THE TAX DODGING BILL

WHAT IT IS AND WHY WE NEED IT

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www.taxdodgingbill.org.uk

"Individuals and businesses must pay their fair share. And businesses who think they can carry on dodging that fair share, well they need to wake up and smell the coffee, because the public who buy from them have had enough." David Cameron, Prime Minister and Leader of the Conservative Party[1]

"Politicians – not companies – set the rules."

Eric Schmidt, Chairman of Google[2]

"Companies have a responsibility to pay corporation tax in the jurisdictions where they operate. If big corporations fail to pay tax and leave it to SMEs and middle income groups, it will undermine democracy. This is about the survival of democracy." Angel Gurria, Secretary General, Organisation for Economic Cooperation and Development (OECD)[3]

"If everyone approaches their tax affairs as some of these companies have approached their tax affairs we wouldn't have a health service, we wouldn't have an education system." Ed Miliband, Leader of the Opposition[4]

"We have got to ensure the rules apply more evenly across the piece so big companies can't play cat and mouse with the tax system." Nick Clegg, Leader of the Liberal Democrats and Deputy Prime Minister[5]

"I regard tax evasion and, indeed, aggressive tax avoidance, as morally repugnant."

Chancellor George Osborne[6]

“The campaign for tax justice has a moral foundation. A just society expects companies to contribute their fair share towards the common good. When some multinational companies find ways to manipulate their profits to avoid paying tax where it is owed, this has a real and direct impact on others, particularly the poorest in our world, because it takes away a major resource for building up a stable and serviceable infrastructure in society . People in developing economies need such a context if they are to grow and become self-sustaining; and they need decisive political leadership to tackle some of these practices, increase transparency, and help tax justice become a reality.” Dr Rowan Williams

Making tax fair to fight poverty

In a just tax system, everyone pays their fair share - each according to their means - to the public purse.[7] But when those most able to pay can unfairly escape their contributions to society, the majority of people lose out. Inequality increases and there is less public money available to contribute towards improving the lives of the poorest.[8]

At a time of economic difficulty in the UK, scandals like those of Starbucks, Google and Amazon have underlined that some big companies get away with paying much less than their fair share of tax. A National Audit Office report showed that more than 400 of the 800 largest businesses in the UK paid less than £10 million in corporation tax in the 2012/13 fiscal year and around 160 paid no corporation tax at all.[9]

Companies may have legitimate reasons to pay little or no corporation tax - because they are investing more in their business, for example, or have made a loss. But it is an abuse of the tax system for companies to use legal and accounting tricks simply to cut their tax bills. Unfortunately, such stories have become commonplace. Recent revelations based on leaked documents have shown that global firms, including British household names, channelled nearly £140 billion through the European tax haven of Luxembourg from 2002-2010 in order to cut their tax bills in the countries where their economic activity actually takes place.[10]

Polling conducted in November 2014 by COMRES for ActionAid and Christian Aid indicates that a large majority of British people say they are angry about corporate tax dodging and worried about its effects, not just in the UK but also in poor countries:

- **85 per cent of respondents said that tax avoidance by large companies is morally wrong even if it is legal.**
- **80 per cent of respondents said it is currently too easy for large companies in the UK to avoid paying tax.**
- **78 per cent of respondents said it is important to them that large UK companies pay their fair share of tax in developing countries.**
- **73 per cent of respondents said it was personally important for them that the next government legislates to discourage UK companies from avoiding tax in the developing countries in which they operate.**

At the same time around 13 million people, including 3.7 million children, live below the poverty line in the UK.[11] Globally, over 1 billion people still live in extreme poverty (on less than $1.25 per day) and across poorer countries 57 million children are still out of primary school, while an estimated 1 billion of the world's poor people still don't receive the health services they need.[12] While so many governments' budgets are already stretched, tackling corporate tax dodging is a powerful tool to ensure there is money available to start to right these wrongs.

Tackling tax dodging by multinationals and large companies around the world could have significant positive effects on developing countries.[13] Estimates suggest that developing countries could be losing out on as much as $160 billion a year in potential revenue due to corporate tax dodging, more than the amount given annually by all rich countries in overseas aid.[14] This revenue could be used by developing country governments to fund vital public services and other measures to help reduce poverty and support development.

Studies of both aid and debt relief have shown that there is a link between increased government revenues and improved development outcomes, such as increased primary school enrolment and reduced child mortality. These examples show that when governments do have increased revenue, this can have a significant impact on poverty levels.

A recent study done on behalf of the European Commission, for example, found that aid recipient countries that had more aid flow directly into government budgets (as opposed to aid tied specifically to certain projects) performed better on a range of development indicators.[15] This research tells us that an increase in government budgets can translate into improved development outcomes, and that the funds "recovered" by developing countries from efforts to curb tax dodging by UK companies that operate in those countries could help to reduce global poverty. This research into countries that received more aid directly into government budgets, high "general budget support" (GBS) countries, found that:

- Primary school enrolments improved by 5 percentage points in high GBS countries, but by less than 1 in low GBS recipients.
- Gender equality improved by more than 4 percentage points in high GBS countries, but by less than 1 in low GBS recipients.
- Child mortality fell by 16 deaths per thousand in high GBS countries, compared to 10 in low GBS recipients.
- The population using improved drinking water improved by 3.5 percentage points in high GBS countries, but only 1.6 in low GBS recipients.
- The improvement in the Human Development Index was 30 per cent higher in high GBS countries than in low GBS recipients.

