The same is true for Visa, Coca-Cola and GE.

Then they added, rather oddly:

Tax advisers warned that Revenue was already starting to clamp down on abuse. 'People have misunderstood the potential of the exemption,' said Bill Dodwell, tax adviser at Deloitte.

So what's the true story? Well, as someone quite involved in this whole issue - having advised both [38 Degrees](#) and [Ethical Consumer](#) on it - I'm going to suggest that the Mail have been sold a pile of tax PR by some of the Olympic sponsors and have chosen to accept it at face value. Indeed, since they called me about the story and I explained to Alex Hawkes who wrote the Mail piece exactly how I thought the exemption could

be abused and he chose to ignore my comments in the piece, I am sure that is the case.

So let's go back to basics: the Mail story is right to the extent that UK resident companies trading on the Olympic site will pay tax on their profits arising there. So of course McDonalds, Visa and Coke who will be selling on site will be paying tax on the profits arising.

But let's for a moment remember that profit arising is a pretty nebulous concept in these cases. For example, the profit on a burger is if you're running a burger van the sale price less the cost of the ingredients, the cost of the labour of the person cooking it and the shop overheads. But in the case of a complex multinational things are somewhat different - as we now know from having seen the tax affairs of many US multinationals in the UK - and because the same journalist who wrote this Mail 38 Degrees story also wrote [this one for the Mail in April](#), proving how little tax multinationals pay here in the UK. And that low rate of tax does not happen by chance: it happens because of the structuring those companies use. So things like advertising, branding rights, copyrights, intellectual property and so on are all used to shift profits around, legitimately maybe, but with little or no tax being due none the less as somehow or other those rights always seem to end up being owned in tax havens where the fees charged are not taxed.

And could the same shenanigans have been done by a multinational that set up a tax haven subsidiary which then signed a deal to sponsor the Olympics and which company then managed the resulting rights to use the Olympic endorsement world-wide from a tax free branch located in London for the duration of the games using the known UK tax exemption? Well, I think so. In fact I think the combination of having an offshore subsidiary of a multinational with a tax free branch in London for a period to exploit Olympics related activity could have been just the sort of thing many a tax department would have looked at to get a payback on their investment in the Olympic brand. They could have even charged for the use of the Olympic related branding to the UK based subsidiary that was taxable on sales in the Olympic park, so reducing its profits, Daily Mail, please note.

And that's why the requests of the Olympic sponsors was to say that they would not be applying for the exemption as a group. Some were emphatic on that and I think it fair to say others less so. I applaud those were clear.

But to say that because sales in Stratford to the public are taxed that we've misunderstood the Olympic tax deal is the usual, candidly patronising sort of comment that comes out on tax from multinational corporations and their advisers with the hope that the complexity of the issue will mean that the real opportunities for abuse through complex structuring of deals will be ignored. Well, I didn't ignore that possibility and I think I was right to not do so. As a result if now those sponsors have said they won't abuse UK tax laws then I think that is a definite win for 38 Degrees.

It's a wider win too. What it shows is that decisions on tax are available to large corporates - and they can choose to abuse, or not. That's a moral choice. It is one where those companies can be guided by ethics, not lowest common denominator excuse making linked to a mythical duty to profit maximise that does not exist in UK law, and is one where we are now demanding they make the right choices, not just on the Olympics, but regularly. And as they've now proven they can and will respond to that pressure let's also be quite clear: our aim is now to keep the pressure on them to do the right thing, time after time after time.

Having said which, perhaps the Mail might like to take a consistent line next time - and not sell big corporate tax PR when it suits them to do so.