

Press Conference  
Against the Aiding and Abetting of Tax Evasion –  
and in Favour of Tax Justice Worldwide  
Berne, 13 May 2003

## **A LETTER FROM JERSEY**

John Christensen  
Member of the Association for Accountancy & Business Affairs, London,  
former economic adviser to the States of Jersey

The question on everyone's lips during my recent visit to Jersey was "are the island's days as a tax haven over?" After decades of promoting its tax haven status to attract tax avoiding businesses and wealthy people, Jersey, like the other British Crown Dependencies, finds that its tax haven status has become a liability. Jersey's politicians are now grappling with the possibility that economic dependence upon tax avoidance and financial secrecy – the latter having always been an open invitation to fraud and criminality – is no longer a sustainable option.

Faced with political pressures from a variety of international organisations, including the European Union and the Organisation for Economic Co-operation and Development, Jersey's politicians must now opt between two difficult sets of choices.

First, in response to the EU initiative on information exchange, Jersey must imminently choose between either following the UK example and agreeing to an information exchange regime, or, like its sister isle of Guernsey, selecting to apply a withholding (retention) tax on EU residents' interest on savings held in offshore accounts.

Secondly, under pressure from the OECD initiative against harmful tax practises, they must also choose between abolishing the preferential tax treatment provided to non-residents, or changing the island's tax regime by bringing the standard rate of corporation tax down to zero or near zero. The former option means a loss of competitiveness in an increasingly crowded tax haven market. Choosing to cut corporation tax, however, would lead to an unsustainable government budget deficit.

Ironically enough, after many years of promoting tax avoidance and fiscal free-riding, Jersey will probably need to introduce a raft of new taxes to replace the loss of income from being forced to abolish its principal tax haven vehicles, the majority of which were introduced in the 1980s and 1990s. But such is the nature of the island's tax regime, that any moves to remove its tax haven status by the agreed deadline in 2006 will harm the island's economy and increase the already unacceptable level of poverty on the island.

### **Offshore Hazard**

Not so long ago Jersey senior politicians and business people were fond of boasting about the island's status as a premier international finance centre and a paradise for wealthy private investors and international corporations. A single

article in the *Wall Street Journal* shattered that carefully cultivated image. In September 1996, the paper ran a front page article entitled “*Offshore Hazard – Isle of Jersey Proves Less Than a Haven to Currency Investors.*”

In a blistering exposé of a currency trading scandal involving the Jersey subsidiary of Swiss-owned Union Bank of Switzerland, the *Wall Street Journal* revealed how the island’s government (the States of Jersey) had minimal regulatory powers, and even when confronted with a scandal involving fraud and criminal negligence was not even prepared to exercise those powers that it had. Worse still, senior politicians had been profiting from the banks and financial institutions that they were supposed to be regulating, and prominent civil servants were bending rules to further the business interests of their political masters.

One critic of the status quo, a senior civil servant, referred to the politicians and regulators responsible for overseeing the financial services sector as the “three monkeys”, seeing no evil, hearing no evil and speaking no evil. Not surprisingly, the *Wall Street Journal* concluded that Jersey was an “*offshore hazard*” ruled by a social and political elite who “*by and large are totally out of their depth*”.

Shortly after the *Wall Street Journal* sent panic through the minds of politicians and bankers in Jersey, another local scandal emerged arising from the island’s involvement in enacting a Limited Liability Partnership Law on behalf of accountancy and audit transnationals Ernst & Young and Price Waterhouse (now PriceWaterhouseCoopers). This time it was the turn of the BBC to brand the island “*a legislature for hire*”. Further scandals have followed with regular monotony, despite the UK Government having forced a complete overhaul of the island’s previously incompetent and incapable regulatory authority.

### **Harmful Tax Practises**

Not everyone in Jersey was surprised by the island’s fall from grace. As economic adviser to the States of Jersey I had witnessed these emerging scandals and for many years had been expressing my concerns about the island’s role as a tax haven. Many islanders privately supported me. The bankers and lawyers did not.

Nor was I surprised by the subsequent launch of the UK Government’s enquiry into regulation of its tax haven dependencies, or by the OECD initiative to counter harmful tax practises, or by the European Union moves to suppress tax avoidance and evasion through information exchange.

