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Developing Global Britain and its Role as a Forward Looking Center for Responsible Wealth and Business Owners – and Immediate Revenue Raising Steps that Can be Taken

Executive Summary

This paper seeks to encourage the Government of the UK to consider taking steps to reform its tax system with a view to addressing the realities of income and wealth inequality while recognizing the important value to the UK of attracting and retaining wealth and business owners as citizens, residents and investors.

How individuals live and work has been changing and the basis on which wealth and business owners are taxed is, in the case of the UK, not fit for purpose if the UK were to be serious about achieving the benefits for its economy that it could achieve. The opportunity for the UK to emerge as the country of choice for global wealth and business owners is a very real one, particularly in a world of tax transparency where home governments are increasingly fully informed about the income and wealth of residents. Mobile wealth and business owners need to live in countries the governments of which can be trusted with information about their assets and where tax systems are fair, predictable and straight forward. Wealth and business owners living outside the UK need to invest in and through countries they can rely on and whose tax and legal systems encourage such activity.

The UK does not need to offer the lowest tax burdens globally to achieve success. The UK simply needs to rely on its existing strengths and to build on a long term strategy oriented towards collaboration with responsible wealth and business owners, reliance on the rule of law (and therefore certainty) and simplicity.

In setting out a vision for the future, this paper also suggests the creation of a **Voluntary Coronavirus Alternative Tax** for, primarily, existing and new residents of the UK. If this were carefully implemented, immediate meaningful revenues could be achieved as part of first steps taken towards the development of Global Britain as a the world's premier center for responsible wealth and business owners. Part of the Voluntary Coronavirus Alternative Tax could, as

elaborated on in this paper, include elements of wealth taxation, allowing the UK to experiment with wealth taxes through a voluntary system.

This paper sets out:

1. An Introduction to the Author and Reasons for Submitting Evidence
2. Longer Term Steps that Can be Taken to Develop Global Britain as a Forward Looking Center for Responsible Wealth and Business Owners
3. A Possible Short-Term Step to Address the Need for Government Revenue in view of the Coronavirus Pandemic and a First Move Towards the UK Establishing a New Relationship with Wealth and Business Owners
4. The Importance of Trust and Some Comments on Global Tax Systems

1. Introduction to the Author and Reasons for Submitting Evidence

I am an international tax lawyer, now semi-retired, interested in contributing tax policy and related ideas to the Government of the United Kingdom.

My motivation for submitting evidence is to help the UK address immediate revenue needs in response to dealing with the financial costs of Covid-19, and to do so in a manner that can be a first step towards developing a strategy that can place Global Britain in a leadership position in relation to capitalizing on the potential contributions to the UK and global economies of wealth and business owners.

I have been involved in a number of international tax policy related projects and among others was one of the architects and initiators of the Liechtenstein Disclosure Facility, which produced revenue yields for the United Kingdom of over £1.25 billion. The Liechtenstein Disclosure Facility was in place from 1 September, 2009 to 31 December, 2015. I developed the idea of the Liechtenstein Disclosure Facility as a means of addressing issues associated with undeclared funds, and the initiative was an important part of global moves towards addressing tax evasion and accelerating moves to transparency. I attracted the Liechtenstein government as my client in my work on the project, and developed good working relationships with HMRC, and particularly Dave Hartnett and Andy Cole, both now retired. My work on the Liechtenstein Disclosure Facility had the support of the OECD in Paris, with which I also maintain close relationships.

I am a UK national (born in Canada) and am admitted to practice law in England & Wales, New York, Hong Kong and British Columbia, Canada (the latter, retired). My CV is attached.

2. Longer Term Steps that Can be Taken to Develop Global Britain and its Role as a Forward Looking Center for Responsible Wealth and Business Owners

Taxation is, of course, a complex subject, particularly when dealing with the income and assets of global wealth and business owners whose businesses, holdings and places of residence almost always cross borders. Current tax systems, both in the UK and elsewhere, are simply not fit for purpose in a world of mobility and choice, and the UK, to thrive, will need to undertake radical tax reform.

