Forbes

Eduardo Saverin, Not The U.S. Government, Is Entitled To The Wealth He Earned

Doug Bandow | May 14, 2012

Facebook is going public and a number of people are going to get very rich. But one of them, Eduardo Saverin, will no longer be an American citizen.

The Brazilian-born Saverin—who moved to America in 1992 and became a citizen in 1998—originally owned a third of Facebook's shares, but was squeezed out of the company. His apparent betrayal by Mark Zuckerberg was dramatized in the movie "The Social Network."

Still, Saverin didn't do badly. He ended up owning around ten percent of the enterprise, some portion of which he sold off to help finance a variety of start-ups in America and a lavish lifestyle in Singapore, where he moved in 2009. Now he stands to make $2 billion to $4 billion, depending on how many shares he still owns.

He also was among the 1780 Americans who renounced their U.S. citizenship last year. That compares to just 235 in 2008. Timothy Burns, a tax lawyer in Hong Kong, explained: "Fifteen or 20 years ago there was a big rush to make sure your kids became U.S. citizens, for access to U.S. schools for example. Now we're seeing just the opposite."

Saverin's spokesman, Tom Goodman, blandly explained: "Eduardo recently found it more practical to become a resident of Singapore since he plans to live there for an indefinite period of time." But that only explains why Saverin lives in Singapore, not why he dropped his American citizenship. The reason for his renunciation likely is taxes. AlthoughWashington still hits up departing citizens for a tax on any unrealized capital gains—my Cato Institute colleague Dan Mitchell unkindly compared this to the "exit tax" imposed by German Nazis and Soviet Communists on departing Jews—the estimated value of his holding pre-public offering was significantly less than what he is about to realize.

Fewer people also might be seeking U.S. citizenship. International tax attorney Andrew Mitchel said: "My advice to, say, a small-businessman abroad would be to think twice about acquiring U.S. citizenship." In his view the benefits might not be worth the hassle: "Many of these people do not realize what that means for their businesses until they start dealing with the IRS."

Of course, most people are going to think long and hard before abandoning American citizenship. As my friend Bruce Bartlett points out, such a decision is complex, and "while there is no doubt that some people do migrate solely because of taxes, the number is small even when it doesn't involve a loss of citizenship." Indeed, the number of Americans renouncing their citizenship fell from 2005 to 2008 before rising dramatically. A number of studies dismiss tax rates as a decisive factor in causing people to move.

However, economist Arthur Laffer and *Wall Street Journal* writer Stephen Moore looked at migration among American states and concluded: "Dozens of academic studies—old and new—have found clear and irrefutable statistical evidence that high state and local taxes repel jobs and businesses." Moreover, Mitchell observed, there's "a lot of evidence of taxpayers escaping countries controlled by politicians who get too greedy." In fact, France's new president, Francois Hollande, has proposed pushing the top tax rate up to 75 percent, sparking interest among high earners in moving elsewhere in Europe, including to Great Britain. Ironically, a few years ago Britain's top tax rate of 50 percent, since reduced, pushed wealthy entrepreneurs *to France*, as well as the Chanel Islands, which acted as tax havens.

The wealthier people are, the greater the role that economic incentives play in encouraging them to move abroad. Observed Richard Weisman, head ofBaker & McKenzie's tax practice, "The tax cost, complexity and the traps for the unwary are among the considerations."

For instance, the U.S. is the only country which taxes worldwide compensation. Other nations limit their claim to a share of money earned within their borders. America's corporate tax rate also is the world's highest. Tax rates on income, dividends, and capital gains will rise next year if the Bush-era reductions are not extended. And if Congresses and Presidents continue today's borrow-and-spend policies, big future tax hikes are inevitable.

On top of that, Washington has embarked upon a costly crusade around the world to combat tax evasion in America. One estimate is that individuals and companies use "tax havens" to deprive Washington of around $100 billion a year. That's real money, but still not a lot compared to this year's estimated deficit of $1.2 trillion.

