

Interview with Dan Neidle

For our 100th edition, we interviewed Dan Neidle, founder of Tax Policy Associates (TPA). Until April 2022, Dan was head of UK tax at Clifford Chance. After retiring from that role, he founded TPA, whose reports on matters from the taxation of compensation for wrongly convicted postmasters through to the tax affairs of Nadim Zahawi have been widely reported in national newspapers and by broadcasters. His work on Nadhim Zahawi won 'Investigation of the Year' at the 2023 British Journalism Awards.

Why did you set up Tax Policy Associates and what did you envisage you would be doing when you set it up?

Like many tax people, I am frustrated by the fact that the media debate on tax is often on things which are frivolous or even wrong. There is an obsession about the rates of tax, and lots of discussion of multinational tax avoidance, some of which is pure misunderstanding. I thought it would be nice if some ideas which were very mainstream among tax policy people could get a bit more attention.

I thought that I'd be publishing nerdy policy briefs on technical points of tax law.

How did you end up bringing down the former Chancellor of the Exchequer instead?

To say it was unintended is an understatement.

A lot of what I do is speak to journalists, helping them with their stories. A few of them asked me about reports that Jeremy Hunt had avoided tax on the disposal of his business and Rishi Sunak had avoided tax in relation to a New York hedge fund; I took a look at both of those, and it was soon clear that tax avoidance wasn't involved in either case.

However, just a few days after I did that work, there was a story in *The Independent* that HMRC and the National Criminal Agency were investigating Nadim Zahawi. He denied this but, of course, if those agencies were investigating you, normally you wouldn't know until the point that they told you or took action against you.

So, I wondered what it could be about. Normally, it is very difficult to investigate an individual's tax affairs; if they work through small companies the accounts for such companies are generally limited in what they show, and unhelpful. However, Nadim Zahawi set up YouGov, which listed on AIM in 2005, and its listing documents and annual reports provide a great deal of information. Those documents revealed the existence of Balshore Investments Ltd, a Gibraltar company which held 42.5% of the shares in YouGov when that company was set

up; unlike the other founder, Nadim Zahawi held no shares directly in YouGov.

Mr Zahawi had denied that he had ever received a benefit from Balshore; however, I could prove from the listing and other filed documents that he had. Balshore sold its shares in 2017. Had those shares been held by Mr Zahawi, working with a lot of other tax experts, we put a figure on the tax he would have been liable for of £3.7m; we expected that no tax had been paid by Balshore.

Mr Zahawi argued that Balshore had provided start-up capital, which the filed documents did not support. He then changed tack and argued that the shares had been given to Balshore because it was owned by his father who had been pivotal to the set-up of YouGov. This seemed highly unlikely. At this point, in mid-2022, I started being threatened by libel lawyers. After consulting again with a number of other tax professionals, I concluded that these threats were bluffs, and continued to publish. Mr Zahawi then changed tactic, and just stopped talking about the issue. At that point, there were a lot of other things going on in the political world, and this subject began to lose traction.

Then, in January 2023, I was approached by Ashley Armstrong, the business editor of The Sun, who had a source confirming that Mr Zahawi had negotiated a settlement with HMRC over the sale of YouGov. This was an amazing scoop which changed everything. It was followed up by revelations that Mr Zahawi had paid penalties to HMRC as part of the settlement, and ultimately, Mr Zahawi was sacked as Conservative Party Chairman.

Editor's note:

Nadim Zahawi admitted in January 2023 that he had made a settlement with HMRC in respect of the sale of YouGov shares, and that he had paid a penalty for a careless but not deliberate error in relation to the allocation of shares to Balshore Investments Ltd. He also stated that HMRC had agreed that he had not set up an offshore structure and agreed he was not 'the beneficiary of Balshore Investments'. He did not confirm the size of the settlement, but there were reports around it being about £5m; including penalties, etc. that is consistent with the figure Tax Policy Associates calculated in summer 2022

Thank you, that is really fascinating. Your attention then turned to what might be called 'hopeless avoidance schemes'. How did that come about?

