Fair Tax

Fair Tax Mark Criteria Notes

UK-based Multinational business Standard

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I. Foreword

Fair Tax

This UK-based Multinational business standard was first released in 2014. Redesign and minor amends undertaken April 2019.

Placing business at the heart of society

Tax is an issue whose time has come.

In November 2013, the Institute of Business Ethics reported that:

> *"Worries about tax avoidance have shot to the top of public concerns about business behaviour, replacing executive remuneration by a wide margin, according to the latest survey of public opinion conducted for the Institute of Business Ethics by IPSOS Mori."* [1]

The Fair Tax Mark, which has grown out of the campaign for greater corporate tax fairness that has been supported by a wide range of NGOs, civil society organisations, trades unions and churches, reflects that concern.

However, in addition to outlining a code of corporate ethics when it comes to tax, we encourage and reward the use of these principles when they are put into practice.

That's our reason for being and what is unique about what we do. In that sense we are ahead of the curve on this issue because nothing like the Fair Tax Mark has existed until now.

Principles behind the Fair Tax Mark

The Fair Tax Mark's guiding principles when it comes to corporation tax are that:

– a business / organisation should pay the right amount of tax (but no more) in the right place at the right time, according to the spirit of the law of the jurisdiction in question;

– a business / organisation should be able to be held to account on its tax behaviour by the public, based on the disclosure of sufficient information.

It should be noted that we are not alone in thinking that these issues are important. The principles we are promoting directly relate to two of the seven tax principles that the CBI promotes, which say:

– UK businesses should only engage in reasonable tax planning that is aligned with commercial and economic activity and does not lead to an abusive result;

– (Firms should) seek to increase public understanding in the tax system in order to build public trust in that system, and, to that end:

  - *they should consider how best to explain more fully to the public their economic contribution and taxes paid in the UK;*
  - *this could include an explanation of their policy for tax management, and the governance process that applies to tax decisions, together with some details of the amount and type of taxes paid.*[2]

Businesses with the Fair Tax Mark bring these aspirations to life and seek to:

- pay the right amount of tax (but not more) in the right place at the right time. By following the spirit and not just the letter of the law, using only legitimate reductions, and not abusing tax havens or avoidance schemes;

- set the standard for transparency. By publishing their profit and loss statement even if not required to do so by law, reporting economic activity and taxes in different countries (if applicable) and explaining tax charges clearly;

- lead the pack on responsibility. By committing publicly to responsible tax practices and disclosing the supporting information as required.

Tax and the bottom line

Tax contributions are a key part of the wider social and economic contribution made by business, helping the communities in which they operate to deliver valuable public services and build the infrastructure that paves the way for growth.

More and more business now recognise that they need to consider their triple bottom line, and now manage and account for their social and environmental impacts, as well as their conventional economic impacts.

The founders of the Fair Tax Mark have advocated for this broader approach for some time; in 2006, they were key contributors to a flagship publication on tax and corporate responsibility[3] which did much to advance the issue and concluded that:

- there is increasing attention and importance being given to the wider economic impacts that companies have on their stakeholders;

- the interests and involvement of stakeholders in the debate about corporate tax policies and planning is transforming the agenda from one driven primarily by the observance of legal and financial standards, to one focused on economic accountability to stakeholder groups;

- a significant barrier to the integration of CR principles into tax policies and planning is the cultural framing of tax as a specialist, technical and non-core business activity; and

- increased transparency of corporate approaches to tax is primarily an opportunity to build more robust tax strategies and to generate greater confidence among stakeholders.

These conclusions are now widely accepted across the political spectrum, and have informed the Fair Tax Mark's mission and purpose, which is to:

- encourage the development by companies (and other organisations) of robust tax strategies that reflect sound corporate governance principles, fair play, integrity and an approach to business that all stakeholders can trust;

- champion open and honest reporting of the implementation of these policies, which should be delivered in a readily accessible and (where possible) non-technical manner;

- strengthen trade with companies that adopt such progressive strategies.

By doing so we are unambiguously seeking to boost the fortunes of those companies that pay fair tax and are transparent and fully accountable about it. For us, this is evidence that they are good corporate citizens who are willing to pay their way in the world for the benefit of the common good, of which they form a valuable part. We are unashamed about that: doing the right thing should pay a return to those who lead progressive change.

The development process

The Fair Tax Mark criteria are the result of extensive research and development, involving a broad range of stakeholders including civil society NGOs, business representatives and industry practitioners. Input has also come from our group of independent technical advisors drawn from academia and the professions.

As part of this process, feedback on at least two drafts of this document was invited via open consultation and the responses incorporated into the final version. The first consultation of two weeks was in June 2014, with an additional week for the second draft in September of the same year.

