

Offshore is designed as an assault on democracy: that's...

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When [writing about the reasons why offshore tax abuse should be made a strict liability offence in UK law last week](#) I what is, perhaps, the most obvious public policy reason for doing so. This is that offshore tax abuse is a direct attack on democracy and as such tackling it has to have the highest order of priority in defending the order on which our current way of life is dependent. I did mention this on Twitter over the weekend and was challenged to defend my argument, so let me do so.

As Simon Schama argued in a BBC documentary last week, the history of democracy, taxation and broader representation are intimately linked. This is a theme that I will explore in *The Joy of Tax* in more depth, but it would be very hard for anyone to deny the evidence. Wars, such as the English Civil War and the American War of Independence were obviously tax related. So too was the French Revolution and so too many wars for colonial independence .

The demand for a universal franchise has followed a not dissimilar course.

Without tax there would be no democracy, and I think Churchill was right in saying that whatever its faults democracy is about as good as it gets when it comes to a system for deciding on government not only by consent but without recourse to violence and oppression.

There are, however, those who disagree. Most will be found on the Hayekian right wing of politics. Take this, written by Brad Walmsley and [published as long ago as 2006 by Margaret Thatcher's favourite Hayekian think tank, the Institute for Economic Affairs](#):

Simple majority rule results in a tyranny of the majority. Politicians auction taxes in order to buy votes, oppressing the productive and producing economic instability. But simple majority rule is inferior to the historic right to just government. Since taxpayers cannot be said to have consented to taxation under simple majority rule, it represents unjust government. Therefore, the power to tax must be separated from the legislature since it is elected by universal suffrage. Consent to taxation can only be obtained from the taxpayers casting one vote for every pound of tax they pay; you have more say, the more you pay.

His title was "The Corruption of Universal Suffrage: Tax, consent and the tyranny of the majority". The message is unambiguous and clear: universal suffrage, and so democracy, is unacceptable to those with wealth who might have progressive taxation imposed upon them as a result. If in doubt, note this from the same publication:

What time has obscured, reinforced by the propaganda of politicians and state educationalists, is an ugly reality. In fact, the welfare state exists only as a consequence of the non-consensual imposition of progressive income tax. Without progressive income tax, the Welfare State could never have been financed. That the Welfare State arose at all is an unhappy accident. Western governments, towards the end of World War II, decided to retain the high progressive income taxes introduced to fund wartime expenditures, and to divert these revenues to welfare and other state programmes. What represented patriotic acquiescence by the taxpayers in the face of wartime peril was never intended to convey consent in peacetime. Confronting the taxpayer then and now has been the power of collectivist ideology legitimatising discriminatory taxation as the way to redress social inequality in a search for social justice. 'From each according to his abilities, to each according to his needs' supplanted Judeo-Christian teachings on honesty and the evil of theft as the popular ethos of Western Society more than half a century ago. However, perhaps the more critical factor has been the unavoidable addiction of Western politicians to auction politics which is the principal reason for the absence of any mainstream resistance to progressive income tax, the Welfare State or, its handmaiden, arbitrary laws.

It is as if the Labour landslide of 1945 had not happened.

And it is as if the Conservative administration from 1951 to 1964 did not have ample opportunity to reverse all that Labour had done but chose not to do so (minor issues apart) precisely because it realised that we could never again live through an aftermath of war like the '20s and '30s.

That such taxes were clearly democratically endorsed is apparently not enough to legitimise them though. They are, is is claimed, in this extraordinary exercise in myth creation an accident reinforced by corruption needing to be overthrown by the idea of one pound one vote, which is plutocracy, of course; a place where wealth will rule.

It is my contention that this Hayekian ideal has been used to capture tax havens, where I know from personal experience that such thinking is commonplace. That Hayekians thinking on tax havens is apparent from another Institute for Economic Affairs publication, this time by Richard Teather, entitled '[On the benefits of tax competition](#)' and published in 2005, in which he says (page 81) when commenting upon measures then proposed by the OECD to tackle tax haven abuse:

This is attacking a classic use of a tax haven, as explained in the previous chapter, in which a person resident in (or otherwise subject to the taxation system of) a highly

taxed country places his capital in a tax haven where it can earn untaxed income. While there are many cases where the home country does not tax foreign source income (such as the UK's non-domicile exemption discussed above), most Western countries have a worldwide taxation system that seeks to tax the worldwide income of its residents (or all of its citizens in the case of the USA). This tax haven income therefore does not cease (legally) to become liable to tax merely by being earned offshore: it is still liable to tax and the investor has a duty to report it to his home tax authority. In practice, however, if the investor does not report his income, then the home country can have great difficulties in discovering and taxing it, particularly if the haven country has strong banking secrecy laws.

While I am not seeking to condone dishonesty or criminal activity, from an economic perspective this is merely another example of tax competition: indeed, it is often necessary behaviour in order to take advantage of tax havens. Without the willingness of some to engage in this sort of activity, tax competition would be much less effective and therefore reduce the benefits that flow from it for the rest of us.

Teather did, I think, come as close as he could to endorsing tax haven usage, even when that might be illicit, and did so for what are very clearly ideological reasons, stating that if illegality was a necessary condition for using tax havens on occasion that that might be worth it for what he thought were the positive economic advantages that flowed from doing so. But what was that advantage? It was what he saw as the befit of tax competition of which he said (page 10):

Tax competition involves allowing sovereign nations, and dependencies with tax-setting powers, to set their own tax rates and rules. Impeding tax competition, through the operation of a cartel of governments that sets tax rates and/or rules, is an abuse of power by government, much more serious than any abuse by monopolies acting in private markets. It is more serious because governments have a monopoly of coercion and, if tax competition is prevented, individuals will be unable to choose the kind of governments under which they live or the kind of countries in which they invest on the basis of their preferences for different amounts of government provided services.

So what Teather is saying is that people should use tax havens to opt out of a system of government that supposedly denies them the level of government service they want. And what does he say of democracy's role in this process? (page 54):

[O]f course, democracy is a very inefficient check on government power; in the absence of a strong (and strongly defended) constitution there is no check on a majority, and there is a great temptation for politicians to use redistributive taxation to build a coalition of support funded by the minority.

He goes straight back to Walmsley's idea that democracy is a tyranny on the minority.

Now, of course, we could dismiss such ranting for the nonsense it is bar one thing and that is that Teather is a [special favourite of Jersey](#), having been engaged by the States and [Jersey Finance](#) on various issues. They know his views. They, I am sure, endorse them when using his services. Indeed, it is hardly surprising that they do: the basis on which tax havens are founded is exactly in line with his thinking.

So, the evidence is clear that tax havens are used as places from which to launch an assault on democracy by denying democratic states the revenues due to them in accordance with the democratic mandate that these states hold, which people like Teather and Walmsley (and in my opinion the IEA) seek to deny that they can have. Of course, the aim is simple: these people know that they cannot undermine democratic choice from within states, precisely because of the benefits it brings to so many, which they resent, so they seek to do undermine democracy from without. That's the role that offshore plays.

And that is precisely why public policy interests demand a different policy response to offshore tax abuse than they do to onshore abuse. The loss of revenue is real in both cases, but one comes as a threat to democracy from another place and onshore abuse does not. And that makes them very different, and in need of different responses.