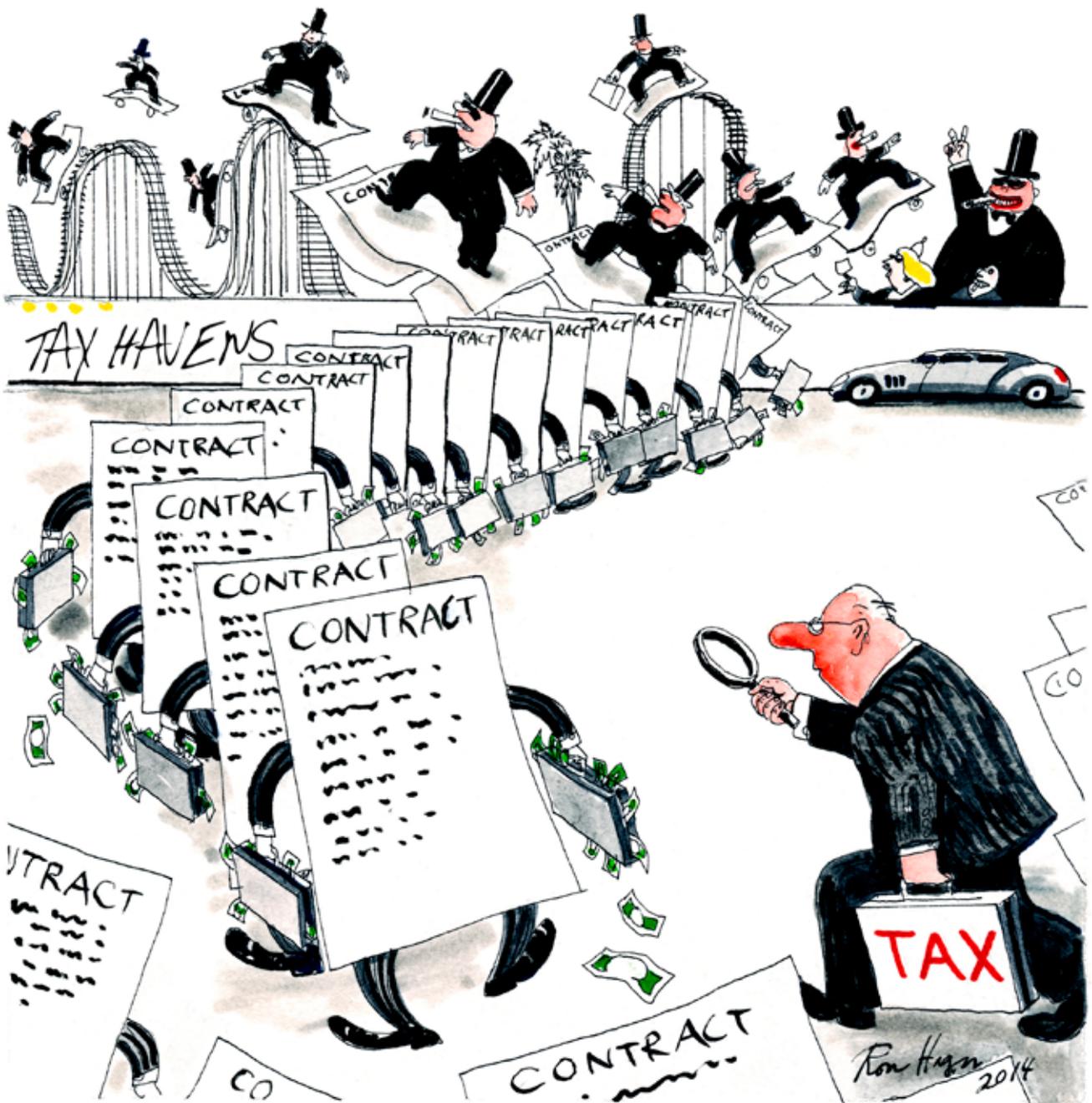


- Tax administrations do not have access to the entire document trail within multinational companies today
- The Transparency Agreement can change this on a sampling basis so that tax administrations can obtain the insight they need
- The Transparency Agreement can be used by individual countries or by groups of countries unilaterally

Transparency Agreement - A tool for multinational transactions

How to expand and fix the toolbox of tax administrations



A recurring problem in the global market is a number of asymmetries between the multinational companies and the host countries. In this report, **Publish What You Pay Norway**, gives a complete overview of transparency initiatives in the world today, and introduces a less known transparency instrument- The Transparency Agreement – which is a unilateral contractual arrangement between a company and a government, whereby the company guarantees that in exchange for its “license to operate” within a country, it will be transparent when the authorities want insight.