Similarly, another study of Tanzania found that general budget support has been associated with a large growth in government discretionary spending (i.e. spending that is set each year, based on fiscal policy) and a major expansion in health and education services.[16] Looking at the experience of debt relief yields similar results. One study looking at countries in Africa found that debt relief under HIPC (the Highly Indebted Poor Countries initiative) did lead to higher public expenditure on health.[17]

It is not only the scale of revenues, or expenditure that matters. Research suggests that it is reliance on taxation – rather than other sources of revenue – that is likely to be associated with improvements in governance and democratisation.[18] For this reason, corporate tax abuses may undermine long-term development prospects as well as more immediate public service provision.

Finally, the UK government has a responsibility to ensure that British companies do not dodge taxes in developing countries regardless of how the "recovered" money is spent. The UK's Department for International Development (DFID) strongly recognises that low-income countries do not want to be aid dependent, and has said for example that "tax avoidance and evasion undermine developing countries' ability to provide public services and increase their reliance on aid".[19] DFID is investing in programmes to help countries raise more domestic taxes and other financial flows to fund their own development.

GHANA USING TAX TO REDUCE AID DEPENDENCY AND REDUCE POVERTY[20]

Ghana is making progress in tackling poverty. The proportion of Ghanaians going hungry has been reduced by three quarters in the past two decades. Almost eight out of every ten children, girls as well as boys, are now in school. The country has had five consecutive free and fair elections. Growth increased from 3.7 per cent in 2000 to 7.3 per cent in 2008.

Ghana is also a star performer within Africa on tax revenue, collecting 22 per cent of its GDP in tax. Aid dependency has gone down, from 46 per cent of government expenditure in 2000 to 27 per cent in 2009. More than half the aid is delivered through projects, and about a third as budget support – a proportion which has increased modestly over the last decade.

Over the last 5 to 10 years, the Ghanaian government has increased spending in a number of areas including education and health, and has introduced; a school feeding programme, an education capitation grant, a conditional cash transfer scheme for the poor, a programme targeting youth unemployment and a programme to reduce inequalities between the north and south of the country. These have been reflected in the budget, with increased expenditures on social services and social protection between 2003 and 2007, although their share subsequently fell.

Time for a Tax Dodging Bill

Britain can and should do a lot more on its own to ensure that companies are paying their fair share of tax, at home and abroad. Britain's tax regime still enables big companies to avoid paying a fair share of tax and offers tax breaks that are expensive (in terms of foregone revenue[20]) and economically and socially questionable (for example, in terms of the numbers of jobs they create, where those jobs are located and who has access to them[21]) to business interests which lobby for them. Big accounting firms still co-write British tax rules while making £2 billion a year in fees from providing tax advice to companies.[22]

Meanwhile, public confidence in business is faltering; the CBI reports that only around half of people believe that business makes a positive contribution to society,[23] and the British Chambers of Commerce remarked in December that "since corporations only prosper with the consent of the societies in which they operate, tackling this issue [aggressive tax avoidance] before it becomes a moral crusade is crucial".[24]

The effects of UK tax rules are not limited to the UK itself. Anti-tax haven rules which used to help protect poorer countries have been so far watered down that they incentivise overseas tax avoidance by UK-based multinationals. This matters because poorer countries need tax revenues to reduce poverty and typically depend more heavily on corporate income tax than richer countries.[25]

The status quo is seen to be unfair by society (see the polling results on page 3) and by responsible businesses and is increasingly worrying to institutional investors concerned by the effects of tax dodging scandals on corporate reputations.[26] Some responsible companies are showing leadership by speaking out against tax avoidance.[27] Some are being more transparent about their own approach to tax. For instance, we have recently seen the energy company SSE (formerly Scottish & Southern) become the first FTSE 100 company to be awarded the 'Fair Tax Mark'.[28] But to create a level playing field, we need to ensure no company is able to dodge taxes.

Some have argued that strong action against tax dodging will make the UK 'uncompetitive'. But the UK needs a tax system which ensures that companies pay their fair share of tax for the benefit of the rest of society, including the poorest, not one which encourages companies to dodge tax in other countries or move a handful of their staff here solely to take advantage of our tax system.

A recent survey by Reuters found that of seven multinationals which have moved their headquarters to the UK recently, none said they expected to create more than about 30 jobs.[29] Another company, the carmaker Fiat Chrysler, said it only planned to base about 50 people at its new London headquarters.[30] These findings suggest that tax reforms which have come at great cost to the public purse do not necessarily generate corresponding benefits to our economy and society.

What is more, the costs to business of reforming corporate taxation may be far less than some have claimed. For example, it has often been claimed that public country-by-country reporting of companies' taxes and other key data would have a substantial economic impact on business, yet a recent study by PwC for the European Commission found that public country-by-country reporting in the finance sector would be good for the economy.[31]

The UK economy remains hugely attractive to multinational companies, whether for the experience and knowledge of the workforce or the huge sales market the UK represents. Reforming the tax system to make it fairer for society and create a more even playing field between companies will not undermine these features of the UK as one of the world's leading economies.

It's time for bolder and broader action against tax dodging. All political parties can demonstrate stronger commitment to tackling these issues, by pledging to introduce a Tax Dodging Bill in the first hundred days after the 2015 General Election. This Tax Dodging Bill should:

1. Make it harder for big companies to dodge UK taxes and make sure they are not getting unjustified tax breaks,[32] by:

a) Ensuring that foreign multinationals can't use tax havens to avoid their fair share of tax in the UK;

b) Rigorously reviewing tax breaks, ensuring that the full costs and benefits of all tax breaks for companies are properly reported and scrapping any which cannot be justified by their benefits to the economy, society and the environment.