If anything, I and other development economists have been surprised that these initiatives were not launched many years earlier to prevent tax havens – including the British Channel Islands, Luxembourg, Switzerland and others, from exploiting fiscal loopholes, banking secrecy and criminal activities including money-laundering and tax evasion. Tax havens, we have noted for many years, enrich a minority of wealthy individuals and transnational businesses, but only at the expense of undermining economic prosperity and social stability elsewhere, particularly in the developing world.

Our principal concerns lie with the economic distortions caused by the unequal tax treatment of transnational companies, virtually all of which make extensive use of tax havens to significantly lower the effective tax rates on their global profits. On the other hand, small, locally based businesses are tied into national tax regimes that they cannot avoid, and therefore find themselves competing with transnationals that benefit from a significant tax advantage.

Everyone knows that small and medium sized enterprises are typically drivers of innovation and job creation, but all too frequently politicians and their largely neo-liberal policy advisers support this type of harmful tax competition without understanding its consequences for the global economy. Hence the increased attention being paid to the tax affairs of transnational businesses, many of which claim to act as good corporate citizens whilst making every effort to avoid taxes wherever they operate. Enron, for example, paid no tax whatsoever between 1996 and 2000, despite profits of US\$1.8 billion. Throughout that period Enron was regarded as a best practitioner, widely copied by other businesses and advised by tax accountants and lawyers from the best global practises.

Good corporate citizenship, however, begins with paying taxes on profits at the going national rate. Anything else is corporate social irresponsibility, and should be publicly condemned as such. And the condemnation should not stop with the companies themselves, but needs to be extended to their professional advisers, many of whom act in a manner that is entirely subversive of government regulation, tax policies and of the democratic processes generally.

To my knowledge, no-one has attempted to quantify the accumulative effect on global economic growth rates of the combined effect of tax revenue losses, market distortions, money-laundering, capital flight and other harmful activities promoted by the tax haven community, but it is certainly significant and almost undoubtedly is on the increase.

No wonder then, that NGOs, faith groups, unions and activists across the world are concerned about tax havens. Our concerns about the harmful impact of tax havens upon global development were confirmed by the internationally renowned development agency **Oxfam**, which reported in 2000 that *“at a conservative estimate, tax havens have contributed to revenue losses for developing countries of at least US\$50 billion a year ... roughly equivalent to annual aid flows to developing countries”*.

Not surprisingly perhaps, the Oxfam report has received very little attention from the tax havens, which prefer to ignore the consequences of their actions and claim that they act as an important conduit for capital flows. The fact is, however, that international capital flows have no use for tax havens other than to take advantage of economically harmful tax benefits, or to hide the true nature of their origins, which all too frequently originate from criminal activities.

### **From Honeymoon Isle to Offshore Hazard**

Jersey's fall from being the “Honeymoon Isle” of the 1960s to the “Offshore Hazard” of the 1990s resulted from its economic strategy of exploiting political, judicial and fiscal independence from the United Kingdom to develop itself as a tax haven.

Acting on behalf of major banks and financial services institutions, the island's government introduced a series of measures designed to enable wealthy individuals and transnational businesses to avoid taxes in their countries of origin. These special tax vehicles include:

- the Jersey trust, which is used by many wealthholders from around the world, including the majority of dictators and political despots, to avoid and evade taxes due on their incomes and their capital;
- the exempt company, which as the name implies is exempt from all taxes and is a pure tax haven device;

- and the international business corporation, which enables transnational businesses to book their profits in Jersey, typically through some form of transfer pricing arrangement, and pay low taxes at rates ranging from 0.5 per cent to 2.0 per cent;
- whilst Jersey did not follow the Swiss route of enacting banking secrecy legislation, the existing codes of banking confidentiality, supported by the small-island culture of insularity and social control, created a secrecy space in which tax avoidance, tax evasion and money-laundering, could flourish.

