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FORBIDDEN KNOWLEDGE

Information *They* Don't Want You to Know

Sixth Edition

ROBERT E. BAUMAN JD

Editor

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Mr. Bauman, legal counsel to The Sovereign Society, served as a member of the U.S. House of Representatives from 1973 to 1981. He is an author and lecturer on many aspects of wealth protection. A member of the District of Columbia Bar, he received his juris doctor degree from the Law Center of Georgetown University in 1964 and a degree in international relations from the Georgetown University School of Foreign Service in 1959. He was honored with GU's Distinguished Alumni Award in 1975. He is the author of *The Gentleman from Maryland* (Hearst Book Publishing, 1985), and of the following publications of The Sovereign Society: *The Complete Guide to Offshore Residency, Dual Citizenship & Second Passports* (7th ed. 2009), *Where to Stash Your Cash Legally: Offshore Financial Centers of the World* (4th ed. 2009), *Swiss Money Secrets* (2008), *Panama Money Secrets* (2005), *Forbidden Knowledge* (2004), and *The Offshore Money Manual* (Society, 2000). He also served for nine years as founding editor of The Sovereign Society Offshore A-Letter, an Internet e-letter received daily by more than 225,000 readers worldwide. His writings have appeared in *The Wall Street Journal*, *The New York Times*, *National Review* and many other publications.





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PREFACE

“Just as the State has no money of its own, so it has no power of its own. All the power it has society gives it, plus what it confiscates from time to time on one pretext or another; there is no other source from which State power can be drawn. Therefore every assumption of State power, whether by gift or seizure, leaves society with so much less power; there is never, nor can be, any strengthening of State power without a corresponding and equivalent depletion of social power.”

— Albert J. Nock (1935)

“Knowledge itself is power.”

— Francis Bacon, *Meditationes Sacrae* (1597)

In the age-old struggle for individual liberty against the power of the state, there can be no question which side has triumphed throughout most of the twentieth century.

The one interest the state willingly sacrifices to the “common good” is personal liberty “the freedom to produce and create, to buy and sell, to speak and publish, to travel, to live freely.”

By diminishing liberty, government systematically subverts people’s responsibility for their own lives. It robs those who produce in order to placate those who only consume. The result is economic stagnation, retrogression and political corruption.

Since the seventeenth century, in England, France and America, and more recently in Russia and Eastern Europe, revolutions against this tyranny of the state were fought on behalf of an alternative we can call “natural liberty.”

At first successful, over time these revolutions cooled to complacency and hard-won freedom came to mean guaranteed entitlement to government largess.

True natural liberty means that each of us is the sole legitimate owner of our own life and destiny, free to act as we wish so long as we use no violence, fraud or other aggression against others.

That same freedom dictates a free-market economy enjoying peaceful production and trade. It opposes government control by self-serving politicians.



No activity of statist government has diminished personal liberty more than the unchecked power to tax. In the United States, the United Kingdom and Germany the effective rate of personal taxes far exceeds 50 percent of earnings. In some nations, such as France and Sweden, it is higher still. Business is taxed at even greater levels.

And everyone pays the ultimate price.

When government takes wealth from some and gives it to others, this forced redistribution diminishes the rights and well-being of the former, and often destroys the independence of the latter.

The issue of taxation involves nothing less than the human and natural right to own, use and enjoy private property, a “civil right” of the most basic kind.

Property and wealth determine personal power to control our own lives, to make decisions, to raise a family, to live free.

As Albert Jay Nock noted, every additional tax imposed diminishes our freedom. In an economic history of the Middle Ages, Paul Craig Roberts, the economist and columnist, showed that medieval serfs bound to the land and their masters rarely paid more than one-third of the value of their labors in taxes. For good reason: with very low productivity, serfs could not survive if forced to pay more taxes. With nothing to lose, they would revolt and kill the tax collectors.

Yet a half-millennium later, with capitalism’s enormously increased productivity, we have even less right to our earnings than did those enslaved serfs. Says Roberts: “You are not free when you do not own the product of your own labor.”

This book, *Forbidden Knowledge*, is a compendium of the acts and ideas of dynamic men and women who have exalted natural liberty in their own lives — and many do so to this day.

Albert Camus said, “Revolutionaries are men who say no!”

These authors have said an emphatic “NO” to Big Brother government. These practical people refuse to bow down to government, to submit to bureaucratic demands for ever higher taxes, greater controls and increased regulation.

In some cases this has meant leaving the nation of their birth and mov-



ing to countries that still believe in and practice natural liberty. There are such places, as you will see.

Some individuals you will meet in these pages call no single nation “home,” spending the changing seasons of each year in many places where they do business, and enjoy the new experiences and the pleasures life has to give.

Drawing on their experience, you too can have a life of natural liberty. You too can live, work, invest and do business without having to pay taxes to any government anywhere. And you can do this legally and with maximum personal security and financial privacy.

To knowledgeable people, true financial security means:

- the maximum possible legal tax avoidance
- the strongest possible financial privacy
- the greatest degree of asset protection
- the most profitable investments

These goals, and how to achieve them, are spelled out in *Forbidden Knowledge*.

Robert E. Bauman JD, Editor
Delray Beach, Florida
January 2010





CHAPTER ONE

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Editor's Note

We live in one of those times when civilization becomes “a thin crust over a volcano of revolution.”

Unrecognized by most, the Old Order is dying, replaced by a new world economic structure built on free markets, massive technological change, instant communications, interlinked databases, electronic commerce and digital cash. These emerging systems inevitably weaken the power of traditional governments, even as they have the very real potential to increase individual freedom, financial choice and personal privacy.

Today's politicians saw what was coming and have been clawing desperately to stay ahead of the inevitable tide towards freedom. They'll fail, as did the corrupt leaders of a dying Soviet Union, brazenly trying to stop the spread of free ideas by outlawing fax and copying machines. And just as myopic nineteenth century Luddite workers failed to thwart the Industrial Revolution by destroying new labor saving machinery.

As evidence, consider how shared, instantaneous information contributes to the spread of economic collapse of national economies. The worst economic recession since the Great Depression of the 1930s may have been engendered by stupid government policies, mass irresponsibility in the part of American and European banks and greed in Wall Street and the City. But every nervous wave rippled hourly across time zones and stock markets as cable news covered the panic live and Internet trading went wild — yet another example of irresistible techno-advances forcing a totally new financial and banking reality, whether good or bad.

Consider the impact of the global recession. Stock of corporations whose billions in wealth existed only on paper or as future concepts that had rocketed up in price, even more quickly disappeared.

A select few people long ago anticipated the revolution now at hand. These are the Sovereign Individuals, voluntary citizens of the world-at-large, who seek freedom and fortune wherever they judge best.

Weary of oppressive governments and onerous taxes, of constant surveillance, they search the globe for greater personal liberty, for safe havens for their families, themselves and their wealth.



Now the rest of the world is coming to realize the successful strategies that the Sovereign Individual has known all along.

This first chapter highlights the basic principles of the freedom philosophy. This begins your guide to natural liberty.

ON BECOMING A SOVEREIGN INDIVIDUAL

John Pugsley, *The Sovereign Individual*, June 1999

The Chairman of The Sovereign Society traces the evolution of freedom from serfdom to democracy, and now to a modern slavery by government in the name of democracy.

Since emerging from the caves and jungles of antiquity, mankind has been engaged in an epic struggle to discover the ultimate design for social organization, one that would allow civilization to progress in peace and ever-increasing prosperity.

For thousands of years, the idea of monarchy reigned. The overwhelming majority accepted rule by an all-powerful government headed by a king appointed by God.

Then, about 200 years ago, an idea emerged that was to change the nature of government...the idea that all men and women were born with equal rights to life, liberty and the pursuit of happiness. In short, individuals were sovereign and had both the right and the responsibility to rule themselves.

The concept of the divine right of kings was cast aside and in its place democracy was born; citizens were free to elect their rulers. It was believed the era of oppressive government was over.

When democracy was embryonic, it seemed to work. Individual freedom from oppression led to a flourishing new world. Over the past few decades, however, there has been a steady growth of government as the masses of voters have learned that they can manipulate government to their advantage. They have found they can enrich themselves at the expense of the successful and thrifty.

This attack on the more affluent and productive individuals in countries



such as the United States, Canada, Germany and the United Kingdom has had the same effect as the repressive policies of King George III had in the eighteenth century. It has led to a rising exodus of society's most productive people as they migrate to political environments that offer greater asset protection, privacy and lower taxation.

Many are moving only their assets offshore to countries that offer more financial privacy and low or no taxation. A smaller but rising number are electing to move themselves and their families offshore as well.

While a few officially disconnect from their nation of birth by renouncing their citizenship, others merely reside offshore while retaining their original citizenship. Still others acquire dual nationality by ancestral right or through financial citizenship programs offered by many countries.

A few adopt the so-called "PT" lifestyle and become nomads, never staying long enough in one place to become subject to its taxes, thus becoming "Perpetual Travelers" or "Prior Taxpayers." But all are united in seeking privacy, freedom of movement, low or no taxes, safety of capital and minimal connection with big government, and in being Prepared Thoroughly for the unexpected.

FOUNDING OF THE SOVEREIGN SOCIETY

John Pugsley, *The Sovereign Individual*, June 1999

Over the years, my study and writings on the subjects of political coercion, freedom and free markets have led to correspondence, affiliations and friendships with like-minded individuals from many disciplines and many countries.

In the past few months a group of us have formed The Sovereign Society, a group of the most creative thinkers on the subjects of personal and financial freedom, as well as individuals who are motivated to achieve personal independence for themselves. The aim of The Society is to create a network for developing strategies that individuals can use to wrest control of their lives and assets away from the menace of Big Brother.

I don't think of The Society as a club or organization but as a virtual society, an extra-national community existing all over the world in the hearts and minds of its citizen members. Essentially, it will offer members a



new “passport,” a whole new concept of citizenship in a country that takes its shape not on the basis of geography, but on the basis of ideology.

Through borderless cyberspace and with the security of encryption, members will be taught to carry on intellectual and financial commerce worldwide, 24 hours a day. Most importantly, citizen members will work with one another in their quest to find sanctuary from private and state snoops, bugs, swat teams, property seizures and other incursions on civil and economic liberties.

Our aim is to find free market alternatives to the services that governments today promise but fail to provide: security from crime and violence, education, old age security, health care, just enforcement of contracts.

We welcome all who share our views. For further information, contact The Sovereign Society, 98 S.E. Federal Highway, Suite 2, Delray Beach, FL 33483 TEL: 561-272-0413; Website: <http://www.sovereignsociety.com>; Email: info@sovereignsociety.com.

WHAT WE MAY BE

Robert E. Bauman JD, December 2008

In “Hamlet” (circa 1601) William Shakespeare sagely noted: “Lord! We know what we are, but we know not what we may be.”

Nevertheless, each New Year’s the world media engages in a mild form of entertainment by attempting to predict events for the next 365 days.

I don’t intend to join their prognostications except to say we are likely to suffer more of the same, based on all the current sad indications — more and bigger government, more and bigger taxes, spending, debt and deficits, more and greater depredations against our remaining, but rapidly, diminishing liberties.

How’s that for a cheery 2009 look ahead?

THE CHAIRMAN’S WISDOM

I am indebted in many ways to my good friend, the Chairman of The Sovereign Society, the noted author, Jack Pugsley, but also for the following



wisdom which he shared with us on New Year's Eve a few years ago:

“The Sovereign Society was conceived by a group of individuals who shared the conviction that peace and prosperity would be optimized when every individual's property is rightfully his or hers to keep, control, and dispose of.

“Having witnessed over our lifetimes the relentless expansion of government and the concomitant erosion of individual liberties, it was clear to us that the preponderance of aggression against private property did not come from criminals or from foreign nations, but from citizens' own governments and judicial systems.”

As Voltaire summed up the process 240 years ago: “The art of government consists in taking as much money as possible from one party of the citizens to give to the other.”

“Most still believe government is a protector, and it grows because people believe it will cure the social ills that plague us. In fact, it is the source of our problems. By restricting individual liberty, by preventing individuals from freely producing and exchanging goods and services, and by taxing and inflating, government has become the source of social conflict.”

SOVEREIGN SOCIETY CREDO

Now in its 11th year, The Sovereign Society has grown to a membership of nearly 30,000 in many countries around the world. The principles around which The Society was conceived are built into its credo are even more relevant today:

- THAT individual liberty is the highest good in any society;
- THAT every individual has the natural right to keep, control, and dispose of his or her justly acquired property;
- THAT individuals are not the property of the government of the political jurisdiction in which they are born or reside;
- THAT individuals are sovereign unto themselves;
- THAT to whatever extent government interferes with the free exchange of goods or confiscates the property of citizens, it reduces the wealth of the nation;
- THAT when government takes from one to bestow on another, it



diminishes the incentive of the first, the integrity of the second, and its own moral authority;

- THAT it is the right and responsibility of each individual to defend justly acquired property from unjust and arbitrary seizure, expropriation, and taxation;
- THAT the goal of The Sovereign Society is to encourage and help individuals achieve and maintain individual sovereignty over their own lives and fortunes.

JOIN US

The new year is one more chance for you and I to fight this oppression and show others the way to a freer, more moral society. We invite you to join us in the struggle for liberty.

THE “PT” LIFE...IS IT FOR YOU?

John Pugsley, *The Sovereign Individual*, February 2002

More than a decade ago, an interesting character with the nom de plume of “Bill Hill” penned a popular escape manual for freedom advocates titled PT—The Perpetual Traveler. Hill had spent much of his life traveling the world, visiting the continents, regions, countries, and cities that interested him, while carefully avoiding staying in each place long enough to be considered a permanent resident and therefore subject to such unpleasantnesses as taxes, military service, and other local rules and regulations.

Hill argued that in a world in which every spot on the globe is under the forcible control of one gang of politicians or another, the answer for individual sovereignty is to avoid their control by becoming a “PT,” an acronym for a Perpetual Traveler, Prior Taxpayer, or Permanent Tourist.

The ability to become a full-fledged Bill Hill-style PT — i.e., living a life absolutely free of taxation, restrictions and obligations imposed by most governments — depends to a great extent on your citizenship. U.S. citizens, for example, are liable for taxes on their worldwide income, wherever they travel or live.

I’ve spent many years living outside the United States. But, because I



haven't relinquished my U.S. citizenship (yet), living an expat lifestyle has provided very minimal tax advantages.

Most countries, however, impose tax on the basis of residency, not citizenship. Move abroad for at least a year or two and thereafter, the mother country ignores you, at least in reference to income tax. Therefore, for citizens of most countries, the PT lifestyle could legally eliminate income (and with proper planning, estate) taxes, along with achieving many other goals of individual sovereignty.

A dozen years ago I became friends with Paul and Vicki Terhorst, who could be considered a poster couple for the PT concept. Paul began his career as an accountant. After working his way up to a partnership in Peat Marwick, he and Vicki decided that what they really wanted in life was freedom from routine and the opportunity to travel. Paul retired at age 35, and for the past 18 years Paul and Vicki have made do on a modest income from their investments, while leisurely wandering the world.

After retirement they spent eight years in Argentina, then lived in Mexico, London, Thailand, Bali, Australia, Paris, and even had a couple short stints in the United States. Often they just hit the road for several months, revisiting their favorite countries or exploring new ones.

Since they've chosen to remain U.S. citizens, there are no significant tax advantages to their PT lifestyle. They file tax returns every year and meticulously declare all investment income, in spite of the fact that their investment accounts are offshore. And they are careful not to do anything that would constitute legal residence in any state with a personal income tax. Thus, they carry Nevada driver's licenses, and keep their financial records and mailing address in the state of Washington (several states including Nevada, Texas, Florida and Washington do not tax personal incomes).

To Paul and Vicki, the allure of the PT life has less to do with keeping out from under the scrutiny of Big Brother and minimizing taxes than with being free of the routines. Travel and exploration is their idea of the sovereign life.

If the PT life sounds attractive, it's probably more achievable than you might imagine. The communications revolution has dissolved the chains that bound many professions to urban offices. However, Paul and Vicki have demonstrated that if you're willing to trade the security of roots



and possessions for travel and leisure, it can be done on a very modest income.

While not everyone will find being a perpetual traveler fulfilling, it still makes sense to increase our personal sovereignty by adopting any of the elements of the PT concept that fit. The full PT plan includes holding citizenship in one country; maintaining official residence in a second; if not retired, domiciling your business in a third; and keeping investment accounts in one or more others.

In each case, the country chosen should provide the best and most advanced laws for minimizing taxes, optimizing business and investment opportunities, and providing maximum privacy and legal protection from lawsuits. Then, if your business permits and you enjoy travel, you can live the PT life by spending your time in the most interesting places around the world in their prime seasons — London or Aspen in July and August, January and February in The Bahamas or New Zealand, April and May in Paris, and so on.

The goal of every Sovereign Individual is to maintain control of his or her life and property, which coincides nicely with the PT concept. These are goals for which members of The Sovereign Society can strive for and which we can help you to achieve.

THE PT'S FIVE FLAGS

PT, 1996, Scope Books

A five-point plan for those with courage enough to pursue freedom.

Today, millions of the wealthiest and most productive people on the planet take advantage of the best that each country has to offer.

Governments are viewed as providers of facilities and services, like hotel keepers. If they offer good accommodations and make you feel comfortable and prosperous, you stay. If your government becomes too demanding or too nosey, or if a competitor offers you a better deal, you can move on.

Economic opportunities, financial privacy, taxes, extradition treaties, social values, military obligations, quality of passport, stability of government, medical standards, respect for property rights, personal safety and



freedom of travel, thought and action are all taken into consideration when choosing legal residence and citizenship.

People of intelligence and wealth owe it to themselves and their descendants to have more than one flag. No one with common sense should give all their assets or allegiance to just one.

Why?

No country or government has ever survived more than a few generations without annihilating itself or its own middle and upper classes. Even in that last bastion of capitalism, the U.S., people of property have been thrice pushed out of the country. In 1780, the entire middle and ruling class was forced to move to Canada; these were the Tories who supported England in the American Revolution or War of Independence.

In 1865, it happened again. All large landowners who supported the Confederacy in the Civil War migrated to Mexico, Europe or South America. In the post-1917 period, prohibition, compulsory military service, confiscatory income taxes and suffocating government regulations once again caused many independent-minded Americans and their European counterparts to seek new flags.

They made the amazing discovery that, as expatriates or tax-exiles abroad, they need not belong to any particular country nor participate in its senseless policies.

The PT's relationship with government is a matter of choice, an option. The passport you hold and the country where you live should not be a burden that you were born to and must be saddled with forever. No one government can be trusted to control all your money. Government does not have your best interests at heart. Politicians are interested in redistributing wealth. In the end, they will only succeed in redistributing taxpayers. The major portion of all liquid private wealth, the smart money, has already been anonymously registered offshore. It has been re-flagged.

Individuals can remove themselves from the control and jurisdiction of any government by acquiring dual-citizenship, investing internationally and becoming human multinationals.

Departing physically and permanently is not required. A PT can live where he wants, when he wants. The secret is to effect a change of legal



status. Many wondrous benefits can be achieved by merely wrapping yourself and your assets in a new flag.

In order to accomplish this redistribution, you merely have to arrange your assets according to the following simple outline. Your five flags:

Flag 1: Passport and Citizenship. These should be from a country unconcerned about its offshore citizens and what they do outside its borders. There must also be no tax or military requirement for non-residents. Passports must be available to foreigners. Dual or multiple nationality is one of the cornerstones of the PT philosophy. The PT should strive to have several passports regardless of original nationality. A second passport always comes in handy and has often saved the skin of many an individual during times of war, persecution and political upheaval.

Flag 2: Business Base. These are the places where you make your money. They must be different from the place where you legally reside, meaning your personal fiscal domicile. They should also be places that give free land, grant interest-free loans or offer a tax holiday to your business without subjecting you to over-regulation. Good access to contacts, labor markets or materials are also important. London, Tokyo and New York are the big apples for finance and insurance. Zurich, Milan, Singapore and Frankfurt are among the good second-rank contenders.

Flag 3: Residence and Domicile: These should generally be in a tax haven with good communication systems. A place where wealthy, productive people can be creative, live, relax, prosper and enjoy themselves, preferably with bank secrecy and no threat of war or revolution. Monaco, Panama, Andorra and Switzerland are all recommended.

Flag 4: Asset Management: This should be a place from which assets, securities and business affairs can be managed by proxy. Requirements are the availability of highly competent financial managers, confidential banking and the lack of taxation of non-residents or non-citizens. Possibilities include Austria, Luxembourg, Switzerland, New York and London.

Flag 5: Playgrounds: These are the places where you actually physically spend your time. Quality of life is top priority. Normally, because of legal restrictions on how long one may stay without being considered resident for tax purposes, it is necessary to have two to four playgrounds, although other arrangements can be made if you want to spend all of your time in



one playground. However, for the most part, the PT should try to avoid spending more than 90 days per year in any particular country.

My personal recommendations; for good fishing: New Zealand; for the most interesting sex life imaginable: Thailand, Costa Rica or the Philippines; for a superb year-round climate: California or Queensland, Australia; for the gourmet in you: the French Riviera or Hong Kong. For stimulating parties and an active social life: Paris, London or San Francisco; for the best things at the cheapest prices: Singapore, Taiwan and Hong Kong (for consumer goods), Denmark (for cars), Ireland (a summer home), Buenos Aires (a winter home).

For now, consider the following possible scenarios:

Flag 1: A second passport from Canada, Ireland, Brazil, Italy or Australia.

Flag 2: A business or source of income in New York, Zurich, London or Singapore.

Flag 3: A legal or fiscal address in Monaco, Panama or Andorra.

Flag 4: Bank accounts or other assets registered in Austria or Luxembourg through holding companies, trusts or foundations.

Flag 5: Friends and fun in Paris, Bangkok, Manila, Buenos Aires, Sydney, Cape Town and San Francisco.

Every PT should know and understand that governments only have power (i.e., jurisdiction) over citizens within their home territory or colonies. For this reason, the PT should generally stay out of the country on whose passport he travels. His major assets should be invisible and far away from the country in which he actually lives. His lifestyle should be as humble as possible.

By using the PT strategy, you too can get the most out of life. Once you have at least your emergency passport and enough money to survive at your destination, you can feel secure and prepare for a plunge into previously uncharted areas that will enrich your life. Five flags are better than two. Two are better than one.



IS IT UN-AMERICAN TO “GO OFFSHORE?”

Robert E. Bauman JD, December 2009

You would think so — if you believed 2008 presidential candidate Barack Obama — or if you believe U.S. Senator Carl Levin, far left Democrat from Michigan, a “soak the rich” politician obsessed with the belief that any American with foreign financial business is somehow dodging taxes.

For an extreme example of this offshore phobia, take the case of White House National Economic Council Director Lawrence Summers. When good old Larry was President Bill Clinton's Secretary of the Treasury in 1994, he went off the deep end referring to American expatriates as “tax traitors.” He was subsequently made to apologize by his boss for that over the top comment.

This idea that it is unpatriotic for otherwise good Americans to have foreign bank accounts, own foreign investments and real estate and live in foreign lands has long been the unspoken policy of the U.S. Internal Revenue Service and other government agencies.

PRESUMED GUILTY

I once heard an assistant U.S. Attorney General publicly state to a conference of several hundred lawyers and bankers in Miami that at the Department of Justice anytime an individual had offshore accounts he or she was assumed to be engaged in something that was probably illegal.

So much for the rule of law and the presumption of innocence.

But, as they say, “Old habits die hard.”

Despite the occasional financial excursion abroad, human nature dictates that most folks prefer to make and save money at home. We tend to be comfortable with the familiar and less threatening domestic economy of our home nation, even if the government is near bankrupt as in America.

In 2009, only 74 million, or about 26% of Americans had passports (and



another million Americans living near the Mexican and Canadian borders had “passport cards”) — yet this was an historically high percentage.

BUY AMERICAN OR BYE-BYE AMERICA?

As one who believes in the principle of free international trade and its decided benefits for all parties, the political resurgence of “Buy America” under Obama and the Democrats should concern Americans.

The anti-offshore arguments of the America Left seem to fit into this “America First” theme, and both are wrong headed. I love my country too much to believe such nonsense.

Harry Binswanger, Ph.D. of the Ayn Rand Institute writes: “According to a recent poll, 80% of Americans think it their patriotic duty to give preference to American-made products. But ‘Buy American’ is wholly un-American in both its economics and its philosophy.

“America’s distinction among all the nations of the world is that it enshrined political and economic freedom. Although we have departed greatly from our original laissez-faire principles, to the whole world America still symbolizes capitalism. Americanism means understanding that a free market, domestically and internationally, is the only path to general prosperity.”

PRACTICAL REASONS

But beyond the principles involved, there are good and sufficient practical reasons why aware Americans now should “go offshore” financially — simple financial survival first among them.

At a time when the United States government is deeply in debt (nearly \$13 trillion), with Obama’s pending plans for higher income, capital gains and estate taxes looming, and with major and minor banks teetering on the brink, prudence dictates offshore planning and activity.

So-called “patriotism” does not require us to commit financial suicide when there are reasonable escape exits to better places.

WHY GO OFFSHORE?

The multi-faceted answer includes greater asset protection, stronger financial privacy, higher returns in carefully selected markets, more diversification of investments and among currencies, increased safety and



security, both personal and financial, and deferred taxes on annuities and life insurance.

In contrast to Bank of America, CitiBank and AIG, the offshore banks and insurance companies The Sovereign Society recommends aren't exposed to the risky investments of third-world debt and Wall Street's esoteric derivatives.

These banks are located in politically neutral countries that don't employ interventionist foreign policy, making them much less likely to be terror targets.

ACT NOW

Unfortunately, too few Americans are taking advantage of the fruits of global diversification. I think you owe it to yourself and to your family to benefit from offshore advantages.

At the very least, you should hold a portion of your assets offshore — just in case.

ARE YOU A LIBERTARIAN?

Vincent H. Miller, 1998

One of its American leaders recalls the history and growth of the Libertarian movement — and asks you to examine your own political conscience.

WHAT IS A LIBERTARIAN?

The catch phrase, “Fiscally conservative; socially liberal,” explains it — sort of. But simplifications often lose the essence of what they describe. Basically a libertarian is a person who believes in individual liberty, an unregulated market economy and social tolerance for diverse lifestyles. It's a “live and let live” philosophy.

The foundation of libertarianism is the Non-Aggression Principle, which states that no one may initiate force or fraud against others. This is sometimes stated as, “First, do no harm,” or in the biblical turn of phrase, “Thou shalt not aggress.”



Many libertarians trace their roots back to the eighteenth and nineteenth century classical free trade liberals to England's Adam Smith, John Locke, John Cobden, Richard Bright, French philosopher Frederic Bastiat and others. Others look to nineteenth century American individualist anarchists such as William Lloyd Garrison, Lysander Spooner, and Henry David Thoreau.

The modern libertarian movement, however, has been most strongly influenced by the late Austrian economist Ludwig Von Mises, and by Mises' protégé and Nobel Laureate, F. A. Hayek, and Nobel Laureate Milton Friedman of the University of Chicago.

Perhaps the most influential of all was the novelist and philosopher Ayn Rand, whose novels, plays, and essays strongly influenced the new wave of libertarians. The message of her epic novel *Atlas Shrugged* has been so powerful that a joint survey by the Book of the Month Club and the Library of Congress ranked *Atlas Shrugged* second only to the Bible as the book that had most influenced people's lives.

Although there have been pockets of libertarian influence throughout history, the modern movement began to gain momentum in the 1940s. With the founding of Leonard Read's Foundation for Economic Education at Irvington-on-Hudson, New York, and the near-simultaneous publication of Rand's *The Fountainhead*, Hayek's *The Road to Serfdom*, Isabel Paterson's *The God of the Machine*, Rose Wilder Lane's *The Discovery of Freedom* and Mises' *Human Action*, the modern libertarian movement took its first steps. It wasn't until the publication of *Atlas Shrugged* in 1957 that the Libertarian movement as we know it today regained its stride.

During those earliest years, a whole generation was inspired by Rand's libertarian message of individualism and uncompromising free-market capitalism. It was all the more amazing given that libertarianism began evolving during the era of President Roosevelt's socialist/fascist New Deal.

Libertarian pioneers such as author Rose Wilder Lane and H. L. Mencken, columnist for the *Baltimore Evening Sun*, vigorously attacked the socialism and collectivism of the New Deal and paved the way for a much larger and more influential movement which later developed.

A seminal moment of the modern libertarian movement was the 1969 convention of the pioneer young conservative group, Young Americans for Freedom (YAF) in St Louis, Missouri. Since the founding in 1960 of



this association of young Barry Goldwater conservatives, there had been an uneasy peace between YAF's traditionalist conservative wing and the libertarian-Randian wing. Libertarian opposition to the Vietnam War, the military draft and other human rights issues finally erupted into full-scale political war. This confrontation resulted in a purge of the libertarians, who left en masse and met under St. Louis Gateway Arch to found a new movement.

Luminaries such as Karl Hess, author of the 1960 Republican platform and a former Goldwater-Nixon-Ford speech writer, Leonardiggio, who would later become president of the Institute for Humane Studies, and most of the International Society for Individual Liberty's (ISIL) current board members were there. At this time ISIL's sister organization the Society for Individual Liberty (SIL) was formed as an umbrella group for disenfranchised libertarians. From this new beginning the movement grew. SIL produced a comprehensive series of educational pamphlets which sold in the millions. They organized tax protest days, and created a network of activist student chapters in colleges and universities across the nation. In the years following the historic 1969 conservative/libertarian split, many of the movement's intellectual institutions formed: Laissez Faire Books, Reason magazine and the Reason Foundation, the Cato Institute, the Institute for Humane Studies, the Ludwig von Mises Institute and more.

Today libertarianism in America, if not a major success at the ballot box, is an intellectual force to be reckoned with.

One of the key contributions of the libertarian movement has been its critical examination and analysis of the proper role of government. This is a subject libertarians take very seriously. For many years the standard line was that since governments enjoy a monopoly on the use of force, its proper role should be limited to those agencies in which such powers seem appropriate (i.e., police, military and courts). Nothing else.

An impressive body of literature has arisen from the pens of libertarian scholars challenging the role of government in today's society. They have observed that it is difficult to find anything that government touches that is not eventually turned into a cesspool of corruption, patronage and mindboggling waste.

Competitive markets in a free economy, they assert, can provide most if not all the essential services currently provided by government.



Many in the movement, including David Friedman, son of Milton Friedman and author of a seminal book entitled *The Machinery of Freedom*, explain that virtually every function currently provided by governments can be provided better and more inexpensively — not to mention more compassionately — by competitive market institutions.

There are interesting arguments of great merit from both sides of this debate. How much better would it be, for example, if organizations like the United Way, churches or other charitable organizations handled welfare instead of government?

For example, in America the government wastes over 80 percent of its welfare dollars on mammoth bureaucracies and their palatial offices, whereas private charities reverse these figures. The Social Security system is bankrupt and inflicts a terrible tax burden on the younger generation. Why not take it out of the hands of corrupt politicians and privatize it? There is a vast library of literature on the privatization of most governmental functions by the world's leading scholars. For those interested, Laissez Faire Books can provide the proper research material. Their book service and informative catalogue is one of the treasures of the libertarian movement.

We believe that the world is in for a rough ride over the next decade, but that the twenty-first century holds the promise of a renaissance of freedom. Libertarians will remain on the front lines of the battle for free markets and free minds. We invite you to join us.

ATLAS SHRUGGED:

FROM FICTION TO FACT IN 52 YEARS

Robert E. Bauman JD, February 2009

"Many of us who know Ayn Rand's work have noticed that with each passing week, and with each successive bailout plan and economic stimulus scheme out of Washington, our current politicians are committing the very acts of economic lunacy that *Atlas Shrugged* parodied in 1957, when this 1,000-page novel was first published and became an instant hit."

So writes Stephen Moore, formerly of the libertarian Cato Institute and now the senior economics writer for *The Wall Street Journal*.



RAMPANT DO-GOODISM

As Moore notes about Rand's magnum opus: "...the moral of the story is simply this: Politicians invariably respond to crises — that in most cases they themselves created — by spawning new government programs, laws and regulations. These, in turn, generate more havoc and poverty, which inspires the politicians to create more programs...and the downward spiral repeats itself until the productive sectors of the economy collapse under the collective weight of taxes and other burdens imposed in the name of fairness, equality and do-goodism."

Having read Rand's book (long ago), I agree that the United States government and its self-styled political saviors in Washington have by now surpassed the worst case scenario Rand spelled out in her best-selling book. The similarities of the plot to the present are uncanny — and disturbing.

TRADITIONALIST VS. OBJECTIVIST

In politically turbulent 1960s America, Rand spawned a cadre of young followers (not including me), brash and headstrong "objectivists" who were a part of the driving force in conservative organizations such as Young Americans for Freedom (YAF — which I headed from 1962 to 1965), the Intercollegiate Studies Institute (ISI), and the Young Republicans.

Our passion was real, and our commitment to liberty genuine. But in those ancient days, most of us were firmly in the anti-Rand "traditionalist" conservative camp. We agreed with the objectivists in the need for a revived capitalism, but not without what Randians called the "sentimentality" of religion.

WITNESS A TURNING POINT

The publication of Whitaker Chambers' *Witness* in 1952, and its phenomenal popularity, decisively shaped the conservative movement in America at a time when the movement could well have taken a different turn.

After *Witness*, American conservatism gained a religious dimension. I was a student at Georgetown University School of Foreign Service when I devoured the book. Its stringent treatment of capitalism, communism and faith clarified and solidified my nascent conservative philosophy.

Chambers was a man who recognized the absolute necessity of faith in God, and who argued that the collapse of such faith on all sides had



brought about a crisis of civilization. His piety and sincerity spoke to Protestant, Catholic, and Jew alike.

A MASTERPIECE

Understanding this difference of attitude explains the famous controversy that followed the 1957 review of Rand's *Atlas Shrugged* that Whitaker Chambers wrote for my friend, William F. Buckley's National Review.

As Prof. Joseph S. Salemi, a poet and critic at Hunter College observed: "A masterpiece of polemical deflation, [Chamber's] review precipitated a major split in the conservative movement between traditional conservatives and their objectivist allies of expedience. A good number of the magazine's readers canceled their subscription to the journal, and both Chambers and Buckley became unmentionable pariahs in certain libertarian circles where Rand was seen as a bulwark of intellectual freedom and anti-collectivist energies."

BACK TO THE FUTURE

Never the less, the non-believer Rand was prescient in much of the plot of *Atlas Shrugged*.

As Stephen Moore notes, Obama's current economic strategy is right out of *Atlas Shrugged*: The more incompetent you are in business, the more handouts the politicians will bestow on you...With each successive bailout to 'calm the markets,' another trillion of national wealth is subsequently lost. Yet, as Atlas grimly foretold, we now treat the incompetent who wreck their companies as victims, while those resourceful business owners who manage to make a profit are portrayed as recipients of illegitimate 'windfalls.'"

DEADLY COMBINATION

"Ultimately, *Atlas Shrugged* is a celebration of the entrepreneur, the risk taker and the cultivator of wealth through human intellect. Critics dismissed the novel as simple-minded, and even some of Rand's political admirers complained that she lacked compassion. Yet one pertinent warning resounds throughout the book: When profits and wealth and creativity are denigrated in society, they start to disappear — leaving everyone the poorer."

Based on current events, one might venture the opinion that an even greater threat to personal and collective liberty results from a deadly com-



mination of the stupidity and greed of entrepreneurs with the incompetence and idiocy of Big Brother government and its slavish advocates.

THE NEW COLD WAR: WEALTH IS THE TARGET

Robert E. Bauman, JD, 1998

Knowledgeable U.S. lawyers, accountants and tax consultants will admit that the U.S. Internal Revenue Service (IRS) has declared war on Americans engaged in traditional offshore financial activity of nearly every kind.

It's a favorite IRS public relations tactic to issue dire "crack down" warnings and enforcement threats to keep taxpayers honest. In 1997, the IRS theme was to stop "abusive trusts," both domestic and foreign, and those who sell them.

The IRS believes there is a host of alleged tax evaders and money launderers whom they presume guilty based on the financial tools the accused taxpayer uses. High on the prime IRS target list are those who set up and use international business corporations (IBCs), offshore trusts, and bank accounts in known "tax haven" nations, especially where financial privacy laws are strict.

This anti-wealth attack is coordinated with other federal agencies including the U.S. Department of Justice (DOJ), the Federal Reserve Board, the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN), the Comptroller of the Currency, the Federal Bureau of Investigation, other appropriate police agencies, and sympathetic foreign governments like the U.K.

J. Richard Duke, Esq., a leading U.S. asset protection attorney from Birmingham, Alabama, sees the IRS agenda as "an indiscriminate attack on anyone who dares to shield wealth in ways that until now have been considered entirely legitimate."

Mr. Duke's view was echoed by Charles A. Cain of the U.K., editor of *Offshore Investment*, in a 1998 editorial ("The New Cold War") in which he charged "the line between tax avoidance and tax evasion" is purposely being blurred by governments, with honest people (and their tax advisors) being jailed for "failed attempts at tax avoidance," while "tax evasion is put down on a moral level with heroin and cocaine pushing."



This is all part of a new international “Cold War,” waged by government bureaucrats against anyone who seeks lower taxes and less financial regulation, especially those who choose to go offshore.

The IRS battle plan is a desperate grasp by Big Brother aimed at stopping those who rebel against heavy taxation and the transfer of wealth from productive citizens to unworthy tax consumers. The tax collectors know the most talented citizens of the U.S., U.K. and other welfare states are deserting, setting up financial shop where they and their capital are treated best.

This trend is intensified by the developing worldwide “cyber-economy” based on Internet technology and free communications unmediated by governments. What has been called the “permeability of financial frontiers” now empowers investors instantly to shift vast sums of money from one nation to another and from one currency to another. The 1998-99 “Asian crisis” demonstrated this heretofore unparalleled economic force.

Myopic liberals welcome these trends as the potential “collapse of nationhood,” the chance to establish one-world government and control by institutions like the International Monetary Fund and the European Union.

Lovers of liberty with an acute sense of history see instead the potential for liberation of “the sovereign individual,” the courageous person who declares independence from “decrepit and debilitating welfare states” as the *Wall Street Journal* described them. (For more on this debate, read *The Sovereign Individual*, by James Dale Davidson and Lord William Rees-Mogg, Simon & Schuster, 1997, an excellent book that explains the coming mass exodus of wealthy people from high tax nations.)

No wonder the U.K. Inland Revenue, the IRS and other tax hounds are worried.

The Economist notes that “undeclared” (untaxed) work now exceeds 15 percent of Europe’s combined gross domestic product (GDP), up from five percent in the 1970s. In the somewhat freer U.S., the underground “black market” economy accounts for nearly 10 percent of GDP. That means billions of dollars are slipping through the eager hands of the tax man.

Why the growing black market? Confiscatory taxes, exorbitant labor costs, overregulation — all failures of big government. All things bureaucrats love.



This coordinated assault on wealth has a strong international dimension as well. The U.S., using its considerable powers, and the U.K., using old colonial ties, are turning the screws on national governments who fail or refuse to go along with the concerted anti-offshore wealth attack.

Even greater pressure is being applied to international banks that do business in the U.S. or U.K., as well as in known tax and wealth “haven nations,” which means nearly every international bank.

As that firebrand of the American Revolution, Patrick Henry of Virginia said, “I am willing to know the whole truth, to know the worst, and to prepare for it. You have been forewarned and should act accordingly.”

IT ALL STARTS WITH PROPERTY RIGHTS

John Pugsley, *The Sovereign Individual*, January 2003

“To be controlled in our economic pursuits, means to be...controlled in everything.” — F. A. Hayek

The feelings that drive us to defend ourselves against government oppression are an expression of our innate compulsion to control our own property. Each of us shares the feeling that it is unjust and an outrage for our hard-earned wealth to be taken from us without our consent.

The drive to control our own property is not unique to modern man. Studies of animal species, observations of hunter-gatherer groups still in existence, and the written history of civilization leave no question that territorialism is a biological imperative. As socio-biologist E. O. Wilson argues, “The biological formula of territorialism translates easily into the ritual of modern property ownership.”

By the time our early hominid ancestors were wandering the African savannah millions of years ago, the genes that expressed the “property” instinct were firmly wired into mammalian DNA.

The Declaration of Independence suggests that the Founding Fathers understood this aspect of human nature. It argued that all men “are endowed by their Creator with certain unalienable Rights; that among these are Life, Liberty and the pursuit of Happiness.” Life, liberty and the pursuit of happiness, of course, are all aspects of property.



The long train of abuses and usurpations that drove the Founding Fathers to rebel was triggered by the same genes that give rise to your rage when someone burglarizes your home, steals your car or defrauds you. Those genes are equally activated when that attack comes from government.

Most would agree that the function of government is to safeguard the property and freedom of citizens. Yet, it must be clear by now that the single greatest threat to any citizen's property is its own government. In the United States, the combined burden of local, state and federal tax immediately confiscates between 30% and 60% of our annual incomes, and hits anything a person saves again at the point of death. And that's just the beginning.

Governments also hold monopolies on licenses and permits which, in many countries, prohibit rather than encourage business enterprise and wealth creation. Peruvian economist Hernando de Soto in his brilliant book *The Mystery of Capital* provides numerous examples of how governments around the world discourage private ownership and enterprise. "An Egyptian who wants to acquire and legally register a lot on state-owned desert land (which means, most land) must wend his way through at least 77 bureaucratic procedures at 31 public and private agencies," which can take from 5 to 14 years. "To build a legal dwelling on former agricultural land would require 6 to 11 years of bureaucratic wrangling."

"In Haiti," writes De Soto, "one way an ordinary person can settle legally on government land is first to lease it from the government for five years and then buy it. Working with associates in Haiti, our researchers found that to obtain such a lease took 65 bureaucratic steps requiring, on average, a little more than two years. All for the privilege of merely leasing the land for five years."

Of course such government restrictions have given rise to tremendous amounts of underground activity, but people are seldom able to do as well as they could if the activity was legal. "Extralegal businesses," De Soto explains, "are taxed by the lack of good property law and continually have to hide their operations from the authorities. Because they are not incorporated, extralegal entrepreneurs cannot lure investors by selling shares; they cannot get low-interest formal credit because they do not have legal addresses. They cannot reduce risks by declaring limited liability or obtaining insurance coverage...moreover, because extralegal entrepreneurs live in constant fear of government detection and extortion from corrupt officials, they are forced to split and compartmentalize their



production facilities between many locations, thereby rarely achieving economies of scale.”

Moreover, because illegal businesses are always on the lookout for police, they can forget about openly advertising to build their customer base or making less costly bulk deliveries. Underground businesses are also easy prey for local Mafias who know they don't have to fear official police protection of the illegal operation.

Failure to comply with the myriad laws, regulations, rules, codes and policies levies an additional cost. Fail to pay your taxes, allow a permit or license to expire, find your property in the way of a new public project, have any illegal drug found on your premises, violate a building code, deposit an unusual amount of cash into your bank account, have inadequate toilet facilities for handicapped employees, or paint your building a shocking color, and you may be fined, arrested, and have your property taken away by city, county, state, or federal authorities.

Attempt to resist and they'll take your “primordial property” (you). They will throw you in prison or even kill you.

Ultimately, protection of your property rests on protecting yourself from all threats, the biggest of which is government itself. The United States is considered by many the freest nation on earth and one in which private property is held in the highest regard. In fact, there are many nations in the Western world, the Pacific Basin, and elsewhere which recognize and respect private property to a much higher degree than the United States.

Prudent individuals diversify their financial portfolios to protect against market fluctuations, inflation, deflation, recession, depression, currency devaluation and even war. In the same way, they diversify internationally to protect against the abuses of government.

The function of The Sovereign Society is to help identify those political jurisdictions that offer the most cost-effective and efficient methods of property protection. Using offshore bank accounts, trusts, and real estate, as well as spreading business holdings among different countries, are practical ways to accomplish your primal need to defend and protect your property.



A DECLARATION OF INDEPENDENCE FOR SOVEREIGN INDIVIDUALS

John Pugsley, *The Sovereign Individual*, July 2002

For Americans, July 4, 2002, will be a particularly emotion-filled Independence Day. The first one since last September's terrorist attack, it strums an intensely patriotic chord in most citizens.

That makes this an especially appropriate time to reflect on the principles of independence.

Revolts against despotic governments are a familiar motif of history. Almost all modern nations from Mexico to the Philippines and from Zaire to the Ukraine have their own national "independence" days, marking their emergence from under one group of tyrants and usually into the grip of another.

Throughout history, independence and subjugation have chased each other around a revolving door. In light of the destruction of freedom in America since 9/11, it seems assured that the hopes of the Founding Fathers that their sacrifices could end this cyclical process are being dashed.

Understanding why the struggle for independence must be waged again and again requires us to step back and examine the social contract in the light of human nature. The rising specter of devastation from weapons of mass destruction make it clear that man had better solve this conundrum, and quickly, or risk annihilation.

Homo sapiens is a mewling infant on the evolutionary scene, arriving a mere 100,000 to 200,000 years ago. Our species is not physically imposing and would have been at a serious disadvantage in the struggle for survival except for a single evolutionary difference that catapulted it to dominance: a powerful forebrain. A single species was equipped with cognitive powers immensely greater than those available to all other life forms. With this formidable weapon, our forebears quickly spread around the globe, reproducing and expanding until we colonized every continent, adapted to every climate, and overwhelmed every physical and biological obstacle.



They did it by using their new cognitive powers for discovery and invention. Somewhere in the prehistoric dawn early humans invented language, captured fire, learned to make spears, fabricated the wheel, conceived agriculture, developed metallurgy, domesticated animals, and originated writing.

Progress accelerated as they recorded instructions for making gunpowder, the catapult, the steam engine, electromagnetism, atomic energy, and the computer. Human “progress” has been built upon science and technology. We are the inheritors. But we are also faced with a terrible obstacle.

Our species has overcome all but one threat to long-term survival. As Pogo said, “We have met the enemy and he is us!” The urgent problem is to discover the social contract that will end the perpetual cycle of subjugation followed by independence once again leading to subjugation.

Man is, by nature, a social animal. Each individual is bound to his community, but is simultaneously bound by his genes to pursue individual survival and the well-being of his immediate kin. In the hunter-gatherer environment in which our ancestors evolved, the social contract was much simpler. In a tribal village of a few dozen members, everyone was kin, and although there were disputes over food and mates and other property, the resolution was simple. Everyone understood fairness. Everyone participated in the decisions.

In modern nations with millions of inhabitants, kin altruism does not extend even to the other side of the town, let alone to strangers across the country and certainly not to “foreigners.” At the primal level of our brains, and in spite of all indoctrination to the contrary, strangers are non-kin, and are thus viewed either as potentially dangerous or to be exploited.

When political power is handed to distant persons, those individuals instinctively tend to use it to benefit themselves, their immediate kin, and those who support their power. Simply declaring independence from a distant tyrant, however, does not solve the problem of despotism if the political system remains intact. It merely leaves the seat of political power open to be grabbed by a new despot. Thus, man’s natural bias toward self-interest, programmed into his brain by eons of natural selection, eliminates the possibility of creating a workable, enduring social contract that is founded on investing power in unrelated individuals or groups.



All individuals, by the authority of the nature of man, should sign a personal Declaration of Independence.

It should state that they are, and of right ought to be free, independent individuals, absolved from all allegiance to any of the arbitrary rules and restrictions forcefully imposed on them by politicians and bureaucrats who claim to be working selflessly in the public interest. Certainly, this is the right of Americans under the Declaration of Independence, although in the cycle of subjugation in which the United States is now mired, exercising our rights as “sovereign individuals” may bring retribution from an increasingly despotic government.

While nations will continue to pass in and out of the revolving door of independence and subjugation, the personal declaration of independence is for all time. It is the statement that you consider yourself a sovereign individual.

The day you sign your personal Declaration of Independence should become the most important holiday in your life.

SECURITY? WHAT SECURITY?

Mark Nestmann, *The Sovereign Individual*, January 2003

“If the government always knows where you are, what job you are seeking, what doctor you’re seeing, where you travel, how you spend your money, how you defend yourself, and what arguably unhealthy behavior you engage in, what do the rest of your rights really mean?”

— Former U.S. Rep. Bob Barr, R-Ga.

What civil liberties restrictions are you willing to accept to curtail “terrorism” and achieve “security?”

The question has more than an academic importance as governments in supposedly “free” countries enact measures that are unprecedented in peacetime: In the United States, the Homeland Security Act gives the government authority to collect and analyze data on individuals and groups, including databases that combine personal, governmental, and corporate records, including e-mails and web sites viewed.



In the European Union, a proposal that would require Internet service providers and phone companies to save the records of all phone calls and e-mails for a year or more seems almost certain to become law in 2003.

Do you want to live in a world where, to quote commentator William Safire, “...every purchase you make with a credit card, every magazine subscription you buy and medical prescription you fill, every web site you visit and e-mail you send or receive, every academic grade you receive, every bank deposit you make, every trip you book and every event you attend...will go into what the Defense Department describes as ‘a virtual, centralized grand database?’”

Fortunately, this hellish vision is nowhere near fruition. Indeed, experts we have polled tell us it will take an effort comparable to the development of an anti-ballistic missile system to make surveillance this intensive a reality.

But this vision does show the shape of “things to come.” It also makes the stakes for persons seeking greater freedom and sovereignty higher than ever as we enter 2003. In this environment, the international wealth building, wealth preservation and privacy preservation techniques outlined by The Sovereign Society have never been more important. Pay them heed, while you still can.

THE “WAR ON TERROR” — SURRENDER OF CIVIL LIBERTIES?

Mark Nestmann, *The Sovereign Individual*, September 2002

Terrorism has been part of daily life in many parts of the world for decades. On September 11, 2001, Americans discovered that they are not immune to such attacks, which are virtually certain to recur. It is only prudent to adjust your portfolio and the way you live to deal with their anticipated effects.

“Freedom and human rights in America are doomed. The U.S. government will lead the American people and the West in general into an unbearable hell and a choking life.” — Osama bin Laden



Did Osama bin Laden win the “war” against the United States?

If “victory” means achieving his oft-voiced objective of removing foreign troops from the Mideast and ending U.S. support for Israel, the answer is no.

But if “victory” instead means ending the “American way of life,” with its support for free markets, property rights and limited governmental powers, then terrorism has indeed triumphed.

In the wake of September 11:

- Hundreds of foreigners suspected of being terrorists or to have terrorist sympathies have been detained without being charged with any crime. The U.S. Department of Justice now asserts that U.S. citizens can also be held incommunicado as “enemy combatants.”
- Military tribunals, operating in secret may be set up to try foreigners charged with terrorism.
- Millions of dollars in property have been confiscated from persons alleged to be terrorists, or to support terrorism. Most of the owners have not been charged with any crime.
- The FBI is eavesdropping on lawyers’ conversations with clients, including people who have been not charged with any crime, when deemed necessary to prevent violence or terrorism.
- Restrictions on the FBI’s ability to spy on religious and political organizations have also been relaxed.
- The FBI can monitor e-mail message “header” information (i.e., obtain source, destination and subject line information) and web browsing patterns merely by declaring that such spying is “relevant” to an ongoing investigation. The same authority applies to materials checked out of libraries.
- Police can conduct secret searches of homes and businesses and implant electronic surveillance devices without informing the occupants.
- Restrictions on data sharing between federal agencies have been significantly relaxed.
- Immigration controls have been tightened, and issuance of visas restricted.
- Other initiatives appear to have little relevance to terrorism, but are

being justified as having an anti-terrorist purpose:

- The Treasury Secretary has the authority to unilaterally terminate all U.S. financial transactions with any country.
- The IRS is publishing the names of persons suspected of being engaged in aggressive tax avoidance strategies, smearing their reputations.
- A nationwide financial transaction-tracking network is under construction.
- Millions more businesses now must report “suspicious transactions” by their customers to law enforcement.
- Any person engaged in a trade or business must file the U.S. Treasury’s Financial Crimes Enforcement Network if a customer makes one or more “related” currency transactions that exceed US\$10,000.
- Carrying large amounts of cash has now become “bulk smuggling” and made a criminal offense.
- Persons living in low-tax jurisdictions who previously enjoyed visa-free travel to the United States now find it necessary to obtain a visa to do so.

One of the most disturbing aspects of these initiatives is the loose definition of “terrorism.” Both the Declaration of National Emergency declared by President Bush in September 2001 and the USA PATRIOT Act (the primary legal authorities under which these initiatives have occurred) define “terrorism” as: “...an activity that — (i) involves a violent act or an act dangerous to human life, property, or infrastructure; and (ii) appears to be intended — (A) to intimidate or coerce a civilian population; (B) to influence the policy of a government by intimidation or coercion; or (C) to affect the conduct of a government by mass destruction, assassination, kidnapping, or hostage-taking.”

This incredibly expansive definition allows the U.S. government to label practically all forms of domestic protest as “terrorism.” One could certainly conclude that the words “intimidate” and “coerce” could apply to any group or organization that actively disapproves of official U.S. policy. Indeed, it could be argued that many forms of organized protest are designed to “intimidate or coerce” a change in government policy.

But these erosions in civil liberties aren’t sufficient to fight the War on Terrorism, we are told.



The Bush Administration now proposes:

- Issuing all Americans a “tamper proof” driver’s license from their state — a de-facto national ID card. Without the federal ID, you likely will not be able to obtain health care, get a job, conduct bank transactions, board an airplane, purchase insurance, or obtain a passport.
- Asking millions of American workers who in the course of their job visit homes or businesses to report any suspicion of illegal activities there to the police.
- Permitting any mail crossing a U.S. border to be searched for any reason.
- Using the military for domestic law enforcement purposes.
- Making the penalties for “attempting” to violate any federal law the same as actually violating it.

Nor is the United States acting alone:

- Throughout the European Union, Internet Service Providers must now install equipment that permits governments to monitor their client’s e-mails and web browsing patterns.
- In Hong Kong, the government may now confiscate assets it believes are linked to terrorists. Anyone who has been wrongly accused must prove their innocence in court to reclaim their property.
- Citing terrorism as the cause, the United Kingdom has opted out of Article 5 of the European Convention on Human Rights, which bans detention without trial.
- The United Nations has proposed that every person in the world be fingerprinted and registered under a universal identification scheme to fight illegal immigration and terrorism.

In short, the “War on Terrorism” has been co-opted into a war against civil liberties.

Is there a better way to fight this war? Yes.

We have observed previously that it is the U.S. propensity to intervene in ethnic and religious struggles worldwide that makes it a terrorist target. Ending U.S. foreign intervention would dramatically reduce the terrorist threat against the United States and its allies.



Equally important is to narrow the focus of the fight against terrorism so that it does not require the wholesale destruction of civil liberties. Programs designed to collect information to administer taxes, for instance, should not come disguised in an anti-terrorist wrapper.

Obtaining the information about the financial activities of terrorists should have a higher priority than obtaining information for tax purposes.

THE ROOTS OF TERRORISM

John Pugsley, *The Sovereign Individual*, June 2002

June marks the beginning of the tenth month in the War on Terrorism, or as Doug Casey calls it, “the Forever War.”

Forever seems to be an accurate description of war in general, as inter-tribal aggression has been a characteristic of Homo sapiens from the beginning. Anthropologists classify it as a general characteristic of hunter-gatherer social behavior.

Harvard professor Edward O. Wilson calls the practice of war “...a straightforward example of a hypertrophied biological predisposition. With the rise of chiefdoms and states, this tendency became institutionalized, war was adopted as an instrument of policy of some of the new societies, and those that employed it best became, tragically, the most successful.” As a result, 6,000 years of recorded history appears as an endless series of wars interspersed with brief periods of recuperation and rearmament.

Terrorism is the easiest if not the only strategy of war left open to a group that cannot directly attack or defend against a superior armed force.

The U.S. colonists who were confronted with the superior army of King George III saw the futility of following the accepted rules of war. They fired from behind trees and walls, engaged in sabotage, tarred and feathered innocent Tories, and thus were denigrated as rabble terrorists by the British. In our day, the Israeli commandos who blew up the King David Hotel in Jerusalem in 1946 were called terrorists.

But the actors change costumes as power shifts. When ‘terrorist’ tactics succeed in overthrowing the incumbent power structure, terrorists are reclassified in the history books. Today Sam Adams and John Hancock



are remembered not as terrorists but as heroic freedom fighters. Menachem Begin, who ordered the destruction of the King David Hotel, subsequently became Israel's Prime Minister and went on to win the Nobel Peace Prize.

The chameleon nature of “terrorists” and “freedom fighters” leaves politicians struggling to distinguish terrorism from their own strategies of aggression. The U.S. Department of Defense, for example, defines “terrorism” as “the calculated use of violence or the threat of violence to inculcate fear; intended to coerce or to intimidate governments or societies in the pursuit of goals that are generally political, religious, or ideological.” It seems a perfect description of the U.S. military, or the armed forces of any major power.

Considering mankind's innate aggressive tendencies, can the War on Terrorism ever be won?

Can we end the Forever War?

Yes. But it will never be accomplished through military victory. The solution to all forms of war, including terrorism, will be found in a deeper understanding of man's biological programming.

We are each endowed with powerful primal instincts that natural selection perfected as survival mechanisms long before Homo sapiens was a twinkle in evolution's eye. All life forms require two things: an instinct for self-preservation and for procreation. Two powerful primal instincts that support self-preservation and procreation are territoriality and hierarchy.

Today, these instincts are permanently hardwired into all mammals. They dominate human behavior, and therefore hold the key to the solution of inter-tribal aggression.

The territorial instinct is the internal, subconscious program that urges almost all animals to mark the boundaries of their chosen habitats, defend against intrusions, and battle for food, lairs and mates. In humans, the territorial instinct pushes us to acquire property, and defend it against threats, theft, and trespassing. We “mark” our land with deeds, our bank accounts with name and number, and our mates with rings and contracts. We are angered and enraged when our property is taken.

The hierarchical instinct pushes us to seek approval, climb the social ladder, and achieve dominance among our peers. In the non-human animal



world it is documented everywhere from the struggle for the position of alpha male in primate groups to the pecking order of chickens. In human culture, the drive for status creates the endless battle for political power and the insatiable desire for property.

Viewed through the lens of these two primal instincts, the root of all conflict is the innate, subconscious drive in all humans to acquire and defend resources. When individuals feel their territory has been attacked, they instinctively feel rage and seek vengeance. As Wilson notes, under the sway of our primal instincts we are "...strongly predisposed to slide into deep, irrational hostility."

Contrary to the nonsense perpetrated in the media, suicide bombers don't sacrifice their lives in hopes of a sexual paradise in the afterlife. Their irrational hostility boils up from deep within the limbic system of their brains. Their primal instincts take control. Such instincts are not devils that can be exorcized through fear or punishment. As long as people feel their property has been stolen from them, their primal instincts will urge them to seek revenge at any cost.

The answer to minimizing human conflict, and particularly war, will be the design of a social contract that protects every individual's property. Our innate human nature leads directly to the conclusion that the Forever War will end when all of us are sovereign individuals, and we feel securely in control of our individual lives and property.

MIRROR, MIRROR ON THE WALL, WHERE'S THE FREEST LAND OF ALL?

John Pugsley, *The Sovereign Individual*, January 2003

Each November, The Heritage Foundation and *The Wall Street Journal* release their annual "Index of Economic Freedom." Backed by voluminous comparative data on taxes, regulations, labor laws, property rights, judicial independence, sound money, international trade barriers, capital controls, etc., this index proposes to rank the world's nations in a descending order from most free to least free.

As has been the case in the past few years, Hong Kong received top billing as the world's freest nation; Singapore was second. The United States,



usually rated around third or fourth, dropped to eighth. Heritage and the Journal are not alone in passing out freedom “Oscars.” The Fraser Institute, a Canadian public-policy organization, cooperates with free-market research institutes in 56 countries to publish “The Economic Freedom Network Index,” and the Cato Institute competes with its “Economic Freedom of the World” index.

It’s a commendable effort, but unfortunately, as Pierre Lemieux, a member of The Sovereign Society Council of Experts, noted in a recent article in the Financial Post, “...in trying to measure it with simplistic index numbers, our friends unwittingly betray their cause...They give us a false sense of contentment...they provide our politicians and bureaucrats with another tool to persuade us that we live in ‘the best of all worlds.’” The concept of indexing freedom has many flaws.

First, if polled, the hundreds of economists and other social “scientists” who compile these indexes wouldn’t even agree on an exact definition of “freedom” let alone the way to measure it. As an example, at the recent Freedom Summit conference in Phoenix, Arizona, every speaker addressing the topic had a different definition for freedom. No science can progress without precise definitions of terms. If each auto manufacturer could make up its own definition of what constituted a gallon, or what length constituted a mile, each one would claim its vehicles got the best fuel mileage.

Nor does the principle of measurement apply to a condition such as freedom. One is either free or not free.

The late physicist Andrew Galambos provided the best and most precise definition of the word. He defined freedom as: “The societal condition that exists when every individual has 100% control of his own property.”

There is no such thing as partial freedom. It’s 100 percent or 0 percent. Nor are indexes or averages even useful to us in our quest for freedom. As Chris Mayer pointed out in a recent essay for The Mises Institute on price indexes, “To speak about average prices is like talking about average precipitation to a golfer. It either rains during a specific time period or it doesn’t. There is no average that is in anyway useful for an acting human being on a golf course. The only information that counts is what it is doing right now while he is teeing off.”

The same fallacy attaches to the idea of indexing freedom.

Over and over I hear that the United States is among the freest nations



on earth. Perhaps that's true, but it's tragic that after 10,000 years of civilization that "free" citizens have almost half of all their earnings confiscated, almost all of their exchanges scrutinized and regulated, and let those in power control what they're allowed to put into their bodies, whether, where and what they're allowed to inhale, and what they are allowed to say.

There are no free countries, only competing political enclaves where authorities with guns use differing degrees of coercion against their populations. The organizations that purport to monitor the level of government control over private action would serve their purpose much better if they changed the names of their reports to "Coercion Indexes" so as not to give the impression that people are enjoying something akin to real freedom.

A general freedom index has no meaning for someone who is facing the decision about where to live, invest, or start a business. Such decisions are based on specific levels of coercion — what is the income or capital gains tax rate, what tariffs are levied on goods, what licenses are required, etc. At best, such indexes serve only the purpose of gaining publicity for non-profit organizations that seek to demonstrate to their contributors that they are doing something worthwhile in the promotion of freedom. It's doubtful that they even have any effect on the public policies they are meant to affect.

The rational individual understands that the quest is, as Harry Browne put it in his classic book, *How to Find Freedom in an Unfree World*. Freedom will not be found in any single nation, regardless of how high that country may rise in any index of the freest places on earth.

Finding freedom in this un-free world is a never-ending search for places and legal structures that provide the highest degree of privacy, asset protection, business and investment opportunity, and personal safety.

This quest is the real challenge to each individual who seeks sovereignty over his or her life, and is the purpose and mission of The Sovereign Society.



WHAT'S WRONG WITH THE U.S. CONSTITUTION?

John Pugsley, *The Sovereign Individual*, July 2009

The country's founding document is concerned almost exclusively with granting powers to the government.

The Bill of Rights partially counteracted that. Yet, today, the tendency towards big government surges almost unchecked. In his 1970 reprise of Rousseau's classic *The Social Contract*, author Robert Ardrey lamented, "Something, unconfined by national boundaries, undeterred by degrees of prosperity, unimpressed by political systems or ideologies, is wrong with human societies." As the world's nations struggle in the throes of a deepening depression, Ardrey's lament rings true.

A LONG TRAIN OF ABUSES AND USURPATIONS

Unable to levy higher taxes to meet the rising demands of a populace that has become addicted to subsidy and promises, politicians worldwide have no solution to offer other than to drastically increase government borrowing in hopes of spending their way out of the credit contraction.

The U.S. leads the pack. This year and next the Treasury will sell more than \$5 trillion in IOUs. Other countries are close behind, jostling each other to sell their IOUs to anyone who'll buy — other governments, institutions, pension funds, and individuals.

The Keynesian hypothesis posits that this torrent of government spending will resuscitate the world's economies, tax revenues will increase, and governments will be able not only to pay the interest, but to repay the debt. Unfortunately, both the evidence of history and common sense tells us that a nation's economy cannot be cleansed of bad debts by replacing them with even more bad debts.

The growth of government debt is but a symptom of the growth of government itself, and the growth of government is exactly what's wrong with human societies. This month, Americans celebrate the 233rd anniversary of the signing of the Declaration of Independence.



The signers, an assemblage of the brightest, most dedicated minds to come out of the Age of Enlightenment, believed this document would deliver the colonies from oppressive government. They recognized that preventing government encroachment on individuals' liberty was prerequisite to peace and prosperity. So they pledged their lives, their fortunes, and their sacred honor to the cause.

Revolts against despotic governments are a familiar pattern in history. With hardly an exception, every modern nation, from Mexico to the Philippines, from Zaire to the Ukraine, has its own national "independence" day, marking each country's emergence from some form of government tyranny. But it seems that no sooner is one oppressive government overthrown than each nation is delivered into the grip of another. Throughout history, independence and subjugation have chased each other around a revolving door.

DERIVED FROM THE CONSENT OF THE GOVERNING

Here we are again.

A nation in which government has grown from a mewling infant, seemingly tightly bound in its crib to restrain its growth, into a behemoth with debts approaching \$100 trillion.

Yes, there is something wrong with our society, and sadly there is little that you and I can do to fix the problem. However, each of us can minimize the effects of the error on ourselves. To understand what we can do, it's necessary to examine the social contract and identify the flaw. The Declaration of Independence and the Constitution were bold attempts to limit government.

What did the Founding Fathers get wrong?

They signers of the Declaration of Independence took the unprecedented stand that individuals had "unalienable rights" and that the only function of government was to secure those rights. They challenged the authority of the British government to rule their lives, and went to war and won. Then they set about to fashion a "new" social contract — hopefully one that could protect them from the rebirth of tyranny.

Unfortunately, a different group of political aspirants with a different agenda from the original signers drafted the new social contract, the Constitution. The Constitution did not follow the principles set down in



the Declaration of Independence. This was a huge shift over the peaceful Articles of Confederation where each state was free to pursue its own interests peacefully.

Rather, the new Constitution of the United States was little more than a sweeping grant of power to a new government. Article I delineated the powers granted to the legislative branch, Article II to the executive branch, and Article III to the judicial branch.

The word “power” appears 16 times within the Constitution, always referring to the power of government over individual citizens. The “unalienable rights” of individuals is never mentioned in the body of the Constitution.

IT BECOMES NECESSARY...

Only later, when critics demanded that the new document be amended to limit the power of the new government, were the first 10 amendments, the “Bill of Rights,” inserted.

Sadly, time has proven that the Bill of Rights was not sufficient, as the federal government has steamrolled over what few protections individuals and states were granted. As we know today from the expanding power of government, the founders’ quest for a social contract that would guarantee individual liberty has failed.

Why did the quest fail? What is wrong with the social contracts now governing human societies?

The mistake lies in any form of social contract in which one person is given power over another. To understand this, it’s necessary to recognize that every individual is guided by a common human nature formed over millions of generations by relentless natural selection.

At the core of that nature lies self interest. As E.O. Wilson, the father of sociobiology, noted: “Individual behavior, including seemingly altruistic acts bestowed on tribe and nation, are directed, sometimes very circuitously, toward the Darwinian advantage of the solitary human being and his closest relatives.”

It is this self interest which ensures that when put into a position of power over the lives and property of others, any individual’s tendency will be to look through the lens of his own self interest (and that of his im-



mediate family, friends, and associates). As Lord Acton so famously put it, "Power tends to corrupt, and absolute power corrupts absolutely."

So-called political scientists can argue and even demand, as Karl Marx did, that individuals devote their lives to the common good. But neither persuasion nor indoctrination nor force can reprogram individuals to favor the welfare of strangers over their own.

To uncover the cause of today's social and economic catastrophes, we need only follow the self interest of each individual involved. Whether banker, industrialist, entrepreneur, worker or bureaucrat, each follows an instinctive drive to benefit himself and the democratic process provides a mechanism to do so through government.

THESE TRUTHS ARE SELF-EVIDENT

To understand why the American Revolution failed to give birth to permanent liberty, we need look no further than the Constitution, and its grant of power to government.

As we attempt to live our lives as sovereign individuals, we first must recognize that we have negligible influence over the direction of society, but by understanding the source of society's problems, we insulate ourselves and our assets.

This has been the focus of The Sovereign Society since its founding a dozen years ago. As the nation's economy withers under rising taxes, surging monetary inflation, and falling asset prices, The Society continues to be dedicated to developing new and better strategies for both defense and profit.

THE MILITARIZATION OF AMERICA

Robert E. Bauman JD, October 2008

The name of the so-called "U.S. Department of Homeland Security" has always disturbed and rankled me.

Created in the frenzied political aftermath of the 9-11-2001 terrorist attacks, it sounds like something Hitler's propaganda minister, Josef Goebbels would have dreamed up to impress the gullible masses. Indeed, the



attitude too often displayed at airports by the overpaid DHS's minions of the Transportation Security Administration (TSA) is akin to that of storm troopers.

Two years ago I and others called attention to a dangerous provision slipped into an omnibus appropriation bill that gave the President of the United States the unprecedented power to deploy the U.S. military for domestic duty within the United States as he sees fit.

President Bush (or someone who had his ear) came up with the disturbing idea that the U.S. military should be put in charge of domestic police matters when a "major catastrophe" occurs within America.

MAJOR CATASTROPHE

The operative factor here depends squarely on how one defines "major catastrophe" — an elastic phrase that could be expanded at the stroke of a presidential pen. (Read some of the Presidential Emergency Declarations now in effect and you may have trouble sleeping nights.)

Nevertheless, this extraordinary power was written into law. Now it has been announced that for the first time an active U.S. Army Infantry Brigade has been assigned "to provide command and control for federal homeland defense efforts and coordinate defense support of civil authorities."

A news article reports that these active duty troops will "learn new skills, use some of the ones they acquired in the war zone and more than likely will not be shot at while doing any of it. They may be called upon to help with civil unrest and crowd control."

One has to ask what possible rationale is there for permanently deploying the U.S. Army inside the United States — under the command of any President — for any purpose — let alone things such as "crowd control," other traditional law enforcement functions, and a seemingly unlimited array of other uses at the President's sole discretion?

Perhaps they will be deployed to assure that the pending elections (or any Florida recounts) will be orderly. Or maybe they will be sent to Capitol Hill to convince a congressional majority that Wall Street deserves a \$700 billion bailout.

Recalling the unconstitutional excesses perpetrated by the federal government under the misnamed PATRIOT Act, are we now to believe a



military trained to kill the enemy is going to play the role of Officer Clancy on the local beat?

BITTER HISTORY LESSONS

There are a great many very good reasons why long-standing statutory prohibitions against the military acting as domestic policemen should not be suspended, now or even in the event of a major emergency.

The 1878 Posse Comitatus Act limited the role of the U.S. military in our lives and kept America from becoming a banana republic. That law was adopted after a 15-year military occupation by the U.S. Army as post-Civil War law enforcement in the Southern States, the “Reconstruction,” as the North liked to call it. (There’s a major history lesson to be learned right there.)

Until the Bush law was enacted, America’s military always was prohibited, for the most part, from acting as a domestic police force. They were banned from participation in arrests, searches, seizure of evidence and other police activity on U.S. soil. (The U.S. Coast Guard and National Guard troops under the control of state governors are excluded from these historic prohibitions.) That law doesn’t stop the military from providing emergency supplies and keeping order in a natural disaster as a state governor directs.

LOCAL POLICE MILITARIZATION

For the last 20 years America has experienced the horror of the militarization of its own local and state police.

Remember that there were military “advisors” during the Janet Reno’s DOJ slaughter at Waco, Texas. Who can forget a flack jacketed federal agent waving a machine gun at a terrified Elian Gonzalez as he was dragged back to Castro’s Cuba, also courtesy of Reno. Or the slaughter of innocents at Ruby Ridge, Idaho.

But similar events, where people are assaulted in their homes by SWAT teams waving machine guns, threatening to shoot, and trashing a home as a tactical distraction, happen repeatedly in the U.S. It’s all part of the failed war on drugs that has burdened us with a gigantic police state establishment spending billions every year to no good purpose.

The most dangerous aspect of police militarization isn’t the SWAT teams in black masks and the machine guns at the ready.



It's the change the attitude of too many police.

In a constitutional republic policemen are supposed to be “peace officers.” Police militarization promotes maximal use of force as a solution, even when no force at all is required. Police think of themselves as an occupying army, and the public comes to think of them as the same. That's the real disaster!

POWER TO THE PEOPLE

Isn't it bad enough that domestic U.S. policing is approaching a sad state of militarization. Must we step off the precipice and turn the country over to an occupying U.S. Army under control of the White House, assisted by the Pentagon?

I hope not. As the current national economic problems have proven, the people of the United States and properly-run government can meet any major catastrophe — if we have good leadership at all levels — and if we put an end to power grabs at the expense of peoples' liberties and the Constitution.

REVISE THE PATRIOT ACT

Robert E. Bauman JD, *The Offshore A-Letter*,
September 2009

“He who sacrifices freedom for security deserves neither.”
— Benjamin Franklin

It's been eight long years since attacks on the World Trade Center and the Pentagon inspired a sense of unbridled panic. Amidst this frantic chaos — with stock markets falling so fast that trading was halted for several days — the USA PATRIOT Act was quietly passed into law... and the American people were introduced to the worst legislative attack on the Constitution since President John Adams and the 1789 Alien and Sedition Laws.

Well, this week — eight years later — the U.S. Congress will hold hearings on extending three provisions of the USA PATRIOT Act that expire at the end of this year.



At the same time, civil liberties groups and some Democratic senators are pressing for changes to Bush era surveillance laws that might revive some of the Fourth Amendment protections the PATRIOT Act has all but destroyed.

The Act's name itself is a public relations acronym. It stands for the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act," Public Law No. 107-56.

Both the House and the Senate are set to hold committee hearings this week on re-authorizing sections that expanded the power of the F.B.I. to seize personal and financial records without a warrant and to eavesdrop without court approval on phone calls in counter terrorism investigations.

RESTORING THE FOURTH AMENDMENT?

A group of U.S. senators who support greater privacy protections introduced a bill, S.1686, last week that would impose new safeguards on the PATRIOT Act while tightening restrictions on other surveillance policies.

Senator Russ Feingold (D-Wisc), the chief sponsor, was the only senator who had the courage to vote against the Act when it was first adopted in 2001. The measure is co-sponsored by nine Democrats, an independent and no Republicans.

Some want to use the extension bill to restrict the FBI's use of so-called "national security letters" — administrative subpoenas that allow agents to seize business records without obtaining permission from a judge, which, in the past, was required. Agents have used this device tens of thousands of times each year.

The Justice Department's inspector general issued two reports finding that FBI agents frequently abused these letters in obtaining bank, credit card and telephone records.

Remember, dear friend...it was presidential candidate Barack Obama who criticized the PATRIOT Act and promised, if elected, to reform it.

Rather than make improvements, Obama has since endorsed and adopted as his own questionable Bush policies of prolonged detention



without charges, and surveillance of Americans without warrants or probable cause. Obama has indicated he may even go further, requesting new powers to arrest and detain people without charges, a direct violation of the Constitution.

ASSAULT ON FINANCIAL PRIVACY

The section of the PATRIOT Act (125 of 362 pages), that pertains to U.S. banking and finance is the greatest single governmental assault on personal and financial privacy in American history.

The net result was that American banks and financial institutions, indeed all U.S. businesses, by law now are required to spy on their clients, “know their customers” and report any “suspicious activity” to the government.

Understand that this Act, then and now, is still sold as being an “anti-terrorist” law.

In fact, the Act’s police powers have been used broadly to investigate and prosecute all types of crimes, many having nothing to do with terrorism. In 2004, two federal judges secretly ruled that the Act could be used to investigate any criminal or other pending charges, even if unrelated to terrorism.

STRATEGIES TO SHIELD YOU

The PATRIOT Act’s powers operate mainly within the United States. That means you should arrange your investments, cash, assets, record keeping and financial information in a way that maximizes your privacy, including the use of structures located offshore. Three major moves to consider:

1. Move some of your assets to offshore jurisdictions that guarantee privacy by law. Foreign insurance contracts, annuities, foreign real estate and offshore precious metals holdings all are examples of legal investments that, even under the PATRIOT Act, are difficult for the U.S. government to seize.
2. Create one or more offshore legal entities, such as an asset protection trust or private family foundation. Pick a maximum privacy country and your name as owner is not a public record and can be kept confidential unless a local court orders otherwise. An offshore entity can



also provide asset protection against frozen bank accounts or attempts at civil asset forfeiture.

3. Choose an offshore country as your base of business operations and possibly, as your home. In tax haven or maximum privacy nations such as Panama, Austria, Switzerland, Liechtenstein, Monaco, Andorra, Belize, Singapore, Uruguay and the Cook Islands, information is not surrendered automatically to demands by foreign governments or lawsuits, even under the newly imposed OECD tax information exchange rules.

WE CAN HELP...

The Sovereign Society can advise you on tax and asset haven nations that have statutory protections for financial privacy, as well as professionals that can help. With the current political situation in the United States, the time to act is now.

BIG BROTHER LIVES

Robert E. Bauman JD, September 2007

It should surprise no one that England's Special Branch, the police intelligence unit, was watching George Orwell during most of his adult life. It is certainly what Orwell, a student of political paranoia, would have expected. The file on Orwell was released last week by Britain's National Archives. According to one police sergeant, Orwell's habit of dressing "in Bohemian fashion," revealed that the writer was a Communist, a conclusion that will seem strange to anyone who has read *Animal Farm*.

In my writings I often use the phrase "Big Brother" as shorthand for oppressive government in general and for its specific absurdities and depredations, all of which have multiplied exponentially under the Bush maladministration and its lawless conduct in its self-proclaimed "war of terrorism." For that pungent Big Brother phrase, and many others (unperson, thought crime, doublethink, newspeak, Ministry of Truth) we are in debt to Orwell. He achieved so much in so little time (he died at the age of 46 in 1950) that he's become the subject of an intellectual parlor game: "What would Orwell say?"



It is appropriate that Orwell's police file should emerge in the same week that it was reported that the FBI, far exceeding its considerable PATRIOT Act powers, used secret demands for records to obtain data not only on individuals it saw as targets, but also details on their "community of interest" — the network of hundreds of people that the target was in contact with. The FBI stopped the practice early this year in part because of questions about the legality of its aggressive use of the records demands, known as national security letters. Indeed, Bush's resigned U.S. assistant attorney general, Jack Goldsmith, has just published a revealing book in which he explains the faulty legal basis for the President's massive wiretapping of communications without obtaining a court order as the law requires.

Commenting on the surveillance of Orwell *The New York Times* said: "This is such an old and forbidding dance, the one between the watchers and the watched. The political life of the past century has been punctuated by one revelation after another, as secret files have been made public, either by legislative fiat or by the accidents of history. The files are nearly always perspicacious — not about the subjects being watched but about the fears of the watchers. This is something Orwell understood perfectly well, how fear enhances perception, but also corrupts it."

Big Brother was born in *Nineteen Eighty-Four*, Orwell's 1949 vision of a totalitarian society where people are kept in line with the warning: "Big Brother is watching you." Not only watching, but demanding that every citizen accept that $2+2=5$ and that "War is Peace, Freedom is Slavery, Ignorance is Strength." Earlier, in August 1945, Orwell's little book called *Animal Farm* appeared. It was perhaps his greatest work, depicting a Communist society where the animals take over, with some far more equal than others.

Why should it matter what Orwell might have thought more than half a century after he died, and more than a decade after the Soviet Union — the obvious target of his two most famous books, *Animal Farm* and *1984* — fell apart? One reason is that the kind of folly, cowardice and corruption he fought against is still with us.

Orwell himself said: "Political language...is designed to make lies sound truthful and murder respectable, and to give an appearance of solidity to pure wind. One cannot change this all in a moment, but one can at least change one's own habits, and from time to time one can even, if one jeers loudly enough, send some worn out and useless phrase into the dustbin,



where it belongs.” Keep that in mind this week as the debate over the Iraq war “surge” rages.

Orwell resembles his own picture of Charles Dickens: “...a man who is always fighting against something, but who fights in the open and is not frightened, the face of a man who is generously angry.” That kind of character, scarce as it will always be, is why *The Economist* said Orwell’s voice “speaks as urgently to our times as it did to his.”

The Times concludes: “There is an obvious irony in Orwell’s being spied on in a way that can only be called “Orwellian.” That is nearly a universal adjective in these Orwellian days. It’s tempting to say there’s something almost nostalgic about seeing Orwell’s file — a reminder of a less electronic time. Except, of course, that there was nothing nostalgic about the politics of his era. Every age, his as well as ours, seems to live up to its sinister potential.”





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EDITOR'S NOTE

Almost anyone with determination and the financial means can become an international citizen.

This is accomplished by acquiring a legal second citizenship, and along with that enhanced status you receive an official second passport. This new passport can expand your legal rights, allowing easier world travel unmolested by a curious border guard and nosy customs and tax officials. It also can open doors that otherwise would remain closed to you.

Best of all, a second citizenship/passport can serve as the key to reducing your taxes and protecting your assets — or even saving your life.

In Chapter Two we explain how this second passport “magic” can work for you. You should consider this chapter in conjunction with Chapter Seven — Taxes.

PASSPORTS EXPLAINED

Robert E. Bauman JD, *The Passport Book*, 2009

Foreign travel in the modern world means having to deal with all the inconveniences imposed by national sovereignty — international borders, customs officials, passports, visas and identity documents. It means having to put up with officious customs officers, bribe-seeking border guards and unreasonable, unexplained delays.

PASSPORTS, A MODERN INVENTION

It may seem difficult to believe, but until shortly before the First World War (1914-1919), official passports were almost never required by most countries. In those slower times, document-free international travel was the general rule. Passports were usually special travel documents used to protect official emissaries of nation states at war with each other, allowing safe conduct for surrender or peace negotiations.

The first modern travel document, known as the “Nansen Passport,” was issued to White Russian refugees in the prolonged civil war that followed the 1918 anti-Tsarist Russian Revolution led by the Bolsheviks.

That document took its name from Fritzjof Nansen, a Norwegian ex-



plorer, later a delegate to the ill-fated League of Nations in Geneva, who first proposed the passport concept. This passport, administered by the League, successfully served hundreds of thousands of refugees as a travel and identity document until the outbreak of World War II in September 1939. The International Refugee Organization (IRO) replaced the defunct League's Nansen Passport Office from 1930 to 1945, but had no authority to issue refugee documents.

In a 1951 treaty, the "Convention on the Status of Refugees" (CSR), the United Nations attempted to define the rights of international refugees. The CSR authorized signatory countries to issue travel documents for those they determine eligible for refugee status, applying the Convention's criteria.

Since each nation interpreted the CSR in its own fashion, the world soon became cluttered with thousands of refugees fleeing from wars, ethnic conflicts, famine and pestilence. These unfortunates were admitted by some countries, rejected by others, and the result was misery on a grand scale in places as diverse as the Balkans, Israel and Palestine, Hong Kong, Vietnam, Cambodia and Rwanda.

On the subject of the right of persons to travel freely, the United Nations Universal Declaration of Human Rights, Article 13 states: Everyone has the right to freedom of movement and residence within the borders of each state. Everyone has the right to leave any country, including his own, and to return to his country.

Article 15 states: Everyone has the right to a nationality. No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.

It goes without saying these so-called "rights" of free movement, travel and residence have been, and are, systematically violated by almost every nation, including dictatorships and democracies.

The United States and the United Kingdom are among the worst violators when it suits the political convenience of the government in power at the moment.

POLITICS DOMINATES THE RECENT HISTORY OF WORLD

REFUGEE PROBLEMS

In 1956, the U.S. government under President Dwight Eisenhower welcomed thousands of refugees from the failed Hungarian revolt against



the Russian-backed Communists who then dominated that eastern European nation. During four decades of the Castro regime in Cuba, the U.S. has repeatedly admitted tens of thousands of Cuban refugees who, with their offspring, now constitute a majority of U.S. citizens in South Florida.

In contrast, in what has been called a racist policy, during the early 1990s the U.S. turned away thousands of Haitian “boat people” trying to escape dictatorship and poverty. In a shameful act, the British refused to give citizens of Hong Kong full U.K. citizenship when Communist China took over the colonial government in 1997, mainly because of a feared U.K. voter backlash against admitting more immigrants “of color.”

More recently the Balkan wars involving Serbia, Bosnia, Albania and Kosovo have produced hundreds of thousands refugees whose fate seemed the least concern of many national leaders, including their own.

WHO NEEDS A SECOND PASSPORT?

The English political philosopher Edmund Burke (1729-97) observed in another time: “Early and provident fear is the mother of safety.”

That is still good advice for any potential world traveler. Having to be “politically correct” often means travel using a national passport that keeps the bearer as far away as possible from international controversy. It may be a fact of your political life that your home nation’s passport provides you little or no safety margin, but another nation’s passport will.

Some countries are more popular and accepted in the world than others. Some countries are respected in some parts of the world, reviled in others. Some countries are universally condemned and ostracized. Whichever categories your nation happens to fall into at the moment can determine when you present your passport.

Travel in the Middle East or the Balkans, parts of Russia or Asia using a U.S. passport can make you an instant target for terrorist groups. If your government is out of world favor at the moment, your passport could be confiscated, revoked or suspended at will, as happened to citizens of the Republic of South Africa during the apartheid years.

It’s a fact of international political life that citizens of certain countries, the U.S. among them, find travel abroad difficult. For many reasons some countries impose strict visa requirements each time a foreign national



wants to enter their country. It's their way of keeping out troublemakers and other supposed "undesirables."

Similar troubles can be expected by Americans who want to visit Cuba. For decades it has been illegal for U.S. citizens to visit Cuba because of the official U.S. embargo aimed at toppling the Communist dictatorship of the Castro brothers. Those restrictions are now easing however.

Even a national whose passport usually allows easy international access can find a visa denied due to temporary travel restrictions during trade sanctions or political disturbances. And even if you finally do obtain a desired visa, it can take weeks of procedural delays.

Holding second citizenship and a passport issued by a small, peaceful, non-controversial country can save your life when traveling in times of political unrest, civil war or in other delicate situations abroad. For good reasons, thousands of international businessmen and other travelers consider an alternative passport as their best life insurance.

In an unsettled world, acquiring a second citizenship can be an investment in your future. Your second citizenship is a choice for life and that protective shield can be extended to your spouse and children as well. And there is usually no need to surrender or change your present nationality while you enjoy the benefits of your second passport.

HOME GOVERNMENT COERCION

There is another disturbing trend that makes a second passport of great value. In various ways, governments increasingly use issuance of a passport to their own citizens as a means of coercion. In the United States, for example, a citizen can be denied a passport simply for being in debt to the Internal Revenue Service because of other problems with federal government agencies or because they are behind in excess of \$2,500 in back payments for court-ordered child support.

Since 1986, the U.S. State Department has informed the IRS of all persons who renew their U.S. passports using a foreign address. Since passport renewals require an applicant's Social Security number, this is also used by the IRS to see if applicants have filed income tax returns. In 1998, an IRS official speaking in Zurich said a special effort was being made by the agency to track all U.S. citizens who renewed U.S. passports while living in Switzerland, for reason we can easily guess. There is a growing tendency in important countries to follow the lead of the United States



in taxing non-resident citizens. Alternative citizenship is therefore increasingly important as a powerful tool for truly international tax planning. As a national of two different countries you also can enjoy extra privacy in your banking and investment activities.

An even more immediate threat can arise from your own government. Depending on your nation's policies, your government may use your passport to restrict your right to travel, rather than to guarantee it. Use of your passport can be made contingent on payment of your taxes, however unreasonable, and on reporting of worldwide income and assets. Issuance of your passport allows your government to control, restrict, monitor and record your travels. Now you can begin to see why a second passport may be highly useful. Your qualification for a second nation's passport, one that comes with no restrictive strings attached, can serve as your passport to freedom. It can be your key to a whole new world of free movement, expanded international investment, greater flexibility and adventure. And it can mean safe passage as compared to delay or even worse.

DUAL NATIONALITY

There is little doubt that government bureaucrats and tax collectors see dual nationality as a serious threat to their control over the citizenry they pretend to serve. As more U.S. citizens acquire dual nationality the debate is intensifying. Eager to work abroad free of red tape and restrictions, or to strengthen ties with their ancestral lands, record numbers are obtaining a second, foreign passport.

Dual nationality simply means that a person legally is a citizen of two countries at the same time, qualified as such under each nation's law. This status may result automatically, as when a child born in a foreign country to U.S. citizen parents is both a U.S. citizen and a citizen of the country where he or she is born. Or it may result from operation of law, as when a U.S. citizen acquires foreign citizenship by marriage to a spouse from another nation, or a foreign person naturalized as a U.S. citizen retains the citizenship of his or her country of birth.

Under U.S. law, a second passport does not jeopardize American citizenship. U.S. citizens, including dual nationals, must use a U.S. passport to enter and leave the United States. Dual nationals may also be required by the foreign country to use its passport to enter and leave it. Use of the foreign passport does not endanger U.S. citizenship.



Many countries won't permit their citizens to hold a passport from another nation. This was the case in the U.S. until 1967, when the U.S. Supreme Court upheld the right of U.S. citizens to hold a second, foreign passport. Before that time the official rule was that a person acquiring second nationality automatically lost U.S. citizenship. Since 1967 the government generally presumes a U.S. citizen does not wish to surrender citizenship. Proof of that intention is required before expatriation is officially recognized. The burden of proof is on the government to show intentional abandonment of U.S. citizenship.

This presumption is set forth in a U.S. Department of State publication, "Advice About Possible Loss of U.S. Citizenship and Dual Nationality" (1990). As a matter of policy the U.S. government recognizes dual nationality but does not encourage it because of what it views as problems and conflicts that may result.

No doubt legal tax avoidance is at the top of the U.S. government's list of major "problems" it sees resulting from Americans enjoying dual nationality.

The law of most countries holds that the exercise and acquisition of dual citizenship need not affect a person's original national legal status. Many people are automatically entitled to dual citizenship under the various nations' laws, as in the case of American grandchildren of Irish grandparents.

In addition, a growing number of countries now issue "economic citizenship" based on investment by a foreign national in the issuing country. This may confer limited or full citizenship status on the recipient, but it does not usually affect that person's original citizenship.

In the final analysis, it is the law of the nation which is seeking to impose its control over a dual national that determines whether expatriation, or loss of citizenship, occurs. Dual nationals owe allegiance and obedience to the laws of both countries of which they are citizens. Either country has the right to enforce its laws, especially when the person is physically within that country.

Some countries, such as China, demand that a foreign national seeking citizenship formally renounce his or her original national allegiance. That, in theory, is the rule of the U.S. Although all naturalized U.S. citizens must take an oath that requires them to "renounce allegiance" to any other nation, in fact new U.S. citizens do not have to surrender their previous



nationality or passports. But in varying degrees the renunciation rule is followed in Italy, France, Spain and Portugal. Other countries, notably Japan and the People's Republic of China, automatically exclude from citizenship any child born from the matrimonial union of one of their citizens and a parent from a foreign nation.

In recent years, Americans with dual nationality have served as officials in the governments of Yugoslavia, Armenia and Estonia. A retired U.S. government employee, Valdas Adanikus, was elected president of his native Lithuania, and a former New York City attorney has served two terms as president of the Dominican Republic.

France and the United Kingdom are among the major powers allowing dual nationality. In recent years, Colombia, Ecuador, Brazil and the Dominican Republic have allowed their citizens to hold a second passport. South Korea and the Philippines are considering it. And in a move expected to substantially boost the number of the world's dual citizens, Mexico on March 21, 1998 began allowing its nationals to hold a U.S. passport. Naturalized Mexican Americans are allowed to reclaim their Mexican passport, though they can only vote in Mexico in person.

Scholars say increasingly U.S. immigrants are maintaining their ties to their homelands, just as native-born Americans are reconnecting to roots overseas. "The old model of nationality is outmoded in this globalizing world," says Aiwa Ong, an anthropologist at the University of California at Berkeley. Ms. Ong, who wrote a book on the trend, calls the new way of living "flexible citizenship." Other scholars prefer the term "trans-nationals."

But millions of Americans are eligible to become dual citizens based on their family ties to foreign lands that themselves allow dual citizenship. The requirement for gaining citizenship in many countries is being born there, or the birth there of a parent or grandparent. Relying on U.S. Census data, some estimates say the pool of eligible American dual nationals grows by at least 500,000 each year, based on the number of U.S. children born to foreign-born parents.

In supporting dual citizenship, some governments have an economic incentive: to maintain, or even strengthen, ties with emigrants who settled in the U.S. or other wealthy countries. An estimated 30 percent of all Latino immigrants to the U.S. send money back to native countries, and governments fear these remittances may decline over time.



DO AMERICANS NEED A SECOND PASSPORT?

People of means living in places where it seems civil war never ends, like the Balkans, home to the shattered pieces of the former Yugoslavia, or people facing continued political uncertainty, such as Hong Kong since the 1997 hand-over to Communist Beijing, obviously can use a safe refuge for escape. If besieged people enjoy the legal status afforded by a second nationality, their chance of safety is far more certain. In a time when threats turn into physical menace they simply head to their “other” country.

BUT WHAT ABOUT AMERICAN CITIZENS?

The “good old USA” has been the favorite destination of millions of refugees throughout its history, and remains so. The Statue of Liberty in New York harbor still welcomes those “huddled masses” from other shores who want to become Americans.

So why would any U.S. citizen need a second nationality, and the additional passport that goes with it? One very good reason: the growing restrictions imposed by the U.S. government on the freedoms the nation’s founders set down in the U.S. Constitution. For people of wealth in particular, there is now a wide web cast to catch persons the government decides may be doing something wrong. And the current definition of “wrong” is so expansive as to be all-inclusive in the bureaucratic mind.

Example: the mere fact that one has an offshore bank account, creates an offshore trust or owns shares in an international business corporation can suggest potential tax evasion to jaundiced IRS eyes.

WHAT ABOUT THE BRITISH?

The same holds true in the United Kingdom. It is estimated that in recent years 600,000 or more U.K. citizens have been driven into exile by high taxes. Once domiciled abroad, in Italy, Portugal, Singapore, or Bermuda, many Brits used to return home like migratory birds to spend six months annually vacationing” in England. Stay one day more and under the law they would be liable to pay U.K. income taxes.

Realizing this, the tax collector, Her Majesty’s Revenue and Customs (HMRC), adopted rules making long stays by former Brits more difficult. Today if a Brit maintains a home or apartment within the U.K., even a single day’s visit results in full income taxes on all worldwide income. Without a U.K. home, the allowable non-taxable visit is 90 days per year,



but only after an initial three-year continuous absence.

But consider the alternative of using a second passport.

If former residents enter and leave the U.K. using a legitimate, non-British passport, entry and departure records produce no tax demands. The person comes and goes free from HMRC's counting of days. That's because U.K. law allows unrestricted dual citizenship and does not dictate which passport you must use if you are lucky enough to have dual citizen status.

A similar "days-in, days-out" rule applies in the U.S. A foreigner who establishes residence in the U.S. for more than 122 days annually, and engages in what could be called "business activity," can be held liable for U.S. income taxes on all worldwide income. The IRS may decide he is a "U.S. person," as this legal status is called, for tax purposes. He may have to submit to an unpleasant grilling to get tax clearance before being permitted to leave. Any legal resident alien in the U.S. is also counted as a "U.S. person" for tax purposes by the IRS.

Until relatively recently many countries did not permit their citizens to have foreign bank accounts, own foreign currencies or hold foreign investments. Those that did allow these financial activities abroad still imposed strict reporting requirements, currency controls, costly exit permits and special transactions taxes. But "dual nationals," as dual citizens are also known, like multinational corporations, can move about the world in such a way as to minimize or avoid currency and other controls.

Dual nationality is not without its inherent contradictions. Members of the Rolling Stones rock group moved to France to escape high British income taxes. Yet many wealthy (and not so wealthy) Frenchmen have moved to the U.K. in order to avoid high French taxes. This anomaly exists because most high tax countries often exempt foreigners who reside within their borders less than six months a year.

In order to enter a foreign country and live there for six months as a tourist, one generally needs a passport. Some countries also require foreign tourists to obtain a "visa," a prior written permission to enter that country, which is attached to your passport. And in order to remain longer, to work or to purchase a home, a "residence permit" is needed. "Non-work residence permits" are typically granted to entrepreneurs and others who do not compete in the local job market.



CITIZENSHIP AND PASSPORTS

Before going further, let's examine the elements of citizenship and the meaning of passports.

Citizenship can be loosely defined as the legal relationship between a person and the sovereign nation in which he lives, a status defined by the law of that nation, conferring or limiting the person's duties and rights. Only through the formal process of citizenship acquisition, called naturalization, can one legally acquire the right to a second passport.

A passport is a personal identification and travel document for international use issued by a sovereign nation, usually to its own citizens, but to others as well.

Most familiar are government-issued passports based on a person's national citizenship.

However "official" they may appear to be, passports sold or "issued" by some commercial sellers may be illegal and therefore useless. Many governments designate attorneys and others to act as their official agents on second citizenship matters. Also there are special travel documents such as diplomatic passports and other temporary travel documents issued by international organizations or individual countries. Diplomatic passports are only legal if issued by the proper authorities of the nation or international organization and only if the passport holder is properly accredited in the receiving nation.

DUAL OR ALTERNATIVE CITIZENSHIP

Under the laws of most countries it is legal and proper for some qualified persons to enjoy what is called "dual citizenship," sometime also called "alternative citizenship."

This dual status also may confer the right to have and use a second passport.

Legal grounds that can allow a person to have or acquire dual citizenship status are:

1. Being born within the borders of a nation's territory; the Fourteenth Amendment to the U.S. Constitution grants citizenship to any child born within American territory, regardless of the citizenship of the parents. Other countries conferring automatic citizenship on those



born within their jurisdiction include Argentina, Australia, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Cost Rica, the Dominican Republic, Ecuador, Greece, Honduras, Ireland, Israel, Italy, Jamaica, Lebanon, Malta, Mauritius, Mexico, New Zealand, Panama, Paraguay, Portugal, Spain, St. Kitts and Nevis, Thailand, Trinidad, Turkey, Uruguay and Venezuela.

2. Descent from a foreign citizen parent or grandparent, making ancestry a basis, as in Ireland, Germany, Poland, Italy, Spain or Greece;
3. Marriage to a foreign citizen;
4. Religion, as in Israel; or
5. Formal naturalization, meaning applying and qualifying for citizenship status. The process for receiving the privilege of naturalization varies among countries. Usually a certain period of residence is required (in the U.S. it is five years); good character and an absence of any criminal record may be among other requirements.

Some countries demand that a foreign national seeking naturalized citizenship formally renounce his or her original national allegiance. That is the U.S. law, but as we explained, it simply is not being enforced, even though the citizenship oath includes such a statement. The same rule is followed in varying degrees in Italy, France, Spain and Portugal. Other countries, notably Japan and the Peoples Republic of China, automatically exclude from citizenship any child born from the matrimonial union of one of their citizens and a parent from a foreign nation.

SECOND PASSPORTS: IMPORTANT CONSIDERATIONS

The single most important consideration when evaluating the usefulness of an alternative citizenship is that it must be legal in every respect. That fact may seem obvious, but the proliferation of fraudulent, fly-by-night passport operations requires not only this reminder, but strict adherence to it when making second passport plans and decisions.

If you are going to expend a considerable sum of money to acquire a second citizenship and then use a second passport as your basis of personal international movement, you should demand that these documents and your status be in strict accord with the constitution and laws of the issuing nation.



A few countries actually do have provisions in law that give the head of government or other government ministers discretion regarding the granting of citizenship to foreign nationals in exceptional cases. But even then, if criminal bribery is involved, the person acquiring the passport may face revocation of this previously granted citizenship after a subsequent political change in government.

Persons with such documents frequently are subject to blackmail by being forced to pay further “fees” later on. That is why it is imperative that second citizenship be based upon clear provisions in the existing law of the issuing nation.

The prospective second passport client most at risk is one lured into an “instant” or “immediate” passport deal that promises to waive residency requirements and grant quick citizenship.

Immediate passports are a favorite lure for attracting unsuspecting and ill-informed, would-be buyers who need and want a quick passport but haven’t done sufficient investigative groundwork.

And even legal passport programs can come and go swiftly, so a candidate must always determine what actually is current. Ireland had an immediate citizenship program for wealthy investors, but ended it in 1996. A similar Cape Verde economic citizenship program ended in 1997. The same year the Seychelles canceled their program in the face of European Union complaints about its questionable operations. Belize ended its program in 2002.

A casual recent Internet search using the terms “second passport” and “economic citizenship program” produced scores of web sites offering allegedly “instant” passports from Argentina, Guatemala, Honduras, Tonga, Vanuatu, Western Samoa, Greece, Panama, Venezuela, Brazil, the Dominican Republic, Peru, Paraguay and Chile. None of these countries has such an official program. The reasonable implication is that what these sites offer is either fraudulent and/or illegal.

All this may also reflect the fact that the black market in forged and faked passports is both large and lucrative. In October 1997, forged Canadian passports were carried by two Israelis who took part in an unsuccessful assassination attempt in Jordan. And even legal passports can go astray. In 1998, the Western Samoan government announced 150 of its official passports simply had been “lost.” The United Kingdom and Bel-



gium both admitted to losing thousands of their official passports during recent years.

INTERNATIONAL RECOGNITION

Before you acquire it, be certain that the passport is one that commands widespread acceptance and prestige in the international community. If it is not likely to be recognized by all other countries, it is worthless from the start. And in this age of instant communications, it takes only hours, certainly no more than a few days, before customs and immigration officials worldwide know when a passport is called into question. This happened in 1992 with official, but illegally issued Dominican Republic passports, mentioned above, and in 1999, with passports issued by Panama.

In the latter case a high passport official resigned alleging she had been pressured into issuing passports to various foreign business associates of the outgoing president. At this writing an investigation continues, but you can be certain that when and if the facts are revealed, anyone holding such a passport will soon find it valueless.

Of course, if you intend to become a citizen of another nation, and possibly spend time there, your consideration should include geographic location, language, stability of the political and legal system, the banking and business environment, visa-free travel possibilities and of course, total initial and future costs.

DO YOU NEED A LAWYER?

There is something to be said for dealing directly with the officials of the nation from which you seek a second citizenship. This can be done at the appropriate embassy in your nation's capital city or at a local consulate. Information and applications can be obtained by email, phone or fax. If you have the time, expertise and patience to go the often tedious bureaucratic route that can take months or even years, working directly with diplomatic and consular officials eliminates the middleman and probably lessens the chance of fraud or mistakes.

A better alternative is to employ an experienced attorney based in your own nation or in your intended country, an established, reputable professional who specializes in immigration and passport matters. These experts usually know the legitimate shortcuts and have personal acquaintances with



the involved foreign nation officials. That can speed your application and approval process considerably.

Caution may dictate using an escrow agent, a trustworthy third party who holds your citizenship and passport fees until the transaction is complete. A bank, law firm, solicitor or other escrow agent can serve this purpose. The agent will hold your money, usually in the form of a certified check payable to the agent, will receive your passport or other documents, permitting you to inspect them before a final payment is made. If you are satisfied a genuine passport or other documents have been delivered, the escrow agent makes payment and delivers the passport to you. An agent's fee for services will range from one to 10 percent of the transaction value. In most second passport cases "advanced fees" should be avoided. If you are willing to place cash in escrow, expense advances should seldom be required.

RECOMMENDED SERVICE PROVIDERS

Henley & Partner, Inc. is recognized as one of the world's leading service firms for international immigration and citizenship law. The firm also offers services in corporate location, international tax and estate planning.

They can advise you on all aspects of current residency and citizenship programs available in the nation of your choice. They offer expert information on second passports, the advantages and disadvantages of various options, special situations and current events affecting citizenship. They maintain offices and associates in all countries offering economic citizenship programs as well as other major countries.

Henley & Partner, Inc. maintains an international network of immigration specialist attorneys, tax consultants, investment advisors, and other professionals who are experts in their fields. They emphasize practical and speedy solutions consistent with the best current advice available. Topics for which assistance is available include not only second passports and immigration, but also taxation, private law, insurance, real estate, corporate and personal relocation, and government procedures in all countries.

All services and contacts are completely confidential and strict privacy is assured. Inquiries should be directed to: Henley & Partners AG., Mr. Christian Kälin, Executive Director, Kirchgasse 24, 8001 Zurich, Switzerland; Tel.: +(41) 44 266-2222; Email: chris.kalin@henleyglobal.com Website: <http://www.henleyglobal.com>.



Mark Nestmann, a long time member of The Sovereign Society Council of Experts, is a qualified professional who assists those interested in acquiring residence and citizenship in other countries.

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RECOMMENDED VISA INFORMATION

Since 1963, the Travel Information Manual (TIM) has supplied the air travel industry with reliable and comprehensive up-to-date country information on entry and health requirements as well as visa, customs and currency regulations. The TIM booklet, issued monthly, offers a complete package to help travelers save time, and avoid fines and delays. For contact information, visit: <http://www.iata.org/about/contactus>. Also, visit their website for products and services at <http://www.iata.org/ps/publications/tim.htm>.

Henley & Partners continuously analyze visa regulations of most countries and territories in the world. They publish and regularly revise a visa guide you may find useful. See <http://www.henleyglobal.com/citizenship/visa-restrictions/>.

FIVE ROUTES TO A SECOND PASSPORT

Robert E. Bauman JD, July 2009

How you can become a citizen depends on a country's laws, but there are five main methods:

- birth within the borders of a nation's territory
- descent from a parent or grandparent
- marriage to a foreign citizen
- religion, as in Israel's Law of Return
- formal naturalization by applying and qualifying for citizenship. The naturalization process varies among countries, but on average, five years' residence is required before citizenship is granted.



CITIZENSHIP FOR SALE

Only two nations, the Commonwealth of Dominica and St. Christopher and Nevis, both Caribbean island countries, grant official citizenship in exchange for cash without any prior residency requirements — but both are expensive. These so-called “economic citizenship” programs offer a nationality quickly and simply for those who qualify.

CITIZENSHIP BY ANCESTRY

A much easier path to second citizenship may lurk somewhere up in your family tree.

Several countries grant full citizenship based on the law of blood, *jus sanguines*, even without a descendant ever having lived in the country. All one needs is a parent or grandparent who is (or was) a citizen of that country.

Ireland: One the best of these ancestral programs is offered by the Republic of Ireland. Persons with one parent or grandparent born in Ireland are eligible for Irish nationality, with a passport valid for 10 years and renewable. As a result, with a population of only 4.1 million, Ireland has over 14 million current official passports in circulation.

Italy: The Republic of Italy offers a similar program. The children and grandchildren of former Italian nationals can qualify for citizenship on the basis of any of the following: 1) a father who was an Italian citizen at the time of a child’s birth; 2) a mother who was an Italian citizen at the time of a child’s birth after January 1, 1948; 3) the father was not born in Italy, but the paternal grandfather was an Italian citizen at the time of birth; or 4) the mother was not born in Italy, but for those born after January 1, 1948, the maternal grandfather was an Italian citizen at the time of the mother’s birth. In addition, ethnic Italians who cannot qualify under ancestry rules can qualify for naturalization after only three years legal residence in Italy.

Poland: Poland changed its laws a few years ago so that persons whose parents or grandparents were Polish citizens may be eligible to obtain citizenship. Citizenship can be claimed only by descendants of Polish citizens who left Poland after the country became an independent state in 1918. However, there can be no break in Polish citizenship between the emigrant ancestor and the descendant. Application for “Confirmation of Possession or Loss of Polish Citizenship” can be made through Polish embassies or consulates.



Other countries that offer citizenship based on the citizenship of parents or grandparents include Spain, Greece, Lithuania and Luxembourg. Spain also offers a reduced two-year residence before citizenship to citizens of any of several Latin American countries. Portugal and Brazil have a similar arrangement.

IMMEDIATE RESIDENCE

Several other countries are attractive because they offer immediate official residence under a variety of plans, some leading to citizenship. Both the Republic of Panama and its Central American neighbor, Belize, offer pensinado programs to retirees who have guaranteed annual incomes. Neither leads to citizenship, but Panama does have several investment programs that grant immediate residence and eventual citizenship after five years.

EXPATRIATION — THE ULTIMATE ESTATE PLAN

Robert E. Bauman JD, October 2009

Americans find it difficult, in a nation with constitutionally guaranteed civil rights, to imagine that one day our freedoms could be taken away by government.

Yet in my lifetime, and that of many others now living, that is what we witnessed in Germany, Poland and the occupied territories during World War II. There was at first a gradual, and then the total, erasure of civil and economic rights. By war's end in 1945, millions had died. But millions more, those lucky enough to survive, were displaced refugees who lost everything — property, homes and family.

Yet, when this turmoil began in the 1930s, there were those who were smart enough to realize early on what was happening. These people planned accordingly and escaped with their lives and their fortunes. They got out before asset confiscation, currency controls and financial restrictions were clamped down in their home country.

I don't mean to belittle the heroic sacrifices of those who lived and died in that era. Nor do I want to overstate the seriousness of the current situation in the United States. But I believe sovereign individuals have to



accept the fact that our rights and liberties now are under attack by our own government. Equally alarming is the perilous economic state of not only our government, but our country as well.

WHY YOU NEED A PLAN IN PLACE

Consider the facts. Between financial rescue missions and the economic stimulus program, government spending accounts for a bigger share of the nation's economy — 26% — than at any time since World War II. Facing a \$2 trillion deficit in 2009, a \$12 trillion national debt, and a declining dollar, the president calls for more and bigger programs for health care and just about everything else.

Higher taxes, inflation and economic collapse seem all but inevitable.

Given this dangerous state of affairs, common sense dictates that you should have in place an escape plan for your family and your assets. If the worst comes to pass, you will be ready. While it may seem like an extreme step, expatriation, the process of giving up one's citizenship, might not only save your wealth — it may save your life. And the process, while dramatic, is relatively straightforward.

Every year, about 250,000 U.S. citizens and resident aliens leave America to make a new home in some other country. More than five million Americans now live abroad. Only a tiny fraction of these people give up their U.S. citizenship, and of those, most do so for non-tax reasons.

STEP #1: FIND A NEW PLACE TO CALL HOME

One of the first steps toward expatriation and ending U.S. taxes is finding a new home country that best suits you and your personal tastes. If you have a genuine interest in living offshore, it's best to take a "test drive" of at least several months by living in your chosen country before you make a final decision.

Be sure to pick a country with a "territorial tax system" that does not tax offshore income, only income earned within the country.

Most countries will welcome you as residents, but on their own terms. Some countries such as Switzerland and Austria prefer wealthy entrepreneurs willing to invest and create jobs in exchange for special tax and residency deals.

Other countries, notably Panama, Uruguay and Belize, take a different



approach. They have special laws to attract foreign retirees of more modest means to take up residence. They welcome you, not just with a lower cost of living, by also with real estate and import tax exemptions, discounts on many goods and services, tax-free offshore income, and quick approval of resident applications.

While these so-called “pensionado” programs in Panama and Belize require minimal guaranteed annual income from established pensions, neither program leads to eventual citizenship. However, many of their immigration programs do. Uruguay’s retiree program does grant eventual citizenship.

STEP #2: SECURE A SECOND CITIZENSHIP

A second major step on the road to expatriation is acquiring a second citizenship. Simply put, this means that you are legally a citizen of two countries at the same time, qualified as such under each nation’s law. The U.S. Supreme Court has affirmed Americans’ right to hold dual nationality, although some countries do not permit it.

Millions of American citizens potentially qualify for various reasons — ethnic heritage, religion, country of birth or where their spouse was born. While it’s impossible to know exactly how many Americans have acquired another passport, experts put the number of U.S. citizens who either have, or are entitled to have a second passport at over 40 million.

Based on your ancestry (parents, grandparents), several countries encourage foreigners to apply for citizenship. The most notable are Ireland, Italy, Poland, and with some qualifications, the United Kingdom, Spain and Israel.

If you don’t qualify for a citizenship due to your bloodlines, economic citizenships are available.

If you want a fast second passport, two countries, St. Kitts & Nevis and Dominica, sell quick “economic citizenship” but at very high prices. However, both programs are perfectly legitimate.

It’s also important to note that for some dual citizenship might result automatically. For example, when a child is born in a foreign country or if a U.S. citizen acquires foreign citizenship through marriage to a person from another nation. Often these type of automatic options are overlooked so check to see if you qualify.



Keep in mind that you can't end your U.S. citizenship without first obtaining a valid second passport. You don't want to become the proverbial "man without a country."

The final step to freedom is to go to a U.S. embassy or consulate and hand in your U.S. passport. You will also need to sign an official document stating that you are renouncing your rights to U.S. citizenship.

NOT SURE WHERE TO GO...CONSIDER CANADA

Canada is an optimal escape route and one of the best countries for accomplishing the expatriation process.

It is possible for you to obtain Canadian citizenship in as little as two years. With this accomplished you can end your U.S. citizenship and U.S. tax obligations, then move out of Canada and legally avoid most Canadian taxes.

This combination of Canadian immigration and tax law offers the possibility of legally avoiding both U.S. and Canadian taxes. You will need professional advice and careful pre-planning to do it right. We can recommend professionals to help you.

ULTIMATE ESTATE PLAN

Expatriation is indeed "the ultimate estate plan" in the very real sense that it gives you the legal right to stop paying U.S. taxes forever.

However, it is a major step that will separate you from family and friends and treat you as a foreigner when you travel to the U.S. Expatriation works best for those who have substantial liquid assets that can be transferred to the low-tax country of choice.

This process requires professional assistance for coordination of assets planning, assessing tax consequences and acquiring a second nationality.

A drastic plan? You bet. But for the person who wants a permanent and legal way to stop paying U.S. taxes, expatriation is the only option — and it could be a lifesaver in a crisis.



IS EXPATRIATION RIGHT FOR YOU?

Mark Nestmann, *The Sovereign Society Offshore A-Letter*, 2009

The United States is one of only two countries that imposes tax on a citizen's worldwide income, no matter where that citizen lives. (The other country is, of all places, Eritrea.)

For citizens of most high-tax countries, it's easy to legally avoid the obligation to pay tax on your worldwide income. You simply relocate to a lower-tax jurisdiction, or one that only taxes local income. After an extended period — normally 1-2 years — you become “non-resident” for tax purposes. You no longer have the obligation to pay tax on your worldwide income to the country that issued your passport. You may, however, still be subject to gift and estate taxes.

BUT NOT IN THE USA...

To permanently disconnect from the obligation to pay U.S. income tax, U.S. citizens must not only leave the United States, they must also take the radical step of giving up U.S. citizenship and passport. This process (from a U.S. standpoint) is called expatriation. Before giving up U.S. citizenship, they must acquire citizenship and a passport from another country.

If you're wealthy, expatriating could result in big tax savings. The total combined state-federal income tax burden for most high earners is close to 50%. And President Obama promises to hike that burden to pay for his spending plans.

If you anticipate earning US\$2 million over the next five years, expatriation could save you a cool US\$1 million in income tax during that period. Not to mention millions more in the years ahead, and millions more again in estate tax savings.

Expatriation also eliminates the increasing difficulties that U.S. citizens face when they invest or do business overseas. Many non-U.S. banks and brokers now prohibit anyone with any connection to the United States from opening an account. This is a result of the U.S. government's intensifying crackdown against anything “offshore.” Foreign entrepreneurs may



avoid joint ventures with U.S. citizens, for fear of U.S. tax or regulatory entanglements.

If you give up your U.S. citizenship and passport, you eliminate all of these problems.

But you're also taking on a whole new life in a different country and a different culture. Unless you've previously lived abroad or have family in another country, it can mean a major change in your life. As such, it's no surprise that few people — only some of which could be considered wealthy — actually choose to give up their U.S. citizenship annually.

Despite this reality, though, expatriates remain vulnerable to political bombast. The image of wealthy former U.S. citizens living tax-free in tropical paradises is an irresistible populist target.

Former Congressman Sam Gibbons, a Florida Democrat, once spoke of “the despicable act of renouncing allegiance to the United States.” Former Congressman Martin Frost, a Texas Democrat, supported tax penalties on expatriates on the basis of “basic patriotism and basic fairness.” The result has been a series of increasingly stringent laws penalizing expatriate Americans.

EXIT TAX: “LEGAL FICTION” TARGETS EXPATRIATES

Until 2008, it was relatively easy to circumvent these anti-expatriation rules.

But in June 2008, Congress replaced the existing law in its entirety with an “exit tax.” The exit tax establishes a legal fiction that you sell all your worldwide property the day before expatriation. Nevermind what we've learned from the stock market in the last year — that unrealized gains can easily be wiped out when the market takes a turn for the worse. If you're a “covered expatriate” (which I'll define momentarily), you must then pay tax on this fictional gain.

Unrealized gains in non-grantor trusts and some retirement and pension plans are exempt from the exit tax. Instead, payouts that would be taxable to a U.S. person are subject to a 30% withholding tax.

Only certain dual citizens and minors with few ties to the United States are exempt from these requirements. Long-term green-card holders must



also pay the exit tax if they've lived in the United States for at least eight of the 15 years preceding expatriation.

How are you supposed to pay the tax without selling your assets? That's your problem! However, the law permits deferral by posting acceptable security with the U.S. Treasury and paying an interest charge on the amount deferred.

Fortunately, the first US\$600,000 of unrealized gain isn't subject to the exit tax. This amount is adjusted annually for inflation, and for 2009 the exemption is US\$626,000. The exemption doubles for a married couple, both of whom expatriate.

In addition, even if your unrealized gains exceed US\$626,000, the exit tax only applies to you if you're a "covered expatriate." This means you:

Have a global net worth exceeding US\$2 million (US\$4 million for a married couple); and/or an average annual net income tax liability for the five preceding years ending before the date of expatriation the loss of U.S. citizenship or residence exceeding US\$124,000 (adjusted for inflation, US\$136,000); and/or fail to certify under penalties of perjury that they have complied with all U.S. federal tax obligations for the preceding five years or fail to submit evidence of compliance as required by regulation.

"BACK-UP" EXIT TAX

There's also a very sneaky substitute estate tax provision in the exit tax law. Let's say you expatriate, and then 20 years in the future make a gift to family members remaining in the United States. If you're a "covered expatriate" at the time you make the gift, U.S. recipients must pay a tax when they receive it.

And not at ordinary income tax rates, but on the highest estate tax rate existing at the time!

However, a covered expatriate can make annual gifts up to US\$13,000 to any U.S. person without a tax consequence to the recipient. The US\$13,000 exclusion is adjusted annually for inflation.

The best that can be said about the exit tax is that it offers a relatively clean break with the U.S. tax system as of the date of expatriation. Unlike prior law, there is no longer a 10-year period after expatriation during which punitive tax and immigration rules apply.



IS EXPATRIATION FOR YOU?

The decision to give up U.S. citizenship is a serious one. It also requires substantial advance planning, including the acquisition of a second passport, if you don't already have one.

It's a step you should take only after consulting with your family and professional advisors. But it's the only way that U.S. citizens and long-term residents can eliminate U.S. tax liability on their non-U.S. income, wherever they live. And it's a tax avoidance option that Congress may eventually eliminate altogether.

U.S. GREEN CARD HOLDERS GET STUCK

Robert E. Bauman JD, August 2008

A poem by Emma Lazarus is graven on a tablet within the pedestal on which the Statue of Liberty stands in New York Harbor. It reads in part:

"Give me your tired, your poor, Your huddled masses yearning to breathe free, The wretched refuse of your teeming shore. Send these, the homeless, tempest tost to me, I lift my lamp beside the golden door!"

A great many foreign persons have come to America poor and made their fortunes in what was once known as "the land of opportunity."

That was a long time ago, before politicians adopted the trick of taxing most of us at high rates and handing the revenue to those less rich, thus buying their votes. Their slogan was and is: "Tax and tax, spend and spend, elect and elect!" first coined by one of President Franklin D. Roosevelt's closest aides, Harry Hopkins.

HORRENDOUSLY UNFAIR EXIT TAX

The Democrat-controlled Congress, true to that New Deal motto, has just enacted a punitive law that hits wealthy Americans who end their citizenship, but also U.S. resident aliens who leave the country.

The newly enacted exit tax law not only affects wealthy (more than \$2 million net worth) U.S. citizens who expatriate, but also can financially penalize U.S. "green card" holders who return to their home country.



Under the new law if a foreigner living in the U.S. has a green card and has lived in the U.S. for eight out of the most recent 15 years, they are considered a long-term permanent resident, or “permanent resident alien.” (So if you’re in this target group count your years here — you may have to leave soon to avoid the tax.)

Most of these U.S.-based foreign individuals never intended to make the U.S. their permanent home. Now, if and when they leave, if they have reached the asset/income tax threshold set in the 2008 law, they too will be taxed as a “covered person.” These people are not American tax dodgers but rather well-to-do Canadians, Britons, Indians, and other foreign residents concluding long term assignments in the U.S., many working for multinational corporations.

When these foreign bankers, software engineers, chemists and others leave the U.S. to retire or transfer to a new post abroad, the law will tax them on the unrealized capital gains of their total global assets. That includes supposedly tax-deferred U.S. retirement accounts, as well as assets like a cottage in Quebec, a share of a relative's business in Bangalore, or a great-grandmother's pearls kept in a London flat.

STUNNING LIABILITIES

Henry Alden, president of the consulting firm, Everest International Group, calls it “a very draconian tax with stunning liabilities.” He gives one example: consider someone who'd paid \$10,000 for a vacation home in France in 1980, came to the U.S. in 1990 when it was worth \$100,000, and left the U.S. in 2008 when it was worth \$1 million. That person would be subject to a capital gains tax of \$135,000 on that one asset.

Only “permanent residents” also known as green card holders, will be stung. As a result, rich executives considering moving to the United States may increasingly select long term visas, potentially depriving the country of wealthy immigrants. Some developed countries have so-called exit taxes but critics say the law will, over time, tarnish the image of the U.S. as a friendly place for foreign talent and capital.

DEVASTATING FOR FOREIGN WORKERS

The U.S. National Association of Manufacturers (NAM) described the proposal to tax expatriates as “potentially devastating” for the industry's many long term foreign workers. NAM argued that the rules should target



U.S. citizens who expatriate to avoid taxes, not workers who return to their home countries for personal reasons and must, by U.S. law, eventually surrender their green cards. Previously, long term residents who surrendered their green cards could avoid taxes on their unrealized gains by spending fewer than 30 days of any year in the United States for 10 years; even then, only U.S., not worldwide, gains were subject to tax.

Experts predict that American companies may respond by sponsoring fewer green cards or filling openings with workers on less attractive long term visas, drawing a smaller and potentially less talented pool of workers to the U.S.

Green card holders now living abroad may consider immediately giving them up under a provision of the Act that allows retroactive dating for nonresidents. But green card holders now living in the United States have no way out, lawyers say.

WHAT IT'S REALLY LIKE TO EXPATRIATE

Mark Nestmann Blog, October 2009

There are a lot more former U.S. citizens than there once were. Americans fed up with paying tax — and with their government — are voting with their feet. And they're doing it in much greater numbers than ever before.

Why might you wish to give up your U.S. citizenship? Primarily, because doing so is the only way that you can eliminate your lifetime obligation to pay U.S. taxes, no matter where you live.

Expatriation is a major decision. It means, for instance, that you no longer have the automatic right to enter or live in the United States. You'll need to get a visa to do so, unless your non-U.S. passport qualifies you for visa-free entry. In all cases, the Department of Homeland Security can deny you re-entry to the United States, and is under no obligation to tell you why.

However, the actual process of expatriation isn't as arduous as you might think. You're likely to encounter bureaucratic incompetence, unexplained delays, and rampant stupidity. But giving up your U.S. nationality is a legal right; one that even the inane employees of the Department of State understand. Here's one account my colleague Bob Bauman recently re-



ceived from a now-former U.S. citizen on how the expatriation process really works:

As you wrote, the first step is to find alternative citizenship. After attending a Sovereign Society meeting, I decided that my best bet was to gain citizenship in St. Kitts & Nevis by purchasing a property there for an amount over \$350,000. Then, I paid another \$50,000 for two additional family members to apply for citizenship. This whole process, including closing on the property, application, review of paperwork, citizenship, then waiting for issuance of the passport, took about nine months.

After moving all of my assets whose title I could change or move offshore, I purchased a home and moved to Panama. Then it came time to surrender my citizenship. From everything I could find on-line or in any books, I was expecting the surrender process to be rather grueling, including meeting one-on-one with a consular official sitting me under a bright light, interrogating me about reasons and taxes, then almost beating me with a rubber hose. We are all aware of the onerous threats of what the IRS can do if we have the nerve to try to escape the plantation.

Bob, I was absolutely dumbfounded at how EASY it really was. No problems, no questions about anything, they were simply willing to cut me free. I had thought I wanted an attorney with me, so I would have some idea which questions I legally had to answer and which I could refuse to answer. It was just not necessary. I believe the IRS and the State Department tries to scare the hell out of us so we won't even try to surrender citizenship. The process is far different than I envisioned.

There are a total of five forms needed. All are available on-line on the State Department website. The numbers for these forms are DS-4079 through DS-4083. You complete these forms, and then take them along with your U.S. passport, birth certificate, Social Security card and new passport to the embassy. If you are smart, you will also bring a typed letter explaining your reasons for wanting to expatriate.

Do not say ANYTHING about taxes. My reasons were that I abhorred socialism, loved the Constitution, but was unbelievably sorry that we no longer followed it. Then a clerk will re-type all the forms. This took about two hours because of numerous typographical errors. It is important to proofread every answer and every single line. It took something like 10-12 different efforts to get all five forms finally completed correctly.



A consular representative then came to the window, asked for my U.S. passport, asked me if I was really the person who wanted to expatriate, and whether I understood the consequences. Then he signed a few papers, took my passport and said good-bye. That was it! Oh, he also told me I should contact the IRS to inform them of what I had done. He said I would receive my certificate of loss of nationality in about four months. He never asked me ANYTHING about taxes or finances.

After a follow-up call to the embassy four months later, I was told I could return and pick up my official certificate of loss of nationality. They returned my U.S. passport with holes punched in it. The next day I returned to the embassy to apply for a 10-year, unlimited visit VISA to come to the United States. It was approved the same day. I also applied for Social Security because I was now old enough to receive it. You do NOT surrender your right to Social Security benefits by expatriating.

I thought it might be helpful to you to know what they ACTUALLY do to those who wish to surrender citizenship. Regardless of how intimidating they want you to believe this process can be, at least in my case, NOTHING happened.

I am now a free, sovereign citizen of the world. St. Kitts & Nevis charges me zero income tax, zero capital gains tax, and zero death tax. I don't even have to file a tax return any longer for ANYONE. Panama leaves me alone, so long as I pay my property tax and sales tax, and the U.S. no longer "owns" me.

My St. Kitts & Nevis passport gets me almost anywhere in the world that I could have gone with my former U.S. passport. With my 10-year visa, I can come back to visit the U.S. whenever I want. Believe me, I don't want or need to come back very often, and there are lots of other nice places to see in this world. And, if we are both on the same plane hijacked by terrorists, they'll kill you long before me.

I have the very best of all worlds. I live virtually tax-free in a beautiful country. I actually have more freedom and liberty as a guest resident of Panama than I did as a citizen of the United States.

I simply don't understand why there are not MILLIONS of Americans giving up their citizenship. If only they knew how EASY it is, how practical it is and how much better for their financial health, there would be lines



around the block at every U.S. embassy from those who realize there are better choices than remaining a U.S. citizen.

PRACTICAL QUESTIONS FOR ASPIRING EXPATRIATES

John Sturgeon, 1998

Here's a practical "how to" and "what to expect" test for those considering expatriation to a new country. It's not a course for the faint of heart. I recently spoke with a colleague who resides in a continental European nation. The economy there is in a shambles and many young people have decamped to other parts of the world to seek better prospects. My colleague said he too would leave but he noted that an expatriate needs three things:

The ability to speak the language of his intended country;

To be able to work or have another source of income there; and

To have full family support for the move.

For my friend, these were all reasons not to leave. In my own experience, these perceived problems are easily overcome.

THE LANGUAGE BARRIER

Life is easier when you're fluent in the tongue of your future home country. But that should not present an insurmountable barrier. A great many people have managed to learn the rudiments of a new language relatively quickly. Younger people, particularly children, are capable of learning a language very quickly if motivated. They don't suffer from the "I can't do it" syndrome, a condition that generally afflicts adults.

Instead of seeing a new language as a barrier, take it as a chance to enhance options and opportunities available to you. Colleges in most countries hold night classes in a variety of languages. After a few weeks, you will be surprised how quickly you have acquired a working knowledge of a language that seemed impenetrable.

Alternatively, there are numerous language courses on the market —



cassettes and supplementary materials enabling you to study at your own pace, in the comfort of your own home, office or car. Shop around and find a course you like. But the best way to familiarize yourself with a new language is to immerse yourself in it on a daily basis. You can do that when you're in the country where the language is spoken.

THE MEANS BARRIER

Employment or an alternative source of income is obviously important. A move overseas doesn't stop the bills coming in even if the cost of living may be cheaper in your intended destination. This needn't present the creative and flexible individual with a problem.

I've been impressed by how many expatriates, regardless of their origin, live in every country of the world. More than likely a group of expatriates from your current country already resides where you are going. This might be an ideal market for your skills, products or services or a source of leads for new work. Alternatively, it may be possible to work at your current profession on a long-distance basis. Modern communications, transport systems and sophisticated computer software make it possible to live in one country, retain clients and contacts in your old country, while developing new customers all over the world. With a portable office consisting of a laptop, an internet connection and a telephone, you are ready. Consequently, expatriation needn't adversely affect earnings potential and with organization and effort it can be enhanced.

THE FAMILY BARRIER

It is true that if your family is not supportive, finding happiness in your new home is unlikely.

Too many guides on expatriation fail to acknowledge family problems. They wrongly assume that expats seek a better place on their own or for their sole benefit. Many of those who move overseas do so because they want a better place for their family to grow and thrive. Obviously, you should include the whole family in the decision-making process.

The prospect of leaving friends, family and present lives behind induces a certain amount of hesitation regardless of where you plan to live. Advantages and disadvantages should be weighed by the whole family.



A MILLION DOLLAR QUESTION

Perhaps the most important question you must ask yourself is what you are seeking by moving to another nation. Naturally, personal preferences play a role in deciding where and how you wish to live. If you want to get away from “civilization” (i.e., crowds) there is no point considering large cities that offer little elbow room.

I recommend you commit your thoughts to writing as a means of clarifying your goals. Never assume that people and things function in another country in same way they do at home. Local customs and attitudes develop over a long period. Make sure your religious views are tolerated in the new country. Remember you are the foreigner. Once you are there you will be expected to abide by local customs.

GO ON A FACT-FINDING MISSION

Having narrowed your selection, you and your family should travel to your prospective country before you actually move there. You will soon learn whether that country is acceptable to you, or whether alternatives should be considered.

When you visit, don't stay in a big hotel that is part of an international chain. That won't provide an accurate picture of the country, its people or customs. Instead, stay in a small local hotel or bed and breakfast to learn about the locals, their food and habits.

While there, things you should investigate include:

- Availability of housing. Are there any restrictions on property ownership? Speak to lawyers experienced in real estate. They know the pitfalls and the best ways of getting things done.
- The infrastructure. How does it affect the way you intend to make a living?
- Schools for the children. Do they meet your expectations? Is alternative schooling available? Most schools are happy to allow an inspection.
- Medical and dentistry services. How do they measure up? As an expatriate will you get free care? Be sure you and your family will be adequately served.
- Are shopping and recreational facilities suitable and sufficient to your anticipated needs?



- Does the country really look and feel as you thought it would? Or has it engaged in clever self-promotion that fails to reflect reality?
- How do local people receive you? Do you feel comfortable around them?
- Are you free to practice your chosen religion or engage in activities you consider important?
- What level of government restriction will you have to overcome?
- How do you obtain a residence permit? What do you need to do? How long will the process take? What will it cost? Will you be able to obtain a work permit (restrictions will apply for your employment by others as well as for self-employment)?
- Will you be able to bring your household goods, cars, pets, etc. with you and, if so, under what conditions?
- Cost of living issues. How much will a tank of gas, food, local taxes, cable TV, postal stamps, telephone cost? Will you save as much as you anticipated or will moving overseas result in additional household expenses?

Armed with this information you will be able to base your eventual decision on cold, hard facts. It is not bad to be overly critical about what you find in your chosen country, but realize no place on earth is perfect in every detail. Are you willing or able to overlook imperfections in light of what the country has to offer? Moving abroad is difficult but worth pursuing to obtain the lifestyle and standard of living you want.

WHAT IS “ECONOMIC CITIZENSHIP?”

Mark Nestmann, *The Sovereign Individual*, November 2002

Economic citizenship is the granting of citizenship by a sovereign government in exchange for a financial contribution to that government.

