

## Jersey and Guernsey say no to the UK: I predict a const...

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[Tax News has reported](#) that the Guernsey and Jersey governments have jointly stated:

*"As communicated last week, officials from Guernsey, Jersey and the Isle of Man continue to engage with US officials, aimed at concluding Intergovernmental Agreements under the US FATCA regulations."*

*"We also share a common commitment with the UK to combat tax evasion and to participate in international efforts to combat financial and fiscal crime. We have long made it clear that neither Island has any wish to accommodate those engaged in tax evasion."*

*"The UK government is seeking to promote more widely as a new international standard the principles of the US Foreign Account Tax Compliance Act. Jersey considers that it is important that in doing so the UK government mirrors the approach of the US FATCA in being global in its application, ensuring a non-discriminatory approach for all jurisdictions."*

*"In our ongoing discussions with the UK government we will be pressing them to make clear the steps they are taking to promote the adoption of automatic exchange of information worldwide to ensure that a level playing field is achieved for all finance centres competing in the global market place."*

The net result of this is simple: Jersey, with Guernsey, as ever, trailing in its wake, is refusing to supply to the UK that information to tackle tax evasion that it is willing to supply to the USA.

The argument that a global level playing field is required before it can agree is absurd. The agreement with the USA is not global: it is a series of bilateral agreements. So too is that with the UK a bilateral agreement. The two are therefore, as far as Jersey is concerned, identical unless that is (and it's a big unless) Jersey insists that a level playing field has to be defined in terms that mean that equal opportunities have to be supplied to tax evaders. If that is what it means then it does, of course, reveal in its

statement exactly where its true sentiments are on this issue.

But the matter is more serious than a simple refusal by Jersey and Guernsey. First of all, [as I have already noted](#), Jersey might think it can hold the UK to ransom on this issue, but my sources suggest to me that the UK is not minded to take no for an answer, and is willing to refuse Jersey its FATCA legislation if need be. That means its relationship with the USA could fail. Second, and perhaps as importantly, Jersey is forgetting that the UK can legislate on this issue if it wishes, and there is nothing Jersey can do about it in that case. To be precise, the latest, very carefully worded, form of this opinion comes from a 2010 [report issued by House of Commons Justice Committee](#) that says:

*The UK Government is responsible for ensuring the good government of the Crown Dependencies. Some witnesses to this inquiry indicated a desire for the Ministry of Justice to step in to address certain grievances they have in relation to the governance of the Islands. However, we consider that the Crown Dependencies are democratic, self governing communities with free media and open debate. The independence and powers of self-determination of the Crown Dependencies are, in the view of both the UK Government and the Island authorities, only to be set aside in the most serious circumstances, such as a fundamental breakdown in public order or of the rule of law, endemic corruption in the government or the judiciary or other extreme circumstance.*

*However, we note that, in very small jurisdictions, it is possible for the existence of very significant economic, legal or political power to skew the operation of democratic government and this is a possibility in respect of which the Ministry of Justice should remain vigilant.*

I think the first sentence is critical. And I happen to think that when the UK sees a refusal by these places to assist it in upholding the rule of law in the UK - which is exactly what is happening - then the retort to this missive from Jersey (which is no doubt driving this process) will be short and blunt. That will be because, I think, the message will be that they think there is endemic corruption in the Jersey government because it will be seeking to assist tax evaders. And that would be true.

To put it another way, this one is going to run and I think it may also escalate because right now the UK cannot afford to have two little islands for which it is responsible and for which it can legislate saying they will proactively seek to undermine UK law by helping tax evaders- which is what they are saying right now.