

# TAX JUSTICE FOCUS

The newsletter of the tax justice network

## INTERMEDIARIES FOR GOOD OR ILL: THE ROLE OF THE PROFESSIONS IN THE GLOBAL TAX SYSTEM

*Accountancy and legal firms, alongside the financial services sector (collectively referred to as ‘intermediaries’ or ‘enablers’), play a key role in making the global tax system work. How can the tax justice movement engage with the accountancy and legal professions to promote a culture of transparency and responsibility around tax, both among its members and, through them, among their corporate clients?*

In simple terms, the role played by tax accountants is well understood. They advise corporate clients on how best to minimise their tax liabilities, while complying with tax regimes wherever they have a legal presence. As such, their role is not only legitimate, but necessary to ensuring that international commerce functions efficiently and in accordance with legislation.

However, if we look a little deeper, questions emerge about the role played by accountancy firms in this system. This edition of Tax Justice Focus looks at some of these questions from a variety of perspectives.

Firstly: accountancy firms help corporate clients to comply with international tax laws. But what do we understand by compliance? If we mean that laws are not broken, then we have little cause to complain about the role

*editorial*

**Will Snell**

*“Accountancy firms help corporate clients to comply with international tax laws. But what do we understand by compliance?”*

THE PROFESSIONS ISSUE  
VOLUME 9, NUMBER 3

### EDITORIAL

Intermediaries for Good or Ill: The Role of the Professions in the Global Tax System  
*Will Snell* 1

### FEATURES

Public Duty, Private Gain: Professional Ethics and Tax  
*Atul K. Shah* 4

Tax Avoidance Schemes: A Small Practitioner’s View  
*Rebecca Benneyworth* 6

Tax Avoidance as Law-Making Rather Than Law-Breaking  
*David Quentin* 8

The Missing Link: Tax Avoidance and Corporate Social Responsibility  
*Stephen Littler* 10

### BOOK REVIEW

The Political Economy of Taxation: Lessons from Developing Countries  
*Paola Profeta and Simon Scabrussetti* 12

### NEWS IN BRIEF

13

Guest Editor: Will Snell

Editor: Dan Hind

Contributing Editor: John Christensen

With thanks to Richard Murphy

Design and layout: [www.tabd.co.uk](http://www.tabd.co.uk)

Email: [info@taxjustice.net](mailto:info@taxjustice.net)

Published by the Tax Justice Network Limited

© Tax Justice Network 2014

For free circulation, ISSN 1746-7691

played by most accountants (we certainly cannot reasonably make allegations of tax evasion against the “Big 4” firms). Recent legislation, at least in the UK, has curtailed the more blatant examples of tax avoidance, so the number of abusive tax avoidance schemes has fallen sharply. However, if we define tax compliance as paying the right amount of tax, in the right place, at the right time, then we do have reason to look more critically at the role played by accountancy firms.

The International Consortium of Investigative Journalists (ICIJ) recently highlighted PwC’s role in brokering corporate deals with the Grand Duchy of Luxembourg worth hundreds of billions of dollars, many designed to reduce tax bills. In the most sophisticated cases, accountants structure the global affairs of a company so that it does not *have* to avoid tax, because it does not have a tax *footprint*. Here, accountants are selling the ability to generate profits without a geographic location, which cannot be taxed by any single jurisdiction. This falls outside conventional definitions of tax avoidance, which suppose that it should be clear which tax regime is being deprived of income. David Quentin looks at the legality of self-assessed tax liabilities, the role of tax accountants and lawyers in relation to them, and wider issues of professional ethics.

This leads to our second issue: the role of ethics in the global tax system. Accountants often argue that ethics play no role at all, because the regulatory framework ensures that ‘unethical’ activities, such as aggressive tax avoidance, are thrown out before being put into practice. But this reassuring picture seems simplistic. The global tax system is complex, convoluted and full of loopholes. The sophisticated exploitation of loopholes enables companies to claim that they are compliant in every jurisdiction in which they have subsidiaries, while avoiding taxes on portions of their profits by manipulating the profits declared in each jurisdiction. Is this ethical? It is hard to argue that no one is harmed: *Honest Accounts*<sup>1</sup> estimates that, while \$30bn of aid flows into Africa each year, \$35.3bn goes out as illicit financial flows facilitated by tax havens, and another \$46.3bn as profits made by multinational companies. *Tackling Tax and Saving Lives*<sup>2</sup> estimates that, if developing countries could increase the proportion of GDP collected as tax revenue from 17% to 20%, 287,000 child deaths could be averted each year, and 72m people could have access to clean water.