Among others:

- Brexit affords the United Kingdom an opportunity to carve out an important global role as a future oriented safe center for **responsible** wealth and business owners. This is **not** *Singapore on the Thames* or another version of Switzerland and its history of abuse of bank secrecy, but rather a reflection of the current global needs of wealth and business owners. The approach suggested takes into account the realities of the weaknesses of traditional "offshore" wealth management centers, the failure of Swiss bank secrecy and Swiss strategy and the need for a global leader in providing what responsible business and wealth owners need. This includes, for those who are compliant with all relevant tax and other laws, the human right to privacy, protection against expropriation of their assets and otherwise. The initiative I have in mind would not only be oriented to the UK as a place business and wealth owners might live and invest, but **also** to the global role the UK can take as the voice of responsible business and wealth ownership.

- Wealth and business owners have much to contribute to the UK economy. Historically, legislation in the tax area as well as elsewhere has been chaotic, overly complex and filled with unacceptable loopholes. Non-domiciliary rules have been changed over the years such as to reduce the attractiveness of the UK to wealth and business owners. Navigating the non-domiciliary rules and related planning is now so complex that revenues in many cases go to advisors rather than to the government. And unlike many competing offerings from Italy, Portugal,

Greece, Switzerland and others seeking to attract global wealth and business owners, the UK system offers a virtually free ride for the first seven years, which makes little sense. There are many options for a simplified and fairer approach to be taken that would attract rather than repel wealth and business owners to the United Kingdom. Headline rates in both income and inheritance tax can and should decline significantly while raising substantially more revenue for the UK. Longer term, it likely makes sense for both domiciled and non-domiciled taxpayers, if resident in the UK, to be taxed in the same way – but under a tax system that is simple, offers low headline rates and which dramatically broadens the tax base.

- In relation to the existing tax system and its treatment of resident, non-domiciliaries, the UK economy loses out in two ways. First, because of the complexity of the system and the many changes to it that have taken place, there is a perception that the UK does not welcome wealth and business owners. This results in those who could contribute to the economy in meaningful ways choosing to live in other, more welcoming countries. Second, for those wealth and business owners who have an appetite for paying professional fees, they soon discover that the UK system, at least for a period of time, can allow for low or no taxation at all. This deprives the UK of revenue and the system is even designed to discourage, rather than to encourage, remittances to and investment in the UK.

- Linked to how wealth and business owners living in the UK are taxed is the question of residence rules and otherwise. There is much room for broadening the tax base in strategic ways in and around the realities of how global wealth and business owners live and operate, and in ways that seek to be *win-win-win* – reflecting the needs of global wealth and business owners and all stakeholders, including government and the general population.

- Apart from wealth and business owners who may choose to live in the UK, there are many initiatives the UK can take to support its development as a future oriented center for responsible wealth and business owners. These can include the support and conduct of well-designed disclosure facilities for developing countries in particular, with a focus on the realities associated with tax evasion and corruption in too many places, including a number of countries in Africa and Latin America. Post-Brexit Global Britain can be an ideal trusted financial center that facilitates confidential approaches to voluntary disclosure accompanied by trusted approaches to ensuring that tax revenues of

developing countries in particular can be monitored in their application to the real needs of the countries involved. I have written on this topic and have specific plans that I have discussed with the OECD and others that should be of interest to the UK. See: TWFR Part 1 Global Tax Transparency TWFR Part 2 Global Tax Transparency

- The UK can offer rulings to wealth and business owners that if strategic in their approach can be part of a programme designed to develop the UK as the future safe haven for responsible business and wealth owners. An article on this subject that I co-wrote is being published by the *Journal of Tax Administration – Volume 6 (2)* – see: https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3693571 .

- There are global initiatives that the UK can promote and which may make sense in today's world. Trusts and other asset ownership vehicles are under constant review by tax authorities seeking to ensure appropriate attribution to taxpayers under a variety of tax rules. But where assets and/or income held in trusts or otherwise are not attributed and taxed, or where the taxpayers to whom attribution would result are navigating residence rules to reduce or eliminate tax exposures, does our responsibility to address income and wealth inequality and other urgent global needs suggest that there should be consideration of a *Global Cross-Border Assets Tax*?

  With questions arising about how to pay for costs associated with Covid -19 and encouraging better future responses to, among others, global health challenges, climate change, misguided governments that go their own way rather than cooperate and gross inequality, the time may be ripe to revisit the establishment of some form of global tax (not a worldwide tax like for U.S. citizens, but a tax for **being** a global citizen; with administration that is automatically global, perhaps through a post-Brexit UK led initiative). And to keep it "simple", as a starting point, this would be a "cross-border" assets tax – focused on the information that is available under the Common Reporting Standard ("CRS").

