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If we could look into a crystal ball of taxation, what would we see? Would it be pleasant? Would we see any decrease in the tax rates, a fairer tax system, lower burdens for the taxpayer and a more predictable and stable tax system? My view is that it would be an unpleasant and disturbing experience.

Looking into the crystal ball of taxation

by Knut Olsen

Before we take a look into the crystal ball of taxation, perhaps we should stop for a minute and look at the tax history to see if that could tell us anything about the future. The first civilization was probably established six thousand years ago in Sumer (Iraq) and as we know; taxes are the fuel that makes civilization run. According to a Clay Cone from this period, there were tax collectors around all corners and everything was taxed. Even the dead could not be buried unless the tax was paid. Another Clay Cone said that you could have a Lord, you could have a King, but the man to fear is the tax collector, who got the nickname ‘scribe’ in Ancient Egypt. Since then, there has been a fight between the taxman, who had the fantasy to impose tax on absolutely everything and everyone, and the taxpayers, who, since the first tax was introduced, have done their best to avoid or limit their taxation.

We only need to look back five years in order to see what to expect in the future, a tougher tax life:

2008
- EU proposes tougher tax evasion rules.
- The G20 calls for international tax transparency to be “vigorously addressed”.

2009
- G20 countries agree on a blacklist for tax havens.
- US President Obama spells out proposals to close corporate tax loopholes and crack down on overseas tax havens.

2010
- The OECD Informal Task Force on Tax and Development is created.
- President Obama signs the Foreign Account Tax Compliance Act aimed at preventing offshore tax abuses.
- The IMF advises the G20 to enact a Financial Activities Tax.
- The G20 reiterates commitment to addressing non-cooperative jurisdictions with respect to tax havens.
- The European Commission backs the introduction of a financial activities tax in Europe.

2011
- The first of a series of special HMRC task forces is established to crack down on tax evasion and avoidance.
- Switzerland agrees to tax money held in its banks by German citizens with future income and capital gains subject to a final withholding tax.
- ‘Occupy Wall Street’ begins in protest against corporate tax avoidance, corruption, lobbyists and secrecy.

Status quo 2012

We will look into the crystal ball, don’t worry, but first, we need to take a look at the status quo in 2012:
- More globalisation.
- Financial crises in many countries with significant increases in public expenditure where many countries are closer to bankruptcy than they will admit and with urgent need for more revenue.
- Tax inspectors are better educated and trained than ever.
- More resources are allocated for the tax authorities.
- Increased cooperation between tax authorities across the borders. The latest attempt to stop tax evasion is OECD’s ‘tax inspectors without borders’.
- More complex tax systems.
- More transparent countries.
- Increased combat against tax evasion, money laundering and bribery.
- More uncertainties related to international taxation.
- There have been clear trends towards increases in indirect taxation while corporate tax rates seem to be stabilising.
- Many tax authorities have declared war on transfer pricing.
- Taxation has become a risk sport:
  - taxpayers’ risks are high and might take the form of unfair tax adjustments, penalties and double taxation,
  - tax advisors risk being sued either by the tax authority or the clients if they do anything wrong, and
  - governments run the risk of taxpayers not paying the correct tax in the right country at the right time.

The crystal ball

Now, if we look closer into the crystal ball of taxation, what would we see? I believe we would see the same as we have seen over the last 6000 years; a taxman who wants to tax everything and the taxpayers who want to minimise or avoid their tax. Nothing has changed then, or has it? We would probably discover the following in the crystal ball as well:
- Each country needs more revenue and where will they find it? With wealthy individuals and large profitable multinational corporations?
- Natural resources companies, like large petroleum companies will probably be top priority
for most tax authorities. In Norway for example there is more than one petroleum tax inspector for each petroleum company.

