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### ***Vulgar Thoughts and Sweating Horses***

Samuel Taylor Coleridge's essay, "On the Vulgar Errors Respecting Taxes and Taxation", published in 1809, saw the national debt as the engine of economic growth, describing it as "the reservoir and works". In 2014 taxation has become central to government finances whilst economic growth has become a challenge, in some instances, from which Hercules would flee. As a schoolboy I was only concerned with vulgar fractions and I had yet to experience the vulgar errors of taxes which have reflected badly on offshore financial centres.

Crowe Clark Whitehill, an accounting firm in the United Kingdom, has considered how "cultural issues" affect the attitude to tax planning. This month I chaired a conference in Panama and my particular talk was about culture – no, not the corporate kind, but that which is very important when business takes place between different countries and to which the UK accounting firm referred: the culture of countries. Although we may all be human beings, our cultures shape our view of the world; ask any Ugandan or Uruguayan.

Coleridge was also a philosopher and he applied his thoughts to the matter of taxes from which convictions about them would evolve, in the same way as our own do, such that the approach to tax planning – and what is acceptable – varies not only between the different cultures, but even individuals of the same nationality because, of course, the inner man has his own moral compass. It's all a question, then, of how we look at things: that brings up the subject of sandwiches and shipping containers and to which I will return.

The United States of America's government has seen its own credibility severely tested in recent times in relation to taxes. The country is a house divided over its Foreign Account Tax Compliance Act which has put the two main political parties (Republican and Democrat) at loggerheads with each other. This, of course, is aside from the enormous impact it has had on both domestic and international financial services institutions as well as US tax payers.

The US Information Reporting Program Advisory Committee has now, in fact, recommended to the Internal Revenue Service that it delays the implementation of FATCA until the beginning of 2015 in order to not only help taxpayers adjust to the new procedures, but to allow withholding agents to do the same. IRPAC argues that "substantial work remains to be done and can only be undertaken after final and comprehensive guidance is issued".

The Republicans worry that the legislation has significantly increased government's intrusion into the financial affairs of Americans who live and work abroad. It is said that there are 7.6 million Americans living outside the US. The party feels privacy is critical to the preservation of other fundamental rights and, certainly, my quip several years ago that the Statue of Liberty was offshore because it was where privacy could be found has been turned on its head by FATCA. As Anton Chekhov said: "You would marvel if, owing to strange events of some sorts, frogs and lizards suddenly grew on apple and orange trees instead of fruit, or if roses began to smell like a sweating

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horse...” Perhaps Americans now need a Statute of Liberty.

By some estimates the cost to each foreign financial institution of stature will average US\$100 million. US Republican Senator Rand Paul and 3 other senators argue that FATCA falls far short of ending tax evasion and has produced in its wake a number of unanticipated destructive consequences. They have introduced a bill to restore privacy to their countrymen living in foreign countries and which has been referred to the Senate Finance Committee of which Rand Paul is a member. A Republican president launched the War on Terror by invading Afghanistan; now the same party is launching another offensive: the War on Error; from Afghanistan to Fatcanistan?

The president of Republicans Overseas, an organisation for Americans living abroad, argues that FATCA is not inevitable if sufficient support and momentum can be gained. This would be very bad news for the legion of professional advisers representing several disciplines involved in FATCA, a piece of legislation which was described by one professional commentator as the gift that keeps on giving and at the same time by some bankers as standing for “Fear and Total Confusion Act”. Meanwhile, the Republican National Committee on 24<sup>th</sup> January passed its Resolution to Repeal FATCA in terms of which it is resolved, inter alia, that “The Republican National Committee urges the IRS to cease causing the negative impact on the United States and its citizens overseas, and on the global financial system, in an attempt to vindicate FATCA’s misguided approach to tax enforcement”.

Even if FATCA eventually comes into law, the action taken by the Republican Party might still delay its implementation; and as America, rather than the UK, now rules the waves, and waives the rules when it chooses to, you can be certain that very little real thought went into its impact on the laws of other countries. Its disclosure provisions, for example, are illegal in some jurisdictions, so the co-operation of foreign governments is key; Canada has already displayed its reluctance to comply to US demands.

### ***Sparta to Sputniks***

The former US president Bill Clinton in a speech at Yale University eleven years ago said that as long as Americans thought that they would always be number one, they should continue to act unilaterally. However, he went on to say, that if they believed instead that they should be creating a world with rules and partnerships and habits of behaviour that they themselves would like to live in once the US is no longer the military, political, economic super power, then unilateral thinking was a very bad idea. History has illustrated this time and time again and empires of the past (the UK celebrated its final Empire Day in 1958) are quickly forgotten. It has been left to poets, such as Percy Bysshe Shelley, to provide commentary through imagery on matters we may fail, or refuse, to see:

*"My name is Ozymandias, King of Kings:  
Look on my works, ye mighty, and despair!"  
Nothing beside remains. Round the decay  
Of that colossal wreck, boundless and bare,  
The lone and level sands stretch far away".*

Let me return to another analogy between Afghanistan at the beginning of this century and FATCA (besides unanticipated destructive consequences): in both cases, at the initial planning stage, insufficient thought went into the costs, the complications and the repercussions; “you are either with us or against us” became the creed and which, incidentally, was first voiced by a Russophobe British official in the 1830s, and not President George W. Bush. Certainly, Herodotus, the ancient Greek historian, who wrote about ancient Greece’s most important century (which was around 440 BC) tells a tale that puts one on guard against the uncertainty of fortune and the certainty that hubris is succeeded by nemesis.

