between the amount of tax that should be collected by HMRC, against what is actually collected
Source: HMRC

Show them the money

Missing millions: protesters dressed up as UK chancellor George Osborne and former shadow chancellor Ed Balls campaign against corporate tax dodging earlier this year. HMRC has since promised 'tougher sanctions'. Below: former jockey Lester Piggott, convicted of tax fraud in 1987
Yunus Kaymaz/Anadolu Agency/Getty Images

"There has been a growing suspicion," wrote Jolyon Maugham, a top tax barrister, "of one rule for wealthy tax evaders who benefit both from amnesties and a policy decision to avoid prosecutions and another rule for the rest of us." He contrasted the failure to prosecute all but one of the thousands of account-holders whose offshore assets were exposed publicly in a February leak from HSBC's Swiss unit to HMRC trumpeting the conviction last year of a mother from Margate for benefit fraud.

Toughening up

Now HMRC is readying to go to war against wealthy tax dodgers, if the rhetoric from ministers and senior tax officials is to be believed. In July's Budget Chancellor George Osborne said HMRC would receive £800m, spread over the next five years, with a target to triple to 100 the number of "serious and complex" tax evasion cases it brings each year. New powers in the offing include a criminal charge that can be brought against companies that evade tax and advisers that help them do so; rules making it easier to convict offshore tax evaders; and a global tax information-sharing system that will offer a glimpse into the most secretive tax havens — including the British Virgin Islands, the Cayman Islands and Jersey, territories in which the Queen is head of state.

At a gathering of HMRC officials at the Treasury in July, seasoned tax advisers noted a change of mood. Thanks to public excoriations by Margaret Hodge and the Public Accounts Committee she chaired until May's election, HMRC had become a prime target for popular anger over a perception that paying tax was largely optional for those who could afford it. Protesters denounced "sweetheart" tax deals with Vodafone and Goldman Sachs. Allegations of a revolving door between HMRC and KPMG, PwC and the other big accountancy firms that promote "tax efficiency" only deepened the impression that the gamekeeper was in cahoots with the poachers. Then came the shambolic scenes this year of HMRC struggling to open the post and answer its phones.

The new push for more prosecutions appears to signal a shift — in rhetoric at least — from years of stressing its "collaborative" approach with major taxpayers to something spikier.

"Our message to evaders is clear and simple," David Gauke, the Treasury minister responsible for tax, said that day. "HMRC is closing in on you, so come forward now or face tougher sanctions, both civil and criminal."

And that, say tax experts, lawyers and officials, is precisely the dilemma. Strictly, HMRC's mandate is not to mete out justice, let alone fairness. It is to bring in revenue — more than £500bn of it a year. Civil settlements that can include a fine of up to 200 per cent of the tax owed tend to bring in more money than complex prosecutions that take an average of 44 months with no guarantee of a payout at the end.

But such settlements risk deepening the sense that HMRC is a soft touch on sophisticated evaders. James Bullock, head of litigation and compliance at London law firm Pinsent Masons, says: "For the past 10 years government has been saying [to HMRC]: these are the sort of people you must go after. But we haven't seen it happen. Do you want the money or do you want to encourage the others and get the scalps? You get more bang for your buck with the civil route.

"In practice it's difficult to put someone in jail for tax fraud because of the need to establish the mental element required to prove the fraud," he adds. To get convictions, prosecutors must show not just that defendants dodged tax but that they did it wilfully.

Experienced tax advisers note that the Revenue twice settled with Mr Piggott. It only pressed charges when, having been caught out for a third time and vowed that he had finally come clean, the jockey sent a settlement cheque from an undeclared account — presumably the "stupid" move noted by the Queen. More successes followed for the Revenue, the biggest in 1993. Michael Hunt, formerly the managing director of the UK arm of Japanese carmaker Nissan, received an eight-year prison sentence for his part in a 15-year scheme to inflate the costs of importing cars that cheated the tax collector out of £55m.

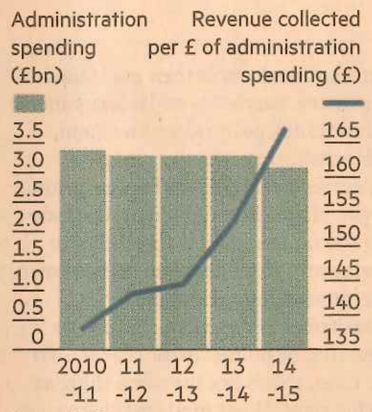
Then, says Jonathan Fisher QC, who was standing counsel to the Revenue from 1991 to 2003, it "lost its way in around 2000 and went for smaller targets".

He adds: "In recent years the Revenue should have spent more time trying to get one or two big corporate scalps. I think they made a conscious decision and it's all down to the high cost of investigating and prosecuting these cases."

Gradually, HMRC has switched his attention to what lawyers call "the low-hanging fruit". But as the UK and other advanced economies sank into recession after 2007, tax evasion and legal, if aggressive, tax avoidance schemes that had gone largely unremarked hit the headlines.

In 2012, the comedian Jimmy Carr found his conduct labelled "morally wrong" by Prime Minister David Cameron after it emerged he had used a Jersey-based scheme to shelter income from taxation. Other shamings of celebrities followed.