  In 2019, there were Euros 10 trillion of assets that were reported under CRS. These represent cross-border assets – an assets tax of .10% of value would produce Euros 10 billion per year (and this excludes assets reported under the U.S. Foreign Account Tax Compliance Act ("FATCA"). For a wealth owner with, say, Euros 70 million of assets, a cross-border tax at 10 basis points of assets would cost US$70,000 per year. If this were a respected tax, carefully employed to save our world, maybe this would be a tax many would be happy to pay? And maybe

words other than “tax” could better describe what is in effect a contribution towards our collective futures. While Euro 10 billion raised in my example may not be a massive figure, it is almost double the budget of the World Health Organization, 80% of the budget of which is covered by voluntary contributions by countries around the world, including the UK.

If the UK could be at the center of intiating and administering new ways of covering the costs of global organizations such as the WHO, **savings to the UK would result** while helping to build a true Global Britain that takes leadership on global issues.

- There are initiatives in the UK underway that are reviewing how inheritance tax may adapt and whether and to what extent wealth taxes have a role to play. Any consideration of wealth taxation should focus on the realities of what today’s global wealth and business owners need, and how the UK can deliver on these needs. Where needs are met, the resistance to taxation in any form declines, particularly where headline rates are low, systems simple and governments avoid the desire to “chop and change” and make things overly complex. The UK should experiment, in my view, with wealth taxation, and without a sense that there is an *either or* between wealth taxation and inheritance taxation. Broadening the tax base requires an open mind on the kind of taxes that can be imposed.

- Wealth taxes are not necessarily taxes that should be imposed only on “billionaires” as part of a move to address the realities of income and wealth inequality. There are countries that impose wealth taxes successfully (Switzerland is an example) at relatively low levels of wealth, and simply as a way of reflecting the **reality** that not every individual lives from earned income. Regardless of how one comes into capital (whether by inheritance, the sale of a business or otherwise), is it not fair to tax such individual on the basis of the capital they are living from if their neighbor, working in a full time job, is taxed on her salary and other work related earnings?

- There are currently reviews underway on the role the UK can play as a global center of philanthropy. Together with blended value or impact investing, this is also a piece of how the UK can become the future safe haven for responsible global business and wealth owners. Global Britain can and should take a leadership role in helping to align private wealth with international development and sustainability priorities.

- Tax evasion is less of a problem than it was for the UK only a few years ago, and this as a result of important developments associated with automatic information exchange. There are, however, gaps, and some of these can be addressed through strategic approaches to enforce rights of the UK against enablers of tax evasion. While the UK has begun to focus on actions that can be taken against enablers of tax evasion, it would be interesting to consider how the UK's own initiatives in this area can be part of a program under which the UK coordinates, for the developing world in particular, similar strategies.

- The UK can do much to develop itself as a financial center of choice for global wealth and business owners. Steps can also be taken to encourage the use of UK trusts, partnerships and other ownership vehicles. In the trust area, the UK has, through its tax regime and otherwise, given up its leading role in the trust world to other financial centers, including the offshore world, the U.S., Switzerland, Singapore and others. It would be easy for the UK, with its existing infrastructure, respected legal system and leadership in trust law to recapture business that can be valuable to the UK economy.

- UK citizenship provides safety and security for many wealth and business owners living around the world. While I would not be an advocate of the UK shifting to a system of taxing citizens on the same basis as it taxes residents, there is room for consideration of an alignment of the benefits of UK citizenship and the revenue needs of the UK with simple approaches to having wealth and business owners pay for the value they receive as citizens. Additional services and value afforded to those who are UK citizens can be part of what the UK develops as part of a forward looking strategy, including enhancing the coverage of investment protection agreements where appropriate and otherwise.

These are only a few of many areas that I believe the UK can explore with a view to rapidly increasing revenues and carving an important global voice on behalf of wealth and business owners.

I have purposely sought to set out my evidence in a non-technical way so as to encourage wider readership and consideration, but would be very pleased to be afforded an opportunity to expand on my thinking with more in the way of specifics.

