

The Plight of Billionaires Looking For New Havens to Shield Assets

by James F. McDonough, Jr. on July 30, 2013

In a recent article in *Wealth Management*, the author David de Jong and Robert Lafranco describe the difficulty billionaires face in providing a safe haven to shield assets.

For example, they point out the troubles of Dimitry Rybolovelev who is Russia's 14th richest person and is embroiled in a multi-jurisdiction divorce action with his wife. The lawsuits provide a window into the offshore structures and secrecy jurisdictions that billionaires use to manage, preserve or conceal their assets. A desirable offshore jurisdiction has several characteristics. In the past, bank secrecy, nominee shareholders or bearer shares and no annual reporting were of primary importance in the selection process. Other desirable features include: (1) a low or no income tax; (2) taxing income earned within its borders; (3) a stable political environment; (4) adherence to the rule of law; (5) a strong banking sector; (6) access to income tax treaties if needed for business and investment; (7), little or no wealth (transfer) taxes; (8) and a flexible roster of entities, such as trusts, foundations, corporations, companies and partnerships.

At the end of 2010, the Tax Justice Network (TJN) reported wealthy individuals were hiding as much as \$32 trillion dollars offshore. TJN states its purpose to promote transparency in finance opposes secrecy and seeks progressive taxation. Thirty percent of the world's 200 richest people control \$2.8 trillion dollars. Much of the control is done through offshore holding companies or other domestic entities where assets are held indirectly. Depending on one's perspective, these structures either remove or hide assets from tax authorities and provide legal protection from government seizures and private lawsuits. The counter argument is that these structures permit capital to flow more freely, reduces taxation and increases profitability, and provides commercial access to stable jurisdictions.

Since 2001 and more particularly since the global financial crises in 2008, many of the international tax treaties have been revised to allow for exchange of information and elimination of bank secrecy. The Organization for Economic Cooperation and Development (OECD), a body made up of 34 developed countries, has been the primary force behind the exchange of information and the elimination of secrecy. Some cite the scandals involving ENRON and Parmalat, which used offshore and off-balance sheet structures as catalysts.

Singapore will make laundering of profits from tax evasion a crime under a law scheduled to take effect July 1st of this year. Luxemburg announced on April 10th that it would end its bank secrecy policy in 2015. Cyprus, which was bailed out of financial troubles in March by the European Union, was required to impose a tax on bank deposits of more than €100,000. In that month, the country lost \$2.4 billion dollars in deposits.

Because of this shift towards financial transparency, many of the world's wealthiest seek new havens to place their wealth. Some of these include Liechtenstein, the Channel Islands of Jersey, Guernsey, and the British Virgin Islands.

Many Russian billionaires create entities in the British Virgin Islands because they find the legal system more attractive than in their own country.

Many of today's wealthy focus on finding places to minimize their taxes and avoid double taxation. These include Lika-Shing and Lee Shaukee, Asia's two richest men; Alisher Usmanov, Russia's richest man; U.S. Energy billionaire George Kaiser; and Paolo Rocca, an Italian billionaire in a continuing "cat and mouse" game with the Argentine government.

As more and more jurisdictions yield to the ever present pressure to remove bank secrecy laws and to provide for transparency in financial systems, global billionaires will have more and more difficulty finding a home for their money.