Wealth Tax Commission

Beneficial Ownership and Wealth Taxation

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BENEFICIAL OWNERSHIP AND WEALTH TAXATION:

AN ASSESSMENT OF THE AVAILABILITY AND UTILITY OF BENEFICIAL OWNERSHIP DATA ON COMPANIES IN THE ADMINISTRATION AND ENFORCEMENT OF A UK WEALTH TAX

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Acknowledgements

1. Introduction

This paper considers an issue that has a significant bearing on the successful administration and enforcement of a wealth tax[1]: understanding and verifying what is owned by whom. Specifically, it focuses on the challenges of verifying declared ownership of assets amongst the wealthiest individuals in society, who have more opportunities to fragment ownership and use trusts, foundations and other entities that split ownership (whether for tax or non-tax reasons). The term 'individuals' is used throughout this paper, however the issues raised would also apply if the household were to be used as the unit of taxation.[2]

The paper identifies the concept of beneficial ownership as critical to understanding the ownership of taxable assets amongst the wealthiest individuals in UK society. Whilst determining what taxable assets are owned may be comparatively straightforward for most individuals, the use of complex financial structures including companies and trusts to hold and manage assets is more commonplace towards the top of the economic distribution (Atkinson et al., 2017). With 5% of the UK population owning 39% of total wealth (Balestra and Tonkin, 2018), if a wealth tax is to be implemented and enforced effectively, there needs to be high levels of compliance amongst individuals with the most wealth. This is likely to hold true regardless of the rate of taxation, whether flat or progressive, and the threshold chosen.

The paper examines how beneficial ownership data, and specifically national registers of the beneficial owners of companies, could support the administration and enforcement of a wealth tax. Academics have called for better data on ownership of assets, and for this data to be public, including the closely related policy ideas for an international financial register (Zucman, 2015) and a global public financial register (Piketty, 2020). The central purpose of such registers is to link taxpayers to assets – of all types – that they own, and to do so transnationally, rather than just domestically.

Data on transnational ownership of companies leaked through the Panama Papers directly led to enforcement investigations against alleged tax evasion involving millions of dollars (BBC, 2018). This suggests that reliably linking taxpayers to taxable assets that they own anywhere in the world, for example through registers of beneficial ownership, would be of assistance in enforcing a wealth tax. Whilst other types of legal entity and arrangements such as trusts have been shown to be used to hide ownership of assets, World Bank research found that companies were the most common type of legal vehicle in transnational financial crime cases (van der Does de Willebois et al., 2011). However, when examining the use of beneficial ownership information to support wealth taxation, one question is whether publicly accessible registers are required to achieve this, or whether registers that are just accessible to tax authorities would adequately meet this need.

The paper focuses on government maintained national registers of the beneficial ownership of companies – both those that are publicly available and those that are not. This is because the data infrastructure for beneficial ownership of companies is more developed than that for other ownership vehicles or asset classes that may be of interest in context of wealth taxation, such as assets held through legal arrangements such as trusts, or assets such as luxury goods or real estate (Knobel, 2019). The findings have lessons for tax administration and enforcement beyond the

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[1] Net wealth tax is defined as taxation on the ownership of wealth directly, as opposed to on the transfer of wealth (e.g. inheritance tax) or income from wealth (e.g. capital gains tax) (Advani et al., 2020)
[2] For further discussion of design issues regarding the tax unit, see Chamberlain (2020).

context of companies however, since the concept of beneficial ownership can readily be extended to multiple other asset classes, albeit with a degree of legislative or technical adjustment (ibid.).

Following short sections to define beneficial ownership data and outline its potential relevance to wealth taxation, the paper provides an overview of existing available data on beneficial ownership of companies. To understand the utility of beneficial ownership registers in supporting administration and enforcement of a wealth tax, the paper then applies the Open Ownership Principles of Effective Beneficial Ownership Disclosure (Open Ownership, 2020b) to evaluate the extent to which the current data infrastructure for beneficial ownership could be brought to bear when enforcing a wealth tax, and identifies future steps and considerations for policymakers. The principles are informed by Open Ownership's work to develop the global Beneficial Ownership Data Standard, policy and technical support to almost 40 countries implementing beneficial ownership transparency, and research into best practices for publishing data that can drive policy impact. The paper then looks beyond companies to provide an overview of beneficial ownership information available in the UK for other types of entity and asset that may be of relevance to wealth taxation.

The paper argues that beneficial ownership data offers valuable information to support the enforcement of a wealth tax, and, with expected advances in data infrastructure, is also promising for wealth tax administration. The paper finds that globally the current data infrastructure is patchy and has significant complexities, with particular gaps in beneficial ownership data for wealth held offshore, and that nuance is required when applying the concept of beneficial ownership to support wealth taxation. Despite this, beneficial ownership data still provides valuable information and should be considered as part of effective administrative and enforcement approaches. The significant momentum towards greater availability of beneficial ownership data suggests that standardised, granular and verified beneficial ownership data will become more common over the coming years, increasing its utility to support wealth taxation.

2. What is beneficial ownership data & how is it relevant to wealth taxation?

A beneficial owner, according to the global standard setting body the Financial Action Task Force (FATF), is 'the natural person(s) who ultimately owns or controls' a legal entity 'and/or the natural person on whose behalf a transaction is being conducted' (FATF, 2014). In other words, the beneficial owner is the natural person or persons who derive benefits from or who exercise control over an asset – whether company shares, real estate, or financial assets. This definition brings together two quite different concepts – benefit and control; someone, e.g. the directors, may control an asset but may not own it in any way that is meaningful for wealth taxation.

The concept is distinct from legal ownership, which refers to the natural or legal person whose name appears on the shares and may just be a nominee. In short, a person or a company may be the registered legal owner of a particular company, but another person may be the true beneficial owner (see Figure 1). This split between legal and beneficial ownership is particularly familiar in common law countries, but this distinction has become more widely established and used by enforcement authorities through its inclusion in international anti-money laundering standards.