Atul Shah argues that there is a conflict between the contractual pressures on accountants to enhance the commercial position of their clients by minimising their tax liabilities, and their public duties to the society that granted them their

*“It has become clear during the production of this edition of Tax Justice Focus that some of the larger accountancy firms are unwilling to take part in the debate as currently framed.”*

professional privileges, and that this conflict should be recognised and addressed by the professional associations. There is also a role for government, in examining the negative impacts of legislation that exposes accountancy firms to the risk of legal action by clients who feel that their tax advisers have not acted to maximise their commercial interests.

No discussion of ethics in business can ignore corporate social responsibility. Increasing numbers of multinational companies are adopting a more sophisticated approach to CSR. By integrating CSR into their business activities, they are leveraging their core competencies to achieve social outcomes that they are best placed to achieve, while reinforcing their long-term commercial prospects by improving their “brand”. This is fine, but there are two glaring omissions where tax is concerned. The first is that many of these companies are paying less tax than they should in the countries where they operate, depriving developing countries of more value than they are contributing through CSR activities, however well constructed. The second is that accountancy firms, no slouches when it comes to producing glossy

CSR reports, are well behind the CSR ‘curve’. As Stephen Littler points out, their own CSR reporting neglects one of their core business activities: the provision of tax advice. Until this anomaly is corrected, it is difficult to have an informed and comprehensive conversation about tax transparency and ethics with accountancy firms.

We must avoid the trap of treating the accountancy profession as a monolithic bloc. There is a multiplicity of views and practices. For example, we are beginning to see some divergence between the “Big 4” firms’ attitudes to tax transparency. In October, the Chairman of PwC – the world’s largest tax practice – said that “tax advice has a moral dimension to it that professional services firms must keep in mind when advising clients”, PwC also published a study suggesting that introducing country-by-country reporting – a reform they had previously opposed – could “boost competitiveness, increase lending and bolster financial stability”. By contrast, EY is encouraging its clients to lobby governments to water down reform of the international tax system (the BEPS recommendations). The other side of the story is the smaller

<sup>1</sup> Health Poverty Action, 2014 | <http://www.healthpovertyaction.org/wp-content/uploads/downloads/2014/07/Honest-Accounts-report-v4-web.pdf>

<sup>2</sup> Save the Children, 2014 | [http://www.savethechildren.org.uk/sites/default/files/images/Tackling\\_Tax\\_and\\_Saving\\_Lives1.pdf](http://www.savethechildren.org.uk/sites/default/files/images/Tackling_Tax_and_Saving_Lives1.pdf)

tax practitioners. Rebecca Benneyworth explores the widespread concern among smaller firms that they are coming under pressure to advise on tax avoidance schemes without having the professional competence to do so. Many accountants would rather focus on the “day job”, advising their clients on how to grow their businesses, without getting embroiled with tax avoidance. This is a timely reminder to the tax justice community that accountants can be allies as well as foes. As signs of change start to appear in the attitudes of some accountancy firms to tax transparency, opportunities for constructive engagement may increase.

How, then, should we engage? It has become clear during the production of this edition of *Tax Justice Focus* that some of the larger accountancy firms are unwilling to take part in the debate as currently framed. They do not believe that external pressure can add much to their ongoing internal conversations about tax avoidance. However, as the debate becomes more constructive on both sides, opportunities for the issues to be discussed openly can only help the accountancy profession to embrace the growing public support for transparency and responsibility around tax issues.

We are running a short online survey to hear your views about how the tax justice movement should engage with the accountancy and legal professions. Please take five minutes to answer three basic questions. The survey is available now at [www.taxintermediaries.org](http://www.taxintermediaries.org).

**Thank you!**

*Will Snell is Director of Public Engagement & Development at Development Media International, a UK NGO working to improve health outcomes in developing countries through mass media campaigns, with a focus on maximising and measuring impact. He has an interest in tax justice issues.*



*Luxembourg, a European mini-state shrouded in darkness. See News in Brief.*