3. A Possible Short-Term Step to Address the Need for Government Revenue in view of the Coronavirus Pandemic and a First Move Towards the UK Establishing a New Relationship with Wealth and Business Owners

Like virtually all countries, the UK is facing an urgent need to raise revenue, and the call for evidence to which I am responding seeks to identify ways to ensure that the UK has a strong tax base that reflects changes in how people live and work and how businesses are conducted.

Longer term, there is much that can be done to develop the UK as a global center for responsible wealth and business owners. Tax simplification, broadening the tax base and many other reforms to the UK tax system can help achieve true economic success and address income and wealth inequality *in collaboration* with wealth and business owners.

But tax reform that is significant and meaningful takes time and there are many choices to be carefully considered. What the UK can do right now to generate both urgently needed revenue and take a first step towards the Britain I envision, would be to implement a simple, but carefully considered **Voluntary Coronavirus Alternative Tax**. (the "VCAT").

How can this work?

- Any individual would have the ability to elect to be subject to the VCAT. The ability to elect to be taxed on this alternative system would only be open for a limited period in and around the need for government to raise revenue urgently, and as a first step to the UK considering a broad range of reforms oriented to increasing both tax revenues and economic activity by collaborating with wealth and business owners to address the needs of all stakeholders – wealth and business owners, governments, our societies and our planet. While something similar to the VCAT may be introduced for the longer term if the VCAT proves successful for all parties, limited availability will allow government to evaluate the pros and cons of the approach.

- Exposure to the VCAT would arise in any year the relevant individual is resident in the UK under the UK's tax residence rules in place at any relevant time. The VCAT would be designed to be simple in implementation by limiting any areas that tax laws would need to be changed – such as in how residence is determined (which in the longer term, as part of the envisioned strategy, should certainly change in a

number of ways). If an individual is not resident in the UK, election to be subject to the VCAT can still be available, and may be attractive where the individual in issue has children or other family members who are resident in the UK.

- The VCAT would contemplate an entry charge into the elective, alternative system, and this up-front charge would be a driver of immediate revenue to the Treasury to help cover the costs associated with dealing with the coronavirus pandemic. An example of how this can work is summarized below.

- The VCAT would, in exchange for the entry charge paid, assure individuals electing the alternative tax treatment becoming subject to capped taxation for life. While an individual subject to the VCAT might be given the ability to opt out of the system in future (it would only be fair to allow this given that the normal UK tax system may change over the years), there would be no refunds of the entry charge paid.

- On the capped taxation for life, this would be designed to offer advantages to the taxpayer in view of the entry charge, allow the UK to experiment with new, simpler approaches to taxation that feature a broadened tax base and new taxes and further provide the first steps towards the UK becoming **the** trusted government for responsible wealth and business owners.

- Implementing the VCAT will likely require legislation, something to be reviewed. **For the VCAT to be considered by wealth and business owners as an option, it will be critical that they can be assured that agreements with the UK Government are ironclad.** This would require cross-party support. But as mentioned, much of how the VCAT would work would be based on existing UK tax legislation and would take into account changes that are implemented in future.

- To be effective, tax rates under the VCAT should be very carefully developed and reflect the reality that for wealth and business owners who do navigate the complexities of the current system in place for resident, non-domiciliaries, low or no taxes can be paid for up to 15 years. In a world of mobility and competition from other attractive countries, a good number are happy enough to simply relocate at the end of such period. The objective for the UK should be to attract ***and retain*** wealth and business owners, and this for the long-term. It would make sense for rates as described in the example to be discussed among all stakeholders, including wealth and business owners, and for these to be graduated in a

way that encourages those at all levels of wealth and income to be attracted to what the UK offers. The VCAT is **not a tax benefit for the wealthy** – the reality is that the wealthy have many planning options, including the option of mobility, that offer far lower tax costs to them.

- While I have used the word "tax" in my descriptions of the VCAT and elsewhere in this paper, it may well be time to rebrand some or all elements of amounts to be paid to help reset the way both governments and taxpayers think of what wealth and business owners pay – and all with a view to making paying one's fair share something that feels better than it currently does.

EXAMPLE

Electing for the VCAT would be open to all existing UK tax residents and to those looking to establish UK tax residence or who have family members who are UK tax resident. Some may consider the VCAT as a longer term planning opportunity, allowing them to take up UK residence in future on the basis of tax certainty.