The Sovereign Society recommends economic citizenship only from countries where a statute clearly authorizes it to be granted. “Unofficial” documents purchased from corrupt government officials can lead to the arrest and incarceration of the purchaser.

Why seek economic citizenship? A second nationality is a hedge invest-



ment against the unknown events of tomorrow. If you are a citizen of a currently or potentially politically unstable country, your physical survival and self-preservation may require you to leave, quickly.

In addition, any number of unanticipated events could make it necessary for you to leave your home country, including divorce, government corruption, violence, etc. Your passport is the property of your government and a local court could order you to relinquish it. And in many countries, a court is the last place to expect justice!

A second nationality gives you the right to reside in the country granting it. The concept of residence is critical in international tax planning, and in most cases, permanent residency in that country is sufficient to eliminate income and capital gains tax liabilities at “home.” (U.S. citizens, no matter where they live, must take the additional step of relinquishing their citizenship to avoid future liability for U.S. taxes.)

You may be able to acquire a second citizenship based on your ancestry, your marriage to a citizen of that country or your religious affiliation. If you qualify under any of these grounds, you should take advantage of them.

If you don't qualify on any of these grounds, your options are limited to obtaining citizenship through prolonged residency (anywhere from 2-10 years) or purchasing economic citizenship.

In recent years, economic citizenship programs have come under heavy criticism. There have been allegations that documents are being sold to international organized crime figures and terrorists. These allegations are false. In the surviving programs (Dominica and St. Kitts & Nevis), applicants must pass through a rigorous screening process involving checks with Interpol and other agencies before citizenship is granted.

LATIN AMERICAN ROUTE TO EU CITIZENSHIP

Robert E. Bauman JD, *The Passport Book*, 2009

Almost everyone wants a passport issued by one of the 27 European Union member countries.

With that document in hand, you're free to roam, live and do business in any of the EU countries, few questions asked. However, EU member-



states don't grant citizenship easily, but some of their former colonies do. Few know it, but for those who qualify, the quickest backdoor route to EU citizenship is through several South American countries, long ago colonies of Spain and Portugal. A similar arrangement exists between Spain and another of its former colonies, the Philippines. In recent years, Spain has been much stricter on applicants using the "colonial route," who now must prove their personal origins in the country from which they seek to move to Spain.

One can apply directly for residence in one of the various 27 EU countries, but unless you qualify for either immediate citizenship or a reduced period of residence due to marriage or your ancestry, you won't become eligible to be an EU citizen for five to ten years.

Spain will grant citizenship within two years after application to persons of "Spanish blood" or descendants of Sephardic Jews. Spanish blood is normally taken for granted whenever an applicant is already a citizen of a former Spanish colony or has a Spanish surname and speaks Spanish. Latin American passport in hand, the next step is acquisition of a house or apartment in Spain and a Spanish residence permit. After the special reduced period of residence based on your Latin American second citizenship, you can apply for a Spanish passport.

An Argentine passport allows visa-free travel to 133 countries, including most of Europe and nearly all of South and Central America. It's also the first passport in South America that entitles its holder to visa-free entry into the U.S., although some post-9/11 restrictions now apply. Argentines also qualify for a reduced, two-year residence period in Spain when seeking Spanish nationality.

A Guatemalan passport is good for travel to most countries in Europe without a visa, and dual citizenship is common in the nation. Most upper-class Guatemalans hold U.S. and Spanish passports. Spain gives special consideration to Guatemalans, who, by treaty, need only two years of residence in Spain to acquire Spanish citizenship or vice-versa. Both a Honduran and a Uruguayan passport entitle holders to Spanish citizenship after two years of residency in Spain.

Portugal also offers special considerations to members of its former colonies. Brazilian citizens qualify for Portuguese nationality after only three years of official residence; no visa is required to enter or take up residence in Portugal. Citizens of former Portuguese colonial enclaves in



India (Goa, Daman and Diu); and parts of Asia, East Timor (a former Indonesian province), Macao in China, and Africa (Cape Verde, Guinea-Bissau, Angola, Mozambique, and São Tome-Principe) may also qualify for Portuguese citizenship. The same goes for Brazil, the biggest Portuguese ex-colony on the world map. However, Brazilian citizenship is not cheap. Any one of these former colonies could be your shortcut into the EU.

CITIZENSHIP BY ANCESTRY

Robert E. Bauman JD, *The Passport Book*, 2009

Remarkably, with a population of only 4.1 million, Ireland has about 14 million current official passports in worldwide circulation! In part, this large number of passport holders stems from the principle of Irish nationality law that views blood lines as determining a birthright to citizenship — even without ever having lived in the country, the so-called doctrine of *jus sanguinis*.

Citizenship is governed by the Irish Nationality and Citizenship Acts of 1956 and 1986. These laws confer Irish nationality by reason of one's birth in Ireland (the only EU nation that does so), by Irish parentage or ancestry, and by marriage to an Irish citizen. Automatic citizenship by birth in Ireland was limited in 2004 by a constitutional amendment that limits the right to a child with at least one Irish citizen as a parent. This reflects demands for limits on the many foreign immigrants who came to Ireland specifically to get welfare and other services for their born or unborn children.

Until 1986, a citizen of any nation who had at least one grandparent of Irish descent was entitled to receive full Irish citizen status and the coveted passport that goes with it. A 1986 amendment changed mere blood lines to a requirement that at least one parent or grandparent actually must have been born in Ireland. An applicant must prove this claim of Irish descent by submitting an ancestor's official marriage and birth certificates.

With three photographs, proper proof of Irish ancestry, and proof of legal residence in the country where you make application, a 10-year, renewable Irish passport will be issued in due course bearing the stamp of Ireland and the European Community. Obviously, Ireland permits dual citizenship. It does not require an oath of exclusive allegiance, nor does it



notify the country of origin of its new passport holders. Contact the nearest Irish Consulate or Embassy for application forms and assistance.

Finding proof of Irish ancestry can be a problem since many church and court records were destroyed in “The Troubles,” the long running, sometimes violent Irish independence struggle against the British. Irish Consulates and Embassies are adept at verifying affidavits and genealogical research. The authoritative Genealogical Supplement is published by a company called “Inside Ireland.” This book is available to subscribers of the Inside Ireland Quarterly Review available from Inside Ireland, P.O. Box 1886, Dublin 16, Ireland. Email: info@insideireland.com.

Even without Irish ancestry, it is also possible to obtain Irish citizenship and a passport after a five-year period of residence. Irish residence is not generally sought because of the nation’s high income taxes. Perhaps, reflecting the poetic Irish soul, the one exception to confiscatory income taxes is made for royalty income paid to artists, writers and composers. But even this unusual tax break is in doubt at this writing and repeal is being proposed.

A foreign-born person who marries a person of Irish birth or descent may become an Irish citizen after three years of marriage by formally declaring acceptance of Irish citizenship. The marriage must continue at the time of application and grant of citizenship. A married applicant must file a notarized form at an Irish Consulate or Embassy within 30 days of its execution. Once Irish citizenship is established, an application for an official passport can be filed.

CONTACTS:

- U.S. citizens can obtain Foreign Birth Registration application forms from: Embassy of Ireland, 2234 Massachusetts Avenue, N.W., Washington, D.C. 20008; Tel.: (202) 462-3939; Website: <http://www.irelandemb.org/>.
- U.K. citizens: Embassy of Ireland, 17 Grosvenor Place, London SW1X 7HR, UK. Tel +44 20 7235 2171; Website <http://ireland.embassyhomepage.com/>.
- Irish Ancestral Research Association, <http://tiara.ie>. This website links to useful resources for researching your Irish ancestry, including general information, national, local and regional resources, emigration and passenger lists, family and clan associations, databases and



search engines, referrals to professional researchers and commercial services.

WHY I GAVE UP MY U.S. CITIZENSHIP

P. T. Freeman, *The Sovereign Individual*, March 2002

Have you ever been to Key West, Florida?

A landmark in Key West is a marker at the corner of Whitehead and South Streets that says in big letters: “Southernmost Point Continental United States.” Above it reads in smaller letters: “90 miles to Cuba.” Visiting this concrete marker recently made me pause and reflect upon a major decision that I made a few years earlier — the choice to give up my U.S. citizenship.

This process started when I found that because of my U.S. citizenship, there were many restrictions on my ability to travel or do business outside the United States. For instance, I had a real desire to visit the Republic of Cuba, but because of my citizenship, I could not do so. Canadians, Mexicans, Europeans and every other nationality could travel and do business there, but with limited exceptions, U.S. citizens have not been allowed to do so for more than 40 years.

As I thought about this prohibition and the many others established by statute or executive order, I became outraged. Finally, in 1994, I read a story that galvanized me to take action. The story was about a movement called the “Freedom to Travel Campaign” that sought to end these travel restrictions and which challenged Treasury Department regulations prohibiting such travel.

OPPORTUNITIES FORBIDDEN U.S. CITIZENS

However, the U.S. Justice Department, apparently fearing that juries would side with these “tourist lawbreakers,” declined to prosecute the cases. This emboldened me. I decided to go to Nassau, The Bahamas and secretly visit Cuba by using the daily direct flight on Cubana de Aviacion, Cuba’s national air carrier.

In reaction to the failure of the Justice Department to prosecute “tourist lawbreakers,” the U.S. Treasury Department amended the regulations



to make it possible to fine persons violating travel restrictions through an administrative process, without going to court. The U.S. Treasury Department administers these and other sanctions programs through the Office of Foreign Assets Control (OFAC); <http://www.ustreas.gov/ofac>.

While in Cuba, I discovered a wealth of business opportunities. This was the height of the “Special Period in Peace” when, due to the collapse of the Soviet Union and the end of Soviet aid, the Cuban economy was in a tailspin. There was a serious need for outside investment on favorable terms. I decided that I wanted to participate in those investments.

Returning a few days later to Nassau, I passed through U.S. Customs pre-flight inspection without revealing that I had visited Cuba. (The Customs inspector did not ask me if I had done so, and the customs forms in those days did not ask about “countries visited on this trip prior to U.S. arrival” as they do now.)

Upon my return to the United States, I began to read the U.S. Treasury regulations regarding Cuba. I learned that they prohibited virtually all contact with Cuba by any person “subject to U.S. jurisdiction.” This included: “all U.S. citizens and permanent residents wherever they are located, all people and organizations physically in the United States or its territories, and all branches and subsidiaries of U.S. organizations throughout the world, corporations, wherever they are located throughout the world.”

In the case of Cuba, criminal penalties for violating the sanctions range up to 10 years in prison, US\$1 million in corporate fines, and US\$250,000 in individual fines. Civil penalties up to US\$55,000 per violation may also be imposed. The only way to legally travel to or do business with Cuba, or any other sanctioned country, was (and still is) to obtain a license issued by OFAC. For business, it was almost impossible to obtain a license, although journalists and a few other classifications of individuals are permitted to travel to sanctioned countries.

The only other option was to not be a U.S. citizen.

At that moment, I was not prepared to take that step. Instead, I decided to explore the possibility of living outside the United States. However, I quickly discovered that doing so did not exempt me from OFAC regulations. I also learned that there was no escape from the obligation of U.S. citizens to pay tax on their worldwide income, even if they physically



resided outside the United States. I began to seriously wonder if my “little blue book” (my U.S. passport) was really worth keeping.

Next, I began looking into ways of obtaining an alternative citizenship and passport. I conducted some research on the Internet; but then, as now, many of the companies offering passports were thinly disguised scams offering unofficial or even stolen documents. However, there were, at that time, a few Caribbean countries that offered legitimate “economic citizenship” programs.

With the aid of an attorney, I began to conduct research into which program would best suit me. I looked at cost, the availability of visa-free travel, credibility, and the desirability of that country as a residence.

“ECONOMIC CITIZENSHIP” IS NOT SECOND-CLASS CITIZENSHIP

After considerable research, I chose a country (which shall remain nameless since it has discontinued its economic citizenship program) and visited it. I liked the country and decided to possibly settle there, or at least maintain a residence or business presence. I paid the necessary fees to obtain economic citizenship and met with some government officials. Several weeks later, after an extensive background check, I swore an oath of allegiance to this country, was granted citizenship and subsequently obtained my passport.

A major concern was whether persons who had obtained economic citizenship from this country would be subject to discrimination, either from its residents or at border crossings. I found that there were no real problems in either case. Indeed, my passport was identical to those issued to native born citizens. While I ultimately made to decision to settle elsewhere, I still maintain a residence in my new country and also invest there.

Later, based on other factors, I was able to obtain another passport that offered superior visa-free travel than did the passport obtained through economic citizenship. After obtaining this third passport, at the advice of my attorney, I decided to take the biggest step of all — giving up my U.S. citizenship.

Walking up to the U.S. embassy, my heart was pounding. I feared that I was going to be called a traitor. I had also been advised that individuals who gave up their U.S. citizenship for tax reasons could be permanently



excluded from ever returning to the United States. (*Ed. Note: This provision in the 1996 immigration bill has never been enforced due to questions about its constitutionality.*)

However, the process went smoothly. I signed a form stating that I was not insane and that I was exercising my rights of citizenship. The embassy official took my U.S. passport, as well as the form. He also made a copy of one of my new passports to prove that I would not be a “stateless person” upon giving up U.S. citizenship. This was necessary because the United States has signed treaties obligating it not to permit its citizens to become “stateless persons.”

The entire process took about 20 minutes, about 17 of which were spent waiting for copies to be made and other administrative processes. I was told that the U.S. Department of State reviews these copies and subsequently issues a “Certificate of Loss of Nationality of the United States” if it concludes that the person concerned did, in fact, lose his or her nationality. Until then, I was still considered a U.S. citizen.

About two months after I visited the embassy, I received my “Certificate of Loss of Nationality” by mail. Attached was a letter explaining that I could appeal my loss of nationality, if I chose to do so, directly to the Attorney General. I took this certificate back to the U.S. Embassy and applied for a visa to visit the United States. After convincing a consular officer that I did not intend to resettle in the United States, I was granted a multiple entry U.S. visa. This gave me the right to visit the United States, although not to live there. Of course, I had no intention of living in the United States and thus becoming subject to the jurisdiction of OFAC and the IRS!

While I completed these steps only a few years ago, I have already experienced enormous benefits both personally and in business. I can travel anywhere in the world with my new passport. And I now have extensive business interests in Cuba and other countries subject to U.S. sanctions.

As I stood at the marker in Key West, looking over the Straits of Florida, I turned around and saw a group of tourists who had disembarked from a trolley tour and were snapping pictures of the marker. None of those tourists who are U.S. citizens or residents can visit Cuba. I can. Those who are U.S. citizens or residents also have to file an annual tax return with the IRS. I don't. That's what you call true liberation — or if you prefer, being a “sovereign individual.”



(Ed. Note: “P.T. Freeman” is a former U.S. citizen living in a Caribbean country and doing business throughout the world, including countries subject to U.S. sanctions. It is critically important to obtain expert legal and tax advice before expatriation. For more information, see “Expatriation: The Ultimate Estate Plan” in this chapter).

HOW TO STOP EXPATRIATION IN ITS TRACKS

Mark Nestmann Blog, November 2009

My recent blog entry (above) describing how easy it is to expatriate really hit a chord. Most responses were very positive. But a few were downright hostile.

“How can you in good conscience encourage someone to revoke all ties to the United States?” one reader wrote. “Don’t you have any patriotism?” Another reader predicted, “I have no doubt that some people who take your advice to expatriate may come to regret it later.”

That may well be true. But if these readers — or anyone else who thinks that expatriation is unpatriotic, unnecessary, or could lead to “buyer’s remorse” — really want to end expatriation, there’s something Congress can do, immediately, to shut it down.

I’m not talking about more stringent anti-expatriation laws, such as the “exit tax” Congress enacted last year. Nor am I speaking of enforcement of the arguably unconstitutional “Reed Amendment,” which purports to exclude persons who renounce their U.S. citizenship for “tax motivated reasons” from ever returning to the United States. (Fortunately, this law enacted in 1996, has rarely, if ever, been enforced.)

No, I’m proposing something radically different: for Congress to stop taxing the approximately six million U.S. citizens and green card holders living outside the United States. And it’s really not that radical, because the United States is one of only two countries that impose tax based on citizenship, rather than residence. Millions of U.S. citizens, some of whom have never set foot in the United States, are subject to U.S. tax on their worldwide income.

These U.S. citizens not only must pay U.S. taxes, but also comply with



U.S. offshore financial disclosure requirements. If they're wealthy, they must retain tax experts to avoid paying U.S. estate tax.

America's current tax policy also places its non-resident citizens at a disadvantage in the international marketplace. A Canadian, British, or Japanese passport holder working in, say, Hong Kong is only subject to Hong Kong tax on local income. But the U.S. citizen competing for the same job must deal with U.S. tax as well.

Congress could end this discrimination simply by amending the U.S. Tax Code. For instance, it could stipulate that any U.S. citizen or green card holder who leaves the United States for at least one full year is no longer subject to tax on their non-U.S. income. After a longer period — let's say five years — they would no longer be subject to U.S. tax on capital gains. And, should they establish a new domicile outside the United States, they would no longer be subject to U.S. gift and estate taxes.

Enacting these commonsense reforms would eliminate the tax incentives for U.S. citizens to expatriate. It would, quite literally, end expatriation overnight. These reforms would also put U.S. tax policy back in the international mainstream. Of course, when non-resident Americans return to the United States under this plan, they'd have to start paying U.S. tax again on their worldwide income.

President Obama campaigned on the promise of "Hope" and "Change." This simple change in U.S. tax policy would give hope to the more than five million Americans who live overseas.

Mr. President, do you hear us?

KNOW YOUR MLATs!

Mark Nestmann, *The Sovereign Individual*, December 1998

In this which we'll learn more than, hopefully, we will ever need to know about MLATs — Mutual Legal Assistance Treaties.

Mutual Legal Assistance Treaties (MLATs) are bilateral agreements between governments that simplify evidence gathering and forfeitures. Early MLATs, such as the U.S.-Swiss agreement of 1973, applied only



to a short list of serious offenses that were crimes in both the U.S.A. and Switzerland. However, most MLATs today cover “all crimes.”

In some MLATs (e.g., the U.S.-Cayman agreement), pure tax offenses are excluded, unless committed in conjunction with other crimes. In more recent MLATs, tax and other “fiscal” offenses are covered as any other crime. The new U.S.-Austrian MLAT is an example.

The U.S. has the most extensive network of MLATs in the world. Australia, Canada and the United Kingdom also have extensive MLAT networks.

YOU MAY BE A CRIMINAL

Because of their sweeping application, MLATs can represent a threat to legitimate investors and businesses that, for whatever reason, come under investigation for a crime. And don't be too certain that you're not a criminal. In the U.S. alone, according to the December 5, 1997 issue of *Forbes* magazine, “There are well over 3,000 federal crimes, including 1,700 that cover minor or regulatory matters. Beyond that, 10,000-plus actions have been made into crimes by regulators.”

Example: Filling in a puddle on your own property that a bureaucrat later classifies as a “wetland” is a crime. Any assets you've conveyed to an asset haven to protect yourself from whatever fines or forfeiture results from this or any other “crime” could conceivably be forfeited under all-crimes MLATs.

MLATs MAY OVERRIDE BANK SECRECY

MLATs also override local confidentiality laws. For instance, the MLAT between the United States and the U.K.'s Overseas Territory of the Turks & Caicos Islands states: “A person who divulges any confidential information or gives any testimony in conformity with the [MLAT] request shall be deemed not to commit any offense under the Confidential Relationships Ordinance 1979.”

Most MLATs do not require a judicial or administrative finding of probable cause to be invoked. Reasonable suspicion, essentially, not much more than a hunch, is sufficient. In effect, MLATs reduce the requisite burden of proof for a warrant for international evidence-gathering. Further, MLATs typically provide the subject of a confiscation order no right of appeal.



MLATs HELP FORFEITURE

One of the most frightening provisions of MLATs is that they provide the U.S. and other governments the authority to order international forfeitures, often on the flimsiest pretexts.

The U.S.-Switzerland MLAT is typical. It requires Swiss authorities to freeze assets in Switzerland following a MLAT request “as long as the investigation relates to conduct which might be dealt with by the criminal courts of the United States.”

Virtually any offense, including running a stop sign, fits this definition. Nor is it reassuring to learn that the Swiss Federal Supreme Court has declared: “If judicial assistance is requested by the United States, it cannot be denied just on the basis of deficiencies in the American proceedings, because the treaty does not contain any corresponding provision. Even alleged violations of human rights in the American proceedings form no basis for denying judicial assistance.” Nor is it sufficient for a U.S. court to order the funds unfrozen. The Department of Justice itself must make the request to unfreeze the funds, something it has refused to do even when faced with a court order to the contrary.

U.S. MLAT NETWORK

The United States had MLATs in effect with Anguilla, Antigua-Barbuda, Argentina, Austria, Australia, The Bahamas, Barbados, Belgium, Brazil, British Virgin Islands, Canada, Cayman Islands, the Czech Republic, Dominica, Estonia, Grenada, Hong Kong, Israel, Italy, Jamaica, Latvia, Lithuania, Luxembourg, Mexico, Montserrat, Morocco, the Netherlands, Panama, Poland, Spain, St. Kitts & Nevis, St. Lucia, St. Vincent & the Grenadines, Switzerland, Thailand, Turkey, the Turks & Caicos Islands, Trinidad & Tobago, Venezuela and the United Kingdom. MLATs are pending with Colombia, Hungary, Nigeria, the Philippines, South Korea and Uruguay.

Even lacking a MLAT, however, judicial assistance may be rendered in many countries. For instance, in response to an inquiry to the U.K.’s Judicial Cooperation Unit, located within the Organized and International Crime Directorate of the Home Office, we received the following reply: “The U.K. is able to provide a full range of legal assistance in criminal matters to judicial and prosecuting authorities in other countries under Part I of the Criminal Justice (International Cooperation) Act 1990, the U.K.’s principal mutual legal assistance legislation. The 1990 Act does



not require any treaty or agreement to be in place before assistance may be given in obtaining evidence in criminal proceedings or investigations. The U.K. can assist any country (or territory) in the world, whether or not that country is able to assist the U.K.”

MLAT TARGETS HAVE LIMITED DEFENSE

While the U.S. government has used MLATs for more than 20 years to gather evidence in foreign countries against criminal defendants, it systematically refuses to permit investigative targets to use these agreements to gather evidence for their defense, even after indictment. U.S. courts have concluded that individuals lack standing (i.e., the right to litigate) in asserting violations of treaties. Individuals may use treaties on their own behalf only if the agreement explicitly or implicitly provides this right.

This position appears to violate the U.S. Constitution, applicable foreign law and international treaties to which the United States is a party, but it nevertheless remains official U.S. policy.

DOING BUSINESS IN MLAT JURISDICTIONS

The best way to avoid the impact of MLATs is to do business or invest in jurisdictions that don't have MLATs with your home country. For instance, the Cook Islands, Cypress, Labuan, Liechtenstein, Madeira, Malta, Mauritius and the Seychelles lack MLATs with the U.S. Nor do the U.K. Overseas Territories of Bermuda and Gibraltar have MLATs with the U.S., nor the Crown Dependencies of Jersey, Guernsey and the Isle of Man. However, U.K. Overseas Territories and Crown Dependencies could conceivably come under the authority of the U.S.-U.K. “all-crimes” MLAT. And even countries without a MLAT will cooperate with foreign authorities to investigate allegations of serious crime.

If you do business or invest in a jurisdiction with a MLAT that could apply to you, consider the following strategies to reduce your vulnerability:

- Review the relevant MLAT or MLATs to determine what “crimes” are covered, and whether the offenses covered must be an offense in both jurisdictions to apply (dual criminality). This determination should ideally be made in consultation with your attorney.
- Review with your attorney whether assets conveyed to a foreign trust or other structure may be frozen or forfeited in a MLAT proceeding.



This must be a separate determination from the normal evaluation of potential vulnerability to civil judgments, fraudulent conveyance claims, etc.

- Monitor changes in MLAT language or definitions of criminal activity when published.
- Prepare “flight clauses” in trust documents and/or Articles of Incorporation that permit the domicile of the trust or corporation to be changed if the MLAT is amended or reinterpreted in any manner that would threaten the existence of the entity, or its assets.

TIPS FOR THE SOPHISTICATED FUGITIVE

Robert E. Bauman JD, March 2009

Every once in a while I'll get an email asking me to name a country where there exists strict bank secrecy guaranteed by law, easy establishment of immediate residence for foreigners, and no tax or extradition treaties with the United States.

The sender often wants the answer in a hurry.

An article in *The New York Times* asked the question why Americans in big trouble with the law don't just skip town (and country).

The Times wrote: “The Bernie Madoffs of the world, not just the Ponzi schemer himself but the rogue accountants, lawyers and hedge funders, walk meekly into federal courts with their rictus faces and ashen complexions and the expectation of long prison sentences, and a bystander can't help but wonder: ‘Why not take the ill-gotten money and run?’”

TWO GOOD REASONS

The answer to that question is two-fold: 1) in the modern world, with instant communications, it is no longer so easy to disappear as it once was; 2) the United States currently has extradition treaties in force with over 120 countries.

Extradition refers to the formal process by which an individual is officially delivered from the country where he is located (the requested county), to the country that wants him (the requesting country), in order



to face criminal prosecution, or if already convicted, to serve a sentence. The parties in extradition are the two countries and the individual who is the subject of the proceedings.

EXCEPTIONS TO THE RULE

As a general rule until recently, nations did not permit extradition for minor crimes or most non-criminal civil matters, such as unpaid taxes or private debts, failure to pay alimony or child support or fiscal offenses such as currency control violations. Victimless crimes such as prohibited sexual relations, slandering the state or refusing to abide by restrictions imposed upon racial or religious minorities, are also not included among extraditable crimes.

Some countries will not extradite if the possible punishment for the crime in the requesting country is death.

In theory, political offenses are not a basis for extradition, but defining “political” can be difficult. Tax offenses also generally have not been extraditable. However, fraud per se is an extraditable offense, and so a government that wants to pursue a tax case claims “tax fraud.”

GOOD OLD DAYS?

Once, the fugitive lifestyle was simpler.

The Times notes: “In 1972, the late Robert Vesco, the stock scammer and maker of illegal campaign contributions to President Richard Nixon, landed in Costa Rica, donated \$2.1 million to a company that just happened to be founded by the president’s brother, Donald Nixon, and waited until (miracle!) Costa Rica passed a law barring his extradition.”

Farther back in time, when the late and dapper Mayor James J. “Gentleman Jimmy” Walker of New York faced rumors of bribe taking in 1932, he packed up his comfortably large mayoral fortune and repaired to the French Riviera, remaining in Europe until the whole thing blew over.

CLINTON GOT RICH (AND VISA VERSA)

Some do run. In 1983, while he was a prosecutor, Rudolph W. Giuliani indicted the commodities trader Marc Rich, who sought refuge in Switzerland. Mr. Rich, perhaps with the help of his wife’s campaign dona-



tions and to the Clinton Presidential Library, experienced his own miracle in 2001, as outgoing President Bill Clinton pardoned him hours before leaving office.

The Times says: "Many white-collar suspects are convinced they're too smart to be convicted: just let them testify, they think, they'll persuade jurors." One can guess that Bernie Madoff doesn't fall into this category.

KIDNAPPING AS EXTRADITION

But some years ago a disturbing trend involving wanted persons appeared among some nations.

Without regard to formal extradition procedures, some fugitives were abducted by force from a foreign country and taken to another nation for trial and/or punishment.

A famous example of this kind of extradition occurred in 1960 when Adolf Eichmann was kidnapped from Argentina by Israeli agents. He was returned to stand trial in Israel for Nazi war atrocities committed during the Second World War. He was convicted and executed.

AMERICA THE FORCIBLE

Surely the United States government would never engage in such an illegal act.

But, yes, the U.S. used the same tactic when the U.S. Drug Enforcement Agency (DEA) went into Mexico in 1990 and kidnapped Dr. Humberto Alvarez Maccan at his medical office in Guadalajara, then forcibly brought him to Los Angeles to stand trial for the 1985 murder of DEA agent Enrique Camarena.

A U.S. court found that Dr. Alvarez was abducted at gunpoint in Mexico by paid agents of the U.S., physically and psychologically tortured by his DEA abductors and injected with mind altering drugs. The doctor was freed by a U.S. federal judge and returned to Mexico.

In 1992, the U.S. Supreme Court reversed this decision, but by then the doctor was safe in Mexico.

In this extraordinary decision the Supreme Court ruled, in effect, it is legal for U.S. agents to carry out kidnapping anywhere in the world. Shortly afterwards, President George H.W. Bush (president 41) issued a



presidential Executive Order specifically authorizing U.S. agents to do just that.

PANAMANIAN PINCHED

In 1989, U.S. armed forces took the deposed Panamanian dictator, Manuel Noriega, prisoner during the short-lived military attack on Panama. He was transported to Miami, where he was tried and convicted of federal drug and other criminal charges, in spite of defenses based in part on extradition law and treaties between the two nations (and the fact that he had been a paid agent of the U.S. CIA).

Extradition of fugitives to the U.S. is governed by traditional treaties, but augmented by a newer series of so-called "Mutual Legal Assistance Treaties" (MLATs). These agreements promote cooperation in the exchange of information and evidence in criminal investigations. U.S. prosecutors have gained real power with MLATs in their arsenal. They can request search warrants be served in foreign jurisdictions, the freezing of foreign-owned assets before trial, and demand access to financial records located abroad.

WHAT ABOUT YOU?

So how might this tangled web of extradition laws and treaties affect a foreign citizen living abroad?

As I said, extradition procedures depend on the specific terms of each bilateral treaty between nations, and are constantly under revision. In recent years the U.S. government has led demands for a broad definition of criminal acts warranting extradition.

Newer U.S. treaties and MLATs include mail fraud and money laundering as "extraditable offenses." (The American government always presses for mail fraud as an included offense since most nations will not extradite for what the U.S. claims is "tax evasion.")

SWISS BLISS MISSED

Broadened tax law extradition became an issue in 1996 when the U.S. and Switzerland revised their mutual tax treaty. Boastful "unnamed U.S. sources" at the IRS claimed the new treaty made it easier for the IRS to get information on which to base requests for extradition from the Swiss. The then Swiss government quickly echoed a ruling of the nation's highest court holding that unless "tax fraud" was shown as defined by Swiss tax



laws, the Swiss would continue to deny information and extradition based on broader U.S. tax laws.

Ten days ago that 74-year-old rule changed when the Swiss government bowed to international pressures and announced it would renegotiate tax treaties to allow tax information exchange in individual cases.

EXODUS FROM AMERICA

Robert E. Bauman JD, July 2008

In spite of the many disturbing trends in the United States about which I comment, I still have faith and hope that America will endure and prosper. But that won't happen without a clear recognition of our problems and a determined effort to address them by making the needed changes.

This election year, as others have recently, certainly discourages much hope for real solutions and true renewal — in spite of the use of an amorphous "hope" as a slogan to cover plans for more Big Brother and more big government.

But despite my faith in our country, some Americans have had enough.

In his recent book, *Bad Money, Reckless Finance, Failed Politics and the Global Crisis of American Capitalism* (Viking Press 2008), political commentator Kevin Phillips warns that an unprecedented number of citizens, fed up with failed politics and a shaky economy, have already departed for other countries, with even larger numbers planning to do so. I commented on his book a few months ago.

TOLD YOU SO

That Americans are fleeing is hardly news to Sovereign Society members and our readers.

For the decade since our founding, we at The Sovereign Society have noted sadly that each year hundreds of thousands of U.S. citizens and resident aliens have been leaving America to make a new home in other nations. Admittedly, that number pales against the millions clamoring to get into the U.S., legally and otherwise.



But there's a huge difference in the economic status of these two fluid groups.

Those seeking admission (or just illegally crossing our borders) are, by and large, poverty stricken persons desperately trying to better their lot with a new life in the Promised Land. They'll settle for low paying jobs, welfare, free education for their kids, and U.S. taxpayer subsidized housing and health care.

Those leaving are the wealthy and the talented — who have had enough, thank you.

FRESH EVIDENCE

U.S. News & World Report published an extensive article noting that many younger people are leaving the United States with young families to seek their fortune or just seek an easier life in foreign lands.

If the data collected in polls conducted between 2005 and 2007 are accurate, perhaps three million U.S. citizens a year are going abroad to live. That number, if true, is a big increase over recent years. Of special interest, the largest number of relocating households is not those with people approaching retirement, but rather those with young adults ranging from 25 to 34 years old.

John Wennersten, author of *Leaving America: The New Expatriate Generation* (Praeger Pub. 2008), and a retired historian who has taught abroad for many years, sees this exodus of Americans as “a long-term trend.”

While Americans who go abroad are in some ways typical pioneers looking for a new “Go West,” they also are part of a larger development, “a global economic shift,” Wennersten writes, “that is fostering real economic growth in neglected areas of the world, like Latin America, Eastern Europe, and Southeast Asia.” U.S. citizens are certainly not the sole beneficiaries of this shift, but they are active players in foreign countries where privatizing of former state-run industries and the opening of new capital and trade markets are creating opportunities.

WHO'S WHO?

A major question is whether America is ultimately gaining or losing from this movement of talented Americans to other countries

The answer is not simple. Wennersten cites what he estimates is a loss



of about \$30 billion in payroll, but he considers the outflow of expertise an even bigger potential drain. "It's not the average guys who are going," he says. "It's these 'creatives' who will be establishing the paradigm of the future."

Two years ago we assisted the editors of *WORTH* magazine in a series of articles on why Americans were moving their assets and their lives offshore. So the trend is not all that new, and began over a decade ago. Many of these self-exiles are wealthy people seeking to escape what they see as the tyranny of the United States government.

John Gaver of Action America has written: "The problem is that increasingly, the wealthy perceive, whether correctly or incorrectly, that they are under attack by their own government and they are taking the only rational option left open to them. They're taking their wealth and leaving."

POLITICIANS REACT

A 1994 *Forbes* magazine article described how some wealthy Americans had acquired a second nationality, surrendered their U.S. citizenship, and thus avoided millions in U.S. income and estate taxes. (The U.S. Supreme Court has ruled that renunciation is a constitutional right and U.S. law contains a procedure to accomplish this.)

The *Forbes* revelations create a continuing obsession in the U.S. Congress about this supposedly terrible tax exodus and how to punish such allegedly unpatriotic tax exiles. This anti-expat obsession manifested itself in its most virulent form last month in a new, tough expatriate exit tax law. <http://nestmannblog.sovereignsociety.com/2008/06/exit-tax-become.html>.

WE CAN HELP

The Sovereign Society exists to give advice and direction for those interested in "going offshore" in many different ways. We can offer you a road map to offshore freedom, including legal ways to protect your assets, lower your taxes, expand profitable investments and how (and where) to move your residence and/or citizenship offshore.

If offshore interests you, we can help.



SIX WAYS TO ESCAPE FROM AMERICA — NOW

Robert E. Bauman J.D. *The Sovereign Individual*, September 2009

Have things gotten so bad that freedom loving Americans need to escape from their own beloved country?

Howard Beale is a fictional TV news anchor in the 1976 movie *Network* played by the late Peter Finch, who won a posthumous Oscar for his role.

In the movie, Beale struggles with depression and insanity, but his producers, rather than give him the medical help he needs, use him to get higher TV ratings. The image of Howard Beale, in a beige raincoat with his wet, gray hair plastered to his head, standing up during the middle of his newscast hollering, "I'm as mad as Hell, and I'm not going to take this anymore!" ranks as one of the most memorable scenes in film history.

GALLOPING SOCIALISM

Flash forward to 2009 AD, America's First Year of Obama.

Galloping cradle-to-the grave socialism is the dominant theme in Washington. As I write this, the Obama administration is projecting a budget deficit of \$1.84 trillion, more than four times 2008's record-high. To put that number in context, that amount had never been spent by the federal government in a single year until 2000, let alone borrowed.

The Government Accounting Office (GAO) says the national debt per capita could exceed the gross domestic product (GDP) per capita by 2030. The national debt is now nearing \$12 trillion. With the U.S. population at about 307 million, each citizen's share of debt exceeds \$38,000. Almost 50% of that debt is owed to foreigners, \$800 billion to the Communist Chinese.

These trillions in deficit spending guarantee Weimar hyper-inflation just down the road. The dollar is sinking faster than the Titanic. At historic levels, both home prices are down and unemployment up. Big government now controls auto, insurance and financial companies, with massive socialized government health care next.



LOST TRUST

No sensible American places trust in bailed out banks or Wall Street fraudsters. And now a radical U.S. Congress is seriously considering imposing all sorts of unconstitutional restrictions on your traditional right to invest, bank and conduct business offshore. Greedy politicians want your cash kept at home where they can tax and take it.

Now your hard earned wealth may be confiscated by the IRS and “spread around” to finance leftist programs that reward deadbeats, illegal immigrants and labor union bosses.

SHARED PAIN

This time we’re all sharing that exquisite pain Bill Clinton so glibly said he understood. The very existence of the doers and producers in our society, those who forged their own path to success, dollar by dollar, is now in question.

We’ve worked hard all our lives, only to have an unholy, bi-partisan alliance of politicians and their lobbyist buddies rob us of the value of our homes, our investments and — worst of all — our basic freedoms.

If you really understand what’s happening to America you must do more than agree with Howard Beale’s lament. You may be frustrated and “mad as Hell,” but you need to act now to change those things you can — while you still have the power to act.

Using the talents that got you this far, you need put in place your own plan to save yourself and those whom you love and who depend on you.

You need an escape plan.

SIX ESCAPE PATHS

At least for now, for safety’s sake, you or some part of your wealth, need to escape from America. Here’s how:

1) Immediately move a portion of your wealth into a foreign bank account. While few tax savings are possible offshore, there is still a world of opportunity, safety and greater privacy to be found there. An offshore bank account offers protection from the dying U.S. dollar, letting you profit from currency fluctuations across the globe. It gives you access to international investments trading on the world’s leading exchanges,



plus the ability to acquire precious metals and tangible personal assets with real value.

Your offshore bank account is an important first step on your escape route. It can provide peace of mind against the weakened U.S. banking system — even if the Federal Deposit Insurance (FDIC) starts to buckle under the strain.

2) Create your own offshore asset protection trust. The APT is located far from your home place in an asset-friendly, higher privacy offshore jurisdiction. That makes it one of the best available legal structures for asset protection. Use it to stash your cash, securities, personal property and other moveable valuables.

The offshore APT is tailored to protect those who live in a distressed country and that need the foreigner-friendly laws of a more stable country where trust operations are based. The laws where the APT is registered govern, acting as a shield for your business and personal assets — and to discourage potential claims and lawsuits.

Offshore trusts are not just for the very rich any more.

3) Purchase an offshore variable annuity. This is one of the easiest routes to investing in foreign funds without having to pay immediate U.S. taxes. A properly diversified variable annuity gives you legally deferred taxes, much like an IRA, until funds are actually withdrawn. And annuity investments can be transferred from one fund manager to another with no immediate tax consequences, plus you achieve significant asset protection under foreign laws.

4) Acquire offshore life insurance. One of few remaining offshore estate tax planning opportunities, life insurance combines solid asset protection with tax deferral. Despite all the phony “estate tax reform” talk in the United States, when an American dies without prior proper planning, combined income and estate taxes can consume 50% or more of a U.S. person’s estate.

This estate tax rape can be avoided with various techniques, but only life insurance provides four key benefits: 1) tax-free build up of cash value, including dividends, interest, capital gains; 2) tax-free borrowing against cash value; 3) tax-free receipt of the death benefit; and 4) freedom from estate and generation skipping taxes.



5) Buy and hold precious metals offshore, including gold, silver, and collectibles. The Perth Mint in Australia, NMG's My Swiss Gold in Zurich and your offshore bank account each give you the ability to buy and store your own physical gold and silver. Whatever happens to fiat paper currencies, your precious metals will have value.

If you bought \$100,000 worth of gold in 2001, you got 384.6 ounces of gold at the then current price of \$260/oz. In August 2009, gold was at \$950/oz and has been as high as \$973/oz. That 2001 gold is now worth almost four times your original investment.

You also can purchase foreign securities using your offshore bank account or trust. Properly structured foreign legal entities are not considered "U.S. residents, persons or citizens" so they enjoy an unrestricted right to buy non-S.E.C. registered securities.

6) Move your existing IRA or other retirement account offshore. Switch to a U.S. custodian who will help you to invest your account offshore in real estate and other more lucrative investments.

ACT NOW

Here I've given you six legal avenues for partial escape from America. You can activate them now, today.

If you believe, as I do, that America faces the huge, unprecedented challenges I described...high taxes, deficit spending, the loss of liberty, then you must act.

The best way to escape from a problem is to solve it. Perhaps your solution is escape from America.

[Ed. Note: Each of the six paths suggested above are explained in detail in later chapters of this book.]





Chapter Three

OFFSHORE BANKING: PRIVACY & ASSET PROTECTION

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Editor’s Note

The prime requirement for achieving iron-clad financial privacy and asset protection is to get your cash and property out of what the late admiral of the U.S. Navy John Paul Jones correctly described in a military sense as “harm’s way.”

This simply means you must move a large part of your financial activity “offshore” — out of, and away from, the high-tax nation you call home, whether it is the U.S., the U.K. or any other state bent upon confiscating your hard-earned wealth.

Here we present information and ideas that explain how to establish and use accounts located in a bank or financial institution in a foreign nation. We also explain U.S. laws governing offshore banking, money laundering and reporting of offshore cash transfers, touchy matters under the current state of the law.

PART ONE — OFFSHORE BANK & FINANCIAL ACCOUNTS

THE SIMPLE WAY TO A PRIVATE & SECURE OFFSHORE ACCOUNT

Erika Nolan, *The Sovereign Individual*, October 2009

About four years ago, I accomplished my “freedom trifecta.”



I was living in one country, banking in two others and I had a second passport. You see, I hate to be pinned down or restricted in any way.

Freedom is about having options.

I sleep better at night because I know I could abandon my life here in the U.S. if worse came to worst. I could provide for my family using our offshore savings. I could also rebuild my career more quickly than most by being able to legally work in 27 countries.

Of course, I hope it never comes to this. But, smart money should be prepared and well diversified because the U.S. is struggling. The deficit, rapidly growing government and our nation's dependency on foreign lenders will have a profound long-term impact on the stock market as well as the value of the dollar.

If you haven't already done so, you should consider putting 10-20% of your net worth in non-U.S. investments and hold them overseas.

RULES OF THE GAME CHANGED

For years the main way to do move wealth offshore was to find an offshore bank and open an account.

Most banks in Europe and Asia warmly welcomed American clients. But the climate has changed in the past year as the IRS has put pressure on international banks to turn over their U.S. clients as they search for non-reported accounts.

Attacks from the U.S. government have made many banks decide that it's not worth the hassle to service American clients.

How quickly is it changing? In March 2009, I set up a relationship with a boutique Swiss bank in Geneva.

Their only other office is in southern Switzerland...they have no U.S. exposure. By July, they had increased the minimum account opening minimum from \$25,000 to \$800,000. In August, they raised the minimum for Americans to over \$2 million. And in September, they called to tell me they would no longer accept American clients regardless of the account size.

The same thing happened with two banks in Singapore.

While searching for an offshore bank today is a much greater challenge,



all hope is not lost. Rather than searching for a bank overseas that will accept American clients, look for a qualified asset manager instead.

BETTER WAY TO ACCESS OFFSHORE BANKS

Independent asset managers are a growing group of professional advisors who have broken away from large banks and financial firms to start their own companies. They have very similar fee structures and access to the same investment selections as the large bank-based investment managers. However, working with an independent asset manager has a several distinct advantages.

Most independent asset managers are part of a small and independent company. They have the autonomy to build client portfolios without pressure from a large corporate parent that may dictate a “one-size fits all” investment strategy.

ASSET PROTECTION, NOT TAX SAVINGS

Keep in mind that you will not save on U.S. taxes...that’s not the point. Any agreement you make with an independent asset manager (or a bank) will be in full compliance with IRS and SEC laws. Given all the attention on American clients, most international firms will require you to sign an IRS Form W-9 so that any taxable gains can be easily reported for tax compliance.

WEALTH PRESERVATION TECHNIQUES

Of course, independent managers can implement traditional investment strategies based on broad risk levels. However, they will often create customized portfolios for individual investors starting at lower minimums than offshore banks.

Many of the managers I know will provide customized investment management for accounts starting at \$500,000. Compare this to the private banks (assuming they will even speak to an American client) that require a \$2 million to \$5 million account for a tailor made portfolio.

Your independent asset manager will work with you to determine the appropriate investment strategy to enable you to plan for your future. Also, by selecting the asset manager, you no longer have to worry about selecting an offshore bank.



LET THE MANAGER WORK FOR YOU

Asset managers have preferred banks they work with and will select a bank that will take American account holders. Plus, they will assist you in completing the account paperwork and in most cases they will select a bank that can provide tax reporting for you so that you stay compliant with the IRS.

You see, many banks will accept U.S. clients if the account is managed by a registered advisor with whom they have a proven history. The bank uses the advisor as their point of contact on the account.

They bank has very little, if any, interaction with you directly and this is why they will accept the account, even if you're an American citizen.

In addition, you have the added benefit of getting personalized service from your manager with only a tiny increase in annual fees depending on the size of your account.

ENJOY BETTER SERVICE

Another important benefit is that independent asset managers get to know you on a personal level. A good independent asset manager will call you every few months to report on their investment performance and share their vision for the coming months.

Also, working with an independent asset manager means you won't have unwanted turnover on the management of your account. Independent managers tend to hold positions for many years. Independent asset managers are operating their own business or are partners in the business, as opposed to being a bank employee. That allows you and your family to build up good communication, expectations and trust with the manager over years rather than having to break in a new account manager every few years.

When you decide to move money offshore, you are able to take advantage of several benefits. For many the benefit is as simple as holding liquid non-dollar cash outside of the U.S. in case things go from bad to worse.

But one of the big benefits of diversifying your wealth internationally is access to a skilled international advisor. An advisor based in Vienna, Zurich, Singapore or Copenhagen has a very different world view than a U.S.-based advisor. They can bring true diversification to your overall investment portfolio.



If you wish to contact an independent asset manager, contact The Sovereign Society at 98 S.E. Federal Highway, Delray Beach, FL 33483; Tel.: 561-272-0413. We assist our members in making appropriate contacts with reliable managers who have passed our due diligence test.

PRIVATE BANKING — NOT JUST FOR THE ULTRA-WEALTHY

Robert E. Bauman JD, April 2007

The term “private banking” is becoming so overused that it’s lost some of the exclusivity that was once attached to the intensely secret dealings between a banker and his wealthy clients.

American banks, always chasing the almighty dollar, have recently been trying to sell their wholesale “private banking” as if it were a special service. This — from banks where you must stand in line forever to see a teller and where you can never get a human being, only a recording, on the phone.

Almost every bank with any pretensions to being international offers special rates of interest to wealthier private depositors under the heading of “private banking.” Minimums in some cases start at entry levels of US\$100,000 or much higher (US\$500,000 in Swiss banks) before offering special treatment to their clients. The truth is, the more cash you deposit, the more private banking attention you get.

HISTORY BEHIND PRIVATE BANKS

Private banking, for the most part, was an art developed offshore — in London, Zurich and Vienna. Over two centuries ago Mayer Amschel Rothschild (1743-1812), founder of the famous international banking dynasty, created private banking. The House of Rothschild filled a void, creating a profitable continental money system that influenced the course of European history by financing its rulers and wars. Now, that was private banking.



“Private banking” has come to mean investment management beyond offering a confidential relationship with a person to whom you entrust your money. Those personal relationships still exist in the traditional places such as The City in London. But they apply more to extremely rich people than to moderately wealthy people who want more personalized treatment than they can get from their local bank branch or on the Internet. In this case, private banking means investment management offered on a personalized basis by a bank to an individual (or his company, trust or family foundation) with disposable wealth of more than US\$250,000 or more.

Until relatively recently, only the wealthiest investors could benefit from having any kind of offshore bank account. Only the richest of the rich could afford the fees and legal advice associated with going offshore. Now, after dramatic changes in international banking and communications, even a modest offshore account can be your quick, inexpensive entry into the world of foreign investment opportunities.

ONLY LAW-ABIDING CUSTOMERS WELCOME

Put aside the erroneous popular notion that foreign bank accounts are designed for shady international drug kingpins and unscrupulous wheeler dealers trying to avoid paying taxes. For some people, offshore accounts will always evoke images of spies from the U.S. Central Intelligence Agency or the U.K.’s MI-5. Although these cloak and dagger images are entertaining, they hardly relate to our present practical purposes: to build offshore financial structures to increase your wealth legally and protect your assets.

And private banking offshore is better because the cost of such special treatment is more than offset by the superior profits available with offshore investments. You can use a foreign bank account as an integral tool in an aggressive, two-pronged offshore wealth strategy. One goal is to increase your asset value by cutting taxes and maximizing profits. The other is to build a strong defensive asset protection structure. In other words, an offshore private bank account is not just a place for safekeeping cash.

One of the great advantages of an offshore bank account is the ability to trade freely and invest in foreign-issued stocks, bonds, mutual funds and national currencies that are not available in your home country. An offshore account is an excellent way to diversify investments and take advantage of global tax savings. You can have instant access to the world’s best investment opportunities, including currencies and precious metals without concern about your home nation’s legal restrictions.



BIG BUSINESS — WORTH TRILLIONS IN OVERSEAS ASSETS

Offshore banking is big business worldwide. Recent estimates calculate that US\$2 trillion to US\$5 trillion is stashed in nearly 40 offshore banking havens that impose no taxes, have less onerous regulations, guarantee privacy and cater to nonresidents. One-third of the entire world's private wealth is stashed in Switzerland alone!

The Sovereign Society can recommend excellent banks that offer private management in many offshore financial centers — Switzerland, Panama, Liechtenstein, Austria, Hong Kong and Singapore. Other banking haven nations such as Monaco, Andorra, the Cayman Islands, the Channel Islands and the Isle of Man are also available.

If you want to protect and grow your wealth, an offshore private bank account should be a primary consideration.

SAFE WAYS TO HOLD CASH IN YOUR PRIVATE BANK ACCOUNT

Eric Roseman, *The Sovereign Individual*, October 2009

The most popular investment of 2009 is cash (and cash equivalents).

After all, the value of money isn't dropping like your typical blue-chip stock. But how can you be sure your cash is safe?

Until recently the answer was simple: store it in a reputable offshore bank. Today, that answer is not good enough. Systemic risk has swamped the financial system and changed the rules of holding cash offshore.

Here I will show you two simple steps that will go a long way in protecting your wealth through these turbulent times. But first, let's take a closer look at why all European banks aren't on the same footing.

TRADITIONAL BANK GUARANTEES AREN'T GOOD ENOUGH

All 27 members of the European Union now provide blanket guarantees on cash deposits. That's a great start...but it's not enough. Why? Because despite these guarantees, most Western European banks still maintain significant exposure to toxic loans.



During the boom years, they lent trillions of dollars to the Baltic Republics and former Soviet satellite states. These loans are now on the verge of mass default, threatening banks in Austria, Italy, Germany and Scandinavia.

The fear is that this wave of defaults — triggered by the rapid deflation of assets, currencies and real estate — will cause an explosion of sovereign defaults, and ultimately bring the Eurozone's financial system to its knees.

These concerns are legitimate — especially for anyone storing a portion of their wealth in the region.

Thankfully, Europe's elite private banks — which tend to be much more conservative in their use of leverage — have largely escaped the carnage.

Private European banks generally follow two mandates: preservation of clients' wealth and privacy, and the avoidance of risky loans and leverage. In other words, they don't make risky real estate loans or aggressively trade mortgage-backed securities or derivatives. Instead, they earn the bulk of their profits from asset management, brokerage and other ancillary fees tied to wealth management.

As a result, most of them have remained largely profitable.

ARE YOUR OFFSHORE ACCOUNTS SAFE?

The Sovereign Society continues to recommend private banking in Denmark, Switzerland and Austria. All three financial centers remain viable thanks, in part, to a recent round of government guarantees.

As a result of this coordinated action, the guaranteed coverage level for bank deposits will be raised to €50,000 (US\$63,000) in July 2009 and to €100,000 (US\$126,000) at the end of 2010. These measures are aimed at restoring depositor confidence.

The strongest guarantees can be found in Denmark and Austria, where all non-resident deposits are now fully backed by their respective governments until September 2010. But even these rock-solid guarantees do not cover every type of investment.

Marketable securities like mutual funds, hedge funds and bonds are not protected; neither are corporate or investment company accounts. On the other hand, foreign currency deposits and term deposits are (for the most part) covered by this guarantee.



SWITZERLAND REMAINS A VAUNTED OFFSHORE VAULT

No Swiss private bank has failed since the emergence of the global financial panic in late 2007. There's a good reason for that. Most of their small private banks, including (Swiss government-owned) Cantonal banks, did not purchase mortgage-backed securities or other illiquid assets.

This kind of consistent, level-headed management is a hallmark of Swiss banking — and a key reason why they've dominated the banking industry for hundreds of years.

Though Switzerland is not part of the European Union and does not guarantee deposits, it remains a premier destination for capital. Of course, there have been some bumps in the road. UBS, Switzerland's largest bank, continues to draw fire from national regulators and the investment community for aggressive banking practices prior to 2008. But so far, they've been spared further damage thanks to their profitable wealth management unit, which is based in Zurich.

Bottom line, the majority of Swiss private banks are well capitalized and not threatened by the ongoing deflation in large bank asset values. That's great news for offshore account holders who were wise enough to diversify out of the United States banking system.

QUESTIONS TO ASK

If you hold cash deposits in excess of \$1 million, be sure to ask your private banker where that money will be held. Will the bank outsource this capital to a third party? If so, ask him or her to provide you with the name of that counter-party.

The safest counter-parties include the biggest banks in each country, Deutsche Bank in Germany, for example, which won't be allowed to fail.

Bottom line: Be sure to take the right precautions and ask the right questions before committing your funds to any institution. Private investment banks continue to be the safest place for your cash. But by taking some extra care and moving your cash deposits into short-term government bonds, you can achieve the highest measure of protection possible.



TYPES OF ACCOUNTS AVAILABLE AT OFFSHORE BANKS

Banking in Silence, 1998, Scope Books

The offshore banking industry offers a much wider range of account types than most onshore banking jurisdictions. The options vary from simple savings accounts to accounts designed for the sole purpose of tax avoidance to accounts where the bank invests and oversees your money on your behalf.

The various types of accounts can be grouped into a few categories. Although the names may change from bank to bank, the basic design behind each account type is more or less the same.

They are as follows:

Current accounts are the most common type of account. They generally come with a checkbook or debit card and can sometimes be linked with a credit card. The required starting balance is low, but the interest rate is also generally low. Some banks allow for multi-currency accounts, meaning that you can deposit and withdraw funds in any of a number of currencies. You can also easily change either all or part of your account into the currency of your choice.

Deposit accounts are generally a good place to store money over the slightly longer term. They offer higher interest rates, but restrict your ability to get at your money by requiring that you provide sufficient notice or sacrifice the interest earned. Starting balances are also generally higher with many banks requiring a minimum deposit of somewhere in the region of US\$10,000. The interest rate depends upon the amount deposited, as well as the time period for which it will stay in the account. It also depends on the currency in which the account is denominated, stronger currencies paying less interest.

Twin accounts basically combine a high-interest deposit account with the convenience of a current account under one, all-inclusive number. The bulk of the funds on deposit is kept in the high interest account while a smaller amount is kept in the current account for day to day use. If you



one day find yourself overdrawn, the bank would then merely transfer money from the deposit account into the current account. Thus, the need to maintain two different accounts is eliminated.

Fiduciary accounts allow you to invest anonymously in high-tax markets, even in your home country, by using your bank as a proxy investor. For example, if you maintain an account in a Liechtenstein bank but wish to hold part of your overall portfolio in German marks, you could instruct your banker to open an account in Germany on your behalf. The marks would be purchased in Frankfurt and then held there in the bank's name, although the interest earned is paid to you in Liechtenstein. For the record, it appears as if the bank is acting on its own initiative, meaning that if you happen to be German you would no longer be liable for German tax. Of course, the bank charges a fee, usually one quarter of one percent of your principal, for providing you with such anonymity. You also receive a slightly lower interest payment than you would if you made the deposit on your own.

Certificates of Deposit (CDs) are a way to earn much higher interest rates than those on offer through deposit accounts. In short, your funds are loaned to the Euro currency market at the current rate for the currency in which the CD is denominated. CDs usually come in bearer form, meaning that they can be freely and anonymously traded. They enjoy a large and active secondary market. They vary a great deal in terms of the maturity of the investment, ranging from almost overnight to up to five years. Best of all, banks do not withhold any tax on the CDs that they issue, meaning that with a little creative planning your money can earn hefty interest payments tax free.

Precious metal accounts allow you to invest in precious metals via your bank. The bank will then store the metal in its vault on your behalf. The advantage of opening up this type of account is that by combining your resources with those of other bank clients, you can purchase precious metals at a far more competitive price. Of course, such an account does not generate any income but should be seen as a safety net. The bank generally charges an annual storage fee usually in the region of one half of one percent of the value of the metals on deposit.

Investment accounts are usually only offered by larger banks. They allow you to invest your funds in commodity markets with the help of your bank. They usually take the form of a mutual fund in stocks, bonds and other commodities and are overseen by the bank itself. The required starting



balance is somewhat hefty, generally US\$50,000. These accounts usually come with rather high front-end costs as well as significant management fees. But as long as the markets are performing well a good investment account will on average prove to be more profitable than a simple deposit account.

Managed accounts work much like investment accounts but allow you to choose where to invest your funds. Instructions of what to buy and sell are sent to the bank by phone or fax. It is possible to hold the commodities purchased in the bank's name rather than your own for an extra layer of privacy. The price for such convenience takes the form of a minimum deposit requirement of at least US\$250,000.

Safekeeping accounts allow you to deposit bonds, stocks and other valuables. The bank will then manage the overall portfolio deposited, redeeming the bonds when they mature and doing whatever need be done with the valuables entrusted to them. Of course, such convenience comes with a price tag, usually a fee of approximately .015 percent of the market value of the portfolio they are maintaining.

SAFETY DEPOSIT BOXES OFFSHORE

Mark Nestmann, *The Sovereign Individual*, May 1999

When most of us think of an offshore account, we usually associate it with the purchase of certificates of deposit (CDs) or securities or asset management. But behind the scenes, any bank — offshore or otherwise — must take precautions to ensure the safe custody of the investments it holds for you. And it's also possible — and in some cases preferable — to maintain your own “safe custody” in an offshore safety deposit box.

CUSTODIAL ACCOUNTS

Many offshore banks provide convenient accounts that maintain custody of securities or precious metals they purchase on your behalf or that you turn over for safekeeping. The assets in such a “custodial account” are not available to creditors of the bank. You can also turn over documents or valuables in a sealed envelope or box to the bank. Numbered custodial accounts are also available at some banks.



You may specify “fungible” or “non-fungible” storage for these assets. Fungible storage means that when you redeem your securities or precious metals, you receive “like-kind” assets, although not necessarily the identical assets. In other words, the numbers on the securities you receive back may be different from that on those you deposited. Non-fungible storage means that the bank will return to you the exact securities or metals — or the sealed envelope — you deposited.

A custodial account is fully integrated with your other account(s) with the bank. You receive regular statements about the assets held in custody and all charges are deducted from the account balance. If you have instructions relating to the assets in the custodial account, you can relay these to the bank through normal channels; i.e., via letter, fax or phone.

If you merely use a custodial account to hold assets that do not generate income, there are no tax or reporting consequences in most countries, including the United Kingdom. However, this integration and convenience comes at a price to U.S. depositors: a custodial account is a reportable “foreign financial account” if the aggregate value of the account and all other “foreign financial accounts” exceeds US\$10,000. The existence of all such accounts must be acknowledged on Schedule B of your U.S. tax return and on Treasury Form TD F 90.22-1.

SAFETY DEPOSIT BOXES

As an alternative to a custodial account, consider a safety deposit box to maintain custody of securities, precious metals or other valuables. The main advantage of a safety deposit box is privacy.

The bank does not know what you keep in the box, although you must agree not to store dangerous or illegal materials in it. Further, the bank does not exercise authority over the box. Thus, the rental of a safety deposit box in a foreign bank does not in itself appear to constitute an account relationship. A U.S. person can make the argument that the box does not constitute a “foreign financial account.”

To avoid having to personally visit the box each time valuables are to be added or removed, you may give an attorney or other trusted intermediary a limited power of attorney or other legal authority necessary to perform this function.

You can use the combination of an offshore account and a safety deposit box to control assets worth many times the US\$10,000 reporting



threshold. For instance, you could make a series of securities purchases through the bank then take personal delivery of the securities to place in your safety deposit box. Or have your attorney or other designated person take delivery.

Materials held in a safety deposit box are not ordinarily insured against theft or other loss. Where this protection is available, the limits are generally low. Supplemental insurance is available, but will compromise privacy. Contact the bank for details.

THERE ARE WAYS

Robert E. Bauman, JD, *The Offshore Money Manual*, 1998

U.S. Treasury rules now require banks and currency brokers to keep records of all domestic and international wire transfers exceeding US\$3,000 or more. In addition, transfers over US\$10,000 must be officially reported. These records must show the exact amount and date of the transaction. Also required are instructions, name, address, social security and employer's identification number (EIN).

This information must be made available to government agents who present judicially approved subpoenas or search warrants. Although these records will exist, you may find it more private to have a transfer record with ASI or another exchange broker, than to have it recorded at your own bank.

REPORTING FOREIGN BANK ACCOUNTS

So you have gotten your assets offshore. Now what?

Do you have to tell the government that you have opened an offshore account? The law says: Each United States person who has a financial interest in, or signature authority over bank, securities, or other financial accounts in a foreign country which exceeds US\$10,000 in aggregate value, must report the relationship each calendar year by filing Treasury Department Form 90-22.1 before June 30 of the succeeding year.

There's a line on your annual income tax Form 1040 where that notice must be filed. The US\$10,000 account limit includes the total value of cash, CDs and negotiable securities held in your name in any offshore



bank accounts. It excludes foreign investments held separately from the bank account itself. So long as the foreign bank account does not exceed US\$10,000 at any point in time during the taxable year, no IRS report is required.

There's no prohibition in the Bank Secrecy Act against the sort of "structuring" outlawed by the Anti-Money Laundering Act of 1986. Consequently, you can have a number of offshore accounts in your name. The law says you must make your calculations based on the official rates for each currency as determined by the Federal Reserve Bank of New York. Naturally, these figures are published only once annually at year's end. By then it may be too late to make downward adjustments in your balance.

The solution is simple enough; keep your account balance well below the US\$10,000 limit. This will provide a buffer against interest income and currency appreciation. It will require you to set up more accounts, but in the end you will come out ahead.

ACHIEVING MAXIMUM PRIVACY IN YOUR OFFSHORE ACCOUNT

Mark Nestmann, *The Sovereign Individual*, August 2003

In the minds of most Americans, there is nothing so mysterious, so enticing, as an "offshore bank account."

The very phrase, particularly among the wine and brie crowd, brings up images of exotic and possibly illegal financial dealings in a tropical setting, accompanied by absolute bank privacy.

The movie *The Firm*, which was popular a few years ago, greatly reinforced these stereotypes. It portrayed the Cayman Islands as a jurisdiction where you could simply land a plane stuffed with bags of cash and deposit that cash directly into a local bank account.

However, those days, if they ever existed at all, are long gone. The truth about offshore bank accounts is very different from what you hear at parties or see at the movies. In this column, I'm going to separate fact from fiction, and give you six recommendations that will allow you to legally protect the privacy of your offshore account.



THE TRUTH ABOUT “BANK SECRECY”

For better or worse, the concept of “bank secrecy” has changed greatly in recent years. Thirty years ago, it was possible to hire an attorney in one of several offshore jurisdictions — including Switzerland, Liechtenstein or The Bahamas — and have the attorney open up an offshore bank account, in his name, and operate it for you without the bank knowing your real identity.

In those days, secrecy was virtually absolute. No one — including agents of the U.S. government — could penetrate it, except in very unusual circumstances.

All this began to change in the 1970s, when the United States signed its first “Mutual Legal Assistance Treaty” (MLAT) with Switzerland. This agreement obligated Swiss authorities to waive bank secrecy when the U.S. government presented them with evidence that money tied to a serious crime in the United States was held being in Switzerland. Tax offenses, with the exception of tax fraud, were not covered.

Since then, the United States has ratified nearly 50 additional MLATs, most with expanded provisions in comparison to the Swiss agreement. In addition, various international organizations, including the Organization for Economic Cooperation and Development (OECD) and its stepchild, the Financial Action Task Force (FATF), have prepared “blacklists” of countries in which “excessive financial secrecy” prevails, and tried to impose sanctions against those countries not agreeing to severely restrict it.

But bank secrecy has not been “eliminated,” as some press reports would imply. The best way to view bank secrecy today is as a bulwark against prying eyes peering into your financial affairs, unless you are suspected of committing a serious crime.

No doubt, bank secrecy occasionally shields lawbreakers. But more often than not, it is used for legitimate purposes — to shield individuals and their families from retribution by corrupt or totalitarian governments; to give them access to investments forbidden or restricted in their own countries; or to hide wealth from kidnappers who typically target persons with visible wealth.

And today, even if some of the more powerful tools individuals and companies could once use to keep their financial affairs secret have been severely restricted, there remain opportunities for financial privacy “off-



shore” that simply don’t exist domestically. You just have to be realistic in your expectations.

OFFSHORE BANK ACCOUNTS AND PRIVACY

While it’s become more difficult to move money offshore, you can still take your domestic wealth off the radar screen to achieve practical, if not necessarily impenetrable, privacy.

The single best reason to move assets outside your own country is to protect yourself from the global litigation epidemic. The United States is unique in its approach to “tort liability,” in which both sides in a lawsuit pay their own expenses, no matter who wins, and where lawyers are permitted to finance lawsuits, no matter how ridiculous the claim. In recent months, doctors have actually gone on strike in several states to protest skyrocketing malpractice premiums resulting from increased exposure to lawsuits.

However, truly frivolous litigation is no longer only a U.S. phenomenon. The U.K. and Canadian legal systems are also undergoing quiet, yet revolutionary transformations that dramatically increase the odds of being sued and losing.

An offshore bank account provides substantial protection from frivolous lawsuits. Since lawyers size up targets for lawsuits by looking for their money, someone considering suing you may decide to find a target with more visible wealth. Unfortunately, the availability of offshore bank accounts with low minimums is rapidly diminishing. This is a direct consequence of the escalating cost of banks performing “due diligence” on their customers to comply with new initiatives from the OECD and FATF.

SIX RECOMMENDATIONS FOR OFFSHORE BANKING SECRECY

The advantages of dealing offshore — privacy, asset protection and investment diversification — remain in place, but only if you follow a few simple rules.

1. **Choose the right jurisdiction.** As we described in our annual review of offshore havens (TSI 6/03), we believe the top offshore jurisdictions to be Switzerland, Panama, Liechtenstein and Hong Kong. First class offshore banking services are also available in Austria. Denmark offers low-cost offshore banking, but no privacy with regards to foreign tax authorities.



2. **Understand foreign “due diligence” requirements.** Along with the end of anonymous accounts in most offshore jurisdictions, most offshore banks now require prospective customers to prove their identity with a certified copy of their passport or other official document. You may also face questions regarding the origin of the funds you are placing into the account. Don't be afraid to answer these questions—the application for your account along with all documentation you provide is subject to whatever bank secrecy laws prevail in the jurisdiction you've chosen.
3. **Don't try to cheat the tax man.** Most high tax countries impose taxes on the worldwide income of their residents. While domestic tax authorities don't generally have the authority to go on offshore “fishing expeditions” to uncover unreported offshore income, the momentum is clearly toward greater disclosure. There's also little doubt that the tools that governments are giving themselves to fight “terrorism” will ultimately be used to augment tax collection. Our recommendation is to report the existence of the account to your domestic tax authorities and pay whatever taxes are due. Doing so will not generally raise a red flag and will not negate the privacy advantages of the account with respect to prospective litigants. At least in the case of the IRS, there have been many more prosecutions for failing to report an offshore transaction than for engaging in an allegedly illegal transaction that was reported.
4. **Don't open an account at the foreign branch of a U.S. bank or a foreign bank that has U.S. branches.** Either of these factors places the bank under the jurisdiction of U.S. courts, thus providing litigants with additional opportunities to penetrate offshore banking secrecy.
5. **Don't use offshore accounts to hold U.S. dollar denominated investments, including U.S. securities.** The USA PATRIOT Act gives U.S. authorities the right to demand to know the identity of individuals with interests in the U.S. “correspondent accounts” offshore banks maintain for their customers who maintain U.S. dollar investments. In addition, the U.S. government is beginning to confiscate the proceeds of such accounts under the notorious “civil forfeiture” statutes.

Finally, IRS “qualified intermediary” (QI) regulations enmesh correspondent accounts in a maze of red tape. U.S. depositors in foreign banks who purchase U.S. securities and refuse to identify themselves to the IRS under the QI regulations are subject to a 31% withholding tax — not just



on income from the account, but on their entire investment. So make sure to set up your offshore account(s) so that you can use them to purchase U.S. securities or other dollar denominated assets without actually holding them in U.S. dollars (sounds complicated, but it really is easy to do).

6. **Keep it simple.** It's a good idea never to get involved in an investment you don't understand, and this is doubly true for investments you make outside your own country. Ultimately, the value of offshore investing is to create a "nest egg" that can survive lawsuits; changes in public policy; even a collapse in the value of your domestic currency. You don't need complex investments to achieve these goals.

PART TWO — THE LAW, PRIVACY & ASSET PROTECTION

THE BANK SECRECY ACT OF 1970 *Banking in Silence, 1998, Scope Books*

The official name for this U.S. statute is the "*Financial Record Keeping, Currency and Foreign Transactions Reporting Act.*" How exactly it became known widely as the Bank Secrecy Act is a mystery.

It is a prime example of what is meant by "newspeak," where a government says one thing while doing the exact opposite. This act has absolutely nothing to do with bank secrecy. In fact, it explicitly sets out to provide the U.S. government easy access to all American bank records. Of course, the pretty name undoubtedly contributed to the lack of resistance Big Brother experienced in passing the legislation.

The Bank Secrecy Act formed the first volley in the war on financial privacy. It called for the monitoring of financial affairs in three specific areas:

1. The dreaded Currency Transaction Report (CTR), or form 4789, was brought into existence. This form must be filed with the IRS by all banks and financial institutions for each deposit, withdrawal or exchange of currency or other monetary instruments in excess of



US\$10,000. The filing function is done automatically and electronically by most banks.

2. Customs form 4790 was born. This form must be filled out whenever in excess of US\$5,000 (later raised to US\$10,000) in cash, negotiable securities or certain monetary instruments are carried across U.S. borders. This applies both when entering and leaving the country.
3. Any individual American who either owns or controls a financial account outside of the U.S. must inform the IRS of the existence of this account. If the total amount of funds owned or controlled offshore exceeds US\$10,000, form 90-22.1, which forces one to provide explicit detail as to the nature and location of such accounts, must also be filed. These provisions marked the beginning of the end of banking privacy. As far as the government is concerned, your relationship with your bank is as much its business as yours.

The effect of the law has been absolutely crippling on U.S. banks. They are now required to maintain detailed records of almost every transaction, including copies of all deposit slips and copies of the front and back of all checks drawn for over US\$100. Most banks routinely microfilm all of the checks that you write. In addition, banks are required to keep permanent records of all loans issued for over US\$5,000, with the exception of loans on property.

Your bank is also required to keep your social security number on file. If you fail to provide this number within 45 days of opening an account, your name, address and account number will be put on a special list that will, in turn, be given to the Treasury Department.

In short, Big Brother wants to know exactly how much you have in the bank. This act has assured him easy access to not only this information, but to detailed figures for virtually all of your banking activities as each of your accounts is now permanently linked to your taxpayer identification number.

To make matters worse, the legislation goes on to accomplish a whole lot more than just turning your bank into a government spy. Almost any institution that you do business with has been enlisted by the government as an unpaid and, in many cases, unwilling accomplice. Any and all businesses considered to be "financial institutions" must also comply with the above reporting requirements.

What exactly is a financial institution? As would be expected, Big Broth-



er uses a fairly loose definition, meaning that all of the following suffice:

- All securities brokers and dealers
- Investment companies
- Currency exchange houses
- Anyone who sells cashier's checks, traveler's checks or money orders
- Anyone who operates a credit card system
- All accountants and attorneys
- The U.S. Post Office
- All automobile, aircraft and boat dealers, as well as property dealers and settlement agents
- And, just for good measure, any other institution that the government determines either constitutes a financial institution, or from which such reports would provide "a high degree of usefulness in criminal, tax or regulatory matters."

[Ed. Note: The USA PATRIOT Act became law in October 2001 in the wake of the terrorist attacks in New York City and on The Pentagon in Washington, D.C. This law mandated the issuance of a series of regulations governing all of the categories of "financial institutions" named above, as well as others. These rules are now in effect.]

In short, anyone that Big Brother would like to squeeze information from could easily fall within the parameters of this very loosely worded legislation. With the passage of this single act, the U.S. government successfully cracked open the financial practices of everyone who lives in or does business in the U.S.

IS THIS CONSTITUTIONAL?

Although the bulk of the populace, if they even knew about it, accepted the ridiculous provisions of the Bank Secrecy Act with little hesitation, a few saw through the political rhetoric and questioned its legality.

The matter soon made its way to the Supreme Court, but in each case the court sided with the government. This really should come as little surprise when one considers who writes the large paychecks received by each of the judges involved. After all, if government revenue were to suddenly take a nose dive, many of those in the employ of government would soon have to start looking for work, perhaps even legitimate work.

The Bank Secrecy Act was first challenged in the case of *California Bankers Association v. Schultz*. Schultz had brought legal action against



his bank because it had turned over his records to the federal government. He claimed that in doing so, both his Fifth Amendment rights that protects one from compulsory self-incrimination, and his Fourth Amendment rights, which prohibits unreasonable search and seizure, had been violated.

The courts failed to agree, saying that the records belonged to the bank, not the customer. In other words, as the records were the property of the bank, the rights of its customer cannot be used to prevent the release of such information.

The opinion was not unanimous, however. Justice William O. Douglas lodged a dissent which stated the various problems he saw with the act. It reads in part: "It is, I submit, sheer nonsense to agree with the Secretary [of the Treasury] that all bank records of every citizen "have a high degree of usefulness in criminal, tax, or regulatory investigations or proceedings." That is unadulterated nonsense unless we are to assume that every citizen is a crook, an assumption I cannot make."

"Since the banking transactions of an individual give a fairly accurate account of his religion, ideology, opinions and interests, a regulation impounding them and making them automatically available to all federal investigative agencies is a sledge-hammer approach to a problem that only a delicate scalpel can manage. Bank accounts at times harbor criminal plans. But we only rush with the crowd when we vent on our banks and their customers the devastating and leveling requirements of the current act. I am not yet ready to agree that America is so possessed with evil that we must level all constitutional barriers to give our civil authorities the tools to catch criminals."

Justice Douglas goes on to compare the requirements of the act with those that would require book stores to keep tabs on the books purchased by customers or the phone company to keep recordings of all calls made. Although I admire his opinion, I only hope that he has not given the bureaucrats yet more ideas on how to limit our freedom.

The second case to examine this act again succeeded in narrowing the basic rights enjoyed by U.S. citizens. In *U.S. v. Miller*, the court found that bank customers have no legal right to prevent the release of financial information held by third parties. The court also found that Miller, or any other depositor for that matter, does not even have standing to bring such matters before the court. The court claimed that if anything, it is



the bank that should protest against the release of such records. Yet, in *Schultz* the court had previously found that the bank could not invoke the rights of its clients.

In short, the court had successfully closed off all possible avenues to prevent the release of such information. This is particularly alarming as such records would not even have existed in the first place had the government not forced banks to start maintaining them.

The death blow came in the case of *Payner v. U.S.* This case came to light because the IRS used illegal means to gather evidence. After distracting a Bahamian bank customer (a female agent invited him to dinner), the IRS broke into his hotel room and stole his briefcase. In the briefcase evidence was found that was later used to convict Payner of tax evasion.

Did the court have a problem with such subversive tactics? No. In the eyes of the court it was all perfectly legal. If nothing else, this case clearly shows that Big Brother will stop at nothing to get his hands on your money. He makes the rules and then expects you to follow them. Whether or not he complies is an entirely different issue.

U.S. GOVERNMENT GRABS OFFSHORE CASH IN SECRET

Robert E. Bauman, JD. *The Sovereign Individual*, July 2003

It gives me no pleasure to say we told you so. But what is happening was inevitable, given the blind reaction by the U.S. Congress to the terrorist attacks on Washington, D.C. and New York City in the aftermath of September 11, 2001.

On May 30, 2003, *The New York Times* reported: “The Justice Department has begun using its expanded counter terrorism powers to seize millions of dollars from foreign banks that do business in the United States... Officials at the State Department, however, have raised concerns over the practice, in part because most of the seizures have involved fraud and money laundering investigations that are unrelated to terrorism.”

The Times explained: “A little noticed provision in the sweeping anti-terrorism legislation passed in October 2001, gave federal authorities



in such cases the power to seize money that passes through banks in the United States without notifying the foreign government. Most overseas banks maintain what are called ‘correspondent accounts’ in American banks, allowing them to exchange American currency and handle other financial transactions in this country. Section 319 of the Patriot Act, as the legislation that grew out of the Sept. 11 attacks is known, allows federal authorities to seize money from the foreign bank’s correspondent account if they can convince a judge that the money deposited overseas at the bank was obtained illicitly.”

So only now, for some uninformed people, is it becoming clear just how far reaching the PATRIOT Act is.

Small wonder since the Congress passed the law without even knowing what was in it. Less than six weeks after the terrorists’ horror, Congress rammed through a 362-page law, sight unseen, with few members having the courage to oppose one of the worst attacks on the American liberties ever enacted into law.

Writing in our sister publication, *The Sovereign Society Offshore A-Letter*, on November 2, 2001, I said: “The ‘USA PATRIOT ACT’ — Public Law No. 107 56, signed by Pres. Bush on Oct. 26 — devotes 125 of its 362 pages to U.S. and offshore banking and finance under the banner of ‘anti money laundering.’ In the wake of the Sept. 11 horror, ‘anti terrorism’ is the patriotic fig leaf, but, as the fine print makes painfully clear, the real objective is massive expansion of the all purpose prosecutorial crime of money laundering, with tax collection an equal, if unstated, goal.”

Previously, on October 2, 2001, I had said: “Using the newly created terror imperative as their cover, leftist US politicians are scurrying to hang their favorite anti offshore nostrums on the catch all terrorist legislation about to sail through Congress...these opportunists want to ban much of U.S. offshore correspondent banking and give the Treasury power to cut off foreign nations from the U.S. banking system, a radical Clinton proposal that failed in Congress last year. These totalitarian proposals have as their true goals abolition of financial privacy and increased tax collection. The lie is that this is sold as fighting money laundering and terrorism.”

So now, it is happening, and thanks to federal judges who seal the records of the pending cases, America knows little about these cash seizures from the U.S. correspondent accounts of foreign banks.



Law enforcement officials said the U.S. Justice Department had employed the new tool in about a half dozen investigations, seizing money from at least 15 bank accounts. Most of those came in recent months and involved alleged fraud and money laundering cases that had nothing to do with anti terrorism.

HERE'S HOW IT WORKS

In one case, the U.S. government seized \$1.7 million in funds from a correspondent account in the U.S. belonging to the Bank of Belize. A U.S. lawyer, James Gibson, was accused of bilking clients out of millions of dollars, then fleeing to Belize where he deposited some of the money.

Although the government of Belize initially agreed to freeze the money, a court there blocked the move, but U.S. prosecutors said they believed that Mr. Gibson and his wife were looting the accounts to buy yachts and other luxury items. After passage of the PATRIOT Act, the Justice

Department moved within weeks in late 2001 to seize the money from the Belizean banks' correspondent accounts in the United States.

Using this drastic procedure, the U.S. government ignores mutual legal assistance treaties with other nations which they have used in the past and which do contain procedural safeguards. They do not have to prove guilt or even show probable cause. They simply demand that the U.S. correspondent bank hand over sums they claim to be the result of alleged illegal activity of someone who has funds in the offshore bank. Once the U.S. bank surrenders the cash, the offshore bank is left holding the bag. They either deduct it from the accused person's account, or sustain the loss. Banks in New York City that hold correspondent accounts for Citibank, Standard Chartered Bank, Deutsche Bank and HSBC Bank USA have all been hit.

We would not be surprised to see this unconstitutional tactic used in tax cases by the IRS. Until the Congress or the courts curb this wholesale money grab sans proof or due process, you can expect to see more.

These developments place even greater wisdom on our repeated advice; choose an offshore bank without any U.S. branches, which only makes seizures easier. Maintain your funds outside the U.S. dollar so that there is no need for the bank to maintain your funds in a U.S dollar correspondent account.



But with the inter-related world banking system as it is, this new government seizure tool confirms the Nazification of the U.S. financial system. The day has now come where government money police, on their say so, can loot banks of funds belonging to people who have never been tried or convicted of any crime.

Welcome to the new Amerika.

THE MONEY LAUNDERING CONTROL ACT OF 1986

Banking in Silence, 1998, Scope Books

In 1985 and 1986, it came to light that, in spite of the government's many and varied efforts, a large number of banks and financial institutions were simply ignoring the restrictive requirements of the Bank Secrecy Act and its accompanying legislation. Many individuals felt that the government really had no right to such information and proceeded according to their own beliefs rather than those of the bureaucratic system. Understandably, this practice caused a great deal of embarrassment for the federal government and inevitably led to a crackdown.

Banks were forced into compliance through the use of several highly publicized and large fines. The Bank of Boston was the first to fall, fined US\$500,000. This was quickly followed by fines against Seafirst Bank for US\$697,000, the Bank of New England for US\$1.2 million, Crocker National Bank for US\$2.25 million and the Bank of America for US\$4.75 million. Banks across the country took notice; no longer was this myriad of regulations a matter to be taken lightly. The government's precious forms started to roll in and Big Brother found himself buried in an avalanche of paperwork.

Next came another decisive blow against financial privacy with the Money Laundering Control Act of 1986. This single act is responsible for the loss of more American liberties than any other piece of legislation. Again, to keep the public from realizing what was really going on behind the scenes, the actual provisions of the act were encoded in pretty language and political rhetoric.



The act set about dismantling the basic rights of Americans in three separate ways:

1. Money laundering was made into a federal crime for the first time anywhere in the world.
2. It became a federal crime to engage in any transaction involving the proceeds of any “specified unlawful activity.”
3. Structuring transactions so as to avoid any federal reporting requirements was made illegal.

The fines and penalties for violations of this act are some of the harshest possible in all U.S. legislation. Money laundering, an activity that was legal in the U.S. until 1986, was put on a par with crimes such as murder, espionage and racketeering. The fines and jail terms handed down are often more severe than those given to rapists. Fines can be levied for up to US\$500,000 or twice the value of the transactions involved.

Furthermore, the law provides Big Brother with powers to seize any property involved in or even related to an illegal transaction. If convicted of money laundering conspiracy, fines can reach up to US\$25 million and can include forfeiture of all assets, not just those criminally derived. Often a money laundering conviction is linked with a charge under the Racketeer Influenced and Corrupt Organizations (RICO) Act, which permits the federal government to seize all monies “laundered” as well as all assets derived through these funds.

In addition, a fine of up to three times the amount laundered is permissible. For example, in 1988 when Lee Chan-Hong, an investor who went by the name of Fred Lee, was convicted of insider trading, he was fined a total of US\$77.6 million, four times the US\$19.4 million he supposedly earned from his specified illegal activity.

WHAT IS MONEY LAUNDERING?

The term “money laundering” is certainly not lacking in connotations. It brings to mind images of suitcases stuffed with cash carried by men wearing pin-striped suits who speak in raspy whispers.

In the eyes of the public, money laundering is one and the same with drug smuggling and violent crime. The government and the mainstream media foster this image. The truth is far less exciting, as money laundering is one of the most boring crimes on record.



The actual legal definition of money laundering is found in Section 1956 of the Money Laundering Control Act. It states that it is illegal to make any transaction with the proceeds of specified unlawful activity:

- A. with the intent to promote that activity; or
- B. knowing that the transaction is designed in whole or in part—
 - (i) to conceal or disguise the nature, the location, the source, the ownership, or the control of the proceeds of specified unlawful activity; or
 - (ii) to avoid a transaction reporting requirement under state or federal law.

What falls within the bounds of specified illegal activity? Of course tax evasion appears at the top of the list. Simply depositing or using money on which taxes have not been paid is now legally defined as money laundering. Opening a foreign bank account and establishing a small nest egg offshore without notifying the government of your activities can now be classified as money laundering.

Prosecutions for money laundering are soaring and often lead to confiscations of all funds concerned.

Prison terms of up to 20 years are frequently issued. Not to mention the fact that a conviction of money laundering all but ruins the reputation of the individual involved. Such tactics are clearly primarily intended to succeed in routing yet more money in the direction of the government. They are akin to a 100 percent tax on those individuals smart enough to realize that governments are not to be trusted.

The moral of the story? Do not be surprised if what originally appeared to be a simple tax investigation by the IRS turns into a money laundering conviction.

More alarming, the government does not stop there and goes on to define a host of other specified unlawful activities; at last count more than 150 such activities appear on the growing list.

Have you ever heard of the Emergency Economic Powers Act of 1977 or the Trading With the Enemy Act of 1977? Violating either of these acts could land you in jail for money laundering. Recently, even violations of environmental laws have been added to the list. In short, it seems that



almost any activity that involves money and financial transactions, or in other words just about any business activity, could be linked to a money laundering charge. As a money laundering conviction tends to be easier to achieve and also manages to bring much larger sums into the government kitty, it is really no wonder that the list of prohibited activities just keeps on growing.

Furthermore, you need not even directly participate in any of these activities to take the fall. Merely doing business with or accepting cash or other monetary instruments from the public could also set you up for a conviction of money laundering. According to Section 1957 of the Money Laundering Control Act, it is illegal for a merchant to accept funds that he suspects have been derived from any of the growing list of specified unlawful activities.

[Ed. Note: It is estimated that there are now over 200 federal statutes and many more state laws that allow forfeiture of cash or property associated with prohibited criminal activities. The trend is to add on “money laundering” criminal charges against persons engaged in all crimes if evidence shows cash dealings as part of the criminal activity.]

If you would like an indication of the level of commitment expected from you in Big Brother’s war, consider the comments of then Florida [and now Florida’s attorney general, 2010] Congressman Bill McCollum (R-Fla.): “The corner grocer in a community is aware of the reputation of the local drug trafficker. That person comes to the store and buys five pounds of hamburger. The grocer has to know that he is coming in to buy groceries with what is indeed the money derived from a particular designated crime. I don’t have any problem whatsoever holding the grocer accountable for money laundering.”

Apparently McCollum had never heard of the idea of the right to a fair trial, or for that matter of the concept of innocent until proven guilty. Instead, he wanted the public to act as prosecutor, judge, jury and executioner. Businessmen and bankers have been instructed to discriminate against anyone who even appears to be guilty of a crime. If McCollum has his way, anyone unfortunate enough to be labeled as a criminal, whether correctly or not, will basically be sentenced to death without a trial. If no one is willing to do business with this individual or even sell food to him, he will be left with no alternative but to become destitute and homeless.

This is not such an unlikely scenario, as anyone not willing to participate



in Big Brother's campaign risks forfeiture of his assets as well as up to 10 years in prison. Even more damaging is that the merchant need not even be aware that the activities of which the person is suspected of committing are criminal. According to Section 1957, the government need not prove that "the defendant knew that the offense from which the criminally derived property was derived was a specified unlawful activity." As already mentioned, this growing list contains many activities that most individuals would never even imagine could be linked with a money laundering conviction. Should every corner grocer in the U.S. consult a competent attorney on a weekly basis so that he can find out which customers he is allowed to sell hamburger to and which ones he must turn away? If he wishes to stay entirely inside the law, this is his only option.

Even criminal lawyers almost automatically risk entering into a criminal conspiracy just by agreeing to represent a client. Under common law, one must both have knowledge of an illegal activity and the intent to encourage it to be convicted of criminal conspiracy. Under Section 1957, neither is required, as one can be convicted of conspiracy for merely not taking a person's reputation into account before doing business with him. If an attorney even suspects that his client is guilty, he may well go to jail for merely representing him.

Placed under such restrictions, many attorneys will choose not to represent individuals solely because they are known to have a bad reputation. In other words, Congress has yet again succeeded in turning over a basic civil liberty, that of the right to legal representation as promised by the Sixth Amendment.

About the only saving grace is that Section 1957 only applies to amounts in excess of US\$10,000. However, related transactions over a 12-month period that exceed US\$10,000 are also enforceable. Be warned: many in Congress would like to further restrict American liberties and reduce the limit to only US\$3,000.

WHAT IS STRUCTURING?

The new crime of structuring was brought into existence by the Money Laundering Control Act.

It came to the attention of the government that many individuals interested in laundering large amounts of money simply changed tactics to circumvent reporting requirements. They developed a process that be-



came known as “smurfing.” This procedure simply involved large number of couriers, known as “smurfs,” making several deposits a day at various locations. Each smurf would deposit an amount just below US\$10,000, meaning that in the end no CTRs would need to be filed. Over a relatively short period of time, very large amounts of cash could make their way into the banking system.

The Money Laundering Control Act brought an end to all of this. Transactions structured in such a way were made illegal. However, like most of the legislation introduced to curb money laundering and to snare drug traffickers, the act has failed miserably. Once smurfing became illegal, professional criminals changed their tactics again. Instead of using banks, today’s launderers feed dirty money into the system through other financial operators, such as money exchanges, money transmitters and check cashing services.

In reality, the new legislation has succeeded mostly in stealing the assets of innocent individuals.

For the most part, those prosecuted for structuring first hear of the crime’s existence when they are arrested. According to a 1991 Treasury Department analysis, over 75 percent of assets seized as a result of the anti-structuring laws were originally the property of individuals not involved in any illegal activities. In the modern, over-legislated world, the question of guilt or innocence increasingly seems to be a thing of the past.

The major problem with anti-structuring laws is that no underlying illegal intent need be proven by the government. Merely depositing US\$9,000 in cash into an account on two consecutive days is now a crime. The penalties for such infractions are severe. The funds involved almost automatically become the property of the government. Criminal violations may well bring an additional fine of US\$250,000 as well as a five-year stint in jail. Civil penalties for “willful” violation are a bit less severe, but still claim either US\$25,000 or the full amount of the funds involved, whichever is greater. You can be convicted of willfully violating the law even if you are unaware of its existence.

Finally, if you are convicted of structuring in conjunction with a violation of any other law, the fine can escalate to a cool half a million as well as 10 years in jail.



THE FINANCIAL CRIMES ENFORCEMENT NETWORK (FINCEN)

July 1994, Scope Books

Because you have lots of money, you are automatically guilty until proven innocent. That, at least, seems to be the view of FinCEN, the Financial Crimes Enforcement Network of the U.S. Department of the Treasury, a quasi-secretive federal sleuthing operation whose brief is to unearth money secrets.

The U.S. government is lining up the computer big guns ostensibly to defeat drug barons and criminals but, in reality, frightening links are being developed between the data systems of the IRS, the FBI, the Secret Service, similar policing groups and FinCEN.

The following scenario is an example of the capacity to delve into an individual's past. A drug dealer is found by police with the word "John" and a phone number scribbled on a piece of paper but no other evidence of the suspected drugs supplier.

The local police turned to FinCEN. When FinCEN received the request, the digital hunt was on. First, the telephone number was checked against listed businesses, and was quickly found to belong to a restaurant.

Next, the computer operator entered the Currency and Banking Database of the IRS to check currency transaction reports, which note all transactions of more than US\$10,000. Within the database, the operator requested a list of "suspicious" requests made by banks and other institutions.

It came up with a number of suspect deposits in the area of the restaurant's ZIP code. The suspicious requests were made because a series of US\$9,500 deposits, just below the official reportable threshold had been made. They were made by someone whose first name was John. Through one of those suspicious Currency Transaction Reports, the computer operator was able to ask for personal details on the depositor and the machine came up with data including a full name, social security number, date of birth, home address, driver's license number and bank account numbers.



When the IRS computer was accessed again, it came up with more suspicious and non-suspicious reports on John, who listed his occupation as being involved in a restaurant with a telephone number identical to that found originally.

Turning to commercial and government databases, John's restaurant was discovered to have a substantially smaller income than that being deposited on its behalf. Cross-checks found other suspicious transactions by John's other businesses. Within an hour of the first police inquiry, FinCEN had enough evidence to make a case against John on charges of money laundering and conspiracy to traffic narcotics.

Since its inception in 1990, under the auspices of the Treasury Department, FinCEN has become one of the world's most effective financial crime investigation units. Its 1993 tally of cases being probed totaled 40,000, plus longer-term reports on 16,000 other individuals or organizations.

Although its major successes have been in the field of drugs and money laundering, civil liberties activists worry about FinCEN's close links with the CIA and the Defense Intelligence Agency, which enable it to act with immense power and breadth of operation. The consummate ease with which computers can tap into linked databases can mean the world is an oyster ripe for opening — or a nest of vipers, depending on your viewpoint.

Operation Gateway is a new system implemented by the U.S. government in all 50 states. Gateway gives state and local law enforcement officers access to the federal financial database containing 28 years of records filed under the Bank Secrecy Act. The results from all queries are written into a constantly updated master file for cross-indexing purposes. The financial database contains only records on major money movements and is not a threat to individual privacy. However there is worse to come.

When implemented, this computer system can be used to probe all 400 million bank accounts and their holders in the U.S. The government says it is wanted to assess the funding needed for federal deposit insurance, and to locate assets of individuals ordered by courts to make restitution for financial crimes.

The deposit tracking system has attracted civil liberties criticism at a high level. The federal law enforcement agencies and intelligence agencies see the system as a valuable addition to economic intelligence gathering,



such as monitoring foreign financial dealings in the U.S. The present system has successfully identified previous unknown criminal organizations and activities because of deposit flows and patterns.

TO REPORT OR NOT TO REPORT... THAT IS THE QUESTION

Erika Nolan & Shannon Crouch,
The Sovereign Individual, October 2009

One of the most popular questions we receive is: “What do I need to report to the IRS?”

This is an extremely important one to answer, since it doesn't matter what kind of gains you achieve, if you're also running afoul of the taxman. Luckily, there are several types of investments you DON'T need to report to any U.S. regulatory agency.

1. **Offshore Securities:** A securities trading account at an offshore bank is reportable. You are required to fill out the U.S. Treasury form TD 90.1.22. However, if you purchase securities from an offshore bank, over the counter, without opening an account, and keep the certificates in your safe deposit box, the reporting requirement doesn't apply.
2. **Real Estate:** Direct ownership of real property in a foreign country isn't reportable per se. So you can own a vacation or retirement home with considerable privacy. However, you are required to report income from your real estate holdings — wherever they are located — so this provision does not apply to rental real estate.
3. **Valuables or Documents:** Valuables such as colored diamonds or rare coins as well as documents purchased outside of the United States and placed in an offshore vault don't constitute a foreign account. Of course, when you sell the diamonds or the coins you would pay tax on any gains.
4. **Physical Gold:** If you have certificates that represent ownership of precious metals or other commodities stored outside the United States, they are not reportable. This is true if you hold the metals in a seg-



regulated account. This means you own specific bars, coins, or bullion that is held in your name. Again, taxes are due on any gains when you sell the gold or metals.

- 5. Insurance or Annuity Contracts:** There is no mention of “insurance companies” in U.S. Treasury regulations pertaining to the foreign-account reporting requirements. However, a contract that contains securities (e.g., a variable annuity) may be reportable as a foreign securities account. Consult with a U.S. tax attorney to evaluate your particular tax situation.

Through these diverse vehicles, you can accumulate a portion of your offshore wealth in a more private and secure way — while in full compliance with U.S. tax laws.

Now...the second most popular question we get (though it often comes with a grimace) is, “Alright, what do I have to tell the IRS?”

The good news is, you only have to answer that question once a year. With the help of a professional tax advisor, it should be a snap.

WHAT THE IRS WANTS TO KNOW

The first and most basic rule of going offshore is: All accounts and most financial activities must be reported. Specifically, if you’re a U.S. citizen (or permanent resident), you’ll have to notify the IRS when the value of your foreign account(s) exceeds \$10,000. This law applies to:

- Any type of savings, checking or deposit account with a financial institution, including accounts in which you own the monies deposited and those accounts for which you are an authorized signatory, such as a business account.
- Any bank, security or investment account held within a financial institution.
- Any accounts in which assets are held in a commingled fund and in which you hold an equity interest.

This is not a be-all-end-all list, but there are two IRS forms to which you should pay close attention. Get these documents squared away and you can relax the other 364 days of the year, knowing you’re on the right side of the law:

- Acknowledge foreign accounts on Schedule B of your federal income tax 1040 return due each April 15th



- File Form TD F90-22.1 (the foreign bank account reporting or FBAR form) with the U.S. Treasury Department (due each June 30th)

Keep in mind; you should not rely on the staff of an offshore bank to guide you through the reporting process. Naturally, they are not up to speed on every country's specific laws and regulations and are not likely to be experts on your home country's tax law.

Like most things in life, compliance is up to you. But with a little planning and the guidance of a tax professional, you can enjoy the effective (and surprisingly affordable) private wealth solutions and profit opportunities of the offshore world.

FIVE WAYS TO MAINTAIN YOUR OFFSHORE PRIVACY

Mark Nestmann, March 2009

In today's global economic turmoil, it's never been more important to hold assets outside your own country. And one of the most important reasons to do so is to enhance your financial privacy.

When you invest outside your own country, you reduce the threat of lawsuits, corporate espionage, and other financial threats. With an offshore bank account, annuity, or other foreign investment, you can take a portion of your wealth off the domestic "radar screen," where anyone with access to the Internet can assemble a remarkably detailed portrait of your finances.

OPEN THE CLOSING OFFSHORE DOOR

While offshore investments are a great way to obtain financial privacy, you shouldn't try to keep details of your dealings a secret from your government's tax authorities.

Beginning in the 1980s, the United States began enacting laws to force offshore banks to enforce domestic tax and securities laws. Other high-tax countries quickly followed. Since then, these efforts have only intensified. The unmistakable trend is toward greater disclosure of banking records in criminal inquiries and increasingly, in tax investigations as well.



As a result, offshore banks are increasingly leery of dealing with clients from high-tax countries, particularly the United States. When foreign banks do accept U.S. customers, they may impose stringent restrictions on their ability to trade foreign securities.

They may also require you to allow them to disclose details of your offshore earnings to the IRS. A handful of offshore banks have gone even further. They've ordered their U.S. depositors to close their accounts and move them elsewhere.

For instance, UBS, Switzerland's largest bank, is closing all offshore accounts of its U.S. clients — about 19,000 people in all. Fortunately, some offshore banks still accept U.S. clients.

Here are a few suggestions how you can act to open the closing offshore door:

1. **Be prepared to sign IRS Form W-9.** Many offshore banks now require U.S. clients to sign IRS Form W-9, which authorizes them to turn over information about your account to the IRS. Fortunately, this form only notifies the IRS about your offshore account, and no one else.
2. **Make a personal visit to open your account.** Many offshore banks now require prospective U.S. clients to open their accounts in person, rather than by mail. Even banks that claim to refuse all U.S. business may be receptive to a relationship if you visit them in person.
3. **Send correspondence and trading instructions from outside the United States.** Numerous offshore banks won't execute trading instructions originating in the United States. To avoid this restriction, ask the bank if it will comply with instructions sent from a non-U.S. address (or from a non-U.S. telephone or fax number). Alternatively, have your offshore bank, or an independent manager, trade your offshore portfolio.
4. **Invest through an offshore legal entity.** Some offshore banks reduce investment restrictions if you invest through a foreign corporation, limited liability company, or trust. Ask the bank what structures are acceptable to operate the account before you decide which one to form. The foreign LLC option is usually the least expensive and has the most benign U.S. tax consequences. But consult with a qualified U.S. tax professional before you form any offshore entity.



5. **Establish a legal residence outside the United States.** Many offshore banks are more willing to accommodate non-resident U.S. investors than those living in the United States. If you can present proof of legal residence from a non-U.S. address, this may provide sufficient proof to the bank that you don't reside in the United States.

Yes, some of these recommendations can be inconvenient or even expensive. But the payoff is the opportunity to move substantial assets out of harm's way, and achieve substantial privacy while you're at it.

YOU HAVEN'T DONE ANYTHING WRONG — IT'S GOVERNMENT

The reason that some offshore banks are reluctant to deal with Americans has nothing to do with you. It's the U.S. government that has done so, with initiatives such as:

- **The USA PATRIOT Act.** This law permits U.S. courts to confiscate the U.S. assets of foreign banks, without convicting the bank, or any of its depositors of any crime.
- **“Qualified intermediary” (QI) rules.** These rules impose a 30%-31% withholding tax on both income and gross sales proceeds of U.S. securities owned by foreign banks. The banks can avoid this tax only by entering into one-sided “QI agreements” with the IRS to enforce U.S. tax laws.
- **Securities laws.** Laws enforced by the U.S. Securities & Exchange Commission (SEC) allow offshore banks to execute “unsolicited” securities transactions with U.S. persons. However, the SEC interprets “solicitation” very broadly. As a result, many offshore banks refuse to honor even unsolicited orders of foreign securities by U.S. persons.
- **Treaties mandating disclosure.** The U.S. government is modifying its network of tax treaties by insisting that treaty partners consent to enhanced record sharing. In addition, the United States now has 21 “Tax Information Exchange Agreements” (TIEAs) in effect, mostly with offshore centers.
- **Crackdowns against individual banks.** Case in point: a criminal probe was launched by the U.S. Department of Justice against Switzerland's UBS in which one of UBS's top executives was charged with helping 17,000 Americans evade taxes by hiding their money in Swiss bank accounts.



WHAT YOU NEED TO TELL THE IRS ABOUT YOUR OFFSHORE DEALINGS

When offshore banks first began asking U.S. depositors for Form W9, they used it only to report income or gain from U.S. investments held through the bank. Most offshore banks still only report this type of income to the IRS. Therefore, even if you give your offshore bank Form W9, the IRS will still likely rely on you to give them the details of your income or gain from your non-U.S. investment portfolio.

Naturally, you may not want to do so. But if you fail to report your offshore income, and the IRS suspects you've under-reported your income, it can probably use one of the treaties I've already described to extract the information from your offshore bank.

To report your account properly, begin with Treasury Form TD F 90-22.1, which is due each June 30. Use this form to disclose offshore accounts you held for the previous year. You don't need to file this form if the total combined value of all your offshore accounts never exceeded US\$10,000 at any time during the preceding year. Also, don't forget to check "yes" to the question about foreign accounts on Schedule B of your annual 1040 tax return.

If you held your account through some kind of offshore structure, you may need to report the existence of and activities of that structure to the IRS as well. For instance, if you formed an offshore LLC, you'll need to file a tax return for it. You may also need to file a form when you add money to, or remove money from, an offshore entity. Unless you're an expert, this is a job for a tax professional.

UNREPORTED OFFSHORE ACCOUNTS

Donald McPherson JD, *The Sovereign Individual*, June 2001

It's 7 p.m. on a Friday evening. Relaxing at home, you are finishing your second martini when the doorbell rings. Two IRS Criminal Investigation Division (CID) agents (the ones that carry guns), announce that they have credit card records which prove that you have been maintaining an unreported offshore account.

The agents claim that you "obviously" acted willfully, and thus, com-



mitted federal crimes. They ask you to sign a plea agreement stipulating that you will forfeit your home, business and retirement accounts and that you spend the next four years in a federal prison. If you fight them in court, they say you could spend the next 20 years in prison.

What are your options? What, if anything, is the solution?

Any U.S. person with signatory or other authority over one or more foreign “bank, securities or other financial accounts” that contain, in aggregate, US\$10,000 or more, is required to acknowledge those accounts on Schedule B of Form 1040, and separately, on Treasury Form TD F 90-22.1. You must make these disclosures if you have effective control over the account (e.g., if someone else controls an offshore account on your behalf, you must acknowledge the account).

If you failed to make these disclosures, the possible scenarios vary from bad to worse. The situation is less serious if the unreported account(s) contain after-tax dollars and you have paid taxes on any earnings from the accounts. At worst, the unreported accounts contain substantial pre-tax dollars with intent to evade assessment or collection of income tax.

POSSIBLE CRIMES — AND PUNISHMENTS

Depending on how large the tax loss from fraud or evasion is, possible federal charges range from filing a false tax return and tax evasion to conspiracy and money laundering — all of which are felonies. In less serious circumstances, misdemeanor charges may be brought.

The likely punishment is not the statutory maximum, but within the range allowed under the Federal Sentencing Guidelines. This range depends on the “tax loss,” or in laundering cases, the amount laundered. Without adjustments, the following sentencing ranges (in months) apply: US\$50,000 (12-18); US\$150,000 (18-24); US\$550,000 (23-33). Money laundering sentencing guidelines begin at 46-57 months and increase depending upon the amount laundered.

In a tax-conspiracy case, an upward adjustment is made for “sophisticated concealment” (use of an offshore trust, corporation, bank, or credit card) and “role in the offense.” Assuming a tax loss of US\$250,000 plus these adjustments, the range is 41-51 months.

A computer executive who evaded US\$2.2 million in taxes was sentenced to five months in jail, five months home detention, and a US\$60,000 fine.



A Brooklyn golf pro deposited US\$150,000 in money orders in a Cayman corporation. He was sentenced to six months home detention, three years' probation and 600 hours of community service. The court recommended golf lessons to inner city children and a US\$50,000 fine to be paid within 90 days. On the other hand, prison sentences under the IRS's "abusive trust program" have been extremely harsh.

If you fight an IRS criminal prosecution in court, you can expect to spend tens of thousands of dollars, or more, in legal fees, assuming that you have the means to hire an attorney and don't need to rely on court-appointed counsel. More than 95 percent of defendants lose, and the sentencing guidelines definitely apply. However, the government must prove beyond a reasonable doubt that you acted knowingly and willfully.

Ignorance of the law is an excuse/defense to technical crimes such as tax offenses. Willfulness means that you intentionally violated a known legal duty. Good faith reliance, misunderstanding of the law, or reliance on others, especially professionals — such as an offshore promoter, banker, or your accountant — can provide a viable defense. "Willful blindness" negates a willfulness defense. This might be the case if you rely on the promises of an offshore promoter without asking an accountant or tax preparer for an opinion.

WHAT ARE THE CHANCES OF BEING CAUGHT?

Detection of credit card users tied to offshore bank accounts may depend on cooperation by offshore banks. The Bahamian Central Bank has informed card-issuing banks that future audits must itemize their credit and debit card activity; a step that would permit the offshore banks to assemble the records required to identify individual depositors. The IRS can be expected to request this information once a pending U.S.-Bahamas Tax Information Exchange Agreement is signed, if not before. [*Ed Note: That tax treaty is now in place.*]

The real question: by what method will IRS select individuals for audit?

In the subpoena of offshore credit card holders, only taxpayers with accounts larger than US\$10,000 are likely to be investigated. If the tax loss is zero or very low, one might assume that chances of being selected are low. But for "deterrence" (interpret: reign of fear), the IRS prosecutes tax loss cases as low as US\$1,000. Recently, a client, a Colorado chiropractor,



was charged for use of a trust for three years with a total tax loss of only US\$15,000.

But the IRS has limited resources. Audits are at an all-time low. [*Ed Note: In 2001 the IRS added 800 special auditors assigned to investigate offshore matters.*] The CID brings only about 600 criminal tax prosecutions each year (although for every prosecution there may be dozens of “settlements,” where a taxpayer ends up paying and serving time on a plea deal). And there may be tens or even hundreds of thousands of unreported offshore accounts.

IS IT TOO LATE TO SAY YOU'RE SORRY?

The five main choices for persons at risk of an IRS criminal investigation for non-reporting of offshore accounts are:

1) Do nothing. 2) File the delinquent reporting forms. 3) #2 plus an amended return, 1040X for the last three years, and pay all the back tax, interest and penalties. Amended returns, however, cannot be filed beyond three years from the due date or filing date, whichever is later. A sub-option to 3) is to pay all tax, interest and penalties for all years. 4) Pay back tax, interest and penalty anonymously, through your attorney, under cover of the attorney-client privilege. 5) Proceed through counsel with an informal request to the CID, which need not involve disclosure of your identity, as described below.

There is no obvious “best” choice. Counsel must evaluate each case. Under no circumstances can the IRS promise immunity. At best, your attorney, after presenting a “hypothetical” case, might obtain a “reading” from the local CID chief. Yet promises are not likely, much less binding. What about “voluntary disclosure” to the IRS? The Internal Revenue Manual states: “When faced with a taxpayer who wants to make a voluntary disclosure, the special agent should inform the taxpayer of the following: ‘It is the practice of the Internal Revenue Service that a voluntary disclosure does not bar criminal prosecution, but rather is a factor to be considered when deciding to recommend prosecution.’”

The IRS requires five elements in a voluntary disclosure to avoid prosecution: truthfulness, timeliness, completeness, cooperation and legal income.

A voluntary disclosure may not be done anonymously. A disclosure is timely only if received prior to IRS's initiation of any inquiry that “is



likely to lead to the taxpayer and the taxpayer is reasonably thought to be aware of that investigative activity.”

If “some event known by the taxpayer” has occurred which is “likely to cause an audit into the taxpayer’s liabilities,” it’s too late to say you’re sorry. This is particularly relevant since the knowledge that offshore credit card information soon will be in the hands of IRS investigators is a matter of public record.

An amended return (1040X) and payment of back tax, interest and penalty demonstrates contrition and offers an argument of mitigation and no prosecution, to which the IRS may respond, “Thanks, sign the plea agreement here.” A major disadvantage to an amended return is that it starts running a new civil and criminal statute of limitations; and, if filed correctly, may identify other problems.

However, a 1040X does not include a revision of information on Schedule B, which asks if you control an offshore account(s). Nor does it identify the source of unreported income; it merely shows the old 1040 numbers, the new numbers, and the difference.

The general statute of limitations for a civil tax audit is three years from the due date of the return or the filing of the return, whichever is later, unless gross income is unreported by 25 percent or more, in which case IRS has six years. [*Ed Note: In 2010 the statute was extended to six years for most offshore tax violations.*]

In the case of civil fraud there is no statute of limitation, but the IRS must prove fraud by clear and convincing evidence. In a criminal case, there is a six-year limitation for tax crimes; generally five years for conspiracy and other crimes. However, conspiracy runs five years from the last overt act in furtherance of the conspiracy, which might be last week’s phone conversation with a Cayman banker.

Time is on the government’s side.

SUMMARY

The answer is: there is no answer. There are only choices, some perhaps more viable than others, depending on particular facts and circumstances.

Those with a gambler’s heart and patience may wish to do nothing.



Others hate dealing with the unknown and want to get it over with, and on with their life, without fear of the knock at the door. If the financial loss to the government is small, prison is unlikely, but the government may insist on a felony rather than a misdemeanor plea.

Competent, experienced counsel can review the specific facts and discuss the options, make a recommendation, and ride herd on the case. IRS websites and answers to Freedom of Information requests concerning the offshore credit card project may prove fruitful.

And finally, do NOT sign a plea agreement with the IRS unless advised to do so by an experienced tax attorney.

GRASPING IRS AIMS NEW RULES AT U.S. OFFSHORE BANK CLIENTS

Robert E. Bauman JD, August 2008

As I predicted, the U.S. Internal Revenue Service wants to clamp down with greater long-distance oversight of foreign banks that provide banks accounts or sell offshore services to American clients.

The goal? Thwarting what IRS agents claim (without offering any proof), to be rampant tax evasion.

New IRS rules just issued toughen up the little known, IRS “qualified intermediary” (QI) program that currently allow participating foreign banks to maintain accounts on behalf of American clients without disclosing their names to the IRS. Until now the IRS has allowed the banks to promise to identify clients, withhold any taxes due on U.S. securities in their accounts, typically 30%, and send the tax money owed to the IRS.

Under the new IRS rules, foreign banks in the QI program must now actively investigate, determine and report to the IRS whether United States investors or their legal entities are the holders of the foreign accounts they open. (U.S. persons already are required by law to report offshore accounts on the annual IRS Form 1040.)

AMERICANS NOT WANTED

In the last year, numerous offshore banks, wary of increasing IRS pres-



tures, have begun refusing to accept any new American clients. These latest IRS rules will only increase this unfortunate anti-American trend. (Ask us: we know where the remaining American-friendly offshore banks are.)

The new rules, to take effect in 2010, will also require foreign banks to alert the IRS to any potential fraud, whether detected through their own internal controls, complaints from employees or investigations by regulators. The IRS will also begin auditing small samples of individual bank accounts in the program, without knowing the clients' names, to determine whether American investors actually have control over foreign entities with bank accounts.

QUALIFIED INTERMEDIARY (QI) RULE

More than 7,000 foreign banks participate in the program, which was established in 2001, to help the IRS keep track of American offshore investors. Under current rules, foreign banks need only report to the IRS U.S. clients' investments in American securities.

According to the IRS, foreign banks in the QI program hold more than \$35 billion abroad in accounts for U.S. individual investors, partnerships, trusts, family foundations and corporations, but withheld taxes of only 5% on that amount in 2003. The IRS argues entities receiving the offshore income claimed exemptions under foreign double taxation treaties with the United States, but if U.S. investors controlled those entities, some were not entitled to the tax exemptions.

The clear threat to offshore banks underpinning the QI rules is the possibility that an uncooperative foreign bank would be denied access to the entire American banking system, meaning they and their clients could not do business with the major banking system of the world.

The tightened QI rules are said to be the result of allegations that the world's largest private bank, the Swiss UBS, assisted an unknown number of their American account holders to evade U.S. taxes.

The IRS claims that since 2001 it has halted the participation in the QI program by about 100 foreign banks that were accused of violating QI rules. But in my observation, far fewer banks were embargoed and those tended to be banks located in backwater places such as Vanuatu and the Solomon Islands where Russian criminal elements had established a financial presence.



U.S. RULE IMPOSED WORLD WIDE

In 2001, the IRS first imposed extraterritorial tax enforcement burdens on foreign banks that were forced to meet IRS established anti-money laundering and “know your customer” standards in order to get the “QI” stamp of approval.

But IRS QI approval comes loaded with onerous conditions that now might end customer confidentiality for American offshore investors. It also gives the IRS leverage over foreign nations when demanding exchange of tax and financial information. Some nations, such as Switzerland, Liechtenstein and Panama that have strict financial privacy laws, until now have been able to escape the worst anti-privacy parts of the QI rules.

TOUGHER NEW QI RULES

Douglas H. Shulman, the IRS Commissioner, said the goal of the new QI changes “is to get a clear line of sight into the owners of the bank account, and to know where there’s fraud.” Inherent in such an over reaching statement is the misguided IRS belief that everyone with an offshore bank account is engaged in tax evasion — and that offshore banks have a duty to act as IRS informers.

I’ll repeat what I’ve said before: it is the duty of the American government to investigate and indict anyone suspected of violating laws — on an individual case basis. It is not the government’s duty or right to coerce offshore bankers to act as IRS agents, or to presume tens of thousands of Americans legally engaged in offshore financial activity are therefore criminals.

CONFLICT OF LAWS

It remains to be seen how new QI rules can be made to square with strict laws guaranteeing financial and banking secrecy in many nations, such as Switzerland, Liechtenstein, Andorra, Monaco, Singapore, Belize or Panama. Typically those laws make it a criminal act to reveal any information about bank account holders, foreign or domestic, unless order to do so by a court.

Offshore banks may be forced to choose between obedience to their home country laws, or to the grasping long arm laws of the IRS.



“ARTICLE 26” AND THE DEMISE OF OFFSHORE BANKING SECRECY

Mark Nestmann, April 2009

If you invest or do business internationally, you need to know about double taxation agreements, more commonly called “tax treaties.” These agreements are designed to avoid, or at least minimize, double taxation. However, they have another, less publicized function: to facilitate information exchange between governments and to help enforce domestic tax laws.

One of the consequences of the political firestorm this year over bank secrecy laws in Switzerland and other offshore financial centers is that information exchange through tax treaties increasingly will become common.

Tax treaties are based on a model treaty prepared by the Organization for Economic Cooperation and Development (OECD). The OECD regularly updates its model treaty. Each successive model has provided tax authorities greater powers to retrieve financial information from the other signatory country. This is accomplished via the “Exchange of Information” provision in the model treaty; Article 26.

Early tax treaties gave signatory countries wide latitude to turn down requests for information under Article 26. Signatories could refuse requests for information under several different rationales, all based on the concept of “comity” (i.e., the recognition accorded by one nation to the laws and institutions of another).

For instance, a signatory could turn down an information request if it concerned a tax not imposed by that country (“domestic tax interest”). It could also invoke a “dual criminality” requirement: if the conduct in question wasn’t illegal in both countries, the request wouldn’t be honored.

However, in 2000, the OECD completely revamped Article 26 to expand the scope of information exchange. Bank secrecy laws, dual criminality requirements, and domestic tax interest requirements could no longer be invoked to prevent information exchange, all provisions that gradually have made their way into the international network of tax treaties.



Therefore, if a particular country agrees to implement information exchange arrangements “consistent with OECD standards,” the laws you thought might have prevented your financial information from being disclosed to your domestic tax authorities may no longer apply.

Almost every country with strict bank secrecy laws, including Andorra, Austria, Belgium, Liechtenstein, Luxembourg, Monaco, Switzerland and Singapore, has announced it will comply with the expanded version of Article 26. Panama has not provided specific assurance on this point, but has made a vague commitment for “effective exchange of information” in accordance with OECD standards.

Still, there are limits to Article 26. The OECD model only requires treaty signatories to exchange information on request. That is, the country requesting information must know that a person’s assets or accounts are in a particular jurisdiction — and likely, in a particular institution — before it can request information.

These limits are unlikely to satisfy the more rabid advocates of full disclosure. You can expect the next revision of the OECD model tax treaty to include a provision for mandatory “automatic” exchange of information between tax authorities.

In the meantime, the handwriting is definitely on the wall. Offshore bank secrecy laws will not protect you from having your account information turned over to your domestic tax authorities. If you have unreported offshore accounts, you need to deal with the problem now — not later. A good start would be a call to an attorney specializing in criminal tax defense.

ASSET PROTECTION IN A POST 9/11 ENVIRONMENT: NEW CONSIDERATIONS, NEW SOLUTIONS

Ron Holland, *The Sovereign Individual*, March 2004

What can we learn from legal and jurisdictional attacks on our wealth since the events of September 11, 2001?



What are the loopholes used to attack the wealth of productive, working Americans and how do we build maximum protected wealth in a world of transparency?

Think back to a decade ago when asset protection was all the rage.

Tens of thousands of Americans were fleeing the lawsuit mania of the abusive U.S. legal system and putting their wealth into asset protection trusts and other structures offshore. It became fashionable to have an offshore trust, and the mainstream media, if not exactly approving of the concept, didn't attack it virulently.

For many, this was a prudent move, since productive Americans who had spent their lives building, saving and accumulating wealth did not want to risk having it stolen in a frivolous lawsuit or trumped up asset forfeiture.

However in today's post 9/11 environment, increased attacks by the U.S. government on offshore jurisdictions, combined with a dramatic reduction in privacy, make it important to review wealth preservation structures and asset protection strategies to insure that they stand up to today's new threats to wealth.

Today's most effective asset protection structures contain so called "duress clauses" and limit your access to the protected funds. These features, along with the confidentiality and protection offered by attorney client privilege, effectively close most of the avenues that litigants and the government use to gain unwarranted access to your wealth. If your existing program doesn't take advantage of these features, you should consider bringing it up to date.

FIRST: A WARNING

Investors have used many techniques in the past to protect and defend their wealth. Some have worked well, others have been successful in specific circumstances and some were unwise or questionable choices that in time became illegal. Just remember that illegal actions will eventually catch up with you. It is better to have the peace of mind of being legal with your offshore products and strategies.

If in the past you engaged in questionable offshore activities, such as not reporting the existence of, or income from, a foreign financial account, you need to retain a criminal tax attorney immediately to protect yourself from possible civil or even criminal liability. Like it or not, we live in a world



that demands complete transparency with invasive “know your customer” rules forced on the entire world. Wealth preservation plans that involve non-reported or non-compliant tax structures place you, your wealth and your property at greater risk than if you did nothing at all.

A consequence of the 9/11 attacks and the subsequent passage of the USA PATRIOT Act is that every bank teller, investment advisor, stockbroker or insurance agent in America is a de facto federal agent. They are required to report any “suspicious transactions” in which you engage to the federal government, and are prohibited from informing you of that fact. In addition, the feds now consider lawyers and accountants as “gatekeepers” to the national and international financial system. These professionals are also required to help detect and deter money laundering, although they are not yet required to report “suspicious transactions” to the government.

PREVENT FORCED DISTRIBUTIONS

Let’s take a look at several of the ways the legal predators after your wealth have pierced existing wealth preservation programs and how you might thwart these actions in the future.

Duress provisions are important in order to keep the courts and others from forcing you to do what you would not have done on your own free will. Your asset protection strategy should not depend on permanent personal, business or family relationships because these often change, especially when large sums of money are involved. Remember, your best friend — and even your spouse — can quickly become your worst enemy.

For maximum asset protection, no one should have the right to receive distributions from the product or structure, except at pre established intervals. Structures that can be terminated or that permit assets to be loaned back permit others to coerce, threaten or use contempt of court charges to steal the assets in your wealth preservation structure.

To prevent such coercion, many asset protection structures now include a duress clause. Such a clause allows a financial service provider, trustee and attorney to require a visit from the individual beneficial owner if there is any question whether a withdrawal or liquidation is voluntary — or is being made under coercion or duress from outside parties. The duress clause should still allow for investment strategies and portfolios to be changed anytime.



Everyone needs liquid funds, but you should never invest funds you might need to tap to meet immediate living expenses in an asset protection or wealth preservation structure. That's because if the program can meet short term liquidity needs, this opens up your structure to outside attack. If you can easily obtain access to your funds in an asset protection structure through cancellation, a debit card, loans or early withdrawal, then so can a court.

USE ATTORNEY CLIENT PRIVILEGE FOR INCREASED CONFIDENTIALITY

For hundreds of years, the attorney client privilege has helped to preserve the confidentiality of communications between lawyers and their clients. It exists because: 1) Clients need to be completely truthful with their legal counsel so their advice is based on all the facts of a case; and 2) it helps to assure those needing legal counsel that their private affairs will not be disclosed.

Until 9/11, the privacy and confidentiality of what was said between a client and his lawyer was almost completely protected. But recent U.S. court rulings indicate that attorney client privilege is being weakened, along with most other protections of confidentiality, liberty and wealth. In the United Kingdom attorney client privilege has declined even further, as attorneys are now required to inform the government if they believe their client is engaged in illegal activity.

However, attorney client privilege can still help to keep your communications and structures confidential. You just need to hire an attorney in a jurisdiction where attorney client communications remain untouchable. The essential strategy is to consult with your local attorney on general matters, but when dealing offshore, consider using an offshore attorney to further enhance attorney client privilege. Using this strategy, all communications, both written and oral, and subsequent attorney work product, enjoy enhanced protection from any future disclosure orders of a U.S. court.

Note that attorney client privilege does not extend to accountants, business associates, financial experts, consultants or anyone else either in the United States or offshore. For maximum privacy and confidentiality, all discussions regarding your specific objectives and asset protection goals, including investment decisions and structure questions, should be handled directly between you and your retained legal counsel. This provides a high level of confidentiality not available in many other structures where a



promoter, salesperson or marketing group is positioned between you and the product or strategy.

With the exception of your retained attorney, all conversations, written or email communications and records with any other individual or professional could be subject to subpoena in a lawsuit. Plus, the promoter or salesperson could even be forced into courts to testify against you and your wealth preservation program.

HOLD ALL DOCUMENTATION OFFSHORE

Attorney client confidentiality can be further enhanced through products and strategies requiring the minimal amount of legal reporting and by maintaining all documentation outside your own country.

Most asset protection and wealth preservation strategies allow contracts, trust documents, and certificates or indicia of ownership to be freely retained by the client and held in the client's home country. The problem with this arrangement is that during the discovery phase of litigation, armed with only a subpoena, a lawyer can obtain the documentation and learn how your offshore asset protection program is structured. This leaves your wealth defenses wide open for review and attack.

A better method is to maintain all documentation and account information securely offshore. You should of course retain the right to review this data in a personal visit, but you should not keep copies of it in the United States. Nor should you have online access to this information, since a court may compel such access, thereby fully disclosing your structure to your legal opponents.

When an attorney and/or trustee holds all account information offshore, a U.S. plaintiff must generally bring a lawsuit in that foreign jurisdiction to retrieve it. This will be an uphill battle, because in most offshore jurisdictions, attorney client privilege is taken much more seriously than in the United States. In addition, offshore jurisdictions often require a plaintiff to pay a large deposit for the privilege of bringing a lawsuit and require a higher burden of proof to prevail than in the United States. Also, the concept of "punitive damages" awarded by a jury is almost unknown outside the United States.

All of these factors tend to prevent lawsuits from even getting started. Your attackers will always be in the dark regarding your structure defense and legal protections, as this adds to their costs and uncertainty. Remember:



there are plenty of “easy pickings” for individuals and their lawyers out to legally steal the wealth and property of others. They usually will not waste their time on a difficult case when an easier target is available.

“NO LOANS” ENHANCE ASSET PROTECTION

Many offshore structures and investments permit you to “borrow” some of the funds you have invested to meet immediate liquidity needs. However, such provisions can fatally weaken the structure. The solution is simple: when establishing your wealth preservation program, make sure that your trust, insurance contract or other structure does not allow for a loan provision.

Offshore fixed and variable annuity products can provide a high level of asset protection. However, if your foreign insurance contract has a loan provision, this can open up your protected wealth to creditors and place you in a dilemma of choosing between your money or jail time for contempt of court.

The offshore world has changed profoundly since the events of 9/11. You must either update your wealth preservation strategies or risk the loss of your protection and maybe your wealth!

PART THREE: PLACES FOR BANKING

THREE TOP BANKING HAVENS OF THE WORLD, 2010

Robert E. Bauman JD, Excerpts from *Where to Stash Your Cash: Offshore Financial Havens of the World, 2009*

In our opinion these are three of the safest money havens in the world, used by the super-rich for decades. Your cash will be protected by some of the strictest secrecy laws in existence. Interest rates are competitive, and tough banking regulatory laws, for the most part, keep bankers honest.

To help you decide about where best to locate your offshore bank account, we regularly investigate and visit the world’s banking havens.



We have narrowed the choices down to the three safest and most stable havens.

1) SWITZERLAND: THE WORLD'S BEST MONEY HAVEN

Switzerland is our choice as the best all around asset and financial haven in the world. For centuries, it has acted as banker to the world and in that role has acquired a reputation for integrity and strict financial privacy. It is also a great place for the wealthy to reside. Switzerland may be neutral in politics, but it's far from flavorless. The fusion of German, French and Italian ingredients has formed a robust national culture, and the country's alpine landscapes have enough zing to reinvigorate the most jaded traveler. Goethe summed up Switzerland succinctly as a combination of "the colossal and the well-ordered." You can be sure that your trains and snail mail will be on time. The tidy, just-so precision of Swiss towns is tempered by the lofty splendor of the landscapes that surround them. There's a lot more here than just trillions of francs, dollars and euros.

Switzerland today still stands as the world's best all-around offshore banking and asset protection haven, despite the many compromises in recent years the Swiss have been forced to make under international pressure, most recently in 2009. It was then that the Swiss agreed to the exchange of tax information using the OECD standard. (See "Article 26" — *Demise of Offshore Banking Secrecy*, earlier in this chapter.)

Although Switzerland has succumbed to U.S. pressure to loosen its strict secrecy laws, for safe banking it still rates as one of the top havens.

Technically, any depositor will still be protected by Switzerland's secrecy laws. These laws were first enacted in 1934 and call for the punishment of anyone who releases information on any Swiss bank account holder without authorization. Offenders can receive a fine of more than Sfr50,000 and a six-month prison sentence.

However, Switzerland has entered into a number of treaties with other countries that allow for information to be released in cases involving a crime committed in another country that is also a crime under Swiss law. Tax evasion is not a crime under Swiss law but tax fraud is a crime and under OECD Article 26, foreign tax evasion is a basis for possible tax information exchange.

At the very least, if any creditor or government wanted to come after your money they would have to go through a complicated and expensive



process to get at it. But if you want strict banking privacy, you are probably better off to go to a haven that does not have any information-sharing treaties with your country.

Having said that, Switzerland is still the yardstick by which all other financial centers are measured. Most Swiss bankers (UBS excluded) enjoy an international reputation that is second to none. The country has been economically and politically stable for centuries. It enjoys a low rate of inflation, and the Swiss franc is one of the strongest currencies in the world.

Swiss offer a full range of services to investors, as well as a wide variety of investment opportunities in stocks, bonds, precious metals, insurance and most other financial services.

Switzerland does impose a 35 percent withholding tax on all interest and dividends earned within its borders, but this can be easily avoided by investing money through a fiduciary account. Also double-taxation treaties may cancel out the tax.

Switzerland has more than 500 banks from which to choose. The best banks, however, require very large deposits (up to and over US\$500,000) and also require personal recommendations. Anyone wishing to bank in Switzerland may do best to first go through a local advisor. We can recommend one if you wish.

2) PRINCIPALITY OF LIECHTENSTEIN

The very private people here want things low key. Yet foreigners “in the know” realize this is a financial powerhouse among nations; a constitutional monarchy that has graced the map of Europe since 1719 and that, in the last 60 years, has transformed itself into a world-class tax and asset protection haven. They prefer to keep it secret, but it’s here’s that the world’s truly wealthy quietly do business. And for good reasons. Liechtenstein still boasts some of the world’s strongest banking secrecy and financial privacy laws, the OECD notwithstanding. Plus, it offers world banking and investment direct access through its cooperative neighbor, Switzerland.

With asset protection laws dating from the 1920s, a host of excellent legal entities designed for wealth preservation and bank secrecy guaranteed by law, this tiny principality has it all — plus continuing controversy about who uses it and why. In the not so distant past, one had to be a philatelist to know the Principality of Liechtenstein even existed. In those days, the nation’s major export was exquisitely produced postage stamps, highly



prized by collectors. Until the 1960s, the tiny principality, wedged between Switzerland and Austria, subsisted on income from tourism, postage stamp sales and the export of false teeth.

Until recently there was a near total absence of any international treaties governing double taxation or exchange of information with the one exception of a double tax agreement with neighboring Austria, primarily to cover taxes on people who commute across the border for work. In 2009, Liechtenstein was one of the first acknowledged tax havens to agree to adopt OECD tax information exchange standards that covers alleged foreign income tax evasion. As part of that change in policy the principality began negotiating tax information exchange treaties with other nations.

Liechtenstein is independent, but closely tied to Switzerland. The Swiss franc is the local currency and, in many respects, except for political independence, Liechtenstein's status is that of a *de facto* province integrated within Switzerland. Liechtenstein banks are integrated into Switzerland's banking system and capital markets. Many cross-border investments clear in or through Swiss banks. Foreign-owned holding companies are a major presence in Liechtenstein, with many maintaining their accounts in Swiss banks.

GOOD REPUTATION

For the most part, Liechtenstein has an impeccable reputation with government regulators stressing the professional qualifications and local accountability of its well trained financial managers. Liechtenstein's reaction to outside demands for stronger anti-money laundering laws has been very much in keeping with its conservative history.

3) REPUBLIC OF AUSTRIA

Austria is not a haven in the sense of low taxes, but it is a "banking haven." That's because this nation has one of the strongest financial privacy laws in the world. That guarantee has constitutional protection that can be changed only by a national referendum of all voters. For a very few select of the foreign wealthy, Austria also offers low-tax residency, for those who you can qualify.

The Austrian Republic has long been a bastion of banking privacy strategically located on the eastern European border. From the end of World War II in 1945 to the collapse of Russian Communism in 1992, with the Soviet Union and the United States locked in armed confrontation, this



convenient banking haven served as a willing Cold War financial and political go-between for both West and East.

SECRECY: IT'S THE LAW

When Austrian national banking laws were officially re-codified in 1979, the well-established tradition of bank secrecy was already two centuries old.

Notwithstanding the demands of the EU, current Austrian bank secrecy laws forbid banks to “disclose secrets which have been entrusted to them solely due to business relationships with customers.” The prohibition is waived only in criminal court proceedings involving fiscal crimes, with the exception of petty offenses. The prohibition does not apply “if the customer expressly and in writing consents to the disclosure of the secret.”