However, any revenue raiser is seen as a better option than—perish the thought!—cutting government spending. So the U.S.government hasn't let financial privacy, bank secrecy, or foreign sovereignty get in the way of its campaign to wring more money out of U.S. citizens. The misnamed "Patriot Act" imposed regulatory requirements which punished law-abiding Americans abroad in the name of combating terrorism. Washington then enacted detailed reporting rules on foreign bank accounts to flush out hidden assets. Tax attorney Phil Hodgen explained: "This system is widely perceived as overly complex with multiple opportunities for accidental mistakes, and life-altering penalties for inadvertent failures."

Uncle Sam's latest effort is the Foreign Account Tax Compliance Act, which takes effect on January 1. FATCA imposes reporting requirements on financial institutions *overseas* when dealing with U.S. citizens. This turns foreign firms into agents of the IRS, imposing compliance costs and creating legal risks. "It's too complex, too challenging," explained Renato de Guzman, CEO of Bank of Singapore. Weisman complained that "The U.S. is outsourcing a tax-compliance function, which is enormously expensive." As a result, Bank of Singapore, DBS Group Holdings Ltd., Deutsche Bank AG, andHSBC Holdings Plc have begun turning away business with Americans. ABN Amro Bank, BNP Paribas, and Credit Suisse say they are studying the issue.

In Singapore—where Saverin is based—rejecting American clients is "quite a prevailing sentiment," observed de Guzman. "I don't open U.S. accounts, period," said Su Shan Tan of DBS, the largest lender in Southeast Asia. "We have enough business in Asia, so we don't want to make our lives too difficult," admitted de Guzman. Matthew Ledvina, an American tax lawyer in Switzerland, explained: "It's too risky to deal with Americans abroad." By reducing investment and lending opportunities in an increasingly global world, Washington is punishing wealthier and more entrepreneurial Americans. Where U.S. banks don't operate, Americans might find financial services simply unavailable. Warned Marylouise Serrato, executive director of American Citizens Abroad, "Americans either will not be allowed to enter into international partnerships or live and work overseas, and will be replaced by foreign nationals who do not have these limitations." "We have become toxic citizens," complained Andy Sundberg, of the Overseas American Academy in Geneva.

Taken together, taxes and regulation provide a potent reason to leave the U.S. legally as well as physically. Brian Knowlton of the *New York Times* wrote that "Amid mounting frustration over taxation and banking problems, small but growing numbers of overseas Americans are taking the weighty step of renouncing their citizenship." An Ohio entrepreneur working inSwitzerland told the *Wall Street Journal* that "The tax is only a small part of the issue. It's the overall regulatory environment."

What was once unthinkable now is an option. Bloomberg's Giles Broom reported, "Shunned by Swiss and German banks and facing tougher asset-disclosure rules under [FATCO], more of the estimated 6 million Americans living overseas are weighing the cost of holding a U.S. passport." Admitted Jacki Bugnion, also of ACA: "Before, no one would dare mention to other Americans that they were even thinking of renouncing their U.S. nationality. Now, it is an openly discussed issue." She worried that "we are now seeing only the tip of the iceberg."

Of course, those who sacrifice their citizenship often are dismissed as greedy tax traitors or economic Benedict Arnolds. Speaking of companies which reincorporated overseas, Sen. Charles Grassley (R-Iowa) declared: "These expatriations aren't illegal, but they're sure immoral." After all, what kind of person or firm would put money before *being an American?*

Yet as Mitchell put it, "Attacking those who expatriate is the fiscal version of blaming the victim." Being an American is a wonderful thing. But that is because what America is, or, at least, is supposed to be: the proverbial land of the free and home of the brave, which protects life, liberty, and property, provides opportunity, and values entrepreneurship.

If America stops being these things, then it loses its claim to the loyalty of its citizens.

America has provided a fertile environment in which Eduardo Saverin and others could get rich. In turn, their creations, such as Facebook, provided enormous benefits for Americans. The fact that such people have taken profitable advantage of America's opportunities does not mean that they owe extra tribute to America's governments, especially Washington.

Yes, localities provide services, including police protection. State courts enforce contracts. The federal government deters attack from foreign enemies. But these essential duties could be provided at a fraction of the current cost. Government today does as much to hinder as promote economic growth.