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II. Background to the UK-based Multinational business Standard

These criteria notes provide guidance on our UK-based Multinational business standard. It sets out what we are seeking to measure, and why.

Companies are awarded varying points for meeting each criterion, up to a potential total score of 45 points. The term 'company' in this context refers to the entire corporate group of the multinational, and not just the company that heads the group.

Companies can achieve a Fair Tax Mark by scoring on or above the threshold of 29 points.

The overall assessment is split into four parts:

1. Transparency

2. Country-by-country reporting

3. Tax policy, implementation and compliance

4. Tax rate and disclosure

Multinational complexity

The Fair Tax Mark standard for UK-based multinationals is designed to be consistent with the standard that applies to companies that only trade in the UK, especially in the areas of transparency, tax rate and disclosure.

However, the added complexity of multinational enterprises brings other factors into play. The complexity is created by the international nature of such organisations, and by their ability to choose how to structure their supply chains across a number of different countries and tax jurisdictions.

In contrast to the situation for solely-UK based companies, cross border trade and activity offers the potential for multinationals to avoid tax by deciding to shift profits between higher and lower tax locations, including into tax havens and via companies that are not engaged in economic activity of any substance. This can result in substantial losses of revenue to the higher tax countries and is a serious systemic issue, that is currently being worked on by the OECD in what they call their Base Erosion and Profit Shifting project.

These criteria address this issue in two ways. Firstly, the standard places a large emphasis on rewarding multinationals that are moving towards providing full country-by-country reporting. Only when companies report fully in public the profits they make (and the taxes that they pay in every single country where they make them) can any evidence of profit shifting come to light and companies be held accountable by the citizens of the countries where their actions have an impact.

Secondly, the standard rewards multinationals for stating and proving that they do not use tax havens for tax avoidance purposes

Going above and beyond

For good reason, the Fair Tax Mark requirements exceed the expectation of both UK company law and what many companies might voluntarily disclose at present. This is because the tax information that is currently required by law, common practice and the focus of the International Financial Reporting Standards, does not answer the reasonable questions that journalists, investors, and other users of accounts have with regard to this issue.

Ultimately we believe that this additional data must be in the audited financial statements; but whilst this data becomes familiar, we consider publication in additional statements to be acceptable.

That said, it is obviously important that we do not make any requests of a company that it is unreasonable for them to comply with. To make sure that this is the case, we have noted with care the likely requirements for country-by-country reporting now being proposed by the OECD and as far as possible have tried to align our requests with those that companies will need to comply with for tax purposes in the near future.

Finally, although we have designed these criteria to be as fair as possible, and applicable across industries and sectors, there may still be exceptional circumstances whereby what we consider to be abusive behaviour does not prevent a company from scoring enough points to secure a Fair Tax Mark. In this situation, we reserve the right to the final say and to exercise discretion.

Aims and benefits of the Fair Tax Mark

The Fair Tax Mark is about acknowledging, assuming responsibility for and being transparent about the impact of a company's taxation decision-making and policy.

The Fair Tax Mark is an indication that a company is accountable to a range of stakeholders when it comes to tax.

As such, the Fair Tax Mark is recognition that tax is more than a quantitative issue about the amount of tax paid; it is also an issue of qualitative importance and central to business culture and practice.

The basic premise of the Fair Tax Mark is that a Fair Tax business or organisation:

– has adopted a fair tax policy that suggests that it is seeking to pay the right amount of tax (but no more) in the right place at the right time, where 'right' means that the economic substance of the transactions undertaken coincides with the place and form in which they are reported for taxation purposes;

– is transparent about who owns it, what it does and where it is;

– provides sufficient accounting data to suggest that its fair tax policy has been put into practice.

The Fair Tax Mark criteria support responsible business in two ways: they help protect an organisation from reputational and financial risk, at the same time as projecting an image of openness, honesty and trustworthiness to consumers and investors.

This UK-based Multinational business standard has been designed for use by listed and private company groups, where the parent company is UK-incorporated and the group has at least one subsidiary in another jurisdiction.

Note: Companies that have made losses over multiple years will be assessed on a case-by-case basis, but the losses will generally be aggregated into the data and no special treatment is needed.

III. Assessment criteria

This section explains the assessment criteria used in the UK–based Multinational business Standard scorecard (set out in section IV).

Part 1: Transparency

The information required for criteria 1–5 may be obtained from: the company website; advertising or brochures; directories; the annual return form submitted to Companies House or the FCA.

1. Report and accounts

Question [one point available]:

Does the company publish a full (i.e. including a profit and loss account and notes) set of accounts even if not required to do so by law?