As an additional protection, Austrian law raises this guarantee of banking and financial privacy to a constitutional level, a special statute that can only be changed by a majority vote in a national referendum, a highly unlikely event. All major political parties support financial privacy as an established national policy of long standing.

As a member EU country, until 2009 Austria consistently strongly opposed European Union demands for compulsory withholding taxes and financial information sharing. In 2009, in a change of policy under pressure from the G-20 countries and the EU, Austria agreed to apply Article 26 of the “OECD Model Tax Convention.”

This article recognizes “tax evasion” as a valid basis for foreign tax agency inquiries concerning their citizens with accounts in an offshore center. Under this OECD procedure, foreign tax authorities wishing to take advantage of tax information exchange agreements need to supply evidence of their suspicions (names, facts, alleged tax crimes) to the requested government. If there is sufficient probable cause to believe tax evasion has occurred, the requested government may supply the information.

Even with its agreement to share tax information using the OECD standard, Austria's financial and banking privacy laws provide great security. As a result, it's wise to keep Austria near the top of your potential banking list, especially if your major area of business interest is in Eastern Europe and Russia.



IRS APARTHEID BLOCKS AMERICANS FROM SWISS BANKS

Robert E. Bauman JD, July 2009

The word “apartheid” means “separateness” in Afrikaans, once the official language of South Africa and the native tongue of many of its minority white citizens. As the world knows, it also describes an official policy of racial segregation formerly practiced in South Africa.

But the meaning of apartheid has broadened over the years and now includes any official government policy or practice of unjustly isolating or segregating groups of people from others.

You may not have experienced it yet, but there are tens of thousands of Americans already suffering under what can best be described as a diabolical “financial apartheid” — disruptive rules being imposed on Swiss and other offshore banks by the U.S. Internal Revenue Service (IRS) and the U.S. Securities and Exchange Commission (SEC).

These IRS-SEC policies are wrecking havoc among Americans who live or bank offshore. Many justifiably upset Swiss and other offshore banks are closing existing accounts of U.S. persons and refusing new American clients. Unless there is some change, other offshore banks soon may follow suit.

YANKEES GO HOME

In my opinion, Swiss bankers have concluded they don't need or want Americans any more, with all that costly and legally dangerous U.S. government red tape.

Despite fears, Swiss private banking is in better shape than it looks. Swiss private banks have pulled in a lot of new money over the past two years, despite the recession and controversy over bank secrecy. Most Swiss private banks continued to report inflows even as assets under management lost market value.

Much of the new money coming into Switzerland is from regions such



as the Middle East, Russia and Asia, where personal tax rates are low. Obviously foreign clients continue to value Switzerland for its security, political stability and stable currency.

But for Swiss banks the IRS and SEC are making Americans into financial pariahs.

FIVE MILLION AMERICAN EXPATS

It is difficult to say how many people are affected, but more than 5 million Americans live abroad, including about 30,000 in Switzerland.

The unreasonable U.S. government demands caused UBS and Credit Suisse, Switzerland's two largest banks, months ago to order Americans to move their money into specially created banking units that are SEC registered or located in the U.S. Failing that, the banks closed the accounts. UBS alone has cut loose its 52,000 U.S. clients.

Many smaller private banks, such as the respected Geneva-based Mirabaud & Cie, also are shutting down U.S. accounts.

As part of a U.S. Department of Justice deferred prosecution agreement on charges UBS conspired to defraud the U.S. of taxes, the bank gave limited U.S. client data to the IRS and paid a fine of \$780 million. The unappealed U.S. DOJ then sued UBS again, this time demanding 52,000 names of alleged American clients. A hearing on this demand is scheduled in federal court in Miami in a few weeks.

Compounding the nervousness of notoriously conservative Swiss bankers, the IRS is threatening to sue other Swiss banks to obtain their U.S. client records. Apparently the IRS assumes any American with an offshore bank account is a tax evader.

AMERICANS AS TYPHOID MARY

The IRS also has increased pressure on Americans to disclose offshore accounts, setting a deadline of Sept. 23 for taxpayers to declare all foreign accounts or face possible criminal prosecution that could result in as much as 10 years in prison and \$500,000 in penalties.

IRS proposals on new QI rules will increase the cost of compliance and the risk of violating U.S. laws, says Charles C. Adams, managing partner at the law firm Hogan & Hartson LLP in Geneva.



“American citizens are starting to feel like they’re Typhoid Mary,” said Adams who hosted a 2008 fundraiser for Barack Obama. “The Swiss simply don’t want American customers because it requires so much infrastructure and hassle that they don’t make any money.”

U.B.S. LOVED OBAMA

As I noted here last year at a U.S. Senate hearing in July 2008, then Senator Barack Obama complained that “Ordinary Americans pick up the slack for tax cheats who hide assets in offshore tax havens, often with the help of foreign banks like UBS...”

When he made this pious statement now President Obama knew that one of the most prominent UBS executives, Robert Wolf, CEO of UBS Americas, already had collected and bundled more than \$370,850 in campaign contributions for Obama’s presidential campaign, making UBS Obama’s fifth-largest corporate donor.

Judging from what Obama’s government has done to U.S. since taking power, this was yet another very bad investment for the geniuses at UBS.

QUALIFIED INTERMEDIARIES OR SPIES?

The current unprecedented disruption for Americans banking in Switzerland results in part from the little known IRS “qualified intermediary” (QI) program that began in 2001.

In its current form, the QI program allows participating IRS-approved foreign banks to maintain accounts for American clients without having to disclose their names to the IRS. (U.S. persons already are required by law to report all offshore accounts on their annual income tax IRS Form 1040 and on Form TD F 90.22-1 — Report of Foreign Bank and Financial Accounts.)

Until now the IRS has required the offshore QI banks to promise to identify U.S. clients, withhold any taxes due on U.S. securities in their accounts, typically a 30% tax, and send the taxes owed to the IRS. More than 7,000 foreign banks participate in the QI program supposedly helping the IRS to keep track of American offshore investors. But now the IRS claims each year it is losing millions of taxes owed under the QI system.



As I explained here, in 2009 the IRS proposed tough new QI rules, to take effect in 2011. Under these much stricter rules foreign banks in the QI program will be forced to investigate, determine and report to the IRS, not only the names and information on individual U.S. offshore account holders, but also on any legal entities (trusts, corporations) Americans control as beneficial owners.

In effect, the IRS wants offshore banks to act as financial spies on Americans who bank offshore, just as the PATRIOT Act already requires U.S. domestic banks to spy on their clients and report “suspicious activity” to the U.S. Treasury crimes unit.

SEC EXTENDS U.S. LAW OFFSHORE

But there’s another cause of this Swiss-American banking mess and it comes from the same U.S. SEC, that wonderful bureaucratic agency that wouldn’t investigate Bernie Madoff even when his fraud was explained to them in detail.

The SEC accused UBS with helping its U.S. clients to evade taxes, but it also charged that the bank’s actions that had occurred within Switzerland amounted to the bank acting as unregistered investment advisers and broker-dealers in violation of the U.S. Investment Advisers Act of 1940 and SEC rules. Using this novel extraterritorial approach, the SEC thus has extended its jurisdiction to include any person anywhere in the world who dares to advise Americans about investing before registering with the SEC.

In the settlement, UBS paid \$200 million to the U.S. and permanently was barred from acting as investment advisors or broker-dealers for American clients in Switzerland.

BLACKMAIL BY REGULATION

Up until now offshore banks and investment advisors could avoid SEC registration by having absolutely no contact with and never soliciting potential U.S. clients. Because of this previous SEC interpretation of registration rules, careful offshore banks and financial advisors would not even respond to inquiries from a U.S. postal or email address.

The UBS case seems to mean that Swiss or other offshore banks now must register with the SEC, an onerous and costly process, in order legally to provide advice to American customers with offshore investment or bank accounts.



“My bank doesn’t want to do that, so we wouldn’t accept an investment account for a U.S. person,” said Pierre Mirabaud, chairman of Mirabaud & Cie (left).

For Americans with Swiss accounts, SEC registration by their bank also means they must waive the protection of the 1934 Swiss bank secrecy law that makes it a crime for money managers to disclose the names of clients without their consent.

It appears that international blackmail by U.S. regulation is achieving what the IRS and the OECD has long demanded — an end to Swiss bank secrecy, at least for Americans.

OBAMA’S TAX HUNGER

How can these astonishing developments be allowed to occur in a modern banking and financial world system linked by globalism?

Ravenous for tax dollars to finance President Obama’s costly remaking of America, it appears the IRS has orders to adopt as official policy the kind of radicalism expressed by Jack Blum, a paid IRS “consultant on tax evasion,” who told *The New York Times*: “There is no legitimate reason for an American citizen to have an offshore account...When you go offshore, you are doing so to evade rules, regulations, laws or taxes.”

Indeed, I personally heard a top U.S. Justice Department official make a similar statement that traditional internal DOJ policy assumes that any American engaged in offshore financial activity is probably doing something illegal.

So much for presumed innocence until proven guilty!

Over the years the IRS repeatedly has tried to scare all Americans with deceptive publicity campaigns that insinuate that banking and investing offshore is somehow un-American and even illegal — when in fact it is fully legal (a least for now), so long as offshore activities are reported and taxes paid on all worldwide income.

CONGRESS WAKES UP

So drastic have the IRS/SEC extraterritorial measures become that even the U.S. Congress has taken notice.

In bi-partisan opposition two members of the U.S. House, Rep. Carolyn



Maloney and Rep. Joe Wilson, wrote a May 27 letter to Treasury Secretary Timothy Geithner pointing out the obvious, that if QI requirements are extended beyond investment accounts to cash or deposit offshore accounts, “taxpaying Americans living abroad will have no place to bank” — which is exactly what is happening.

“If neither foreign nor American banks will take American customers, how will the millions of citizens living abroad bank?” asked Maloney, a New York Democrat, and Wilson, a South Carolina Republican, co-chairmen of the congressional Americans Abroad Caucus. (Email your U.S. senators and congressman and let them know your opinion.)

LEGAL SOLUTION FOR YOU

At The Sovereign Society fortunately we saw this coming. Over many months we have responded to scores of complaints from Americans affected by these outrageous Obama policies.

Our executive director Erika Nolan and marketing director Shannon Crouch, meet regularly with Swiss and other offshore bankers. We now have in place agreements with reputable Swiss banks willing to accept new accounts from those who identify themselves as Sovereign Society members.

These arrangements are in full compliance with IRS and SEC rules and with other U.S. laws. It also means that a U.S. client must sign an IRS Form W-9 that allows an offshore bank to report required information to the IRS.

As it has been since our founding 11 years ago, our staff is available to assist in opening a Swiss or other offshore account.

Take advantage of these special Swiss banking arrangements — sign up here for Sovereign Society membership. Once you are a member, you can contact us for help via email at info@sovereignsociety.com.



SAVE YOUR SELF AND YOUR CASH — BANK OFFSHORE NOW

Robert E. Bauman JD, January 2009

From the front page of *The New York Times*: “Only five days into the Obama presidency, members of the new administration and Democratic leaders in Congress are already dancing around one of the most politically delicate questions about the financial bailout: Is the president prepared to nationalize a huge swath of the nation’s banking system?”

To a large degree, the answer is that, thanks to George Bush, the last Democrat Congress and President Obama, billion dollar bailouts already have made banks wards of the U.S. government, feeding off taxpayer funds.

American taxpayers are now the biggest shareholders in Bank of America, with about 6% of the stock, and in Citigroup, with 7.8%. But the government’s influence is far larger than those numbers suggest, because it has guaranteed to absorb the losses of some of the two banks’ most toxic assets, a figure that could run into the hundreds of billions of dollars.

And already the government as quasi-owner has begun the political meddling I predicted only last week when I said: “Fast forward to the future day when Obama’s regulatory bureaucrats will be telling banks where to put millions, to whom to make loans, who gets mortgages — and who doesn’t.”

After I wrote that *The Wall Street Journal* detailed how U.S. Rep. Barney Frank (D-MA), the godfather of the FannieMae and FreddieMac subprime housing mess, had personally intervened to get some of the bailout billions for a failing bank in Massachusetts.

PLAIN FOLKS INTELLIGENCE

My fellow Marylander, *The Baltimore Sun*’s acerbic columnist, the late H.L. Mencken, observed: “No one in this world, so far as I know, has ever lost money by underestimating the intelligence of the great masses of the plain people.”



But what happens when that great mass of people are gripped by an almost irrational fear, as it appears Americans are today? In 1757, one of my heroes, Edmund Burke, wrote: “No passion so effectively robs the mind of all its powers of acting and reasoning as fear.”

Senator John McCain was pilloried by Barack Obama during the 2008 campaign for making the truthful statement that the fundamentals of the American economy were sound, as they still are now.

Yet in his Inaugural Address the new, perhaps chastened, President Obama, referring to “this winter of our hardship,” gave his revised estimate that: “We remain the most prosperous, powerful nation on Earth. Our workers are no less productive than when this crisis began. Our minds are no less inventive, our goods and services no less needed than they were last week or last month or last year. Our capacity remains undiminished.”

DANGER TO LIBERTY

The problem of American banks are real and of their own making. And some of this fear is well placed.

Now the world knows the stories of stupidity, excess and greed that has brought Wall Street to its knees. President Thomas Jefferson (who died in near personal bankruptcy), may have approached the truth in a statement attributed to him: “I believe that banking institutions are more dangerous to our liberties than standing armies.”

That certainly is true when banks are managed by greedy dunces oblivious to the laws of mathematics and ethics. And it won't get any better if politicians and government bureaucrats are attempting to manage what remains of American banks.

OFFSHORE TREND

In the last several months we have been deluged by Sovereign Society members (old and new) seeking information about offshore bank accounts — how to set them up, where to get them, how they operate, what the reporting requirements are.

Since our founding over a decade ago, The Sovereign Society has provided international banking guides for members. Drawing on years of experience, we recommend selected banks in jurisdictions where friendly governments welcome foreign financial investors, where banking institu-



tions provide the savvy services investors require. These banks range from Panama to Switzerland and Austria, to Singapore and Hong Kong.

It is our job to explain the positive benefits of having an offshore bank account. Based on each individual's unique needs, we direct members to the right bank in the right jurisdiction, sound institutions where you can protect your assets and managing your wealth.

CONTINUING DUE DILIGENCE

Safety and stability, adequate capital, a good track record, professional, experienced leadership — all of these are factors we consider when recommending offshore banks. Indeed this sort of due diligence is a continuing work on our part.

Even as you read this, our executive director, Erika Nolan, is in Europe meeting with bankers and financial advisors in Zurich and Vienna. The goal is to determine new banking possibilities and reaffirm existing associations, with banks that we and you can, indeed, bank on.

Each of these banks is financially stable, offering modern facilities, services and the necessary understanding to serve an international clientele effectively. The banks the Society chooses have liquidity ratings well above the international minimums set by the Bank for International Settlements in Basel, Switzerland.

ADDED PROTECTION

And going offshore adds a strong layer of protection and can be done in more ways beyond banking.

Whether it's in a Swiss or Liechtenstein life insurance wrapper, retirement annuity or an Isle of Man or Panama asset protection trust, placing your assets offshore puts them out of reach of frivolous lawsuits. Litigants usually are ready to settle for pennies on the dollar when they find out how difficult it is to locate and collect your money offshore.

And if you place your 401(k) or other retirement plan in a suitable offshore jurisdiction — Liechtenstein or Switzerland, for instance — it can be configured to be essentially judgment proof, plus it is covered by strict financial privacy laws that are non-existent in the United States.



JOIN US

Americans are now caught in a financial twilight zone, especially as it pertains to banks. For your own sake, we urge you to join The Sovereign Society today and open the door to safe and secure offshore banking — while you still can. We welcome you. You can bank on it.

If you wish to contact an independent asset manager, contact The Sovereign Society at the address below. We assist our members in making appropriate contacts with reliable managers who have passed our due diligence test. 98 S.E. Federal Highway, Delray Beach, FL 33483; Tel.: 561-272-0413; Website: <http://www.sovereignsociety.com>; Email: info@sovereignsociety.com.



Chapter Four

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EDITOR'S NOTE

Cash is defined as “money or its equivalent.” At one time, back in the last century, money meant paper currency backed by gold, or metal coins of gold or silver with intrinsic value. Today cash can be billions of binary digits controlled by computers that send it around the world via the internet with a speed once reserved for lightning bolts.

The Bible, in the First Book of Timothy, admonishes us, “The love of money is the root of all evil.”

In the modern world the manner in which you handle your money can result in evils befalling you worse than all the plagues described in both the Old and New Testaments.

In this chapter, we survey the state of money and its many current equivalents in what can be called a “money safety course” — the new money regime you must master to survive.

ILLEGAL TENDER: THE WAR ON CASH

John Pugsley, *The Sovereign Individual*, December 2001

History teaches us that the most serious casualty of war is always liberty.

In “America’s New War,” this sad lesson is being demonstrated again. Each passing day we are told that in order to protect our freedoms we must relinquish them. George Orwell had a name for this: doublespeak.

Using the fear of terrorism as cover, world governments are cranking up an all-out assault on financial privacy. Their primary target: cash.

I’m old enough to remember when cash was the most common medium of exchange. Companies paid their employees in cash, and people used cash for most purchases, including large ones like cars and even houses.

Until the mid-20th century, bank accounts were the exception rather than the rule for individuals and even businesses worldwide. Credit cards were non-existent until the 1950s. The American Express card didn’t appear until 1958.

Although wealthy individuals sometimes purchased stocks, for almost



everyone else, savings were in the form of cash (or gold and silver coins) stashed “under the mattress.” Cash was king.

Large bills circulated in most countries. In the United States there were \$500 and \$1,000 notes, and even \$10,000 and \$100,000 bills. They're long gone, although they are still sold as collector's items. Now the U.S. government is working to eliminate \$100s, and \$50s are likely to follow.

Governments don't like cash. With cash, citizens can conduct exchanges without written records and in complete privacy. Cash leaves no trail. While we are told government is against cash because it facilitates crime, in fact they hate it because cash makes individuals, sovereign.

The objective is a “cashless society,” where every financial transaction will be available for instant examination and comprehensive analysis in government-run data banks.

It has taken decades for governments to gradually lull the public into accepting the elimination of cash, but success is at hand. Citizens are learning through bitter experience that to accept, hold, transport and exchange relatively large amounts of cash is to risk forfeiture and even prison.

In bygone days, the danger in carrying cash was that you might be robbed. It still is. Only today the robber is most likely to wear a police uniform.

The early signs of this war on cash came with the passage of the 1970 Bank Secrecy Act (see Chapter Three), which made it a federal crime for anyone to cross the U.S. border with more than \$10,000 in cash without filing a report with the U.S. Customs Service.

Today, government agents can basically empty your wallet of cash anytime they want. Most people whose cash is seized are never formally charged with a crime. Some 90% never get their property back.

In Florida, the “Impact” unit, a force of 50 officers backed by nearly a dozen police agencies, funds itself entirely through asset seizures, and it doles out millions more stolen dollars to area police departments.

A Vietnamese immigrant forfeited US\$80,000 in cash he was carrying despite the fact he was never charged with a crime after agents seized money from him during a train ride from California to Boston.

In Wayne County, Michigan, police confiscate the cash that people



bring in to bail out friends or family members, simply by having a dog sniff it, supposedly “alerting” to the smell of drug residues on the currency.

Such seizures continue, despite that numerous federal court cases have established that nearly all U.S. currency has enough such residues to excite a drug-sniffing dog.

Occasionally, the amount confiscated is large enough that the victim sues to recover it. In 1998, the U.S. Supreme Court said federal authorities could not keep the \$357,144 in legally earned funds they had taken from Hosep Bajakajian for failure to declare it when exiting the country.

The Court, for the first time in its 200-year history, invalidated the forfeiture because it would result in a punishment grossly disproportionate to the underlying offense to which Bajakajian had pleaded guilty, which would have resulted in a maximum fine of only US\$5,000.

Not willing to be bound by the U.S. Constitution or by justice itself, the Bush administration successfully lobbied to change the Bajakajian type of offense from “failure to disclose” to “smuggling,” a crime with a much stiffer maximum penalty. This change is part of the new U.S. anti-terrorist legislation. In the future, someone like Bajakajian will not be able to recover his legally earned after-tax money and could be sent to prison for up to five years.

Is the war on cash likely to end? Not a chance.

The events of September 11, 2001 have given all major governments new justification for their war on cash.

Is there an answer for sovereign individuals? Yes.

The ongoing battle between the sovereign state and sovereign individuals is moving to the next evolutionary step in money: electronic currencies.

The largest operation in existence is called e-gold (www.e-gold.com). However, my preference is for GoldMoney (www.goldmoney.com), the patented cyber-gold payment system introduced this year by long-time gold advocate James Turk. This new concept completely eliminates the forfeiture and theft risks of transporting cash and is the perfect solution to moving money across borders. It also eliminates fraud and solves the collection problems and costs inherent with transferring money through checks, wires and credit cards. Best of all, GoldMoney (and e-gold) offer individuals the opportunity to bypass fiat currency.



As mediums of exchange fully backed by gold or other precious metals, these avant garde systems are based on tangible wealth — in contrast to the “dollars” issued by the Federal Reserve which are backed by nothing but the “good faith” of politicians.

Each of us, like it or not, is at war to protect our dwindling liberties. As sovereign individuals we don't assemble, arm ourselves and march against the enemy. Instead, we search for strategies and products that protect our property, and deny our resources to the State. Gold-backed electronic currencies are one more such tool.

AVOIDING U.S. EXCHANGE CONTROLS

Mark Nestmann, *The Sovereign Individual*, October 2009

Imagine for a moment that you're the most powerful person in the world. You have millions of men under your control. Your soldiers are stationed in more than 100 countries worldwide. Your naval forces include dozens of nuclear submarines, battleships, and aircraft carriers. And, you have the legal authority to take anyone's money with impunity.

Yet, you have a problem. To finance your empire, you've borrowed \$10 trillion from investors. And it's still not enough. You need to borrow \$2 trillion more each year to stay afloat.

If you can't convince your creditors to lend what you need, wouldn't you try to use your legal authority to stop your creditors from escaping with what's left of their money? After all, it's perfectly legal for you to take it.

Now, substitute “U.S. government” for “you.” In a nutshell, this is the situation in which the United States now finds itself. And should buyers fail to pony up and buy the trillions of dollars of debt it needs to finance its borrowing appetite, the U.S. government just might resort to “unconventional measures.” One such measure would be to restrict outflows of U.S. dollars abroad.

HOW U.S. EXCHANGE CONTROLS MIGHT ARRIVE

Most countries that impose exchange controls do so in an effort to support the value of their national currency. And that's how they're likely to come to the United States.



The dollar is trading at near-record lows. Gold prices are soaring. Should this trend continue, politicians will demand that the government “do something” to defend the greenback’s value. This sets the political stage for exchange controls.

HERE’S HOW THE SCENARIO MIGHT UNFOLD:

Step 1. As the dollar plummets to yet another record low, the U.S. Treasury tries to auction off \$100 billion in medium and long-term debt. But buyers demand higher interest rates than the Treasury expects. The Treasury cancels the auction, the dollar sinks further, and gold hits \$1,300/ounce.

Step 2. President Obama holds a series of urgent meetings with Treasury officials and senior members of Congress. He then declares a “state of economic emergency” under the authority of the International Economic Emergency Powers Act (IEEPA). Obama’s emergency order targets foreign holders of U.S. Treasury debt. They must now pay a withholding tax if they insist on repayment of principal, rather than rolling over their investment into new issues.

Politicians from both parties praise Obama’s “courage” in taking prompt action. They criticize “evil speculators” who bet against the U.S. dollar. But, the foreign exchange markets don’t listen to Congress.

The dollar falls to another record low. Gold soars to US\$1,400/ounce.

Step 3. After more urgent meetings, Obama issues another emergency order. This one requires U.S. Treasury approval for all outgoing wire transfers exceeding \$1 million. He issues the order before delivering a speech in which he justifies his action as necessary to fight money laundering disguised as currency speculation. Opinion polls show 90% of Americans approve of the initiative.

But outside the United States, Obama’s actions start a global financial panic. The U.S. Dollar Index falls 15% in a single day. Gold soars to US\$1,500/ ounce...maybe higher.

Step 4. Obama issues a third emergency order. This one requires the Treasury to convert outgoing U.S. dollar transfers to foreign currencies at an official, fixed rate. This official value is much higher than the market value of the dollar. Transfers deemed vital to the U.S economy are exempted from this requirement.



Step 5. Obama issues additional emergency orders. One order prohibits U.S. persons from owning foreign currencies. Another one prohibits all “nonessential” outward flows of U.S. dollars. With these steps, exchange controls have now arrived in the United States. But since most Americans don’t hold foreign currencies or make international investments, at first, Obama’s measures arouse little domestic opposition.

Internationally, the reaction is very different. Foreign investment in the United States virtually ceases. Interest rates on dollar-denominated bonds increase sharply. This helps support the value of the dollar. But the domestic economy goes into a tailspin.

WHY EXCHANGE CONTROLS WON’T WORK

Exchange controls always cause more problems than they solve. The controls permit the government to continue irresponsible financial practices far longer than market forces would otherwise permit. In addition, graft and corruption always accompany exchange controls.

Treasury officials and those with political connections always commit the most serious violations.

Exchange controls inevitably disrupt legitimate businesses. For instance, exchange controls in Venezuela bankrupted thousands of businesses because they could no longer obtain foreign currency.

Finally, exchange controls impoverish the countries that impose them. While Venezuela’s foreign currency reserve position stabilized after it imposed exchange controls, remittances of foreign currency fell dramatically. This led to a steep decline in the standard of living for most residents.

If foreign exchange controls come to the United States, there’s no reason to anticipate a different outcome. You can count on irresponsible spending to continue, increased corruption, and a decline in living standards.

HOW TO PREPARE FOR EXCHANGE CONTROLS

U.S. residents concerned about the prospect for exchange controls need to prepare for them now.

Here are some recommendations:

- Purchase a residence in a foreign country. The government can’t force you to repatriate real estate if it imposes exchange controls. A foreign



residence also gives you a place to live, at least temporarily, if the United States becomes politically or economically unstable.

- Start or purchase an offshore business. Again, it will be very difficult for the government to confiscate it.
- Purchase precious metals offshore and keep them in an offshore bank, safety deposit box, or private vault.
- Create an international structure in which you are a beneficiary of the underlying investments. An offshore trust and some types of offshore annuity investments provide this sort of protection. Beneficial interests are more difficult to confiscate than direct ownership interests, especially if held overseas. These structures may also protect against claims in civil litigation.

These precautions aren't foolproof.

The Treasury could force you to repatriate your foreign investments in exchange for dollars at the official exchange rate. This rate may be much less than the market exchange rate. Congress may also impose taxes on unrealized gains on foreign investments it can't force you to repatriate.

For this reason, the only strategy certain to be effective against exchange controls is to physically leave the United States. Take as much capital with you as is legally allowed. Set up residence in another country and watch the United States melt down from a safe distance.

Even this strategy may not be sufficient, since the United States taxes its citizens no matter where they live. Ultimately, the only way for you to protect yourself against exchange controls may be to give up your U.S. citizenship and passport and expatriate.

That's a big step, but it's the only way to free yourself permanently from U.S. legal authority.



REQUIRED COURSE: ELECTRONIC FINANCE IOI

J. Orlin Grabbe, *The Cyberpayments Revolution*, 1999

Many of the basic features of electronic cash — variously referred to as “e-cash,” “digital cash,” digital money,” and so on — may sound novel to those unfamiliar with the financial markets. But much of the financial system is already on an electronic basis, and has been so for years.

To see why, consider the foreign exchange market. This is a largely interbank market for trading the currency of one country for the currency of another: dollars for pounds, dollars for yen, and so on. But if I, as an interbank trader, sell U.S. dollars for British pounds, what are the actual logistics of the transfer?

Consider the problems that would be imposed by a cash-based market. The standard transaction size in the foreign exchange market is an amount of currency equivalent to US\$1 million. A US\$20 bill weighs about 1 gram. So, if transacted in cash, the US\$1,000,000 (50,000 bills) would weigh approximately 50 kilograms or 110 pounds.

Imagine the cost involved in such a transaction if in order to sell dollars for pounds I had to fill up a suitcase with US\$20 bills, lug the 110-pound suitcase to a Manhattan taxi, take a long ride to Kennedy Airport (New York City), fill out a CMIR form and check my baggage, arrive at Heathrow (London) seven hours later, retrieve my baggage, go through customs, and catch a cab to the appropriate British bank in central London. Once there I would pick up the equivalent in pounds sterling and reverse the whole process.

There’s a problem with this scenario: transaction costs. Anyone trying to change dollars into pounds will go to some other bank where he doesn’t have to pay for my plane tickets and cab fares, not to mention my courier salary and the lunch I had at the Savoy before I headed back to New York.

(In the present markets for cocaine and heroin, it is hard to reduce transactions costs, because the weight of the drugs is less than the weight



of the cash proceeds. In the early 1980s, cash bills were actually loaded into suitcases and moved around. To save time and money, however, the cash wasn't counted. After a spot check of bills for denomination and authenticity, the suitcases were simply weighed to determine the total value. This measurement was accurate to within a few dollars — close enough. But foreign exchange trading isn't illegal and doesn't, and can't, happen this way.)

To see how international money transfers really work, consider the case of a Greek immigrant who has opened a restaurant in Boston, has made a little money, and wants to send some cash to the folks back home. In earlier days he probably would have gone down to the Western Union office and handed the attendant cash to “wire” to his mother in Athens. The Western Union office in Boston would put the cash in its safe, or perhaps deposit it in a Boston bank, and would meanwhile send a message to the Athens office, “Give so-and-so X dollars” (or, more likely, “Y drachmas”).

That is, the cash received was not the same as the cash sent. All that was sent was a message. But no one cared, because cash itself is fungible: the dollar that is taken out is interchangeable with, but not the same as, the dollar that was put in. The bills are also not registered: no particular name is associated with any particular serial number.

In this example, bills were put into the safe at one end of the transaction, and different bills were taken out at the other. Consider now a slight modification to this scenario: Eurobond trading.

Eurobonds are generally placed in the depository systems operated by Euroclear in Brussels or Cedel in Luxembourg. Once bonds are in the vault, they generally stay there, because of transactions costs. If a trader in Frankfurt sells a GM eurobond with a coupon of 7-1/8 percent and maturing in 2012 to a trader in London, they both send messages to Euroclear. Euroclear compares the two sets of instructions, checks the cash balance of the London trader, then switches the computer label of ownership of the bond to the London trader, and the ownership of the requisite cash to the Frankfurt trader.

Again, however, the bonds are not registered, and are fungible within the parameters of a particular issue. There may be several thousand GM euro bonds with a coupon of 7-1/8 percent and maturing in 2012, and the London trader owns one of them, but his ownership is not attached to a particular bond serial number.



This is pretty much the way the foreign exchange market works.

If a New York bank deals dollars for German owned euros with a London bank, they send each other confirmations through SWIFT. Then the New York bank will turn over a dollar deposit in New York to the London bank, while the London bank will turn over a euro deposit in Frankfurt to the New York bank. The Frankfurt bank simply switches the name of the owner of the euros [deutschemarks] from the London bank to the New York bank. The New York bank now owns X-number of fungible, unregistered (but completely traceable) euros at the Frankfurt bank.

“I remember my shock when I learned that the fastest way for two banks in Hong Kong to settle a dollar transaction was to wire the money from Hong Kong to New York and back again,” said Manhattan assistant district attorney John Moscow. He was shocked because he didn’t understand how the process works. The “wired” dollars were sitting in New York all along as numbers in a bank computer, originally labeled as owned by the first Hong Kong bank. After the transaction is completed, they are still in the same place, but labeled as owned by the second Hong Kong bank. There is nothing mysterious about this at all.

Now let’s modify the basic scenario again: Yankee bond trading. Yankee bonds are dollar denominated bonds issued by non-U.S. citizens in the U.S. bond market. Yankee bonds are registered.

If you buy a bond, your name is attached to a particular bond with a particular serial number. If someone steals the bond, he will not be able to receive interest or principal, because his name is not attached to the bond serial number. So when Yankee bonds are traded, the seller’s name is removed from the serial number of the bond being sold, and the buyer’s name is attached.

To this point we have talked about things that potentially exist in physical form. I can take a bond out of the vault, or I can cash in my electronic euros for printed bills. The final modification to these various scenarios is to get rid of the physical paper entirely. Such purely electronic creatures already exist: U.S. Treasury bills; short-term debt instruments issued by the U.S. government.

You buy, for example, a \$10,000 T-bill at a discount and it pays \$10,000 at maturity. But you don’t see printed T-bill certificates, because there aren’t any. T-bills are electronic entries in the books of the Federal Reserve System.



You can trade your T-bill to someone else by having the Fed change the name of the owner, but you can't stuff one in your pocket. You can "wire" your T-bill from one bank to another, because the "wire" is just a message that tells the Federal Reserve bank to switch the name of the owner from one commercial bank to another.

SMART AND NOT-SO-SMART CARDS

Previously we saw that most of the financial system is already on an electronic basis. And we understand that "wiring" money doesn't correspond to the mental image of stuffing bills down an electrical wire or phone line. To bring this story closer to home, let's consider how most of us use a computer and a modem on a daily basis to make financial transactions.

Even if we don't own a computer. Or a modem. Let's talk about smart and dumb cards — ATM cards, credit cards, phone cards, and much more.

Some smart cards have microprocessors and are actually smart (and relatively expensive). They are really computers, but missing a keyboard, video screen, and power supply. Others, such as laser optical cards and magnetic stripe cards, are chipless and only semi-smart.

Laser optical cards are popular in Japan, and can hold up to four megabytes of data — enough for your tax and medical files and extensive genealogical information besides. The cards are a sandwich, usually a highly reflective layer on top of a non-reflective layer. A laser beam is used to punch holes through the reflective layer, exposing the non-reflective layer underneath. The presence or absence of holes represents bits of information. A much weaker laser beam is then used to read the card data. You can later mark a file of information as deleted, or turn it into gibberish, but you can't reuse the area on the card.

Magnetic stripe cards, popular everywhere, doesn't hold much information. An ATM card is one example. Data is recorded on the magnetic stripe on the back of the card similar to the way an audio tape is recorded. There are three tracks — the first of which is reserved for airline ticketing. This track holds up to 79 alphanumeric characters including your name and personal account number (PAN).

The ATM doesn't actually use the first track for transactions, but it may read off your name, as when it says, "Thank you, Joe Blow, for allowing



me to serve you.” The second track contains up to 40 numerical digits, of which the first 19 are reserved for your PAN, which is followed by the expiration date. The third track will hold 107 numerical digits, starting again with your PAN, and perhaps information related to your PIN (personal identification number, or “secret password”), along with other information, all of which potentially gets rewritten every time the track is used.

The ATM machine into which you insert your card is itself a computer. The ATM typically has both hard and floppy drives, a PC motherboard, which contains the microprocessor, and a power supply — as well as drawers for deposits, cash, and swallowed cards. If the ATM is online (i.e., one that is connected to a distant central bank computer, which makes all the real decisions), then it also has a modem to communicate over phone lines with the central computer.

When you make a request for cash, the ATM machine compares your password to the one you entered. If they are the same, it then takes your request and your PAN, encrypts (hopefully) the information, and sends it on to the central computer. The central computer decrypts the message, looks at your account information, and sends an encrypted message back to the ATM, telling it to dispense money, refuse the transaction, or eat your card.

In between the ATM and the authorizing bank is usually a controller, which services several ATMs. The controller monitors the transaction, and routes the message to the correct authorization processor (bank computer). Some transactions, for example, will involve banks in different ATM networks, and the transaction will have to be transferred to a different network for approval. The controller would also generally monitor the status of the different physical devices in the ATM — to see that they are operating properly and that the ATM is not being burglarized.

ARE SMART CARDS THE MARK OF THE BEAST?

Besides optical and magnetic stripe cards, there are two types of “chip” cards. Chip cards are basically any cards with electronic circuits embedded in the plastic. One type of chip card, called a memory (or “wired logic”) card, doesn’t have a microprocessor and isn’t any smarter than the cards we discussed previously. Prepaid phone cards are of this type. They may have about 1K of memory, and can execute a set of instructions, but can’t be reprogrammed.



Then there are the truly smart cards that have a microprocessor and several kilobytes of rewriteable memory. Smart cards allow for greatly increased security, since access to their data is controlled by the internal microprocessor. And there can be built-in encryption algorithms. This versatility has made smart cards controversial.

The negative reputation arises from certain cases where smart cards were imposed by force, as well as from smart-card storage of biometric data. The use of smart cards became a prerequisite for Marines to receive paychecks at Parris Island, South Carolina. Fingerprint-based smart card ID systems were implemented by the Los Angeles Department of Public Social Services and the U.S. Immigration and Naturalization Service. The “Childhood Immunization” bill, introduced by the late Sen. Ted Kennedy would have tracked the vaccinations of all children under six years of age, together with at least one parent, across geographical areas through smart cards.

Access control at the U.S. Department of Energy Hanford Site requires smart card badges, which store the cardholder’s hand geometry. Security access through retinal scan patterns stored in smart card memory are now in use.

Visa announced plans for creating an “electronic purse.” The purse would be a reloadable spending card. You would charge the card up at an ATM machine, where it would suck some cash value out of your account, and store it in memory. You would then use the card instead of cash to make small purchases. Visa is attracted by the estimate that consumer cash transactions in the United States are about five times the size of bank-assisted transactions (those that use checks, credit cards, and debit cards). Visa has been joined in this endeavor by a consortium that includes VeriFone, the leading supplier of point-of-sale transaction systems, and Gemplus, the leading manufacturer of smart cards.

There may be increased security in the use of an electronic purse, but it is not clear how replenishing one’s card balance at an ATM is any more convenient for the user than getting cash at an ATM. Since Visa is not advertising the privacy aspects of electronic purse payments, one must assume this feature was omitted in the planning. Hence, a cynic could conclude that the electronic purse is little more than a Rube Goldberg device which, by substituting for cash, will create a better set of PROMIS-type transaction records.

These and other examples suggest possible uses of smart cards for more



general surveillance and social control. The truly paranoid envision the use of a single smart card for every financial transaction, medical visit and telephone call. This information would be sent directly to a common PROMIS-like database, which would constitute a record of all your activities. In addition, your card could be programmed to transmit its identification code whenever you use it. So you (or your card, anyway) could be instantly located anywhere on earth via the satellite-based Global Positioning System.

But smart cards don't have to be used this way. Recall that mainframe computers once appeared destined to turn the average citizen into Organization Man, a creature to be folded, spindled and mutilated in lieu of IBM's punched cards. The advent of the personal computer, however, showed the same technology could be a tool of individual freedom and creativity. There is nothing intrinsically evil in storing a great deal of information about ourselves, our finances, and our current and future plans. That is, after all, exactly why some of us carry around portable computers. But in this case the use of the computer is voluntary, and we ourselves control both access to, and the content of, the information. The same principle applies to smart cards.

It is smart cards more than any other aspect of banking technology, I believe, that will allow for financial privacy through cryptology, for anonymous and secure digital cash transactions. It's simply a matter of taking control of the technology and using it to enhance personal freedom.

GOVERNMENT TARGETS: SMART CARDS & DIGITAL BANKING

Robert E. Bauman, JD, September 1997

On May 21, 1997, the U.S. Treasury Department's Financial Crimes Enforcement Network (FinCEN), in a little-noticed rule proposal, began the government's takeover of all forms of electronic and digital cash in America.

For the first time the U.S. government asserted direct control over so-called "financial value systems," defined as "...funds or monetary value represented in stored digital format (whether or not encrypted) and stored,



or capable of storage, on electronic media... as to be retrievable and transferable electronically.”

This definition covers so-called “smart cards,” online Internet banking and any other cash transactions in electronic form.

REGISTRATION REQUIREMENT

The rule requires registration with FinCEN of all “money services businesses” (MSBs) and their agents that use “stored value systems,” a broad definition that now replaces the former, narrower description of “non-bank financial institutions.” MSBs include non-bank cash systems run by currency dealers, check cashing operations, money order sales, including the U.S. Post Office, and issuers of travelers’ checks — accounting for US\$200 billion in business in America each year.

The ominous grab for control over digital cash got lost in sensational news stories about another May 21 FinCEN regulation, aimed at South American drug money launderers who allegedly used storefront “money transmitters” in Texas and New York City. As a result, such operations now must report all transactions of US\$750 or more.

At the heart of the stored value controversy are plastic digital smart cards, look-alikes for what may soon be obsolete credit cards. A smart card’s embedded chip holds 500 times more information than an ATM or credit card magnetic strip, allowing it to serve as a portable personal bank account in your wallet. These “electronic purses” store digital money that can be replenished with a phone call to your bank. In time, smart cards could replace the need for paper notes and coins.

PRIVACY — THE TARGET

What worries tax-collecting, crime-fighting governments most is the smart card’s privacy potential.

Based on the U.S. Bank Secrecy Act, regulations now cover virtually all cash transactions, making non-reporting of specific money transfers criminal acts punishable by prison and fines of up to US\$250,000. The official money laundering crusade that began a decade ago as part of the so-called “war on drugs,” now criminalizes over 200 other financial activities, many far afield from illegal drug money.

Superior encryption technology makes possible one-way cash transac-



tions that record only deposit sources, but not where card payments go. Respected digital cash pioneers could be hampered by the new rules. Most smart cards are issued by banks that already operate under a mountain of restrictive government rules. This will add to the burden and cost.

SUSPICIOUS ACTIVITY?

Money laundering experts outside the U.S. government say it's unclear whether separate FinCEN registration of stored value cash systems means any stricter application of so-called "Suspicious Activity Reports (SARs)" to digital cash account holders. These rules already require banks to monitor and report all customers and accounts suspected of possible criminal activity. A bank official says SAR rules, although difficult to enforce on digital cash accounts, already apply.

But he predicted a major outcry if FinCEN tries to impose a lower US\$750 transaction reporting rule on smart card bank transfers. The present reportable amount for cash transfers is US\$10,000 and above.

DEAF TO ADVICE

The rush for expanded government control of digital financial transactions flies squarely in the face of opposite advice from U.S. Federal Reserve Board Chairman, Alan Greenspan. In a publication by the Cato Institute of Washington, D.C., *The Future of Money in the Information Age* (Cato Books) in which the Fed chairman expressed concern that government "...not attempt to impede unduly our newest innovation, electronic money or...our increasingly broad electronics payment system." Greenspan warned, "Government action can retard progress but almost certainly cannot ensure it."

A senior American banking expert sees the new FinCEN rules as further proof of an established trend. "Government agents already view almost anyone engaged in cash transfers as potential criminals. They started down this road 10 years ago," he said. "If these rules are approved in their present form, it's only a matter of time until the privacy potential of digital cash is dead in the United States."



FLYING MONEY: THE GLOBAL FINANCIAL UNDERGROUND

Mark Nestmann, *The Sovereign Individual*, July 2000

Services such as e-gold (www.e-gold.com) promise a future where individuals can transfer value between one another without using a bank or other government-regulated institution as an intermediary.

And one where the currency used can't be manipulated or debased by any government.

This development is of profound concern to world governments. Their most important concern, as always, is tax collection. Monitoring such transactions, much less collecting taxes on them, will be difficult — if not impossible. This is the real reason why governments want to end Internet anonymity and force Internet Service Providers worldwide to maintain logs.

But governments face an even larger threat — the fusion of these new forms of “digital money” with a much older worldwide network through which billions of dollars is transferred each year, outside the banking system. This is the world of fei-chien, Chinese for “flying money.”

Fei-chien predates western banking by centuries. More than 1,200 years ago, the growing tea trade between the south and the imperial capital emphasized the need for a medium of exchange to avoid physically transporting copper, silk or other valuables. Tea merchants deposited their proceeds to these courts. The courts applied a portion of the deposit for taxes due and issued a certificate representing the balance due the merchant. Upon returning home, the merchant presented the certificate to the provincial government to collect his money.

Centuries later, flying money moves hundreds of billions of dollars each year, almost invisibly.

According to Temple University Professor, Nikos Passos, “It is an efficient, speedy and cheap way of moving money, often for very legitimate purposes.” Today, flying money brokers, often doing business as a cur-



rency exchange, can be found in bazaars throughout Asia and the Middle East.

But the world's tax collectors are no longer sponsors. Despite its legitimate uses, law enforcement agencies consider flying money a major source of tax evasion, currency exchange violations and money laundering — and have vowed to shut it down. However, doing so presents a major challenge.

According to police inspectors in Hong Kong: “The record keeping procedures of the underground banking system are nearly non-existent, with coded messages, chits and simple telephone calls used to transfer money from one country to another.” One Hong Kong police official stated that he once seized a piece of paper with the picture of an elephant on it that represented the collection receipt for US\$3 million at a Hong Kong gold shop. The system, nonetheless, has the ability to transfer funds from one country to another in hours, provide complete anonymity, total security, and to convert gold or other items into currency and convert currencies.

Indeed, a recent report from the Financial Action Task Force acknowledges that this money transfer system “costs less than moving money through the banking system, operates 24 hours per day and is virtually completely reliable.” It also admits that in India, “up to 50 percent of the economy uses the Hawala system — yet it is prohibited.” And with the Internet and encryption software, flying money underground bankers can now transfer value with an encrypted e-mail message, from any telephone in the world.

If governments can't stop flying money cartels from moving billions of untraceable dollars, how can they prevent sovereign individuals from doing the same on the Internet? They can't, and their failure means that privately issued, anonymous, gold-backed electronic currencies may eventually compete with government-issued fractional reserve currencies.

With flying money combined with modern e-technology, sovereign individuals may yet triumph over the all-powerful state.



SUSPICIOUS TRANSACTIONS

Mark Nestmann, *The Sovereign Individual*, March 2001

Welcome to the “Snitch Society.”

In the United States and, increasingly, in other countries, your children are encouraged to report their suspicions to teachers that you might be using illegal drugs. Tax authorities pay generous rewards for turning in tax cheats. Anyone who forwards a lead to police that property was used illegally is eligible for a reward if it is forfeited.

These aspects of a snitch society, odious as they are, for the most part are voluntary. Yet with respect to our money, they are mandatory. U.S. law requires banks, casinos and money transmitting businesses to report “any suspicious transaction relevant to a possible violation of law or regulation” to the Financial Crimes Enforcement Network (FinCEN), the U.S. Treasury’s financial intelligence unit.

These incredibly broad provisions, through the first half of 1998, led to 150,000 Suspicious Activity Reports (SARs) being filed. From these reports, a total of 337 money laundering, fraud, embezzlement, theft or narcotics prosecutions were initiated. More than 99.7 percent of these reports did not lead to a criminal investigation.

But the collateral damage is huge. In one case, a mistaken report caused the accounts of 1,100 innocent depositors to be frozen. And the reports keep coming: an additional 350,000 SARs were filed through October 2000.

SARs are available electronically to every U.S. Attorney’s Office, 59 federal agencies and police in all 50 states. No suspicion of crime need be shown for disclosure. Since FinCEN is exempt from U.S. privacy legislation, it can maintain SARs indefinitely. In addition, SARs have been made available (illegally) to private investigators.

The more reports filed, the greater the chance for such foul-ups. Especially since FinCEN itself has trouble entering the data it gets accurately. A 1999 audit found that in one case, \$5,000 was entered as \$5 million.

But this is only the beginning. FinCEN notes approvingly the expansion



of mandatory SAR requirements in other countries to all professionals that handle money as fiduciaries. U.K. law, for instance, requires lawyers to report transactions they believe are related to money laundering. Similar provisions are now in effect in many offshore centers.

FinCEN is already preparing new SAR rules for U.S. securities brokers and firms engaged in foreign trade. And it suggests extending the requirements to accountants, insurers and even appliance makers and consumer electronics stores.

It is possible that these new requirements will result in some crimes being solved that might otherwise have gone undetected. But at what cost?

The tradition of confidentiality in the conduct of one's financial affairs is more than 5,000 years old. The Code of Hammurabi, one of the first written system of laws, stipulated that the when persons entrusted their money to a banker, those transactions were not to be disclosed to outsiders.

The Justinian Code of the sixth century A.D. (that compilation of Roman Law on which most European legal systems are based) recognized that relationships between individuals and their lawyers should also be afforded secrecy. In English law, the principle was first mentioned in 1580.

The common thread in these traditions is that clients should feel free to make full disclosure, thus making it more likely that a professional advisor will provide good advice. Confidentiality makes us feel comfortable disclosing information that, if known to others, could be damaging.

But today, banks, attorneys and many other professionals owe their first duty to the state, not to their clients. We are rapidly approaching the Nazification of the global financial system, with our trusted advisors acting as spies against us in an illusory "War on Crime." We have no choice but to take responsibility for our own individual sovereignty.

THE \$7 BILLION LAUNDRY BILL

Daniel J. Mitchell, Senior Fellow, The Cato Institute, October 2006

According to *The Tampa Tribune*, a Florida convent recently had its bank account frozen because an 80-year-old nun did not have a Social Security number and photo ID on file with the bank.



Equally bizarre, *The Providence Journal* reports that a retired Rhode Island school teacher's attempt to pay off a credit card was held up because the transaction did not fit his usual pattern, and therefore raised a red flag.

These are not tales of heartless clerks or incompetent bank tellers.

Instead, they are examples of the government's ill-designed fight against money laundering. Under proposed regulations not only banks but merchants, like auto dealers, real estate agents and travel agencies, are obliged to snoop on their customers in hopes of detecting whether money was obtained illicitly. Some of the snooping is inane, such as the costly requirement that banks file a report every time a cash transaction exceeds \$10,000.

The original purpose of anti money laundering laws was to reduce the incentive for illegal behavior by making it more difficult for crooks to enjoy their ill-gotten gains. From an economic perspective this made sense. Policies that increase the cost and/or reduce the benefit of criminal activity are likely to curb bad behavior.

Anti-money laundering laws do impose high costs, and that cost is borne by the financial industry and its consumers. The recent decision to reauthorize the PATRIOT Act, without any examination of whether it makes sense to extend some 30 onerous money laundering provisions, guarantees that costs will continue to rise.

According to the Financial Crimes Enforcement Network, institutions filed 14.8 million reports in 2004, including nearly 13.7 million currency transaction reports (for \$10,000 plus transactions) and more than 650,000 suspicious activity reports. What constitutes suspicious activity? The government offers no guidelines, except to decree that depositors financial institutions report "any instances of known or suspected illegal or suspicious activity"

It's sort of like the late U.S. Supreme Court Justice Potter Stewart who, when asked to define hard core pornography, famously said, "I know it when I see it."

Banks have privately complained that potentially suspicious transactions encompass a quarter of their business. All this paperwork carries a hefty price tag — \$7 billion in 2003, according to the Institute of International Economics. It is worth noting, though, that this does not include the cost



of diminished privacy and disrupted lives for Florida nuns and retired schoolteachers in Rhode Island.

Nor does it include the cost of driving poor people (whose limited assets and irregular financial transactions make them particularly costly to service) out of the banking system.

These costs might all be worth it if there were any proof that anti-money laundering laws lowered crime rates. But the laws don't even put a dent in money laundering. A Brookings Institution scholar testified before Congress that 99.9% of dirty money in the United States is successfully laundered. And the U.S. Sentencing Commission reported that only 715 people were sentenced in 2000 for the crime of money laundering (an additional 800 people were sentenced for money laundering plus another offense).

Lawmakers should give serious thought to junking the current anti-money laundering system and figuring out smarter ways to fight crime. Society would probably be safer if the \$7 billion was reallocated to fighting terrorists and/or putting more cops on the street in poor neighborhoods.

This is not to say that all anti-money laundering policies should be tossed. A few of the laws and regulations that have been implemented over the past 20 years carry relatively little cost and promise some benefit. For instance, requiring financial institutions to maintain records on account holders is not terribly burdensome and can aid criminal investigations and prosecutions.

U.S. MONEY POLICE HIDE BEHIND “PRIVILEGE”

Robert E. Bauman JD, August 2007

[Ed. Note: Until 1913, when the US Congress created the Federal Reserve (and the Internal Revenue Service), individual American banks issued their own paper currency. Today the Fedwire and CHIPS, the New York-based "Clearing House for Interbank Payments System," are parts of a worldwide, inter-connected electronic computer banking network started in 1977 called SWIFT (Society for World Interbank Financial Transactions). SWIFT re-



gional centers in Brussels, Belgium and Culpeper, Virginia (USA) daily clear hundreds of millions of transactions valued at billions of dollars. Regardless of gold standard nostalgia, the mega-trillions of electronic gigabytes whirling between banks are real money! Whether coin or computer print-out, money is what people believe money is.]

The news reports that the Bush administration plans to use again a dubious legal tool, the “state secrets” privilege, to try to stop a lawsuit against a Belgian banking cooperative, the Society for Worldwide Interbank Financial Telecommunication (Swift) that secretly supplied millions of private financial records to the United States government, court documents show. The suit alleges that Swift, in secret cooperation with the U.S. government, violated the privacy of an untold number of persons by allowing the U.S. access to Swift cash transfer records.

Swift is a privately run cooperative founded in 1973 and headquartered in Brussels, Belgium, that electronically transmits trillions of cash transfers every day to more than 200 countries. The network handles some nine million transfer instructions and confirmations a day with a value of about US\$6 trillion.

Swift is considered the nerve center of the global banking industry, routing trillions of dollars each day among banks, brokerage houses and other financial institutions. Its secret partnership with Washington, reported in *The New York Times* in June 2006, gave U.S. Central Intelligence Agency and the U.S. Treasury Department access to millions of records on international banking transactions by private individuals and others.

This massive access was part of an effort to trace money that government police claimed might be linked to financing of terrorism. The U.S. Justice Department claims that the suit against the Swift consortium threatens to disrupt the operations of a vital national security program and to disclose “highly classified information” if it continues. No doubt the Bush officials don’t want the world to know just how great a violation of the privacy of millions of people may have been.

In 2006, a news story got a lot of coverage in Switzerland, but was generally ignored elsewhere. But to those who advocate offshore financial activity, including recommending Switzerland as one of the world’s best asset havens, this was an important story. Dated from Zurich, it stated that “the United States has confirmed it has been monitoring international financial transactions, including those in and out of Switzerland, for almost



five years. The Swiss government remained quiet on the issue, but data protection experts and lawyers were and are concerned by revelations that the U.S. government had been tapping into records of Swift, supposedly looking for evidence of potential activity by terror groups.”

In my opinion, you better believe that the U.S. money snoops who say they are looking for terrorist cash are also looking for tax evasion, money laundering of all kinds and any other indictable offenses. And they are doing this in violation of the Fourth Amendment guarantees against illegal searches without a warrant.

Naturally enough, the question arose as to whether the U.S. government having wholesale Swift access to hundreds of millions of wire transfers since Sept. 11, 2001 has compromised the Swiss banking secrecy mandated by law since 1934.

In Switzerland, 99 banks and 254 institutions are connected to Swift, with a daily transaction value of some CHF200 billion (US\$160 billion). Although the Swiss Bankers Association says that Swiss banking secrecy had not been endangered or violated, the Swiss Federal Data Protection Commissioner said he was alarmed. And well he might be. Switzerland cooperates in foreign criminal investigations.

But however much the U.S. money police may have seen in the records of Swift wire transfers, Switzerland still is home to fully one-third of all private wealth in the world. It has a centuries old tradition of confidentiality that will only be breached if someone is suspected of committing an action that the Swiss consider a crime. Tax evasion is not considered a crime in Switzerland, though tax fraud (falsifying documentation, for example) is.

The question now is whether the U.S. government money police will be allowed to hide behind the “state secrets” doctrine and conceal just how far they have gone in violating everyone’s privacy.



THE IRS CRACKDOWN ON OFFSHORE CREDIT CARDS

Mark Nestmann, *The Sovereign Individual*, June 2002

Each year in the weeks leading up to the tax filing deadline of April 15, the IRS trots out a “celebrity victim” to demonstrate that no one is safe from its long arms.

This year, however, the IRS changed its strategy. Instead of targeting a single victim, it targeted an entire class of (mostly) wealthy individuals: taxpayers who use credit cards issued by foreign banks.

In its latest broadside against offshore investors, the IRS is demanding that VISA International turn over hundreds of millions of confidential transaction records. It has obtained authorization from a California federal district court to issue so-called “John Doe” summonses on VISA in an on-going investigation of tax evasion using offshore credit and debit cards.

Did the IRS target these taxpayers because it is illegal for a U.S. person to use credit cards issued overseas? No, the IRS admits that this is perfectly legal.

Is it because the IRS had proof that even a single one of these individuals was guilty of tax evasion?

No such proof exists — which is why the steps the IRS is taking to gather such evidence is so troublesome.

The court order, issued March 28, 2002, allows the IRS to examine the records of VISA credit or debit cards issued “by, through, or on behalf of banks or other financial institutions” in more than 30 offshore jurisdictions, including The Bahamas, Bermuda, Cayman Islands, the Channel Islands, Hong Kong, Isle of Man, Luxembourg, Panama, Singapore, and Switzerland.

The IRS already has obtained 1.7 million offshore transaction records from MasterCard International Ltd.

American Express Co. has agreed to release similar records. VISA must



provide “the names, addresses, Social Security numbers (or such other identifying information as driver license, passport or employer identification numbers) and telephone numbers of cardholders or card users of VISA cards issued by the banks and financial institutions in the subject jurisdictions where a U.S. citizen or U.S. resident had signature authority over the VISA card or account during the years ended December 31, 1999 through 2001.”

IRS investigators plan to review car, boat and airline ticket purchases and hotel and car rentals to determine whether account holders were living beyond their reported incomes. Banks in the targeted jurisdictions require customers to open bank accounts before obtaining cards; obtaining the names of cardholders will produce the names of bank account holders as well.

In a “John Doe” summons, the IRS does not know the identity of the taxpayer(s) under investigation.

The U.S. Supreme Court upheld such summonses in 1974, in a case where the IRS rummaged through a bank’s customer records to discover the identity of a single individual suspected of tax evasion. Only Justices William J. Brennan and William O. Douglas dissented, finding this “a breathtaking expansion of the summons power ... any private economic transaction is now fair game for forced disclosure.” Given that the IRS is now demanding hundreds of millions of transaction records of individuals not shown as being connected to any crime, these concerns are proven justified.

HOW MANY AMERICANS ARE AFFECTED BY THE INQUIRY?

According to the IRS: “If the MasterCard information is representative of the industry there could be one to two million U.S. citizens with debit/credit cards issued by offshore banks. This compares with only 170,000 Reports of Foreign Bank and Financial Accounts being filed in 2000, and only 117,000 individual 1040 filers indicating they had offshore bank accounts in tax year 1999.”

TESTIMONY OF CONVICTED MONEY LAUNDERER BASIS FOR INVESTIGATION

The summons against VISA International granted by U.S. District Judge Phyllis Hamilton was issued on the basis of information provided



by John Mathewson, former head of Guardian Bank in the Cayman Islands. In 1998, to avoid prison after being convicted of money laundering, Mathewson provided the IRS with detailed records of more than 2,000 client accounts, thereby violating Cayman Islands bank secrecy laws.

Armed with the Mathewson information and details of his *modus operandi*, the IRS prosecuted numerous Guardian depositors. The IRS also used Mathewson's testimony to support its application for a John Doe summons against MasterCard and American Express, which was granted in November 2000.

Relying on the testimony of a convicted felon to support its application for these records is bad enough. But the IRS also included a declaration from self-proclaimed offshore "expert" Jack A. Blum, who estimated the annual loss to the IRS by individual taxpayers holding unreported offshore accounts at \$70 billion. Blum had a year earlier made the incredible statement before Congress that: "There is no legitimate reason for an American citizen to have an offshore account ... When you go offshore you are doing so to evade rules, regulations, laws or taxes."

This statement belies Blum's own ignorance of the many advantages of dealing offshore, including access to investments effectively "banned in the USA," protection from identity theft, avoidance of frivolous lawsuits, etc. Given Blum's record for making patently absurd statements under oath, the \$70 billion figure he cited for offshore tax evasion is highly questionable.

[Ed. Note: In 2002, the IRS Commissioner quietly admitted that fewer than 200,000 U.S. persons probably had offshore credit cards, and further, that the total estimates of lost taxes due to offshore credit card cheating was almost impossible to quantify. Nevertheless, the news media continues to use the inflated figures.]

HOW OFFSHORE CREDIT/DEBIT CARDS OPERATE

In its John Doe summons, the IRS is targeting U.S. taxpayers that open accounts in offshore financial centers, often in the name of a trust or an international business company (IBC). The taxpayer is then issued a credit or debit card by the bank with which he or she can withdraw funds from the account. Bills are paid directly from the account, so there is no paper trail in the United States directly linking the taxpayer to the account. Until now, because of offshore bank secrecy laws, there has been no practical way for the IRS to find out about the accounts.



However, transfers of assets or cash, directly or indirectly, to a foreign entity or trust require disclosure, with few exceptions. Further, tax must almost always be paid on income from such entities or accounts. According to tax attorney Richard Duke, “Failure to report these transactions, accounts and/or income may result in prosecution for tax evasion, tax fraud and even money laundering.”

HOW TO OWN PRIVATE, WORRY-FREE GOLD IN SWITZERLAND

Erika Nolan, *The Sovereign Individual*, July 2009

Last month, when I was in Zurich visiting bankers, investment managers and other members of The Sovereign Society’s Council of Experts, one asset was on everyone’s mind: gold.

According to my inside contacts, record numbers of Middle Eastern and Asian investors are now flying to Zurich and Geneva. They’re not coming to enjoy the ski slopes. Rather, they’re making a beeline to their private vaults to check in on their personal gold reserves — and take a portion of it back home.

Here I’ll show you how you can do the same, but with some distinct advantages. You can own physical gold in a very secure and private environment... without the reporting 1) typically required when you own it through a bank account, and 2) while avoiding often prohibitive account minimums.

First, let’s take a look at why physical gold should play an important part in your portfolio.

CRISIS-PROOF WEALTH PROTECTION

The yellow metal has done extremely well in times of financial crisis:

- while stocks slumped 43% through the 1970s, gold bounded 73% higher
- during the 1987 market crash, gold held its value, and gained over 4%
- and as markets suffered from 2000 into 2002 the yellow metal vaulted up by over 40%



Yet there's just one problem with physical gold: storage!

If you want more security than you might get with holding all your gold in a heavy safe at home...and if you want the added protection of holding your gold offshore, there are some interesting new opportunities you should know about.

A PRIVATE GOLD VAULT, RESERVED IN YOUR NAME

In times of turmoil, Switzerland historically provides a neutral and stable home for fearful investors. And now is no exception.

There are five key reasons you should consider holding your gold in Switzerland...

1. **Ease of Access:** You can pick up gold bars directly or pay to have them delivered to your door. It's certified: Each bar • is identified by a unique, certified number
2. **Safety:** No one except you can remove your gold from the vault.
3. **Flexibility:** At any time, you can increase or decrease your holdings.
4. **Pain-Free Paperwork:** There are no regulations about buying or storing gold offshore.
5. **Taxes:** And, there are no U.S. taxes on the gold until you sell it.

It's possible to purchase physical gold from most Swiss banks starting at 0.05 kg up to 12.5 kg bar. Transaction fees typically range up to 2 percent. Custodian fees often are in the range of 0.5% (half a percent). As a percentage, these fees typically tend to decline with the more gold you buy and store.

But the real hurdle for many investors is that to hold gold with a Swiss bank you are often required to have an account with the bank with at least \$500,000 in deposits. In addition to this, if you open an offshore bank account, you will need to report that to the IRS using Form TD F 90.22.1.

(That's just the reporting requirement. You won't pay a penny in taxes on any capital gains on your gold, unless or until you sell.)

We've found an interesting way to avoid both these hurdles if you so choose. There are now custodians who will store your physical gold in reputable and secure Swiss banks — without your having to open a Swiss bank account!



It's like having a safe deposit box at one of these rock-solid and private institutions...without all the paperwork entailed by a typical bank account! Minimums are much more modest. You can deposit as little as \$50,000 in physical gold. You also no longer have the reporting requirements.

For more details on this emerging opportunity for safe and private wealth, I tasked one of our long-standing Council of Experts members, Marc Sola of NMG, with identifying the best of these special gold storage solutions for Sovereign Society Members. If you'd like to learn more about this opportunity, visit www.myswissgold.com.

IN THE 2000S, THE SWISS FRANC TRAILS GOLD

Eric Roseman, *The Sovereign Individual*, September 2009

When I first discovered the fascinating world of financial markets in 1988, I quickly learned about the value of the dollar and its long-term relationship versus gold. I also learned how the Swiss franc — the strongest currency against the dollar in Europe — was the best paper money to have in your pocket.

The Swiss franc is still a good currency relative to the majority of paper trash still circulating in the world, but it isn't a beacon of strength, either.

The Swiss franc is no longer a safe haven currency. Though it did play that role in the worst of the financial crisis starting in late 2007, the Swiss currency has failed to maintain its relative purchasing power vis-à-vis gold since 2001.

Since late 2001 when the dollar peaked, the Swiss franc has gained a cumulative 36%. This compares to gold rising a cumulative 130% in Swiss franc terms or from 4.5 to 10.35 now. The Swiss franc has lagged behind gold this decade. That's not a surprise. Since 2005, all currencies are trailing bullion as the yellow metal continues to rally. Gold hasn't recorded a losing calendar year since this rally started almost nine years ago.

The Swiss franc is also facing stiff headwinds from the Swiss National Bank (SNB).



Like most central banks, the SNB doesn't want a strong currency. Since March, the SNB has announced its own version of "quantitative easing" while pursuing a strategy of selling the franc in the open market in order to depress its relative value.

Many Eastern Europeans have been badly hit by local mortgages denominated in Swiss francs earlier this decade — a ridiculous speculation that has backfired since the credit crisis emerged. The Swiss seem adamant about keeping a lid on the franc and I think it's obvious they want it competitive for other reasons, too.

The Swiss franc is still a good currency — much better than its peers. But in this world of competitive devaluations and the slow death of the post-Breton Woods exchange rate mechanism, the franc is no longer a bastion of strength. Today, that role has been replaced by gold.

SAFE, EFFECTIVE WAYS TO ADD GOLD TO YOUR OFFSHORE IRA

Larry Grossman, CFP, CIMA, *The Sovereign Individual*,
October 2009

Many investors are stuck with 401(k)s or pension plans that offer little exposure to physical gold, silver and platinum.

But what most people don't know is, it's legal to hold precious metals in an individual retirement account (IRA). And you're not limited to bullion bars. Some of the most popular gold and silver coins are also eligible. For added protection, you can even do it offshore.

But before you buy a single ounce, keep these pointers in mind.

IRA DOS AND DON'TS

Through the years, government IRA rules and regulations have evolved. The most significant update was issued in 1998. It puts strict limits on the types of coins or bullion you can hold in a pre-tax account.

- Any metal held in your IRA must be 99% pure (or better).



- Most collectible coins, including “proofs” and numismatics are NOT eligible. Failure to follow these rules is a violation of federal tax law. To steer clear of fines and penalties, do your homework and only purchase pre-approved bullion products.

One of the advantages of IRAs is that you can hold one form of gold — like coins — or a mix of physical and paper gold, from mining stocks to coins to bullion. Investors looking to hold large quantities of precious metals may lean toward bullion bars. Just keep in mind, any bars you buy must be produced by an accredited manufacturer that follows strict purity standards. To be safe, select gold that’s at least 99.5% pure and silver, platinum or palladium that’s 99.9% pure.

AFFORDABLE WAYS TO HOLD GOLD IN YOUR IRA

Several European banks are willing to hold gold in American citizens’ IRAs. They also offer an array of precious metal storage programs, which are tailored to your budget and storage requirements.

For example, if you’d like to hold gold in the financial fortress of Switzerland, you can get started quickly and easily. My colleague, Marc Sola of NMG recently launched MySwissGold.com, a website that can help you begin the process of holding gold offshore. Every ounce acquired through this program is certified, with a unique serial number. The minimum investment is \$50,000.

Another popular (and affordable) way to get bullion exposure is through the famed Perth Mint Certificate program (PMCP). If you choose their pooled account option, they’ll waive any storage fees. Or you can request a private (segregated) account and pay nominal insurance and storage fees, based on the purchase value of your metals.

All precious metals held under the Perth Mint Certificate Program are covered by a Western Australian Government guarantee under Section 22(1) of the Gold Corporation Act 1987. The minimum amount to open an account is \$10,000.

My company, Sovereign International Pension Services has made arrangements with several European banks who are willing to hold IRA accounts, including precious metals held on deposit.

You can even take it one step further by opening a Nevis LLC (owned by your IRA) to add an extra layer of protection, privacy and flexibility



into the equation. Should you need any assistance with custodial services, feel free to contact me at 888-609-7425.

HANDS-OFF... UNTIL 59-1/2 YEARS OLD

Perhaps the most powerful advantage of holding precious metals in an IRA is — buying gold with pre-tax money. Instead of coughing up thousands of dollars in sales tax, you can put that money toward your investment.

But like any pre-tax investment, you need to plan accordingly. Keep in mind, if you take any distributions before age 59-1/2, you'll pay income taxes on the entire amount, plus a 10% early withdrawal fee. To be safe, don't put all your gold into an IRA unless you are certain that you won't need it until that magical age of 59-1/2.

In the meantime, see that your holdings are under the control of your IRA custodian and on deposit with a reputable bank.

IS YOUR GOLD SAFE FROM GOVERNMENT CONFISCATION?

I've received many questions about gold confiscation. Investors are fearful that one day, the government will seize their gold — as President Franklin D. Roosevelt did in 1933. I can't predict the future. But I think we can both agree that the Federal Government will pretty much do whatever it wants.

But if 90% of all gold is held domestically and they can “flip a switch” to take it, will they bother to go to the trouble of chasing down the remaining 10% offshore? I can't say for certain, but common sense suggests that holding gold offshore could slow or halt any such effort.

Of far greater concern to me is the shrinking window of opportunity to move retirement plans offshore.

So if you believe this investment option is right for you, start planning your next move today. You'll gain a tremendous amount of investment flexibility, privacy and peace of mind — in addition to massive upside potential from the movement of gold, silver and their precious metal siblings.



THESE GOVERNMENT-APPROVED COINS CAN BE HELD IN YOUR IRA

Gold

1. American Eagle
2. Australian Kangaroo/Nugget
3. Austrian Philharmonic
4. Canadian Maple Leaf
5. Credit Suisse Pamp Suisse Bars .999
6. U.S. Buffalo Gold Uncirculated (no Proofs)

Silver

1. American Eagle
2. Australian Kookaburra
3. Canadian Maple Leaf
4. Mexican Libertad

Platinum

1. American Eagle
2. Australian Koala
3. Canadian Maple Leaf
4. Isle of Man Noble





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EDITORS NOTE:

Here we get down to the nuts and bolts of the accumulation, expansion and protection of personal wealth with some historical perspective thrown in.

Each of these articles deals with one or more an important aspects of offshore investing and financial strategies.

Some of this is very basic: how to recognize investment risk, how to spot a scam, how to avoid lending money. Other articles describe time-tested strategies proven to produce extraordinary profits.

Obviously the world economic slump that began in 2007 has had a major impact on offshore investment of all kinds. Facts still support our view that there is not only greater freedom in investing offshore, but also the real potential of greater profits — if you proceed with caution.



PART ONE — YOUR INVESTMENTS

PROFITS FROM THE GLOBAL ECONOMY

Robert E. Bauman, JD, & David Melnik QC, *The Offshore Money Manual 2000*, revised 2010

Modern global commerce began in the year 1571. So argues Dennis O. Flynn, head of the economics department at the University of the Pacific. In that year, the Spanish Empire founded the city of Manila in the Philippines. Manila was designed to receive the silver-laden galleons that traveled across the Pacific Ocean from the New World. This precious metal was bound not for Spain, but for the Imperial Court of China.

This was the first recorded period in which all the settled continents were actively trading with one another. The separate national economies of the world had become interdependent. Early proof of these global ties emerged when silver began to depreciate, resulting in worldwide inflation.

Globalization continued through war and famine for more than 300 years. Historians point to the period just prior to World War I as the apogee of international economic integration. In 1913, the British Empire was at its zenith. Foreign trade accounted for half of England's national product, and overseas investments equaled half of all domestic assets. British traders were everywhere, and British banks funded massive development around the world.

The "Great War" devastated this thriving international economy. The greater part of the 20th century has been an era of strict protectionism, tariffs and disruptive military and political conflicts. This culture of confrontation ended only with the demise of both the Soviet Union and the Cold War in 1991. It has since been replaced by a new economic openness that offers investors some real opportunities for profit and growth. Recent setbacks in Asia have risen eyebrows, but investors the world over seem more willing than ever to go offshore.

THE RISE OF GLOBAL INVESTING

International and "emerging nation" mutual funds offer a simple way for American investors to profit from the growth of foreign companies.



Such funds eliminate the inconvenience associated with direct ownership of foreign shares. American investors can also profit from American Depository Receipts, or ADRs. These are listed securities traded on U.S. stock exchanges. ADRs represent shares of a foreign stock and are issued by U.S. banks that take possession of the securities.

The banks convert dividend payments into dollars and deduct any foreign withholding taxes. ADRs give investors a greater guarantee of safety, as participating foreign companies have to meet certain U.S. Securities and Exchange Commission (SEC) accounting and disclosure standards. Over the past 20 years, capital markets outside the U.S. have grown rapidly in size and importance.

While top U.S. stocks have performed exceptionally well over the years, international stock markets historically have outperformed Wall Street as a whole. The rapid growth of capital markets around the world has also created abundant opportunities fixed-income investors. Worldwide bond market capitalization now exceeds worldwide equity capitalization. Non-US bonds account for more than half of the world's bond market value.

Non-American investors have realized the enormous profit potential of cross-border investment.

AVOIDING ROADBLOCKS TO PROSPERITY

This international economic integration continues despite U.S. laws designed to hinder such activity.

One of the main obstacles remains restrictive securities legislation. Any "investment contract" for a security sold in the United States must be registered with the SEC and similar agencies in each of the states. This is a prohibitively expensive process.

The U.S. also requires far more disclosure than most foreign countries, and burdens the process with different accounting practices. International fund managers are practical people who look at the bottom line. Many correctly calculate that operating costs in the U.S. would wipe out any profit margin they could achieve.

Ironically, several mutual funds and hedge funds with top performance records are run from the U.S. by U.S. residents, but do not accept investments from Americans. To avoid SEC red tape and registration costs, investment in these funds is available only to foreigners.



Fortunately, there are ways for U.S. citizens to get around these obstacles. Although you're a U.S. citizen, you can qualify under the law as an accredited investor. As such you will have a freer hand to buy non-SEC registered foreign stocks and mutual funds directly. An "accredited investor" is defined by SEC rules as an individual who has a net worth of US\$1 million or more, or an annual income of at least US\$250,000. In other words, you must have a lot of money.

You can also buy foreign securities through corporations or trusts you have created offshore. Properly structured foreign trusts and corporations — and we do mean properly structured — are not considered "U.S. residents, persons, or citizens." These entities therefore have the unrestricted right to buy non-SEC registered securities.

SEC "Regulation S" has actually made it easier to make such investments. It clearly defines the exemptions allowed by U.S. securities laws. These exemptions permit investment in non-SEC registered securities through a foreign trust and/or corporation. The most important restriction: the grantor who creates such entities must include income from these sources as personal income on annual tax returns.

Typically, the IRS has a web of rules and regulations that aim to wring maximum revenue from Americans who go offshore. These tax laws are extremely complex, so move cautiously and only with expert professional advice. At every step of the way, find out exactly what the U.S. tax consequences will be before you proceed

AN OFFSHORE BILL OF RIGHTS

Vernon K. Jacobs, CPA, CLU, *The Sovereign Individual*, May 2001

The United States presents the largest obstacles of any country to its citizens living, doing business or investing offshore.

Indeed, the United States is guilty of the same practices it condemns in other countries by frustrating its citizens from living and working outside its borders and restricting access to financial markets in other countries.

I think it's time for Americans who want to live or invest overseas to demand fair treatment. And it's time for the United States to end its own



discriminatory harmful tax practices. If I were writing an offshore “Bill of Rights” to deal with these grievances, here’s what I’d include:

1) No income taxation without permanent residency. The biggest problem of all is that U.S. citizens are taxed on their worldwide income even when they are not permanent U.S. residents. The United States is the only major country imposing such a global tax dragnet.

2) No tax penalty for an individual changing citizenship. It should be a fundamental right of all persons to change their citizenship. The tax laws should not punish those who make that choice. This is not the case in the United States, which imposes an “exit tax” on persons giving up their citizenship. In addition, those who “renounce” their U.S. citizenship for tax reasons may be permanently excluded from the United States.

The U.S. government has condemned exit taxes in other countries, and essentially prohibits the 50 states from imposing exit taxes on state residents who change their domicile. But when it comes to federal law, the same principles don’t apply. If the government wants to impose an exit tax, it should not matter if the departure is for a tax-motivated purpose.

3) No discriminatory tax treatment against offshore fixed annuities. Another problem is that the United States imposes punitive and discriminatory taxes against many offshore investments. For instance, offshore fixed return annuities are discriminated against, tax-wise, versus domestic fixed return annuities. The effect of this rule is to subsidize U.S. insurance companies. This subsidy acts, in effect, as a protective tariff that could be challenged as an “unfair trade practice” before the World Trade Organization. These measures also could be considered “harmful tax competition,” which the Organization for Economic Cooperation and Development (OECD) is trying to stamp out.

4) No discrimination against offshore funds. Another unfair trade practice is the Draconian tax consequence when U.S. citizens, even those living outside the United States, purchase shares in almost any offshore mutual fund or unit trust. Unless the investment is sheltered in a qualified retirement plan or offshore insurance policy, the tax bill when they sell or are deemed to take an “excess distribution” can equal 100 percent of their initial investment.

The IRS has issued two sets of regulations that allow investors in certain offshore funds to pay tax on their income or gains each year, including



unrealized capital gains. Both sets of regulations are discriminatory—there is no tax on capital gains in U.S. funds until the shares are sold. But a bigger problem is that almost no offshore funds qualify for this treatment.

Instead, investors must rely on a “throwback” provision that permits tax deferral, but imposes an interest charge for that privilege, applied to each year the fund has been held. This charge, plus the fact that gains are taxed at the highest tax rate that applied for each year of deferral, can wipe out all income or gain, plus part or even all of the initial investment. It was not the intention of Congress to penalize U.S. investors in offshore funds. Yet the regulations the IRS has issued to interpret the law effectively do so. I believe the real reason for this complex set of rules is for the IRS to deter U.S. persons from investing offshore.

At the least, the law should permit a deferral of tax and the treatment of any distributions as ordinary income in the year received, plus a deductible interest charge on the deferral.

5) No tax penalties on entrepreneurs with foreign businesses. Any U.S. person who has ever operated a business abroad knows the potential pitfalls that can arise from the IRS characterizing foreign income as U.S. income. We need clear-cut rules to establish when a U.S. business has a nexus or permanent establishment in another country.

6) No micro-management. Congress passes laws that encourage the IRS to intrude into the smallest and most insignificant transactions in order to prevent the slightest element of evasion of the tax laws. The concept of income is one of the most elusive that could have ever been used as the basis for a major tax system. Accountants and economists don’t agree on fundamentals as to what income is or when it has been realized.

The Congress and the IRS should quit trying to force everyone to comply regardless of what it costs. Enforcement should be administered on a cost/benefit basis so that compliance for compliance sake is not the rule. This would require that Congress instruct the IRS to adopt a system of “materiality.” This is a difficult concept to define, mainly because the government is not likely to specify what constitutes a “material” case. Whatever threshold they set would be an open invitation to cheat up to that level.

The practical definition is that the government should not expend more to enforce the tax laws than the effort is worth in added tax collections.



Enforcement for the sake of enforcement is a “power” issue of not wanting anyone to deviate from the rules.

7) **No shifting of costs to taxpayers.** We grossly understate the real cost of compliance with our tax system because we force the cost burden onto businesses and the taxpayers. Many small start-up ventures never occur because of the obstacle imposed by the cost of complying with a host of reporting requirements. The small business with one employee has to file substantially the same forms as a large business, at least in terms of federal tax law. There should be some kind of reasonable allowance for those who are required to serve as assistant tax collectors based on the time required to comply with the laws.

8) **No confiscatory tax rates.** Over the past 30 years, I’ve observed that there is a high correlation between the effective tax burden and the amount of time and effort taxpayers will exert to avoid or evade taxes. As tax rates increase, taxpayers begin searching for loopholes. After a few years, the IRS persuades Congress to pass laws that curtail these loopholes. But, lower effective tax rates would accomplish the same result.

And, when tax rates are cut, the complex rules that were enacted to curtail the loopholes remain law.

The same principal applies with respect to offshore tax issues. If U.S. tax rates are effectively lower than in most other major countries, the IRS doesn’t need complicated rules to prevent taxpayers from using foreign structures to avoid taxes. And if lower tax rates are available to foreign persons, the United States will attract capital from higher tax countries without maintaining one set of tax rules for U.S. taxpayers and another for non-resident aliens with U.S. source income, as we have now.

Uniform rules for U.S. residents and non-residents will also preclude the OECD and the EU from contending that the United States has a “ring-fenced” system that favors foreign persons over domestic persons.

It’s time for the United States to end “Harmful Tax Competition” against its own citizens and the rest of the world. Enacting the reforms in this Offshore Bill of Rights would be a good start.



EIGHT MYTHS ABOUT INTERNATIONAL INVESTING

Mark Nestmann, *The Sovereign Individual*, October 2002

In the wake of the Enron scandal and the debate over U.S. corporations “expatriating” to Bermuda and other low-tax jurisdictions, the media bias against international investing reached an all-time high.

An example of the breathtaking arrogance and ignorance of the mainstream media comes from a *Washington Post* editorial (Aug. 21, 2002). *The Post* questions the “patriotism” of U.S. companies reincorporating offshore. *The Post* completely ignores the fact that the U.S. Tax Code makes it difficult for U.S.-based companies to compete globally.

But the *Post* editorial is mild by comparison to those appearing elsewhere. For instance, the Superior, Wisconsin, *Daily Telegram* thunders: “It’s Time to Eliminate Offshore Tax Havens.” To counter this massive disinformation campaign, this column highlights the most important myths and outright lies about international investments put forward by the mainstream media, along with our response:

MYTH #1: “MANY INTERNATIONAL INVESTMENTS ARE ILLEGAL.”

The fact: There are no U.S. laws prohibiting any international investment, although most of them are taxable and must be reported to the IRS.

MYTH #2: “IT’S NOT PATRIOTIC TO INVEST INTERNATIONALLY.”

Fact: The United States is the world’s largest tax haven and has attracted more than US\$10 trillion in foreign investment. The U.S. government offers tax-free access to America, but only if you’re not from the United States. When Americans invest overseas, they are only taking advantage of the same opportunities the U.S. government offers foreigners, but forbids its own citizens. Indeed, if tax havens were ever “abolished,” the United States would suffer more than any other country.



MYTH #3: “I’M NOT RICH, SO I CAN’T BENEFIT FROM INTERNATIONAL INVESTMENTS.”

Fact: You can open an international bank account and have easy access to a wealth of investment opportunities, including foreign stocks, bonds and CDs.

MYTH #4: “I’LL BE AUDITED BY THE IRS IF I INVEST INTERNATIONALLY.”

Fact: The overwhelming majority of IRS investigations of international investors are individuals who didn’t report the existence of, or the profits from, these investments — not those who did.

MYTH #5: “U.S. INVESTMENTS ARE SAFER THAN INTERNATIONAL INVESTMENTS.”

Fact: Many international markets are safer than the United States. For instance, the Swiss insurance industry has never experienced a business failure in its 140-year history. By comparison, about 1% of U.S. insurance companies experience serious financial difficulties, including bankruptcy, each year.

MYTH #6: “IT’S MORE EXPENSIVE TO INVEST INTERNATIONALLY THAN IN THE U.S.”

Fact: Many international investments are a better deal than their U.S. counterparts. For instance, if you purchase foreign currency CDs outside the United States, you’ll almost always receive higher interest rates and pay lower fees.

MYTH #7: “ALL THE INVESTMENTS I WANT TO MAKE ARE IN THE UNITED STATES.”

Fact: More than 70% of global financial activity takes place outside the United States. Indeed, convenient access to international markets is one of the most important reasons to diversify internationally.

MYTH# 8: “THERE ARE NO LONGER ANY PRIVACY ADVANTAGES TO INTERNATIONAL INVESTING.”

Fact: While you are required to report and pay taxes on most international investments, when you move assets outside the United States,



those assets disappear from the domestic “radar screen.” They are virtually invisible to business competitors, sue-happy lawyers and identity thieves, if not to the IRS.

The fact is that international investing is safer and more profitable than ever, and it’s perfectly legal to participate. A good place to begin with is The Sovereign Society’s investment and currency advisory services, overseen by Council of Experts member and Investment Director, Eric Roseman. For more information, go to www.sovereignsociety.com

CHANGE THE LOCATION OF YOUR ASSETS

Marshall J. Langer JD, *The Tax Exile Report*, 1992

Many countries impose estate or inheritance taxes on property situated in the country even if owned by nonresidents. Although you cannot move real estate, you may be able to change the situs of personal property.

The location of your assets may determine whether they are subject to capital transfer taxes such as the estate and gift taxes. A U.S. citizen or domiciliary is subject to these taxes on all transfers he makes no matter where the property is located. However, a non-domiciled alien is subject to these taxes only on property located in the U.S. With minor exceptions this rule extends to a tax motivated expatriate.

For example, the stock of a foreign corporation that produces foreign-source dividends will normally be a foreign asset. However, a tax-motivated expatriate may be taxed on his share of the U.S. assets owned by a foreign corporation if certain ownership tests are met. Foreign bonds and foreign bank accounts are foreign assets. Foreign real estate is also a foreign asset for transfer tax purposes.

OWN ONLY FOREIGN ASSETS

In general, you will find it advantageous to own only foreign assets. You should keep gold, jewelry, antiques, art and other personal property outside the U.S. You should not keep large amounts of U.S. dollars or foreign currency in the U.S. You should not keep U.S. tax-free municipal bonds because such bonds are tax-free only for income tax purposes, not for estate and gift tax purposes.



You should not be partners in partnerships that own U.S. property nor should you do business in the U.S. You should be able to retain U.S. life insurance policies. When you are no longer at risk under the anti-expatriation rules, you can reacquire some U.S. bank accounts and bonds and own other U.S. assets, such as stock and real estate, through a foreign corporation that will then shield you from the estate tax.

CHOOSING A U.S. OR OFFSHORE INVESTMENT ADVISOR

Ron Holland, *The Sovereign Individual*, July 2000

The Internet is driving down the cost of investment advice and financial transactions. It is making insurance products and mutual funds with high front-end loads and full-commission stockbrokers obsolete. I believe that knowledgeable investors will in the future either use low commission (e-trade type) brokers or fee-based investment advisors.

Internet based e-trade accounts are great when you know what you want to buy. But low commissions have an unfortunate corollary: excessive trading and increased investor losses. Expect this trend to persist as commissions and investment advisory fees continue to fall.

Nowhere is this trend more evident than in the world of day trading. According to *Worth* magazine: “a recent study of retail day traders by the North American Security Administrators Association found that only 11.5 percent of them do it profitably and want an acceptably low chance of ruin. Seventy percent of day traders are so bad that they are likely not just to lose money but to lose all of their money.”

Fee-based advisors avoid a conflict of interest because they don't get paid for merely moving your money around in possibly losing trades. Rather, they are paid a flat fee and possibly a bonus if the portfolio grows in value as a result of their investment management.

What should you look for in a fee-based advisor? Here are some recommendations based on my more than 30 years of experience as an investment advisor:



- **Choose an advisor with substantial money under management and experience.** Find out in writing the amount of funds currently under management (not investments previously sold by commission). Choose one with at least five years in the money management business and US\$50 million under management.
- **Expect to provide detailed information to the advisor.** Advisors should ask for detailed information about your financial situation. Be prepared to answer questions about existing investments, net worth, tax returns and investment needs. An advisor who doesn't request and review this data is not someone you want to manage your portfolio.
- **Weigh the pros and cons of onshore versus offshore investment advisors.** Offshore advisors generally have a wider range of potential investments available. They will also provide a degree of confidentiality and privacy not available from SEC-registered or U.S.-based advisors. But an offshore advisor will generally charge higher fees. And you may not receive the level of service, feedback and convenience of a domestic advisor. Also remember that most offshore managed investments are reportable by you to the IRS as a "foreign financial account."
- **Ask a friend.** Ask your friends who they recommend for good performance and service—then check them out. Also check out portfolio managers who your favorite newsletter editors or advisors recommend. One caveat: you need to determine if this is an objective recommendation or if they are a referral agent to a specific advisor. I recommend consulting with financial professionals who use a variety of advisors, not just one or two. You're likely to receive more objective advice.
- **Find an advisor with a compatible investment philosophy.** Choose an advisor with whom you feel comfortable philosophically. For example, if you believe in Austrian economics or "hard money" investing, consider an advisor who shares your concerns and who knows how to apply these economic principles in investing. The same principle applies if your interest lies specifically in technology stocks, global investing or if you just want a balanced income or growth portfolio.
- **Avoid sales pressure.** If you are paying for investment advice, why should you be subject to selling pressure? The answer is, you shouldn't. If the advisor doesn't spend most of your time together asking you questions and listening to your answers, he may not be doing his job. Beware of an advisor who brags about performance and doesn't explain



the investment risks. Also watch out for any back end load or penalty charges if you change advisors. Most advisors charge a percentage of assets under management with little or no termination fees.

- **Consider a financial professional to help you pick the right investment advisor or advisors.** Most major broker/dealers have access to a variety of money managers whom they monitor for performance, client service and strategies. If an advisor makes mistakes and performance or service falters, then the financial professional can work with you to fire the advisor and choose one more appropriate for your needs.

INVESTMENT RISKS TO GUARD AGAINST

Marc-Andre Sola, October 2001

Inherently, any investment involves risk.

Considered alone, “risk” sounds negative but considered in the overall investment picture, risk is much more manageable. The more risk is understood, the more you can turn risks into financial opportunities.

1. *Inflation risk.* This danger means that the cash you invest will buy less in the future because of rises in prices of consumer and other goods. When the rate of inflation rises, money loses purchasing power. This is especially true with fixed income investments. As long as investments produce returns at constant rates, they can be threatened by inflation. Inflation risk is tied to interest rate risk, because interest rates often rise to compensate for inflation. If your savings and investments are failing to outpace inflation, you may wish to consider investing in growth-oriented alternatives such as stocks, stock mutual funds, variable annuities, or other vehicles. Equity stocks, gold and other tangibles have proven to be the best hedge against inflation.
2. *Investment risk.* As noted, risk is an inherent, basic part of investing. For those nervous folks who worry a great deal, investments may not be suitable. Generally, investors must take greater risks to achieve greater returns. Those who do not tolerate risk very well have a relatively smaller chance of making high earnings than do those with a



higher tolerance for risk.

3. *Interest Rate Risk.* Bonds and other fixed-income investments are sensitive to changes in interest rates. When interest rates rise the value of your fixed interest income investments falls. After all, why would someone pay full price for a bond at 5 percent when new bonds are paying 7 percent? Of course, the opposite is also true. When interest rates fall, existing bonds with fixed higher rates increase in value. As an alternative, consider investing a part of your fixed income in deferred fixed annuities. These investments pay you a competitive interest and you avoid market risk.
4. *Exchange rate risk.* Exchange risk arises when a particular nation's currency loses value when exchanged for foreign currencies. As an investor it is important for you to understand currency fluctuations and know the value of the leading strong currencies such as the U.S. dollar, the euro or the Swiss franc. Over many years the Swiss franc has continued to be one of the strongest of all national currencies. If your home currency is likely to lose value compared to these stronger currencies, you should consider investing some of your money in one or more of these currencies. If, however, your home currency is strong, such as the British pound sterling, a diversification into other currencies has to be monitored carefully.
5. *Economic Risk.* When the economy experiences a downturn, the earnings capabilities of most businesses may be threatened. While some industries and companies adjust to downturns in the economy very well, others, particularly large industrial firms, take longer to react. In such situations risk is reduced by investments in those industries likely to prosper even in a downturn, but this requires knowledge on your part of the companies you choose.
6. *Market Risk.* When the market as a whole experiences a downturn it tends to pull most equity shares down as well. Afterward, the affected stocks recover at rates closely related to their fundamental strength, regardless of overall market swings. Market risk affects almost all investments, including stocks, bonds, and real estate, but at different times. The key is to invest for long term gains because over the long haul risk is reduced and averaged out. That strategy marks the serious investor compared to the day trader seeking fast profits.



7. *Liquidity risk.* Liquidity risk is the risk that an investment, when converted to cash, will experience loss in its value. To reduce the risk of being forced to sell at the wrong time, when the price of your investment is down, you should plan thoroughly your future needs for liquidity and select investments with varying time lines that allow you to liquidate when needed.
8. *Creditor risk.* This involves the risk that arises when the issuer of a stock or bond cannot meet his obligations when they come due. This may be an inability to pay periodic interest or return on principal on time. This risk can be reduced by diversifying investments within an asset class and by selecting investments with first class, “blue chip” companies. The credibility of a creditor can be predetermined by consulting one of the top rating companies such as Standard & Poor’s or Moody’s.

By understanding these different types of risk and keeping a constant eye on your investments, you will be able to manage your money far more effectively. Remember, strategic investing doesn’t mean “taking chances” so much as “making sound decisions.” Long-term investing and diversification are some of the most effective strategies you can use to minimize risk and increase potential return.

FRAUD ALERT — SIX SCAMS TO AVOID

Mark Nestmann, *The Sovereign Individual*, September 2002

According to a recent Internet survey conducted among supposedly experienced investors by www.offshorebusiness.com, 22% of respondents expected offshore returns of 100% or higher per year; 32% of respondents expected returns of at least 50%; and 42% of respondents expected returns of at least 25%.

These unrealistic expectations are the main reason why so many people become victims of offshore frauds. In addition, offshore passport fraud and tax fraud is rampant. This column outlines how these frauds operate and how to avoid them.

1. *Prime bank note/bank debenture schemes.* These schemes generally promise monthly returns of 30% or more with “no risk.” One scheme

involves trading of so-called bank credit instruments (debentures). Promoters also use terms like “bank purchase orders” or “promissory bank notes” and claim to be operating under guidelines from the International Chamber of Commerce. But the ICC has issued a warning that no such investments exist. According to the ICC’s Commercial Crime Bureau, this scam costs investors in North America alone more than US\$10 million in daily losses.

2. *Offshore promoters promising to assist in tax evasion.* Promoters of “prime bank notes” and similar schemes often claim that their particular arrangement offers absolute secrecy and that profits from the scheme need not be reported on your tax return. The unspoken purpose of this promise is to reduce the risk that defrauded investors will ever sue or complain that they have been defrauded, since to do so would invite an investigation for tax evasion. Remember: Taxpayers in the United States, Canada and some other OECD countries are required to pay taxes on their worldwide income. Also remember that there is a global crackdown against bank secrecy and that the implication that secrecy would apply in an investigation from “any source” is highly questionable.
3. *The Nigerian fraud.* In this scheme, which the FBI says has resulted in more than US\$5 billion of losses in the United States alone, you receive an unsolicited e-mail or fax from Nigeria (and, with increasing frequency, other countries) asking you to allow the writer to deposit several million dollars into your bank account. You are promised a generous commission for doing so, which is necessary because the writer is engaged in activity which is implied to be illegal. As evidence of your good intentions, you are asked to send an advance fee to an offshore account. The fee, of course, promptly vanishes. In addition, the fraudsters may try to clean out the account from which you wrote the check.
4. *“Pure trust” schemes.* So-called “constitutional” or “pure” trusts are promoted as entities legally exempt from all taxes. But in fact, a U.S. grantor of a trust in which the grantor remains a possible beneficiary is taxed on an individual basis on the income from the trust. These schemes are at the center of the current IRS crackdown against “abusive trusts” that has resulted in several recent convictions of promoters. “Pure trusts” are also being promoted in Canada and Australia — with the same disastrous tax results for those persons relying on the promises of promoters.



5. *“Brass plate” bank schemes.* There are still offshore jurisdictions where it is easy to purchase a bank charter. Promoters claim that once you’ve set up an offshore bank, the income it generates is tax-free. The truth is much more complex — a comprehensive tax analysis by a qualified practitioner is required to determine if you will obtain any tax benefits from such an arrangement. Even if you can, unless the offshore bank is a bona-fide commercial institution with a physical presence, it is prohibited from doing business in the United States. Such “shell banks” are a major target of the U.S. “war on terror,” although there is little evidence that they have ever been used in terrorist financing.
6. *Fraudulent passport offers.* Only two nations currently sell legally authorized “instant” citizenship — St. Kitts/Nevis and the Commonwealth of Dominica. However, there are many other offers for “instant” citizenship in other countries promoted on the Internet and elsewhere. We have warned readers to avoid “instant” passports from unnamed countries being sold for thousands of dollars, and that these sales constitute criminal activity under domestic laws and international treaties.

HOW TO AVOID BEING DEFRAUDED

The best way to avoid offshore investment and tax frauds is to conduct your own “due diligence.”

One quick check you can do is in a search engine such as www.google.com. Enter in the name of the company promoting a scheme along with the word “scam” or “fraud” and peruse the results. If there are a lot of complaints — steer clear.

One investigator who has compiled a database of offshore frauds is David Marchant (www.offshorebusiness.com). Access to his database is available for a nominal charge. Another good resource to avoid offshore fraud is www.quatloos.com. Beyond these resources, a professional investigator can uncover enough information in a few hours to give you a good idea of whether the investment being considered is a reputable one.



EIGHT OFFSHORE INVESTMENT STRATEGIES FOR MAXIMUM SAFETY

Robert Bauman, JD, *The Sovereign Individual*, June 2009

There's some dispute as to whether the late circus and freak impresario P.T. Barnum ever did say, "There's a sucker born every minute."

Whether he did or didn't, the high degree of gullibility of many people calls into question how widely the good Lord distributed common sense, especially when money is involved.

At various times I've been asked whether a proposed offshore "investment" guaranteeing 20% return monthly is likely to be reliable. (Are you kidding?) Or whether an offshore bank with nothing more than a web page with no identified physical address and no human beings listed as officers, is a good place to stash cash. (Puhleez!)

THE MARC HARRIS CASE

Before there was Bernie Madoff, there was Marc Harris.

As you read this, Mr. Harris is serving a 17 year sentence at a federal prison medical center near Fort Worth, Texas. In November 2003, a jury convicted him on 16 counts of tax fraud and money laundering.

But those were just a handful of his many pending charges.

Maybe you never heard of Marc Harris, but just a few years ago the Harris Organization, based in Panama with a staff of 150 employees, was reportedly one of the world's largest offshore services providers.

Much like Bernie Madoff, articles about Harris and his fabulous offshore profits appeared in *Newsweek*, *Time* and the business pages of U.S. newspapers.

And a lot of people believed the hype.

BEWARE OF "SECRET DEALS"

Harris and his staff claimed they had access to extremely profitable



offshore investments...and for the right price they would cut you in on their deals. For thousands in fees, they'd set up and administer offshore trusts, insurance and annuity companies, even offshore banks — to handle all that money you would be making.

Harris offered “tax consulting services,” claiming he could legally create paper losses for U.S. companies, while moving millions of dollars offshore, controlled there by the newly tax-free business owner. He once claimed he had over a billion dollars under his investment control.

Best of all, Harris promised he could do all this concealed under the cloak of strict bank secrecy, guaranteed by law in Panama, and in other jurisdictions where his firm operated.

FACADES FOR FRAUD

In spite of what appeared on the surface: Mr. Harris' impeccable credentials, bolstered by his impressive claims, international publicity and a huge staff — all this was a carefully constructed facade to cover a massive fraud.

Thousands of people lost millions of dollars and incurred enormous U.S. tax liabilities because of this fraudster and his looting of their cash.

Will we ever learn the lessons from Marc Harris and others like him? Here are a few lessons to be learned — and also how to apply them in your own life.

EIGHT KEY STRATEGIES TO PROTECT YOURSELF FROM FRAUD

1. *Conduct your own due diligence.* Don't rely on appearances, fancy offices, nice suits and power lunches. You're seeing what others want you to see, and it could be a lie. You must conduct your own due diligence into professional service providers and any proposed offshore financial activity. In the case of Harris, even a rudimentary investigation would have revealed that his CPA license in Florida had been revoked for misconduct in 1989 and that two countries had given him the boot.
2. *Do comparison shopping.* Harris charged prices half or even less than those charged by his competitors for similar offshore services. A careful comparison of his competition's fees and the costs associated with the



involved services would have suggested that the only way that Harris could survive was to dip into the funds he had under management. Sadly, that's just what he did.

3. *Obtain independent advice on any proposed legal structure or investment.* Get competent counsel responsible to you, and only you, with solid experience to allow them realistically to evaluate a deal. In the case of Harris, simple checks would have revealed the “tax avoidance” plans he proposed were patently illegal tax evasion.
4. *Turn your back on tantalizing promises of easy profits.* The best opportunities require hard work, significant risk and a lot of time to develop. Easy money and promoters that guarantee unrealistic profits (more than 12%–15% annually, or steady and consistent profits without significant variation in returns) are signs of a con and/or a potential crime.
5. *Don't rely on secrecy.* Dealing with an offshore promoter who claims that he can help you “hide money” from tax authorities is an invitation to blackmail. The promoter knows that if you break the law, you're unlikely to ask a court to help return your assets when they disappear. The law is clear. It says that any U.S. person (citizen or resident alien) is liable for annual income taxes on income earned anywhere in the world. Learn about and comply with all U.S. IRS reporting requirements.
6. *Diversify.* Don't put all your eggs in one basket. Prudent investors diversify investments in stocks, bonds, mutual funds, currencies, and precious metals. And they employ more than one independent wealth advisor.
7. *Stay informed.* Hiring a firm offshore to build a legal structure or manage your wealth is only the start. You're always responsible for your own wealth, so keep up to date about financial and world events — and keep an eye on those you employ. There's no substitute for accurate knowledge.
8. *If it's too good to be true, it probably isn't true.* Believing and consistently applying this truism is the most important precaution of all. Unrealistic profits, barely believable promises or a vague feeling that you're being “led on” are all indications that whatever deal you're being “pitched” is best avoided.



COMMON SENSE IS YOUR FIRST LINE OF DEFENSE

The Sovereign Society keeps you straight on tax and other financial matters. But a good dose of common sense is also helpful. In the last decade there has been a real offshore clean up with an impressive tightening of laws and rules to protect against fraud. This general move toward greater scrutiny of tax havens undoubtedly will give pause to some, but it is unlikely to discourage those intelligent enough to understand and employ the real advantages waiting offshore.

And as for P.T. Barnum, no doubt there were a lot of people born the same minute as you. Let them be the suckers, not you.

Intelligent Financial Decisions Begin with Due Diligence

“Due diligence” can be defined as “The care that a prudent person might be expected to exercise in the examination and evaluation of risks affecting a business transaction.”

We at The Sovereign Society take due diligence very seriously. We have established procedures for every person who wants to advertise in or write for our publications, or speak at our conferences. We ask proof of academic credentials, careers, group affiliations, company information (owners, officers) a current annual report, website address, physical address and location, publications, and very specific details of any proposal.

You would be surprised what you can find out on www.google.com alone. However, we go far beyond that. We check out all these statements on extensive data bases, including all U.S. and state civil and criminal cases, Interpol for foreign cases, and other reliable sources.

WILL YOU BE A VICTIM OF FINANCIAL CRIMES?

Robert E. Bauman JD, February 2007

I never cease to be amazed at the gullibility of otherwise reasonable individuals when it comes to investing and doing business offshore.



Some poor folks seem to check their judgment at the border when it comes to dazzling offshore deals touted on slick Internet websites offering highly unlikely returns on investments (20% a month guaranteed!!!) Whether it's greed or temporary insanity, these deluded folks are willing to send large amounts of money to unknown persons based on nothing more than website promises, often without even giving names or addresses of those who want your cash. Send that cash and it's likely you'll never see it again, much less a 20% return on it.

That's why we urge our readers and Sovereign Society members to conduct serious due diligence on any proposed investment, bank account, professional person, offshore — or on.

What are your odds of falling victim to financial crime? Try one in two, or 50/50 — not very good odds. And most fraud is only detected by “chance,” according to a survey by accounting firm PricewaterhouseCoopers.

When accounting firm PricewaterhouseCoopers surveyed 3,634 companies worldwide for its 2005 Global Economic Crime Survey, it found that 45% of them had been victims of financial crime in the previous two years. That represented 8% increase compared with a similar study in 2003. “No industry is safe — whether regulated or unregulated,” commented PwC in its 2005 Executive Summary. “From 38% to 60% of the companies in each of the sectors we surveyed reported significant frauds.”

There was an across-the-board increase in every economic crime category in 2005, compared with 2003. “In particular, there has been a 71% increase in the number reporting corruption and bribery, a 133% increase in the number reporting money laundering, and a 140% increase in the number reporting financial misrepresentation,” commented PwC. The average financial damage to companies from tangible frauds (i.e. asset misappropriation, false pretenses, and counterfeiting) was US\$1.7 million and that did not take into account “collateral damage,” such as loss of reputation, noted the accounting firm.

According to PwC, “47% of the companies that suffered fraud managed to recover at least some of their assets. In the case of companies that had taken out insurance, the rate of recovery increased to 59%.”

Who is causing this financial carnage? “In most cases, perpetrators of fraud were male, between the ages of 31 and 40, and educated to degree



level or higher,” stated PwC. “Half of the perpetrators were employed by the defrauded company, almost one quarter of them in senior management positions.”

According to PwC, companies “typically dismiss” perpetrators, although this occurs less often if the perpetrator is a senior manager. “While the decision not to dismiss a fraudster can be helpful in limiting unwanted media and regulatory attention, our experience indicates that this approach has little or no long-term value, since it does not act as a deterrent to other potential fraudsters within the business.”

Despite “growing confidence” of corporations in their risk management systems, most fraud is detected by chance, rather than by design, stated PwC. However “Companies that employ a range of fraud detection measures uncover significantly more incidents than those who rely on internal controls and audit processes alone to detect fraud. They are also more capable of recovering losses.”

Our advice: look before you leap — look very carefully.

WHY GOLD IS MONEY

Michael Checkan, *The Sovereign Individual*, October 2003

With trillions of dollars, euros and yen circulating in paper and electronic forms, it is easy to forget that gold is and always has been money. For 5,000 years, it has been the only currency that is no one’s liability.

Gold is money. Current practice is to translate its value into the denomination in which its price is quoted on international markets — the U.S. dollar. But gold is a currency in its own right and has been throughout recorded history.

Gold’s role as money has been diminished by governments hijacking the right to issue money. Legal tender laws require citizens to accept fiat paper money as a “substitute” for gold. This monopoly money gives governments the power to tax the users of their money through inflation.

Globalization and the liberalization of financial markets have created choice in so many areas of our lives. So far privatization has not extended to the issuance of money.



GOLD IS NO ONE'S IOU

Gold as money remains in use today in both the public and private sector. Central banks hold more than 33,000 tons of gold as part of their currency reserves (i.e., as money). Central banks hold gold because it has all the characteristics of money: it is a medium of exchange, a store of money and a unit of value.

Gold is no one's IOU. It is the asset of last resort. Had the government not sold off all of its gold a decade ago, there is a strong argument that Argentina may have been better off during its recent travails when it defaulted on US\$132 billion of debt. Had the government retained some gold, it could have used it in the same way a motorist might use a reserve tank on a car, to tide it over in the short run. It could have also used gold to establish a new gold-backed currency.

In addition to the monetary reasons for holding gold, central bankers also accept the fact that people like their central bankers to hold gold. This was part of the motivation of the European Central bank in adopting gold as a reserve asset. The Chairman of the Federal Reserve, Alan Greenspan has an avowed affinity for gold and recently reminded us that fiat currencies have a history of mismanagement.

GOLD AS A HEDGE AGAINST UNCERTAINTY

Unlike many asset classes, gold has maintained its purchasing power over decades and even centuries in the face of inflationary pressures. In addition, the price of gold typically moves inversely to the value of the dollar. These are two compelling reasons to use gold to diversify investment portfolios.

The demand for gold has continued to exceed the supply of newly mined gold by a large and widening margin for many years. Until recently, gold prices did not increase as a result because the shortfall in supply was made up by gold sales from central banks. Such sales have now slowed to a trickle.

The demand for gold has come primarily from the private sector. That some 80% of global gold demand is from the jewelry sector understates gold's monetary role. The use of gold as an adornment probably precedes its monetary use. But in many cases gold jewelry is held as much for its capacity as a store of value as for its cosmetic properties.



In a way, privately held gold continues to play a vital role as a parallel currency in countries where faith in the government's money remains tarnished by economic mismanagement, war or natural disasters. But in developing countries gold is not only held in bad times, it is used where the tradition of using gold as money stretches unbroken over the ages. No government dictate can change that.

The developed world is not immune from economic uncertainty and the demand for gold as a buffer against uncertainty is as real as ever.

THE BEST WAYS TO OWN GOLD

Investors hold gold in many different forms, some more convenient than others. In Vietnam, tael (pure sheet gold weighing 1.2 ounces) are used alongside the local currency, particularly when property is purchased. In Turkey, legal tender gold coins are used in day-to-day transactions.

Recent events have shown gold to be the asset of preference when concerns about continued recession, fragility of the banking system, low interest rates and equity prices prevail. In Japan, demand for gold rose 54% in 2001 and by February 2002 investors were buying gold at a rate of about a ton per day.

Private investors worldwide hold an estimated 22,000 tons of gold in a variety of forms ranging from jewelry to government guaranteed gold certificates. In some cases, they hold physical gold in the form of bullion coins. One ounce Australian Kangaroos, American Eagles and Canadian Maple Leafs, all of which are legal tender, are the most popular choices.

Clearly, gold is the only real money. The central bankers know it, and the average "man on the street" knows it as well!

GOOD AS GOLD

Robert E. Bauman JD. December 2007

Gold is once again riding high. Indeed, if the United States dollar still had gold backing, it wouldn't be in the decrepit state it now suffers.

Gold ownership by Americans was illegal after 1933 when, to block Americans legal right to demand that banks give them gold for their dollars,



President Franklin D. Roosevelt issued an executive order prohibiting it. (In the early 1970s, President Richard M. Nixon cut the last links of the "gold standard" that had made U.S. currency redeemable for real gold.)

The last top bull market in gold was on Jan. 21, 1980, when eager buyers paid more than \$900 apiece for coins containing an ounce of gold. That gold bull market began in January 1975, after President Gerald R. Ford signed a bill again legalizing private ownership of gold coins, bars and certificates.

But after that Jan. 21, 1980, gold hit an historic \$850, then suddenly the herd turned. The next day, sellers suddenly outnumbered buyers and gold tumbled to \$737.50 an ounce. It continued falling and then traded sideways from \$300 to \$400 for nearly two decades. When gold bottomed at about \$250 in the summer of 1999, smart investors made their first forays back into buying.

UPS AND DOWNS

After the "Wall Street Crash," from September 1929 to April 1932, the Dow Jones Industrial Averages Index slid from 382 down to 56, a drop in value of nearly 90%. Some 4,000 U.S. banks closed their doors and soon millions were unemployed. The Great Depression had arrived with a vengeance.

During that same bleak period the price of gold skyrocketed upward 70%. The value of gold producer stocks, such as Homestake Mining, shot up almost 800%. Impressive fact: after the market crashed, anyone holding 10% of an investment portfolio in gold and mining shares would have had all their other stock losses neutralized by their valuable gold holdings.

Gold also increased in value after "Black Monday," October 19, 1987, when the Morgan Stanley index of world shares fell 19% over 10 days. And during most all the mini-crashes of the stock markets since then, gold has held and/or increased its value.

GOLDEN DAYS

On Nov. 7, 2007, the market price of a troy ounce of gold bullion briefly touched \$845.50, the top so far in gold's current eight-year bull market and a 28-year high in New York trading. The news made headlines and became a hot topic on radio talk shows. (It closed last week at \$800.20.)



Gold is a fairly accurate mirror of the American economy. When the economy is in the doldrums — a stock market crash, lagging real estate sales, a relative drop in the value dollar, a ballooning trade deficit, higher inflation — the value of gold has increased, even skyrocketed upward.

For example, with the U.S. stock markets at an all time highs in 1998, gold was near a 21-year-low at US\$278 per ounce. It sank even lower later that year to a price of about US\$271, not far above production costs then averaging about US\$250 to US\$260 per ounce.

Today trading and owning gold have never been easier, thanks to the Internet. “There’s been a democratization of gold ownership and new ways to acquire it,” said Jon Nadler, a senior analyst for Kitco Inc., a bullion dealer based in Montreal.

“While gold coins or bars remain popular, investors no longer have to worry about storing their gold when they can buy gold certificates or digital ounces,” Mr. Nadler said. “And with exchange-traded funds, the metal can be traded much like shares of stock.”

Gold investors tend to buy on bad financial news. Rich Checkan, vice president of Asset Strategies International Inc. (ASI), a leading precious metals and currency broker in Rockville, Md., said purchases at his company started picking up substantially after the sub-prime mortgage turmoil began in August. Most of his buyers were acquiring Perth Mint Certificates entitling them to gold held in a government-owned vault in Australia. (Michael Checkan, ASI’s president, serves on The Sovereign Society’s Council of Experts.)

HISTORIC PROOF

Throughout our 10-year existence, The Sovereign Society has recommended that any balanced portfolio required some precious metals holdings, especially gold. There are historic reason for this confidence in gold as a continuing investment.

Douglas M. Cohen, an analyst for Morgan Stanley summed it up: “Gold has thousands of years of history on its side. That history is full of episodes when people insisted gold was dead, and sure enough, gold has tended to rally back very strongly.”

Gold ownership has always defended against both inflation and deflation. That’s because of its constant purchasing power.



Compare gold today with the biblical times of the Old Testament during the reign of King Nebuchadnezzar. Then and now an ounce of gold buys about 350 loaves of bread. The same quantity of gold will buy a loaf of bread today under Britain's New Labour Party as it would have under an earlier, less bland reign, that of King Henry VIII in the 16th century.

One gold mutual fund manager summed it up: "Gold is the only real money. Silver is only pocket change and everything else is really just a credit instrument taken on faith." That's sadly accurate when paper money, like the Indonesian rupiah, the Thai baht and the South Korean won, declined in value hourly as they did in the late 1990s Asian currency crisis.

But as the value of Asian currencies evaporated, (and as now the U.S. dollar slips downward), gold remains solid. Every nation's paper currency buys far less than it did a century ago, but gold buys almost twice as much. That historic record demonstrates true insurance against economic swings.

A PERFECT HEDGE

Think about it. Gold cannot be inflated by printing more. It cannot be devalued by government decree — the free market dictates the price. And, unlike paper currency or investments in stocks and bonds, gold is an asset which doesn't depend on anybody's promise to repay.

Although gold has been mined for more than 6,000 years, only about 120,000 metric tons have been produced. Lump that together and it's just enough for a cube measuring only 18 meters (about 55 feet) along each of its six sides. New gold mined each year totals less than 2,000 metric tons, about the size of the living room in a small modern house. Gold remains one of the scarcest, and most sought-after metals on earth.

Time and again, gold has proven the successful hedge against devaluation of an investor's national currency. It's one of the few investments that survives, even thrives, during times of economic uncertainty.

For those who in recent years followed The Sovereign Society's repeated advice to buy gold, the investment has paid off handsomely.

With gold at record high prices and the world facing what could be a prolonged period of major economic turmoil, buying gold even now may be a good hedge against the future.



People who have known prolonged prosperity may not fully understand the historic implications of gold and its role when bad times arrive. Once those bad times arrive, (as they inevitably will), gold once again be recognized generally as the one perennial investment that's still "good as gold."

GOLD & SILVER: MUST YOU TELL?

Robert E. Bauman JD, July 2008

I often get the question from Sovereign Society members and readers as to whether or not there is any U.S. law requiring reporting to the U.S. government the holding of gold, silver or other precious metals in foreign accounts or offshore storage.

The question arises because the law does require a U.S. person to report on the annual income tax IRS Form 1040 if they have any direct or indirect control over any offshore "account." If that account exceeds \$10,000 at any time the calendar year, they also must file a foreign bank account disclosure form (FBAR), due no later than June 30th each year.

VERN JACOBS SAYS

My friend and long time associate, Vern Jacobs CPA, CLU, recently addressed this question in his free online "Jacobs Report" sent in by a U.S. person who asked whether metals held in their name at the Perth Mint in Australia had to be reported to the IRS or U.S. Treasury on the forms mentioned above.

The inquiring person had researched the Perth Mint website and among other statements, found this: "Perth Mint Depository Services (PMDS) operates like a private client bank account or stock brokering account, except with balances of precious metals in troy ounces."

The website also described Perth Mint Depository Certificates as allowing clients to hold, deposit and withdraw funds in various national currencies, place market orders for precious metals, plus exercise put and call options for gold and silver.



WISE ADVICE

Vern Jacobs, assessing these facts gave this opinion, with which I concur: “Perth Mint states that they function like a bank or brokerage account except with balances of precious metals in troy ounces. I mention this because I anticipate questions from readers who will want to use that ‘exception’ as a justification for not reporting [to the IRS] funds held in bullion form in a segregated account.”

“To the extent that the bullion can be converted into other currencies or used to purchase investments it seems to me that the IRS will treat the account as a foreign financial account. To the extent that the bullion is physically being stored in a segregated vault or deposit box and can’t be converted into currencies or investments as part of an integrated banking service, then there might be some justification for claiming it is not a financial account...I agree that the IRS is likely to argue that the Perth Mint program is a foreign financial account.”

My view is that when in doubt about reporting to the IRS, err on the side of caution and go ahead and report. Better safe than sorry.



PART TWO — WORLD'S BEST INVESTMENT STRATEGIES

HOW TO CHOOSE OFFSHORE INVESTMENTS

John Pugsley, *The Sovereign Individual*, January 2004

Sovereign Society members are generally above average in assets and in financial acumen. Yet member correspondence and interaction at our seminars tells us that many members are uncertain how to choose offshore investments. Part of the problem is confusion about what it means to invest offshore. A second and greater part comes from a failure to understand how to structure a rational financial plan.

There is little objective information on how you should design a long term plan for the emulation and protection of wealth. This isn't hard to understand, since the investment industry profits by selling stocks, bonds and real estate, not by offering effective strategic advice.

Before choosing offshore investments, decide what type of assets meet your financial goals.

Essentially, there are four types of assets: tangibles, money, businesses, and real estate. Tangibles are things that are useful, such as industrial commodities, gold, silver, precious gems, and collectibles. Money, the medium of exchange, takes the form of cash, or negotiable instruments (bank deposits, CDs, and bonds). Businesses can be wholly owned or partially owned through partnership interests or corporate shares (equities). Real estate can be owned as raw land or residential and commercial properties.

The following points provide a guideline of how to allocate your assets, depending on what you foresee for the overall economy:

1. Tangibles rise and fall in price as economic booms and recessions increase or decrease consumer demand.
2. Equities rise and fall depending on the skill of individual business managers, and general stock market cycles.
3. Bonds, even "risk free" U.S. Treasuries, rise and fall with an inverse



relationship to interest rates. (That is, as interest rates rise, bond prices fall, and vice versa.)

4. Since most real estate is mortgaged, property prices also have an inverse relationship to interest rates.

You should determine your portfolio balance by your evaluation of the economy and interest rates. However, there is another factor you must keep in mind — political risk.

Nowhere is political risk more pronounced and less acknowledged, than in the U.S., where investors must consider:

1. *Legal risks.* Laws such as the USA PATRIOT Act give the government power to secretly confiscate property without a hearing.
2. *Regulatory risks.* Government regulations can devastate an industry or adversely affect property rights. For instance, environmental restrictions on developing property in “wetlands” have made millions of acres of U.S. property virtually worthless.
3. *Tax risks.* Changing the tax treatment of an investment can have devastating effects. For instance, when Congress decided to shut down “tax shelters” in the 1980s, real estate prices in some markets fell 50% or more.
4. *Monetary risks.* U.S. monetary policy overshadows all investments. Will the Federal Reserve increase interest rates and decimate bond values? Or will it expand the money supply, leading to inflation, and further favoring physical commodities as investments?

We believe monetary risks will have the most immediate impact on investors in 2004. Soaring federal budget deficits leave the Federal Reserve no choice but to continue to create money out of thin air, adding billions in new money to the banking system every month. As the money supply expands, the unavoidable consequence will be a decline in the value of the dollar relative to other currencies and gold. It will also result in price inflation for goods and services priced in dollars.

As prices for goods and services rise, investors in dollar-denominated bonds and other monetary instruments will demand higher interest rates. As U.S. interest rates rise, dollar-denominated bonds will fall in value, as will U.S. real estate prices. Business activity will slow, resulting in declining stock prices.



This outlook leads us to make investment recommendations that we believe will perform well despite increasing U.S. monetary risks:

1. We recommend keeping the money portion of your portfolio in short term bonds, preferably diversified among stronger currencies (e.g., the venerable Swiss franc).
2. In dollar terms, precious metals, and particularly gold and silver, will continue to rise, possibly entering an explosive bull market phase.
3. The equities portion of all portfolios should include stocks outside the U.S. market. We also recommend a core position in securities such as the Prudent Bear Fund (NYSE BEARX) that will profit from declining U.S. stock prices.

None of these investments need to be purchased offshore. Yet, the most obvious way to minimize political risk to your investments is to diversify your portfolio internationally, which is, of course, the *raison d'être* of The Sovereign Society.

However, don't choose an investment only because it is offshore. Choose it only after deciding if your portfolio needs that type of asset to give it the appropriate balance of risk and reward. You should also consider how a particular investment is likely to perform relative to all other assets in that category.

Assuming you decide to take the plunge "offshore," should you invest directly? Through an offshore bank account? Through an offshore corporation, offshore insurance policy, annuity or offshore trust?

Read the analyses we present carefully, determine if the recommendations we make fit into your long term financial plan — and invest accordingly.

THE SEC THINKS YOU'RE TOO STUPID TO INVEST OFFSHORE

Robert E. Bauman JD, February 2007

Unless you are an experienced U.S. person who invests offshore, you probably don't know that since the New Deal 1930's U.S. law has se-



verely limited Americans' ability to invest directly in foreign investments of all kinds — stocks, bonds, mutual funds and, now potentially, hedge funds.

Until now U.S. laws on offshore investing has made an exception for wealthy Americans. The U.S. Securities and Exchange Commission (SEC) allows offshore investing by U.S. persons (citizens and resident aliens) who qualify as an “accredited investor” under Regulation D of the 1933 Securities Act. An “accredited investor” is defined by SEC rules as an individual with a net worth of US\$1 million or more, or one with an annual income of at least \$200,000. That special status gives a freer hand to buy non-SEC registered foreign stocks and mutual funds directly.

This condescending, government-knows-best attitude assumes that you're not smart enough to invest your own money without bureaucratic intervention to save you from yourself — unless you are very wealthy. Even millionaires must apply to the SEC and prove their net worth for the right to invest their own money. Apparently, the government regulators think wealthier people are smarter than the “average investor.” This is prejudiced at best, but in my view it proves that the SEC wants control over what you choose to do financially — and over you!

Now comes the SEC with new proposals that would limit even further Americans' ability to invest offshore. What the Cato's Institute's Dan Mitchell calls “the nanny state mentality of the Bush Administration” has produced proposed rules that would prohibit all but the very wealthy from taking advantage of successful hedge fund investing.

Richard Rahn comments in the *Washington Times*: “Financial regulation is most often justified by arguing it is needed to protect all participants from those who would engage in fraud or theft, and to protect unsophisticated investors from losing money in investments they do not understand. The SEC has just proposed that the amount of liquid net worth an individual must have before investing in hedge funds and other so-called ‘risky investments’ be raised to as much as \$2.5 million. People meeting a net liquid worth requirement are considered ‘accredited investors.’”

“Even though most people would agree it is important to try to protect ‘widows and orphans’ from unscrupulous and/or incompetent financial promoters, there is a fine line between protecting those who need protection and denying freedom to those who don't. Does it make sense to prohibit a person who has recently obtained a graduate degree in finance from



a leading business school from buying and selling hedge funds, because he or she has not yet accumulated some arbitrary amount of wealth — while legally allowing any adult man or woman to take all of his or her wealth and go to Las Vegas and blow it at the gambling tables?”

These idiotic new rules would also require hedge funds to register with the SEC and impose costly burdens on fund managers to comply. There are over 9,000 hedge funds with about \$1.5 trillion in assets. Only 2,500 hedge funds had registered with the SEC as of the end of June, 2006.

Smart American investors know that often the most profitable investments are not in the U.S., but offshore, especially in emerging markets, but the U.S. government actively encourages ignorance about these offshore bargains. “No American Investors Need Apply” is the rule at most foreign funds, since their sending information about offshore securities unregistered in the U.S. could violate SEC laws and subject them to stiff penalties.

One way around these stupid roadblocks to offshore investing is to buy foreign securities through an offshore corporation, trusts or family foundation you create. Properly structured foreign trusts, foundations or corporations are not considered “U.S. persons” per se, although they do have U.S. tax and reporting obligations if owned or controlled by a U.S. person. SEC rule “Regulation S” makes such investments easier. It allows U.S. investment in non-registered securities through a foreign trust or corporation. The most important restriction: the U.S. person grantor who creates such entities must include income from these sources as personal income on annual personal income tax returns.

The IRS has a web of rules that aim to wring maximum revenue from Americans who go offshore financially. These tax laws are extremely complex, so move cautiously and only with expert professional advice. At every step of the way, find out exactly what the U.S. tax consequences may be before you proceed.

The Sovereign Society can explain how and where to invest offshore — that’s where the profits are. Just ask us.



GLOBAL STRATEGIES THAT WORK

Eric Roseman, *The Sovereign Individual*, August 2000, revised 2010

What strategies are the most effective for global investors? For those with patience, the search for value remains the best strategy. Since 1995, however, growth-based investments have far outpaced value investing in the race for profits. But over time, no other long-term strategy has produced better results for investors than buying and holding undervalued stocks or countries. Here are some pointers:

1) *Buy undervalued country markets or indices representing those nations.* Research conducted by Michael Keppler of Keppler Asset Management in New York proves that, over time, value always wins. Keppler, the advisor to the State Street Global Advantage Funds (Luxembourg), uses a value based methodology to scan for low price-to-earnings ratios, low price-to-book-value, low price-to-cash-flow ratios and dividends.

To invest in these markets, you can choose among three different products. Actively managed open-ended funds tend to perform the best. Some of the best open-ended country funds are domiciled in Luxembourg (Fidelity) and Hong Kong (Jardine Fleming). Closed-end funds are listed on the NYSE and London SE (investment trusts). These funds tend to trade at a discount to their net asset value — often 20 percent or more. If you can't find an open ended fund for the country you're targeting, choose this route.

Index-linked products are my last choice — they simply don't perform as well in a bull market.

2) *Open-ended funds usually outperform closed-end funds.* The reasons vary, but are tied to poor liquidity for the closed-end fund, a huge discount to net asset value deterring new investors and generally higher fees. Another factor is the “home market listing” phenomenon. A small decline in New York will affect your closed-end's price even though the international market it's representing has gone up.

3) *Offshore country funds perform better than U.S. funds.* One reason is that there are more than 15 times as many offshore country funds as



there are U.S.-based equivalents. Another is that offshore country fund managers usually live in the market they target, giving them a better “feel” for investments there.

One reason why U.S.-based global funds perform better is lower fees. In the United States, the average total expense ratio for global funds is approximately 1.43 percent compared to 1.84 percent offshore.

Another reason is that the huge U.S.-based global investment houses manage billion-dollar funds that far surpass much smaller products offered offshore. A large fund benefits shareholders by providing lower fees, better liquidity and less possibility of going under due to their sheer asset size.

4) *Managed futures funds offer potential bear market protection.* In severe corrections or bear markets, managed futures have made enormous profits for investors. The Turtles, or the trend-followers in the futures industry, remain the most reliable bear market tools, aside from put options.

Turtles are diversified managed futures funds sold in the United States and offshore to high net worth individuals. Unlike conventional futures funds, the Turtle traders are highly diversified in more than 125 global markets, including global commodities, interest rates, bonds, currencies and stock indices. They offer negative correlation to traditional investments (stocks and bonds), particularly during bear markets and crashes. For an explanation of the Turtle trading system, see www.turtletrader.com.

5) *Low volatility hedge funds offer the lowest risk and most consistent returns.* These funds can deliver returns in the 12-15 percent range each year without being aggressive. The trick is finding a long-term winner in a sector that is still relatively new since 1995 and backed by good managers.

6) *Warrant funds only for the aggressive bull.* Only aggressive investors with an appetite for short term risk and immense volatility should stake a (small) percentage of their assets in these gunslingers. They should be used only to compliment an existing weighting. For example, if you're really bullish on Asia, buy a well-managed regional fund, two or three single-country funds, and a small position in a warrant fund. If you're right, you can earn over 100 percent in just months. If you're wrong—don't ask. In the current investment environment, I'm not recommending any warrant funds.

7) *Dogs of the Dow and the Dow Five-Stock Strategy.* You choose among the top 10 highest yielding



Dow 30 Industrial stocks on January 1, hold them for a year, and make the same determination the following January 1. This strategy has been a long-term winner, although it performed poorly in 1999.

Even more profitable is the Dow Five-Stock Strategy. You select the top 10 highest yielding Dow stocks then isolate those issues sporting the lowest share price. Since 1969, the Select Five has earned 18 percent per annum.

The Dogs and the Select Five were pioneered by Michael O'Higgins, author of *Beating the Dow with Bonds* (Harper Business, 2000). O'Higgins himself since 1998 has opted for bonds because of ultra-high stock prices. Of course, bonds suffered a big drop in 1999 and that didn't work, either.

8) *Insider buying is a key signal.* A good contrarian strategy is to buy shares of companies in which the corporate executives are aggressively purchasing the stock. This is particularly true if more than one executive is buying. For companies listed on U.S. exchanges, it's easy to follow insider buying and selling because U.S. law requires a formal filing with the Securities and Exchange Commission within seven days following these purchases or sales.

Historical studies continue to document this time-tested approach. See, for example, Anthony Gallea and William Patolon, *Contrarian Investing* (Prentice Hall Press, 1999). This is a value-based strategy because executives usually buy after a big drop in the stock price, when the stock has a single-digit P/E and a high dividend yield. A good rule of thumb is to buy shares after an insider has purchased at least US\$120,000 worth of common stock and preferably, when several insiders buy stock worth at least US\$1 million or more at the same intervals.

I still prefer a good mutual fund to stock picking. You really have to be on top of your stocks in today's highly erratic market. Of all the stock-picking strategies, though, I think the insider approach makes the most sense, provided the company is a good name, under good management and a recipient of substantial net buying following a dramatic price decline.



FOUR HIDDEN RISKS OF AN “ALL-DOMESTIC” PORTFOLIO

Jack Pugsley, *The Sovereign Individual*, January 2010

The evaporation of trillions of dollars in value in stocks and real estate over the past three years has stunned investors.

As happened in the Great Depression, investors have been traumatized, abruptly awakened to the truth that market risks are much greater than they had believed. But even fewer grasp just how vulnerable they are to an even more insidious and equally dangerous menace to their wealth — political risk. We can classify the four great political risks as: taxation, regulation, monetary manipulation, and legal confiscation.

1) Tax Rates to Increase. It may appear odd to list taxation as a “political risk” to the investor. However, it’s obvious that the tax treatment of every asset varies from political jurisdiction to jurisdiction. How an asset is taxed, therefore, directly affects its market value. As politicians search for revenue sources to fund their programs, every asset class becomes vulnerable to sudden change. For instance, in the 1980s the U.S. Congress abruptly attacked real estate tax shelters, causing prices of previously tax-advantaged real estate to plunge by 50% or more. As the U.S. Treasury is squeezed by rising deficits, you can be certain that Congress will increase the attack on investors, and each rate change will affect the market value of assets.

2) Regulation on the Rise. Regulations are always sold to the voters as laws put in place to protect or benefit the public. Wherever there is a drive for regulation, ask *cui bono?* Who benefits? An age-old example is minimum wage legislation. Increasing the minimum wage raises costs to employers, which means that they won’t hire marginal workers to whom they can’t justify paying a higher wage. The unskilled are therefore pushed out of the market. The result is less competition for labor unions and their relatively high-paying jobs.

3) Currency Diversification, More Important than Ever. The great shadow over all investments is monetary policy. In each nation monetary policy is controlled by the central bank, with the U.S. Federal Reserve in the



lead as the 800-pound gorilla. The financial world hangs on every word and intonation of Federal Reserve Chairman Ben Bernanke. It is this monetary manipulation that is the source of booms and recessions, and the root of fluctuations in asset markets. What can the investor do to minimize this risk? Recognize that diversification among currencies can hedge against the risk of keeping all assets in one currency, and that in addition, tangible assets, like gold and silver, and hedge against all currencies.

