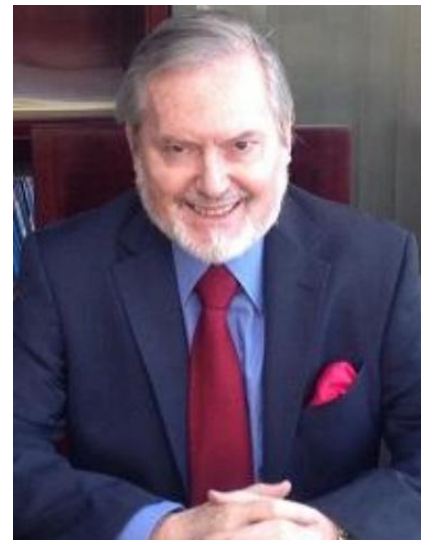




19th Annual International Wealth Transfer Practice Conference
'Death and taxes: more than ever the only certainties'
Essential update for all advisors to private clients in a changing world
3-4 March 2014 Claridge's Hotel, London, England



Taxation tango

31 January 2014

Tax and transparency in Latin America: the scorecard results have not been encouraging, but progress is being made, says Derek Sambrook

Management of tax systems in Latin America has much in common with the tango: there are long pauses in difficult positions. So I suspect that Viscount Sherbrooke's view of tax collectors, given 144 years ago, will have little relevance for decades to come: "The Chancellor of the Exchequer is a man whose duties make him more or less a taxing machine. He is instructed with a certain amount of misery which it is his duty to distribute as fairly as he can." The machinery is badly in need of repair.

Tax authorities are also burdened with applying (in many instances) stretched resources towards assisting the US government in collecting taxes from its own taxpayers under the Foreign Account Compliance Tax Act (FATCA), which is the culmination of efforts over more than 30 years to try to enforce the worldwide application of its income tax system. FATCA's costs and consequences were never contemplated.

With the US insisting that it gets other countries to enforce its laws, it is perhaps tempting to speculate on a LatAm FATCA requiring the US to reciprocate and change its present open-door policy that allows rich Latin Americans to keep their money there without being asked to prove tax compliance back home. Miami is frequently called the financial capital of LatAm with an estimated US\$50bn or more in foreign deposits held in Florida banks. This is consistent with the analysis made by the Bank of International Settlements.

Shining examples

If tax collection across the region is a struggle, so is the battle to achieve significant progress with transparency, the scourge of both the money launderer and the tax evader. There is, however, evidence that efforts are being stepped up, and even multinational financial institutions are under the spotlight as regional governments attempt to abate the flow of illicit funds through the banking system. Decisive action was taken last year in Costa Rica, Colombia, Venezuela and Mexico and besides domestic banks, foreign ones are being investigated.



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Argentina's Financial Information Unit's head, José Sbatella, sees such steps as being long overdue. One of his concerns is how large economic groups collaborate in transferring capital "to phantom companies" domiciled in tax havens. He could have also included those developed countries where corporate transparency is not guaranteed, such as the UK and the US.

The European Network on Debt and Development (Eurodad), which is a collection of non-governmental organisations in 16 European countries, reported in 2012 that the 50 biggest companies by turnover in Europe all have a presence in tax havens. Eurodad also looked at 69 jurisdictions and found that only six required all types of company to record beneficial-ownership information; that special shortlist included Monaco, Jersey and Bermuda.

On a second list of 36 countries, where legal ownership is recorded for some or all types of corporate vehicle, Singapore and Germany appeared along with Britain and Panama - the latter two allowing bearer shares, but only one of them has drawn the wrath of the US and the European Union for doing so. (Clue: it has a useful canal for international shipping.)

Now Global Financial Integrity (a US-based watchdog) says that only 12 of the OECD's 34 members were fully or largely compliant with a majority of the standards that recent peer reviews have set on customer due diligence and record keeping.

It's hardly a shining example to emulate, but one that should not be a crutch for the governments in the region. It does, however, prove the late Roald Dahl's point, which I raised in '[Delaware: The Friendly State](#)': "And above all, watch with glittering eyes the whole world around you because the greatest secrets are always hidden in the most unlikely places."

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