Purpose

This criterion ascertains whether or not the company places on public record the full set of accounts that it is required to give to its shareholders.[4] Usually this would involve the accounts submitted to Companies House, but a set of financial statements permanently uploaded to its website is an acceptable alternative. If the company does not publish its accounts in any of the above ways, the information required to award a Fair Tax Mark is not available and the assessment cannot continue.

Information required

A published copy of the most recent financial statements or accounts of the company.

2. Company activity

Question [one point available]:

Is there clear evidence of what the company does either within its accounts or on an easily identifiable website that it runs?

Purpose

This criterion assesses whether it is possible to find out what a company does. The amount of public information required by law on this issue can be very limited. However, it is difficult to form any objective opinion on a company, its accounts and its tax payments without a good idea of what the company actually does. There needs to be sufficient information to understand the nature of the company's trade.

Information required

Evidence of what the business does.

3. Trading location

Question [one point available]:

Is there clear evidence of a trading address (as opposed to a registered office address), or a statement that they are the same in the accounts or an easily identifiable website that the company runs?

Purpose

This criterion assesses whether it is possible to clearly identify the company's place of trading. The only address that a company has to record on public record is that of its registered office, but in many cases it does not trade from that address. Unless information on where it actually trades from is made available, it can be very difficult to find out where a company might be contacted, contravening the principles of transparency.

Information required

Evidence of the address at which the business trades if distinct from registered address.

4. Beneficial ownership

Question [one point available]:

Is it clear who the ultimate beneficial owners of all shareholdings of more than 10% in the company are, either from a statement in the accounts or at Companies House?

Purpose

This criterion assesses whether it is possible to ascertain who ultimately benefits from the trade a company undertakes. Beneficial ownership is a core transparency issue because public knowledge of the people behind a business reduces the risk of fraud and tax evasion. It is also vital to the establishment of a relationship of trust that is the precondition of a successful market economy.

Information required

Evidence of the names and addresses of the ultimate beneficial owners of the company. Each person owning more than 10% must be clearly identified and if the owner is a company or trust, the ownership must be traced through that company or trust to the real people who benefit from those entities until the beneficial ownership of the company is made clear.

Exception

Some companies such as cooperatives and community interest companies may operate under different ownership structures, where many members ultimately own them or their 'share' capital does not represent ownership. In these cases, if the business is transparent about its ownership structure then it may be judged as fulfilling this criterion.

5. Management

Question [one point available]:

Are the names and addresses of all directors provided either in the accounts, at Companies House or on another public register?

Purpose

This criterion assesses whether it is possible to ascertain who manages a company. This is another core transparency issue as directors are responsible for ensuring a company fulfills its legal obligations. Knowing they are people who can be both identified and trusted is vital so that the company can be held fully to account for its actions.

Information required

Evidence of the names and addresses of the real directors of the corporate group is required. The names given must not just be those legally recorded as being directors, but also those who are used to giving instruction to those directors if this is the case.

Note: where directors have not disclosed addresses due to the risk of violence or intimidation, this will be factored into scoring.

Part 2: Country-by-country reporting

OECD recommendations to be published in September 2014 require most multinational companies to produce country-by-country reporting data. The Fair Tax Mark requires that this information should be available on public record.

The Fair Tax Mark accepts data that is consolidated either on a bottom-up basis (from the individual company up to the corporate group as a whole) or from the group down to companies, as long as in each case the figures reconcile to the main accounts.

In this section, the term subsidiary refers to all the legal entities of the corporate group (including dormant companies) that are reflected in the group consolidated financial statements. We do not recognise the concept of 'materiality', which allows some companies to provide limited or no information on subsidiaries that contribute less than a certain self-defined amount to the overall group finances.

6. Subsidiary information: basic data

Question [three points available]:

a) Does the multinational disclose a full list of subsidiary companies stating their name and place of incorporation? (one point)

b) Is the country of tax residence of each subsidiary disclosed, if different from place of incorporation? (one point)

c) A further point is given if a short description of the nature of the trade of the company is supplied. (one point)

Purpose

A multinational is, by definition, located in more than one country and is often made up of a group of related companies. In the interests of transparency it is vital that we know: where these companies are incorporated; what they are called; where they actually trade; and what they do. Unless we have this very basic data, we do not know what companies are even reflected in the company group accounts that are presented to shareholders. Nor do we know where the geopolitical risks within the group are, what potential tax structuring might be in use, where supply chains might be located, or how the impact of shifting international environments might affect the company, including with regard to tax.

Information required

The information required is noted in the questions and is designed to provide the information that answers the above questions.