4) Attacks on Private Wealth Accelerate. An even greater threat to domestic assets is the legal system, particularly in the United States. The U.S. legal system has evolved into an instrument of plunder. Predatory lawyers openly advertising their ability to seize wealth from those with deep pockets, as well as the assets of businesses in which you invest. Put assets within view, and eventually someone will find a reason to sue.

THE ONLY ANSWER

How can you best defend yourself against these four hidden political risks? There is only one answer — international diversification. Avoiding political risk requires that you disburse your assets in the optimal combination of political jurisdictions and hold title to them through legal structures that provide maximum asset protection. While these same political risks exist to different degrees outside the United States, they tend to cancel each other out in a sufficiently diversified portfolio.

How do you create such a portfolio? Each issue of *The Sovereign Individual* outlines the rewards — and possible risks — of an international portfolio of stocks, bonds, commodities, precious metals and real estate. Showing our members how to best achieve these goals is The Sovereign Society's *raison d'être*.

HOW TO BUILD A PORTFOLIO TO COPE WITH UNCERTAINTY

Interview with the late Harry Browne, *The Sovereign Individual*,
August 2002

(Ed. Note: "No one can reliably predict the future." That's the bedrock principal upon which author, investment advisor, and two-time Libertarian



candidate for the U.S. president, the late Harry Browne, based his plan for a “permanent portfolio” when he began developing it in the 1970s. The portfolio is designed to grow in value regardless of current economic conditions.)

TSI: “Uncertainty” is certainly an appropriate term to label the times we live in. How does the “permanent portfolio” idea that you devised nearly 30 years ago deal with it?

Browne: You cannot eliminate uncertainty. In 30 years, I have found that no one can reliably predict future gold prices, stock valuations, the direction of the economy, or anything else that has to do with human action. Rather than trying to eliminate or overcome uncertainty, we have to accept it and handle investments as though we have no idea what’s coming next—even when you think you do. The goal is to devise a portfolio that will protect you whatever may happen. If you do, you should experience steady growth of an unspectacular, but reliable, kind. It isn’t that you’ll never have a losing year, but it will be rare when you do — and the loss will be mild when it does happen.

TSI: What investments comprise your permanent portfolio?

Browne: Anything that happens — war, peace, civil unrest, instability, good times, bad times, and so on — will translate itself into one of four economic environments: prosperity, inflation, recession, or deflation. Fortunately, each of these environments has an investment that does particularly well in it. Stocks and bonds both profit during prosperity; gold does well during inflation; bonds do well in a deflationary depression. And although nothing does well in a recession, cash helps to cushion the fall in other investments — and, unlike the other three environments, a recession (a period of tight money) by definition automatically ends within a year or so. Thus, four investments — stocks, bonds, gold, and cash — cover all the bases. No matter what economic environment dominates the next year at any given time, you know that at least one investment will be taking care of you.

Your first reaction might be that you could have three losing investments and just one winning investment during a given period. That’s definitely possible, but the winning investment almost always has a greater impact on a portfolio’s performance than the losers. An investment can rise several hundred percent, but no investment can lose more than 100% of its value — and in real life a horrendous bear market might cause an investment category to lose 25-40%. For example, if someone had convinced



you in 1970 to split \$100 by putting \$90 in stocks and \$10 in gold, what would have happened over the next decade? In 1980, your stocks would have dropped in value to only about \$40, but your \$10 of gold would be worth close to \$200.

TSI: Why place cash into the portfolio? And how do you define “cash?”

Browne: Cash will never be a big winner in any economic environment. But it will help cushion the impact of declines in other investments during a tight-money period. The year 1981 was a good example. Stocks, bonds, commodities, currencies, gold, and silver all fell in value the permanent portfolio’s loss was only 6.7%, and it was more than offset when everything took off upward the following year.

“Cash” actually means short-term debt instruments denominated in the currency you depend upon — for U.S. residents, the U.S. dollar. The two safest and easiest ways to hold cash are with U.S. Treasury bills or a money market fund investing only in T-bills. You use Treasury securities to eliminate the need to evaluate credit. Commercial paper or other debt instruments require continually monitoring the credit standing of the issuers. But the U.S. Treasury will always pay its bills by either taxing or printing money.

The one basic objective of the permanent portfolio is to allow you to ignore your investments and focus on the things in life you do better and enjoy more. Thus an important criterion is that you shouldn’t have to monitor the elements constantly to make sure someone’s credit hasn’t gone bad.

TSI: Why place gold into the portfolio? And how do you define “gold”?

Browne: Gold profits from inflation. It does so because it’s the second most popular form of money in the world after the U.S. dollar. Gold is also accessible almost everywhere in the world and is accepted universally as a store of value, whereas currencies like the Swiss franc, euro, and yen are not. When inflation appears to threaten the dollar’s value, some foreigners who are holding dollars become concerned and trade some part of them for gold.

Gold in the permanent portfolio consists of gold bullion or one-ounce gold coins that have no collector value. The link between dollar inflation



and the price of gold doesn't necessarily exist between the dollar and numismatic coins or gold stocks.

TSI: Why place stocks in the portfolio? And how do you define “stocks?”

Browne: Stocks appreciate during times of prosperity. But no one can accurately predict when the market will take off or which sectors will perform the best. So it's best to split the stock portion between two or three funds that clone the S&P 500. They stay fully invested at all times, so that you aren't relying on someone's opinion as to when to be in stocks.

TSI: Why place bonds in the permanent portfolio? And what kind of bonds should you purchase?

Browne: Bonds are there so that you can profit when interest rates are dropping. This is likely in two of the economic scenarios. Interest rates usually drop during most of a period of prosperity. They also drop during a deflation. In the 1930s, interest rates on U.S. Treasury bonds dropped as low as 1%. If that were to happen today, you'd have a huge profit in bonds — more than offsetting your losses in stocks and gold. As with cash, you don't want to monitor the credit of the bond issuer. So U.S. investors can purchase U.S. Treasury bonds for this portion of the portfolio.

A second qualification is that you want the bond to have a large impact on the portfolio when interest rates change. So you should hold 25-year Treasury bonds.

TSI: How has the permanent portfolio concept performed since you first originated it?

Browne: Very well. It has an overall return averaging about 10% annually, or about 5% above the underlying inflation rate. I've used this approach for over 20 years, and I've tracked it back to 1970 — and there have been only three losing years.

As I mentioned earlier, the worst year was 1981, when the portfolio lost almost 7%. Even though the permanent portfolio concept has at times trailed stock investments — or, in fact, whatever is the hottest investment of the moment — in those 20 years I've never heard from a single person who regretted using this concept.

TSI: How do you divide the portfolio? And how do you reallocate your holdings as the market causes the values of the components to change?



Browne: Simply put 25% of the funds you wish to earmark as your “permanent portfolio” into each of the four investments. At least once a year you should check the values of the investments. If any investment has appreciated to represent 35% or more of the value of the overall portfolio or fallen in value to 15% or less, you should adjust the portfolio by selling enough of the “winners” and buying enough of the “losers” to bring the respective percentages back to 25%. Otherwise, you don’t need to do anything.

Such an adjustment is necessary to preserve the concept of the portfolio. For example, gold soared in the 1970s, so without occasional readjustments, by 1980 you’d have 60% of the new value of the portfolio in gold alone — just before the gold price crashed. Your overall portfolio could have lost roughly 30% in 1980. But by adjusting when necessary, you know that no individual investment’s fall can hurt you, and you’ll know that each investment is big enough to carry the whole portfolio upward whenever it needs to.

TSI: What percentage of a person’s wealth should be in a permanent portfolio?

Browne: For many people it should be 100%. I don’t think there’s anyone for whom it should be 0%. The permanent portfolio should consist of whatever funds you can’t afford to lose. If you have assets beyond what you need to meet living expenses, retirement, or your children’s education, you can set up a second portfolio — a “variable portfolio” — with which you can bet on future price trends in whatever way strikes your fancy. Just make sure you fund that second portfolio only with money you can afford to lose.

This points out the difference between investing and speculating. Investing is accepting the returns the market is offering to everyone. Speculation is believing you can beat those returns through superior knowledge, insights, or connections. Ironically, most people’s returns fall short of what the market is offering, because they’ve tried to beat the market and wound up getting less than they could have by spending the time playing golf or listening to music.

TSI: Have you considered adding another category to the permanent portfolio — foreign currencies, for instance — that would help hedge against a decline in the dollar?

Browne: Other than the four investments I’ve included, no investment



has a firm link to any of the four economic environments that the permanent portfolio is designed to cover. The Swiss franc, for instance, could go up or down in any environment. When the U.S. is inflating, we expect the dollar to fall against the franc. But this isn't automatic; the Swiss could be inflating as fast or faster at the same time, for instance.

However, if anyone could come up with an investment that profits automatically during a period of tight money or recession, I'd consider it carefully, because that's the one economic environment I don't know how to profit from. Fortunately, periods of tight money and recession are self-limiting. They always come to an end within a year or so. Either the economy adjusts to the new, slower level of money growth and things pick up, or the Federal Reserve quits fighting inflation and speeds up money growth, leading to prosperity in the short term and inflation in the long term.

(Harry Browne was the author of 11 books. His first book, How You Can Profit from the Coming Devaluation, was published in 1970. Browne's warnings proved to be accurate when the dollar was devalued twice and his recommended investments rose many times over. Ten more books followed, and from 1974 to 1997 he published Harry Browne's Special Reports, a newsletter covering the economy, politics, and investments. His book, Fail-Safe Investing explains in detail how set up a permanent portfolio.)

THE 1930S, RISING TAXES AND GOLD'S CONFISCATION

Eric Roseman, September 2009

Did a surge in individual and business taxation in the 1930s exacerbate the Great Depression? If so, the trend in state and federal government taxes isn't friendly to an economy that remains badly fractured by weak credit demand and rising unemployment.

In *The Wall Street Journal*, Arthur Laffer (Laffer Associates) makes a strong historical case about taxes, the Great Depression and comparisons with today's economic challenges. His findings make for a sobering read.

If he's right, we're heading down the wrong path over the next two years as tax rates rise significantly following the expiration of the Bush tax cuts in 2011. And raising taxes in the middle of a recovery is not the way



to build prosperity. The late President Reagan knew that but Obama lives on a different planet.

According to Laffer, “The damage caused by high taxation during the Great Depression is the real lesson we should learn. A government simply cannot tax a country into prosperity. If there were one warning I’d give to all who will listen, it is that U.S. federal and state tax policies are on an economic crash trajectory today just as they were in the 1930s.”

Laffer also goes on about gold and how government confiscation of the yellow metal in May 1933 blew deflation fears wide open as the public flocked to gold; the metal was fixed to the dollar at \$20.67 an ounce. Fears of a dollar devaluation vis-à-vis gold unleashed a gold-buying panic by mid-1932. U.S. consumer prices plunged a cumulative 27% from late 1929 until early 1933.

By early 1933, the federal government under FDR declared a bank holiday prohibiting U.S. banks from exchanging dollars for gold; the public was not permitted to exchange foreign currency, either. If you held gold, most of it was to be handed back to the government at the official rate of \$20.67 an ounce; by January 1934, however, the government revalued gold at \$35 an ounce.

Says Laffer: “In less than one year the government confiscated as much gold as it could at \$20.67 an ounce and then devalued the dollar in terms of gold by almost 60%. That’s one Helluva tax.”

Meanwhile, dollars were apparently in short supply last year as the credit crisis blew wide open. Or were they?

The same fears didn’t play-out last year as the financial system almost collapsed.

From July 2008 and until March 2009 the dollar went through the roof in what is widely believed to be a “flight to safety” amid outright panic. But I don’t buy that. The dollar rallied because de-leveraging was in full force coupled by massive redemption requests from global investors as they dashed out of risky assets and headed almost overnight into cash.

How can the dollar be a “safe haven” when the epicenter of the financial crisis lies in the United States? I can't make sense of that anomaly. I mean, c'mon, the Fed is printing like a drunk and the government has committed something like \$12 trillion dollars to this mess. Then we've got Social



Security, Medicare and other unfunded entitlement programs — you know the rest. How on Earth can a sensible investor scramble to buy dollars?

I also don't buy the euro or other currencies as a "safe haven" because they're also plagued by similar problems — some worse than others. There isn't a single currency out there that's better than gold. Not one.

Basically, gold is the only asset outside of the credit system that remains no one else's liability. And that's why it's rallying in 2009 — its ninth consecutive calendar year gain.

THE FINANCIALIZATION OF AMERICA

Robert E. Bauman JD, April 2008

A *New York Times* book reviewer writes today: "At a time when the Cassandras of finance are looking like realists, there is no gloomier prophet than Kevin Phillips. The author of 13 previous books including at least one classic, *The Emerging Republican Majority* (1969), Mr. Phillips sees a perfect economic storm coming. The final pages of his bleak new book, *Bad Money*, tell of an "unprecedented" number of Americans planning to leave the country or thinking about it. Readers of *Bad Money* may come away with a similar impulse to flee."

That Americans are fleeing is hardly news to our members and readers.

For the decade since our founding, we at the Sovereign Society have noted sadly that each year upwards of 400,000 U.S. citizens and resident aliens leave America to make a new home in some other nation. Admittedly, that number pales against the millions clamoring to get into the U.S., legally and otherwise.

But there's a huge difference in the economic status of these two groups.

Those seeking admission, (or just crossing our borders) are, by and large, poverty stricken persons desperately trying to better their lot with a new life in the Promised Land. They'll settle for low paying jobs, welfare, free education for their kids, and U.S. taxpayer subsidized housing and health care.



TAX BASE IS LEAVING

But a large part of the 400,000 exodus is made up of wealthy people seeking to escape the growing tax and regulatory tyranny aimed right at them by the United States government. And it is this gusher of fleeing rich people who take with them U.S. wealth — and the U.S. tax base. These are the very people who pay for the all those programs the new immigrants covet.

Two years ago next month I referred readers to what was then Kevin Phillips' latest book, *American Theocracy: The Peril and Politics of Radical Religion, Oil, and Borrowed Money in the 21st Century*. In it he put together an amazing array of historical, religious, economic and political data to argue that the U.S. was about to join its imperial predecessors on the downhill slide — Rome, Spain, the Netherlands and Britain.

But what was particularly prescient of Phillips in his 2006 book was one of the two major reason he saw (his first was the decline in industrial and manufacturing base), as causes for America's decline — an increase in what he called “financialization” of all sorts of intangible financial services that replaced tangible production.

SLOW MOVING TRAIN WRECK

This astute observation was made well before shocked Americans and the world were to learn about the sub-prime mortgage crisis and before scores of billions of dollars worth of bank and financial losses — due in large part to the phony “financialization” Phillips warned against.

As Phillips showed, a lot of these modern “financial services” consist of little more than creating new forms of debt, then pushing all those debt papers around while collecting fees for doing nothing really productive.

In his book, *Bad Money, Reckless Finance, Failed Politics and the Global Crisis of American Capitalism* (Viking Press 2008), Phillips brings us up to date on what one security analyst quoted in the book calls “one of the slowest moving train wrecks” in history.

Phillips gives an overview of the current debt debacle and notes that the 1980s were the start of “three profligate decades,” when the expansion of mortgage credit and the invention of financial instruments like collateralized debt obligations (CDO's) led to an orgy of leveraging and irresponsible speculation. Greenspan's Federal Reserve kept the bubble



afloat with easy money, while federal regulators and credit and bond ratings agencies looked the other way.

By 2007, total American indebtedness was three times the size of the gross domestic product, a ratio that surpassed the record set in the years of the Great Depression. From 2001 to 2007 alone, domestic financial debt grew to \$14.5 trillion from \$8.5 trillion, and home mortgage debt ballooned to almost \$10 trillion from \$4.9 trillion, an increase of 102 percent.

THE OFFSHORE SOLUTION

With the dollar shrinking in value daily, with American freedoms and civil liberties curtailed by unconstitutional monstrosities such as the so-called PATRIOT Act, with deficit government spending continuing unchecked, is it any wonder reasonable Americans who have the means are considering life elsewhere?

Ten years ago we saw this coming. That's how The Sovereign Society came into being.

We offer our members a detailed road (and trans-oceanic) map to profitable offshore investments, to greater freedom offshore; a step-by-step explanation of legal ways to protect assets, lower taxes, and — yes — how (and where) to move your residence and/or citizenship offshore — if that's what you want.

Wherever real freedom can be found, that's where freedom lovers should be.

YOU'RE ALREADY A CURRENCY INVESTOR

Kat von Rohr, *The Sovereign Society Offshore A-Letter*, January 2009

You can't avoid it.

You can't take a break from investing in it. You can't sell everything and run like hell if the markets turn against you.

No matter what, you'll still end up with some kind of cash in your pocket (unless you plan to live a life of poverty). So you'll technically have some kind of investment in this market — even if you never place a single Forex trade in your life.



In fact, you probably have even more currency investments than you think: Your house, any capital in your business, bank accounts, all your investment portfolios, your IRA, your trust funds for your kids — all technically currency investments because you can sell them for cash."

And if you're starting out in the currency markets, you probably have all those assets dominated in just one currency — dollars.

If you fall into that category, I urge you to spread your bets a bit this year. I know what you're thinking; sure, 'diversify' — I've heard that before." But honestly, it's more than that. Very few investors think about the effect one currency can have on their overall wealth.

For instance, the dollar dropped just over 40% from 2002 to mid-2008. That means your dollar assets depreciated and also fell 40% in value. And even with the dollar rallying recently, it's still not the best idea to wager your entire net worth on the continued performance of the dollar.

Of course, if you are interested in diversifying, it's not as easy to purchase real estate in a foreign currency (unless you're buying property abroad). But it's a simple matter to buy a few currency ETFs with your IRA. ETFs are sold right on the NYSE and the AMEX, so you should be able to buy them as easily as any stock.

In the same way, a foreign currency CD can pad your dollar-denominated bank accounts. Our friends at EverBank have a wide variety of them. Each CD is FDIC insured, in case the bank should ever go insolvent. You can learn more about them at www.everbank.com.

Remember: You're already a currency investor — so you may as well hedge your currency portfolio while you can.



SAFEST INVESTMENT OF ALL: SWISS ANNUITIES

William McCord, *Better Than Gold*, 1998

How about a strategy with guaranteed returns and unmatched asset and investor protection? In fact, even if the bank goes broke — you still get your money!

There is a way to build a stash of cash you can access any time, tax-free and seizure-proof, an investment that pays competitive dividends and interest. Imagine cash that can compound tax free, sheltered from inflation.

In fact, if you had put \$10,000 each year into this investment for the last 20 years you would have \$590,697 today! With a mere five percent yield, in 20 years that is nearly a 300 percent return on your investment!

This is not a new investment. It has existed for decades and is used by some of the world's wealthiest people to preserve and increase their wealth. But you don't have to be wealthy to take advantage of this profitable money plan.

Here are just some of the unique benefits of this investment.

The investment is placed in Switzerland, one of the safest and most financially secure nations in the world. And due to the Swiss franc's long-time solid currency performance, your investment has guaranteed protection from inflation. No creditor, government, ex-spouse or claimant can ever take this investment away from you. It is totally secure under Swiss law.

This amazing investment is nothing more than an annuity. But it is not just a usual annuity. It is a Swiss annuity. And that gives it unique advantages. It brings together all the benefits of a Swiss bank account and a Swiss deferred annuity without any of the drawbacks!

For example, with a Swiss bank account you might be liable for the infamous 35 percent withholding tax imposed by Switzerland on bank account interest paid to foreigners. (U.S. citizens are exempt under the



1997 Swiss-US tax treaty.) For everyone, Swiss annuities are free of this onerous tax.

Under a 1998 change in U.S. tax law, earnings from any foreign annuity must be reported annually as income on your IRS Form 1040. But Swiss insurance companies do not report anything about annuities to any government agency — Swiss or foreign. Not the initial purchase of the policy or any payments into it, nor any interest or dividends earned, nor any payments from it. Reporting is the purchaser's obligation.

With an annuity, you can access your money any time you like. Payments can be made to you anywhere in the world, or at the bank of your choice. Sending deposits is no more difficult than mailing an insurance premium. Or you can transfer funds by bank wire. There are no brokerage fees or up-front costs. And you can cancel your annuity at any time, without a loss of principal, and with all principal, interest and dividends payable to you without penalty. So it won't be a problem if you need funds quickly. This liquidity is a rarity in annuities.

Swiss annuities are one of the safest and smartest investments because they pay competitive dividends and interest guaranteed by a Swiss insurance company. In the 140-year history of the Swiss insurance industry, no company has ever defaulted on a claim.

BASTION OF STABILITY

With constant economic and political turmoil worldwide, market gyrations, currency devaluations, rising taxes, increasing civil asset seizures (particularly in the U.S.), you need a secret nest egg in an economy with a history of stability. There is no safer or more secure place than the neutral haven, Switzerland.

The Swiss have been free of war and revolutions for over 200 years. Their political neutrality and stability has in turn led to economic stability, which is why the Swiss franc is one of the strongest currencies in the world. And why so many of the wealthiest investors worldwide choose Switzerland to plant their nest egg.

Another reason why the Swiss franc is one of the strongest currencies in the world is because it is the only currency still backed by gold. And Switzerland has one of the lowest inflation rates of all the industrialized countries, which is why investment in the Swiss franc is one of the safest investments you can make!



Everyone should have a nest egg that absolutely no one can touch. And if that nest egg can earn you a good return on your investment, then no matter what is happening in the world, at least you will have something somewhere that is safe. Swiss annuities should play an essential part in any global nest egg strategy.

THE ONE-STOP SOLUTION FOR OFFSHORE INVESTMENT NEEDS

Erika Nolan, *The Sovereign Society Offshore A-Letter*, January 2007

I'm going to let you in on one of the sacred rules of offshore investing... If you plan on investing in offshore funds as an American, you absolutely **MUST** use a tax-deferred vehicle.

I've written and repeated this rule so often, that it's become second nature to me. In fact if you read *The A-Letter* regularly, you probably already know this rule.

But unfortunately, some misguided individuals either don't know this rule, or they discard it. Instead, they just go ahead and invest in global funds through an offshore bank. That means that every single year, they're taxed on the global funds' gains. They're stuck with huge penalties. And worse still, offshore banks won't necessarily inform misguided investors as to these penalties... the investors have to figure that out for themselves. And if they choose to ignore these taxes, they face even larger fines with the IRS down the road.

But if you choose a tax-deferred vehicle, you can avoid all of this. With a tax-deferred vehicle, your fund's investment profits grow tax-deferred until you're ready to spend them.

So you can see why a tax-deferred vehicle is so important, if you're interested in global funds. I call my favorite tax-deferred vehicles "one-stop solutions" because they do a lot more than just defer taxes.

FIRST OF THE ONE-STOP SOLUTIONS: THE OFFSHORE ANNUITY

In reality, a variable annuity is just an insurance policy. You buy an an-



nuity contract from an insurance company. Then the insurance company invests some or all those funds keep investment strategies you approve.

Most offshore variable annuity policies require a minimum of US\$50,000 to start.

The beauty of these investments is that insurance companies (specifically offshore insurance companies), have access to the entire range of global investments, including many investments Americans can't touch.

The insurance company can invest your annuity fund in global equities, foreign currencies, bonds, and commodities. And sometimes, your annuity can invest in alternative investments like hedge funds and managed futures funds. And all annuity investments are tailored for a long-term investor, because most annuity investors hold their annuity for at least five years.

There is one caveat — you may not specifically direct the investments. Rather, you pick an investment style or area you prefer and the investment selection will be made for you.

But in addition to investment potential, there are many added perks to variable annuities such as...

- Your annuity assets grow tax-deferred until you're ready to take income from them.
- Variable annuities are extremely liquid, so you can take cash from them after the very first day (but you must pay taxes on them).
- Nearly impenetrable asset protection; your annuity is protected from ex-spouses, angry business partners, creditors, lawyers, et. al.
- Greater privacy because your annuity funds are not recorded in any public record anywhere.

Nearly unlimited investment potential, asset protection, privacy, liquidity, and your funds grows tax-deferred, so you can avoid the harsh tax penalties — that's why we call annuities "one-stop solutions."



OFFSHORE LIFE INSURANCE: FOUR KEY TAX ADVANTAGES

Selwyn Gerber, CPA, *The Sovereign Individual*, January 2002

The combination of income tax and estate tax can, upon the death of U.S. citizens or residents, consume 50% or more of their estate.

Avoiding these ruinous tax consequences is a key consideration in U.S. estate planning. To this end, offshore life insurance offers several key benefits when optimally structured: Tax-free build-up of cash values, including dividends, interest and capital gains.

Tax free borrowing against cash value. Policyholders have easy and tax-free access to as much as 90% of invested funds (including appreciation) through policy loans. These loans need not be serviced with interest payments and are deducted from the proceeds at death. Used in conjunction with an irrevocable life insurance trust, tax-free distributions (in the amount of the loans) to beneficiaries are possible.

Tax-free receipt of the death benefit. Freedom from estate and generation-skipping taxes. If structured properly, taxes on the investment appreciation within the insurance framework are eliminated since beneficiaries are not taxed upon receipt of the death benefit.

Only life insurance can claim these four advantages. Essentially, the investor saves the costs of income taxes on portfolio income and transactions (depending on portfolio turnover, anywhere from 20% to 50% of the annual pre-tax returns) in exchange for the cost of insurance; approximately 1–3% per year.

An all-domestic solution is sufficient in some circumstances. However, for larger estates, a foreign insurance company and possibly, a foreign trust, are often employed. Benefits include:

- *Increased asset protection.* Many offshore jurisdictions provide statutory asset protection for the death benefit and investments held by an insurance policy. In the United States, such protection exists only at the state level with coverage varying significantly between states.



And, as a practical matter, it is much more expensive for a creditor to bring a claim before a foreign court than a domestic court.

- *Decreased opportunity for the estate to be contested.* It is far more difficult for a family member or other claimant to challenge estate arrangements made offshore, rather than domestically.
- *Access to international investments.* Offshore insurance policies provide tax-advantaged access to international asset managers and to offshore funds that are otherwise not easily accessible to U.S. investors.
- *Increased privacy.* The confidentiality statutes of some jurisdictions (e.g., Switzerland) give insurance policies the same protection against disclosure as bank accounts. Even where no secrecy statutes exist (e.g., Bermuda, the Channel Islands, the Isle of Man), confidentiality still applies. This protection can be an important shield to frivolous claims and investigations. What's more, assets held offshore are off the domestic "radar screen" and cannot easily be identified in a routine asset search.
- *Non-existent disclosure requirements.* Neither the acquisition of an offshore life insurance policy nor income or gain within it is reportable to the IRS.

Although these advantages apply to all offshore life insurance policies, the most flexible form is "private placement variable universal life insurance" (PPVUL). This form permits complete customization to ensure that individual needs are met. Underlying investments can take virtually any form, including offshore funds that, without the use of an insurance framework, would be exposed to unfavorable U.S. tax treatment. Investors can nominate trustees, custodians and asset managers.

In addition, the underlying investments are not part of the insurance carrier's general account. Rather, the assets are placed in separate accounts that are legally segregated from claims of the insurance carrier's creditors. There is no risk to these assets in the event of carrier bankruptcy or reorganization.

As PPVUL structures represent a customized solution to international tax planning, there are many possible applications. In the case of a U.S. person who both funds the structure and is the individual insured, a U.S. or foreign trust could be set up to hold the life insurance policy. For larger estates, this trust is set up outside the grantor's estate. This means that



distributions from this trust after the grantor's death will not be subject to estate tax.

Properly structured and funded, there could be no income or estate tax levied for 100 years or even longer.

It is also possible to provide tax-free income to a U.S. beneficiary using a non-U.S. donor/insured person. However, this structure faces onerous IRS compliance requirements and is suitable only if a bonafide offshore donor is available. Other variations are also possible (e.g., to provide tax-free income to non-U.S. beneficiaries using a U.S. or non-U.S. donor/insured person).

To preserve tax benefits, there must be a minimum level of insurance and investments must be made in a series of annual installments. While policy owners can choose among investment managers, they cannot direct a manager into a particular investment or strategy. If these guidelines are not followed, the IRS taxes any withdrawal or borrowing as ordinary income.

Initial fees for this structure include set-up fees of 2% to 3% of premium dollars contributed. Recurring fees include investment management fees, insurance company administration and overhead charges and the cost of insurance cover. Total annual costs exclusive of asset management fees are typically 1% to 3%.

Contrary to widespread belief, the costs relating to the establishment and maintenance of a PPVUL strategy are surprisingly inexpensive. This approach is therefore an important option for those seeking a flexible tax advantaged comprehensive estate plan providing tax efficiency and access to a wide selection of international asset management options. However, the strategy is most cost effective for estates that can invest US\$500,000 or more in the offshore insurance policy.

PRIVACY, ASSET PROTECTION, TAX DEFERRAL & MORE!

Mark Sola, *The Sovereign Individual*, January 2004

Swiss and Liechtenstein insurance investments are unique in the off-



shore world. They offer near ultimate privacy, safety and asset protection in a very non controversial investment.

Privacy and discretion is the backbone of the Swiss financial industry. It is a criminal offense to divulge information on bank account and insurance policy holders, punishable by fines and in aggravated cases, by imprisonment. The only exceptions are in a criminal investigation.

LIECHTENSTEIN'S SECRECY LAWS ARE EVEN STRICTER

Swiss and Liechtenstein insurance investments are also safe. There has never been a failure of an insurance company in Switzerland or Liechtenstein in the 140 year history of the industry. Asset protection in a Swiss or Liechtenstein insurance policy is guaranteed, without expensive and complex structures. When you purchase an insurance policy in either jurisdiction and designate your spouse as the beneficiary, or another person as an irrevocable beneficiary, the policy is protected against any debt collection procedures instituted by your creditors.

It is important you establish the policy before bankruptcy or other collection procedures have commenced. Swiss or Liechtenstein fraudulent conveyance laws may apply if the policy was established within one year before bankruptcy or seizure, or if the policy was established with the intent to damage creditors.

The asset protection provisions of these laws don't apply in the event of fraudulent conveyance, or if beneficiaries aren't specified in the way I just described. In that case, a foreign judgment can be enforced against the contract. However, creditors must file a claim in a Swiss court, following Swiss legal procedures. This is an expensive undertaking for any litigant. Making a claim against a Liechtenstein insurance contract is even more difficult because Liechtenstein does not enforce foreign judgments. In both countries, the courts generally enforce only actual damages, not punitive damages.

Another advantage of Swiss and Liechtenstein insurance policies is that they are noncontroversial. Purchasing a foreign insurance policy doesn't raise the same level of scrutiny as, e.g., forming an offshore trust. Plus, the reporting requirements for U.S. persons who purchase foreign insurance policies are practically non existent.



AN INSURANCE POLICY FOR ALMOST EVERYONE

Three primary types of Swiss and Liechtenstein insurance policies are available to nonresidents: fixed annuities; variable annuities; and portfolio bonds.

Fixed annuities are available for a minimum US\$20,000 investment and may be purchased in U.S. dollars, euros or the Swiss franc. With some policies, you can also switch currencies after you buy. The policy earns guaranteed interest of approximately 2.5% per annum, plus dividends. In recent years, total returns have averaged about 3.5% per year, plus (in the case of the euro and Swiss franc) some impressive foreign currency gains versus the U.S. dollar.

Variable annuities. Swiss variable annuities, with a minimum investment of US\$50,000, allow you to hold mutual funds within your insurance policy. You can choose conservative, balanced or aggressive management of your portfolio. Unlike a fixed annuity, the value of a variable annuity is not guaranteed.

Portfolio bonds. The Liechtenstein portfolio bond, with a minimum investment of US\$200,000, provides an insurance “wrapper” around nearly any investment, giving you instant asset protection for those funds. The Liechtenstein insurance company opens an account in its name with a bank of your choice. You maintain full control of your assets or you may designate a financial adviser to manage the investments within the bond.

WHY YOU SHOULD OWN NON-U.S. INVESTMENTS IN YOUR RETIREMENT PLAN

Larry Grossman, *The Sovereign Individual*, June 2003

Contrary to what you may have been told by your broker or banker, you can own almost any U.S. or non U.S. investment in your retirement plan, including offshore mutual funds and virtually any kind of foreign real estate.

Imagine owning an exotic beachfront retirement home on a lush tropical island — purchased with the tax deferred dollars you have been saving. Add to that the salary your retirement plan will pay you to manage



the property. The icing on the cake is the freedom from the worries that plague most Americans when they think about their dwindling retirement plan assets.

Most of these opportunities are never made available to the average U.S. citizen — few people aside from the ultra wealthy have ever even known of their existence. Trust me, your regular U.S. broker will never tell you these opportunities exist, probably because he's simply unaware of them himself.

WHY TAKE YOUR RETIREMENT PLAN OFFSHORE?

- 1. Investment diversification.** Many of the world's best investments and money managers will not do business with U.S. citizens directly. They have simply made the choice that it is easier to do business with the rest of the world than to comply with the draconian U.S. rules.
- 2. Higher returns.** There are opportunities in the traditional financial markets, such as offshore mutual funds and London traded investment trusts with much higher returns than are generally available in U.S. markets. For example, the BFS Income and Growth Fund returned 75% over the last year; and the Jupiter Financial Fund has a one year return of 57.1%! These "split capital" trusts aren't normally available to U.S. investors.
- 3. Currency diversification.** Investors looking to stabilize their portfolios can protect their wealth against the falling U.S. dollar by simply holding other currencies (like Japanese yen or Swiss francs). And opportunities in foreign currencies are plentiful — like earning nearly 20% this year on the declining dollar versus the euro.
- 4. "Insurance" from closure of U.S. securities markets.** We all learned the need to have part of our assets outside of the United States when our markets were shut down for five full trading days following the terrorist attacks of September 11, 2001. But although U.S. markets were closed, individuals with foreign accounts were able to trade securities on foreign exchanges.
- 5. Asset protection.** All types of retirement plans have come under attack in the courts. If a creditor gets a judgment against a "qualified plan" that's not properly administered, or a "non-qualified plan" in a state where such plans aren't protected, the judgment is easily enforced. In contrast, if you invest your retirement plan in a suitable jurisdiction



— Switzerland, for instance — it can be configured to be essentially judgment proof.

6. **Financial privacy.** Many people want protection from the prying eyes of business partners, estranged family members and identity thieves surfing the Internet. And financial privacy can be the best protection against frivolous lawsuits that end with big judgments — if you do not appear to have enough assets to justify the time and expense of an attack in an attorney’s mind, he will not view you as a target.

Simply put, assets you place “offshore” are off the domestic asset tracking “radar screen.”

What investments can your retirement plan make offshore? Almost anything! The only restrictions that apply are against most collectibles and some types of insurance. Amazingly, most investment restrictions people have run into are imposed not by legislation, but by the custodian or plan administrator.

For instance, are you interested in international real estate? Well, your IRA or pension plan can own raw land, condos, office buildings, single or multifamily homes, apartment buildings and improved land, so long as the real estate is not for your current personal use.

How about offshore funds? Most offshore funds won’t sell directly to U.S. investors, and even if they did, the U.S. tax consequences of owning most offshore funds can be punitive — unless you purchase them through your IRA or pension plan.

For many investors, their retirement plans have become one of, if not, the largest asset they have. Clearly, it is vitally important to have these assets in a position where they can provide access to the global trading markets, the world’s best investments and money managers and added asset protection. I urge you to act now while you are still able.



AMERICANS ARE BUYING REAL ESTATE OFFSHORE

Robert E. Bauman JD, November 2007

Recently I noted that a large number of American citizens are leaving the good old U.S.A. for new homes abroad.

A 1999 U.S. State Department survey says 4.1 million Americans lived overseas then. In past years, the estimate has been that each year about 250,000 U.S. citizens and resident aliens leave America to make a new home in some other nation. In 2005, the U.S. Bureau of the Census upped this estimate to over 350,000 U.S. citizens and resident aliens leaving the United States permanently each year.

Now comes the U.S. National Association of Realtors (NAR) with an extensive study of official U.S. data sources with the express goal of finding out about Americans who not only live offshore, but are buying new or second homes in foreign countries such as Panama, Mexico and even Switzerland.

To begin to answer the question — what is the level of foreign home buying activity by U.S. citizens and permanent residents — NAR commissioned a study of measurements of those Americans moving, working and/or living abroad and whether or not they purchased a residential property in a foreign country.

The NAR examined several possible indicators of trends including U.S. State Department data on the numbers of Americans living abroad, Social Security Administration data on the number of American retirees collecting Social Security benefits abroad (yes, those checks keep on coming abroad), and Internal Revenue Service statistics on the number of tax returns claiming the foreign earned income exclusion (\$91,400 in 2010 tax exempt for qualifying Americans working offshore).

HUNDREDS OF THOUSANDS ABROAD

NAR data showed some interesting facts:



- The analyzed data suggests that there are possibly as many as 500,000 to 600,000 foreign properties owned by Americans living abroad.
- Analysis of retired American workers living abroad suggests their ownership rate is likely to be in the range of 54,000 to 63,000 properties.
- U.S. workers working abroad and filing IRS Form 2555 (foreign earned income exclusion), suggests that their foreign home ownership rates are probably in the range of 80,000 to 100,000.

Comparison of the estimates from the retirees (based on Social Security data) and those working abroad covered in the State Department base, suggests that American demand for offshore vacation and short-stay foreign properties may be in the range of 370,000 to 440,000 units. Overall, this suggests approximately 150,000 foreign properties owned by retirees and Americans working in a foreign country.

NON-REPORTABLE

Direct ownership of real property in a foreign country, including a time share arrangement, is not a reportable foreign account as defined in U.S. Treasury Form TD F 90-22.1. However, real estate holdings are generally a matter of public record in the country in which they are located and cannot be liquidated easily. If you own the real estate through a holding company or trust, that entity probably will be required to file its own U.S. disclosure and tax forms.

If you wish to purchase and hold real estate in a foreign country without disclosing your ownership, you can do that by placing title in an international business corporation (IBC), trust or family foundation located in a nation, such as Panama, where beneficial ownership does not have to be disclosed. And your IBC or trust does not have to be registered in the same nation where the real estate is located.

One segment that was not analyzed by the NAR was the number of Americans still residing in the U.S. who own properties in North American, Caribbean or Central American countries. This is likely a substantial number, given the easy access to countries in these regions through air transport or even automobile. These figures could substantially add to the overall totals.



CONCLUSIONS

The NAR study shows that Americans abroad tend to be located close to America. Both Canada and Mexico are familiar and close to home. The Caribbean islands have become popular vacation areas for Americans as well as the home of many offshore corporations. The Dominican Republic, with 82,000 Americans abroad, exceeded all of the individual countries in Central and South America.

Brazil, Colombia, Argentina, Costa Rica and Panama have property ownership potential for many Americans, with Panama being the only one of these having in place an official program of tax breaks and discounts to attract foreign residents.

FIVE WAYS TO PROFIT FROM GLOBAL REAL ESTATE

Lief Simon, *The Sovereign Individual*, January 2004

If you've made 10% a year on your U.S. investments in the last couple of years — which isn't bad — you've actually lost money if you count in the dollar depreciation.

Offshore real estate is an excellent hedge against the dollar, the U.S. economy, and U.S. stock markets. It's a hard asset. You can stand on it... and take enjoyment from it, while you watch the value appreciate.

How can you profit from offshore real estate? Specifically, in five ways:

1. *Currency appreciation.* You can still buy real estate in many parts of the world for much less in dollar terms than you could have only a few years ago. A real estate investment you make now with the euro, the New Zealand dollar, or even the lowly Czech koruna has the potential to net you extra profits as the U.S. dollar falls. But this is quickly changing. In fact, the dollar index is down 25% from its high two years ago.
2. *Capital appreciation.* Offshore real estate investments can appreciate faster than U.S. real estate. Because of the low price there is a higher ceiling for appreciation. That's driven by the fact that with the Internet



and e mail, many people can work from anywhere on the planet. In the right real estate markets, it's possible for you to earn returns of 200%...640%...or even 900%. While these returns are exceptional, real estate, as the investment adage goes, "can't go to zero." You can take enjoyment from it, and use it for vacations...while it's appreciating, year after year.

3. *Leverage.* With real estate, you can often get financing to make your investment, and use that leverage to invest a small amount and yet reap the gains on a large amount. While financing outside the United States is generally not as easy to find as inside the United States, it is becoming increasingly available.
4. *Rental income.* Properties that produce rental income that exceeds holding costs will make you money. For instance, the long term rental market in Argentina is well developed and offers good potential, as does the market in France.
5. *Asset protection.* Offshore real estate is an easy way to move some of your assets offshore. There are few restrictions placed on Americans by the government regarding the purchase of property overseas. And once you own property abroad it's extremely difficult for the government, creditors, or anyone else to get at it.

A dwelling in the right offshore jurisdiction offers you a safe alternative if things go bad at home. In the United States, for instance, many Americans fear for their constitutional rights. It seems as though those rights are fading quickly in this age of the USA PATRIOT Act and "homeland security." And although many governments around the world are even worse, others are much less intrusive.



PART THREE — THE FUTURE

AMERICA FOLLOWS ENGLAND'S 20TH CENTURY DECLINE AS WARS, DEFICITS CLAIM EMPIRE

Eric Roseman, October 2009

No other global power since the Romans has dominated the world. The United States will go down in history as the greatest economic and military power — hands down.

Swayed from isolationism in the early 20th century to full-blown global superpower by late 1944, the United States almost claimed its biggest creditor or lender in 2009 — China. The Korean War (1950-1953) almost resulted in an American invasion of China.

The 2007-2009 Global Panic marked the beginning of the end of American financial hegemony. China is now emerging as the pre-eminent economic power and, increasingly, will force harsh creditor terms on the United States just as the latter did on Great Britain after WW II.

Soaring deficits and costly wars ultimately become a real liability for a global superpower. History provides a recent example of how Great Britain went from ruling the world with a vast empire starting in the 18th century until the country bordered on bankruptcy by 1946.

The United States is following the same path in the early 21st century as China continues to gain clout and eventually surpasses America as the largest economy in the world over the next 25 years. Though still the uncontested military power, the United States will reluctantly have to share this role with China over the next several decades as the balance of power shifts from West to East.

Just how long will China continue to absorb U.S. funding requirements is hard to predict. But in a blog last week I quoted retired Hall of Fame hedge fund manager, Julian Robertson, Jr., warning that such a scenario is a growing possibility because of the weak dollar and skyrocketing deficits. Robertson is shorting U.S. Treasury bonds, betting bond prices will decline sharply.



Yu Yongding, a former adviser to the Chinese central bank, the People's Bank of China, expressed concerns to journalists in September 2008 that China was growing increasingly cautious about purchasing more U.S. Treasury debt. In March 2009, Chinese Premier Wen Jiabao lent his voice to warn the United States that China's appetite to buy Treasury debt was not unlimited.

"We have lent a huge amount of money to the United States, so of course we are concerned about the safety of our assets," Wen Jiabao stated at a press conference in Beijing last spring. "Frankly speaking, I do have some worries."

In an October 13 op-ed in *The Wall Street Journal*, Zachary Karabell, author of *Superfusion: How China and America Became One Economy and Why the World's Prosperity Depends On It* (Simon & Shuster) makes a strong case why government deficits matter and how the United States is a sinking economic ship as it increasingly relies on China to obtain ongoing credit financing.

China owns about a one-third of all outstanding U.S. Treasury bonds — more than any other nation. Approximately 80% of its total foreign exchange reserves (now \$2.2 trillion dollars) are denominated in U.S. dollars. By all measures, the Chinese are fenced in, loaded with dollars.

Mr. Karabell's historical illustration below is probably what lies ahead for the United States as its economic and military clout diminishes in the face of relentless deficits and overstretched military commitments: "In spite of its global empire, a powerful military, and an enviable position at the center of worldwide commerce, in early 1946 the British government faced a serious risk of defaulting on its financial obligations. . . It asked the United States for a loan of \$5 billion dollars at zero-interest repayable over 50 years. . . To the surprise and shock of the British, Washington refused.

"Unable to take no for an answer, Britain explained that unless it received funds the government would be insolvent. The Americans came back with a series of conditions. They would lend Britain \$3.7 billion dollars at 2% interest and the British government would have to abide by the 1944 Bretton-Woods plan, which made the dollar rather than the pound sterling the reference point for global exchange rates and required Britain to make the pound freely convertible.

"Even more significantly, Britain had to end its system of imperial



preferences, which meant no more tariffs and duties on goods to and from colonies such as India. These were not mere financial penalties: Taken together, they meant the end of the British Empire.”

I’ve got to believe the Chinese are quietly selling dollars and accumulating gold every time there’s a big seller. The Chinese can’t be openly bullish about gold; so the best strategy is to gradually dilute its vast holdings of Treasury securities (and dollars) in favor of gold and other currencies, which by default, might offer better values than the dollar but are debt-plagued just the same. China is also the world’s largest gold-producing nation since 2007.

A violent economic rupture is inevitable. The global balance of power is changing and that shift from West to East this century won’t be peaceful.

ALL EYES ON CHINA IN 2010

Eric Roseman, November 2009

Are we placing too much faith in China and central banks to save the global economy? The answer appears to be a resounding "yes" and the consequences of this hopeful relationship will be absolutely dreadful once the markets turn against the madness of crowds.

Stocks in the United States are still in the midst of their biggest rally in over 100 years since bottoming in March. The MSCI World Index of mature markets is also posting its biggest gains off March lows since the index was introduced by Morgan Stanley Capital International in 1969. And Chinese stocks have now skyrocketed 137% since bottoming about a year ago.

“Bubbles” are now firmly in place in assets like junk bonds, common stocks, Asian real estate, Latin American financial assets, including domestic currencies, non-dollar currencies and several commodities — mostly in the industrialized metals sector. Hedge fund speculation is back with many managers embracing leverage once again, reminiscent of the pre-2008 go-go days.

There’s no way global industrial demand justifies current price levels when considering the enormous slack still evident in the United States and Europe coupled with weak pricing pressure across every single industry.



Nobody is raising prices. I've got to wonder what sort of economic recovery we have in the West in the absence of massive government spending. The world's biggest economies are still on crutches.

China, which until this decade remained largely an isolationist country since the mid-15th century, is now rapidly being pulled back into the fore as the world seems eager to embrace its financial power and growing economic influence. It's no surprise this shift is occurring at the same time Washington is losing its post-WW II position as the world's only superpower; the United States remains the world's undisputed military champion but 2008 marked the beginning of the end as it pertains to American-style capitalism.

Gradually, over the next 25 years the balance of power will shift to China at the expense of the United States. This transition is inevitable the same way Great Britain reluctantly relented to Germany in the late 19th century and by 1946 was virtually bankrupt relying on U.S. financial assistance.

The Chinese have orchestrated a tremendous state-sponsored economic recovery with almost \$600 billion in stimulus spending and trillions more in government-assisted or forced real estate lending. If investors think China is home to a clean balance sheet, they're wrong; asset values in the biggest cities are clearly in "bubble" territory as speculation runs rampant in places like Shanghai and Shenzhen — many other smaller cities are also in a real estate boom.

As we head into 2010, it is becoming more important to follow the events unfolding in China and, lesser so, in the United States.

Beijing basically controls the big money now and holds the Treasury by the neck as she grows more vocal about the dollar, Treasury bond guarantees and U.S. market regulation. But the irony is that China's economic unraveling is the next shoe to drop over the next 36-48 months because money-supply, bank credit, real estate and stock market speculation make what happened in mortgage-backed assets in the United States look like a side-show. China's lending apparatus is out of control.

If the Fed has done a miserable job controlling inflation since 1913 while basically destroying the dollar, imagine what lies ahead in China. Do you honestly think the People's Bank of China can reign in all this credit without triggering a financial disaster at some point?

History is instructive in this argument because like China, the United



States emerged as a global power after the Spanish-American War in the late 19th century. But even on the road to economic greatness the United States endured several crashes and economic depressions in the 1890s, 1907 and, of course, the 1930s. It's naïve to believe China won't suffer a similar trajectory.

CANADA IN A SWEET SPOT

Eric Roseman, December 2009

Is a strong currency a good thing?

Ultimately, a strong currency is bullish for domestic capital markets since it reinforces the legitimacy of government fiscal policies, trends in domestic consumption and boosts foreign direct inflows. Global investors like buying a rising currency.

But in the age of competitive currency devaluations since the demise of the Bretton-Woods monetary system in 1971, more countries are devaluing against the dollar and vis-à-vis each other. For all intents and purposes, the Chinese export model has exacerbated this secular trend whereby just about everyone else must maintain a competitive currency in order to compete with China's massive export machine.

NOBODY REALLY WANTS A STRONG CURRENCY

Canada, where I was born and currently reside, is home to one of the best-performing currencies in the world since 2003. As a resource economy, she shares this distinction with other commodity currencies — namely Brazil, Norway and Australia. All four currencies have pounded the American dollar over the last six years.

Canada's biggest banks survived the credit crisis with minimal losses and never requested a single dime from the federal government. Most Canadian banks trade near their 52-week highs and some even boosted dividends this year.

Canada is mostly about commodities, including vast oil sands reserves, natural gas, pulp and paper, mineral wealth and gold mining. It's also rich in lakes and rivers and has an enormous supply of clean water. Canada is also America's largest customer for hydroelectric power, pulp and paper



and natural gas among other natural resources. China is also a growing customer as she seeks to feed her insatiable appetite for raw materials.

Canada is now on everyone's bull market wish-list. Institutions love the Canadian dollar or loonie and have lunged after Canadian assets since world markets bottomed in March. Since March 9, the loonie has risen a cumulative 19.7% against the U.S. dollar.

If the United States is still in the midst of a severe real estate bear market then Canada is radically on the other side of the fence. Residential mortgages in Canada require a 25% down-payment and the CMHC, or the Canada Housing and Mortgage Corporation, is a strictly regulated operation where foreign housing agencies look to mimic.

Domestic real estate prices across the nation are still firming with commercial rents still relatively strong and vacancy rates in Toronto — Canada's financial capital — still historically low at roughly 8% compared to more than 18% in the early 1990s when the market was saturated. Montreal real estate, which crashed under the weight of political uncertainty for 20 years, has rebounded sharply over the last 10 years with prices firming again in 2009.

To be sure, Canada's sweet spot faces hurdles — mostly from a soaring loonie and the prospects of a weak economic recovery in the United States.

Canada now sits on its biggest fiscal deficit in almost two decades (C\$55 billion dollars) and is struggling to withdraw monetary stimulus (unlike Australia and Norway) as manufacturing continues to suffer job losses. Domestic spending, which remains brisk, is more than offset by falling demand for Canadian exports and depressed job figures. Canada can't escape U.S. trade ties — currently more than 70% of GDP is derived from trade with the United States.

Despite current challenges, Canada will emerge much stronger from the credit crisis than her big brother south of the border. Relative to other nations Canada still sports a low debt-to-GDP ratio of roughly 33.4% compared to almost 200% for Japan almost 100% in the United States. Canada also has something China wants — raw materials — and lots of it.



THE FUTURE OF ENGLAND

Eric Roseman, November 2009

London: The flight from Vienna to London Heathrow was barely half full. And the usual hustle and bustle so typical of Heathrow was mysteriously absent yesterday afternoon when I arrived.

Indeed, London is not beating to the same rhythm it was just three years ago.

For all intents and purposes, the United Kingdom is basically bust. Its banking system is desperate for capital and has been heavily reliant on The Bank of England for support. This applies mainly to RBS and Lloyd's — both insolvent. The credit crisis almost destroyed the country's financial system by early October 2008; almost 13 months later, this country is printing gobs of money and remains the single biggest purchaser of gilts or British government bonds.

In 2008, the United Kingdom spent more than its entire gross domestic product (more than \$400 billion dollars) recapitalizing the financial sector.

Britain is in the midst of its most severe economic recession since the early 1970s. Some would argue the worst contraction since WW II.

By the early 1970s, things were so bad in England that the country imposed foreign exchange controls; individuals could not take more than £25 pounds out of the country.

Colin Bowen, managing director of the Isle of Man Assurance, reminds investors in his presentations at The Sovereign Society of this incredible statistic; it's also a warning to other nations that exchange controls can and will happen elsewhere as a result of challenging economic conditions. I think several industrialized countries are headed down this path now, including the United States, Greece, Italy, Ireland and possibly others in Central Europe.

By 1977, the International Monetary Fund (IMF) was summoned by the United Kingdom and Italy. Both countries were suffering heavily



largely because of the “oil shock” that decade and had terribly mismanaged their economies. They weren't alone. Many other economies were in shambles.

Compared to 35 years ago, the world is a different place. The mature economies, viewed as safe havens just 11 years ago amid the Asian financial crisis are now on life-support courtesy of government bailouts while Asia, namely China, is the envy of the world with its massive surpluses. Western nations are now debtor countries and, increasingly, Asian countries are becoming creditor nations. And the IMF is busier than ever lending hundreds of billions of dollars to feeble economies.

The United Kingdom will recover. Britain is still home to the second-largest financial center in the world and though it will lose that status to Beijing over the next decade and beyond, so will New York. American financial power since 2008 isn't even based in New York or what's left of Wall Street; it resides in Washington.

We are at the “beginning of the end” after 300 years of Anglo-Saxon financial domination and nowhere is this reality more apparent than in London in late 2009. The city's big buzz has been cooled by the financial crisis. You feel a chill.

Finally, as an investor, there's absolutely nothing I'd buy in the United Kingdom after a huge rally for sterling. Not real estate, not stocks and certainly not gilts. I would, however, short the pound.

Genesis, the rock group, couldn't have said it better when they released their 1973 seminal album — *Selling England by the Pound*. Perhaps today it would be more appropriately entitled “Selling England Short by the Pound.”



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FINANCES & ESTATE PLANNING

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EDITOR'S NOTE

In this chapter we describe the available legal mechanisms that are useful in protecting your wealth and conducting business, such as the offshore asset protection trusts and other trust forms, the international business corporation and the limited liability company.

Most important, we present the philosophy and thinking of some people of wealth, some tycoons who have made it and who "have it made."

And we tell you who the experts are and how to contact them.

UNINTENDED CONSEQUENCES: WHY GOVERNMENT INTERVENTION DESTROYS WEALTH

John Pugsley, *The Sovereign Individual*, June 2009

It is a great mystery to most Sovereign Individuals as to why, in spite of all the passionate rhetoric about the evils of big government, and all of the promises of political candidates to stop it, that growth continues unabated.

Decade after decade, century after century, the number of laws increase, taxes increase, deficits increase and crises increase.

Yet when viewed through the lens of evolutionary biology, these universal and worldwide trends are no mystery at all. All the economic problems that bedevil the world are rooted in human nature in the way in which we are programmed to pursue our own self interest.

BIOLOGICALLY RATIONAL

Biologist E.O. Wilson explained our selfishness in his 1978 Pulitzer Prize winning book *On Human Nature*: "Individual behavior, including



seemingly altruistic acts bestowed on tribe and nation, are directed, sometimes very circuitously, toward the Darwinian advantage of the solitary human being and his closes relatives.”

Self interest, however, is not necessarily the root of all evil. All human progress is a direct but unintended consequence of individuals pursuing their own self-interest.

As Adam Smith observed in *The Wealth of Nations*: “Every individual necessarily labours to render the annual revenue of the society as great as he can. He generally, indeed, neither intends to promote the public interest, nor knows how much he is promoting it...He intends only his own gain, and he is in this, as in many other cases, led by an invisible hand to promote an end which was no part of his intention.”

How is it possible then, that the pursuit of self interest, which has guided us from the cave to the moon, is also the source of the unrelenting growth of government?

The root of the problem is government intervention, in the freedom of individuals to make voluntary exchanges. Basically, the problem is interference with free trade.

STRIKING AT THE ROOT

In common usage, the term “free trade” refers to trade between individuals and businesses in different nations. Intervention in such trade is known as “protectionism,” as its objective is to “protect” domestic industries from foreign competition. Today’s political leaders tend to oppose protectionism because memories are fresh of the effects of The Smoot-Hawley Tariff Act of 1930.

U.S. tariffs were raised to record levels, which caused other countries to retaliate and raise tariffs on U.S. goods. The unintended consequences of intervention in free-trade were to reduce American exports and imports by more than half, and ultimately plant the seeds of world war.

Clearly, interference in free trade between nations has disastrous effects. Unfortunately, the disastrous effects of interference in free trade among individuals within a nation are almost never understood. Each law controlling your choices, whether in the currency you use, the products you buy, your choice of what investments you buy, who you are permitted to buy them from, where you are allowed to invest, and the price at which you



are allowed to exchange your property for that of others, is destructive to your wealth and that of your nation. But that isn't all.

GOVERNMENT INTERFERENCE DISTORTS THE HUMAN CONDITION

Homo sapiens are a problem-solving species; we are ingenious at overcoming obstacles that block us from pursuing our self-interest. Any intervention in our ability to freely exchange the fruits of our efforts for those of others immediately compels us to find a way around the intervention. The moment we find a 'loophole' in the law or regulation, we exploit it, and soon others find the loophole, and the government responds by passing another law to close the loophole, and the cycle continues.

The unintended consequences of this process are a relentless growth of government intervention.

For example, the consequence of drug prohibition is that legal drugs become illegal drugs; then, drug transactions move to black markets. The consequence of black markets is violence, such as gang warfare and murder.

The consequence of violence is restrictions on defensive weapons, rendering citizens helpless against lawbreakers — and their own governments. Each intervention leads to the need for another intervention.

Each law leads to the need for another law.

RATIONALLY CIRCUMVENT INTERFERENCE

We are now engaged in a deep recession that is the unintended consequence of government intervention in free exchange.

Laws giving the government monopoly power over money and the rates at which it could be lent led to excessive credit expansion and speculation, which in turn led to collapse, which led to the government further expanding credit, which led to more laws to control banks and speculators.

And the government leviathan continues to grow, shifting the blame for its prior failures onto the free market itself.

What can you do about changing the persistent, unrelenting growth in government intervention? On the larger scale, nothing.



Concerned activists have battled the growth of the leviathan, and wound up only stimulating that growth, and being corrupted along the way.

Your only rational choice is to strive for individual sovereignty. You must act in self defense. You can conduct your own affairs in a way that does not interfere with the exchanges of others.

The founding principle of The Sovereign Society is that individuals should strive to be sovereign unto themselves and The Society's mission is to find and develop new personal defenses against the ever-expanding interventions of the state.

GRAVE CONSEQUENCES: OFFSHORE ESTATE PLANNING

Derek R. Sambrook, *The Sovereign Individual*, August 2000

“We have left undone those things which we ought to have done; and we have done things which we ought not to have done.” — Book of Common Prayer

This mournful reflection introduces a subject which most of us instinctively wish to avoid: death.

There are many ways of expressing it — demise, departure, expiration, passing on, and the more pithy, bite the dust or kick the bucket (more about this receptacle later). But there is only one way of describing the condition when someone dies without leaving a will: intestate.

This is best avoided for the sake of those left behind. If any of your assets (estate) are offshore, the problems are usually compounded.

Let's take a simple example, for which the names have been changed to protect the innocent and, in this case, also the foolish. The bank in the Cayman Islands only knew that their client was dead when his widow arrived at the offices. Mr. Schubert had established the account only two years ago. Mrs. Schubert showed the last account statement and produced her late husband's canceled passport. She wished to close the account and transfer the US\$600,000 in it back to Europe.

Although her husband had left her a house and movable property, there was little cash available once all debts had been cleared.



The bank manager recalled Mr. Schubert's visit, remembering how the bank's trust officer had advised him to establish a trust to cover the contingency of death. Mr. Schubert had said that he would be doing something, perhaps on his next trip.

The banker conferred with the trust officer. Wouldn't it be all right to give the money to the widow? The response was an emphatic "No!" Only the executor of the estate could give proper instruction to the bank. Otherwise, the bank would be at risk. There are many legal precedents that have found non-executors liable for creditors, tax and beneficiaries' claims.

I could relate many similar tales of woe drawn from my 25 years of experience as a trustee and an executor. In any estate — even if it's insolvent — someone has to settle, at least, with the creditors.

A will is a fundamental necessity, after which the need for a trust can be considered in the light of the nature and location of assets.

Trusts and wills can be domestic or offshore and there can be more than one. It is often wise to have either a will or trust dedicated to your offshore assets. But most people never execute even a domestic will. Of those who do, a good 50 percent rarely review them on a regular basis.

The greatest neglect, however, seems to be reserved for our offshore estate. It is an irony that assets cultivated and protected like orchids in a hothouse during life are abandoned and neglected at our demise.

With offshore assets, an executor will need to appoint agents in each country. Until the foreign courts have accepted the executor's authority, the foreign assets will be frozen. It is not uncommon for several months to pass before an executor's authority is confirmed — especially where all supporting documentation must be officially translated into another language. If there is no will, the delay before an executor is appointed will have a domino effect offshore. All this adds significantly to the costs of winding up the estate.

Most sophisticated offshore investors manage their assets through an offshore company. These companies are like buckets into which assets are poured — real estate, investments, business agreements, bank accounts, etc. The trick is to keep everything in this metaphorical bucket without having it kicked over and spilling the assets.

This is best provided for by a living trust. The holding company shares



are transferred to a trust established and active during a person's lifetime and managed by a trustee. A properly drafted trust deed will guarantee a smooth transition of ownership, whoever dies and when. I hope that some readers who fall into the category of will-evaders are provoked into action.

They should get advice from a qualified practitioner experienced in the administration of estates and trusts so that the only tears shed at the graveside are ones of sadness, rather than anguish and frustration.

Incidentally, Mrs. Schubert left the Cayman Islands empty-handed. Her late husband had died intestate which produced a line of succession that reduced her inheritance significantly. It was only after two years of family squabbling that the funds in the Cayman account were finally released.

Since then, the bank has identified a few foreign inactive accounts with hold-mail instructions and no contact details. Will someone eventually claim them if the account-holder is dead? What if the customer told no one about the account? Depending on the jurisdiction, unclaimed monies in most cases eventually pass to the Treasury. Sad.

This article started with a somber preamble, so let me end with a personal maxim, which conveys the same message, but without the gravity: Ashes to ashes, dust to dust; Wherever the cash is, have a will or trust.

MICHAEL JACKSON: AN ESTATE TO DIE FOR

Robert E. Bauman JD, June 2009

Someone once observed: "Death is more universal than life. Everyone dies but not everyone lives."

Although there are many opinions about how the late Michael Jackson lived his life, no one can say he didn't live – and live large. But one of the many headlines after The King of Pop died last week told of what may be a sad and expensive story: "Estate Has Piles of Assets but Loads of Debt."

WHAT A MESS

"It's all a mess," said an unnamed executive involved in Jackson's financial affairs. "No one really knows what is going on, but these are early days."



Mr. Jackson's business life, like his private and public life, was a mass of contradictions. Administering an estate such as Jackson's requires a military-style operation with scores of lawyers, pro and con, reviewing over reams of contracts.

SHREWD BUT SLOPPY

Unlike many show business performers, Michael Jackson was a shrewd negotiator and investor; in 1985 he pulled off one of the great deals in music business history when he bought the publishing rights to the Beatles songs catalog for \$47.5 million. Today it is part of a larger collection of songs worth more than \$1 billion that he owned in partnership with Sony.

But it was no secret that his personal finances in recent years were a mess. He spent millions of dollars on frequent art and shopping sprees. Neverland, his California ranch, had a zoo, an amusement park and as many as 150 employees, costing millions annually. He nearly lost it last year when he defaulted on a \$24.5 million loan.

MILLIONS SPENT, SCORES ADVISING

Worse still, he burned through financial advisers almost as swiftly as cash, with a revolving door of characters coming in and out of his life, several of whom were hired only weeks ago, in Jackson's latest round of managerial housecleaning. And he was the defendant in numerous personal and business lawsuits, some of which he was forced to settle for millions.

"Michael never thought his personal finances were out of control," said Alvin Malnik, a former adviser who is godfather to the youngest of Jackson's three children. "He never kept track of what he was spending."

WHAT'S NEXT

The big question now is what happens to whatever remains of his assets. So far, that is unclear even to Jackson's closest advisors. They say it could take years to sort through the financial and legal mess left after his death, with a predicted price tag for legal fees alone in the double digit millions.

It is also unclear how much will be left for his heirs. The estimate is that Jackson earned about \$700 million as a performer and songwriter from



the 1980s on, much of it already spent. His debts have been estimated at from \$400 million to \$500 million or more.

To complicate things further, the rumor is that Jackson left behind at least two wills. (In such cases, the law usually recognizes the latest will as controlling if it can be shown to be valid.)

LESSONS FOR OTHERS

Now, why have I gone into such detail about the King of Pop's untimely passing?

Because some day we all will die and the question you should ask right now, today, is whether you're going to leave behind a financial mess for your heirs.

If you're even modestly wealthy, an important component of a successful life is planning what happens to your wealth when you "shuffle off this mortal coil," as Shakespeare said in Hamlet.

TRILLIONS & BILLIONAIRES

A senior U.S. Federal Reserve economist estimates that by 2050, the so-called U.S. "baby boom" generation will pass some US\$41 trillion in assets on to their heirs. That's the largest potential inter-generational wealth transfer in world history.

Forbes magazine estimated that in 2007 there were 482 billionaires in America. A record nine million U.S. households had a net worth of US\$1 million or more in 2006, numbers that likely have been reduced considerably by now. Yes, the richest people have gotten poorer, just like the rest of us. In 2009, the world's billionaires had an average net worth of \$3 billion, down 23% in 12 months.

ESTATE DRAINING DEATH TAXES

There are many good reasons why you should pay close attention to your estate planning: Reducing taxes has to be a major consideration.

A big portion of the federal income tax burden is paid by a small group of the richest Americans. The wealthiest 1% of Americans earn 19% of the income but pay 37% of the income tax. The top 10% pays 68% of the taxes. The bottom 50%, those below the median income level, now earn 13% of the income but pay just 3% of the taxes.



In other words, the rich pay almost double their share, based upon the income they earn. Add to those numbers the fact that about 120 million Americans, 40% of the population, pay no federal income taxes at all because of exemptions, deductions or income level.

Both “wealthy” and the “middle class” Americans get socked with high income taxes in life — and then more taxes in death, but these can be lowered with smart estate planning. Indeed, you can reduce the death tax just by using trusts or gifts during your lifetime. You can give away \$13,000 a year to each individual free of any federal gift tax, thus reducing the size of your taxable estate at death.

DEATH TAX MUDDLE

Keep in mind that the present U.S. estate tax law is a major muddle. By law, estate taxes have been declining since 2001 when the Bush administration and a Republican Congress authorized a gradual phase out of the tax. But estate taxes could be snapping back to the old high rate levels in 2011, especially with Democrats in control of both the White House and Congress. [**Ed. Note:** *At this writing the federal estate tax expired on Dec. 31, 2009. Congressional Democrats say they plan to adopt a new retroactive estate tax in 2010, but its terms are unknown.*]

The amount each individual can leave to heirs free of federal estate taxes in 2009 is \$3.5 million (up from \$2 million in 2008). For any estate valued over that amount, the IRS gets a flat tax of 45 cents of every dollar. Die next year if you want to save taxes for your heirs because from, January 1st through December 31, 2010 the federal estate tax is repealed — zero! But if Congress fails to amend the current law, on January 1, 2011, the old, pre-Bush federal estate tax will be reinstated with an estate tax exemption of only \$1,000,000 and a maximum estate tax rate of 55%.

Still, with retirement accounts, homes and life insurance death benefits thrown in, it's easier than you might think for a working couple to be hit by the federal estate tax. And this tax can be brutal.

NOBODY'S BUSINESS

Privacy is another major reason for estate planning now.

Jocko Jackson was almost fanatical about his privacy and his lawyers are likely to try to preserve that legacy. As a California resident, the singer may have left a revocable trust, the administration of which can keep many



details of the estate secret, compared to a last will and testament that must go through probate court with detailed publicity and accounting.

But while you, too, should consider a creating a trust, it's difficult to place all the assets in a huge, complex estate into a revocable trust. Contracts, royalties, partnerships and other elements of the estate may get left out.

A few years ago a study examined travelers' attitudes and behavior. The study concentrated on individuals from the top 5% of U.S. households with annual incomes of over US\$150,000. The study listed these wealthy individuals' tastes and meticulous demands. According to the findings, these wealthy travelers seem to know exactly what they want when it came to service and comfort.

So one must wonder why so many wealthy people are not so meticulous when it comes to their personal estate planning. Perhaps they think they'll live forever if they just don't think about it.

POST MORTEM MESSAGES

Jack Kent Cooke was a leading U.S. businessman in the 20th century. He grew rich in life, but created financial chaos in death.

The Wall Street Journal reported that when "...he died of a heart attack in April 1997, the 84 year old Mr. Cooke...had amassed a US\$1.3 billion collection of media companies, sports teams and real estate. But he also left a convoluted will, amended eight times, that named seven executors..." The dust finally settled seven years later, after numerous lawsuits and US\$64 million in lawyers' fees.

If ever there was another convincing case for prior estate planning, Anna Nicole Smith's notorious death should be a clincher. She left behind a poorly drafted "last will and testament" for her young daughter, Danielynn Hope. It's a classic example why all of us should act now to avoid such a legal swamp. The 9th U.S. Circuit Court of Appeals will have the honor of hearing the latest episode of the long-running (14 year) litigation saga that's become the legacy of Anna Nicole. Smith, the former model and reality show star, had been fighting for years over the estate of her late second husband, Texas billionaire J. Howard Marshall, when she died in February 2007.



ACT NOW — BEFORE IT'S TOO LATE

These sad examples call for good estate planning advice and prompt action. After all, you've worked hard all your life. Why not devote that same energy to making certain your wishes are followed after you're gone?

At the very least, you should have a will or other means to transfer property to protect your loved ones. Otherwise the state law where you live will decide who gets what. A "means of transferring property" could be a trust, family foundation or jointly title property or financial accounts. (If you're the young one in the family, talk to your aging parents!)

Otherwise, assuming your business and other assets are worth more than US\$3 million; your family could be stuck with a considerable estate tax burden. In fact, your heirs could be forced to hand 55% of your total estate over to the IRS just to pay income and estate taxes.

PROTECTION OFFSHORE

By all means, when you create your estate plan, consider an offshore solution.

By taking part of your estate offshore, to some degree you increase asset protection from domestic U.S. creditors and lawsuits. Your estate can grow safely offshore for your heirs to use later in life. More importantly, your assets can remain confidential offshore; none of the glare and hassle of the U.S. probate process.

If you set up an offshore vehicle like an annuity or life insurance, you can easily pass the title of those vehicles onto your heirs at your death. Best of all, both of these vehicles allow you to defer taxes during your lifetime.

An offshore asset protection trust (APT) is another device that both protects assets during life, and provides for heirs afterwards.

BETTER DEAD THAN IN THE RED

Michael Jackson could be richer in death than he was when his life ended. In the last few days his songs have generated millions of dollars in record, CD and DVD sales, downloads and radio and TV royalties. Elvis Presley hadn't had a hit in years and was worth just under \$5 million when he died at the age of 47 in 1977. Today his name and music earn as much as \$50 million a year. Together, the sales from Jackson's own recordings, plus income from Sony/ATV and his own song catalog would be worth \$30



million a year. And the amounts he spent on his lifestyle would be gone.

“Quite frankly, he may be worth more dead than alive,” said Jerry Reisman of the Hit Factory recording studio, where Michael Jackson produced Thriller, his 1982 best-selling album (109 million sold).

May Michael rest in peace — even if his estate cannot.

THREE WAYS TO SECURE YOUR INHERITANCE

Mark Nestmann, July 2009

Millions of Americans — baby boomers in particular — are expecting or have recently received an inheritance. Whatever its size, you should take steps to protect it once you receive it — or ideally, before.

GREATEST GIFT PARENTS CAN GIVE

The best way to protect your inheritance is to have your parents leave it to you in trust, rather than giving you money directly. If your parents are working with a competent estate planner, that individual may make this suggestion. But if not, you should.

Yes, this can be an awkward conversation. You’re asking your parents to spend money now to ensure that your interests — and possibly those of your siblings — are protected later. But it’s important to have this discussion.

It’s especially important if you’re being sued, expect to be sued, have already suffered a judgment, or simply have an occupation prone to lawsuits (e.g., physician). If you point out that this simple precaution could protect their hard-earned assets from going to legal predators once your parents are gone, they’ll likely be receptive to the idea.

Not just any trust will do: your parents should establish a discretionary trust for you and others they may wish to provide for in their estate. The trust will hold your inheritance for the remainder of your life.

A discretionary trust you don’t fund and that names you as beneficiary provides extremely strong asset protection. (This is known as a non-self-



settled trust.) Based on nearly a thousand years of case law in England and countries that inherited English common law — including the United States — it’s almost impossible for a creditor to seize assets in such a trust. Nor can a creditor force the trustee to make a distribution that the creditor might then seize.

WEALTH PRESERVATION TECHNIQUES

The one downside is that you will never actually own or control those assets.

The trustee of a discretionary trust has complete discretion concerning how much income or capital you or other trust beneficiaries receive. Indeed, the trustee can completely exclude you from any distributions whatsoever. But since you have no legally enforceable right to any of the income or assets in the trust, neither do your creditors.

However, you can make a non-binding request for a distribution anytime. If there are no legal “storm clouds” on the horizon, the trustee will ordinarily comply.

One potential problem with discretionary trusts is the most recent version (2005) of a model act called the “Uniform Trust Code.” The UTC diminishes the ability of a discretionary trust to shelter assets from a beneficiary’s creditors. In most cases, your attorney should draft the trust under the laws of a state that hasn’t adopted the 2005 UTC.

DISCRETIONARY TRUST PROTECTS YOU

A properly drafted discretionary trust protects assets from virtually any creditor — even the IRS!

Let’s say the IRS sends you a notice of tax deficiency for \$100,000. If you have that amount in your bank account, the IRS can simply seize it. But if the assets are in a discretionary trust, even the IRS has no right to force a distribution.

Then there’s divorce. If your parents leave you a few million dollars and you have the misfortune to marry a greedy spouse, guess who receives a big chunk of the money if you later divorce? With a discretionary trust, since you have no rights to a distribution, neither does the greedy spouse in a divorce settlement.

What about bankruptcy? You’re still protected! Courts have held that



bankruptcy trustees can't seize a beneficiary's interests in a non-self-settled discretionary trust.

BEST TIME TO BEGIN ASSET PLANNING — NOW

But what if you've already received your inheritance, without a trust in place? Don't worry. Assuming you have no creditors waiting in line, this is the best possible time to begin asset protection planning. This is because no creditor can make a claim that you engaged in any kind of "fraudulent conveyance" in setting up your asset protection plan.

In essence, fraudulent conveyance laws in effect in all 50 states stipulate that if property is transferred to "hinder, delay, or defraud" an existing obligation or known future obligation, the courts can void that transfer. If no creditors exist when you create the asset protection plan, it's almost impossible for a creditor to later prevail in a legal argument to prove you created the plan in order to defeat the creditor's legitimate claim.

Here are some options you and your professional advisors may wish to consider:

Offshore asset protection trust (APT). Trusts are one of the oldest asset protection instruments devised, however, with a domestic trust that you fund (self-settled trust), you can't generally be a trust beneficiary and also obtain solid asset protection. The best way to obtain asset protection is to form a trust in a foreign jurisdiction that has enacted appropriate "asset protection trust" legislation. (For more information on offshore trusts, see Bob Bauman's *Offshore Trusts: Your Key to Flexible Asset Protection*, available from The Sovereign Society.)

Offshore variable annuity. Offshore trusts are great for asset protection, but don't generally have any tax advantages. If your inheritance or other windfall is large enough that you don't need the income right away, consider investing part of it in a tax-deferred instrument such as an offshore variable annuity. Income earned within an annuity is tax deferred until you cash in the contract or receive payments from it. And if you purchase your annuity in a jurisdiction such as Switzerland, which has very strong asset protection laws for insurance and annuities, your annuity will be sheltered from lawsuits as well.

(For more information on variable annuities, see my report *Amazing Annuities*, available from The Sovereign Society.)



Offshore life insurance. Life insurance enjoys uniquely preferential treatment under the U.S. Tax Code. Not only do earnings and gains accumulate within the policy on a tax-deferred basis, but the death benefit can also pass through to your heirs tax-free. Indeed, with proper structuring, the proceeds can flow to beneficiaries free of both estate and generation-skipping taxes. Combine that with rock-solid asset protection in a jurisdiction such as Switzerland, and you have one of the most flexible estate planning solutions available.

What's the best time to begin planning? Well, you never know when you'll be sued or experience other financial misfortune. That means there has never been a better time to begin preparations...than now!

ASSET PROTECTION FROM A TRUST YOU CREATE YOURSELF

If you create a trust for your own benefit, you have established a “self-settled trust.”

To prevent individuals from creating trusts to defeat their own creditors, English courts — centuries ago — declared that a trust can't protect a beneficiary who also created the trust. Most countries that inherited English law follow this rule, along with most U.S. states.

However, there are exceptions. Beginning about 25 years ago, numerous offshore jurisdictions amended their trust laws to provide asset protection to someone who creates a trust for his own benefit. Several states enacted similar laws including Alaska, Delaware, and Nevada. These “domestic asset protection trust” (DAPT) laws sound good in theory, but most asset protection lawyers still believe that if you want asset protection in a self-settled trust, you should form the trust offshore.

BANKRUPTCY DEMYSTIFIED: WHEN WORSE COMES TO WORST

Mark Nestmann, *The Sovereign Individual*, February 2009

Now is a great time to go broke.

History shows that ancient governments were far less forgiving. The Roman Empire was known to sell debtors and their families into slavery.



And as recently as the 19th century, English citizens who fell deeply into debt were executed!

Fortunately, that's not the case today. Yet the prospect of bankruptcy remains terrifying for many. The truth is — bankruptcy law doesn't merely exist to protect creditors. It's there to protect you. As a last resort, it can safeguard your home...your inheritance...and your business.

But only if you prepare for it in advance.

BANKRUPTCY: A FAST UNFOLDING EPIDEMIC

Today, record numbers of Americans are falling behind. Bankruptcies were up 33% in 2008 — and all signs point to a worsening outlook for 2009.

As the economy continues to unravel, small business owners, entrepreneurs and other high earners are increasingly at risk. No one wants to file for bankruptcy — but that's no excuse to be unprepared.

The good news is, once you file bankruptcy before a state or federal court, creditors can no longer try to collect on your debts. That means no more harassing phone calls, threatening letters, lawsuits, or foreclosures.

Instead, the bankruptcy court appoints a trustee to oversee payment to creditors. Because it allows you to delay, reduce or even eliminate debts, the mere threat of bankruptcy can often keep creditors at bay.

WHICH CHAPTER IS RIGHT FOR YOU?

Under Title 11 of the U.S. Code, several kinds of bankruptcy exist. Here are the most common;

Chapter 7: A complete settlement of all debts, except for certain non-dischargeable debts. These include child support, alimony, most student loans, most tax obligations, and debts incurred through fraud.

Chapter 11: Allows an insolvent business to continue operating while paying off a portion of its debts.

Chapter 13: Reschedules repayment of debts. (This may allow you to keep property that you would otherwise lose in a Chapter 7 proceeding, such as a mortgaged house or car.)

Still confused? I don't blame you. This topic is riddled with myths and assumptions. Most people don't understand what bankruptcy can or can



not protect. So let's set the record straight:

BANKRUPTCY MYTHS

Myth: Bankruptcy Will Threaten Your Retirement Plan

Fact: Federal bankruptcy laws protect all retirement plans that are “ERISA-qualified” and up to \$1.095 million of assets in an IRA or similar “nonqualified” plan. Therefore, one of the most important strategies you can use to protect your assets in bankruptcy is to build up your retirement plan.

Myth: You Will Lose Your Home

Fact: Not necessarily. While most states protect only a few thousand dollars of home equity, six states (Florida, Iowa, Kansas, Oklahoma, South Dakota and Texas) forbid creditors (with a few exceptions such as mortgage-holders) from seizing the equity in your home, with no limit to its value. However, under federal bankruptcy laws, state homestead protection is limited to \$136,875 if you purchased your home within 1,215 days (approximately 3.3 years) of filing for bankruptcy.

Myth: Life Insurance and Annuity Contracts Are Endangered

Fact: Many states exempt assets in life insurance and annuity contracts from creditor claims. These protections vary widely. For instance, Florida law protects the cash value in life insurance policies and annuities from most claims. Note: You can obtain even greater protection by purchasing life insurance or annuity policies in a suitable offshore jurisdiction. Nevis, Liechtenstein, Switzerland, and a few other countries won't enforce repatriation orders in foreign bankruptcy proceedings from properly configured insurance contracts.

Myth: Say Goodbye to Your Company's Assets

Fact: You may be able to protect business property by transferring it into a limited partnership (LP) or limited liability company (LLC). But keep in mind — your creditors can still seize any distributions. In addition single-owner LPs or LLCs provide little if any asset protection, especially if they hold only passive investments.

Myth: Bankruptcy Courts Cannot Touch Offshore Trusts

Fact: An offshore trust can only protect your assets from “claw back” if



it was formed 10 years before you file for bankruptcy. If you can't retrieve these assets, the bankruptcy court can deny your petition for discharge of your debts.

Note: If you declare bankruptcy, you must make a full disclosure of your assets and any planning you did to protect them. If a transfer of assets made you unable to pay your debts, the bankruptcy trustee can invalidate that transfer, or deny your petition for discharge of your debts. The bankruptcy court can enforce the trustee's order with fines, foreclosures, property seizure, and occasionally, even criminal contempt citations (i.e., pay the creditor or go to jail).

MINIMIZE YOUR RISK OF BANKRUPTCY — FOR LESS THAN \$300 A YEAR

Of course, the best strategy is to avoid bankruptcy altogether. One of the most common causes of bankruptcy is the exhaustion of renter's, homeowner's or auto liability policies. One of the best ways to prevent this is to carry enough liability insurance to pay off any reasonably anticipated claim. Since the typical limits on most liability insurance policies max out at \$500,000 or even lower, consider buying an "umbrella" policy. Premiums are surprisingly low. (In most states, you can purchase a \$1 million limit umbrella policy for less than \$300/year.)

BANKRUPTCY IS NOT A DO-IT-YOURSELF JOB

Keep in mind, federal and state bankruptcy laws are diverse and complex. Depending on your circumstances, they can significantly strengthen — or weaken — your financial position. Bottom line — don't file bankruptcy without first consulting a licensed attorney who specializes in this area.

With the right help and smart planning — you can minimize any claim on your wealth and put your life or business back on track.



FOREIGN TRUSTS — ULTIMATE OFFSHORE ASSET PROTECTION

Robert E. Bauman, JD, & David Melnik, QC,
The Offshore Money Manual

Offshore trusts — especially the asset protection trust — can place your wealth beyond the reach of claimants, creditors, irate ex-spouses and even the government of your home country.

If you ever ask a lawyer to define a “trust,” your eyes may glaze over as you listen to something like this:

A trust is a legal device resulting when a person who creates the trust (variously called the “grantor,” “donor,” “trustor,” or “settlor”) conveys all and every legal and equitable right, title and interest that he or she holds in certain real property (the “corpus”) to a second party (the “trustee”), perhaps a faithful friend, professional financial manager or a bank trust department, who holds the assets for the benefit of one or more named persons or entities known as “beneficiaries,” according to the terms of the grantor’s basic trust contract, called a trust “declaration.”

Impressive. Overwhelming. At least it wasn’t in Latin.

Simply put, a trust is a three-way legal device. It allows one person (the trustee) to take title and possession of any kind of property to be held, used, and/or managed for the benefit of one or more other persons (the beneficiaries). The person who creates the trust (the grantor) decides what it will do and donates property to fund it. More simply: the grantor gives money to the trustee to administer for the benefit of a stated beneficiary, being careful all the time not to attract gift and capital gains taxes.

The possible variations on this basic theme are endless. There can be any number of grantors, trustees and beneficiaries. Two parents can entrust four people with money intended to benefit their six children.

The assets placed in the trust can also be varied. You can choose cash, stocks, or any other vehicle you possess.



Whatever the arrangement, the trust must have a reason for being. To create a trust, the grantor signs a lengthy written declaration or indenture describing what he or she has in mind. This document spells out specific details of trust operation including income distribution and trustee powers. These instructions are binding both during and after the grantor's lifetime.

Thousands of court rulings have given unique definition to almost every word and phrase used in a trust declaration. Drafting one correctly requires expert legal advice. Before creating a trust, all estate planning must be coordinated and reviewed; the right hand must know what the left hand is doing.

WHAT A TRUST CAN DO

A trust may be created for any legal purpose that does not run counter to public policy. That is a broad spectrum by any standard. The government constantly attempts to narrow the choices, but the fact remains: you can create a trust for almost any purpose.

A trust can conduct a business. It can hold title to and invest in real estate, cash, stocks, bonds, negotiable instruments, and any other kind of property. Trusts are often created to care for minor children or the elderly. Others are established to pay medical, educational or legal expenses. Again, the possibilities are endless.

For our purposes, there is one very important role a trust can serve, especially an offshore trust. In carefully arranged circumstances, trusts can serve as excellent wealth and asset protection devices.

TRUSTS GO WAY BACK

Before explaining how you can benefit from a trust, let's take a look at the history and progression of this all-important investment device.

Trust arrangements stretch all the way back to ancient Egypt. Ancient Germanic and French law recognized the trust as well. From the time of Mohammed, it was a fundamental principle of Islamic law. In the Middle Ages, the quasi-religious order of the Knights Templar acted as international financiers. They used trusts to help royal and ecclesiastical investors shield their financial activity from the public and one another. Citizens of sixteenth-century England used them to avoid feudal taxes on property inheritances and restrictions on land transfers. In fact, the trust is probably the world's oldest tax shelter.



Over centuries, the trust has been refined repeatedly by practical use and development, especially in England. This process was later carried on in the British Commonwealth nations and in the United States. American judges have played a large role in perfecting modern domestic trusts, producing significant beneficial legal and tax consequences for U.S. citizens.

Trusts are now used most often in personal estate planning. They allow you to pass property title to heirs while minimizing probate court costs, legal fees, and inheritance taxes. Nationally, probate fees (exclusive of taxes) average from one percent to 15 percent of estate value, a substantial chunk. Probate in some states like California can drag on for years while legal fees pile up and beneficiaries are left in limbo.

THE FOREIGN ASSET PROTECTION TRUST

In recent years, an asset-protection device in trust form has gained worldwide popularity.

The foreign asset protection trust (APT) is a personal trust created and based in a foreign nation. It will shield your assets better than any domestic trust ever can, simply because it is located outside the United States. Distance makes the trust grow stronger. This trust shields business and personal assets against demanding creditors, litigation and other unpleasant financial liabilities.

The key to creating such a trust is simple: planning. The APT must be planned and created long before you really need it, at a time of personal financial calm. As a belated response to an imminent financial crisis, it will achieve little. Last minute attempts to create an offshore trust can lead to civil liability for concealing assets or fraud under the “Fraudulent Conveyers” legislation found in American bankruptcy law. In litigation-crazed America, you should not wait for trouble before taking offshore precautionary measures.

As a practical matter, placing title to property in the name of an offshore APT cannot really protect any assets that physically remain within an American court’s jurisdiction. Assets actually transferred to the APT’s foreign jurisdiction, like funds moved to an offshore bank account, are usually safe from a U.S. creditor, even if he knows the account exists.

LOCATING YOUR APT

Certain countries tailor their laws to welcome foreign-owned APTs.



Although these nations may be diminutive in geographic size and total population, their capital cities have well-developed, efficient banking and legal communities. Banking and legal officials understand APT law and finance. More importantly, they want your business and are eager to please.

There are established APT havens all over the world. From the Cayman Islands to the Isle of Man, investors looking for the perfect investment location have a wide variety of options.

STRONG CREDITOR DETERRENT

While the APT concept may be new to you, thousands of American citizens have successfully followed this international road to wealth protection. Here's what makes an offshore APT so attractive:

Start Over: Courts in asset-haven nations usually don't honor or even recognize the validity of U.S. court orders. A foreign creditor trying to collect must re-litigate the claim in a local court, use local lawyers and obtain another judgment. Sheer legal complexity and cost are likely to produce a quick and satisfactory compromise with all but the most determined adversaries.

Minimal Needs: To operate an APT, you'll need little more than a trust account in a local or multinational branch bank. The bank can provide trustees and working staff experienced in trust matters. With modern communications, conducting business will be much like having an account in another American city. Most banks offer US dollar-denominated accounts, often with better interest rates than American financial institutions offer.

More Control: As grantor of a foreign asset-protection trust, you can exercise far greater control over assets and income than American trust law permits. U.S. rules that discourage you from creating a trust for your own benefit do not apply in these countries. In all 50 states and the District of Columbia, a trust with the grantor as beneficiary won't protect against creditors. It will in these foreign jurisdictions.

Fast Acting: Foreign law usually does not support strict application of U.S. fraudulent conveyance and bankruptcy laws. Some countries have a strict statute of limitations on creditor suits; a claim must be filed within two years from the date the APT was established. The Cook Islands has a one-year limit. It may take a creditor longer than that just to discover the existence of an offshore APT.



Investments: An offshore APT is great for diversified international investments. Your trustee handles the paper work, while you give long-distance directions. You can take advantage of the world's best investment opportunities without worrying about restrictive U.S. securities laws.

Flexible: An APT provides added flexibility in the case of personal disability, when transferring assets, or avoiding domestic currency controls. Your foreign APT trustee can even make your mortgage payments and other personal bills on a regular basis.

No Insurance: An APT is a good substitute for, or supplement to, costly professional liability insurance. Such a trust can even be used as an integral part of a prenuptial agreement.

Quick Change: Often the trust declaration contains a force majeure clause that allows the situs, or location, of the APT to be changed at any time. Originally meant to be used in time of war, civil unrest or major natural disasters, this clause can also be activated if the offshore haven decides to change its APT-friendly laws. A complimentary feature in many APT-haven countries is a provision that allows instant acceptance of a transfer of an existing APT from one country to another with no break in legal operation. This can be done merely by filing a registration form and paying a filing fee.

CREATING AN APT

The legal structure of a foreign APT differs little from an American trust. You, as grantor, create the APT, transferring title to assets that are administered by an offshore trustee according to the trust declaration for the named beneficiaries. In some nations the law requires the naming of three trustees, two located in the grantor's home country, and one independent managing trustee located in the offshore country. Most countries do not permit the grantor to serve as a trustee, but they do allow a grantor to retain an unrestricted right to remove the trustees at will. This assures that trust administration reflects your wishes.

Foreign trust law, unlike strict American "arm's length" requirements allows you to be a beneficiary while maintaining effective control over the investment and distribution of the trust principal. The trust declaration can give the grantor a large measure of control, including the right of prior approval of investments or distributions.

Many of these nations require appointment of a local "trust protector."



This individual acts as a neutral party who ensures trust objectives are met and the law is followed. A protector does not manage the trust, but can veto trustee actions in some cases.

PRIVACY IS PARAMOUNT

Most of these countries require very little information about an APT at the time it is registered with the government. The terms of the trust agreement and the parties involved need not be disclosed, and any information filed is not available as part of a public record. The only public record is a registry of the APT by name, date of creation and the name of the local trustee. In these privacy-conscious countries, a trustee is allowed to reveal information only in very limited circumstances, and then usually only by local court order. This offers a distinct privacy advantage over offshore corporations (usually called international business corporations, or IBCs). At least one person involved in organizing a corporation must be listed on the public record. So must the corporate name and address. Some countries require corporate directors to be listed as well. This gives privacy invaders a starting point.

Another issue that worries most people is physical distance.

How can you rest easy when your money is thousands of miles away, in a foreign nation, controlled by an unrelated trustee? This concern is justified, but can be easily overcome. The trick is to choose reliable people to manage your trust. The experts in the legal and banking industries in these nations have extensive experience with APTs. References are in order, and each one should be checked carefully.

We suggest a few reliable contacts below. Call them, and they will be able to set you on the right path.

One thing is certain: your offshore trustee should have no connections that might subject him to pressure from U.S. courts. If you are considering an international bank trust department as your trustee, ask them bluntly what their policy is in such situations. It is better to go with a local, in country bank or trust company. These will be less likely to buckle under pressure from a U.S. court.

WHAT DO YOU PUT INTO YOUR FOREIGN APT

While you need not physically transfer your assets offshore, it is wise to do so. If you don't, it will be easy for U.S. courts to seize them. The



best vehicles for trust investment are cash and evidence of intangible assets. Easily portable assets, such as precious metals, coins, jewelry or gem stones also can be transferred offshore for storage in the APT's name. But remember, if you transfer something other than cash, and you are not the beneficiary, you run the risk of attracting substantial gift and capital gains taxes. Be sure to consult with a professional before moving your assets.

We repeat: simply transferring title to real estate or a business located in the United States to an offshore trust does not remove those assets from the reach of American creditors and courts.

APT COMBINED WITH A LIMITED PARTNERSHIP

One popular option is to combine an offshore APT with an American-based family limited partnership. Because limited partnerships give maximum asset protection and management control guaranteed by law, they are one of the most effective asset protection devices in the U.S. today.

In a family limited partnership, husband and wife might control one percent of the partnership as managing general partners, with title to 99 percent of the shares transferred to your children as limited partners. You can continue transferring property to your children a number of years after the partnership is established.

This is not a drastic surrender of wealth to your children. As limited partners, your children have no control over the assets. You and your spouse, the managing general partners, have all the control. You decide how the money is invested and how the cash is distributed. Although limited partners do own the assets, they are considered inactive owners.

An extra-tough layer of asset protection is achieved when title to the 99 percent limited partnership interest is transferred to an offshore APT. That extra layer of legal distance will make potential creditors think twice before pursuit. To get to your assets they would not only have to show the partnership formation was somehow illegal, but also crack the APT title in the foreign court. An excellent place to utilize this strategy is Scotland, which charges no income taxes on foreign owned limited partnerships.



UNIQUE BENEFITS OF OFFSHORE ASSET PROTECTION TRUSTS:

An Interview with Gideon Rothschild JD,
The Sovereign Individual, October 2002

[Ed. Note: Of all domestic asset protection structures and techniques available for U.S. persons, the “spendthrift trust” offers the greatest asset protection. However, a person forming a domestic spendthrift trust generally cannot be a beneficiary of that trust and still have asset protection. With a foreign trust, you can obtain both asset protection and benefit from the trust. New York attorney Gideon Rothschild, a member of The Sovereign Society’s Council of Experts, explains. TSI interviewed him on August 23, 2002.]

TSI: Could you briefly summarize the options that a U.S. person has to protect their assets in the event of judgment or bankruptcy?

Rothschild: There are many types of assets protected under either state or federal law. State homestead statutes, for instance, may protect some or all of the value of a person’s residence from creditors. Texas and Florida are well known for such statutes.

The federal ERISA statute protects qualified retirement plans. Individual Retirement Accounts (IRAs) are not included under this statute, but many state statutes protect IRAs from creditors. My website contains two articles that discuss state exemptions for retirement plans, insurance and annuities, along with a state-by-state chart for each separate set of rules. The articles are posted at www.mosessinger.com/resources.

Unfortunately, exemptions at the state level generally protect only individuals living in that state. For instance, to benefit from the Florida homestead law, you must live in Florida for at least six months and physically reside in the residence you wish to protect. A new federal bankruptcy law now pending in Congress may extend this period to 40 months.

TSI: What about domestic trusts?

Rothschild: Trusts have been around for hundreds of years, and every state recognizes the “spendthrift trust” rule. They provide highly effective



asset protection. So long as the assets remain in trust, the beneficiary's creditors can't reach them. To qualify for this protection, the trustee must not be required to distribute the assets to the beneficiary at any particular time. Nor can the beneficiary have the right to withdraw the assets.

Retaining property in trust for the entire lifetime of a beneficiary is much more effective to protect that beneficiary from creditors than outright bequests. Parents often worry that their children will have to beg for distributions from the trustee. But there are many ways of providing the children with some degree of control without giving up asset protection benefits, although the more control the beneficiaries have, the less protection there will be. A middle ground may be to give the children half the estate outright and keep half in trust.

LIMITATIONS OF DOMESTIC TRUSTS

TSI: What limitations exist to the protection provided by a domestic spendthrift trust?

Rothschild: There are cases where domestic courts have ordered that a distribution be made from trust for the benefit of certain preferred classes of creditors. However, even this result could be avoided with proper drafting.

Apart from poor drafting, the primary limitation of domestic trusts is that you must give up all rights to the assets you place in trust to obtain asset protection. Otherwise, you have what is called a "self-settled trust." A long line of case law stipulates that such trusts can be invaded for the benefit of your creditors.

There are other potential problems with domestic trusts. What happens if you set up a trust for your spouse, and he or she dies before you do? What happens if you and your spouse become divorced? The only effective way that you can both benefit from a trust and protect the assets you place into it is to use an offshore asset protection trust (APT) structure.

The Cook Islands was the first jurisdiction to enact such laws, followed by Nevis, the Turks & Caicos Islands, St. Lucia, Gibraltar, etc. Each statute differs slightly. Some jurisdictions stipulate that they won't recognize foreign judgments.

If a U.S. creditor tries to enforce a U.S. judgment against a foreign APT, the creditor will have to start an action all over again under the for-



eign jurisdiction's laws, which are generally less sympathetic to expansive theories of liability than U.S. courts. Most offshore APT statutes stipulate that if the creditor loses, it must generally pay the defendant's legal fees. The creditor may even be required to post a bond for this purpose, before litigation begins.

I should emphasize that there are no tax benefits to APTs, although there are many promoters who claim that if you purchase one of "their" offshore trusts, you'll never have to pay taxes again, etc. Falling prey to such promoters can get you into a lot of trouble — avoid them. (See www.ustreas.gov/irs/ci/tax_fraud/index.htm.)

TSI: In recent years, APTs have come under attack in the courts. Some attorneys now say that such trusts are ineffective. How do you react to this criticism?

Rothschild: What the courts have criticized isn't the APT concept so much as the way it has been misused. APTs (and all asset protection planning) should be employed to protect wealth against claims by unknown future creditors, not against claims by persons to whom you currently or in the foreseeable future owe money. If you try to avoid current creditors there are remedies available under state and federal fraudulent conveyance statutes. In some cases that have reached the courts, the person forming the offshore trust (the "grantor") made fraudulent transfers. In others, the grantor retained too much control over the trust assets. But even here, the creditors still haven't been able to get the assets, although in one case, the grantor has been in jail for more than two years for contempt of court.

If you move assets into an offshore APT when there are no claims pending, I don't believe you will be exposed to a contempt of court situation. Indeed, I've had judges on several seminar panels indicate that if you create an offshore trust before a creditor has a claim, they would be unlikely to hold you in contempt.

Now, it's not impossible that another judge might feel that the only way to get even with you for making your assets unavailable to future creditors is to throw you in jail. However, the vast majority of cases involving offshore trusts never reach a judge. They are almost always settled out of court because the creditor realizes that most any judgment won't be collectable. Lawyers working on a contingency basis don't want to waste their time going after someone who is judgment-proof.



ARE STATE APT STATUTES EFFECTIVE?

TSI: In the last few years, several U.S. states have enacted so-called APT legislation. What is your view of these statutes?

Rothschild: Nevada, Alaska, Delaware and Rhode Island have adopted statutes intended to provide the same protection as those in the Cook Islands, etc. However, these laws are untested. If you live in one of these states and form such a trust, and a claim against you originates in that state, the trust might survive. But if you live in Florida, form a Delaware APT, and are sued in Florida, a Florida court might well rule that since the trust is “self-settled,” the assets are available to creditors under Florida law. Then the creditors could seek to have the judgment enforced in Delaware, under the U.S. Constitution’s “full faith and credit” clause. Why take that risk?

TSI: What percentage of a person’s wealth should be placed in a foreign trust?

Rothschild: This isn’t something that can be expressed in percentages. In general, the most conservative approach is the “nest-egg” strategy; keeping sufficient assets in an offshore trust so that in the event of financial catastrophe, you aren’t wiped out. Transferring all your assets to an offshore trust might be viewed with skepticism by a court.

TSI: You’ve discussed primarily offshore trusts so far. Some attorneys are now recommending that U.S. persons use offshore insurance structures for asset protection instead of a foreign trust. What is your opinion of this suggestion?

Rothschild: For individuals with smaller estates, foreign single premium fixed annuities or variable annuities may be appropriate, although U.S. persons aren’t permitted to purchase such contracts in most countries. Usually, you’ll have to form a foreign entity such as an international business company (IBC), and doing so creates its own tax problems. (**Ed. Note:** *Switzerland is an exception — individuals can purchase insurance contracts there.*)

In larger estates, we may recommend the purchase of a foreign life insurance policy through an offshore trust. This provides asset protection and with proper planning, the income earned within the policy is income tax free. The client can designate his own investment manager and depending on how the trust is structured, the death benefit may even be estate tax free.



TSI: Can you provide a few examples of individuals who may be able to benefit from offshore trusts?

Rothschild: My clients have a net worth ranging from US\$1 million to over US\$1 billion. They include doctors who can no longer purchase malpractice insurance because it's no longer offered in their state or because it's become so expensive. Or their carriers have gone bankrupt and they're going "bare." This has become a serious problem in many states.

With the post-Enron scandals, persons who serve on the board of directors of a public company are at risk of becoming targets of class action lawsuits. With stock prices dropping, it's not a question of fault, but of "where is the deep pocket?"

Also, and this is a point that The Sovereign Society has made for years, an offshore trust is an easy way to diversify investments internationally. An offshore trust can purchase foreign currencies, foreign securities, etc.

Nor should one forget history. It was only 60 years ago that Hitler was expropriating assets of wealthy Jews. Today in Zimbabwe, Mugabe is confiscating property from whites. In Great Britain, it was against the law to move assets outside the country until the 1980s. In many Latin American countries, persons perceived as wealthy are at a much higher risk for kidnapping. If the United States ever experiences a significant financial crisis, with the stroke of a pen, the President can prohibit the movement of funds abroad. If you don't have assets offshore in some form, you're defenseless.

You also have greater privacy. Yes, you have to comply with tax laws, but the assets are "off the radar screen" to ordinary creditors.

I think the best testimony as to whether APTs are effective came from a bankruptcy attorney with whom I served on a panel at a legal conference. This attorney is an outspoken advocate of "creditor's rights" and finds the entire concept of APTs abhorrent. However, even he admitted that they are basically inviolable!



CHOOSING AN OFFSHORE TRUSTEE

Derek Sambrook, *The Sovereign Individual*, March 2003

The alarming increase in litigation and jury awards, particularly in the United States, has fueled interest in offshore trusts. Dozens of competing offshore centers have drafted trust legislation purporting to provide “asset protection.”

The popularity of offshore trusts has led to a proliferation of companies promoting offshore trusts. Indeed, advertisements in leading financial magazines offer for sale offshore trust companies that are “legal, legitimate and affordable.”

That tag can apply equally to firearms, which, like trust companies, are potentially hazardous in the wrong hands. Amateurs managing trusts can be like children playing with guns, unable to perceive the dangers present.

These include not only errors in drafting or administering a trust, but the improper use of other structures that may be connected to the trust. We live in a complex world of elaborate strategies and exotic products, the use of which is dangerous in the hands of the novice trustee. The glossy advertisements for offshore trust companies neglect to inform prospective trustees of these dangers.

Critical errors can be made even before the administration of a trust begins. Trustees may cut corners by cannibalizing pre-existing trust deeds and presenting a defective document to the client. Concealed defects often have a long incubation period and may not become apparent for years, by which time the problems may have compounded.

A “boilerplate” deed prepared by an offshore trust promoter will not necessarily provide for your special needs. Such a deed will, however, remain a convenient option for the novice trustee who, more often than not, is also involved in the marketing of the product.

In seeking protection offshore, you do not want to go from the frying pan into the fire. You need the help of specialists, not salesmen. A qualified and seasoned trustee can serve as a safety net by attempting to provide remedies or divert disasters resulting from zealous marketing.



In my 30 years as a trust and estate practitioner, I have seen many such disasters. In one case, inexperienced trustees tampered with a boilerplate trust deed and in doing so, omitted a crucial clause that covered the “rule against perpetuities.” This rule, in those jurisdictions where it is observed, does not allow a trust to exist in perpetuity, and if the deed omits the vital provisions, the trust will be void from its inception.

The error only came to light several years after execution of the trust deed and the resulting tax consequences for the trust settlor turned out to be extremely costly. The corporate trustee was faced with a resulting lawsuit, which practically put it out of business.

In another case, a trust deed provided for a discretionary class of beneficiaries, any one of which could be chosen by the trustees to receive assets from the trust. Crucially, the list of beneficiaries could not be altered: no new names could be added and no existing names could be removed.

By misinterpreting the straightforward provisions of the deed, the trustee created a new trust, but only included two instead of five of the names in the class of beneficiaries recorded in the original trust deed.

Practically all the assets, which were substantial, were transferred to this new trust. The trustee had never made any distributions in the past, but now did so from the new trust. In exercising its discretion, but excluding some of the original beneficiaries from the process, a breach of trust resulted, and the bank trustee found itself in court.

The lesson from these experiences is that just as you should weigh the virtues of an offshore jurisdiction against the level of regulatory competence it offers, so should you select the trustee in a jurisdiction by first judging his or her ability.

It is, in my opinion, more important to choose the right trustee than it is the jurisdiction. After all, this is the age of electronic wizardry where, with qualification, the physical location of the trustee becomes more and more academic.

So, if you are confronted by a trustee who believes that a bare trust is associated with nudity, that an express trust is somehow quicker to manage than a normal one and that the legal definition of the three essential elements of a trust is a client, his checkbook and a pen, I suggest a hasty departure.



I subscribe to the observation made by Ralph Waldo Emerson: “If a man write a better book, preach a better sermon, or make a better mouse-trap than his neighbor, ‘though he build his house in the woods, the world will make a beaten path to his door.’”

If you find yourself either on an arduous journey into Tibet or slashing your way through the Central American jungle, but sure of finding the right trustee, console yourself with the thought that it will be well worth it.

I also think that the choice of trustee should be made after a personal visit to a short-list of practitioners. The initial meetings themselves will normally send you positive or negative signals, although it is very important to see through the fog of pleasing personalities and smiles when trying to determine the quality of management.

“What are your trustee qualifications and what is your experience?” These are the two most important questions to ask when choosing an offshore trustee because all other considerations or concerns should be secondary in importance. The Watergate moment, as I describe this interrogative approach, has been known to make some offshore trustees very uncomfortable when providing the answers.

U.S. TAXES & FOREIGN TRUSTS

Robert E. Bauman JD, May 2007

Unlike almost all other nations, the United States taxes all worldwide income of its citizens and of those persons with permanent U.S. resident status (green card holders), regardless of where they actually live in the world. Many nations exempt their citizens from some or all taxes if they live abroad. U.S. Internal Revenue Code (IRC), sec. 61 states: “Except as otherwise provided... gross income means all income from whatever source derived...”

The IRS and courts interpret this to include income of every nature and wherever it may be earned in the world, including offshore trust income. For tax purposes, the IRC defines a “U.S. person” as any individual who is a U.S. citizen, a U.S. resident alien deemed to be a permanent resident or a US domiciled corporation, partnership, estate or trust. Under U.S. tax law, foreign asset protection trusts as such are “income tax neutral,” as are domestic trusts.



That simply means that the trust itself is not liable for taxes on its income. That's because all trust income is treated as the trust grantor's personal income, reportable annually as gross income on the grantor's personal income tax IRS Form 1040 and taxed accordingly at applicable personal income tax rates.

The fact that a grantor's trust is located in a foreign nation does not remove the U.S. trust grantor's personal obligation to report trust income. It is virtually impossible for a U.S. person to avoid taxation on the income of a foreign trust that has any U.S. persons as beneficiaries. IRC section 679(a)(1) states: "A U.S. person who directly or indirectly transfers property to a foreign trust . . . shall be treated as the owner [of the property] if for such year there is a U.S. beneficiary of any portion of such trust during any taxable year."

Decades ago, long before changes in U.S. tax law spoiled the party, no-tax and low-tax haven nations vigorously promoted the creation of offshore asset protection trusts and corporations. Americans flocked to such places to do business, taking advantage of the unusually generous treatment the IRS then applied to offshore trusts. In those quaint days of yesteryear, before the IRS caught on to what was happening, deferred income and interest were allowed to accumulate tax-free as long as it remained in the foreign trust. Taxes came due only when income distributions were made to the beneficiaries.

The number of Americans using these tax-avoidance devices grew, and the tax Nirvana's days soon were numbered. It couldn't last, and it didn't. Today, without crossing the line into tax evasion, there is not much a foreign trust can achieve in the way of income tax savings that can't be done just as well with a domestic trust.

But what an offshore trust does offer that a domestic trust cannot is solid asset protection enforced by the fact that the trust assets are located in an offshore nation.



THE INCOMPARABLE FAMILY FOUNDATION

Robert E. Bauman JD, October 2007

Many Americans have never heard about a unique, secretive legal entity called a “private family foundation.” It’s used by informed wealthy people for simple, yet strong asset protection, wealth distribution and estate planning.

A family foundation is an independent fund that you can set up specifically for your family.

Unlike other legal entities, a foundation has no shareholders, owners, or members, just beneficiaries who are family members related by blood or marriage. Foundation assets and beneficiaries’ interest cannot be assigned, sold, or attached by personal creditors. Only foundation assets are liable for its debts.

The family foundation originated years ago in Liechtenstein where wealth protection is a national tradition. Its success caused it to be copied in the laws of Austria and Panama and more recently by The Bahamas and St. Kitts & Nevis. No other nations offer this incomparable entity.

Because of U.S. tax laws, Americans associate a “foundation” with a non-profit, tax exempt organization that engages in charitable purposes. But this unusual family foundation is an independent, self-governing fund made up of assets and cash endowed by the foundation founder, usually the senior family member, for the specific purpose of family support and assistance. If properly created, its assets are immune from attack by creditors of either the founder or the family member beneficiaries.

This tax-free family foundation can be used for investment, tax sheltering, commercial business share ownership, and private activity, with the founder retaining lifetime control of the foundation and its assets.

MORE CONTROL

One big selling point: a family foundation is easier to use than a trust, since it isn’t hampered by many restrictive trust rules that prevent control



and management by the trust creator. The founder is able to have considerable influence over the managing board of directors.

Creation of a family foundation in one of the few nations where it is recognized in law is relatively simple. Generally foundation activities must promote non-commercial purposes, such as support of the family, but it can invest in, own, but not directly manage commercial businesses.

Foundations may be created by a deed, under the terms of a will, or by a common agreement among family members. Depending on the nature of the family foundation activities, for tax purposes the U.S. IRS may treat it as a trust, with similar IRS reporting requirements.

The founder's name does not need to be public and the foundation is managed by an appointed board of directors whose names may be kept private. At least one individual must be a board member, but additional directors of any nationality or residence are allowed and they can either be individuals or corporate or trust entities. The great majority of foundations formally are set up by local, in-country attorneys who specialize in foundation and trust law.

OWNERSHIP PROTECTION

No question that the assets and property held within a foundation is exempt from almost all outside attack, save the foundation's own debts. But does a foundation protect property placed in its name if that property is located in the United States or some other nation? Should you place title to your Florida family homestead, a Mercedes SUV or a yacht in a far off family foundation?

The simple American rule is that any property that remains physically within the jurisdiction of a state court or U.S. federal court is fair game for the government or for private lawsuits. It makes no difference how that property is titled. But if that title is in a Panama or Liechtenstein foundation, it will take a major legal effort on the part of claimants to untangle ownership.

WATCH OUT FOR TAXES

A family foundation is not subject to any form of local income tax, capital tax, transfer taxes or inheritance taxes in the offshore nations where they may be located. American taxes are a different matter.



Depending on the nature of the family foundation activities, the U.S. Internal Revenue Service may treat a foundation as a foreign trust, with similar IRS trust reporting requirements. When a foreign trust owns shares in a foreign corporation, the U.S. person who provides the funds to the trust or to the foundation is deemed to be the owner of the corporation for U.S. tax purposes. A U.S. person who has authority to direct the use of funds in a foreign financial account must file the U.S. Treasury Form TD F 90-22.1 annually describing the account activity.

WORTH CONSIDERING

If you're interested in exploring the creation of a foundation for your family, you need top quality tax and legal advice, both in your home country and in the offshore nation where you may decide to locate your family foundation.

The family foundation definitely is worth considering for strong asset protection and flexible management.

ABOUT INTERNATIONAL BUSINESS CORPORATIONS (IBCs)

January 1998, Scope Books

As our world becomes smaller, we think, plan and work with an eye toward expanding our horizons both at home and abroad. The use of a corporate vehicle as a means of this expansion is nothing new. What is new and what must become second nature to PTs of all types is the idea of "foreign" corporations.

No longer will a domestic corporation satisfy one's needs. The average business person today is far more sophisticated than the business person of even 10 to 15 years ago. Corporate structuring and planning have achieved higher levels of complexity than ever before, while the need for anonymity remains strong.

Professionals must keep pace and be constantly on the lookout for new ways to assist clients.

One way is to have a clear understanding of the characteristics of foreign



corporations and how they may be put to advantageous use.

Foreign corporations are used outside of the place of incorporation for a variety of activities including trading, trade financing, holding assets, manufacturing and tax minimization. They are often used for trading with or in countries where satisfactory local commercial or corporate law is deficient or absent. Joint ventures often use foreign corporations when the participants are from different countries and prefer to incorporate in a jurisdiction neutral to all of the parties.

Foreign corporations can also serve to isolate or separate activities, assets or profit centers for tax, accounting or liability reasons. Where assets are cumbersome or expensive to transfer, like patents, copyrights or trademarks, it is sometimes feasible to have such assets held by separate corporations allowing the individual to transfer the shares in the corporation rather than the asset itself.

In some cases, a foreign corporation, recognized as a citizen or national of the place of incorporation, may confer a trade advantage or may help avoid a disadvantage. It may also be used as an integral part of a trust structure.

Certain countries, moreover, seek to make it attractive to incorporate in their jurisdiction, even when activities are to be conducted elsewhere. In fact, there are so many “tax efficient” jurisdictions that an initial problem for most users is how to select from the available options.

When selecting a place to incorporate, most professionals emphasize the following criteria:

- the legal and political attitude of the jurisdiction toward commercial activities;
- features of the corporate law that facilitate incorporation and continuing management;
- the level and speed of service obtainable in and from the jurisdiction; and, cost.

Generally, a desirable jurisdiction should be politically neutral, follow a policy of free trade, not interfere with the commercial activities of corporations established there, and be politically acceptable to other countries and places in which the corporation may be trading. Formal diplomatic recognition as well as commercial recognition and acceptability are im-



portant. Commercial recognition is a feature of an offshore jurisdiction that is earned. Use of a jurisdiction in financial transactions allows banks to become familiar and more comfortable with its legal system and forms of corporate documentation.

Most popular jurisdictions have a legal system derived from a major western country and greatly favor corporations which are non-resident in nature. Professionals prefer their western style legislation since it provides a familiar basis for legal interpretation and facilitates understanding of their laws in international practice, particularly in developed countries. In addition, there is inherent in the western tradition the protection of private property and the promotion of international trade.

In order to be successful, a corporate law must provide those entities under which it is formed with the legal capacity to conduct all forms of commercial activity anywhere in the world, allow for a simple management structure and provide the corporation with broad financial powers. In addition, they should be highly confidential and have minimal requirements for maintaining the legal existence of the corporation in compliance with the laws of the place of incorporation.

All jurisdictions have at least two maintenance requirements: 1) maintaining an agent for the service of process; and 2) paying an annual franchise fee or tax. In jurisdictions patterned on United States law, there are generally no further requirements. This should be considered when choosing between a United States or a United Kingdom-style jurisdiction.

U.K.-style jurisdictions usually require annual filings regarding directors and officers and at a minimum will request that the annual accounts of the corporation be maintained in the jurisdiction. Such accounts may be subject to review by the Registrar, but in some cases need not be filed.

This is one major advantage of the U.S.-style jurisdictions over those following the U.K. model. Finally, formation services should be easy to obtain and should guarantee corporate existence in one or two working days. The level of service between jurisdictions varies. There can be variation within the jurisdiction in a situation where there is competition between rival franchises engaging in the business of incorporating "off-shore" companies.

An organization able to offer a wide range of services is undoubtedly able to provide the best service; one that is most adequately equipped with



trained personnel to handle questions informally, and that has a larger base of experience upon which to draw when answering these questions. Costs may vary considerably, with incorporation fees varying from US\$575 to US\$3,500.

Minimum annual fees vary from US\$350 to over US\$1,000, depending on the jurisdiction and the local maintenance requirements. There should be no other mandatory fees or charges either upon incorporation or for the maintenance of the corporation.

U.S. TAXES ON IBCs

Robert E. Bauman JD, 2009

Most income of an offshore corporation controlled by a US person is reportable as income of that US person on the individual's annual IRS Form 1040 or other IRS forms.

U.S. court decisions strictly interpret obligations of a U.S. person actively involved in an offshore corporation. These cases attribute “constructive ownership” to the involved U.S. person as an individual, or find actual control exists based on a chain of entities linking the U.S. person taxpayer to the offshore corporation. The courts seek to identify the U.S. person with actual corporate control, as compared to stand-in paper nominees with only nominal control.

There was a time decades ago when U.S. taxpayers, corporate or individual, could defer some taxes by establishing an offshore corporation. Back then, the foreign corporation was viewed under U.S. tax laws as a foreign entity and shareholders had to pay U.S. income taxes only on dividends. Now the IRS “looks through” the corporate arrangement and taxes U.S. owners annually on the offshore company’s earnings as well. If corporate income is primarily “passive” income, such as income from securities or interest, the IRS imposes penalty charges on the corporate shareholders.

There are some exceptions. First, the “look through” rule only applies to controlled foreign corporations (CFCs) that have passive business activities. Thus, you can defer taxes on income from non-passive activities such as real estate management, international trade, manufacturing, banking, or insurance.



A second set of IRS rules that tax offshore corporate profits are those that apply to what is called “passive foreign investment companies” (PFICs). In order to avoid a PFIC classification and tax penalties, at least 30% of the corporate income must be “active” income from the categories described above, plus management fees charged by the company.

THE IRS “PER SE” LIST

For U.S. persons who control shares in an offshore IBC, there are major limitations on U.S. tax benefits that would otherwise be available to a corporation formed in the United States. That is because the offshore corporation is probably listed on what is known as the IRS “per se” list of foreign corporations, which appears in IRS regulations, section 301.7701-2(b)(8)(i). The listed corporations are barred from numerous U.S. tax benefits.

This means that U.S. persons cannot file an IRS Form 8832 electing to treat the corporation as a “disregarded entity” or a foreign partnership, either of which is given much more favorable tax treatment. Under IRS rules, the per se corporation that engages in passive investments is considered a “controlled foreign corporation,” which requires the filing of IRS Form 5471 describing its operations.

U.S. persons also must file IRS Form 926 reporting transfers of cash or assets to the corporation. A U.S. person who controls a foreign financial account of any nature that has in it \$10,000 or more at any time during a calendar year must report this to the IRS on Form TD F 90-22.1. There are serious fines and penalties for failure to file these IRS returns and criminal charges can also be imposed. As a general rule, U.S. persons can be guilty of the crime of “falsifying a federal income tax return” by failing to report offshore corporate holdings.

Any eventual capital gains an IRS-listed per se corporation may make are not taxed in the U.S. under the more favorable CGT rate of 15%, but rather as ordinary income for the corporate owners, which can be much higher. There is also the possibility of double taxation if the IBC makes investments in the U.S., in which case there is a 30% U.S. withholding tax on the investment income. Under U.S. tax rules, no annual losses can be taken on corporate investments, which must be deferred by the U.S. owners until the IBC is liquidated. However, compared to these IRS restrictions, there may be offsetting considerations, such as complete exemption from foreign taxes, which may be more important in your financial planning.



Therefore, it is extremely important that U.S. persons obtain an authoritative review of the tax implications before forming an offshore international business corporation for any purpose, including holding title to personal or business real estate.

THE LIMITED LIABILITY COMPANY

March 1996, Scope Books

The limited liability company (also called an LLC) is a form of business entity increasingly popular in the United States and some tax haven jurisdictions, although a similar entity has been available in Germany, France, and many other countries for decades. Until its recent acceptance by a number of U.S. states, the business executive had three common choices when forming a business: the sole proprietorship, the corporation, or the partnership.

The LLC is a hybrid between the partnership and the corporation. It has all the flexibility of a partnership to define its own management structure, rules of procedure, voting rights, distribution of profits and a myriad of other details. The structure is created by a contract among all the parties.

At the same time, if structured properly all the members and the management will enjoy limited liability typical of a corporation.

It is generally assumed that the combination of these two elements will be the reason most LLCs are formed, although there is a great deal of latitude with regard to the structure. Because it has partnership elements, in most jurisdictions that do not tax partnerships as entities but pass the tax liability through to the partners, the LLC is an attractive option.

The origin of the modern LLC laws allowing limited liability companies is in the German law of 1892 which created the GmbH (Gesellschaft mit beschränkter Haftung). In the 60 years which followed, almost 20 countries adopted similar laws. In France, for example, the same type of company is known as the SARL (Société de Responsabilité Limitée). In Central and South America it is known as the limitada.

In the U.S., the first state to adopt a modern limited liability company statute was Wyoming, on March 4, 1977. Florida followed in 1982. Legis-



lation was passed in Delaware in July 1993 that now provides for Delaware corporations to convert their status to LLC by merging the old corporation into a new LLC. The LLC may take the same name as the corporation.

The IRS gave assurance the entity could qualify to be treated as a partnership on September 2, 1988, in Revenue Ruling 88-76. In February 1993, the IRS issued four revenue rulings describing the classification standards that apply to LLCs that desire partnership tax treatment.

As the LLC steadily gains popularity as people learn its benefits, it could replace the partnership and the corporation as the preferred entity. Now the LLC is being adopted by various tax haven jurisdictions, including the Turks & Caicos Islands, Nevis, the Cayman Islands, the Channel Islands, and the Isle of Man.

An LLC is taxed in substantially the same manner as a limited partnership in most jurisdictions that have both limited partnerships and LLCs, without the disadvantages that limited partnerships have with regard to liability. A limited partnership must have at least one general partner who is liable for debts of the partnership, while all of the members of an LLC may be protected from such liability. The participation of limited partners in the management of a limited partnership can result in a loss of limited liability protection, while such participation by members of an LLC will not have such effect, provided such management does not violate the applicable LLC statute.

Generally, each party to an LLC must agree to a contract with all the other members that will become the “constitution” of the company. This document may be called a company agreement, articles of organization, or even minutes of the first meeting of members, depending upon the jurisdiction.

Companies planning to operate their business in a jurisdiction that does not currently recognize LLCs should seriously consider the consequences of possibly losing their limitation on liability in that jurisdiction, before forming an LLC.

The corollary of this is that since the form is well recognized in a number of civil law countries, foreign investors may find it a useful vehicle for making investments in those countries, since the legal and tax status will be relatively clear. It is important to remember that in those countries to which the entity is new, this is a rapidly evolving area of law and it may



be a while before matters are fully settled. Sole owner companies cannot be LLCs (except in Texas, which permits one member, but it is not known yet if that will be recognized for federal tax purposes).

An LLC must have two members, by definition, or it automatically dissolves. (Of course, the second owner could be a children's trust or a family limited partnership holding one percent.) And most jurisdictions have allowed two corporations, both owned by a single parent, to be the members of an LLC.

Keep in mind the laws of individual jurisdictions are still evolving, as is the treatment by the tax authorities that deal with LLC entities.

FOUR STEPS TO PROTECT YOUR BUSINESS & YOU FROM LAWSUITS

Mark Nestmann, *The Sovereign Individual*, September 2009

The best possible way to build wealth is to start your own business. However, when you own a business, you're at risk for lawsuits. And the more successful your business is, the more likely it will be sued.

You have two asset protection objectives with respect to your business. You can isolate business liabilities to business assets in order to protect your personal assets, or you can structure the business so that personal liabilities won't jeopardize your business or its assets.

These objectives are simple to state, but much more difficult to accomplish in practice. But if you build your business on a solid asset protection foundation, they're 100% achievable.

RULE I: SEPARATE "YOU" FROM "YOU, LTD."

If you own your business as a sole proprietor or as a partner in a general partnership, you're 100% responsible for any business liabilities.

Rule #1 of asset protection for a business is to set up an entity separate from you (call it "You, Ltd.") to operate your business. You, Ltd. in most cases should NOT be a corporation.

There are at least three reasons why a limited liability company (LLC)



offers better asset protection than a corporation for most enterprises. State laws authorizing LLCs generally bar lawsuits against an LLC owner (“member”) for the liabilities of the LLC. Fewer formalities (minutes, meetings, resolutions, etc.) are required to maintain an LLC in good standing than a corporation.

If you experience a personal judgment unrelated to your business, it’s more difficult for a creditor to collect from your interest in the LLC than to seize the shares you hold in a corporation. This is due to the “charging order” concept. Generally, a creditor with a judgment against a LLC member can only attach cash distributions the company makes. It can’t force a distribution, nor demand dissolution of the company. However, this protection is greatly diminished for single-member LLCs, especially in bankruptcy proceedings.

You should usually form your LLC in the state in which you conduct business. If you conduct business in more than one state, form the LLC in the state that has the best entity law and/or the lowest costs. Your attorney can help you make this decision.

RULE #2: KEEP YOUR BUSINESS AND PERSONAL AFFAIRS SEPARATE

In order for your LLC to effectively isolate liability, you need to operate it as an entity truly separate from yourself. Among other requirements, this means you should:

- Document in writing major transactions and business engagements
- Keep enough money in the LLC so that it can pay all its bills
- Open a bank account for the LLC and use it for all the LLC’s financial transactions
- Have business expenses billed in the name of the LLC
- Never allow the LLC to use your personal assets (or vice versa) without a written agreement authorizing such use and establishing fair-market compensation for such use
- Make certain the LLC is compliant with all tax obligations
- Pay annual fees to the state in which you form the LLC to keep it in good standing



WARNING: Don't personally guarantee the debts or obligations of your LLC. If you do so, your LLC will lose its separate entity status with respect to that obligation.

RULE #3: CREATE A WRITTEN AGREEMENT FOR YOUR LLC

Many business owners don't bother to create an operating agreement (OA) for their LLC. Or, they use a "boilerplate" OA their incorporator provides or that they download from the Internet.

That's a big mistake. Without a comprehensive OA, state law rather than your intent governs what happens if one owner wants to sell, or if a member dies, declares bankruptcy or experiences a judgment.

In addition, if your LLC opens a bank account, borrows money, or buys real estate, you'll probably need to prove the OA authorizes these actions. Even a single-member LLC should have a written OA.

Your attorney should draft the OA to define the roles of each member, how assets are to be distributed, and how the LLC will be operated. The OA may also include asset protection provisions that prohibit members from selling, encumbering or transferring their interests in the LLC without first giving the company and other members a right of first refusal to acquire the membership interest. Moreover, the OA (or a separate buy-sell agreement) should set out a procedure (and a price) for the LLC and its members to acquire the interest of a member who wants to sell or retire.

RULE #4: USE AN EXPERIENCED ATTORNEY TO FORM YOUR LLC

There are a multitude of other issues relating to asset protecting your business that I'll discuss in a future column: the importance of liability insurance, estate planning using LLCs, and how to "equity strip" your LLC so that the assets in it don't look like a plump juicy roast to potential litigants.

But I'll leave you with one final thought: even if you're a penny-pincher like me, forming a LLC, or any other business entity, is a job for an attorney, not a do-it-yourselfer. In the end, whether your LLC is effective at isolating liability, or not, is a function of how you form and operate it.



YOUR LAST LINE OF DEFENSE AGAINST BANKRUPTCY, LAWSUITS, & CREDITORS

Marc-André Sola, *The Offshore A-Letter*, January 2007

You may have heard that if you buy U.S. insurance or annuity contracts in states like Florida or Texas, then these assets are protected from your creditors. But, regardless of what domestic laws promise, real asset protection can only be found abroad. It's simple: if you protect your assets in a jurisdiction where a U.S. judge has no authority, then U.S. creditors won't be able to reach them.

The most effective and strongest asset protection can be achieved by investing through policies in Switzerland and Liechtenstein.

If you establish an annuity or insurance policy under Swiss or Liechtenstein laws, the policy is fully protected from your creditors. Once you've set up your policy correctly, a U.S., Canadian, or other foreign judge can order that your policy to be seized and still your policy remains protected. Both Switzerland and Liechtenstein have laws in place that will protect your policy regardless of what a foreign judge says.

In earlier articles, I've focused on the legal aspects of Swiss and Liechtenstein policies. I've commented on how the policies need to be established and about fraudulent conveyance rules. So today, I want to share with you some real life examples of how an annuity could work. The following stories were experienced by two of our clients.

A CPA IN FLORIDA

In the early 1990s, a CPA from Florida came to our office and purchased a Swiss Annuity. At that time, this CPA was very successful in his business and he advised only the wealthiest clients. In 1995, the CPA decided to retire, but he kept advising some of his largest and most affluent clients.

But disaster struck in the late 1990s. The CPA gave incorrect counsel to one of his clients. It was entirely his fault and he was certainly negligible since he had failed to keep abreast of legal changes in his profession. The



CPA's client took him to court and the retired CPA lost his assets in the suit that followed.

Of course, creditors also tried to seize his Swiss annuity. I say "tried" because they tried and failed to liquidate and seize the assets safely housed in his annuity policy.

To this day, the Floridian CPA lives off the income from his intact Swiss annuity policy.

THE HOTEL OWNER IN CANADA

In the late 1990s, we had a client domiciled in Canada. This client was a wealthy woman, who owned several hotels. Unfortunately, at a certain point, her business turned sour and she had to file for bankruptcy. The Canadian judge decided that her Swiss policy was part of the bankruptcy estate. So the Swiss insurer was informed and asked to immediately liquidate the policy.

Even though the policy document was appropriately presented, the Swiss insurer did not divulge any information. The insurance company fully protected the hotel owner's privacy and responded to inquiries only in generic form. The creditors were informed that the insurer was not allowed to give out any information to third parties.

The insurance company didn't even confirm that a person bearing this name or title was a client at the insurance company. Furthermore, the insurer subsequently wrote that in the event of bankruptcy (of a policy owner), Swiss law protects fully the policy because ownership was transferred to the beneficiaries automatically as documented in the accord. Any instructions from the original policy owner subsequently forced upon her could no longer be recognized. Only her beneficiaries, as the new owners of the policy, could give instructions to the insurance company.

EARLY ACTION IS THE KEY TO SUCCESS

If you're looking for solid asset protection, you must go abroad. Swiss and Liechtenstein policies provide utmost asset protection, as long as you set up your plan correctly.

Foreign courts have no authority in Switzerland or Liechtenstein. Even under duress, insurers will not liquidate your policy for creditors. Foreign insurance companies won't even give away details about your



policy, because under Swiss and Liechtenstein law, your policy is fully protected.

Creditors usually drop their attacks on your wealth once they discover how little foreign insurance companies will do for them. Most stop their ridiculous witch hunts. But if a creditor relentlessly continues to seize your wealth, he'll have to file with the local Liechtenstein or Swiss court. And then the court will tell him the policy is not a seizable asset.

Remember, you must plan early. Your policy may NOT be protected, if you file for bankruptcy or your creditors try to seize your wealth within 12 months after you establish your policy. The key is to act now.

SAVING U.S. TAXES WITH TRUSTS

Vernon Jacobs, CPA, CLU, *Offshore Tax Strategies*, June 2001

Once upon a time before Congress changed the law in 1986, wealthy families established multiple irrevocable trusts that were designed to accumulate income at low tax rates. Each trust was treated by the IRS as a separate taxpayer and the trust tax brackets were similar to the brackets for individual taxpayers.

Today the tax brackets for trusts are very compressed. The first \$1,750 of annual trust income is taxed at a rate of 15 percent. Any income in excess of \$8,450 is taxed at the top rate of 39.6 percent. As a result, trusts are no longer used as devices to accumulate income.

INCOME SPLITTING

However, trusts can be used to divide income among family members, each of whom may be eligible for a separate set of lower tax rates. Unlike a partnership, the income of a trust is not taxable to the beneficiaries until it is distributed. At that time, the trust treats the distribution as a deduction the beneficiary treats it as taxable income. Because of the compression of trust tax rates, most trusts now provide for current, rather than deferred, distributions of trust income to beneficiaries.

OTHER TAX SAVING METHODS

Additional tax savings for income from a trust will depend on the na-



ture of that income. If some of the income is an allocation of interest or dividends, there are tactics that may be useful in minimizing some taxes on that income. The major factor in determining the amount of trust income is the manner in which the trust assets are invested. The trustee can choose between interest bearing investments and high dividend yield stocks, or various capital growth investments. In some limited cases, a trust can defer income by investing trust assets in a tax deferred annuity, something that definitely should be considered.

