CIOT Vice-President's page, October 2017

Welcomes

01 October 2017

Significant progress

Welcome to October's *Tax Adviser*. This is my first opportunity to address the whole membership of the CIOT as Vice-President, and I am pleased and honoured to be able to do so.

It may not surprise readers, that, being the head of tax for a FTSE 100 company, I have a keen interest in the ongoing debate on the taxation of multinational companies (MNCs). While contemplating what to write for this page during my summer holiday, I found myself reading an online article about the tax payments of the packaging and distribution part of Amazon's UK business. The headline read 'Amazon's tax bill reduces by half despite soaring sales'. The report said that Amazon's UK revenues had risen by 50% but its UK tax bill had halved. There were quotes from an MP and NGOs along the lines of it being high time Amazon paid its share and that companies like Amazon exploited flaws in global tax laws.

The report then made it clear that Amazon UK's profits halved in the year in question compared to the prior year. So it appears the only 'flaw' in global tax laws this part of Amazon's UK business 'exploited' is that it suffered a reduction in its profits and paid less tax as a result.

Most CIOT members will either have clients or have worked for companies who have also benefited from a reduction in tax payments when their profits have reduced. Nevertheless, many of those reading the article probably concluded all was not well, and from what I saw on social media that seems to have been a widespread reaction.

This suggests that there is a continuing lack of belief that the taxes paid by MNCs are reflective of the value they derive from the UK. What should the CIOT be saying in response to this? We certainly don't know the facts of individual cases; but we do know how the corporate tax system works. We can say that corporation tax is paid on profits not revenues, something that it appears cannot be said too many times. We can add that the design and intent of the system in both the UK and globally is for taxable profits to represent the value created in the relevant country by the enterprise making those profits. What is more, legislation introduced in recent years – Diverted Profits Tax, anti-hybrid rules, updated transfer pricing guidelines, interest deductibility restrictions and country by country reporting guidelines, for example – means that HMRC has more weapons at its disposal than ever before to ensure that tax is paid in full on value created in the UK.

These legislative changes have largely been enacted in response to the G20/OECD Base Erosion and Profits Shifting (BEPS) project. It is arguable that the UK has gone further and faster with anti-BEPS measures than other OECD members. In some of CIOT's comments on the UK's anti-BEPS legislation we have worried that the UK is going a little too far and a little too fast! It is now hard to see what more could be done in a legislative sense to align taxable profits with value creation in the UK; and my advice to government would be to give the existing legislation a chance to prove its worth.

Many MNCs are now also more transparent about their tax affairs. Part of this is due to legislation such as the requirement for large companies to publish their tax strategies, but part is also voluntary. Many MNCs recognise the danger to their reputation in being seen as ‘aggressive’ in relation to tax planning. Combined with the recent anti-BEPS legislation, we are, in my view, at a point where the UK corporate tax system is as robust as it ever has been. Although some will always push the rules, as recent HMRC disclosures on investigations into MNC’s reveal, HMRC are active in using all the new weapons they have at their disposal. It is unlikely that there is a further ‘pot of gold’ additional legislation could tap into.

This is not to say the international tax system is perfect. Although companies may be close to paying the right amount of tax in the UK, I doubt that confidence in the system as a whole can be restored until the phenomenon of US companies being able to reduce tax bills by parking money offshore rather than repatriating it to the US is eliminated. This, however, is something the US has to resolve, and there is little we can do in the UK about it.

In conclusion, if asked in a social situation today what I think about the taxation of MNCs, I would say that significant progress has been made in the UK in aligning corporate tax paid with value created, and that HMRC has the tools to ensure this is the case. Other countries may still have work to do, but it is hard to see that further legislation in the UK will have a material impact on the yield from MNCs here.

- *Glyn Fullelove*