FIGURE 1: EXAMPLE OF A SIMPLE OWNERSHIP CHAIN ILLUSTRATING THE DIFFERENCE BETWEEN BENEFICIAL AND LEGAL OWNERSHIP
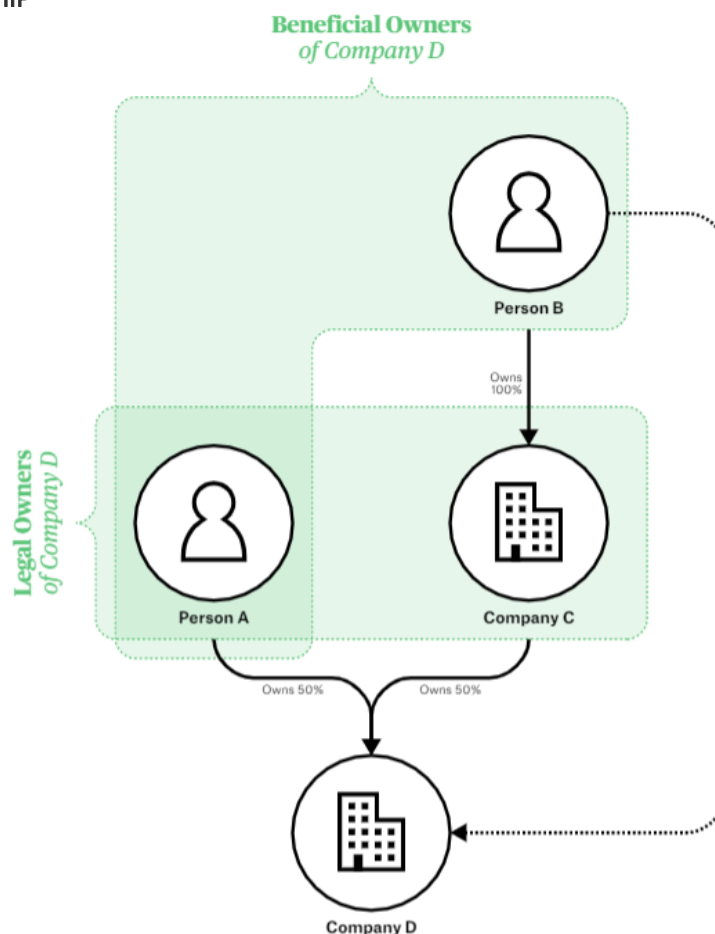
Source: Kiepe and Low, 2020

The policy of requiring companies (and in some cases other legal entities and arrangements) to disclose their beneficial owners to the government has principally been driven by advances in international anti-money laundering policy (van der Does de Willebois et al., 2011), and as such the concept draws together numerous ways in which people can derive benefit from ownership or control of companies. The disclosure of beneficial ownership is a comparatively new policy area, with the first international standard relating to beneficial ownership coming into effect in 2003 (FATF, 2019). The majority of legislative requirements for beneficial ownership disclosure have been adopted within the last decade, most notably among EU Member States following the 4th[3] and 5th[4] EU Anti-Money Laundering Directives in 2015 and 2018 respectively.

The concept of beneficial ownership has proven useful for determining the persons that own or derive benefit from assets that are held and moved through the global financial system using complex networks of companies. Exposés such as the Panama Papers and Paradise Papers revealed cases of large-scale financial crime including money laundering and tax evasion, and highlighted the use of complex transnational networks of companies to move and hide the proceeds of financial crime. Analysis of law enforcement investigations highlights the use of hidden beneficial ownership of companies in 70% of large scale corruption investigations (van der Does de Willebois et al., 2011). Figure 2 illustrates a relatively simple example where beneficial ownership was allegedly obscured using multiple companies based in three jurisdictions.

The use of companies to manage assets is of significant interest to authorities tasked with administering and enforcing a wealth tax. Companies are a key mechanism through which people hold, manage and move money and other assets. The use of networks of privately owned companies to manage assets is only feasible for those with substantial wealth, and is common amongst the very wealthiest (Atkinson et al., 2017). In such cases, beneficial ownership information is critical to understand and verify the link from person to asset, since legal ownership data will not necessarily show how the person is linked to the asset.
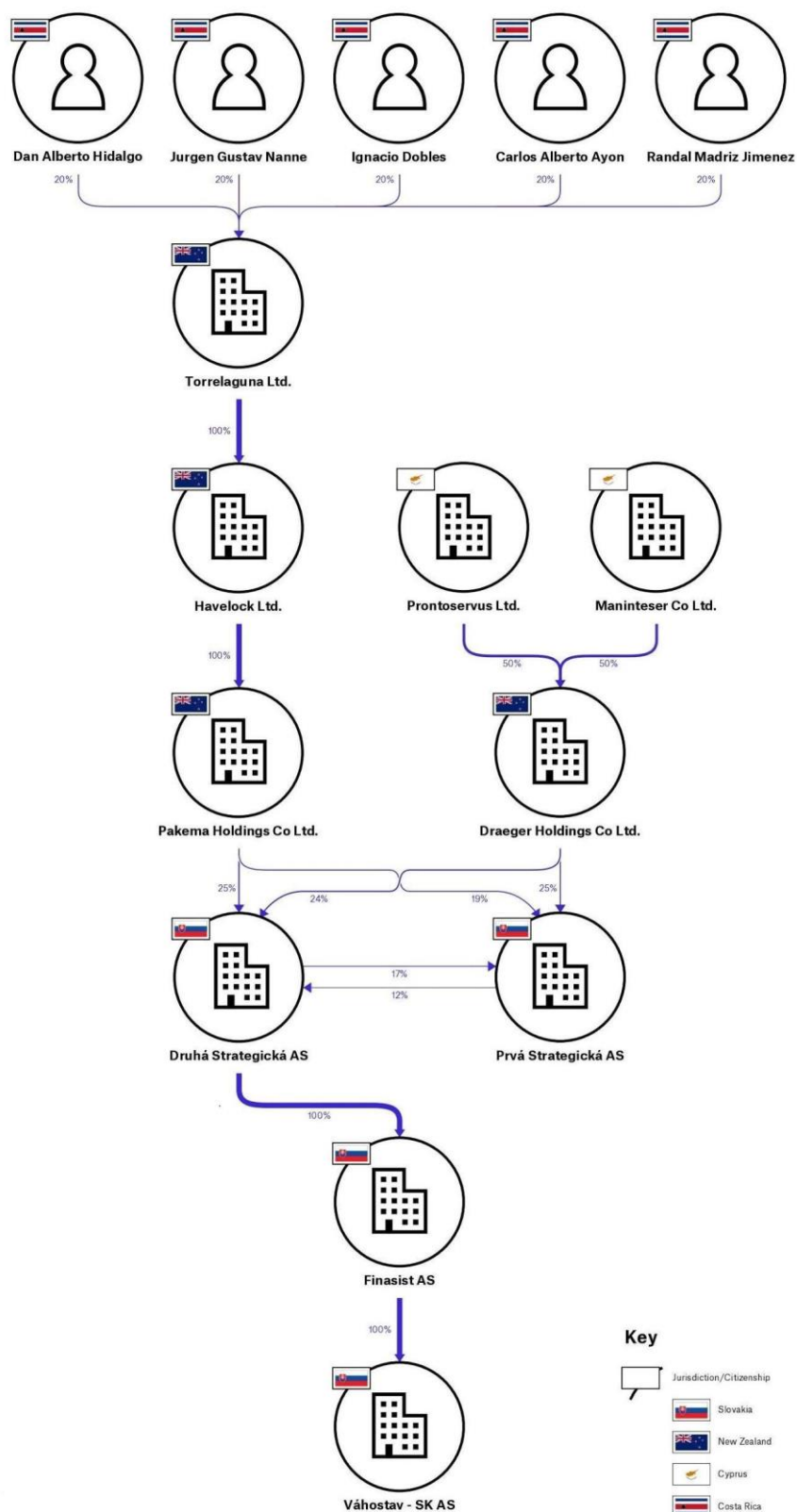
As the financial system has become increasingly globalised, the wealth management industry – of legal and accounting professionals that set up and manage networks of companies and other legal arrangements on behalf of their clients – has grown significantly (The Business Research Company, 2020). There are of course perfectly legal and commercially justified uses for transnational networks of companies; however, international bodies have also highlighted their use in large scale financial crime (Global Forum on Tax Transparency, 2019; FATF, 2019). There is lively debate about the extent to which the use of such structures occurs legally versus illegally, and the circumstances in which their use can fairly be criticised even when legal. These issues are somewhat tangential to the topic of this paper, since both the global policy landscape and evidence from cases of illegal activity underscore that regardless of the proportion of transnational networks of companies that are used within illicit activity, the monetary sums involved are large enough to demand attention.

