

# Osborne's new offshore tax offence looks much more like...

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[According to the Guardian:](#)

[George Osborne](#) is planning to make it easier to impose jail terms or heavy fines on British residents using offshore tax havens to cheat the exchequer out of billions in revenue.

The chancellor, who is in Washington at the International Monetary Fund's spring meeting, has drafted a criminal offence of failing to declare offshore income as he steps up a long-running campaign to crack down on tax dodging.

At present, HMRC has to prove a British resident has deliberately sent funds abroad to dodge tax. The need to prove intent has undermined several prosecutions and allowed those under investigation to escape with only light fines, Treasury officials said.

Now, I am not someone who is likely to oppose a clampdown on offshore tax evasion, but this statement is very odd.

First of all, there is already a criminal offence for failing to declare offshore income.

That offence occurs when a tax return is submitted without the income included upon it. Making a false declaration that the tax return that has been submitted without that information is complete is, in itself, an offence, and therefore it seems hard to see why another offence is needed.

Secondly, it is not necessary to prove intent in the case of tax evasion cases: failure to declare the income is sufficient to prove that evasion has taken place. I do agree that there are offences relating to the movement of assets offshore where intent is a factor, but to suggest that these cover all tax evasion situations is misleading.

Thirdly, I will be curious to see what the proposed offence is. It cannot be the case that having an offshore bank account is, in itself, illegal. That would be contrary to EU law, and even I have never argued that having an offshore bank account is, in itself something that should be considered an offence. It is the use of those accounts that is important. But, in that case, Osborne is going to have to fall back on some form of

failure to declare to create the offence that he wants: I suspect that failure to notify the existence of an account will now be an offence, but if that is the case this is no different in substance from failure to notify income arising on that account on the tax return, which is already an offence, as I note above.

In that case, whilst I have an open mind until I see the consultation document, this looks very much more like a PR exercise than it does to be a serious attempt to tackle offshore tax abuse.

And let's remember, some of the most serious offshore tax abuse which is of greatest public concern relates to the use of tax havens by multinational companies, and this is something that George Osborne has gone out of his way to encourage. The duplicity of his approach is staggering.