

Treasure Islands

A conversation with journalist Nicholas Shaxson about offshore finance

How would you define “tax havens”?

Nicholas Shaxson: There’s no generally agreed definition of tax havens. Some technical definitions rely on tax measures, but I take a broader view at the benefits the financial centres are actually offering, such as zero tax facilities, loopholes, secrecy or escape from financial regulation. If you boil these things down to their core principal, you are left with two words: “escape” and “elsewhere”. You take your money elsewhere to escape your responsibilities towards society. These responsibilities might be tax laws, disclosure or transparency requirements, financial regulations or inheritance rules. Tax havens deliberately set out to create facilities in order to attract the trillions of dollars, flowing at high speed around the world, looking for hospitable places. Every country has some form of an offshore financial centre. Complete transparency doesn’t exist. But tax havens are places that most deliberately and most effectively set up the facilities to attract hot money. And I would certainly include Luxembourg in that list.

You write that tax havens aren’t merely an exotic sideshow, but are the very heart of the global economy. How did we drift from the onshore to the offshore?

N. S.: Territories to which rich people bring their wealth, to escape rules and laws at home, have existed for hundreds of years. Jersey goes back to the 19th century, and even the classic Caribbean tax havens were pirate enclaves. The classic model in the 20th century was the Swiss one: dis-

creet bankers keeping the secrets of their clients, while the money is quietly stored in a bank vault in Zurich. But during the period of financial globalization something changed: A new hyperactive Anglo-Saxon variance of the offshore system emerged. The financial sector itself is now

Luxembourg is involved in a highly complex chess game. It has been fighting hard but very discreetly on the Swiss side in their battle against transparency.

able to use the offshore system to escape home-country regulation, and therefore grows much faster than it would have otherwise. Whereas before, the Cayman Islands used to be a centre for drug-money, now they’re all about hedge funds. On the other hand, the supposedly “onshore” countries, such as the United States or the United Kingdom, tried to compete with smaller jurisdictions, and have increasingly come to resemble tax havens themselves. So there are basically two processes at work: tax havens growing in size and in importance, and onshore jurisdictions trying to keep up and becoming themselves more offshore-like.

Exactly how much money is stored in tax havens is unknowable; but the estimates range from 8 trillion to well over 21 trillion dollars...

N. S.: You have estimates from the OECD talking about 5-6 trillion dollars offshore.

But these numbers have been around since the 1990s and, given how fast the offshore financing has been growing, they would have to be bigger than that by now. The 21 trillion dollar figure is an estimate by James Henry from the Tax Justice Network, who spent years looking at the heart and guts of secret banking. Yet, even he calls it an exercise in night vision. I think it’s probably the most accurate estimation there is, although there are obviously flaws in any method that tries to measure something as deeply steeped in secrecy. Still, I think the figure is pretty close. It corresponds to around 15 % of all global financial assets, which is a credible percentage.

There seems to be a broad variety of tax havens. Can you briefly describe the differences in terms of specializations?

N. S.: The whole offshore system is like an ecosystem with different players offering different facilities. There’s a whole spectrum: the Cayman Islands are mostly about hedge funds, Bermuda about insurance, Ireland and Luxemburg about financial regulations, the Netherlands and Luxemburg about tax, the British Virgin Islands about corporations and, at the wild end of the spectrum, you’ll find places like the Cook Islands that are really about secrecy, law-breaking and criminality.