I think I had quite a gap after Mr Zahawi before the next hopeless avoidance scheme. During that time, I worked on things that I really wanted to focus on. I researched and wrote about the way that HMRC disproportionately charge penalties on people on low incomes. I need to return to that soon. I also covered the way that the compensation scheme the Post Office was paying to the

postmasters that it had appallingly prosecuted was landing those victims in a tax mess. Again, I'm going to be turning to that soon.

The Zahawi investigation and all of this subsequent work increased my profile. When I founded Tax Policy Associates, I was moderately well known among some tax policy geek type people but not at all beyond that. I had around 8,000 Twitter followers; post Zahawi I had 100,000, and many journalists had heard of me. Moreover, there were accountants around the country who were seeing really bad stuff and thought 'maybe I should speak to this guy'. I started to get tips on things they were seeing, including some hopeless schemes.

Looking into these schemes is pretty fun and interesting, but they can take quite a lot of time to dig into. I have to be careful that it doesn't completely dominate what I do. I can't always bridge the gap between 'this looks dodgy' and 'Oh I see what they're doing. It is dodgy.'

When you see e-mails sent out in pink comic sans font, saying that income tax is optional, you think this has to be dodgy. However, if you don't know anything more about what they're doing, there isn't really anything to write about.

That leads me on to my next question. Are you filling a gap in the market that really should already have been filled by somebody else, such as the professional bodies or even people like us, the 'tax press'?

It is quite a hard gap to fill. You need someone who is a tax expert and who is willing to speak out and can speak out in a non-technical way. People who are currently in the profession generally can't do that because of the conflicts of interest it would create. A lot of people who retire just want to retire. Most of the schemes I write about will never get any coverage in the press because they are simultaneously complicated, nerdy and the reporting carries potential legal danger to the publisher.

The Times ran a story on Nadim Zahawi way back in July 2022 before any other paper would do so. *The Times* knew there was a legal risk, but it was a huge story in the public interest. You can't expect a newspaper to take those kinds of risks for something much smaller.

I don't think it's realistic for the specialist tax press to do it because you don't have the time, resources or staffing to do it. Whether the professional bodies could act is an interesting question because they are self-regulating bodies and have a lot of staff. They do see stuff out there which is dodgy, and they don't practically do anything about it.

As a past 'insider', at the CIOT, it has a pretty small total full-time equivalent staff covering education examinations, technical input, member services, etc. and all expenditure has to meet charitable objectives.

This monitoring activity feels extremely charitable to me, and it only needs half of someone's time on an occasional basis; what I do for TPA is about three hours a day of a retired guy looking after kids, so it doesn't feel like it's beyond the wit of man.

It's a very good challenge.

The other people who could be spending some time trawling the internet are HMRC, because they weren't aware of several schemes until I pointed them out. They used to have a special investigations unit which was shut down years ago. That was in the pre internet age where HMRC staff would be going around the country to exhibitions and the like, looking for 'dodgy stuff'. You don't need that today. You could employ a dozen teenagers with Facebook accounts and dig up all kinds of schemes.

If HMRC were monitoring schemes it would be to protect the Treasury's tax take, which is fine. But who should be protecting the consumer? Who is stopping people being sold duff schemes? That is not HMRC's job. Currently HMRC can afford to wait a few years, to sort things out, during which time the poor person who bought the scheme has landed themselves with a huge, huge amount of tax debt. There's a consumer interest of finding the schemes and stopping them early.

Who is going to do it? The answer can't be me!

Do you think the tax profession should be subject to greater regulation?

When I started looking at these schemes, I saw that most of them were run by completely unregulated chancers and I thought, yes, the answer must be regulation.

Now, I don't think that's the answer for two reasons.

First, what I hadn't realised is there's quite a lot of valuable tax work being done by people who aren't formally regulated, particularly doing the taxes of people on lower incomes. Forcing those guys to be regulated achieves nothing.

Taking you back to your tax policy side, what would concern you, in particular, about the UK tax system as it stands?

I think the way HMRC treat the very poor and the way they treat the very rich needs to change. The fact that people on very low incomes below the level at which they should pay tax can be hit with penalties of thousands of pounds is deeply, deeply wrong and offensive to me.

It doesn't have to be a very imaginative change here. In the past it was the law that no penalty could exceed the amount of tax you actually owed. That was changed and that really needs to be fixed.

