Kluwer International Tax Blog

Sustainable Tax Governance: A Shared Responsibility

Hans Gribnau (Full Professor at Tilburg Law School) · Monday, January 6th, 2025

1. Sustainability, SDGs and ESG

Sustainability is a highly debated topic in a world facing many environmental and social challenges. Governments promote sustainability and sustainable development. But these concepts seem to be container concepts. The UN Sustainable Development Goals (SDGs) give something to hold on. Sustainability is fleshed out in the 17 United Nations SDGs. Each of the 17 goals is further detailed into a number of specific targets – 169 in all. Public governance should therefore be geared towards sustainable development.

Are governments the only parties involved in achieving the SDG's? Definitely not. SDGs cannot be realized without (international) cooperation and partnerships for the goals as outlined in SDG 17. Indeed, governments cannot achieve these goals without the help of society and the business community. Corporations have a huge impact on the environment, society and the everyday lives of countless people. Sustainable development is therefore a shared responsibility among governments and the business community.

Corporations should embed sustainability in their corporate governance. This regards management and oversight as well as accountability and transparency – being accountable to a wide set of stakeholders becoming ever more important. Rather than SDGs, often environmental, social and governance (ESG) factors are used (Pollman 2022). Especially (institutional) investors focus on ESG reporting. However, reporting rules may invite strategic compliance, for example with disclosure rules, which may crowd out ethics.

In my opinion, here the concept of corporate social responsibility (CSR) might be useful, understood as a commitment to 'do the right thing'. CSR-companies voluntarily accept an ethical responsibility to society (and environment) which is captured in the voluntary obligation to go beyond (strict) compliance with the law.

2. Tax is fundamental to collaborative steps towards sustainability

2.1 Sustainable public tax governance

What about taxation? Unfortunately, the relevance of taxation for sustainable development in the broad sense is often overlooked, but they are clearly linked. Taxes clearly enable governments to achieve the SDGs (Pirlot 2020). Taxes can be employed to enhance sustainable development in three different ways, since taxation carries three functions, namely the budgetary, redistributive and regulatory (or instrumental) functions (Gribnau 2019, p 107-113; Lawton 2024). Taxation provides government with revenue to pay for all kinds of public goods and services and it is an important means of redistribution of income and wealth. Lastly, taxation is increasingly used to encourage citizens to act in ways deemed desirable by the state – and to (financially) discourage other types of behaviour.

Taxes may thus be used to finance policies that aim to reduce poverty (SDG 1) or to improve the health care system (SDG 3) or the educational system (SDG 4). The redistributive function may be employed for combating income and wealth inequalities (SDG 10). Lastly, taxes may function as a regulatory tool, that is tax incentives to promote access to clean energy (SDG 7) and climate friendly technologies (SDG 13). Disincentives are also regulatory options, for example, environmental taxes and sugar taxes IBFD (Antón & Öner 2023).

However, the use of tax legislation to promote sustainability should be carefully considered. For one thing, sustainable public tax governance requires that the rule of law should be respected, which fits well with target 16.3 'promote the rule of law' of SDG 16 ('peace, justice and strong institutions'). Furthermore, governance requires ensuring policy coherence (Rendahl & Nordblom 2020, p. 400). Many environmental and societal problems can only be solved by multiple sectors interacting in various ways, possibly generating multiple impacts.

2.2 Sustainable corporate tax governance

The business community should also do its part. Tax payments by (corporate) citizens enhance governments' capacity to attain sustainable development. Thus, the payment of a fair share of tax is a token of shared responsibility for sustainable development. Tax should therefore be integrated into corporate governance which is oriented to sustainability. However, often multinational enterprises with a strong ESG agenda still engage in aggressive tax planning. Aggressive tax planning and tax evasion by (corporate) taxpayers reduce governments' capacity to attain SDGs and shift the tax burden to other members of society. Tax seems thus disconnected.

Tax should be integrated in corporate governance. A corporation's governance 'system should reflect the shared responsibility for sustainability. A corporation's purpose determines its governance (Mayer 2018). An important component of corporate governance is accountability, and its prerequisite transparency to stakeholders. Corporate sustainability can follow the course set by CSR. CSR's ethical obligation of going 'beyond compliance with the law' embodies an important ethical dimension of corporate governance (Carroll 1991).

Taxation is thus special in the sense that (corporate) taxpayers are responsible to provide revenue to government to advance its sustainability agenda – on top of their own responsibility to society to contribute to sustainable development. Corporate tax governance should therefore reflect the organisation's purpose, value and principles. Moreover, public tax transparency should be endorsed in order to render account to stakeholders. It follows that sustainable tax is a boardroom responsibility.

Taxation's integration into the corporate sustainability agenda implies that it plays an autonomous role: gross underperformance cannot be sidestepped by, for example, excellent performance on the other pillars of the ESG framework. CSR should therefore also inform sustainability corporate (tax) governance. Corporations' shared responsibility for the integrity of the tax system requires that the ethical obligation to go beyond (strict) compliance with the law be viewed as an obligation to pay a fair share of tax and be proactively transparent.

Thus, good corporate tax governance requires tax values and principles embodying the ethical CSR dimension (beyond compliance) oriented to sustainability, and accountability with its prerequisite of transparency to stakeholders and responsibility attribution. These components should be fleshed out in more detail to provide a practical benchmark for sustainable corporate tax governance. Powerful actors in the ESG arena, such as institutional investors and ESG rating agencies, should play an active role in this respect.

3. Conclusion: Guns and roses

Tax is fundamental to collaborative steps towards sustainability and should therefore be integrated into both public and corporate sustainability agendas. Taxation can clearly serve to attain SDGs but should be used cautiously. Tax is not a universal panacea. Sustainable public tax governance is a balancing act.

Corporations as powerful actors also bear responsibility for sustainable development. It is a shared responsibility since sustainable development is only to be achieved by cooperation with governments and other actors. Sustainability corporate (tax) governance should build on CSR. Corporations' obligation towards society requires them to share a government's responsibility to provide a sustainable tax system. Therefore, the ethical CSR obligation that entails going beyond (strict) compliance translates into the obligation to pay a fair share of tax and be proactively transparent.

Nonetheless, important challenges are the change of mindset needed to integrate tax into the ESG framework and the design of a (transparency) benchmark which provides detailed tax data to enable a proper analysis of corporations' substantive tax performance.

Let me now conclude with a caveat: ESG is not all 'moonlight and roses'. It is not self-evident that politicians and government (continue to) support the 'ESG agenda' of companies (see here for example). Moreover, some US multinationals resist public tax transparency (Sarfo 2022). Nonetheless, there is growing evidence that ESG can be a source of value creation for companies and not just a cost centre (The Economist 2022). Also, sustainability gives many young people a sense of purpose. There is therefore some room for optimism.

Hans Gribnau, Full Professor at Tilburg Law School

Further reading: Hans Gribnau, Sustainable tax governance: a shared responsibility', eJTR 20024/3, HERE

To make sure you do not miss out on regular updates from the Kluwer International Tax Blog, please subscribe here.

This entry was posted on Monday, January 6th, 2025 at 5:05 pm and is filed under ESG, United Nations Sustainable Development Goals
You can follow any responses to this entry through the Comments (RSS) feed. You can leave a response, or trackback from your own site.