There are many wealth and business owners who at present monitor carefully the time they spend in the UK so as to avoid taxable residence. This lost revenue to the UK would be addressed by making it *attractive* to be tax resident in the UK. And for those electing non-domiciliary status in the UK, electing the VCAT would encourage remittances of income into the UK, an element of the overall objective to stimulate economic activity and investment.

The VCAT would not, except possibly in the area of how certain investment income is taxed, affect tax rates or rules in and around UK source income. The focus of the VCAT is on foreign source income, and on the application of inheritance tax. Because of possible differentials in tax rates on UK vs foreign source income, however, tax changes would be needed to encourage the creation of UK source investment income, something that can be part of a strategy designed to encourage the use of the UK as a wealth management center. Countries with territorial tax systems have such approaches, and these can be a reference point for the UK. This change can have meaningful benefit to the UK as any exemptions from current rates of tax on UK source investment income would encourage global wealth and business owners, not only those electing for the VCAT, to relocate their wealth from other financial centers, both offshore and mid-shore, to the UK. However, at the outset, only those electing for the VCAT, might benefit from VCAT tax rates on certain UK source passive income so as to encourage investment in the UK and discourage flows out of the UK to more tax favourable jurisdictions.

Taxpayer elects to be subject to the VCAT.

1. Entry Charge

The upfront payment for electing the VCAT, which will only be a possibility for a limited time period, will be eight times the annual total VCAT that would have been payable had the VCAT applied in relation to the taxpayer for the 12 months preceding the VCAT application. See sample calculation below.

2. Annual Wealth Tax

One component of the VCAT could be a wealth tax. As the VCAT is elective, this would be a voluntary experiment for the UK on wealth taxes and how they can work. The VCAT wealth tax is set at a rate of 0.1% of the net value of all global assets, with this figure declining as the volume of wealth declared increases.

The determination of what the global assets of the individual taxpayer are is undertaken using UK tax rules currently in place. However, the taxpayer, as part of the VCAT process can ***elect*** to have a broader range of assets be subject to the wealth tax. The advantage to the taxpayer of doing this is to gain the longer term protection of those assets from tax changes going forward. As an example, assets in trusts that may benefit or be influenced by an individual may not be considered to be the assets of the individual under a variety of circumstances under present UK tax rules. By voluntarily electing to subject those assets to the VCAT, the assets become, in effect, protected by the VCAT.

See sample calculation below on the annual wealth tax.

3. Annual Income Tax

Under the VCAT, all usual UK taxes on income apply, except that in respect of **non-UK source income and gains**, the UK tax rate is capped at 5% with no foreign tax credits applying to preserve revenue for the UK and to ensure simplicity. Income and realized capital gains are taxed at the same rates. For the purposes of my example, I have used an 5% tax rate, envisioning that this would decline as the volume of income and realized capital gains increase. As noted above, certain UK source investment income would also be taxed at VCAT rates so as to encourage investment in the UK and discourage outflows.

The annual income tax applies to all income that would be considered to be income under current UK tax rules. For a resident, non-domiciliary electing for

the system, foreign source income would also become part of the tax net, unlike the case for such a taxpayer who does not elect for the VCAT. However, **no tax would arise on the remittance to the UK of foreign source income.**

As mentioned above, the annual income tax would extend to income on assets the taxpayer chooses to add to the VCAT approach. There may be assets under the influence of the taxpayer – in trusts, insurance products, foundations and otherwise that under current UK tax rules are not considered to be owned by the individual. If these assets are added into the VCAT coverage, income tax applies to income and gains on those assets, as does the annual wealth tax.

4. *Inheritance and Gift Taxation*

All current rules on gift taxation would apply in relation to assets subject to the VCAT – meaning that gifts made within seven years of death would not be taxable. On the inheritance tax, assets subject to VCAT would have the benefit of a cap of a set percentage of assets being subject to inheritance tax – and with the further benefit (which may well be how inheritance tax in the UK progresses) that only assets going to UK residents on death are subject to the tax. For my example, I have used a cap of 5%, envisioning that this rate would decline as the volume of assets subject to the tax increase.

5. *Sample Calculation of the VCAT and the Entry Charge*

- Taxpayer earns £500,000 in net income (after deductions under normal UK tax rules) from non-UK sources over and above income and gains on investment assets.

- Taxpayer has £25 million in net assets in her own name.

