TAX ON MULTINATIONAL BUSINESSES

HMRC brings some much needed balance to this debate. I imagine that there may be some frustration among tax professionals about the media interest presently given to tax issues. Accuracy, and indeed common sense have been early casualties in the pursuit of headlines by politicians (and the media) on tax issues.

There have been many claims that various multinational companies did not pay much tax last year with the clear implication that they have been involved in some dodgy tax arrangements which have relieved them unfairly from their tax obligations or that they have done something else which is equally morally repugnant. The possibility that in these difficult times, the company might have made significant losses which have not yet been fully recovered, or has continuing and substantial capital expenditure are factors which do not even get onto the radar.

Furthermore, a multinational, by its very nature, operates in various parts of the world and may make profit in other countries. However, it is simply assumed that if they operate in countries which charge lower taxes, the operations there must be all part of some overall plan to deprive the UK tax authority of their entitlement.

Anybody would think that we do not have any transfer pricing legislation or that HMRC is completely unaware of the tax saving possibilities of transfer pricing (which the journalists naturally understand fully). That is both ill-informed and insulting.

Most companies do their very best to obey the law when dealing with their tax affairs. However, others who use deception and concealment in their tax affairs are not seeking to obey the law – they are trying to break it and they should be vigorously condemned and pursued. But it is very important that we understand the difference – if lawful conduct is not to be distinguished from unlawful conduct, we are not safe in our beds.

It is therefore with some satisfaction that I read the HMRC statement on this subject on 11 October. It refers to the recent stories in the media about multinationals and confirms that HMRC is alive to the risks and that it deploys specialist professionals to ensure that multinationals comply with the rules.

Apart from the references to people ‘paying the right amount of tax’ (which presumably is the amount that HMRC would like you to pay), the HMRC statement is fair and balanced and should be read by all those who wish to pontificate on the matter.

These two sentences really say it all:

‘Company accounts include references to tax liabilities but it is not generally possible to identify from the accounts how much UK corporation tax has been paid. So an apparently low tax rate in the company’s accounts might indicate tax avoidance, it could also be the case that the business has acted entirely properly, by making use of specific tax reliefs and incentives designed, for example to encourage capital investment or research and development.’

HMRC has got it exactly right but I fear this may not be a convenient message for either the media or the politicians. *HMRC’s statement is set out in its issue briefing titled ‘Taxing the profits of multinational businesses’, available via www.lexisurl.com/taxingMNCs.*

Contact

Peter Vaines
Barrister
T +44 20 7655 1780
E peter.vaines@squiresanders.com