

A Time Bomb Off-Shore Locations and Tax Havens

Asset and Wealth Protection and Relocation from Crisis Zones and Off-Shore Areas

Protection of assets and wealth through structuring and international asset transfers

The political and economic situation in some of the world's regions forces wealthy individuals and companies to protect their assets. Moving or fully relocating far from home is not always desirable: not everybody wishes to leave their home country. But many people wish to minimize risk and increase security by **diversifying their asset locations**.

In some especially troubling situations, this goes beyond simply improving security **and is a matter of preventing a total loss of assets**.

It's getting more and more difficult to safeguard private or commercial assets around the world from unsafe, compromised or blocked locations.

There are two different scenarios relating to assets and wealth in high-risk locations: firstly, clients from unstable regions and war zones, and secondly, clients from safe countries who have "parked" assets in tax havens.

Clients with OFF-SHORE ASSETS

These clients cannot use their off-shore assets due to the impossibility of transferring payment to regulated countries. It is typically only possible for them to make investments by travelling to the off-shore locations themselves and there are often a lack of future prospects at these locations. Their assets are frequently at risk due to a lack of regulation regarding asset managers and trustees and they have to contend with a lack of certainty over legal claims, including claims to their own assets. Finally, these clients face a hidden risk of prosecution for owner tax fraud by home country authorities, and bequeathing their off-shore assets can also be problematic.

This article clarifies the situation and the methodology that can be used to solve these problems while respecting international money laundering laws and the corresponding tax implications.

Clients from unstable regions

These clients face uncertainty and their assets are often at risk because of the local situation. They have limited opportunities to transfer or use existing assets outside their home country and lack flexibility due to travel restrictions. Furthermore, the capacity for companies to act is restricted due to trade embargos and other political barriers and goods and services are typically subject to import and/or export restrictions. When such clients wish to send or receive funds they are hampered by restrictive international currency regulations and, finally, they lack options when it comes to investment.

I.) PROTECTION OF ASSETS IN OFF-SHORE AREAS FROM OFF-SHORE TO ON-SHORE

No way out for off-shore ASSETS

Aside from locations such as Europe and the United States, which offer high levels of security but are also heavily regulated, many small off-shore countries are interested in the "importation" of assets by wealthy private persons. Some countries have incorporated the safekeeping and administration of assets into their business models and

thanks to relaxed financial rules and “creative exception regulations”, assets can be relocated to these countries even today. According to an OECD estimate, more than **US \$17 trillion** is currently “parked” by companies and individuals in off-shore countries. This corresponds to **10% of the world’s Gross Domestic Product (GDP)**!

Indeed, in addition to potential doubts over sustainable legal certainty and political and economic stability, there is the question of **asset mobility in these locations. In other words, how can you retrieve your assets from these countries?** For example, if you sell a property or securities in Spain, Portugal or Germany, you can transfer the revenue anywhere in the world in a few hours by simply submitting the sale documents. If the same revenues are transferred from an off-shore country to a regulated location, however, the transaction would involve substantial effort or may even be impossible.

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A TIME BOMB FOR BENEFICIAL OWNERS

For many years, people have been investing assets in off-shore companies and private off-shore accounts in a wide variety of locations for many different reasons. Sitting in “tax havens” such as the British Virgin Islands, Panama or the off-shore locations popular with Europeans, including Liechtenstein, Andorra, Cyprus and Malta, are funds by the millions that cannot effectively be put to economic use, since they cannot be transferred to regulated countries.

Off-shore assets, if not declared by their beneficial owners, are simply “dead capital” for these owners due to their **lack of mobility**. Not only that, but they constitute a **tax and criminal time bomb** given that, as exemplified by the “Panama Papers” scandal, there are no longer any “safe locations” for hidden off-shore assets.

