

Funding the Future

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Ed Miliband's announced a new initiative today that is sure to resonate around the offshore world.

As I understand it he, in essence, has said three things. The first is that the UK should push as hard as possible for the [European Union Savings Tax Directive \(ESTD\)](#) upgrade planned for 2013 to be implemented as soon as possible. Second, in the process he suggested George Osborne had put back the whole process by negotiating the Swiss tax deal over which the EU is now threatening to pursue the UK because it does not comply with the requirements of the existing ESTD, let alone the revised one. And third he said that if for any reason the EU can't deliver the ESTD on time because Austria and Luxembourg continue to try to block it then the UK should go ahead and demand that its Crown Dependencies and Overseas Territories enter into deals equivalent to those required under the ESTD with any reasonable country that wants one.

Now this is radical stuff. The ESTD is about tax evasion, that's all. It has no other purpose. So this initiative extends the whole debate about corporate responsibility from the issue of company tax into the whole arena of the tax evasion that some companies — and notably banks — facilitate through their offshore operations, whether knowingly or not.

Second, whilst the ESTD has been in operation since 2005 it has been widely acknowledged — [even by the EU itself](#) since 2008 - that there are gaping loopholes in it. The [Tax Justice Network view of this is here](#). The key points are simply though. First, the existing directive only applies to cash deposits — and [based on my research of offshore portfolios](#) that's rarely more than 20% of offshore asset holdings - meaning 80% or more of all income escapes the arrangement and so remains untaxed in most cases in the country where it should be declared for tax purposes whilst, second, the ESTD only applies to income held in an individuals name so that cash and other assets held in companies, trusts and other arrangements also avoids or evades tax as well. Put the two facts together and I estimate well over 90% of all income that should be known about in tax havens like the Channel Islands is not advised to HMRC.

Those are loopholes too big to tolerate at a time when tax revenue is the scarcest commodity in the UK economy.

The big question then is, can Miliband do this? My thinking is yes, he could. First, this is about the international relations of the Crown Dependencies and overseas territories, and we are responsible for them, and as such can legislate them if we wish to do so, and opinion that the [House of Commons Justice Committee](#) came to in 2010 when reviewing this issue, basing their opinion on the Kilbrandon report. Second, knowing this the Crown Dependencies have actually done all we have ever asked them to do on such issues. That is exactly why they have adopted the European Union Savings Tax Directive and the EU Code of Conduct on Business Taxation despite their reluctance to do so. In practice they knew they had no choice but do so. Third, if they really want to be awkward we could simply remove the exemption from tax being withheld on payments of interest, royalties, dividends and other sums to these places that are in operation at present and they cease to be tax havens overnight and lose their entire financial services industry at a stroke. Given they publicly say they don't want tax evaders to use them there is no way on earth they'd risk that, but we could impose it, and they know it.

So Miliband, if he were prime minister, would hold all the cards in his hands, and the Crown Dependencies would have the 2,3 and 4 of spades when hearts are trumps. In other words, this threat isn't hollow; this threat is for real.

And what would we win by doing it? Well, I suggest [it could be £2.4 billion a year](#). That's best on my 2009 estimates, here and taking just the part relating to the Crown Dependencies into account.

That's why I applaud this move: it's a straightforward attempt to tackle tax evasion. That's exactly what government should be doing now. And it's a low cost attempt to do so as well. It works by shattering secrecy. After that's done the pressure on those with these accounts to disclose will be very high indeed — and so the measure is virtually self-policing.

Of course the Crown Dependencies will protest — but if they do so then they'll be coming out on the side of tax evaders. Is that what they really want to do?

And if their reply is those tax evaders will just move their funds? Then, I suggest, we have to look at regulating the banks involved a lot more aggressively because in that case they will be willingly assisting tax evasion. That's the next step. But for now let's note that a politician has taken a courageous line on this issue.