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Professional repositioning during times of institutional change: The case of tax practitioners and changing moral boundaries

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ABSTRACT

Recent work has called for more research to be carried out exploring how professional projects develop in conjunction with wider processes of institutional change. We respond to these calls here by analysing the way in which tax professionals have responded to a major disruption at the field level. The Organization for Economic Co-operation and Development's action plan on Base Erosion and Profit Shifting has proposed far reaching reforms in an attempt to bring corporate tax practice into line with changing moral boundaries in society. Through a combination of documentary analysis, participant observation and qualitative interviews, this paper shows how tax professionals negotiate changing moral imperatives. In doing so, the paper enhances our understanding of tax practice and contributes to extant literature on professionalization and institutional change in three principal ways. Firstly, we show how exogenous field-level changes afford professional groups opportunities for strategic repositioning. Secondly, we illustrate how different professional factions are differentially affected by processes of institutional change, distinguishing between in-house tax professionals and those working in public practice. Thirdly, we demonstrate how this strategic repositioning is made possible by the skillful deployment of the technical-cognitive resources of professional groups.

1. Introduction

Recently, international taxation has attracted a growing level of attention from government policy makers who are concerned about the income shifting activities of multinational corporations. In particular, policy makers have expressed concerns about legal - but controversial - accounting practices such as transfer pricing[1] that permit income shifting to low tax jurisdictions. These concerns are especially pronounced where intellectual property is involved because of the difficulties associated with valuing intangibles. As a response to these concerns, in 2013 the Organization for Co-operation and Development (OECD) initiated its Base Erosion and Profit Shifting (BEPS) Action Plan, which is specifically directed at modernizing the international tax system (OECD: 2013).[2] The final BEPS package of 15 action items was released on October 15, 2015 for discussion by the G20 Finance Ministers (Appendix 1).

In addition to attracting the attention of government policy-makers, media revelations about the tax behaviour of several high profile multinational corporations have also antagonized the general tax-paying public. This is increasingly having an effect on tax practice that arises from outside the traditional tax system, potentially diluting some of the power wielded by tax executives identified in prior research (Mulligan & Oats, 2016). For example, in 2012, a UK consumer-driven Twitter campaign “Try Another Cup” targeted Starbucks for its efforts in shifting income out of the UK to lower tax jurisdictions, propelling taxation to a prominent place on the corporation's CSR agenda (Shaheen, 2012). Ultimately, Starbucks responded to this public outcry in December 2015 by paying £8.1m in tax to the UK tax authorities, almost as much as it had paid to the same body in the previous 14 years combined (The Guardian, 15th December 2015[3]). Starbucks was the

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[1] While transfer pricing is a standard accounting technique which has importance beyond tax, over or understating transfer prices can shift income between tax jurisdictions resulting in a tax benefit.

[2] The BEPs initiative was the result of an increasing concern over the last decade of the tax avoidance activities of multinational enterprises and tax competition between states. The European Union was an early leader in this area with its “harmful tax” initiative. A criticism of the BEPs project is that it is not designed to provide meaningful change in the corporate income tax system but rather arose to appease societal concerns.

[3] Rob Davies, ‘Starbucks pays UK corporation tax of £8.1m.’, theguardian.com accessed 22nd September 2015.

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symptom of a much larger malaise concerning tax transparency, tax avoidance and tax policy, issues that the OECD had been working on for several decades. After the systemic jolts caused by events such as the Enron collapse, the 2007-8 financial crisis and movements such as Occupy Wall Street, these tax issues started to become intelligible in the context of widespread mistrust of big business and financial institutions (see Appendix 2 for a timeline of key events in the development of BEPS). In part, this public ire over tax was fuelled by government investigations such as the US Senate's Permanent Subcommittee on Investigations examination of the tax activities of Apple. However, public interest was also motivated by extensive media questioning of the tax-paying behaviour of major corporations, coverage of which has increased significantly in recent years. In fact, the recent report of the International Fiscal Association (IFA, 2017) notes that several of the IFA branch reports (from the countries participating in BEPS) identified negative media reaction to multinational tax abuse as fuelling the OECD and G20 commitment to the BEPS process. Christians (2013) further highlights the way in which tax transparency advocates have mobilised the "peer pressure" effect that arises from the OECD community.

These developments have highlighted how the work of tax practitioners is socially consequential. As a result, we believe it is important to adequately conceptualize the work that tax practitioners do in the context of changing moral boundaries. Taking a theoretical approach in which tax is viewed as an institution and tax professionals as "morally significant actors" (Suddaby, 2013, p. 381), in this paper we use the case of BEPS to contribute to literature on institutional change and professional repositioning in three principal ways. First, we extend prior research that shows how institutional change affords opportunities for *organizations* to strategically enhance their position within fields (Kodeih & Greenwood, 2014). We show here how institutional change affords *professional groups* similar opportunities in line with DiMaggio (1991). Second, we examine the reciprocal relationship between institutionalization and professionalization as suggested by Suddaby and Viale (2011). Specifically, Suddaby and Viale (2011) call for more research that draws attention to the way in which field-level changes impact differentially upon different professionals. We respond directly to that call here by showing the ways in which corporate in-house tax professionals and their external tax advisors conceive of BEPS in quite different ways. By extension, we explore the symbolic boundaries (Lamont, 1992) that these two professional factions draw in order to distinguish themselves from each other. Third, we illustrate the ways in which professionals use technical-cognitive resources in skillful ways as part of an overarching attempt to enhance the professional project of tax. Specifically, we show how tax accountants exhibit "entrepreneurial social skill" (Suddaby, Viale, & Gendron, 2016, p. 228), adapting their technical expertise to reflexively mediate between organizations and the wider court of public opinion in ways that are beneficial to themselves.