THE PROBLEM

PWYP Norway's main focus is to ensure that extended country-by-country reporting (CBC) is legislated in as many countries as possible, to enhance the public oversight of extractive industries by investors, governments, media and civil society. The extended CBC reporting is a simple, low-cost and effective tool to get broad insight into multinationals.

However, one institution has deeper needs for insight into multinational companies and their transactions than the rest of society, and this is the tax administration. The reason is that the tax administration is the institution that is responsible for assessing the correct tax base and collecting the taxes from the multinational's representative company in the country. Tax administrations have limited insight and ability to follow transactions through the value chain within multinationals.

Automatic Exchanges of Information (AEOIs) have been promoted as a solution, but this instrument is mostly effective for individual tax payers with bank

accounts in tax havens. AEOIs are ineffective at giving tax administrations the insight into the chain of transactions that occur within a multinational company.

THE CONSEQUENCES

The consequence of tax administrations not having insight into the full chain of transactions of multinational companies, particularly multinational companies within extractive industries, is that the tax administrations lack the proper information to do a correct assessment. The reason is that the tax administrations only are looking at a very small part of the value chain, the part that occurs within the country where the tax administration has jurisdiction. The court system in the country is facing the same problem when a tax case is brought to the court by a company.

The result is that tax administrations and courts of law lack the insight to distinguish a tax scam from a bona fide transaction. This may have two consequences: (1) tax scams are not discovered and reassessed, leading to taxes that are too low taxes; and (2) bona fide transactions may incorrectly be assessed as tax scams.

Q&A

Does PWYP Norway promote the transparency agreement?

PWYP Norway has investigated and found that a transparency agreement would be a good idea for tax administrations, but we do not promote it as such. Countries and tax administrations should be able to assess this to be a good idea by themselves. PWYP Norway's main concern is to secure the interest of the public, which is why PWYP Norway promotes extended CBC reporting.

Is it dangerous for a country to demand a transparency agreement from multinational companies?

No, it is not dangerous, but it may be that some multinational companies will say no to entering the country if they have to sign on to a transparency agreement. However, a country needs to think through whether that multinational company is the one that it would invite into the country, or whether it is better to invite those that are willing to sign the transparency agreement.

Why is the transparency agreement not public, but only for tax administrations?

Because the transparency agreement allows insight into individual documents, and these are regarded as private papers only relevant for the company itself, and the tax administration that is going to assess the company.

Why should I read this report?

Most people think tax administrations have too much information about personal tax payers. They would be shocked to know how little tax administrations know about multinational companies. This is why you should read this report.

“All sensible politicians favor growth, just as we all favor sound public finances. Both can be achieved if we rationalize spending, invest available resources wisely, and clamp down on tax evasion,” says Victor Ponta, Romanian jurist and politician who was confronted with allegations of money laundering, tax evasion and conflict of interest in 2015.

A SOLUTION

One very low-cost, simple and effective solution is to give the tax administration (and thus also the court system) the necessary insight into the chain of transactions that occurs within a multinational company. It is important that this insight is based on sampling, so that the burden on the company does not become too high while retaining the intention of the instrument – to give insight into the full chain of transactions within a multinational company.

The transparency agreement (or guarantee) has been designed to give tax administrations insight on a sampling basis into the chains of transactions within multinationals. In order for it to work, a transparency agreement or guarantee has to be demanded, either by law or by model agreement, before a multinational is given a licence to operate or establish a presence within a country. Failure to agree to be open and transparent – on a sampling basis, shows a non-cooperative behaviour.



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Do you want to see financial transparency and
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PWYP Norway is the Norwegian chapter in a network of 800 organisations from more than 70 countries worldwide. We work for financial transparency in the extractive industry to promote sustainable societies.

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