When Gordon Brown became chancellor, one of his first and most passionate commitments was to end the systematic tax avoidance for which the UK had become notorious. In particular, he committed himself to ending the tax laws that make this country a tax haven for rich and mega-rich people whose national origin is elsewhere. These laws mean that people are only liable for tax on income earned in or brought to the UK, so that any income earned outside the UK and left offshore is untaxed.

Together with the UK's generous non-resident tax regulations, which allow someone to be in the UK for 90 days a year and still not be taxed here, this liberal tax regime is routinely exploited by both British and foreign businessmen. The latter include the likes of Roman Abramovich, the Russian oligarch and football magnate; Stelios Haji-Ionnaou, the founder of Easyjet, who was recently quoted as saying 'I have no UK income to be taxed in the UK', although he is estimated to be worth £727 million and was recently knighted; and Philip Green, also recently knighted despite using a combination of these laws and the tax haven of Jersey to save £280 million of tax on payment of a dividend from his Arcadia group for the benefit of his non-UK tax resident wife, who lives in Monaco.

Nine years on, Gordon Brown's record is unpersuasive. And it is a record that sits unhappily with a party that still claims to stand for social justice.

The laws that so outraged the chancellor in 1997 remain in place. Moreover, there is now a widespread feeling in the EU and elsewhere that the British government is obstructing the EU's attempts to rein in tax havens and other abuses of the tax system. Increasingly, Brown seems to be intent on promoting the logic of those who engage in such activities. Speaking at the Mansion House on 22 June, for example, he said: 'We will succeed if, like London, we think globally … if we invest in … a competitive tax environment.'

The main issues are these:

- The UK is itself a tax haven because it is the location for the massive eurobond market. This developed in London precisely because the UK chose not to charge tax on income paid on those bonds at the time of payment; nor did it ask too many questions about who owned them. The chancellor has buckled under pressure from the City and has failed to act decisively on tax haven issues.
- The UK promotes harmful tax competition through the operation of its domicile rules of taxation (see box), and as such undermines initiatives intended to restrict the use of harmful tax incentives.
- Approximately half of all tax havens worldwide are British overseas territories, crown dependencies, or have Commonwealth links, and are consequently protected by the UK government, which in its role as chair of the EU code of conduct group on business taxation has been sheltering them from the full intended force of that initiative.
- The UK has undermined the effectiveness of the EU savings tax directive, which is designed to ensure that information on interest earned by non-resident EU citizens in one country is declared to the countries in which they are resident so that it does not escape tax. The government has done this by refusing, after the directive was published, to agree that it applied to trusts (a key mechanism for tax avoidance and evasion), thereby protecting tax havens and substantially increasing the opportunities for tax evasion.
- The UK is not actively participating in discussions to increase European tax harmonisation, which would reduce the opportunities for companies to abuse individual nation states' tax systems, and instead continues to promote tax competition as being of economic benefit despite evidence to the contrary.

Tom Lynton

The UK as a tax haven

The UK has been a tax haven since the 1950s, when the Eurobond market developed in London. A eurobond is a bond issued in one country's currency but traded outside of that country and in a different monetary system. London became the centre for the US dollar-based eurobond market in the 1960s when the US began to tax bonds issued there at source.

London deliberately created a market with two key features. First, no tax was deducted at source; and second, no questions were asked about the identity of the bondholder. The result was what

The UK is at the centre of many abuses of the tax system worldwide. And Gordon Brown is encouraging it under the guise of 'competitiveness'. **Richard Murphy** and **John Christensen** report on

The tax avoiders' chancellor

remains one of the largest tax haven financial centres in the world.

Because of the importance of this trade to London, the government has steadfastly refused to consider the option of applying tax deduction at source to these bonds, thereby undermining the possibility of effective action against tax havens. What's more, London has been, and remains, a centre for 'hot money' that is either totally transient in its quest for the last iota of financial return or is of doubtful origin.

The UK's domicile rules

The UK's domicile rules were introduced when Britain possessed an empire encompassing a quarter of the world's population. In principle, all of these people could have been entitled to a British passport as there was no other for them to have. Domicile was created as a concept to differentiate colonial rulers from their native hosts when this was deemed necessary and when nationality could not give that result. The colonial ruler who (inevitably) originated in the British Isles was given UK domicile. The native host was not, and as such was considered a second-class citizen.

Despite these anachronistic roots, the domicile concept remains a key construct in UK tax law, but the tables have turned 180 degrees. Now, while those who are both resident and domiciled in the UK are taxable in the UK on worldwide income, those who are resident but claim not to be domiciled in the UK (because this is not their country of origin) are only taxed on income arising in the UK and any income earned abroad that they send here. This creates a massive tax loophole for the rich who are not of British origin (even if they are UK citizens), who can leave the bulk of their income offshore and beyond the reach of any tax authority.

Leaving aside the obvious doubts about whether this law is discriminatory, it also breaches the definitions of harmful tax competition promoted by the OECD and European Commission. This is because it provides a tax advantage that is not available to ordinary citizens, the apparent intention being to encourage people to relocate themselves or their businesses here.

This is generally accepted to be an unacceptable tax haven practice if done by a small island state (where, for example, many offered a 0 per cent tax rate to non-resident owned companies but charged tax on local owned companies in the past), but the UK persists with it. In the process, it undermines any moral authority the UK has to tackle the tax haven issue because it is seeking one rule for itself and another for others.