For instance, public education fails to prepare many students for work in a global economy. Economic, social, and other regulations are unnecessarily complex and costly. Laws and rules often are imposed to advantage influential economic interests, including competitors. Trade policy is as much about interrupting and controlling commerce as encouraging it. Success, as in the case of Microsoft, sometimes results in a visit from federal antitrust lawyers.

And then there are taxes.

Nevertheless, the case for remaining an American would be stronger if the exactions from government were well-spent. Billionaire Mark Cuban argued last fall that the "most patriotic thing you can do" is "bust your ass and get rich. Make a boatload of money. Pay your taxes." But that makes little sense when the political system has degenerated into organized looting.

The way taxes are (mis)used is conveniently forgotten by those who campaign to squeeze as much as possible from producers, especially the "rich." For instance, William B. Barker of Penn State's Dickinson School of Law complained about the "ideology of liberty" and "moral perspective that supports a right to avoid over a duty to pay a fair share of taxes." Sen. Grassley insisted that "Everyone ought to be pulling together. If companies don't have their hearts in America, they ought to get out." Decades ago New Deal Treasury Secretary Henry Morgenthau, Jr., opined that "too many citizens want the civilization at a discount."

Yet those who most loudly shout about fairness and the public good usually are the most covetous and least civilized participants in the political process. Instead of ensuring that government does well the few things that it must do, spendthrift politicians constantly push to expand state power. Lawmakers toss away prodigious amounts of every taxpayer's earnings to reward campaign supporters, win support from constituents, enrich favored interests, enhance political influence, expand personal power, and sometimes even receive payments, jobs, and other benefits in return. The real greed is not seeking to keep more of the money one has earned, but demanding the right to give away the money others have earned.

Indeed, the bulk of federal spending is redistribution, and not to the poor. The biggest welfare programs are for the middle class—Social Security and Medicare. Although both were sold as "social insurance," in reality both are inter-generational transfer systems and operate like the infamous Ponzi scheme, paying beneficiaries with money collected from current workers.

Better-off Americans also collect a laundry list of business, education, and housing subsidies. Washington's generous support for home buyers was an important cause of the 2008 financial crisis. Moreover, the budget is filled with corporate welfare: all manner of grants, loans, loan guarantees, loan insurance, and other subsidies for businesses, big and small alike. Do you want start-up money? Cheap credit? Free advertising? Just go to Washington.

The "defense" budget does more to protect other nations than America. The U.S. underwrites a large military, expansive international base structure, and manifold foreign troop deployments. Yet on September 11, 2001 the Department of Defense was unable to defend America. So Congress created the Department of Homeland Security to do real defense. A decade later Pentagon continues to devote most of its resources to subsidizing wealthy allies throughout Asia and Europe and rebuilding failed Third World states and enormous cost—and ultimately enriching Dwight D. Eisenhower's famed "military-industrial complex."

Alas, politicians' attempt to extract more money from the population never stops. Last year Sen. Barbara Boxer (D-Cal.) advanced legislation to deny or revoke the passport of people who owed back taxes. The proposal didn't even require a formal charge of tax evasion. Just the government's claim that money was owed. She wants America to become like the Eagles' famous Hotel California: you can check out whenever you want but you can never leave!

In fact, Americans have every right to avoid (which is different from evade) taxes. As Judge Learned Hand, who served on the federal appellate court, wrote in a 1934 case: “Anyone may arrange his affairs so that his taxes shall be as low as possible; he is not bound to choose that pattern which best pays the treasury. There is not even a patriotic duty to increase one’s taxes. Over and over again the courts have said that there is nothing sinister in so arranging affairs as to keep taxes as low as possible.” Indeed, Americans have a patriotic duty to reduce the amount of money politicians are able to appropriate and misuse.

Eduardo Saverin may not be spending his money wisely—he is likely to find out just how loyal his “friends” are if he ever runs out of cash. But he, not the U.S. government, is entitled to the wealth he earned. As more Americans renounce their citizenship to avoid high taxes and harsh regulations, Washington should respond by lightening the burden. America is worth living in because of what it is, not because of what the government does.