7. Net asset/equity value and income, by subsidiary or by country

Question [two points available]:

a) Does the company disclose data on the net asset value or equity invested in each subsidiary, or a consolidated total for this sum for each country in which it operates? (one point)

(b) Is data on the net income or loss for the period provided for each of its subsidiaries, or a consolidated total for this sum for each country in which it operates? (one point)

Purpose

The answers to the questions in the previous section are useful, but give little indication of scale. Users of a company's financial statements will want to appraise with sufficient reliability not just where a company is located, but to what extent it is committed to a jurisdiction as indicated by its investment in that location, where its profits arise, how much tax is paid in each place, where it is located, where its people are and what chance there is of recovering assets in the event of risk arising.

Information required

This question focuses upon the first two indications of scale, the first being the net investment by the group in each subsidiary, or alternatively, by consolidated total for a jurisdiction. The second indication relates to net income or loss arising in each subsidiary, or again, by consolidated total for the jurisdiction in which the subsidiaries are located.

8. Disaggregated tax data, by subsidiary or by country

Question [one point available]:

Does the company disclose the current tax charge made by each subsidiary for each trading period, or a consolidated total for this sum for each country in which it operates?

Purpose

The Fair Tax Mark believes that a company should publish sufficient information in its financial statements to demonstrate that it has fulfilled its commitment to pay the right amount of tax, in the right place, at the right time. The information on profits sought in the previous section clearly provides part of the information required to assess this; in this section information on the current tax charge included in the income statement of the accounts of each subsidiary company is sought, with the alternative offered that consolidated information for each jurisdiction in which the multinational has an operation can be provided instead (so long as exceptions are not made).

Current tax disclosure is required for a number of reasons. Firstly, this is likely to give rise to a payment to a government, and this is critical when appraising the future cash flows of a company. Secondly, from the stakeholder perspective it is tax paid that matters. Thirdly, deferred taxation is always a conditional asset or liability, highly subjective, and uncertain as to timing, and for that reason of relatively little interest to most stakeholder users of accounts. Deferred taxation data is also, without indication of timing as to when liabilities might arise, of little use to investors either: they cannot appraise future cash flows based upon the very limited information that most deferred taxation provisions supply. As a consequence, the current tax charge is considered to be the best indicator of potential taxation liabilities both in the present, and future.

Information required

The current tax charge for each subsidiary company or, alternatively, consolidated data for each jurisdiction in which the multinational corporation has an operation, without exception.

9. Disaggregated employment data, by subsidiary or by country

Question [two points available]:

(a) Does the company disclose the average number of employees each subsidiary engages for each period together with a note on the basis of calculation used, or a consolidated total for this sum for each country in which it operates? (one point)

(b) Is the aggregate gross remuneration of the employees engaged during each period disclosed for each subsidiary together with a note of what the data disclosed includes, or a consolidated total for this sum for each country in which it operates? (one point)

Purpose

Like the information on asset investment and profit, data on the number of people employed and the amount that they are paid by subsidiary or jurisdiction is an indication of scale in both cases. The data does, however, provide a different indicator. Whereas investment and profits are both financial measures, the number of employees represents investment in human capital in a location. This is, very clearly, an indication of substance and a driver of economic activity out of which tax should arise. Furthermore, it also hints at another potential dimension of taxation on which data might otherwise be very hard to secure, which is the potential for the company to contribute to local taxation through payments made by its staff, or by the company on their behalf.

Information required

Information is sought on the average number of employees engaged by a subsidiary during the year. This should indicate the basis for the calculation, and the total gross remuneration that they enjoyed during that period, again with the basis of calculation being noted.

10. UK segment data

Question [two points available]:

Does the company provide consolidated data in its financial statements that at least differentiates UK trading and investment data as separate from data for all other territories?

Purpose

Multinationals are required to provide segmented data within their annual financial statements. They have a choice on the way in which such data can be presented. It may be provided based upon product or business division, or it can be provided geographically. We seek geographic data that does, at the very least, separate the UK as a head office location from all other parts of the company. When we refer to segment data of this type, we expect the main categories of the income statement to be analysed on a country-by-country basis – so that, for example, turnover is disclosed by segment, as are major elements of cost, profit before tax and taxation. The more information that is provided, the more points will be awarded

Information required

As noted above.

11. Consolidated and reconciled country-by-country data

Question [two points available]:

Does the company disclose trading data of the types noted in questions 7, 8 and 9 above on a consolidated basis by country with the totals reconciling to the group's consolidated accounts?

Purpose

There is no requirement at present in International Financial Reporting Standards that segment data disclosed in a set of financial statements fully reconcile with the income statement in those same accounts. This significantly reduces the value of any such segment information because all accounting data is verified by completeness, and this may be absent without that reconciliation process being demonstrated.

