

Gibraltar - just another sordid little tax haven suppor...

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As [AFP reported late yesterday](#):

Europe's top court barred Britain on Tuesday from enacting a corporate tax reform in its tiny territory of Gibraltar, ruling the scheme would amount to illegal state aid for offshore companies.

The European Union Court of Justice found that the proposed tax system was "designed in such a way that offshore companies avoid taxation," making it "incompatible with the internal market" rules.

The ruling was a victory for the European Commission, which had stated in 2004 that the proposed system was incompatible with EU rules and would give companies in Gibraltar a lower rate than those taxed in Britain.

The commission's decision had been struck down by a lower EU court in 2008 following a challenge from Britain and Gibraltar.

But following appeals from the commission and Spain, the Luxembourg-based Court of Justice ruled that the lower tribunal had "erred" in finding that the reform did not confer "selective advantages" on offshore firms.

The system was "specifically designed" so that companies with no real physical presence could avoid taxation because it would be based on the number of employees and the size of business premises occupied in Gibraltar, the court said.

The assessment to levy the tax "excludes from the outset any taxation of offshore companies, since they have no employees and also do not occupy business property," the court said.

The court found in favour of the commission's view that "the proposed tax reform constitutes a scheme of state aid which the United Kingdom is not authorised to implement."

It's good to note that the Tax Justice Network predicted this. As [we noted in 2009](#):

Such a reform [as that now rejected by the ECJ] is likely to result in de facto horizontal ring fencing instrumented through taxing only locally bound activities (utilities, property, payroll, etc.). Additionally, it is noticeable that there is a special individualist tax regime applicable to High Net Worth Individuals which allows them to negotiate 'lump sum' taxes.

We were, as ever right.

More importantly, as ever it is shown that the UK is actively promoting this sort of abuse on behalf of the City of London which uses places like Gibraltar (population 29,000) as its branch offices.

The case for reform is overwhelming. Now when will it be done?