2. Ensure UK tax rules don't incentivise UK companies to avoid tax in developing countries:

a) Toughening up the UK's anti-tax haven rules to deter tax dodging at home and abroad and reviewing other tax rules to assess whether they undermine developing countries' ability to raise vital revenue through taxation.

3. Make the UK tax regime more transparent and tougher on tax dodging, by:

a) Requiring companies to publish their taxes, profits and other key data for each country where they do business;

b) Toughening the tax regime, making tax avoidance schemes riskier for those promoting and benefiting from them and more costly when they fail as well as ensuring that HMRC has the means to crack down harder on tax dodging.

We are also calling on all political parties to commit to spending the additional UK revenue arising from the Tax Dodging Bill on measures to reduce poverty.

The Tax Dodging Bill could:

- **Recover £3.6 billion a year in additional tax revenue in the UK**
- **Help raise billions in developing countries, which could be spent on schools, hospitals and other essential services**

The precise scale of the problem is impossible to know for sure because tax dodging can be buried deep in the technical detail of company accounts, if it is visible at all. This is why we are calling for more transparency and a rigorous review of UK corporate tax rules. Based on available information including official figures and media reports, we estimate that a well-drafted Tax Dodging Bill could bring at least £3.6 billion more a year in tax revenues to the UK which could be spent on addressing poverty in the UK.[33]

Such a Tax Dodging Bill could also help raise billions in developing countries, which could be spent on schools, hospitals and other essential services.[34]

Some official action has been taken in the UK against the kind of elaborate tax avoidance schemes which have caused anger amongst the UK public, such as the recent announcement by the UK government of a Diverted Profits Tax or 'Google Tax'. However, this proposal as it currently stands includes a major loophole (see below) and does not cover the broad range of measures needed which are proposed in the Tax Dodging Bill.

Efforts are also going on at the global level to address some of the biggest gaps and loopholes in the international corporate tax system.[35] The UK is playing an active role in working through the G20 group of countries and the OECD to tackle Base Erosion and Profit Shifting (BEPS) and some progress has been made.

However, international cooperation on tax matters is difficult and can take time to deliver meaningful results. In the meantime, the UK can take action on tax dodging unilaterally, while continuing to engage in global processes to fix the international tax system. By committing to a UK Tax Dodging Bill within the first hundred days of taking office, UK political parties would demonstrate the UK's commitment to tackling the problem of corporate tax dodging, showing leadership and setting the bar higher for global reform.

1. Make it harder for big companies to dodge UK taxes and make sure they are not getting unjustified tax breaks

At present, the UK's tax system fails to ensure that all big companies pay their fair share of tax in this country. The Tax Dodging Bill would tackle this problem by:

A) Ensuring that foreign multinationals can't use tax havens to avoid paying their fair share of tax in the UK.

Many foreign multinationals like Google sell billions of pounds of goods and services in the UK each year but ensure that their subsidiaries in this country only carry out what are said to be "lower- value" activities like marketing or delivery in order to keep their tax bills low. Their lucrative sales are completed from abroad in tax havens like Ireland and Luxembourg where they can also collect generous local tax breaks like the notorious "Double Irish" (which helps companies to avoid taxes elsewhere, particularly in the United States). Companies may also reduce their taxable profits by having their subsidiaries pay large fees to related companies in tax havens for the use of intellectual property such as brands and software.

The result of such arrangements, which are legal, is that a relatively small sum of tax compared to the scale of their sales is paid in the UK or anywhere else. Much of Google's global profit, for example, ends up in the tax haven of Bermuda.[36]

The UK has responded to this problem by announcing the introduction of a new "Diverted Profits Tax" which is due to come into force in April 2015. The tax, sometimes nicknamed the "Google tax", is intended to impose a 25 per cent tax rate on profits which companies are deemed to have diverted out of the UK. There is a good case for introducing this type of tax in situations where existing rules are not sufficient to cut through the complex, artificial arrangements created by some large companies to avoid tax. However, there is a serious and troubling loophole in the consultation draft of the new tax which needs to be closed if the Diverted Profits Tax is to be seen a credible response to multinational tax avoidance. The loophole is that the new tax, as it stands, does not apply to "loan arrangements".[37]

This loophole is a significant problem because the Luxembourg Leaks scandal has shown that multinational groups commonly try to avoid tax, in the UK and other countries, by setting up finance companies in tax havens and using them to make loans, sometimes in the billions of pounds, to other subsidiaries of the same group which are located in higher-tax countries.[38] Since interest paid on loans is normally deductible against tax, the subsidiaries in the higher-tax countries can collect tax breaks while the interest payment ends up in the tax haven and is barely taxed if at all. Such schemes can involve billions of pounds in intra-group loans.[39]

The government estimates that the Diverted Profits Tax would raise around £350 million a year by 2017-18.[40] This figure seems conservative. The Financial Times has estimated that seven big digital companies – Apple, Google, Microsoft, Amazon, Ebay, Yahoo and Facebook – made combined UK sales of about £9.5 billion in 2012 but only paid £54 million in UK corporation tax on their profits from these sales. A rough calculation based on their global accounts suggests that had they all been charged the standard rate of corporation tax, this country might have

collected as much as £500 million more in tax.[41] Companies in other sectors of the UK economy are known to use artificial arrangements to avoid tax, sometimes on a massive scale as the Luxembourg Leaks revelations have shown. So it is possible that a well-designed Diverted Profits Tax, with its loophole for loan arrangements closed off and backed by a well-resourced and determined HMRC, could generate significantly more tax for the UK than the government estimates, either directly as a result of the tax itself being applied, or indirectly because companies start to shy away from artificial structures intended to dodge tax.

