PARADISE PAPERS

GAAR crash

FOR a few years now the Big 4 accountancy firms have protested that their days of engineering the most artificial tax avoidance schemes were behind them. Really?

As far back as 2004, after being hit with a $456m fine in the US for fraudulently flogging schemes, KPMG produced worldwide "tax principles" promising to end the dodgy stuff. But the Paradise Papers, obtained by *Süddeutsche Zeitung* and shared with the *Eye* by the International Consortium of Investigative Journalism, reveal the firm's true colours.

After the then chancellor George Osborne announced a new "general anti-avoidance rule" (GAAR) in 2012, the firm quickly began dreaming up ideas for clients to get round it. In an October 2014 presentation headed *UK Tax Planning post-GAAR: What's Left?*, one of the firm's Isle of Man tax managers set out schemes for clients to dodge a range of taxes.

Following some run-of-the-mill tax planning for non-doms using trusts came ideas for dodging inheritance tax, such as granting a 999-year lease on a valuable home, which wouldn't start until after the owner's death so he or she could continue living in it. But then with "property (ie freehold) almost worthless on death", inheritance taxes would be successfully dodged.

The next ruse was to set up a company so that income would be taxed at just 20 percent, rather than at an income tax rate of perhaps 45 percent. The individual would then become "non-resident for five years" to avoid any further tax when emptying the company of its profits. Business owners could also swerve inheritance tax by giving their business away during their lifetimes to a company of which they would nevertheless be directors. While this would mean "reduction in estate", they could at the same time "retain control of investment strategy and access to cash (fees etc)".

Recent tax dodging clampdowns present further avoidance opportunities for KPMG. In 2013, Osborne had brought in an "annual tax on enveloped dwellings" (ATED) on houses owned by shell companies to deter their use for stamp duty and capital gains tax dodging. But KPMG had an answer to this too. Somebody buying a house (worth an imaginary £3m) would lend the money to the trustees of an offshore company for the trust to acquire the property from the company. "No ATED," concluded the beancounter.

More controversially still, KPMG had a ruse for getting round laws against scams to escape PAYE and national insurance. Under the heading "Employment structures", the firm noted the plethora of "legislation aimed at 'false' self–employment and offshore employers generally". It had a "possible solution" to the inconvenience of paying tax. A UK employee would become an employee of a both non-UK employer and a UK one. The latter would provide the person's services to the company he was really working for and be paid for this, but hand over most of the money as "commission to non-UK resident employer for supply of individual". The non-UK company then "provides benefits (typically via loans) to employee…" instead of a salary.

Other Paradise Papers emails show KPMG working on exactly such a scheme for a client. "The headline structure will be an Isle of Man company employing UK based contractors to work in the UK," writes the KPMG man to an Appleby lawyer. Proving that it knew full well this was tax avoidance, the presentation concluded: "Subject to GAAR?"

KPMG, which earns hundreds of millions of pounds from UK taxpayers for advising the government, continues to spew out warm words on responsible tax while advising on tax avoidance. Until the latest leak, the former were very public while the latter were kept secret. At least that's now exposed.

Shell shock

THE *Eye* has long drawn attention to the use of thousands of corporate structures called "limited liability partnerships" to launder billions of pounds of illicit funds, often linked to the former Soviet Union.

Until now it has generally been impossible to get behind these LLPs to see how they work. But evidence from the Paradise Papers gives an insight into their operations – and suggests that transparency laws for UK shell companies are unlikely to prevent their use for financial crime.

Correspondence with lawyers from offshore firm Appleby about a $7m Learjet purchase revealed that Ukrainian mafia boss **Volodymyr Galanternik**, a crony of pro-Putin Odessa mayor Gennadiy Trukhanov, is the true owner of Dominican company Norwell Inc. This in turn controls around 70 British LLPs.

To obscure his ownership of Norwell even further than using Dominica does anyway, Galanternik (who gives his address as a £4.6m Knightsbridge apartment owned by an Isle of Man company) doesn't own shares in Norwell Inc personally. Instead, they are held in the name of a stooge director with an address in Nicosia, Cyprus. When Appleby asked for proof that in fact the shares were Galanternik's, they were told: "No 'official' deed was entered into by the parties. The relationship is 'verbal' as… there is a fair amount of trust… [This] is for anonymity purposes only."