The remainder of the paper is structured as follows. In the following two sections, we examine current tax research and argue that wider literature on transnational governance and institutional change offer fruitful ways via which to frame current tax practice and different groups of tax professionals. A subsequent section outlines in detail the BEPS project and considers its main objectives. We then outline the research methods employed in the study. The findings are then presented in accordance with the various ways in which in-house tax professionals and those who are external advisors are seen as responding to BEPS. Finally, we discuss the main contributions that our analysis permits us to make and conclude by suggesting directions for further research.

2. Tax as a social practice

One readily identifiable stream of tax literature identifies the attitudes and dispositions of individual taxpayers, largely theorising these from psychological or behavioural perspectives. Such work might, for example, explore the ethical beliefs and social norms that shape tax compliance or avoidance decisions (Alm & Torgler, 2011; Blanthorne & Kaplan, 2008; Kaplan, Reckers, & Roark, 1988; Kirchler, Niemirowski, & Wearing, 2006; Shafer & Simmons, 2008, 2011) or look at the roles of trust, persuasion and cooperation in tax compliance activities (Murphy, 2004, 2008). Further work explores the specific relationship between Corporate Social Responsibility and aggressive tax planning, hotly debating whether the two go hand in hand or not (see, for example, Dowling, 2014; Lanis & Richardson, 2013; Muller & Kolk, 2015; Ylonen & Laine, 2015).

A second readily identifiable stream of research on tax, often to be found in the wider social sciences rather than in the accounting literature, views tax more as a social practice, deeply embedded within wider socio-economic structures and with welfare implications (Carter et al., 2013; Martin, 2015; Morgan & Prasad, 2009; Palan, Murphy, & Chavagneux, 2010; Roberts & Bobek, 2004; Sikka & Willmott, 2010). Regulation is a recurring theme in this stream of literature, with Genschel and Schwarz (2011) also highlighting the way in which countries engage in "wasteful competition for mobile economic assets and activities through tax reductions" (339). Relatedly, a number of studies have looked at the interactions between various combinations of taxpayers, tax advisors, tax authorities and tax lobbyists in order to reveal the politically contested nature of the tax terrain (Addison & Mueller, 2015; Currie, Morrell, & Tuck, 2015; Gracia & Oats, 2012; Kentikilenis & Seabrooke, 2017; Seabrooke & Wigan, 2016).

Overall, there is a growing body of social science looking at tax, which has helped to shed light on individual approaches to tax behaviour as well as situating tax within wider social science frameworks. However, each of these broad approaches to tax research has its deficiencies. Literature looking at tax from a psychological or behavioural perspective ignores wider social structures and influences as well as evincing a reluctance to engage tax practitioners directly and elicit their own viewpoints on major institutional initiatives. Literature depicting tax as a social practice is much better in terms of highlighting the ways in which tax behaviour is enmeshed with wider organizational, institutional, political and societal phenomena, but tends to adopt a more macro perspective, telling us little about what tax actors are actually doing on the ground, how such actors understand what they do and whether they might be able to act otherwise.

In order to understand how tax actors are responding to manifest societal disquiet over corporate tax avoidance and major international initiatives such as BEPS, another approach is required that can bridge aspects of structure with aspects of agency; firstly, tax needs to be conceived firmly as a social practice, paying attention to the way in which everyday tax practices are interwoven with societal, institutional and political norms and pressures; secondly, engagement with tax actors directly is of paramount importance if we are to understand how such norms and pressures successfully infiltrate or otherwise impact the world of taxpayers and their advisors.

Studies more in this vein include Boll (2014), Morrell and Tuck (2014) and Mulligan and Oats (2016). For example, Mulligan and Oats (2016) usefully identify the powerful role that tax executives play in shaping the external tax environment, subtly exercising their power at micro, meso and macro levels. Boll (2014) focuses on the actual tax practices of people within organizations, characterizing tax as a "distributed action" (293), meaning that tax behaviour cannot be understood by reference to the individual viewpoints of tax actors alone but needs to be understood in the context of the wider network relations within which actors find themselves. Morrell and Tuck (2014) show the importance of dominant plots in assisting accounting professionals in making sense of tax's complex governance environment. They provide a more nuanced perspective in understanding the relationship between corporate taxpayers and tax authorities by highlighting that corporate taxpayers are not simply 'villains' but must make decisions in a complex environment, an environment where tax authorities often implausibly cast themselves as false 'heroes'.