TAX JUSTICE BRIEFING

To be fair we've got to tax banks more: The case of HSBC and Barclays and how unitary taxation would help the UK collect the tax that appears to be owing to it

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Since 2009, HSBC and Barclays bank may well have underpaid UK corporation tax to the tune of £2.6 billion. This figure represents the difference between the tax the banks actually paid and what would have been due had they been taxed under what's called a unitary taxation system, says the Tax Justice Network.

Year on year, this is an extra £650 million that just two banks could be contributing to the Exchequer if we had a fairer corporate tax system in the UK. To put this amount into perspective, according to HMRC the total contribution of the banking sector in corporation tax (on income as opposed to the separate bank levy on debt) in 2011-12 was £1.3 billion.

Under the current policies of economic austerity when vital public services are being cut, and the vulnerable are being made to suffer, there is more need than ever to ensure that those responsible for the current crisis, including all our major banks, make a fair contribution to the public coffers. However, under current UK and international tax rules, HMRC can only tax HSBC and Barclays based on the profits the companies declare that they make in the UK.

The two banks currently suggest that they pay roughly 10% of their total tax bill in this country:

Table 1 ***HSBC Holdings plc****

Year	Total worldwide pre-tax profit £m	Current tax charge £m	Effective tax rate %	UK current year tax charge as per accounts £m	% of total tax paid in UK
2009	4,528	1,313	29.0%	132	10%
2010	12,316	2,401	19.5%	248	10%
2011	13,637	3,164	23.2%	511	16%
2012	13,045	3,671	28.1%	158	4%

* Figures have been converted from USD to GBP at the relevant exchange rates

Table 2 *Barclays plc**

Year	Total worldwide pre-tax profit £m	Current tax charge £m	Effective tax rate %	Reported or estimated UK current year tax paid £m	% of total tax paid in UK
2009	4,584	1,131	24.7%	113	10%
2010	6,065	1,393	23.0%	*149*	11%
2011	5,879	2,629	44.7%	300	11%
2012	246	775	315.0%	*83*	10%

* The tax paid figures for 2010 and 2012 are estimates calculated using an average rate from the known years (2009 and 2011)

If these ratios of tax paid were a fair proportion for each bank then that would suggest that they both generate the vast majority of their profits and conduct most of their economic activity overseas. That, however, is not true. Both British banks are headquartered in London and have a substantial presence around the country. This is reported by both in their accounts. HSBC reports its UK presence as follows:

Table 3 *HSBC Holdings plc*

Year	No. UK employees '000s	Total no. employees '000s	% UK employees	UK Turnover $m	Total Turnover $m	% UK Turnover	UK non-current assets $m	Total non-current assets $m	% UK assets
2009	53,000	302,000	17.5%	9,958	66,181	15.0%	19,704	67,784	29.1%
2010	52,000	307,000	16.9%	14,171	68,247	20.8%	19,661	73,646	26.7%
2011	51,000	298,000	17.1%	16,058	72,280	22.2%	21,414	76,030	28.2%
2012	48,000	270,000	17.8%	9,149	68,330	13.4%	18,391	79,935	23.0%
Average %			17.3%			17.9%			26.7%

The equivalent data for Barclays is:

Table 4 *Barclays plc**

Year	No. UK employees '000s	Total no. employees '000s	% UK employees	UK Turnover £m	Total Turnover £m	% UK Turnover	UK non-current assets £m	Total non-current assets £m	% UK assets
2009	55,700	153,800	36.2%	12,850	29,123	44.1%	n/a	682,053	n/a
2010	58,100	147,500	39.4%	12,714	31,440	40.4%	n/a	544,268	n/a
2011	56,100	141,100	39.8%	15,819	32,292	49.0%	n/a	659,843	n/a
2012	55,300	139,200	39.7%	7,433	24,691	30.1%	n/a	604,555	n/a
Average %			38.8%			40.9%			0.0%

*Barclays does not include UK assets information in its accounts

What is obvious is that the proportion of tax paid in the UK does not in any way match the level of activity that these banks seem to be undertaking in this country. This is all too easy for a bank to arrange. Non commercial organisations have better access to tax havens and none find it easier to shift where they earn their money by the simple process of moving money between accounts as a result of just a few key strokes on a computer.