B) Rigorously reviewing tax breaks, ensuring that the full costs and benefits of all tax breaks for companies are properly reported and scrapping any which cannot be justified by measurable benefits to the economy, society and environment.

Like other countries, the UK tries to attract investment from multinationals by offering them tax breaks. Such tax breaks, in total, can cost billions of pounds a year in foregone tax.[42] But these tax breaks are rarely reviewed in order to clearly assess whether or not their overall impact on society is positive, once they have been enacted. This makes it very hard to know whether they bring in enough new investment or social benefits to justify their huge cost, or whether they are just a welfare giveaway to big companies which play skilfully on politicians' fears about losing investment to other countries.

Although it is sometimes claimed that such tax breaks are good for Britain's economy, a recent report by the Public Accounts Committee found that the government itself may not know whether this is the case or not. It found that there isn't enough transparency and accountability about tax reliefs in general (not just for companies) and officials don't do enough to keep track of their real costs.[43]

A recent report by Reuters news agency about U.S. companies which have moved to Britain, partly for its favourable tax regime, found that: "while redomiciling to London can cut a company's tax bill, it usually involves relocating just a handful of senior executives -- and sometimes not even that many."[44] This suggests that tax breaks may not necessarily lead to the creation of many new jobs.

An example of a big tax break offered by the UK is the controversial "Patent Box". The "Patent Box" is a tax break that allows companies to pay a reduced (10 per cent instead of 21 per cent) tax rate on all profits from products that contain a qualifying patent. The Treasury estimated that this tax break would cost the UK nearly £2 billion in its first three years and just under a billion pounds a year thereafter,[45] without conclusive evidence that it would bring additional jobs and investment to the UK. The Institute for Fiscal Studies described the UK Patent Box as having "substantial potential problems" and said that "it is unlikely that its effects will be the same as its stated objectives."[46]

In response to international pressure, the government announced in November 2014 that it would significantly limit the scope of the Patent Box tax break by 2021.[47] But this is far too long to wait for action on the Patent Box itself, and doesn't ensure that other unjustified tax breaks won't be brought in to take its place without sufficient scrutiny of both the costs and benefits.

Another tax giveaway which needs rigorous scrutiny is the Substantial Shareholdings Exemption (SSE), introduced back in 2002. Normally, a person selling an asset for a profit would pay tax on the capital gain. The effect of the SSE is that a trading company which has owned more than ten per cent of another trading company for twelve months over a two-year period can sell its stake without paying tax on the capital gain. The SSE comes from a bygone era when the buying and selling of companies through acquisitions and divestments was seen as leading to greater economic efficiency. That environment has changed in the wake of the financial crisis, with the landmark Kay Review of Equity Markets recommending that the government take a more 'sceptical' view of the benefits of large takeovers.[48] This indicates one reason for the need for regular reviews of such tax breaks.

A rigorous review is also needed of the UK's policy on allowing generous tax deductions for interest payments on companies' debts. Debt

interest is a legitimate cost of business but critics argue that these rules, in their current form, give multinationals an incentive to shift profits into tax havens by lending money to their UK subsidiaries. The UK subsidiary collects a UK tax break on the costs of paying interest on the loan while the profits of lending end up in the tax haven. Charlie Elphicke MP, a former tax lawyer, has alleged that utility companies have avoided £1 billion in UK tax over three years by engaging in schemes using debt interest.[49]

The OECD is currently running a consultation about this issue as part of the BEPS process mentioned above,[50] but the UK does not need to wait to review the outcomes of the OECD process. The UK can take immediate action to review the benefits of allowing tax deductions for interest payments on companies' debts, and can draw on existing work in the UK to propose reform of these rules, including that of the House of Lords Select Committee on Economic Affairs.[51] These examples make clear why all such tax breaks for big companies should be rigorously reviewed to see if their benefits to society truly outweigh their costs. If not, then they should be scrapped.

We believe that a Tax Dodging Bill should include a legal requirement for a full cost benefit analysis of any major new tax breaks, as well as a full review of existing tax breaks above a certain size (in terms of potential costs to the UK economy). The findings of the reviews should be placed in the public domain and any breaks that cannot be clearly justified, in terms of the expected, or existing, impact (economic, social or environmental) should be scrapped. Where tax breaks are maintained, there should be a legal obligation for regular reviews to be carried out.

2. Ensure UK tax rules don't incentivise companies to avoid tax in developing countries

At present, the UK's tax system actually incentivises UK multinational companies to avoid tax in developing countries. To tackle this problem, the Tax Dodging Bill would:

A) Toughen up the UK's anti-tax haven rules so they deter tax dodging abroad and at home, and review other UK tax rules to assess whether they undermine developing countries' ability to raise vital revenue through taxation.

The Controlled Foreign Companies (CFC) rules were introduced in the 1980s to deter British companies from shifting profits into tax havens to avoid tax by stipulating that such profits could still be taxed at the full UK rate. The CFC rules were meant to protect the UK's tax base, but because they applied to profits anywhere, they also deterred British companies from avoiding tax in other countries, including developing countries.The protection that the CFC rules offered to poorer countries was wiped out by revisions that came into effect in January 2013.[52] These revisions mean that UK companies' profits in tax havens are now only intended to be taxed here if they have been shifted out of the UK itself, and not from other countries. In effect, a deliberate decision was taken to defang the rules by turning a blind eye to tax avoidance elsewhere by UK-based multinationals.

