

## [Will Darling regret his Bankers' Bonus Levy?](#)

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### **Summary**

At the time of the Pre-Budget Report ("PBR"), the UK Treasury estimated it would raise £550m net in additional tax. This implied an expected significant scaling back of bonus payments to staff to avoid the levy. Now it is expected to raise £2 billion, suggesting no such scaling back. Is this good or bad for Alastair Darling, the UK's Finance Minister?

### **Analysis**

The cynical answer is that it really does not matter to Darling. He, along with the rest of the current government, will be out of a Ministerial job by early-June, as the Labour Party is punished for a variety of perceived wrongs, not least of which is the economic malaise that has affected the country for the last 18 months. After narrowing in late-2009, the Conservatives' opinion poll lead is rising again. Labour's policies are all aimed at shoring up the core vote, not appealing to floating voters, in other words Labour has already conceded defeat, and simply wishes to minimise the loss in order to provide hope of only suffering one term out of office.

Perhaps the more appropriate question, therefore, is whether it will affect the UK, irrespective of who is in government after this year's election. My view on this is that the Bonus Levy on its own is pretty irrelevant. Nobody will be relocating just because of a one-off populist measure. However, the impact of several tax changes over recent years will have individuals and companies thinking about their residence. The Bonus Levy is the fourth major shift in taxation policy in the last 2-3 years, all of which individually and collectively call into question Britain's pro-business credentials. It is the changes in aggregate that are potentially damaging to Britain, starting with the £30k per year levy on non-UK domiciled individuals, together with the increase in higher rate tax to 50%, the scaling back of tax relief on pension contributions, and now the Bonus Levy.

However, perhaps the most damaging change to the UK's tax regime has been the amendments to the controlled foreign corporation rules, seeking to capture more non-UK generated income of UK corporate groups within the UK's Corporation Tax regime. We have already seen a significant number of corporates relocate their headquarters to avoid this, many of them to Ireland.

Ireland has plenty of problems to contend with right now, any may not seem the obvious place to locate a global business headquarters. However, it is quietly ensuring that it retains and indeed enjoys further inward migration of both people and companies. There is commitment across the political spectrum to maintaining the 12.5% corporation tax rate, as well as the attractive R&D tax allowances and intellectual property tax regime. These have ensured that many new economy businesses locate significant elements of their activities in Ireland. There are also strong indications that the non-domicile regime, which was liberalised last year, will be further amended to make it attractive for non-Irish domiciled individuals to locate here.

I think this is significant from the UK perspective. Ireland, after all, is quite like the UK: same language, same legal structure. It has attractions over locations such as Switzerland in that education, even private education, is quite cheap. State education is of high quality, and excellent State schools can be found close to central Dublin, something that is not the case in London. Ireland may, therefore, be an escape from the UK tax regime that does not bring with it some high social and domestic overheads.

Having said that, relocating a business headquarters to avoid UK CFC rules does not necessarily entail relocating large numbers of staff too. I am aware of one FTSE250 company that has made his move, and meets the Irish tax "substance" rules with 5 staff members in Ireland, all locally recruited, and with Directors flying in 4 times a year for Board meetings. Where the UK appears hostile to corporate headquartering, Ireland is receptive, thanks to the no CFC regime, no withholding tax, and accommodative tax substance rules. Further relaxation of non-domicile taxation can only be of benefit to Ireland, especially in relation to attracting those with skills in short supply here.

So, for anyone wondering can Darling's Bonus Levy be avoided, undoubtedly it is not worth the effort for that alone. However, if there is concern about the unpredictability of the UK regime, then look west.

Ireland is attractive both for corporates and non-domiciled individuals. It is also worth noting that Ireland has had its 2010 Budget. The government was true to its word and did not increase taxes. Most tax changes were downwards (VAT down 0.5% to where it was in 2008, duty on alcohol down too). Ireland has made a start to cutting its Budget deficit via cuts in benefits and public sector pay. That has been further deferred in the UK, which can only make the future direction of tax policy even more unpredictable.