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Shedding little light. Google under scrutiny. William Warby/Flickr, CC BY

Google tax deal sparks frustration as UK MPs struggle with information void

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Google's tax deal with the British government came under renewed scrutiny from both the heart of parliament, and from across the English Channel. As the public accounts committee was revealing its misgivings and frustrations about the £130m settlement, news broke that France would be seeking €1.6 billion from the internet company.

The committee concluded that although the settlement seemed "disproportionately small" it was impossible to determine if it was fair to taxpayers. The truth is that without a better understanding of the flows of global money at multinationals, no one really knows who owes what, or to whom.

The committee report has highlighted public anger but is light on suggested wider reforms. Its call for greater transparency signals why it had such trouble. MPs were hindered by the statutory obligation of taxpayer confidentiality, with Google providing a limited amount of additional information which was simply not enough for the committee to conduct a full assessment. No surprise then that one of its recommendations is that the HMRC tax authority consult widely to alter the rules protecting corporate taxpayer confidentiality

HMRC also received criticism about how the investigation was carried out, and was urged to devote resources to ensure investigations are completed in a timely manner, while being clearer about the costs and benefits of its investigations.

Writing on the wall? abductit, CC BY

Although many have defended the actions of HMRC the committee report found several areas of contention. The Google case was centred on complex "transfer pricing" rules which govern how companies deal with transactions between its divisions. A good example is the perfectly legal "double irish" scheme used by Microsoft, Google and others.

According to HMRC, the average duration of a transfer pricing investigation is 22 months, yet the Google investigation took six years. You might argue that HMRC should take its time to reach an accurate settlement figure, rather than rush to incomplete assessments, but it couldn't provide the committee with the total cost of the investigation, which meant MPs were able to question HMRC's broader claim that it recoups £75 for every £1 spent.

The committee also took exception to Google's calls for tax simplification and public statements that "governments make tax law, the tax authorities independently enforce the law, and Google complies with the law", contrasting this with its admission that it would not be altering its business practices. The committee report said:

> *Google told us that it had 'looked at our structures to make them simpler and clearer,' but admitted that nothing of substance had changed in how it organises its tax affairs as a result of HMRC's investigation.*

Information void

The main source of ire from the committee related to the lack of information available as opposed to the actual amounts involved. There needs to be a large amount of trust placed in HMRC that the calculation was correct, which is frustrating to the public and to the parliamentary committee. There are moves to take action, and the report makes note of the "E6 project" with other tax authorities designed to address the problem of digital multinationals shifting profits to tax havens.

In April, the European Commission will announce plans to ensure multinationals with annual turnover above €750m to disclose their tax bills.

Beyond these measures, however, the report recommendations do have flaws in assuming HMRC is able to allocate further resources in this area. HMRC's overall budget has been reduced over a number of years. In order to conduct complex transfer pricing investigations the department must be properly resourced. The report acknowledges this disparity yet assumes more resources can be allocated.

Other potential reforms were also overlooked. There have been calls to change the focus to taxing sales within a country, a suggestion that the report failed to address. In addition, other departments may be able to assist HMRC in its operations, for example Judith Freedman has suggested that a branch of the National Audit Office could provide scrutiny expertise in a system similar to the US' Joint Committee on Taxation.

Penalties

Despite the problems, HMRC was confident that it had obtained the full tax due based on the evidence. It couldn't however sanction Google for underpayment as part of the settlement. To do that, HMRC must not only demonstrate that the amount of tax paid was incorrect, but also demonstrate that insufficient care was taken in producing the self-assessment.

That's why the committee of MPs indicated strong support for the introduction of a clause to the Finance bill (2016) which would remove the insufficient care element and would allow HMRC to apply penalty payments in similar cases in the future. Of more concern to Google will be a suggestion that HMRC should monitor the outcome of other tax authorities' investigations into the company, and re-open its own probe if new evidence becomes available. That made the French move all the more interesting.

The committee's final recommendation is a simple one. HMRC should press for changes in international tax rules. And in truth, there have been efforts globally to combat tax avoidance and tax evasion, for example at the G20 and by the OECD. Domestically, the diverted profits tax, the so-called "Google Tax", which came into effect in April 2015 is forecasted to raise £300m in 2016-17.

And yet aggressive tax planning by multinational companies remains. This leads to the argument that the means by which to ensure full payment of taxes is to change the law accordingly and to actively enforce regulation in the most transparent way possible. Otherwise, we can expect more frustrated MPs on parliamentary committees publishing critical reports long into the future.