At the level of the very rich, the problem is the lack of a proper penalty for evading

tax. Go through COP9, pay up and not be prosecuted. HMRC make a very pragmatic calculation that is more efficient and get more money if they reach deals rather than prosecute. I'm sure that is true in narrow financial terms, but I think it damages the integrity of the tax system.

What do you make of what might be considered 'middle class' tax problems such as the high income child benefit tax charge and high marginal rates where allowances are withdrawn?

I'm quite excited about this because there is often much debate in the papers as to whether a 45 pence tax rate is a disincentive. That is not even close to being the highest marginal rate in the UK tax system. If you are earning around £50,000 and you have three kids, the loss of child benefit means that you have an effective tax rate of about 71% and if you also are repaying student loan it can be 80%, and that's insane.

I think the issue is getting a little bit more traction.

I've been pushing. And yes, we are now seeing a regular drip, drip of stories in the press and increasing awareness. However, silence from the politicians.

Do you think there's any prospect that it could get more attention in an election campaign?

I fear not, because for the Tories, they're not going to mention that they have presided over a 70/80% tax rate; whilst Labour don't want to talk about people earning £50,000 pa. However, the moment when change could happen, is the first Budget of a new Government.

Taking you back to possibly when you were more frequently involved in practice, the international tax system: do you think Pillar Two will improve the international tax system?

I think it's an amazing achievement and the design of it is inspired. It absolutely will improve the tax system. However, we just don't know how much it will raise. The revenue projections from the OECD are surprisingly high.

What do you make of other tax campaigning groups?

The tax campaigning world is very curious. Almost none of the NGOs active in that space have people with tax expertise working for them. A notable exception is Tax Watch. The campaigners are mainly political with a tax theme. They are not really tax people and I think as a result they've been unsuccessful in terms of achieving policy change. In terms of the public debate on tax, particularly in the early 2010s, they were without doubt very influential in terms of where the debate went; but in terms of concrete policy change? Not so much.

Yes, I would agree that the policy change that we have had has come from the OECD. It's partly arisen from Governments wanting to respond

to the themes that some of the tax campaigners have echoed, but more from a realisation that they were losing significant amounts of money to tax havens or in structures that avoided tax anywhere.

You've mentioned the Post Office scandal. There are also people out there who have been caught by the loan charge due to entering into disguised remuneration schemes. I have seen them claim on social media that there is a parallel between what happened to postmasters and what happened to them. Do you see any such parallel?

Let's be clear. The innocent postmasters did nothing. They were accused of a criminal offence, which they hadn't committed, and lost everything.

You can debate the fairness of the loan charge itself, but the underlying cause of the situation of those caught is that they entered into a highly artificial scheme to avoid all tax or almost all tax on their income. There are those who say that they didn't realise what they were doing and they were hoodwinked into it. There I do have sympathy and I think that there should be some relieving measure introduced. However, my experience is that many of those involved did know what they were doing.

There also seems a lack of appreciation by many of them that if things had gone as I would have liked, which is for HMRC to be aggressively on top of the schemes, and challenging them, those who used the schemes would still have to repay the tax and they could have been faced with an extremely large bill, they would have struggled to pay. It is inevitable that if you avoid tax on nearly all of your income, then after a few years the amount you have to repay will be very, very hard for you to repay. So, I don't think there is a parallel with the Post Office scandal.

Final question: If a political party came along to you and said 'if we win the next election, we will change one thing in the UK tax system for you', what would you choose?

Probably fix the VAT threshold.

Do you mean bring it right down?

Yes, because that has the most plausible potential to shift economic growth.

Dan Neidle, many thanks for your time.

And I would like to thank everyone in the tax profession who was supportive during the Zahawi episode. The people we were working with, probably a couple of dozen people, and the others who just wrote in with random thoughts and suggestions, which was brilliant. There was an amazing degree of support from the profession, for which I will always be very grateful.

The work of Tax Policy Associates can be found at <https://www.taxpolicy.org.uk/>, where you can also subscribe to their free newsletter.

If you have any comments on this article, please e-mail the editorial team at tax-weekly@croneri.co.uk.

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