The UK invaded Afghanistan (1839-1842) because of fears of a Russian takeover of the country and which inspired Rudyard Kipling to coin the term “Great Game” which is now being bandied about to describe the 21<sup>st</sup> century invasion, which, personally, I prefer to label “Great Shame”. Before the 1839 war a British intelligence chief warned:



“There is nothing more to be dreaded... than the overweening confidence with which we are too often accustomed to regard the excellence of our own institutions, and the anxiety that we display to introduce them in new and untried soils”. This was so with the Soviets in the late 1970s and the West, led by the US, in 2001.

What is clear is that throughout history rising powers challenge existing ones, as Athens in the 5<sup>th</sup> century BC threatened Sparta and Germany did the same in Europe in the 20<sup>th</sup> century. The Greek historian and Athenian general, Thucydides, lived in classical Athens which was then the centre of civilisation (philosophy, history, drama and democracy) and whose development alarmed Sparta, the established power on the Peloponnese. There followed threat and counter-threat, competition and, eventually, confrontation. Thirty years of war followed and both were destroyed; as Thucydides put it, “It was the rise of Athens and the fear that this inspired in Sparta that made war inevitable”.

The US before the first world war – having assumed the UK’s former mantle of power and using it just as imperiously – liberated Cuba, threatened Britain and Germany with war to compel them to accept its position on disputes in Venezuela and Canada, and backed the insurrection that created the state of Panama which gave the US concessions to build a canal; an attempt was even made to overthrow the government of Mexico which at that time was supported by Britain and financed by London bankers.

Harvard University’s Commission on American National Interests says this about China: “a diva of such proportions cannot enter the stage without effect”. It is sobering, indeed, to see how fast that rise has been. This is a state whose gross domestic product was once smaller than Spain’s and has since become the world’s second-largest economy.

We have seen an arms race all too often before and will the growing military might of China spur the US on, just like Russia’s surprise Sputnik launch in 1957 stunned Washington and started a race into space? In 11 of 15 cases since 1500 where a rising power emerged to challenge a ruling power, war was the

end result. Although we live in enlightened times where wars have been regional rather than global (often David’s sling has had no stone when confronting Goliath), a clash between two leading powers this century would be potentially damaging in the extreme for countries on the sidelines. Japan should not, for example, be the cat’s paw which draws the US too deeply into current disputes with China over the Senkaku Islands in the East China Sea. For six decades the US has ruled the waves in Chinese waters without hindrance, but that is changing.

### ***Ships and Sandwiches***

We hear the comment that China should be “more like us” from politicians in Washington and for me those words echo through the Khyber Pass in Afghanistan. It returns me to the issue of culture and the differences between us that we must understand – as I have frequently written and spoken about, especially in the case of Latin America. The US refusal to engage with Cuba is such a case, where Fidel Castro has shown that not only is no man an island, but, eventually, no island is a man.

But Cuba, in the global geopolitical scheme of things, is of little significance. The West’s dialogue needs to occur with China where the cultural differences go well beyond the belief that, unlike in Western minds, the number 13 is considered lucky. It was also Rudyard Kipling who observed a century ago that Asia is not going to be civilised after the methods of the West because there is too much Asia (it is the world’s largest continent) and she is too old. Should China have the biggest economy by the early 2020s and if its GDP per head were to reach half of US levels, its economy would be as big as those of the US and the European Union combined.

In 2012 about 500 million Asians were middle class and by 2020 that number might grow to 1.75 billion. India had no mobile phones in 1990 but by 2010 there were 752 million. Old Asia is indeed coming back to life, like India’s ancient Nalanda university (500 AD to about 1200 AD), which is rising from the ruins of the ancient Buddhist institution that was



destroyed in the 1190s; it was an ancient centre of learning long before Oxford, Cambridge and Europe's oldest university, Bologna, were founded. Its revival is spearheaded by China, Singapore, Japan and Thailand.

Robert Louis Stevenson wrote in his novel "Treasure Island" that maps are "an inexhaustible fund of interest for any man with eyes to see and two pence worth of imagination to understand with". A glance at a world map will show that Africa (the second largest continent) is large enough to contain at least China, Western Europe, India and the US. It's a big world out there and China is Africa's biggest trading partner (trade last year surpassed US\$200 billion).

Imagination and eyes went against conventional wisdom which had suggested that the solution for shipping in the mid-1980s was speed and so the answer appeared to be faster ships. Unfortunately, the result was more ships waiting in the harbour,

playing havoc with cost economics. But it was the ports, not the ocean, where the solution lay. If ships could load and unload quicker, the turnaround of ships would be faster. Along came the container. Similarly, bread and meat for centuries have been English staples, but the fourth Earl of Sandwich in the 18<sup>th</sup> century – to feed (you may say) his gambling habit – put meat between two slices of bread so that he could eat while gambling.

What will the map of the future look like? It is to be hoped that the belief expressed by John Stuart Mill, the 19<sup>th</sup> century English philosopher and political economist, will be a theme picked up by more people in this century: "There is always need of persons not only to discover new truths, and point out when what were once truths are true no longer, but also to commence new practices, and set the example of more enlightened conduct..." Bill Clinton, and perhaps some former Yale graduates, would understand.

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*Offshore Pilot Quarterly (independent writing for independent thinkers) has been published since 1997 by Trust Services, S. A. which is the British face of trust business in Panama where it is licensed under the fiduciary laws. It is written by Derek Sambrook, our Managing Director, who has been Treasurer of the British Chamber of Commerce Panama, a member of the former Latin America and Caribbean Banking Commission as well as an offshore banking, trust company and insurance regulator. He has over 45 years private and public sector experience in the financial services industry about which he has written extensively and our website provides a broad range of related essays including his Latin Letter column which appears in every issue of Offshore Investment, a British professional journal published since 1986. You can also read his Latin American blog on [www.privateclientadviser.co.uk](http://www.privateclientadviser.co.uk).*

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