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10 May 2019

Dear Ben

Public Consultation Document: What is Driving Tax Morale?

PricewaterhouseCoopers International Limited on behalf of its network of member firms (PwC) welcomes the opportunity to comment on the Public Consultation Document on *What is Driving Tax Morale?* as per the invitation for public input dated 10 April 2019.

The new section using OECD tax certainty data to consider tax morale among businesses operating in developing countries provides a useful addition to the updated material on individuals. We believe tax morale is an important contributor to the effectiveness of the tax system. It is an area in which we are keen to share our views and perspectives, as one of the world's leading professional services organisations with activities in many of these as well as developed countries. We will restrict our comments here to some of the key elements of the new area of focus for this report, but would be very willing to engage in a broader

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dialogue with you on tax morale more generally. In particular, we have identified a number of matters on which you raise important points but believe that further thought and discussion would be useful.

We also believe it is important to highlight the extent to which tax evasion/ fraud may be interwoven with lower morale amongst those who try to comply with the tax system - asking why they should be required to pay much higher amounts than others who are not prevented from 'cheating'. Many tax gap analyses compiled by individual countries, but also by the European Commission¹ identify that 'tax avoidance', in terms of aggressive tax planning not in accordance with the spirit of the law, is not nearly the size of evasion/ fraud. VAT/ GST fraud is often a major part of that as is perhaps also inferred by the report's reference to omitted sales. Beyond that, a larger part of the balance is usually attributed to individuals rather than businesses.

However, the global nature of the current business world together with the complexity and competing priorities of national laws - including tax competition amongst nations - is such that it is not always clear where lines should be drawn. That has undoubtedly affected tax morale in recent years but is now being addressed - the difficulty being in where to redraw the lines to balance expectations and burdens.

Context

The use of the tax certainty survey and data is an interesting starting point for addressing business tax morale. Uncertainty is a factor that would contribute to lower tax morale but it may not be the most important factor. It is difficult to list or easily classify all the factors but we could perhaps at this stage suggest a few ideas for further discussion.

In addition to the contributing items set out below, we think it would also be necessary to consider these in the context of the relationship, both in overall morale and in any particular factor, between the size of businesses, the domestic/multinational nature of businesses and as against individuals. There may be a knock-on effect from one to the other - if morale is high in large multinational enterprises, smaller businesses may as a result feel more, or less, motivated and that may also apply in relation to the impact on individuals. Multinational businesses may or may not try to instil an ethos across the organisation. Large cross-border businesses may comprise small local businesses in some countries. All businesses are run by individuals whose own tax morale may be impacted on a wider scale. Where cultural change is required, this can be very hard to achieve, particularly bearing in mind some of the matters we discuss below.

Changes in tax morale also need to be considered alongside a wide range of evolutionary changes, including those more openly impacting tax. These would encompass things like moves to improve sustainability in tax systems, to build domestic resource mobilisation in generating tax revenues in developing countries, to harness technology in tax administration and to improve relationships, both between tax administrations and between a tax administration and its taxpayers.

Trust in the tax system

It may be appropriate to distinguish different components of overall trust in the tax system as involving trust in the political system, trust in the rule of law, and trust in the actors, i.e. taxpayers, tax administrations and tax advisers.

The level of trust in the tax system might begin with an assessment of the equity in the tax policies taken by governments (and others) and go on from there to consider its efficiency, complexity, transparency and so

¹ https://ec.europa.eu/taxation_customs/news/vat-gap-report-2018_en

on. A number of attempts at guiding principles for good tax policy have been postulated and are beyond the scope of this letter. The Ottawa principles in relation to the taxation of e-commerce might be a relevant subset of such principles.

The levels of 'voluntary compliance' with that system and the tax gap that might otherwise arise are at least partly attributable to the levels of trust taxpayers and others have in the systems and people involved in administering them. Some intrinsic components to these are explored below but the wider context should not be forgotten.

Assisted or enforced compliance lies partly within the framework of business taxpayers, taxing authorities and ultimately, on occasion, the courts. Advisers also have a part to play in helping taxpayers to comply and exercise their right to manage their tax affairs within the law. To some extent all those stakeholders often have to interpret the tax law. A shared effort in this regard between tax authorities, taxpayers and advisers might aid or quicken this process through, for example, cooperative compliance, International Compliance Assurance Programme (ICAP) and multilateral advance pricing agreements (APAs). The levels of governance that take decisions out of the sole hands of one individual and impose levels of review is in our view critical to restore trust by the public at large in the tax behaviour of companies. The presence of tax control frameworks in businesses imposes a check on how detailed these are and how they should work. The determination and publication of business tax strategy adds an additional layer on top, whether voluntarily or within specific required parameters. For international businesses, BIAC has produced responsible business tax management principles that provide a useful guide.² An update of the OECD Guidelines for multinational enterprises to incorporate more guidance on tax governance frameworks would be welcomed.

