Funding the Future

Why corporate tax abuse has to be eradicated

Published: January 12, 2026, 9:52 pm

I have a piece on the Guardian's Comment is Free site this morning, discussing the motivations and impacts of the tax abuse that the Guardian documents today that is facilitated by Luxembourg.

For the short version of my argument Comment is Free is the place to go. This is a fuller version:

Today's revelations by the Guardian on the tax arrangements of Shire plc, and the explanations Richard Brooks has offered on them, are important. They reveal an appetite for tax abuse that still pervades within major corporations, the biggest firms of accountants, and as importantly, in some EU states and tax havens. Each of these matters, and not just because of lost tax in the UK and other major countries but because the impact goes far beyond that and suggests that there is a rottenness at the core of modern capitalism and the political systems that support it.

The excuses that companies offer for pursuing aggressive tax avoidance activity always seems to suggest that they are acting in the interests of the shareholders of the companies to whom the directors say they are accountable. It is interesting that Shire, in its comments to the Guardian, has extended that justification to the company's stakeholders. And yet these claims are wrong. The companies on which the Guardian focuses are all UK based and UK company law says that a 'A director of a company must act in the way he considers, in good faith, would be most likely to promote the success of the company'. Now it's true that the law then says that the members of the company have a special right to be considered, and that there are obligations to a long list of other stakeholders but the fact is that the law makes clear that the duty of the directors is to the company itself. And since there is nothing in law that says that the duty of a company is to minimise its tax or maximise profit the claims that the companies justifying their tax abuse make are simply not true. They spread a myth that is without foundation.

It's a dangerous myth too, that positively harms the company and all its stakeholders. No company has yet benefited from the type of exposure Shire and other companies *are getting in this paper today, and it is very doubtful that any ever will. That's a failure by the directors in that case.*

But more especially, tax abuse really does fail all stakeholders, who lose out on tax paid by these companies when payment of the right amount of tax that a company owes in the right place at the right time is the minimum that any stakeholder can expect from a company in exchange for the right of limited liability that the state grants it, which means that the company and its members do not have to settle its debts if anything goes wrong, at potential cost to all the rest of us.

In addition, this abuse can also specifically harm the shareholders, because as the Guardian has pointed out, the fact is that most shareholders will be almost wholly unaware of the risks the companies in which they invest are taking supposedly for their benefit. Because the tax arrangements these companies use might be challenged the risks that shareholders face include the possibility that the current earnings of the company, and so its share price, might be misstated as a result. Since this will invariably mean that the price is over-stated that creates the risk of unforeseen losses to shareholders that not one of them, including those exposed to this risk via pension funds, will want to. In that case no one should pretend that these arrangements are beneficial to those in whose interests they are supposedly being promoted.

So who does benefit? There are three clear groups who do. The first are company executives, and I do wonder if the term 'stakeholder' has been added to the justification in place of the normal 'shareholder' to deliberately include them. They benefit from tax avoidance inflating net profits after tax and so share prices that then trigger their bonus payment arrangements. This process is the very antithesis of, but logical conclusion to, the so-called shareholder alignment model of management that has cursed business for at least two decades. The logic in question is distorted, to say the least. In particular, when management seeks to deliver gains by financial engineering the companies they are responsible for and hide what they're doing behind a veil of secrecy that obscures they fact that they may not really be very good at actually making money we have to worry that the private sector has really run out of all entrepreneurial steam.

Second, the professional firms creating and selling these arrangements clearly think they benefit from the, no doubt, considerable fees involved. But, the risk is that the credibility of these firms — who are the effective and sole policing agency of capitalism, worldwide — are, or have been, corrupted in the process and that there is now no agent we can rely on to provide an objective assessment of what happens in major corporations.

Thirdly, the tax havens who facilitate these structures also think they gain, but here the logic is, yet again, warped because, as is obvious, Luxembourg gains little tax from what happens and so the gain goes largely to the financial professionals within the Duchy who effectively dominate its government with their demands to make transactions such as these possible. The result is that we have states effectively *captured by finance that threaten the very essence of democracy as they serve plutocratic goals.*

What can be done about all this? I suggest that several things are possible.

First, we need vastly better country-by-country reporting disclosure of where and how companies operate in their accounts. I declare an interest: I designed this form of accounting that is now being adopted by the OECD, but so far only for returns to tax authorities and not for public disclosure.

Second, the cosy arrangement that lets the big firm accountant dominated International Accounting Standards Board set the accounting standards that allow these transactions to be hidden from view has to end. We need government set and internationally agreed International Tax Reporting Standards that ensure all stakeholders get all the information they need to appraise tax risk in companies, large and small.

Third, the OECD crackdown on tax havens as part of the G20 process has to continue.

Fourth, the EU has to tackle the countries within it that are seeking to undermine open markets by promoting tax abuse which is the antithesis of fair competition.

And fifth the tax profession has to drum out of its midst those people and firms who promote such schemes, whether nationally or internationally, if it is to have a remaining shred of ethical credibility.

Those things are possible. Those who believe in the mixed economy, the merits of regulated markets and the ability of business to deliver for all should be championing them. The absence of current cheerleaders for that cause in the business community tells us a lot, and gives massive cause for concern.