THE ALTERNATIVE TAX AWARDS 2009

Greatest Potential for Tax Reform:
The joint winners are the Big Four accountancy firms – PriceWaterhouse Coopers, KPMG, Ernst & Young and Deloitte & Touche – together with the International Accounting Standards Board.

These organisations could support the introduction of a new international accounting standard – country-by-country reporting. It would require companies to reveal, for every country in which they operate, the name(s) under which they trade, the profits they make and the taxes they pay.

The information revealed would help countries both rich and poor to quickly identify suspected cases of abuse.

At present, companies trading internationally are able to manipulate their profit figures to lower their tax liability in the developing world. Some US$160bn of potential tax revenue is lost in this way every year. If available to poorer countries, and used according to current spending patterns, it would save the lives of 350,000 children under the age of five each year.

Most Surprising Use of Tax Havens:
We considered several individuals and organisations for this award but concluded that the most deserving winners are CDC Group plc and its sole owner, the Government's Department for International Development.

CDC has 72 subsidiaries, of which 40 are in tax havens including Bermuda, Mauritius and the Netherlands Antilles, according to figures DFID gave MPs on the Committee of Public Accounts last December.

DFID defends CDC's use of tax havens – which it likes to call 'offshore financial centres' (OFCs) – on the grounds that if CDC did not use them, then investors in investment funds used by CDC would be taxed twice. That is, once when the companies in which the funds invest are taxed, and again when the investment funds themselves are taxed.

In a memo to the Committee of Public Accounts last December, DFID argued: 'The reason that CDC makes use of OFCs is that, in order to attract other private sector investors to invest in Funds, it is important that the latter do not end up paying tax twice.

'It is therefore sensible to register the Funds in a tax-neutral environment. The use of offshore financial centres is a legitimate and widely-used practice undertaken by other Development Finance Institutions, which, like CDC, are committed to supporting economic growth in developing countries in the most effective and efficient way. Using OFCs actually means CDC delivers more money to the economies of poor countries by mobilising extra investment.'

Christian Aid nonetheless finds it astonishing that the Government department set up to tackle international poverty allows its own company to exploit tax havens as a means of avoiding tax in developing countries.

This reduces poor countries' revenues, which are urgently needed to fund public services. It also helps to sustain and legitimise the international machinery of tax dodging, which does so much harm in countries poor and rich alike.

Low Tax Rate Achievement Award:

P&O cruises' owner Carnival deserves a special mention for its outstanding, dedicated and entirely legal use of tax avoidance. Carnival is the world's largest cruise company and employs more than 80,000 people.

Between 2002 and 2008 inclusive, Carnival plc paid tax of just $61.7 million on total profits of $4.3bn. This is an effective tax paid tax rate, over the seven years, of approximately 1.4 per cent.

Even more remarkably, a study* of taxes paid by Carnival Corporation (Carnival's US-listed company) between 1995 and 2004 found that over the decade, its 'cash effective tax rate' was just 0.7 per cent.

Carnival plc is incorporated in England and Wales, is a member of the FTSE100 and is traded on the London Stock Exchange. It operates as if it were part of the same economic enterprise as Carnival Corp and has the same board of management but is legally separate from it.

Carnival Corp is traded on the New York Stock Exchange but incorporated in Panama, a tax haven, which helps to explain its ultra-low tax rate. The company also has three subsidiaries in the tax haven of Bermuda and two in a further tax haven, the Netherlands Antilles.

The nature of the company's business – international shipping – also helps to keep its tax rate low. Carnival says that in general, profits made from the international operation of ships are taxed at a 'preferential' rate by the countries in which ship owning and operating companies are incorporated.

In addition, the countries at which ships call tend not to tax shipping companies' profits, because they have tax treaties with the countries in which the shipping companies are incorporated, or domestic laws which exempt such profits from taxation.

** Source: Long Run Corporate Tax Avoidance, Scott D.Dyreng et al, The Accounting Review, volume 83:1, January 2008: 61-82.*

Tax Haven Enthusiast of the Year:

The clear winner of this award is Barclays plc. The financial services company is extremely keen on tax havens – with subsidiaries in some 315 of them. It appears to be especially fond of the Cayman Islands where, entirely legally, it has almost 150 subsidiaries.

Barclays' enthusiasm for tax havens has also led it to become involved in the creation of a new one. The Observer newspaper reported recently that the company is advising on the creation of an International Financial Services Centre in Ghana. According to the newspaper, it will offer 'low taxes and minimal financial disclosure'.

However, Barclays says the initiative will promote 'economic development and wealth creation, and [generate] much needed employment'. It adds: 'We adhere to the highest and most stringent levels of international regulation, rules and industry guidance for the financial services sector.'

Most Overhyped Reform of the International Tax System:
Bilateral Tax Information Exchange Treaties (TIEAs) are the clear winner of this award.

The Organisation for Economic Co-Operation and Development say they are an important way of tackling tax dodging. Tax havens can get themselves removed from the OECD's blacklist if they can show that they have signed such treaties with a dozen countries.

The treaties are voluntary instruments, however, and offer little or nothing to developing countries. Using them to get information about a suspected tax dodger from another country is extraordinarily cumbersome and slow, and requires significant resources.*

One reflection of this is that the TIEA between Jersey and the United States has been used only four times since it was signed in 2001.

Developing countries' tax administrations do not have the resources to provide the level of proof that tax havens require before parting with information under such treaties. In addition, they may find that tax havens rebuff their requests for TIEAs.

Christian Aid is calling for a multilateral agreement that will impose automatic exchange of tax information on tax authorities globally.

**Consider, for instance, the 11-page tax information exchange agreement signed in October 2008 by the UK and the Virgin Islands. The country seeking information is required to state the period of time covered by the information, the nature and type of the information requested, including a description of the specific evidence sought, the tax purposes for which the information is sought and the reasons why the information requested is forseeably relevant'. It must also show 'reasonable grounds' for thinking the other country actually has the information and show that it has pursued all means available in its own territory to obtain the information, except when this would give rise to 'disproportionate difficulties.'*

The treaty gives the country from which information is requested a full 90 days in which to respond. There are also get-out clauses. Information can be refused on the grounds that the request does not comply with the agreement, that the requesting country has not tried hard enough to obtain the information itself or that 'disclosure of the information would be contrary to the public policy of the requested party'.
As a final deterrent to actually using the agreement, Article 10 suggests that the requesting country may have to cover the costs, including legal costs, of any work done by the other country in order to find the information sought.