

Offshore Asset Protection BLOG - Bob Bauman

That's The Way It Looks From Here

May 07, 2009

Haven Panama – With My Apologies



Earlier today ([see below](#)) I took to task one Frank De Lima, identified by Reuters as a "top economic adviser" to Panama's president-elect, Ricardo Martinelli (left). My concern was a statement attributed to Sr. De Lima that: "The perception that Panama is a tax haven is totally false."

With my usual editorial restraint, I called Sr. de Lima's statement stupid and false, suggesting he should be fired even before his job began, because he didn't know a tax haven even when he was living in one.

Correction



Fortunately for the sake of truth and accuracy, our friend, [Panama attorney](#), Rainelda Mata-Kelly, (left) and a member of the Sovereign Society Council of Experts, read my raving and quickly straightened me out.

She wrote: "The argument that Panama is not a tax haven is based on the fact that we do not discriminate between nationals and foreign residents. We tax everyone the same. Our territorial tax system, which was reluctantly recognized by the OECD as a valid tax system, only taxes income produced in the country and this applies to everyone, whether they are Panamanians or foreign residents doing business in Panama."

By that accurate definition, Panama is not a tax haven, rather a country with a territorial tax system that benefits those who wish to base their offshore business there and avoid taxes on that business.

Long History

Tax havens, suddenly in the news because of President Obama's demagogic attacks and OECD blacklisting, have been around for a very long time.



In ancient Greece, some Greek islands were used by sea traders as places to stash their foreign shipments to avoid a 2% tax imposed by the city-state of Athens on imported goods. In the Middle Ages, Dutch traders in the Hanseatic League set up business in London where they were exempt from Netherlands taxes. Prior to the Revolution, smart American colonials traded through Caribbean ports to avoid onerous British taxes.

What Is a Tax Haven, Anyway?



I'm glad I asked that question. Let's hope I can answer it satisfactorily.

Simply put, a "tax haven" is a jurisdiction where taxes are levied at a low rate or not at all. In that sense, the State of Florida, where I live, levies no income tax, so it is a tax haven.

Tax havens benefit individuals and businesses worldwide because they create tax competition among governments -- and that means choices and cost savings.

Avoidance, Not Evasion

Geoffrey Colin Powell, a former economic adviser to the tax haven Channel Island of Jersey, claims: "What identifies a tax haven is the existence of a composite tax structure established deliberately to take advantage of, and exploit, a worldwide demand for opportunities to engage in tax avoidance." (Keep in mind that tax avoidance is legal and smart. Tax evasion is illegal and dumb).

Some have suggested that any country that modifies its tax laws to attract foreign capital should be considered a tax

haven. Others say the central feature is that tax haven laws can be used to evade or avoid foreign tax laws.

GAO Definition



In a 2008 report on the use of tax havens by American corporations, the U.S. Government Accountability Office never found a satisfactory definition of a tax haven but they suggested the following characteristics indicate a tax haven: 1) no or nominal taxes; 2) lack of effective exchange of tax information with foreign tax authorities; 3) lack of transparency in the operation of legislative, legal or administrative provisions; 4) no requirement for a substantive local presence; and, 5) self-promotion as an offshore financial center.

By some of these GAO standards, Panama might qualify be a tax haven.

Ring Fencing

What especially upset the anti-tax haven brains at the Paris mansion that houses the Organization for Economic and Community Development (OECD) was what they termed tax "ring fencing" -- meaning jurisdictions that offered favorable tax breaks to foreign companies and investors, but discriminated against locals by taxing domestic income.

Such two-tier tax systems have all but disappeared among smart tax havens who answered this complaint by abolishing all corporate taxes. Such zero tax regimes are now in place in the Isle of Man and the Channel Islands. By this measure Panama is not a tax haven.

OECD Nonsense

When the mighty G-20 met in London last month, these great statesmen, detached from reality, mounted their phony attacks on tax havens disregarding any of the definitions above.



For propaganda purposes, the G-20 leaders, (President Obama included), decided to define "tax haven" to suit their political and tax needs. Using taxspeak, it is what they say it is.

Thus tax haven now means any jurisdiction that does not automatically turn over to the U.S. IRS, or any foreign tax collectors, requested information concerning one of their citizens who dares to have an offshore bank account or to do business offshore – a nation's bank secrecy and financial privacy laws, be damned.

Bottom Line

So now a "tax haven" is any place the tax hungry welfare states of the G-20 say it is.

But don't let these left-wing tax hounds steal the right to define in this war of words.

You and I know that there are very strong moral, economic and political reasons for tax havens. Click on the preceding web link and Dan Mitchell of the Cato Institute will explain in even greater detail.

Thank you, Rainelda.



President Martinelli could use your talents in the new government. You made us realize that the Republic of Panama is, (and is not), a tax haven.

Either way, we still love Panama for no taxes, asset protection, maximum privacy and residence and citizenship for foreigners – and my apologies to Sr. De Lima.

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