One controversial rule that came in as part of the 2013 reform of the CFC rules, the "finance company partial exemption", allows companies a 75 per cent tax break on the internal profits that they make from lending to related companies via tax havens like Luxembourg. This is a classic way for multinationals to cut their tax bills, because interest payments on debt can commonly be deducted from tax. A prominent British tax adviser has described this rule as "almost government-approved tax avoidance."[53]

The Organisation for Economic Cooperation and Development (OECD) recently said that developing countries have "expressed specific concerns that their tax bases are eroded through payments of interest on loans [from one part of a multinational company to another]."[54] Yet it is precisely these kinds of transactions which the revised CFC rules could reward with UK tax breaks.

The revisions to the CFC rules were co-designed by an expert from a Big Four accounting firm which now advises companies on how to take advantage of them.[55] Concerns about the harmful effects on poor countries were ignored, while working groups set up to discuss the rules were dominated by staff from multinationals which stood to benefit from the changes.[56]

We propose to strengthen the CFC rules by scrapping the "gateways" which restrict the application of the rules (including the "finance company partial exemption"), and making related changes to ensure that they deter tax dodging by UK companies worldwide. This could enable the UK to collect £900 million a year, based on the Treasury's own calculations of what the current rules will cost.[57]

To make sure that other UK corporate tax rules are not depriving developing countries of vital potential revenue, for example by incentivising tax avoidance in these countries by British

companies, we are calling for a rigorous and independent "spillover analysis" of UK corporate tax rules, which means examining UK corporate tax rules and assessing whether they have harmful knock-on effects on the ability of developing countries to collect their own taxes. The Netherlands has already carried out such a study, and Ireland is doing so. It is reasonable to expect the UK, as a country committed to helping developing countries eradicate poverty and build up their own economies, to do the same. Significant future changes to the UK tax code should also be subject to a spillover analysis of this kind.

Any plans for the future devolution of corporation tax powers to devolved governments within the UK should also include provision for establishing a "do no harm" approach to ensure that any changes to corporation tax policy in devolved regions do not have a negative impact on developing countries. Before tax powers are devolved, a spillover analysis ought to be undertaken to assess the potential impact of any proposed changes to tax policy in that jurisdiction.

3. Make the UK tax regime more transparent and tougher on tax dodging

At present, the UK's tax system does not require transparency on the tax affairs of big companies to deter them from dodging tax. The Tax Dodging Bill would tackle this by:

A) Making UK-registered companies (that operate beyond the UK) publish their taxes, profits and other key economic data for each country where they do business, so the public can see what tax they pay and where.[58]

As the global economy has grown more complex, more and more business is done within multinationals as subsidiaries in different countries trade with each other. This creates opportunities for companies to manipulate the prices of internal transactions in order to shift profits out of the countries where real economic activity takes place and into low-tax jurisdictions. The precise cost of the problem in terms of taxes avoided is hard to pin down, but the UK estimates that it raised an extra £4.1 billion in tax between 2008 and 2013 by challenging the prices used by multinationals for internal transactions.[59] The European Commission and the accounting firm PwC have estimated that developing countries could increase their tax revenues from multinationals by more than 40 per cent over five years if a significant effort was made to address transfer pricing abuse.[60]

Other research suggests that the profit declared in some jurisdictions such as Luxembourg could fall by more than 80 per cent if profits were aligned with real economic activity, as the OECD BEPS initiative seeks.[61]

The problem of companies using internal transfer pricing to avoid paying tax is hard to tackle because there is currently no requirement for multinationals to report their accounts on a country- by-country basis. This lack of transparency makes it harder for tax authorities to identify indicators of potential abuse of the tax system, such as big profits being made in countries where companies have few or no staff.

The process led by the G20 countries and the OECD to tackle global tax dodging has already agreed on a reporting scheme that requires multinational companies to provide relevant information to national tax administrations in each country where they operate. But the OECD does not propose that this information would be public, even though public country-by-country reporting has already been agreed for the financial sector in the European Union, and a recent analysis by PwC concluded that banks would not suffer any economic harm from making the reports available to the public, as well as to tax authorities.[62]

When such reports are published, the results can be striking. In June 2014, Barclays Bank voluntarily published country-by-country figures which show that in 2013, the bank made pre-tax profits of £1.39 billion in Luxembourg, where it had only 14 employees out of more than 140,000 employed by the bank worldwide, and paid only £20 million tax there. Such reports do not prove that tax is being avoided but they can send

strong signals that companies need to explain what they are doing. (Barclays says it has now closed its "structured capital markets" unit in Luxembourg, meaning that less business will be reported there in future).[63]

There is international momentum behind extending public reporting on a country-by-country basis to other sectors of the economy. The UK has an opportunity to get ahead of the game in this area. We are calling on the UK to take a lead on this issue, just as it has led in recent years on promoting the public disclosure of the ultimate beneficial owners of companies as a deterrent to corruption and tax fraud. A requirement for all large UK companies to publish country-by-country reports, in full and without exemptions for any country or type of information, should be enacted into UK law.

B) Toughening the tax regime, making tax avoidance schemes riskier for those promoting and benefiting from them and more costly when they fail and ensuring that HMRC has the means to crack down harder on tax dodging.