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[3] EU 4th Anti-Money Laundering Directive (2015) https://eur-lex.europa.eu/eli/dir/2015/849/oj
[4] EU 5th Anti-Money Laundering Directive (2018) https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32018L0843

Source: Kiepe et al., 2020

In an analysis of 106 financial crime investigations from 34 jurisdictions that involved companies with hidden beneficial ownership, the average sum involved per case exceeded US $500 million (FATF and Egmont Group, 2018). Looking specifically at the issue of tax evasion in the UK, in the six months following the Panama Papers leak, this data led to civil and criminal investigations against 22 individuals for suspected tax evasion, and a further 43 high net worth individuals being placed under special review (UK Parliament, 2016). Hidden beneficial ownership featured prominently in these cases (HMRC, 2016). By 2019, HMRC and HM Treasury forecast that investigations resulting from the Panama Papers data would yield over £190 million (HMRC and HM Treasury, 2019). Whilst there has not been systematic analysis of the scale of evaded tax accomplished using hidden beneficial ownership, and the extent to which a future UK wealth tax may be evaded is unknown, the sums identified through a comparatively small leak of data underscore the utility of beneficial ownership information in supporting enforcement action.

3. The Potential for beneficial ownership data to support administration and enforcement of a wealth tax

Beneficial ownership data can potentially support both the administration of a wealth tax and subsequent enforcement action.

Supporting administration

At the time of filing, data from beneficial ownership registers could be used to validate information submitted by verified individuals in relation to a wealth tax, for example through the UK HMRC self-assessment process. This could be achieved through automated validation of information submitted by taxpayers against data held on the UK beneficial ownership register (known as the Persons with Significant Control register), or auto-populating relevant information about companies of which the taxpayer is registered as a beneficial owner in order to encourage accurate declarations of taxable assets held through companies.

A prerequisite for pre-population of data is verified identities for taxpayers that are shared between relevant government agencies (see *Sufficient detail* and *Structured data* sections below). Measures such as this are in place across several countries for other datasets relevant to taxpayers (see Table 1); such measures make it simpler for individuals to submit accurate and complete information, particularly in more complex cases. In addition, these measures would act as a deterrent to not declaring taxable wealth that is held through UK companies.

TABLE 1: COUNTRY EXAMPLES OF LINKING COMPANY OWNERSHIP AND OTHER GOVERNMENT DATASETS

Country	Datasets
Austria	The tax office accesses data from the Austrian beneficial ownership register to automatically generate enforcement action against non-compliant legal entities.
Denmark	The Danish Central Business Register (CVR) automatically cross-checks submitted beneficial ownership information with various governmental registers, including the civil register and the Danish address register.
Ireland	Data interfaces between the Companies Registration Office and the Revenue office are used to monitor tax evasion risks associated with legal entities and verify some of the information held.
Israel	The Tax Authority is required to directly hold legal and beneficial ownership information for all legal persons with an income or own real estate in the country.
Italy	The financial police (Guardia di Fianza) use the MOLECOLA software platform to analyse information from the business registry and tax administration database, among other sources, to support financial investigations.
Netherlands	The Scrutiny, Integrity & Screening Agency analyses financial crime risk using data from multiple sources including the Company Registry and tax authority.

Source: FATF, 2019

Supporting enforcement action

Data from beneficial ownership registers can provide authorities with valuable information to support enforcement investigations. Given the concentration of complex and transnational ownership structures amongst economic elites (Atkinson et al., 2017), beneficial ownership information - including information on ownership of companies in foreign jurisdictions - is an important source of information to establish a global picture of taxable wealth that is owned by an individual under investigation (Knobel, 2019). Ensuring timely access to beneficial ownership information for foreign entities, through appropriate legal powers and administrative processes, will be an important element of effective enforcement; these issues are discussed in the section *Access to data in beneficial ownership registers*.

Evidence from anti-money laundering investigations demonstrates significant value of beneficial ownership data, for both domestic and foreign jurisdictions, to law enforcement investigations (van der Does de Willebois et al., 2011; FATF and Egmont Group, 2018). The resource commitment required to obtain and analyse data in such cases is significant (Department for Business Innovation & Skills, 2014), and the caseload for large-scale wealth tax evasion by individuals can be expected to be relatively small. However, evidence from tax evasion investigations following the Panama Papers data suggest that the potential revenues per case from successful investigations are likely to be large (Wilson-Chapman et al., 2019).

4. The data infrastructure for beneficial ownership information

In order to support administration and enforcement of a wealth tax, beneficial ownership data must a) exist, and b) be accessible (in practice as well as legally) to administrative or enforcement authorities, and c) be sufficiently accurate to be trusted by authorities. Broadly speaking, there are three different approaches to collecting and storing beneficial ownership data (see Table 2). Analysis of 83 country assessments of compliance with FATF requirement for timely access to beneficial ownership data showed that the presence of central beneficial registers enabled more timely access to data for relevant authorities (Martini, 2019). However, even where a legal mandate exists for authorities to access data, in practice this often necessitates a laborious administrative process to request access to specific data, in particular when it is held in foreign registers (ibid.). Therefore, in reviewing how beneficial ownership data can support wealth taxation, the paper will focus on data held in central registers as the most promising method of providing efficient access to data.

TABLE 2: APPROACHES TO STORING BENEFICIAL OWNERSHIP DATA

The company approach	Companies are legally obliged to hold data on their beneficial owners and make this available to authorities when requested
The existing information approach	Entities such as banks that are regulated under anti-money laundering law are obliged to hold beneficial ownership data for their client companies and make this available to authorities when requested
The central register approach	Companies are required to disclose beneficial ownership information to a central authority such as a companies registrar, which maintains the data in a central register. This may be accessible to the public, or only to certain stakeholders such as law enforcement

Source: FATF, 2019

Recent years have seen substantial momentum towards the creation of central beneficial ownership registers. Since 2016, over 80 countries have committed to beneficial ownership transparency reforms and at least 22 countries have public beneficial ownership registers in place (Open Ownership, 2020c). The UK was the first G20 country to implement a public register of beneficial owners of companies – the Persons with Significant Control register – which makes available beneficial ownership information for approximately 4.2 million companies incorporated in the UK (Global Witness and Open Ownership, 2017). Data is available in structured (machine readable) formats, both record-by-record and in bulk. However, lack of verification of the data has led to issues with incomplete, suspicious or incorrect data being held on the register (ibid.). In October 2020, the UK government published its intention to implement improvements to deal with these issues (Dept for Business Energy & Industrial Strategy, 2020).