PRESSURE ON REGULATED COUNTRIES IS GROWING – THE OFF-SHORE CONCEPT AS A LOCATION FOR ASSETS IS OBSOLETE

Due to high pressure and increasingly stringent laws in regulated countries on matters such as the use and transfer of cash, it is simply a question of time before the legitimacy of off-shore systems becomes completely eroded. Some major banks that have managed assets in off-shore locations for many years are now pulling out of these regions, and small local banks are closing. Indeed, we foresee a surge in the dissolution of financial institutions at off-shore locations. What will happen to the assets “parked” there is open to question!

OFF-SHORE ASSETS WILL INCREASINGLY POSE A DILEMMA FOR BENEFICIAL OWNERS

Legal certainty in off-shore nations - that is, the possibility of asserting legal claims through the courts - is low. And the beneficial owners of off-shore assets face an additional problem in that they cannot appear in person to defend their claims since to do so would require them giving up their anonymity, which in turn can present risks in their country of residence.

Bequeathing off-shore assets can also be problematic. Special solutions are necessary in situations involving inheritance where the transfer of the bequest is highly complicated because the inheritance has not been worked out in advance. Assets have been awarded and bequeathed, but they cannot be utilized. Accepting the bequest of an off-shore asset also means exposing the inheritor to the risk of criminal tax liability.

establishing safeguards through the transfer of off-shore assets

Establishing safeguards through the transfer of off-shore assets is still possible! Off-shore assets can be transferred and secured through systematic and legally protected transfers to regulated locations. Qualified advisors have not only developed concepts but also built structures to facilitate the legal transfer of off-shore assets and again, all current anti-money laundering and counter-terrorism regulations must be strictly observed. Any lawyer or tax advisor who is in any way involved in illegal transactions would, of course, face very serious legal consequences.

To conclude, international asset transfer is a complex subject involving the consideration of many aspects. A beneficial owner should receive a virtually ready-to-execute plan that is safeguarded with regard to laws and tax regulations, and should benefit from the practical implementation of this concept. Pure theory and mounds of paperwork are not sufficient. The time to act is often now!

II) HOW TO PROTECT ASSETS AND WEALTH FROM CRISIS AREAS

Why do international asset transfers fail?

In most cases, asset transfers fail due to inadequate preparation or a total lack of preparation altogether. When funds or deposits are transferred, for example, these transfers may be refused by the receiving country. When this happens, both the sender and receiver of such payments involving banks, central banks or other authorities may be placed on "blacklists". This frequently leads to investigation by anti-money laundering institutions.

For this reason, **all payment transactions between economic areas with differing regulations** must be properly prepared! A good advisor will offer secured individual solutions that take legal and tax implications into account, even for lower-volume transfers.

ASSET AND WEALTH TRANSFERS MUST BE DESIGNED AND STRUCTURED AND THEN IMPLEMENTED INDIVIDUALLY

PRACTICAL IMPLEMENTATION

An advisor should not only offer an individualized and creative plan for an asset transfer, but also **actively implement the agreed strategies**. In contrast to traditional consultants or banks that concern themselves with optimizing added value and tax arrangements, an asset transfer advisor should go one step further to serve their clients in the unique situations in which they find themselves. Of course, tax factors always play a role but most clients' priorities involve security and asset mobility - and in some cases also protecting the family, its health and its future.

CONCEPT, STRATEGY, IMPLEMENTATION

A proficient transfer of assets and wealth should include the following services:

1. ANALYSIS AND DESIGN

The service provider should be asking: **What needs to be protected? How are holdings liquidated? Exactly what can be protected and where do personal priorities lie? In addition, attention must be paid to arrangements for inheritance and succession and to business, family and life planning while tax concerns at the current and future locations must be looked at as must immigration, "global residency" and residency by investment.**

2. STRATEGY AND STRUCTURING

Here, the service provider should be concerned with: current asset structures, defining the assets to be protected, possible target locations, asset mobility at the target location, the transfer of rights, the transfer of the funds themselves and, of course, compliance, the law, and taxes.

Clients are based all over the world and come from regions that include the Near and Middle East, for example Iraq, Iran Afghanistan and Syria, as well as various African countries such as Libya, Tunisia, Algeria, Egypt and Sudan. A significant number of clients also come from Russia, Ukraine, China and a number of other Asian and Latin American countries.