Even using what we believe to be conservative estimates, losses to the UK exchequer from tax dodging run into the billions of pounds a year. In recent years, measures have been adopted to try and deal with the problem, including a General Anti-Abuse Rule and a requirement for people and companies which enter into questionable tax schemes to pay the disputed tax upfront when HM Revenue and Customs (HMRC) challenges the scheme.

However, while the General Anti Abuse Rule did increase HMRC's powers to challenge tax arrangements, the government's own figures estimate the measure would only recover £235 million over its first four years of operation, which is less than 25 per cent of HMRC's own estimates for costs of tax avoidance in the UK.[64]

Despite these recent reforms the disincentives for tax advisers to concoct avoidance schemes are still low, since there is a grey area between a tax scheme that breaks HMRC's rules on the one hand and lawful tax planning on the other. All tax avoidance is legal until it is challenged by HMRC and found to have broken the rules, so the onus is commonly on HMRC to mount and win such challenges. The Public Accounts Committee complained in 2013 that big accounting firms will promote tax avoidance schemes that have less than a 50 per cent chance of standing up to a challenge in court, on the assumption that HMRC will not have the resources to successfully challenge every scheme.[65]

We propose a three-pronged response. Firstly, the penalties associated with successful challenges to tax avoidance schemes should be significantly increased. At the moment the penalty regime is only brought into play by reference to aggravating behaviour from the taxpayer, rather than simply by virtue of having tried to avoid tax, and all that necessarily happens is that the taxpayer has to pay the tax that would have been due if the scheme had not been challenged, plus any interest. In other words, there is an incentive for taxpayers and their advisors to try and get away with such schemes, since they have little to lose from failure.

Secondly we propose to effectively spread the risk involved in developing abusive schemes by ensuring that tax advisers provide fair and reasonable legal advice. The problem with the status quo is that the risks (such as they are) of entering into abusive arrangements are borne almost entirely by the taxpayer (individual or company) involved. No scheme is likely to be introduced without legal written advice, yet the advisor involved is unlikely to be held accountable if the scheme is challenged and found to be outside the law. The vast majority of UK tax advisors will provide advice that is reasonable. However even a small number of advisors providing poor advice can make a large impact, and the financial benefits of providing advice that would be likely to be deemed 'unreasonable' are high, while the associated risks are currently low.

To rectify this situation, options should be considered as to how tax advisers could have a legal obligation placed upon them to ensure that tax advice must not be based on "unreasonable factual or legal assumptions or unreasonably rely upon representations of the client or others, and it must consider all relevant facts and law".[66] Where written advice does not meet those standards, the practitioner would

face direct financial penalties. This would create a similar regime to that already in place in the United States.[67]

Thirdly, HMRC needs the resources not only to take on well-resourced corporations and their expensive advisers, but also the problem of tax evasion – that is, criminal tax fraud. Over recent years HMRC has seen its overall budget and staffing reduced, undermining its ability to challenge both tax avoidance and pursue tax evasion. The Institute of Chartered Accountants of England and Wales (ICAEW) has stated that HMRC's funding "cannot go any lower without having a major effect on quality of service standards for taxpayers and business, and severely compromising efforts to tackle aggressive tax avoidance",[68] so we propose that HMRC's budget should be ring-fenced over the life of the next parliament, to ensure that it cannot be reduced in future years.

CONCLUSION

Tax rules currently fail to ensure that all companies pay a fair share of tax. This state of affairs cannot be allowed to continue, leading governments to lose out on the potential to raise public funds which can be used to tackle poverty. We believe the measures in the Tax Dodging Bill are a pragmatic, effective and balanced package of reforms to the UK tax system that represent some key steps the UK can take on its own to tackle corporate tax dodging at home and abroad.

Ahead of the General Election, all parties should

- **Commit to introducing a Tax Dodging Bill to tackle corporate tax dodging and help ensure all companies pay a fair share of tax in the UK and the world's poorer countries.**
- **Commit to spending UK public funds recovered through a Tax Dodging Bill on anti-poverty measures.**

In doing so they can tackle the clear present unfairness in the UK's tax system and release billions of pounds to fight poverty in the UK and the world's poorer countries.

ENDNOTES

[1] **https://www.gov.uk/government/speeches/prime-minister-david-camerons-speech-to-the-world-economic-forum-in-davos**

[2] Guardian. At Google we aspire to do the right thing. So we welcome a debate on international tax reform. 18 May 2013.

[3] Guardian. OECD calls for crackdown on tax avoidance by multinationals. 12th February 2013. 4 BBC. Miliband pledges corporate tax avoidance crackdown. 19th May 2013.

[5] Guardian. Google tackled by Nick Clegg on tax avoidance at No10 meeting. 22nd May 2013.

[6] Financial Times. Osborne tackles "morally repugnant" tax abuses. 21st March 2012.

