Tax transparency and the SDG 16

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How can you claim to uphold the law if you are not transparent about your tax compliance status?

Is tax always a dry and technical subject removed from basic corporate values and sustainable operations?

It certainly is not, argue both Damian Judge, CA(SA), the CFO of Trellidor South Africa, and Canadian CA Carla Perry, who is the Senior Manager, Tax Reporting and Strategy at PwC. They point out that, although it requires a methodical approach, tax is not something that only applies occasionally. It directly affects the status of individuals and companies as law-abiding members of society. 'In essence, how can you claim to uphold the law if you are not transparent about your tax compliance status?' asks Judge.

Tax compliance is of particular interest in meeting the United Nations Sustainable Development Goal 16 (SDG16), which refers to upholding the rule of law. No business operating with an eye on sustainability can ignore this. 'Simply put, paying your fair share of taxes in the country your business operates sustainably is vital,' argues Judge. 'We all have a role to play in creating an environment of transparency and accountability and a simple example is looking at your tax and how you report about compliance to the SDGs to your stakeholders.'

He refers also to the work done by PwC in promoting tax transparency. Carla Perry focuses on assisting clients to transform and optimise their tax function and says: 'The tax transparency landscape is constantly evolving, and tax is becoming a key sustainability issue. The release of the new Global Reporting Initiative (GRI) 207 sustainability standard on tax at the end of 2019 (effective 1 January 2021), as well as the increased interest from environmental, social, and governance (ESG) investors in the tax affairs of businesses, support the increased importance of tax in relation to sustainability and transparency. The implications for tax and transparency are wide-ranging, and the levels of scrutiny will only intensify as a consequence of COVID-19.'

PwC recently released its findings of a review of voluntary tax reporting for the 2019 financial year of the top 100 companies by market capitalisation listed on the JSE as at 31 December 2019*. The performance of each company was assessed against the PwC-developed tax transparency framework. The review summarises the trends in the tax transparency landscape and provides examples of how companies use voluntary tax disclosure to demonstrate their corporate citizenship as responsible taxpayers.

Not in isolation

Perry says there is a range of approaches to disclosure. 'It is important to consider the purpose of a transparency initiative and the value that it will bring to your organisation.' Many companies are considering their disclosures and asking 'which tax transparency principles should I follow?' However, she believes companies should rather be asking 'who is reading my disclosures, what do they want to know, and what do I want to tell them?'.

Tax numbers and disclosures required by the International Financial Reporting Standards (IFRS) and other reporting standards only provide part of the tax transparency picture, because 'it represents easily understandable information on the broader economic contribution that a tax payer makes by paying taxes in the environment in which it operates, and puts this information in the correct context. However, without further detail about a company's tax affairs, there is a risk that information may be incorrectly interpreted. We know that multinationals and large corporates are under constant scrutiny to be responsible and operate with purpose.'

Perry adds: 'For some companies it may no longer be sufficient to just be correct and compliant. Instead, they could choose to become proactive and demonstrate their compliant behaviour convincingly. For some this would add credibility to their reputation, and for others it may enhance their relationships with external stakeholders.' Communicating an organisation's position on tax and its contribution to the society in which it operates builds long-term trust with stakeholders such as employees, suppliers, investors, NGOs, revenue authorities, the general public and others. 'Voluntary tax transparency is also a way of demonstrating that a company actually does business in a sustainable and responsible way.' She adds that an organisation's approach to tax disclosure should not be seen in isolation, but depends on overall business strategy, broader stakeholder reporting and sustainability reporting commitment.

As the sustainability debate continues, it also allows compliant taxpayers to stand out among their peers. Perry notes that the content of what is being disclosed in terms of tax transparency will differ among organisations according to their needs. 'It is crucial to find the right focus and balance and companies need to realise that voluntary tax transparency must be supported by robust data and evidence.' This also relates to transforming the tax function to be ready for the future, including the incorporation of technology and visualisation to enable quick, comprehensive and user-friendly disclosure.

Which guidelines to follow?

Judge agrees that it makes sense to supply detailed information to 'give life to the numbers'. However, he notes that, according to the PwC report, the provision of information is not consistent, and each organisation discloses in its own way. This leads to asking whether multiple frameworks or guidelines have a major impact on how to adopt a reporting mindset.

Perry says yes, a multitude of local and international frameworks and guidelines exist to help stakeholders understand a company's tax affairs. 'In South Africa we have King IV; globally there are many initiatives and standards, among others GRI 207, the UN United Nations-supported Principles for Responsible Investment and SDGs, the B Team Responsible Tax Principles, the OECD guidelines and the World Economic Forum's stakeholder metrics towards the SDG goals.' Each has different needs in mind. In principle, however, Perry does not think that the numerous guidelines hinder the adoption of tax transparency and disclosure, as they make organisations consider their tax disclosure in terms of 'for whom and what purpose they are reporting' instead of simply using it as a template or tick-the-box exercise to meet certain requirements.

Nevertheless, the number of guidelines available 'can make the task of tax transparency very daunting for organisations.' She believes that a good starting point would be the newly-developed GRI 207 Tax 2019 guidelines, the first global standard for comprehensive tax disclosures. It includes country-by-country reporting and is intended 'to help an organisation understand and communicate its management approach regarding three key areas: approach to tax, tax governance control and risk management and stakeholder engagement.'