FOREIGN GRANTOR TRUST

In the case of a foreign grantor trust, the U.S. grantor (settlor) of the trust is subject to tax on all the income of the trust, whether it is distributed to the beneficiaries or not. Generally, distributions to the U.S. beneficiaries will be treated as gifts by the trust grantor. Gifts are not taxable to the recipient but may be subject to a gift tax by the donor. When and if the estate and gift tax are actually repealed, this strategy may require reconsideration. Until then, it's an effective way to transfer assets to your heirs at a minimum estate and gift tax cost.

FOREIGN TRUST ACCUMULATION DISTRIBUTIONS

If a foreign trust does not have a living U.S. beneficiary, then distributions of current income to the beneficiaries will be treated as the income of the beneficiaries. If distributions exceed 125 percent of the current income of the trust, then there is a complicated "throw-back" tax computation in which the excess income is allocated to the years in which the income was accumulated as a non-grantor trust. There is an "additional tax" on such distributions that is like an interest charge on the deferred income of the trust. This tax can be minimized by making distributions equal to 125 percent of the current year's income of the trust.

[Ed. Note: In every case, detailed tax advice from a seasoned professional should be obtained in advance before making any decisions. This is especially true because in 2010 U.S. estate tax law will be revised by the U.S. Congress.]



CHARITABLE GIVING: TAX AVOIDANCE, ASSET PROTECTION & DYNASTIC WEALTH CONTROL

Mark Nestmann & Robert E. Bauman

The old saying, "you can't take it with you," is true.

Yet, using both domestic and international charitable structures, you can do the next best thing: set up a pool of wealth that will not only survive your death, but support whatever lawful cause in which you believe passionately.

Many of the world's wealthiest people already know this. For instance, Microsoft founder Bill Gates has already transferred a staggering US\$40 billion to the Bill and Melinda Gates Foundation. Depending on where you live, charitable giving can generate huge tax savings. Charitable giving can also provide you and your loved ones a lifetime income virtually immune to attack by creditors.

Larger estates can form their own charitable structures so that after death, families have the opportunity to control the disposition of wealth over generations, while minimizing ongoing tax liabilities. The use of a charitable structure doesn't necessarily mean that your heirs will receive a smaller inheritance. Combining the charity with a life insurance structure can replace what was "lost" in making the original charitable contribution.

In most countries, the social function of charities makes them relatively noncontroversial to tax authorities, an important virtue when tax collectors are aggressively seeking new sources of revenue to fund the soaring cost of the welfare state. The United States, reflecting its long tradition of private responsibility, is particularly generous in the tax breaks it provides to charitable giving.

The law allows income tax deductions for cash donations up to 50% of your adjusted gross income (AGI). Generally, a deduction for full fair



market value of property, such as stock, with no capital gains tax paid, allows a deduction of up to 30% of adjusted gross income. Nationwide, there are about 700,000 "qualified" nonprofit charitable groups. Charitable gifts also reduce the size of your estate for estate and gift tax purposes.

BLOCKBUSTER CHARITABLE TRUST

Trusts offer an efficient means of passing property title to your spouse, heirs or your favorite charity. At death, a trust avoids lengthy and complicated probate court procedures required when the estate must be administered under a will. A properly written trust declaration can avoid payment of most estate, gift or inheritance taxes.

One of the most useful charitable trusts is a charitable remainder trust (CRT). The trust takes its name from the fact that the charitable entity (called the "remainderman") eventually gets title to the trust property when the trust ends.

The CRT is also called a "life income" or "wealth accumulation" trust, because the grantor who creates the CRT (as well as other possible beneficiaries) receives continuing lifetime payments from this trust.

Here are some of the benefits a CRT gives back to its creator:

- Achieve personal philanthropic goals
- Take a large charitable deduction (for the value of the donated assets) against your current year income tax liability
- Avoid all capital gains taxes on donated appreciated property, regardless of the original cost basis
- Guaranteed retirement income for life (your choice, immediate or deferred). For instance, you can convert your low yield real property into a high income investment guaranteed to provide you and your spouse (the "non charitable beneficiaries") financial security. You can also have your CRT serve as a legal recipient for "roll over" of your qualified pension plan or individual retirement account, which will boost both your retirement income and tax savings.

Nor is there any need to deplete the size of the estate that you leave your heirs. For instance, your estate can purchase life insurance coverage for your life or for you and your spouse's joint lives to replace the monies going to your favorite charities.



The one CRT drawback is its complexity; in order to be certain your structure qualifies under tax laws an expert should draft it. Our experts say that the donated CRT start up assets should be valued at least at about US\$50,000 to make the plan feasible.

A CRT trust is an irrevocable living trust. The "living" refers to the time when it is created while the grantor is alive (as compared to a testamentary trust created in a will). It is "irrevocable" because your control over the donated assets ends once the trust is created and the assets are formally transferred.

As in any irrevocable trust, the CRT also serves as an ironclad asset protection device. Once the trust gets the assets, the grantor no longer has title to nor any ability to reacquire those assets. A timely placement of assets into a CRT, well in advance of any claims against you, is an absolute defense against claims from future unknown creditors.

Once you have created your CRT, the institutions or groups lucky enough to be the objects of your generosity might want to reward their benefactor with a seat on their board of trustees. The CRT possibilities of immortality carved into stone are endless: libraries, hospitals, the arts, museums, symphony halls, campus buildings, etc.

EXAMPLE

Here's a real world example of how a CRT can benefit you.

Suppose you own a building worth US\$1 million currently, with a fully depreciated basis of US\$40,000 meaning a taxable capital gain of US\$960,000 when you sell it. This means a federal state capital gains tax (CGT) liability (if you live in California) of US\$344,832! Still, your net is US\$65,168 not bad for an original US\$40,000 investment. If you reinvest your profit and earn a 10% return in the first year, you would get US\$65,517 in income, fully taxable at current federal and state income tax levels. If you don't reinvest, the full US\$65,168 becomes personal income.

But if you create a charitable remainder trust, then donate the building to the tax exempt CRT, you pay no capital gains tax. Nor does the CRT trustee who later sells the building pay any CGT because the entire sale proceeds go into the trust for reinvestment US\$1 million — tax free.

Nor have you received any of this money as personal income. In ad-



dition, as grantor of CRT property you receive an immediate charitable tax deduction for the total value of the donated property, applicable to the income tax year in which the transfer occurs. The total income tax deduction, to the allowable maximums discussed earlier, is measured by a complex IRS formula, including present appraised fair market value of the projected remainder interest.

AN IMMEDIATE TAX DEDUCTION

With interest rates near historical lows, some experts recommend the use of a charitable lead trust (CLT) rather than a CRT. One is Sovereign Society Council of Experts member Gideon Rothschild. A CLT produces an immediate tax deduction and helps the charity of your choice for an extended period. It eventually passes assets to family members with a minimum payment of estate and gift taxes. Because the present value of the charitable interest at the time of the donation is deductible, gift or estate taxes are significantly reduced.

The resulting income or estate tax savings depend on when this technique is used:

An immediate income tax deduction is available to a grantor who establishes a CLT during his or her lifetime, the deductible amount being measured by the present value of the income stream going to the charity for the stated period.

If the CLT takes effect at the grantor's death, his or her estate receives a charitable deduction for the present value of the future income that will go to the charity.

The CLT is established when a donor transfers income producing property to a trust. The trust, in turn, will provide the charity with a guaranteed annuity or annual payments equal to a fixed percentage of the fair market value of the trust property that is computed each year. When the specified period ends, the remaining property is returned to the donor, or it goes to a non-charitable beneficiary of the donor's choice, often an heir or other younger family member.

CHARITIES AS PART OF AN INTERNATIONAL ESTATE PLAN

As with many other aspects of long term financial planning, setting up an offshore charitable structure can provide additional benefits. The primary benefit is that an offshore configuration provides greatly im-



proved prospects for setting up a dynastic structure that can control the disposition of wealth over generations, in contrast, e.g., to the laws of the United States.

Wealthy individuals usually have more assets and income than they need. However charitably minded they are, they may not wish to give up family control over the assets, both in life and after death. This may be true, as in the case when the assets being donated are shares in a private company owned by the donor.

In the U.S. context, a domestic irrevocable trust such as a CRT generally will not permit such a degree of control to be exercised. Additionally, in the many U.S. states and foreign jurisdictions with an English common law background that have not eliminated the "rule against perpetuities," dynastic control through a trust may not be possible, as the trust will eventually be required to dissolve.

In contrast, by using an offshore charity, the stock can be donated to the charity perhaps one established by the donor. The charity is so structured as to ensure that, in perpetuity, the control of the charity remains in the hands of the donor and his descendants. Not only can the charity (which is not subject to any rule against perpetuities) be used to perpetuate control, but it will also take the assets concerned outside the tax net.

According to Charles Cain, who heads up Skyefid Limited, an Isle of Man based international financial consultancy, "For a U.S. person to create a dynastic structure, an overseas charity is more effective than a U.S. charity. This is particularly true if the U.S. person wishes to avoid the very tight U.S. rules that effectively prevent the donor of assets into a charity from controlling that charity, or deriving benefit for his family from that charity. Nobody else has such strict rules."

Along with the benefit of greater control, there are potential drawbacks to an international charitable structure, the most significant one being that more complexity and higher costs. One source of complexity is the need, often using some rather esoteric mechanisms, to create a structure where a U.S. donor can both obtain a charitable deduction and shift the assets into an overseas charity.

Obviously, structures of this type require sophisticated planning by experienced international tax practitioners. This is not a job for an amateur.



FOR MORE INFORMATION

If you plan to name a domestic charity as a beneficiary of your estate that charity may be able to provide assistance. Most major charities have "planned giving" departments eager to provide extensive help to your lawyer or CPA.

The National Committee on Planned Giving is an association of varied professionals active in planned gifting advice with 78 local chapters. Tel.: + 1 (317) 269 6274. Email: ncpg@iupui.edu. Website: <http://www.pppnet.org/>.

Two attorneys, both members of The Sovereign Society's Council of Experts, who have extensive experience setting up the charitable remainder trusts described in this column are:

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MOVE YOUR RETIREMENT PLAN OFFSHORE NOW!

Larry Grossman, *The Sovereign Individual*, August 2009

It has finally happened. The current administration has begun to take steps that could lead to the effective ban of offshore investments in your retirement account. You need to act now before the door is slammed shut for good!

Originally, investors wanted to go offshore for greater access to non-U.S. investments and at the time the dollar had been on a major decline. Then, when the dollar strengthened, lawsuits became a major problem and clients continued to go offshore to seek greater asset protection.

Now, the government needs to stave off offshore investment as a precursor to prevent capital flight. And it's looking to seize control of your



retirement account, similar to what Argentina did with their citizen's retirement accounts in 2008.

GOVERNMENT DOESN'T WANT YOU TO INVEST OUTSIDE OF THE U.S.!

Now that the Obama administration is creating more czars than Imperial Russia, the notion of a single government entity controlling your retirement plan is very much on the forefront.

Let's get to the facts and explain why I suddenly see a change on the horizon. Some companies in the IRA business have been sloppy. They don't particularly like foreign investments of any kind. They prefer the ease and simplicity of having only a few mutual funds and asset allocation plans to choose from, none of which means sending money offshore.

The rub is it is perfectly legal to make offshore investments in your retirement plan (for now). The best way the government can take the first step towards stopping offshore retirement plans is to make it expensive, man-power intensive and time consuming to the point where custodians just won't allow it.

That's step one; nationalization of your retirement plan to follow.

What will this nationalization entail? For starters, the government will explain that it offers the baby boomers — who have seen the last decade of wealth destroyed in last year's market crash — a guarantee that their retirement plan will be free from risk.

The only asset that the government considers risk free, however, is government debt — U.S. Treasuries. And with China concerned about the future of the dollar, mandating another market for treasury investment is exactly what the government needs.

And who knows, the government could mandate allocation as well, meaning that your retirement portfolio could include shares in companies such as GM and AIG whether you want to own them or not.

There's just no telling how much the government will push using the pretext of the financial crisis. It makes perfect sense in a weird sort of way. First the government stops you from taking your retirement plan offshore without actually changing the rules and raising a lot of eyebrows. Then they step in and take over all plans still onshore — and



decide what you can invest in. After all, liberty is always eroded, never directly assaulted.

Clients have been asking me how the government will bring existing plans offshore back.

In all likelihood, plans already offshore will be grandfathered and can remain there. It would take too much effort on behalf of the United States to cajole offshore retirement money back when the lion's share is still stateside and easy to grab.

PLAN YOUR LEGAL MOVE OFFSHORE

IRAs, SEPs and Keoghs require the use of an IRA Custodian and there are less than a handful of custodians who will let you do this. Qualified plans, such as 401(k)s, profit sharing plans, defined benefit plans and others have a plan administrator and trustee. These two entities must be willing to allow for the assets to go offshore and the plan document must be reviewed to ensure there are no "artificial constraints" written into the plan document, which would restrict your flexibility.

Once your plan has been transferred to an offshore-friendly custodian, you have a number of options:

OPTION #1: MOVE YOUR FUNDS TO A NON-U.S. BANK

- Safely explore the most rewarding corners of the financial world — far from the clutches of greedy bureaucrats, litigation-hungry lawyers and data-mining snoops.
- Privately trade stocks, bonds, mutual funds, CDs, precious metals and currencies.
- Buy into elite mutual funds, managed by award winning financial analysts who consistently out perform their American counterparts, year after year.

OPTION #2: FORM AN INTERNATIONAL BUSINESS COMPANY (IBC) OR FOREIGN CORPORATION

- Adds a significant layer of asset protection and privacy to your business (if established in the right jurisdiction).



- Can be used to open a foreign banking/trading account, purchase an annuity, make foreign investments directly or purchase real estate.
- Take physical possession of your funds rests with a non-U.S. company in a jurisdiction that may not recognize judgments awarded by U.S. courts.

OPTION 3: DIRECT FOREIGN INVESTMENT

In many cases you may make a direct purchase of a non-U.S. asset or investment such as foreign real estate or a private placement. Again, there can be significant advantages to using a non-U.S. LLC to make the direct investment especially when it comes time to take a distribution from the asset.

HOW TO PROTECT YOUR HOME PLACE FROM LEGAL PREDATORS

Mark Nestmann, *The Sovereign Individual*, June 2009

Even with the collapse of real estate values across the United States, the equity in your home may remain your most valuable asset. Protecting it from lawsuits can pose a difficult challenge. After all, unlike financial assets, there's no way to move your home somewhere else.

With few exceptions, neither federal nor state laws provide much protection to home equity. For that reason, the most effective way to safeguard it is to transfer ownership of your home to a protective structure and then mortgage or otherwise encumber it. These techniques ensure legal predators no longer find your home equity attractive.

One ingenious strategy is to set up and fund an international structure and use it to issue you a mortgage. The structure then reinvests the mortgage payments, producing potentially tax-deferred income or gains for your future benefit. I'll tell you more about this strategy in a moment.

But first, I'll explain why it works...

LIMITS OF TRADITIONAL HOME PROTECTION STRATEGIES

Homestead statutes. Most American states have laws in effect that



may protect part or all of your home equity if you lose a judgment or declare bankruptcy. However, limits are very low in many states with only a few thousand dollars protected. Numerous exceptions also apply (e.g., tax claims).

Tenancy by the entirety. About two dozen states protect property, usually real estate, jointly owned by a married couple, generally with no limit to value. Only judgments against both spouses are enforceable. There are obvious shortcomings; for instance, the unexpected death of the “low-risk” spouse may place the “high-risk” spouse in a vulnerable position. Again, numerous exceptions apply.

Limited partnerships (LPs) and limited liability companies (LLCs). Most advisors now caution against transferring a personal residence into one of these popular estate planning structures. To get any asset protection, you'll have to pay market rent to the LLC, and you may lose the tax benefits of the \$250,000 tax-free gain (per taxpayer) on selling a home (\$500,000 for married taxpayers filing joint tax returns).

MORE PROTECTION WITH IRREVOCABLE TRUSTS & PRIVATE ANNUITIES

Domestic irrevocable trusts. One of the best domestic strategies to protect your home is to sell it to a special irrevocable trust called a non-qualified personal residence trust (NQPRT) in exchange for an installment note. You must pay rent to the trust as long as you live in the home. As long as you receive installment payments from the trust, they should cover a substantial part or all of the rent you must come up with to pay the trust. While the installment payments are generally attachable, you can structure the sale to make the arrangement very unattractive to a future creditor. At your death, the home passes to the trust beneficiaries with no gift or estate tax consequences.

Private annuities. Another protective strategy is to sell your home to your children or a third party in exchange for a life income annuity. The children or third party then rents the residence back to you.

While the sale of appreciated property to a private annuity is generally taxable, you can again exempt up to US\$250,000 of gain per taxpayer (or \$500,000 per married couple) from the sale of your primary residence. This arrangement may also have important gift and estate tax advantages.



EQUITY STRIPPING YOUR HOME MAKES IT WORTHLESS TO CREDITORS

Borrowing against your home equity or otherwise “equity-stripping” it can also make your home unattractive to creditors. A commercial mortgage is the most common way to strip the equity out of your home. But if things ever get rough financially, it may be difficult to make the mortgage payments, and the bank may foreclose on your property. What’s more, your home equity builds back up as you make mortgage payments. That equity then becomes available to your creditors.

NINE STEPS FOR HOME EQUITY PROTECTION

1. You fund an offshore private annuity (OPA) using after-tax dollars.
2. At your request, the OPA administrator sends some of these funds to a U.S. company it owns or controls. (Your request must be non-binding; otherwise you could be deemed to “control” the OPA and lose tax deferral within it.)
3. You apply for a mortgage from the U.S. company.
4. Assuming state laws permit it to do so, the U.S. company grants the mortgage. The mortgage is tailored to make the property as unattractive to creditors as possible.
5. You place the proceeds of the mortgage back into the private annuity (or another asset protected investment).
6. The U.S. company places a lien against your home.
7. You make mortgage payments to the U.S. company. Interest on those payments may or may not be tax-deductible, or be partially deductible.
8. The U.S. company that issues the mortgage files a U.S. tax return. Depending on how it elects to be taxed, it may need to pay income tax on its profits.
9. Your OPA’s share of the U.S. company’s after-tax profits goes back into your OPA for your future benefit, and accumulates on a tax deferred basis.

This arrangement can be costly to set up, but provides very effective asset protection. It works because a properly executed lien generally takes precedence over any future liens. Assuming you own your home free and

clear, and then pledge most of its equity to satisfy a lien, future liens are essentially worthless.

A creditor that examines the arrangement will see a lien from a U.S. company, not from a foreign entity.

There's no indication of an offshore connection, an increasingly important factor as the Obama administration's "War on Offshore" heats up.

This strategy also can successfully deal with some of the problems posed by a conventional mortgage:

You're depositing the mortgage proceeds back into a protected structure.

If you can't pay the mortgage, you're dealing with a company tied to your offshore structure. Assuming no creditor claims are pending, you may be able to renegotiate the terms of the mortgage — although there are potential tax pitfalls to avoid if you do. In the unlikely event that the lender forecloses on your home, your interests remain protected, because most or all of your home equity is in the OPA.

Because of the complexity involved in setting up the various structures and relationships, it's essential to obtain assistance from a qualified tax attorney to set up an offshore equity stripping arrangement.

U.S. SOCIAL SECURITY: THE GREATEST SWINDLE EVER SOLD

John Pugsley, *The Sovereign Individual*, May 2009

Since the Bernie Madoff scandal broke last year, the press has been filled with names and pictures of his victims. The front page of my local newspaper showed a photo of a woman joyfully cheering. The caption read: "Miriam Siegman of New York, who said she lost her retirement money with Bernard Madoff, celebrated yesterday upon leaving a Manhattan courthouse, where Madoff was ordered jailed."

We celebrate with the victims when a swindler like Madoff is brought to justice.



Yet there is a vastly larger fraud being perpetrated on all Americans, and it's unlikely that any of the perpetrators will ever be jailed for their crime.

Bernard Madoff defrauded a few hundred clients of some \$65 billion. Yet his scam pales next to the swindle being perpetrated at this moment on hundreds of millions of Americans who have been told they have accumulated more than \$40 trillion in future retirement benefits.

THE SCAM IS THE U.S. SOCIAL SECURITY SYSTEM.

Those who conceived the Social Security swindle promised that it would end the plight of the aged and disabled by guaranteeing them “security” — a steady income in disability and old age. It was promoted as a life raft that would carry everyone safely through to the end of his or her days.

Today, 74 years later, Americans continue to be told that regardless of what happens to the economy, the government will never renege on this promise. As the population has aged, Social Security beneficiaries have become the biggest political lobby in America. To get elected, any political candidate must participate in the swindle. Both as a candidate and now as President Barack Obama has consistently maintained that the Social Security program's financing is basically sound, and can be assured far into the future. He's lying.

I became aware of the technique of the fraud in 1975 when Arthur Andersen & Company published a lengthy report titled “Sound Financial Reporting in the Public Sector.” It disclosed both the magnitude of the crime, and the simple accounting subterfuge used to disguise the fraud.

CASH ACCOUNTING HIDES RISING LIABILITIES

The report pointed out that the government keeps its books using the “cash basis” method of accounting rather than the “accrual basis.” The cash basis is what you use to balance your checkbook. If you deposit \$50,000 in your account for the year and write \$49,000 in checks to cover your expenses, your checkbook will show a \$1,000 surplus for the year.

However, this does not tell the true story. If you took a vacation in December and ran up \$5,000 on your credit card, but the payment didn't come due until the following year, your true expenses for the year were \$55,000. You actually ran a \$4,000 deficit which didn't show up in your



checkbook. Every rational business owner knows that to track the true condition of the business he must add in the cost of purchases he made but must pay for in future years. Sound businesses always use the accrual method of accounting.

In its 1975 report, Arthur Andersen reviewed the U.S. federal budgets for fiscal years ending 1973 and 1974, and came up with shocking figures. Using the cash basis of accounting, the government had reported federal deficits of \$14.3 billion for 1973 and \$3.5 billion for 1974.

Recalculated according to the accrual method and including future Social Security payments and government pensions, the true 1973 deficit jumped from \$14.3 billion to a staggering \$86.6 billion. The 1974 budget was even worse, jumping from \$3.5 billion to just over \$95 billion. The government underreported its deficits by more than \$160 billion in a two-year period.

Peter G. Petersen, former Chairman of the Federal Reserve Bank of New York, began sounding the alarm on this looming financial catastrophe more than a decade ago. In his 1996 book, *Gray Dawn: How the Coming Age Wave Will Transform America and the World*, he pointed out that if federal law required Congress to fund Social Security the way private pensions must be funded, the annual federal deficit in 1996 would have instantly risen by some \$675 billion. Add in lavish and unfunded federal employee pensions and the deficit would have risen by \$800 billion. Add in Medicare and it would have risen by more than \$1 trillion.

The cash and accrual deficits that Arthur Anderson discussed in his 1975 report seem trivial compared to last year's federal deficit of \$454 billion, and especially compared to this year's projected deficit of \$1.8 trillion. Decade after decade the total of the swindle has been inexorably rising, until today the estimated shortfall owed Americans is an incredible \$40 trillion. Nor has it stopped. The total continues to rise at a rate of \$2 to \$3 trillion per year.

CHARLES PONZI WOULD BE IN AWE

Bernie Madoff was able to get away with his fraud by using the same technique as Charles Ponzi did in the 1920s. He sold fictitious securities, promised a high return, and paid off old investors out of monies taken in from new investors. It collapsed when new victims could no longer be found to support withdrawals from old victims.



The Social Security swindle has worked exactly the same way. It receives “contributions” in the form of FICA taxes, pretends to place those funds in trust, and pays benefits to current retirees out of taxes collected from current workers. Just as in the case of Madoff, there is no trust, there is no income to the non-existent trust, and the payments are simply made from current collections. Madoff’s scheme lasted 20 years before collapsing. The Social Security swindle is now in its 74th year...the end is near.

It’s clear that Social Security cannot fulfill its promises to future retirees, but the casualties will not be limited to those victims, like Miriam Siegman, who find there is no life raft to carry them safely through retirement. In order to continue the fraud, politicians have no alternative except to issue more promises. Retirement checks will come, but they will be financed by more federal borrowing. Cash basis deficits will rise. Treasury IOUs will be converted by the Federal Reserve into dollars. As the monetary inflation morphs into price inflation, the victim list will swell to include everyone who doesn’t see it coming.

Last year, former Comptroller of the Currency, David Walker, teamed up with Addison Wiggin of Agora Financial to produce an eye-opening movie, IOUSA, which documented the stunning financial swindle being perpetrated on the nation. This compelling addition to Petersen’s disclosure of the government’s financial fraud is being widely shown, and has just become available on DVD.

Unfortunately, we will never enjoy the sight of the politicians responsible for the Social Security swindle being sent to jail, but we can protect ourselves from their fraud.

What is the smartest way to prepare for retirement? The best retirement manual in existence today is the publication you are holding in your hands. If you have been pondering setting up offshore bank and investment accounts, do it now. If you have been considering establishing dual citizenship, start the process. If you want to protect yourself from the collapse of purchasing power of the dollar, listen to our currency experts and our recommendations on gold and select commodities.

Internationalize yourself, your family and your assets.



DO YOU NEED A LAWYER? HOW AN ATTORNEY CAN HELP IN OFFSHORE PLANNING

Robert E. Bauman, JD, *The Sovereign Individual*, April 2004

In 1592, William Shakespeare wrote that oft quoted line: “The first thing we do; let’s kill all the lawyers.” And of course, lawyer jokes are a favorite American pastime.

But it’s no joke when you need a lawyer. And if ever there is a time that legal advice can be helpful, it’s when you’re considering creation of offshore entities, such as a trust, family foundation or an international business corporation.

Here I’ll show what offshore transactions you can safely conduct without a lawyer; which transactions you may be able to conduct without one; and when you should definitely hire a lawyer, or even two lawyers — one domestically, one offshore. Plus, I’ll suggest how to find that most elusive of lawyers — one that is both competent and honest.

WHEN DO YOU NEED A LAWYER?

For relatively simple offshore matters, such as opening a bank or investment account, you really don’t need an attorney. The paperwork is minimal and usually can be completed without professional assistance. And you can look to The Sovereign Society to explain the U.S. reporting rules, although we recommend that you verify our interpretation with your tax preparer.

Moving slightly higher in complexity is purchasing an offshore insurance policy, such as a Swiss variable annuity. Again, the paperwork involved is minimal. However, if the policy claims to legally defer U.S. income taxes, you may wish to have an attorney check out the wording of the policy to make sure it is U.S. tax compliant.

You should definitely hire an attorney if your proposed structure involves offshore entities such as a family foundation, or an asset protection



trust (APT), or if you are considering acquiring a second citizenship or living abroad. In fact, in these circumstances, you may wish to use two attorneys — one domestic and one offshore. (I'll explain why in a moment.)

Your first step is to hire a domestic attorney to integrate any offshore components or structures into an overall estate plan. That means you need an American lawyer well versed in estate planning, federal and state taxes, trust concepts, wills and testamentary law.

Unfortunately, there are only a limited number of domestic attorneys who specialize in offshore asset protection and estate planning. One of the best ways to find one is to ask for referrals from friends. Ask associates for recommendations based on their personal experience. This input is valuable because friends have nothing to gain by steering you towards or away from any particular lawyer.

Another source of information is your U.S. state bar association. Ask if there is a special designation for estate planners in your home state. If so, make sure that any lawyer you consider has this certification.

Keep in mind names that come up repeatedly. These may be people who deserve a closer look, or they may be ones to avoid, since reputation counts for a lot, whether good or bad.

When you find an attorney, conduct an interview before you pay any fees. And make sure you obtain a detailed cost estimate of what your proposed offshore structure (including any offshore components) is likely to cost.

WHEN TO USE AN OFFSHORE ATTORNEY

Often it is best to have your domestic tax attorney hire an offshore attorney to handle matters in a foreign nation. The strategy is to consult with your local attorney on general matters but when dealing offshore, use the offshore attorney to enhance attorney client privilege. Using this technique, all communications, both written and oral, and subsequent attorney work product, enjoy enhanced protection from any future disclosure orders of a U.S. court.

However, attorney client privilege is not absolute. It has always been a requirement that attorneys report a client's pending or planned future criminal acts, if the lawyer is aware of them. Nor can an attorney cannot



knowingly assist a client in committing fraud or a criminal act. More recent anti-money laundering and anti terrorism laws now force lawyers to report "suspicious activities" of clients. (Such rules are now mandatory in the United Kingdom, although not in the United States.)

Increasingly, prosecutors offer individuals who are accused of criminal misconduct the "opportunity" to incriminate their attorneys in exchange for a lighter penalty. This has made many attorneys, particularly those engaged in international tax and estate planning, extremely wary. "Know your client" is therefore a modern attorney's watchword and guide.

"Never discuss confidential information with an attorney unless and until you conclude a representation agreement in writing. This serves as the benchmark when privilege "attaches" and your communications are protected.

Your domestic attorney may be able to recommend a competent offshore attorney. Another source of information may be your offshore bank. You're likely to get a reliable recommendation since the bank wants to keep your business and they know attorneys with investment experience.

Another source of offshore legal expertise is The Society of Trust and Estate Practitioners (STEP), the professional body for the trust and estate profession worldwide. Link: www.step.org.

The Sovereign Society can also be of assistance in helping you locate competent domestic or international legal practitioners. These experts regularly deal with offshore matters including banking, investment, asset protection, dual citizenship and international tax planning.

The English political philosopher John Locke said, "The end of the law is not to abolish or restrain but to preserve and enlarge freedom." You can certainly do just that by "going offshore" — but only if you're armed with the best legal advice.





Chapter Seven

TAXES & HOW TO AVOID THEM — LEGALLY

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EDITOR'S NOTE

No one needs to be reminded about what a burden taxes have become.

“Soak the rich” has been a popular slogan for political demagogues at least since the French Revolution.

Today the tumbrel and guillotine have been replaced with the tax audit and grim tax collectors who slice off half of your income to finance their beloved Nanny State.

Citizens complain about high taxes but few do anything about them. Whether out of ignorance or fear, sheep-like taxpayers allow themselves to be herded through government shearing programs that strip them of most of their hard-earned wealth.

Here we give you firm examples of how bad taxation has become, what can be done to change this official robbery and specific, legal steps you can take to cut your losses, perhaps even down to zero. And we do emphasize — legal steps!

You should consider this chapter in conjunction with the related taxes explained in Chapter Two, especially the U.S. “exit” tax.



PART ONE — TAXES

HOW GOVERNMENT STEALS FROM YOU

PT2, 1997, Scope Books

Taxes can be considered straightforward theft by government.

The tax-and-spend growth rate of most western governments during the past 60 years has been phenomenal. From a base of nearly zero, close to two-thirds of all wealth generated in western democracies is now spent by politicians, not by the people who create or earn such wealth.

Worse still, the percentage of wealth being confiscated continues to grow. At present, government spending grows faster than national income, personal income and per capita income when adjusted for inflation or taken as a percentage of gross national product. In grossly overtaxed Europe, it seems clear that the new bureaucracy of the EU will only succeed in adding yet another layer of parasitic new taxes.

The growth of government budgets diminishes your personal freedom. If more and more of your earnings and assets are taken, your liberty is limited by just that much. In most industrialized countries citizens can no longer choose how to spend, invest or bequeath their own money. If any other institution practiced such profligacy while offering such inferior services, it would collapse. Because governments command the police and control the jails, they get away with this continued fraud.

You must take legal tax avoidance action, first by understanding the various forms of taxation employed by Big Brother, many hidden from the people who must pay the bills.

INCOME TAXES & HIDDEN TAXES

Hidden taxes, such as sales taxes, import duties and Value-Added Taxes (VAT), are reflected in raised prices. Sales taxes are generally believed to have a greater impact upon the poor since wage earners and state-supported individuals tend to spend more of their earnings on consumer items. In France, much more money is raised from sales taxes than from income tax, most likely because wealthy Frenchmen hardest hit by income taxes now live abroad.



GOVERNMENT BORROWING

This is a deferred tax, and it is unclear who will eventually have to foot the bill.

In an expanding economy with moderate inflation, an increase in national debt can be healthy, if the debt is used to pay for infrastructure like highways and communications systems that facilitate commerce and generate funds to retire the debt. In an ideal world, users of improved facilities would pay for them.

However, more typically, funds raised by government borrowing are squandered. They end up being exported. The poor buy imported consumer goods. The wealthy invest abroad. The country ends up impoverished, and living standards drop.

Who then must pay the debt? No one and everyone!

With a debt that becomes too large to service with taxes, the country can no longer simply roll the debt over by issuing more paper to pay off the interest and capital on bonds which have matured.

In such a situation, the government is faced with a hard choice. It can end the game with a default, as many third world countries are allowed to do from time to time; or, more likely, it can issue ever-more worthless currency to cover its debts. Russia has taken this rampant inflation route.

In this scenario, the burden of both the borrowing and default falls on those who did not have the financial ability or good sense to ship their assets abroad. How much money has been sent abroad to offshore money and tax havens? Recent figures indicate that more American dollars have been deposited abroad in secret accounts during the past 30 years than the total amount now on deposit in all banks in the United States.

This amazing situation means that more than half the U.S. national wealth has been exported. That's the obvious response of smart money to the growth of a rapacious government. The U.S. situation is not unique and many Europeans engage in the same practices. Most liquid wealth in the industrial countries is now beyond the reach of the tax collectors, regulators and planners.

PRINTING WORTHLESS PAPER CURRENCY

This is historically the most common form of taxation.



New currency by law must be accepted in payment of all debts, public and private. This running of the printing presses results in inflation and the erosion of the value of creditors' holdings, thereby reducing or eliminating government debt. It also raises general price levels.

This imposes a tax on those with assets in the form of cash, bonds or secured or unsecured debts due from others. Inflation shifts wealth from the creditor class who are owed money to the debtor class who owe money. It eventually erodes all wealth and brings about instability in the overall economy.

In times of inflation, no one can make long-term plans or invest in plant or equipment; even a farmer can't safely raise a crop of cattle or pigs. The creation of real wealth, economic growth, always declines when there is double-digit inflation.

INCOME TAXES & THE DESTRUCTION OF LIBERTY

Robert E. Bauman JD, July 2008

At the 2008 Freedom Fest in Las Vegas, my friend and longtime associate Vernon Jacobs, CPA, presented a fascinating lecture on the American income tax and the U.S. Constitution. The title of his talk was "Income Taxes and the Destruction of Liberty" ..I have read Vern's 49-page paper and it is a clear, concise and arresting exposition of the income tax and what it (and the IRS) has done to diminish American freedoms and liberties.

Mr. Jacobs is not one of those "tax protesters" who believes the income tax is illegal (the 16th Amendment answers that question), or that it applies only to esoteric small groups defined by arcane Internal Revenue Code provisions as interpreted by self-serving fraudsters, many of whom charitably can be called "tax nuts."

Rather his presentation carefully establishes the history of American taxation, the ideological demand for an income tax from socialist and Communist theorists, the role financing American wars has played in expanding the tax, and lastly, the brutal polices of the IRS that view all citizens as tax evaders to be treated to the lash.



He also touches on illegal tax evasion vs. legal tax avoidance and the use of offshore tax havens and government attempts at blocking such use.

Jacobs makes the historic point that while the British Crown's restrictions on religious and other freedoms certainly were reasons for the American Revolution, the principal cause was excessive taxation and its brutal enforcement by King George's agents, as witnessed by the Boston Tea Party.

For those who are interested in what Vern calls "a semi-academic history lesson on the income tax and the related portions of the Constitution" a copy is available at <http://www.offshorepress.com/liberty/constitution.pdf>.

I recommend it heartily.

DON'T LOOK NOW, BUT THE U.S. GOVERNMENT IS BANKRUPT

Robert E. Bauman JD, December 2008

Last October the "National Debt Clock" in New York City ran out of digits to record the ever expanding figure that represents what the U.S. government and, therefore, all Americans owe.

And we don't "owe it to ourselves" folks. We owe it to our creditors, a majority of whom are foreigners and foreign governments.

As a short-term fix, that digital dollar sign (\$) on the billboard-style clock near Times Square was switched to a figure — the "1" in \$10 trillion. When this happened three months ago the federal government's then current debt was about \$10.2 trillion.

But that was then — this is now!

BAIL OUT BILLIONS

According to Bloomberg News, the total of various federal credit facilities and bail out programs approved by Congress in its panic thus far comes to about \$ 7.7 trillion, with trillions more being demanded by everybody and his brother. That \$7.7 trillion includes all sorts of government hand-outs, to FannieMae, FreddieMac, Citicorp, numerous banks, AIG, et al.



HOW MUCH IS A TRILLION?

But what does this \$7.7 trillion represent anyway? In the United States a “trillion” is a very large number that is represented as the number one, followed by 12 zeros: \$1,000,000,000,000.

Look at it this way.

There are about 100 million households in the United States. One billion dollars = \$10 per household. A trillion is 10,000 billion. So one trillion dollars represents \$10,000 per household. And \$7.7 trillion is therefore about \$77,000 per U.S. household.

The median U.S. household income is a little over \$50,000. So each household's share of the \$7.7 trillion in rescue/bailout funds is equal to about a year and a half of household income.

For some prospective, consider that \$7.7 trillion equals more than 35% of the entire U.S. gross domestic product (GDP) so far in 2008.

HISTORY OF DEBT

The National Debt is the total amount of money owed by the government; the federal budget deficit is the yearly amount by which spending exceeds revenue.

Back in 2005, the annual federal budget deficit was about \$800 billion, financed by U.S. Treasury bonds purchased by the Japanese and the Chinese. It is predicted that President Obama's first year deficit will be at least \$1 trillion, the highest ever in a single year. **[Ed Note: As of 2010, the 2008 federal budget deficit was closer to \$3 trillion and climbing.]**

As I noted above, today the national debt has reached over \$10 trillion, **[Ed. Note: \$13 trillion at the start of 2010]**, but don't forget the estimated cost of unfunded public commitments (including entitlements such as Social Security and Medicare), stands at just under \$53 trillion. That brings the total debt to \$63 trillion, even without the \$7.7 trillion in bailouts.]

And that equates to \$175,000 for every American.

The “experts” keep telling us that all this someday will have to be paid for by taxpayers. But the truth is about 60% of the U.S. households don't pay any income taxes at all. Most of income taxes are paid by the top 20% of households, those “rich” people whose taxes Mr. Obama wants to increase so they can be more “patriotic,” in vice president Biden's quaint phrase.



WORTHLESS PAPER?

In the meantime, the waning Bush administration is printing money as fast it can, its only tangible asset being those official printing presses at the Mint. In other words, the “assets” the government and the people are relying on are stacks of paper with printing and colored ink on it. No gold, no silver, just paper.

This enormous debt will have to be paid by everyone in the form of inflation when inevitably prices rise and the value of the dollar drops still further.

That old saw about the debt being imposed on our grandchildren no longer applies — now it will be many future generations of the as yet unborn, our great grandchildren and our great-great grandchildren, that will be forced to pay the horrendous bill for our collective financial sins.

THE EMPEROR HAS NO CLOTHES!

What I can't understand is how otherwise rational people can accept as any sort of security at all government bail outs financed by nothing more than borrowing, plus printing more rapidly devaluing currency.

The plain truth is that the American government is bankrupt and no one seems willing to admit that fact. Too big to fail? Don't bet on it.

U.S. TAXES ARE HIGHER THAN YOU THINK

Marshall J. Langer JD, *The Tax Exile Report*, 1997

Tax rates of 50 percent or more are now common in many major industrial nations.

As a result of clever schemes disguised as tax reform, some high-tax countries, led by the U.S., have diabolically reduced tax rates while simultaneously increasing the amount of taxes they actually collect.

A medical doctor living and working in America recently told me that he pays at least one-third of everything he earns as federal income taxes and that, when he dies, the federal government will take the other two-thirds of everything he expects to earn during the rest of his life. He added that he felt he was lucky that he lives in Florida which has no state income tax



on individuals and, for practical purposes, no state tax at death. If he lived in California or New York, for example, his taxes would be even higher.

During the Second World War, the highest U.S. individual income tax rate reached 91 percent. The maximum rate was brought down to 70 percent and then to 50 percent. In those days, most taxpayers paid a much lower rate on a substantial part of their income, and a much lower effective rate on their total income.

Presidents Ronald Reagan and George H. W. Bush brought tax rates down. Until 1993, the highest U.S. federal income tax rate on individuals was theoretically only 31 percent, but deductions were eliminated and tax shelters were gone. For most high income earners the maximum tax rate effectually became a flat tax rate applied to all their taxable income.

U.S. accountants showed that the way the tax was, the claimed maximum 31 percent rate was actually nearly 34 percent. For some people federal and state taxes combined to a rate of more than 40 percent.

[Ed. Note: U.S. income taxes were reduced by law from a maximum of 39.6 percent in 2001 to a 34 percent maximum, with reductions phased in over a period of years. These “Bush tax cuts” are scheduled to expire at the end of 2010 and President Obama indicates that’s fine with him.]

ALTERNATIVE MINIMUM TAX

The U.S. now has two distinct tax systems; one that applies to most taxpayers and a separate one that prevents many high-bracket people from escaping high taxes. Regular income tax is computed under one set of rules, then an alternative minimum tax (AMT) is calculated on certain income under AMT rules. The wealthy pay whichever tax is higher. The AMT rate has crept up over recent years to a new high of 28 percent.

DOUBLE TAXES ON BUSINESS

The U.S. is one of the few major industrial nations that still taxes most corporate earnings twice, first at the corporate level, then at the shareholder level. A corporation that earns \$1 million pays about \$400,000 in federal, state and city corporate income taxes. When the corporation distributes the remaining \$600,000 as a dividend, its shareholders pay another 40 percent of that amount in federal, state and city taxes. About \$640,000 of the \$1 million earned by the corporation goes to the payment of income taxes.



That is hardly a low tax rate, nor is that all.

CAPITAL GAINS TAXES

Many countries do not impose any tax on capital gains.

Some European countries levy a capital gains tax only on gains from real estate sales, or sale of shares by a shareholder who owns 25 percent or more of a company. The U.S. taxes its citizens on virtually all capital gains.

In the past, the U.S. taxed capital gains at a lower rate than ordinary income. There was a much lower rate on long-term capital gains from sales of capital assets held for more than six months or a year. In the 1980s, the highest CGT rate was 28 percent. [*Ed. Note: In 1998, the CGT was reduced by Congress to 20 percent for most gains on property held for 12 months or more. In 2001 estate tax exemptions were increased annually to \$1 million and beyond, with repeal of all estate taxes scheduled for 2010, assuming the law is not changed again. Unless Congress acts, at the end of 2010, federal estate taxes will revert to their 2001 levels.*]

If you now live or plan to live in a country that does levy a net wealth tax (the U.S. does not at this time), consider two points: 1) Such a tax can eat up a substantial portion of your investment income. Even a one percent annual tax hurts. With a three percent annual wealth tax, as Uruguay imposes on local assets, your entire capital is gone in 30 years. 2) An annual net wealth tax gives the government a check on the accuracy of your income tax return. They can compare your wealth tax return from year to year for consistency with your income tax return.

ESTATE TAXES

Most high-tax countries impose death taxes on the value of all estate property that passes at death to heirs or other beneficiaries if the decedent was domiciled or living permanently within that country at his death.

Some countries impose estate taxes on everything regardless to whom the assets go. Other countries levy inheritance taxes at a rate much lower on assets left to close family members, higher for assets going to distant relatives and strangers. Generally, these death duties cover all property wherever in the world located.

The U.S. imposes a federal estate tax on the fair market value of the worldwide assets of its citizens and domiciled resident aliens and on the



U.S. property of foreigners who are not U.S. citizens. There is a marital deduction for all property passing from one spouse to the other, but only if the recipient is a U.S. citizen or a non-U.S. citizen who locks the assets into a special U.S. trust called a QDOT. The first \$3.5 million [the 2009 figure] given by a U.S. person during his lifetime or at death is tax exempt. Everything above that is taxed at rates from 37 to 55 percent.

Although the maximum possible federal estate tax is 55 percent, there is a five percent extra tax on each dollar of fair market value between \$10 million and about \$21 million. As a result, if your estate reaches \$21 million you pay a flat tax of 55 percent on each and every dollar and the original \$3.5 million exemption disappears.

The U.S. collects about \$8 billion a year in estate and gift taxes, only about one percent of total tax receipts. Americans with net assets of \$3.5 million or more [2009] are targeted by the federal estate tax. Anyone with less can generally avoid the tax with proper planning. Thus, only a tiny fraction of Americans are subject to the estate tax. Even fewer are really clobbered by it. An estimated 80,000 Americans have a net estate of \$5 million or more. These folks stand to lose half or more of their estates to federal and state taxes when they die. The IRS normally requires the estate tax to be paid in cash nine months after the date of death.

Selling sufficient property to pay the tax during a declining market is a problem for those handling the estate, not for the government. The worst part of the estate tax as it applies to wealthy individuals is that the taxpayer has the burden of proving the fair market value of the property subject to tax. It should not surprise you to learn that the IRS sometimes takes a rather aggressive view as to what real estate or the shares of a closely held business is worth. If you have a large estate that is liquid with readily valued assets, the federal and state taxes on the estate should not exceed about 60 percent of its real value. If you have assets that are hard to value, you may be assessed taxes that exceed 100 percent of the real value.

To prevent avoidance of death taxes, most high-tax countries also use similar criteria to impose gift taxes on lifetime gifts. They assess the value of all worldwide property given to anyone if you were domiciled or living permanently in the high-tax country at the time you made the gift. Some countries tax all gifts made at any time during life. Others, only those gifts made within a few years before death, on the theory these were made in contemplation of death.



Once again, some countries also impose their gift taxes based on one or more other criteria such as:

- the citizenship of the donor;
- the domicile, residence or citizenship of the persons receiving the gifts;
- the fact that the donor or recipient was, at some prior time, domiciled or resident in the high-tax country, or a citizen of that country.

Most high-tax countries also impose death duties and gift taxes on all gratuitous transfers of property located in that country without regard to the residence, domicile or citizenship of any of the persons involved. This is especially true in the case of real estate located in the high-tax country, but it may also cover other property.

The U.S. federal gift tax is now unified with the federal estate tax. An American gets the equivalent of a \$3.5 million [2009] exemption on his total transfers. It covers those transfers made by gift while he is alive and anything left over can be used for transfers at death.

Some other countries — even those with relatively high estate or inheritance taxes such as the U.K. — do not impose any gift taxes or exclude lifetime gifts if you live a given number of years after making the gift. Several countries normally thought of as being high-tax countries, such as Australia, Canada, New Zealand and Israel do not now have any estate, inheritance or gift taxes.

THE EIGHT-WAY TAX GRAB

Marshall J. Langer, *The Tax Exile Report*, 1997

The octopus is a fearsome sea monster that uses eight uncoordinated tentacles to reach out and ensnare its hapless victims. Swimmers grabbed by any one of this beast's tentacles have a serious problem. Only if the victim has a knife sharp enough to cut all eight tentacles, does he win.

Similarly, any of eight different criteria can subject you to tax liability in your present home nation. Each test is used by some countries, most apply a few and the U.S. uses all eight. To avoid these taxes legally, you must eliminate each of these tax tentacles, one by one. They are: residence,



domicile, citizenship, marital status, source of income, location of assets, timing and status of beneficiaries.

RESIDENCE

In many countries you are counted as a resident for tax purposes if you actually are present within the country for more than 182 days in any tax year. However, you are not necessarily a nonresident for tax purposes just because you spend less than half the year in that country. In the latter case you may still be taxed depending on factors other than time. In such countries, there is always a risk government will claim you are a taxable resident.

Many countries impose income tax on worldwide income based upon the residence of the taxpayer. In some, mere residence is sufficient to tax an individual on both his domestic and foreign source income. In others, taxation of worldwide income is imposed only on taxpayers who are permanently resident (or domiciled) in the country.

You may be able to escape your present country's taxes by changing your residence to a country that does not tax its residents on their worldwide income. You may even be able to escape residence anywhere by moving around from place to place as a perpetual tourist (PT).

DOMICILE

The concept of domicile is significant in English common law nations. Domicile is not necessarily the same as residence. Your residence for tax purposes is usually determined each tax year, while your domicile is generally more permanent — the place to which you intend to return and where you have your roots.

Under British and American law everyone begins life with a domicile of origin. This can be changed to a domicile of choice, but not easily. Merely moving to a new place does not automatically change your domicile. The domicile concept made better sense 100 years ago than it does now. Picture a 20-year old Englishman in the days of Queen Victoria. He might take a job in India and live and work there for 40 years before returning to retire and die in England. While in India he was clearly resident there. But in the eyes of the law he remained domiciled in England because he always intended to return there.

It is often difficult to determine an individual's domicile in today's jet-



set era. One major problem is that the taxpayer always has the burden of proof. Each government is likely to claim you are domiciled there if that means you or your heirs have to pay them taxes.

In the U.S., your place of domicile is determined by state law rather than federal law, so there are over 50 different sets of rules. Your domicile for federal tax purposes depends on the law of the state where you are domiciled. There have been a number of cases in which more than one state has claimed to be a particular taxpayer's domicile. Similar rules apply in other countries such as the U.K. where a person is domiciled in England, Scotland or Wales.

Domicile is very significant in determining U.K. tax liability. Those who are both resident and domiciled in the U.K. are taxed on all their worldwide income. A U.K. resident not domiciled in the U.K. need not pay income taxes on foreign-source income unless it is remitted to the U.K.

In most civil-law countries, there is little or no difference between residence and fiscal domicile.

Domicile rules can be very erratic. A government may claim you or your heirs owe taxes even though you abandoned living there years before. Under U.S. rules, domicile can't be abandoned without establishing a new one somewhere else. One who tries to live as a PT may find themselves still domiciled in some U.S. state many years later. Under U.K. rules, if you abandon your domicile of choice without establishing a new one, your domicile will revert to that of your domicile of origin.

CITIZENSHIP

The U.S. is the only major country in the world that imposes income tax solely due to citizenship, but a few others levy estate taxes based on citizenship. The U.S. also imposes its gift and estate taxes on American citizens regardless of where they live or where they are domiciled. A U.S. citizen cannot escape U.S. income taxes merely by moving abroad. An American citizen does get some income tax benefits when living and working abroad, but these are of relatively little value to U.S. taxpayers with substantial annual income.

An American who wants to become a tax exile must not only change his residence and domicile but also must surrender U.S. citizenship. Since no one wants to become a stateless refugee, another nationality in a suitable country that does not impose taxes based on citizenship must be acquired first.



Some Americans qualify as “dual nationals.” They already have the legal status as citizens of one or more other nations. That is no help tax-wise since a dual national is still an American citizen for U.S. tax purposes.

Like most Americans, you probably do not have a second nationality. The first step towards tax exile is to acquire a second citizenship. The U.S. officially concedes that a U.S. citizen may voluntarily acquire another citizenship and the second passport that goes with it, without automatically losing U.S. citizenship.

The second, more dramatic step is giving up U.S. citizenship. An American who relinquishes U.S. citizenship may be able to obtain a multiple entry visa permitting visits to the U.S. the same as any other foreigner. However, a so-far-unenforced 1996 law authorizes the U.S. Attorney General to exclude from re-entry into the United States any individual who renounces U.S. citizenship to avoid taxes.

MARITAL STATUS

Your marital status may affect tax liability.

Not only whether you are married or single, but also where and how you were married and where you and your spouse have lived since marriage. Many countries have community property rules under which each spouse is entitled to a half interest in all property acquired by the other spouse during the marriage. These rules apply in virtually all civil-law countries and in some common-law jurisdictions, including nine states in the U.S.

Places as diverse as California, Texas, Quebec, the Channel Islands, Italy and Argentina all apply community property rules. For anyone married in, or with a marital home in, a community property jurisdiction, special planning to become a tax exile is needed.

Your marital status may also be significant even if you have not lived in a community property country. Example: a married woman’s domicile may be the same as that of her husband, whatever her wishes may be. The U.K. permits a married woman to adopt a domicile separate from her husband. Less clear U.S. rules permit a married woman’s separate domicile for some designated purposes, such as filing an action for divorce, but not for more mundane activities, such as taxes.



SOURCE OF INCOME

Most countries apply a source test that imposes income taxes on all income derived within that country whether the person earning it resides within the country or not. Income paid to non-residents may be subject to a withholding tax, and the entity paying the nonresident must pay the tax directly to the government. Withholding taxes are generally imposed at a flat rate on gross income derived by foreigners from domestic sources. The withholding tax rate is set by law but is often reduced by treaty.

For example, the statutory U.S. withholding tax rate on dividends paid to nonresidents is 30 percent, but portfolio dividends paid to a Canadian resident are subject to only 15 percent U.S. withholding tax under the income tax treaty between the U.S. and Canada. Some countries, including many in Latin American, impose taxes only on a territorial basis. Applying a source test, they tax all income derived from domestic sources and exempt all foreign source income.

LOCATION OF ASSETS

Most countries impose property taxes on real estate and other assets physically situated within their borders. Many nations impose capital transfer taxes on the disposition of property by a lifetime gift or at death because the property is located in that country. Taxes may be assessed on your worldwide assets because the government deems you to be a resident or domiciled there or because you are a citizen.

A tax exile must remove as much taxable property as possible from his high-tax home country to chosen places that do not tax assets merely because of their location. Personal property can be moved from one country to another. Real property cannot be moved but it can be sold or mortgaged and the proceeds can be moved abroad.

TIMING

The taxation of income may depend on when it is considered to have been earned. Thus timing can be significant when moving from one country to another. A tax exile should postpone receiving income until after he leaves his high-tax country. In the U.S., for example, large tax-free gifts can be made between spouses only if the recipient spouse is a U.S. citizen when the gift is made.

It may be possible for a resident of a country to exchange domestic



real estate for foreign real estate in a tax-free transaction while he is still resident. Or a former resident may be able to transfer domestic assets to a foreign corporation or sell foreign assets without tax liability after he ceases to be a resident.

STATUS OF BENEFICIARIES

Not all members of one family usually become tax exiles. Frequently, one or both parents leave a country but their adult children and their grandchildren remain. Knowing this, a high-tax country may seek to impose taxes, interest and even penalties when assets are eventually distributed to remaining relatives. Careful planning at the outset can avoid these tax problems. Obviously, the planning is much easier when the children leave with their parents.

ALL OF THE ABOVE

The U.S. uses all of the foregoing criteria to impose its federal taxes. Both U.S. citizens and resident aliens are taxed on worldwide income as citizens or as residents. Domicile is not necessary but if they are domiciled in the U.S. they are subject to U.S. gift and estate taxes on their worldwide assets and residence is immaterial. In cases where spouses have been married in a community property jurisdiction and one spouse is a U.S. citizen and the other is a non-resident alien, the U.S. may apply community property rules to tax the citizen spouse on half of the income earned by the nonresident alien spouse.

The U.S. taxes non-resident aliens on their U.S.-source income. It taxes non-domiciled aliens when they give U.S. situs property by lifetime gifts or by transfers at death. If all other attacks fail, the IRS may demand taxes by claiming the income was earned before the tax exile left the country.

The IRS also may impose transferee liability on beneficiaries over whom it retains jurisdiction. The answer to all these attacks is careful planning. If you plan to become a tax exile, do it right or don't do it at all.



DEALING WITH THE IRS PRESSURE AGAINST OFFSHORE PRIVACY

Dr. Erich Stoeger & Mark Nestmann, *The Sovereign Individual*,
May 2002, revised 2010

The U.S. Internal Revenue Service has quietly embarked upon a new policy that, if unchecked, will make it impossible for privacy-seeking U.S. citizens or permanent residents to deal directly with offshore banks.

This policy is an offshoot of IRS regulations that require offshore banks maintaining U.S. custodial accounts with U.S. correspondent banks or brokers to adhere to various customer identification and disclosure requirements on their U.S. securities transactions, or have all income and gross sales proceeds derived from such transactions subjected to a 31% withholding tax. Such custodial accounts are generally used to purchase U.S. securities for the offshore bank's customers.

The regulations came into effect in 2001 and were purportedly issued to make it more difficult for U.S. persons investing in U.S. securities through offshore banks to evade U.S. taxes.

To avoid the 31% withholding tax, many offshore banks opted to become "qualified intermediaries" (QI) under the new requirements. This step required that the country in which the offshore bank is domiciled, qualify under IRS "know-your-customer" regulations and that individual banks in that country with U.S. correspondent accounts sign QI agreements with the IRS.

Offshore banks that signed QI agreements were obliged to provide the IRS with client details (such as Social Security numbers) on transactions in which U.S. persons (U.S. citizens, wherever they reside, and permanent U.S. residents, irrespective of their citizenship) made U.S. securities transactions.

To comply with these requirements, the offshore banks asked all of their clients to establish their tax status. From U.S. persons, the banks requested a completed IRS Form W-9 (identifying these individuals to the IRS). Banks operating in bank secrecy jurisdictions such as Switzerland, Austria and Luxembourg were also required by their domestic law



to obtain authorization from their U.S. clients to divulge their identity and transactions to the IRS.

In return, U.S. clients could continue to purchase U.S. (and non-U.S.) securities through an offshore account, while continuing to be protected by bank secrecy in all matters other than taxes.

Non-U.S. depositors in offshore banks (which generally make up the majority of customers) were not required to complete Form W-9. Offshore banks could continue to purchase U.S. securities for such customers while maintaining bank secrecy.

Many U.S. clients were not willing to complete Form W-9. To protect their privacy, and to avoid the 31% tax, these clients sold their U.S. securities. From that point forward, they were effectively barred from dealing in U.S. securities through their offshore account.

As a consequence, those clients only had access to the two-thirds of world capital markets outside the United States. But for many U.S. investors, this was not a serious problem, as the purpose of their offshore account was to gain access to non-U.S. investments and for currency diversification, privacy and asset protection.

IRS WANTS TO KNOW NON-U.S. SECURITIES

TRANSACTIONS

Access by U.S. persons who have not signed Form W-9 to non-U.S. securities through offshore bank accounts is now under attack by the IRS, due to a new interpretation of the QI agreements between the IRS and offshore banks.

The agreements stipulate that signatory offshore banks must submit to periodic audits by independent auditors to demonstrate their compliance with “know your customer” and other QI regulations.

The IRS receives a copy of the audit report. It is now clear that these audits are leading to a dramatic deterioration in the quality of services available from offshore banks to U.S. persons and the manner in which their account relationships can be managed.

The first audit was of one of the world’s largest offshore banks — Swiss giant UBS. During this audit, a seemingly trivial term in the agreement — “deemed sales” — was reevaluated and renegotiated. The outcome,



however, is anything but trivial: all securities transactions, both U.S. and non-U.S., by a U.S. person who has signed Form W-9, must now be reported by UBS to the IRS. This is because the transaction is “deemed” to have initiated from within U.S. geographical boundaries.

In February 2002, UBS began informing their U.S. clients of the new situation. The letters also set out new procedures that would henceforth apply to the relationship between UBS and its U.S. clients who did not complete IRS Form W-9, apparently in an effort to comply with both the terms of the audit and Swiss bank secrecy rules.

Quoting from the letter: “We [UBS] will no longer be in a position to accept orders for transactions in securities, we suggest that you give UBS a mandate to manage your account. The reason for this sudden change of policy is the ‘U.S. Tax Law’ and especially the so-called ‘Deemed sales in the United States.’ This rule says that each transaction, which is potentially taxable in the United States, must be reported to the U.S. Authorities, regardless of the marketplace and the securities involved ... This reporting obligation is no longer limited on U.S. securities only, but includes all securities worldwide.”

UBS no longer accepts any orders for U.S. or non-U.S. securities from U.S. persons who have not completed Form W-9 when the instructions are deemed to originate in the United States. This includes orders by telephone, fax, mail, e-mail or the Internet.

UBS can accept securities trading instructions from such customers only if the instructions originate outside the United States or if the client delivers them in person at a non-U.S. branch of the bank. No instructions may be accepted, or strategies discussed, in any U.S. location. The only instructions with a U.S. origin that will be accepted are payment instructions to the bank by whatever means was originally stipulated when the account was set up (i.e. by mail, fax, telephone or otherwise).

Finally, UBS will no longer mail any correspondence or account statements into the United States to U.S. customers who have not completed Form W-9. Consequently, such individuals who wish to receive account statements by mail will need to designate a foreign address for this purpose (such as a foreign mail drop).

Why was UBS the first target of the IRS? Most likely because of its huge size and extensive U.S. interests.



Another factor may have been an agreement UBS signed in 1998 agreeing to provide

U.S. regulators with all information “necessary to determine and enforce compliance with ...[U.S.] federal law.” UBS signed the agreement as a condition for U.S. approval of its merger with Swiss Bank Corp. (SBC), which included SBC’s U.S. subsidiaries and the U.S. branches of UBS, and was therefore subject to U.S. regulatory scrutiny. The agreement granted no exception for U.S. tax laws. Rather than defend their clients’ privacy rights, UBS compromised and is now paying the price.

For the moment, most other offshore banks continue to take the position that transactions in non-U.S. securities by U.S. persons do not fall under the QI requirements. However, as the audits continue, sources within the offshore banking community predict that all offshore banks that have signed QI agreements with the IRS will be forced to severely restrict contacts with U.S. persons who have not completed Form W-9.

PRIVACY OPTIONS FOR U.S. PERSONS

Many U.S. clients of UBS, or other offshore banks subsequently subjected to the “reinterpretation” of QI agreements, will agree to have all their securities transactions, both U.S. and non-U.S., reported to the IRS. However, other U.S. clients will wish to have their offshore portfolio administered privately.

What options remain for such individuals?

1) They can set up a discretionary management mandate for their portfolio with the bank. After an initial meeting (most likely outside the United States), the bank can manage funds, reinvest maturing investments and buy and sell non-U.S. securities according to a mutually agreed upon management strategy.

2) They can set up a management mandate with an independent offshore portfolio manager. Such a manager residing outside the United States is not bound by any restrictions deriving from the QI agreement between the IRS and the bank. After the appropriate agreements are signed, the bank can freely discuss the portfolio of a U.S. person with the independent advisor.

In turn, the independent advisor can talk freely to his or her U.S. client and place investment instructions with the bank on a discretionary



basis or in ongoing dialogue with the client. The manager can also receive statements from the bank and forward them on to such individuals. The investor may also receive in this manner more personalized private banking services and have an additional layer of control over the bank.

3) They can employ an offshore representative and grant that individual a limited power of attorney for the relationship with the bank. This allows the representative to initiate, terminate and monitor investments with the bank based on the account owner's instructions and to receive information and statements from the offshore bank to share it with the account owner. The limited power of attorney does not allow the representative to withdraw any funds from the account. The representative retains an independent position similar to an attorney or notary public, but should be specialized in financial services and global investing.

The offshore representative is not subject to QI rules and does not have any QI restrictions to represent the account owner at the bank. This option should be less expensive than option #2 if the account owner wishes to make his or her own investment decisions.

4) They can place the portfolio into an offshore entity, such as an offshore trust. The portfolio is managed by a professional trust company outside the United States. Due to the cost involved this is only advisable for large portfolios. In this context, the account holder at the offshore bank is the offshore entity and the bank does not deal with a U.S. person. The manager of the offshore entity is bound by the terms of the trust or other offshore structure to manage the portfolio in accordance with those terms. The offshore entity may also delegate the investment management to an independent professional money manager via a limited power of attorney or allow the bank to manage the funds on a discretionary basis. This approach also offers substantially greater asset protection than the first three options.

5) They can place the portfolio into an investment management vehicle through an insurance wrapper. The greatest flexibility is afforded by an offshore life insurance policy. Legally the investor is the client of the insurance company and the insurance company is the client of the bank. The funds will be managed by the bank or by an independent asset manager. In the latter case the investor indirectly has an option to influence the investment strategy. This approach, unlike the first four options, may offer tax deferral on income generated within the insurance policy. The insurance company will provide quarterly statements directly to the U.S. investor.



[Ed. Note: U.S. persons are legally obligated to pay taxes on their worldwide taxable income. This responsibility is not negated by the fact that they may manage their offshore portfolio in such a way as to avoid having such investments and the income or gain accruing from them automatically reported to the IRS by third parties. Warning: If you are subject to U.S. taxation, these strategies do not eliminate your obligation to pay tax on income or gains worldwide. In addition, you may be subject to additional disclosures, such as Form TD F 90-22.1 — Report of Foreign Bank and Financial Accounts. Form 5471 — Information Return of U.S. Persons With Respect to Certain Foreign Corporations. Form 8621 — Return by a Shareholder of a Passive Foreign Investment Company or Qualified Electing Fund.]

HOW TO RECOGNIZE A TAX FRAUD

Vernon Jacobs, CPA & Richard Duke, JD,
The Sovereign Individual, March 2003

Citizens or permanent residents of high tax countries naturally seek ways to reduce their tax burden.

Every high tax country has an assortment of deductions, exemptions and exclusions by which you may legally reduce your tax burden. But there are always opportunists who seek to take advantage of those who want to reduce their taxes, but are not tax experts. This article reviews some of the most common schemes and tells you how to avoid them.

TAX MYTH: A U.S. PERSON CAN BECOME A “NON-RESIDENT ALIEN”

The United States is the world's largest tax haven. Bona-fide foreign persons can invest in U.S. government bonds or in the accounts of U.S. banks tax free. Income or gain from the securities of

U.S. corporations are also tax-free to foreign investors.

It's completely understandable why many U.S. taxpayers want to use the tax breaks available to non-resident aliens. The trouble is, Congress doesn't want U.S. citizens and permanent residents to do that. They have passed an assortment of laws that make it nearly impossible for U.S. persons to enjoy these benefits.



This hasn't stopped promoters from coming up with various schemes that purport to convert a taxable U.S. person into a potentially non-taxable, non-resident alien. One popular scheme is to have a U.S. person form a foreign corporation (usually called an international business company or IBC) with bearer shares or with some kind of unsigned agreement with the promoter.

The problem with this approach is that if someone else is acting as your agent, nominee or intermediary, you will still be treated as the owner of that entity for tax purposes. The IRS and the courts have the power to disregard the legal formalities of an ownership arrangement and to look at the substance of the arrangement.

That's just one trap. There are many others.

Almost without exception, your IBC will be deemed to fit into one or more of the following designations: (1) a "controlled foreign corporation" (CFC); (2) a "passive foreign investment company" (PFIC); or (3) "foreign personal holding company" (FPHC). All of these designations require significant disclosures and generally require shareholders to pay taxes on the IBC's current income. There are severe penalties for not filing these forms and paying the relevant taxes.

Of course, the promoters won't tell you this.

Instead, they'll urge you to create a "secret" IBC. To maintain secrecy, they'll recommend that you give them signature authority over the IBC's bank accounts. That means the promoter can take the money from your accounts and then defy you to sue them. If you do, they will threaten to notify the IRS.

Once you settle with the IRS, to recover your money, you will still have to sue in a foreign country, with foreign lawyers, under foreign laws and subject to foreign judges. How much are you willing to trust someone in a foreign country who promises to help you break the law in the United States?

SCAM: CREATE A FOREIGN TRUST WITHOUT A U.S. GRANTOR

A foreign trust that does not have any U.S. beneficiaries or that is not funded by a U.S. person is treated as a non-resident alien for U.S. tax purposes, with the same tax advantages we've already summarized, in addition to potential estate tax advantages.



It's called a "foreign non-grantor trust." A lot of U.S. taxpayers would like to have one of these trusts. However, since 1977, the U.S. Tax Code has treated a foreign trust with a U.S. grantor and any U.S. beneficiary as a "grantor" trust.

This means the person who creates and funds the trust (the "grantor") is treated as the owner of its assets and is taxed on any income earned by those assets, as if the trust did not exist.

Many promoters claim they have found ways to create a foreign trust through nominees, agents, foreign corporations or other deceptive arrangements, therefore making trust income purportedly tax-free. Most of these arrangements fail because the tax law looks through these intermediate parties to the person who has the real influence. If you are the person with the money, the IRS will treat you as the grantor no matter how many intermediaries you interject in the arrangement.

SCAM: TRANSFER GAINS OFFSHORE WITH A PRIVATE ANNUITY

Private annuities are legitimate arrangements generally used as devices to transfer assets to one's heirs without first being subject to federal estate tax. However, they are often promoted as a method of getting funds transferred into a foreign corporation or foreign trust on a tax-favored basis.

A private annuity must be an unsecured contract entered into by the annuitant (e.g., the person receiving annuity payments) and someone NOT in the business of issuing annuity contracts. Thus, you can't enter into a private annuity with an insurance company.

This makes private annuities prime targets for con artists. Since the annuity is unsecured, if the person or entity from whom you purchased it defaults, you can't take back your property. You must pursue payment in the courts. And collecting from a con artist in a foreign jurisdiction isn't easy.

Some promoters pitch the idea of transferring property to an IBC in exchange for a private annuity. Both promoters and clients assume that the IBC is not a CFC, PFIC or FPHC. But in most cases, the corporation is in one or more of these categories. Then, the annuitant is in the position of being on both ends of the annuity transaction and "doing business with himself." This negates any tax advantages. Several other widely promoted structures don't work much better.



About the only way a private annuity arrangement is effective is when a foreign person is an heir of the U.S. person, in which case there is no need for the IBC. The foreign heir could simply enter into a direct annuity contract with the U.S. person.

TAX MYTH: DIVERTING PROFITS TO A FOREIGN CORPORATION

If you manage to create a foreign corporation that isn't a CFC, PFIC or FPHC, it might seem like a good idea to divert profits from a U.S. business into it. Indeed, this scheme is popular with hustlers who aren't familiar, or ignore, the U.S. tax laws relating to the "allocation of income" rules between related parties.

The IRS and many other tax agencies are permitted to re-allocate the profits of multinational enterprises back to the country where the profits were actually earned. Multinational corporations have been trying to manipulate these highly complex rules for their benefit for decades. As their tax lawyers and accountants devise various schemes to do that, Congress amends the law to prevent this type of tax avoidance.

TAX MYTH: NON-TAXABLE EMPLOYEE BENEFITS FROM A FOREIGN CORPORATION

Some U.S. people believe that if a foreign corporation pays their foreign travel, lodging and other expenses, they are not required to pay any taxes on that income. If these expenses are paid directly by a bona-fide foreign company, there would be no reporting obligations from the foreign company to the IRS. However, you would have to show that the expenses, had they been made by a domestic corporation, would have been a tax-free reimbursement. And, if the person whose expenses are reimbursed is not an employee, sub-contractor, officer or director of the company, what business reason would the company have for paying them?

It appears that most people conveniently forget that the U.S. imposes its taxes on its citizens on their worldwide income. Barring any specific exception because of a foreign transaction, the tax treatment of any transaction outside of the U.S. is the same as the identical transaction in the United States. If it's legal in the United States, it's probably legal overseas. Otherwise, you are gambling on the IRS audit lottery.



TAX MYTH: THE PERMANENT TOURIST IS TAX-FREE

A group of people who call themselves “PTs” are advocates of the ideas of a writer who calls himself W. G. Hill. After reading an article by Harry Schultz advocating the concept of becoming a “previous taxpayer” or “perpetual traveler” and not having any permanent residence, Hill expounded on this idea with a series of books published in the early 1990s.

While the PT theory might have some validity with respect to those who are citizens of countries that tax on the basis of residence, it isn’t valid for U.S. persons who are taxed on the basis of their citizenship. U.S. citizens are subject to U.S. taxes on their worldwide income regardless of where they live.

For U.S. persons to legally benefit from this idea, they must first acquire citizenship in a country that taxes on the basis of residence (such as Canada), then lose their U.S. citizenship and cease being a U.S. resident. And, losing your citizenship doesn’t always result in total freedom from the U.S. tax laws and the IRS. For instance, if you are a non-resident alien working in the United States, you will still owe U.S. income taxes.

DUE DILIGENCE FOR OFFSHORE INVESTING

Congress and the IRS have in recent years made a significant effort to crack down on offshore tax evasion.

A major part of this effort has been to vigorously pursue promoters of the schemes discussed in this article. That means if you decide to invest or do business offshore, it’s more important than ever to do it right. And there are still completely legal and above-board methods to reduce, defer or even eliminate taxes on offshore investments. Offshore life insurance and deferred annuities, for instance, can be configured to provide these benefits.

Slick promoters, however, often don’t know or care about these laws. Even after our more than 40 combined years of professional practice, we’re still amazed by the creativity of promoters hustling offshore tax and investment scams.

You can avoid being taken in by nearly every kind of offshore tax fraud by insisting that the promoter put its plans in writing to be reviewed by a competent international tax advisor. The mere suggestion of using your own advisor will probably generate a host of reasons why there isn’t enough



time, why the deal must be kept a secret, why it will save time and money to use their lawyer who is already familiar with the deal, and so on.

Claims such as that should speak volumes.

TAX HIKES & BAD GOVERNMENT POLICY

Eric Roseman, November 2009

At exactly the wrong time many governments around the world are raising taxes to boost depleted coffers amid a spending binge since late 2008. Costly bailouts are compelling politicians in the West to raise taxes — probably the dumbest policy mistake amid a deflation in household assets and surging unemployment.

Other nations, in order to curb speculative excesses are now introducing excise taxes on currency (Brazil, Indonesia) and stock trading (Brazil). In the United States, Barney Frank wants to tax currency derivatives — another stupid initiative designed to cause more harm than good.

Most financial crises in the past have resulted in poor policy initiatives by government, which only exacerbate a challenging and difficult economic environment. The 1930s saw a host of such blunders — though some were actually positive, like Glass-Steagall (1933) and the 1940 Investment Company Act, but overall a series of new tariffs and trade restrictions made the situation only worse and prolonged the depression.

The only major government in late 2009 that seems to understand what domestic consumption needs now is Germany. Starting next year the Germans will cut tax rates in a smart effort to grow the economy — something that the late President Reagan understood when he was elected in 1980. The Germans, historically ambivalent about inflation and deficit spending, are nevertheless biting the bullet and growing big deficits to finance tax cuts. They understand the big picture.

The Reagan Revolution did cause a long-term acceleration of U.S. deficits in the 1980s. But at the time the United States was so badly mired in stagflation that the only way out was to boost consumption and encourage business capital spending. What resulted was a tremendous bull market for stocks starting in 1982 that lasted until 2000.



Unlike the 1980s and 1990s — the greatest decades for stocks since the 1950s — the 2000s will go down in history as the worst 10-year period for stocks — even surpassing the 1930s “Lost Decade.”

Yet the United States, struggling to keep the financial system afloat with staggering government bailouts is convinced higher taxes is required to fix the economy. Obama is intent on raising taxes; after the Bush tax cuts expire next year, a badly fractured economy that's struggling to recover will face even more hurdles as individuals are left with less after-tax income.

The attack on tax havens is also bad politics. Major Western governments are attacking tax havens en masse over the last several years as they aim to grab lost tax revenues from evaders or undeclared accounts in countries like Switzerland. If governments would tax citizens and corporations less and let their populace keep more of their after-tax income then people wouldn't feel compelled to dodge taxes or hide money in the first place. Governments just don't get it.

History has clearly shown that low tax countries benefit enormously from such a regime and encourage capital inflows, foreign investment and ultimately result in an economic boom. This was the case with Ireland until recently and still the case in Hong Kong.

The jury is still out whether the ongoing debate and future introduction of tax hikes in many countries will serve to boost the global economy. In my view, it will serve the opposite purpose and prolong the economic agony for many businesses and those folks looking for a job. The government has its brain in the wrong place — somewhere the sun doesn't shine.

PART TWO — AND HOW TO AVOID THEM

TAX EVASION = JAIL TIME

Robert E. Bauman JD, April 2008

In his *Thoughts on Government*, the second U.S. president, John Adams of Massachusetts, sagely observed that: "Fear is the foundation of most governments."



Based on its tax enforcement policies, the U.S. Internal Revenue Service could easily adopt that as its official agency motto.

Exhibit A: A “very sorry” Wesley Snipes, Hollywood star of the “Blade” movies, was sentenced to three years in prison for willfully failing to file U.S. income tax returns for 1999 through 2001. Snipes was convicted on three misdemeanor tax evasion counts.

U.S. District Judge William Terrell Hodges handed down the maximum sentence and said he felt it was important to create a general deterrent against tax defiance. Prosecutors said Snipes had earned more than \$38 million since 1999 but still had not filed tax returns for the years 1999 through 2001 nor paid any taxes.

“I am very sorry for my mistakes and errors,” Snipes told the judge. “This will never happen again.” Sorry Wesley. Too little, too late!

Co-defendant Eddie Ray Kahn, a longtime tax protester who coached clients of his American Rights Litigators on supposedly how to beat the tax system, was sentenced to 10 years in prison. Co-Defendant Douglas Rosile, whom prosecutors called a “defrocked certified public accountant,” was sentenced to 4-1/2 years for his part in the scheme. Both were convicted of conspiracy and tax fraud.

FEAR FACTOR

As in the tax evasion case of the late hotel millionaires, Leona Helmsley who went to jail, with Snipes the IRS wanted a show trial so that taxpayers would be scared into unquestioning obedience to the laws "by pursuing a few prominent cases, making examples of those it judges to be violators" as *The New York Times* noted.

As a libertarian and a conservative I view taxes as, at best, a necessary evil.

I believe that when government takes wealth from some and gives it to others, it diminishes the rights and well being of the former, and often destroys the independence of the latter. The issue of taxation involves nothing less than the human and natural right to own, use and enjoy private property. Property and wealth determine personal power to control our own lives, to make decisions, and to live free. Every additional tax diminishes our freedom.



Nevertheless, the 16th Amendment to the U.S. Constitution granted the Congress the power to “... lay and collect taxes on income, from whatever source derived, without apportionment among the several states and without regard to any census or enumeration.”

And, oh boy, the politicians have had a wonderful time ever since, laying and collecting taxes.

ENFORCED EXACTIONS

Notwithstanding the 16th Amendment, it should be balanced against the statement of the late, distinguished Judge Learned Hand of the U.S. Court of Appeals in New York.

In a memorable tax case dissent, Judge Hand offered these timeless remarks: “There is nothing sinister in arranging one’s affairs so as to keep taxes as low as possible... nobody owes any public duty to pay more than the law demands. Taxes are enforced exactions, not voluntary contributions.” *Commissioner v. Newman*, 159 F2d 848, 851 (2nd Cir 1947).

Charles Cain, editor of *Offshore Investment*, in an editorial rightfully charged that “the line between tax avoidance and tax evasion is purposely being blurred by governments, with honest people (and their tax advisors) being jailed for failed attempts at tax avoidance while tax evasion is put down on a moral level with heroin and cocaine pushing.”

A great deal of time and effort on our part goes into exploring and explaining legal ways by which you can avoid, minimize, and defer taxes — I repeat — legal ways.

In the first page of every one of our book publications the following statement appears:

The Sovereign Society advocates full compliance with applicable tax and financial reporting laws. U.S. law requires income taxes to be paid on all worldwide income wherever a U.S. person (citizen or resident alien) may live or have a residence. Each U.S. person who has a financial interest in, or signature authority over, bank, securities, or other financial accounts in a foreign country that exceeds \$10,000 in aggregate value, must report that fact on his or her federal income tax return. An additional report must be filed by June 30th of each year on an information return (Form TD F 9022.1) with the U.S. Treasury. Willful noncompliance may result in criminal prosecution. You should consult a qualified attorney or accountant



to insure that you know, understand and comply with these and any other reporting requirements.

The Biblical admonition to “render unto Caesar” does not mean we have to surrender unto Caesar, and we shouldn’t.

TAX REDUCTION: IS IT LEGAL?

Marshall J. Langer JD, *The Tax Exile Report*, 1997

Tax lawyers and accountants usually like to stress the distinction between two seemingly similar methods of tax reduction: 1) tax avoidance and, 2) tax evasion.

It is important to understand this distinction, as well as to realize the limitations of its applicability.

At first glance, the distinction seems quite obvious. Tax avoidance is using whatever legal means are available to minimize a tax burden; tax evasion is the use of illegal means to the same end. Using the services of an accountant and classifying certain verifiable expenses as “business expenses” with a seemingly acceptable justification to reduce the taxable net income from one’s business or profession is legal.

Even if the tax collector does not accept the validity of these deductions and compromise fails, the businessman doesn’t fear being indicted for a criminal offense. The worst that can happen is that he must pay more tax than he believes he should have to pay. This is tax avoidance.

On the other hand, willfully failing to report all or part of income on a tax return or failing to comply with other reporting requirements is acting illegally. This is tax evasion. Lawyers and accountants explain sternly that, while to the best of their abilities they can help a taxpayer avoid taxes legally, using all possible accounting tricks and legal loopholes, they will have nothing to do with tax evasion schemes. They cannot be accomplices to a crime; it could destroy them professionally and send them to prison.

As you can see, the distinction between avoidance and evasion is real and very important.

However, look into the matter and one discovers the distinction is far



from clear-cut. Vagueness, ambiguity and holes in the law make a muddle of just what is income and how one is legally obliged to report it if it is.

The law, personal tax strategy and a host of factors may produce so much uncertainty that a harsh legal decision against a would-be tax avoider is unlikely. The defendant's lawyer may see his client as a genuine tax avoider. The IRS lawyer may claim he is an evader; the judge may reach an in-between verdict; the appeals courts may reverse. The government may decide the dispute will cost more to prosecute than the government stands to gain, so they compromise or even drop the matter. Or the IRS may make an example of the avoider/evader, trying to force a new precedent and cow other potential tax dodgers. But even a clear-cut, legal tax avoidance attempt can be fought in court and end up as tax evasion.

Bear in mind there is a continuum between easy-to-discover tax avoidance, provable tax avoidance and punishable tax avoidance. One faces a set of probabilities, not hard and fast rules and facts, but on circumstantially determined chance.

While, for obvious reasons, it would be most unwise to tell a legal counselor or accountant flat out that one plans tax evasion, this does not mean that it is not possible to discuss with them possibilities that are legally dubious. Tax avoidance terminology must be used, a language in which everything involved can be fully understood by all parties but that in no way smacks of criminal intent. The most important distinction is to be made between tax reduction methods that can lead to prison, and those that protect you and your money from the tax man.

The legal distinction between avoidance and evasion is the key here. If pushed, one may admit being involved in tax planning for tax avoidance purposes, strictly within the letter of the law, and that one abhors tax evasion as much as the next guy. There is no simple legal classification applicable to most approaches.

TAX AVOIDANCE VS. TAX EVASION

Mark Nestmann, *The Sovereign Individual*, July 2001

Every taxpayer has a right to try to avoid taxes. But when does complete legal tax avoidance turn into illegal tax evasion?



The answer seems intuitive: evasion is driving around a tollbooth to enter a toll road without paying. Avoidance is taking an alternate free route.

This fundamental difference couldn't be clearer. And courts in many countries have repeatedly stated: Tax avoidance is legal. Tax evasion is not. Justice Felix Frankfurter of the U.S. Supreme Court wrote: "As to the astuteness of taxpayers in ordering their affairs as to minimize taxes, we have said that, 'The very meaning of a line in the law is that you intentionally may go as close to it as you can if you do not pass it.' This is so because nobody owes any public duty to pay more than the law demands. Taxes are enforced extractions, not voluntary contributions."

In the House of Lords, the highest court of the United Kingdom and many other countries, Lord Clyde stated: "No man in this country is under the smallest obligation, moral or other, so as to arrange his legal relations to his business or to his property as to enable the Inland Revenue to put the largest possible shovel in his stores. And the taxpayer is entitled to be astute to prevent, so far as he honestly can, the depletion of his means by the Revenue."

Yet despite this ringing legal affirmation of tax avoidance, in practice, it's not always easy to tell the difference between evasion and avoidance. The line changes with amendments to tax laws, so that yesterday's legal avoidance easily converts to today's tax evasion.

Not knowing the difference can cost you dearly.

For instance, non-domiciled residents of the United Kingdom can arrange their affairs so that virtually all their offshore income is tax-free, except for that repatriated for living expenses. This scheme is perfectly acceptable from a U.K. perspective.

But residents of most other members of the Organization of Economic Cooperation and Development (OECD) are liable to tax on their worldwide income — whether generated personally, or through a partnership, trust or as a shareholder in a corporation. There are narrow exceptions to these rules, but by and large — this is the law. Persons who fail to report their worldwide income, and pay tax on it, risk prosecution for tax evasion. And under U.S. law, if efforts are made to conceal the income, tax fraud or even money laundering charges are possible.

It is true that audit rates are relatively low so many tax evaders are never



caught. But no matter what the odds, the penalties for non-compliance are unforgiving.

Too many offshore promoters ignore the law, or don't realize it has changed, and continue to promote tax-defective schemes:

- “Abusive trusts” in which the individuals forming and funding the trust are told by the promoter that the trust is “non-taxable” and “non-reportable.”
- “Secret” and supposedly non-reportable offshore bank accounts.
- High-yield investment programs in many cases with your “profits” diverted into a supposedly “secret” offshore account.
- “Un-tax” schemes that claim by declaring yourself a “sovereign citizen,” you are no longer subject to federal, provincial or state legislation, courts or taxes.

Hundreds of similar scams exist. Robert Bauman, The Sovereign Society's legal counsel reports: “Recently I saw an advertisement in major airline magazine touting purchase of an offshore ‘how to’ investment book. A bit of checking turned up the fact that the author is accused in an SEC lawsuit of masterminding a \$14 million stock fraud using a U.S. firm he founded.”

DOES IT PASS THE COMMON SENSE TEST?

The common element in these schemes is that they promise something that defies common sense — that is too good to be true.

Common sense dictates that if you live in a country that imposes an income tax on your worldwide income, you can't eliminate your liability to that tax by signing a piece of paper purportedly revoking your Social Security number, Social Insurance number or driver's license number.

Common sense dictates that it's not possible to generate “risk-free” returns of 500 percent or more each year on any investment, offshore or otherwise.

Common sense dictates that an offshore banker or trust promoter is not going to give you unbiased or knowledgeable advice about tax liabilities in your own country relative to their proposed structure.

In short, a simple benchmark to determine the difference between legal tax avoidance and illegal tax evasion is: “If I were to read about this



technique or instrument in the newspaper, or hear about it from a friend, would I be skeptical, or not?"

We advise members to stay away from tax schemes that fail the common sense test or that otherwise promise benefits that appear "unreal."

MANY LEGAL WAYS TO SAVE TAXES

Fortunately, there are many completely legal tax avoidance strategies of which you can still take advantage. If you are a U.S. citizen, for instance, Vernon Jacobs, CPA (www.offshorepress.com) points out the following completely legal tax avoidance strategies:

1. U.S. persons who live and work outside the United States for at least 330 days in any consecutive 12 months can exclude up to US\$91,400 in [2010 amount] foreign source earned income from their U.S. income taxes.
2. U.S. companies engaged in export sales may be able to save some taxes (although the law relating to this issue is being changed).
3. The foreign source income of a foreign trust after the death of the grantor (settlor) of the trust (and his or her spouse) is exempt from U.S. taxes until distributions are made to a U.S. beneficiary. This provides estate tax benefits for your heirs but no income tax benefits for yourself.
4. A small amount of currency gains from non-investment and non-business purposes is excluded from tax.
5. Tax deferral is available for profits from a foreign corporation owned by U.S. persons if it has no significant investment income and if most of its income and assets are utilized in earning profits from a foreign based corporation conducting a trade or business located outside the United States. However, there are numerous complicated restrictions on this principle and it must be pursued with qualified advice.
6. When a U.S. citizen expatriates by giving up his or her citizenship, future income from sources outside the United States is not subject to U.S. taxation and non-U.S. source assets are not subject to U.S. estate and gift taxes.

Jacobs lists more than a dozen additional legitimate tax avoidance techniques. Why pursue exotic and potentially illegal tax cutting strategies when there are so many legitimate ones to choose from?



These legitimate tax avoidance strategies get a bad rap in the mainstream media. Witness the comments of self-proclaimed offshore expert, Jack Blum, to a *New York Times* reporter: “There is no legitimate reason for an American citizen to have an offshore account. When you go offshore, you are doing so to evade rules, regulations, laws or taxes.”

Blum takes his mistaken cue from government policies that deliberately blur the distinction between tax avoidance and tax evasion. Charles A. Cain, editor of *Offshore Investment* magazine, charged in a 1998 editorial that “the line between tax avoidance and tax evasion” is purposely being blurred by governments, with honest people (and their tax advisors) being jailed for “failed attempts at tax avoidance” while “tax evasion is put down on a moral level with heroin and cocaine pushing.”

The blurring of these lines makes it all the more important for you to follow proven and prudent tax avoidance strategies, and not cross the line into illegal, and potentially dangerous, tax evasion.

THE ANNUAL IRS FEAR CAMPAIGN

Robert E. Bauman JD, April 2008

About this time each year, the IRS antics bring to mind the late, unlamented Josef Goebbels. In case you're unfamiliar with the name, Dr. Goebbels was Adolf Hitler's infamous minister of propaganda.

It was Dr. Goebbels who observed: “Propaganda has only one object; to conquer the masses. Every means that furthers this aim is good; every means that hinders it is bad.”

Fear was the Nazi stock in trade. They used fear as a potent psychological weapon in their efforts to direct and control the German masses.

And each year, as dependable as the arrival of spring, the fear mongers at the IRS launch into their annual campaign to scare the American public.

The annual campaign begins with a barrage of press releases. The PR specialists at the IRS start sending them three months before the annual income tax filing date, April 15th (a week from today). The press releases are more than just friendly “please file your taxes” reminders. They an-



nounce (or you could say “brag” about) the convictions of an assortment of alleged tax evaders. This scare tactic has become a ritual to frighten U.S. taxpayers into paying up.

Based on his many years of experience my friend Vern Jacobs, CPA, notes: “Many of these press notices are announcements about successful prosecutions of tax evaders — all carefully timed to coincide with the first three months of the year when folks are working on their taxes or having them done by their accountants. Because tax prosecutions are relatively rare, an unquestioning news media dutifully picks up the press releases and runs them with large headlines.”

IRS BRAGS ABOUT THEIR CONQUESTS

Criminal prosecutions for tax evasion are only worthwhile to the IRS because of publicity value. These cases take a long time and cost the IRS far more in time and effort than the added penalties they can possibly collect. In addition, in a criminal prosecution, the IRS has to be able to prove to a jury that the accused taxpayer knowingly and willfully failed to pay their taxes. That’s what got actor Wesley Snipes partially off the IRS tax hook.

This has been a bad year for the IRS propaganda machine. In February, the IRS came out on the short end. A federal trial jury failed to find actor and tax protester Wesley Snipes guilty on several tax evasion counts.

The action movie actor was convicted on three misdemeanor counts of willfully failing to file a tax return. He faces up to three years in prison when he is sentenced on April 24th. The IRS went after Snipes for his high profile. And they undoubtedly will prosecute others with “large numbers or loud voices because they’re spreading the anti-tax cause,” says J.J. MacNab, a writer who monitors tax resisters.

ANOTHER “NEW” DIRTY DOZEN LIST

For several years now, the IRS has trotted out its ancient “Dirty Dozen” list — as some sort of keynote to its annual campaign. The list supposedly contains the top 12 worst tax frauds du jour. Quite frankly, the list is pretty entertaining — considering it’s the same every single year.

Once again this year, the IRS put offshore financial activity on the list — although offshore has moved down to #5 on the list.



Without offering any proof, the IRS claimed that Americans are hiding trillions in taxable income offshore. That's a ridiculous claim at best — used for dramatic effect. Of course, legitimate international investing and banking is a normal part of doing business offshore.

Also, even in the midst of their glorious tax campaign, the IRS was forced to admit that it's legal for Americans to have offshore bank accounts, credit cards, investments and businesses. (If the IRS can spread their propaganda, then allow me to call attention to that, considering I'm sure few news organizations bothered to report that fact.)

FUNNY NUMBERS GAME

These bogus claims about “trillions offshore” are part of the larger IRS “numbers game.” Here's an example of how the IRS plays the game.

When he quit in 2002, then IRS Commissioner Charles O. Rossotti claimed the IRS had identified 82,100 taxpayers using offshore accounts to evade taxes. He also estimated the government lost US\$447 million when tax evaders failed to pay their share. That's less than US\$7,000 per taxpayer.

But only a year earlier, in 2000, under Rossotti, the IRS estimated that 505,000 taxpayers were using offshore bank accounts to evade taxes (that's about 400,000 MORE than Rossotti said two years later).

By early 2002, the IRS upped that number to two million. It was the same Commissioner Rossotti who, in May 2001, demanded federal court subpoenas for offshore credit card records. In 2001, he claimed offshore tax evasion was costing the government US\$20 billion to US\$40 billion in 2000 alone! (That's a long way up from US\$447 million.)

Meanwhile Jack Blum, a Washington lobbyist and paid IRS propagandist on tax evasion, estimated that offshore evasion cost government US\$70 billion annually.

IF ONLY WE COULD AUDIT THE IRS...

Apparently the IRS Commission can't figure out whether they lost US\$447 million or US\$70 BILLION (that's only a difference of US\$69.5 BILLION). He also can't quite put his finger on whether supposed offshore evaders number 82,000 or 505,000 or two million. That's completely consistent with the way the IRS mishandles most matters. Talk about needing an audit!



The real IRS gap is not one of lost taxes, but the collective one between their ears.

So try and have fun with your Form 1040 and paperwork this week. Don't pay attention to the IRS's scare tactics. Simply fill out your forms as usual, and be done with it.

In fact, the most annoying thing you can do is fill your forms out correctly — then they won't have any PR material for next year's campaign.

WHAT TO DO IF YOU'RE ON THE WRONG SIDE OF THE IRS

Erika Nolan, *The Sovereign Individual*, February 2009

The right offshore legal structure can offer many benefits: asset protection, financial privacy, tax savings and access to a wider world of investments. Yet if your structure is not “compliant,” you risk losing these benefits and worse. You could face significant fines from the IRS and, in the extreme, even jail time.

So, we're going to make sure you're doing all that you need to do — to make sure your offshore structure is helping you build and protect your wealth and not putting you in legal jeopardy.

FIVE STEPS TO MAKE SURE YOUR OFFSHORE STRUCTURE IS IN GOOD STANDING

The truth is, it's all too easy to run afoul of the U.S. taxman by underreporting and misfiling the proper returns. So a key principle to keep in mind is that if you should suspect your offshore structure may not be compliant, take quick action to correct any mistakes BEFORE the IRS comes a knocking. Here's a quick check list to help you do that...

1) HAVE YOUR OFFSHORE STRUCTURES REVIEWED ANNUALLY

Put as much emphasis on your annual financial review as you would for your annual physical. Prevention is the key. Don't get caught in a bad



spot because the tax code has changed — impacting your offshore structures — while you are left in the dark. And don't assume that a non-U.S. professional will remember which U.S. IRS forms must be submitted. It is up to you to ensure that the taxman gets everything on time and accurately filed.

2) WORK WITH AN INTERNATIONAL TAX ATTORNEY — NOT A CPA OR ACCOUNTANT

If you have any concerns about reporting requirements, work with someone who specializes in international structures and tax reporting.

Make certain your offshore structure is 100% compliant. It's never a good feeling to realize you've run afoul of the taxman. But the fate of your finances is in your hands. Rather than run the risk of increased penalties or the threat of an IRS shakedown — be proactive. Chances are, your structures are in good standing. But it pays to know for sure. Obtain the expertise of a licensed professional as well as the time honored principle of attorney-client privilege.

3) IF YOU DISCOVER UNDER-REPORTED INCOME — SEEK CRIMINAL TAX COUNSEL IMMEDIATELY

U.S. citizens and U.S. resident aliens are required to report their worldwide income annually. If your international tax consultant believes you have inadvertently violated IRS reporting requirements, seek criminal tax counsel as soon as possible. (Under no circumstances should you, yourself, go to the IRS directly to resolve your situation!)

Criminal tax attorneys understand the necessary process to resolve most reporting mistakes. Their job is to represent you before the IRS and to work quickly and efficiently to ensure that your structure is fully compliant.

If you can prove reasonable cause and/or the absence of willful neglect for your failure to file the returns, you may be able to avoid penalties. In a best-case scenario, all you'd be liable for is back taxes plus interest. (Keep in mind, income must be reported in the year it was earned.)

4) HAVE YOUR LEGAL COUNSEL HIRE AN ACCOUNTANT

By allowing your legal counsel to hire a CPA — you will greatly streamline the reporting process. In most situations, you will be required to



provide documentation for up to three years (or as much as six years if you have made any mistakes that could be construed as tax fraud).

For example, say you established an offshore trust in 2003. You believed that your offshore trustee was filing the IRS Form 3520A each year. Yet four years later, during a routine conversation, you discover (much to your surprise) that they never filed the form. In order to correct this mistake you would need to go back to the 2003 tax year and file all the necessary documents from that point forward.

Keep in mind that failure to file the form 3520A or 3520 could lead the IRS to assess a 35% penalty against the value of your trust assets.

5) DON'T LIQUIDATE AN OFFSHORE STRUCTURE UNTIL YOU TAKE CARE OF DELINQUENT TAX FORMS & PENALTIES

Disbanding an offshore structure will not help you avoid trouble. If the IRS discovers that you've closed a non-compliant structure without first getting it compliant, they could bring criminal charges against you.

But there is a silver lining... The government wants to encourage voluntary tax compliance. So even though the IRS has the right to file criminal charges against anyone who is non-compliant, you can minimize this threat by initiating contact with the agency.

LIVE OFFSHORE: TWO CAN EARN UP TO \$195,596 ANNUALLY, TAX-FREE

Mark Nestmann, *The Sovereign Individual*, October 2009

The United States is one of only two countries in the world that taxes its citizens no matter where in the world they live. Even U.S. citizens who haven't set foot in the United States in decades must pay tax on their worldwide income as if they never left.

Ridiculous? Yes.

Fortunately, the U.S. Tax Code contains one escape clause that allows you to earn up to \$91,400/year tax-free (the 2009 amount) if you live and



work outside the United States. If your spouse accompanies you overseas and also works, you could double this exemption and jointly earn up to \$182,800 free of U.S. tax obligations.

This tax break is known as is the “foreign earned income exclusion” (FEIE).

WHAT IT TAKES TO QUALIFY

You can't just run off to Mexico for a few months to qualify for this tax break. You must be a bona-fide resident of another country to qualify for the FEIE under one of two tests:

- Bona-fide residence test. You must established legal residence in another country for an uninterrupted period that includes at least one “tax year” (generally Jan. 1–Dec. 31).
- Physical presence test. You must be physically present in a foreign country or countries for at least 330 full days during any period of 12 consecutive months. Under either test, you must have a new “tax home” outside the United States. That means a jurisdiction that can tax your income on the basis of residence or other ties. However, there is no requirement that you live in a country that actually imposes an income tax.

You must also file a U.S. tax return every year, along with IRS Form 2555. While you can take either a tax credit or deduction for any foreign income tax you pay, you can't credit or deduct foreign taxes on income exempt from tax under the FEIE.

HOUSING EXPENSES COUNT

You can also exclude taxes on additional income from your employer that are used to pay housing expenses.

In most cases, the maximum housing exclusion is \$12,796 (adjusted for inflation). If you are married and working offshore only one spouse can take the housing expense exclusion unless you maintain separate households. Still, that gives you a grand total of \$195,596 income each year that you can legally exclude from U.S. taxation.

What's more, benefits that are non-taxable to a U.S.-based employee are also non-taxable overseas.



Your employer can pay for health insurance or contribute to a retirement plan with no additional tax liability.

These exclusions apply if the company is domiciled in the United States, or if it's one you have a material interest in and one you incorporate yourself. Again, to qualify you have to live overseas.

PASSIVE FOREIGN INCOME IS TAXABLE WITH ONE EXCEPTION

If you're working for an employer abroad, the company will pay you a salary, a housing allowance, and possibly other benefits. You can exclude a substantial amount, if not all, of this income from U.S. taxes.

However, the FEIE provides no exclusion for unearned income. This includes rents, royalties, interest, dividends, and capital gains. But you may be able to convert "unearned income" into "earned income" if you follow the IRS rules carefully.

HERE'S WHAT YOU NEED TO DO, STEP-BY-STEP:

Step 1: Form a foreign corporation (such as an international business company or IBC) in a jurisdiction such as Nevis. The foreign corporation must file IRS Form 5471 each year. You must also file Treasury Form TD F 90-22.1 annually to report foreign "bank, securities, and 'other financial" accounts.

Step 2: Transfer capital to the foreign corporation. You must generally report this transfer by filing IRS Form 926.

Step 3: Move abroad for a length of time sufficient to qualify for the FEIE.

Step 4: Pay yourself (and your spouse if you're married and your spouse accompanies you abroad) a reasonable salary for the services you (and your spouse, if applicable) provide to the corporation.

The corporation may also pay for your housing and other benefits up to applicable limits.

Step 5: File IRS Form 2555 annually with your U.S. tax return to claim the FEIE and foreign housing exclusion. You won't need to make Social Security or Medicare payments, as long as you're living in a country that doesn't have a social security totalization agreement with the United



States. (Under a totalization agreement, if a U.S. worker has some U.S. coverage but not enough to qualify for benefits, SSA will count periods of coverage that the worker has earned under the Social Security program of an agreement country.)

THE FINE PRINT

The IRS could challenge this strategy if it believes the salary is unreasonably high. Therefore, you must show that the salary the corporation pays for your services is what you'd receive from an "arm's length" employer.

You might be able to justify a higher salary if you're certified as a portfolio manager, or the IRS classifies you as a "professional trader." But if you're not, you can still be compensated for services to the corporation, although the "reasonable" salary you receive would likely be lower.

Your attorney should prepare a written agreement between you and the corporation documenting the services you provide. You also need to keep detailed records to document performance of these services and maintain whatever records are required in the local jurisdiction.

If the foreign corporation generates more profits than you pay yourself as a salary, it's unlikely you'll be able to defer U.S. tax on the income. You won't be able to deduct losses for the corporation or be eligible for the 15% tax rate on qualified capital gains or dividends. But that's a small price to pay for being able to defer up to \$195,596 from U.S. income tax.

Finally, it's important to ensure that the tax or immigration laws of the country you're living in don't restrict this strategy, or make it uneconomical.

KNOW BEFORE YOU GO

You must choose to elect the FEIE and the determination whether to elect it should be made only after you consult with your professional tax advisor. If you're paying yourself a salary for managing your own money, it's important to prove that your salary is reasonable as discussed above. For more details about the FEIE, see www.irs.gov.



FIVE LEGAL WAYS YOU CAN SAVE TAXES OFFSHORE

Mark Nestmann, *The Sovereign Individual*,
March 2004, revised 2010

You can own a Swiss chalet, tax free. Earn up to US\$91,400/year [2009 amount] offshore...again, without paying a dime in U.S. income tax. Even purchase offshore mutual funds...without any tax liability.

The U.S. imposes taxes on its citizens and permanent residents on their worldwide income. Yet, the tax laws have hundreds of “loopholes” you can use to reduce your taxes. And nearly every one of these tax breaks is available offshore — where you’ll also find greater privacy and protection from the threat of lawsuits.

Plus, there are a handful of tax savings opportunities available ONLY if you work, invest or do business offshore.

Here I’ll highlight one of the very best opportunities that you can take advantage of, right now, to begin saving taxes, safely and securely offshore. Plus, I’ll give you capsule descriptions of several other little known tax loopholes and show you how you can learn more about them.

BUY A SWISS CHALET WITH YOUR IRA

You can own almost any non U.S. investment in your retirement plan, including offshore mutual funds and virtually any kind of foreign real estate. You can even have your IRA pay you a salary to manage your offshore real estate portfolio!

And that’s just the beginning.

Want to invest in a lucrative offshore fund? One of the only ways to do that without suffering ruinous tax consequences is to buy the fund through your retirement plan.

Another benefit is asset protection. All types of retirement plans have come under attack in the courts. In contrast, if you invest your retirement



plan in a suitable jurisdiction, Switzerland, for instance, it can be configured to be essentially judgment proof.

MORE OFFSHORE TAX BREAKS

That's just the tip of the iceberg when it comes to tax breaks Congress provides U.S. persons who invest, work or do business overseas.

Here's a small sampling:

- Foreign earned income exclusion. The U.S. Tax Code allows you to earn up to \$91,400/year tax-free (the 2009 amount) if you live and work outside the United States. If your spouse accompanies you overseas and also works, you could double this exemption and jointly earn up to \$182,800 free of U.S. tax obligations.



PART THREE — INTERNATIONAL TAXATION SCHEMES

TAX COMPETITION IS GOOD FOR YOU

Robert E. Bauman JD, December 2007

What is “tax competition” and why should you care about it?

In a nutshell (which is where Will Rogers said all economic theories originate), tax competition exists when national governments lower taxes, specifically to encourage investments and cash flow or to urge financial resources to stay at home.

Usually this means a government creates an official strategy to attract foreign direct and indirect investment into the country.

The government also might invent tax incentives to attract high value human resources (bankers, investment firms) to the country. These tax incentives might include low corporate and individual income taxes and/or special tax preferences for foreigners. And low taxes keep locals at home.

THE BIRTH OF TAX HAVENS

Thus “tax havens” were born. All over the world, tax havens are places where foreigners can house their assets, do business and pay little or no taxes.

Good example: Panama, a nation that has a “territorial tax” policy. Panama only taxes business and personal income actually earned within its borders. You can base your business in Panama, but you and your business can earn tax-free income from offshore sources.

Other no or low tax jurisdictions include Monaco, Andorra, Belize, Singapore, the Channel Islands and the Isle of Man. And, for foreigners only, the United States and the United Kingdom are also tax havens.

Prudent individuals look at taxes as a business cost that either adds to



subtracts from their desired profits. Thus smart folks looking for more profits go where there are no taxes or low taxes.

LET THE TAX COMPETITION BEGIN

Two good examples of tax competition were in the news this week.

From Amsterdam, a new poll showed that many wealthy Dutch residents want to move elsewhere in 2008 to escape the higher income taxes. At least 4% of those polled are considering leaving and becoming a taxpayer in another, lower tax country.

The Netherlands is an EU member state, so Dutch citizens have the option to make their home in any other EU nation. And some EU states, like Ireland and Cyprus, have much lower taxes.

Among the wealthiest Dutch polled, almost 10% say they are considering moving to avoid the proposed new taxes. (This relocation tactic won't work for U.S. persons, because U.S. income tax laws apply to all income, no matter where the U.S. person lives.)

The second example comes from Washington, D.C. The U.S. Treasury Department released a report alleging that American-owned companies that use tax havens are shifting "substantially all of their income out of the United States."

While this is legal under U.S. tax law, the report to Congress claimed that a dozen companies are using a technique known as "earnings stripping" to avoid or minimize taxes on their U.S. profits.

The study looked at companies that have their headquarters in offshore tax havens, while also continuing to operate out of the United States. Of course, the U.S. imposes one of the highest corporate taxes (35%) in the world. No doubt these higher corporate taxes inspired these tax-saving offshore moves.

In both cases, tax competition attracts smart folks to go where taxes are lower — as well they should.

FURIOUS TAX COLLECTORS

Naturally, this tax competition and taxpayer mobility infuriates tax collectors in the socialist welfare states, including the U.S. IRS.



The leftist big spenders claim that what we all need is “tax harmonization.” In other words, they want high taxes everywhere for everybody.

For example, the paid propagandist, the Organization for Economic and Community Development (OECD), claims, “tax should not be the dominant factor in making capital allocation decisions.” The OECD also says that low-tax policies “distort the location of capital and services.”

Instead, the OECD wants nations to have the power to impose taxes on worldwide income. In doing so, tax collectors could ensure that taxpayers always face the same tax rate regardless of where they earn their income or where they live.

European nations generally have very high tax burdens. (One nation, Ireland, has very low taxes and has the greatest prosperity as a result.) Government spending consumes nearly half of economic output in EU countries, compared to one-third of GDP in the United States.

Not surprisingly, this translates into a higher tax burden, which means jobs and investment capital generally flee Europe. Tax harmonization is an attempt to stop labor and capital from escaping by creating, for all intents and purposes, a “fiscal fence” to force tax slaves to stay at home.

A POSITIVE GOOD

For U.S. persons (citizens and resident aliens), there are minimal tax savings by going offshore — but there are some. There is also far better asset protection and financial privacy guaranteed by the local's laws.

That's why tax competition is a concept to be encouraged — only because it forces all nations to keep taxes lower than they would be otherwise.

UNITED NATIONS SEEKS GLOBAL TAX AUTHORITY

Daniel J. Mitchell, PhD, The Cato Institute,
The Sovereign Individual, July 2006, revised 2010

The United Nations recently issued a report attacking international tax competition and national fiscal sovereignty.



There are four main recommendations in the report: an international tax organization, global taxes, emigrant taxation and a back door form of tax harmonization or information exchange.

Every one of these initiatives would undermine individual liberty and encourage statist economic policy. Like the Organization for Economic Cooperation and Development (OECD) and the European Union (EU), both of which are pursuing similar agendas, the UN seeks to prop up inefficient, high-tax welfare nations by making it difficult for taxpayers to escape oppressive tax systems. Leaders of all low-tax nations, particularly the United States, should block the UN's radical scheme.

A key United Nations panel recently put forth a series of initiatives that would radically change national and international tax policy. Chaired by Ernesto Zedillo, former President of Mexico, the "High-level Panel on Financing for Development" endorsed the creation of an international tax organization, recommended the imposition of global taxes, and called for a form of tax harmonization known as information exchange.

If implemented, the proposed changes would undermine the right of sovereign nations to determine their own tax policies. Yet the attack on sovereignty is minor compared to the likely effect on global economic performance. The report seems designed to prop up inefficient welfare states and promote more government spending. The report openly condemns tax competition, for instance, and repeatedly endorses expanded efforts to redistribute wealth and income.

But contrary to what is asserted in the UN report, tax competition is a desirable force in the world economy. Because it is increasingly easy for resources to cross national borders, politicians must exercise at least a modest degree of fiscal discipline in order to attract jobs, capital, and entrepreneurship.

The UN proposals would undercut this liberalizing process and therefore erode the economic advantage of all low-tax nations, including America. The President and Congress should reject this extremist agenda, and this rejection should be echoed by all nations that believe in freedom and prosperity.

The UN report contains four major initiatives. Each one of these proposals is bad tax policy. All of the proposals undermine national sovereignty, and most of them represent an assault on the right to privacy. The



unambiguous result of these policies is that governments around the world would be shielded from competition and politicians would have much less incentive to be fiscally responsible.

CREATION OF AN INTERNATIONAL TAX ORGANIZATION

The UN report endorses the creation of an International Tax Organization. This new body would have some relatively mundane responsibilities, such as collecting statistics and monitoring developments in tax policy, but facilitating bad tax policy seems to be the number one objective. The Zedillo report explicitly states that the International Tax Organization should help countries tax income earned outside their borders, and it also argues that such a body could “take a lead role in restraining tax competition.”

At no point, however, does the report demonstrate any harm caused by fiscal rivalry between nations. Instead, readers are supposed to blindly accept the assertion that this competitive process is bad. But if competition is good for banks, pet stores, and car companies, then how can competition be bad for governments? The answer, of course, is that competition is good, but it is good for taxpayers and national economies rather than politicians.

A global bureaucracy, by contrast, almost certainly would represent the interests of politicians. Like parallel efforts by the Organization for Economic Cooperation and Development (OECD) and the European Union (EU), it would create a cartel-like environment for purposes of undermining competition. Governments should not conspire to keep taxes high, and they certainly should not set up a supra-national institution to pursue a statist agenda.

An International Tax Organization is a threat to the best interests of all low-tax nations, including the United States. It also is bad news for taxpayers in high tax jurisdictions like France. Without tax competition, it is quite likely that many nations would impose even heavier burdens on their people. As such, any effort to restrict the tax-motivated flow of global capital would undercut the ability of all taxpayers to climb the ladder of economic opportunity.

IMPOSITION OF GLOBAL TAXES

A major part of the report is a proposal to have global taxes, levies that would be imposed on the entire world. The revenues generated by



these taxes would be made available for income redistribution and other purposes.

The report refers to this as “Innovative Sources of Finance,” and highlights two options.

The first is a levy on all international currency transactions, the so-called Tobin tax. The appeal of this tax, at least to the report’s authors, is that it would generate a huge amount of money, up to \$400 billion each year. That is the bad news. The good news is that the tax is so impractical that the report acknowledges the difficulty of implementing such a scheme. In short, currency traders would either avoid the tax, which the report admits could amount to 1,000 percent of profit margins, or develop derivative instruments that would be harder to tax. Combined with the fact that a currency transaction tax would throw a monkey wrench in the world trading system and impose a disproportionate burden on America’s efficient financial markets, it appears a Tobin tax is not an immediate threat. *[Ed. Note: In 2009, both the president of France, Sarkozy, and U.K. prime minister Brown endorsed such a tax.]*

Unfortunately, the same cannot be said about the second option, a worldwide energy tax.

The UN report is very enthusiastic about a tax on fossil fuel consumption, supposedly pegged so that each type of fuel (oil, gas, coal, etc.) would be taxed in accordance with its contribution to greenhouse gases. No mention is made of the tax rates that might be imposed or the amount of tax revenue desired, but the report does state that the tax should be high enough to discourage consumption. Interestingly, the authors seem oblivious to the fact that there is a tradeoff between raising revenue and discouraging consumption.

[Ed. Note: With the election of Obama as U.S. president this so-called “cap and trade” plan passed the U.S. House of Representatives in 2009.]

In any event, a comprehensive global energy tax would dramatically hinder world economic growth. It would mean higher gas prices, higher electricity prices, and higher heating oil prices, and developing nations would be especially hard hit.

And if this agenda is not sufficiently frightening, the report also talks about global taxes on seabed mining, ocean fishing, and satellite launches. The drawback of these initiatives — from the UN perspective — is that



they might not raise a large amount of money. The report also mentions taxes on trade, air travel, and arms exports, but concludes that these might not be politically feasible.

TURNING PEOPLE INTO GOVERNMENT PROPERTY

Perhaps the most radical proposal in the report is an initiative to give governments permanent taxing rights over their people.

This taxation of emigrants is supposedly necessary to protect nations from economic loss when productive citizens emigrate. The report states that the enforcement of such a scheme could be one of the responsibilities of the new International Tax Organization.

This idea implicitly assumes that people are a form of chattel, the property of a government even if they seek opportunity elsewhere. To be sure, there are jurisdictions that suffer from “brain drain.” French citizens have been fleeing to England in record numbers and Canadians often make their way to the United States. In a world that values individual sovereignty and personal liberty, this would not be an issue. And even if some governments think emigration is a problem, perhaps they should put their own houses in order before seeking to make their citizens perpetual tax slaves.

After all, France’s brain drain is mostly a reflection of that country’s oppressive tax system. England merely happens to be the unintended beneficiary of France’s fiscal policy mistakes.

The United States should be the strongest opponent of this scheme. Because America’s free market economy promotes high levels of job creation and economic opportunity, the U.S. is a magnet for the world’s entrepreneurs and other ambitious people. As such, it seems unlikely that the U.S. would support a policy that allows other nations to tax income earned in America. Critics may argue that this view is inconsistent and hypocritical (the U.S., after all, is one of the few nations to impose taxes on its citizens’ overseas labor income), but self-interest is a powerful force. Foreign born workers in America, including both citizens and resident aliens, earn over \$500 billion of labor income each year — nearly \$600 billion including other types of income. Allowing other governments to tax that income, even at rates as low as 10 percent, could drain \$60 billion out of the U.S. economy.



BACK-DOOR TAX HARMONIZATION

Not only does the UN want to impose taxes on a global basis, it also wants to help individual governments to tax income on a global basis. This is why the report endorses “information exchange,” which means every government would be expected to collect private financial data on individual taxpayers and then share that information with other governments. High tax nations would then use this information to tax any income their residents earn in other countries. This initiative is very similar to the information exchange schemes being pushed by the OECD and the EU.

Information exchange makes sense, but only for jurisdictions with oppressive tax systems. Politicians from high-tax nations like France, for instance, get upset when taxpayers shift their savings and investment to jurisdictions with lower tax burdens and they desperately want the ability to continue taxing any income these assets generate. But this should be a matter for the French government and French taxpayers.

Low tax nations should not be forced to suspend their financial privacy laws and act as vassal tax collectors for Europe’s welfare states. Indeed, information exchange violates an important principle of international law, dual criminality, by seeking to force low-tax countries to put the laws of other nations above their own.

While this proposal will probably get the least attention of the report’s four major recommendations, it could be the most dangerous. Information exchange is a back door form of tax harmonization since individuals would be taxed at the same rate regardless of where they earn their income.

This initiative is a dagger aimed at the heart of U.S. financial markets since people from all around the world invest in the U.S. economy, but many would withdraw their funds if financial institutions were forced to act as informers for foreign tax collectors. [*Ed Note: During 2009 almost all “tax havens” agree to a limited tax information exchange under pressure from the OECD and the G-7 major nations. See the “Article 26 — Demise of Offshore Banking Secrecy” in Chapter Three.*]

CONCLUSION

In addition to the specific proposals discussed above, the report calls for a doubling of foreign aid, more social welfare spending, higher taxes, and international bureaucracies that would interfere with the ability of sovereign nations to determine their own labor and environmental policies.



Combined with the UN's recent pro-gun control meeting, it seems the organization is still wedded to an anti-American, anti-freedom agenda.

In the final analysis, motives do not matter. Regardless of whether the UN's behavior is driven by knee-jerk anti-Americanism or by hard-core socialist ideology, the organization's tax agenda would cripple the global economy. Low tax nations like America, the U.K., Switzerland and the so-called tax havens would suffer the most.

The good news is that the UN cannot move forward with its radical proposal without full support from the world's major governments. This means that the United States has effective veto power. To protect the interests of American taxpayers and to preserve prosperity and opportunity around the globe, Congress and the President should tell the bureaucrats at the U.N. to take a long walk off a short pier.

For more information: The UN Report is online at www.un.org/esa/ffd/a55-1000.pdf. The Center for Freedom and Prosperity Foundation is a public policy, research, and educational organization operating under Section 501(c)(3). It is privately supported, and receives no funds from any government at any level, nor does it perform any government or other contract work. It is the research and educational affiliate of the Center for Freedom and Prosperity (CFP), Tel.: 202-285-0244, Website: www.freedomandprosperity.org.

TAX COLLECTORS FROM HELL

Robert E. Bauman JD, February 2009

Emergencies of any kind, especially major economic dislocations, are eagerly seized upon by statist politicians whose constant goal is the expansion of government power at the expense of individual liberty.

Whether the issue is the current "relief and recovery" boondoggle, trans-fat and caloric intake, alleged global warming, gun control or (as candidate Obama incautiously told Joe the Plumber), the need to "spread the wealth around," these brilliant politically "liberal" folks are certain they know better than you or I how we should live our lives.



STUPID YOU AND ME

Big Brother's advocates see control by government as a means for them to tax and spend, to micro-manage our lives, to promote and expand their liberty-destroying schemes. (Some of these "experts" fail to pay hundreds of thousands of dollars in income taxes until named to the president's cabinet, then excuse their massive tax evasion as just a "mistake.")

GOVERNMENT GONE WILD

Thus it is that the current U.S. and global recession is being used blatantly, not just in Washington, but abroad, as an excuse for government gone wild — all sorts of spending, nationalization and controls over just about everything — banks, auto and insurance companies, plus labor union-demanded restrictions on free trade and curbs on offshore financial activity.

So it's no surprise that at the annual collective of the world's self-appointed nannies at Davos, Switzerland, the know-it-all Left was in full cry — using this convenient world recession as their major justification and talking point.

UN ECONOMIC COUNCIL?

Angela Merkel, the chancellor of Germany, speaking at Davos on Friday called for a new "United Nations-level economic council" which she actually claimed could avoid another global financial crisis. "We need clear cut rules world-wide," she claimed.

The head of Germany's "conservative" party, Merkel heaped criticism on what she called an "unfettered" capitalist system. (Ludwig Erhart must be turning in his grave!) Frau Merkle called for an overhaul of the world financial system, suggesting that a new, United Nations-level economic council might be just the thing to avoid another crisis.

Merkel's Draconian suggestion reminded me of the Left's relentless pursuit in recent years of one of their pet projects — some sort of international tax system administered by — of all things — the United Nations.

JUST WHAT THE WORLD NEEDS

If there is any organization in the world that is more incompetent than the U.S. Internal Revenue Service, it's the United Nations.



The track record of both is abysmal at best, and each is a menace to freedom. The IRS strangles citizens in its incomprehensible rules and regulations then persecutes taxpayers who can't understand the IRS gobble-dygook. The UN boasts of world peace as it dithers and debates while wars and rumors of wars go on apace.

Over 53 years since its founding, the United Nations may have, on balance, done some good. But objective historians and observers would be hard pressed to create a short list of major UN accomplishments. In recent years the UN, mired in insider kickbacks and financial scandals, spending millions on its own bureaucracy and endless meetings and reports, has been colossal waste of time and money — and most of that money comes from American taxpayers.

STANDING IN LINE AT THE UN-DMV-IRS

Now think about the idiotic concept of inflicting a combination of these two agencies on the world! An international IRS run by the UN?

Well, no doubt that's what the loonies of the Left, here and abroad, would love to control. And Chancellor Merkel apparently wants to add on a global financial council to tell sovereign nations how and what to budget, tax, spend and regulate. Bankers may be dumb, but bureaucrats are far worse.

Is she kidding? I know she and her Social Democrat party are up for re-election in high tax Germany, but it would seem she's reverting to her ore-unification East German roots.

The UN long has wanted to create an International Tax Organization (ITO) with the power to interfere with national tax policies. This crazy idea first surfaced in 2001 in a UN report. Since then, the UN has worked to make this reality, calling for the creation of a global tax commission. No matter what it's called, an international bureaucracy with power over tax policy would be an assault on every nation's sovereignty.

TAX COLLECTORS MEETING FROM HELL

In early 2002 we reported about a UN conference held in Monterey, Mexico, that we called “the tax collectors meeting from Hell” where plans were mapped for a UN “international tax organization,” a one-world IRS.



The UN even sees the day when it can collect a world tax on all currency transactions (the Tobin tax) and on energy consumption. It also wants to give governments permanent taxing rights over emigrants; anyone who leaves one nation for another would be taxed.

The UN is just one of the global bureaucracies undermining fiscal sovereignty.

The Paris-based Organization for Economic Cooperation and Development (OECD) targets “harmful tax competition” and the European Union enthusiastically backs “tax harmonization.” In both cases they want more and higher taxes. Of course, they all hate tax haven in particular and low taxes in general.

DAN MITCHELL SAYS...

As the Cato Institute’s resident tax expert Dan Mitchell wrote in 2001: “There is an understandable temptation to dismiss these UN proposals as silly. After all, the U.S. can veto any bad initiatives. But a passive approach is a mistake.” (And would Obama veto such a UN plan, as Bush did?)

We agree with Dan. You should educate yourself thoroughly about these dangerous proposals and let your elected national officials know your strong opposition.

It’s bad enough to be forced to pay high taxes in one’s own nation to finance trillion dollar giveaways — without also having to finance the whole world’s loony Left as well.

The saddest part of all this nonsense is that there are socialist-minded persons in Congress and the Obama administration who would welcome such global surrender of our national sovereignty and our Constitutional rights — to “spread the wealth around.”

INTERNATIONAL TAX TREATIES

Banking in Silence, 1998

One of the more civilized approaches governments take in their international war on financial privacy makes use of bilateral (between two



nations) tax treaties. Currently the U.S. maintains such treaties with over 50 countries around the world.

Governments claim such treaties are aimed at eliminating double taxation of individuals who divide their time between or do business in two or more different nations. They don't mention that such treaties facilitate the exchange of tax and other information between the countries involved. This is used to ferret out those suspected of being tax evaders, those wise folks who have stashed their assets offshore.

For example, if a U.S. citizen invested money in Switzerland, the bilateral U.S.-Swiss tax treaty allowed a refund of most of the 35 percent withholding tax the Swiss government imposed on earned interest income paid within its borders. This required filing the appropriate form with the Swiss government, but information regarding the interest income was later forwarded to IRS. The IRS then cross checked to make certain the income was reported on the U.S. taxpayer's tax return and taxes paid.

In spite of themselves, governments sometimes inadvertently construct tax treaties that offer an unexpected bonus to the suffering taxpayer. But you have to know where tax treaty savings are hidden.

Searching for these tax breaks is known as "treaty shopping." It means investing money in an offshore nation where domestic taxes are low or non-existent. But it must be in a nation that has a bilateral tax treaty with your home country, the provisions of which mean your tax liability at home will be cut also. Thus, treaty shopping is a perfectly legal way to reduce your tax burden.

These loopholes infuriate IRS bureaucrats, so the U.S. government constantly renegotiates tax treaties with many nations in an attempt to close off such benefits. A few loopholes do manage to survive.

The free exchange of information under tax treaty provisions is usually limited to routine areas. If a specific request for information about a U.S. taxpayer is allowed by a foreign government, it must be pursuant to an on-going U.S. criminal investigation in which an indictment has already been issued. Foreign governments guard their sovereignty and don't want to be seen by their citizens as bowing to Uncle Sam. However, the U.S. government constantly tinkers with these agreements hoping to get the same free and easy access to foreign bank and financial records that it enjoys at home.



TAX INFORMATION EXCHANGE AGREEMENTS ERODE OFFSHORE SECRECY

Robert Bauman, JD, *The Sovereign Individual*, April 2002

In testimony before the U.S. Senate Permanent Subcommittee on Investigations in 2001, then U.S. Treasury Secretary Paul O'Neill promised that to combat alleged offshore tax evasion, the Bush administration would negotiate tax information exchange agreements with at least half of the major offshore tax havens within one year.

O'Neill's surprise pledge followed months of the Republican administration's backing away from the Organization for Economic Cooperation and Development's blacklisting of 35 tax havens alleged to be engaged in "harmful tax competition." "We ought to pursue every tax cheat to the ends of the earth," O'Neill told the senators, but added emphatically: "I do not think it is appropriate for the United States or OECD to tell another sovereign nation what the structure of their tax system should be, period."

Uncomfortable with the OECD's high tax policies, which the Clinton administration had so lovingly embraced, O'Neill argued that bilateral tax treaties are a far better enforcement weapon against U.S. tax evaders who go offshore. The OECD's economic sanctions, he said, are "a last resort."

IMPORTANT DISTINCTIONS

Tax information exchange agreements (TIEAs) are distinguished from both ordinary tax treaties and from mutual legal assistance treaties (MLATs).

"Ordinary" tax treaties are principally designed to provide relief from double taxation, with the secondary purpose of exchanging sufficient information so that taxpayers using them (primarily multinational corporations) do not abuse their provisions. The United States now has a network of more than 60 such treaties. Very few of them are with "tax havens," since most haven nations don't impose income or withholding taxes — the levies for which tax treaties are generally designed to provide relief.



MLATs are bilateral agreements to exchange information and evidence in investigations involving crimes such as drug smuggling, money laundering, etc., but not including tax evasion. The U.S. now has a network of more than 40 MLATs, including most “tax haven” nations.

By contrast, TIEAs obligate signatories to assist one another in their respective domestic tax investigations. They provide no benefits to private parties other than the somewhat nebulous advantage of permitting U.S. corporations to deduct expenses for conventions held in signatory nations.

The U.S. government and the IRS had tried without success for decades to obtain TIEAs with various tax haven nations. A principal reason was that tax havens impose no taxes and, applying the traditional test of dual criminality, they did not treat foreign tax evasion as a criminal matter.

Financial secrecy laws were (and are) one of the major reasons for their economic success. For those reasons, few observers believed O’Neill would be able to carry through on his pledge, any more than had his frustrated predecessors.

THE CAYMAN ISLANDS

Nevertheless, under heavy pressure from the British Foreign Office, on November 27, 2001, the U.K. overseas territory of the Cayman Islands, the world’s fifth largest financial center, signed a TIEA with the United States. The agreement gives the United States access to all banking and other records for U.S. criminal, civil and administrative tax investigations relating to U.S. income taxes. The new accord also requires disclosure of beneficial ownership of bank accounts, trusts, international business corporations and other entities.

Observers predict capital outflow from the Cayman Islands, which has already begun, will become a torrent well before the effective dates.

Which country will be the next domino? Speculation has centered on one of the Society’s top rated asset havens — Panama — based on a Treasury Department announcement that it was negotiating a TIEA with that country. Our sources in Panama say any agreement will be far less broad than the recent U.S.-Caymans or Bahamas treaties.



HONEST TAXPAYERS TO BENEFIT?

At first glance these developments may look like a dark cloud has engulfed tax havens. But it's a cloud with its own silver lining.

For those persons who feared “going offshore” because of unwanted suspicion of tax evasion, these treaties can provide assurance that signatory nations are open and above board when it comes to taxes.

What's more, established haven nations have well-developed financial and banking systems that specialize in asset protection, trusts and international business corporations. Asset protection and streamlined, predictable regulation are still major advantages of offshore investing, even though, for honest taxpayers who meet U.S. reporting requirements, tax savings are often minimal.

Now, more than ever, there's good reason to “go offshore!”

TAX HAVEN NONSENSE & DECEPTION

Vernon K. Jacobs CPA, CLU, April 2007

There seems to be a huge amount of nonsense and outright deception about the impact of tax havens and their alleged abuse. The following comments are offered as an attempt to provide some balance to the arguments of those who rail against U.S. persons with foreign income, particularly in so-called tax havens.

The U.S. imposes an income tax on the world wide income of our citizens and permanent residents, regardless of where the income is earned. If it is earned in a country that also imposes income taxes, the U.S. provides for a tax credit to avoid double taxation. But if the income is earned in a country that has no income tax (or a low rate of tax), the U.S. collects a tax on that income as if it were earned in the U.S. The law does allow a limited “foreign income exemption” from U.S. tax for earned income in foreign countries — but most of the U.S. citizens who work outside the U.S. pay substantial taxes to foreign countries. The tax credit is not allowed on foreign excluded income, so that apparent tax break doesn't really cost the U.S. any significant loss of tax dollars.

U.S. corporations that operate in multiple countries are permitted to



defer tax on income earned in a low tax country, so long as the income is re-invested in the business and not used as passive investments. This is done to compensate partially for the disadvantages imposed on U.S. companies in competing with companies based in other countries where corporate taxes are lower.

Many decades ago, it was legal and possible for Americans to move assets offshore and to invest them on a tax-free basis until the money was returned to the U.S. But various laws have removed those tax breaks. If a U.S. investor opens a foreign bank account and buys offshore investments, the U.S. investor is obligated by law to pay taxes on the income earned from those investments. U.S. investors are encouraged to put assets into a foreign corporation or an international business company (IBC) and to make the investments through the corporation or IBC. But U.S. tax law requires the U.S. shareholder of a foreign corporation to pay taxes on the income of a foreign investment holding company or a foreign corporation controlled by U.S. persons.

Some people seem to believe that the use of a foreign trust is some kind of tax shelter, but it's not a legal way to avoid taxes. The U.S. person who puts assets into a foreign trust that has any current or future U.S. beneficiary is obligated by law to report the income earned by the foreign trust and to pay taxes on that income.

Virtually every other country in the world imposes income taxes on a territorial basis. Income earned in those countries is taxable. But income earned outside those countries is not taxable. But the U.S. insists on taxing the income of its citizens, permanent residents, corporations, partnerships, trusts and estates — no matter where in the world the income is earned.

Those American politicians who rail against alleged losses of tax revenue because of tax havens are either not aware of the scope of the U.S. tax laws, or are intentionally dispensing nonsense to pander to the public's lack of awareness of the current tax system. The only people who are evading taxes offshore are outright crooks or those not concerned about complying with the U.S. tax laws. More laws will have no impact on those who choose to ignore existing laws. Claims that closing up tax haven loopholes will somehow generate revenue to be used for domestic spending is political propaganda that is totally contrary to the facts.

We don't need more laws to prevent tax evasion offshore. We have more than enough laws already.



SLIPPERY STEPPING STONES

Robert E. Bauman JD, November 1998

Do what the big boys do: use a multi-layered set-up of offshore corporations to legally reduce your corporate tax burden.

Smart offshore business operators, large and small, often avail themselves of a multinational tax break allowed under U.S. tax law. It's called "stepping stones" by international tax experts, "treaty shopping" by a disdainful IRS.

This generous tax break, for which most Americans can't qualify, proves that the U.S. can be a tax haven for foreigners, if they play their cards very carefully.

The creative tax strategy takes advantage of international bilateral tax treaties. It requires at least minimal business operations in two or more countries. You simply base a defined part of your business where taxes are lowest for just such operations. The total business gross volume need not be large, but the net should be big enough to justify the accounting and legal expenses. But the tax savings can be enormous.

Because it has a worldwide network of tax treaties, the Netherlands is a favorite base for stepping stone business operations by companies from all over the world. Low taxes make the Netherlands ideal for passive interest or royalty income and for financing operations.

Once incorporated in the Netherlands, you're covered by the U.S.-Dutch tax treaty that requires no U.S. withholding taxes on interest and dividends paid from the U.S. to a Dutch company. A Dutch company in turn can make payments without tax withholding to a German, Canadian or other nation's firm.