[7] There is not a scientific definition of a "fair share" of tax, but our use is based on the principle that in a fair and progressive tax system each person or organisation contributes according to their means, and the relative tax burden increases as an individual or organisation's ability to pay increases. For a review of concepts of fairness in tax see **https://www.escholar.manchester.ac.uk/api/datastream?publicationPid=uk-ac-man-scw:59414&datastreamId=FULL-TEXT.PDF**

[8] An example of the links between inequality and unfair tax rules can be seen when corporations pay less tax, profits increase and these profits accrue overwhelmingly to the top 10 per cent and 1 per cent richest people especially. In he US, for example, about 80 per cent of corporate income is held by households in the top fifth of the income scale, and about 50 per cent is held by the top 1 per cent. See Oxfam, Turn the Tide: The G20 must act on rising inequality, starting with fairer global tax reform, November 2014: **http://www.oxfam.org/sites/www.oxfam.org/files/file_attachments/oxfam_media_brief_-_turn_the_tide.pdf** The links between tax systems and inequality are also explored in a series of African Country case studies presented in the report released in February 2014 by Tax Justice Africa and Christian Aid, "Africa Rising": **http://www.christianaid.org.uk/images/Africa-tax-and-inequality-report-Feb2014.pdf**

[9] National Audit Office. Report by the Comptroller and Auditor General. The Exchequer departments. Tax reliefs. HC 1256 Session 2013-14. 7th April 2014. Page 22. Our reference to "around 160 companies" is derived from the statement in this report that: "Around 20 per cent of these 800 businesses paid no corporation tax in 2012-13"

[10] International Consortium of Investigative Journalists. Leaked Documents Expose Global Companies' Secret Tax Deals in Luxembourg. 5th November 2014. The estimate is "roughly $215 billion between 2002 and 2010" which is roughly £138 billion at the December 2010 exchange rate. These schemes would have avoided tax in various countries including the UK.

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[13] There is no single, agreed, definition of "tax dodging", but it is a phrase that has become widely accepted and understood by the public in the UK and is thus used here in place of a more specific definition of the behaviours that we are asking parties to tackle in this campaign. In this case we include in our definition three broad type of behaviour: 1) Using opportunities provided by the tax system to attempt to reduce tax payments in a way that, on examination, would be deemed to be outside the law and thus illegal; 2) Using opportunities provided by the tax system to attempt to reduce tax payments in a way that is deemed legal, but is contrary to the intention of the law; 3) Using tax incentives, that are provided for in law, but which are not proven to provide the economic or social benefits that would justify the loss of tax revenue.

[14] Christian Aid. Death and Taxes. May 2008 & OECD. Aid Statistics. December 2013

[15] European Union (2010); Budget Support and MDG performance, Development Paper No. 2010/01

[16] Overseas Development Institute, London, and Daima Associates, Dar es Salaam (2005); "Does General Budget Support Work? Evidence from Tanzania" Andrew Lawson, David Booth, Meleki Msuya, Samuel Wangwe and Tim Williamson

[17] United Nations Economic Commission for Africa (2009), "Does Debt Relief increase Public Health Expenditure? Evidence from Sub-Saharan African HIPCs"

[18] Prichard, W., P. Salardi & P. Segal, 2014, "Taxation, Non-Tax Revenue and Democracy: New Evidence Using New Cross-Country Data", International Centre for Tax and Development Working Paper 23: **http://www.ictd.ac/sites/default/files/ICTD%20WP23.pdf**

[19] DFID. Annual Report 2013-14 **https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/331591/annual-report-accounts-2013-14a.pdf** & **https://www.gov.uk/government/news/uk-plans-major-boost-to-tax-collection-in-developing-countries**

[20] **http://www.ifs.org.uk/publications/5362**

[21] **http://www.biginnovationcentre.com/Assets/Docs/Patentpercent20Boxpercent20Final.pdf**

[22] Public Accounts Committee – Forty-Fourth Report. Tax avoidance. The role of large accountancy firms. April 2013. Summary.

[23] YouGov poll for the CBI referenced in CBI Press

Release. 4th September 2014. CBI launches campaign to boost public confidence in business. **http://www.cbi.org.uk/media-centre/press-releases/2014/09/cbi-launches-campaign-to-boost-public-confidence-in-business/**

[24] Financial Times. One tax increase that businesses will cheer. 5th December 2014.

[25] International Monetary Fund. Spillovers in International Corporate Taxation. 9th May 2014. Page 7.

[26] Financial Times. Aggressive tax avoidance troubles large investors. 2nd November 2014.

[27] The Telegraph. John Lewis warns Amazon's tax avoidance "will drive UK companies out of business". 14 November 2012 & Guardian. Sainsbury's boss says corporate tax row is a question of morality not legality. 25th June 2013.

[28] **http://www.theguardian.com/business/2014/oct/20/sse-becomes-first-ftse-100-company-awarded-fair-tax-mark**

[29] Reuters. Britain becomes haven for U.S. companies keen to cut tax bills. 9th June 2014.

[30] Automotive News. Fiat Chrysler plans small, finance-focused staff for new London HQ. 20th May 2014.

[31] European Commission. Report from the Commission to the European Parliament and the Council.General assessment of economic consequence of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013. 30th October 2014.

[32] We define "big companies" using largely the same criteria as the HMRC Large Business Service (LBS), which is based on the EU definitions of large businesses as those which have either: more than 250 employees (or 100 employees where the business is foreign owned), or turnover (as reported in the company accounts filed at Companies House) annualised, aggregated, attributable and world wide - of £30million. We would define "unjustified tax breaks" as those that cost the government more in foregone revenue than they deliver the creation of decent jobs and other social or environmental benefits for society.

[33] This estimated figure is based on the government's estimates of the scale of existing corporate tax avoidance (£1.1. billion), tax costs arising from the current Controlled Foreign Companies rules and the Patent Box which could be recouped in the event of their reform (£2 billion) and an estimate of £500 million, derived from media reports, of tax avoided by companies using intra-group financing from tax havens, specifically via the "quoted Eurobond exemption".

