



## TAX AVOIDANCE, TAX HAVENS AND THE GENESIS OF THE TAX JUSTICE NETWORK

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The Tax Justice Network is primarily concerned with the systemic failures of the global tax policy framework. Such concerns are not new. Way back in 1923 the **League of Nations** identified the need for a set of common global principles for taxing business profits. Ten years later the **US Department of Commerce** identified its own concerns about the scope for businesses to avoid tax through transfer pricing, and the issue was also discussed at **Bretton Woods** in 1944. Other countries voiced the same concerns. So has the international community, even if belatedly. The **Organisation for Economic Cooperation & Development** has attempted to tackle the issue through its 1988 model international tax convention and its initiative against harmful tax practices. The **European Union** has tried to tackle tax evasion through its savings tax directive. The **United Nations** has recently made steps towards elevating its ad hoc group of tax policy experts to the level of a standing political committee.

Unhappily, despite the accelerating process of global trade liberalisation, multilateral political initiatives to strengthen national tax regimes have been

consistently thwarted over the past eight decades by the persistent and powerful lobbying of business and wealthy individuals. For example, the OECD initiative against harmful tax competition has been strenuously resisted by a combination of tax haven and corporate interests.

We have seen similar resistance within Europe to the savings tax directive, which in its current form is quite inadequate to prevent tax evasion since it is restricted to personal banking accounts when everyone knows that the real concerns about tax evasion involve offshore companies, trusts and foundations. These are not covered by the EU directive, and we are compelled to ask why not? It would certainly appear to objective observers that trusts, foundations, offshore companies and similar instruments were excluded from the scope of the directive as a result of the lobbying efforts of special interest groups, including the tax havens on the periphery and at the heart of the continent.

In some cases national governments have also strenuously resisted improvements in order to secure their own specific national interests. For example, the OECD model convention was rejected by the governments of Great Britain, Switzerland, Germany and Australia, and appears to be dead in the water because of this failure of international cooperation. The EU savings tax directive has been resisted by Switzerland, Austria, Belgium and Luxembourg. The British Crown Dependencies have also been actively lobbying against the directive.

Whilst the international community continues to fail to react to protect tax regimes from tax avoidance and the associated issues of tax competition and capital flight, the ordinary peoples of both developing and developed countries are being forced to carry a higher proportion of the tax burden and to suffer cutbacks in public services. Until recently, of course, the general public has not organised to counter the huge economic and political power of the corporate lobbying groups, which have worked tirelessly to secure special treatments for their wealthy clients. But in the face of an almost complete absence of political will, global civil society has started to organise in order to voice its concerns about tax justice. This has been the genesis of a campaign to resist the special pleadings of the rich and the powerful and to

create the necessary degree of political will to implement measures to protect national tax regimes from abusive tax practices.

The Tax Justice Network was launched in March 2003 following a series of meetings at the **European Social Forum** in Florence the previous autumn and at the **World Social Forum** in Porto Alegre in January 2003. The Network consists of a wide range of civil society organisations and individuals, including development agencies, faith groups, trade unions, professional groups, academics, economists, accountants, journalists and tax attorneys. The Network functions within a highly democratic framework with total transparency of its operations and accountability of its secretariat and steering committee.

Since its launch in the United Kingdom and Switzerland in spring 2003 the Tax Justice Network has expanded rapidly. National networks have been launched in a number of other countries, most recently in Austria, Belgium, Germany and Finland, and groups associated with the Tax Justice Network are active in dozens of other countries around the world, including Canada, the United States and many Latin American countries. Contacts are being made with civil society in Africa and Asia. We have developed a strong base in the United States and hope to see the launch of a TJN-USA later this year.

Alongside our network building activities we have been very active in promoting research and in organising events and campaigns. We hold an annual research workshop at Essex University in England and since 2003 this workshop has attracted researchers, civil society activists and professionals from six continents.

In recent months we have focused our campaign efforts on the issues of tax avoidance, corporate responsibility and corporate governance. At its root the corporate responsibility agenda is concerned with demonstrating that companies are capable of acting with integrity. Tax avoidance presents company directors with a massive headache because those that wish to act with integrity will prefer to not engage in aggressive tax avoidance. But by doing this they place their companies at a significant commercial disadvantage compared to companies that do avoid tax aggressively. This is what the editors of **Ethical Corporation** magazine were referring to when they

said that tax could become the testing ground for international regulation of corporate responsibility. To use the jargon of the corporate responsibility industry, tax avoidance is an inner heartland issue of contemporary capitalism. By turning a blind eye to the glaring need to tackle tax avoidance, nation states and multilateral organisations have allowed corporations to act as economic free-riders, to abuse tax regimes, and to undermine growth and social stability.

Tax avoidance has also brought an additional and largely unrecognised risk element into the corporate governance arena. In 2004 the Tax Justice Network engaged in a series of meetings with major fund managers in the **City of London**. The results of our enquiries surprised us. It appears that despite **Enron**, despite **Parmalat**, despite **Worldcom**, and despite recent cases involving household names such as **Tommy Hilfiger**, **Swatch** and **GlaxoSmithKline**, few financial analysts are aware that aggressive tax strategies carry risk, and none have developed a methodology for assessing such risk. Indeed in many cases City analysts have assumed that the risk is too complex for them to assess even if they had all the necessary information. In other words, tax risk is a regulatory issue, but not one that financial regulators have seen fit to tackle as yet.

But tax avoidance has broader implications that extend beyond the interests of the corporate responsibility and corporate governance communities. Within the development community, at both NGO and governmental levels, there is a mounting realisation that some of the apparently intractable problems of the modern world, including chronic state indebtedness, unfair terms and conditions of trade, global market distortions, and corruption, business fraud and illicit capital flows, are linked to the secretive world of offshore finance and tax havens. As Bruno Gurtner argued earlier, success in achieving the United Nation's Millenium Development Goals will require that measures are finally adopted to ensure that the benefits of debt relief and aid are not lost through further capital transfers to offshore bank accounts.

For the coming year the Tax Justice Network's priority is to demonstrate that tax avoidance, tax competition and tax havens are symptoms of a globalisation process that undermines sustainable development. But another form of globalisation is possible. We argue that unless steps are taken at a

multilateral level to protect national tax regimes from abusive tax practices, the benefits of trade will continue to flow offshore; developing countries will continue to rely on loans rather than tax receipts; indebtedness will remain a global problem; global markets will become even more distorted in favour of multinational businesses; wealth distribution will become even more uneven; and as a consequence of all these factors social stability will continue to be threatened and economic growth impaired.

The time has come for the world to wake up and do something about the fact that tax avoidance, tax competition and tax havens cause poverty.

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