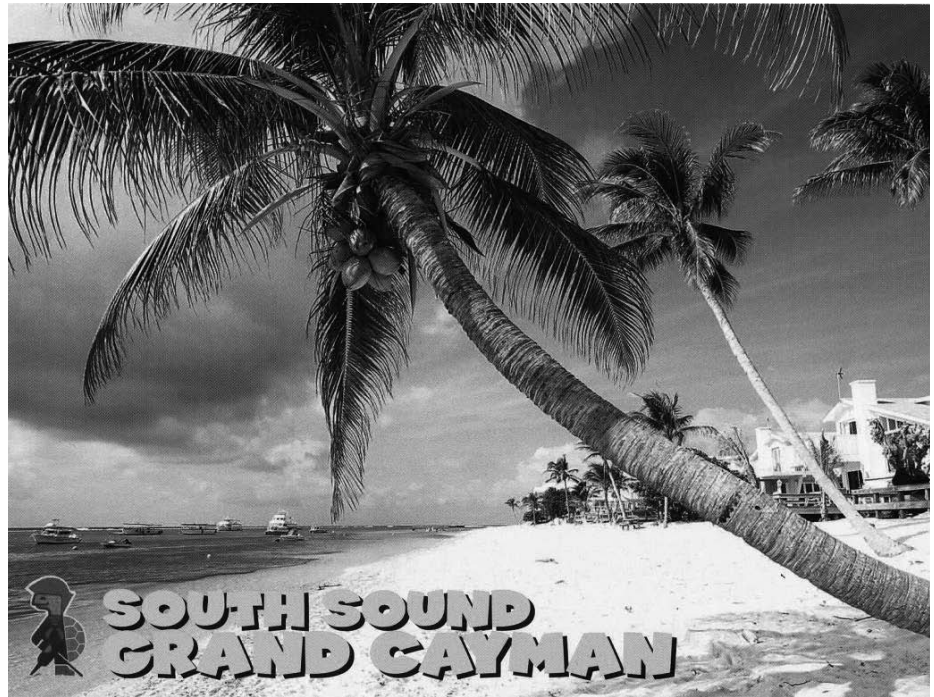
The different financial centres are not only extremely specialized but also very well interconnected...

N. S.: Yes, there are even some experts who portray the offshore system as one

interconnected place that isn't rooted in any geographical location, and I think there's a lot of truth to that. You could describe it in terms of financial structures: you might have a bank account in Switzerland, owned by a company from the British Virgin Islands, which itself is owned by a trust in Nevis, and the trustees or the company directors might be on the Isle of Man. Such a structure is multi-jurisdictional; it isn't really located anywhere. The system is so interconnected, and the financial flow runs so rapidly backwards and forwards in this Anglo-Saxon led hyperactive offshore system, that to single out individual tax havens doesn't always help. Yet, it is certainly meaningful because each jurisdiction has its own legislation. The only place you can actually locate is that of the ultimate asset: an ownership of a bank account, of a painting, a yacht, a racehorse, or of some shares in a big company. The offshore system is one seamless whole that engages in a symbiotic relationship with the onshore system, which it needs for the production of real goods and services to generate wealth and value. One can call the offshore a "parasite" that feeds off the real productive economy.

How do you see the role played by Luxembourg in this global "division of labour"?

N. S.: Luxembourg is quite a big player in the game, although not nearly as big or as broad as the City of London, for instance. Especially in the area of corporate taxation: transfer pricing, shifting profits, holdings and headquarters around artificially to cut tax bills. But Luxembourg is also a very big player in the secrecy game. There are many different flavors of secrecy, and Luxembourg offers some of them. To take one example: Assets wrapped in insurances, so that the tax authorities or criminal authorities of another jurisdiction won't be able to find out who the beneficiary owner of the assets are because, technically, the owner is the insurance company and not the individual who will instead receive an equivalent income for those assets. In tax circles, Luxembourg is well known for its informal procedures. You take the government officials out to lunch and you get a nice tax break for your corporation. This is what we call in Britain a "smoke filled room": gentlemen getting together over



cigars and making cosy agreements. Furthermore, Luxembourg is a big player in the area of financial regulation. The Bank of Credit and Commerce International (BCCI), which is probably the most corrupt and rotten bank in world history – and that speaks volumes – and whose headquarters were in London, was incorporated jointly in Luxembourg and in the Cayman Islands. Or, more recently, the Madoff scandal showed how difficult it was for the trustees to recover their funds, and to find out what happened in Luxembourg. The country has quite a wide ranged jurisdiction and tries, in tax haven terms, to offer different "facilities" in different "areas". It has been quite successful on its own terms in that respect. I regard its impact on the world as highly negative and highly damaging.

What about Britain?

N. S.: Britain has a worldwide network of tax havens in Jersey, the Isle of Man, the Crown dependencies, and in its overseas territories such as the Cayman Islands or Bermuda; all of which are partly British. Britain could strike down these legislations if it wanted to. But they attract a lot of money, which is fed into the City of London. Certain interest groups in Britain are very keen to preserve these tax havens.

We just spoke about two countries that are both members of the EU, as are Ireland and the Netherlands. Businesswise, is this an advantage or a disadvantage?