HMRC revenue and spending



Source: HMRC

Staff levels

* At March each year

Liability concerns

As austerity drags on, big scalps are being sought once more. A proposed new "strict liability" rule would make offshore tax offences more like driving violations. Just as a driver is liable for speeding regardless of whether he was doing it for kicks or racing to the birth of his child, so taxpayers would be liable for evading tax regardless of whether they did so by accident or design. But some tax lawyers and experts regard strict liability as draconian and ministers have added provisos to the proposed new rules, including one for "reasonable excuses".

Had it existed in 2012, a strict liability provision might have spared HMRC a demoralising defeat. It mounted an abortive attempt to make Harry Redknapp the new Lester Piggott. The football manager — at the time rumoured to be in the frame to lead the England national team — walked free after the jury in a £1m trial acquitted him of "deliberately and dishonestly" paying $295,000 into a Monaco account named after his dog Rosie.

The prospect of strict liability also prompts concerns about who the targets might be. "If you ask people [in HMRC's criminal investigations unit] who they want to prosecute, Joe the plumber or captains of industry, they will always say captains of industry," says Ray McCann, a former senior tax inspector who is now a tax adviser at New Quadrant Partners. "But the scale of that task is monumental."

The authorities tend to attempt "a generational case of a big target" but "these things are just so enormously resource-intensive that the Revenue just don't have the staff to do it, and a jury needs to be convinced". As a result, Mr McCann says, "the Revenue has always picked and will always pick on softer targets where fraud may be easier to prove".

Making the case

The limited data available on prosecutions appear to support such concerns. Between 2011 and 2014, the number of tax evaders sent to jail rose by about a third to 220 a year, Pinsent Masons learnt through a freedom of information request. However, the average prison sentence for criminal tax evasion fell by nearly two-thirds over the same period, from almost three-and-a-half years to less than one-and-a-half years.

> 'Do you want the money or do you want to get the scalps? You get more bang for your buck with the civil route'

In the front line of the campaign for more prosecutions will be a new unit combining HMRC's criminal and civil investigation arms under Simon York, a senior tax official well regarded by his peers. That, some tax lawyers expect, will make it easier for investigators to take cases that begin as civil disputes and push instead for criminal charges.

HMRC's challenge to film investment schemes that were used to reduce tax is emerging as the main battleground for its efforts to demonstrate that avoidance can turn into evasion when the accounting involved bears little resemblance to the actual business transactions. But an attempt to turn a dispute over a tax avoidance scheme offered by consultancy Montpelier into a criminal conviction collapsed last September for lack of evidence.

And Mr Osborne's beneficence towards HMRC may not be all it seems. The £800m for the enforcement drive follows a £300m fall in the annual amount HMRC spends on collecting revenue since 2010. Officials are also braced for further cuts in this autumn's spending review. The Office for Budget Responsibility rates a quarter of the new tax measures in the Budget as "highly" or "very highly" uncertain — including the projected revenues from more prosecutions.

Tax experts keen to see a push for big-ticket prosecutions took note of this month's conviction of Tom Hayes, a former star trader at UBS and Citigroup sent down for 14 years for rigging Libor rates. The Serious Fraud Office called the sentence "part punishment, part deterrent".

"The same will apply in tax," says Andrew Watt, a veteran tax inspector who now runs a private tax investigation practice.

"Only it's a much bigger pond with a lot more fish."

Speed read

Operational challenge Despite £800m earmarked for the enforcement drive, HMRC officials are braced for cuts in this autumn's spending review

Prosecution problem A former standing counsel says high costs put HMRC off investigating and prosecuting high-profile corporate cases in recent years

Softer targets? Between 2011 and 2014, the number of tax evaders being sent to jail rose by about a third but the average prison sentence fell by nearly two-thirds

Settling the bill

Amnesties give way to data sharing as preferred tool

If there is a pot of gold awaiting HM Revenue & Customs' investigators, it may be stashed where Lester Piggott's was — in secretive tax havens such as Switzerland and the Cayman Islands.

That Michael Shanly, a millionaire property developer from Berkshire who in 2012 pleaded guilty to tax evasion and was ordered to pay £470,000 in fines and costs, is the sole account-holder convicted as a result of the HSBC Swiss leak has earned HMRC still more public ire. But it defended itself by pointing to the difficulty of mounting prosecutions based on stolen, incomplete data as well as arguing that the offshore amnesties it runs bring in more money than prosecutions could.

Those carrots could soon give way to sticks. Programmes including the Liechtenstein Disclosure Facility, which has allowed tax evaders with offshore accounts to settle with the taxman without facing criminal charges, are due to close in the coming months.

Tessa Lorimer, a barrister who specialises in cases resulting from HMRC probes, says an information-sharing system between 94 countries including many of the biggest tax havens will furnish the authority's new investigations unit with a crucial tool. Jennie Granger, HMRC's enforcement chief, told a conference last month that offshore data-sharing might be a "game-changer".

Hundreds of millions of tax funds are flooding into exchequers worldwide as the window for coming clean closes. HMRC's critics are waiting to see whether it will then get tough with the holdouts or opt for what one lawyer dismissively calls "perpetual amnesties".