OFFSHORE

It has been a while coming, but offshore lawyers have finally found enough fire in their bellies to hit back at their critics. "Being told by the UK government that you are borrowing too much is a bit like being told by George Best that you're overdoing the drink," Appleby partner Gray Smith says in the first of these articles from the offshore community.

The offshore world has been under attack since the recession kicked in and a series of reports published this year have endorsed the Government's policy of a crackdown on offshore territories.

Lichtenstein in particular has been criticised for its secretive banking policies. In the second article Berwin Leighton Paisner director Andrew Watters defends the jurisdiction and explains what is being done to respond to the detractors.

Elsewhere in this report, Jersey-based Sinels discusses the longrunning Alhamrani litigation; Withers explores how investment in the British Virgin Isles is benefiting Asia and India; and Ogier's Paul Perris looks at how Gulf-based trusts are attracting renewed attention.

Katy Dowell, senior reporter

Tax discredit

The UK Government's response to Cayman's borrowing is hypocritical, asserts Gray Smith

Being told by the UK Government that you are borrowing too much is a bit like being told by George Best that you are overdoing the drink. Yet this is exactly what happened to the Cayman Islands when the UK Government refused to sanction commercially arranged funding of government debt on the basis that the mother country thought Cayman was taking on more than was sensible. So is Cayman running up debt that even Alastair Darling would wince at, or is the UK Government still holding itself as the prudent one and trying to keep everyone else on the straight and narrow from which it has itself deviated to such an astonishing degree? Perhaps other factors are at play in the brinkmanship?

Get real

You might not believe this if you have been following coverage in some of the UK papers, but Cayman is not bankrupt. As a UK dependency it requires permission from the UK Government to borrow in certain circumstances. Cayman has a triple-A credit rating, has not seen any bank failures, has not asked anyone for a bailout and remains entirely self-sufficient. The UK Government, however, refused to allow the bank loans. Cayman was asked, among other things, to show how it would repay the debt if it were not a financial centre – a bit like asking Toyota how it would repay its debt if it stopped making vehicles. The UK Government suggested Cayman introduce taxation in return for the required consents. Perhaps those nations with high tax and spends would prefer not to see such a high differential in rates of taxation? Bear in mind that the UK Government had no obligations with regard to Cayman's debt, whether as guarantor or otherwise.

Again, despite what you may have read elsewhere, Cayman is a well-regulated financial jurisdiction, in the same category as the UK and US as regards the Organisation for Economic Cooperation and Development (OECD) Global Forum for the Implementation of Internationally Agreed Tax Standards. It has been affected like every other country by the global downturn, but continues to behave in a fiscally responsible manner. Cayman's debt to GDP ratio is less than 30 per cent of the UK figure. There was a degree of spending on infrastructure and schools, which was ambitious and with the benefit of hindsight ill-timed, but the purse-strings have certainly been tightened. It has decided not to introduce a payroll tax or other measures that would have found their way on to client bills covertly, but on the whole has increased various registration and permit fees, such that they can be seen readily by those doing business with the islands.

In order to ensure the sustainability of government spending, among other measures a pay cut for public sector employees has been proposed. Given the reaction to George Osborne suggesting that UK civil servants may go a year without a pay rise, it is clear which country is truly prepared to grasp the nettle with regard to public finances. Further measures are being taken to ensure that spending is well under control – a move understood by the Cayman public.

The financial services industry, which is the lifeblood of the islands, will not be affected unduly by any of the changes. It will be business as usual, which is good news for all of the global industries that recognise the role played by major centres such as Cayman in the efficient deployment of international capital.

Green eyed?

The use of the UK's debt-blocking tactics, and the briefings that went with them, suggest that governments that have allowed debt to balloon and financial institutions to fail on their watch, resulting in scandalously high rates of tax, are looking to point the finger at anyone else. They are irked that a country such as Cayman can regulate its institutions and achieve sustainable government with no income, capital or sales tax. No, it is not as a result of illicit funds stashed away – Cayman satisfies both the OECD regulations for tax transparency and the Financial Action Task Force's rules on anti-money laundering requirements.

There is at present a great deal of disinformation being spread regarding government finances generally. But in a rare outbreak of reality, Brazil has now put two US states on the list of international tax havens because of their tax basis and lack of due diligence requirements. The UK is regarded by many as a tax haven for significant categories of residents, such as non-domiciles. Perhaps the larger governments of the world should be looking at their levels of taxation, which are driving people away, and their own selective onshore tax arrangements rather than trying to bully countries around the world to bring in disincentivising tax measures that will only serve to hamper their recovery from the recession. ■

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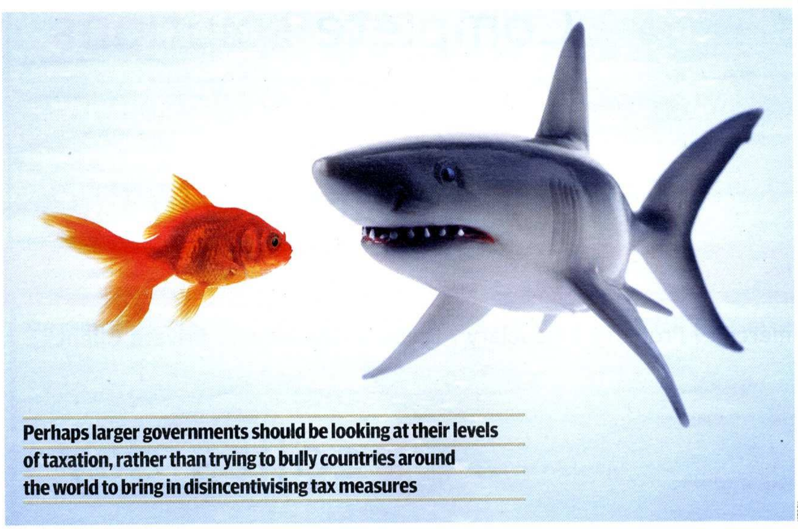

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