

# The UK Corporate and Individual Tax and Financial Trans...

Published: January 13, 2026, 9:18 am

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The [UK Corporate and Individual Tax and Financial Transparency Bill](#) was published by the House of Commons yesterday. A private member's bill, promoted by long serving Labour MP Michael Meacher with the support of Lib Dem, Green and other Labour members, I have to admit to having something of an interest in this Bill as I wrote it on Michael's behalf.

As almost anyone who has read a paper in the last year will know, tax has been at the forefront of public debate in 2012 and 2013. Concern has been such that at the G8 summit at Lough Erne in June 2013 UK Prime Minister David Cameron made [Tax, Transparency and Trade the focus of international concern.](#)

At that G8 [the UK published an action plan](#) to tackle some of the resulting issues but it was modest in its ambition, as has been the scope of the subsequently announced consultation on disclosing the beneficial ownership of UK companies. It is clear that more robust measures are needed to tackle the issues the Prime Minister has highlighted. It is for that reason that Michael Meacher has tabled the UK Corporate and Individual Tax and Financial Transparency Bill (UKCITFT) in the House of Commons. The Bill had its first reading on 19 June 2013 and is scheduled for a second reading on 6 September 2013.

### **Tackling multinational corporation opacity**

The Bill has broad ambitions. First it aims to tackle the opacity that exists in the affairs of multinational corporations, where for too long it has been impossible to determine just what each company in a group does and what its financial performance might be. This has been especially true if the subsidiary of the multinational corporation is incorporated in a tax haven. The Bill tackles this by requiring that any UK multinational corporation must publish the accounts of all its subsidiaries on public record, and if nowhere else that must be on its own web site.

### **Putting some tax returns on public record**

Second, the Bill tackles the opacity in the tax affairs of both large companies and

wealthy individuals in the UK by requiring that the tax returns of the top 250 in each group should be put on public record. Debate on tax issues has been hampered by a lack of data in both areas, and it is vital that those with policy responsibility for UK tax law now have that data. This cannot be done without law requiring that these tax returns be legally published and that is what this Act would do. With data available it will be possible to make informed decisions on the taxation of multinational corporations, wealthy people and those with considerable asset holdings. That is impossible at present and as such policy has, without doubt, been deficient in these areas. Only transparency can remedy that deficiency and so ensure that the problems of tax abuse that have been associated with both groups in society can be addressed.

### **Putting beneficial ownership of companies and trusts on public record**

Most of the rest of the Bill focuses on ensuring that the beneficial ownership of companies and trusts is placed on public record when the public interest requires it, with the emphasis being on companies. UK companies do, of course, enjoy the benefit of limited liability that grants their members a considerable advantage of not being responsible for the debts of the company that they own. There is, however, a duty imposed on such companies to protect those who trade with such companies from abuse, and that is that they place records relating to the company, including its accounts, on public record. This obligation is currently ignored by hundreds of thousands of UK companies each year providing opportunity for many of these companies to tax avoid or evade with impunity and potentially engage in other fraudulent activity without being detected. The cost to society at large is estimated to run to be much more than £10 billion a year.

The Bill tackles this problem by firstly requiring that companies identify their beneficial owners in addition to those who legally own the shares. The difference is important — legal owners can disguise who is really behind a company and can present an entirely false view of its structure as a result. Secondly, the Bill requires that the details of beneficial owners be submitted by the company to Companies House for the first time.

### **Making our banks report beneficial ownership**

However, to presume that a company formed for dishonest purpose will voluntarily comply with this obligation is naïve and as such the Bill also places a new obligation on UK financial institutions (which will, almost invariably mean banks in this case) to report the information that they collect on their limited company clients under money laundering regulations, including the real trading address of a company, who its directors and beneficial owners actually are and where they are located. Those banks would be required to submit this information to Companies House who would then be required to publish it.

### **Removing the limited liability of companies that don't report data**

Those banks would also have to supply the information to H M Revenue & Customs who would then be required to demand a tax return from any company with a bank account. The sanction for failing to supply any information demanded from a company by either Companies House or HMRC would be a simple one: the limited liability of the company would be removed and the directors and beneficial owners would become liable for its debts. What is more, in the Revenue's case, HMRC would be granted the power to access the company's bank account data so that estimated tax assessments could be raised if the company had refused to supply accounts, and the directors and beneficial owners would then be responsible for paying this tax.

The impact of all this would be transformational: company fraudsters would no longer have anywhere to hide from their debts and that is exactly as it should be if honest business is to get all the support it needs from the UK's regulatory authorities. Anyone who believes in fair trade in this country will support these measures.

## **Extending the law to the Crown Dependencies and Overseas Territories**

That does, however, highlight a problem that the Bill also seeks to tackle. It would be all too easy for people to try to get round the requirements of the Act if it were possible to form a company in a UK Crown Dependencies or Overseas Territory and so avoid all these rules. As a result the Bill extends the requirement that a company should have information on its beneficial ownership and its accounts on public record to the Crown Dependencies and Overseas Territories, but only if the company in question has a beneficial owner outside the territory in question, which then brings this issue firmly into the area in which the UK may legislate for such places. An obligation is also placed on the money laundering authority of each such jurisdiction to advise HMRC if any UK resident person owns a company in their jurisdiction. The transparency this will create will no doubt be welcomed in such jurisdictions since they all say they want to stop the abuse of their legal systems by those committing crime and no doubt they agree with David Cameron that sunlight of transparency is the best way to achieve this.

## **Putting trusts on the record**

Finally the Bill deals with the question of trusts and requires that they too advise of the true identity of their settlors, trustees and beneficiaries to HM Revenue & Customs. Again a sanction is imposed; in this case it is that the trust property will pass to the Crown if declaration is not made. The section on trusts also requires that data for some, but not all trusts be placed on public record. It will apply only to those with significant assets or income and those that control companies, as these are likely to be the ones in which there is a genuine public interest concern.

The UK Corporate and Individual Tax and Financial Transparency Bill as a whole is, then, a concerted attempt to show that not only is tax avoidance, tax avoidance and transparency an issue of international concern but that it is also one that is firmly on the domestic agenda and one that the UK can address by itself if it so wishes. The

challenge that the Bill poses to the government is a simple one — which they will have to answer. Are they serious about tackling this issue as the UK Corporate and Individual Tax and Financial Transparency Bill shows to be possible, or are they simply making noise on an issue they have no intention of really addressing? The public will wish to know.

The abuse that the UK Corporate and Individual Tax and Financial Transparency Bill tackles costs the UK tens of billions a year, which is money that could be used to protect public services. If the UK government is not willing to raise such money by imposing simple, low cost, but effective requirements on UK business that would tackle tax avoidance, tax evasion, fraud and other crime here and in our territories they will want to know why not. The Dispatch box beckons the minister who will oppose this Bill.