The UK as tax haven protector

The UK is the official representative of some of the world's most active tax havens. In particular, Jersey, Guernsey, the Isle of Man, Anguilla, Montserrat, the British Virgin Islands, the Turks and Caicos Islands and the Cayman Islands are linked to the UK and enjoy its protection on matters relating to external affairs and some aspects of taxation. This severely compromises the UK because it is not by chance that so much tax haven activity takes place under its indirect control; it is the result of deliberate past policy, perhaps best documented in the case of Vanuatu, which the UK promoted as a tax haven despite the serious opposition of Australia at the time. Vanuatu is now considered one of the least acceptable tax havens in the world.

There is another dimension to this, too. The UK has chaired the EU initiative on a code of conduct for business taxation since 1997. In fact, the committee that oversees the initiative is known as the 'Primarolo committee' because the paymaster general, Dawn Primarolo, has chaired it since its inception. Primarolo and her officials in the UK represent tax havens that are major targets of this initiative, and which are actively seeking ways to undermine it. They are doing this by introducing new tax measures, which they claim relate to personal taxation when in practice they clearly relate to business taxation and are designed to circumvent the code of conduct.

The UK government appears to be complicit in this process, with the result that the 'race to the bottom' over tax rates has accelerated, rather than being reversed.

The UK and the EU savings tax directive

The EU savings tax directive is the second strand of the EU's attempt to collect tax from persistent tax evaders who refuse to pay tax on savings held

The tax avoiders' chancellor continued

The domicile rules

A person is said to be domiciled in the UK if the UK is their 'natural' home. This usually means that they come from a family that has resided here for at least two generations, regardless of racial or ethnic background. The rule is patriarchal – only the residence of fathers counts – if a child is born in wedlock. The maternal line is considered for children born out of wedlock.

A person's 'natural' home is hard to define but is usually considered to be the place to which they expect to return. As such, the country in which a person writes their will is often considered indicative. As a result, it is easy for someone to retain a domicile outside the UK for a generation or two after their family comes to the UK. Intent is of primary concern, and is very hard to disprove.

When a person is not domiciled:

- Income from outside the UK is only taxed if it is sent to the UK;
- Capital gains made outside the UK are only taxed if they are brought to the UK; and
- Assets held outside the UK are free from inheritance tax.
- For the wealthy this can mean that it is possible to live in the UK and pay little or no tax despite having a very substantial income.

outside their country of residence. The directive provides for two options:

- A country can require that details of interest earned by an EU citizen from a bank in its territory are declared to that person's country of residence; or
- In some countries (including all the tax havens but not the UK), the bank can be required to identify where an EU citizen lives and exchange information on the interest paid. If the account holder will not agree to this, the bank can be required to deduct tax at source and pay 75 per cent of the amount deducted to the country where they live, on an anonymous basis. At present, this arrangement means that no more than 11.25 per cent tax is paid in that country.

Given its tax haven status, many have doubted the UK's commitment to making the savings directive work, especially since it is wholly opposed to applying tax deduction to the eurobond market. In fact, the government appears to have subverted the entire initiative by failing to advise Brussels that the form of wording used in the directive would, in its opinion, allow interest paid to trusts to escape the tax deduction provisions.

As a consequence, rich people wanting to avoid the savings tax directive's scope can simply arrange for their wealth to be held in an offshore trust, which falls outside both the reporting and withholding tax requirements. To facilitate this process, Jersey – a crown dependency – has recently changed its trust laws to allow financial assets to remain completely under the control of the trust settlor for the purpose of subverting the EU directive.

The UK is undoubtedly aware of the implications of these steps, the consequence of which has been that less than 10 per cent of the tax expected to be collected under the savings directive has been paid over so far. There is no doubt that the European Commission holds the UK largely responsible for this situation.

The UK as promoter of 'tax competition'

Gordon Brown actively promotes the benefits of 'tax competition'. This is despite the fact that it increases global flows of dirty money, fuels corruption, reduces the tax paid by large corporations, introduces harmful market distortions and increases wealth and income disparities.

By doing so, he is accepting that tax havens should have a continuing role in the globalised financial system. These are the same havens that are used to launder the proceeds of almost all the world's serious corruption, including that which fundamentally undermines the economies of developing countries. If these countries are to have any chance of achieving developmental goals they need to create stable and strong governments, which is not possible without stable and equitable tax regimes. The existence of tax havens makes that goal virtually impossible.

So, the chancellor reveals a major inconsistency at the heart of his economic policies. On the one hand, he calls for policies that enable the governments of developing countries, especially in Africa, to progress economically by mobilising their own domestic resources. On the other hand, he protects tax havens, promotes tax competition and offers preferential treatment for the rich. The outcome of this muddled thinking has been massive capital flight from developing countries and tax evasion on a truly colossal scale. And British banks and tax havens have been complicit in this process.

A manifesto for tax justice

Tax justice is possible. It does not require a commitment to revolutionary socialism, just to principled and determined reform. These are some proposals to start the process:

- The UK should scrap its domicile rules.
- All states should agree to exchange information on income of all sorts earned in their country with the country of residence of the beneficial owner of that income.
- The beneficial ownership of all companies and trusts should be publicly disclosed in all countries.
- If income is to be paid to a country that will not exchange income information or will not disclose the beneficial ownership of companies and trusts registered there then tax should be deducted at source from those payments in the country in which the income is earned.
- A general 'anti-avoidance principle' should be introduced, requiring that if a person introduces any step to a transaction purely or mainly to reduce their tax liability, this should be ignored for tax purposes, and the tax that would be due without it should be paid.

Gordon Brown's refusal to initiate action to remedy these sources of inequality, both in the UK and internationally, gives the lie to his claim to support those who believe in social justice and redistribution.

Richard Murphy is a chartered accountant and director of Tax Research LLP. John Christensen is an economist and director of the Tax Justice Network international secretariat

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