A fair share

PUBLIC PERCEPTIONS THAT BIG BUSINESS AVOIDS PAYING ITS FAIR SHARE OF TAX DO MOST COMPANIES AN INJUSTICE, ARGUES THE CONFEDERATION OF BRITISH INDUSTRY. **GRAHAM BUCK** FINDS OUT WHY.

Does UK plc get an undeservedly bad press on the sensitive issue of its tax contribution to the British economy? The Confederation of British Industry (CBI) believes so and insists that its members bear more than their fair share of the tax burden. In April it launched Tax and British Business: Making the Case, a report that the industry body describes as an overdue contribution to the public debate on tax policy.

At a briefing to launch the report, held at the London offices of the think-tank Policy Exchange, it was acknowledged that attacks on business for underpaying or avoiding tax have grown more vehement of late. The chorus of criticism is no longer restricted to protest groups such as the Occupy movement and UK Uncut. They have been joined by such unlikely bedfellows as Max Hastings of Middle England's bastion the Daily Mail, who recently wrote that "the corporate sector gets away with fiscal murder" in finding ways to minimise its tax bill.

But CBI director-general John Cridland took the opportunity to stress that business contributions continue to underpin the majority of tax revenue collected by the government, and insisted that most companies played fair on tax. "Conditions are becoming steadily tougher for the small minority that do not," he added.

As the CBI's report points out, British businesses paid nearly £163bn in taxes in 2010/11 – or more than a quarter of the UK's total tax revenues of £551bn. The overall figure comprises employers' national insurance (£55.9bn), corporation tax (£42.1bn), other taxes (£27.1bn), business rates (£23.8bn) and fuel duty (£13.7bn).

However, the burden of corporation tax is spread very unevenly, with the top 1% of companies contributing 81% of the total, and 60% of small companies paying no corporation tax at all.

Cridland is confident that moves towards a fairer tax system for business are already under way. "In the last decade, the prospects for investment in the UK economy were being damaged by an uncompetitive tax system," he said. "That policy is at last being reversed by the coalition government, even if its decisions are not always popular."

The decision of the chancellor, George Osborne, to accelerate reductions in corporation tax over the period to 2014 "sends out a powerful message" about the UK as a place to do business. Barring similar moves by other countries, the UK will by then have the fourth-lowest corporation tax rate among G20 members at 22%, although Cridland added that the CBI's long-term objective was to see the rate fall to 18% eventually.

Despite its tax contribution, and the growing need for UK tax policy to be internationally competitive, the business world has proved both slow and reluctant to join the public debate. "We are much misunderstood, but we only have ourselves to blame," said Cridland, who described publication of the report as the first stage of a fightback.

One of the main issues tackled by its publication is that of tax management. The CBI hammers home the point that it is not only tax evasion (deliberately withholding taxable income) that is illegal. Abusive arrangements (those that are highly artificial and serve no commercial purpose) are equally unacceptable and deserve to be "weeded out". In contrast, the

report argues that the practice of tax management is perfectly legitimate and cannot be equated with abuse or evasion. Bracketing them together is "a convenient myth" spread by the critics of business, according to Cridland.

As "a well-established principle of British law", tax management instead attempts to contend with the complexities of the UK tax rulebook, which is one of the largest in the world. The aim is to ensure that the rules are complied with but that at the same time any available tax reliefs can be taken advantage of.

The report notes the recent discussion, most notably in the House of Commons Public Accounts Committee, on whether HMRC and major businesses have agreed so-called "sweetheart deals", under which tax revenue has been forgone. This has, in turn, sparked debate on whether such deals are contributing to an ever growing tax gap (the amount of taxes that government should arguably collect against the amount that it actually does collect).

However, the tax gap as estimated by HMRC has been shrinking in recent years. For example, it fell from £39bn in the 2008/09 tax year to £35bn in 2009/10.

"Some of the tax gap is represented by honest disagreements over the interpretation of tax law," added Cridland. "Rather than degenerating into disputes, they have ultimately seen common-sense agreements being reached and the UK's approach is generally regarded as best practice around the world."

The CBI chief also spoke of clearly differentiating between genuine low-tax regimes for business offered by countries such as the Netherlands and Ireland on the one hand, and more secretive regimes on the other.

"I strongly believe in the tax sovereignty of nations and the right of UK companies to operate in low-tax regimes," he said. "But it's also an important principle of tax transparency that illegal activities should be stamped out." The OECD has done good work here in encouraging greater co-operation and exchange of information between governments.

Cridland said that the issue of transfer pricing had also come under scrutiny in recent years, with the policies employed by a number of major international companies with extensive intellectual property coming under question.

So-called "black box" arrangements that serve no genuine commercial purpose have attracted particular criticism and tarnished genuine business activity. "Businesses are becoming more keenly aware of the reputational risk associated with black box arrangements," Cridland said.

The briefing included a panel discussion at which John Whiting, policy director of the Chartered Institute of Taxation (CIT), agreed that clearer rules on taxation and simplification of the infamously long tax code were both vital. Whiting, who was chosen by the government as first director of the newly created Office of Tax Simplification (OTS), said that constant changes to the system always resulted in confusion and greater complexity. He hoped that more companies would launch share schemes, which played well to the government's agenda for greater enterprise but were widely regarded as being overly complex.

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The Financial Times' economic correspondent, Vanessa Houlder, said that there was a widespread general perception that companies were not paying their fair share of tax. The belief didn't stand up, she said, but public morale suffered from reports of rich and powerful individuals escaping unchecked with abuses of the tax system, in addition to revelations of the aggressive tax avoidance schemes attempted by Barclays.

"Individual companies aren't engaging in the debate, the general view being that there's no such thing as a good tax story," she suggested. "If business is to win the argument it must emphasise the benefits to jobs and growth of improving tax policy. And at a time when there's a clamour for MPs to be more transparent about their tax affairs, it must also explain why companies shouldn't have to disclose even more than they do already."

Will Morris, director of global tax policy for General Electric (GE), said that both the current government and the previous administration deserved credit for recognising the need for the UK to make the tax system more workable. "HMRC has gone into boardrooms, spoken directly with people and helped to move tax up the agenda," he noted.

However, he also observed that the storm of criticism triggered by the Barclays schemes had obscured the fact that they were perfectly legal. The government had long known about them, he said, and had had the option of acting at a much earlier stage rather than introducing legislation retroactively.

"It has pained me to read about the public's loss of trust and its assumption that big business avoids tax," said John Bartlett, BP's group head of tax. "It's time that we joined the conversation."

He added that the reality was that most of his work time was taken up by struggles with compliance and the requirements of an "extremely complicated" tax code. However, HMRC had won high regard around the world for its success in changing boardroom attitudes towards tax avoidance.

Among questions put to the panel was whether the Treasury had analytical tools to carry out a dynamic analysis of what reducing the tax burden would achieve. David Gauke, current exchequer secretary to the Treasury, said that a specific study by HMRC that employed modelling had concluded that the increase in the top tax rate to 50p had generated no more than an additional £1bn at most, and possibly nothing.

"But there have been problems in the past with Treasury predictions proving overoptimistic, so figures have to be treated with a degree of caution," he said.

Concern was expressed that the forthcoming general anti-abuse rule (GAAR) might in time be regarded by the public as ineffectual. "The GAAR is not going to hit what the public thinks of as tax avoidance," said Whiting. "The fear is that perhaps in two or three years' time there could be a backlash that the GAAR hasn't met some of the publicly expressed concerns and therefore there is a risk that some of the safeguards that are built into it are suddenly taken away."

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