A similar set-up was deployed by Ukrainian expat **Oleksandr Kapitanenko**. When he wanted to access millions of US dollars which had been frozen in a bank account at Barclays in the Seychelles in 2015, his lawyers turned to Appleby for help: "We normally see this type of problems *(sic)*," an Appleby employee wrote, "on the basis of suspicious activities." The account in question belonged to Kapitanenko's Seychelles company, Ying Hoo Solutions Ltd, his Canadian lawyers explaining: "The account is used for 10-40 transactions per year… with the source of funds being customers of the client… which carries on the bulk of its development in the Ukraine." As proof of wealth, his lawyers handed over a contract under which Ying Hoo receives $500,000 each year from Lancaster Logistic LLP, a UK limited liability partnership which began life in 2013 and is owned by Dominican companies Kenmark Inc and Ostberg Ltd. In the two years from then to Lancaster Logistic's dissolution, accounts filed for the LLP at Companies House show total income of £21,536 and expenses of £3,000.

Together, Kenmark and Ostberg jointly own around 500 further LLPs. If just one is up to what can now be revealed of Lancaster Logistic's LLP, the mind boggles at the potential scale of money laundering using the thousands of these vehicles. Yet it is impossible to unearth it in the absence of a big data leak.

As the *Eye* has shown, almost all the dubious LLPs fail to report their ultimate owners under new laws requiring them to do so – unsurprisingly if so many of them are owned by crooks. The *Eye's* latest analysis shows there are around 7,400 active LLPs owned by 4,900 tax haven shell companies. In the last five years, 10,705 such LLPs have been set up and dissolved, almost all part of money laundering networks.

BEHAVIOURAL INSIGHTS

Nudge, nudge, clink, clink

TREBLES all round again at Behavioural Insights Ltd, the part-privatised Nudge Unit basking in the reflected glory of nudge theory guru Richard Thaler's recent Nobel economics prize.

The unit was set up in Downing Street in the early days of David Cameron's leadership, two thirds of it then being sold for a few thousand pounds in 2014 to management, staff and innovation charity Nesta. With a multi-million pound government contract in the bag plus the ultimate public sector contacts book, it wasn't going to take long for the deal to pay off handsomely.

The company's accounts reveal another stonking year, turnover increasing 37 percent to £10.5m on the back of international growth. While net profits were down slightly owing to the cost of expansion, it was still good news for the bosses. Three years after they acquired stakes in the company for peanuts, they became entitled to their first dividends.

Of the £398,516 dividend paid out after the year-end, chief executive David Halpern and managing director Owain Service received around £30,000 and £20,000 respectively. On top of their £157,000 and £109,000 salaries, that's not a bad return for the former civil servants.

Old contacts are evidently paying off. As well as the Whitehall contracts, Behavioural Insight's new clients include the New York-based International Rescue Committee, headed by David Miliband. As an academic, Halpern worked with Miliband as early as the mid-1990s, before becoming chief analyst in Tony Blair's strategy unit from 2001 to 2007. Over that time, Miliband (head of Blair's policy unit until 2001) remained a key New Labour thinker.

The company has also set up an office in Manchester "with the Greater Manchester Combined Authority as our founding partner". The local mayor signing that deal was another New Labour veteran, Tony Lloyd, and has recently been succeeded by yet another in Andy Burnham.

It's not just the executives who are doing well: non-executive chairman Peter Holmes, who was management consultancy Accenture's "head of government practice" during its peak fee-earning under New Labour, was handed a £60,000 bonus to go with his £40,000 fees. Behavioural Insights told the *Eye* this was justified by the company having met its "strategic objectives" over three years. It refused to say what these were or how they were met, secrecy that is at odds with its regular pontificating on openness. ("As well as using data and analysis, it's important to ensure that it is open to others to check and interrogate," wrote Halpern in a paper *Transparency and Evidence – Show Your Workings* earlier this year.)

The payment, approved by remuneration committee chairwoman and former management consultant Janet Baker, runs counter to the principle that non-executives, responsible for ensuring executives perform correctly, should not receive performance bonuses. Behavioural Insights says it "complies with all requirements regarding its chairman's remuneration as a small, private limited company".

This approach might raise a few nudge theorists' eyebrows. The whole premise of Thaler's Nobel-winning work is that people aren't purely economically driven and can be encouraged to do the right thing without having filthy lucre waved under their noses. Except when it comes to running the cash machine that is the privatised Nudge Unit, it seems.