The IRS hates such arrangements. To them it's tax evasion using phony affiliates of businesses operating within the U.S. Fortunately for astute taxpayers, if it's done right this system is legal and it works. The one key requirement is strict adherence to proper form and no corner-cutting.



The moral: There are ways to save taxes offshore, but do it right and be damned sure you know what you can and cannot do.

NEGOTIATE YOUR OWN TAX BILL IN SWITZERLAND

Marshall J. Langer JD, *The Tax Exile Report*, 1997

Did you know that Switzerland, widely known as a banking and tax haven, is also a place where a resident foreigner can negotiate with government officials the amount of tax he would like to pay?

Despite its fairly high taxes, Switzerland is an attractive destination for many tax exiles. You may be able to obtain both a residence permit, and a lump-sum tax arrangement, especially if you are retired. Obtaining a work permit is more difficult, but not impossible.

Switzerland has long been a favorite haven for rich and famous tax exiles from all over the world. It is not the easiest country in which to acquire residence, but if you are retired and have sufficient income, resident status in Switzerland is possible.

Foreigners living in Switzerland pay fairly high income taxes on their worldwide income. Federal, cantonal and local income taxes are levied on all income, except that derived from foreign real estate or a personally owned foreign business. There are also cantonal and local wealth taxes on capital. Despite this, Switzerland is an attractive destination for tax exiles, primarily because it is one of the world's safest and most stable countries.

Switzerland may be suitable for you if:

1. You already have a satisfactory citizenship and passport, since it takes from 12 to 15 years to obtain either in Switzerland.
2. You are a wealthy retiree over 60 years of age who has never worked in Switzerland.
3. You want a new permanent residence and are willing to reside in Switzerland at least part of each year.



4. You are prepared to pay a prearranged lump-sum tax to the Swiss each year.

A NEGOTIABLE LUMP SUM TAX DEAL

Wealthy foreigners of retirement age can negotiate a lump-sum tax arrangement, called a *forfait*, with local cantonal tax administrators. The tax amount varies considerably depending on where in Switzerland you choose to live. Appenzell (Inner Rhodes), Switzerland's smallest canton, offers an attractive tax deal of at least Sfr65,000 (about US\$45,000) per year.

The smaller cantons will ask less, and you will pay considerably more in the larger, better-known cantons. Although one can apply for residency status at any Swiss embassy, I urge you to negotiate directly, and in person, with the authorities in the canton where you want to live. In any event, they are the ones who decide whom to admit as residents, and how much tax will be paid. Employ a competent local professional to work out the best deal.

VISIT ANNUALLY

Despite recent changes, you can still visit Switzerland for up to three months each year without obtaining a residence permit and without having to pay Swiss taxes. As a visitor, you must observe the time rules faithfully. Swiss authorities keep records of exactly how much time each foreigner spends in the country.

Under tax rules, one is treated as a Swiss resident for tax purposes if 1) a person stays in Switzerland without working for more than 90 days in any year; or, 2) a person works in Switzerland for more than 30 days in any year.

In either case, you are deemed to have been resident from the first day of your stay in Switzerland. It doesn't matter whether you stay in one place or in several different places.

Moreover, brief absences from Switzerland do not suspend your residence. It used to be possible for a foreigner to "visit" Switzerland twice each year, for up to three months each time. That is no longer possible. A suggested program under the new rules: You can visit one of Switzerland's excellent winter resorts for about a month each February or March and one of its equally marvelous summer resorts for about a month each July or August. You can also spend a few days visiting your bankers at the beginning and end of each stay. It's a great life, if you can afford it.



An alternative is to obtain a “B permit” authorizing you to live and work in Switzerland. About 17,000 renewable B permits are available each year, most issued by cantonal authorities. Each canton has a small annual quota of permits allocated to it. Annual renewals are routinely approved. I have had success in obtaining permits for clients from the Canton of Neuchatel under its program to attract new business. Neuchatel offers special tax programs on an individual case basis for new residents.

PROS AND CONS

Switzerland is clean, orderly, safe, stable and prosperous. Everything works and most things work well.

Everything in Switzerland is expensive. If you become a Swiss canton resident, you will be liable for Swiss inheritance and gift tax purposes. These taxes vary considerably from canton to canton but are not imposed by the federal government. Switzerland now has a value-added tax (VAT), but at a rate much lower than most other European countries.

EMIGRATE TO CANADA & BEYOND: LEAVE U.S. TAXES BEHIND

Robert E. Bauman JD, *The Sovereign Individual*, August 2009

More years ago than I care to recall, I graduated from the Edmund A. Walsh School of Foreign Service at Georgetown University in Washington, D.C., (and GU Law too).

One of my SFS classmates from Canada told a memorable story about how his grandfather was constantly troubled about the possibility that “the Yanks were coming.” This elder Canadian, steeped in colonial history, was convinced that someday those ornery Americans would storm north across the border and invade again.

Well, in truth, a small number of Americans have headed north across that 5,525 mile long United States–Canadian border, famously styled as “the longest undefended border in the world.” The objective of this migration is not to conquer, but to become Canadian citizens — and thereby reduce the American migrant’s U.S. taxes to zero.



Canada is not an offshore tax haven. Commonwealth and provincial taxes are relatively high. Except in specific programs designed to entice new immigrants to come to Canada (more on that below), there are few tax breaks for foreigners. However, little-known Canadian trust and tax laws, when properly employed, offer Americans a legal way to forever end the obligation to pay U.S. taxes — by becoming Canadians.

EXPATRIATION

This unusual tax freedom is accomplished by a process known as “expatriation” in which a U.S. person voluntarily ends U.S. citizenship. That may seem extreme, but it can be done legally and consistent with U.S. and Canadian law — with the right expert professional legal and tax advisors.

American tax laws require “U.S. persons” — citizens or resident aliens — to pay income taxes on earnings from any source anywhere in the world no matter where they live. Unlike most other countries with “territorial” tax systems, a U.S. person can’t escape taxes by moving offshore.

By contrast, most other countries tax only the people who actually live within their borders. Canada for example, does impose taxes on the worldwide income of residents. But if a Canadian moves out of Canada and establishes a new residence in another country, the legal duty to pay Canadian taxes ends with few exceptions. This feature of Canadian tax law is an important part of our tax-saving expatriation plan.

TAX-FREE NEW RESIDENTS

However tough taxes may be for the average Canadian, wealthy immigrants can take advantage of tax-free loopholes available only to them. Here are some of the options for high net worth immigrants who come to Canada:

1. A qualified immigrant accepted for eventual Canadian citizenship is eligible for a complete personal income tax moratorium for the first five calendar years of residence in Canada. They pay no taxes if the source of their income is a previously existing offshore, non-Canadian trust, (known as an “immigrant trust”) or an offshore corporation. Because the high establishment and administrative costs of such a trust, it generally is best suited for immigrants who have at least \$1 million or more in assets that can be placed in the offshore immigrant trust.
2. After living five years tax-free in Canada as a new citizen, the new



Canadian can move his or her residence (and tax domicile) to another country, preferably a tax haven, and afterwards pay taxes only on income earned or paid from within Canada. They pay no taxes on their worldwide income. (There is a Canadian “departure” tax to be paid after filing a notice of intent to live abroad. There is no way of determining the exact rate of this tax since various types of property are taxed at differing rates.)

3. Canadian citizens and resident aliens employed by certain “international financial centers” are forgiven 50% of all income taxes.
4. Canada has abolished all national death (estate) taxes (but the provinces do have such taxes).

INVESTORS WELCOME

Canadian law favors a specific class of preferred immigrants including investors, entrepreneurs, the self-employed and those who will add to the “cultural and artistic life” of the nation. With minor variations in each of the provinces, investor immigrants generally must have a net worth in excess of C\$500,000 (US\$443,000) and be willing to invest at least C\$250,000 (US\$222,000) in a Canadian business for a minimum three to five-year period. Purchase of a residence usually does not qualify as an investment, although it may if you work from home.

AMERICAN TAX BURDEN

While most foreigners can relocate to a tax haven as a legal way to avoid home country income taxes, U.S. persons cannot. The only way a U.S. person can escape taxes is to end U.S. citizenship and residency — but only after acquiring a new citizenship from another country, another important step in the expatriation process. (No one wants to be the man or woman without a country!)

Let me assure doubters that, yes, this is legal. The U.S. Supreme Court has upheld Americans’ right to acquire another citizenship, to end their U.S. citizenship and to expatriate.

LIKELY CANDIDATES

Q: Which Americans should consider expatriation?

A: Those concerned with high taxes.



Without good estate planning, U.S. death taxes can take up to 55% of your assets from your heirs when you pass on — and that final tax insult comes after a working lifetime of paying up to 40% of your earnings in federal income taxes every year. Add in state and local income and sales taxes and you stand to lose in taxes well over half your earnings during your lifetime — and your heirs lose another half of what's left at death.

The potential emigrant from America eventually must surrender U.S. citizenship in order to end U.S. tax obligations. But be aware of the new (2008) U.S. “exit tax” now in effect. If you qualify as what the law calls a “covered person” the exit tax may outweigh any benefit to be gained by immigration to Canada. (For more on the exit tax, see Chapter Two and The Sovereign Society website.)

A POTENTIAL SAVINGS OF MILLIONS OF DOLLARS

There you have it. It may seem a difficult road to travel, but becoming a Canadian citizen investor can save a U.S. citizen millions of dollars that would otherwise go directly to the IRS.

Yes, these savings are predicated on major changes — including surrender of your U.S. citizenship. You must move yourself, your family and your business to Canada and possibly to another country later on. Despite these drawbacks, the true bottom line measured in dollar savings can be enormous.

Contact a specialist in citizenship law: Joel Guberman, Barrister & Solicitor, 130 Adelaide Street West, Suite 1920, Toronto, Ontario M5H 3P5, Canada; Tel.: 416-363-1234. Email: immlaw@ggbilaw.com; Website: <http://www.gubermangarson.com/>.

SHOULD YOU BECOME A TAX EXILE?

Marshall J. Langer JD, *The Tax Exile Report*, 1997

Most people are not likely to become tax exiles.

Most Americans and some British are insular; they tend not to invest abroad and wouldn't think of moving to another country. These words are intended for those individuals who would consider obtaining a new citizenship and moving abroad.



A surprisingly large percentage of wealthy individuals seem to like the idea of being shorn like sheep. They live and work in high-tax countries and they allow their governments to take from them a substantial portion of everything they earn. They tolerate wealth taxes and transfer taxes that take away much of what they own, not only year-by-year but also when they try to transfer it to their loved ones by gift or inheritance. They sheepishly acquiesce as their governments use the power to tax to redistribute their wealth within the society. They tolerate an ever-increasing expansion of the Robin Hood theory of taxation, under which governments take from the middle class and the rich and give to the bureaucrats and some of the poor.

People generally understand that they have to pay some taxes if they expect to receive any services from their government. Most of us accept that taxes are the price we pay for a civilized society.

The problem is that many of us now feel — rightly I think — that we are being gouged by taxes, taxes on taxes, and more taxes. We pay federal taxes, state or provincial taxes and local taxes. We pay two levels of tax on corporate income — first at the corporate level and again at the shareholder level when dividends are paid. Salaries are subject to both a gross income tax (called social security) and a net income tax on the same earnings. Investment income is subject to two different forms of taxes — an income tax and inflation that strips away the value of the investment. Capital gains tax must often be paid not only on the real gain but also on the appreciation in value that is actually due to inflation.

I have represented non-American clients for more than three decades. Many of my clients were either Europeans or former Europeans who fled to Latin America just before World War II. These people left nearly everything behind and struggled to build a new life in a new land. Most went to Latin America only because they couldn't get into the U.S. or Canada. Using their European know-how in third-world countries, some of them became immensely wealthy.

One of their primary investment objectives was and still is international diversification. They keep perhaps one-third of their money in their new homeland and they divide the rest of it between Europe (mostly in Swiss banks) and North America. More recently, some of them have begun investing a small part of their wealth in the booming Pacific Basin.

Contrast this picture with Americans who typically invest all of their funds in the U.S.



Until very recently, most Americans hesitated to put even a small percentage of their assets in as foreign a place as Canada. Any place more foreign than that was unthinkable. Only during the past two or three years have some Americans begun to buy U.S.-based mutual funds investing in the emerging markets of Asia and Latin America.

An article by Anatole Kaletsky in the *Times* of London discussed and tried to explain the insularity of Americans. Based on a study by Philip Tumer entitled *Capital Flows in the 1980s*, published by the Bank for International Settlements (BIS), Basel, Switzerland, the article asked: If Japanese, German and British investors have been diversifying their portfolios into dollars, why has this not been offset by American investors buying up assets in yen, marks and pounds? Financial analysts rarely stop to ask this obvious question. Perhaps it is because the answer, suggested in the BIS study, is too alarming, or simply too damaging to the financial markets' self-esteem.

The fact is that despite the apparently sophisticated and overdeveloped financial industry operating on Wall Street, American investors are among the most primitive and insular in the world. In 1990, American pension funds and life insurers each held only four percent of their portfolios in foreign assets. Among individual investors, international diversification is almost unheard of.

One reason for this is that, despite Washington's free-market rhetoric, America has some of the fiercest and most effective capital controls anywhere in the world. American banks make it almost impossible for individuals to hold foreign currencies, pension fund trustees frequently insist on "buy America" investment policies, and marketing restrictions imposed by the Securities and Exchange Commission make it illegal for American citizens to invest in most offshore equities, bonds and investment funds.

And, I won't even discuss the nasty tax problems that arise when Americans acquire foreign shares or mutual funds.

The U.S. Congress and the IRS both know that they have a captive market of taxpayers. Most Americans don't even think in terms of investing outside the U.S. They are incapable of moving abroad or becoming perpetual tourists. They are horrified at the thought that anyone would give up American citizenship either to avoid taxes or for any other reason.



Congress could double present tax rates and most Americans would simply grumble. Most of them would not even consider leaving. They would stay and pay. Many Britons are like that, too. During the last Labour government, investment income over about £20,000 a year was taxable at a whopping 98 percent.

In the late 1970s, I was asked to advise an elderly British woman how she could reduce her taxes. I suggested that she move to a tax haven such as Bermuda. Her response was: "Oh, but I wouldn't think of leaving London." She stayed and paid. She eventually got a reprieve in the form of lower taxes from Margaret Thatcher's Tory government.



Chapter Eight

OFFSHORE TAX HAVENS

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EDITOR'S NOTE

For those who know the ocean or enjoy the beach, "offshore" may bring back pleasant memories of far-off vessels passing on a blue horizon, of a leisurely sail cutting through the waves in your own sturdy vessel.

In this chapter "offshore" takes on a whole new meaning — a different, expanded definition that, once understood, potentially could change your life forever.

Here "offshore" refers to sovereign nations with laws that protect your financial privacy, your assets and your cash. Countries where the welcome mat is always out for foreign citizens weary of high taxes and government snoops back home.

We explain how the offshore system operates, what is legal and what is not, and how you can use this system to your own advantage. We also give you an up-to-date battle report on the tax hungry, major nations' war against havens.

Keep in mind that in this area events change with great speed and what is accurate one day has changed the next. You will need to supplement your reading with keeping a close eye on current events in tax havens in general, and specific places in particular.

PART ONE — TAX HAVENS EXPLAINED**WHY GO OFFSHORE?**

John Pugsley, January 1999

True financial security must include: 1) the maximum possible tax avoidance allowed by law; 2) the greatest possible financial privacy; 3) the highest level of asset protection; and, 4) access to the most profitable investments available.

I often have said that voters in the wealthy industrialized democracies seek to transfer benefits to themselves at the expense of the successful and thrifty. This attack on affluent and productive individuals in the United States, Canada, Germany and the United Kingdom has led to a rising exodus of both assets and individuals to political environments offering greater asset protection, privacy and lower taxation.



Through taxation and regulation the executive branch of government excels in attacks on wealth, but the judicial system is now becoming an equal enemy of prosperity. Especially in the United States, courts are clogged with hundreds of thousands of civil suits demanding enormous sums for imagined or statutorily-concocted injuries such as sexual harassment or psychological discrimination.

Contingent fee lawyers whip up billion dollar class action suits against persons or corporations deemed a ripe target, meaning one with enough ready assets to finance big judgments and outrageous jury awards.

It is a truism to say statist government has diminished personal liberty with its unchecked power of taxation. In the United States, the United Kingdom and Germany the effective rate of personal taxes far exceeds 50 percent of earnings. In some nations, such as France and Sweden, it is much higher. Business is taxed at even greater levels. And everyone, as consumers, pays the ultimate price imposed by taxation.

How can a person of wealth defend against such ferocious attacks?

As James Dale Davidson and Lord William Rees Mogg said in their book *The Sovereign Individual*, one cannot transport hard assets, farms or factories out of a high tax or politically oppressive jurisdiction. But the most important capital assets today are knowledge, experience and information which no political boundaries can contain.

Sovereign individuals understand these trends and take advantage of them. We chose our residence for its quality of life and will not be tied down by an accident of birth. We select haven nations for placement of our assets according to the relative safety and privacy such places guarantee by law. Those who move all or a portion of their assets offshore simply recognize reality, that government is engaged in a systematic destruction of its citizens' right to financial privacy, what's been called the "Nazification of the economy."

Sadly, we must look to foreign lands for the sort of economic freedom once guaranteed by our homeland.



HOW TO CHOOSE AN OFFSHORE HAVEN

John Pugsley, *The Sovereign Individual*, June 2003

Since its inception, The Sovereign Society has guided members through the minefields of international law, and this has chronicled the accelerating decline of financial privacy in many jurisdictions once considered secure, private havens for personal assets.

At the root of this pernicious erosion are the hyped-up “wars” on drugs, money laundering and terrorism. The war on drugs gave birth to money laundering laws, and together these legal weapons are being used to destroy privacy and bank secrecy. Rising terrorism (inspired by a rising resentment of American intervention in the politics of foreign nations) engenders the need for random searches, wiretapping and 24/7 surveillance.

Where two or three decades ago there were numerous haven nations where privacy was expected and delivered, the high-tax nations have pushed, cajoled and threatened until the field of choices has been dramatically reduced.

How do individuals interested in privacy and security choose the best haven for their wealth?

To begin with, you should understand that each “offshore” haven is unique. A country that provides the best banking regulations won't necessarily be the best place for incorporating a business, just as the best jurisdiction for privacy won't necessarily be the best for an offshore trust.

Yet, there are general guidelines for choosing an asset haven that apply across the board. The following are the more important considerations.

Is the haven a completely independent sovereign nation? Or is it a territory, dependency or colony of a larger country?

While the government of a dependency or territory may enact favorable legislation to attract foreign investment, such legislation will be hostage to the political and economic environment prevailing in the mother country.



Nothing illustrates this point more than the recent events in the British Virgin Islands. An overseas territory of the United Kingdom, beginning in the late 1970s, the BVI, with U.K. encouragement and funding, developed one of the world's largest and most sophisticated offshore financial sectors. Indeed, it became second only to Hong Kong in the formation of international business companies, registering nearly 40,000 new corporations annually. With a land area smaller than Washington, D.C., and a population of 21,000, providing a home for almost 400,000 companies provided substantial revenues both to the government and the country's financial sector, along with ending the BVI's historical dependence on U.K. foreign aid.

A key provision of the law that made the BVI so attractive as a corporate domicile was that shares in an IBC could be issued in "bearer" form. This meant the actual ownership of the corporation could be kept confidential. However, beginning in the late 1990s, escalating pressure from the U.K. Home Office and international organizations threatened the BVI's ability to offer bearer shares and enforce other aspects of its laws protecting privacy and wealth. Indeed, the U.K. Home Office threatened to use an arcane provision of colonial law called an "Order in Council" to enact binding BVI legislation, over the heads of the local elected representatives, if the BVI government failed to dismantle its favorable laws on its own.

Faced with this overwhelming pressure, the BVI recently re-wrote their laws regarding IBCs. One of the casualties was the ability of IBCs to issue bearer shares. The BVI is only one of the U.K.'s overseas territories. The others — Anguilla, Bermuda, the Cayman Islands and the Turks & Caicos Islands — were subject to similar pressure from the U.K. Home Office.

Closer to the United Kingdom itself are several jurisdictions with a different constitutional status than overseas territories, but still subject to substantial interference in their financial affairs by the U.K. government. These "Crown dependencies" — the Isle of Man, Jersey, Guernsey and Sark — have also been forced to dismantle many of their favorable laws designed to attract foreign capital.

Does the haven respect privacy? And is privacy built into its law? Under what circumstances can creditors or the government obtain information about your wealth, or even seize it?

Financial privacy has gotten a bad reputation in recent years. The pre-



vailing attitude is, “if you’re not committing a crime, why do you need privacy?”

This attitude ignores the very real need for privacy in a nation such as the United States where there exist very few legislative protections for it. It is worth noting that a sue-happy lawyer or identity thief, armed with nothing more sophisticated than a personal computer, can in a few minutes unearth a great deal of financial information about whatever U.S. assets you own.

This is the reason why strong privacy laws are a must in any haven that you might consider. Some countries have a tradition of secrecy but no legal requirement enforcing it; others have laws that allow the local government access to information while pretending that the government is sworn to secrecy. Others have bank-secrecy laws but frequently ignore them, or have laws filled with exceptions.

Ideally, secrecy should be built into the legal code and violations should be prosecuted with civil or criminal sanctions. However, even in jurisdictions with the best privacy laws, it’s foolish to violate tax or money-laundering laws of your home country. In their search for tax-evaders, big governments have a history of illegal espionage, bribery and coercion to get the information they seek.

Moreover, you may wake up one morning to find the haven nation’s laws changed and your “secret” records are in the hands of your home government. Make sure you comply with the laws in your home country!

From the standpoint of the tradition and legal basis for banking secrecy, the four countries that stand out are Austria, Liechtenstein, Luxembourg and Switzerland.

Austria has strict bank secrecy laws calling for the prosecution of any bank employee who divulges any information on a client’s account, and its banking tradition is more than 200 hundred years old.

Liechtenstein has some of the strongest bank secrecy laws in existence. Since Liechtenstein is one of the five richest countries in the world in per capita income and personal wealth, it is unlikely to be swayed away from privacy by promises or threats.

Luxembourg is one of the fastest growing financial centers in the world and has seen a massive influx of capital in the last decade due to its liberal banking and tax laws. Although its secrecy laws only date back to the



early 1980s, it has maintained a long tradition of banking confidentiality. Information will only be released to foreign governments if the depositor has been charged with a crime that is related to the account that is also a crime in Luxembourg.

Switzerland has been economically and politically stable for centuries, enjoys a low rate of inflation and the Swiss franc is one of the strongest currencies in the world. It remains the model from which all other financial centers are compared. Although Switzerland has succumbed to the pressure of the U.S. government to loosen its strict secrecy laws, for safe banking it still rates as one of the top havens.

HOW LONG A TRADITION HAS THE HAVEN HAD?

A country like Switzerland with centuries of traditional respect and protection of privacy, or like Luxembourg with decades of stability, are unlikely to change for transient reasons. The longer and stronger the traditions of law and privacy, and the more stable the economy, the better chance that those traditions will continue.

Political stability is a major consideration. During the last half of the 20th century, Hong Kong was a bastion of financial stability, growth and privacy. Hong Kong achieved this in spite of being a dependency of the United Kingdom. But when the U.K.'s lease on the territory ran out in 1997, control returned to China, casting a deep shadow of doubt about Hong Kong's future as an asset haven, a fact underscored by the continued exodus of wealth from the country.

DO THE CITIZENS SUPPORT THE HAVEN'S OFFSHORE STATUS?

In some havens, such as The Bahamas, the local citizens are not the primary beneficiaries of banking secrecy. Since taxes are low to non-existent and the local legal eagles have not evolved into predators, locals have little interest in privacy laws or bank secrecy. This contrasts with Switzerland, Austria and now Panama, where privacy laws and traditions affect a significant segment of the citizenry.

IS THE HAVEN IMPORTANT TO YOUR GOVERNMENT?

The United Arab Emirates, because it is a "friendly" nation in an unstable region, enjoys the favor of the U.S. government. Haven income is



important to it and Washington won't want to lean too hard on it over a "non-strategic" issue. And, since the CIA uses Liechtenstein for its financial transactions, the U.S. won't seek to wipe out its haven status.

Another example is Panama, with its strategically important canal linking the Atlantic and Pacific Oceans. The Cayman Islands, on the other hand, has little or no strategic value to Washington.

DOES THE HAVEN WAVE A "RED FLAG?"

Public dealings with high-profile havens may raise a "red flag" for tax collector's around the world. The Cayman Islands, Switzerland and Liechtenstein are examples. Panama, Austria and Luxembourg are another step below that level. Bermuda is lower still, though it doesn't offer the secrecy the others do.

How efficient and convenient are the services? Are competent personnel available to serve your needs?

How well do they speak English? How easy is it to visit the place?

Nothing substitutes for personal contact with the people who are trusted with your assets. It's best to visit your money periodically, and so much the better if it's in a place that you enjoy visiting.

What taxes are levied on the haven's users? The first requirement of a haven is to offer capital preservation. Nonetheless, to include a haven country which scores heavily in capital preservation but which also has high withholding, corporate, estate or other taxes, is to ignore an important consideration.

As I've written before, true financial security must include: the maximum possible tax avoidance allowed by law; the greatest possible financial privacy; the highest level of asset protection; and access to the most profitable investments available.

Sovereign individuals select haven nations for placement of assets according to the relative safety and privacy such places guarantee by law. Those who move all or a portion of their assets offshore simply recognize the reality that governments in the major nations are engaged in a systematic destruction of their citizens' right to financial privacy. Sadly, we must look to foreign asset havens for the sort of economic freedom once guaranteed by our homeland. The number of safe havens is dwindling, but they still exist.



FOUR TYPES OF TAX HAVENS

Robert E. Bauman JD, *Fundamental Tools
of Wealth Protection, 2001*

Simply stated, a tax haven is any country whose laws, regulations, policies and, in some cases, treaty arrangements, make it possible for a foreign national to reduce overall personal or corporate tax burdens by voluntarily bringing one's self within the country's jurisdiction.

Usually this is done by establishing a residence in that nation. This general definition covers all four major types of tax haven nations, each categorized by the degree of taxation imposed, and it's important to understand the differences.

1) NO-TAX HAVENS

In what are known as "pure" or "no-tax havens," there are no income, capital gains, or wealth taxes, and a foreign national can quickly and easily incorporate, form a trust and register to do business immediately.

The government in a pure tax haven nation earns revenue from the volume of registration and annual maintenance fees paid by foreign corporations and trusts doing business within its borders.

"No tax" means there is no tax levied on income or profits from corporate business operations, but there are minor taxes including stamp duties on documents of incorporation, charges on the value of corporate shares issued, annual registration fees, or other fees not levied directly on income.

Examples of this type of country include the British overseas territories of Bermuda, the Cayman Islands and the Turks & Caicos Islands, plus independent nations such as The Bahamas, St. Kitts & Nevis (primarily the latter of the two-island federation), all located in or near the Caribbean basin, and, in the south Pacific, the Cook Islands and Nauru.

2) FOREIGN-SOURCE INCOME HAVENS

These havens use a domestic "territorial" approach, taxing only income



actually earned within the country. They exempt from tax any income earned from foreign sources involving no local “in country” business activities — apart from simple housekeeping matters. Often there is no tax on income derived from the export of local manufactured goods, as compared to the domestic manufacture itself, which may be taxed.

These nations also could be called “no-foreign-source income tax havens,” and they are divided into two groups.

The first group allows a person or a corporation to do business both internally and externally, taxing only the income earned from internal domestic sources. These nations include Costa Rica, Ecuador, Guatemala, Honduras, Israel, the Philippines, Thailand and Sri Lanka.

The second group requires corporate organizers to decide and elect at the time of incorporation whether the business will limit itself to domestic activity, with consequent local tax liabilities, or to do only foreign business that is exempt from taxation. Primary examples in this category are Panama, Liberia, Jersey, Guernsey, the Isle of Man and Gibraltar.

These jurisdictions and countries are particularly well suited as a location for a US-owned holding company, foreign trading corporation, or a foreign investment corporation.

3) TAX TREATY NATIONS

The third group of jurisdictions can be called “tax treaty nations” because their law does impose taxes on corporate or trust income, wherever earned worldwide.

However, these governments have adopted reciprocal double-taxation avoidance agreements with other nations, especially ones with which they have extensive trade, such as the United States, France, Germany or the United Kingdom.

These mutual agreements may reduce significantly the national withholding tax imposed on income derived from abroad by domestic corporations, usually giving full credit against domestic tax liability for taxes paid by a local business to a foreign government.

These nations may be less attractive as a base for an American seeking asset protection, since international tax treaties permit the free exchange of information between national taxing authorities, allowing far less financial



privacy. Cyprus, the Netherlands, Belgium and Denmark are primary examples of tax treaty nations.

4) SPECIAL USE TAX HAVENS

In the fourth and last category are countries that impose most taxes with which Americans are all too familiar, but the government has a policy of granting special tax concessions, tax holidays or rebates to designated types of business enterprises they wish to attract and promote.

These concessions typically include corporate tax credits for job creation, tax exemptions for manufacturing and processing of exports, or special tax benefits for international business or holding companies, offshore banks, or other selected industries.

A primary example of a special use tax haven is the independent south Pacific nation of Samoa. All entities operating under its 1987 Offshore Banking, International Trust, and International Companies Act, and its 1988 International Insurance Act are exempt from Samoan income, stamp, and withholding taxes, and any other direct or indirect levies, as well as exchange and currency controls, foreign exchange levies, central bank restrictions, and domestic Samoan legislation.

Although the fact is largely unknown to their own citizens, both the United States and Canada offers such tax break incentives to foreigners who establish businesses within their borders, so long as certain minimal amounts are invested and local jobs result.

A HAVEN FOR YOU

Robert E. Bauman JD, October 2006

Sometimes in public perception a combination of words takes on a wider meaning than the individual words themselves. Indeed, slogans dominate political campaigns, advertising and even our colloquial speech.

Thus it is that a phrase we often use here at The Sovereign Society, “tax haven,” has for us, a definitely good connotation.

On the other hand, the U.S. Internal Revenue Service has done their



best to paint tax havens as unpatriotic, tax evading, money laundering criminal enterprises — which they are not.

In fact, a tax haven is nothing more than a country or other jurisdiction that offers foreigners lower taxes or no taxes, especially attractive to those of us who live in high tax nations. That various places offer lower taxes, produce healthy tax competition and keep taxes everywhere generally lower.

But consider the original meaning of the word “haven.” The dictionary tells us that the word originated with mariners who plied the sea — to them it was a safe harbor or port where their vessel could be sheltered during a storm. Thus “haven,” in the wider sense, has come to mean a place of shelter, safety, refuge, asylum, a place of sanctuary and rest; a place where you, or your assets, are protected from danger.

In that sense, we often speak not only of tax havens, but of “asset havens,” countries that have enacted special laws to protect your cash and investments. Often one nation combines both aspects and becomes particularly attractive, as in the case of the Republic of Panama.

Based on almost a decade of experience, The Sovereign Society looks at five major factors when we examine each potential haven:

1. **Government/political stability:** How long has the current system of government been in place and is the jurisdiction politically sound?
2. **Favorable laws, judicial system:** Does the country have a well established legal tradition? Does its legal and judicial system have a reputation for “fair play” with regard to foreign investors?
3. **Available legal entities:** Does the jurisdiction have a sufficient variety of legal entities, trusts, family foundations, international business corporations, to satisfy the average person seeking estate planning or business solutions?
4. **Financial privacy/banking secrecy:** Does the place have financial privacy and bank secrecy laws? How strictly are they applied? What exceptions exist?
5. **Taxes:** Does the haven impose taxes on foreign investors or residents? Can these taxes be avoided legally? Are there tax treaties or tax information exchange agreements in effect?



Based on all these factors there are four countries that we choose as the leading places for you to consider creating your personalized offshore plan: the winners are Switzerland, Panama, Liechtenstein and Hong Kong.

- **Switzerland** today still stands as the world's best all-around offshore banking and asset protection haven, despite the many compromises in recent years that the Swiss have been forced to make under international pressure. It's not really a tax haven, but it doesn't enforce tax laws for most other nations.
- **Panama** combines maximum financial privacy, a long history of judicial enforcement of asset protection-friendly laws, a strong anti-money-laundering law, plus near total tax exemptions for foreigners. Thanks to its unique historic relationship with the United States, it also exercises a high degree of independence from outside pressures, especially those from Washington.
- **Liechtenstein**, with asset protection laws dating from the 1920s, offers a host of excellent and unique legal entities designed for wealth preservation. And it has strict bank secrecy guaranteed by law. This tiny principality has it all, including highly regarded banking and legal professionals.
- **Hong Kong**. Even though the Communist government in Beijing controls it, Hong Kong remains relatively free, a reflection of Beijing's need for it to be its financial powerhouse. Hong Kong retains a strong set of common law statutes governing banking and finance. If you're doing business in Asia, especially in China, this is the place to be. It is home to thousands of foreign businesses, traders and investors.

The jurisdictions I've named above are the leaders, but by no means the only tax and asset havens.

For example, Singapore has recently adopted a bank secrecy law based on the Swiss law. It has also revised its trust laws and reduced taxes on foreigners, making it a close rival to Hong Kong. And there are other tax havens too, such as the Channel Islands of Jersey and Guernsey, the Isle of Man, Bermuda and even the Cayman Islands. Each has its own pluses and minuses and differs in some respects.

Be assured, however there's one or more havens that will suit your needs and we will be pleased to help you choose.



THE U.S. AS AN OFFSHORE TAX HAVEN

Robert Bauman, JD, & David Melnik, QC,
The Offshore Money Manual, 2002

Few hard-pressed American taxpayers realize it, but the United States is a tax haven for foreign investors. There is a whole host of laws that provide liberal U.S. tax breaks that apply only to foreigners.

While Americans struggle to pay combined taxes that rob them of more than 40 percent of their total incomes, careful foreign investors can and do make money in the United States tax free.

Even so, the U.S. is not a straightforward “no-tax” haven like Panama, even for foreigners. Instead, a haphazard array of complex provisions in the Internal Revenue Code, coupled with a host of international tax treaties, provide rich opportunities for the foreign investor. Assisting these investors is an elite group of high-priced American tax lawyers and accountants known as “inbound specialists.” They specialize in structuring transactions to minimize taxes and maximize profits.

Q. Why does the U.S. allow foreign investors to get off tax-free?

A. The U.S. government desperately needs foreign investment.

The U.S. Treasury needs it to provide capital to bolster the national economy and, more importantly, to finance the huge government budget deficit. A large portion of foreign investment goes directly into short-and long-term U.S. Treasury securities. This enormous cash inflow keeps the government afloat from day to day. Billions of dollars of the much-talked-about national debt is owed directly to European and Asian investors. The communist government of the Peoples Republic of China is one of America’s largest individual creditors by virtue of their investments in U.S. government debt securities.

One other scary fact: the annual interest paid on this \$5 trillion government debt now exceeds all other federal budget program costs, except the Defense Department. Some 38 percent of the entire budget is for interest payments alone, and most of it goes to foreign investors. We’re talking very big money here!



Net interest on the U.S. public debt was approximately \$240 billion in fiscal years 2007 and 2008. This represented about 9.5% of all government spending. Interest was the fourth largest single cost category, after defense, Social Security, and Medicare.

To give credit where it's due, foreign companies operating in the U.S. do pay corporate income taxes on some of their U.S. earnings. According to a report by KPMG Peat Marwick, they pay plenty.

Q. Do these foreign investors have power over the U.S.?

A. You bet they do.

Congress imposed a 30 percent withholding tax on all interest payments to foreign residents and corporations doing business in the US. Foreign investors bluntly let it be known they would take their money elsewhere if the withholding tax remained. Not surprisingly, the IRC is now riddled with exceptions to the 30 percent tax.

The biggest U.S. tax break for many foreigners comes from a combination impact of domestic IRC provisions and the tax laws of the investor's own country. The United States taxes its citizens and residents on their worldwide income. But non-citizens and non-residents are allowed to earn certain types of income from within the U.S. tax free. As you can guess, droves of smart foreign investors take advantage of the situation.

Q. Can Americans get in on this foreign investor tax-free gravy train?

A. The answer is a qualified "yes."

In the right circumstances, a U.S. citizen or resident can benefit from this same tax-free income that makes so many foreign investors wealthy. The qualifying process is complex, so it's not for everyone, but the laws offer clear possibilities and you can use them to your advantage.



PART TWO — HAVENS UNDER SIEGE

BIG GOVERNMENT'S WAR AGAINST HARMFUL TAX COMPETITION

Mark Nestmann, *The Sovereign Individual*, January 1999

In recent months, world governments have unleashed a parade of special investigations, groundbreaking reports, and multilateral actions with a single goal severely curtailing or even wiping out the world's burgeoning offshore financial sector.

Three recent components of this war are the Organization for Economic Cooperation and Development's (OECD) report on tax competition; the Edwards Report on the Channel Islands and the Isle of Man; and the Cook Initiative on U.K. Overseas Territories, from U.K. Foreign Secretary Robin Cook.

WAR ON DRUGS BEGETS WAR ON TAX AVOIDANCE

In an April 1998 report entitled "Harmful Tax Competition," the OECD called for "severe countermeasures" against countries used by persons or companies trying to reduce taxes. The report proposed that domestic taxes be enforced internationally, using the anti-drug and anti-money laundering regime constructed in recent years as a model.

Many of us have long predicted that the "War on Drugs" was nothing more than a smokescreen to construct an international tax collection authority. We were right. Lost in the OECD's hand wringing over unfair tax competition is the fact that taxes are merely another cost of doing business. An individual or business that lowers its tax burden will be more successful than one that doesn't.

WAKE UP, OECD: MARXISM DOESN'T WORK!

In most OECD countries, a person or company pays tax according to their vulnerability to coercion by special interest groups that receive transfer payments according to their "needs." This is, of course, the Marxist model that was a colossal failure in the Soviet Union. Now the "kinder and gentler" version of Marxism that has flourished in the



social democracies of Western Europe and the United States for decades is also in collapse.

However, the OECD is not merely delusional, but also schizophrenic. Around the same time it released *Harmful Tax Competition*, it also published Policy Brief No. 9: *Fostering Entrepreneurship*.

A key factor in fostering entrepreneurship, of course, is reducing regulatory and tax barriers to success.

Once that is done, history has proven time and again that markets will establish themselves, a fact forgotten by the OECD.

OECD MEMBERS LEAD IN HARMFUL TAX COMPETITION

The OECD defines a tax haven that conducts “harmful tax competition” as any nation that:

- Imposes nominal or no tax on income.
- Offers preferential treatment to certain types of income at no or low tax rates.
- Offers, or is perceived to offer, nonresidents the ability to escape taxes in their country of residence.
- Permits tax-related planning in activities that lack substantial economic (non-tax) advantages.

Under this definition, almost every OECD country is a tax haven. Indeed, OECD members

Switzerland and Luxembourg, two of the world’s largest offshore centers, refused to endorse the report.

Virtually every other OECD member uses tax competition to attract foreign investment or wealthy residents. For instance, the United States does not tax many types of income earned by nonresident investors. The United Kingdom and Ireland invite wealthy foreigners to live there, essentially tax free, through their “resident but not domiciled” rules. Even Germany has enacted recent legislation that makes it much more attractive tax wise for holding companies.



ECONOMIC WARFARE

But the hypocrisy goes even deeper. While the OECD is prepared to tolerate tax competition among its members, it threatens “severe countermeasures” against nonmembers. It has in effect declared economic war against some of the world’s most impoverished countries, that, in the absence of their offshore industries, would have few if any opportunities to advance economically.

The OECD campaign is a concerted effort by the world’s richest nations to hamper the development of some of the poorest ones, disguised in the rhetoric of “fairness.”

The politicians governing the world’s high tax democracies know that they cannot continue to tax and spend forever. But they will hang on to power until they are forced to abdicate because, to a politician, power is everything.

There will be major confrontations with “out of favor” offshore centers that do not at least pay lip service to the idea of applying anti-money laundering laws to tax crimes. Indeed, such a confrontation is already occurring in the U.K.’s Caribbean overseas territories.

BLACKLISTING TAX HAVENS

Robert E. Bauman JD, July 2008

A “blacklist” is defined as a list of persons or entities to be shunned or banned because they are said to be under suspicion, disfavor or censure. Of course blacklisting is in the eye of the beholder, and one man’s blacklist is another man’s Honor Roll; some see groups as terrorists, while others see them as freedom fighters.

I was mildly surprised to learn that the first recorded use of this word denoting such *odium* dates way back to 1692, the same year of the Salem, Massachusetts, Witch Trials. In those quaint times what passed for due process meant that five women were burned at the stake for the offense of being witches.



Perhaps that's why blacklists and witch hunts seems to operate in tandem.

In American history, one of the most famous examples of blacklisting stemmed from an investigation in 1947 by the U.S. House of Representatives Un-American Activities Committee (HUAC) into the Communist influence on the motion picture industry.

Some in the industry were blacklisted because of their refusal to provide evidence to HUAC, including a group known as the "Hollywood Ten," most of them screen writers who were members of the U.S. Communist Party, a Moscow-dominated group that advocated the forceful overthrow of the U.S. government.

Involved in this episode was an actor named Ronald Reagan, who later said he was not very concerned about Communism until he returned from the U.S. Army after World War II to resume his movie career and became head of the Screen Actors Guild. It was a time of bitter controversy about Communist blacklisting. Reagan, under threats against his life, assisted in exposing the Reds and gained a lifelong suspicion of the Evil Empire that one may suggest contributed to the eventual downfall of Communism.

PHONY BLACKLISTS EXPOSED

What got me to thinking about blacklists was an article by Dr. Marshall Langer, the distinguished senior offshore attorney and a retired member of The Sovereign Society Council of Experts. In the May issue of Offshore Investment magazine, Dr. Langer exposed the stupidity and political prejudice of tax collectors from various nations who have decided to blacklist — of all things — tax havens.

Dr. Langer points out that so blind and irrational has been the hatred of some national tax collectors that they even have issued official blacklists of non-existent places (the "Pacific Islands," "Damask" and "Patau") and one nation, Venezuela, even issued a blacklist with itself on the list.

Fortunately, the United States under the Bush administration has refused to go along with tax haven blacklists, but Senator Barack Obama, the likely Democratic presidential nominee, is the proud author of a Senate bill that would not only blacklist scores of countries (Switzerland, Panama, Monaco, et. al.), but would curtail the rights of Americans freely to do business there.



TAX COMPETITION IS GOOD

You would think that few sensible people would object to tax havens — countries or other jurisdictions that impose no taxes or very low taxes on foreigners who do business there. After all, tax competition among nations helps keep taxes lower everywhere, provides jobs, cuts costs and increases profits from business and investment.

But “sensible” does not include the Organization for Economic Co-operation and Development (OECD), a cabal that has often played bully and villain in its ham handed attempts to crush tax havens and force a uniform system of high taxes worldwide. In pursuing its dictatorial goals the OECD is simply doing the bidding of its 30 member nations, many of which, like France and Germany, are high tax, socialist welfare states bent on wringing every last dollar, pound or euro out of domestic taxpayers in order to finance continuing deficits and statist economies.

And you guessed it — the OECD publicity instrument of choice in this pro-high tax campaign has been the phony “harmful tax competition” blacklist.

In the twisted OECD view, if a country freely chooses to impose no taxes, that policy choice is “unfair” to high tax countries that choose to soak taxpayers for all they can get. The OECD has created this smokescreen because they know that sensible people take their business to where taxes are low or non-existence.

DIRTY MONEY/TERRORISM PLOYS

To lend drama to their demands the OECD spun off a subgroup, the Financial Action Task Force (FATF). These worthies claim to be devoted to fighting money laundering, (and, more recently, countering terrorism), but in fact their goal has been to destroy financial privacy. Both groups want unrestricted, automatic government access to any and all financial accounts anywhere in the world; again, doing the work of their tax collecting masters.

The irony in all this is that the OECD is nothing more than a paper tiger based on agreement of its members. It's not a government or international agency, even in the sense that the United Nations has legal standing.

The OECD presumes to tell the people and governments how they should conduct themselves by, as they claim, “setting standards and creat-



ing values for the entire world.” These folks think they set the “ground rules for good behavior by multi-national enterprises and corporate governance principles.” (A lazy world media trumpets every OECD press release, unctuous documents that always hawk the liberal, elitist, pro-tax line.)

A tall and very presumptuous order for the OECD’s nearly 2000 bureaucrats, the salary of everyone of whom is tax exempt because of their coveted diplomatic status. Housed in a fine Parisian mansion with a wine cellar that once belonged to the Rothschild family, the Château de la Muette, the OECD’s annual budget is over \$300 million (£200m), with U.S. taxpayers footing 25% of the total cost.

THE BLACK BEAST

At least for the time being, Americans still can and should avail themselves of their freedoms to bank and invest offshore.

In the meantime, I have an appropriate phrase to describe the OECD and the other blacklists of tax havens — the French *bête noire*, “the black beast,” first used in French literature in 1844 and still applicable today.

The phrase refers to someone or something unwanted or even hated, a pet peeve or strong annoyance — just like the OECD.

SECOND DISSOLUTION OF THE BRITISH EMPIRE (WHAT’S LEFT)

Robert E. Bauman JD, March 2009

“I have not become the King’s First Minister in order to preside over the liquidation of the British Empire.”

Winston Churchill’s famous statement in November 1942, just as the tide of the Second World War was beginning to turn towards victory, pug-



naciously affirmed that great British leader's loyalty to the global colonial institution he had served for most of his life.

Britain fought and sacrificed on a world scale to defeat Hitler and his allies — and won. Yet less than five years after Churchill's defiant speech, the British Empire effectively ended with India's independence in 1947 and the end of the British Mandate in Palestine in 1948.

COLOR HIM BROWN

And now the Rt. Hon. Gordon Brown, the current and dour British prime minister, seems bent on causing another major setting of the sun on what little remains of Britain's truncated empire.

Brown is in major political trouble. Under pressure from unions and a nose diving economy, suddenly he is all too willing to throw to the leftists wolves Her Majesty's overseas territories. Most of these are leading tax havens nurtured as such by London for the last half century (and by Brown himself, in a decade as Chancellor of the Exchequer).

Months ago Brown was promoted by admirers as the man to save the world from economic catastrophe. Now he has his hands full just trying to save his own job. The Conservative Party and its well spoken young leader, David Cameron, have a 20-point lead over Labour in polls in the run up to the general election in 2009.

BANK BAILOUTS UNLIMITED

But if you think Bush and Obama have been criticized for trillions of dollars in U.S. bank bailouts, Gordon Brown is being blasted by both right and left for even larger U.K. bank bailouts.

An estimated £1.2 trillion (US\$1.7 trillion) has already been spent (with no end in sight) on the Royal Bank of Scotland, HBOS, Lloyds, and Northern Rock, all of which the U.K. government now controls (along with billions in toxic assets).

One British newspaper headlined: "Brown does a U-turn on tax havens with blacklist." And Brown chose to make a big pitch for his apostasy in his address to the U.S. Congress last week, no doubt trying to grab on to President Obama's flapping anti-tax haven coat tails.



BROWN BLACKLIST

U-Turn Brown is preparing to unveil a blacklist of what he now suddenly considers to be “harmful tax havens” to be published before the London G-20 meeting next month, which he chairs.

This phony list is expected to include offshore centers, long overseas territories of Britain, including the Cayman Islands and Bermuda. Other U.K. OTs include the British Virgin Islands and the Turks & Caicos Islands. Add to the list the Crown Dependencies of Jersey, Guernsey and the Isle of Man, all major offshore financial hubs tied to the City of London.

So unique are these financial centers that hundreds of thousands of investors and business persons worldwide use the services of their investment houses, banks, accountants, lawyers, insurance brokers, and trust and corporation services located there.

HYPOCRISY SQUARED

Brown's move is a radical departure from the prime minister's historic position of protecting the pre-eminence of Britain's financial services industry, both in London and in the overseas territories.

His move is a crude political attempt to counter growing criticism at home for his bank bailouts, and pressure from high tax France and Germany that make the specious charge that the U.K., like Switzerland, is an obstacle to imposing a global “transparent financial system” — meaning they demand an end to financial privacy everywhere.

Face it, dear readers, this isn't about transparency. This is about destroying tax competition and the forced exaction of confiscatory taxes internationally without regard for individual rights.

OFFSHORE CENTERS HAVE REFORMED

Brown, is certainly no Churchill, not even a pale imitation of his predecessor, the affable Tony Blair. But there is a special irony in Her Majesty's government suddenly attacking the British offshore tax havens that it created with great care since the end of World War II.

Over the last 15 years, the Blair/Brown Labour governments in London demanded and got substantial reforms in all U.K. offshore financial centers, including statutory transparency, an important fact Brown never



even mentioned in recent days when he suddenly turned on the offshore territories with his bogus attacks.

These offshore reforms are now written into local laws in these semi-independent islands. They include: 1) much tighter financial regulatory reforms; 2) “all crimes” money laundering and foreign tax evasion statutes; 3) extensive banking client surveillance; 4) increased cooperation with foreign official authorities seeking tax and other information about persons and legal entities based on the islands; 5) a major weakening of previously strict financial privacy laws and, 6) imposition of the EU savings tax directive which all of these offshore centers now enforce and collect.

BROWN’S BETRAYAL FOR POLITICAL GAIN

In fact Bermuda, the Cayman Islands, the British Virgin Islands, the Isle of Man, Jersey, and Guernsey each already have signed Tax Information Exchange Agreements (TIEAs) with the United States and many other countries. What more transparency does galloping Gordon expect?

It is obvious that Brown, just another desperate socialist politician, is willing to disrupt, if not destroy, the economies of these loyal British offshore centers, jeopardizing tens of thousands of jobs in the midst of a worldwide recession.

All this would be amusing if it were not so tragic.

LORDS GIVETH; LORDS TAKETH AWAY

Robert E. Bauman JD, October 2009

If you have ever visited London, you may agree with me that the foreigner’s eye is pleurably overwhelmed by monuments, statuary and buildings with impressive architecture, including, of course, the Marble Arch, Saint Paul’s Cathedral and Buckingham Palace.

But in Westminster, near the houses of parliament, bordering on Downing Street (where the prime minister lives at No. 10), there is the ornate



Foreign and Commonwealth Office. Built in 1860-1868 its style is Italianate. Initially envisaged as a Gothic design then Foreign Secretary Lord Palmerston, later prime minister insisted on a classical style.

The offices became increasingly cramped and much of the fine Victorian interior was covered over, especially during and after World War II. In the 1960s, so demolition was proposed as part of a redevelopment plan. Fortunately, a loud public outcry saved this venerable building.

COLONIALS ARE RESTLESS

Today I suspect there might be strong support in many of the 14 British colonies (now known as the more politically correct “Overseas Territories”) (OSTs) for demolition of, if not the building, the wrong-headed Labour Party policy makers who dominated the Foreign and Commonwealth Office and who manage and control the OSTs.

This same anti-London, anti-Labour attitude prevails in Jersey and Guernsey (the Channel Islands), and the Isle of Man, all under the sovereignty of the British Crown, but with a unique constitutional relationship classed as Crown Dependencies.

BROWN HYPOCRISY

This deserved anti-London wrath among the colonials is a reaction to the hostility towards “tax havens” on the part of Labour’s failing prime minister, the hapless Gordon Brown.

Brown and French President Nicolas Sarkozy scream for tough international sanctions on all tax havens beginning in March 2010, including punishing recalcitrant havens by withdrawing government financial aid, forbidding people to invest there and imposing taxes on tax haven-based banks, mutual and hedge funds.

Under pressure from labor unions and a nose diving British economy, Brown is willing to throw to the left-wing wolves Her Majesty, Queen Elisabeth’s colonies.

The supreme irony (and Brown’s blatant hypocrisy) is underscored by the fact that many of the OSTs are leading jurisdictions created and nurtured as tax havens by governments in London for the last half century, (and by Brown himself, in a decade as Chancellor of the Exchequer).



OSTs BANKRUPTCY LOOMS

A few weeks ago *The Guardian* published the leaked news that Labour government could be forced to bail out one or more of its offshore tax havens at huge cost, according to a Treasury report, because the global economic crisis has wrecked their finances.

(More irony here, since Brown, Sarkozy and Obama all speciously claim that tax havens caused the world recession!)

The newspaper said that offshore expert Michael Foot soon will suggest options to government ministers as anxiety grows within Whitehall over the health of Britain's OSTs and crown dependencies. *The Guardian* claimed Foot's report suggests that the failure of a major tax haven could potentially cost the U.K. tens, if not hundreds, of millions of pounds.

KICK 'EM WHEN THEY'RE DOWN

Instead of policies that would help the OST tax havens, Brown and Labour want, in effect, to abolish them by curtailing their major sources of income gleaned from foreign deposits, investments and hedge funds.

Yet another irony is that, at London's behest, all of these OSTs have adopted major regulatory and anti-money laundering reforms in recent years. This year all OSTs have waived their financial privacy laws and agreed to exchange tax information with other governments in appropriate cases.

CAYMANS BROKE?

The Sunday *New York Times* reports on the dire financial situation in one of the leading British OSTs, the Cayman Islands, one of the largest financial centers in the world.

Caught between shrinking revenue and high public spending, the Caymans avoided a fiscal crisis last week with a \$60 million overseas loan. But the Foreign Office that can veto foreign lending requests delivered an ultimatum: the rest of the \$284 million the Cayman government needs won't be forthcoming from London until the islands impose spending cuts and adopt some form of direct taxation on businesses and its 57,000 residents.

Rumors are that London is also demanding more changes in Cayman laws that will weaken the islands' appeal as one of the world's leading tax havens.

More irony: compare London's refusal of Cayman's financial aid to



Brown's bank bailouts. An estimated £1.2 trillion (US\$1.7 trillion) has already been spent (with no end in sight) on the Royal Bank of Scotland, HBOS, Lloyds, and Northern Rock, all of which the U.K. government now controls.

DAMNATION

The Book of Job 1:21, tells us that "...the Lord gave, and the Lord hath taken away; blessed be the name of the Lord."

I doubt few folks in the British OSTs will be asking God to bless Gordon Brown and his leftist Labourites. They may offer up a decidedly different prayer.

MIGHT MAKES WRONG

Face it, dear readers, this isn't about cost savings, colonial budgets or even tax transparency.

This is about destroying global tax competition and the eventual forced exaction of confiscatory taxes internationally without regard for your individual rights. It is about powerful nations' using that power to crush defenseless smaller jurisdictions. Napoleon, Adolf Hitler and Joe Stalin understood that concept.

The destruction of British and other tax havens is part of a calculated, inter-governmental plan to limit, if not abolish, taxpayers' financial options — and to keep cash and assets at home where the IRS and other welfare state tax collectors can get their hands on that which you have worked so hard for, and for so long.



OFFSHORE BULLYING FROM THE WORLD'S LARGEST TAX HAVEN

Mark Nestmann, May 2009

The devil is in the details.

My father, who practiced medicine for nearly four decades, often repeated this truism when confronting a difficult diagnosis. And the same truism applies in other areas — including "tax information exchange agreements" (TIEAs).

If you have mercifully avoided TIEAs thus far in your life, you may not be able to avoid them much longer.

That's especially true if you invest or do business offshore. The reason: supposedly to establish a "level playing field" for international investment, high tax countries have forced low tax jurisdictions to sign dozens of TIEAs in recent months. These agreements make it much easier for revenue authorities in high tax countries to obtain banking records and other financial records in numerous low-tax jurisdictions.

The Organization for Economic Cooperation and Development (OECD) leads this ongoing jihad against low tax jurisdictions. As they labor in a sumptuous palace in Paris, OECD bureaucrats enjoy diplomatic status. Unlike most of us, they receive a tax-free salary and benefits. And while working tax-free, they prepare lists of countries they deem insufficiently cooperative with revenue authorities in OECD — and mostly high-tax — countries.

"GREY LIST" STANDOFF

Earlier this year, the OECD issued its latest "grey list" of countries that have promised to boost cooperation in tax investigations, but have not yet done so. One of the most important demands the OECD made to countries on this list is to ratify at least a dozen TIEAs with other nations.

Countries that fail to do so may eventually find themselves on an OECD "black list."



And that could result, according to the OECD, in potential isolation from the global financial system. (Think North Korea or Iran.) Not surprisingly, countries on the grey list are trying to get off of it as quickly as they can.

OECD efforts to end what it calls “harmful tax competition” began back in the 1990s. But it wasn't until 2009 that their efforts came to fruition. Citing the need to uphold OECD “standards,” several high-tax countries pressured Switzerland and other offshore havens on the grey list to amend their laws to require limited tax information exchange with foreign revenue authorities.

The United States led this effort. And the results have been a spectacular success, at least from the U.S. Treasury's and the IRS perspective.

First, U.S. prosecutors persuaded the Swiss government to release the names and account records of nearly 5,000 alleged tax evaders from Swiss banking giant UBS. But that was just the beginning. The United States also forced Switzerland to sign a TIEA.

The U.S.-Switzerland TIEA isn't that bad, as TIEAs go. It only obligates Switzerland to release information if U.S. investigators give Swiss authorities a specific name or names of suspected tax evaders. The agreement doesn't allow the IRS to engage in “fishing expeditions” and ask for account records of unnamed U.S. taxpayers in one or more (or all) Swiss banks. (Earlier this year, the IRS tried, but failed, to get the account records of 52,000 unnamed UBS depositors via a so-called “John Doe” subpoena.)

To get off the OECD's most recent grey list, Switzerland signed this TIEA and 11 other TIEAs with high-tax countries. All the TIEAs require Switzerland to lift bank secrecy laws in tax investigations of named individual taxpayers. None of them permit fishing expeditions by revenue authorities.

Austria, another country with strict bank secrecy laws, completed a similar process. The OECD dutifully removed it from the grey list.

SMALLER JURISDICTIONS EASIER TO BULLY

But the devil, again, is in the details. Numerous smaller jurisdictions also find themselves on the grey list. And because they lack the diplomatic clout of Switzerland or Austria, it's much harder for them to get off.



Case in point is a small independent low-tax jurisdiction that, for the moment, will remain nameless. I recently had the opportunity to review internal government correspondence on its progress in meeting the OECD's demands. This jurisdiction already has signed, or is about to sign the requisite dozen TIEAs. But it's still on the OECD grey list, because it hasn't been able to come to terms with the U.S. Treasury Department.

In negotiations with this jurisdiction, the U.S. Treasury has demanded a super-TIEA. The proposed agreement would allow IRS authorities to automatically enter the jurisdiction to conduct interviews and gather evidence. It would also authorize use of the John Doe subpoenas for the same purpose.

Naturally, this jurisdiction doesn't want to sign that broad of an agreement. However, if it fails to do so, the United States may prevent the OECD from removing this nation from the grey list. Forget the fact that this country has complied with all the OECD's demands. If it doesn't submit to IRS blackmail, it may stay on the grey list.

By the way, you might be wondering: what's the world's largest tax haven with the highest degree of secrecy?

Surprise, surprise: it's the United States.

If you're a non-resident alien investor, you can arrange your U.S. investments so that you pay little if any U.S. tax. Except in the case of Canada, the IRS won't tell your home country about the income you earn in the United States. And you can still set up essentially anonymous banking relationships, perfectly legally.

WHY ISN'T THE UNITED STATES ON THE OECD GREY LIST?

That's a no-brainer: it's a matter of might makes right. And it shows how the game really works, behind the scenes. The devil, after all, is in the details.



WHERE ARE THE REAL MONEY LAUNDERING HAVENS?

Mark Nestmann, *The Sovereign Individual*, November 2003

For over a decade, governments worldwide, along with organizations such as the Organization for Economic Cooperation and Development (OECD) and its bastard stepchild, the Financial Action Task Force (FATF), have conducted a full-court press on small offshore financial centers (OFCs) alleged to be “money laundering havens.”

We have documented these efforts — the FATF’s infamous “blacklist” and, after the events of September 11, 2001, the notorious “USA PATRIOT Act,” along with similar anti-OFC vendettas carried out in other high-tax countries.

The truth is that there is far more money laundered in OECD member countries than in the OFCs that they are targeting. For proof, you need to read between the lines of the statistics trotted out to justify the crackdown on OFCs. For instance, the FATF quotes the World Bank as stating that between US\$500 billion and US\$1.5 trillion is laundered each year. But every U.S. government agency that has studied money laundering has concluded that OFCs do not attract a disproportionate share of laundered funds.

Instead, laundering predominates in the world’s largest economies — all members of the OECD. Indeed, about half of global money laundering activity is in the United States. The crackdown on OFCs due to their alleged involvement in “terrorism” doesn’t hold water, either. To date, virtually all the funds used in last September’s attacks on the United States have been traced to either OECD countries or in a handful of Islamic countries.

Why then, are the OECD, FATF and many governments trying to eliminate OFCs? The crackdown has very little to do with fighting money laundering or terrorism and everything to do with collecting taxes. As we’ve documented in recent issues, the OECD’s spurious onslaught against OFCs alleged to engage in “harmful tax competition” has been completely discredited due to the refusal of the world’s largest OFC — again, the United States — to participate in this effort. The FATF’s vendetta against



OFCs should also be discredited, for the same reason — its most important member is the single largest source of laundered funds.

There are signs that the attack against OFCs may abate, at least temporarily. This is due to infighting between the FATF and the largest (and by far the richest) of all “multilateral” organizations, the International Monetary Fund (IMF). Now, we are hardly fans of IMF taxpayer-financed bailouts of third-world countries. Indeed, IMF aid directly contributes to money laundering, since much of it, as U.S. Treasury Secretary Paul O’Neill recently observed, winds up stashed by the corrupt leaders of recipient governments in offshore bank accounts!

The IMF and the FATF have been trying to forge a joint approach to fight terrorist financing, but the IMF’s Board (some members of which are blacklisted countries) is now insisting on a year’s moratorium on the FATF’s next blacklist as the price of the IMF’s co-operation. The FATF has responded by temporarily suspending its blacklist. OFCs can breathe a little easier, if not for long.

Since most laundering occurs in OECD countries, does that mean they should take even more draconian measures than they have already — more seizures, less financial privacy, more restrictions on cash transactions, etc.? Not at all.

These approaches have been spectacularly unsuccessful. Indeed, the percentage of funds “laundered” in OECD economies is about the same today as it was two decades ago when the “War on Laundering” began.

What, then, is the answer to the laundering “crisis” in OECD countries? We have suggested that the real problem is that laundering laws are designed principally to punish crimes where there is no identifiable victim, such as drug offenses. Decriminalization or partial legalization would be far preferable from a civil liberties standpoint than providing governments even greater powers to incarcerate and seize property.

In contrast, where there is an identifiable victim of fraud or other wrongdoing, the legal tools needed for effective deterrence are already in place. They just need to be more effectively employed.



ACTS OF WAR

Robert E. Bauman JD, April 2009

I happen to hold to the old fashioned notion that America's national sovereignty is the foundation of our freedom as a people and of our individual liberty.

Sovereignty is the status, dominion, supreme authority and independent power held and exercised by a government. In America the prevalent founding theory was that the people rule as sovereign. Indeed, we gained our sovereignty by a famous revolution that stirred much of the world to emulate our system of government.

If that be true, then sovereignty rests strictly with the American people. We cannot allow foreign countries or international organizations to make decisions and impose policies that should be our own exclusive province. And that is true of every other sovereign nation.

END OF HISTORY?

Robert Kagan, the noted author and a senior associate at the Carnegie Endowment for International Peace, writing in *The New Republic* (The End of the End of History, April 23, 2008) noted that "For three centuries, international law, with its strictures against interference in the internal affairs of nations, has tended to protect autocracies. Now the democratic world is in the process of removing that protection, while the autocrats rush to defend the principle of sovereign inviolability."

He quoted "...no less an authority than Henry Kissinger [who] warned that 'the abrupt abandonment of the concept of national sovereignty' risked a world unmoored from any notion of international legal order."

THE NEW AUTOCRACY

"Autocracy" used to be defined as a government in which one person has uncontrolled or unlimited authority over others, as in the government by an absolute monarch.

But I suggest, based on the outcome of the infamous G-20 London meeting last week, that the "new autocracy" should be defined as government



imposed on the majority of the people by an elite group of politicians and their allied activists who think they know what is best for everyone else.

Their righteous certainties include plans for economics, politics, trade, international relations, but also for our lives — prescriptions that determine the extent of our freedom and liberty, our privacy, even our right to earn and accumulate wealth and private property.

ILLEGITIMATE ACTS

What raised my concern was the utter disregard shown by the leaders of the G-20 countries, including President Obama, for American sovereignty, as well as the sovereignty of other nations as well.

Put aside Mr. Obama's mistaken surrender of the theoretical control of our national currency, our financial and banking systems and our economy to some newly formed, nebulous international groups. That betrayal is bad enough in and of itself.

ACTS OF WAR

But Mr. Obama, the world conciliator who likes to contrast himself as a man of peace, compared to his bellicose predecessor, Mr. Bush, didn't blink an eye in his endorsement of a frontal attack just short of war aimed at numerous independent jurisdictions that the G-20 scornfully calls "tax havens."

It seems this new American leader never considered what he (or the millions of Americans he represents), would do if the United States similarly was threatened with an organized global boycott, blacklisted as a financial pariah, subjected to trade and banking restrictions, and punishment was promised for foreigners who dared to do business with America.

Yet that is what the president of the United States (and the other G-20 London delegates) have decreed is to be the fate of a fluctuating number of countries (and British colonies) that arbitrarily have been smeared by a blacklist drawn up by a non-government group known as the Organization for Economic and Community Development (OECD).

(I would suggest, based on its overt selective hostility towards some communities, the last word of its name be change to the more appropriate, "Destruction.")

Far less serious international acts between and among nations have produced not only border conflicts, but all-out prolonged military actions.



“MUST READ” OFFSHORE STRATEGIC MEMORANDUM

Daniel J. Mitchell Ph.D., The Cato Institute, March 2009

For a decade now The Sovereign Society has been pleased to join officially with the Center for Freedom and Prosperity in the CFP-sponsored “Coalition for Tax Competition.”

Led by CFP president, Andrew Quinlan, and by Daniel J. Mitchell of the Cato Institute, this valuable group has managed to blunt the attacks on financial freedom and personal privacy, as well as slow the leftist campaigns against offshore financial centers.

By constantly keeping the world informed of the high tax plans and freedom-destroying policies of the political left, CFP has done liberty-loving people everywhere a great service.

It is no exaggeration to credit the CFP with winning significant legislative and policy victories when the Republicans led the U.S. Congress and during the tenure of the Bush administration.

I have explained in detail what is coming on April 2nd when the G-20 countries convene for a one day meeting in London. At this much heralded gathering of the leaders of 20 countries, many headed by decidedly big government/high tax advocates, one of the promised results is a threatened blacklist of tax havens.

FEVER PITCH ASSAULTS

As Andy Quinlan points out in a CFP memo circulated: “The assault against low-tax jurisdictions is reaching a fever pitch. The Paris-based OECD is agitating for a new blacklist. The G-20 meeting this week is targeting the so-called tax havens. The American government is trying to bully Switzerland into weakening its human rights policy on financial privacy. And numerous congressional committees are holding hearings and developing ideas to persecute nations and territories with pro-growth tax policies.”



Fortunately, Dan Mitchell has just published an impressive and very informative paper describing the many challenges to offshore financial freedoms as they exist today and in the near future.

Entitled “*Strategic Memorandum: Prospects for Tax Competition in 2009*” I urge you to read it at: <http://www.freedomandprosperity.org/memos/m03-30-09/m03-30-09.shtml>.

OBAMA INTENSIFIES OFFSHORE ATTACKS

Since the inauguration of Barack Obama as U.S. president, augmented by increased Democrat/leftist control of the U.S. Congress, the vicious attacks on financial freedom, international tax competition and offshore financial centers have not only multiplied in number, but also in intensity.

As Dan Mitchell says: “Low-tax jurisdictions are being attacked by several committees in the U.S. Congress. These so-called havens are being assaulted by international bureaucracies such as the Organization for Economic Cooperation and Development (OECD) and European Commission (EC). And they are being turned into scapegoats by the politicians meeting this week for the G-20 Summit. These events do not bode well for supporters of tax competition, fiscal sovereignty, and financial privacy.”

GOOD FIGHT MUST CONTINUE

Dan Mitchell's memo concludes: “Both in the U.S. and abroad, the battle to preserve and protect tax competition has become more challenging. But it was even more challenging 10 years ago, when the international bureaucracies had first launched their offensives against low-tax jurisdictions. In 2000, for instance, three different blacklists were unveiled targeting low-tax jurisdictions. A global tax cartel seemed a foregone conclusion...

“Proponents of good policy therefore need to focus on creating as many roadblocks as possible on this modern-day version of the Road to Serfdom. The role of the Center for Freedom and Prosperity, along with its many allies in the Coalition for Tax Competition, will be more important than ever.”



Chapter Nine

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EDITOR'S NOTE

The small nations and territories we name in this chapter each have a big business sense about what you need — expert banking, reliable professional assistance, instant worldwide communications and a well-developed code of laws to support high-stakes financial activity.

Not all offshore havens are equal.

We tell you which ones are best and which to avoid. Here you will learn the secrets of the rich who are not, and do not wish to become, famous.

We show you ways and explain means so that you can join them in profiting offshore.

GOOD PLACES TO DO BUSINESS

The Business Haven Report, 1997, Scope Books

What follows is a general description of the characteristics of those nations or territories that have tailored their laws to be hospitable to foreign businesses. Many of these areas also impose no taxes on foreign citizens who live in or have their businesses based in these states.

Imagine living in a large estate with servants to handle all the mundane chores. Imagine running your own business, setting your own hours, having plenty of money to do what you want when you want to do it. Imagine traveling and entertaining. Imagine being wealthy.

A dream? Not at all.

A life like that is well within your reach if you are willing to work hard and make the right business choices. The first, and most important, decision is to locate your business in a nation that caters to international business — a “business haven” if you will.

But what, exactly, is a business haven?



A business haven is a place — it may be a country or a region—where an individual, partnership, company, or corporation is given significant incentives to establish an active business. Because the government or ruling body of a business haven wants to attract new businesses, it offers the owners of businesses major advantages to locate their enterprises there. Such inducements might be tax free situations, tax holidays (for example, several years tax-free for specific operations), long-term, low-interest loans for new businesses, reduced rents for factory space, or other vital benefits.

In addition to these factors, many business havens also offer well-educated, highly motivated workforces at compensation rates well below those of the major industrialized nations. Thus, low overhead coupled with major incentives results in increased profitability.

While some countries qualify as business havens because of their pro-business policies, in many cases a business haven may be found in a particular part of a country. Often these areas go by the name of “free zones” or similar designations. They are found throughout the world.

The opportunities are limited only by your imagination. Think of all the kinds of businesses citizens of industrialized countries take for granted, from fast-food restaurants to convenience stores, to telecommunications firms to small specialty manufacturers and quiet bed and breakfast resorts.

Countless businesses are candidates to start new or relocate in a business haven. Of course you would need to carefully scrutinize the business haven you are considering to make sure that the business you are proposing would be successful there, but if it's not, simply choose one that is or consider a different business haven.

However, a few words of caution are necessary.

1. Thoroughly research any business haven both for the inducements it offers and any potential drawbacks. Write to the embassy of the country or unit that oversees the business haven and ask for all the information they can send you. Many business havens have special agencies that act as liaisons between the government of the business haven and entrepreneurs or corporations that would like to establish a business there. These agencies can streamline paperwork and put you in touch with the people who will provide you with the facts you'll need to make a sound decision.



2. Visit the business haven before making any commitments. See if the facts you have learned hold up under personal investigation. See if you like the area and the lifestyle you will be living there.
3. Before signing any agreements, have your attorney review them carefully. Your attorney should have experience with international business relations. Don't agree to any contracts unless you are entirely satisfied. Remember: everything is negotiable. It won't hurt to ask.
4. Assess your potential overhead (be sure to include all your costs) and expected income carefully. Be certain that your venture is worth your investment of time and money.
5. If you are entering into the venture with partners, discuss their business attitudes and goals, and make sure that they match yours. It's not unusual for partners to find it more difficult to deal with each other than with the representatives of a business haven. This is especially true if your partner is from the country in which the business haven is located. Above all, remember that the choices you make in establishing a business will affect the business overall profitability.

Decisions based on first-hand experience can be the difference between a business that achieves great success and one that remains mediocre in performance.

Business havens offer entrepreneurs and corporations a marvelous chance to begin an enterprise with significant economic incentives and advantages on foreign soil. If you wish to expand your business, start a new business, or begin a new life in a different part of the world, exploring the opportunities presented by business havens is an option you must consider.

PANAMA: PRIVACY & PROFITS OFFSHORE

Robert E. Bauman, JD, August 2001, revised June 2009

As far back as the 1920s Panama adopted statutes promoting offshore banking and business. To this day it continues to welcome offshore investors, financial business and foreign retirees. Its contentious relationship with the U.S. makes its government far less subservient to Washington, which can be a very good thing.



Along with the old millennium, 96 years of official United States presence in the Republic of Panama officially ended at midnight, December 31, 1999. Panama finally got what its nationalistic politicians had demanded for much of the last century — full Panamanian control over its famous inter-oceanic Canal. The Canal handover marked a major transition in the nation's history, but equally important, Panama's established offshore financial center is rapidly attaining world class tax haven status.

When most people hear “Panama” they think of one of the great technical wonders of the world, the Panama Canal. But the country is not so well known for what it has become in the last 20 years — after Miami, it is Latin America's second major international banking and business center, with strong ties to Asia and Europe, and a special relationship with the United States that, however contentious, continues apace.

NEW ERA: PANAMA REVISITED

In September 2000, I returned to Panama for the first time in 20 years. It's a very different place than I remember during my many visits in the 1970s when I served in the U.S. House of Representatives as the ranking Republican on the Panama Canal subcommittee.

My visits then were made during U.S. legislative implementation of the Carter-Torrijillos treaty negotiations. Upon my return in 1999 I marveled at the modern skyscrapers, first-class hotels and restaurants, excellent digital Internet and other international communications, as well as the reduced American (as in U.S.) ambiance. Now there are many relatively well-priced buys on condos and other real estate, some of it a byproduct of the U.S. government exodus. Downtown Panama City, the balmy, tropical capital on the southern, Pacific end of the Canal, suggests Los Angeles or Miami, except arguably more locals speak English here than in some parts of South Florida.

Yes, Panama also has a long history of government corruption that has improved somewhat. This hasn't seemed to affect the regulated banking sector.

PRIVACY, PROFITS AND NO TAXES

For offshore investors and entrepreneurs the Panama question is: “What's in it for me?”



Best answer: “If you move with care and make wise choices — major profits, no taxes and, best of all, maximum, statutorily guaranteed privacy.”

In many ways the Republic of Panama is ideally suited for the offshore investor who wants to enjoy the increasingly rare privilege of strong, legally guaranteed financial privacy and no taxes, corporate or personal.

Unlike Bermuda and the Cayman islands, Panama pointedly refused to sign the OECD memorandum of understanding which would have committed it to imposing taxes on offshore investors and banking. According to Canada’s Fraser Institute, Panama is near the top of the list of the world’s freest economies, ranked eighth with Australia, Ireland, the Netherlands and Luxembourg. Panama has adopted more than 40 laws protecting foreigners’ financial and investment rights, including the Investments Stability Law (Law No. 54), which guarantees foreign and local investors equal rights.

Panama’s central location in the Americas makes it a natural base for world business operations. Most importantly, and in spite of its history, Panama isn’t directly under the thumb of the United States. And unlike the British overseas territories of Bermuda and the Cayman Islands, it isn’t under the control of the Foreign Office in London.

Among the current 83 banks [2010 figure] the major players are over 50 multinational banks representing thirty countries that primarily do offshore business. Banking alone accounts for about 11 percent of the nation’s GNP.

Most major world banks have full-service branch offices in Panama, with representation from Japan, Germany, Brazil and the U.S. Like Wall Street or the City in London, Panama City’s business district high-rises bear the logos of Citibank, HSBC, Lloyds, Bank of Tokyo, Republic National, Banc de Paris, Credit Lyonnais, the International Commercial Bank of China and Dresdner.

Derek Sambrook, a veteran international bank regulator and trust expert based in Panama points out: “Brass plate banks represented by a law firm, for example, are not permitted in Panama and the banks that do operate are fully staffed and functional. Compare that with the Cayman Islands that now has nearly 500 banks, but less than 10 that are full-service retail banks.”

Admittedly, it’s taken time for the banking sector’s reputation to recover



from the aftermath of the brutal 1989 U.S. military invasion ordered by the former president George Bush. In that invasion's aftermath nearly every financial institution in Panama was under suspicion of drug money activity.

REASSERTING FINANCIAL PRIVACY

Since then Panama's bankers have reasserted the sanctity of their banking secrecy laws. Students of banking history realize that, along with Luxembourg and Liechtenstein, Panama adopted specific tax haven legislation as far back as the 1920s.

A central part of the long tax haven tradition has been attractive statutory guarantees of financial privacy and confidentiality. Violators can suffer civil and criminal penalties for disclosure.

There is no requirement to reveal beneficial trust or corporate ownership to Panama authorities and no required audit reports or financial statements. Bearer shares are permitted. Panama has no double-taxation agreements and no tax information exchange agreements with other countries.

Offshore banking and creation of international business corporations (IBCs) are major revenue sources. But to claim Panama has cleaned up its dirty money act would be too optimistic. In U.S. government circles a bank account in Panama raises immediate suspicion about the account holder.

But that's also true of accounts in Bermuda, the Cayman Islands, Nevis, the Channel Islands and anywhere else in the world the IRS can't readily stick its official nose into private financial activity.

The economic health of Panama depends on financial facilities with safeguards sufficient to ensure legal compliance. In June 2000, the OECD's Financial Action Task Force (FATF) placed Panama on a blacklist of 15 countries alleged to be tolerant of money laundering. Last October Panama's Congress unanimously approved a strong anti-money laundering law in line with FATF recommendations. In June 2001 the nation was removed from the FATF blacklist. The new law covers all crimes and brings all financial institutions under the supervision of the government banking agency.



THE YANKEE DOLLAR

While “dollarization” is debated as a novel concept elsewhere in Latin America, since 1904 the U.S. dollar has been Panama’s official paper currency. (The local equivalent is the balboa, and there are Panamanian coins that circulate along with U.S. coins.)

Panama has no central bank to print money and Juan Luis Moreno-Villalaz, an economic adviser to Panama’s Ministry of Economy and Finance notes: “In Panama... there has never been a systemic banking crisis; indeed, in several instances international banks have acted as the system’s lender of last resort. The Panamanian system provides low interest rates on mortgages and commercial loans. Credit is ample, with 30-year mortgages readily available. These are unusual conditions for a developing country and are largely achieved because there is no exchange rate risk, a low risk of financial crises, and ample flow of funds from abroad.”

He might have added that Panama has been the continued recipient of loans and credits from the International Monetary Fund and other world lending institutions.

WELCOME BANKERS

Panama grew as an international financial center after enactment of Decree No. 238 of July 1970, a very liberal banking law that also abolished all currency controls. The law exempts offshore business in Panama from income tax and from taxes on interest earned in domestic savings accounts and offshore transactions. In 1999, a comprehensive new Banking Law was enacted and it has accelerated Panama’s growth as a leading world offshore finance center.

The 1999 law uses the guidelines of the Basle Committee on Banking Supervision requiring all banks with unrestricted a domestic or international commercial banking license to maintain capital equivalent to at least 8 percent of total assets. In 2001, Panama submitted to an IMF assessment that found it “largely complied” with 23 of the 25 Basle principles that set international standards.

Government investigative powers and tighter general controls have increased, bringing Panama in line with regulatory standards found in European and North American banking centers. Although confidentiality is reaffirmed in the new law, a prima facie case of illicit financial conduct can launch an investigation of possible criminal conduct. The law also



permits foreign bank regulators to make inspection visits to any of their domestic banks with branches in Panama.

Another major business and financial attraction at the Atlantic end of the Canal, is the booming Colon Free Zone (www.panamet.com/zolicol/zlmain.htm), a major tax-free transshipment facility, the second largest free trade zone in the world, after Hong Kong.

IBCs AND FOUNDATIONS

Panama has a host of liberal laws favoring trusts, international business companies and holding companies. In 1995 it enacted Law No. 25, a new private foundation statute modeled after the popular family wealth protection and estate planning vehicle long used in Liechtenstein. That law allows the tax-free family foundation to be used for investment, tax sheltering, commercial business and private activity, with the founder retaining lifetime control. Foundation assets are not counted as part of the founder's estate for death tax purposes, and Panama does not recognize the often restrictive inheritance laws of other nations.

Some argue that the Panamanian private foundation law is only a clone of the Liechtenstein law, recommending the real thing if this device interests you. Then too, Panama is a civil law nation without some of the English-U.S. common law legal precedents and traditions that make trusts somewhat easier to operate in the U.S. and U.K.

Panama's IBC Law 32 of 1927, is modeled after the U.S. State of Delaware's corporation friendly statutes. There are about 350,000 IBCs registered in Panama, second only to Hong Kong's 400,000 IBCs. A Panama IBC can maintain its own corporate bank account and credit cards for world management of investments, mutual funds, precious metals, real estate and trade. Tax-free corporate income can be spent for business purposes worldwide and the IBC allows avoidance of your home country zoning, labor, manufacturing, warranty, environmental and other restrictions.

However suspect it may have been in the past, the Republic of Panama is fast becoming one of the major financial crossroads of the world. Base your business here and you're connected everywhere.

WORLD CLASS RETIREMENT HAVEN

Spring-like weather year-round...a low, low cost of living...safety...secu-



...peace of mind...beautiful landscapes — mountainsides covered with flowers, planted with coffee...cascading waterfalls...stone bridges over clear, sparkling rivers...that's Panama.

Foreign retirees who move to Panama benefit from one of the most attractive retirement pensionado programs available anywhere in the world today. In addition to benefits such as importing household goods tax free and paying no local taxes on foreign earned income, retirees get significant discounts on everything from movie tickets to medical and dental treatment, public transportation and airfares, even your utility bills. And a 20-year moratorium on real estate taxes if you buy. This is an excellent opportunity, both as an investment...and as your retirement, second, or vacation home.

Panama is an anomaly in Central America.

It's very affordable — a full-time, live-in maid costs \$120 a month and first-run movies cost \$1.50. It's the safest place in Central or South America (the Pinkerton Global Intelligence Agency recently gave Panama its highest rating for tourist safety).

And it's the most developed place south of the United States, home to some of the top companies in the world, including many of the world's leading banks, and other giants such as Federal Express, Kodak, DHL, Sears, Price Costco, and Bell South.

In 1998, the country's total overnight visitor count was 431,000 — 100,000 of whom came from the United States. To put this in perspective: Panama gets about as many American tourists in a year as Disneyland sees in three days! Panama has a long way to go before it can rival its northern neighbors Mexico and Costa Rica, for example, as a tourist destination. But this is good news for investors because it means prices are still very low.

The truth is, Panama offers more and better amenities than better known retirement spots like Mexico and Costa Rica, but costs and crime rates are far lower. And in Panama, would-be retirees and foreign residents find that there is much less red tape to wade through, and less interference from local authorities.

What are the qualifications for the pensionado program? Not a lot. You must be in good health and AIDS-free. You must have an up-to-date passport from your country of residence and a verifiable monthly guaranteed income of at least \$1,000.



GOOD NEWS FROM PANAMA

Robert E. Bauman JD, November 2009

Echoing an established theme in the world press, (and here at The Sovereign Society), Panama again made *Forbes* magazine's list of the World's Best Retirement Havens. For those looking for quality of life and low cost of living, no place can beat Panama for retirement.

MARTINELLI IN ACTION

Panamanian President Ricardo Martinelli has been in office 6-months and he is managing Panama with, as one observers says "the same vision as when he ran the chain of supermarkets that made him one of the country's wealthiest men."

He really has cracked down on corruption and is pushing hard for business and tax reforms. His campaign proposal for a flat tax is to be taken up next year in the National Assembly.

He has also added to the \$6 billion expansion of the Panama Canal (he formerly headed the Canal Commission), many capital intensive public projects such as highway construction, a metro rail system for Panama City, and airport renovations.

Martinelli's approval ratings are just about the highest in the western hemisphere at over 90%, compared with Barrack Obama's 53%, Hugo Chavez at 46%, and Argentina's Cristina Kirchner at 20%.

LEADER IN LATIN AMERICAN GROWTH

Panama is predicted to have the highest GDP growth (an average 6.1%) in Latin America in the five-year period starting in 2010, while Hugo Chavez socialistic Venezuela predictably will have the lowest, according to a Latin Business Chronicle analysis of new forecasts from the International Monetary Fund.

A perhaps more realistic assessment of Panama's economy can be found in Eric Jackson's Panama News, and the news is not all good in every sector.



BETTER CREDIT RATING

Panama's debt rating was raised to "positive" by S&P, putting the country on the cusp of an investment-grade rating, as tax increases and faster economic growth help keep the budget deficit in check. This better rating easily allowed Panama to sell US\$1 billion of bonds in 10-year notes, yielding 5.224% in overseas markets.

And over 17,000 new business corporations have been registered in Panama so far this year, continuing its status as second in the world (after Hong Kong) in total number of incorporations.

CLEANER FINANCES

Panama gets a bad (and false) rap from the American Left for supposed tax haven abuses, but according to the OECD's highly demanding Financial Task Force (FATF), Panama is rated just behind the U.S. in compliance with international money laundering regulations. A November FATF report ranked Panama fourth in a list of 44 countries and jurisdictions participating in the evaluation, below only the U.S. Singapore and Belgium.

NO TO TAX INFORMATION EXCHANGE

In spite of all the progress, *The Economist* magazine still takes a dim view of Panama's financial industry. In an article last month they say there is an "unfinished job of cleaning up the country's financial reputation."

The magazine notes that Panama has refused to sign tax-information-exchange treaties. Panama rejects these agreements, arguing that they provide it with no benefit since it only taxes domestic income. Instead, president Martinelli, says he will sign treaties to eliminate double taxation, which both meet the OECD's information-sharing requirement and could attract foreign investment.

For some excellent material on Panama and the OECD, see senior attorney Eduardo Morgan's views on the hypocrisy of the major nations on tax abuses. Morgan, of the law firm of Morgan and Morgan, has been at the forefront of the battle with the OECD and its attack on Panama as a financial center.

REAL ESTATE

The several year-long real estate boom in Panama is slowing, but, as one



observers says “given the maturing economic growth engines and massive infrastructure development that is underway, the country is clearly on an upward trajectory. Martinelli's actions are keeping Panama on the right track, and I believe the country will remain a safe long-term bet for investors and residents...”

At a time when countries everywhere are hurting because of government stupidity, Panama is an international stand out, both economically and politically. With some satisfaction, after more than 10 years, we can say: “We told you so!”

CONTACTS

Official: Embassy of Panama, 2862 McGill Terrace, N.W., Washington, D.C. 20009; Tel.: (202) 483-1407. Consulates are located in New York (212) 840-2450 or Philadelphia (215) 574-2994, Atlanta, Chicago, Houston, Los Angeles, Miami, New Orleans, or Tampa. Website: www.embassyofpanama.org/; Email: info@embassyofpanama.org

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Trust Officer: Trust Services SA, Edificio Balboa Plaza, Oficina 522, Avenida Balboa, Panama, Republic of Panama. Mailing address: P.O. Box 0832 1630 World Trade Center, Panama, Republic of Panama; Tel.: +(507) 269 2438 / 263 5252; Fax: +(507) 269 4922; Email: marketing@trustserv.



com; Website: <http://www.trustserv.com>. Licensed in Panama since 1981, this respected firm specializes in offshore corporations, trust and private foundation formation and maintenance. Derek Sambrook, a member of The Sovereign Society Council of Experts, is director of the firm.

THE ISLAND OF NEVIS: AIRTIGHT PRIVACY & FAST SERVICE

Robert E. Bauman, JD,

The Passport Book and Where to Stash Your Cash, 2009

If there is one haven country that has all the things needed for smooth offshore financial operations, it's the two-island Federation of Saint Christopher (locally called "St. Kitts") and Nevis (pronounced KNEE-vis).

It's in the Leeward Islands in the eastern Caribbean, located 225 miles east of Puerto Rico and about 1,200 miles south of Miami. Each tropical island is a volcanic mountain rising over 3,000 feet from the sea, with about 75% of the total population living on St. Kitts. The islands' balmy, virtually unchanging weather, splendid beaches and accommodations have made them popular vacation spots, offering a wide range of recreational amenities. Visitors to St. Kitts & Nevis tend find the islands' pace to be more leisurely even than that of other Caribbean holiday spots.

The British first settled the islands in 1623, but control was disputed with the French until 1783, when the British prevailed. Independence was achieved on September 19, 1983, and the federation is now a member of the British Commonwealth. It is a parliamentary democracy based on the Westminster model, but the constitution of St. Kitts & Nevis allows either island to secede upon a referendum vote.

In August 1998, defying international pleas, residents of the seven-mile-long island of Nevis voted on whether to secede from St. Kitts and become the smallest nation in the Western Hemisphere. Approval of two-thirds of the island's voters was required for secession. The vote was 2,427 for secession and 1,418 against, falling just short of the two-thirds required.

The vote was the culmination of a struggle that began with Britain's colonization in 1628. In 1882, Britain stripped Nevis of its legislature



and wed it to St. Kitts. When the islands became independent in 1983, Nevis reluctantly joined in a federation with neighboring St. Kitts, but Nevisians insisted on a constitutional clause allowing them to break away. After years of complaining that they are treated like second-class citizens by the federal government, the seat of which is located on St. Kitts, they invoked that right with the failed 1998 referendum. Nevis retains the right to secede, and proponents vow that they will try again.

LEADING, IF SMALL, OFFSHORE FINANCIAL CENTER

Nevis, which has its own Island Assembly, has a no nonsense banking and business privacy law that even the U.S. government can't crack. Its pro-offshore laws have existed for over two decades — so there is plenty of experience and precedent in the local courts — and the legislative assembly keeps the applicable laws current. There are well-established offshore financial service companies that can do what you want, and some have convenient U.S. branch offices.

The Nevis independence movement owes much to its success as the business-friendly “Delaware of the Caribbean.” Over the last two decades, its parliament has adopted and constantly updated excellent offshore corporation, trust and limited liability company laws, augmented by strict financial privacy. There are no exchange controls and no tax treaties with other countries. As a matter of official policy, the government does not exchange tax or other information with any other foreign revenue service or government. Unsuccessful moves by the St. Kitts-based government to take over the Nevis financial sector have spurred secession.

HOME OF THE ASSET PROTECTION TRUST

Building on their reputation for statutory corporate cordiality, in 1994, the Island Assembly adopted the Nevis International Trust Ordinance, a comprehensive, clear and flexible asset protection trust (APT) law. This law is comparable — and in many ways superior — to that of the Cook Islands in the South Pacific, already well known as an APT world center.

The Nevis law incorporates the best features of the Cook Islands law, but is even more flexible. The basic aim of the law is to permit foreign citizens to obtain asset protection by transferring property titles to an APT established in Charlestown, Nevis.



Nevis simply is taking advantage of the worldwide growth in medical, legal and professional malpractice lawsuits. Legislative and judicial imposition of no-fault personal liability on corporate officers and directors has become a nasty fact of business life. A Nevis trust places personal assets beyond the reach of foreign governments, litigious plaintiffs, creditors, and contingency fee lawyers.

Under the 1994 law, the Nevis judiciary does not recognize any non-domestic court orders regarding its domestic APTs. This forces a foreign judgment creditor to start all over again, retrying a case in a Nevis court with Nevis lawyers. A plaintiff who sues an APT must first post a US\$25,000 bond with the government to cover court and others costs before a suit will be accepted for filing. In addition, the statute of limitations for filing legal challenges to a Nevis APT runs out two years from the date of the trust creation. In cases of alleged fraudulent intent, the law places the burden of proof on the foreign claimant.

This small, two-island country's greatest assets are its considerable natural beauty and Nevis as a financial center. To exploit potential tourism, the government has agreements with foreign-owned hotel and condominium developments. St. Kitts is a popular tourist destination, with white sand beaches, deep sea fishing, golf, tennis, and casino gambling. Since 1994, the federation has been part of the Association of Caribbean States (ACS) trading bloc of over 60 million people.

FAST TAX HAVEN CITIZENSHIP FOR SALE

St. Kitts & Nevis's excellent citizenship program was established and is governed by the Citizenship Act of 1984 (Section 3). It is the older of the two existing such programs and offers the benefits of visa-free travel to over 90 countries. The Citizenship Act provides for persons to be registered as non-voting citizens if "the Cabinet is satisfied that such a person has invested substantially in the country."

Under 2006 changes to the citizenship-by-investment regulations, to qualify for St. Kitts & Nevis citizenship, you must invest at least US\$350,000 in designated real estate, plus pay considerable government and due diligence fees besides real estate purchase taxes. Or you can contribute to the Sugar Industry Diversification Foundation in the amount of US\$200,000 (for a single applicant). Using the charitable contribution is an easier route for most applicants because it allows a set cost and avoids further expenses associated with owning real estate in a foreign country.



Plus, you don't have to live in St. Kitts and Nevis to secure your second citizenship, so buying real estate could just be an additional burden if you're not interested in spending time there.

Under the 2006 official contribution options, now in effect, there are four categories:

- Single applicant: US\$200,000 investment required, inclusive of all fees
- Applicant with up to three dependents (i.e., one spouse and two children below the age of 18): US\$250,000
- Applicant with up to five dependents (i.e., one spouse and four children): US\$300,000
- Applicant with six or more dependents: US\$400,000

In each category, the total amount includes all government and due diligence fees. (As we go to press the rumor is that these fees soon may be doubled.)

The real estate option requires the purchase of a condominium or villa from an approved list of developers with a minimum investment of US\$350,000. Transaction costs add 10% to the purchase price, i.e., at least US\$35,000, and likely US\$50,000 or more, as real estate prices are now on a relatively high level in St. Kitts & Nevis. Add government fees of US\$35,000 for a single person.

Processing time for charitable contribution applications takes up to three months and dual nationality is permitted, with no residency requirement. Using the real estate option lengthens the average processing time from four to 12 months or longer. The real estate cannot be re-sold until five years after purchase.

The St. Kitts & Nevis passport is well regarded internationally and the program has been carefully managed with very few passports issued. St. Kitts & Nevis citizens enjoy a passport with an excellent reputation and very good visa-free travel to many nations. For visa-free travel throughout Europe, a St. Kitts & Nevis passport can be combined with a residence permit in a European Union country.

A visa-waiver agreement between the European Union and St. Kitts & Nevis is now in force providing for visa-free travel for EU citizens and for the holders of all passports issued by St. Kitts & Nevis, between their



territories for stays not to exceed three months. This allows visa-free access throughout the 27 EU countries, and by extension to the Schengen travel area that includes Switzerland, Liechtenstein, Norway and Iceland.

CONTACTS

Government of Saint Christopher (St. Kitts) & Nevis: Web: <http://www.gov.kn/>

Nevis Government Information Service: Website: <http://www.queen-citynevis.com/>

Ministry of Finance, Nevis Offshore Financial Services, PO Box 882, Rams Complex, Stoney Grove, Nevis. Tel.: + (869) 469-0038; Email: info@nevisfinance.com Website: <http://www.nevisfinance.com/>

Nevis Services Ltd. 545 Fifth Avenue, Suite 402, New York, New York 10017. Tel.: 212-575-0818; Email: nevisserv@cs.com; Website: http://www.morningstarnev.com/nevis_services.htm

Morning Star Holdings Ltd, Hunkins Plaza, Main Street, PO Box 556, Charlestown, Nevis, West Indies. Tel.: 1-869-469-1817; Email: info@morningstarnevis.com; Website: <http://www.morningstarnev.com/contactus.asp>

Tarsus Trust Co. Ltd, PO Box 11, Main Street, Charlestown, Nevis, W.I. Tel: 869 469 4602; Email: info@tarsustrust.com; Website: www.tarsustrust.com

Embassy of St. Kitts & Nevis, 3216 New Mexico Avenue, N.W., Washington, D.C. 20016; Tel.: (202) 686-2636; Website: <http://www.stkittsnevis.org>

There is no American embassy in St. Kitts & Nevis. The nearest U.S. Embassy is located in Bridgetown, Barbados, Wildey Business Park, Wildey, St. Michael, Barbados; Tel.: 246-436-4950; Website: <http://barbados.usembassy.gov/>



BELIZE: POLISHING A CARIBBEAN GEM

Robert E. Bauman, JD, *The Passport Book*, 2009

Belize, the only English-speaking nation in Central America, has had in place for almost two decades a series of offshore laws allowing asset protection trusts, IBCs, maritime registration, insurance, banking – plus maximum financial privacy. Its parliament, courts and government are very pro-offshore and cultivate foreign business and investments. An unusual feature is a special, tax-free retirement residency program for foreigners. But having said all that, this is definitely a Third World country, with all the problems that entails.

In the Caribbean region after Panama and Nevis, Belize is a close third for banking privacy, low and no taxes and a business-friendly government. It should be on everyone's list of possible offshore financial bases, but you need to understand its limitations as well.

Having visited Belize twice, I can attest that it's definitely "Third World," but people are very friendly and oceanfront real estate is still relatively cheap. Belize is one of the few remaining independent nations proud to hold itself out as a tax and asset protection haven.

Belize is the only English-speaking country in Central America. Its mixed population of 304,000 includes descendants of native Mayans, Chinese, East Indians and Caucasians. Independent since 1981, its language came from its colonial days when it was known as "British Honduras."

Situated south of Mexico and to the east of Guatemala, Belize is on the Caribbean seaboard. It has the largest barrier reef in the Western Hemisphere and great deep-sea diving. To the east, there's a sprinkle of Caribbean tropical islands included within the nation's borders. A few years ago, American television viewers discovered Belize as the locale for one of the first reality TV shows, "Temptation Island."

Belize retains many of the colonial customs and features familiar in places such as the Cayman Islands and Bermuda, although it is far less developed. The first settlers were probably British woodcutters, who in 1638, found the valuable commodity known as "Honduran mahogany."



Bananas, sugar cane and citrus fruit are the principal crops. Like many small countries dependent on primary commodities, Belize more recently recognized the benefits of introducing offshore tax haven financial services to boost its income.

CLEAN MONEY

American government officials have had a case of nerves over Belize. Some feared that the sleepy little capital town of Belmopan would become a prime site for U.S. tax evasion and money laundering. But the Belizean government has cooperated with the U.S. in drug and money laundering cases, although extradition from Belize is still difficult. The nation's clean money reputation was also boosted by adoption of a strong anti-money laundering law that is enforced vigorously.

In 1992, the Belize National Assembly enacted modern legislation seeking to make the country a competitive offshore financial center. Drafters combed tax haven laws worldwide and came up with a series of minimal corporate and tax requirements that could well fit your business needs. The new laws include the Trust Act, which allows a high level of asset protection, great freedom of action by the trustee and no taxes on income earned outside Belize. There is also a statute allowing the creation of international business companies that can be formed in less than a day for less than \$1000. You only need one shareholder and/or director, whose name can be shielded from public view.

There are no local income taxes, personal or corporate and no currency exchange control. Since 1990 when the International Business Companies Act became law foreigners have registered about 5,000 IBCs. That's a relatively small number compared to a place like the British Virgin Islands, but the number is growing. Belize is also home to major growth in the shipping registry business. Other laws favor offshore insurance companies, limited liability partnerships and banking.

Over the last decade, the government of Belize has carefully and systematically established the nation as an offshore haven that welcomes foreign investment and foreign nationals. It has enacted a series of laws crafted to protect financial privacy and promote creation of offshore trusts and international business corporations (IBCs). It has an attractive special residency program aimed at retirement bound foreign citizens.



OFFSHORE INDUSTRY EXPANDS

In spite of OECD's carping, Belize's small offshore industry continues to grow, providing financial services to a largely nonresident clientele. These services include international business company and offshore trust formation and administration; international banking services, including foreign currency bank accounts and international VISA cards; fund management, accounting and secretarial services; captive insurance; and ship registration.

A sympathetic government continues to work closely with the Belize Offshore Practitioners Association in drafting future legislation covering offshore banking, captive insurance, limited duration companies, protected cell companies and limited partnerships. All professional trust providers now must register with and be licensed by the government.

The Belizean banking sector is small but secret by force of law. There are only five commercial banks. Privacy protection here rivals even that of air-tight Nevis. In 2009, Belize was placed in the OECD "gray list" of those countries allegedly failing to meet international standards concerning tax information exchange. It has indicated that it will do so.

Some banking clients here have complained to me about a Third World attitude on the part of Belize bankers, with slow service and failure to protect client privacy due to sloppy work.

TAX FREE RESIDENCY

A good example of a Belize welcome of offshore persons is the Retired Persons Incentive Act that is implemented by the Belize Tourism Board. The program, which resembles the popular pensionado program in Panama, is designed to attract foreign retirees and foreign capital.

Known as the "qualified retired persons" (QRP) Program, the law offers significant tax incentives to those willing to become permanent residents, but not full citizens. The program is aimed primarily at residents of the U.S., Canada and the U.K., but is open to all.

A "qualified retired person" is exempted from all taxes on income from sources outside Belize. QRPs can own and operate their own international business based in Belize exempt from all local taxes. Local income earned within Belize is taxed at a graduated rate of 15 45% and QRPs need a work permit in order to engage in purely domestic business activities. For



QRPs, import duties are waived for personal effects, household goods and for a motor vehicle or other transport, such as an airplane or boat. There is no minimum time that must be spent in Belize and QRPs can maintain their status so long as they maintain a permanent local residence such as a small apartment or condo.

To qualify for the QRP Program, an applicant must be 45 years of age or older and prove personal financial ability to support oneself and any dependents. A spouse and dependents (18 and younger) qualify along with the head of household at no extra fee. Initial fees for the program are US\$700, plus US\$100 for an ID card upon application approval. Minimum financial requirements include an annual income of at least US\$24,000 from a pension, annuity or other sources outside Belize.

For more information about the QRP Program, contact the following agency:

Belize Tourism Board, 64 Regent Street, P.O. Box 325, Belize City, Belize. Tel.: 501-227-2420 Toll free (from US): 1-800-624-0686 Email: info@travelbelize.org; Website: www.belizeretirement.org www.travelbelize.org.

CONCLUSION

In spite of British, U.S. and OECD pressures, Belize is not about to enact income or corporate taxes that would drive away foreign investors and residents. In this relatively impoverished country, the offshore sector is a needed and highly valued source of foreign capital that has strong government support. Any modifications to offshore laws are likely to be minimal and mainly window dressing to mute foreign critics.

The offshore professional sector in Belize certainly is not comparable to a highly developed nation such as Panama as an offshore haven, but it also has not sold out to outside pressures as have the British overseas territories. Its laws offer a full array of offshore entities for asset protection and as investment vehicles, trusts, IBCs and limited liability companies. Its one weakness is its small banking community, but you can just as easily locate your Belize IBC bank account in Vienna or London, where private banking is an art.

CONTACTS

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THE BAHAMAS: OFFSHORE HAVEN DIMINISHED

Robert E. Bauman, JD,

The Passport Book and Where to Stash Your Cash, 2009

The Bahamas is the financial haven country nearest to the U.S., just minutes from Miami by airplane or a few hours by boat, 744 air miles from New York City.

The nation consists of over 700 islands, only 22 inhabited. The main



islands are Grand Bahama, Andros, Eleuthera, Abaco, and New Providence Island, site of the capital, Nassau. The second largest city is Freeport, on Grand Bahama. Eighty-five percent of the Bahamian population is of African heritage. About two-thirds of the population resides on New Providence Island. Many Bahamians' ancestors arrived on these islands when they served as a staging area for the slave trade in the early 1800s. Others accompanied thousands of British loyalists who fled the American colonies during the Revolutionary War.

Arakawa Indians inhabited these islands when Christopher Columbus arrived in 1492, but they remained largely unexplored by Europeans until 1717, when they came under control of the British Crown. Because of the American Revolution, in 1776, the islands were briefly in American hands, followed by Spanish control in 1781. In 1783, they again became British territory, remaining so until independence was declared on July 10, 1973. The Bahamas is a member of the British Commonwealth and a parliamentary democracy based on the Westminster model. Since independence, the nation has acquired a deserved reputation for official corruption and government venality, although this has lessened markedly in recent years.

Low-lying limestone or coral islets with sandy beaches, the Bahamian archipelago provides year-round recreational opportunities on land and in the water. The variety of its marine habitats assures a broad range of prospects for enthusiasts of deep-sea and reef fishing, diving, and sailing. Some of the islands' regattas and powerboat races draw participants and spectators from around the globe. The subtropical climate, warmed by the Gulf Stream, allows dry land activity around the calendar as well, including golf, polo, cricket, and tennis.

Over a quarter of a million people live in this archipelago, the oldest offshore money haven in the Americas. An independent nation since 1973, its origins as a money haven date to 1908 when the Royal Bank of Canada opened a branch in Nassau. Today, tourism, hotel, resort, and convention industries are doing well and the islands are a retirement haven for the very wealthy, many of them prominent U.S. and European expatriates.

The Bahamas is one of the wealthiest Caribbean countries with an economy heavily dependent on tourism and offshore banking. Tourism together with tourism-driven construction and manufacturing accounts for approximately 60% of GDP and directly or indirectly employs half of the archipelago's labor force. Steady growth in tourism receipts and a boom in



construction of new hotels, resorts, and residences had led to solid GDP growth in recent years, but tourist arrivals have been on the decline since 2006 and will likely drop even further in 2009. Tourism, in turn, depends on growth in the US, the source of more than 80% of the visitors.

Financial services constitute the second-most important sector of the Bahamian economy and, when combined with business services, account for about 36% of GDP. However, since 2000, when the government enacted new regulations on the financial sector, many international businesses have left The Bahamas. Manufacturing and agriculture combined contribute approximately a tenth of GDP and show little growth, despite government incentives aimed at those sectors. Overall growth prospects in the short run rest heavily on the fortunes of the tourism sector.

Being close to the U.S. has advantages, but also can cause problems for offshore business and banking, especially if privacy is a major concern. The U.S. and Bahamian dollar are equal in value. Since 2000, 200 of 223 private banks in The Bahamas have closed and 30,000 international business companies have been stricken from the official register. Bahamian banks with U.S. branches find it difficult to avoid U.S. government pressures when Washington wants information. And since 2003, there has been a Tax Information Exchange Agreement between Washington and Nassau.

KEEPING MONEY CLEAN

Anti-money laundering laws have been toughened to make violations punishable by a possible sentence of 20 years in jail and/or a US\$100,000 fine for each instance. A “Currency Declaration Act” requires reporting of all cash or investment transfers, in or out of the islands, in excess of US\$10,000. Offshore financial trustees and attorneys are now required to maintain records of beneficial owners of offshore trusts and international business corporations. Previously, professional attorney-client privilege rules prevented revealing such information

The Banks and Trust Companies Act authorizes government bank inspections and requires reports of “suspicious activities.” New account applicants must show a valid passport and other official identification as well as business references, and banks have a legal duty to identify “beneficial owners” of accounts.

The Drug Trafficking Act of 1986 outlaws money laundering and makes it an extraditable offense. The U.S.-Bahamian “Mutual Legal Assistance



Treaty” (MLAT) requires cooperation between Washington and Nassau in all financial investigations. The Bahamas has similar treaties with Canada and the U.K.

The Bahamas levies no taxes on capital gains, corporate earnings, personal income, sales, inheritance, or dividends. Tax freedom is available to all resident corporations, partnerships, individuals, and trusts. The International Business Companies Act of 1990 permits cheap, fast incorporation. Incorporation costs include registered agent, nominee directors and nominee officers, which can total up to US\$1,500-\$2,400. (Keep in mind that the U.S. and Bahamian dollar are equal in value.) Corporations can also be formed with bearer shares. The Bahamas are one of the few jurisdictions in which a company can act as a nominee director.

The government and the local financial community are pushing hard to establish the islands as an international securities trading center with emphasis on emerging countries’ investments. Locals want closed-end funds to be listed and traded on the Bahamian Stock Exchange, but at far less cost and with greater privacy guarantees than are available in the U.S.

WASHINGTON PRESSURE

Instead of fighting back and telling these outsiders to “buzz off,” the FNM government rapidly pushed through Parliament, over strong minority opposition, a host of statutory changes that substantially weakened the very financial privacy and asset protection that had attracted to the islands tens of thousands of offshore bank accounts, international business companies and asset protection trusts. These new laws admittedly were drafted with the direct assistance of “financial experts” from London and Washington, D.C. The government also said it had accepted “a generous offer” of technical assistance from the U.S. Treasury Department, no doubt including IRS agents.

This capitulation to Washington’s demands echoed a crisis in the early 1980s when the late Prime Minister, Lynden O. Pindling, accused of drug dealing, was confronted by an angry U.S. government that threatened sanctions against The Bahamas. Although Pindling was cleared, he was forced to grant U.S. law and drug enforcement officers diplomatic immunity and free passage through the archipelago, plus some limited access to secret offshore banks of some accused criminals.

The Progressive Labour Party (PLP) parliamentary opposition rightfully



argued that repeal or change of most of the offshore laws that brought huge investments and assets to The Bahamas would indeed result in capital flight, as individual offshore bank accounts were closed and financial activity fled elsewhere.

Subsequently, many private banks and offshore financial firms announced their departure, citing the new laws as reason for their exodus. PLP opposition members of parliament called on the government to resign over the OECD and FATF debacle, claiming that the blacklisting was directly related to the government's prolonged inability to deal with drug trafficking. Privately, Bahamian sources said government figures were implicated in numerous questionable, but highly profitable, financial activities, a situation the U.S. was holding over their heads unless they acted as Washington demanded.

In May 2002, the PLP opposition won control of parliament and a new PLP Prime Minister, Perry Christie, took office. All these new laws became a major political issue with the PLP, charging they had damaged the offshore financial community. Although Perry and the PLP promised to review and reverse many of these laws, they failed to do so. Indeed, they went ahead with the U.S. Tax Information Exchange Agreement initiated by the defeated FNM government.

Since then the FNM has regained political control and all the laws that drove away much of the offshore business remain in place.

NEW LAWS, AMENDMENTS TO OLD LAWS

Among the many laws, the "Evidence Act 2000" removed the requirement that requested evidence could not be released to another country until a court proceeding had begun in the requesting nation. Evidence can now be released for foreign preliminary investigations. This law appears to permit Bahamian enforcement of U.S. civil forfeiture orders. Another law allows confiscation of cash and assets under a U.S.-style civil forfeiture procedure that permits freezing of bank and other accounts. Still another law empowers Bahamian courts to extradite criminal suspects during investigations before trial. It should be noted that The Bahamas already had in force mutual legal assistance treaties with the U.S., U.K. and Canada.

MONEY LAUNDERING

Existing anti-money laundering laws were toughened to make violations



punishable by a possible sentence of 20 years in jail and/or a US\$100,000 fine for each instance. A “Currency Declaration Act” requires reporting of all cash or investment transfers, in or out of the islands in excess of US\$10,000. The Central Bank also has broad powers to regulate offshore banks, their registration, operation and reporting. The law allows foreign bank inspectors to conduct on-site and offsite examinations of the accounts in bank branches or subsidiaries located in The Bahamas.

The Bahamas “financial intelligence unit” was modeled after the U.S. Treasury Financial Crimes Enforcement Network (FinCEN). Opposition members of parliament criticized the FIU’s powers as far too broad, charging there are no provisions to prevent political “fishing trips” or “witch hunts” by government police. This unit can request (“order” might be a better word) a bank to freeze any funds suspected of being part of criminal activity for up to 72 hours, while a secret “monitoring order” is sought by police to confiscate money or block transactions. In such cases, all other financial confidentiality laws are waived. The FIU issued U.S.-style rules requiring “suspicious activity reporting” by all financial institutions.

Still other laws require all banks to verify the true identity of customers for whom Bahamian intermediaries open accounts. Bahamian banks now use special U.S. cash flow analysis software to detect possible money laundering. Offshore financial trustees and attorneys are required to maintain records of beneficial owners of offshore trusts and international business corporations. Previously, professional attorney-client privilege rules prevented revealing such information.

IBCs UNDER FIRE

Until 2002, IBCs had not been required to disclose the identities of shareholders or other detailed business information unless under a court order. Now, the right of IBCs to issue and use bearer shares has been repealed and all IBCs are required to submit to the government the true identities and addresses of directors. There are currently more than 100,000 international business corporations in The Bahamas, with about 16,000 added each year. Secrecy of ownership undoubtedly was a large factor in attracting these IBCs and now that has ended.

CONCLUSION

Even though The Bahamas is still an offshore tax haven, it remains in considerable internal governmental and political turmoil. The mass exo-



due to so many Bahamian financial community members speaks volumes about those who judge events first hand. The best financial and investment climates are those that enjoy some degree of predictability and that's not The Bahamas.

My advice is to scratch The Bahamas off your list of offshore tax and asset haven nations. Things may change someday but if you were thinking of using the islands as a base of offshore operations, forget it.

CONTACTS

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ORIENTAL REPUBLIC OF URUGUAY

Robert E. Bauman JD, *The Passport Book 2009*

Here is a country that offers multiple attractions for foreigners: a special law for foreign retirees, low taxes, financial privacy, and fast track citizenship.

Uruguay is bordered by Brazil, Argentina and the Atlantic Ocean to the east. Lying low on South America's coast, Uruguay lacks most of the natural scenic extremes that might draw visitors to many of the continent's other countries. Its highest mountain just tops 1,600 feet, and its temperate climate sustains broad grasslands suitable for ranching. Excellent beaches along the Río de la Plata, where it meets the Atlantic Ocean, attract a wealthy crowd fleeing urban congestion in nearby Buenos Aires and São Paulo to Punta del Este during the austral summer.

Tourism is otherwise comparatively underdeveloped, although high-end tourism from Europe and the U.S. has seen a significant increase in recent years in areas such as Jose Ignacio, 20 miles east of Punta del Este.

In spite of Spanish and Portuguese claims based on early exploration and trade, immigration from all over Europe during the 19th century reached massive proportions. By 1880, European migrants – Spanish, British, Germans, and Italians — made up 40% of the population. After a brief period of military dominance of government early in the 1870s, unlike most of Latin America, Uruguay enjoyed a century of democratic government interrupted for a decade starting in the mid-1970s. Since the return to democracy in 1984, all three major political parties have alternated in power.

Uruguay is known as Latin America's least corrupt country (along with Chile), and has one of the highest standards of living in Latin America.

Banks and currency dealers selling gold and foreign currency were once commonplace in Montevideo, the country's capital and although gold dealing has decreased, Uruguay remains an open economy, with no exchange controls or foreign currency limitations. In fact, 80% of bank deposits in Uruguay are held in U.S. dollars or euros.

Although the emigration of professionals and skilled workers damaged



the nation's reputation in recent times, the country nevertheless remains a regional financial and logistics center. Uruguay's tax-free free trade zones attract regional and global headquarters of major multinationals.

Once a foreign national becomes assimilated into the large expatriate community of Punta del Este, Uruguay's answer to Newport, Rhode Island, life can be quite pleasant. Bridge nights and cocktail parties are part of the routine. Many people of wealth make their home here.

Elsewhere in the country, Uruguay's infrastructure is fair, and declines in quality in proportion with distance from the south coast. Montevideo, the capital, is an attractive, modern city — among the safest in the world. Political stability has been outstanding in recent decades, and Uruguay's position at the center of the Mercosur regional trade bloc has begun to show signs of stimulating economic growth. Uruguay restructured its external debt in 2003 without asking creditors to accept a reduction on the principal. Economic growth for Uruguay resumed, and averaged 8% annually during the period 2004-08.

In 2004, the left-of-center, but free-market-friendly Frente Amplio Coalition, won national elections that effectively ended 170 years of political control previously held by the Colorado and Blanco parties. In 2009, the Coalition won a second term of office. Uruguay's political and labor conditions are among the freest on the continent.

Uruguay may be small in stature, but it's certainly big-hearted where attractions are concerned. It boasts one of South America's most interesting capitals, Montevideo, charming colonial towns, a hilly interior — true gaucho (cowboy) country — and a cluster of internationally renowned beach resorts, such as Punte del Este.

But for those foreigners who seek a tax, financial or even a residential haven — Uruguay is much more than a pretty face. There is a small annual wealth tax of up to 2.75% on capital owned and domiciled within the country. For assets under US\$1 million, the effective tax rate rarely exceeds 0.5%. Currently this tax scheduled to end by 2017. For foreigners and Uruguayan citizens with offshore income, there are no taxes because, as in Panama, the country has a territorial tax system. (Only income from within the country is taxed.)

On July 1, 2007, a new major tax law took effect that reaffirms the principle that taxes there are imposed only on a territorial basis — that



is, the government taxes only income produced within, or brought into the country, not offshore income earned and retained elsewhere. That's important for foreign persons who may wish to live in Uruguay but have assets and income elsewhere.

The 2007 law imposes taxes on all persons resident in Uruguay, as follows:

1. individual income tax is levied on Uruguayan-sourced income at rates varying from 10% to 25% for labor based income, and from 3% to 12% for capital based income.
2. corporate income is taxed at 25%, which extends to all legal entities of every kind and all businesses, although Uruguayan asset-owning foreign entities are taxed at a reduced 12% rate.
3. introduction of a withholding income tax on non-residents income as follows: a) all Uruguayan source income obtained by nonresidents is taxed at a 12% rate on a gross basis, with certain exceptions; b) dividends and profits remittances are subject to tax only if originated on a corporate income taxable income;
4. a net wealth tax levied on all assets: a) legal entities that pay taxes can use the current year's payment of corporate income tax to reduce up to 50% of the current year's wealth tax; b) Individuals continue to be subject to this tax at progressive rates varying from 0.7% up to 2.75%, depending on the taxable basis amount. A gradual reduction has been implemented, bringing this tax down to 0.1% minimum flat rate. There is an exemption from this tax for the first US\$300,000 in assets.

There is also a value added tax (VAT) on goods and services ranging from 10% to 22%.

Financial privacy in Uruguay is protected by one of the world's tightest bank secrecy statutes, (Law #15,322, dating to 1982). Under this law, banks cannot share information with any party, including the government of Uruguay or any foreign entities or governments, except in cases involving issues of alimony and child support or alleged crimes. In 2009, the government said in the future it would apply OECD standards in tax information exchange requests but limited exchanges to certain countries, specifically excluding both neighboring Brazil and Argentina.



RESIDENCE AND CITIZENSHIP

Acquiring Uruguayan citizenship is a relatively simple process. It starts by filing a residency application and citizenship can be granted in final form, on average, within a year.

During that year immediate residency is easy to obtain with three key proof requirements: 1) a birth certificate (authenticated and stamped by the Uruguayan Consulate in the country of birth); 2) a home country clean police record, and; 3) proof that one can support oneself financially during the year of the residency process (known as the “income requirement”).

As proof that one has a clean police record, the applicant must present a police certificate from the country of origin and from those countries where one actually resided within the past five years. In the case of U.S. citizens, the U.S. record required is a statement from the local Interpol office.

The income requirement is fulfilled by proving that the applicant has a yearly income of at least US\$6,000. That can be a pension, a mutual fund, real estate or lease income from assets in or outside Uruguay, dividends of any nature, or certified salary sources. Uruguay’s immigration authorities scrutinize this income requirement closely, so proof must leave no doubt of the authenticity and permanent or semi-permanent nature of the income source.

It’s important to note that for a grant of residence Uruguay does not require that a foreigner to own property or have investments in the country, but simply owning property does not eliminate the income requirement as described above.

To acquire residence, one must enter Uruguay as a tourist and then file a formal request at the Immigration Authority (“DNM”). Once a foreign person applies for residency, they can stay in Uruguay indefinitely. They also can request a national identification card, which allows travel without a passport to neighboring Argentina, Brazil, Chile and Paraguay, a real convenience because the high volume of traffic among these nations.

Five years after filing for residency (three years in the case of families), the foreign resident can apply for citizenship. At this point one must have established Uruguayan residency, have had a permanent connection with the country and not have been absent for more than six straight months during the three/five year period.

Uruguay does allow dual or multiple citizenships.



DEAL FOR RETIREES

A special law (#16,340) expedites citizenship for foreign retirees with an annual official government pension of US\$18,000 or more. In addition to the pension, the applicant must also own real property in Uruguay valued at US\$100,000 or more. For those who qualify for this special retirement residency an official passport is granted after only one year to 18 months, depending on the time the process requires.

Under the 1995 Mercosur agreement, a Uruguayan passport carrier is entitled to free travel access to other South American countries that are party to the pact. Citizenship comes with a Uruguayan passport that allows visa free travel to all of Latin America and several European countries.

United States citizens entering Uruguay for business or pleasure must have a valid passport. U.S. citizens do not need a visa for a visit of less than three months.

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THE UNITED KINGDOM'S CARIBBEAN OVERSEAS TERRITORIES

Robert E. Bauman, JD, August 2001, revised 2010

Unsurprisingly, high finance generates more money than agriculture, tourism or fisheries combined, even in the tropics. Many of the sunny



island nations of the Caribbean realized this economic fact and so purposefully transformed themselves into international tax and asset protection havens.

If you make careful decisions about locating your business in this area, you can be a direct beneficiary of these insular transformations.

In a broad arc stretching southward from the mid-Atlantic to the Isthmus of Panama lies a string of countries (and a few woefully dependent British territories), that specialize in offshore banking and finance. Each offers varying degrees of financial privacy and friendly, no-tax relations with foreigners.

Each of the sovereign nations in this group is a member of the United Nations and the Organization of American States (OAS). Some are also members of the British Commonwealth, including the dependencies who by their U.K. association enjoy special participation rights in the European Union (EU). Most are members of the Caribbean Community (CARICOM), an area wide economic and trading group of 14 nations.

Even as U.S. government agents have watched their every move, until now these small nations and dependencies have built a record of protecting the money, wealth and hard-earned assets of offshore persons from many nations.

UNDER THE GUN

We said “until now” because circumstances are changing rapidly in this area, and not for the good in every case.

Anyone with investments, banking or offshore entities located in the U.K.’s “overseas territories” — Bermuda, the British Virgin Islands, the Cayman Islands, Anguilla and the Turks & Caicos Islands — should have serious concerns about the direction in which these (until now) asset havens seem to be headed. And if you’re thinking of doing business here for the first time, think again.

In 1998, the U.K. Foreign Office ordered these territories to amend local laws to permit the enforcement of foreign tax judgments, something none of them previously allowed. Since the U.K. clearly has ultimate jurisdiction over the territories, their only alternative to compliance with the U.K. demands is to declare independence from the U.K., a step none of them has been willing to take so far.



At least one U.K. territorial head of state at the time minced no words about Tony Blair's Labour Party policy towards the overseas territories: "You have one option; independence or serfdom." The Chief Minister of the up-and-coming asset haven of Anguilla, Hubert Hughes, made this blunt statement in a letter to all Anguillan citizens in direct response to the U.K. Foreign Office demands.

Hughes said London was bestowing dictatorial powers on the official Crown-appointed governor who, with agreement of the U.K. Foreign Secretary, may now amend, veto or introduce legislation without consulting the Anguillan legislature. Similar directives now affect the other U.K. Caribbean dependent territories, including the Cayman Islands, British Virgin Islands, Montserrat and the Turks & Caicos Islands. Representatives of these territories have talked about a joint response to the U.K., but independence is not likely to be on their agenda.

The U.K. claims it is acting to meet its obligation to comply with the EU's anti-money laundering directives, but the proposals, according to Minister Hughes, will effectively sink the fledgling international financial services industry there. The same may be true elsewhere. Hughes said the offshore business sector would be swamped in costly paperwork and, worse, lose the protection of strict financial secrecy laws. And offshore investors certainly don't want to do business in a place where their tax planning is likely to be challenged as "money laundering."

This situation will be repeated in other Caribbean asset havens that choose to remain U.K. dependent territories. Nor is independence a real option given the size of Anguilla or the smaller dependent territories, some of which, like the Turks & Caicos, would find it difficult to survive without ties to the "mother country." That cannot be said of places like Bermuda and the Cayman Islands that can stand on their own considerable financial feet, just as The Bahamas have done successfully since they became independent from the U.K. in 1973.

The written constitutions provided to U.K. asset haven dependent territories pursuant to the U.K.'s Statute of Westminster (1931) contain specific provisions allowing the British Crown (i.e., New Labour, the government of the moment), to bypass local legislatures by declaring an emergency and imposing its own rules.

These extraordinary powers were invoked in the Caribbean area dependent territories in 1998 after they initially refused London's demand



to enact “all crimes” anti-money laundering statutes that would enforce foreign tax claims. These asset haven nations traditionally imposed no significant taxes on income and did not recognize foreign tax avoidance or tax evasion as criminal matters.

All four territories already had adopted tough money laundering laws modeled on the 1996 Cayman Proceeds of Criminal Conduct Law that permits enforcement of foreign confiscation orders in money laundering cases from “designated countries”—only the U.S. and the U.K. to date.

However, contrary to U.K. demands, they all included in their statutes a “fiscal offense” exemption that precludes enforcement in case of tax and customs violations alleged by a foreign government.

[Ed. Note: Since this was written, the Cayman Islands, Bermuda, and the British Virgin Islands all signed official tax information exchange agreements (TIEAs) with the United States. In various ways they have weakened financial privacy laws and bank secrecy to such a degree as to make them far less attractive to some as offshore asset protection havens. They are now being pressured by the British Labour government to impose taxes on foreign investors. If the U.K. OSTs comply with orders from London to impose such taxes, none of these jurisdictions will be able to claim any longer the status as “tax havens.”]

In 1998, the Cayman Islands government removed the fiscal offense exemption, but because of other related amendments, foreign tax enforcement powers are still in doubt. London says it expects all the territories to follow orders. Indeed, if acceptable legislation is not enacted, the U.K. Foreign Office expects the Crown-appointed governors to go right ahead and bypass the legislatures.

While the Caymans law now requires the government to have prima facie evidence of a crime in order to seize cash or property, there is little recourse for a falsely accused person. An innocent defendant is ineligible for compensation unless he can prove “serious default” on the part of prosecuting authorities. Cayman legal experts tell us this lack of restraint will result in the law being used oppressively for “fishing expeditions.” The legal situation is virtually identical in the other U.K. territories.

In another turn of the screws, in 2000, the U.K. government officially required financial law reforms in the 13 U.K. overseas dependent territories, including the Channel Islands, the Isle of Man, the Cayman Islands, Bermuda, the Turks & Caicos Islands, the British Virgin Islands and An-



guilla. The U.K. Foreign Secretary warned these areas must conform to “international standards” on money laundering, end strict financial privacy laws and cooperate with law enforcement authorities.

London officials reiterated that Britain has the power to act unilaterally to change local laws if necessary, and they promised that would be done if the territories resisted London’s demands.

It appears to us that once these demands were met, the U.K. territories lost their highly valuable status as true asset havens. Our advice: If you are a foreign depositor or investor in one of these territories, consult your attorney to determine if your assets may be at risk. If so, relocate to a jurisdiction independent of the U.K., such as Panama or Nevis. If you are considering the U.K. territories as a base for your offshore business, obtain the very latest information before you decide.

BERMUDA: THE “CADILLAC” OF OFFSHORE BANKING

Robert E. Bauman, JD,

The Passport Book and Where to Stash Your Cash, 2009

This mid-Atlantic island is the world’s leading place for “captive” self-insurance used by businesses and for re-insurance and it offers excellent asset protection trusts and IBCs. Its respected banks have worldwide branches and investment services. But Bermuda has signed a TIEA with the U.S., made foreign income tax evasion a local crime and curbed its former financial privacy laws. Of equal concern, as a U.K. colony, it is forced to take orders from London and British Labour.

WORLD CLASS OFFSHORE CENTER

Bermuda is located in the mid-Atlantic, 750 miles southeast of New York City, 3,445 miles from London. The island (68,000 people, 21 square miles) has a long history as a tax and banking haven. This is a world-class financial outpost, not to mention a very pleasant place to visit or live in any season.

The islands were first settled in 1609 by shipwrecked English colonists heading for Virginia. Bermuda has remained in British hands ever since and today is a British overseas territory with internal self government. A



referendum on independence was defeated in 1995 but sporadic independence talk continues. The present government says it has reopened debate on the issue, but not very seriously.

Bermuda enjoys the third highest per capita income in the world (US\$70,000), more than 50% higher than that of the U.S. Its economy is primarily based on providing financial services for international business and luxury facilities for tourists.

Because of its liberal regulatory laws a number of U.S. reinsurance companies relocated to the island following the September 11 2001 attacks and again after Hurricane Katrina in August 2005 contributing to the expansion of an already booming international business sector. Bermuda's tourism industry, 80% of its visitors from the U.S., continues to struggle but remains the island's second industry. Most capital equipment and food must be imported. Bermuda's industrial sector is small, although construction continues to be important; the average cost of a house in 2003 had risen to \$976,000. Agriculture is limited with only 20% of the land being arable.

A self-governing British overseas territory, Bermuda is a major international financial center. In the early days, the focus was based largely on re-insurance companies. A number of reinsurance companies relocated to the island following the U.S. terror attacks on September 11, 2001 and again after Hurricane Katrina in 2005, contributing to the expansion of an already robust international business sector. Bermuda ranks along with the U.S. and England in the re-insurance field. About 30% of the world's 5,000 captive insurance companies are domiciled in Bermuda. The insurance industry includes more than 1,400 insurance and reinsurance companies, with active companies having US\$172 billion in assets and writing almost US\$50 billion in annual gross premiums.

TAX FREE BUSINESS, EXPENSIVE REAL ESTATE

Bermuda imposes no corporate income, gift, capital gains, or sales taxes. The income tax is extremely low – 11% on income earned from employment in Bermuda. More than 13,000 international business corporations call Bermuda home. They are drawn by the island's friendly, tax neutral environment, established business integrity and minimal regulation. Over 60% of these companies operate as "exempted," meaning their business is conducted outside Bermuda (except for the minimal contacts needed to sustain an office on the island).



Bermuda is also home to more than 600 “collective investment schemes” (mutual funds), unit trusts and limited partnerships. The net asset value of these funds licensed in Bermuda rose by 37 percent in 2005, reaching US\$158 billion. Under the strong protective umbrella of the U.K. Copyright Act of 1965, also applicable in Bermuda, many collective investment schemes with intellectual property and software interests use the island as a legal home port. With a statutory structure for protection, Bermuda also has become a center for offshore trust creation and management. The island offers a wide variety of trusts to meet every need, including offshore asset protection.

The “jewel of the Atlantic” is also a great place to live, but be aware of tough real estate restrictions. Demand is high and supply short. In general, non-Bermudians are permitted to own only one local property. Acquisition is allowed only after careful background checks (at least one bank reference and two or more personal references). Out of 20,000 residential units on the island, only 250 detached homes and 480 condominiums qualify for non-Bermudian purchasers based on government set values.

In January 2009, the average price in Bermuda for a modest 2 bedroom single family house without water views was \$1.65 million. The average price of a condo was above \$1 million. In addition to the purchase price of a home or condominium qualified for sale to non-Bermudians, there is a 25% government upfront purchase tax on homes and 18% on condominiums. Purchase licenses are granted by the Department of Immigration and require six months or more for approval.

BERMUDA BANKING

Over many decades Bermuda has achieved a global reputation as a world-class business center. It has set high standards with the best laws and infrastructure with continuing improvements based on experience. There is a spirit of cooperation between business and government in support of the offshore sector. Bermuda as an offshore financial center dates to the 1930s, but began to grow significantly after 1960, initially concentrating on Canada, the U.K. and countries in the sterling area. When Bermuda moved to the Bermuda dollar on a par with the U.S. dollar in 1970, focus shifted from the U.K. to the United States.

Such extensive worldwide finance and insurance activity requires a highly sophisticated banking system. Bermuda provides this with up-to-date services and fiber-optic connections to the world. The four local



banks clear over US\$3 billion daily. Under the Banking Act of 1969, no new banks can be formed or operate in Bermuda unless authorized by the legislature. The chances of that happening are slim. However, international banks may form exempted companies engaged in non-banking activities and many have done so. Perhaps the biggest local banking news in years occurred in 2003, when the world's second largest bank, HSBC, purchased control of the Bank of Bermuda.

Bermuda's four banks follow very conservative, risk-averse policies. They hold an average of 85% of customer liabilities in cash and cash equivalents. For example, the Bermuda Commercial Bank recently had a weighted "risk-asset ratio" of 32%. Eight percent is the minimum required by Basle International Banking Agreement standards.

Bank of Bermuda, founded in 1889, has assets exceeding US\$7 billion and offices in the Cayman Islands, Guernsey, Hong Kong, the Isle of Man and Luxembourg and an affiliate in New York City. Butterfield Bank (founded in 1859) also has offices in all of those havens, except the Caymans.