That is why the Tax Justice Network has explored the level of tax that might be paid if a more appropriate international taxation system were to be adopted, as could be the case at the G8 summit that is looking at this issue in June 2013.

The best alternative to the current international tax system is unitary taxation. Unitary taxation has been around since the 1930s and is used in the USA to divide income between states. It works by using a formula to divide up the total profit of a multinational corporation and its group proportionately between all the countries in which it operates.

The most common formula used allocates the profit of a multinational corporation to states according to the amount of turnover, the number of employees and the percentage of real, tangible assets such as buildings and machinery that the firm has in each jurisdiction.

The logic behind the formula is that companies cannot make profit without having customers, people to service them and places where they can work. Using it also better reflects the nature of multinational corporations, which are run as if they are one giant enterprise with a single board of directors and not as a whole host of wholly unrelated companies, which existing tax rules assume.

Applying the formula to these two banks suggests that over four years HSBC paid less than half of what it might have owed if profits had been allocated in this way, whilst Barclays only paid around a third (note: asset data is not available for Barclays so just sales and staff were used):

Table 5 *HSBC Holdings plc*

Formulary profit split $m	Expected tax rate %	Hypothetical tax due $m	Total UK non deferred tax charge $m	Difference $m	Exchange rate	Difference £m
1,455	28.0%	407	206	201	1.5633	129
4,087	28.0%	1,144	383	761	1.5457	492
4,921	26.5%	1,304	820	484	1.6038	302
3,729	24.5%	914	250	664	1.5829	419
			Total difference:	2,110		1,342

Table 6 *Barclays plc*

Formulary profit split £m	Expected tax rate %	Hypothetical tax due £m	UK current year tax charge £m	Difference £m
1,841	28.0%	516	*113*	403
2,421	28.0%	678	*149*	529
2,609	26.5%	691	*300*	391
86	24.5%	21	*83*	-62
			Total difference:	1,261

A broken system

The likely reason for the gap between the tax these two banks actually pay and what they would owe under a unitary system is profit shifting. Profit shifting is the name used to describe the behaviour of multinational corporations when they use complex structures to move profits they have earned from one country to another.

They do this with the aim of increasing the profits that are declared in low tax jurisdictions whilst reducing those declared in relatively higher tax jurisdictions, such as the UK, with the aim of saving tax. This lay behind the recent revelations about Google, Amazon and Starbucks tax affairs.

Profit shifting by multinational corporations is now recognised to be a massive international problem. David Cameron has made it the focus of the G8 summit in June and the Organisation for Economic Cooperation and Development, which sets the rules for international taxation, acknowledged in February 2013 that the current system is broken.

Both HSBC and Barclays have a history of tax avoidance: HSBC stands accused of helping customers evade tax and launder money in Cayman and elsewhere whilst Barclays' former Structured Capital Markets Division was notorious for selling tax avoidance schemes. A 2011 survey also showed that the banks hold between them around 940 subsidiaries in tax havens, many of which might exist solely to facilitate the process.

Banks not paying tax is a known problem. Failure to address this issue is increasing the severity of the austerity programme being imposed on the people of the UK. The Tax Justice Network believes that unitary taxation is eventually the only logical way to overcome the problem of profit shifting that is at present letting multinational corporations walk round taxation law.

Our Prime Minister seems to agree. In Davos in February 2013 he said:

> *When some businesses aren't seen to pay their taxes, that is corrosive to the public trust.*

We have to trust that our banks, to whom so much has been given, justify the faith we have placed in them by paying their fair share in taxes.

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