



A Code of Conduct for Taxation

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Richard Murphy

The need for a Code of Conduct for Taxation

Because the risk of conflict is inherent in all tax systems an international Code of Conduct is needed to regulate its administration.

In a world where people and capital can move freely, that Code has to be capable of application and enforcement both internationally and locally.

It needs also to apply to all parties likely to be affected by taxation disputes, whether they be taxpayers, their agents (typically lawyers or accountants) and governments.

And since taxpayers include not just citizens but the whole myriad of legal entities now capable of being created under statute through which people may organise and administer their affairs, including companies (with and without limited liability), partnerships (with and without limited liability), trusts, charities and other more esoteric structures, any Code has to consider the consequences of these structures as well as those arising for natural persons.

The Code that follows is offered by the Tax Justice Network and the Association for Accountancy & Business Affairs for discussion. Authored on their behalf by Richard Murphy it does not pretend to be the last word either organisation will offer on this subject. But both hope that its publication will encourage a broader debate on these issues, and within the wide context of taxation management that it considers.

A copy of this Code of Conduct with full supporting notes is also available at <http://www.taxresearch.org.uk/Documents/TaxCodeofConductFinal.pdf>

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Written by Richard Murphy BSc FCA of Tax Research LLP on behalf of the Association for Accountancy and Business Affairs and the Tax Justice Network

Tax Research LLP
The Old Orchard
Bexwell Road
Downham Market
Norfolk
PE38 9LJ

Association for Accountancy and
Business Affairs
PO Box 5874
Basildon
Essex
SS16 5FR
United Kingdom

Tax Justice Network
38 Stanley Avenue
Chesham
Bucks
HP5 2JG

www.taxresearch.org.uk

www.aabaglobal.org

www.taxjustice.net

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A Code of Conduct for Taxation

Objective

This Code of Conduct relates to the payment of taxes due to a State or other appropriate authority designated by it.

Scope

This Code applies to:

1. Governments and their agencies in their role as tax legislators, assessors and collectors;
2. Taxpayers, whether individuals, corporate bodies or otherwise;
3. Tax agents, whether they are undertaking tax planning or assisting with tax compliance.

Application

It is intended that this Code be voluntarily adopted by States and should be used to guide the conduct of taxpayers and their agents who choose to comply with it whether or not they reside in a State which has adopted the Code.

The Code

The Code is divided under six sections, each of which includes three statements of principle.

1. Government

- a. The intention of legislation is clear and a General Anti-Avoidance Principle ('Gantip') is in use;
- b. No incentives are offered to encourage the artificial relocation of international or interstate transactions;
- c. Full support is given to other countries and taxation authorities to assist the collection of tax due to them.

2. Accounting

- a. Transparent recording of the structure of all taxable entities is available on public record;
- b. The accounts of all material entities are available on public record;
- c. Taxable transactions are recorded where their economic benefit can be best determined to arise.

3. Planning

- a. Tax planning seeks to comply with the spirit as well as the letter of the law;
- b. Tax planning seeks to reflect the economic substance of the transactions undertaken;

- c. No steps are put into a transaction solely or mainly to secure a tax advantage.

4. Reporting

- a. Tax planning will be consistently disclosed to all tax authorities affected by it;
- b. Data on a transaction will be consistently reported to all tax authorities affected by it;
- c. Taxation reporting will reflect the whole economic substance and not just the form of transactions.

5. Management

- a. Taxpayers shall not suffer discrimination for reason of their race, ethnicity, nationality, national origin, gender, sexual orientation, disability, legal structure or taxation residence; and nor shall discrimination occur for reason of income, age, marital or family status unless social policy shall suggest it appropriate.
- b. All parties shall act in good faith at all times with regard to the management of taxation liabilities;
- c. Taxpayers will settle all obligations due by them at the time they are due for payment.

6. Accountability

- a. Governments shall publish budgets setting out their expenditure plans in advance of them being incurred, and they shall require parliamentary approval;
- b. Governments shall account on a regular and timely basis for the taxation revenues it has raised;
- c. Governments shall account for the expenditure of funds under its command on a regular and timely basis.

Enforcement

States seeking to comply with the Code will voluntarily submit themselves to annual appraisal of their Conduct. These appraisals will in turn be reviewed by a committee of independent experts appointed by participating States. Differences of opinion will be resolved by binding arbitration.

Any taxpayer or agent wishing to comply with the Code may do so. A State should presume that a person professing compliance with the Code has done so when dealing with any tax return they submit. In consequence the administrative burdens imposed upon that person should be reduced. In the event of evidence of non-compliance being found any consequential penalty imposed should be doubled.