Internationally, despite the growing number of countries committing to beneficial ownership transparency, there are several notable gaps. Countries with large financial centres including the US, China and United Arab Emirates have not committed to public disclosure (Open Ownership, 2020c), although in 2019 the US passed legislation that would require beneficial ownership disclosure to the Treasury (US Congress, 2019).

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In addition, the emergent data infrastructure for beneficial ownership registers currently consists of national silos; there is limited ability to connect data transnationally. Although numerous private sector providers compile datasets from multiple countries, including some beneficial ownership information, access to these databases is charged for and the underlying sources of the data are not always made clear, creating barriers for authorities seeking to determine the reliability of the data.

Key technical tools for data sharing are in place, including a data standard for publishing beneficial ownership information.[5] Open Ownership is working with 30 countries to implement this standard, and aggregates and links beneficial ownership data from national registers through the Open Ownership Register.[6] Compared to other government datasets relevant to taxation, such as the information on financial accounts shared through the Common Reporting Standard for automatic exchange of tax information, the data infrastructure for transnationally linkable beneficial ownership information is best described as nascent but advancing at pace.

Since the introduction of the Common Reporting Standard in 2014, over 100 countries have committed to participate in the automatic exchange of information and by 2019, 95 jurisdictions had exchanged information (OECD, 2020). This illustrates that with relevant international policy apparatus and a technical schema, information sharing can become widespread within a relatively short timeframe. The information is exchanged securely between national tax authorities, as opposed to being public; the issue of who can access beneficial ownership data in context of supporting wealth taxation is discussed in the section *Access to data in beneficial ownership registers* below.

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[5] http://standard.openownership.org/en/0.2.0/
[6] https://register.openownership.org/

5. How effectively could the current data infrastructure support wealth taxation?

This section of the paper will evaluate key gaps between the beneficial ownership data infrastructure currently available to support administration and enforcement of a wealth tax, and the data infrastructure needed to provide substantive and useful information on ownership of taxable assets, wherever in the world they are held. Since geographically the availability of beneficial ownership data is at an early stage but with an increasing trend, rather than reviewing availability of data across different jurisdictions, this section highlights cross-cutting considerations for policymakers, administrators and enforcement officials when seeking to use beneficial ownership data to support wealth taxation.

The paper applies the Open Ownership Principles for Effective Beneficial Ownership Disclosure (Figure 3), a set of policy, legal, technology and data characteristics that beneficial ownership regimes need in order to generate easy to use, accurate and transnationally linkable data. The principles have been developed through Open Ownership's work developing the Beneficial Ownership Data Standard and supporting almost 40 countries to advance beneficial ownership transparency and draw extensively on academic and practitioner literature across open data, anti-corruption and good governance. The principles are applied to address three questions:

(A) To what extent does beneficial ownership data contain information that is helpful for determining taxable assets?

(B) To what extent is beneficial ownership data *in practice available* to support wealth taxation?

(C) To what extent is beneficial ownership data accurate and up to date?

(A) To what extent does beneficial ownership data contain information that is helpful for determining taxable assets?

Definitions of beneficial ownership

The concept of beneficial ownership used in transparency disclosures has largely been developed from an anti-money laundering and anti-corruption policy perspective, and therefore definitions used may not fully align with information that is useful for wealth taxation. Typically, a definition of beneficial ownership includes a number of ways in which ownership or control can be exerted over the entity (Kiepe and Low, 2020), and this presents two potential challenges when using the information to support wealth taxation.

Firstly, not all forms of ownership or control may equate to ownership of taxable wealth. For example, an individual may be disclosed as the beneficial owner of a company because they exert control over it (for example, by holding rights to appoint board members) without owning or deriving financial benefit from the company (Kiepe and Low, 2020). However, such cases involve a minority of companies, as for most companies the legal owners are also the beneficial owners with ownership held through mechanisms that translate to ownership of taxable wealth, such as the holding of shares. To limit this complexity, policymakers should consider aligning the definition of chargeable wealth for tax purposes with the definition of beneficial ownership as far as practicable;

this approach, combined with potential exemptions for particular forms of ownership or control that do not constitute chargeable wealth, would enable beneficial ownership data to be used automatically at scale to support administration or enforcement, provided the published data contains sufficient detail about the form of ownership or control (see *Sufficient detail* section below).

FIGURE 3: OPEN OWNERSHIP PRINCIPLES FOR EFFECTIVE BENEFICIAL OWNERSHIP DISCLOSURE

Open Ownership Principles for Effective Beneficial Ownership Disclosure
Effective disclosure means that disclosure generates high quality, reliable data that maximises usability and minimises loopholes. The nine principles are core tenets of effective disclosure, and encapsulate a range of policy and legal systems as well as data and technology characteristics for an effective disclosure regime. A disclosure framework that applies the Principles will provide a comprehensive overview of the ownership of companies registered in the country in question. This supports achievement of policy goals including tackling money laundering, reducing corruption, and increasing domestic resource mobilisation. For further information and key metrics by which to evaluate each principle, see www.openownership.org/framework.

1: Robust definitions
Beneficial Ownership should be clearly and robustly defined in law, with low thresholds used to determine when ownership and control is disclosed.

2: Comprehensive coverage
Disclosure should comprehensively cover all relevant types of legal entities and natural persons.

3: Sufficient detail
Beneficial ownership disclosures should contain sufficient detail to allow users to understand and use the data.

4: Central register
Data should be collated in a central register.

5: Public access
Data should be accessible to the public.

6: Structured data
Data should be structured and interoperable.

7: Verified
Measures should be taken to verify the data.

8: Sanctions & enforcement
Adequate sanctions and enforcement should exist for non-compliance.

9: Up to date & auditable
Data should be kept up to date and historical records maintained.

Source: Open Ownership, 2020a

Second, most definitions of beneficial ownership use a threshold to determine whether an individual needs to disclose their beneficial ownership (for example, persons owning 10% or more of shares in the entity). The thresholds applied vary widely across countries, with 25% the most common (Kiepe and Low, 2020). There is some evidence of a downward trend, with several countries adopting lower thresholds during the last three years. Cayman Islands, for example, adopted a 10% threshold in 2020 (ibid.).

For purposes of verifying ownership of taxable wealth, beneficial ownership of *any* percentage of shares is likely to be relevant, in particular in relation to ownership of very large companies. Analysis of beneficial ownership data disclosed through Nigeria's extractives portal demonstrates that using a higher threshold for ownership results in significant loss of information; were a 20% threshold applied to the data instead of the 0% threshold that is effectively used, information on over half the beneficial owners disclosed would be lost (Kiepe and Low, 2020).