Information required

We expect that the company's disclosure of the types noted above, either by subsidiary or by jurisdiction, to reconcile with the statements included in the financial statements on the same subjects for the multinational as a whole, or that a reconciliation statement be included explaining the adjustments required to achieve that objective.

Part 3: Tax policy, implementation and compliance

12. Public statement on tax policy

Question [one point available]:

Does the company have a tax policy on its web site, or referred to in its accounts?

Purpose

This criterion assesses whether it is possible to find out what the company objectives are with regard to tax and rewards the statements for their content and aims. Every company has a tax policy, even if it has never explicitly recorded it; otherwise it could not manage its affairs properly. However, few companies state what their policy is and that means that in this vital area few companies can explain fully their motivations for certain decisions, nor can they be held to account.

Information required

A statement on the group's tax policy clearly marked as such.

13. Named director responsible for tax policy

Question [one point available]:

Has the company appointed a named director to have responsibility for its tax policy?

Purpose

No policy can be properly managed without a person being given designated responsibility for its implementation. Such is the significance of tax for a multinational that we believe that a main board director should have designated responsibility for this crucial aspect of its affairs.

Information required

The name of the main board director with responsibility for taxation within the company.

14. Report on compliance

Question [one point available]:

Does the company report on its effective compliance with its tax policy?

Purpose

Good governance procedures require reporting. We believe that this is true with regard to compliance with the company stated taxation policy.

Information required

A report on compliance with the company's stated taxation policy referred to in the annual financial statements, or on the company's website.

15. Tax policy statements

Question [five points available]:

Does the tax policy statement refer to:

(a) seeking to declare profits in the place where their economic substance arises? (one point)

(b) not using tax havens for tax avoidance purposes? (two points)

(c) not using marketed or abusive tax avoidance schemes likely to fall foul of the domestic tax avoidance legislation of any country in which the multinational operates? (two points)

Purpose

It is, of course, possible for a company to state that its tax policy is to pay as little tax as it can by relocating transactions to those places where the prospect of their risk of disclosure, or of being taxed, is minimised, whatever the underlying economic substance of the transactions that they undertake in that place. Whilst this might reflect their policy, it would not be suitable for the grant of a Fair Tax Mark (over which we always reserve the right to exercise discretion if there is evidence of a company's lack of suitability to receive such an award) and as such some indication as to the matters that we think should be referred to in a tax compliance policy is necessary.

Information required

A clear statement on tax policy within the accounts that includes explicit reference to:

– the intention not to abuse tax havens [5]

– the intention not to structure transactions artificially or abusively for the purpose of avoiding tax

Ideally this would state all the taxes it covers, be in the directors' report and cover some or all of the points noted below. However, having clear statements on the above on a website will be judged sufficient to fulfill the criterion in the first year in which a Fair Tax Mark is awarded.

Model tax policy notes would include a company's commitment:

- not to maintain any type of connection to tax havens when this is not a legitimate trading activity with the purpose of serving the local community;
- not to use marketed tax avoidance schemes requiring disclosure under DOTAS regulations (Disclosure Of Tax Avoidance Schemes);
- not use any arrangement that might fall foul of the General Anti-Abuse Rule;
- not to use Employee Benefit Trusts located in tax havens.

16. Use of tax havens

Question [four points available]:

Does the company use tax havens either as locations for subsidiaries or for transactions?

If the answer is no, then award four points and this section is complete.

If yes, but it is clear that the use reflects the economic substance of transactions really located in the territory, award four points and this section is complete.

If yes, but it is disclosed that all such companies are UK tax resident, score three points.

If yes, but the previous questions do not apply, score zero points.

Purpose

The use of tax havens has come to be seen as a proxy for tax avoidance by multinationals. For these criteria, a tax haven is considered to be a jurisdiction scoring over 60 points on the Tax Justice Network Financial Secrecy Index, which is available at https://www.financialsecrecyindex.com/

The score of 60 reflects the point where those jurisdictions included in the resulting listing appear to commonly have this label attached to them, and those excluded do not. Regular review of the underlying data ensures rankings are current.

It is not the intention to penalise a company for locating a trade in a tax haven if its true economic substance is located in that place. For that reason disclosure of the use of each subsidiary in a tax haven is encouraged, because it may result in that location being considered immaterial or inconsequential for the purposes of this criterion.

Economic substance might be indicated by the presence of a significant number of staff or net assets located in the jurisdiction. It may also be indicated by significant third party sales. The absence of these indicators is likely to indicate a token, or merely tax driven, presence in a jurisdiction.

In our opinion the notional ownership of assets such as intellectual property (with only limited resources available to manage them) implies that the asset is not really managed from that place and therefore is not an indication of economic substance being present in a jurisdiction.