An advisor should have a presence in their client's region. Only in this way can they guarantee individualized service and project implementation.

PERSONAL FREEDOM AND MOBILITY (GLOBAL RESIDENCY)

For clients whose travel options are restricted, total travel freedom and the right to reside in the EU Schengen area for an unlimited time can be arranged. Spain's Golden Visa program makes unrestricted travel and residency in the EU possible, provided a minimum investment of over €500,000 is made in real estate properties. There are no associated tax obligations for income earned outside Spain and no personal presence is required.

Clients from crisis areas may also need to acquire residencies and residence permits, as well as work permits or student visas, in addition to EU citizenship for the client and their family.

IMPLEMENTING THE STRUCTURE

Once an individual structure has been created, implementation can begin. This may involve some or all of the following steps:

A structure of selected locations through residencies and the incorporation of companies, holding companies and foundations should be developed. Coordination with banks and other financial institutions must be ensured. Payment transfers must be prepared, coordinated and executed and documents to be provided will have to be studied, assessed, procured, verified and certified. Bank accounts must be opened, stock portfolios set up and credit cards acquired. Securities, investments and properties must be researched and negotiations carried out before agreeing sales, purchases or leases with the same applying to the purchase or sale of companies or shareholdings. Clients' existing companies may need to be merged or enter into joint ventures with companies at new, secure locations and coordination with external auditors, experts and financial service providers will be required. Finally, asset liquidation must be coordinated and executed in the country of origin (involving the sale of properties, investments, shareholdings, deposits, luxury goods and art etc.) while listed companies or shares may need to be acquired.

A HOLISTIC CONCEPT

A professional advisor (lawyer or tax consultant) should offer clients a holistic service that incorporates their personal interests and business planning. Project volumes may vary between **10 and several hundred million euros**.

Demonstrable expertise together with a good track record and excellent relationships with financial institutions and authorities are also essential for the successful relocation of assets and wealth.

Each project will, of course, be different, requiring individualized analysis. Every case demands not only expertise in legal, tax-related and design matters, but a high level of **entrepreneurial creativity**.

CREATIVE, LEGAL AND ENTREPRENEURIAL SOLUTIONS FOR INDIVIDUAL SITUATIONS

Of course, all measures taken must take account of national and international compliance guidelines such as data protection laws and regulations on money laundering and combatting terrorism.

LOCATIONS FOR YOUR ASSETS

The selection of target locations is always at the heart of any strategy. Besides personal affinity and existing business connections, family ties as well as legal, tax-related and sometimes political or religious factors also play a role.

Criteria for choosing a location for assets and wealth can be divided into two groups: business factors and personal, individual factors.

BUSINESS FACTORS

These include: the opportunity for unrestricted worldwide trade; the ease of making worldwide fund transfers; asset mobility allowing unrestricted use and availability; profitable investment options; exit options for investments; protection of investments and legal certainty; the tax landscape and rules; economic and political stability; growth potential; capital markets, interest and real estate and also options for capital procurement.

PERSONAL FACTORS

Some of the factors that need to be considered are: Unrestricted travel, residency and national citizenship; inheritance regulations; quality of infrastructure and personal security; health care; educational and cultural offerings; cultural, ethical and religious aspects; and quality of life, climate and lifestyle.

Despite European regulations regarding the transfer of assets and funds from non-member countries, transactions involving any amount are possible if they have been planned and structured in advance.

TRANSFER OF ASSETS TO EUROPE

The issue of target locations for international asset structuring is, in fact, the most important part of the concept - but also the most complex. In principle, every country in the world is highly interested in wealthy individuals and investors. But the 2014 OECD Convention binding participating countries to the mutual reporting of bank accounts changed the global landscape. One consequence was that payments of significant amounts from certain regions into some recipient countries were categorically rejected - in the simplest cases, these were returned, but in the worst cases they were blocked by authorities.

Due to their economic stability and investment security, European nations such as Spain, Germany and Switzerland are among the most popular target regions for asset transfers. No world region offers a level of asset mobility and security comparable to that existing in Europe.

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