International collaboration and agreement

Governments enact laws domestically (and sometimes collaboratively, through consensus, agree to adopt them, as with guidelines on transfer pricing etc) and enter into treaties with other nations so as to determine how companies and other taxpayers should be taxed. Relieving, largely through treaties, the double taxation that can often arise from the asymmetry in domestic tax rules remains a critical component of tax morale in businesses operating cross border. The concerns in this respect have been exacerbated with the increasing prevalence in countries adopting or considering gross revenue or withholding taxes. In practice, even if a treaty effectively allows for a tax credit, or in the case of an exemption a refund of the tax paid at source, obtaining the relief can be time consuming and, frankly, morale sapping.

Double taxation, and the uncertainty and costs around relieving it, may have a negative impact on some impacted taxpayers, and relieving these issues may help improve morale. There are signs of dispute resolution through mutual agreement procedures (MAP) being generally more accessible and timely following BEPS, with the help of improved domestic processes and the MLI or new treaties. It is hoped that mandatory arbitration will further prevent disputes from over-running. The resolution of disputes through better cooperation between jurisdictions without the need to resort to MAP is also being more widely addressed through different bodies, like the Forum on Tax Administration. But the prevention of disputes at an earlier stage through the use of cooperative compliance, an appropriate rulings or clearance system, APAs, etc would relieve the pressure on these mechanisms.

² http://biac.org/wp-content/uploads/2014/05/07-Final_5_September_BIAC_Statement_of_Tax_Principles_for_International_Business.pdf

Collaboration between tax administrations is also now being enhanced as a result of automatic information sharing as well as the peer reviews of responses and information on request standards. Country-by-country reporting by businesses to tax administrations might be considered as part of these automated processes and it is hoped that initiatives like ICAP will help demonstrate that with the involvement of businesses, collaboration between jurisdictions can both be efficient and lift morale.

Improved systems and cooperative compliance

On a domestic basis, cooperation between businesses and tax administrations can also be advantageous for all stakeholders. Morale may be dependent in part on active involvement in the development of systems and processes as well as the efficiency of the resulting reporting, settlement and payment of tax appropriately due. Some degree of advance risk assessment may be useful in addressing resource constraints, whether through a level of reliance on elements of tax control frameworks (TCFs), third party tax assurance or similar factors.

The appropriate use of technology will be critical, particularly in relation to any particular country (cross-border issues may be more challenging). Society should embrace all the advantages new technology brings, but it is still very important to build relationships between taxpayers and tax administrations to enhance trust. The level of automation could lead to an improvement or a worsening of morale, depending on ease of use, accuracy in reflecting the law and intervention when things don't go smoothly. Local business involvement will be a vital element here. Things like blockchain may have the potential to work globally, but not all countries may have the same capabilities, prevalences and attitudes at the same time. While learning from experiences in different countries would be recommended, testing against country characteristics is paramount (including socio-economic factors and even morale itself).

The ease of paying taxes has appeared to be an interesting contributor to tax morale. New tax software, real time reporting systems and data analytics are changing the way companies meet their tax compliance obligations and how tax authorities monitor and enforce those obligations, as our latest Paying Taxes report shows.³ A growing number of countries have been keen to discuss the trends in perceived business morale and the investment effect of addressing the amount of time needed for business to comply, the number of tax payments to be made and the post-filing index (the ease of claiming a VAT refund and correcting a tax return) as well as the overall Total Tax Contribution rate.

Different taxes, rates and incentives

The questions as to what is taxed and to what extent are fundamental drivers for tax morale.

We see more generally that tax rates within particular ranges tend to be considered acceptable by taxpayers while those above that may lead to a greater focus on tax planning (or some studies have suggested avoidance or evasion). This is probably more relevant to individuals than larger businesses⁴.

Much has been said about the granting of tax incentives to attract investment in developing countries that would be forthcoming in any case. There could be an impact on morale in situations in which incentives were to be provided discriminately but, if it were needed, those countries are now more keenly aware of the arguments and potential trade-off.

³ <https://www.pwc.com/gx/en/services/tax/publications/paying-taxes-2019.html>

⁴ <https://www.gov.uk/government/publications/researching-the-drivers-of-tax-compliance-behaviour-among-the-wealthy-and-ways-to-improve-it>



The mix of taxes imposed by a particular jurisdiction is likely to be a major contributor to tax morale. There is a careful balance to be struck - for example in relation to sin taxes (duties on perceived consumer 'bads', like tobacco and alcohol) there will be those whose morale will rise and those for whom it will fall. The OECD has done quite a lot of work on the efficiency of different taxes with consumption and property taxes tending to fare better than other taxes - whether that filters through to morale would be an interesting facet to consider.

Overall, we believe that tax morale has been an under-studied topic. Better insight into tax morale may be an important contributor to the efficiency of future tax policy. It should be part of the forward-looking agenda that considers how the international tax system, as well as the domestic tax regimes in particular countries, could be improved, in relation to both the current tax mix and those new taxes that will likely follow.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Stef van Weeghel', with a long horizontal stroke extending to the right.

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