Finally, as a tax haven subsidiary that is tax resident in the UK cannot be used for the purposes of corporation tax avoidance, we also take this into account. However, since it is likely that the motivation for the use of the tax haven in the latter situation will be either avoidance of another tax, or of regulation, we offer a reduced score in that case.

Information required

A full list of tax haven subsidiaries, their uses and tax residence as per the country-by-country reporting section.

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Part 4: Tax rate and disclosure

The Fair Tax Mark rewards companies for paying close to its expected rate of corporation tax and for making a fair contribution to society. It also recognises that there are legitimate reasons for this not happening on occasion and is careful not to penalise the fact that companies are also allowed various allowances and reliefs that may reduce their effective rates over a number of years.

To this end, the Fair Tax Mark places a major emphasis on the way a company explains its tax rate, awarding points for well-communicated numerical and narrative explanations of the tax charge regardless of the actual rate.

17. Average current tax rate

Question [six points available]:

Is the company's average current tax rate within one percentage point (six points awarded), 1–3% (4.5 points), 3–5% (three points) or 5–7% (1.5 points) of the expected headline rate?

This question scores a maximum of six points, but up to three points are awarded if the company explains its tax position well by scoring above six points in questions 18, 19 and 20.

Purpose

This criterion assesses the current tax rate that a company is paying and how that compares over time to the expected headline rate. We use a period of four years because it is considered long enough to reveal trends.

With a UK multinational the comparison is between global current tax rate and the UK headline rate. The UK rate is used because it is the benchmark that UK multinationals are currently required to reconcile their tax charge to. This is, then, a standard already established in existing financial reporting.

It is often not possible to ascertain where tax is paid from the global figure, which is why the Fair Tax Mark also requires additional disclosure on the impact of foreign tax rates and country-by-country tax data. However, comparing how close the global current tax rate is to the UK benchmark is still a good, if not perfect, indicator of good tax governance.

Information required

The company's total tax charges over the previous four years, split into current and deferred tax charges.

Exception

If there are years in which the company makes a loss this fact can be taken into account to ensure undue penalty does not arise when calculating tax rates.

18. Numerical reconciliation

Question [six points available]:

(a) Does the company provide a numerical tax reconciliation of its actual current tax charge to the current tax rate that might be expected for the year at the tax rate applying to the profits of the company? (two points)

(b) Does the company then reconcile its current tax charge with its total tax charge for the year by offering a reconciliation that explains the deferred tax provision for the year and other items that make up the difference? (two points)

Note: A bonus point may be added if at last 75% of the reconciling items in both parts of this process are precisely described e.g. using such phrases as 'The impact of capital allowance claims' or 'Reduced tax owing on capital gains arising'. Terms such as 'Other' or 'Losses' (without explanation being given) do not qualify in this respect.

An additional bonus point may be given for disclosure of how variance in different national tax rates has affected the overall rate, but reference to the countries where the main variances have arisen is essential if this point is to be awarded.

Purpose

This criterion assesses whether it is possible to understand a company's tax liability using its numerical explanations included in the financial statements

A business will not always pay an amount in corporation tax equivalent to the current headline tax rate multiplied by its declared profits before tax. There are many and varied reasons for the differences that arise, from tax allowances for capital investment and research and development through to the expenses that may be disallowed for tax purposes (e.g. those relating to business entertaining expenditure). If a company's tax liability is to be properly understood, the difference between the tax that might be expected to be paid in a period and the tax actually due for that period must be explained in a clear and transparent manner.

Information required

A numerical tax reconciliation note should be included in the accounts, which explains in sufficient detail the difference between the current reported accounting profits and the current tax rate. The reconciliation should be specific in the matters it refers to and not rely on vague descriptions. To this end, at least 75% of the reconciling items should be precisely described e.g. using such phrases as 'The impact of capital allowance claims' or 'Reduced tax owing on capital gains arising'. Terms such as 'Other' or 'Losses' (without explanation being given) do not qualify in this respect.

19. Narrative reconciliation

Question [two points available]:

Does the company provide a narrative explanation as to why its current tax charge differs from the charge expected for the year at the tax rate applying to the profits of the company in its main place of residence?

Purpose

This criterion assesses whether it is possible to gain further insight into a company's tax liability with a narrative explanation as to why the company did not pay the required rate of tax in the year, if that was the case. It provides further explanation to the numerical reconciliation of the tax note referred to above.

Information required

A narrative explanation should be included in the accounts, which explains in sufficient detail the difference between the current reported accounting profits and the current tax rate. This should refer to all the major items in the numerical reconciliation noted above and explain why they have arisen and what their consequences might be. The reconciliation should be specific in the matters it refers to and not rely on vague descriptions.