- Taxpayer has £25 million in assets that are under her influence, but which under UK tax rules are not attributed to her for tax purposes.

- Each £25 million pot of assets produces income and gains of £1.25 million per year.

- UK source income of Taxpayer remains subject to normal UK taxation and is outside of the VCAT, subject to certain UK source investment income that would be taxed at VCAT rates.

Taxpayer has two children, one living in the UK and one living outside the UK.

Calculation of VCAT:

1. Wealth tax is £25,000 (0.1% of £25 million), but taxpayer can **elect** to pay £50,000 per year in wealth tax, which would provide certainty on other taxes and possible future changes, should she include the second pot of £25,000 not attributable to her under current tax rules. Total Annual VCAT wealth tax = £50,000.

2. Income tax, as the VCAT applies to all assets elected to be covered, will be on the total income of £3,000,000 (the £2,500,000 of income and gains on the two pots of assets, and the £500,000 in other non-UK source income). At 5%, the tax will be £150,000.

3. On death, assuming assets remain at the same value, if the two children are the sole beneficiaries of £50 million, and only one child is resident in the UK at death, the inheritance tax is capped at 5% of £25,000,000, or £1,250,000.

4. The entry charge for the VCAT will be eight times the wealth and income taxes applying, and thereby eight times £200,000 in the example, or £1,600,000.

Why Would a Wealth or Business Owner Choose the VCAT?

- UK taxation on foreign source income capped for life.
- Exposure to UK inheritance tax capped for life.
- UK taxation on certain UK investment income capped for life.
- As taxable on worldwide income, full benefit of UK tax treaties, important to global wealth and business owners (and not always available to those who choose to be taxed as non-domiciliaries). For example, protection from being treated as a resident of other countries under treaty tie-breaker rules would arise, as would reduced withholding taxes imposed by other countries.
- As UK resident, potential benefit from UK international agreements including investment protection treaties.
- Massive simplification in relation to foreign source income and assets and management of UK tax exposures.
- Where an election is made to include in the VCAT assets not otherwise taxable in the UK (such as certain trust assets, insurance policy holdings and otherwise), certainty is obtained and planning is massively simplified.

- Residence in the UK means global reporting under the Common Reporting Standard comes to the UK, a trusted government.

Why Would the UK Offer the VCAT with its Low Tax Rates and Lifetime Assurances?

- UK source income remains subject to existing and future UK tax rules, avoiding the VCAT compromising the main existing sources of UK tax revenues. The exception of certain UK source investment income being taxed at VCAT rates increases investment in the UK.
- The reality of planning by wealth and business owners makes UK taxation, in many cases, elective. Domiciliaries of the UK may and do consider moving out of the UK to avoid UK taxation; residence rules are monitored, avoiding taxable residence, and reducing economic activity in the UK; non-domiciliaries have a variety of planning techniques they can employ to avoid taxation on foreign source income and assets. The UK benefits from attracting and retaining not only non-domiciliaries but UK domiciliaries who may have left the UK.
- The VCAT would be relatively simple to put in place and administer and could result in meaningful upfront revenue.
- The VCAT would encourage remittances of income to the UK, unlike the non-domiciliary system.
- The VCAT, with its lifetime assurances, would be the only system of its kind in the world – and as part of a strategy by Global Britain to collaborate with wealth and business owners with a view to benefiting all stakeholders, the UK could attract a meaningful number of new taxpayers to its tax base.
- If the VCAT and tax changes needed to implement it are designed to encourage the relocation of investment assets to the UK from other financial centers, this could have very meaningful positive impact on the UK economy.

4. The Importance of Trust and Some Comments on Global Tax Systems

I have oriented this outline of some of my thinking towards longer term changes to the UK tax system that can address the many reasons the current UK tax system is not fit for purpose, particularly in today’s globalized economy and where wealth and business owners have many options as to where to live, work and pay tax. A collaborative approach by government, and one which

recognizes the value of wealth and business owners to the economy and the needs of this community is critical to achieving the success I believe the UK can achieve.

Importantly, my response to the call for evidence reflects the urgent need for both government revenue and enhanced business and investment activity in view of the unprecedented economic fallout of the coronavirus pandemic.

It is not only in the case of the UK that the relationship between wealth and business owners and governments needs to change. Governments need to be clear in their commitment to attract and retain wealth and business owners to their economy, and wealth and business owners need to feel much better than they do today about paying their fair share of taxes. This can be achieved.