Together, these definitional issues present a blocker to the use of beneficial ownership data to support wealth taxation on a greater scale than a case-by-case enforcement basis. This is not insurmountable, however in order to undertake automated analysis of beneficial ownership data at scale, sufficient detail and standardisation would be required to allow filtering of the data by ownership or control types relevant to the specific wealth tax. These issues are discussed further in the paragraphs that follow.

In terms of administration of a wealth tax, a practical approach short term may be to automatically pull across data from the UK beneficial ownership register as a 'prompt' during submission, with the taxpayer required to select or deselect a particular beneficial ownership relationship as relevant for purposes of wealth taxation. This type of action could serve to reduce non-compliance due to accidental omission or error. If a register internal to HMRC were to be maintained of individuals liable to pay wealth tax (as suggested in Troup et al., 2020), analysis could be undertaken of this register and the UK beneficial ownership register to identify potential flags for non-compliance.

Coverage of beneficial ownership registers

Beneficial ownership registers can provide valuable information on the owners of legal entities, however from the perspective of supporting wealth taxation, their coverage is not exhaustive. Listed companies are generally exempt from beneficial ownership disclosure requirements (Lord and Armstrong, 2020), and in some jurisdictions beneficial ownership registers only cover companies operating in specific sectors such as extractives (Open Ownership, 2020c). A common rationale for exempting listed companies from beneficial ownership disclosure requirements is that the disclosure requirements placed upon listed companies by the exchange(s) on which they are listed provide a sufficient level of ownership transparency; however, this is in practice not always the case (Lord and Armstrong, 2020). There is significant scope to further explore the gaps in company ownership disclosure requirements created by exemptions of listed companies, for example by linking beneficial ownership and stock exchange data.

The exemption of limited companies from many beneficial ownership regimes serves primarily to limit the potential utility of registers for administration of a wealth tax – for example automatically validating that all taxable interests have been disclosed. The focus of beneficial ownership registers on privately held entities, in particular companies and – in countries such as the UK the existence of a trusts register as well – aligns well with the types of legal entity and arrangement that feature

most commonly in tax evasion and financial crime (van der Does de Willebois et al., 2011), meaning the data in these registers is likely to be of relevance in enforcement investigations.

Although the main focus of this paper is beneficial ownership registers of companies, it would be remiss not to highlight trusts when examining the coverage of beneficial ownership registers. As for companies, there are many legitimate uses of trusts; however, their prominent use in cases of large scale tax avoidance and evasion highlights their potential to undermine effective wealth taxation (Knobel et al., 2017). Leaving aside the issue of whether beneficial ownership data for trusts should be publicly available (see *A note on balancing privacy and public interest*), there are some additional technical complexities with defining beneficial ownership in relation to trusts (ibid.; Chamberlain, 2020, appendix 1), however these ought not to prevent trusts being covered within beneficial ownership registers.

The Common Reporting Standard references a substantive definition of beneficial ownership of trusts that comprises all settlors, trustees, beneficiaries and other persons with control over the trust (Knobel et al., 2017). In the UK, HMRC maintains a register of trusts which have UK tax liabilities that includes beneficial ownership information; from 2022 this is due to be extended to cover UK resident trusts without tax liabilities and certain non-resident trusts that hold UK property or have UK tax liabilities. However, there are exceptions that may lead to the omission of categories of person that are potentially important in context of a wealth tax, such as beneficial owners of trusts that already appear on a foreign trusts register (Smithson and Vos, 2020). Therefore, from the perspective of administrating and enforcing a UK wealth tax, HMRC should have access to a source of information on domestic trusts, and some foreign trusts, for example those that have UK tax liabilities or long-standing business relationships with UK service providers (ibid.). One lesson from the UK's Persons with Significant Control register (the UK beneficial ownership register for companies) is that the extent to which the information submitted to a trusts register is verified is likely to influence how true and complete the data is (see *Data Verification & Sanctions for non-compliance* for further discussion of this issue).

Sufficient detail

Given the above challenges, if beneficial ownership data is to be useful in supporting wealth taxation, sufficient detail must be available to enable authorities to correctly interpret the data. For example, information on how beneficial owners exert ownership or control is useful to understand whether a beneficial ownership relationship indicates the ownership of a taxable asset. In addition, the in practice utility of beneficial ownership data to support enforcement investigations is enhanced by the availability of related data, such as directorships and shareholder information and related bank accounts (van der Does de Willebois et al., 2011; FATF, 2019).

Practically, beneficial ownership data must contain sufficient detail to enable users to accurately match individual taxpayers with beneficial owners disclosed on a beneficial ownership register. In the UK, proposed improvements to the Persons with Significant Control register include the use of verified unique identifiers for directors and beneficial owners (Dept for Business Energy & Industrial Strategy, 2020). However, one potential limitation of the UK data that will not be resolved by these improvements is that the UK does not collect and publish data on the exact percentage of ownership that specific individuals hold through shares or voting rights; rather it uses a banded approach where individuals disclose whether their beneficial ownership falls into one of

three ranges.[7] This omits information that could assist authorities in verifying information declared in relation to wealth taxation. The UK is unusual among countries implementing beneficial ownership disclosure in collecting data in bands rather than exact percentages, but this approach could be revised to require exact percentage ownership above 25% by amending relevant regulations.[8]

(B) To what extent is beneficial ownership data available in practice to support wealth taxation?

Central registers

Having a centralised beneficial ownership register enables people and authorities to access information on the beneficial ownership of companies through one central location. This is a significant benefit for the effective use of beneficial ownership data to support wealth taxation; it removes some of the practical and cost barriers to accessing and analysing beneficial ownership information to support enforcement investigations (see Section *The data infrastructure for beneficial ownership information* above). If the information is available to authorities in bulk, it may be possible to automatically check data submitted during tax declarations against data held in central beneficial ownership registers.

Beneficial ownership data is currently collected in central registers in the UK, in EU member states and in a small number of other jurisdictions. As recently as 2018, research highlights that it is relatively straightforward to hide beneficial ownership by incorporating companies in 'secrecy jurisdictions' that do not require beneficial ownership disclosure (Knobel et al., 2018). Since then however, many other countries have committed to establishing central beneficial ownership registers in the coming years, which will substantially increase the stock of data on companies incorporated around the globe (Open Ownership, 2020c).

Of particular interest to wealth taxation in the UK is that the beneficial ownership disclosure requirements are due to come into effect in UK Overseas Territories by 2023 (UK Parliament, 2020); regardless of the proportion of companies incorporated in UK Overseas Territories that are used for illicit purposes, analysis of Metropolitan Police financial crime investigations involving hidden beneficial ownership found that companies in UK Overseas Territories featured in 80% of cases (de Simone, 2015).

