



## The Bank Levy: A Fair and Substantial Contribution by the Financial Sector?

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After the introduction of its Bank Levy at the start of 2011, the UK Government is already proposing a rate increase based on its assessment that the fiscal health of the banking industry may be in better shape than originally perceived. In addition to this, there is international pressure for a turnover tax on banks.

### What is Proposed?

- A levy on banks' balance sheets, which is intended to raise £2.5 billion a year by 2012.
- The charge would affect banks and building societies with liabilities over £20 billion. The levy will not be charged on the first £20 billion of liabilities.
- The rate was originally set at 0.05 per cent for 2011 on the bank's global balance sheet and 0.075 per cent for 2012.

On February 8, 2011, UK Chancellor George Osborne announced an increase in the rate to raise an extra £800 million of tax revenue, meaning that banks will pay close to £2.5 billion this year rather than £1.7 billion, which was expected when the levy was originally proposed.

### Who is Affected?

- UK banks, banking groups and building societies
- Foreign banking groups operating in the UK through permanent establishments or subsidiaries
- UK banks and banking subgroups in non-banking groups

HM Treasury estimated that between 30 to 40 banks, building societies and banking groups will be affected by the levy.

### What are the Concerns?

The biggest concern is how the levy will work along with similar levies in other jurisdictions. Under the current draft legislation, the levy will apply to the global operations of British banks, but will also affect the UK businesses of overseas banks.

Included in the draft legislation are provisions to eliminate a double tax, but it is not yet apparent how this will operate as the legislation is not yet in session. It is clear from the draft legislation that the bank levy is not deductible for UK corporation tax purposes. The UK bank levy is potentially deductible against tax in other overseas territories where those local laws allow. For example, a US bank with a UK branch may be able to deduct the UK Bank Levy against its federal tax liability so that effective cost of the bank levy is lower for a UK banking group. If there is no consistency between territories as to whether a levy is tax deductible, then potentially double taxation becomes an issue. The alternative would be to exclude foreign banks from the levy, but then British banks would be hit harder.

Insurance companies will not be affected by the levy. The company criteria is that only institutions that derive more than 50 per cent of their activities from banking will have to pay the charge.

## Final Thoughts

The levy is seen by many commentators in the UK as part of a strategy by the government to raise taxes on banks. The Bank Payroll Tax of 2010 is a prime example, as well as the 50 per cent income tax rate hitting high-earning employees – many of whom would be in the banking sector.

The UK Chancellor has said that he wants to extract “maximum sustainable tax revenues” from banks. He has also admitted, however, that such an increase could drive away UK banking institutions to other overseas jurisdictions. So, there is clearly a need to balance revenue raising tactics with the UK remaining a favourable and competitive place for UK banks to do business.

Whether the financial sector makes a fair and substantial contribution is not just a matter being debated in the UK. The European Parliament recently voted for a £172 billion-a-year financial transaction tax to be levied on banks to discourage speculative trading – a so-called “Robin Hood” tax. The German, French, Spanish and Austrian governments are in support of such a tax. Currently the UK Chancellor is not in favour, saying that it is difficult to see how it would work in practice. It would seem there is still a long way to go before a pan-European “Robin Hood” tax is a viable option for raising government tax revenues.

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