The first move needs to be taken by governments, which need to consider ideas oriented towards lowering, not raising, headline tax rates. Tax systems need to be hugely simplified, and the sad reality of corruption in tax systems, particularly in developing countries, needs to be addressed – and where it cannot be immediately addressed, interim approaches to addressing this need to be adopted with a view to ensuring that tax revenues are captured and go where they need to go.

Governments also have to commit to providing more in the way of certainty on tax rules, stripping out of the system constant wholesale changes of approach and overdesign round the edges which are usually targeted at very few people and end up complicating the system immensely for the majority. On this latter point, it is unacceptable how much wasted cost and effort is undertaken by taxpayers to adapt to ever changing tax laws only to find that the changes adapted to are themselves changed yet again. Particular issues are broken promises – where the government promises one thing (*e.g.* certain protections for assets held in trusts by foreign domiciliaries) but delivers another (tax on an arising basis on funds held in trusts whether or not the foreign domiciliary receives benefits).

Headline tax rates are the tax rates that a government sets out. These usually involve a variety of "top" tax rates, and in many countries tax rates are graduated, with those earning lower incomes being taxed at rates lower than those earning higher incomes. Tax systems between countries vary dramatically, fueling the mobility of the wealthy, who can basically choose which tax system to become subject to. Tax competition, like all competition, is a *good* thing – not an evil, and the freedom to live where you want is also a fundamental right we should all have and preserve. But this all has to work in a

way that brings us to a fairer approach to taxation that can address global inequality, and fast.

It is not unusual to find countries that have headline rates of, say, 45% on income. This may be imposed through a single tax, or through a combination of local and national taxes. Politicians seeking to address inequality are quick to discuss the possibility of increasing headline tax rates – but this is not the solution. The question one needs to address is what *actual* tax rates are collected and from whom? Low tax rates combined with a broadening of the tax base can be much more effective than raising headline tax rates. If the tax system is a complex one, which too many are, how much does a wealth or business owner actually pay? And on what? And are headline rates only paid by those who cannot afford tax advice?

It is disturbing how things actually work in many countries. An owner of significant passive wealth who does not need to work may pay virtually no taxes if guided by expensive tax lawyers and accountants who navigate tax systems filled with complex tax incentives permitting deductions for investments in particular areas or for charitable donations that can include donations to one's own charity that is controlled by the individual involved and all too often benefits the individual and their business more than anyone else.

It is not that the idea of an incentive to encourage particular investments is bad. There may be good reasons to encourage investments in social housing or sectors that will bring needed employment. But we can now see that the good intention of encouraging such investments through tax deductions has failed. Complex rules need to be developed, and once they are, tax advisors are quick to work their way around the rules to find ways to achieve tax benefits for their clients while ensuring that the investment funds are not at risk, compromising the objective of the tax incentive in the first place. The role of lobbyists in the legislative process makes things worse, as more in the way of loopholes and complexity are introduced.

The tax law becomes so complex that only the wealthy can afford to take advantage of all the deductions that are available. What this means is that someone who works hard and earns a good salary may end up paying the top headline rate of, say, 45% (47% with national insurance!). The wealthy individual, even the one who is not a tax evader, but happens (for example) to legally provide their labour through a company, may end up paying 20% or even less on their income. Is this fair?

Complexity is often unnecessary and has not caught up with realities in changes in rates – for example my earlier reference to settlements provisions that

attribute trust income to the settlor – unnecesasry legisaltion as trust income is already taxed at the highest possible rate. This situation results in some settlors who are not additional rate taxpayers reclaiming the tax paid by the trusts and then having to hand it back to the trust. There are many examples like this in UK tax law. Why should a settlor who lends interest free to a trust from which he is excluded and then gets repaid the loan end up paying tax on the trust income for the next ten years – this is counter intuitive as are many other aspects of an over-complex system.

Could inequality be tempered with those earning at the lower end of the scale paying no tax or very, very low rates of tax? The answer is obviously yes, particularly if government revenues increase and the increased revenues of governments are applied to address the need for health care, education, housing and more. But governments fear that not taxing the mass of low-income individuals would reduce government revenues drastically. This is true if the lost revenue is not recovered from those who can better afford to pay more and if the relevant government fails to retain and attract those who can pay more to their country. But paying more does not mean moving the 45% headline rate to 70%.
What if instead the headline rate moves to 20%? To ensure that tax revenues are not compromised, this is combined with stripping out of the tax system *all* tax deductions for things like tax incentivized investments. This simplifies how taxes are filed and simplifies the tax system for all. Enforcement is easier, and things are clearer. And the country can attract, rather than repel, wealth and business owners.