20. Deferred taxation

Question [two points available]:

Does the company provide a deferred tax note that:

(a) Explains the balance of those assets or liabilities with significant precision so that the cause of at least 75% of the asset or liability is clearly described? (one point)

(b) States clearly when those assets or liabilities are likely in practice to have an impact on the company's tax bill, or a statement that this is not known because it is more than five years after the balance sheet date? (one point)

Purpose

This criterion assesses whether it is possible to gain insight into a company's deferred taxation charges and provisions. The current tax charge is the subject of questions 18 and 19. The tax charge in a set of accounts can, however, also include a deferred tax charge and a company may have deferred tax assets or liabilities on its balance sheet.

Like the current tax charge, these need explanation if sufficient transparency is to be provided to ensure that the company's tax affairs can be properly understood.

Information required

A numerical analysis of the deferred tax charge for the period giving sufficient explanation of the reason for the deferred tax charge for the period; a narrative note providing further explanation of the deferred tax charge; a numerical analysis of the deferred tax asset or liability stating the reason why it has arisen; and a narrative note saying when the deferred tax asset or liability might have cash implication.

Exception

If a company does not have a deferred tax charge (asset or liability) and it is clear that it has been making current corporation tax declarations at almost exactly the expected current tax rate, then full marks may be awarded.

IV. Fair Tax Mark scorecard

Fair Tax

Each criterion in the 'Transparency' section scores 1 point.

In the 'Country-by-country' section, the term subsidiary refers to all legal entities of the corporate group. In the 'Tax policy, implementation and compliance section' section, we reward statements for both their content and aims.

In the 'Tax rate and disclosure' section, the emphasis is on the effective tax rate and the quality of the accompanying information provided.

A score of 29 and over can be awarded a Fair Tax Mark.

Summary score card		
Criteria	**Score**	**Notes**
Transparency		
1. Does the company publish a full (i.e. non-abbreviated) set of accounts even if not required to do so by law?	.../1	
2. Is there clear evidence of what the company does either within its accounts or on an easily identifiable website that it runs?	.../1	
3. Is there clear evidence of a trading address (as opposed to a registered office address), or a statement that they are the same in the accounts or an easily identifiable website that the company runs?	.../1	
4. Is it clear who the ultimate beneficial owners of all shareholdings of more than 10% in the company are, either from a statement in the accounts or at Companies House?	.../1	
5. Are the names and addresses of all directors provided either in the accounts, at Companies House, or on another public register? *Note: where directors have not disclosed addresses due to the risk of violence or intimidation, this will be factored into scoring.*	.../1	
Transparency subtotal	**.../5**	

Summary score card		
Criteria	**Score**	**Notes**
Country-by-country reporting		
6. (a) Does the company disclose a full list of subsidiary companies stating their name and place of incorporation? (b) Is the country of tax residence of each subsidiary disclosed, if different from place of incorporation? (c) A further point is given if a short description of the nature of the trade of the company is supplied.	.../1 .../1 .../1	
7. (a) Does the company disclose data on the net asset value or equity invested in each subsidiary, or a consolidated total for this sum for each country in which it operates? (b) Is data on the net income or loss for the period provided for each of its subsidiaries, or a consolidated total for this sum for each country in which it operates?	.../1 .../1	
8. Does the company disclose the current tax charge made by each subsidiary for each trading period, or a consolidated total for this sum for each country in which it operates?	.../1	
9. (a) Does the company disclose the average number of employees each subsidiary engages for each period together with a note on the basis of calculation used, or a consolidated total for this sum for each country in which it operates? (b) Is the aggregate gross remuneration of the employees engaged during each period disclosed for each subsidiary together with a note of what the data disclosed includes, or a consolidated total for this sum for each country in which it operates?	.../1 .../1	
10. Does the company provide consolidated data in its financial statements that at least differentiates UK trading and investment data as separate from data for all other territories?	.../2	
11. Does the company disclose trading data of the types noted in questions 7, 8 and 9 above on a consolidated basis by country with the totals reconciling to the group's consolidated accounts?	.../2	
Country-by-country reporting subtotal	**.../12**	

Summary score card		
Criteria	**Score**	**Notes**
Tax policy, implementation and compliance		
12. Does the company have a tax policy on its web site, or referred to in its accounts?	.../1	
13. Has the company appointed a named director to have responsibility for its tax policy?	.../1	
14. Does the company report on its effective compliance with its tax policy?	.../1	
15. Does the tax policy statement refer to:		
(a) seeking to declare profits in the place where their economic substance arises?	.../1	
(b) not using tax havens for tax avoidance purposes?	.../2	
(c) not using marketed or abusive tax avoidance schemes likely to fall foul of the domestic tax avoidance legislation of any country in which the multinational company operates?	.../2	
16. Does the company use tax havens either as locations for subsidiaries or for transactions? If no, award four points and this section is complete. If yes, but it is clear that the use reflects the economic substance of transactions located in the territory, award four points and this section is complete. If yes, but it is disclosed that all such companies are UK tax resident, score three points	.../4	
Tax policy, implementation and compliance subtotal	**.../12**	

