

Fensby on the scandal: "We are facing a moral collapse"

"The Cum-Ex scandal shows once again that many banks, lawyers, accountants and other actors of the private sector – that are subject to strict ethical rules – clearly do not hesitate to engage in either tax scams or aggressive tax planning." writes Torsten Fensby, expert on international tax evasion.

Here we go again. After the Liechtenstein scandal, Offshore Leaks, Luxleaks, the Panama papers and the Paradise Leak, we are now confronted with the cum-ex scandal that highlights the gigantic extent of international tax avoidance and evasion.

This scandal focuses on the abuse of tax treaty rules regulating refunds of withholding tax on dividends. Hundreds of billions have been plundered from countries' treasuries through either tax scams or aggressive tax planning.

This type of abuse can take several forms.

The so-called cum-cum schemes enable shareholders to circumvent the obligation to pay withholding tax on dividends by transferring shares, just before the time the dividend is paid, to persons who are not taxed on such a dividend. The shares are then transferred back to the original owner. As regards cum-ex scams, companies claim a refund of withholding tax that has never been paid to the state on the basis of completely fraudulent transactions.

In both cases, private actors exploit the limited resources of national tax authorities.

Every day, tax authorities receive hundreds of applications for refund of withholding tax paid on dividends, which makes it virtually impossible to verify that the refund is correct in each individual case. The process of refunding withholding tax under tax treaties is simply based on the underlying assumption that private actors act honestly and do not abuse the system.

Denmark has been hit hard by this type of fraudulent schemes and we have good reasons to assume that an internal audit of the Swedish Tax Agency would show that Sweden also has been subject to such fraudulent scams.

SEB is under investigation in Germany, but leaked documents currently suggest that neither SEB nor any of its bank employees is suspected of any crime. SEB should therefore be treated as innocent until proven guilty.

Of course, one should not put everyone under one roof, but the cum-ex scandal shows once again that many international banks, lawyers, accountants and other actors of the private sector that are subject to strict ethical rules, do not hesitate to engage in either tax scams or aggressive tax planning.

We are simply facing a moral collapse creating an environment that domestic tax rules were never designed to operate in.

Over the past twenty years, most OECD countries have set up commissions to determine how tax and other relevant legislation can be strengthened to more effectively counteract international tax avoidance and evasion.

In Sweden, unfortunately, these types of government reviews are conspicuous by their absence. The Swedish government should urgently establish a bipartisan commission to review how our tax legislation may be strengthened to more effectively counteract tax avoidance and evasion. The establishment of such a commission is today is absolutely necessary if the widespread political contempt is to be curbed and if citizens' belief in the integrity of the tax system is not to be completely undermined.