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"Aggressive Tax Planning Threatens our Welfare Systems"

The Swedish Paradise Leak debate focuses on the wrong issues. The latest disclosures reveal how companies declare costs in high-tax countries and income in tax havens Such aggressive tax planning is on the rise and includes an ever increasing number of business sectors. If we don't put an end to such harmful activities, we will pay the price through a collapsing welfare system, writes tax expert Torsten Fensby.

The Paradise Leak debate has largely focused on morality rather than on the material issues disclosed by the revelations. The purpose of this opinion is to clarify what the Paradise Leak is all about. However, let's first determine what the Paradise Leak is not about:

The Leak is not about the wealthy having lower morals than others in society. Whether rich or poor, no one wants to pay more tax than necessary. If a loophole in the tax legislation would allow construction workers to deduct a golden Indian folk costume as workwear in the tax return, it would not be long before the majority in the industry would claim that they wear this attire at work. Greedy people are found in all walks of life, greed only becomes more visible as fortunes increase.

The paradise leak is not about tax rates being too low in Malta. The principle of tax sovereignty in international law guarantees each country the right to decide in a democratic manner the design of its tax system. EU law does not restrict this principle. When Magdalena Andersson calls on Portugal and Malta to raise their taxes to curb Swedish aggressive tax planning, it may give the appearance that she is acting on the revelations, but in reality our Minister of Finance only unduly interferes in other countries' democratic processes.

The paradise leak is not about "revelations" that companies and wealthy people are engaged in tax planning. Company management is required under corporate laws to run the business cost-effectively and tax is one of the company's many cost items. No healthy person who has a choice between two investments with the same conditions and the same pre-tax return chooses the one that leads to the highest tax burden. Legitimate tax planning means that tax costs are taken into account when making a choice between different commercially-driven investments .

The Leak is not about Swedish party politics either, at least that should not be the case. The activities exposed by the disclosed documents have been actively combated by the OECD for more than 20 years. Other international organizations have also become more involved in this work in recent years. Although the party color of the governments participating in these organizations varies, most stakeholders agree that tax haven activities are a gigantic societal problem and a high priority issue. The OECD's work against tax havens has been a permanent item on the G20's agenda since April 2009.

So what is the Paradise Leak about? If the Panama papers highlighted the extent of ongoing tax evasion, the Paradise Leak reveals the extent of ongoing aggressive tax planning. The term "aggressive tax planning" is not a term taken out of thin air. It is developed and defined by the OECD and refers to the situation where a company’s operations and profits are separated by means of artificial company structures. The purpose is to locate the company's costs in high-tax countries and the profits in tax havens. Despite recent OECD work on the issue, the Paradise Leak shows that aggressive tax planning is not only increasing in scope, but also includes an ever increasing number of business sectors.

The problem has gone from a dripping tap to the water now rushing out through cracked pipelines. Who, then, is to blame for the spread of these harmful tax practices? ? It is quite clear that the aggressive tax planners would not get far without help, which raises the question of who these helpers are.

The main helper is, of course, the tax haven itself. Note that it’s not the low tax rate per se that turns a jurisdiction into a tax haven. The haven designation becomes justified only when the state's low tax rate is combined with deliberately lax rules that encourage the establishment of shady letterbox companies. The local financial sector typically also actively assist in establishing letterbox companies and fulfilling personnel functions such as management, board, shareholders in order to create the false impression that the mailbox company is conducting real business. These nominee services are often crucial to prevent taxing obligations from arising in the owners' home countries.

If the Swedes identified as owning low-taxed companies in Malta transparently declared what actually takes place in the letterbox companies, the tax authorities would in the majority of cases be able to conclude that all activities are conducted in and from Sweden and that the Maltese companies therefore should be considered to have a fully taxable branch here.

Other helpers are the intermediaries, i.e., Swedish banks, law firms and auditing firms that design the aggressive tax schemes. If the government would adopt effective anti-abuse legislation preventing intermediaries from engaging in aggressive tax planning, several billion would be prevented from flowing out of the Swedish treasury annually.

The third category of helpers are our passive politicians. Le Monde noted the other day that many MNEs today have become so large that they have become "states within the state" and that they use their economic and political influence to intimidate politicians into passivity through threats of relocation or through arguments that the economy and jobs are threatened if laws against aggressive tax planning are adopted or strengthened. Successive Swedish governments seem to have been particularly receptive to this type of lobbying because, unlike other OECD countries, they have taken no action whatsoever against aggressive tax planning.

According to the OECD's definition, tax planning that makes use of letterbox companies in tax havens is not legitimate but aggressive and also considered to be a type of planning that facilitates tax crimes. It is a cancer in the global economy, a fiction that lacks commercial reality and only aims to undermine the application of tax laws and administrative practices of third countries.

Countries such as Luxembourg, Malta and Cyprus should actually deserves to be expelled from the EU if they cannot be persuaded to stop offering avoidance legislation that heavily drain other EU countries of tax revenue.

Many OECD countries depend on their multinational industries as a source of jobs and tax revenue. This applies also to Sweden. Likewise, the capital of the wealthy is a socio-economic asset if they are invested in the Swedish economy. Moreover, global tax competition is fierce, which means that the Swedish government must be careful in designing tax rules so that the competitiveness of our multinational industry is not undermined. However, such factors must not be considered to such an extent that Swedish tax legislation and administrative practices de facto make the tax haven industry legitimate. If we do not stop this socially harmful offshore sector from becoming an integral part of our onshore economy, we will eventually pay the price through collapsing welfare, health care and pension systems.