The View from Europe
By David Jessop

Tax, globalisation and the Caribbean

A little over a week ago Britain's Prime Minister, David Cameron, sent a letter to the President of the European Council of Ministers, Herman Van Rompuy. In it he made clear he is determined that this year, in his capacity as the current Chairman of the G8 industrialised nations, he will encourage the world's leading economies to move decisively against any nation or territory that facilitates tax evasion or fraud.

His initiative seeks to take advantage of a significantly changed global political climate in which austerity-weary electorates have had enough of those individuals or companies that are able to move huge sums offshore through low tax environments in ways that aggressively avoid or evade scrutiny.

In doing so, he and other politicians are set on a path that may eventually change the nature of the relationship individuals have with the state in which they live or operate, by making every individual legally accountable on a global basis.

Mr Cameron's intention could not be more specific. In his letter he makes clear that he hopes the G8, and by extension the G20, will agree global solutions involving the automatic exchange of information; a universal standard; and states having knowledge of who amongst their citizens is the beneficial owner of an overseas trust or other opaque financial vehicle. He, and seemingly almost all other leaders of the world's most powerful nations, now believe that there is a need for global tax rules that reflect the nature of a globalised economy.

Their fear is that the tax base of all countries is rapidly being eroded by wealthy individuals who are accumulating capital in low tax environments, or by multinational companies distorting competition by paying less and less tax by engaging in arbitrage between competing tax jurisdictions.

Amongst the first to feel the effects of this policy have been the Overseas Territories in the Caribbean and in particular the British Virgin Islands and the Cayman Islands. These successful small nations have quite legitimately, and with the encouragement of the UK, developed sophisticated legal environments that enable low or no tax operations through a variety of offshore financial vehicles that use nominee directors.

However, under duress, the two countries, plus Anguilla, Bermuda, Montserrat and the Turks and Caicos Islands, have all now agreed to the automatic exchange of information bilaterally with the UK and multilaterally with the UK, France, Germany, Italy and Spain. The agreement, which is intended to establish a global standard to be followed by others, automatically provides for the transfer of information about citizens of these EU nations who are the beneficial owners, plus details of payments into all such accounts. The six overseas territories have also committed to taking action to ensure they are at the 'forefront of transparency' on company ownership.

To achieve this, they are to bring within government's own registry full details of the beneficial overseas ownership of offshore accounts and trusts rather than allow such information to remain known only by professional intermediaries.

The process of bringing about this change is, however, fraught with difficulty, not least in the reaction of professionals who retain a vested interest in providing a wide range of legal, accounting and fiduciary services to everyone from multinationals and hedge funds to individuals, criminals and terrorists.

Moreover, in developing the new approach there has been virtually no consideration of the economic impact on the Caribbean Overseas Territories that, with the full previous support of Britain and other governments, have created a development model based on offshore services and tourism that has created employment, wealth and global success.

But most concerning of all is whether nations beyond the G20 can also be encouraged to adopt these principles. On the face of it, all that may be achieved is that companies and individuals wishing to minimise their tax liability will simply flee to other jurisdictions, or make use of programmes such as those rapidly developing in the independent Caribbean that sell citizenship in what are sometimes poorly managed tax environments.

In all of this there are a number of messages for the Caribbean beyond what is happening to the overseas territories.

Firstly, as reporting requirements for the US FATCA have shown, all governments, local financial entities and professionals will find themselves under increasing pressure to ensure that the details of all non-national beneficial owners of accounts, trusts and funds registered offshore, will become subject to agreements relating to information exchange. Trinidad, Dominica, Guatemala and Panama are particularly at risk, having failed to meet OECD requirements on information exchange.

Secondly, developed countries will need to provide support to developing countries to create secure and well managed registries that maintain reliable records of beneficial owners and banking transactions.

Thirdly, developed nations' approach to tax competition and information sharing should also come under closer scrutiny in international fora if they do not themselves do what they are demanding of others.

Fourthly, Caribbean countries offering citizenship, in ways that potentially make available opportunities to create a new domicile for tax purposes, may before long also find themselves under international scrutiny and sanction.

Fifthly, a more professional public relations response is required. The issue is surrounded by confusion as much of the global media are prone to wrongly conflate the very varied offshore, financial, and other services offered, into an all-embracing story of illegality, greed and tax evasion.

And sixthly, the writing should be on the wall for those in the Caribbean who for one or another reason have been able to pay little or no tax. This position in economies facing austerity and hardship is no longer sustainable.

The desire to manage tax on a global basis is fraught with difficulty and contradictions, not least because all nations wish to benefit from globalisation and the free movement of capital by providing tax regimes that compete to attract investment, residence and growth. It also fails to address the willingness of individuals and companies with great wealth to exert political power to achieve advantage.

For these reasons industrialised countries' attempts to address at the level of sovereign states diminishing levels of taxation resulting from economic globalisation suggests that what is now happening may just be an early skirmish in a larger global fiscal battle yet to come.

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