Summary score card		
Criteria	**Score**	**Notes**
Tax rate and disclosure		
17. Is the company's average tax rate within one percentage point (six points), 1–3% (4.5 points), 3–5% (three points) or 5–7% (1.5 points) of the expected headline rate? Grant up to three bonus points if the marks from questions 18, 19 and 20 when combined equal at least six in total.	.../6 .../3*	
18. (a) Does the company provide a numerical tax reconciliation of its actual current tax charge to the current tax rate that might be expected for the year at the tax rate applying to the profits of the company? (b) Does the company then reconcile its current tax charge with its total tax charge for the year by offering a reconciliation that explains the deferred tax provision for the year and other items that make up the difference? Note: A bonus point may be added if at last 75% of the reconciling items in both parts of this process are precisely described e.g. using such phrases as 'The impact of capital allowance claims' or 'Reduced tax owing on capital gains arising'. Terms such as 'Other' or 'Losses' (without explanation being given) do not qualify in this respect. An additional bonus point may be given for disclosure of how variance in different national tax rates has affected the overall rate, but reference to the countries where the main variances have arisen is essential if this point is to be awarded.	.../2 .../2 .../1 .../1	
19. Does the company provide a narrative explanation as to why its current tax charge differs from the charge expected for the year at the tax rate applying to the profits of the company in its main place of residence?	.../2	
20. Does the company provide a deferred tax note that: Explains the balance of those assets or liabilities with significant precision so that the cause of at least 75% of the asset or liability is clearly described? States clearly when those assets or liabilities are likely in practice to have an impact on the company's tax bill, or a statement that this is not known because it is more than five years after the balance sheet date?	 .../1 .../1	
Tax rate and disclosure subtotal	**.../16**	
Total	**.../45**	

V. Fair Tax Mark technical committee

The Fair Tax Mark is advised by a group of technical experts. The members of this group were at the time:

- Kate Clements, Chartered & Lecturer in Accounting, Heriot-Watt University
- Alex Cobham, Economist, Centre for Global Development
- Paul Gibson, Chartered Accountant, Mazars LLP
- Euan Grant, Former Inspector, HMRC
- Jonathan Gray, Director of Policy and Ideas, Open Knowledge Foundation
- Richard Lupson-Darnell, Chartered Tax Advisor
- Richard Murphy, Tax Specialist, Tax Research UK
- David Quentin, Barrister

VI. About the Fair Tax Mark

About the Fair Tax Mark

The Fair Tax Mark certification scheme was launched in February 2014 and seeks to encourage and recognise organisations that pay the right amount of corporation tax at the right time andin the right place. Certified businesses include FTSE-listed plcs, co-operatives, social enterprises and large private business. We operate as a not-for-profit community benefit society and believe that companies paying tax responsibly should be celebrated, and any race to the bottom resisted.

The Fair Tax Mark methodologies and criteria are drawn up via a combination of stakeholder dialogue and consultation with an independent committee of technical advisors drawn from academia and the professions. Three Standards have now been developed:

– Small Business, with a turnover of £1m or less

– Solely UK-based business

– UK-owned Multinational business

The Fair Tax Mark is based on business acknowledging, assuming responsibility for and being transparent about the impact of a company's taxation decision-making and policy. It is an indication that a business is accountable to a range of stakeholders, when it comes to tax.

At its most fundamental, it is a recognition that tax is more than a quantitative issue about the amount of tax paid; it is also an issue of qualitative importance and central to business culture and practice.

VII. References

[1] http://www.ibe.org.uk/userfiles/pressreleases/attitudes2013.pdf

[2] http://www.cbi.org.uk/media-centre/newsarticles/2013/05/seven-tax-principles-for-ukbusiness-proposed-by-cbi/

[3] http://www.taxjustice.net/cms/upload/pdf/Sustainability_taxing_issues.pdf

[4] A company is legally permitted to submit abbreviated accounts if its turnover is less than £6.5 million, it has less than £3.26 million on its balance sheet or it has fewer than 50 employees

[5] Our definition of a tax haven is a country that scores above 60 on the Tax Justice Network Financial Secrecy Index. http://www.financialsecrecyindex.com/introduction/fsi-2018-results

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Fair Tax

The UK-based Multinational business Standard was first released in 2014.
Redesign and minor amends undertaken April 2019.