N. S.: On one side of the equation, you don't have as much freedom to set your own laws. But on the other side, you are automatically put on a lot of white lists, so that many of the exclusions, which apply to other tax havens such as the Cayman Islands or Bermuda, are not applicable to Luxembourg or Ireland. Yet there is an international movement to increase transparency in the financial system, which currently materializes in two initiatives, one put forward by the Americans (FACTA) and the other one by the EU (European Saving Tax Directive). At the moment there is a huge international chess game going on, with some countries and forces pushing for greater transparency, and other forces pushing back, trying to preserve secrecy. The global battle is fought over a principle called automatic information exchange, the gold standard of transparency, where countries exchange information as a matter of routine. The European Union's Saving Tax Directive is essentially an effective form of automatic information exchange. It is currently full of loopholes, so revenues are still relatively limited. Still, the principle has been set. If

the amendments closing these loopholes pass, the directive will become quite powerful and will have a significant impact on Luxembourg. The country has been fighting hard but very discreetly on the Swiss side in their battle against transparency. There is a kind of alliance between Switzerland on the outside and Luxembourg on the inside of the EU. Luxembourg is involved in a highly complex chess game: "If Switzerland gets a different treatment than we do than we won't go down this road". There's much at stake globally, and Luxembourg's role in this political game is very important. Its tactic has insofar been successful in at least delaying transparency. But things are changing...

The debt-crisis triggered a new awareness that the survival of the nation state depends largely on its ability to collect taxes. We are now in the fifth year of the crisis, yet the resilience of the offshore financial centres (which, for the most part, are tiny countries with little or no political weight) to international pressure has been quite surprising. How come?

N. S.: When I began writing *Treasure Islands* [published in 2011; a French translation came out in 2012: *Les Paradis fiscaux: enquête sur les ravages de la finance néolibérale*] the G20 leaders made some very strong statements, saying the era of banking secrecy was over. Some of my friends told me it was already too late to write my book, and that the problem was about to be solved. But the actions on the ground didn't follow the statements. Partly because of the fear, that if you crack down

on tax avoidance in one place, the money will be taken somewhere else. This impersonal dynamic of competition is a generic feature of the global economy. Jurisdictions are constantly competing to offer the next best facilities, in order to attract the financial capital. Take the competitive race between the City of London and Wall Street, which has forced politicians to water down reforms. It is like a hydra, you cut off one head and five others will emerge. But I think there's yet another reason: Tax havens are ultimately the political project of the world's most powerful elites. And the interest of these people and corporations is to keep the system in place for as long as possible. That goes a long way to explain why the actions have fallen so short on the rhetoric.

How do tax havens impact on developing countries?

N. S.: Developed countries have far more sophisticated and better resourced tax authorities and financial regulators than developing countries, where the lines of democratic accountability are much weaker. Generally speaking, the elites of developing countries have higher levels of impunity, and the people making laws are often the same ones putting their money in tax havens. The accumulative sum of capital flight over the last forty years are very similar to the assets estimated to be held by African high-net-worth individuals; close to a trillion dollars. Basically this is money taken out of Africa and put offshore. The total sum of external debt of African countries represents about a

quarter of the size of these offshore assets. So, actually, Africa is a net creditor to the world. It doesn't have an external debt problem; it has an offshore assets problem. Which is a very different way of viewing the development debate.

What is the impact of the push for secrecy on the democratic procedures in the tax haven countries themselves?

N. S.: It's not only a matter of secrecy of the financial assets, but also of the creation of the legislation. In Jersey, for example, most of the best-educated and skilled people tend to work in the private sector, while the people in government tend to be without financial expertise. Essentially, the financial sector is writing laws for itself while the democratic representatives, even though they often don't understand the legislation, are passing it anyway, simply because they are told that it's the right thing to do. They just aren't equipped with the expertise and, even if they were, they wouldn't have the political force to impose real changes. The financial laws of Jersey are not designed for the benefit of the people from Jersey, but for the benefit of wealthy citizens from other countries to which the representatives from Jersey aren't accountable. It's a generic tax haven thing, which applies to Luxembourg as well. The people making the legislation are targeting the citizens of Germany, France, or developing countries. The lines of democratic accountability are completely cut, within the jurisdiction as well as outside. ♦

The interview took place on 12 March, 2013. BT