The Bermuda dollar circulates on par with the U.S. dollar. U.S. currency is accepted everywhere. There are no exchange controls on foreigners or on exempt companies, which operate freely in any currency, except the Bermuda dollar.

Unlike Panama, the Cayman Islands or The Bahamas, Bermuda has no bank secrecy laws officially protecting privacy, but bank and government policies make it difficult to obtain information in most cases. To do so requires judicial process. A 1988 tax treaty with the U.S. allowed for governmental exchange of limited information in certain cases, but a more recent Tax Information Exchange Agreement (TIEA) with Washington opened the door to free exchange of information with the IRS. In my opinion, on a comparative 1-to-10 international banking privacy scale, Bermuda now ranks about five or less.

For your personal and business purposes, a Bermuda bank account can offer a tax-free means for global financial activity and vast investment possibilities. If you have need for an offshore based business locale, Bermuda, with its IBC creation laws and its modern digital Internet connections, may be a good bet.



FOREIGN TAX EVASION A CRIME

In recent years Bermuda has adopted proposals to toughen the provisions of the U.S. Bermuda tax treaty. It also upgraded anti money laundering laws, as well as financial management laws governing the chartering and operation of banks and trust companies. These laws were seen as Bermuda's calculated response to demands from the Foreign Office in London, the OECD and FATF.

The rewrite of the 1986 U.S. Bermuda tax agreement in 1995 toughened the existing agreement at Washington's request. It clarified and expanded the types of information that Bermuda can now give the IRS "relevant to the determination of the liability of the [U.S.] taxpayer." For the first time, Bermuda also permitted on-site inspections of records by foreign tax authorities. The Proceeds of Crime Act fiscal offences list was broadened to include tax fraud. In effect, this meant that by proxy, American tax laws and their enforcement mechanisms were adopted by Bermuda.

Most importantly, the fraudulent evasion of foreign taxes was made a crime, a major reversal of prior Bermuda policy and law. This made Bermuda the first major tax haven (and the first British overseas territory) to adopt such legislation. Together, these laws allow the U.S. IRS and the U.K. Inland Revenue (as well as other nations' tax collectors) to pursue their alleged tax-evading citizens with the assistance of Bermuda prosecutors and courts.

In 2002, Bermuda became an "approved jurisdiction" of the U.S. IRS for tax reporting purposes under the IRS Qualified Intermediary (QI) program described in Chapter 3. That means that the island's banks, investment advisors and other financial services that deal in U.S. securities agree to disclose to the IRS the names of their U.S. clients, or to impose a 30% withholding tax on investment income paid to such U.S. persons. This agreement was said to show IRS approval of Bermuda's stricter know-your-customer and suspicious activity reporting rules.

BERMUDA BUSINESS

Because of the large number of international companies that conduct insurance operations from Bermuda, the island does not rely as heavily on personal offshore services and banking as do most other havens. In 2009, over 13,400 international businesses maintained registration in Bermuda and over 3,300 locally. Total income generated by international companies was nearly US\$2 billion. The number of business permits surged as the



island promoted itself as an e-commerce haven and opened its shores to licensed investment services providers for the first time. Bermuda has long been a haven for offshore businesses. There is no income tax in Bermuda and international companies pay vastly reduced corporate taxes compared to the United States and Europe.

The Bermuda Stock Exchange, established in 1971, was intended as a domestic equities market. With the growth in international financial business, the exchange was restructured into a for-profit entity owned by the Bermuda banking institutions. It offers fully electronic clearing, settlement and depository services. The BSX has become the world's largest offshore fully electronic securities market offering a full range of listing and trading opportunities for global and domestic issuers of debt, equity, depository receipts, insurance securitization and derivative warrants.

WHY BERMUDA?

In my opinion, Bermuda is a prime candidate if you are looking for a tax-free offshore base for your international business operations. An IBC registered here allows worldwide business and banking activity, even though you may live elsewhere. The IBC law allows great flexibility in operation with minimal reporting requirements. And IBCs and their profits are tax exempt locally. Another plus for Bermuda incorporation is the island's squeaky clean reputation.

In recent years, Bermuda became an object of attack for American politicians who loudly denounced U.S. companies who re-incorporated there. The reason companies did this is easy to understand. Under U.S. tax law, a corporation pays 35% or more in federal and state taxes, one of the highest corporate taxes in the world. Once that company changes its corporate registration to Bermuda, its profits from foreign operations are tax-free if the funds are kept offshore. It's easy for U.S. politicians to demagogue this issue, rather than do the hard work of reforming and lowering U.S. corporate tax laws.

One of the main parts of President Obama's 2009 tax proposals was abolition of this offshore corporate tax break, but without any compensating reduction in the U.S. 35% tax. At this writing he wants to tax all income from corporations whose main operations are in the U.S. wherever the income is earned or located. In 2006, the U.S. Congress curtailed somewhat the ability of U.S. corporations to re-incorporate in Bermuda after that date, imposing tax penalties for such moves.



EARLY SURRENDER TO THE OECD

Bermuda was one of only six offshore financial centers which gave a written pledge to the OECD before publication of its 2000 blacklist of “harmful tax competition” nations. Each promised to meet OECD tax requirements in the future. Even after the adoption of criminal tax evasion and tax information exchange laws, Bermuda’s tax agreement with the OECD was still a surprise. In essence, that meant that Bermuda eventually might impose taxes on tax-exempt foreigners who do business there. But this commitment was based on the OECD guarantee that all nations would adopt the same tax laws, the so-called “level playing field” rule. That this has not happened is hardly surprising.

Essentially, the Bermuda government pledged to the OECD to exchange all tax information with other nations; to require local and international companies to file publicly audited annual accounts; and to maintain its current tax system.

For all its pains trying to placate the OECD, in 2009 when the G-20 issued its list of tax havens allegedly deficient in tax information exchange much to officials chagrin, Bermuda was relegated to the “gray list.” It immediately mounted a major public relations effort in the U.S. and U.K. aimed at getting de-listed, pledging to follow the OECD Article 26 on tax information exchange which its stunned leaders thought it had been doing. By June 2009, Bermuda had reached the OECD-ordained magic number of 12 TIEAs, the number which supposedly indicates compliance with the new international tax information exchange standards. When Finance Minister Paula Cox dutifully signed the Island’s 12th TIEA with the Netherlands, the OECD moved the island onto its “white list” of countries considered to have substantially implemented international tax transparency standards.

CLEAN MONEY

Not only did Bermuda evade the OECD “tax harmonization” hit list but it escaped the FATF list of jurisdictions alleged to indulge dirty-money laundering through banking secrecy and lack of “transparency.” Bermuda’s four banks all work diligently to maintain clean reputations, although several money laundering cases have occurred, but without any overt bank complicity.

The former Bermuda Financial Secretary, Peter Hardy, argued that endorsement from the FATF and OECD “enables those major companies that



want to set up in Bermuda to demonstrate they are, in fact, able to move to jurisdictions where international standards are upheld. We are able to say Bermuda is an upstanding and clean jurisdiction.” That may be true, but in my opinion, it is also a jurisdiction no longer able to guarantee a high degree of financial privacy for those who do business on the island.

In 2009, some major corporations that had previously moved their corporate headquarters from the U.K. to Bermuda began to have second thoughts. Reacting to heavy handed attacks by the Labour government on tax havens and concerned about what London might do, these companies moved to Switzerland where a network of over 70 double tax treaties offers a more secure tax environment.

BRAGGING RIGHTS

This financial housecleaning and its strict laws led to a government claim that the island was now “the business leader among the British overseas territories,” ready to meet and exceed international financial standards and regulation.

The British Westminster system confers an immensely important constitutional right on each U.K. overseas territory, that of declaring independence. Until 2004, most local political leaders avoided the issue of Bermuda’s possible independence from the United Kingdom. But then Prime Minister Alex Scott called for a national debate on the subject, looking towards the possibility of ending London’s control over the island. Independence is a possibility, but a remote one. Nothing came of the debate, such as it was.

CONCLUSION

Bermuda remains a good, basic, no-tax asset protection jurisdiction for the location of offshore trusts, IBCs and is great for insurance. Its banks are first-class. But its willingness to cooperate with tax-hungry governments in Washington and London has diminished what was formerly a policy of strict financial privacy.

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FREEDOM FOR BERMUDA

Robert E. Bauman JD, April 2009

I have the enjoyable privilege this week of attending The Sovereign Society's Total Wealth Symposium being held at the Fairmount Southampton Resort in beautiful Bermuda. It's my third time here in these islands and a great place to visit or live.

It is ironic that more than 200 speakers and attendees have gathered in what now is one of the United Kingdom's last and the largest of its colonial possessions. This small group of islands is also one of the world's most respected offshore financial centers and yet it is one of those "tax havens" that British Prime Minister, Gordon Brown, loudly proclaims he wants to abolish.

Gordon Brown is in major political trouble. Labour is 20 points behind the Conservatives in the polls with elections next year.

Under pressure from labor unions and a nose diving British economy, he is all too willing to throw to the left-wing wolves Her Majesty Queen Elisabeth's overseas territories, including Bermuda and its 68,000 residents. Many of these territories are leading jurisdictions nurtured as tax havens by London for the last half century (and by Brown himself, in a decade as Chancellor of the Exchequer).

SHIPWRECKED

Located in the north Atlantic, a few hundred miles east of South Carolina, Bermuda is this year celebrating its quadri-centenary. First settled in 1609 by shipwrecked English colonists headed for Virginia, it was a major port for Union blockade runners aiding the Confederate cause during the American Civil War. It has since become a tourist destination for Brits and Americans.

Careful cultivation of international business and finance has allowed Bermuda to develop into a highly successful offshore financial center. Although a referendum on independence from the UK was soundly defeated in 1995, the present government has said that the issue of independence remains an open question..



WORLD'S WEALTHIEST

Bermuda, often called “the jewel of the Atlantic” enjoys the third-highest per capita income in the world (estimated at US\$67,837 this year), more than 50% higher than that of the United States. Its economy is primarily based on providing sophisticated financial services for international business and luxury facilities for tourists.

A number of American reinsurance companies relocated to the island following the September 11, 2001 terrorist attacks and again after Hurricane Katrina in August 2005, contributing to the expansion of already robust international business and insurance sectors. Bermuda has one of the world's largest reinsurance markets and is home to over 15,000 international business companies (IBCs), many hedge funds and many thousands of trusts.

INDEPENDENCE

The Progressive Labour Party, the majority in the Bermuda parliament, has supported independence from Britain in the past, but never pushed the issue, although it has been a subject of continuing debate.

Under British control since 1684, Bermuda supposedly is a “self-governing” colony. The Foreign Office in London calls it an “overseas territory.” In recent years, London has pushed Bermuda to weaken its financial privacy laws, sign tax information exchange agreements with the U.S. and other nations and to make tax evasion by foreigners a crime.

Bermuda has met all these demands. Nevertheless, the British Prime Minister suddenly has taken up the cry to abolish all tax havens – Bermuda included.

THE TIME IS NOW

Some 75% percent of Bermudans voted against independence when it was last put to referendum in 1995. More recent public opinion polls indicate independence sentiment has grown. And this is one U.K jurisdiction that could afford to stand on its own. Under the Westminster constitution granted to Bermuda, the island has the right to claim independence and London must recognize that claim if it is asserted.

Standing on its soil, we say: “Freedom for Bermuda.” It's about time.



THE CAYMAN ISLANDS: NO TAXES BUT LESS SECRECY

Robert E. Bauman, JD,
The Passport Book and Where to Stash Your Cash, 2009

Some years ago, the Cayman Islands could claim that its financial institutions stood fifth in the entire world in the total of billions of dollars of assets under management. It was the jurisdiction of choice for tax-free international banks and businesses that wanted (and got) iron-clad secrecy guaranteed by law. But a series of highly publicized cases involving drug and other criminal money laundering, plus a major case in which a local bank was used for wholesale U.S. tax evasion, contributed to ending this haven's secrecy.

More recently this U.K. colony, under extreme pressure from London and Washington, weakened its financial and bank secrecy laws. The result: an outflow of billions in assets to other, more privacy-oriented, havens. But the Caymans are still an efficient, tax-free haven for offshore bank accounts, trusts and international business corporations, as well as hedge funds, mutual funds, insurance and annuities. Its name also is a red flag for foreign tax collectors and anti-tax haven politicians everywhere.

Let's face it: the major reason the Cayman Islands originally became a world renowned tax-free haven was its strict bank and financial privacy – not just privacy, but near absolute secrecy. Guaranteed by law and zealously enforced by local courts, any foreigner doing business here was shielded from scrutiny – unless it was shown that he was engaged in overtly criminal acts. Even then, a lengthy judicial process often was needed to pierce this wall of secrecy. Secrecy sold and the Caymans sold it well.

That was the old Cayman Islands before it was forced, under orders from its colonial masters in London, to compromise its bank and financial secrecy, instead to become a potential proxy tax collector for other nations.

Many Caymans residents do not agree with what has happened. Michael Alberga, a Caymans lawyer with a long list of foreign clients, accuses



the world's richest nations of practicing "economic terrorism" against the Caymans. We are simply "practicing pure capitalism; few or no taxes and little regulation," he claims, asking to be left alone.

GOVERNMENT & HISTORY

The Cayman Islands is a parliamentary democracy with judicial, executive and legislative branches. The present 1972 constitution provides for governance as a British Dependent Overseas Territory, meaning ultimate power rests with London.

The territory consists of three islands in what was known as the British West Indies, Grand Cayman (76 sq. mi.), Little Cayman (10 sq. mi.) and Cayman Brac (14 sq. mi.). Administered by Jamaica from 1863, they remained a British dependency after 1962 when Jamaica became independent. Grand Cayman is located directly south of Cuba, approximately 500 miles south of Miami, Florida. The capital, located on Grand Cayman, George Town, serves as the center for business and finance.

The Cayman Islands is an English-speaking common-law jurisdiction with no direct taxation on income, profits, wealth, capital gains, sales, estates or inheritances. Described as being "one of the more mature jurisdictions ... in terms of regulatory structure and culture," the traditionally impenetrable confidentiality of the Cayman Islands ended finally, in 2001, when it signed a tax information exchange treaty with the United States. Among other things, that treaty gave the U.S. Internal Revenue Service permission to examine accounts of Cayman financial institutions.

OFFSHORE BUSINESS LEADER

The Cayman Islands financial services industry includes banking, mutual funds, captive insurance, vessel registration, companies and partnerships, trusts, structured finance and the Cayman Islands Stock Exchange.

As of 2009, there were 270 banks (74 of them U.S branches) licensed under the Banks & Trust Companies Law, representing 45 countries, including 40 of the world's 50 largest banks, with a combined total all of \$1.6 trillion in assets. The Caymans is home to over 80,000 international business companies (IBCs), 9,705 mutual funds, 239 trust companies, 815 insurance companies, 777 captive insurance companies and thousands of closed-end funds – plus the latest financial schemes dreamed up by cutting edge lawyers and investors as the Enron scandal showed. (Enron's creative



managers created scores of IBCs used to conceal company debts, leading to the company's collapse and further hurting the Cayman's reputation).

As of 2008, there were over 10,000 hedge funds registered here with assets of more than US\$600 billion. Cayman dominates offshore hedge funds with approximately a 65% world market share. It has excellent communications facilities and extensive professional services.

At one time, the Caymans ranked as the world's fifth-largest financial center behind New York, London, Tokyo and Hong Kong. In 2009 it had slipped to number ten. Offshore business accounts for roughly 30% of the territory's gross domestic product of nearly US\$2 billion. Many of the world's most reputable companies, including many American companies, do business through subsidiaries registered in the islands, to take advantage of the favorable, tax-free laws.

POLITICS AS USUAL

The Caymans, even more than Bermuda, became a major punching bag for U.S. politicians, what with Enron having used it for corporate subsidiaries, and Hollywood movies such as *The Firm* depicting the islands as a sinkhole of fetid corruption and billions in illicit cash.

Many U.S. firms have subsidiaries registered in the Cayman Islands. Big energy companies such as El Paso Corp., Transocean Inc. and GlobalSantaFe Corp. have subsidiaries there. Most U.S. companies have corporate units offshore for strategic, financial and tax reasons and they make no attempt to hide them because, at least at this writing, they are fully legal, although President Obama and the U.S. Congress may change that.

On the 2008 presidential campaign trail, candidate Barack Obama made his hostility toward offshore jurisdictions clear: he repeatedly scored points with crowds, repeating: "There's a building in the Cayman Islands that houses supposedly 12,000 U.S.-based corporations. That's either the biggest building in the world or the biggest tax scam in the world, and we know which one it is."

It made no difference to him that a similar building in Wilmington, Delaware, home of his vice president, Joe Biden, houses more than 50,000 corporations as a means to legally escape state taxes in other American states. Uglund House, on South Church Street near the center of George Town, is indeed home to Cayman's largest law firm, Maples and Calder that serves a registered agent for these all those corporations which it represents.



TALKING SURRENDER

In 2000, the Cayman Islands government, at the insistent urging of London, began secret negotiations with the OECD and FATF. Discussion centered on demands to stop alleged foreign tax evasion and to increase transparency in the islands' financial institutions. The government was threatened with OECD/FATF blacklisting, plus possible undefined "sanctions."

Demands also included expansion of existing mutual legal assistance treaties (MLATs) with the U.S. and the U.K. to include, for the first time, criminal tax evasion. The 1990 U.S. MLAT already had been used 170 times to exchange information. Traditionally, the Caymans had not viewed foreign tax evasion as a crime since its law imposed no income taxes.

As the law stands now, a Caymans court can confiscate all assets of a convicted person up to the amount by which he benefits from the crime. While the law requires the government to have prima facie evidence of a crime in order to seize cash or property, there is little recourse for a falsely accused person. An innocent defendant is ineligible for compensation unless he can prove "serious default" on the part of prosecuting authorities. Some Cayman legal experts said this lack of restraint could result in the law being used oppressively for "fishing expeditions." The legal situation now is virtually identical to that in the other U.K. overseas territories.

MONEY LAUNDERING CRACKDOWN

The Cayman Islands viewed themselves at the forefront of the fight against money laundering in the Caribbean. Drug money laundering was made a serious crime in 1989 and so called "all crimes" anti-money laundering legislation took effect in 1996.

In 2000, the government issued a new code of conduct for financial institutions aimed at further curbing money laundering, supplementing the 1996 landmark law that had criminalized money laundering in all serious crimes. The new code encouraged reporting of suspicious transactions by providing a safe harbor from liability for those who reported suspected crimes.

In spite of all these new laws, in 2000, the Financial Action Task Force listed the Caymans along with 15 other "dirty money" nations as being uncooperative in fighting criminal money laundering. Cayman's government officials, who had been quietly negotiating with FATF and the OECD



for months, were vocal in their condemnation of the FATF blacklisting. Within days of the FATF blacklisting, undoubtedly by prearrangement, the U.S., U.K. and Canadian governments issued “advisory warnings” to their respective banking and financial institutions about dealings with the newly accused dirty-money Caymans.

SURRENDER OF FINANCIAL SECRECY

Undeterred by the FATF blacklisting, in 2000, the government proudly announced what its politicians repeatedly had said they would never do. They had reached an agreement with the OECD on the issue of future “transparency.” Thus, the government officially embraced the OECD’s demand for an end to the Caymans’ traditional bank and financial secrecy, guaranteeing it would provide financial information about Caymans’ clients to foreign tax collecting authorities. In return for this major surrender, the OECD promised the Caymans would not appear on the OECD blacklist of tax havens allegedly engaged in “harmful tax practices” published in 2000.

Within three weeks of the FATF report, all the primary legislation necessary to address every one of the FATF’s concerns was on the statute books. Within a further few weeks, more anti-money laundering rules were introduced to complete the legislative framework. The Islands now have a regime considerably tougher than that which exists in many of the FATF’s 29 member countries.

The new laws allow the Cayman Islands Monetary Authority to obtain information on bank deposits and bank clients without a court order and ended existing restrictions on sharing information with foreign investigators. A new provision made it a crime to fail to disclose knowledge or suspicion of money laundering. Previously, it had been a crime for financial sector workers to disclose any private financial information without a court order. The Caymans government even went so far as to guarantee that it would stop island financial services providers from “the use of aggressive marketing policies based primarily on confidentiality or secrecy.”

As was the case with Bermuda, for its pains trying to placate London and the OECD, in 2009, when the G-20 issued its list of tax havens allegedly deficient in tax information exchange the Cayman Islands also was relegated to the “gray list.”



RECOMMENDATION

Regardless of the end of financial secrecy here, enormous amounts of money have flowed through these islands over many years. That has created an impressive financial and professional community from which you and your businesses can benefit. These professionals can provide first-class investment advice, a variety of offshore legal entities, trusts and IBCs, annuities and life insurance. There are many mutual and hedge funds in which to invest.

If you value financial privacy and are considering or have financial dealings in the Cayman Islands, as with any British overseas territory haven, plan accordingly. But don't overlook what they have to offer – even if everything these days is out in the open.

CONTACTS

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Official: U.S. Consular Agent, Unit 222, Micro Center, North Sound Road, George Town, Grand Cayman; Tel.: (345) 945-8173; The United States does not maintain diplomatic offices in the Cayman Islands. Relations are conducted through the U.S. Embassy in London and the British Embassy in Washington, D.C.

The Cayman Islands are represented in the United States by the Embassy of the United Kingdom, 3100 Massachusetts Avenue NW, Washington D.C. 20008; Tel.: 202-462-1340; Website: <http://www.britainusa.com/>.

BRITISH VIRGIN ISLANDS: IBC HEADQUARTERS

Robert E. Bauman, JD,
The Passport Book and Where to Stash Your Cash, 2009

BVI, as it's known, has a bit more than 24,000 people – but more than 400,000 registered IBCs, second only to Hong Kong in total number. That's because the BVI specializes in creating, servicing and promoting offshore corporations for every purpose. The BVI can truthfully say, "IBC's R Us." And don't overlook their asset protection trusts, international limited partnerships and insurance. But remember they take orders from London.

The British Virgin Islands, with about 24,000 people, consists of more than 60 islands, only 16 inhabited, at the eastern end of the Greater Antilles in the Caribbean, 25 minutes flying time east of Puerto Rico. Its economy is closely integrated with the nearby (to the west) U.S. Virgin Islands. The currency, since 1959, has been the U.S. dollar and there are no exchange controls. First settled by the Dutch in 1648, the islands were annexed in 1672 by the English.

The capital, Road Town, located on Tortola, is the financial center and the seat of government and courts. As a British overseas territory, the BVI has a long history of political stability with a measure of self-government, but London calls the shots. There is a ministerial system of government headed by a chief minister, with an executive council chaired by the U.K. appointed governor and a legislative council. The BVI is one of the world's most popular offshore jurisdictions for registering international companies



and is a growing, but much lesser force in offshore hedge funds (currently about 2000), trust administration and captive insurance markets.

The economy, one of the most stable and prosperous in the Caribbean, is highly dependent on tourism, generating an estimated 45% of the national income. An estimated 850,000 tourists, mainly from the U.S., visited the islands in one recent year.

IBCs R Us

The BVI adopted its successful International Business Company (IBC) Act in 1984. By the time the Act was superseded by the BVI Business Companies Act 2004, which removed the distinction between 'offshore' and 'onshore' companies, well over 400,000 had registered. Hong Kong and Latin America have been the main sources of clients, which is ironic, since Hong Kong leads all jurisdictions in registration of offshore corporations. (Many of BVI's Hong Kong clients are newly rich Chinese seeking to avoid taxes on the mainland.)

The IBS Act allows quick and cheap formation of tax-free corporations to hold assets and execute offshore transactions. The IBCs are used as holding companies, for consultancies, royalty income, foreign real estate, equipment leasing and ownership of moveable assets, such as airplanes and yachts.

The BVI has significant mutual fund and captive insurance sectors. Banking activity is, by design, minor. The BVI has tried hard to exclude money laundering, mostly with success, and has a relatively good reputation.

There is no statutory duty of confidentiality or privacy under BVI laws. However confidentiality is imposed under the British common law and also may be imposed by contract. A breach, or threatened breach, of confidence is actionable in court, which may grant an injunction or award damages for an actual breach. Several laws waive confidentiality for criminal investigations.

In the past, one of the major attractions for BVI corporate registration was that true beneficial ownership was not a matter of public record. That has now changed. Under pressure from the Labour government in London the BVI colonial government enacted numerous laws that compromised this former strict corporate privacy.



In 2002, the BVI signed a tax information exchange agreement with the United States. In 2009, the BVI was one of the G-20 OECD “gray list” tax havens judged to be deficient in tax information exchange policies. BVI promptly announced that it would adopt the Article 26 OECD guidelines for tax information exchange. Its leaders also raced around the world signing new TIEAs. Within months it had reached the OECD-ordained magic number of 12 TIEAs, the number which supposedly indicates compliance with the new international tax information exchange standards.

Anti-money laundering laws cover reporting of suspicious activities and apply know-your-customer rules. The use of bearer shares (freely transferable corporate shares with the owner designated only as “bearer”) has been so restricted that they remain “bearer shares” in name only.

BVI companies still are not subject to withholding tax on receipts of interest and dividends earned from U.S. sources. There are no capital gains or asset taxes. Use of a standard domestic BVI corporation can be more profitable than an IBC, particularly if one wants to take advantage of the BVI double tax treaties in effect with Japan and Switzerland. The U.S. canceled a similar BVI tax treaty more than a decade ago.

CONCLUSION

The BVI suffers somewhat as an offshore center because of its status as a U.K. offshore territory under the control of the Labour government in London. That’s where its orders come from and it follows them.

But the colonials are growing restless. With all the attacks on tax havens, especially coming from London, BVI people fear their economic lifeline will disappear. The revenue from registering foreign companies has paid for a community college and a hospital. The Premier, Ralph O’Neal, 75, a former school teacher who leads the archipelago, says it smacks of colonialism when developed nations dictate standards for financial operations, especially when they don’t comply with the rules themselves. “Why is it that we now in the colonies, because we are still a colony, can’t have a financial centre?” Mr. O’Neal said. “If you are doing something and you are saying I can’t do it, are you saying that I am inferior?”

Still, if you need an IBC to conduct your worldwide business, the British Virgin Islands will provide it efficiently – and all the service and maintenance you will ever need. And they also offer trusts and limited partnerships.



CONTACTS

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Official: BWI is represented in the United States by the Embassy of the United Kingdom, 3100 Massachusetts Avenue NW, Washington, D.C. 20008; Tel.: 202-462-1340; Website: <http://www.britainusa.com/>.

The U.S. has no embassy in the BVI. The nearest is U.S. Embassy Barbados, Wildey Business Park, Wildey St. Michael; Tel.: +246-436-4950; Website: <http://barbados.usembassy.gov/>. The U.S. Consular Agent in



Antigua is closer to the BVI; Suite #2, Jasmine Court, Friars Hill Road, St. John's, Antigua; Tel.: +(268) 463-6531; Cell: +(268) 726-6531; Email: ANUWndrGyal@aol.com. Mailing address: P.O. Box W-1562, St. John's, Antigua.

BRITISH DESTROYERS

Robert E. Bauman, JD, *The Sovereign Society*
Offshore A-Letter, April 2002

Among the principal reasons for the founding of The Sovereign Society in 1998 was the perceived need for greater asset protection, better investment opportunities and a solid guarantee of financial privacy.

Then and now, a drastically restricted freedom climate in America dictated our conclusion that all of these traditional values were disappearing rapidly within the United States. The Sovereign Society solution was, and remains, to go offshore.

The *A-Letter* has chronicled the sad decline of financial privacy in many jurisdictions once known as tax havens. We have assessed the causes, including the lost war on drugs, the tax collector mentality of the OECD, cloaked in FATF's anti-money laundering push, plus the Draconian laws imposed by thoughtless politicians myopically fighting their war against terror.

The United Kingdom stands out as one nation that has done much to destroy financial privacy, both at home and offshore. Under control of Tony Blair's so-called New Labour party, the Foreign Office has dismantled financial privacy in the British Overseas Territories; Bermuda, the Cayman Islands, and the British Virgin Islands. The same fate has been imposed on the Crown dependencies; the Isle of Man and the Channel Islands of Jersey, Guernsey and Sark, supposedly independent constitutional entities.

A prime example of this destruction of privacy was last week's announcement by the British Virgin Islands of the end of absolute privacy, until now accorded the 380,000 international business corporations (IBCs)



registered there. The secrecy allowed until now by the BVI was a major factor in making it the second in the world in total number of IBCs, behind only Hong Kong.

The BVI parliament, on orders from London, has ended the use of corporate “bearer shares” which allow company ownership without registering the names of the actual owners. Secrecy could be pierced in criminal matters, but otherwise financial privacy prevailed.

In 1997, Sovereign Society Council of Experts member Derek Sarnbrook said that those who chose Panama as their offshore haven did so knowing “that the Panama secrecy laws will not be swept aside by a foreign country, whereas several prime offshore financial centers are dependent territories, thus constantly susceptible to compromise because of their dependence on a sovereign power with its own agenda of priorities.”

The death of corporate financial privacy in the BVI proves his point once again. When you choose an offshore haven, keep that in mind.

U.S. VIRGIN ISLANDS — LITTLE-KNOWN TAX HAVEN

Robert E. Bauman, JD,

The Passport Book and Where to Stash Your Cash, 2009

It's not well known, but under a unique special federal income tax arrangement applying only to the U.S. Territory of the Virgin Islands, it is possible for U.S. nationals and others who make the islands their main residence to enjoy substantial personal and business tax benefits. These lower taxes make the islands an offshore tax haven option for very wealthy U.S. citizens, entrepreneurs and foreign nationals seeking U.S. citizenship

The Virgin Islands of the United States, as their name is officially styled, constitutionally, are “an unincorporated territory” of the United States.

With the Caribbean Sea to the south and the Atlantic Ocean to the north, the Virgin Islands offer a variety of deep sea and coastal fishing. Their tropical climate and minimal industrial development assure an abundance of unspoiled reefs for divers and snorkelers, with sandy beaches



ringing deep coves. The large number of isolated, secure anchorages in the U.S. Virgin Islands and the British Virgins just to the east has made the chain a center for yachting. A thriving charter boat industry in the Virgin Islands draws tens of thousands of visitors annually for crewed sailing adventures.

After their discovery by Columbus in 1493, the islands passed through control by the Dutch, English and French. In 1666, St. Thomas was occupied by Denmark, which, five years later, founded a Danish colony there to supply the mother country with sugar, cotton, indigo, and other products. By the early 17th century, Danish influence and control were established and the islands became known as the Danish West Indies. That political status continued until Denmark sold the islands to the U.S. for US\$25 million in 1917.

The islands — St. Croix, St. Thomas and St. John — have a strategic value for the U.S. since they command the Anegada Passage from the Atlantic Ocean into the Caribbean Sea as well as the approach to the Panama Canal. U.S. citizenship status was conferred on the V.I. inhabitants in 1927. Although they do not vote in U.S. presidential elections, residents are represented by a non-voting delegate in the U.S. House of Representatives.

LITTLE-KNOWN U.S. LOW TAX PARADISE

The United States Virgin Islands (USVI) lie 1,100 miles southeast of Miami, Florida — and it's one of the most impoverished jurisdictions under the American flag. But most Americans only know the islands as a vacation venue with beautiful resort hotels, white sandy beaches and blue lagoons. The four principal islands — St. Croix, St. John, St. Thomas, and Water Island — have a population of about 110,000. Per capita income in the territory is only US\$14,600. That's less than half the average in the continental United States and \$10,000 less than in Mississippi, the poorest state.

In addition to poverty, the USVI has another unusual distinction. They have been, until now, America's very own "offshore" tax haven. So much so, that the low-tax hating OECD denounced the USVI as the U.S. version of "unfair tax competition." What upset the OECD was the territory's prohibition against U.S. and local ownership of USVI "exempt companies," although this was required by the U.S. Congress in the U.S. Internal Revenue Code. The USVI was removed from the OECD "unfair



tax” black list in 2002, but the OECD continued to criticize the islands for being America’s own tax haven.

In 2009, when the G-20-OECD issued its list of tax havens allegedly deficient in tax information exchange, not surprisingly, the USVI appeared on the “white list” of “good” offshore financial centers. No surprise, because the United States, led by President Barack Obama, led the G-20 attack on all tax havens. More importantly, the U.S. finances most of the budget of the OECD black list writers.

The islands — St. Croix, St. Thomas, St. John, and Water Island — have been territorial possessions of the United States since they were purchased from Denmark in 1917. They are overseen by the U.S. Department of the Interior and have a non-voting representative to the House of Representatives, but no U.S. Senators. The Naval Services Appropriation Act of 1922 (Title 48 U.S.C. § 1397) provides in part: “The income tax laws in force in the United States of America...shall be held to be likewise in force in the Virgin Islands of the United States, except that the proceeds of such taxes shall be paid to the treasuries of said islands.”

USVI residents and corporations pay their federal taxes on their worldwide income to the Virgin Islands Bureau of Internal Revenue (BIR), not the U.S. IRS. Persons who are born in the USVI or those who become naturalized U.S. citizens in the USVI, for purposes of U.S. federal gift and estate taxes, are treated as nonresidents of the U.S. Since the USVI has no estate or gift taxes, this means that upon death the estates of such persons owe zero U.S. or territorial estate or gift taxes as long as they are domiciled in the USVI at the time of death or at the time of making a gift and have no U.S. assets. (Like any other nonresidents of the U.S. for gift and estate tax purposes, assets located in the U.S. are subject to federal estate and gift tax.)

GENEROUS PACKAGE

To attract outside investment, the USVI Economic Development Commission (EDC) grants generous tax relief packages that include a 90 percent credit against U.S. federal income taxes. This tax grant package, which is offered for a period of 10 to 30 years, depending on the business location within the USVI (with possible 10-year and then 5-year extensions), is available to USVI chartered corporations, partnerships and limited liability companies. The tax credit applies to income from USVI sources, such as fees for services performed in the USVI, and certain related income, such



as sales of inventory and dividends and interest from non-U.S. sources received by banking and finance companies based in the USVI.

For many years a few U.S. investors with business activities ranging from petroleum production, aluminum processing, hotel and other tourism activities, to transportation, shopping centers, and financial services, have taken advantage of USVI tax laws and enjoyed income with very little taxes. As a result of the EDC marketing campaign to attract corporations, about 100 companies qualified for the program in between 2002 and 2004, and employing nearly 3,100 people.

The tax benefit program began paying dividends almost immediately after hedge fund managers started moving to the USVI in 1995. The islands' tax revenue doubled from US\$400 million to US\$800 million in a five-year period ending in 2005. The increase effectively erased a US\$287.6 million deficit for the territory in 1999. The EDC program was worth about US\$100 million annually to the local economy. A USVI government spokesman said that the EDC was crucial in lifting the territory from a dire financial crisis seven years ago to a 2007 projection of a fiscal year surplus in excess of US\$50 million.

PARADISE LOST

All went well until the early 2000s when the IRS noticed the rapid increase in the number of high net worth individuals moving to the USVI — based on the increasing amount of taxes that the BIR counted as tax exempt income from the USVI. The IRS then received copies of what it perceived to be “marketing materials” from various EDC beneficiaries seeking additional investors – the federal and local statutes did not limit the number of investors two one beneficiary.

In 2003, the IRS raided a financial services firm, Kapok Management, in St. Croix, accusing the firm of sheltering income for dozens of partners who were living on the U.S. mainland, not in the USVI. In 2004, a Massachusetts life insurance executive who used this ruse plead guilty to federal tax evasion in St. Croix although as of late 2007 he still had not been sentenced. But in 2009, after a two-month of trial in the USVI federal district court, the IRS lost a big one when a jury acquitted the defendants of conspiracy, attempted tax evasion and fraud charges. The original indictment accused Kapok of fraudulently using the Virgin Islands economic development program designed to promote local economic development and employment through the use of tax credits.



STRICT SIX-MONTH RESIDENCY REQUIREMENT

In 2004, U.S. Senator Charles Grassley (R-Iowa) drafted legislation to impose a strict six-month residency requirement and limited the territory's tax benefits only to income earned exclusively within the islands. (The 1986 legislation had provided that the territory's tax benefits applied to USVI and income connected with a USVI trade or business – but directed the IRS to issue special regulations to define “source” and “effectively connected income” for this purpose. But the diligent IRS went 18 years with no regulations.)

Grassley slipped his changes into a major tax bill without any hearings, and with no notice to the USVI delegate to Congress, the governor, or the U.S. Interior Department, all of whom were stunned to learn what had happened. This major change was imposed without any testimony, territorial input, and certainly without any consideration or understanding of the critical importance of the territory's Economic Development Program to its impoverished economy. The Congressional Joint Committee on Taxation estimated in a wild guess that Grassley's legislation would increase federal revenue by US\$400 million over a 10-year period.

IRS TERROR

In a reign of tax terror after the 2004 insurance executive case, the IRS opened about 250 audits on individuals who filed as USVI residents and on businesses that were beneficiaries of the economic development program. Many of these individual audits were of persons who had no economic development credits and made no tax exemption claims on their returns. The IRS and the U.S. department of Justice also brought the Kapok case mentioned above. At that point everyone who lived in the USVI had to wrestle with the six-month residency requirement whether they were being audited or not. Since the 2004 changes were adopted, about 50 hedge funds managers and other financial services companies either halted activities temporarily or withdrew from the islands.

The islands' finance sector boom withered, crushed by the IRS and Grassley with a combination punch of the law and subsequent IRS rules that are still unclear with regard to income eligible for tax credits.

RESIDENCE RULES

The old, pre-Grassley rules required a person to be a bona fide USVI resident on the last day of the tax year, “looking to all the facts and cir-



cumstances,” similar to the “domicile” test for estate and gift tax purposes. There was no “number of days” test and no requirement that a person be a resident for all or most of the year to file as a resident for that year.

The rules now require a resident to be present physically in the USVI at least 183 days, or roughly six months, every year. The IRS did set up four alternative ways to meet the physical presence test of the new residency requirement: 1) spend no more than 90 days in the United States during a taxable year; 2) spend more days in the USVI than in the U.S. and don't have more than \$3,000 in earned income from the U.S.; 3) average 183 days a year over a rolling three-year period, or; 4) meet a “no significant connection” test. This last test means no house, no spouse, no minor kids, and no voter registration in the United States — and no days counting requirement.

The residency rules also require a “bona-fide resident” to have a “closer connection” to the USVI than anywhere else – looking to where you vote, what address you use, where the closet is in which most of your clothes hang, where you have homes, where you bank, and where your family lives. Finally “a bona fide resident” must have a tax home in the USVI – which is usually your principal place of business.

The IRS claims authority to go back as far as it wanted and examine tax years without regard to the usual three-year statute of limitations. The number of financial firms and other service businesses that make the USVI their corporate home now has fallen to fewer than 40 from more than 80 several years ago.

The IRS also drafted an intrusive form for island residents it says is needed to prove valid residency. Form 8898 requires those who stop filing tax returns with the IRS, in order to file them in the USVI, to list where their immediate family lives, where their cars are registered and where they hold driver's licenses.

The former chief executive officer of the EDC has said: “In the States, they definitely see that they are losing taxes when some of their taxpayers move elsewhere. All of the people everywhere are competing for the same business. What's wrong with the Virgin Islands attracting some of those people?”

In fact, the betrayal of the USVI by the federal government, assures only one thing — that Americans seeking legal tax breaks will instead find



them in secure tax havens such as Panama, Belize, the Channel Islands, Singapore and Hong Kong.

SOMETHING FOR EVERYONE

Notwithstanding all of the above, tax breaks could still be yours — but it is an absolute necessity that a person actually live and make their main residence in the USVI.

The USVI offers two types of benefit programs that are either fully or partially exempt from USVI taxes and U.S. federal income taxes as well.

One type is a USVI corporation (or partnership or LLC) that qualifies for the benefits of the Economic Development Program for its USVI business activities. Most beneficiaries of this program are in one of three areas – hotels, manufacturing, and service businesses serving clients outside the USVI. But benefits are also available for businesses engaged in transportation, marinas, large retail complexes, medical facilities, and recreation businesses. Most of the service businesses that have obtained benefits are engaged in fund management, general management, and financial services activities.

The beneficiaries that do qualify are fully exempt from most local taxes including the gross receipts tax (otherwise four percent), property taxes (otherwise .75 percent) and excise taxes on raw materials and building materials. Beneficiaries also get a 90 percent credit against their USVI income taxes (although for C corporations the credit is equal to 89 percent of taxes). Beneficiaries also enjoy a special customs duty rate of one percent. They are exempt from U.S. federal income taxes on their USVI operations. The 90 percent credit also applies to dividends or allocations to a beneficiary's USVI bona fide resident owners – which is why it is so critical to meet the residency requirements.

STRICT REQUIREMENT

To get these great benefits, a business must employ at least 10 persons full-time (32 hours a week) and must make a minimum capital investment of \$100,000 (or more). Beneficiaries must also provide health and life insurance and a retirement plan to employees and must purchase goods and services locally, if possible.

For non-U.S. foreign persons, generous exemptions are available through the use of the second type of tax-free entity, a USVI exempt company. The



USVI is the only jurisdiction in the world where a non-U.S. person can establish a tax-free entity under the U.S. flag. These exempt companies are used as holding companies for portfolio investments, for the ownership of aircraft that are registered with the U.S. Federal Aviation Administration, or as captive insurance companies. There are a number of other offshore tax-planning structures that can take advantage of USVI exempt companies. Up to 10 percent of the shares of an exempt company can be owned by U.S. residents and up to 10 percent can be owned by USVI residents.

The USVI also has a research and technology park at the University of the Virgin Islands, and technology businesses can also benefit from world class connectivity through Global Crossing, AT&T's underwater cables on St. Croix.

CLOSE BY

Moving your residence to the USVI is no more difficult than moving from one U.S. state to another. The USVI has a well-developed infrastructure. The legal system is subject to the U.S. Constitution and is part of the Third Circuit Court of Appeals. The U.S. court system, postal service, currency, and customs and immigration agencies serve the islands. There is no restriction against maintaining a second home elsewhere inside or outside of the United States, as long as you maintain your principal residence in the USVI.

This American tax haven is limited but certainly worth considering for any high net-worth foreign person considering U.S. naturalization, or any current U.S. citizen willing to relocate to a warmer climate to legally avoid burdensome taxes. The benefits are particularly beneficial for businesses with a global, rather than a U.S., focus because certain foreign source (but not U.S.) dividends and interest are treated as effectively connected income for tax credit purposes and owners of such a business do not have to spend 183 days in the USVI as long as they are in the United States for no more than 90 days and have a closer connection to the USVI and a USVI tax home.

Obviously, the USVI tax exemptions are unique in that they require a foreign or U.S. person to reorder their personal and business lives in a major way. It means moving and establishing a personal residence and/or business headquarters in the USVI. However, this is a comparatively small price to pay to gain the substantial tax savings that can result from such a move.



CONTACTS

Official: U.S. Virgin Islands Home Page: <http://www.usvi.net/usvi/>.

U.S. Virgin Islands Economic Development Authority: <http://www.usvieda.org>.

U.S. Virgin Islands Taxes: <http://www.usvi.net/usvi/tax.html>.

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THE COOK ISLANDS: FAR OUT

Robert E. Bauman, JD,

The Passport Book and Where to Stash Your Cash, 2009

Way out in the South Pacific (in the middle of nowhere) are the Cook Islands — home to a very modern set of offshore financial laws that may be just what you need: iron-clad asset protection trusts, IBCs, limited liability partnerships and a very strict financial privacy law that protects your personal business. But some people don't like too much distance between themselves and their assets and – let's face it — for most people these islands are very far out.

INDEPENDENT BUT DEPENDENT

If you're researching the more esoteric part of the world of offshore asset protection, you'll soon hear about the Cook Islands. Since a quarter of a century ago when the government first began adopting (and updating) a series of wealth and asset-friendly laws in 1981, the Cook Islands – though small in population and remote from the rest of the world — have come to play a definite role in offshore financial circles.

A broad net of 15 coral islands in the central heart of the South Pacific, the Cook Islands are spread over 850,000 square miles, southwest of Tahiti



and due south of Hawaii. The islands occupy an area the size of India, with a declining population (12,000+), no bigger than an American small town. Local time is 10 hours behind GMT, with 9:00 am in Hong Kong being 3:00 pm the previous day in the Cook Islands. This geographic location gives the Cook Islands a strategic advantage in dealing with both the Asian and American markets.

Indirectly, the islands are part of the British Commonwealth by virtue of their unique association with nearby New Zealand. From 1901 to 1965, this was a colony of New Zealand and NZ still subsidizes the CI government. The New Zealand subsidy has become a sore point in both nations. The islanders even enjoy dual New Zealand and Cook Islands citizenship. There is a written CI constitution with a Westminster-style parliament elected every four years by universal suffrage. The legal system is based on British common law and closely reflects that of New Zealand and other Commonwealth jurisdictions.

PLANNED OFFSHORE CENTER

The Cook Islands' offshore industry was the result of the government's official collaboration with the local financial services industry. Financial services now rank second only to tourism in the economy. Despite some 50,000 visitors a year to the capital island, Rarotonga, the Cook Islands have remained largely unspoiled. Cook Islanders have their own language and enjoy a vigorous and diverse culture, though most speak English. The New Zealand dollar is the local currency, but most offshore transactions are in U.S. dollars.

This is a micro-state with macro aspirations, but the grasp may have exceeded the reach. Their checkered history of high finance has been marked by some scandals, sponsored by fast-talking American, U.K. and New Zealand expatriates. It's no secret that certain American asset protection attorneys have played a large role in advising the government on asset protection issues, actually drafting statutes for the island's parliament.

Constantly teetering on the brink of bankruptcy, the CI government is chronically in debt, much of it a result of bad decisions. Two-thirds of the workforce is on the government payroll, financing an old fashioned spoils and patronage system that would make an American big-city political boss blush. In the 1980s and 1990s, the country lived beyond its means, maintaining a bloated public service and accumulating a large foreign debt. Subsequent reforms, including the sale of state assets, the strengthening



of economic management, the encouragement of tourism, and a debt restructuring agreement, have rekindled investment and growth.

TAILORED WEALTH PROTECTION

But don't let the deficits and the distance put you off. There is much here to cheer the hearts of knowledgeable offshore financial enthusiasts.

Existing statutes meticulously provide for the care and feeding of IBCs, including offshore banks, insurance companies and trusts. All offshore business conducted on the Cook Islands must be channeled through one of the five registered trustee companies. A comprehensive range of trustee and corporate services is offered for offshore investors. The government officially guarantees no taxes will be imposed on offshore entities. Thousands of foreign trusts, corporations and partnerships are registered here, protected by an exceedingly strong financial privacy law, although that has been tempered by the adoption of the OECD Article 26 standards for the exchange of tax information among governments. In 2009, the Cook Island's government welcomed the G-20 call for more transparency in tax information and adopted necessary amendments to its tax laws to conform to the new standard.

The Development Investment Act requires all foreign enterprises (those with more than one-third foreign ownership) to first obtain approval and register their planned activities with the Cook Islands Development Investment Board. There are various incentives and concessions for tariff protection; import duty and levy concessions; tax concessions by way of accelerated depreciation; allowance for counterpart training; and recruitment of Cook Islanders from overseas.

UPDATED LAWS

The Cook Islands systematically has adopted a series of new anti-money laundering, financial reporting and anti-financial-crime laws. These laws were sufficient to get them removed from the Financial Action Task Force blacklist, which was their stated objective.

The laws liberalize the extent to which local financial institutions are obligated to disclose information and override all other laws, making compliance with anti-money-laundering laws and standards paramount. However, the law instituted a procedure which provides due process before any information can be released, including a formal request to the Finan-



cial Intelligence Unit showing reasonable grounds to believe that money laundering or criminal activities have taken place. This ensures that any information disclosed is done through proper channels with legal justification. This procedure is also used for tax information exchange requests from foreign governments.

International companies incorporated here have a great deal of flexibility in corporate structure with provisions for ease of administration and maximum benefit in global commercial transactions. Incorporation can be completed within 24 hours.

In 1989, by an amendment to the International Trusts Act 1984, the Cook Islands introduced the asset protection trust (APT). This legislation at the time was considered cutting edge and has since been copied and adopted by other offshore centers. The Cook Islands also has laws allowing international banking and insurance business to be conducted tax free, also with strong privacy protections. Both government and trust companies here constantly develop new products to meet the complexities of the offshore world.

STRICT CONFIDENTIALITY

Strong financial and banking secrecy provisions apply in the offshore regime, requiring government officials as well as trustee company and bank employees to observe strict secrecy backed by criminal sanctions. The official registrar records of foreign companies and of international trusts are not open for general search, with defined exceptions under the Financial Transactions Reporting Act of 2004 and the Proceeds of Crimes Act of 2003.

In a major American legal case, the U.S. government tried to force the repatriation of funds under a Cook Island trust and lost, even though the Americans who created the trust for a time were jailed for contempt of court. Not even a federal court could crack the Cook Island trust laws. See the decision known as the “Anderson case,” (*FTC vs. Affordable Media, LLC*, 179 F. 3rd 1228, U.S. Ct. of Appeals, 9th Cir. 1999).

In mid-2009, the OECD listed the Cook Islands as one of the tax havens committed to the internationally agreed tax information exchange standard but one that had not yet substantially implemented it. The CI government says it is committed to the OECD Article 26 standard and will implement it.



CONCLUSION

Don't let those thousands of miles of distance scare you. Your offshore attorney is a lot closer to you and he or she should know how to use the Cook Islands and their asset protection laws to your benefit. See the names listed below.

CONTACTS

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ANDORRA: SECRET TAX-FREE MOUNTAIN REDOUBT

Robert E. Bauman, JD,

The Passport Book and Where to Stash Your Cash, 2009

Andorra, nestled between Spain and France high up in the Pyrenees, is a residential tax haven for very wealthy foreigners who enjoy winter sports. It's difficult to become a citizen, but establishing residency is fairly easy. There are no income taxes or other taxes and banking privacy is very strict.

HIGH AND JAGGED

Andorra is a tiny, mountainous country with no taxes, no army and no poverty. Until 2010, when its only airport opened, it was accessible from France or Spain only by motor vehicles over mountainous roads in journeys that took many hours, depending on weather conditions.

The country's standard of living is high, the cost of living relatively low and the scenery delightful. According to legend, Charlemagne, Emperor of the Holy Roman Empire, gave Andorra its name. Gazing over the mountain region newly wrested from the Moors of Spain, he is said to have exclaimed, "Wild valley of hell, I name you Endor!" (The valley of Endor, at the foot of Mount Thabor in the Holy Land, was the campsite of the Israelites during the war against the Canaanites.)

With political and economic stability, no strikes, virtually no unemployment and the lowest crime rate in Europe, strict banking secrecy, remote Andorra could be your haven from the modern world's problems.



BARGAIN ISOLATION

Until the end of World War II, Andorra was a time capsule of traditional European mountain life. Napoleon, declining to invade the diminutive joint principality, said, “Andorra is too amazing. Let it remain as a museum piece.” In the last three decades, the country has been transformed from a traditional pastoral and farming economy to one of commerce and year-round tourism. The population is increasing; from 5,500 in 1945 – the same as in the 1880s – to around 84,000 today. Only about 14,000 are citizens, the rest foreigners. Most of the others have moved there for work opportunities or to escape onerous taxes in their home countries.

As Andorra’s economy expands, its banking system has grown to meet the demand. Andorran banks are considered among the safest in the world. Some institutions do have outside shareholders, but the banks remain firmly Andorran in attitude.

GEOGRAPHY, GOVERNMENT

Andorra consists of 185 square miles, about one-fifth the size of the smallest American state, Rhode Island. Andorra’s rugged terrain consists of gorges and narrow valleys surrounded by mountain peaks that rise higher than 9,500 feet above sea level. It is an independent nation-state and is governed by 28 elected members of the General Council. Until 1993, the President of France and the Bishop of Seo d’Urgel (Spain), as co-princes, were responsible for Andorra’s foreign affairs and judicial system. These “co-princes” could veto decisions by the General Council. They controlled the judiciary and police, but did not intrude into Andorra’s affairs, except in 1933, when French gendarmes were sent in to maintain order after the judiciary dissolved the General Council. For the next 60 years, demands for independence were a repeated political refrain.

In 1993, Andorrans voted to sever their feudal links with France and Spain. The country subsequently gained a seat in the United Nations as the third smallest member-state. While citizenship is a daunting prospect – it can only be attained by marrying an Andorran and by staying in the principality for at least 25 years – the number of resident foreigners in Andorra demonstrates just how attractive the country is as a tax haven. Seventy percent of the people who live in Andorra are resident foreigners and these immigrants are demanding more political rights.

Andorra established formal links with the European Union in 1991. After two years of tough negotiations, Andorra signed its first-ever inter-



national treaty by joining the EU customs union, the first non-member country to do so. Andorra now applies the common EU external tariff and trade policy. This allows free transit of its goods (except for farm products) within the EU market.

NO INCOME TAXES, DUTY FREE

Andorra's simple, pastoral life of a half century ago is gone. Instead it became the shopping mall of the Pyrenees because of its duty-free tax status. Although the duty-free status ended in 1993, the country still is exempt from the EU's value-added taxes, making it a sort of "Mall of Europe." An estimated 10 million visitors a year – mostly day-trippers – invade Andorra. They pour over the border and head for shops along the central valley road. On weekends, traffic jams are a prelude to the jostling, shopping, crowd-packed streets of Andorra la Vella, the capital.

Andorra's citizens and residents pay no taxes on personal income, capital gains, capital transfers, inheritance, or profits. There is no sales tax or VAT. Nominal local property taxes pay for municipal services – average annual rental property tax varies from around US\$120 for an apartment to US\$240 for a house of any size.

Little known outside of the skiing and financial communities, this small European tax haven saw some startling, double digit rises in real property values in recent years, prior to the 2008-09 global recession. Buyers come from an active local market, second home buyers looking for ski condos and international buyers who want to establish residence in a leading tax haven. A 2-3 bedroom condo here can sell for US\$500,000, half the cost of similar digs in Monaco.

In 2009, for the first time in seven centuries, the government of Andorra opened up investment in resorts and other businesses to foreign investors. Along with lifting this curb on foreign investment, then government paid the usual lip service of now wanting to be seen as an "investment haven" and not a "tax haven."

RESIDENT OR "PERPETUAL TRAVELER"

A second residence in Andorra won't alter your domicile of origin for the purposes of home nation inheritance or estate taxes.

But if you're granted a passive residence in Andorra, you have the right to protection under the law, certain benefits from the health and social



security systems, the right to a driver's license and the right to own and register resident-plate vehicles. Resident status does not confer the right to vote, nor does it allow local commercial activity, such as owning or running a business.

Anyone in Andorra who is not a resident is considered a tourist – but there's no legal limit on the period of stay. Tourists can even rent or purchase a property for personal use for as long as they wish. So it's easy to live in Andorra, “Perpetual Traveler” style, without an official residence permit.

If you're looking for residence status, there are two categories of permits – both of which are difficult to obtain – those that give the holder the right to work in Andorra and those that don't allow employment. Residence permits are issued for renewable four-year periods.

The annual quota for non-work permits in recent years has ranged from 200 to 500. The earlier you apply, the better your chance of success. Applicants must also show availability of sufficient economic means to permit residence in Andorra without having to work throughout the period of passive residence.

BANK SECRECY

Andorra has no exchange controls and bank secrecy is strict. The country allows numbered and coded accounts. Foreigners and foreign legal entities may open and operate bank accounts without the kind of restrictions now imposed even in Switzerland, provided the foreign party can justify the need for an Andorran bank account — establishing residence or buying a condominium in Andorra is sufficient reason.

Until 2009, bank secrecy laws precluded giving bank account information to foreign governments. Since then the Andorran government has applied the OECD standard for tax information exchange, providing information in individual cases where evidence of foreign tax evasion is alleged by a government with which Andorra has a tax treaty. Treaties were concluded with France in 2009 and were negotiated with Spain, Portugal and other nations.

Taking advantage of tax freedom and bank secrecy, Andorra is home to thousands of numbered bank accounts – most of which belong to prudent Spaniards. Annually, an estimated 10% of the billions of euros that escape Spanish regulation and taxes are thought to be funneled through Andorran



accounts. Perhaps 1,500 tax exiles from the U.K. have residences here.

All seven local banks have a worldwide network of foreign correspondents. With no exchange controls, accounts can be held in up to 20 foreign currencies and traded in any quantity at the rate quoted in Zurich. Exchange rates for clients are some of the best in Europe.

THE ECONOMY

There are no accurate estimates of Andorra's gross national product (smart smugglers don't keep records), but tourism is the key factor. The country has developed summer and winter tourist resorts, with more than 250 restaurants and 1,000 shops. There are about 300 hotels, ranging from elegant to simple. Some have double rooms available for as low as US\$50 per night. Tourism employs a growing portion of the labor force.

During the winter, skiers flock to Andorra's slopes. High peaks separate six deep valleys and though the Pyrenees lack the famous Alpine altitudes, they are breathtakingly steep and far less expensive to visit. The Andorran government encourages upscale tourism at its popular ski resorts, attractive because of comparatively low prices. Ski areas are state of the art and bountiful snowfall guarantees weekend visitors from throughout Europe. Hikers use the lifts in the summer.

Andorra's thriving tourist industry has hastened the country's economic transformation. Former shepherds — now wealthy investors — import cheap Spanish and Portuguese labor to man the building boom, which has transformed Andorra's central valley into a string of shops and condominiums. Don't get the idea, however, that all the land is developed. Only 8% of Andorra's land is both suitable and zoned for development. One can still find small villages in which to live. Many house less than 100 inhabitants and offer absolute peace and quiet.

Andorra's isolation will decrease further with the construction of its lone airport located in Seu d'Urgell, with first flights anticipated in 2010 or 2011. With a runway of 4,500 feet, it won't be long enough for some medium range aircraft. Most commercial air planes will be smaller models with 60-80 seats. There will also be plenty of room for the private jets favored by the wealthy who now consider Andorra a viable and more accessible tax haven.

Today, locals say that the only poor Andorran is one who hasn't come



down from the hills. For those who have made it, a Porsche, Ferrari, or BMW is the vehicle of choice. There are more cars than people in Andorra by far.

CONTACTS

Embassy of Principality of Andorra, 2 United Nations Plaza, 25th Floor, New York, NY 10017; Tel.: (212) 750-8064; Fax: (212) 750-6630; Email: andorra@un.int; Website: <http://www.andorra.be/en/7.1.htm>.

Embassy of Andorra, 51bis Rue de Boulainvilliers, 75016 Paris, France. Tel.: 01 40 06 03 30; Website: <http://www.amb-andorre.fr/>; Email: ambaixada@andorra.ad; Website: <http://www.yourandorra.com/>.

Andorra Government: Website: www.andorra.ad/.

Banks: There are several banks with main offices in the capital, Andorra la Vella. All have branches in the other parishes. Banca Mora and Banc Internacional operate jointly with consolidated financial statements and other data. The two banks are known as Inter-Mora. BancSabadell d'Andorra began operations in 2000.

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Andorra Property News: <http://www.andorraproperty.info/>.



AUSTRIA — UNIQUE EUROPEAN BANKING SECRECY

Robert E. Bauman JD,
The Passport Book and Where to Stash Your Cash, 2009

Austria is not a haven in the sense of low taxes, but it is a “banking haven.” That’s because this nation has one of the strongest financial privacy laws in the world. That guarantee has constitutional protection that can be changed only by a national referendum of all voters. For a very few select of the foreign wealthy, Austria also offers low-tax residency, for those who you can qualify.

The Austrian Republic has long been a bastion of banking privacy strategically located on the eastern European border. From the end of World War II in 1945 to the collapse of Russian Communism in 1992, with the Soviet Union and the United States locked in armed confrontation, this convenient banking haven served as a willing Cold War financial and political go-between for both West and East.

SECRECY: IT’S THE LAW

When Austrian national banking laws were officially re-codified in 1979, the well-established tradition of bank secrecy was already two centuries old. During that time, Austrian bank secrecy and privacy produced two major types of so-called “anonymous accounts.” These accounts usually required no account holder identification, no mailing address and no personal references. Just deposit funds and use the account as you pleased, all done anonymously. Both the Sparbuch bank account and the Wertpapierbuch securities account have been abolished, victims of the European Union’s fixation with destroying financial privacy wherever possible.

Notwithstanding the demands of the EU, current Austrian bank secrecy laws forbid banks to “disclose secrets which have been entrusted to them solely due to business relationships with customers.” The prohibition is waived only in criminal court proceedings involving fiscal crimes, with the exception of petty offenses. The prohibition does not apply “if the customer expressly and in writing consents to the disclosure of the secret.”



As an additional protection, Austrian law raises this guarantee of banking and financial privacy to a constitutional level, a special statute that can only be changed by a majority vote in a national referendum, a highly unlikely event. All major political parties support financial privacy as an established national policy of long standing.

As a member EU country, until 2009 Austria consistently strongly opposed European Union demands for compulsory withholding taxes and financial information sharing. In 2009, in a change of policy under pressure from the G-20 countries and the EU, Austria agreed to apply Article 26 of the “OECD Model Tax Convention.” This article recognizes “tax evasion” as a valid basis for foreign tax agency inquiries concerning their citizens with accounts in an offshore center. Under this OECD procedure, foreign tax authorities wishing to take advantage of tax information exchange agreements need to supply evidence of their suspicions (names, facts, alleged tax crimes) to the requested government. If there is sufficient probable cause to believe tax evasion has occurred, the requested government must supply the information.

Austria was one of three EU nations exempted from an EU-agreed tax information sharing plan (joining with Belgium and Luxembourg). All three nations, along with non-EU member Switzerland, declined to share tax information, but each collects the 35% EU withholding tax on interest paid to nationals of other EU member states. Foreign nationals of non-EU nations, including U.S. persons, are not subject to this EU withholding tax.

STOCKS AND BONDS

Until the world recession in 2008-09, the Austrian stock market had one of the world’s best performance records in recent years. It benefited in part from the Eastern European expansion boom that began in the 1990s after the East-West Iron Curtain disintegrated and its formerly Communist-dominated eastern European neighbors turned to free market policies.

Nonresidents are not subject to restrictions on securities purchased in Austria and they can be transferred abroad without restrictions or reporting. Nonresidents can purchase an unlimited amount of bonds and/or stocks on condition the money used for purchase is in either foreign currency or euros. When securities are sold, the cash proceeds can be freely converted and exported without restrictions.



TAXES

Austrian tax authorities found a way to profit from their attractive banking haven status — the government levies a 25% tax on the total bank interest earned. Foreigners can avoid the 25% tax on bond interest because no tax is withheld if a declared nonresident is the bank account holder. Interest paid on investments held in non-bearer form in Austrian banks, such as certificates of deposit, is also exempt from the withholding tax. Interest on convertible bonds, however, is subject to a withholding tax of 20% at the payment source.

Unfortunately, an American citizen bondholder is subject to capital gains tax in the U.S. on the full capital gain, despite the Austrian tax. A double taxation treaty between the U.S. and Austria eases this hardship: if you file a request with the IRS, the Austrian tax will be partly repaid, diminishing the net tax burden to 10%. The remaining 10% tax can offset part of the U.S. capital gains tax ordinarily imposed. The double taxation agreement does not apply to Austrian interest and dividends which remain fully taxable in the U.S.

The Austrian government's decision to reduce the corporate tax rate from 34% to 25% in 2005 led to a 30% increase in new investment projects. In addition to cutting corporate taxes to one of the lowest levels in the EU, the reforms also reduced the tax burden on multinational firms using Austria as regional headquarters. Austria also offers significant tax concessions to holding companies, foundations and certain other investment incentives, all successfully designed to attract foreign capital.

Austria ranks among the ten richest countries in the world on a per capita basis. Its capital gold reserves rank third in the western world. Its political and economic stability is reflected in its currency's performance prior to the adoption of the euro. The Austrian schilling appreciated against the U.S. dollar by 150% in its last 20 years.

LIVE IN AUSTRIA INCOME TAX-FREE

It is not widely known but a wealthy foreigner who can qualify to become a resident of Austria also may qualify for a unique tax break — 100% of annual income completely free of taxes! This preferential tax treatment, called a Zuzugsbegünstigung, is ready and waiting at the obliging Ministry of Finance.



A foreigner who is a new Austrian resident can qualify if the person meets all the following requirements:

- had no residence in Austria during 10 years prior to application
- doesn't engage in any business activity within Austria
- can prove sufficient income from outside sources
- agrees to spend a minimum of US\$70,000 in Austria each year
- has a place to live and intends to stay in Austria for at least six months (183 days) each year

When all those conditions are met, a foreigner may be able to live tax-free in Austria. All income from foreign pension or retirement funds, dividends and interest from foreign investments and securities or any offshore businesses outside Austria is tax exempt.

In most cases, officials grant a tax break of at least 75% of potential tax liability – but a good local lawyer may be able to negotiate a 100% reduction. If you have foreign income taxable in your home country and there is no double taxation agreement between Austria and your country, the Ministry of Finance may grant you a zero tax base, or a special circumstances ruling, but only after you establish your residence in Austria.

Is Austrian residence status for sale to the very rich? To be frank, yes. If you are a reputable and wealthy foreigner, there will be few obstacles to becoming a resident. Residency gives you the best of both worlds: life in an extremely desirable location, but without the high taxes Austrian citizens must pay.

Once in residence, you could apply for citizenship, but that would defeat the purpose. As an Austrian citizen, you'd be liable for full taxation. The only additional advantages would be having an Austrian passport and the right to purchase as much real property as you wish, which is otherwise very difficult for a foreigner merely residing in Austria.

A SECURE FUTURE FOR PRIVACY

Even with its agreement to share tax information using the OECD standard, Austria's financial and banking privacy laws provide great security. As a result, it's wise to keep Austria near the top of your potential banking list, especially if your major area of business interest is in Eastern Europe and Russia.



CONTACTS

Government: Austrian Ministry of Finance, Hintere Zollamtsstraße 2b, 1030 Vienna, Austria; Tel.: +43-1-5143-33; Website: http://english.bmf.gv.at/Ministry/_start.htm.

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Embassy of Austria, 3524 International Court, N.W., Washington, D.C. 20008; Tel.: (202) 895-6700; Website: <http://www.austria.org/>; Email: austroinfo@austria.org.

Banks: Valartis Bank (Austria) AG, Rathausstrasse 20, A-1010, Vienna Tel.: + 43 (0) 577 89 186; Email: p.doherty@valartis.at; Website: <http://www.valartis.at>.

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Bank Austria, Schottengasse 6-8, 1030-Vienna, Austria; Tel.: in Austria: 050505 – 25; from abroad: +43 50505-25; Email: info@unicreditgroup.at; Website: <http://www.bankaustria.at/en/index.html>.

Raiffeisen Zentralbank, Am Stadtpark #9, 1030-Vienna, Austria; Tel.: +43-1717070. Website: <http://www.rzb.at/e>. This is a cooperative bank based in Austria that operates throughout central and eastern Europe. The owners of the Zentralbank are eight regional banks (Raiffeisen Landesbank), which in turn are owned by some 550 local Raiffeisenbanks. It is one of the largest banking groups in the country.

Safe Deposit Boxes: DAS SAFE, Auerspergstrasse 1, A-1080 Vienna, Austria. Tel.: +43-1-406 61 74; Email: info@dassafe.com; Website: <http://www.dassafe.com/>.

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LIECHTENSTEIN: THE WORLD'S FIRST TAX HAVEN

Robert E. Bauman JD,
The Passport Book and Where to Stash Your Cash, 2009

The very private people here want things low key. Yet foreigners “in the know” realize this is a financial powerhouse among nations; a constitutional monarchy that has graced the map of Europe since 1719 and that, in the last 60 years, has transformed itself into a world-class tax and asset protection haven. They prefer to keep it secret, but it’s here’s that the world’s truly wealthy quietly do business. And for good reasons. Liechtenstein still boasts some of the world’s strongest banking secrecy and financial privacy laws, the OECD notwithstanding. Plus, it offers world banking and investment direct access through its cooperative neighbor, Switzerland.

With asset protection laws dating from the 1920s, a host of excellent legal entities designed for wealth preservation and bank secrecy guaranteed by law, this tiny principality has it all – plus continuing controversy about who uses it and why. In the not so distant past, one had to be a philatelist to know the Principality of Liechtenstein even existed. In those days, the nation’s major export was exquisitely produced postage stamps, highly prized by collectors. Until the 1960s, the tiny principality, wedged between Switzerland and Austria, subsisted on income from tourism, postage stamp sales and the export of false teeth.

But in the last 50 years, its lack of taxes and its high degree of financial privacy propelled Liechtenstein to top ranking among the world’s wealthiest nations. This historic Rhine Valley principality grew into a major world tax and asset haven, posting per capita income levels (US\$118,000) higher than Germany, France and the United Kingdom.

Tiny Liechtenstein (16 miles long and 3.5 miles wide, population 32,000) is nestled in the mountains between Switzerland and Austria and has existed in its present form since January 23, 1719, when the Holy Roman Emperor Charles VI granted it independent status.

The government is a constitutional monarchy, with the Prince of Liech-



tenstein (currently Hans-Adam II) as head of state. Until 2003, His Highness' power only extended to sanctioning laws passed by the popularly elected unicameral legislature, the Diet. For the most part, the Diet made the laws, negotiated treaties, approved or vetoed taxes and supervised government affairs. Proposed legislation was frequently submitted directly to citizen referendum.

This system changed on March 16, 2003, when Hans-Adam II won an overwhelming majority in favor of overhauling the constitution to give him more powers than any other European monarch. Liechtenstein's ruling Prince now has the right to dismiss governments and approve judicial nominees. The Prince may also veto laws simply by refusing to sign them within a six-month period. Tempering this authority is the fact that the signature of 1,500 Liechtenstein citizens on a petition is sufficient to force a referendum on the abolition of the monarchy, or any other change in the law.

In 2004, Prince Hans-Adam II ceded day-to-day rule of the country to his son, Prince Alois, now 42, while he remains the official head of state. This was seen as first step towards the eventual full succession to power of Prince Alois.

LEADING FINANCIAL CENTER

Liechtenstein's economy is well diversified and it is, for its small size, one of the most heavily industrialized countries in Europe. Still, financial services provide some 40% of budget revenues, so anything that tarnishes its reputation is a major crisis. Its 16 locally owned banks, 60 lawyers and 250 trust companies employ 16% of the workforce. Its licensed fiduciary companies and lawyers serve as nominees for, or manage, more than 80,000 legal entities, most of them owned and controlled by nonresidents of Liechtenstein.

Liechtenstein was one of the first nations in the world to adopt specific offshore asset protection laws, as far back as the 1920s. Liechtenstein's unique role in international circles is not so much as a banking center, but as a tax haven. The nation acts as an operational base of operations for foreign holding companies, private foundations, family foundations and a unique entity called the Anstalt (i.e., establishment). The banks and a host of specialized trust companies provide management services for thousands of such entities. Personal and company tax rates are low, generally under 12% for local residents. Any company domiciled in Liechtenstein



is granted total exemption from income tax if it generates no income from local sources.

Until recently there was a near total absence of any international treaties governing double taxation or exchange of information with the one exception of a double tax agreement with neighboring Austria, primarily to cover taxes on people who commute across the border for work. In 2009, Liechtenstein was one of the first acknowledged tax havens to agree to adopt OECD tax information exchange standards that covers alleged foreign income tax evasion. As part of that change in policy the principality began negotiating tax information exchange treaties with other nations.

Liechtenstein is independent, but closely tied to Switzerland. The Swiss franc is the local currency and, in many respects, except for political independence, Liechtenstein's status is that of a de facto province integrated within Switzerland. Liechtenstein banks are integrated into Switzerland's banking system and capital markets. Many cross-border investments clear in or through Swiss banks. Foreign-owned holding companies are a major presence in Liechtenstein, with many maintaining their accounts in Swiss banks.

GOOD REPUTATION

For the most part, Liechtenstein has an impeccable reputation with government regulators stressing the professional qualifications and local accountability of its well-trained financial managers. Liechtenstein's reaction to outside demands for stronger anti-money laundering laws has been very much in keeping with its conservative history.

In 2000, it adopted tough new anti-money laundering laws that covered "all crimes;" created a Financial Intelligence Unit (FIU); imposed much stricter "know-your-customer" and suspicious activity reporting laws; eased its historic, strict financial secrecy; and abolished the rights of trustees and lawyers not to disclose the identity of their clients to banks where funds are invested. In 2001, Liechtenstein was removed from the Financial Action Task Force blacklist.

Liechtenstein's longstanding tax haven status was the source of criticism by the OECD, which placed the principality on its questionable, 41 nation "harmful tax practices" blacklist because of its low taxes.



STOLEN NAMES

Until early 2008, the principality managed to stay on the good side of the self-appointed international busybodies who make it their duty to attack tax havens and, most especially, banking secrecy.

It was then revealed that the German government illegally had bribed a disgruntled former Liechtenstein bank employee, one Heinrich Kieber, to gain confidential bank information he had stolen from LGT Bank in Liechtenstein.

Herr Kieber worked for the LGT Group at LGT Treuhand (Bank) AG, in Vaduz until 2002. A man of questionable background, he had an outstanding 1997 international arrest warrant for a fraudulent real estate deal. He left Liechtenstein in 2002, after stealing confidential data from his employer, LGT Bank, and making copies of over a thousand names of foreigners with LGT accounts.

The German secret police paid Kieber €5 million (US\$7.9 million) for the stolen data. The data, containing about 1,400 "client relationships," 600 of them Germans, was a major haul for German tax collectors. Germany shared the information with the governments of Britain, France, Italy, Spain, Norway, Ireland, Netherlands, Sweden, Canada, the USA, Australia and New Zealand.

Liechtenstein's billionaire royal family manages and controls LGT Bank and LGT Group. The nation's financial services sector produces 30% of Liechtenstein's gross domestic product and 14.3% of all people employed work in the financial services sector.

Banking secrecy and the government's refusal to share financial information, except in criminal cases, had been one of Liechtenstein's leading selling points. LGT Bank and Liechtenstein authorities rightfully advanced the theory that high-tax governments were using the stolen DVD and misinformation to scare people away from the principality and its banks.

After this highly publicized incident, the high tax governments of the G-20, assisted by the OECD, began a coordinated year-long "surrender now" phase in their decade long anti-tax haven campaign.

To say the least, the worldwide publicity about the stolen bank list and the pressure from neighboring Germany, the G-20 countries and the OECD, hurt the principality's financial bottom line. Liechtenstein's banking industry suffered a 60% drop in profits in 2009, in part due to the



global economic downturn, but also because of questions about its future as a leading tax haven. Assets under management by the principality's 15 banks were down 22% to 156.65 billion francs (US\$144.3 billion). Unlike most other countries, Switzerland included, Liechtenstein's banks didn't ask for or require any government bailout support.

SECRECY STILL GUARANTEED BY LAW

Liechtenstein's secrecy statutes have historically been considered stronger even than those in Switzerland. The 2009 adoption of the OECD tax information exchange standard weakened this secrecy to the extent that for the first time foreign tax evasion was included, but Liechtenstein still boasts some of the strictest confidentiality laws in the world. Liechtenstein and the United States signed a tax information exchange treaty in December 2008 that entered into force on Jan. 1, 2010 providing for direct cooperation between the two countries' tax and judicial authorities.

Banks now keep "know your customers" records of clients' identities, but records may not be made public except by judicial or official government decision. Financial secrecy also extends to trustees, lawyers, accountants and to anyone connected to the banking industry. All involved are subject to the disciplinary powers of Liechtenstein's Upper Court. A court order or an officially approved request from a foreign government is required to release an account holder's bank records. Creditors seeking bank records face a time-consuming and costly process.

Coordinated outside pressures and the threat of blacklisting and sanctions resulted in capitulation to the OECD tax information exchange standards of most leading offshore financial centers. In 2009, Liechtenstein was the first tax haven to announce it would comply with Article 26 of the OECD model tax information exchange treaty. As in Switzerland, this means banks will now provide information in matters of foreign tax evasion when ordered to do so by the government, but under limited conditions and only by applying the terms of tax information exchange treaties in individual cases.

BIG-BUCKS BANKING

Liechtenstein's banks have no official minimum deposit requirements, but their stated goal is to lure high net-worth individuals as clients. Opening a discretionary portfolio management account generally requires a minimum of SFr1 million (US\$934,000). Trusts and limited companies



registered here must pay an annual government fee of either 0.1% of capital, or SFr1000 (US\$934), whichever is higher. Most banks also charge an annual management fee of 0.5% of total assets under their supervision.

If you're considering opening an offshore bank or investment account, Liechtenstein is worth a comparative look. The principality has all the benefits of the other nations: a strong economy, rock-solid (Swiss) currency, political stability and ease of access, plus a few added attractions of its own. The government guarantees all bank deposits against loss, regardless of the amount involved, even though there have been no recent bank failures.

Until recently, Liechtenstein also had no information exchange agreements with any nation. But in 2003, bowing to U.S. pressure, it signed a mutual legal assistance treaty (MLAT) with the United States. The agreement covers a broad range of mutually recognized crimes, but does not include foreign tax evasion.

There was concern within Liechtenstein that the MLAT would open the door to "fishing expeditions" by U.S. tax authorities. However, the treaty gave Liechtenstein the right to refuse to disclose information that would require a court order with which to comply, if a court order has not been obtained. Liechtenstein has defended its sovereignty by invoking this provision whenever the United States has made what it viewed as unreasonable demands under the treaty, so the impact on otherwise law-abiding investors and businesses has been minimal.

That and a certified history of excellent asset protection and banking, makes this tiny Rhine Valley redoubt one of our top choices for offshore financial activity and estate planning.

Rob Vrijhof, senior partner in a leading Swiss investment firm and a member of The Sovereign Society's Council of Experts, does much business in Liechtenstein on behalf of international investors. He says he has seen a noticeable cleaning up of suspect practices, together with a new willingness to accommodate legitimate banking and investment. He says, "I recommend Liechtenstein unreservedly, if you can afford it."

FOUNDATION/TRUST/CORPORATION OPTIONS

Liechtenstein law allows limited liability companies, but does not provide for formation of international business corporations (IBCs). But over the years the country's legislators have been highly inventive when



it comes to unusual and useful legal entities fashioned to serve special financial needs.

Government regulation of the Anstalt (see below), foundations, companies and trusts is extremely strict. This is primarily accomplished through training and regulation of managers, not by prying into the internal affairs of the entity or its holdings. As a result, business management services available in Liechtenstein are excellent in quality, if somewhat slow in execution.

THE ANSTALT

Liechtenstein is perhaps best known for the Anstalt, sometimes described in English as an “establishment” (the German word’s closest English equivalent). The Anstalt is a legal entity unique to Liechtenstein and something of a hybrid somewhere between the trust and the corporation with which Americans are familiar.

The Anstalt may or may not have member shares. Control usually rests solely with the founder, or with surviving members of his or her family. Both have the power to allocate the profits as they see fit. The law regulating Anstalt formation is extremely flexible, allowing nearly any kind of charter to be drafted. Depending on the desired result, Anstalts can take on any number of trust or corporation characteristics. You can tailor them to meet specific U.S. tax criteria, and then obtain IRS private letter rulings recognizing your Anstalt as either a trust or corporation.

The only very limited information about the people involved in an individual Anstalt or company appears on public records. The beneficial owners of a company do not appear by name in any register and their identity need not be disclosed to the Liechtenstein authorities. On the other hand, diligent inquisitors may discover members of the board of directors by searching the Commercial Register. At least one member of the board must reside in Liechtenstein. Unlike U.S. corporations, the shares of a Liechtenstein company do not have to disclose the names of shareholders.

THE FAMILY FOUNDATION

Liechtenstein’s concept of foundation is quite unique. Although Americans associate a foundation with a non-profit, tax exempt organization, in Liechtenstein a foundation is an autonomous fund consisting of assets en-



dowed by the founder for a specific, non-commercial purpose. The purpose can be very broad in scope, including religious and charitable goals.

One of the more common uses is as a so-called “pure family foundation.” These vehicles are dedicated to the financial management and personal welfare of one or more particular families as beneficiaries.

The foundation has no shareholders, partners, owners, or members – it has only beneficiaries. It can either be limited in time or perpetual. The foundation and a beneficiary’s interest therein cannot be assigned, sold, or attached by personal creditors.

Only foundation assets are liable for its debts. If engaged in commercial activities, the foundation’s activities must support noncommercial purposes, such as support of the family. Unless the foundation is active commercially, it can be created through an intermediary. The founder’s name need not be made public. Foundations may be created by deed, under the terms of a will, or by a common agreement among family members.

A family foundation can sometimes be more useful than a trust, since it avoids many restrictive trust rules that limit control by the trust creator. If you are interested in exploring the creation of a foundation, I recommend you obtain top quality tax and legal advice, both in your home country and Liechtenstein.

HYBRID TRUSTS

You can use a Liechtenstein trust to control a family fortune, with the trust assets represented as shares in holding companies that control each of the relevant businesses that may be owned by the family. This legal technique brings together various family holdings under one trust umbrella which, in turn, serves as a legal conduit for wealth transfer to named heirs and beneficiaries.

Liechtenstein’s trust laws are practical and interesting due to the country’s unusual combination of civil-law and common-law concepts. In 1926, the Liechtenstein Diet adopted a statutory reproduction of the English-American trust system. They even allow trust grantors to choose governing law from any common law country. This places the Liechtenstein judiciary in the unique position of applying trust law from England, Bermuda, or Delaware (U.S.A.) when addressing a controversy regarding a particular trust instrument.



Even though it is a civil law nation, a trust located in Liechtenstein can be useful in lowering taxes, sheltering foreign income and safeguarding assets from American estate taxes. The law allows quick portability of trusts to another jurisdiction and accepts foreign trusts that wish to re-register as local entities. The trust instrument must be deposited with the Commercial Registry, but is not subject to public examination.

In 2009, revisions and updates of existing 70-year old statutes by Parliament produced a new Foundation Act and amendments to the Law on Persons and Companies that took effect April 1, 2009. (*Liechtenstein Law Gazette* No. 220/2008.)

CONTACTS

First Advisory Group, Aeulestrasse 74. Vaduz 9490. Tel: +423 / 236 04 04; Fax: +423 / 236 04 05 Vaduz; Website: www.firstadvisory.li. For an e-mail contact page, see their website.

First Advisory Group is one of the leading fiduciary companies in Liechtenstein. It does not have its own banking division, nor does it manage any assets itself. Founded in 1954, FA has some 100 employees who advise a variety of clients, companies, trusts and foundations. In 2009, First Advisory merged with LGT Groups an international wealth & asset management firm which for 70 years was owned by the Princely House of Liechtenstein. With over 1,800 employees LGT is based in 29 locations in Europe, Asia and the Middle East and manages assets worth US\$90 billion. Website: <http://www.lgt.com/en/index.html>.

Law firm associated with First Advisory Group: Dr. Batliner & Dr. Gasser, Marktgass 21, PO Box 86, Tel.: +423 / 236 0480, 9490 Vaduz; Email: office@batlinergasser.com website: www.batlinergasser.com.

Financial Consultants: With offices located in nearby Zurich, Switzerland, each of these experts offers full services for and access within Liechtenstein, including banks, attorneys, trust companies and other businesses.

Robert Vrijhof, partner, Weber, Hartman, Vrijhof & Partners, Ltd., Schaffhauserstrasse 418 CH-8050 Zürich, Switzerland Tel.: 01141-44-315 77 77; Fax: 01141-44-315 77 78; Email: info@whvp.ch; Website: <http://www.whvp.ch/index.htm>. An independent asset management company, it offers a wide range of services including investment counseling, formation of companies and trusts, estate planning and mergers



and acquisitions. Mr. Vrijhof serves on The Sovereign Society's Council of Experts.

Marc-André Sola, Managing Partner, NMG International Financial Services Ltd. Goethestrasse, 22 8001 Zurich, Switzerland. Tel.: +41 44 266 21 41; Fax: +41 44 266 21 49; Website: www.nmg-ifs.com www.nmg-group.com; Email: marcsola@nmg-ifs.com. Mr. Sola has extensive experience in life insurance and annuities. He serves on The Sovereign Society's Council of Experts.

Official: The United States has no embassy in Liechtenstein. The U.S. Ambassador to Switzerland is also accredited to Liechtenstein. U.S. Embassy, Sulgeneckstrasse 19, 3007. Bern, Switzerland; Tel.: + (41) 31-357-7011 or emergency: +(41) 31-357-7777; Fax: +(41) 31-357-7280; Email: bernacs@state.gov; Website: <http://bern.usembassy.gov>.

Liechtenstein Embassy, 1300 Eye St. NW, Washington, D.C. 20005, Tel.: (202) 216-0460; Website: <http://www.liechtenstein.li/en/fl-aussenstelle-washington/fl-aussenstelle-washington-home.htm>.

PRINCIPALITY OF MONACO

Robert E. Bauman JD,

The Passport Book and Where to Stash Your Cash, 2009

Monaco is a tax haven for the exceedingly wealthy — and great wealth is what it takes to afford living here. It is home to many millionaires and billionaires from around the world, many of them retired and enjoying the good life.

The 1.08 square miles of Monaco on the French Riviera is home to over 33,000 people, but this unique and ancient principality is not for everyone. If you want to make this your permanent home, it helps to have more than a modest amount of money and an assured income for life. And it doesn't hurt to know the Prince and his royal family.

Monaco, in general, is for individuals who have already made their money — people who want to practice the art of living while others mind the store for them; people who want to spend time on the Riviera. If tax avoidance is the only goal, there are cheaper places to do it.



Many residents are just upper class people who have decided to retire in Monaco. They are drawn to the pleasant atmosphere, Mediterranean climate and leisure. Monaco has all the facilities that wealthy people consider necessary: country clubs, health clubs, golf and tennis clubs. Indeed, Monaco may have a small population and area, but it has all the services and cultural activities of a city the size of San Francisco.

Monaco's prices are expensive, but no worse than London, Paris, or Geneva. These days, there are as many Italian restaurants as there are French ones. Long before the euro, money of any kind was the European common currency in this principality.

Monaco is high profile. The world remembers Grace Kelly, the Hollywood film star, who married Prince Rainier in 1956. The international spotlight followed her until she died in a tragic car accident in 1982. During his long rule, Prince Rainier III worked hard to expand the economic and professional scope of the country. Few recent monarchs can claim credit for extending their dominions by one-fifth without conquest. But, by land filling the sea, the Prince managed to expand his tiny principality by 23% in his long reign beginning in 1949. This land expansion mirrored the late Prince Rainier's determination to make this a dynamic modern mini state.

Monaco is stable and any major changes are unlikely to come from inside. In 1997, the Principality celebrated its 700th anniversary of life under the rule of the Grimaldi family.

Three months after the death of his father, Prince Rainier III, on April 6, 2005, Prince Albert II formally acceded to the throne on July 12, 2005. The Grimaldi children had wild personal reputations and the details of their private lives constantly appeared in the gossip columns of the European press. As they have aged, things have calmed down, although Prince Albert has acknowledged paternity of a child born to an African airline hostess and another born to California woman.

Monaco has also been at the heart of a remarkable economic development based around trading, tourism and financial services in a tax friendly environment. Monaco manages to generate annually over US\$8 billion worth of business. The state has an annual income of €593 million (US\$800 million), carries no debts and possesses unpublished liquid reserves of at least US\$1.8 billion.



The Principality is no longer just a frivolous playground for the rich, although its government is funded primarily through casino gambling proceeds. Ever since Monaco's famed casino opened in 1856, the tourism industry has been booming. It currently accounts for close to 25% of the annual revenue. But Monaco is now a modern economy participating at a global level in a diverse range of sectors.

Some people may find Monaco's police presence a little severe. The Principality has the lowest crime rate of any highly urbanized area in the world. This physical security is, of course, one of its great advantages.

SIGNIFICANT TAX BENEFITS FOR RESIDENTS

Undeniably, there are tax benefits to be gained from a move to Monaco. The authorities do not like the Principality to be known as the tax haven that, in fact, it is. It's a low-tax area rather than a no-tax area, but still a haven. Since 1869, there have been no income taxes for Monegasque nationals and resident foreigners – one of the main attractions for high net worth individuals. There are no direct, withholding or capital gains taxes for foreign nationals, except for the French, who because of a bilateral tax treaty with Paris, cannot escape the clutches of the French tax system. There are first-time residential registration taxes, but no ongoing real estate taxes.

BANKING

The principality is a major banking center and has successfully sought to diversify into services and small, high-value-added, nonpolluting industries. The state has no income tax and low business taxes and thrives as a tax haven both for individuals who have established residence and for foreign companies that have set up businesses and offices.

There are corporate and banking advantages, too. Confidentiality is good as far as business records go and the same can be said for the banking services. The Bank of France is responsible for the Monegasque banking system and carries out regular inspections. The banking services in Monaco are not as comprehensive as they could be. There is an strong anti-money laundering law. The normal minimum for opening a bank account is €300,000, about US\$400,000. Banking secrecy is strict, but the government exchanges information about French citizens with neighboring France and in 2009 it announced its intention to abide by OECD standards governing exchange of tax information in cases of alleged foreign tax evasion.



RESIDENCY AND CITIZENSHIP

It is actually much easier to obtain a residency permit here than many might suppose. A clean record, solid bank references and a net worth of US\$500,000 should do it. Fees for establishing residency are likely to cost in the US\$10,000 to \$20,000 range.

The Principality has offered financial and fiscal concessions to foreign nationals for a long time. These have been restricted by the Conventions with France in 1963 and, more recently, by agreements with France after pressure from the EU. And here lies the major concern. Monaco isn't likely to initiate changes. But the rest of Europe, especially France, which has always exhibited a jealous dog-in-the-manger attitude towards the Principality, might pressurize it into getting into line.

If you're on the move already, stability may not be an important issue. However, you might be looking for a base and would do well to consider Monaco. The lifestyle is attractive, but is not everybody's cup of tea. If you are contemplating a move purely for financial or fiscal reasons, you might, depending on your specific requirements, do better elsewhere.

Once there, keep a low profile. Foreign nationals who are resident are afraid to make any public criticisms of the country. Why? If the authorities consider you a troublemaker, they can issue a 24-hour notice of expulsion. There's no one to appeal to and you'll be out the door.

CONTACTS

Embassy of Monaco, 3400 International Dr. Suite 2K 100, Washington, D.C. 20008; Tel.: (202) 244-7656; Website: <http://www.monaco-usa.org/>; Email: embassy@monaco-usa.org.

Diplomatic representation of the U.S. to Monaco is handled by the U.S. Embassy in Paris. The U.S. Embassy in France is located at 2 Avenue Gabriel, 75382 Paris Cedex 8, France; Tel.: + (33) 1-4312-2222; Website: <http://france.usembassy.gov/>. The U.S. Consulate General at Marseille is located at 12 Place Varian Fry, 13086 Marseille, France; Tel.: +(33) 4-9154-9200; Website: <http://france.usembassy.gov/marseille/>.

Real Estate: Tribune Properties: <http://www.monacoproperty.net/>.

Banks: A list is at <http://www.yourmonaco.com/banks> CFM Bank is Monaco's oldest bank.



Legal, tax, accounting: Moores Rowland Monaco, 2 Avenue de Monte-Carlo, B.P. 343 Tel.: +377 97 97 00 22 Email: mr@mri.mc Website: http://www.mri.mc.

ADVICE TO MONACO: PRAY TO GOD

Robert E. Bauman JD, August 2009

The proverbial question whether any person or creature has the ability to change its innate being comes to us from the Bible, Jeremiah 13:23, wherein we are asked by the Prophet: “Can the Ethiopian change his skin, or the leopard his spots? Then may ye also do good, that are accustomed to do evil.”

Without more, Jeremiah’s admonition would seem to suggest that change of one’s innate nature is not to be expected, indeed it may be impossible.

So it also may be with tax havens and their rulers.

I raise this question in light of a press release this week announcing that the government (such as it is), of Monaco has hired a trio of public relations experts “to help the tiny Mediterranean principality shed its image as an international tax haven.”

TO BE OR NOT TO BE

A polling expert, a former journalist and an advertising consultant from the Young & Rubicam agency will devise Monaco’s fiscally virtuous new image. Monaco will spend €500,000 (US\$704,000) for research into the make over, including asking a panel of international personalities “What Monaco should be.” The image campaign is to be launched in 2010 and last several years, with a budget expected to reach into the millions.

Well, dear readers, Monaco is and has been a “tax haven” — and no amount of costly public relations campaigns is going to change that fact.

A LISTING AND DE-LISTING

But like many suddenly self-conscious tax havens, Monaco (or perhaps its ruler, Prince Albert) is suffering a case of nerves, a reaction to the verbal



onslaught of the G-20 high tax nations and their scolding mouthpiece, the Organization for Economic Cooperation & Development (OECD) which arbitrarily placed Monaco its gray list of "uncooperative" tax havens.

As did many other OECD-accused tax havens, Monaco quickly agreed to cooperate in exchanging tax information, praying for early OECD absolution.

So Monaco was removed from the phony OECD "black list" of financial centers in April but remains on a G-20 "gray list," which it hopes to leave by the end of the year with elevation to the celestial purity of the OECD "white list."

REPUTATION IS ALL

"The idea has been floating around for months but the decision was obvious after the G-20 summit," said officials in Prince Albert II's administration. "The principality has said it hopes to leave the gray list of tax havens by the start of 2010, that is when we need to be ready to change our reputation."

FALL FROM GRACE

Yes, as I have previously commented in these pages, Monaco is a tax haven for the exceedingly wealthy – and great wealth is what it takes to afford living here. If you want to make this your permanent home, it helps to have more than a modest amount of money and an assured income for life.

And it doesn't hurt to know the Prince and the wild royal family, a bunch that makes the British royals look like saints. We even have a few Sovereign Society members who live in this tiny land of the super privileged, where the fairy tale Princess Grace died in a car crash in 1982 and everyone seems never to have gotten over it.

Most of the streets are named for the copious members of the Monégasque royal family, the Grimaldis. This week those streets are hosting the Pez Cycle Races, (whatever that is).

MEDIEVAL ORIGINS

There was a distant time when Monaco was little more than an inhospitable rocky peninsula offering a natural seaport for nearby fishing villages.



Since those ancient times, Monaco's history has been inseparable from that of the Grimaldi family that has its origins in the 10th century AD.

No doubt, shedding the tax haven image PR campaign was the brain-child of Monaco's current ruler, Albert Alexandre Louis Pierre Grimaldi, a.k.a. Albert II, Sovereign Prince of Monaco, the head of the House of Grimaldi, 32nd hereditary ruler and son of the late Rainier III, and his princess consort, the late Grace Kelly of Philadelphia and Hollywood. Albert got his current job in April 2005 upon the death of his father.

VERY MODEL OF A MODERN PRINCE

From the start, Prince Albert made public noises about being concerned about poverty, the environment, polar bears and global warming.

A few years back he spent some time at the North Pole, and this year at the South Pole. His environmental concerns seem not to extend to over population. His Highness acknowledges having a son out of wedlock by an airline stewardess from Togo, and another by a California women. But then, illegitimate kids are nothing new in the star-crossed Grimaldi family.

Albert had been in the princely palace but a few months when he announced: "We must absolutely free ourselves of this equation that Monaco equals money laundering." While insisting that tougher laws were already in place, he conceded: "We perhaps have lacked vigilance." Do you (and the Russian mafia) think so?

In a tax haven with about 33,000 full time residents, there are 130,000 banking clients with deposits worth nearly US\$100 billion, according to the Monaco Banking Assoc. Hmmmmm!

CHANGE YOU CAN BELIEVE IN

Well, if Prince Albert the Bald and his counselors are really serious about ending their tax haven status, may be they should close down the casino at Monte Carlo with all the millions of dollars, euros, etc., that are gambled away. That would repel all those hedonistic rich folks.

Albert and his counselors also could impose taxes on the comfortably wealthy people who now live there tax free, many of them millionaires and billionaires, retired and enjoying the good life.

Or the local tax laws could be changed to bring all Monegasques (not



just those who are French, as is now the law), under the onerous French tax system. No doubt the anti-tax haven French president Sarkozy would like that.

WITH GOD'S HELP

Way back in the 1400s a younger son of the Grimaldi branch of Antibes, Lambert, became lord of Monaco at a time of deep uncertainty. It is said he was a noteworthy ruler who handled diplomacy and the sword with equal talent, although his views on polar bears and tax havens are unknown.

Lambert bravely established the independence of Monaco, receiving widespread admiration to the point where his favorite expression, "Deo juvante" ("With God's help"), became a motto for many Grimaldis.

Maybe Albert should save the millions he plans to spend on PR and just pray. With God's help, maybe he can convince the world (and the OECD) that Monaco is not a tax haven.

CAMPIONE D'ITALIA: WHERE TAXES ARE NON-TRADITIONAL

Robert E. Bauman JD,
The Passport Book and Where to Stash Your Cash, 2009

This little bit of northern Italy is completely surrounded by Switzerland and it's one of the least known residential tax havens in the world. But you have to buy a condo or home to be a resident. Foreigners who can afford to live here pay no taxes and foreign-owned businesses are also tax-free. It may be Italy, but everything here is Swiss – license plates, currency, postage and banking.

Switzerland may be the world's most famous offshore financial haven country, but there's another residential tax haven that's not only more exotic, but is itself an enclave geographically surrounded by Switzerland. And it's under Italian jurisdiction!

Commune di Campione, as the Italians call it, on the shores of beautiful Lake Lugano, is distinguished by its very uniqueness; a little plot of Italian soil, completely surrounded by Swiss territory. There are no border



controls and complete freedom of travel. Home to about 3,000 people (including about a thousand foreigners), in the southern Swiss canton of Ticino, it is about 16 miles north of the Italian border and five miles by road from Lugano, Switzerland, a beautiful scenic drive around the lake which I enjoyed personally.

With no Campione border controls, there is complete freedom of transit. The village uses Swiss banks, currency, postal service, and telephone system. Even automobile license plates are Swiss. Strangely enough, because of ancient history and treaties, the enclave legally is considered part of the territory of Italy.

Campione is also a very pleasant place to live, located in the heart of one of the best Swiss and nearby Italian tourist areas. The region boasts lakes, winter sports, and the cultural activities of Milan, Italy, only one hour away by auto.

All that's needed to become an official resident is to rent or buy property here, although formal registration is required. However, living here is very expensive; you might have to pay US\$750,000 for a very small townhouse. Foreigners may buy real estate without restrictions, unlike in Switzerland. But real estate prices are well above those in surrounding Ticino. Condominiums range from US\$5,500 to \$6,500 per square meter, and broker fees add a 3% commission. The real estate market is very small and prices are extremely high. The same apartment across the lake in Switzerland can easily cost half of what it costs in Campione.

This small market is served by a few local real estate agents, some of whom operate rather unprofessionally and some even without a license. A foreign buyer has to be very careful. If you are interested in establishing your residence in Campione and purchasing real estate there, you should be represented by a competent lawyer from the beginning. (See below for reliable professional contacts in the area we recommend.)

CORPORATIONS

Corporations registered in Campione have some advantages over Swiss companies. They use Swiss banking facilities and have a mailing address that appears to be Swiss, while escaping Switzerland's income and withholding taxes. Corporations are governed by Italian corporate law and can be formed with a minimum capitalization of about US\$1,000. Corporations can be owned and directed entirely by foreigners, a status Swiss law limits



to some degree. Corporate registrations are usually handled by Italian lawyers in nearby Milan, and fees are modest. As part of Italy, EU business regulations do apply to Campione businesses, as do Italian corporate taxes which can be high. Campione's generous tax breaks apply only to natural persons but even for them it is not completely tax free.

The official currency is the Swiss franc, but the euro is accepted as well. All banking is done through Swiss banks, which gives its residents additional financial privacy. A famous casino generates substantial revenue, which is among the reasons local residents enjoy some special tax concessions. Campione is exempt from the Italian value added tax (VAT). However, the tax advantages only apply to private persons resident in Campione, and not to companies domiciled or managed from there. Unlike Switzerland or Italy, at this writing Campione per se has no tax treaties with the United States, Canada and none with most other western countries, although that may change. Italy does.

Residents of Campione do not pay the full Italian income tax. Based on a special provision in Italian law, the first CHF 200'000 (US\$185,000) of income is changed into euros, the official currency in Italy, at a special exchange rate. This produces a lower taxable income and consequently a lower tax rate is applied. However this only applies on the first CHF 200'000 of income. Besides this special concession, the usual Italian tax laws and tax rates apply. As in Italy, there are minimal inheritance and gift taxes, and income from interest of foreign bonds paid through an Italian bank is taxed at a special, reduced rate of only 12.5%. To say that the Italian authorities are less than zealous in collecting taxes here is an understatement.

RESIDENCE

To obtain a Campione residence permit, you must buy an apartment or a house. There is very rarely an opportunity to rent. Usual police clearance from the Italian authorities as well as approval by the local Campione authorities is also required. While residence permits are issued by Italian authorities, access to the territory of Campione is governed by Swiss visa regulations. This means that the passport you hold should allow you to enter Switzerland without a visa otherwise you will have to apply for a Swiss visa beforehand. A passport is required for entry into Switzerland but a visa is not required for U.S. citizens for stays of up to 90 days.

Obtaining facts about Campione is much more difficult than for other



tax havens because the enclave does not promote itself. There is no central office of information. Outsiders are not unwelcome, but no one readily volunteers news about this secret haven. A personal visit is mandatory for anyone seriously interested in making this their home.

CONTACTS

Local Government: Amministrazione Comunale, Comune di Campione d'Italia. Tel: 031 27 24 63. web: <http://www.comune.campione-d-italia.co.it/>.

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HONG KONG: A FAR EAST OFFSHORE HAVEN

Robert E. Bauman, JD,
The Passport Book and Where to Stash Your Cash, 2009

GATEWAY TO CHINA

If you're doing business in China (or anywhere in Asia), you should consider Hong Kong as your base of operations, a place to obtain financing, do your banking, create the corporate or trust entities you may need to succeed in a very tough market – especially in China.

The huge mass of 1.4 billion people living in China are experiencing some of the most rapid, although highly uneven, economic growth in recent world history. For some of the population, living standards have improved dramatically and this has increased room for personal choice, yet political controls remain tight. In 2009, the per capita GDP was only US\$6,000.

Over the three years through the end of 2007, China's gross domestic product (GDP) growth has exceeded 9% annually. In 2008, as China commemorated the 30th anniversary of the Communist takeover and its historic economic reforms, the global economic downturn began to slow foreign demand for Chinese exports for the first time in many years. The government vowed to continue reforming the economy and emphasized the need to increase domestic consumption in order to make China less dependent on foreign exports for GDP growth in the future.

The recession that began in 2008 only slowed expansion; the 2008 GDP was valued at US\$9 trillion. Beijing's channeled four trillion yuan (US\$586 billion) as stimulus into the mainland economy and Hong Kong benefitted as well. In 2009, a wave of money flooding into Hong Kong from mainland China and the rest of the world propelled property and stock prices even as the economy faltered with a shrinkage of 6.5% in 2009 and unemployment was at a three-year high.

Hong Kong's pre-recession expansion spurred massive domestic



consumer demand for every imaginable commodity and service, from thousands of high-rise apartment and condo blocs, to millions of automobiles — and for all sorts of financial services. All this rapid growth turned the eager eyes of world business towards the obvious profits to be made in China.

But with only a rudimentary, struggling financial system consisting of banks, stock markets and financial exchanges controlled by the Communist government and the military, the domestic economy lacks the experience and controls Western nations take for granted. Indeed, many of the existing financial institutions in China are loaded with billions in non-performing, politically allocated loans, thousands of shaky investments, all of it permeated with corruption.

To add to this certainty, accept the fact that, at present, there is no true “rule of law” or reliable judicial system in China, in the sense the Western world understands such basic safeguards. This means doing business in China lacks the legal protection foreign investors take for granted everywhere else.

GATEWAY TO THE WORLD

This mainland financial situation has served to accentuate and expand the role that Hong Kong has played with great success since the Communist revolution took control of China in 1949 — that of China’s financial window and conduit to the rest of world. Hong Kong’s position as the most important international financial services center in Asia, specifically, the gateway through which capital is most likely to flow out from China, appears unassailable.

Hong Kong is situated ideally — legally part of, but also different and somewhat apart from China. In Hong Kong, you can find what struggling mainland China sorely lacks — the legal, financial and investment expertise and experience that can provide you with a sensible approach to investing and doing business in China.

And that’s where the profits will be — if you are prudent and careful in your approach. If you want to deal in China, unless you have longstanding family or business ties there, you are best served working with a Hong Kong based partner who has first hand knowledge of the Chinese market.

Hong Kong is proof that “money talks.” China has too much invested in Hong Kong to destroy it all in a fit of rigid political ideology. Today,



30% of Hong Kong bank deposits are Chinese and China accounts for 22% of all its foreign trade (including cross-border trade), 20% of the insurance business and over 12% of all construction. More than 2,000 Chinese-controlled entities now do business in Hong Kong, many of them “red chip” stocks, the value of which have declined steeply in the last year. China has long employed Hong Kong as a convenient financial window to the world. It serves as their banker, investment broker and go-between in what is now a multi-billion annual trade flow. In the past 17 years, some US\$200 billion of direct foreign investment has flooded into China – 60% of which came from, or through, Hong Kong.

In the 12 years since it passed from British to Chinese rule, Hong Kong has remained a bastion of civil liberties unknown in mainland China, under an arrangement known as “one country, two systems.” The result has been the continuation of a freewheeling press, an independent judiciary and a well-oiled bureaucracy.

Despite their wrong-headed attitudes regarding Hong Kong democracy, the leaders of the People’s Republic of China realize that they have an enormous vested interest in Hong Kong’s economic health. They want Hong Kong to keep running at full steam, but on their own terms.

But many democracy advocates and civil libertarians in Hong Kong are increasingly anxious about whether laissez-faire Hong Kong can maintain its independence from Beijing’s authoritarian grip and its distinct identity as an amalgam of Western and Chinese sensibilities. In 2008, Beijing postponed promised direct elections until 2017 for the chief executive and 2020 for the full legislature. Its critics say China is wielding a heavier hand in Hong Kong’s affairs.

WORLD-CLASS FINANCIAL SOPHISTICATION

In a strange twist of world economic fate, the clampdown by the European Union and the OECD on tax havens in the West operated to the benefit of other tax havens such as Hong Kong. An added factor: wealthy account holders from the Middle East started shifting cash towards Asia and away from Europe and the United States in the wake of the September 11, 2001 terrorist attacks.

Asian banks, many of them based in Hong Kong, were sitting on more than US\$2 trillion of reserves in early 2009. Funds have been continuously pouring money into emerging markets and Hong Kong has been a major



beneficiary if this global trend. No leading Asian banks were caught in the bank near-collapses in 2009, so no bailouts were needed.

WORLD LEADER

By almost any measure, Hong Kong is one of the world's leading financial and economic powerhouses. In total cash and assets, it is the world's third wealthiest financial center, after New York and London.

Hong Kong, described as a "barren rock" more than 150 years ago, is a great world-class city. It has no natural resources, except one of the finest deep water ports in the world. A hardworking, adaptable and well-educated workforce of about 3.5 million, coupled with entrepreneurial flair, is the bedrock of Hong Kong's productivity and creativity. There is a Chinese phrase that describes Hong Kong well, Zhong Si He Bing, literally meaning "combination of east and west."

Hong Kong is the world's 9th largest banking center, 6th largest foreign exchange center, 11th largest trading economy, busiest container port and is Asia's second biggest stock market. With low taxes and a trusted legal system, international banking and business flow in and out, sure of stability and a high degree of financial privacy.

Long known as a world free market business center, as a measure of its collective wealth, Hong Kong's seven million residents, in 2008 enjoyed a per capita GDP of US\$43,800. That impressive GDP figure is higher than that enjoyed by the citizens of Germany, Japan, the United Kingdom, Canada and Australia.

Hong Kong is still regarded by foreign firms as a highly advantageous location from which to do business. Almost 80% of foreign firms based in Hong Kong surveyed said they felt that it was an advantageous location for them, due to advanced telecommunications networks, a free trade environment, low taxes and effective regulation. On an industry basis, according to the survey results, the financial services sector was the most positive overall.

A major attraction for offshore business has been Hong Kong's relatively low 17.5% business tax rate. The ceiling for taxes on personal income and unincorporated businesses is 16%. Hong Kong's status as one of the world's top trading centers for stocks, bonds, commodities, metals, futures, currencies and personal and business financial operations long has meant that such transactions could be conducted there with a high degree of



sophistication. That's still true and in 2009 the city's 154 licensed banks held in excess of US\$400 billion in assets.

HONG KONG AS A BUSINESS BASE

In Hong Kong, there is no specific legal recognition of an international business company (IBC). Hong Kong has a territorial tax system which also applies to "territoriality of profits." If profits originate in or are derived from Hong Kong, then profits are subject to local tax. Otherwise, they are tax-free, regardless of whether the company is incorporated or registered there. Interestingly, IBCs and all other foreign corporations generally may open a Hong Kong bank account without prior registration under the local business statute. This can save charges for auditing and annual report filing and removes the annoyance of having to argue with the Inland Revenue Department about the territoriality of the business.

On the other hand, one must be careful not to transact any taxable local business, because doing that without local registration is against the law. In cases where local business does occur, tax authorities generally are lenient, usually requiring local registration and payment of unpaid tax. But in some cases, IBCs have been forced to register as a listed public company at considerable expense.

Hong Kong offshore companies require by law a local resident company secretary, who usually charges about US\$500 per year for filing a few documents with the Company Registry. Annual auditing by a CPA starts from about US\$500 for companies with few transactions and can easily reach 10 times as much for a mid-size operational offshore trading company.

HONG KONG CORPORATIONS

There are more companies — over 500,000 — registered in Hong Kong than anywhere else in the world. (Here, they are called "private limited companies" and are identified with a "Ltd.," not an "Inc.") It is also home to the largest community of multinational firms in Asia. This is due, first, to the territory's colonial roots, which have for the past 150 years made it the natural hub in Asia for British companies and, second, to its consistent and longstanding reputation for openness, simplicity of operation and institutional familiarity.

In Hong Kong, there is no specific legal recognition of an international business company (IBC) per se as there are in some offshore financial



havens. The law recognizes only the one corporate Ltd. form. Companies must have a minimum of one director and two shareholders. Shareholders or directors do not have to be residents of Hong Kong and they can be individual persons or corporations. Company incorporation does require a registered office in Hong Kong and a Hong Kong resident individual or Hong Kong corporation to act as the secretary. Hong Kong companies must be audited each year.

Hong Kong offshore companies require by law a local resident company secretary, who usually charges about US\$500 per year for filing a few documents with the Company Registry. Annual auditing by a CPA starts from about US\$500 for companies with few transactions and can easily reach 10 times as much for a mid-size operational offshore trading company. (See the Contacts section for our recommended local service professionals.)

FINANCIAL PRIVACY

Until recently Hong Kong's banking laws did not permit bank regulators to give information about an individual customer's affairs to foreign government authorities, except in cases involving fraud. Hong Kong never had specific banking secrecy laws like many other asset and tax haven nations such as Switzerland, Panama and Luxembourg.

As a matter of local custom, Hong Kong banks always requested a judicial warrant before disclosing records to any foreign government. Access is much easier for the local government, but there are few double taxation agreements with countries other than the People's Republic of China. At this writing that will soon change since tax information exchange agreements are now being negotiated with several nations, under pressure from the OECD and the G-20, of which China is a member.

At the April 2009 meeting of the G-20 in London, at which a major attack was launched on all tax havens, the Organization for Economic Cooperation and Development (OECD) excluded Hong Kong and Macao, its sister Chinese SAR, from a list of jurisdictions that have "not yet substantially implemented" internationally agreed tax standards. Under pressure from China's president, the OECD instead acknowledged that the two Special Administrative Regions of China "have committed to implement the internationally agreed OECD tax information exchange standard."



Hong Kong's chief executive Donald Tsang sought to distinguish his city-state from the world's other tax havens. "Indeed our tax rates are low but this does not mean we harbor irregularities in our system," he said. In 2009 his government adopted legislation liberalizing the exchange of tax information with foreign governments. Hong Kong and Macao's willingness to embrace greater transparency, after years of resistance, underscored their fear of being tarred as *bei sui tin tong* or "tax evasion heavens," as tax havens are known in Cantonese.

There is an MLAT with the United States. Anti-money laundering laws and "know-your-customer" rules have made the opening of bank accounts for IBCs more difficult, but no more so than in other countries these days. Account applicants must declare to the bank who the "true beneficial owner" of an IBC or a trust is, with supporting documentation. Proof must be shown for all corporate directors and shareholders of the registering entity and any other entities that share in the ownership.

WHICH DIRECTION?

If you do intend to make Asia your business investment target, keep in mind lessons other foreigners have already learned the hard way. Pick your Asian business partners (and business investments) carefully, avoiding the inefficient Chinese state-owned enterprises. Stick to those with solid basics like marketing, distribution and service. Guard technology from theft. And remember, a series of small ventures gets less government attention and red tape than big showcase projects that often produce demands for graft. Many foreign business investors have been burned by crooked bookkeeping, few shareholder controls, sudden government rule changes and systemic corruption.

Only recently, as the China's economy has become more westernized, did Beijing finally begin to address the need for laws guaranteeing the right for citizens and foreigners to own and transfer private property. So, in dealing with China, remember: "Caveat emptor!"

Most importantly, keep a sharp eye not on the government's hype, but on what's really happening in China. All this uncertainty means that offshore financial activities by foreign citizens can prosper, but without immediate assurance of success. Unless the "New China" is definitely your sphere of intended business activity, you may want to look elsewhere for your Asian financial haven in places such as Singapore or Malaysia.



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Headquartered in Hong Kong with offices in Shanghai, Singapore, Anguilla, Samoa, the Cook Islands and Belize, Global Consultants & Services Ltd. is a consultancy offering personal service and professional advice with total confidentiality. From its base in Hong Kong, it provides clients with sophisticated financial. Upon request, Global can recommend and make arrangements for private banking needs in Hong Kong, Singapore and other locations in Asia.

Hong Kong SAR government: <http://www.gov.hk/en/residents/>.

Hong Kong Trade Development Council; website: <http://www.tdc.org.hk/>.

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EDITOR'S NOTE

Reading this chapter your blood may figuratively boil as you discover the enormous degree to which your personal privacy has been compromised by big government, big business, big banking and the Internet.

The right to privacy is not even mentioned explicitly in the U.S. Constitution.

But to survive in a modern world where most of us are forced to live in financial glass houses, maximum privacy is still essential.

In this chapter, we reveal the cold, hard facts about how anti-privacy forces, led by the government and police, try to strip you of your privacy and sometimes your wealth, constantly engaging in stealthy technological dirty work done without your knowledge or consent. Nothing is sacred any more — not your mail, email, phone calls, and certainly not your Internet surfing.

Unless you take the precautions we describe, you may be naked before the world.

Your Editor wishes to thank Mark Nestmann, not only for his many contributions to this chapter and book, but especially for his review and updating of the content of this chapter on privacy, a topic on which he is a recognized expert.

THE WAR AGAINST PRIVACY

John Pugsley, *The Sovereign Individual*, August 1999

Like you, I am distressed at the amount of information about my private affairs that is collected, archived and traded by business. Even more so, I am outraged about the covert surveillance of my financial and personal life that is carried out by government. The decision of my wife and me to move offshore was strongly influenced by our desire to protest the destruction of personal privacy in the United States. While we're not doing anything that we know to be illegal, we don't like being spied upon.

I'm a bit embarrassed to admit that when I was young I was a spy for the U.S. government — sort of. In the 1950s, I was drafted into the Army and served my two years as a "Morse Code Interceptor." My job was to sit at my short-wave radio and listen for encrypted Morse-code messages



being transmitted by government agencies and military units throughout Europe, Russia and the Middle East. I eavesdropped on the British, the French, the Germans, the Israelis, the Russians and anyone else who was using the airwaves. Eight hours wearing headphones and typing out an endless series of scrambled letters wasn't the sexy side of espionage, but I was definitely a spy.

In those days, despite the fact that all governments monitored each other's radio traffic and everyone knew that everyone did it, covert surveillance of neighbor nations was illegal according to international treaties. As one British gentleman had sniffed, "Gentlemen do not read other gentlemen's mail." As recently as 40 years ago, it was presumed that even governments had the right to privacy. My, how times have changed.

Today, governments have dropped the pretense. Government-to-government espionage is an enormous industry.

Neither the public nor governments see any moral issue relative to government espionage, notwithstanding the hullabaloo Congress and the media make of special cases such as the theft of U.S. nuclear secrets by the Chinese. Friendly nations still fuss a bit when their allies are found snooping, but no one sees any moral issue involved in spying on friend or foe.

Spying on private citizens, however, is another matter. One of the major issues being debated today is the extent to which individuals have a right to privacy. Privacy is losing. Governments and businesses are both aggressively accumulating immense data banks on private citizens. Most data is gathered by assembling information given out by the person in the normal course of daily activities, such as making a credit card purchase, registering a car, applying for insurance, etc.

A growing amount, however, is gathered by covert means. For example, it is probable that the U.S. National Security Agency records and scans every long-distance phone call, fax, and e-mail sent or received in the United States. In addition, all financial transactions conducted through commercial financial institutions are recorded and open to scrutiny by the Feds.

Surveillance is even further advanced in Europe. Over 150,000 cameras throughout the United Kingdom transmit round-the-clock images of public areas to 75 constabularies. The United States isn't far behind. Big Brother really is watching.



Nor is lobbying likely to turn this trend around. I agree with author David Brin who argues that cameras on every lamppost are coming, as surely as the new millennium. They can't be stopped by all the agitation, demonstration or legislation we can muster. Although we might delay the growth of government surveillance by blocking this bill or that law, the public is overwhelmingly convinced that government needs to snoop in order to catch criminals. It's hard to conceive that most people miss the irony. "I'm from the government, and I'm here to help — by watching you."

It seems probable that the vestiges of privacy that citizens still cling to will become extinct in the not-too-distant future. While privacy advocates still refer to the "right" to privacy, that concept is likely soon to become as passé as the old belief that sovereign governments shouldn't spy on one another. The masses are being brainwashed into believing that there is no moral case for a right to privacy.

How tragic. The moral right to privacy is so clear.

The late physicist and teacher Andrew Galambos argued that all conflicts were property conflicts and could be quickly resolved with what he referred to as the "universal can-opener," which was to simply ask the question, "Whose property is it?" Applying Galambos' argument, the privacy issue boils down to a question of property rights.

Does information about your personal life belong to you, to someone else, or to everyone? Are your affairs your property or public property?

In private financial dealings, we take it for granted that revelations we make to our banker or broker do not then become his property, to be given out or sold at his discretion. In this light, we take it for granted that our private communications and activities are our property and morally can be used only with our consent. How can it be otherwise?

The moral rights to property and privacy do exist. The problem facing the sovereign individual is how to defend privacy in a world that believes otherwise. This is an ongoing task for anyone seeking to become a sovereign individual and one of the major issues of our lifetimes.



SURVEILLANCE? WHO CARES?

John Pugsley, *The Sovereign Individual*, December 2002

Does anyone really care that they are being watched by the government?

As I sat in the boarding area waiting for my flight to be called, I found myself studying the faces of fellow passengers. Light ones, dark ones, speckled, hairy and hairless, long noses or petite, balanced and lopsided, densely made up or freshly scrubbed.

I wasn't the only one in the room looking at faces. The surveillance camera sat there taking in the same facial nuances. Was it piping its pictures to a government computer where facial recognition software was looking for matches? I wondered if anyone else among the passengers had any thought about being watched, either by the cameras or me.

Surveillance is everywhere. Airports. Train stations. Malls. Department stores. Although private owners install many surveillance cameras, increasingly they are installed by local, state and federal agencies. And cameras are just one means of surveillance. More insidious are the covert eavesdropping techniques of telephone, e-mail and fax wiretaps ordered by federal and state authorities. They jumped 20% in the past two years, with more to come. In the aftermath of the September 11th attacks, roughly half of America's states introduced electronic surveillance bills.

What do Americans think about this? The majority thinks it's just keen.

A Harris Poll showed that 86% of the more than 1,000 adults polled supported the use of facial-recognition technology; 63% supported expanded camera surveillance on streets and public places; 63% supported monitoring of Internet discussions and chat rooms; and 54% supported more monitoring of cell phones and e-mails.

Another poll conducted by ABCNEWS.com asked, "Do you personally feel that the government's anti-terrorism efforts are intruding on your civil liberties?" Eighty percent of respondents said no, the government efforts were not impinging on their freedoms.



Why should we be surprised?

The vast majority of Americans have no clear sense of the meaning of “civil liberties.” For an intrusion to gain the attention of the average citizen, a SWAT team must be knocking at the door. With the exception of the inconvenience of having your shoes sniffed at the airport, snooping goes unnoticed.

Most people think their civil rights are unaffected by the new surveillance laws because most of them have not felt any effect. While their phones may be tapped and their images scrutinized as they walk through the mall, they sense nothing. Even most of us who are sensitive to the erosion of privacy feel no immediate consequences — yet.

It’s akin to Frederick Bastiat’s parable of “that which is seen and that which is not seen” in economic events. The passerby sees the bakery window broken by a vandal, and thinks of the good fortune of the glazier whose business will profit from making a new one. The observer even thinks that this will be good for the community, as the glazier will then spend his profits with the tailor for a new suit, and the good fortune will trickle down. What is not seen, of course, is that the poor baker must now spend the money he had saved for a new suit on a new window, and that the community in toto is poorer by the amount of property destroyed.

So it is with the average individual regarding the loss of privacy. What is seen is the added security from terrorists (a negligible if not completely imaginary security, to be sure). What is not seen is the dramatically lowered security from the threat of government (an extremely real threat).

History testifies that a citizen’s risk from street crime or terrorism pales in comparison to the numbers killed by authoritarian governments. As noted by R. J. Rummel in his sobering book, *Death by Government*, “The mass murder of their own citizens or those under their protection or control by emperors, kings, sultans, khans, presidents, governors, generals, and other such rulers is very much part of our history.” In the 20th century alone he tallies 169,202,000 murdered by government.

Yet the masses continue to believe that government is there to protect them.

When younger, I was certain that all individuals were educable, and that they could easily be convinced of their own right to the fruits of their



labors. After all, it's obvious, isn't it? From there it should be simple to prove that the state is an imposter posing as their protector.

Alas, it's not so. The masses do not change their views simply through logical persuasion. They are more attracted to bread and circuses (or baseball and sitcoms in today's world) than to critical thinking. There is little hope that the masses will suddenly awaken to the danger of omnipotent government, so the cameras and wiretaps will undoubtedly proliferate.

The real question facing those of us seeking to become sovereign individuals is how to best insulate ourselves from popular ignorance and the concomitant threat to our personal liberty.

History suggests the answer is for individuals to continuously search for our own personal security. As for changing the course of society, the best way to change the direction of a running herd is not to try to convince them they're heading toward danger, but to run in the right direction yourself, and have confidence that by protecting yourself you'll set an example. The thoughtful members of the crowd will follow you.

Meanwhile, technology in the form of the expanding Internet and science in the form of the biology of human behavior will, hopefully, awaken the younger generations to the ultimate destiny of the species, which is individual sovereignty.

WHY WE MUST CHAMPION PRIVACY

Robert E. Bauman Blog, February 2009

If spring comes early, perhaps one of the coldest English winters on record will abate in time for the April 2nd meeting of the G-20. But in a city notorious for fog, if past G-20 meetings are any example, more verbal fog is inevitable.

The G-20 (aka the "Group of Twenty Finance Ministers and Central Bank Governors"), is comprised of finance ministers and central bank governors representing 19 of the world's 25 largest national economies, plus the 27 country European Union. Together G-20 economies comprise 90% of global gross national product, 80% of world trade (including EU intra-trade) and two-thirds of the world's population.



Impressive, what?

SHOPWORN SOLUTIONS

G-20 leaders will gather in London on April 2nd with the stated intention of finding solutions to the current banking and financial crisis. "Solutions" to most G-20 politicians means more government control over private financial activity, both domestic and global.

The G-20 wants to coordinate "reform of global financial rules," among other objectives. European reports are that the G-20 have agreed that countries with bank secrecy and financial privacy laws, some of which might be called tax havens, should be subjected to "collective sanctions" designed to force these financial privacy loving nations into more transparency.

In a coordinated effort, the EU is proposing new rules requiring EU member government to disclose details on accounts held by taxpayers in each nation.

In other words, the attack of the welfare state tax collectors continues just as it has for the past two decades and more.

SAME OLD SONG

Have no doubt that what comes out of the G-20 will be right in line with the demands of the Financial Action Task Force on Money Laundering (FATF), an inter governmental body founded in 1989 by another G group the G-7, formed in 1976, with the U.S., Canada, France, Germany, Italy, Japan, and the United Kingdom.

The supposed purpose of the FATF was to develop policies to combat money laundering and terrorist financing. The excuse for FATE, and for all subsequent G-7 and G-20 attacks on financial privacy, has been expedient in the extreme.

At first the laudable goal was to combat drug lords and their dirty cash, then to stop terrorists from financing their schemes and now these same anti-privacy measures are said to be essential to solving global banking problems.

RADICAL PLANS

All these stated excuses are really smoke screens for plans by welfare state tax collectors for the complete and utter destruction of financial



and personal privacy for all. These tax bureaucrats want complete access to every citizen's financial lives, no matter where you live or where you have assets.

But abolishing bank secrecy is not enough. They also want to abolish lawyer client privilege, demand mandatory publication of all beneficial ownership of private trusts, private corporations and private foundations, plus the imposition of total tax information exchange among all nations.

The assumption of all these leftist advocates is that personal and financial privacy must now yield to Big Brother government's unlimited right to know all.

AMERICAN PRIVACY IS DEAD

For citizens of the United States all this is at best an academic discussion under the Draconian terms of the 2001 PATRIOT Act, financial privacy is already dead. The government has the power to obtain financial information in secret about anyone — and to confiscate your wealth.

Small wonder then that many millions of Americans do business offshore in part to take advantage of the strong privacy laws in places such as Switzerland, Panama, Singapore, Austria and Luxembourg.

Of course the usual cry by those who advocate ever-increasing government surveillance of not just our finances, but every aspect of our lives, is the old saw: "If you aren't doing anything wrong, what do you have to hide?"

THE REAL ISSUE: LIBERTY

It is absolutely wrong to characterize this debate as "clean money versus dirty cash" or "security versus privacy" or, now the latest, "banking stability versus recession."

Privacy is an inherent human right, and a requirement for maintaining the human condition with dignity and respect. The real choices are personal freedom and liberty versus government control of our lives and our fortunes.

Tyranny, whether it arises under threat of terrorist attack, alleged solutions to banking problems or under any form of unrelenting domestic authoritative scrutiny, is still tyranny.



Liberty requires security without intrusion security plus privacy. Widespread surveillance, whether by police or nosy bureaucrats, in whatever form it takes, is the very definition of a police state.

And that's why we should champion privacy, both personal and financial, even when we have nothing to hide.

YOUR PRIVACY IS IN DANGER

February 1998

A new European Commission report has uncovered one of the biggest and most secretive intelligence projects ever conceived. The project in question is nothing less than the development of a global surveillance system by the U.S. government.

The dramatic report, *Assessing the Technologies of Control*, is the work of the European Parliament's Civil Liberties Committee. It states that American listening stations in Europe, manned by U.S. personnel, eavesdrop on innumerable messages "routinely and indiscriminately." It is the first official acknowledgment of a spy system designed to eavesdrop on European citizens — a system able to scan every e-mail and fax you send, and every phone call you make.

All telecommunications — faxes to banks, telephone calls to brokers and e-mail to loved ones are now subjected to an unprecedented degree of scrutiny. The right to communicate freely and privately with whomever you wish—a fundamental of life in a democracy — has disappeared.

Warnings about U.S. eavesdropping have previously come from several quarters. In 1995, *Wired U.K.* magazine suggested that although America's shadowy National Security Agency (NSA) is forbidden in law from spying on U.S. citizens on home soil, NSA sites in Britain can evade domestic U.S. legislation. *Wired* also claimed that one particular NSA base in the U.K., known as Menwith Hill, "could easily listen to U.K. citizens as well." They reported that a growing number of commentators believed government authorities were "systematically trawling the entire phone system." And in 1997, German magazine *Der Spiegel* claimed top secret bases were intercepting the innocent, everyday communications of civilians in a number of EU countries.



Those fears have now been borne out. The Civil Liberties Committee report reveals an unprecedented intelligence gathering system being used to spy on private citizens all around the planet. The revelations will remind many privacy advocates of the words of one U.K. cryptography expert, Ross Anderson.

Commenting on the increasingly electronic nature of our daily transactions, he once raised the specter of a “surveillance society in which authority will know our every detail of our lives. Even Hitler and Stalin couldn’t have dreamt of that.” That society is already with us.

NO PRIVACY ANYWHERE

The eavesdropper placed firmly in the frame is the NSA. Established by presidential decree 36 years ago without Congressional debate, its existence was only admitted in recent years. The report says, “Within Europe, all e-mail, telephone and fax communications are routinely intercepted by the United States National Security Agency (NSA)...”

Key to the power of the listening system is the cooperation between governments, and the sharing of information. The U.S. spy network relies upon a 1948 pact called the U.K.-U.S.A. agreement. This agreement was designed to intercept targets such as Russian radio transmissions. Other signatories to the agreement — dubbed a “charter for snooping” by one U.K. newspaper — were the U.K., New Zealand, Australia and Canada.

Since the creation of the eavesdropping pact, astounding leaps in technology have allowed governments to develop their activities into the largest intelligence-gathering system ever created. And to then, turn it on the taxpayers who funded it.

THE HILLS ARE ALIVE

The reports’ authors have also confirmed that the secret Menwith Hill base is vital to the listening system. They write that the NSA system works by listening to public communications in Europe and then “transferring all target information...to Fort Meade (Maryland, U.S.A.) via the crucial hub at Menwith Hill...”

Menwith Hill is actually the world’s largest spy base. And despite the end of the Cold War, it just keeps growing. Situated in the Yorkshire countryside, near the town of Harrogate, it is conspicuously absent from public maps. Approximately 1,200 U.S. personnel busy themselves around



the clock capturing, labeling and circulating ordinary civilian communications. The local landscape is peppered with vast golf ball structures know as “radomes.” These contain the NSA’s eavesdropping satellite dishes.

Although Menwith is the largest Big Brother listening station, it is by no means the only one. The report states that a whole chain of bases around the globe is eavesdropping for the U.S. authorities. The stations are believed to be targeting Intelsat communications satellites. These relay millions of faxes, e-mail and phone conversations every day. The overall result is to provide the U.S. and its allies with a virtual stranglehold on communications all around the planet.

And when the global listening system is included with other information gathering systems, such as official databases, camera networks and phone tapping and metering, a picture of a previously unimaginable infrastructure emerges — one that can watch, record and profile every area of a person’s life, in the name of national security.

ECHELON

The ambitious goal of monitoring communications around the globe has been made possible by high tech artificial intelligence programs, running on super-computers. These scrutinize hundreds of thousands of real-time private messages simultaneously. For many years now anecdotal evidence has pointed to the existence of such a system. Significantly, the report also recognizes its existence.

Its name is ECHELON. The Euro-report states, “The ECHELON system works by indiscriminately intercepting very large quantities of communications and then siphoning out what is valuable using artificial intelligence aids... to find key words.” It goes on to say, “...unlike many of the electronic spy systems developed during the Cold War, ECHELON is designed for non-military targets: governments, organizations and businesses in virtually every country.”

ECHELON works by sucking up vast quantities of civilian communications and examining them for words of “interest” to national governments. Each country has created a list or “dictionary” of names, phrases and locations. The software scans for these and singles out references to them. The nature of ECHELON is to be totally indiscriminate. Your messages are being searched for subject words and place names, even if your telephone number or e-mail address does not appear on a government wanted list.



If your message happens to include subject words of interest to the government, however innocent, it may be recorded, tagged and passed to the requesting agency for further investigation. Each listening base is believed to have copies of other countries' dictionaries, so every tentacle of the system knows what the others are looking for, and can feed it on.

EAVESDROPPING: A GLOBAL STANDARD

Ironically, as Euro MPs document the erosion of privacy by unaccountable government agencies, the U.K. government has talked of incorporating the European Convention of Human Rights. The Convention accords privacy and free speech as equal rights. Euro-politicians have also worked hard to poke their noses into your e-mail and faxes. In November 1993, the EU's Council of Justice and Home Affairs met in Brussels to discuss "the interception of telecommunications."

The horrifying result was a resolution calling upon an "expert group to compare the requirements of member states with those of the FBI." Two years later, a memorandum was produced by the 15 EU member states. It spoke of the need for "international interception standards" to "fight organized crime and for the protection of national security." U.K. pressure group Statewatch labeled the document an "EU-U.S. plan for global telecommunications surveillance." But Minister Michael Hower saw things differently. He told a House of Lords committee that the memorandum was "not a significant document." [*Ed. note: This "international interception" system is now (2009) in place in the EU.*]

PRIVACY SOLUTIONS

Big Brother's grip on world telecommunications is clearly tight. So what steps can you take to ensure you aren't innocently caught in the crossfire from the "wars" against drugs and money laundering, or investigated in the name of "national security?"

