

(unofficial translation)

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## **"Morality is ineffective against aggressive tax planning"**

The business community instinctively opposes all initiatives to protect the Swedish tax base and the government lacks political will to take the fight with businesses' representatives, say Torsten Fensby and Leif Rosenfeld in a closing remark.

In its reply on 19 May, FAR [*the institute for the accountancy profession in Sweden*] has responded to the "accusations" we have leveled against them. The chairman of the Parliament Tax Committee (Jörgen Hellman) and one of its members (Anna Vikström) also reacted to our opinion on 21 May.

What both replies fail to recognize is that we are attacking a phenomenon that is unparalleled in other OECD countries. We focus on the increased shift of power toward the business community on issues related to tax avoidance and evasion. Business organizations react instinctively and aggressively to all initiatives to protect the Swedish tax base and the government lacks the political will to take the fight with the business sector's representatives.

We address briefly below each reply separately;

FAR emphasizes that they have put tax sustainability on the top of its agenda and that they work to establish a more sustainable business climate. It is also clear from FAR's opinion on SOU 2018: 91 [*a government report*] that they emphasize the importance of ethical considerations and also that they support initiatives such as the "Global Reporting Initiative" and "CRS Europe", which both aim to persuade the business community to voluntarily accept increased transparency and reduced use of "tax optimization strategies".

These commitments appear in principle commendable. Unfortunately, the reality is much more discouraging. All studies presented so far indicate that aggressive tax planning continues unabated after the completion of the OECD's BEPS project in 2015. As a result, the OECD is now running the BEPS 2.0 project and several commentators in the international tax area are of the opinion that the OECD needs to go even further to effectively address aggressive tax planning. Regardless of existing administrative difficulties, we therefore believe the government should prioritize the adoption of rules to combat tax avoidance and evasion.

We would like to stress that our intention is not to diabolize FAR's members or other groupings that offer tax advice to business. It is the competitive situation that prevents tax consultants from voluntarily discourage aggressive tax planning. If a client receives tax planning advice that takes into account "ethical" and "sustainable business" considerations with the result that he is subject to an effective tax burden far exceeding that of his competitors, the client will simply change tax consultant. Aggressive tax planning is not combated most effectively with morality but with binding legislation. This also ensures competition neutrality.

Hellman/Vikström emphasize that tax avoidance and evasion is a priority for the Social Democrats and that the government has worked intensively throughout the last term with a program against tax avoidance, tax evasion and money laundering. These statements seem quite far from reality in light of the Panama Papers (2016), the Paradise Leak (2017), the cum-cum revelations (2018) and the Swedish money laundering scandals (2019) that have provided snapshots of the ongoing avoidance, evasion and money laundering activities in Sweden.

We find no valid reasons why FAR's rather than the Swedish Tax Agency's assessments of the situation deserve more attention as regards the implementation of the EU cross-border reporting requirements. If a postponement of the effective date is granted, it should be in line with the Commission proposal, i.e., a postponement of three months, but with retroactive application from 1 July.

We hope the government will implement the EU directive this summer according to the initial plan and then move on to introduce domestic reporting requirements for tax avoidance arrangements. Sweden is also in urgent need of new exit tax legislation (several suggestions have been put forward on how to address the concerns raised with the original proposal) and that rules against cum-cum arrangements are adopted as soon as possible. Finally, the completely cancerous tax haven industry must be erased from the Swedish economy once and for all.

The corona pandemic is creating gigantic holes in the OECD countries' tax coffers and this is likely to lead to them becoming more resolute in the fight against aggressive tax planning. We really hope that Sweden also prioritizes these issues in the future.