- Each country will protect its own tax revenue more than ever before.
- There will be more tax risk, like transfer pricing risks, permanent establishment risk, risk of double taxation, risk of unfair adjustment, risk of late interest fee, risk of penalties, risk of more tax inspections.
- Tax authorities will also have to focus more on tax risk in order to be more efficient, to accomplish their strategic objectives by facilitating management to make better decisions. In other words, tax authorities will have to be more accurate when they select taxpayers for tax inspections, they will have to be more efficient, and governments will probably expect them to make a significant increase in the collected revenue.
- Taxpayers must be prepared to fight more for their rights.
- More disputes between tax authorities and taxpayers.
- More court cases.
- More double taxation and unfair taxation because taxpayers and corporations do not have the necessary resources to fight the tax authorities. Many companies will accept an unfair or wrong tax assessment because they do not want to take the risk of fighting against the tax authorities either in or out of court. It might be too costly or burdensome to fight a never ending conflict and then perhaps a time consuming court case where the outcome is uncertain.
- Will tax authorities be more fair and reasonable? I doubt it. Recently, I went for a tax adjustment negotiation at the Ministry of Finance in one country. The representative for the Ministry opened the meeting with us by saying that our corporation had not done anything wrong, but they desperately needed some more revenue.

He said this was a one off adjustment and if we accepted the adjustment, we would not have any inspections or adjustment the next five to seven years. This was nothing other than a threat from the Ministry of Finance and a very unfair one for the taxpayer.

- Criminal sanction and penal sanction will increase for tax evasion, money laundering and bribery, eg the Bribery Act 2010 in the UK. Under the previous law the penalty was imprisonment for up to seven years while it now has increased to a maximum of 10 years imprisonment and unlimited fines for both the corporation and the individuals.
- No doubt, we will see that that the large corporations will need to build up a group with tax experts who will deal with transfer pricing, permanent establishment, routing of dividend, compliance, tax risk management, VAT and other direct and indirect taxes.
- There may be more 'hidden taxes' than today, as governments will seek to avoid protests and complaints about higher taxes.
- The declared transfer pricing war will without doubt continue and probably expand.

There will be a tougher atmosphere between tax authorities and taxpayers with more tax inspections, more disputes, more conflicts and more burdens. There will also be more risks for taxpayers. It will be tougher being a taxpayer, in particular for the rich and profitable ones.

Be prepared

So what can the taxpayers do? Perhaps learn from the Scouts and be prepared. Be prepared for the unforeseen and for unpleasant surprises and be prepared for the transfer pricing war. Further, they need do their homework and be prepared for tax inspection. It is not a matter of if multinational corporations will undergo a tax inspection, but a matter of when. The key word is tax risk management, which means that the boards, the tax advisors, CEOs and in particular the tax managers need to identify, analyse, manage and minimise tax risks as far as reasonable practicable. Some years ago, very few tax professionals had even heard about tax risk management, but now it has become a legal requirement in many countries and a must for the multinational corporations.

Multinational corporations will probably need to ensure that they are fully resourced in their taxation departments with experts who fully understand the significant risks that these large companies face and who are able to manage and deal with risk so that top management and other stakeholders can be confident that there will be no unpleasant surprises. Multinational corporations that do not give serious consideration to their tax risks will without doubt face adjustments, penalties, late interest fees and perhaps even unavoidable double taxation.

Conclusion

So looking into the crystal ball of taxation and looking 5000 years back on the tax history, it is more likely that life will be tougher for the taxpayer with more conflicts, more burdens, more uncertainty, more tax inspections and adjustments and more court cases. It will be more complex and more expensive to meet compliance and other cross-border tax requirements, with the consequence of higher taxation. Taxation will be more unpredictable and governments will need more revenue. Remember, tax was not among the root causes of the financial crises, but it is already emerging as one of the key solutions for solving it, meaning more tax to be paid. Looking into the crystal ball tells us that we need to be prepared for the unthinkable and for the worst scenario. It is perhaps just a matter of time before the unthinkable and worst scenario happens. Ask yourself, are you or your company prepared to meet all the challenges that we can see in the crystal ball? Unfortunately, not every company is.