

India's point of principle

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India has courted international controversy by backdating reform in a law to ensure that Vodafone will owe tax on its purchase of its mobile phone network in that country.

As the [New York Daily News](#) reports:

India vowed Tuesday to push ahead with controversial legislation allowing it to retroactively tax such companies as British mobile phone giant Vodafone over cross-border business deals.

The measure, which has stirred huge protests abroad from foreign investors, would oblige overseas firms to pay tax on transactions involving Indian assets routed through tax havens.

"India cannot become a no-tax country... a tax haven" to lure international investors, finance minister Pranab Mukherjee told parliament.

The amendment to India's Income Tax Act would bypass a Supreme Court ruling dismissing a \$2.2-billion tax bill imposed on Vodafone over its takeover of Hong Kong-based Hutchison Whampoa's Indian cellular unit in 2007.

Mukherjee did not mention Vodafone by name but said "either you pay tax here or in your own country."

"There cannot be a situation where a somebody will make money on an asset located in India and will not pay tax either in India or the country of its origin," he told lawmakers.

And that's the point of principle that India is supporting. The idea that a tax haven effectively lets you be 'elsewhere' or even 'nowhere' when it comes to paying tax ([ideas I explore here](#)) is a just a legal fiction, and India is saying so. It's time a state said the tax lawyers are wearing no clothes. India is. And I know that there is a question of retrospection here - but India thought the law applied in this case, and still believes it does. So, just as the UK did with Barclays recently, it's backdating to make sure that is the case. And the point of principle it is making is far more important

than the issue of retrospection. Which is why I support its move, because double non taxation via a tax haven is and always will be unacceptable, and most especially when at cost to some of the poorest people in the world.