Access to data in beneficial ownership registers

Where beneficial ownership registers exist, access to data is often restricted to law enforcement or other authorities, and there may be legal or administrative barriers to accessing it (Martini, 2019). Although countries including the UK have arrangements in place with multiple jurisdictions, such as the Exchange of Notes arrangement with three UK Crown Dependencies and six UK Overseas Territories, these typically restrict the basis on which beneficial ownership data can be requested to law enforcement investigations (Home Office, 2019). A statutory review of the Exchange of

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[7] The ranges are: over 25% up to (and including) 50%; more than 50% to less than 75%; 75% or more. (UK Government, 2020)
[8] The use of threshold bands is specified in *The Register of Persons with Significant Control Regulations 2016* (UK Government, 2016)

Notes arrangement found it to be 'extremely useful' in providing beneficial ownership information to support investigations, although the extent of its usage during the period under review was limited, with 296 requests made over an 18-month period (ibid.).

Administratively, legal access to beneficial ownership information – in particular that held on foreign registers – does not seamlessly translate to efficient access in practice. In 2013, before the UK launched its beneficial ownership register, the Metropolitan Police estimated that in the 70% of complex anti-money laundering investigations that involved hidden beneficial ownership, 30–50% of investigation time was spent identifying beneficial owners (Department for Business Innovation & Skills, 2014). Following the introduction of the UK's beneficial ownership register in 2016, a statutory review found that UK law enforcement agencies used the register regularly, with most viewing it as positive for their work due to making it quicker and easier to obtain beneficial ownership information for UK companies (Department for Business Energy & Industrial Strategy, 2019). However, some law enforcement agencies highlighted that issues with data quality have limited its usefulness (ibid.); this matter is discussed further in Section C below.

The creation of the UK beneficial ownership register, with automatic access for law enforcement agencies, has put in place a solid foundation for agencies involved in the administration or enforcement of a wealth tax to access beneficial information on UK companies. However, evidence from anti-money laundering investigations (van der Does de Willebois et al., 2011), as well as cases of tax evasion identified from leaked data (BBC, 2018), highlights the prominent role of transnational ownership chains in money laundering and tax evasion. Access agreements such as Exchange of Notes are potentially important for providing beneficial ownership data to aid wealth tax enforcement in cases involving foreign companies, however their coverage is limited to a small number of specific jurisdictions.

The Common Reporting Standard provides a framework for exchange of taxpayer information covering a broader range of countries, with 95 countries having exchanged information to date (Global Forum on Tax Transparency, 2019), however this framework does not give rise to access to data held in foreign beneficial ownership registers. Instead, the Common Reporting Standard requirements include exchange of beneficial ownership information for financial accounts belonging to legal entities that generate passive income such as rents, dividends or royalties (Knobel, 2020), so remains a valuable potential source of information through which enforcement authorities can verify certain sources of taxable wealth.

The mutual legal assistance process within the Financial Action Task Force (FATF) international anti-money laundering standard provides an avenue for data sharing across a much broader range of countries (over 200 jurisdictions have committed to the FATF standards). However, the legal basis on which such requests can be made may not cover action relevant in tax enforcement investigations, since the framework has been developed to aid international cooperation on anti-money laundering efforts. On a practical level, this may have implications for the roles that Financial Intelligence Units – government agencies tasked with investigating financial crime – could have in investigations relating to tax.

The mutual legal assistance process is recognised as being time consuming and slow to yield data in practice (Martini, 2019). Therefore, even assuming sufficient legal basis is in place to permit sharing of beneficial ownership data to aid enforcement investigations for wealth taxation, the administrative friction means that this process would only be efficient in a small number of high value investigations. The extent to which this is a problem for effective enforcement of a wealth tax

depends on multiple factors, including the extent to which high value enforcement investigations are clustered amongst the very top of the wealth distribution, and the level of resources available to enforcement agencies.

Publicly accessible company registers in foreign jurisdictions are a key source of information for enforcement authorities undertaking anti-money laundering investigations (FATF, 2019). However, FATF research acknowledges that beneficial ownership information is hard to obtain for jurisdictions where it is not publicly available within the company register (ibid.). The growing momentum towards making beneficial ownership registers publicly available (Open Ownership, 2020a) provides an opportunity to increase the ease with which enforcement agencies and other actors can access data. Although in some instances public access to the data still requires registration information such as citizenship identification, or payment of a fee, publicly available data is likely to be far more readily available to authorities – with fewer administrative burdens. Public access would also enable actors such as investigative journalists and civil society organisations to analyse the data to uncover potentially illegal activities. The value of third-party analysis of beneficial ownership data has been clearly demonstrated through analysis of data leaks such as the Panama and Paradise Papers; public registers would facilitate this role. Public access must be balanced with legitimate rights to privacy, as is already achieved in the UK through having a robust legal framework for publication (see *A note on balancing privacy and public interest)*.

Structured data

The easier data is to process and analyse, the lower the resource costs are of using it, and the more widely it can potentially be used to support wealth taxation. Machine readable data (i.e. data that is in a standardised electronic format that can be read in bulk by computers), can enable use at scale and substantially lessen the time taken to link data transnationally. Since manual analysis of beneficial ownership is often laborious it is only efficient in the largest enforcement cases (Martini, 2019). In the UK, beneficial ownership data is available in bulk as structured, machine readable data[9], and the foundations are in place – from a technical perspective – to link UK beneficial ownership data with self-assessment filings to support the administration of a wealth tax, as well as for authorities to analyse it in bulk alongside other relevant datasets as part of enforcement efforts.

A critical component needed to create transnationally linkable data on beneficial owners is a method of reliably matching individuals that appear in more than one dataset. In other datasets this is most commonly achieved through the use of unique identifiers (for example, each taxpayer in a jurisdiction having a unique taxpayer number, which is used within their tax authority records and by other government systems linking to taxpayer data). The issue of transnationally stable unique identifiers for natural persons (i.e. having one identifier per person that is used across multiple jurisdictions) is very nascent (see Parsons, 2020) and there are extensive practical, privacy and legal concerns about their potential use. However, nationally stable (often non-public) unique identifiers for individuals such as citizen or taxpayer numbers exist within many countries. For example, in the UK, the National Insurance Number (NINO) effectively already functions as a unique person identifier for administrative purposes and is widely used not only by HMRC but also other government agencies. Where there are gaps in the coverage of NINOs – for example by foreign nationals who live in the UK but are not in work – typically these can be filled using the Unique

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[9] http://download.companieshouse.gov.uk/en_pscdata.html

Taxpayer Reference (UTR) that is already required for any individual who files a self-assessment tax return.

Where structured data is available without unique identifiers, algorithmic matching can still be undertaken using multiple relevant fields (for example, matching persons with the same name, year of birth and address). Such an approach is clearly inferior and may not be appropriate in aiding administration, however it can potentially aid efficiency in complex enforcement cases by analysing large quantities of data to identify 'leads' for in depth manual investigation.