As a result of these measures, Jersey's financial services industry grew spectacularly. Between 1971 and 2001 its contribution to the island's gross domestic product rose from 9 per cent to approximately 50 per cent. The number of people directly employed by the industry rose from 3 per cent of the labour force to 23 per cent. Directly and indirectly, the banks, legal firms and other businesses account for over 80 per cent of the government's revenue income, and the States of Jersey has been able to operate on a budgetary surplus for almost every year over the past four decades.

Needless to say, operating a tax haven is immensely profitable for bankers, lawyers and even politicians. For many islanders, however, the picture has been starkly different. For starters, the island's traditional industries have virtually disappeared.

Take agriculture, for example. The island I knew in the 1960s had approximately two thousand farms (over seventeen farms per square kilometre). This density of farms created a distinct culture and way of life which, under pressure from the rapid growth of the offshore finance sector, has almost entirely disappeared. There are now only eighty farms left, many of which are in a state of crisis.

The tourism industry has also gone into steep decline, despite the increase in short stay tourism throughout Europe. The numbers of tourists has fallen year by year, and the amount that they spend on the island has also diminished. Year by year the number of hotels and guest houses has reduced, whilst the volume of state subsidy to keep the industry going has increased.

The last manufacturing company closed its doors in 1998, and even the island's famous breweries have ceased brewing.

In place of farming and tourism, tax avoidance and conspicuous consumption have become the prevailing culture, and those islanders who do not feel comfortable with the island's tax haven role have had no choice other than to dissent and / or leave the island.

### **Caught Between the Devil and the Deep Blue Sea**

In a matter of a few decades Jersey has lost its industrial diversity and become highly dependent on its tax avoidance industry, which in turn has made it increasingly vulnerable to two conflicting set of pressures. On the one hand the finance industry wants measures to increase the profitability of its offshore operations, but this pressure comes into direct conflict with pressures from the EU and the OECD to reform offshore financial services and to counter the economic and social damage caused by harmful tax practises and tax avoidance.

But worse still for Jersey, the rapid growth of the tax avoiding industry has not only undermined the other industries, it has also caused such high rates of population growth and price inflation that many islanders simply cannot afford to live on their own island. House prices on Jersey, for example, have risen at approximately twice

the rate of those in England. Normal people cannot afford housing unless they are employed by a bank or supported by the state. As a consequence, young people are leaving the island, crime rates have risen, the island has one of the highest incidences of alcohol and drug abuse in the world, and generally the island's social cohesion and culture has been eroded.

### **Fear for the Future**

Regrettably the majority of the island's politicians have not been prepared to recognise that their economic strategy of increasing dependence on the island's tax haven status is actually the root of the problem. Lacking any understanding of how economies operate, they have acted without consideration of the long-term effects of price inflation, particularly in the housing and labour markets. The problems have been apparent for many years, but nothing has been done to mitigate the effects of over-rapid growth. This surprising neglect is largely due to the fact that Jersey's politicians are not properly accountable for their actions, and revel in their conflicts of interest.

The structure of the States of Jersey does not conform to what most people would recognise as a democratic system of government. The States has never held a general election. There is no 'government' and 'opposition' in the conventional sense of a Westminster style of Parliament. There is no separation of the roles and powers of the legislature, the executive and the judiciary. There are no political parties and many politicians are elected unopposed. There is insufficient scrutiny of legislative measures and of the actions of the executive. There is no independent press. Voter turnout is consequently staggeringly low – less than 10 per cent in some districts. With few exceptions the politicians have resisted pressures for reform.

Herein lies the cause for Jersey people's fears for the future. Whilst the climate of world opinion is steadily moving against tax havens and the economic and social damage that they undoubtedly cause, Jersey's politicians seem incapable of reducing the island's dependence on its tax haven activities. The fall from grace has been fast and entirely predictable, but it is still not too late for Jersey to regain its former position as a beautiful tourism destination lying off the coast of northern Europe.

*The author has worked as economic adviser to a number of development agencies, including Oxfam, War on Want, and the UK Department for International Development. His research on tax havens has been published in books, scholarly journals and newspapers, and he has appeared on radio and television programmes. He was economic adviser to the States of Jersey from 1987 to 1998.*

*E-Mail: [john.christensen@menas.co.uk](mailto:john.christensen@menas.co.uk)*