

Three questions that are key to solving the corporate t...

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The world of tax is in a mess. Google, Amazon and, according to Ernst & Young before the Public Accounts Committee, many more companies are persistently abusing the international tax system to make sure they do not pay tax where it is very obviously due. The person who can deny that tax justice, and the credibility of national tax systems, requires that a company making sales in a country, using staff employed and substantial it owns facilities in that country for consumption by people in that country, is not taxable there as a result of abuse of a contract clause designed in another era (Article 5 of the standard OECD double tax treaty) in a way that could never have been foreseen is not just willfully blind to reality; they're also actively seeking to undermine the rights of democratic governments, including our own.

I have commented, often, that the fact that business and the Big 4 firms of accountants willingly participate in this process is not surprising. As was admitted by the MD of Waitrose (of all companies) yesterday on Radio 4, those running such companies think it is our duty to now accept that the era of national democratic government is over and that we should accept that rule by multinational companies will soon be the explicit norm. That, of course, suits the 1% of the population who might gain as a result very well.

What is much more surprising is that the governments and tax authorities of the world so tacitly participate in this process. I have, of course, argued that both have been captured for their own gain by the business elite: in the case of H M Revenue & Customs this corporate takeover of a state function is now so explicit that it's almost possible to see the strings linking HMRC permanent secretary to her chairman, former KPMG senior partner Ian Barlow.

But that need not be the case, and internationally it is not so obvious that the same situation exists. So, in that case three questions have to be asked.

The first is why is it that we apparently have a world tax authority in the form of the OECD without anyone having appeared to agree to it, and to which we must all apparently bow if it comes up with no solution to this issue (which its boss, Pascal St

Amans is intellectually disinclined to do, despite all the bluster of its February report on Base Erosion and Profit Shifting).

Second, why aren't we willing to challenge the abuse of double tax treaties using domestic law? After all, the whole purpose of double tax treaties is to make sure that the right amount of tax is paid at the right time and in the right place. The reality is that they are now widely known to be used to ensure that far too little tax is paid as a result of the use of wholly artificial structures whose purpose can only be explained by a desire to minimise tax. The weasel words of Big 4 accountants to the contrary can safely be dismissed on this issue because it is obvious that they are simply the hired architects of those who abuse. In that case it is absurd that the General Anti-Abuse Rule — in which I acknowledge I played a part — deliberately does not go near such arrangements. The need for a General Anti-Tax Avoidance Principle that does let us tackle this abuse by saying that the legal form of these arrangements does not reflect their economic substance and so can be ignored for tax purposes is long over due. What is more, the OECD recognises the right of states to do just that, as does the EU (who is actively encouraging states to adopt general anti-avoidance principles). So, the question has to be asked, just what is the problem?

Third, and last, why is there such reluctance to ask companies to be accountable to states? The case for country-by-country reporting is being won, steadily and yet the support of elected politicians remains far too lukewarm. Cameron, for example, talks about it as a voluntary measure as if tax compliance with the laws of the UK was an option for multinational corporations. This is about the very essence of democracy, and the battle to keep that democratic process in place and not to surrender it to the corporate (fascist) state is in progress, now. So why are democrats so unwilling to take the fight on, Margaret Hodge apart?

The good news is country-by-country reporting is possible.

And a General Anti-Tax Avoidance Principle that defeats the sort of multinational corporation abuse we are facing is possible.

And the OECD tax model can be evolved into a unitary tax system that would defeat these shenanigans, as explained here.

All this is possible.

The question is why aren't we willing to do those things? And for that we have to hold our politicians to account.