The UK is poised to make significant improvements to its use of identifiers within the PSC Register by establishing 'verified user identities' for each natural person on the register (Dept for Business Energy & Industrial Strategy, 2019). The details of implementation are yet to be agreed, but if implemented in a similar way to identities in existence for companies, this could easily involve creating unique stable identifiers for natural persons on the register. For these identifiers to be useful in supporting policies such as a wealth tax, the implementing agency will need to identify natural persons in a way that that allows other authorised agencies to match that person with their own data. In the UK technical and legal barriers remain to achieving this, but this case should feed into the current and planned work the UK government is undertaking to improve digital identity. There are some new issues that will need to be navigated, for example how to accommodate foreign citizens, however these reforms present an important opportunity to improve usability of UK beneficial ownership data by facilitating matching with other datasets and enabling users to see all companies that are connected to a particular individual.

(C) To what extent is beneficial ownership data accurate and up to date?

Data verification & sanctions for non-compliance

Early implementations of beneficial ownership registers such as the UK have raised significant issues concerning data quality: without adequate verification checks in place, incomplete, suspicious and potentially incorrect data has been submitted and held on the UK beneficial ownership register (Global Witness and Open Ownership, 2017). This has generated significant concerns among professional users of the data about the trustworthiness of the register (Dept for Business Energy & Industrial Strategy, 2019). These issues have been exacerbated by inadequate enforcement of non-compliance (Open Ownership, 2019).

To maximise the impact of beneficial ownership registers, users – including tax authorities – need to be able to trust that the data is accurate. Therefore mechanisms are needed to verify whether the data that is submitted is correct. The UK Government recently published its intention to implement verification checks on data submitted to the PSC register (Dept for Business Energy & Industrial Strategy, 2020), and if these plans are implemented as envisaged this can be expected to lead to a significant improvement in data quality.

Up to date and auditable

Enforcement action in complex tax cases can potentially take several years, and access to historical data, including the dates when beneficial ownership information has changed, is recognised as important to anti-money laundering enforcement investigations (FATF, 2019). Evidence from

previous investigations shows that companies are often dissolved after their involvement in suspicious activity (van der Does de Willebois et al., 2011), highlighting the utility of historical records of beneficial ownership of dissolved companies.

Since tax wealth investigations are likely to share the same issue of determining hidden beneficial ownership, access to historical data – rather than just current beneficial ownership – is likely to be important. Currently, UK beneficial ownership data is kept for ten years after a company is dissolved, in line with the requirements of the EU 5th Anti-Money Laundering Directive. This is set to increase to 20 years post dissolution when reforms to the PSC Register are implemented (Dept for Business Energy & Industrial Strategy, 2020). The government acknowledged the concerns around privacy in relation to information remaining available for such a period, however it judges that its proposed approach appropriately balances the legitimate right to privacy with the need for the register to be 'of real, practical use to those who wish to find out information about those who take the advantage of limited liability' (p. 50, ibid.).

A note on balancing privacy and public interest

Concerns about privacy and security have emerged as a key argument against the introduction of public registers of beneficial ownership. The publication of beneficial ownership information has been argued to represent undue interference with the right to personal privacy and to create increased risk to personal safety and security (Open Ownership et al., 2019). These arguments have primarily been made in context of *public* access to beneficial ownership information; the utility and legitimacy of governments collecting beneficial ownership information and making it available to authorities such as law enforcement is in general accepted and is recommended in the Financial Action Task Force international anti-money laundering standard (FATF, 2019).

As a general principle, the right to privacy cannot be considered absolute and must be balanced against legitimate needs to make information available in the public interest. In the case of beneficial ownership information, there is a clear public interest argument for publishing data on the beneficial ownership of companies: to support the policy goal of reducing money laundering and other illicit financial activity, publishing beneficial ownership of companies increases the scope for public oversight and scrutiny and supports companies to undertake effective due diligence (Open Ownership et al., 2019). These arguments were central to the UK's case for a public beneficial ownership register (Department for Business Innovation & Skills, 2014).

In the context of wealth taxation, the case for making beneficial ownership data public is less explored. To support administration and enforcement activities, HMRC or other investigating authorities would be the primary users of beneficial ownership data. Therefore, if solely considering the use of *domestic* beneficial ownership data to support wealth taxation, there may not be a strong case for public access. However, when the need for transnational beneficial ownership data is considered, given the administrative and legal barriers to existing international information sharing arrangements, the presence of public registers in foreign jurisdictions would make it easier and quicker for UK authorities to access data on ownership of foreign companies. Given the prevalence of transnational company ownership amongst the wealthiest, a data ecosystem of publicly accessible beneficial ownership data for companies in multiple jurisdictions is of significant potential use to wealth tax enforcement.

The public oversight argument that is applied to beneficial ownership data in context of anti-money laundering and financial crime efforts can also be extended to wealth taxation. The Panama and

Paradise Papers leaks exposed high profile cases of alleged tax evasion using offshore companies with beneficial ownership hidden from the public until the information was leaked; if ownership information was routinely publicly available, journalists and civil society actors would be well positioned to identify and expose potential cases. Within the UK context, there is also potential for civil society oversight to drive future policy improvements to wealth taxation: the UK Department for Business Energy and Industrial Strategy acknowledged that civil society identification of alleged money laundering cases using UK companies were a key driver for further government action to close loopholes and limit future illicit activity (Dept for Business Energy & Industrial Strategy, 2019).

Globally, the policy area of beneficial ownership disclosure (both to authorities and the public) is likely to continue evolving rapidly over the coming years. There are significant variations in cultural and legal approaches to disclosure of information, and the drivers of beneficial ownership reform vary across national contexts. Therefore, actors looking to advance beneficial ownership transparency should be cognisant of the local policy context and employ approaches that are most likely to increase the stock of high-quality beneficial ownership data that can be accessed. The question of who will be able to access that data in the short to medium term is likely to vary between contexts. Central registers can be an important foundation in contexts where public access may need to be a longer-term goal, whilst in other contexts significant momentum for transparency can be leveraged to deliver new publicly accessible registers.

Beyond companies: other existing sources of beneficial ownership data in the UK

This paper has focused on beneficial ownership registers of companies, as the data infrastructure relating to beneficial ownership of companies is more advanced than that for other asset classes that may be of interest in context of wealth taxation (Knobel, 2019). However, beneficial ownership data for other assets is also of potential interest for the administration and enforcement of a wealth tax. Therefore, this section provides a short overview of existing sources of data on ownership of other assets owned within the UK.

Research commissioned by the Independent Commission for the Reform of Corporate Taxation (ICRICT) assessed the extent to which data on beneficial ownership was available for 18 types of asset that are owned or registered in the UK (Figure 4). For the majority of asset classes that may be of relevance to wealth taxation, this work shows that foundations exist that could be leveraged to support administration and/or enforcement; registers exist for most asset classes which are either centrally held or are devolved to a small number of bodies (e.g. by UK nation or by held by a small number of private providers) (Knobel, 2019).