[34] Corporate tax avoidance is a serious problem for developing countries which drains away tax revenues that could otherwise be spent on schools, hospitals and other essential services. Multinational companies do not publish enough information about their tax affairs around the world to enable precise estimates about how much money is being lost, though the International Monetary Fund has said that in its own experience, the amounts at stake in a single tax planning case "quite routinely run into tens or hundreds of millions of dollars" (International Monetary Fund. Spillovers In International Corporate Taxation. Policy Paper. 9th May 2014. Page 6). This is backed up by the practical experience of the OECD task force on tax and development which has been working with developing countries to strengthen transfer pricing rules (**http://www.oecd.org/ctp/tax-global/tf-on-td-sess-five-transferpricing.pdf**).

The UK is a major source of direct investment in developing countries and of the 350 largest companies on the London Stock Exchange, research by members of the Tax Dodging Bill coalition has found that there are more than 150 whose websites or annual reports indicate that they have direct investments or sales in developing countries. So while noting that lack of transparency makes a fuller estimate impossible, it is likely that the costs of tax avoidance by UK-based multinationals in developing countries could be in the billions of pounds a year.

[35] For the work of the Organisation for Economic Cooperation and Development on countering Base Erosion and Profit-Shifting, which the OECD is doing under a mandate from the G20 countries (including the UK), see **http://www.oecd.org/ctp/beps-frequentlyaskedquestions.htm**

[36] Financial Times. "Dutch sandwich" grows as Google shifts €8.8bn to Bermuda. 10th October 2013

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[38] Guardian. Luxembourg tax files: how tiny state rubber-stamped tax avoidance on an industrial scale. 5th November 2014.

[39] For a detailed discussion of one such scheme involving a UK-listed multinational, see Public Accounts Committee. Oral evidence: Tax avoidance: the role of large accountancy firms - follow-up, HC 860. 8th December 2014.

[40] HM Revenue and Customs. Diverted Profits Tax. (Tax Impact Information Note). December 2014.

[41] The estimate of up to £500 million is a hypothetical figure based on seven digital companies' global figures for sales and profits in 2012 as reported in U.S. corporate filings, and UK sales figures for the same year, taken from Financial Times. "Pressure to End Digital Tax Bonanza". 3rd January 2014. It assumes that these companies' UK sales would have been profitable as their global sales, and that these profits would have been taxed at the headline UK rate of corporation tax at the time.

[42] National Audit Office. Report by the Comptroller and Auditor General. The Exchequer departments. Tax reliefs. HC 1256 Session 2013-14. 7th April 2014. Page 15.

[43] House of Commons Committee of Public Accounts. Tax reliefs. Third Report of Session 2014-15. 9th June 2014.

Page 15. The cost of a new tax break is estimated by the government at its introduction but these estimates are often not reviewed later on.

[44] Reuters. Britain becomes haven for U.S. companies keen to cut tax bills. 9th June 2014.

[45] HM Revenue and Customs. Patent Box. Summary of Impacts. The "steady-state cost" of the Patent Box to the UK Exchequer is given as £1.1 billion a year.

[46] **http://www.ifs.org.uk/wps/wp201409.pdf**

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[48] The Kay Review of UK Equity Markets and Long-Term Decision Making. Final report. July 2012.

[49] Daily Telegraph. Utility companies avoiding £1 billion of tax a year as households struggle, says Tory MP. 28th June 2013.

[50] **http://www.oecd.org/ctp/aggressive/discussion-draft-action-4-interest-deductions.pdf**

[51] See, for example, the 2013 House of Lords Select Committee on Economic Affairs report, Tackling corporate tax avoidance in a global economy: is a new approach needed?, 1st Report of Session 2013–14

[52] See **https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/193239/Corporation_tax_road_map.pdf**

[53] Tax Journal. Corporation tax at 5.5 per cent is "almost government-approved tax avoidance", says tax adviser. 17th April 2012.

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[55] Public Accounts Committee. Forty-Fourth Report. Evidence. Question 156.

[56] See **https://www.gov.uk/government/consultations/controlled-foreign-companies-cfc-reform** for details of the consultation and the names and companies of working group members.

[57] HM Treasury/Department for Work and Pensions/HM Revenue and Customs. Budget 2012 Policy Costings. 2 March 2012. Page 14-15. The costings are estimates for the year 2017/18 and are "dependent on the likely behavioural response of UK groups."

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[59] Speech by Exchequer Secretary to the Treasury, David Gauke MP. Tax Transparency. 7th February 2013. 60EuropeAid. Transfer Pricing and Developing Countries. Final Report. July 2011.

[61] Cobham, A. & S. Loretz, 2014, "International Distribution of the Corporate Tax Base: Implications of Different Apportionment Factors under Unitary Taxation", International Centre for Tax and Development Working Paper 27: **http://www.ictd.ac/sites/default/files/ICTDpercent20WP27.pdf**

[62] European Commission. Report from the Commission to the European Parliament and the Council. General assessment of economic consequence of country-by-country disclosure requirements set out in Article 89 of Directive 2013/36/EU of the European Parliament and of the Council of 26 June 2013. 30th October 2014.

[63] Barclays. Country Snapshot Report 2013. 30th June 2014.

[64] HM Treasury. Budget 2013. 51 General Anti-Abuse Rule: non revenue protection. Page 65. Estimates for 2014-15 to 2017-18.

[65] Public Accounts Committee. Forty-fourth Report. Summary.

[66] Weak Transmission Mechanisms and the boys Who won't say No (blog). Jolyon Maugham, July 2014

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[68] Institute of Chartered Accountants of England and Wales. 2015 General Election Manifesto.