Incentives for investments in social housing or other important areas can be addressed *outside* the tax system. This can allow the tax system to remain simple and pure, and to allow any incentive program to be supervised and administered by governments more carefully and thoughtfully than they are today.

Yes, there is much economic analysis needed to help a government gain the confidence to dramatically lower headline tax rates to achieve higher tax revenues. Finding the right headline rate can be achieved in stages if necessary. But thought should be given the doing this and to focus on broadening the tax base by attracting and retaining global wealth and business owners and ensuring that those who use government services actually contribute to them. Regarding this latter point, in too many countries there are too many who can avoid tax exposures by limiting their time in the country, leaving the cost of government services to those much less able to pay.

Taxpayers should be encouraged, through the tax system, to be happier than they are about paying taxes. A lack of trust in how governments spend tax revenues is among the reasons many wealth and business owners do everything they can to legally minimize their tax obligations while working hard to contribute to charities and otherwise benefit their communities. Trust needs to be earned, and while there are economic arguments against hypothecation of taxes, knowing that at least part of the tax you pay will be used to provide education and healthcare to your community and to address climate change and other needs may help moderate feelings of governments wasting tax revenues. Some hypothecated tax programs may also encourage *voluntary* tax contributions, something that can and should be part of an effective reform of how tax systems work. And the word "tax" in relation to some payments that wealth and business owners make might well be re-branded to better reflect a new collaboration between government and wealth and business owners.

About the Author

Philip Marcovici is retired from the practice of law and consults with governments, financial institutions and global families in relation to tax, wealth management and other matters. Philip is on the boards of several entities within the wealth management industry, as well as of entities within family succession and philanthropic structures. Philip is actively involved in teaching in the areas of taxation, wealth management and family governance. Philip is a member of the Advisory Committee of the Hong Kong University of Science and Technology's Tanoto Center for Asian Family Business and Entrepreneurship Studies. Philip was a Founding Advisor to the 21st Century Family Business program created by Cambridge Judge Business School Executive Education and was one of the lecturers and facilitators for that course. Philip is a consultant to the CFA Institute on private wealth management matters and is a co-author of readings on the subject for CFA candidates.

Philip was the founder and CEO of LawInContext (now known as Baker McKenzie Link), the interactive knowledge venture of global law firm, Baker & McKenzie. Philip retired from his CEO role with the company as from the end of 2010, and from his Chairmanship of the company as from the end of 2011.

Philip was a partner of Baker & McKenzie, a firm he joined in 1982, and practiced in the area of international taxation throughout his legal career. Philip was based in the Hong Kong office of Baker & McKenzie for twelve years, relocating to the Zurich office of Baker & McKenzie in 1995. Philip has also practiced law in each of New York and Vancouver, British Columbia. Philip retired from Baker & McKenzie at the end of 2009.

Philip Marcovici is the former chair of the European tax practice of Baker & McKenzie and of the steering committee of the Firm's international wealth management practice, of which he was one of the founders. Philip was also one of the founders of the Baker & McKenzie Asia-Pacific tax practice and was involved in a number of firm and practice group management functions.

Among others, Philip Marcovici received the Citywealth Magic Circle Lifetime Achievement Award in 2009 and, jointly with Fritz Kaiser, the Wealth Management

Innovator award in 2011 for his work in instigating the Liechtenstein Disclosure Facility. In 2010 Philip received the Russell Baker Award from Baker & McKenzie in appreciation for his exceptional contributions to the firm's Global Tax Practice. In 2013, Philip received a Lifetime Achievement Award from the Society of Estate and Trust Practitioners. In 2016, Philip received a Lifetime Achievement Award from WealthBriefing. Philip was selected as Top Adjunct Faculty for the academic year 2018/2019 by the Singapore Management University.

Philip is a graduate of Harvard Law School and of the law school of the University of Ottawa. He is admitted to practice in New York, England and Wales, Hong Kong and British Columbia, Canada (retired).

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