

# Funding the Future

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Suppose you were a director of a multinational company. As John Lennon would have it, it's easy if you try.

Now imagine you were under pressure to achieve three things. The first is to deliver director's bonuses, most of which are triggered by post tax earnings.

The second is to keep shareholder's happy with ever rising earnings, post tax.

The third is to manage pressure from auditors and others who want to sell tax planning.

All three reasons are likely to suggest you should use tax havens. What do you do as a director? It's a real issue. The fact is there will have been, and may still be, very real pressure to succumb and set up in places like Jersey, Cayman and elsewhere.

Do you give in? What are the risks? Surely there is no one who can now not see it as such? But what are they?

The moment you put a tax haven company in your group you create opacity. Make it the parent company and the whole question of the integrity of their accounts comes into question. And why not? The issue of whose law applies arises. Whilst accounting standards remain applicable wherever a company is incorporated (with rare exceptions) some critical data required, for example, by UK law might go missing in these offshore reports.

This is important: there is credibility at stake here. And when one of the issues where less data might be available is on tax this is, in the current environment a matter of real significance. The question that occurs is an obvious one, which is why you would take that risk of the negative market and public reaction to opacity if you did not get a benefit as a result? Rationally you wouldn't do that unless the trade off was either tax saved or the benefit of not talking about something you'd rather remain hidden. Assuming business is rational, it's entirely fair to think a company headquartered in a tax haven is doing that to exploit the secrecy and tax advantages they offer.

In that case, what does that say about the directors? Surely there questions to ask of them in these caseS? It's simply not possible to divorce the people who make the

decision to locate in a tax haven from the decision that is made by the company they direct. And the decision must, inevitably, I think, reflect back on them and their ethics.

Is that any different if the company is instead based in the UK and has tax haven subsidiaries? There are three reasons for doing that. First, putting a business into a tax haven can quite literally mean it can disappear entirely from view. That's because the accounts of companies based in almost every tax haven need not be published. They are included in the group accounts, but they do not need to be separately identified there and until country-by-country reporting becomes standard on public record (which may be a while away as yet, although Labour has offered hope on this issue) what the use of tax havens by multinational companies means is that whole chunks of its activity wholly disappears from view.

That's legal, but is it ethical? And does it mean the company is accountable for what it does to its shareholders, let alone stakeholders in that case? Are the directors being honest is my question? And the answer is we just don't know. And in that case it's fair to say we can have doubts about the motives of any director whose company does this. After all, why not? If there's nothing to hide why would anyone use a tax haven? It would be irrational not to be suspicious.

Second, there is doubt about tax too, and what is going on there. And again, why not? If we do not know what is happening, and we know there is a tax gain to be had by using these places why shouldn't we assume we they are tax avoiding? It would be wholly irrational not to.

And the third reason for using a tax haven? That's because you really have a genuine business there. It happens, of course. But in that case you would have no problem publishing the data, would you? If so, all these reasons for doubt about those companies that use tax havens and do not talk about them, and the directors of those companies who decide that is acceptable, is fair.

Go back to my opening question then. Would you succumb? Why would you take that reputational risk of being linked to tax havens? Would you do that without cash reward? In that case is it fair to think the directors of companies that use tax havens must be open to question as to their ethics, and precisely what they gain from the process.

Who's going to ask then?