

Could the Fair Tax Mark provide a European Standard for...

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Across Europe countries are working out how they might incorporate issues relating to tax avoidance by supplying companies into the procurement conditions that they are now allowed to impose under EU law. But, there is a problem and that is that the law in question requires that any conditions imposed must relate to the product or service being supplied rather than the company that contracts to supply it. So, whilst it is possible to think of situations where there may be tax issues in a supply chain (some products derived from the extractive industries, for example) these are, at best, few and far between. So what can be done to build tax into this process?

My suggestion is that the [standards set by the Fair Tax Mark might help](#). I stress: I am well aware it is not possible to require that companies have the Fair Tax Mark as part of a procurement process. I am reliably informed that would be illegal. But a requirement that companies comply to the minimum standard we have set could be specified. I should also make clear I am one of the directors of the Fair Tax Mark.

It is important to note what those standards they are. They do not relate to a tax rate: there are reasons why a company might not pay tax at the rate set for a period. In that case they do instead relate to the issues that are now seen to be important whether or not the anticipated tax rate is paid. These relate to three things: transparency, disclosure and governance.

With regard to transparency we expect a company to be clear about who owns it, and if it is a group about precisely which companies are in that group, where they are and what they do.

When it comes to disclosure to focus is on explanation. We want to know why a company thinks it owes the sums it declares to be due, and if they are not that the headline rate requires, what the reason for the difference might be. We expect similar candour with regard to deferred tax. And because tax is complex we expect the description to be in both numerical and narrative forms so that each can complement the other.

As for governance, our expectation is that a company should make clear that it is committed to paying the right amount of tax in the right place at the right time where right means that the economic substance of the activity it undertakes in a location matches the declarations it makes for tax. And we expect a person to be named as responsible for making sure this is the case. In the process the company must say it will not use tax havens to relocate profits or undertake transactions solely or mainly motivated by tax saving.

These are high standards, but how do they relate to a particular product or service? If the supply is one off it may, I admit, be hard to make the link. But most supplies are not one off; they tend to be delivered over an extended period, and sometimes virtually continuously. And in a commercial era when few products (again, not all) are direct substitutes for each other then there is very obvious importance to ensuring that the supplier of a product or service is likely to be able to fulfil their contractual obligations during the whole period during which supply is anticipated. and this is where tax comes in. In a period when it is clear that the impact of tax on a company's results has significance not just in its own right but also with regard to broader commercial implications, including reputational risk, that may well have direct impact on a company's results and so financial durability, as well (even) on key customers, then appraising its tax disclosures and assessing the related likely impact of such disclosures on the risk a company may be exposed to on this issue and its related governance concerns, makes complete sense.

There is no doubt that all procurement appraisal procedures need some degree of standardisation if those not expert in the issues they are appraising are not to draw inappropriate conclusions from data they are presented with. The Fair Tax Mark process could form a standard for those seeking to appraise potential contractors on this issue. If durability of supply is important then so too, I think, is this issue and that's why I believe the Fair Tax Mark reporting standards could be important in this area.