Anonymity. Randomly chosen public payphones and a handful of coins remain the fastest way to regain anonymity. Do not select payphones at airports, seaports, rail stations or areas of ill repute. These may be monitored with wiretaps as well as cameras. Airports are a source of enormous temptation as their facilities often boast user-friendly data-ports for the traveler's PC. You may find a direct hotline to Big Brother. Assume the worst about our telecommunications, and act accordingly.



Encryption. The EC study can only support the belief that the final hope of communications privacy in the twenty-first century lies in the widespread use of encryption. The belief is best exemplified in the words of the privacy advocate and NSA critic, John Gilmore, who once commented, “We aren’t going to be secure in our persons, houses, papers and affects unless we get a better understanding of cryptography.”

But the final word on the topic of cryptography must go to the NSA itself. Although the U.S. government fears the global use of encryption, it has now lifted most of the export restrictions it once placed on encryption products.

One of its spokesmen revealed an interesting aspect of policy. He said, “We have always supported the use of cryptographic products by U.S. businesses operating domestically and overseas to protect their sensitive and proprietary information.” EU citizens who believe good things ought to be shared may wish to act upon that ringing endorsement of encryption.

GLOBAL SURVEILLANCE EXPOSED

Mark Nestmann, *The Sovereign Individual*, August 1999

“There was of course no way of knowing whether you were being watched at any given moment. How often, or on what system, the Thought Police plugged in on any individual wire was guesswork. It was even conceivable that they watched everybody all the time — You had to live — did live, from habit that became instinct — in the assumption that every sound you made was overheard — every movement scrutinized.”
— George Orwell, 1984

The world of Winston Smith, George Orwell’s protagonist in 1984, was one of surveillance—a constant, all-encompassing surveillance; one in which every whisper, every liaison, indeed, every thought was subject to monitoring.

In a world where free markets and free ideas have supposedly triumphed over totalitarianism, global surveillance appears unlikely, even surreal. But today’s surveillance infrastructure, although far more covert than that of 1984, is in many ways more comprehensive. Justified at its creation to “fight Communism,” this infrastructure is today used to monitor po-



litical dissidents, civil libertarians and gather commercial intelligence for government-favored enterprises.

Constructed in near-total secrecy, it was not until late 1999 that governments officially acknowledged that this infrastructure existed, ending five decades of official denials. Since then, and particularly since 9-11, global surveillance has truly come "out of the closet."

ALL COMMUNICATIONS MONITORED

It began at the end of World War II. To more effectively fight the "Cold War," the five major English-speaking democracies — the United States, the United Kingdom, Canada, New Zealand and Australia — signed a secret treaty agreeing to share "signals intelligence" or in the jargon of military intelligence, "SIGINT." The 1947 agreement was code-named "U.K.-U.S.A."

In the ensuing decades, the participating governments set up a global network of listening posts — more than 2,000 in all — capable of monitoring any information transmitted over wire and (especially) through the air. Voice, data, teletype, fax transmissions, and telephone beeper signals are all vulnerable. So are mobile radio systems, local area network communications, radio PBXs, cordless phones and cell phones.

Speaking of the capabilities of this network, the U.S. House Government Operations Committee concluded in an unpublished report released in 1976: Messages monitored by the NSA are processed through computers that are programmed to isolate encrypted messages, as well as messages containing "trigger" words, word combinations, entities, names, addresses and combinations of addresses. The intercepted messages that are in code or cipher are, whenever possible, solved. These messages and messages selected by "target procedures" are then inspected by human analysts.

Messages which the NSA electronically scans and judges to be of no interest to the NSA or its consumers [i.e. other federal agencies] — annually accounting for tens of millions of communications of U.S. citizens — are not considered by the NSA to have been intercepted or acquired.

Given these capabilities that existed a decade or more ago it was perhaps inevitable that political leaders sought to use the network for non-military purposes. The domestic intelligence activities of the NSA were highlighted in 1976 hearings before the Senate Intelligence Committee. Witnesses described initiatives such as Project Minaret, in which the NSA monitored



political dissidents and Project Shamrock, in which from 1945 to 1975 the NSA inspected daily all overseas cables. According to the Committee's final report, Shamrock was the "largest governmental interception program affecting Americans, dwarfing the CIA's mail opening program by comparison."

TAPPING THE INTERNET

More than 20 years after the NSA's domestic spying activities were documented, new reports surfaced describing how the global surveillance infrastructure was now being used — a decade after the end of the Cold War—to monitor the activities of human rights organizations and for economic intelligence.

In 1998, Nicky Hager's *Secret Power* claimed that the UK-USA agreement had been implemented in a global surveillance network called ECHELON. The network monitors communications satellites, undersea telephone cables and microwave transmission towers in dozens of countries, among other sources. According to Hager, in ECHELON: Every word of every message intercepted at each station gets automatically searched . . . keywords include such things as the names of people, ships, organizations, country names and subject names. They also include the known telex and fax numbers and Internet addresses of any individuals, business, organizations and government offices that are targets.

Hager's book documents how ECHELON interconnects the surveillance network's listening stations and allows them to function as components of an integrated whole. An individual station's computer contains not only its parent agency's chosen keywords, but also has lists entered in for other agencies.

ARE YOU UNDER SURVEILLANCE?

Also in 1998, the European Parliament's Scientific and Technological Options Assessment (STOA) committee published a landmark study on advances in surveillance technology. The report confirms that "within Europe, all e-mail, telephone and fax communications are routinely intercepted by the U.S. National Security Agency."

STOA further revealed that ECHELON monitors primarily non-military targets. For instance, it states that in June 1992, a group of current "highly placed [U.K.] intelligence operatives" spoke to the *London*



Observer, confirming that U.K. intelligence agencies had monitored the communications of charitable organizations, including Amnesty International and Christian Aid.

According to the report, “with no system of accountability, it is difficult to discover what criteria determine who is not a target.” Despite the outrage this report caused, the European Parliament approved its own Euro-surveillance initiative that in many respects will have similar capabilities to ECHELON.

AUSTRALIA, CANADA ADMIT GLOBAL SURVEILLANCE

In 1999, Australia became the first country to officially acknowledge its participation in ECHELON. In a letter to Channel 9’s Sunday television program, Martin Brady, director of the Australian Defense Signals Directorate (www.dsd.gov.au), stated that the DSD “does cooperate with counterpart signals intelligence organizations overseas under the U.K.-U.S.A. relationship.”

The Channel 9 report focused on how the ECHELON system was being transformed into an economic intelligence network. There are few legal limits on the government gathering economic intelligence in most countries. U.S. and Australian law permits it if other countries or their exporters are perceived to be behaving unfairly. The United Kingdom has no legal restraint on the practice.

According to Mike Frost, a former Canadian intelligence agent interviewed for the program, “ECHELON is a total, complete invasion of an individual’s privacy.” To circumvent national laws prohibiting domestic intelligence agencies from spying on their own citizens, according to Frost, the intelligence agencies involved in ECHELON ask each other to spy on their own citizens. “They circumvent their own legislation by asking the other countries to do it for them.” Among the Canadian targets that Frost asked other countries to monitor was the wife of the late Prime Minister Pierre Trudeau.

When the Australian report aired, Canada acknowledged the existence of its own communications monitoring network. It confirmed that the Communications Security Establishment collects and analyzes foreign communications.



INTERCEPTION CAPABILITIES

Also in 1999, a report entitled *Interception Capabilities 2000* was approved by STOA. The report contains near-encyclopedic coverage of the monitoring capabilities of the world's intelligence services from radio transmission to microwaves to satellites. Among the revelations, the Clinton Administration ordered the systematic tapping of undersea communications cables by nuclear-powered submarines.

The report also reveals that NSA had developed systems to collect, filter and analyze the forms of fast digital communications used by the Internet. Because most of the world's Internet capacity lies within the United States or connects to the United States, many communications in cyberspace will pass through intermediate sites within the United States. Communications from Europe to and from Asia, Oceania, Africa or South America normally travel via the United States.

The report contains additional confirmation of commercial intelligence gathering efforts through ECHELON. For instance, in 1995, the NSA monitored all the faxes and phone calls between the European consortium Airbus, the Saudi national airline and the Saudi government. It found that Airbus agents were trying to bribe a Saudi official. It passed the information to U.S. officials pressing the bid of Boeing and McDonnell Douglas Corp., which triumphed in the US\$6 billion competition.

While the official position of the U.S. government continues to be that ECHELON does not exist, the overwhelming volume of documentary evidence published made this position untenable. In response, Congress has demanded information on ECHELON. An amendment attached to the Intelligence Authorization Act requires the NSA to prepare a report on ECHELON for Congress. The report is to describe the legal standards employed by the NSA in conducting SIGINT activities, including electronic surveillance. But the NSA rejected the request, stating that the requested files are held by its general counsel and thus subject to attorney-client privilege. As of 2001, the impasse continues.

This debacle has had one fortuitous outcome: it has led most European countries to loosen restrictions on encryption technology, the most effective way to foil surveillance on the scale of ECHELON. For instance, France, which had previously banned effective encryption, has lifted that restriction. European businesses now are particularly conscious of the threat of industrial espionage courtesy of ECHELON.



UNPROTECTED WEALTH IS A TARGET

ECHELON demonstrates how a global surveillance network purportedly created to gather military intelligence can be used against political opponents or civil liberties groups. But the network is also now being used for another purpose — to target property to be seized in “economic emergencies” and in cases of money laundering. Indeed, the U.S. Treasury’s Financial Crimes Enforcement Network (FinCEN) was created for this express purpose.

Because FinCEN was established as a unit of the U.S. Treasury, NSA intelligence could be combined with domestic sources of information, including information from the Federal Reserve and the Treasury’s own databases, which included various types of financial, tax, and customs information.

It also meant the merger of foreign and domestic intelligence. FinCEN takes information gleaned from NSA’s monitoring of bank wire data and other intelligence sources to develop money laundering intelligence—with virtually no oversight. Indeed, FinCEN is exempt from the Freedom of Information Act, the Right to Financial Privacy Act and other legislation that would otherwise permit a subject of its investigation to verify the accuracy of the information it collects.

FinCEN is also part of a global network of more than 50 financial intelligence units (FIUs) that share information, although the network does not appear to be as advanced as ECHELON. According to FinCEN, FIUs are funded with the proceeds of the assets they identify for confiscation.

A global network of FIUs funded with forfeited assets creates a global network of bounty hunters with ever-expanding authority to seize “suspect assets.” Seizures of narcotics, gambling equipment, nuclear materials, child pornography and other illegal commodities generate no revenues for law enforcement. But seizing agencies keep up to 100 percent of the seized proceeds of the sale of such commodities, along with all property “involved in” such transactions. Some of this bounty is now shared with FIUs.

It is inconceivable that a global network of FIUs operating under these incentives, with continuous input from ECHELON, will not be used for political purposes, private gain or be vulnerable to penetration by hackers. Information theft is already endemic in other “secure” government databases.



The apparent theft of U.S. nuclear weapons technology by China is only the one example. If rogue scientists sell information and services to selected bidders, why should FinCEN and its affiliate FIUs be expected to operate differently? Certainly, drug kingpins would pay dearly for access to FIU databases. Knowing what information FIUs have on their assets and laundering techniques, not to mention those of their competitors, would be extremely valuable.

Of course, FinCEN and affiliate FIUs will also be expected to generate revenues beyond their operating costs. Now that most countries have enacted “all crimes” laundering legislation, all income allegedly generated or otherwise tainted by criminal activity is fair game. Increasingly, with the removal of “fiscal exemption” clauses in anti-laundering laws worldwide, this will include legitimate funds moved offshore in violation of tax or exchange control laws.

DEFENSIVE STRATEGIES

The reality of global surveillance must be taken into account by anyone seeking privacy or asset protection; civil libertarians; and by any company developing high-technology products. But despite the high volume of communications signals relayed by satellite and microwave, a great many communications — both local and domestic long distance — can’t be intercepted without a direct wiretap.

And, adds Canadian ex-spook Mike Frost, there’s a problem sorting and reading all the data. While ECHELON can potentially intercept millions of communications, there aren’t enough analysts to sort through everything.

In addition, you can employ simple strategies that can frustrate the operations of this network: Use voice communication. The technical capabilities to listen in to voice communications are less advanced than those available to tap data. Frost describes NSA computers that can “listen” to telephone calls and recognize keywords. However, voice recognition computers that can listen in to a large volume of telephone calls simultaneously don’t appear to yet be available, he says, although according to other predictions, by 2005, this technology may be in place. For the moment, telephone calls are more secure from ECHELON monitoring than e-mail, fax or other computer-generated communication.

Use encryption. The easiest targets for ECHELON are unencrypted



data streams. Merely taking the precaution of using off-the-shelf software such as PGP (www.pgpi.com) to secure e-mail makes it virtually impervious to being read. It remains extremely important, however, to guard your private key(s) and pass phrase(s).

WAYS TO PROTECT INTERNET ANONYMITY

Mark Nestmann, *The Sovereign Individual*, 1999, updated 2010

“The real world is routinely anonymous. When you drive down the street, typically there is no one photographing your license plate, no one keeping track of where you park and how long you stay. What’s unusual about the Internet is that everything is by default logged and tracked. What’s aberrant is not the presence of anonymity on the Internet, but that you have to take special steps to achieve it.”

— Lance Cottrell, CEO, Anonymizer.com

“If you’re serious about prosecuting crime on the global communications infrastructure, you have to have traceability.”

— Philip Reitinger, U.S. Department of Justice

Many people assume that since they don’t physically interact with anyone on the Internet, their actions are private. They aren’t. Without taking precautions to preserve your anonymity, every time you log on, you leave a calling card that reveals your present location, what kind of computer you have and, potentially, other details about your identity and viewing habits.

Why be anonymous? There are many reasons:

- to avoid “Trojan Horse” programs that hackers can infect your PC with that secretly take it over and relay everything you do on it to a thief or an investigator;
- to browse without giving up personal information to marketers;
- to avoid malicious websites that can actually steal confidential files off your PC;
- to avoid spam, the bulk-mail advertising pitches that advertisers send to e-mail addresses they have captured;
- to post messages using a pseudonym to avoid the permanent archiving of news group postings under your real name; and



- to chat online without revealing your real identity.

Internet anonymity is under attack in the courts. In the United States, a growing number of corporations have issued subpoenas to Internet Service Providers (ISPs) seeking to identify and locate individuals who posted material that the companies find objectionable. This tactic can be used to intimidate potential critics into silence and destroy the anonymity that has contributed to the Internet's explosive growth.

However, the stakes in the cyber-privacy war are now, literally, a matter of life and death. In 1999, during the conflict in Kosovo, several persons who reported Serb atrocities on the web later vanished. Serb authorities used telephone records and records maintained by ISPs to identify and track them. Ten years later, in the aftermath of disputed elections in Iran, authorities used more refined surveillance techniques to identify and subsequently arrest dissidents.

HOW TO PROTECT YOUR INTERNET PRIVACY

- Use computers in public accommodations for Internet access or use a machine dedicated only for this purpose. Don't keep confidential files — especially your PGP private keys — on this machine.
- Open an anonymous e-mail account at www.hushmail.com. Free encrypted Hushmail can be sent to other Hushmail users. This service, based outside the United States, is much more private and more secure than other free, but much better known, services such as Hotmail, G-Mail, or Yahoo.
- Beware of sending attached files that might contain remnants of earlier versions. This is the case, for instance, with Microsoft Word. Moreover, if a file itself contains identifying characteristics (such as in Microsoft Office), an anonymous e-mail program won't strip them out.
- Install virus detection software such as that sold by McAfee (www.mcafee.com) or Norton (www.symantec.com).
- Obtain anonymous dial-up service through the Anonymize (www.anonymizer.com) or another ISP that will allow you to anonymously prepay for service.
- Encrypt sensitive e-mail and files using PGP or a similar program.
- Keep sensitive files on an encrypted USB stick, never on your hard drive.



- Securely delete files you're finished using with PGP Whole Disk or a similar program.
- Wipe the “swap” or “page” file on your PC when you shut it down. Instructions to do this are at www.top-windows-tutorials.com/paging-file.html
- Use pseudonyms, but don't count on them to always be effective. For example, defense contractor Raytheon sued nearly two dozen employees for posting pseudonymous messages about the company. Yahoo (www.yahoo.com), which ran the message service, was forced to reveal their identities in response to a subpoena.
- Don't execute programs or files from anyone you don't trust. This is the most frequent way that viruses and similar malicious programs are spread.

YOUR INTERNET ADDRESS ISN'T PRIVATE

Marc Nestmann's Blog 2009

If you're reading this posting you're probably sitting in front of your computer without anyone gazing over your shoulder. It's therefore easy to believe that what you do on the Internet — browsing, chatting, e-mailing, or whatever — is private.

Don't believe it. Your Internet Service Provider (ISP) can monitor every email message you send, every web page to which you surf, and every chat session you initiate. If police demand this information, your ISP must turn over a record of everything you've done online. And now, thanks to a ruling by U.S. District Court Judge Richard Jones in Seattle, you have no right to keep your “Internet identity” anonymous. That opens the door to even greater privacy invasion.

Jones issued the ruling in dismissing a class-action lawsuit against Microsoft stemming from the company's practice of collecting the “Internet Protocol addresses” (IP addresses) of consumers who download automatic updates from the company. Your IP address is a unique number that represents your publicly visible identity on the Internet. But because the address identifies your computer — and not you personally — according to Jones, you have no “expectation of privacy” in the address. That means



any Website can legally collect your IP address, unless they've promised not to do so.

Moreover, it's relatively easy for Websites, police, or anyone else to combine your IP address with other information to determine your identity. That means if you don't want details of what you do on your computer divulged to the highest bidder, or anyone armed with a subpoena, you need to take precautions to anonymize it.

The easiest way to do this is to use a "virtual private network" (VPN). Essentially, the VPN acts as an intermediary (called a proxy) between your PC and the Website to which you're connecting. That Website records the IP address of the proxy, not of your PC. This lets you use the Internet virtually anonymously't track your web surfing, either.

The only way anyone could recover your IP address would be by comparing the logs from the VPN and the logs from the Website in question. That's a little like looking for a needle in a haystack. What's more, a well-designed VPN will be configured so that it's impossible to retrieve a meaningful log to connect to individual subscribers.

There are many VPN services available. I prefer services that don't have networks installed in the United States to avoid possible compromise under legislation such as the USA PATRIOT Act. The service that I use is <http://www.cryptohippie.com>. Its only U.S. presence is to authenticate connections to Cryptohippie servers in other countries. None of Cryptohippie's servers are in the United States.

If you already have a VPN that you're satisfied with, keep using it. But if not, and you value your online privacy, give the "Road Warrior" VPN a try.



THE INTERNET NEVER FORGETS

Marc Nestmann's Blog 2009

Web-savvy employers and universities are increasingly employing a new tactic to screen applicants: conducting online research to unearth photos, blog entries, or other “digital dirt” you might prefer to keep private.

Indeed, companies are springing up to dig up Internet postings that might be of interest to employers, government agencies, or whoever else might be interested. For instance, you can view Web pages that were modified months or even years ago through the Internet Archive, also known as the Wayback Machine, at <http://www.archive.org>.

But that doesn't mean you can't obscure your digital trail. While I normally suggest that anyone interested in privacy avoid posting information to the Internet about themselves, if data you don't want others to see is already there, here are a few suggestions on how to cope:

Delete, delete, delete. Start by deleting any photo, personal profile, or personal description on any social networking or dating Website that is even mildly embarrassing. For instance, I suspect Sergey Brin, the co-founder of Google founders, might prefer not to have this photo of him in drag immortalized. While Sergey may be wealthy enough not to care, you may not be.

Unfortunately, most social networking sites create archives in which your photos may reside permanently, even if you delete them from your profile. Someone with a link to the original photo — or using the Internet Archive — might be able to find it.

Do a search of yourself on Google. Look for any links back to potentially incriminating or embarrassing posts or photos. Unfortunately, Google won't remove content itself, but merely will refer you to the Webmaster posting the content. If you can't figure out who's in charge of a Website, search for the owner at www.whois.net. Contact the owner of the site and ask that comments by or about you be deleted. In most cases the owner has no obligation to remove the content, but it may do so if you persist or threaten legal action.



Set up a Google alert for yourself. You'll receive a daily e-mail update of the latest updates of whatever topic — yourself in this case — that you choose. This is a great way to monitor what others are saying about you online.

Create favorable content about yourself. You can do this in many ways. For instance, create a professional Website and/or professional blog. For blogs, Wordpress, LiveJournal and TypePad all have high Google page ranks. You can also create a Wikipedia entry for yourself. To further ensure these sites are at the top of any Google search of your name, use title tags and headers to highlight information about you that you want people to see. Don't forget to create a Google profile that contains the information about yourself you wish to highlight. You can also leave comments on blogs and Websites you respect under your own name.

Use social networking sites intelligently. It's almost impossible to permanently eliminate content you post to social networking sites, even if you unsubscribe. However, you can also use these sites to your advantage, especially if you're setting up a profile for the first time. Websites like Facebook, MySpace, LinkedIn, Flickr, and Twitter are a good place to begin.

You don't even need to use these sites. Just create a profile and add the content you want people to see. Websites that let you create a unique link with your name in it are especially useful (e.g., LinkedIn). Those pages will show up ahead of most other sites that might contain content you don't want others to view.

Use protection. There's no such thing as an Internet condom, but you can hire companies that will contact sites that have published material pertinent to your character. One that has good reviews — although I haven't used it personally — is <http://www.trackur.com>.

Just don't forget that once you've posted something on the Internet, it's very difficult to permanently delete it. So before you hit the "post" button, be absolutely certain that whatever you're about to send into cyberspace belongs there.



SURVEILLANCE SELF-DEFENSE: WHO'S WATCHING YOU, WHAT TO DO ABOUT IT

Mark Nestmann's Blog 2009

Whether you're browsing the Internet, sending or receiving text messages, or chatting on your cell phone, information you may think is private very often is not.

That's why it's important to educate yourself on counter-surveillance strategies to reclaim your electronic privacy. And now, the Electronic Frontier Foundation (EFF) has created its Surveillance Self-Defense project — an online how-to guide for protecting your private data against government spying. You can read about the project at <http://ssd.eff.org>.

I view myself as fairly knowledgeable about electronic surveillance threats, but I learned a great deal I didn't know when I reviewed the guide. For instance, you probably have heard of “cookies”— those bits of code that record your use of a Website and your user preferences. Modern Web browsers give you ability to discard cookies periodically or even every time you close the browser.

However, new “super-cookies” can't be deleted as easily. For instance, the Firefox Web browser has a feature called “DOM storage” that tracks your visits to Websites using this technology. Surveillance Self-Defense tells you how to turn this feature off so that hackers, government investigators — or anyone else — can't track your movements on the Internet.

There's lots of other good stuff in Surveillance Self-Defense on subjects ranging from encryption to securing instant messages. I recommend that you read Surveillance Self-Defense and take its suggestions to heart. Doing so will give the government — and anyone else — a lot less information to search, seize, subpoena or spy upon.



ACHIEVING UNTRACEABLE TELECOMMUNICATIONS

Mark Nestmann, *The Sovereign Individual*, 2003, updated 2010

In the name of fighting “crime” and “terrorism,” many governments have ratified laws and treaties that obligate telecommunications providers to build surveillance technologies into their networks. Other initiatives require telecom companies to turn over customer records to authorities with a lower burden of proof than previously required, or allow them to “voluntarily” turn them over if they suspect wrongdoing.

To actually listen in on telephone conversations or read the contents of e-mail messages, law enforcement agencies in the United States and most other Western countries must still obtain a search warrant approved by a judge, based on probable cause that the subject under investigation is involved in illegal (not necessarily terrorist) activity. For terrorist or intelligence related monitoring, the burden of proof is lower.

But obtaining information on “traffic data” — the origination or destination number or e-mail address of phone calls and e-mails — is much easier. And in the case of e-mail and text-messaging systems, it is hard to review only traffic data and not also the content of the messages. In most countries, law enforcement only needs to stipulate that such data is relevant to a criminal investigation. Customer payment records — finding the identity behind an e-mail address — generally don’t require a warrant, either.

In the United States, such inquiries have increased by a factor of five since the events of September 11, 2001. Representatives at Yahoo, one of the largest U.S.-based online services, say that the typical subpoena now asks for much more information; not just user-account information, but details about subscribers’ Internet use, billing and credit-card history.

Technology has also expanded the reach of information that can be subpoenaed. For instance, a subpoena to a cellular service provider now can request data on every call made in a certain time range in a certain geographical location.



The most important surveillance initiatives in recent years have been:

- The Communications Assistance for Law Enforcement Act (CALEA). This 1994 U.S. law requires telecommunications companies to install secret “back doors” in their equipment to facilitate surveillance.
- Regulations of Investigatory Powers Act (RIP). This 2000 U.K. law requires all major U.K. Internet Service Providers (ISPs) to route all data passing through their networks to a monitoring center at the headquarters of the British intelligence service, MI-5. It permits police to obtain customer account data, billing information, telephone dialing records, lists of e-mail messages sent or received or web sites visited based on the orders of a senior law enforcement officer. It also requires PC users to release their encryption keys on demand. Numerous individuals who refused to divulge their encryption keys have been prosecuted and now face imprisonment.
- The Council of Europe Cybercrime Treaty. Designed to fight computer crime, this treaty, now signed by dozens of countries, requires ISPs to maintain logs of users’ activities for up to seven years and to keep their networks “tappable.” The equivalent of the treaty in the physical world would be to require valid return addresses on all postal mail, installing cameras in all phone booths and making all currency traceable. It remains to be seen whether the U.S. Senate will ratify this Convention, which appears to violate several provisions of the U.S. Constitution.
- The USA PATRIOT Act. This law makes it possible for federal law enforcement agencies to obtain e-mail message “header” information (i.e., obtain source, destination and subject line information) and web browsing patterns without a wiretap order. It is no longer necessary to prove that the information is relevant to a criminal investigation. What’s more, law enforcement may obtain access to subscriber data without subpoenas if they “reasonably believe that (it’s) an emergency involving danger of death or serious physical injury.”
- EU: Mandatory record keeping of all telecommunications traffic. In 2002 the EU began requiring Member States to enact laws stipulating that Internet providers retain traffic and the geographical location of all people using any electronic communications device. The initiative essentially overrides a 1997 Privacy Directive stipulating that traffic data (covering phones, mobiles, e-mails, faxes and Internet usage) could only be retained for billing purposes after which it has to be erased.



- The Homeland Security Act. This U.S. statute lowers the burden for telecommunications providers to notify law enforcement of their suspicion of criminal activity by a customer from a “reasonable belief” test to a “good faith” provision. It also permits disclosure to “any federal, state or local governmental entity,” not just law enforcement agencies. This will allow the IRS or any other government agency access to these records if they can persuade them that there is an “emergency,” which need not involve an “immediate danger.”

COUNTERMEASURES: TRACELESS TELEPHONE CALLS

The mass surveillance engendered by these initiatives will be effective only at keeping tabs on the law-abiding public. Anyone who wants to secure privacy in their communications can still cover their tracks by using the techniques discussed in this article.

Here’s a rundown of measures you can still legally take to protect yourself from telephone surveillance:

- Use public telephones. Use a network of pay phones, not just one. Unfortunately, many payphones no longer accept incoming calls. Have persons you wish to call page you when they are ready to receive your call. Then call back from a public telephone to a pre-arranged number. Professional investigators may anticipate your use of pay phones, so avoid using the most convenient ones. Many public telephones in major cities and at airports, train stations, etc. are under continuous closed-circuit television surveillance. Timed film footage is increasingly being matched to “suspicious” calls on public phones. Phones in rural or isolated areas are less susceptible to this threat. Use cash to pay for your calls. Alternatively, buy pre-paid phone cards (see below), which are available in over 100 countries.
- Obtain an anonymous voice mailbox. This is a great way to have a “local” phone number without obtaining local service. You can retrieve messages from any touch-tone phone. Find a company that doesn’t require identification and permits you to prepay for service at least a year in advance. This way, they will not need to send correspondence to the “temporary” address you (should) leave with them.
- Obtain anonymous telephone service. In the United States, for about a 50% premium over the local Bell provider, you can obtain local phone service without a credit check and in many cases without showing



proof of identify. While such companies target persons with poor credit, the service is attractive to privacy-seekers. You simply provide the company your “name,” the address at which you wish service to be connected, and pay the hook-up fee. One provider of this service is 1-800-RECONEX: (800) 732-6639.

- Make anonymous long-distance calls. Avoid the revealing “call detail” on your local telephone bill of long-distance calls dialed by setting up a separately billed account for such calls. Even better, use prepaid calling cards. Now available in more than 100 countries, you can purchase such cards almost anywhere — at convenience stores, post offices, vending machines, etc. Do not use a “rechargeable” card that allows you to add value to the card with a credit card or debit card. This compromises privacy, although less so if you’re using a card issued by an offshore bank. The only way that “you” can be linked to a prepaid card is if calling records indicate that the card was accessed from your home or business telephone number. To protect your privacy, dial from a public phone or through an operator.
- Purchase anonymous cellular service. This is possible by pre-paying for the service. In the United States, one of the most popular services is called Cricket (<http://www.mycricket.com>). Starting at less than \$30/month, you can obtain unlimited cellular phone service. And you can purchase pre-paid long distance service for eight cents per minute. Many other services permit you to set up service with no credit check, no contract and no ID.
- Obtain a pager anonymously. A pager is useful if you want to keep your location or phone numbers private. Like cellular phones, pagers can be obtained for one-off payments with no contracts, no ID requirements, no monthly bills, and no credit checks. Unfortunately, availability is diminishing, a consequence of text messaging services now available with many cellular phones.
- Consider telephone encryption. Several companies manufacture telephones that encrypt conversations so that a would-be eavesdropper will hear only inaudible static. An encrypted telephone is required at each end of the telephone conversation. If you choose this option, everyone with whom you wish to communicate securely will need to be equipped with the same model of encrypted telephone as the one you are using. One manufacture is TCC (www.tccsecure.com).



- Conduct secure voice communication through your PC. This requires a computer, a high-speed Internet connection, and a program such as ZFone (www.zfone.com). Your receiving partner must have the same set-up.
- Other practical solutions for telephone anonymity. When purchasing pre-paid telephones or services, it is wise to “blend in” as a “typical” user; someone who has not established credit, or has poor credit. Never make your “privacy” motives apparent. In addition, combine these strategies for maximum effectiveness. Never use your home or office telephone for “controversial” calls. Keep an anonymous cell phone in reserve, and use it when you need to make a confidential call. While authorities can now pinpoint the location of a cell phone call, if they can’t identify its owner, this information is of little value. Use a pre-paid calling card to make longer-duration confidential calls from a payphone.

Can criminals use these methods? Of course. But so can law-abiding persons who believe, as I do, that they have a right to privacy and freedom from surveillance.

U.S. AUTHORIZES BACK DOOR “ROVING WIRETAPS”

The Sovereign Individual, December 1998, updated 2010

If you’re the U.S. Attorney General, head of the U.S. Department of Justice, and you can’t persuade legislators to openly pass laws that curtail civil liberties, you have another option: Hide the same laws in other, less controversial legislation. Wait until that law has passed both the House and the Senate and is sent to a conference committee to iron out minor differences between the two versions. Persuade the conferees to insert the controversial provision into the conference bill. Then quietly pass the revisions without public debate. This was the back-door approach used by the U.S. Department of Justice in 1984 to bring about the largest expansion in civil forfeiture laws in U.S. history.

And in 1998 it repeated the performance. Without debate or notice, U.S. lawmakers approved a proposal long sought by the FBI that dra-



matically expanded the authority of police to conduct “roving wiretaps” (i.e., tapping any and all phones potentially used by a criminal suspect). (Congress rejected this very same idea when the matter was openly debated as part of the 1996 Anti-Terrorism bill).

The law, which allows police to tap any telephone used or located near a wiretap target, was added to the Intelligence Authorization Conference report during a closed-door meeting. Then, without debate, both the House and Senate approved it.

Previously, police had to demonstrate that a target was switching telephones for the specific purpose of avoiding surveillance. Now, they need only show that the target of a wiretap’s actions could have the effect of thwarting interception from a specific facility.

When the FBI originally requested roving wiretap authority, it acknowledged that less than one percent of the conversations it recorded were relevant to its investigations. In other words, 99 percent of the time, police are listening in on irrelevant conversations. The vast majority of these conversations involve participants neither suspected nor accused of any wrongdoing. Roving wiretap authority will make it even more likely innocent third parties will be drawn into the government’s surveillance net.

Say, for instance, you’re unknowingly meeting with the target of a roving wiretap in your home or office. Your phone number is added to the list of target phones, not for a single day, but potentially for as long as the investigation continues — perhaps weeks, months or years.

Investigators are supposed to ignore conversations that are not directly relevant to the authorized wiretap. But of course they don’t.

The safest course of conduct: Don’t say anything on a telephone that you don’t want to hear played back in a courtroom.



DOES THE CONSTITUTION MEAN ANYTHING ANYMORE?

Robert E. Bauman JD, *Sovereign Society Offshore A-Letter*, 2007

When I was 15-years-old, I swore my first oath to support and defend the United States Constitution serving as a young page boy in the House of Representatives. Later, as a Member of Congress (and as a Republican and a conservative), I took that same oath to the Constitution, by which every congressman and senator currently serving has also supposedly sworn their allegiance.

So knowing that, how can we explain the U.S. Congress passing a new law that virtually repeals the guarantees against unreasonable search and seizure in the Fourth Amendment of the Bill of Rights?

My answer: cowardly fear. It's not fear of the "terrorism boogeyman" — but fear of not getting reelected! Politics rules, to Hell with principle!

The minority Republicans in Congress, sheep that they are, went along with President Bush's demand for even greater police power over all of us. But the real hypocrites were the Democrats that now control both Houses.

I am always nervous when I find myself in agreement with *The New York Times*, but they said it right:

"It was appalling to watch over the last few days as Congress — now led by Democrats — caved in to yet another unnecessary and dangerous expansion of President Bush's powers, this time to spy on Americans in violation of basic constitutional rights. Many of the 16 Democrats in the Senate and 41 in the House who voted for the bill said that they had acted in the name of national security, but the only security at play was their job security."

CONGRESSMEN WHO ATTACKED THE PATRIOT ACT NOW SUPPORT WIRETAPPING

These are the same Democrats that have been loudly attacking (as they



should be attacking), the befuddled U.S. Attorney General Gonzales for violating civil rights using the PATRIOT Act. And they also attacked President Bush for his secret wiretapping when it was revealed late last year.

As *The Times* noted the law "...would allow the government to intercept, without a warrant, every communication into or out of any country, including the United States. Instead of explaining all this to American voters - the minimal benefits and the enormous risks — the Democrats have allowed Mr. Bush and his fear mongering to dominate all discussions on terrorism and national security."

According to neutral observers, the new law gives the U.S. government virtually unchecked power to secretly wiretap all our phone calls and spy on and read our emails, faxes or other electronic communications without any court order and no due process of law.

This is a radical, subversive departure from American legal traditions. As an attorney, I see this new wiretap surveillance law as yet another abandonment of the rule of law and a violation of due process in America.

Gone is the requirement that laws must relate to legitimate government interests and may not result in unfair or arbitrary treatment of an individual. Now impartial judges are replaced by faceless bureaucrats and anti-terror police who will decide our fate.

WHAT HAPPENS WHEN FEAR RULES CONGRESS

In 1757, Edmund Burke wrote: "No passion so effectively robs the mind of all its powers of acting and reasoning as fear."

Fear as a decisive factor in political and national life is nothing new in history. But President Bush has made fear his trademark. He constantly uses the fear factor to get his way, describing threats that are amorphous, shadowy, unclear, yet perceived as very real, the threat of terrorism.

Politicians too often have employed fear as a controlling and guiding principle to achieve their dubious ends. Such politicians offer themselves as protectors. National leaders have touted their remedies against alleged foreign invasions, barbaric tribes, hated minorities, Communists, drugs and a host of other manufactured threats.

Now the fear of the hour is terrorism. Yes, the threat is real and it must be guarded against, but not by surrendering all our freedoms.



If a member of Congress does not support whatever the proposal may be, he or she is accused of being “soft” on terrorism. Nearly six years after 9/11, and with the miserable track record of Attorney General Gonzales, a majority in Congress rolls over and proclaims: “We are against the terrorists, too!” — even as they vote to trash the Bill of Rights.

WHY SPY ON JUST THE TERRORISTS?

And don't think for a moment that Big Brother's police will limit this unchecked surveillance law to anti-terrorism alone. Just as they have done with the PATRIOT Act, this vast power will be used to spy on anyone they wish, whether alleged IRS tax evaders or SEC violators.

No one is safe from trumped up charges based on eavesdropping on our phone calls, reading our emails and monitoring our other communications.

When we at The Sovereign Society recommend offshore financial havens for placement of bank accounts or asset protection trusts, or suggest countries for a possible foreign residence, the existence of the rule of law always is a major factor in our choice.

SACRIFICING LIBERTY AND SAFETY

Of course, we know that in the United States anti-terror laws have seriously compromised what we used to know as the rule of law. So who is winning — freedom or terrorism?

This raises the question: Just how far are Americans willing to go in surrendering their liberty and their privacy? How much are we willing to pay for this promised, illusory defense? Are we willing to become Fortress America with Big Brother watching and listening to all that we say and do? Americans had better put aside these politically inspired fears, and start asking and answering that question — before we enjoy neither safety nor liberty.



THE UNITED STATES: AN INFORMER'S PARADISE

Robert E. Bauman, JD, 1997, updated 2010

Most Americans know little or nothing about the widespread domestic use of police informants — and few government and police officials are willing to talk openly about this big, dirty secret.

For people outside the U.S., an accurate knowledge about how the U.S. government uses informants in its international operations is essential to avoid entrapment and worse. What happens in the U.S. has a disturbing tendency to be exported elsewhere. It could be you being investigated or charged with crimes you didn't commit because an informant pointed the finger at you.

Increasingly informants are being used by U.S. police agents in so-called “white collar” international business and finance cases. “Money laundering” is one of the favorite charges pursued. Shrouded in secrecy, informers don't want publicity about their nasty work. They want lenient treatment for past crimes, money rewards and sometimes revenge.

Despite constant government efforts to keep the public in the dark, the bright sunlight of publicity has exposed the squirming mass under the rock. In numerous U.S. money laundering cases, informants have played an important role.

IT'S HAPPENING IN AMERICA

The informant scandal is so serious it prompted federal appeals court judge Stephen S. Trott of Boise, Idaho, head of the Criminal Division of the U.S. Department of Justice under President Reagan, to warn, “The integrity of the criminal justice system is at stake. There needs to be better control and supervision of informants.” He said the current use of informants “...reminds me of a movie I saw in which the characters played a game they called TEGWAR — an acronym for “The Exciting Game Without Any Rules.”

And yet, in the wake of the 1995 Oklahoma City bombing, President



Clinton quickly demanded that Congress pass legislation greatly increasing police wiretapping, FBI surveillance and the expanded use and protection of government informants. According to press reports, a key part of what the President wanted was a national network of paid informants, or so-called “human intelligence sources.”

Fortunately, congressional civil rights advocates, on the left and right, managed to thwart the worst excesses Clinton wanted, but many of his dubious proposals found their way into law under the guise of “anti-terrorism” controls. Unfortunately many of these same police powers were granted in the PATRIOT Act of 2001.

15,000 “WILD, OUT-OF-CONTROL” INFORMANTS

Michael Levine, a retired 25-year veteran of both U.S. Customs and the Drug Enforcement Agency (DEA), estimates there are currently at least 15,000 informers on federal payrolls, not counting many thousands more paid by state and local police. His estimate does not include more than 10,000 informants who claim money rewards each year for reporting fellow taxpayers to the IRS, or the nearly 1,000 so-called “controlled informants” the IRS pays to inform on others, some of them tax accountants.

Levine, retired in 1990, charged that informants, earning three or four times more in government pay than the DEA and FBI agents who are supposed to be their bosses, have literally taken over most criminal investigations. Says Levine: “Our rights as citizens and the U.S. Constitution are now in the hands of 15,000 wild, out-of-control informants. If you get in their way they will take you down, and government agents are ignorant enough or lazy enough to let them do “

PROTESTS ARE FEW

In this era of sound bites and media-oriented “get tough on crime” politics, few elected officials dare to decry loss of constitutional protections. The late U.S. Representative Henry J. Hyde was a courageous exception. In the 1996 book *Forfeiting Our Property Rights* (Cato Institute, Washington D.C.), the then Chairman of the U.S. House Judiciary Committee attacked government use of “an army of well paid secret informers,” whom he described as “a motley crew of drug pushers, ex-cons, convicts, prisoners and other social misfits.”



Hyde stated bluntly: “They have a strong incentive to lie, and they often do. Informants, by their very nature, are not normal, gainfully employed, honest, upright citizens. Rather they are, or have been, involved in drug or other serious criminal activity, and their motivation is to save their own skins.”

Typical is the 1996 New York federal district court case in which Emad A. Salem, the unsavory main government witness in New York’s World Trade Center terrorist bombing conspiracy trial, admitted he lied, testifying he was promised more than US\$1 million by the government for his assistance as the principal informer in the case. Similarly, informants in the Miami federal case against ex-Panama dictator Manuel Noreiga were paid over US\$4 million and spared hundreds of years of potential prison time.

INFORMING — A BIG BUSINESS

Individual informants do receive princely sums from the U.S. Treasury, a grotesque example of tax dollars at work. Like U.S. lawyers, informers are sometimes paid on a contingency fee; the total value of property they finger for successful forfeiture determines how much money the government pays into their personal bank accounts. So-called “cooperating witnesses” receive 25 percent of the value of property seized by the government in any one case, with a maximum cap of US\$250,000.

SECRECY IS THE RULE

Although the Sixth Amendment, part of the U.S. Constitution’s Bill of Rights, guarantees an accused person the right “to be confronted with the witnesses against him,” courts have held this is not absolute and usually applies at trial, but not always in preliminary stages of investigation and indictment. These rulings supporting the so-called “informant’s privilege,” allow secret accusers to avoid risk of exposure by having to testify in public. Instead, a police officer seeking a search warrant simply repeats before a magistrate, or testifies before a grand jury about what he was told by “a reliable informant.”

The highly unfair result: most criminal defendants never find out who accused them of wrongdoing, unless prosecutors decide an informant’s testimony at trial is essential to convict. Prosecutors, police and federal agents defend this system, arguing informants are indispensable in organized crime, terrorism and white-collar crime cases.



IT'S THE WAR ON DRUGS, STUPID!

The driving force behind the massive use of informants originally was the much-touted “war on drugs.” Informants are often the key to drug arrests and property confiscation under civil asset forfeiture laws, a valuable cash cow for police. Law enforcement officials keep most of the cash and property seized, and the funds go directly into police budgets, salaries and other perks.

PHANTOM POLICE INFORMERS

In his book, *The Best Defense*, Harvard law professor Alan Dershowitz offers some little-known rules he says “govern the justice game in America today.” Rule IV is, “Almost all police lie about whether they violated the Constitution in order to convict ‘guilty defendants.’”

That is certainly accurate when it comes to the use and/or manufacture of police informers. It is now commonplace for police lacking a “reliable informant” on which to base a request for a search or arrest warrant, to invent them.

Lying by police to support questionable criminal charges against suspects has gone on for years in New York City, according to a report of the Mayor’s commission investigating police corruption. After 1993-94 hearings, the Mollen Commission concluded New York police routinely made false arrests, invented informers, tampered with evidence and committed perjury on the witness stand. “Perjury is the most widespread form of police wrongdoing,” the report stated, noting it even has a well-known nickname among the court house cognoscenti — “testilying.”

Early on the morning of October 2, 1992, millionaire Donald Scott was shot to death by a member of a 27-man police drug squad as they broke into his rural ranch home. A subsequent five-month investigation by the Ventura County district attorney found police had lied to a judge to obtain the search warrant, based on a false tip by an informant that Scott was growing marijuana.

The report also concluded police hoped to confiscate Scott’s ranch and turn it over the National Park Service, a federal agency to which Scott has repeatedly refused to sell his land. No charges were brought against the police and no one was disciplined for Scott’s death.



AMERICA IS UNDER SURVEILLANCE

The official incompetence, corruption and criminal conduct associated with informants might be understandable if these were isolated examples, but such events are widespread. Studies show the major groups who suffer as a result are African-Americans, Latinos, Arabs and Asians, including international travelers.

In 1992 in the Memphis, Tennessee, airport, 75 percent of the travelers stopped by police on informant tips were black, yet only four percent of the flying public is black. CBS television's "60 Minutes" reporters checked out DEA airport operations in New York, Atlanta and other cities, with a well-dressed black male undercover reporter buying a plane ticket with cash. Within minutes of each purchase, DEA agents accosted the reporter and confiscated all his money; ticket clerk informers turned him in on the spot every time.

DEA operates permanent surveillance in designated hotels in New York, Miami, Los Angeles and other cities considered scenes of likely drug activity. Hotel employees are paid to act as informers and report "suspicious" guests and people with too much or too little luggage, guests who pay room bills in cash or make multiple long distance phone calls.

THE IRS TOO

A new federal rewards program dishes out cash to people who turn in friends, relatives and employers for fudging their tax returns.

For years the IRS grudgingly paid stingy rewards to squealers who brought it mostly small cases; during 2004 and 2005, 428 informants received a total of \$12 million — only 7% of the paltry \$168 million all their leads brought in. But in 2006, hoping to entice insiders to rat out big-dollar cheats and corporate tax shelters and games, Congress directed the IRS to pay tipsters at least 15% and as much as 30% of taxes, penalties and interest collected in cases where \$2 million or more is at stake.

The gambit seems to be working very well. The IRS continues to get thousands of small case tips a year. But in fiscal 2009, ended Oct. 30, the IRS Whistleblower Office also logged big case leads on 1,900 taxpayers, up from 1,246 in fiscal 2008, the first full year the new law was in effect. Dozens of these tips involve purported tax losses of \$100 million or more. Sure, those are just allegations. But informants "often provide extensive documentation to support their claims," the Whistleblower Office noted



in a report. The Treasury Inspector General for Tax Administration, in a separate report, added up all the 2008 tips and found that \$65 billion in unreported income was alleged.

In June 2007, Bradley C. Birkenfeld — motivated in large part, he now acknowledges, by the new reward law — came to U.S. officials with documents in hand and laid out how his former employer, UBS AG, helped wealthy Americans hide money offshore.

So far the investigation he triggered has produced a \$780 million payment to the U.S. government from UBS, Switzerland's largest bank; an unprecedented agreement by the Swiss to finger 4,450 U.S. taxpayers with secret UBS accounts; and criminal investigations of more than 150 American UBS clients. That, in turn, helped pressure 14,700 taxpayers to make "voluntary" disclosures of previously undisclosed offshore kitties during a special program earlier this year, yielding extra billions in tax for the Treasury. "The entire game has changed on international tax evasion," crows IRS Commissioner Douglas Shulman.

THREATS TO CIVIL LIBERTIES

The late Congressman Hyde believed that "most Americans don't realize the extent to which our constitutional protections have been violated and diminished in recent years." Neutral observers, libertarians like the Cato Institute, political conservatives like Hyde and Judge Trott, joined with liberals and others on the Left such as Professor Dershowitz and the American Civil Liberties Union (ACLU).

They believed unchecked police informant use constitutes a serious danger to individual liberty.

While the public only learns about major informant cases that go wrong, there are thousands of accused persons fingered by a "friend" for a crime they did not commit. Carefully controlled use of informants has a place in proper law enforcement, but what kind of justice is it when prosecutors boast of charges against a businessman whose employee or associate settles a score with an anonymous accusation of criminal conduct?

Betrayal is an essential element in the government police-informant game, but the repeated betrayal of basic constitutional principles guaranteeing our freedom is the real menace to society. In a 1928 dissent in an early wiretapping case, the late Supreme Court Justice Louis D. Brandeis



warned: “The greatest dangers to liberty lurk in the insidious encroachment by men of zeal, well meaning but without understanding.”

U.S. government agents may boast of cleverly turning criminals into instruments of law enforcement, but in this crude process law officers have become willing co-conspirators in crime — and too often, criminals themselves.

USING ATTORNEY-CLIENT PRIVILEGE EFFECTIVELY

Mark Nestmann & Robert E. Bauman, JD,
The Sovereign Individual, 1999, updated 2010

It’s an established right recognized and protected by law. But unless you understand how it works and exercise that right, your private business could become a matter of public record.

In the United States it’s known as the “attorney-client privilege.” In the United Kingdom, it’s called the “solicitor client privilege.” At times, you may hear it referred to as an “attorney’s duty of confidence.”

In each instance, the phrase describes a long-established rule that establishes a legal and ethical duty binding an attorney not to divulge confidential communications from a client. It also gives a client the right to refuse to disclose, and to prevent others from disclosing, “confidential communications” between the client and his attorney.

Attorney-client privilege has evolved as a means to encourage clients to make complete disclosure when seeking legal advice, without fear that their attorney might inform others. It encompasses verbal and written communications, including letters, records, an attorney’s notes, research, and the legal work product developed for a client.

Effective use of this privilege is crucial to preserve the privacy of any asset protection plan, estate plan or any other confidential legal matter. And when “going offshore” requires professional legal assistance, you should understand what this privilege means and how to use it.

Your attorney cannot divulge information protected by the privilege



unless you give your consent or he is so ordered by a court. For you to gain this protection, it is always best to establish a formal representation agreement in writing with an attorney before discussing confidential matters.

EXCEPTIONS & WAIVERS

Attorney-client privilege is narrower than generally perceived.

For example, your identity and fee arrangements are not protected. In addition, an attorney, as a licensed member of the bar, is an “officer of the court.” While your attorney must pursue your best interests, his actions are constrained by professional rules of conduct. For instance, your attorney cannot knowingly assist you in perpetrating a fraud or other illegal act.

If your attorney delegates responsibilities to others, usually the privilege extends to these persons also. Typically, this may include other lawyers in the firm, a secretary or legal aides. But the privilege does not attach to work an attorney does at the direction of another person on your behalf, such as your accountant.

The privilege is also waived if you disclose information your attorney conveyed to you in confidence or that you conveyed to him. If you hire an attorney to prepare a legal opinion, your engagement letter should stipulate that release of the opinion letter does not waive your privilege concerning any other communications between you. Include a statement to this effect with any information you might disclose about your estate or asset protection plan.

To guard against waiver, it is best not to discuss legal matters with a spouse or business partner, unless you are confident the relationship will remain permanent. Many states recognize a “spousal privilege” that allows a wife or husband called as a witness to refuse to answer questions relating to communications between them. However, this protection is dissolved by divorce and does not extend to unmarried partners.

OFFSHORE PRIVILEGE LIMITED

In the United States, an attorney has no duty to disclose to authorities suspicion that a client may have in the past engaged in criminal activities. However, he must report immediately any knowledge of a client’s planned future criminal acts.

In contrast, solicitors and attorneys in the United Kingdom, Switzerland

and some other countries are required to notify police if they suspect a client may be engaged in certain illegal activities relating to “money laundering.” A similar Canadian requirement is now pending.

In the United Kingdom, this includes any suspicion that a client may be evading taxes. In the U.K. barristers and solicitors are forced to serve as the government’s “independent financial investigators” under the terms of the Criminal Justice Act and Money Laundering Regulations. The law states that any such disclosure “will not be treated as a breach of the solicitor’s duty of confidence.”

These rules by extension apply in principle to attorneys practicing in all U.K. Overseas Territories. However, many of the OTs, including the Cayman Islands and Bermuda have enacted similar local laws, as have the Crown Dependencies of Jersey, Guernsey and the Isle of Man.

Attorneys in Switzerland who act as asset managers are required to notify a central authority if they suspect a client is engaged in money laundering. But an attorney asset manager need not notify authorities of suspected money laundering after an initial contact with a prospective client, if that individual is not accepted as a client. Swiss attorneys acting in other capacities are not subject to these rules.

COMPROMISED PRIVILEGE

The attorney-client privilege can be compromised in numerous other ways.

As an “anti-money laundering” tactic, U.S. law is unique in requiring attorneys to report to the government one or more “related” cash payments made to them by a client that, in aggregate, exceeds US\$10,000. Courts have consistently upheld these requirements as superseding attorney-client privilege.

In the United States and elsewhere the attorney-client privilege does not apply where:

- you involve your attorney in a criminal conspiracy, even if the attorney isn’t aware of it. This may include efforts to defeat a judgment or hide assets from legitimate creditors.
- your attorney becomes an informant against you.
- you sue your attorney and the attorney in good faith releases documents in his own defense.



- you file bankruptcy and the court-appointed trustee waives the privilege.
- the government serves your attorney with a valid warrant allowing eavesdropping on conversations between you and your attorney.
- your attorney is under criminal investigation and his files are subpoenaed by a grand jury.

The privilege may be partially waived if:

- a person who is not a client of the attorney participates in a conversation between you and your attorney.
- a court issues a subpoena to your attorney to obtain your name and address or to review your fee arrangements.
- your attorney possesses documents relating to your case that he did not prepare.
- Your attorney prepares your income tax return.
- you testify under oath that you are acting on the advice of your attorney.
- you review privileged documents prior to testifying concerning those documents.

HIGH-TECH RISKS ABOUND

Modern technology may compromise attorney-client privilege.

According to the American Bar Association, “confidential” communications between an attorney and client via e-mail are protected by the privilege. But e-mail is easily monitored. The solution is to encrypt confidential messages with encryption software such as PGP or a similar program.

Similarly, it is illegal to monitor cellular or cordless telephone calls, but these electronic communications often travel via unencrypted radio waves and are easily monitored. This security problem is so serious that state bar associations have warned attorneys that use of unencrypted cellular or cordless phones to discuss sensitive client matters may violate attorney client privilege. The solution is to use only the latest generation of cordless phones and digital cellular phones that digitally encrypt transmissions sent through the air.



ATTORNEYS UNDER ATTACK

The worldwide proliferation of tough anti-money laundering and civil forfeiture laws has placed attorneys “under the gun.” As a potential client, you must be aware of these challenges.

In the United States, attorneys face possible “criminal liability” just for providing alleged “routine legal services.” They are advised by a former federal prosecutor to “conduct client conferences as if each client is an undercover agent or a government informant (as he or she may be).” The risk is illustrated by the conviction of a California attorney whose prosecution was based solely on routine legal services for a client who later testified against him in exchange for a reduced sentence.

To avoid criminal liability, some attorneys in the United States insert language in offshore asset protection instruments that eases compliance with certain forfeiture or repatriation orders. An asset protection guidebook recommends insertion of language defining circumstances under which trustees of “asset protection trusts” must convey trust assets to U.S. regulatory agencies.

ATTORNEYS “KNOW THY CLIENT”

We have discussed “know your customer” requirements that U.S. based offshore financial planners must follow to avoid criminal liability for their actions. Similar precautions now apply to U.S. based attorneys and increasingly to attorneys in other countries.

An attorney’s main defense against civil or criminal liability for subsequent wrongdoing by a client is to obtain full facts about a client and his finances. If you contact an attorney for such advice, expect a thorough grilling about your personal and professional background and your offshore motives.

Conversely, you should make an effort to “know your lawyer.” Call the bar offices to determine if an attorney is a member in good standing of the state and local bar. Inquire whether he or she has been the subject of bar disciplinary actions — usually a matter of public record. Check court calendars to see if an attorney has been a defendant in civil cases or has judgments recorded against him. This information is available through your local clerk of court’s office or with help from a private investigator.



MAKE THE MOST OF IT

You can strengthen your own attorney-client privilege protection by using a domestic attorney working in tandem with another attorney located offshore in the haven nation where you plan to do business. You retain the offshore attorney, who in turn retains an attorney in your home country to assist him. Under this plan, the foreign attorney is the client of the domestic attorney. For example, your offshore attorney can establish a foreign asset protection trust, working with a domestic attorney to insure compliance with domestic tax and reporting requirements.

Even if a domestic creditor pierces the attorney-client privilege between the offshore and domestic lawyers, the most he could learn would be the name and address of the offshore lawyer and the fee arrangements. This dual strategy obviously adds additional costs, but it can be a very powerful enhancement of attorney-client privilege.

YOUR PRIVACY IS COMPROMISED IN THE U.S. MAIL

December 1997

The U.S. Congress imposed a government monopoly over first class mail delivery in 1872. This monopoly facilitates surveillance by requiring the delivery of most correspondence by a single carrier.

While it ordinarily requires a search warrant to open first-class mail, the monitoring and opening of mail without a search warrant by police, intelligence agencies and the U.S. Postal Service is legal or condoned under various circumstances. For instance, all packages sent from “source areas for the distribution of narcotics and/or controlled substances” might be inspected by drug-sniffing dogs.

Court testimony from federal agents indicates that every major city in the United States is considered such a “source area.” The Postal Service also sells change-of-address information to direct marketing companies (and provides it to government agencies) and has an established intelligence unit to target for surveillance persons engaged in “suspicious mailing patterns.” Mail surveillance programs carried out by or with the cooperation of the Postal Service include mail covers, intelligence agency “mail taps,” and opening of mail.



MAIL COVERS

The monitoring of mail by a government agency is a “mail cover.” The mail is only monitored, not opened; no warrant is required. The investigating agency records the address, sender, return address, meter number, place and postmark date and class of mail for all mail delivered to the target address.

Mail covers can be extended indefinitely. International correspondence is a frequent target of mail covers. At one time the IRS photocopied all correspondence between Switzerland and the United States. It matched the postal codes on the envelopes with the names and addresses of Swiss banks and audited persons who had received correspondence from these banks. Many account holders were subsequently prosecuted for income tax evasion.

INTELLIGENCE AGENCY MAIL TAPS

The courts have ruled that opening mail requires probable cause of criminal wrongdoing. But according to testimony before Congress from Professor Mel Crain of San Diego State University, while employed by the CIA, “I found myself extensively involved in mail tapping of American citizens.

The letters were opened, reproduced, and sent on their way without interrupting mail flow or their opening in any way being detected.” Targets were chosen, according to the National Center for Security Studies, “on [the agents’] own interpretation of current events” This operation was curtailed in the 1970s in the wake of the Watergate scandal, although unofficial reports of illegal mail opening by U.S. intelligence agencies continue. In the meantime, the CIA built a database of 1.5 million persons whose names were listed in the illegally opened correspondence. Portions of this list may have been merged with the federal anti-terrorist databases.

The FBI also illegally opened mail during this period from a list of about 600 “subversives,” mostly opponents of the War in Vietnam. However, only about 25 percent of the mail that was opened came from persons on this list. As with the CIA, individual FBI agents used their “judgment” to determine what other mail to open.

OPENING MAIL

The U.S. Postal Service may allow mail to be detained while a law en-



forcement agency decides if it has probable cause to examine the contents. However, the definition of probable cause is remarkably broad, as the following example, taken from documents filed in federal court, demonstrates:

The Chicago division of the U.S. Postal Inspection Service has implemented an Express Mail Profile program at the air mail facility at Chicago O'Hare International Airport. This program consists of a physical profile of express mail parcels which have been mailed to or from locations within the Northern District of Illinois. Targets were cities and/or areas of the United States which have been identified by law enforcement personnel as being source areas for the distribution of narcotics and/or controlled substances.

After the packages are identified, they are placed in front of DEA dogs trained to sniff out the smell of drugs. If the dogs "alert" to the presence of drugs, the packages are then opened for inspection. Should drugs be found, the package is delivered to the address, and the recipient arrested. The positive reaction of the dogs, according to the affidavit, provides probable cause for the packages to be opened. Many packages opened contain no drugs, only cash, which in some cases may be seized if it contains narcotics residues. Packages may then be re-sealed and delivered to the addressee with no indication a search has occurred.

MAIL DROPS

Mail drops or mail receiving services are available in many countries. A mail drop may facilitate privacy when receiving or sending sensitive correspondence, but may be compromised. International investors can use mail drops outside their domestic jurisdiction to defeat mail covers of their international correspondence.

Law enforcement agencies associate mail drops with criminal activity. Some advertisements for mail drops in privacy-oriented publications are a ploy to get your name and address, which is cross referenced with lists of missing or wanted persons. This is known as "reverse skip tracing."



FOR PRIVACY, YOU NEED A MAIL DROP

PT2, 1997 updated 2010

For some individuals, using an address other than one's own—a mail drop — somehow may seem wrong.

The term “mail drop,” first popularized in spy novels, describes a process for sensitive communication by one intelligence agent to another using a so-called “dead drop,” perhaps a hollow tree or a trash bin. That sort of clandestine gimmick is not feasible for receiving mail with the help of a national postal service.

A commercial mail drop operation — UPS, FedEx Office, and the like — is a physical address recognized by the postal service — either a post office box or a street address where they will deliver mail. This address is controlled by persons who, for a fee receive, keep or forward mail according to the wishes of customers who do not physically reside on the premises.

These services are legal businesses that comply with all requirements of the country's postal system for delivering mail. In the U.K., mail is delivered to any post office box number or street address indicated on an envelope, regardless of the name of the addressee. Some other national postal services only will deliver mail to a named recipient who is known to live at the address to which mail is sent. For this reasons if you use a name other than your own make sure the mail drop staff is informed before the mail arrives. Otherwise, it may be returned or refused.

Mail drops exist to make money, charging a fee for receiving and distributing mail to individuals willing to pay for the service. In spite of free home delivery of mail, many people pay to receive mail at an address other than that at which they actually live. Standard mail delivery practice means mail is simply shoved through a door or stuffed into a mailbox. Anyone can look at these envelopes and their return addresses with possibly unwanted consequences for the intended recipient of the mail.

Government agents regularly monitor all international mail particularly that which originates in well-known tax haven nations. Without opening mail, these snoops can gain information which may be used to justify an investigation.



Any individual can be the subject of official mail surveillance for any reason, often suspected tax evasion. Agents can obtain bank names, making it much easier to place a lien on an account, even one located in a tax haven.

OPEN A “BRANCH” OFFICE

Business corporations also benefit by using mail drops that appear to be a branch office or even the head office of the company. This fits in with the fact mail drops also provide telephone answering and fax forwarding services. In such cases the mail drop acts as agent for the company, all quite legal. Some countries do not accept a post office box number as a corporate address. Instead, a mail drop provides a real address that does qualify and costs far less than rent for even the smallest office.

Mail drops can screen your location, its address can be printed on corporate checks and it can accept express courier packages that cannot be delivered to post office boxes. If you or your company moves, you can continue to receive mail at the same commercial mail drop.

In summary, there are four basic reasons to use a mail drop:

1. to receive mail in one's own name in a discreet fashion while preventing unwanted visits by clients, salesmen and other correspondents.
2. to receive mail in a name other than your own.
3. to keep physical distance between oneself and people and companies from whom one receives mail.
4. to incorporate a company and manage a business without having to rent an office.

Any large daily newspaper has classified ads for such services in the business services section. Daily the *International Herald Tribune* carries ads from mail drops located all over the world. Such services are priced at double or triple the rates charged by similar local services. You can also find them in the Yellow Pages.

The modern world is far from an ideal place. Honesty and integrity do not immunize from annoyances and danger. It is wise put distance between yourself and potential harm. If you seriously want to protect yourself and your privacy, you must take prudent counter-measures well before they are ever necessary. Commercial mail drop operations provide an excellent



vehicle for protection in the form of an alternative address. It is much like an unlisted telephone number.

The steps to follow are:

- Choose a reliable, reasonably-priced mail drop convenient to your home or office.
- Pick the name or names you wish to use when receiving mail.
- Establish a mail pick-up procedure.
- If you wish greater privacy, don't give your true name or address to the mail drop operators.
- Send the mail drop your own test mailings to make sure everything is working properly.

[Ed. Note: Regulations now require all U.S. persons opening accounts at mail drops to present positive identification and complete forms verifying under penalty of perjury identification details. In addition, it is no longer possible to identify a mail drop address as a "suite," although you may still designate your box number with the pound sign (#).]

IDENTITY THEFT:

WAYS TO PROTECT YOURSELF

By Mark Nestmann, *The Sovereign Individual*, 2003, updated 2010

"He that filches from me my good name robs me of that which not enriches him and makes me poor, indeed." — Iago in Shakespeare's "Othello"

Each year a staggering number of Americans have their good name stolen by "identity thieves. Approximately 15 million Americans were victimized by some sort of identity-theft related fraud in the 12 months ending in 2006, according to a survey by Gartner, Inc. That's up 50% from the 12-month period ending in 2005.

Expatriates and others away from home for extended periods are particularly vulnerable. Nor is the problem limited to the United States — in recent months, gigantic ID thefts have been uncovered in Canada and in Russia.

If you're an American, all someone needs to impersonate you is your



name and Social Security number (SSN), plus one or two other easy-to-find pieces of information such as your birth date, mother's maiden name or residential address. Millions of people have access to this information. Anyone you've ever borrowed money from probably has a record of your SSN. Under federal law, banks and brokers must keep your SSN on file. Employers must have it to withhold Social Security taxes. Other businesses can ask for it at their discretion, and many do — doctors, hospitals, utility companies, insurance companies, etc.

Most ID theft victims are liable for no more than US\$50 per fraudulent account. But a much larger loss is denial of credit and employment, or even arrest, as impostors misuse their identities. Many victims spend thousands of dollars in legal fees and spend years cleaning up the mess. Nor is it practical to count on help from police. Because ID theft victims often live outside the state, or even the country, where the theft occurs, investigations often hit jurisdictional “brick walls.” Preventing identity theft is much easier than recovering from it after it occurs.

WHY EXPATRIATES ARE VULNERABLE

Because they may not check their mail frequently, expatriates and others away from home for extended periods are especially vulnerable to ID theft. ID thieves begin by filing a change-of-address form with the Postal Service to forward your correspondence to a new address. Of particular interest is correspondence from banks, brokers, credit card companies, etc. They use these account numbers to buy goods or services on your credit. They open new credit card accounts, using your name, birth date and SSN.

ID thieves may order checks or debit cards and use them to drain your bank account, or open new accounts and write bad checks. They can also set up phone or cellular service, take out auto loans, make false insurance claims or even file for bankruptcy — all under your name.

None of these activities will necessarily come to your attention, because the person conducting these transactions is supposedly “you.” Indeed, your first inkling of a problem may come when you are detained or arrested at a U.S. border crossing.

IDENTITY THEFT — HOW IT'S DONE

Most ID thefts are “inside jobs.” The perpetrator has access to credit or other records useful for ID theft. Members of fraud rings continually seek



to employment at with access to such data, often as temporary workers or cleaning staff.

Other common sources of ID theft include:

- Duping a person out of information required for ID theft. One clever scam involves falsified tax forms purportedly from the IRS to gather private data.
- Dumpster/mailbox diving. ID thieves examine discarded trash and unlocked mailboxes for credit card and bank statements or pre-approved offers of credit.
- Burglary and robbery. A wallet, purse, glove compartment or file cabinet can be a gold mine for ID thieves.
- Someone you know. Family members, household employees and visitors to your home can pilfer to confidential documents.
- Computer hacking. It is relatively simple for someone to hack into an unsecured home PC or business computer to retrieve personal information: addresses, credit card numbers, etc.

MAKE YOURSELF A “HARD TARGET”

No magic bullets exist to prevent ID theft, because it's such a simple crime to commit. However, by adhering to the following suggestions, you'll become a “hardened target” to impersonation.

Basic strategies:

1. Check your credit records at least annually. Federal law requires credit bureaus to give consumers one free copy of their credit report annually. For more information, see <http://www.annualcreditreport.com>, call toll-free (877) 322-8228 or download the written request form at <https://www.annualcreditreport.com/cra/requestformfinal.pdf>.
2. Never disclose personal information unless you have initiated the contact. Identity thieves often pose as bank representatives or government employees to obtain your SSN, mother's maiden name or financial account information.
3. Guard your SSN. Don't disclose it unless you are applying for credit, dealing with the IRS or the Social Security Administration or (in some states) applying for a driver's license. Never have your SSN imprinted on stationary or checks. Don't carry any document in your wallet



or glove compartment that lists your SSN. Keep the card itself in a safety deposit box.

4. When using a credit card, don't let it out of your sight. This guards against an employee surreptitiously reading the information in the card's magnetic stripe using a device called a "skimmer." If you can't keep watch on your credit card during the entire transaction, use cash.
5. Pay attention to billing cycles. A missing bill could mean a thief has taken over your account and changed your billing address.
6. Put passwords on your credit card, bank and phone accounts to prevent unauthorized changes of service. Avoid easy-to-learn passwords (e.g., your birth date, the last four digits of your SSN, etc.).
7. Use credit cards wisely. Minimize the number that you carry and keep the lowest credit practical credit limits. Cancel inactive accounts; unused accounts still appear on your credit report, and can be used by thieves.
8. Guard your residential address. Use a post office box or mail receiving service to receive your mail. Ask companies that provide services at your residential address to bill to a secured address.
9. Buy a crosscut shredder. Bank and credit-card statements, receipts, old tax forms, pre-approved offers of credit, etc. should go into it.
10. Get off commercial mailing lists. Write to the Direct Marketing Association's Mail Preference Service, P.O. Box 9008, Farmingdale, N.Y. 11735 and ask to be removed from all commercial mailing lists.
11. Opt out of pre-approved credit card offers. Call 1 (888) 5OPT OUT. You will need to disclose your SSN to use this free service.
12. Lock up sensitive information. Keep credit card records, bank records, etc. in a locked safe bolted, or even better, embedded, in the floor.
13. Use common sense. If it seems too good to be true, it probably is.
14. Learn more about ID theft. Reliable sources of free information include: a) Identity Theft Resource Center. Link: www.idtheftcenter.org/
b) Privacy Rights Clearinghouse. Link: www.privacyrights.org/.



ADVANCED STRATEGIES

The preceding strategies are sufficient for most members. However, expats and anyone else scoring higher than 50 points on our ID theft vulnerability quiz (see below) should seriously consider taking the following additional precautions. (Downside: These advanced strategies may lead to inconvenience, particularly if you need credit quickly).

1. Notify credit bureaus and card issuers not to authorize credit extensions over the phone. This forces credit card issuers to obtain written authorization before they give someone a card in your name. Also, it gives you a sample signature to compare to your own.
2. Join a credit report monitoring service such as Trusted ID (<http://www.trustedid.com>). You'll be asked to provide substantial additional information to "insure the accuracy" of their records. However, you're under no obligation to give a credit monitoring service any more information than they need to identify you. This means providing only your SSN, a non-residential contact address, plus whatever information you want them to correct (if any). Don't complete the rest of the multi-page questionnaire that will likely be included with your membership kit.
3. Place a credit freeze on your credit bureau account. This action "locks" your credit file, prohibiting new extensions of credit being issued in your name. When you sign up for a credit freeze, you're assigned a PIN with which you can lift the freeze when necessary. Most states now authorize credit freezes. Major credit bureaus such as TransUnion and Equifax now offer credit freezes in all 50 states.

WHAT TO DO IF YOU SUSPECT ID THEFT

1. Call the three credit bureaus. Place a "fraud alert" on your file and have them send you copies of your reports. Review them for fraudulent activity or inaccuracies.
2. Contact local law enforcement. They must take a report and give you a copy of it, although they may not have the resources to investigate. You'll need the report to "prove" to credit grantors that you reported a crime to authorities.
3. Notify creditors who have opened fraudulent accounts in your name.



Start with a phone call and follow up with a certified letter. Request copies of all application and transaction information.

4. Notify your bank. If necessary, cancel your checking and savings accounts and obtain new account numbers.
5. Contact the FTC's Identity Theft Hotline at 1(877) ID-THEFT. Link: <http://www.ftc.gov/bcp/edu/microsites/idtheft/>.

A QUIZ TO PROTECT YOURSELF FROM ID THEFT

Are you at risk for ID theft? Take this quiz (adapted from one at www.privacyrights.org) to learn how vulnerable you are.

1. I receive frequent offers of pre-approved credit (5 points). Add five points if you don't shred these offers before discarding them.
2. I carry my Social Security card in my wallet or glove compartment (10 points). Add 10 points if you carry your driver's license, military ID or any other documents containing your SSN there.
3. My driver's license has my SSN printed on it (10 points).
4. I receive mail in an unlocked mailbox (5 points).
5. I use an unlocked mailbox to drop off outgoing mail (10 points).
6. I do not shred banking and credit information when I discard it (10 points).
7. I provide my SSN whenever asked (10 points). Add 5 points if you provide it orally without checking who might be listening.
8. I use my SSN as an employee or student ID number (5 points).
9. I have my SSN printed on my employee badge that I wear at work or in public (10 points).
10. I have my SSN and/or driver's license number printed on personal checks (10 points).
11. I am listed in a Who's Who guide (5 points).
12. I have not ordered a copy of my credit report in at least two years (20 points).
13. I do not believe that people would look in my trash looking for credit

or financial information (10 points).

14. My name is listed in U.S. credit bureau files and I live outside the United States (15 points).

Scores: 100+ points: High risk. Carefully follow the precautions listed in the accompanying article to reduce your vulnerability. 50-100 points: Average risk; higher if you have good credit. 0-50 points: Low risk. Keep up the good work and don't let your guard down now.

HOW TO TAKE BACK YOUR PERSONAL & FINANCIAL PRIVACY

Mark Nestmann, *The Sovereign Individual*, 2002, updated 2010

In the ongoing “War on Terror,” privacy has been one of the major casualties.

We often have documented the erosion in privacy as justified by the fight against terrorism, tax evasion and money laundering. But there remain state-of-the-art strategies that go a long way toward minimizing intrusions into your personal and financial affairs.

Perhaps the most powerful plan ever devised to preserve privacy is the “five flags” strategy:

Flag #1. Obtain citizenship and passport from a country that does not tax non-residents on their worldwide income. Almost every country qualifies in this regard, with the notable exception of the United States.

Flag #2. Form a company in a country that does not tax business income earned outside that country. Most offshore centers qualify.

Flag #3. Obtain legal residency in a country that taxes only income generated within that country, not foreign income. Belize, Croatia, Grenada, Malta and Panama are such jurisdictions.

Flag #4. Place your wealth in asset havens with strict bank secrecy laws that can only be penetrated in a criminal investigation, and that do not



liberally exchange data with foreign revenue authorities. Liechtenstein, Panama, and Switzerland are such jurisdictions.

Flag #5. Spend your time in whatever countries you enjoy the most, taking care not to stay long enough to become legally resident there and thus possibly subject to tax on your worldwide income.

The selection of each of these centers of activity depends upon your own unique needs and desires. Which country offers the lowest costs, best deal, best climate, and the most fun? Which country offers the greatest advantages for those particular activities that you find most desirable? And, as the “War on Terrorism” turns increasingly into a war on civil liberties, which countries offer both a reasonable degree of security while preserving individual freedoms, including the all important right to personal and financial privacy?

FIVE STEPS TO PRIVACY

Using the criteria listed above, how might you best take advantage of the five flags strategy?

Here are some suggestions:

1. Internationalize your investments. An essential part of the five flags strategy is geographical diversification. It is much easier to move assets across borders than to physically relocate. The first step you should take to fulfill this strategy is to open a bank or investment account outside your own country. Austria, Panama and Switzerland are all acceptable jurisdictions.

Most OECD countries tax worldwide income, so if you live in an OECD country, this strategy generally won't provide any tax benefits. Nor will it provide any asset protection benefits, although it will have the privacy advantage of taking your assets off the domestic “radar screen.”

With simple refinements, you can combine international investments with tax and asset protection advantages. For instance, U.S. persons who purchase a properly structured offshore variable annuity will obtain tax deferral on the build-up in value of the investments inside the annuity. In addition, the laws of many offshore jurisdictions protect the insurance policies from creditor claims. In this regard, Switzerland perhaps has the strongest asset protection laws of any jurisdiction.

2. Internationalize your sources of income. As your overseas invest-



ments grow in value, they will hopefully appreciate in value and/or generate income. But an even better way to integrate the five flags strategy into your own life is to form and operate an international business.

Finding a local business partner greatly increases your chances for success. It can also provide privacy, asset protection and tax advantages. Lawsuits are much less common overseas than in the United States. And when you earn income and keep profits overseas, these funds are both off the “radar screen” and isolated from legal attack. Moreover, your business, income and assets are also safer if diversified in more than one country and currency.

Finally: Active overseas businesses owned by 50% non-U.S. business partners, when correctly structured, can legally defer U.S. taxation.

How should you structure your business? There are two primary options: organize it as a foreign corporation or as a foreign LLC. A corporation is a separate “tax person” and may permit you to defer paying tax in your country of residence on corporate income. But the rules are extremely complex, particularly if you are a U.S. citizen and resident. If so, you will generally obtain more favorable tax results if you elect to form an offshore LLC, or elect to have your offshore corporation taxed as a partnership or (if you are the only owner) as a “disregarded entity.” This choice avoids many “tax land mines” in the U.S. “controlled foreign corporation” (CFC) laws, but also eliminates the possibility of tax deferral on foreign income.

Because of the complexity of these rules, consult with a qualified international tax planner before forming your international business.

3. Obtain legal residency outside your own country, preferably in a jurisdiction that does not tax foreign income. Such “territorial” taxation means that the income from your foreign business(es) will not be subject to local taxes. If you are a U.S. citizen, becoming a non-U.S. resident will not relieve you of the obligation to pay U.S. taxes, although the first US\$91,400 of your earned income will not be subject to U.S. tax. What’s more, if you are a non-U.S. resident, it is easier to justify a claim that your non-U.S. business is not controlled from the United States, thus making your foreign business income less likely to be subject to U.S. taxation.

4. Obtain alternative citizenship and passport. Having a second passport provides several important benefits. Perhaps the most important is “travel insurance.” For instance, when Iraq invaded Kuwait and precipitated the Gulf War crisis, many western passport carriers trying to flee Iraq



were not allowed to leave. Instead they were taken hostage and moved to installations that were likely bombing targets.

However, a few westerners were able to leave unmolested because they could present Iraqi border guards with passports from small, innocuous countries of no strategic consequence or propaganda value to Saddam Hussein.

The easiest way to obtain an alternative passport is to take advantage of your ancestry, marriage or religious affiliation, any of which can lead to the expedited granting of citizenship by another country. In Ireland, for instance, persons with at least one Irish grandparent qualify for Irish citizenship and passport.

Another option is to purchase economic citizenship from one of the two countries — Dominica and St. Kitts & Nevis — that still offer it. This is the fastest way to obtain alternative citizenship, as approval can be obtained in only a few months. However, it costs US\$75,000 or more to obtain economic citizenship, so this is not a strategy for everyone.

5. “Disconnect” from the tax system of your native country. For residents of most countries, all that is necessary to avoid income tax liability there is to demonstrate a prolonged period of non-residency; ordinarily, one or two years. Avoiding capital gains tax liability often requires a longer period of non-residency.

Avoiding estate tax liability may require that you obtain a new domicile. We all begin life with a domicile of origin; ordinarily, the country in which we are born. To change domicile, you must first change residence and then indicate your new domicile of choice by establishing as many connections as possible to your new home and disconnecting from your domicile of origin. For instance, you could purchase property in your domicile of choice, obtain a driver’s license there, and purchase a burial plot there, while severing these connections in your domicile of origin.

U.S. citizens must go even further to disconnect from the American tax system; they must give up their U.S. citizenship. There are many “tax land mines” involved in eliminating these tax liabilities. For this reason, consult with a qualified international tax planner before you assume that you are no longer subject to tax in your old “home.” Obviously, there are many variables involved in this strategy.



Chapter Eleven

PERSONAL SECURITY

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EDITOR'S NOTE

Here we explain how the personal safety of people of wealth can be compromised.

Kidnapping is not just for government officials anymore. You and your family could be the target of terrorists willing to use you as pawns to obtain cash.

But don't despair. In these pages, the experts tell you exactly how to protect your family, your cash and yourself.



PROTECT YOUR WEALTH BY KEEPING A LOW PROFILE

Nicholas Pullen, April 1998, Scope Books

There is an old Chinese proverb: The nail that sticks out is the first to be knocked down.

In the modern world it is the wealthy that must make sure they don't stand out.

That's because in today's world, it is distinctly dangerous to be wealthy, outstanding and successful. Your wealth — the fruit of your talents and creativity, the reward for hard work and sacrifice — exists in an increasingly hostile and unstable climate.

In today's world, wealth and those who have accumulated it are used for target practice. If you have visible wealth, you are a visible target—easily hit. If you don't take adequate precautions it may only be a matter of time before you show up on some predator's radar screen. There is no shortage of predators out there constantly looking for an opportunity to get their hands on your wealth.

Big Government: In the first instance, your wealth is aggressively targeted by tax-hungry governments.

Poor performing economies, sprawling bureaucracies and wasteful welfare programs don't come cheap. To foot the bill, governments and their tax officials expend huge resources in an effort to turn as much of your private wealth as possible into government wealth.

The U.S. government is particularly aggressive in its pursuit of private wealth. It actually has a policy directing its investigative agents and prosecutors to actively seek out high-profile and successful people. More is likely to fall from a wealthy man's pockets when he is turned upside down and shaken than a poor man's. Unfortunately, other western governments are following suit.

Deep-Pocket Litigation: The growing litigation culture directly threat-



ens the wealthy. Courts in the U.S. increasingly operate on a deep-pocket theory — like star-struck puppies, other western nations are again following suit.

As far as the “justice” system as the twenty-first century is begins, if you’ve got cash — you’re fair game. Unscrupulous litigants can, quite literally, select affluent targets at their leisure and then make speculative claims, spurious allegations, allude to imagined grievances and point to exaggerated or non-existent damages in the hope of being awarded a bumper payout from a jury.

This is the age of the litigation lottery. More and more greedy and malevolent individuals are finding it pays to play. For wealthy people who must pay to launch defenses against spurious lawsuits or be found guilty by default (and face a heavy fine and possibly worse), the situation isn’t particularly encouraging.

Sharks Always Circling: Finally, as outlined in an example below, the world is full of unscrupulous individuals who are only too keen to launch predatory attacks on the wealthy. Those in most danger from the criminal classes — robbers, con men, fraud artists and other parasites—are those wealthy individuals who haven’t taken sufficient precautions to protect themselves from opportunists.

Unprotected rich people are little more than sitting ducks just waiting to be bagged.

Blend In: The key to successful wealth defense is the adoption of a low profile lifestyle. Blend into the background and avoid being noticed. If predators don’t see you, it is highly unlikely they’ll be able to single you out for attack. If the nail isn’t standing out for all to see, there is no opportunity to hammer it.

It’s extremely foolhardy for high net worth individuals to adopt a high profile. It is suicidal and reckless to make ostentatious displays of success and wealth. Tax investigators, opportunist litigants and parasites spend their whole lives looking for just these signs of excess — the signs of an ideal target.

And, once they’ve spotted wealth, they never stop thinking of methods to separate it from its owner. Parasites are all around. Constantly watching and listening, unseen in the shadows, waiting for the chance to strike.



AIM FOR INVISIBILITY

Sensible people, as well as striving to be invisible to all governments, must also strive to be invisible to those they encounter on a casual basis in day to day life — these people can be as dangerous as your government. Invisibility means not attracting the attention of anybody — your neighbors, the people with whom you work, the girl at the check-out register, the authorities — anybody.

By adopting a few low-profile methodologies you'll give yourself the type of insurance you can't buy from some slick talking guy in a suit.

- Blend in like a chameleon. Appear normal. Don't do anything that sets you apart from the crowd. In a nutshell, invisibility is the art of appearing as the gray man. Who is the gray man? He's Mr. Average. Unspectacular. Unworthy of note. Unlikely to attract attention. Unlikely to stand out to predators.
- Adopt an air of genteel poverty or modest success. Dress down. Don't be outspoken — this attracts attention. Appear humble. Arrogance breeds resentment. Fade into the background. Don't strive to be the center of attention.
- Don't be the local celebrity. Shun media exposure. Don't have your photograph leaping out of the newspapers. Keep your activities cloaked in privacy. It may seem like fun to be the life and soul of the community but it can prove expensive. Learn to distrust publicity. Lose your ego. It's better than losing your wealth to a malicious litigant who takes a speculative potshot.
- Don't spend money recklessly. This gets you noticed. Great rolls of notes and lavish spending sprees breed resentment. Don't be a big shot at the casino. Avoid lavish displays.
- Don't drive top-of-the range, luxury vehicles or exotic sports cars. Tax men in particular notice these status symbols with alarming regularity. They often log the details and launch investigations into the registered owners on the basis of their sightings.
- Avoid gold, platinum or black credit cards. Even to the uneducated eye these signal money. Stick with the standard issue card.
- Be seen to live comfortably, not ostentatiously. Palatial homes equipped with all the latest security systems invite closer attention. A comfort-



able, discreet home doesn't get noticed. A comfortable home doesn't invite speculation or investigation.

- Avoid strutting around town like a peacock dripping with gold jewelry. Similarly, you may love your wife or girlfriend but bedecking her with diamonds and pearls means she will be an irresistible lure to predators for more than one reason.
- Avoid any situation where you may be likely to come under the scrutiny of any authority figure, official representative or police officer. These are the very last people you want taking an interest in your affairs and activities. The best way of avoiding them permanently is never to arouse their curiosity. Observe all laws, even minor ones. Don't get into arguments. Don't annoy your neighbors. Live the life of an ordinary, moderately successful, law-abiding citizen and you're likely to be left alone.
- Keep your mouth shut. Never tell anybody your business. Never mention your wealth, activities or any success you have enjoyed. Loose lips sink ships. More people have fallen foul of their own slack jaws than for any other reason. Today's friend, wife, lover or colleague is tomorrow's government informer. Trust no one. If nobody knows your business, they can't tell anybody about it.
- Sometimes it is helpful to appear slightly stupid. A little play-acting and a little misinformation means many predators will pass you by. Feigned stupidity is an excellent smokescreen. Remember, there is always someone watching, listening and waiting. There is always someone waiting for an opportunity to strike. A scrap of information, a glimpse of wealth, and the sharks will circle. Your wealth is their target.

Take steps to protect it — adopt a low profile today.



FOUR STEPS TO A LOW PROFILE

Patrick O'Connor, *You Are the Target*, 1997, Scope Books

None of us can afford the luxury of being indifferent to security in this day and age.

Indifference means your head could wind up on the criminal chopping block. We must realize that we are the only certain guardians of our own and our family's security. Others will take care of themselves — or perhaps be making plans to “take care of us” in a most undesirable way.

STEP 1: ALWAYS BE SECURITY CONSCIOUS

Behavior that is unthinking or born of a momentary personal arrogance destroys sound personal security procedures. The approach to security should be as professional and business-like as the approach to a chosen career. That is the only reasonable way to guard against harm to yourself and your family or loss of your personal and business assets.

Explore the positive steps that can and should be taken to reduce your personal target profile. Begin by developing a low personal profile. Remember collaboration with the enemy is one of the worst offenses and when you advertise your target potential, that is exactly what you are doing.

Obviously, if your life attracts the media, a low personal profile may be difficult or impossible to achieve. Moderate behavior is the key to an effective low personal profile. Develop a list of things that call attention to yourself in public and eliminate them. We all developed habits that call unnecessary attention to ourselves.

STEP 2: AVOID THE HABITUAL ROUTINES

This is one of the most important aspects of personal security. Studies of rapists, muggers, assassins, robbers and kidnappers prove the incredible dangers posed by their victims' habits. Living in a predictable way can be the perfect scenario for predatory criminals.

You can alter your routine. Do grocery shopping with your spouse on Wednesday if the usual day is Saturday. At work vary your lunch time and



the place you eat. Reporting to your office every day at the same time is a common error. When leaving home notify a trusted person of your destination; make arrangements for a second phone call to verify arrival.

Arrange code words to alert your wife or a friend of trouble by phone. In the office, adopt silent emergency signals. The cash room of a major department store has a code system by which a supervisor regularly greets employees with a cheery "Hello." The response must be a bright, "Hello, Mr. Powers." If the response is anything else, the supervisor takes immediate emergency measures.

Whether your car is parked in a public place or in a locked garage it is a target for bombing, bugging or disabling. Transmitters can be attached in seconds. These can emit a signal picked up and traced over several miles. An explosive device can be clamped to the underside a car in seconds.

A cellular phone should be carried in your car so you can summon help or report trouble. After looking for bugs and explosives, check tires, lights, the horn and be sure your petrol tank is full and not leaking. A flat tire or a slow leak can place you in a critical and vulnerable position.

It is imperative to avoid anyone who may be following you. Professional followers have a number of techniques designed to fit specific needs. They may use several vehicles including helicopters. Changing taxis and often doubling back on yourself can throw off pursuers off your tail. If you are in your car and feel threatened by followers, lead them into a congested traffic area if possible, stop the car, get out and walk away quickly leaving the car where it is.

Police say victims of crimes are often accomplices in their own demise. Private security consultants caution customers that imprudent or showy conduct is the catalyst in random criminal activity.

Your safety checklist should include a check of cosmetic features. Do you consistently overdress for surroundings? Do you wear inappropriate or unnecessary jewelry? These are signposts to criminals seeking a target. Avoid flashing inordinate amounts of cash or wallets filled with credit cards. Carry only cash you need and don't flash a roll of bills. Use the credit card you need and keep the others safely concealed. A minimum conscious effort provides great personal security by denying criminals information.

Personal conversation should be guarded in public. If you maintain a moderate appearance and conservative conduct, why negate it all with loose



conversation. Professional criminals make an excellent living capitalizing on overheard conversations.

STEP 3: AVOID DANGERS, KNOWN & UNKNOWN

Strangers about which we know little or nothing should be assumed to be dangerous until proven otherwise. That sounds stringent until examined under the light of effective security. It doesn't offend anyone and it keeps us from compromising ourselves by keeping people at a safe arm's length until their background and character are known to us. The same approach is correct for strange places, venues about which we know little or nothing.

They are the types of places that we find ourselves at an unguarded moment. When there is even the slightest doubt about a place, avoid it. There never is a good reason for putting yourself in an area of potential jeopardy.

STEP 4: MAKE YOUR HOME SECURE

Every residence should be penetration proof. Only residents should be able to come and go at will. This means there must be a security system and security procedures which will vary with single- or multi-unit dwellings.

FAMILY SECURITY

PROTECTION CHECK POINTS

Patrick O'Connor, *You Are the Target*, 1997, Scope Books

Practical things you can do now — today — to protect your family, at home and away at school. What to tell your children, plus a school security check up.

SECURITY BEGINS AT HOME

- Be certain outside doors, window, and screens, especially those in children's rooms, are locked securely.
- Keep children's room doors open so you can hear any unusual sounds; or install an intercom or video camera system in their rooms.



- Make sure your residence is not readily accessible from the outside and that the alarm system is functional.
- Never leave young children unattended at home or anywhere else. Be certain they are always in the care of a responsible person.
- Instruct your family and domestic staff that doors and windows must be locked and that strangers are never to be admitted.
- Instruct young children how to telephone the police and test their knowledge with a trial call.
- If you leave pre-teenage children at home with a sitter at night, keep the house well lit inside and out.
- During an extended absence, avoid indications you are away. Close garage doors and cancel newspaper delivery. Install day-night, light-sensitive controls on appropriate light systems.
- Never advertise family activity routines. To acquaint themselves with a family's habits, would-be intruders often have victims under surveillance prior to acting.
- Instruct your family, especially the children, your staff and business associates never to provide information to strangers.
- Avoid providing personal details in response to inquiries from publications such as business directories, social registers, or community directories. Always demand a caller's identification and double-check by calling them back at their office before talking at length.

SECURITY TIPS TO TELL YOUR CHILDREN

- Always travel in groups or pairs.
- Walk along heavily traveled streets and avoid isolated areas whenever possible.
- Refuse automobile rides from strangers and never go with strangers anywhere on foot. Never accept any gifts, food, candy, drinks, or money from strangers. Refuse requests for help from strangers.
- Use municipal or private play areas with recreational activity supervision by responsible adults and readily available police protection.
- Immediately report anyone who molests or annoys you to the nearest person of authority.



- Never leave home or a hotel without telling you parents where you are going and who will be with you.
- Instruct your children never to disclose your residential address without your permission, especially over the Internet.

MINIMUM SECURITY RULES FOR YOUR CHILD'S SCHOOL

- Never release a child except to his/her parents during school hours. A teacher or school official must confirm parents approval before release of a child to any person other than the parent.
- Confirm the caller's identity when phone requests are made concerning a child's activity or a request is made that the child be permitted to leave during school hours. If a parent calls, check the request by a return telephone call and have the child positively identify the parent's voice. When appropriate, the caller should be asked identifying questions such as the child's date of birth, courses being studied, names of teachers and classmates and other facts known only to the parents. When in doubt, do not release the child.
- Be alert to suspicious persons loitering in or near school buildings or grounds. If such persons can provide no logical explanation for their presence, notify police immediately. Obtain the identity and full description of the suspect person.
- School personnel must ensure that adult supervision is provided in schools and recreational areas at all times.

SECURITY QUESTIONS FOR YOUR CHILD'S SCHOOL

ADMINISTRATOR

- Are thorough background checks done before hiring school staff, including maintenance people?
- While children are in school is a qualified nurse on duty at all times?
- Describe procedures followed when a child is injured at school. How is parental notification given?
- To what hospital is a child transported in the event of injury?
- What police and fire station has supervision over the school?
- How many and what kind of security personnel are available on the school premises? Where is their office?



- Is a special background check made on all security personnel before hiring?

SECURITY CHECKLISTS FOR BUSINESS PEOPLE

Patrick O'Connor, *You Are the Target*, 1997

Service, manufacturing or retail, every business has its soft spots and choke points. Do you know where your business vulnerabilities are?

The four most common targets for security violations:

1. Your physical person
2. Your loved ones, including family, home and possessions
3. Your business
4. Your employees

The two most serious challenges to security:

1. Your own indifference
2. Hostile outside forces

The two guiding principles when considering security:

1. Eliminate all vulnerabilities.
2. Never knowingly create or invite a threat.

Security check points for service-oriented businesses:

- Keep a minimum amount of cash on hand.
- Keep all valuable papers and records in a secure place within a restricted area.
- Release papers and records only on a qualified and controlled basis. Pin-point responsibility at all times.



- Screen all visitors and potential clients within a reception area separate and apart from work and office areas.
- Designate specific responsibility for day-end premises lock up.
- Periodically test premises and telephones for electronic spying apparatus.
- Caution employees to avoid shop talk outside the office except in controlled business situations.
- Screen new employees thoroughly and avoid the use of temporary help for confidential or critical assignments.
- Provide intelligent security when the premises are vacant.

Additional security check points for manufacturing businesses:

- Assign portable equipment and collect it daily.
- Keep a running inventory of raw materials.
- Distribute raw materials on a sign-out basis.
- Maintain daily inventory records of manufactured goods in a secure place.
- Promulgate and enforce specific entrance and departure procedures for all employees.
- Adopt responsibility and assignment rules for stationary machinery.
- Have uniformed security personnel on duty and highly visible at all times.

Additional check points for retail businesses:

- Display expensive items in the most controlled manner possible.
- Make frequent but irregularly timed bank deposits depending on cash flow.
- Employ uniformed store guards.
- Keep inventories well secured.
- Establish individual responsibility for cash drawers.

LEARN TO READ PEOPLE

PT2, 1997, Scope Books

A little intuition and practical savvy can help you avoid some of life's worst pitfalls — other human beings bent on making trouble for you. You can stop them before they even start if you know how to read the telltale signs.

People who are born and live in other cultures have unique ways of expressing themselves through body language. Before traveling internationally, always familiarize yourself with local customs in the countries you will visit.

As Groucho Marx used to say, “When in Rome, do as the Romanians do!” Every good guide book contains an introductory lesson on possibly offensive body language to be avoided. Fail to heed such useful advice and you may cause a social crisis that not only deeply offends local people but also brings unwanted negative attention to yourself.

Once while visiting the Temple of the Emerald Buddha in Bangkok, one of Thailand's most holy shrines, I saw a woman insult every Thai within sight. She accomplished this when she sat in front of the statue of Buddha with the soles of both of her feet pointing directly at the shrine. In Thailand, it is highly insulting to show anyone the soles of your feet, much less Buddha. Thais present angrily whispered among themselves, until someone finally asked the woman to leave the shrine. Her ignorance had transformed the traditionally friendly Thais into menacing adversaries.

She is probably still wondering what all of the fuss was about.

As in Thailand, the soles of your feet are an insult in most Arab nations. In many Moslem countries, a man who sits with crossed legs is indicating he is gay. Finger signs mean different things in different places. Making a circle by putting your forefinger and thumb together means “perfect” or “thanks” in most countries.

In Greece, however, it invites homosexual advances. The two-finger sign (“bull”) that expresses disbelief in the U.S., in Italy is a private signal that the wife of a man with whom the signal sender is speaking is having



an extramarital affair.

In any country a good indication of a conversation partner's honesty of expression can be seen in his or her body language. Read some books on this subject if you are frequently involved in conferences where clues to the true feelings of your opponents or colleagues may be helpful.

Someone who fidgets while talking is probably nervous. If one stands with arms crossed over the chest it may mean a negative or defensive attitude, even more so if a person sits with arms crossed on the chest.

When you learn how to read others, you also learn how not to reveal your own attitudes through body language.

Reading facial expressions is more tricky. People are usually more aware and in control of their facial expressions than of their body language. As a defense mechanism some people constantly present a poker face to the world. A hint: someone who is less than truthful may respond to an accusation with a fleeting facial expression of feigned surprise or astonishment. If the look lasts a bit too long, he's probably a phony. Test yourself on this in a mirror. The insincerity revealed is quite obvious once you attuned to its meaning.

So when you go abroad, learn how to look before you leap.

10 MISTAKES TO AVOID WHEN WORLD TRAVELING

Paul Terhorst, December 1997, Scope Books

Don't believe all those old wives tales about travel precautions you've heard repeatedly.

Take it from a veteran traveler who learned the truth from hard experience.

After 16 years living and investing all over the world I thought I could be most helpful to you by exposing some bad advice you may hear — advice that travel agents, credit card vendors, tour guides, innkeepers and others want you to hear because it's in their interest.



Below are the Ten Worst Offshore Travel Tips — advice you're likely to hear about traveling and investing abroad that you can feel comfortable ignoring.

- 1. The American Express Card, Don't Leave Home without It.** An ad campaign for American Express many years ago and bad advice. One time I was in London during a period of stable exchange rates. I charged several items each day on a Diners, American Express, Visa, and MasterCard. When I got the bills back in the U.S., I checked the exchange rates. Diners, Visa, and MasterCard were all close. But American Express stepped three percent on every exchange rate. Why pay American Express three percent of your monthly expenditures? I cut up the card.
- 2. Don't Drink the Water.** This tip is okay as far as it goes. But then the guidebooks remind you that "water" includes ice, and advises you not to put ice in drinks. This is an example of "developed world-centric" thinking. In rich countries bars and restaurants buy ice machines and connect them to the tap water. But in Third World countries bars and restaurants buy their ice from ice plants. I've been in some of those ice plants, and in each case the host has pointed out the water purifier. The last thing these ice people want is dirty water jamming up their plant. So the ice is probably okay. On a hot day you're probably running a greater risk of dehydration than you are of getting sick from eating ice.
- 3. Buy Cheap Countries.** This is bad advice and the reason why is quite complicated. It sounds reasonable enough — buy low, sell high, right? Why shouldn't you buy cheap countries? Well, first of all, when I say cheap, I don't mean stocks are cheap, but that the country is cheap to you — the visitor. A beer or a taxi ride or a local hotel room is cheap. The only way a country can be cheap, with only a few exceptions that I can think of, is to have an undervalued currency. So cheap means a foreign currency is cheap.

So why is expensive good and cheap bad? Because of a paradigm shift. The old model, most notably in Japan and Western Europe, particularly Germany, in the 1950s, was to undervalue the currency. That way those countries could produce things cheaply. Years later, after booming exported growth and the expansion of internal markets, the market revalued those currencies.



The new paradigm today is to skip directly to the expensive currency phase. To heck with building factories, taking advantage of low cost labor, improving manufacturing techniques, becoming the low cost producer, then watching your currency go up in value. In every case — Brazil, Argentina, Russia, Hungary — countries which have overvalued their currencies, or revalued their currencies, have met with initial success under this new paradigm:

- Inflation disappeared.
- Money poured in from Wall Street and Western Europe.
- Stock markets soared.
- Real estate and other assets soared.

So why am I telling you all this?

Because PTs are in a unique position to take advantage: PTs travel and they have money to invest in speculative, turnaround situations. As a PT all you need to do is note when a given country becomes very expensive, very quickly. There's your opportunity.

EXPENSIVE IS GOOD, CHEAP IS BAD.

So where's the next opportunity likely to be?

Well, it's got to be a cheap country right now: Indonesia, the Philippines, even Burma or Vietnam, none of which are tied to the old model, are viable possibilities. Here's what I'm saying—but don't be premature — wait until these countries purposefully and dramatically overvalue their currency.

Bide your time, continue your travels. Keep your eye out for newly expensive, especially very expensive places. When you see a big change... there's your opportunity. This is the new paradigm and you can do very well from it.

4. Pack Your Fodor's Guide. Over the years, I think I've seen all the guidebooks and the best for travelers are the *Lonely Planet* guide book series. I'm talking here about travelers versus tourists. I define "travelers" as people who move around within the country at large rather than within carefully defined, guided, tourist groups. Lonely Planet guidebooks have the best maps, details on transportation, and lists of hotels in all price ranges.



They're very specific. For example, they tell you precisely how to take the train from Bangkok to Chiang Mai in Thailand. Go to the station, through the black door on the right, to the left toward a desk marked "Foreigners." Believe me this depth of illumination can help you avoid all sorts of confusion and mistakes. Contact Lonely Planet Publications, www.lonelyplanet.com/.

5) Avoid Countries in Turmoil. No one went to Iraq during the Kuwaiti war. Then again, I guess not many people go to Iraq under any circumstances. But deciding whether or not to go to a country in turmoil depends on the turmoil. If you're in a country shortly after a coup, for example, you're safer than any place on earth. After many years being around it, my view is that turmoil is good. It's exciting and provides all kinds of benefits to the traveler who's in a position to take advantage.

For example, in 1989 I was in Argentina, a country in turmoil with massive inflation. I got up one morning and decided to buy a pair of leather Adidas tennis shoes. I had seen the shoes the day before at 2,000 pesos. With the peso at 100 to the dollar, that was about US\$20, a good price. By the time I got to the store the peso was at 200, so the shoes were now only US\$10. The merchant guaranteed the 2,000-peso price for an hour while I raced downtown to change money. By the time I got to the exchange dealer the peso was at 500. The shoes wound up costing only US\$4.

6) Check Home for Messages Every Now and Again. Calling home is old fashioned. Computers, email and the Internet provide the modern traveler with a direct line to the wider world. Using the Internet you can have your messages forwarded to you. You can operate bank and broker accounts and check that transactions were recorded properly. You can purchase plane tickets. During 1995–96, Vicki and I were on the go for over a year. All the while we were in constant touch, via e-mail, with family and friends. I don't think we would have been comfortable traveling for that long without having our small computer along.

7) Enjoy Exotic, Native Culture in Tahiti. The principal argument I have with this advice is that Tahiti is one of the world's most expensive tourist destinations. Now you may have your own reasons for going to Tahiti. But westerners, in general, are terrified of visiting inexpensive countries. Tourism to Mexico plummeted after the 1994 devaluation. Travel agents and airlines are already bracing for a huge drop in tourism to Thailand and Malaysia this season, because of the devaluations there.



Why do people avoid countries that become cheap? They feel uncomfortable. They assume they can't get the luxury they want. They don't know how to tip, think that they're unfairly taking advantage, whatever. There's no reason for this. Visit countries when you want to go, whether they're cheap or not. If a country is cheap—you can take advantage and cut some deals. In the South Pacific, consider going to Bali, Malaysia, or Fiji instead of the much more expensive Tahiti.

8) Beware of Dictatorships or Corrupt Countries. When I first moved to Argentina in 1981, it was a military dictatorship. People in the U.S. were screaming about lack of rights. But the streets of Buenos Aires were safe. I'm not supporting dictatorships. But dictatorships are often very safe for tourists. Under a military dictatorship the guys in the streets with the guns are often protecting you. Another point here: there seems to be little correlation between investment results and whether a country is a dictatorship or not, or whether it's very corrupt or not.

9) Take Traveler's Checks. They're Safer than Cash. They're also expensive and obsolete. It's difficult to replace them, unless you have a purchase voucher, and if your checks are lost in your luggage, the purchase voucher is often lost too. But that's if you lose them. If you don't lose them, you're sure to get a lousy exchange rate and pay exchange fees. You're sure to have to present your passport to cash them.

A better way to travel is with plastic — cash machine cards, credit cards. ATMs work just as well in Thailand or Argentina as they do at home. They also have higher limits on withdrawals, charge no exchange fees, and offer very favorable exchange rates. Personally, I prefer debit cards. With these you can go into a bank and get more money than from the machines, and you don't pay the cash advance fee credit cards charge.

10) If You Get in Trouble Abroad, Get Help from the U.S. Consulate. One specific piece of advice for Americans—avoid U.S. consulates. Remember: the people there don't work for you. They work for the government of the United States. And like all government types they have only contempt for those who propose making work for them.

If you're in trouble abroad, the person to ask for help is the owner of your hotel or apartment hotel.

He's a big man in town, because he owns significant real property, and



you're his customer. He probably speaks some English. He's working for you, your interests coincide, you both want to get you out of trouble.

If you must go to a government office, use the British or Canadian consulates. They speak English and for some reason seem to have a more compassionate attitude toward needy travelers than their U.S. counterparts.

Finally, I want to leave you with the sense that life is an adventure, and that travel, and living abroad, and investing abroad are part of that adventure, and a wonderfully exciting part.

WHAT YOU DON'T KNOW ABOUT FOREIGN LAWS CAN HURT YOU

Mark Nestmann, *The Sovereign Individual*, 2002

As if increasing threats against English-speaking tourists aren't bad enough, there's an often overlooked threat when you travel internationally: that of being arrested or even jailed for something that's perfectly legal where you live.

Here's a rundown of some laws of which you should be aware. But for the most definitive information, consult the embassies or consulates of the countries to which you will be traveling to learn more about what regulations might apply.

- **Credit cards.** In some countries (Greece is one) you can be arrested for over-extending the credit limit on your credit card. Make certain you have adequate credit limits before you leave.
- **Motor vehicles.** Be careful how you drive and, if you rent a vehicle, where you drive it. In some countries — Mexico is one — even a passenger of a vehicle involved in an accident may be temporarily detained, and occasionally, even jailed. Make certain that you obtain temporary auto insurance. In Mexico, you can be arrested if you don't have it. If you rent a vehicle, it may be illegal to leave the country where you rented it. In Austria, for instance, drivers attempting to enter countries listed as "prohibited" on the car rental contract may be arrested, fined and even charged with attempted auto theft.



- **GPS devices.** The use of global positioning system devices is subject to special rules and regulations in many countries. A U.S. citizen was imprisoned in Russia on charges of espionage for using a GPS device to confirm proper operation of newly installed telecommunications equipment. While he was released after 10 days, using a GPS device in a manner deemed to compromise Russian national security can result in a 20-year prison term.
- **Cell telephones.** Many countries require a permit to import a cellular telephone. Russia again has some of the strictest laws. To obtain permission to bring in a cellular telephone, you must sign an agreement for service from a local cellular provider. That agreement and a letter of guarantee to pay for the cellular service must be sent to a government agency, along with a request for permission to import the telephone. In Panama, a government granted phone monopoly will require you to rent a cell phone while there.
- **Laptop computers.** Laptops are commonplace these days, and most countries permit you to freely cross a border with one in your possession. There may be restrictions on how you use your laptop, particularly if you plug it in to the national telecommunications system. For instance, some countries that monitor telecommunications prohibit the use of encryption programs. Others permit laptops to be imported, but will confiscate them when you leave the country, particularly if the laptop contains encryption software or software that uses encryption, which is standard in all Internet browsers.
- **Prescription drugs.** Bringing a sufficient quantity of prescription drugs into a country for your use while you are there is almost never a problem. But this is not always the case; in Bahrain, for instance, you must obtain a license from the Health Ministry to import prescription drugs. Even if imported pharmaceuticals are permitted, keep your medication in its original container and carry a copy of your prescription with you.
- **Firearms.** Bringing a firearm (and in some cases merely ammunition) across an international border can result in a long prison sentence and the confiscation of the luggage, vehicle or boat in which it was found. In Mexico, for instance, dozens of Americans are incarcerated for the crime of bringing a licensed U.S. firearm into the country. In several cases, the firearms were even declared to the border inspector — but the persons carrying it were still arrested, tried and imprisoned.



If you are arrested or detained in a foreign country, you can usually turn to your local embassy or consulate for at least limited assistance. Most countries, including the United States, have ratified the Vienna Convention on Consular Relations, which requires ratifying states to permit consular officers to have access to imprisoned nationals of their country.

The Convention also provides that the foreign law enforcement authority shall inform the local consulate or the arrest of a national “without delay” (no time frame specified), if the national requests such notification.

Consular services available to prisoners generally include: visiting the prisoner as soon as possible after notification of the arrest; providing a list of local attorneys to help the prisoner obtain legal representation; providing information about judicial procedures in the foreign country; notifying family and/or friends, if authorized by the prisoner; relaying requests to family and friends for money or other aid; providing loans to destitute prisoners; arranging dietary supplements; and arranging for medical and dental care if not provided by prison.

WAYS TO MAKE TRAVEL MORE PRIVATE

Mark Nestmann, *The Sovereign Individual*, November 2002

When you travel, from the time you book your ticket to the time you return home, computers, sensors, transmitters and cameras surround you, all collecting data. Much of this data collection is supposedly justified to fight the “War on (Some) Terrorists;” all of it is intrusive.

Monitoring is most pervasive if you’re traveling by air, but governments also monitor travel by rail, bus and even private vehicles, with the United States (as usual) leading the way. Meet the wrong “profile,” have the wrong passport stamp or make the wrong comment to a security guard, and you could be fined or even land in prison.

There are still ways to make traveling more private, although the era of anonymous travel is mostly over. Here are suggestions to increase travel privacy.

1. Pay cash (except for air travel). Cash is untraceable, but if you purchase your airline tickets with cash, this automatically marks you for further attention.



2. Small is beautiful. Fly on small airlines. Rent vehicles from small local operators. Stay in small local hotels. Avoid rental and hotel chains that will keep records of your stay in a database that is often posted to a national or international computer system.
3. Don't get your passport stamped. This may require a special request to customs officials, which may or may not be honored. Some countries (Cuba and Switzerland are two) do not automatically stamp passports.
4. Beware of importing electronic equipment without prior authorization. In most countries, it's legal to bring cellular telephones and laptops in for your personal use, but not always. For instance, in Russia, the unauthorized importation of a cellular telephone is a criminal offense.
5. Consider indirect routing. If your final destination is a country that you'd rather not have identified in computerized records, don't fly there, but to a nearby country. Then take a train or rent a car to your final destination. Example: Fly to Germany to visit Switzerland, Liechtenstein, Austria or Luxembourg.
6. Consider air charters or private planes. Air charter and general aviation companies rarely search their passengers or inspect their luggage. However, tickets can cost 10 times or more as much as tickets on commercial airlines. Since October 2002, U.S. air charter companies operating planes heavier than 95,000 pounds (about 130 seats) have had to comply with the same security regulations as commercial airlines. Smaller charters will not be required to comply with these regulations. In Europe, the cutoff is 100,000 pounds.

TIPS FOR CLEARING AIRPORT SECURITY

- Check your luggage and minimize carry-ons. Avoid carrying on sharp objects or anything that could be used as a weapon. Wear non-metallic clothing and tennis shoes, not leather shoes. Place any metal items you bring with you in your carry-on luggage that is x-rayed. Items that commonly set off the detectors include cell phones, car alarm transmitters, pagers, key rings, watchbands, pens, coins, glasses, metal buckles and candy wrapped in foil.
- Do not lock checked luggage. Airline and security personnel are notorious for stealing cash and other valuable items from checked luggage.



But new rules allow security personnel to search your luggage without asking you open it for them.

- Don't interfere with a search or even raise your voice. Assaulting a screener is a federal crime in most countries. In the United States, assault is defined as including fear of imminent physical assault. Under the new Aviation and Transportation Security Act, it carries a penalty of up to 10 years in prison, a fine, or both. Yelling at the screener could land you in federal prison!
- Keep batteries in your laptop. If you carry on your laptop, you may be asked to "boot it up" at security. Be sure to charge your battery.
- Keep controversial reading material in your checked luggage. Or leave it at home. In several cases, individuals carrying books with provocative titles or illustrations in carry-on luggage have not been permitted to board their flight. In one case, when security personnel discovered a book by Karl Marx in a passenger's carry-on luggage, they arrested him! "After September 11, you can't travel with books like this," said the arresting officer.

PRIVATE RAIL, BUS AND AUTO TRAVEL

All forms of ground transportation are much more private than air transportation. Amtrak, the U.S. rail carrier now requires a photo ID to board its trains. Bus carriers on some interstate routes now require photo ID as well. Outside the United States, air and bus travel is more private except when crossing borders, other than EU borders across which IDs are no longer systematically checked.

- To avoid showing up in rental car databases, rent from a small, local firm. If you rent a car in most countries, you will need to show a driver's license (or international driving permit) and credit card. Do not list your home address on the agreement — use a mail receiving service instead. (This address should match that on your driver's license.) Read the agreement to make certain that your rental vehicle will not be tracked by a GPS satellite, as is becoming increasingly more common.
- Avoid toll roads. If you must use them, pay tolls with coins, never with an automated payment voucher system.
- Don't volunteer information. Finally, and most important: the best



way to protect your privacy, at home, in the air or on the road, is to maintain a private attitude. Never give out your Social Security number (or its equivalent if you're not a U.S. resident). When in doubt — try to “blend in” with the crowd and keep your mouth shut!

Do terrorists use these techniques to avoid detection? Perhaps.

But “terrorism” is now so broadly defined that anyone who participates in a concerted effort to effect political change can arguably be labeled as a terrorist. Don't let “fear of terrorism” prevent you from protecting your privacy.



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RECOMMENDED PROFESSIONALS

Throughout the pages of this book we have listed numerous contacts in individual countries, including those who can assist you with banking, investment, insurance, annuities, residence, citizenship, real estate as well as official sources. Below are U.S. professionals, all of whom specialize in offshore matters.

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GLOSSARY

acceptance — unconditional agreement by one party (the offeree) to the terms of an offer made by a second party (the offeror). Agreement results in a valid, binding contract.

arbitrage — buying the securities in one nation, currency, or market and selling in another, to take advantage of the price differential.

assets — things that have earning power or other value to their owner. Fixed assets (also known as long-term assets) are things that have a useful life of more than one year, for example buildings and machinery; there are also intangible fixed assets, like the good reputation (“good will”) of a company or brand.

asset protection trust (APT) — an offshore trust which holds title to and protects the grantor’s property from claims, judgments, and creditors, especially because it is located in a country other than the grantor’s home country.

attachment — the post-judicial civil procedure by which personal property is taken from its owner pursuant to a judgment or other court order.

basis — the original cost of an asset, later used to measure increased value for tax purposes at the time of sale or disposition.

bear market — In a bear market, prices are falling and investors, anticipating losses, tend to sell. This can create a self-sustaining downward spiral.

bearer share/stocks — a negotiable stock certificate made out only to “Bearer” without designating the shareowner by name. Such shares are unregistered with the issuing company and dividends are claimed by “clipping coupons” attached to the shares and presenting them for payment. Bearer shares now are illegal in most countries.

beneficiary — one designated to receive income from a trust or estate; a person named in an insurance policy to receive proceeds or benefits.

bequest — a gift of personal property by will; also called a legacy.

bond — a debt security, or more simply an IOU. The bond states when a



loan must be repaid and what interest the borrower (issuer) must pay to the holder. Banks and investors buy and trade bonds.

bull market — a bull market is one in which prices are generally rising and investor confidence is high.

capital — wealth (cash or other assets) used to fuel the creation of more wealth; within companies, often characterized as working capital or fixed capital.

capital gain — the amount of profit earned from the sale or exchange of property, measured against the original cost basis.

captive insurance company — a wholly owned subsidiary company established by a non—insurance parent company to spread insured risks among the parent and other associated companies. Bermuda is the leading jurisdiction where such entities are registered.

carry trade (currency) — the borrowing of currency with a low interest rate, converting it into currency with a high interest rate and then lending it. One common carry trade currency is the yen, as traders seek to benefit from Japan's low interest rates. The element of risk is in the fluctuations in the currency market.

civil suit — a non-criminal legal action between parties relating to a dispute or injury seeking remedies for a violation of contractual or other personal rights.

civil forfeiture — laws that allow the U.S. and state governments to seize private property allegedly involved with a crime without charging anyone with the crime; the burden is on the property owner to disprove the alleged criminal association.

Chapter 11— a term from U.S. bankruptcy law that describes court supervised postponement of a company's obligations to its creditors, giving it time to reorganize its debts or sell parts of the business.

collateralized debt obligations (CDOs) — a financial structure that groups individual loans, bonds or assets in a portfolio, which can then be traded.

commercial paper — unsecured, short—term loans issued by companies; funds that are typically used for working capital, rather than fixed assets such as a new building.



commodities — products such as agricultural products or iron ore that in their basic forms have a market price and are bought, traded and sold. See futures.

common law — the body of law developed in England from judicial decisions based on customs and precedent, constituting the basis of the present English, British Commonwealth, and U.S. legal systems. See equity.

community property — in certain states in the U.S., property acquired during marriage jointly owned by both spouses, each with an undivided one-half interest.

contract — a binding agreement between two or more parties; also, the written or oral evidence of an agreement.

corporation — a business, professional or other entity recognized in law to act as a single legal person, although composed of one or more natural persons, endowed by law with various rights and duties including the right of succession.

corpus — property owned by a fund, trust or estate; also called the principal.

creator — See *grantor*.

credit default swap — a swap designed to transfer credit risk, in effect a form of financial insurance. The buyer of the swap makes periodic payments to the seller in return for protection in the event of a default on a loan.

creditor — one to whom a debtor owes money or other valuable consideration.

currency — official, government issued paper and coined money; hard currency describes a national currency sufficiently sound so as to be generally acceptable in international dealings.

dead cat bounce — a phrase long used on trading floors to describe a short-lived recovery of share prices in a falling stock market.

debtor — one who owes another (the creditor) money or other valuable consideration, especially one who has neglected payments due.

decedent — a term used in estate and probate law to describe a deceased person.



declaration — a formal statement in writing of any kind, often signed and notarized, especially a document establishing a trust; also called an indenture or trust agreement.

deed — a formal written document signed by the owner conveying title to real estate to another party.

deflation — the downward price movement of goods and services.

derivatives — a way of investing in a particular product or security without having to own it. The value can depend on anything from the price of coffee to interest rates or what the weather is like. Derivatives can be used as insurance to limit the risk of a particular investment. Credit derivatives are based on the risk of borrowers defaulting on their loans, such as mortgages.

dividends — a payment by a company to its shareholders, usually linked to its profits.

domicile — a person's permanent legal home, as compared to a place that may be only a temporary residence. Domicile determines what law applies to the person for purposes of marriage, divorce, succession of estate at death and taxation.

due process — the regular administration of the law, according to which no citizen may be denied his or her legal rights and all laws must conform to fundamental, accepted legal principles.

equity — a body of judicial rules developed under the common law used to enlarge and protect legal rights and enforce duties while seeking to avoid unjust constraints and narrowness of statutory law; also, the unrealized property value of a person's investment or ownership, as in a trust beneficiary's equitable interest; also, the risk sharing part of a company's capital, referred to as ordinary shares.

equal protection — the guarantee under the 14th Amendment to the U.S. Constitution that a state must treat an individual or class of individuals the same as it treats other individuals or classes in like circumstances.

estate — any of various kinds or types of ownership a person may have in real or personal property; often used to describe all property of a deceased person, meaning the assets and liabilities remaining after death.



estate tax — taxes imposed at death by the U.S. on assets of a decedent except on the first US\$3.5 million in value which is exempt during 2009. In 2010, the estate tax rate drops to zero percent; the heirs of those who die in that years will not pay any death tax. The U.S. Congress provided that the current estate tax law expires at the end of 2010. On January 1, 2011 the estate tax rate returns to 55% unless the law is changed before that date.

exchange controls — restrictions imposed by government on dealings in a national or foreign currency.

executor — a person who manages the estate of a decedent; also called an executrix if a female, personal representative, administrator or administratrix.

exemption — an tax law, a statutorily defined right to avoid imposition of part or all of certain taxes; also, the statutory right granted to a debtor in bankruptcy to retain a portion of his or her real or personal property free from creditors' claims.

expatriation — the transfer of one's legal residence and citizenship from one's home country to another country, often in anticipation of government financial restrictions or taxes.

family partnership (also, family limited partnership) — A legal business relationship created by agreement among two or more family members for a common purpose, often used as a means to transfer and/or equalize income and assets among family members so as to limit individual personal liability and taxes. See partnership and limited partnership.

FATF — a subgroup of the OECD that claims to establish international anti—money laundering standards. See OECD and G-20.

Federal Reserve — (informally called "The Fed") is the quasi-public, quasi-private central banking system of the United States created in 1913.

fiduciary — A person holding title to property in trust for the benefit of another, as does a trustee, guardian or executor of an estate.

flight capital — movement of large sums of money across national borders, often in response to investment opportunities or to escape high taxes or pending political or social unrest; also called hot money.

FTSE-100 — an index of the 100 companies listed on the London



Stock Exchange with the largest market capitalization; the share price multiplied by the number of shares. The index is revised every three months.

fundamentals — a company's assets, debt, revenue, earnings and growth. Fundamentals determine a company, currency or security's value.

futures — a futures contract is an agreement to buy or sell a commodity at a predetermined date and price. It could be used to hedge or to speculate on the price of the commodity.

future interest — an interest in property, usually real estate, possession and enjoyment of which is delayed until some future time or event; also, futures, securities or goods bought or sold for future delivery, often keyed to price changes before delivery.

G-20 — a formal association of 19 of the world's largest national economies, plus the European Union (EU). Collectively, the G-20 economies comprise 85% of global gross national product, 80% of world trade and two-thirds of the world population. Member countries are Argentina, Australia, Brazil, Canada, China, France, Germany, India, Indonesia, Italy, Japan, Mexico, Russia, Saudi Arabia, South Africa, South Korea, Turkey, United Kingdom and United States.

GDP — gross domestic product. A measure of economic activity in a country of all the services and goods produced in a year. There are three main ways of calculating GDP — through output, through income and through expenditure.

gift tax — U.S. tax imposed on any gift made by one person to another person annually in excess of US\$13,000 (2009 exempted amount).

grantor — a person who conveys real property by deed; a person who creates a trust; also called a trust donor or settlor.

grantor trust — in U.S. tax law, an offshore trust, the income of which is taxed by the IRS as the personal income of the grantor.

gross estate — the total value for estate tax purposes of all a decedent's assets, as compared to net estate, the amount remaining after all permitted exemptions, deductions, taxes and debts owed.

guardianship — a power conferred on a person, the guardian, usually by judicial decree, giving them the right and duty to provide personal



supervision, care, and control over another person who is unable to care for himself because of some physical or mental disability or because of minority age status.

haven or haven nation — A country where banking, tax, trust, and corporation laws are specially designed to attract foreign persons wishing to avoid taxes or protect assets.

hedge fund — a private investment fund with a large, until now unregulated pool of capital said to be managed by experienced investors using a range of sophisticated strategies to maximize returns including hedging, leveraging and derivatives trading.

hedging — making an investment to reduce the risk of price fluctuations to the value of an asset; for example, when one owns a stock and then sells a futures contract agreeing to sell that stock on a particular date at a set price. A fall in price causes no loss nor would there be a benefit from any rise.

indices of ownership — factors indicating a person's control over, therefore ownership, especially of trust property, including the power of revocability.

income beneficiary — the life tenant in a trust.

incorporation — the official government registration and qualification process by which a corporation is formed under law.

indemnity — an agreement by which one promises to protect another from any loss or damage, usually describing the role of the insurer in insurance law.

inflation — the upward price movement of goods and services.

inheritance tax — a tax imposed by government on the amount a person receives from a decedent's estate, rather than on the estate itself; also known as death tax.

insider dealing — Selling or purchasing corporate shares for personal benefit based on confidential information about a company's status unknown to the general public.

interest — a right, title, or legal property share; also, a charge for borrowed money, usually a percentage of the total amount borrowed.



international business corporation (IBC) — a term used to describe a variety of offshore corporate structures, characterized by having all or most of its business activity outside the nation of incorporation, maximum privacy, flexibility, low or no taxes on operations, broad powers, and minimal filing and reporting requirements.

interbank rate of exchange — the interest rate which banks charge each other in their dealings. See labor.

insurance — a contract or policy under which a corporation (an insurer) undertakes to indemnify or pay a person (the insured) for a specified future loss in return for the insured's payment of an established sum of money (the premium).

irrevocable trust — a trust which, once established by the grantor, cannot be ended or terminated by the grantor.

junk bond — a bond (or loan to a company) with a high interest rate to reward the lender for a high risk of default.

joint tenancy — a form of property co—ownership in which parties hold equal title with the right of survivorship; a tenancy by the entirety is a similar tenancy reserved to husband and wife in some American states.

judgment — an official and authenticated decision of a court.

jurisdiction — the statutory authority a court exercises; also, the geographic area or subject matter over which a government or court has power.

Keynesian economics — economic theories of the late John Maynard Keynes; the belief that government can directly stimulate demand in a stagnating economy by borrowing money to spend on public works projects such as roads, schools and hospitals.

last will and testament — a written document in which a person directs the post—mortem distribution of his or her property. In the U.S., state law governs the specific requirements for a valid will.

legal capacity — the competency or ability of parties to make a valid contract, including being of majority age (18 years old) and of sound mind.



leveraging — also so known as gearing, means using debt to supplement investment. The more you borrow on top of the funds (or equity) you already have, the more highly leveraged you are. Leveraging can maximize both gains and losses. Deleveraging means reducing the amount you are borrowing.

LIBOR — the London Inter Bank Offered Rate, the rate at which banks in the U.K. lend money to each other.

life insurance trust — an irrevocable living trust that holds title to a policy on the grantor's life, proceeds from which are not part of the grantor's estate.

life estate — the use and enjoyment of property granted by the owner to another during the owner's life, or during the life of another, at the termination of which, title passes to another known as the remainderman.

limited partnership — a partnership in which individuals known as limited partners have no management role, but receive periodic income and are personally liable for partnership debts only to the extent of their individual investment.

marital deduction — the right of the surviving spouse under U.S. law to inherit, free of estate taxes, all property owned at death by the deceased spouse.

mark-to-market — recording the value of an asset on a daily basis according to current market prices; also called marked—to—market.

marriage — the legal and religious institution whereby a man and woman join in a binding contract for the purpose of founding and maintaining a family.

money laundering — The process of concealing the criminal origins or uses of cash so that it appears the funds involved are from legitimate sources; a crime in most nations.

mutual legal assistance treaty (MLAT) — bilateral treaties between nations governing cooperation in international investigations of alleged criminal conduct.

numbered bank account — any account in a financial institution that is identified not by the account holder's name, but a number, supposedly



limiting knowledge of the owner to a few bank officials. Often associated with Swiss banking, such accounts are more fiction than fact, since in every case the actual account owner is known to the bank.

nationalization — the act of bringing an industry, banks or other private assets like land and property under state control.

negative equity — a situation in which the current value of one's house or other mortgaged real estate is below the amount of the mortgage that remains unpaid .

OECD — the Organization for Economic Cooperation and Development, an unofficial international research group financed by the G-20 that has led attacks and blacklisting of tax havens. See FATF and G-20.

offer — a written or verbal promise by one person (the offeror) to another (the offeree), to do, or not to do, some future act, usually in exchange for a mutual promise or payment (consideration). See acceptance and contract.

option — a contract provision allowing one to purchase property at a set price within a certain time period.

partnership — an association of two or more persons formed to conduct business for mutual profit. See limited partnership.

policy — in insurance law, the contract between insurer and insured. See insurance.

Ponzi scheme — similar to a pyramid scheme, an enterprise in which, instead of genuine profits, funds from new investors are used to pay high returns to current investors. Named after the Italian-American fraudster Charles Ponzi, such schemes are destined to collapse as soon as new investment decreases or significant numbers of investors simultaneously seek to withdraw funds.

power of attorney — a written instrument allowing one to act as agent on behalf of another, the scope of agency power indicated by the terms, known as general or limited powers.

preservation trust — any trust designed to limit a beneficiary's access to income and principal.

primary residence — especially in tax law, a home place, as compared to



a vacation or second home. See domicile.

prime rate — a term used in North America to describe the standard lending rate of banks to most customers. The prime rate is usually the same across all banks, and higher rates are often described as "x percentage points above prime".

probate — a series of judicial proceedings, usually in a special court, initially determining the validity of a last will and testament, then supervising the administration or execution of the terms of the will and the decedent's estate.

property — anything of value capable of being owned, including land (real property) and personal property, both tangible and intangible.

protector — under the laws of some offshore haven nations, an appointed person who has the duty of overseeing the activities of an offshore trust and its trustee.

quit claim deed — a deed transferring any interest a grantor may have in real property without guarantees of title, if in fact any interest does exist.

real estate — land and anything growing or erected thereon or permanently attached thereto.

real estate investment trust (REIT) — an investment fund in trust form that owns and operates real estate for share holding investors who are the beneficiaries.

recession — a period of negative economic growth technically defined as two consecutive quarters of negative economic growth when real output falls. In the U.S. many factors are taken into account, such as job creation and manufacturing activity but this usually means that it can be defined only when it is well along or already over.

remainder — In testamentary law, the balance of an estate after payment of legacies; in property law, an interest in land or a trust estate distributed at the termination of a life estate. The person with a right to such an estate is the remainderman.

rescind — cancellation or annulment of an otherwise binding contract by one of the parties.



revocable trust — a living trust in which the grantor retains the power to revoke or terminate the trust during his or her lifetime, returning the assets to themselves.

right of survivorship — an attribute of a joint tenancy that automatically transfers ownership of the share of a deceased joint tenant to surviving joint tenants without the necessity of probate.

search and seizure — examination of a person's property by law enforcement officials investigating a crime and the taking of items as potential evidence; the 4th Amendment to the U.S. Constitution forbids unreasonable searches and seizures.

securitization — a recent process by which existing debt such as mortgages with their interest and principal payments are combined and converted into financial instruments backed by the cash flows from a portfolio or pool of mortgages or other assets. Securitization allows for an organization (such as a bank) to transfer risk from its own balance sheet to the debt capital markets through the sale of bonds. The cash raised is then used to issue new mortgages allowing the mortgage bank to increase its operational leverage. This type of securitization is known as a "mortgage backed security" (MBS). This type of activity contributed to the global banking melt down in 2008—2009 because buyers ultimately had no way of assessing the value of these debt instruments which came to be known collectively as "toxic debt."

short selling — a technique used by investors who think the price of an asset, such as shares, currencies or oil contracts, will fall. They borrow the asset from another investor and then sell it in the relevant market. The aim is to buy back the asset at a lower price and return it to its owner, pocketing the difference; also called shorting.

spendthrift trust — a restricted trust created to pay income to a beneficiary judged by the trust grantor to be too improvident to handle his or her own personal economic affairs.

stagflation — the dreaded combination of inflation and stagnation; an economy that is not growing while prices continue to rise.

subchapter S corporation — under U.S. tax law, a small business corporation that elects to have the undistributed taxable income of the corporation taxed as personal income for the shareholders, thus avoiding payment of corporate income tax.



sub-prime mortgages — a mortgage with a higher risk to the lender (and therefore they tend to be at higher interest rates) because they are offered to people who have had financial problems or who have low or unpredictable incomes.

swap — an exchange of securities between two parties. For example, if a firm in one country has a lower fixed interest rate and one in another country has a lower floating interest rate, an interest rate swap could be mutually beneficial.

tax information exchange agreement — also known as a TIEA, a formal bilateral agreement between two countries governing tax treatment of its nationals by the other country; also providing methods of information exchange upon request.

toxic debt — debts that are unlikely to be recovered from borrowers. Most lenders expect that some customers cannot repay; toxic debt describes a package of loans that are unlikely to be repaid. See securitization.

trust — A legal device allowing title to and possession of property to be held, used, and/or managed by one person, the trustee, for the benefit of others, the beneficiaries.

unit trust — In the U.K. and in Commonwealth nations, the equivalent of the investment fund known in the U.S. as a mutual fund.

U.S. person — For U.S. tax purposes, any individual who is a U.S. citizen or a U.S. resident alien deemed to be a permanent resident; a U.S. domiciled corporation, partnership, estate or trust.

warrants — a document entitling the bearer to receive shares, usually at a stated price.







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