FIGURE 4: AVAILABILITY OF ASSET OWNERSHIP INFORMATION IN UK BY ASSET TYPE

Asset Type	Central Register covering the UK	Public, online or free?	Legal ownership (LO) or beneficial ownership (BO)?
Interest in (non-listed) legal persons (e.g. companies)	Central	Public, online & free	LO & BO (exceptions for some limited partnerships)
Private jets	Central	Public, online & free	LO
Race Horses	Central	Public, online & free	LO
IP (patent, design, trademark)	Central, but for each type of IP	Public, online & free	LO
Land & property	Not central	Public & online	LO
Extractive industries licenses	Not central	Public, online & free (oil & gas). Public but not online (coal).	LO
Interests in trusts	Central (not all trusts are covered)	Not public	LO and BO
Yachts	Central	Not public	LO, and BO (for small vessels)
Rural land	Not central	Not public	Recipient of payments (not necessarily landowner)
Cars	Central	Not public	LO
Listed & traded securities	Central (considering Euroclear, CREST and HMRC) HMRC covers only data subject to automatic exchange of information (AEOI)	Not public	Euroclear: most likely under intermediary's name (not necessarily LO)
Livestock	Not central (except for cattle)	Not public	LO
Bank accounts	Central (but only for non-residents covered by AEOI)	Not public	LO (and sometimes BO)
Gold & precious metals	No register	-	-
Art & Antiques	No register	-	-
Jewellery	No register	-	-
Cash	No register	-	-
Crypto-assets (bitcoins)	No register	-	-

Source: Knobel, 2019

There are, unsurprisingly, multiple gaps and shortcomings in the asset ownership registers that currently exist within the UK. In most cases only legal ownership is recorded rather than beneficial ownership, and the coverage of important registers such as HMRC's trusts register is incomplete from the perspective of using the data to verify declared ownership of taxable wealth (ibid.). For some asset classes that may be of particular relevance to wealth taxation among the richest, such as art and antiques, no register currently exists. In determining which assets fall within the remit of a UK wealth tax, policymakers should consider the incentives that may be created – either by incomplete coverage in terms of legal entities and asset classes or by inadequate data to verify ownership of certain assets - to move wealth into entities and asset classes where ownership can more easily be obscured.

Building on the partial data sources currently available, and informed by research to identify the entity types and asset classes that are most likely to be abused to hide wealth from taxation, policymakers should focus on action in two areas to increase the ownership data available to aid enforcement. First, the legal framework for collecting data on beneficial ownership (as well as legal ownership) of entity types and asset classes should be strengthened. Second, options for ensuring that enforcement authorities can gain efficient and timely access to data held in the registers should be explored.

6. Conclusion

Obscuring the beneficial ownership of assets through transnational networks of companies and trusts is a prominent feature of many large scale cases of tax and financial crime (FATF, 2019; Global Forum on Tax Transparency, 2019; BBC, 2018). Therefore, examining the utility of beneficial ownership data to reduce potential non-compliance and evasion is highly relevant to developing a robust and enforceable wealth tax, regardless of ongoing debate about the extent to which such structures are simply used for legitimate business rather than abused to facilitate illicit activity.

The concept of beneficial ownership has both strengths and weaknesses for using beneficial ownership data to support wealth taxation. As a substantive concept, beneficial ownership brings together multiple ways in which ownership or control may be held and may potentially be obscured to facilitate tax avoidance or evasion. However applying beneficial ownership data to wealth taxation at scale is complex as not all beneficial ownership interests may signal ownership of a taxable asset. Hence the primary value of beneficial ownership data in the short term is likely to be supporting enforcement efforts rather than mass administration.

Centralised beneficial ownership registers are of significant potential use in supporting wealth taxation, as they reduce practical and cost barriers to accessing and analysing beneficial ownership information to support enforcement investigations. Whilst the current coverage of beneficial ownership registers is limited, most current registers focus on privately held companies (and in countries including the UK a separate register of trusts), covering the most common types of legal entities and arrangements used to facilitate tax evasion and financial crime.

The prominent use of networks of companies and trusts spanning multiple jurisdictions within financial crime cases highlights that effective enforcement of a wealth tax would benefit from access to both domestic and foreign beneficial ownership data. Information sharing arrangements currently in place to access foreign beneficial ownership data offer significant potential value for supporting wealth taxation, however their coverage remains partial and practical barriers to accessing the data limit use. Despite these challenges, when developing enforcement mechanisms for a wealth tax, attention should be given to exploring how frameworks such as the Common Reporting Standards and Financial Action Task Force can be leveraged, and in particular exploring whether mutual legal assistance requests can be made to support tax investigations in addition to anti-money laundering activity.

Publicly accessible company registers in foreign jurisdictions are viewed as an important source of information for enforcement authorities undertaking anti-money laundering investigations (FATF, 2019) and should be considered of similar potential value in supporting wealth tax enforcement investigations. Public beneficial ownership registers in foreign jurisdictions help overcome the administrative and legal limitations to existing data sharing arrangements, however the public interest argument for access to beneficial ownership information to support wealth taxation is less straightforward than the more firmly established case for public registers to tackle corruption and money laundering. Further work should be undertaken to articulate this case and explore how the public oversight argument made in context of tackling money laundering may also extend to wealth taxation.

Globally, the presence of central beneficial ownership registers for companies offers a good partial foundation for a more substantive data infrastructure, with potential to work towards the idea of a

global asset registry (Piketty, 2020). Given the substantial momentum towards beneficial ownership disclosure globally, this can be expected to improve significantly over the coming years.

Within the UK, there is a comparatively advanced data infrastructure for beneficial ownership, and the availability of structured data presents an opportunity to use it to support effective administration of a UK wealth tax. Although the current lack of verification of data in the UK's Persons with Significant Control register has led to problems with the accuracy of data, planned improvements to introduce verification methods should improve this.

The focus of this paper is principally beneficial ownership registers of companies, and further research is needed on several matters that relate to beneficial ownership and wealth taxation. The potential for registers of trusts to reduce the risk that these legal arrangements are used to facilitate tax evasion is an underexplored issue that is of particular importance given the documented use of trusts to circumvent taxation (see Knobel et al., 2017 for an outline of these issues). This paper has drawn heavily from research in the field of anti-money laundering and other financial crime; further exploration of the enforcement challenges and successes in countries that already operate a wealth tax – for example Norway, Spain and Switzerland – would be useful to understand the extent to which beneficial ownership data is already leveraged to support effective administration and enforcement.

Despite the gaps in available research, the evidence presented in this paper demonstrates clear potential for beneficial ownership data to support effective enforcement of a wealth tax. This is particularly the case for ensuring effective taxation of the wealthiest, since the wealthiest commonly hold assets through entities such as companies and trusts, and the legal ownership of these may not be the same as the beneficial ownership. Amongst the wealthiest, transnational ownership of assets is common practice, and therefore domestic and foreign beneficial ownership data that can be linked together is required to most effectively support enforcement. The UK's comparatively advanced data infrastructure for beneficial ownership and international leadership on beneficial ownership transparency[10] places it well to be a forerunner in advancing this agenda.

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[10] The UK was the first G20 country to adopt beneficial ownership transparency and in 2019 launched the global Beneficial Ownership Leadership Group (Treisman, 2020).

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