Judge adds that the GRI has ample documentation and a guide mapping out what business actions could be relevant to an SDG, with tax coming through strongly.

The PwC report and SDGs

Judge then notes that the PwC report makes limited references to links between disclosures and SDGs. Perry responds that, although not exhaustive, the 2018 report released early in 2020 included some examples of quality voluntary tax transparency. One of the sub criteria of the assessment is whether there is mention of paying taxes in the developing world and the commitment to the UN SDGs. For instance, SDG 17 'relates to strengthening the means of implementation and revitalising the global partnership for sustainable development. We would look for evidence acknowledging that tax is vital to funding the services and infrastructure critical to society.'

'A company's tax payments are a way of compensating society for the institutions and services to which it has access. The SDGs are a call for action and tax plays an important role in achieving the goals and providing the funds to achieve them,' Perry says. 'However, we often see that, in its integrated or sustainability report, a company would discuss its contribution to SDGs in great detail, but not specifically link tax to any of the SDGs. This comes back to an awareness of the role of tax, which includes all taxes and levies paid by the company and collected on behalf of government.' These could be integrated into the organisation's tax strategy, but also through picking out the specific SDGs that the company has selected and then addressing it there.’

Perry says the recently-released PwC report for the 2019 tax year already contains some changes.

‘It shows how companies are telling their own tax stories in a more mindful, outcomes-based manner. There has been an effort to demonstrate value-creation in a sustainable manner… We’ve noted that there has been a significant increase in the number of companies that mention paying taxes in the developing world along with their commitment to the SDGs. Unfortunately, there are still very few companies mentioning the importance of tax transparency and stakeholder interest in tax and fewer organisations actually provided a description of the assurance process for disclosure relating to tax and payments to government in this year’s report compared to what we saw in previous years. So, I think there is a definite need for improvement.’

She adds: ‘We are interested in seeing how companies start integrating their voluntary tax disclosures with other company-related disclosures.’ With the topic gaining international interest, and as companies set and evaluate their ESGs, the PwC report will be looking for more indications that companies are recognising the links between those goals and SDGs. She believes the best way to improve this linkage is through education.

‘We all have an opportunity to do better, and a reset of people, planet, prosperity and purpose is needed to allow for a just and sustainable future for all.’

‘You are bringing something good!’

Judge says there is much ‘low-hanging fruit to be picked’ and enthusiasm among people of all walks of life to reach the SDGs by 2030. ‘It is all going to come down to reporting,’ he says, ‘and much can be done in a simple way. Start small and work from there.’ He tells how, at Trellidor, he got people from different departments together to form a sustainability working group. ‘It is amazing how people from different walks of life, ages, and races – accountants as well as non-accountants – are generally on the same page and want to do better.’

He remarks on the energy and buzz in the team and Perry agrees it is exciting to see how engaged people at their clients are. ‘You are bringing something good. I’m not coming and telling you to file your taxes, or to report on this or that, or that you have to do something gigantic. It’s actually about things that have an impact and make a difference. You would not think that a tax adviser or the CFO of a company would have this kind of impact, but in these conversations, you can really start making some headway.’ Most of these SDGs and initiatives are appropriate and even ‘common sense’ but just need to be thought about correctly and delivered appropriately, she adds.

Damian Judge also stresses the awareness of the links between the SDGs and reporting. He summarises some tax transparency and compliance ties to the SDG Target 16.3 (‘Promote the rule of law at the national and international levels and ensure equal access to justice for all.’):

- Business action relevant to the rule of law falls into two categories: ‘respect’ and ‘support’.

  Respect the rule of law through human rights and universal principles, by not engaging in corruption, and by not fuelling conflict, while modelling responsible conduct in the business’ corporate values, policies and processes throughout its value chain. Also do no harm and implement robust management procedures.

  Support the rule of law by taking action beyond responsibility. This implies a positive contribution towards strengthening legal frameworks and promoting more accountable institutions. Businesses should provide support to governments, judiciary and enforcement agencies through public policy, advocacy and institutional capacity building. They should furthermore support efforts towards justice for all by developing innovative products and services that help users readily to understand their rights and where to obtain additional guidance and, if necessary, representation through pro bono legal services.

- Businesses should raise awareness about the relevant laws, codes and regulations among their employees. They should report incidences and consider the impact of such incidences on stakeholders and shareholders. They should also facilitate access to legal services for employees.

- Businesses should establish strategies that incorporate business compliance, legitimacy and licence to operate. This implies reviewing codes of conduct and standards of behaviour, implementing internal and external mechanisms to report unlawful behaviour with appropriate escalation methods, and disclosing information on sanctions for non-compliance with laws and regulations relating to human rights. They should report information regarding breaches of customer privacy and losses of customer data. It also implies legal actions for anti-competitive behaviour, anti-trust and monopoly practices, and incidents of non-compliance with regulations and voluntary codes about product and service information (such as labelling and marketing communication, including advertising, promotion and sponsorships).

* For additional information about the review of voluntary tax reporting for the 2019 financial year find the PwC Building Trust webpage and Building Public Trust Publication here: https://www.pwc.co.za/en/publications/building-public-trust.html

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