The Washington Post
Democracy Dies in Darkness

POSTEVERYTHING

Offshore accounts aren't for evading taxes. They're for evading laws altogether.

World leaders who don't even owe taxes still use hidden trusts

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October 6, 2021 at 6:00 a.m. EDT

What if you could wake up in the morning and choose which laws to abide by and which to ignore? You'd probably keep the laws that protect your property from theft and your good name from libel, but maybe you'd ditch the ones that trigger parking tickets or require you to pay back your debts. For the wealthiest people in the world, picking and choosing laws is no fantasy: It's why they use the offshore financial system.

This explains why the Pandora Papers — the new data trove on the private financial affairs of high-net-worth individuals — includes so many cases of shell companies, trusts and foundations that are *not* being used for tax avoidance. Several prominent world leaders in the leak, such as King Abdullah II of Jordan and Dubai ruler Mohammed bin Rashid al-Maktoum, are not subject to taxation in their countries, so they have no reason to shelter their wealth or income from tax authorities. Other heads of state who are required to pay tax, like Russian President Vladimir Putin, Czech Prime Minister Andrej Babis and Ukrainian President Volodymyr Zelensky, seem to have used their offshore structures for purposes unrelated to those obligations. For example, the leaked information on Babis shows that he "paid quite a lot" in taxes connected to the assets in his string of shell companies around the world.

If they're not trying to avoid taxes, what are these people doing in tax havens? They have so much to lose — not just their personal reputations but the confidence of their nations. Why take the risk?

The Pandora Papers is the third major breach of offshore secrecy in five years, after the Panama Papers in 2016 and the Paradise Papers in 2017. So by now the potential for leaks to do lasting harm to heads of state is well known. The mere whiff of corruption after his exposure in the Panama Papers ended the political career of Iceland's then-prime minister, Sigmundur Gunnlaugsson, in 2016, though there was never any indication of illegal activity. Information from the same leak put the former prime minister of Pakistan, Nawaz Sharif, in prison for a decade.

But the risk is worthwhile because "tax havens" aren't primarily for tax avoidance. They offer something even more appealing and dangerous, which is law avoidance in general. To the already rich and powerful, offshore offers a kind of superpower: impunity.

This has been the biggest surprise of the 14 years I've spent immersed in research on the offshore financial system, including two years earning a wealth management credential and six more following practitioners to remote tax havens around the world. What high-net-worth individuals buy in this system is the right to pick and choose the laws that govern them, much like you or I would select our favorite foods from a buffet. They want all the protections the law can offer for themselves and their wealth, but none of the constraints — which include, but are by no means limited to, tax obligations.

For those who can afford it, offshore delivers all of this. The protections it confers on high-net-worth individuals and their property are often better than what they can get onshore: more secrecy and more legal firewalls between their wealth and anyone who wants a piece of it. And if an offshore jurisdiction doesn't have the exact combination of laws that best suits your needs, you can order up bespoke new rules. The Channel Island of Jersey, one of the best-known offshore financial centers, famously allowed its wealthiest clients to negotiate their own individual tax rates with the government — slashing at will the already low 20 percent flat tax that nominally applied to all. In addition, several of the wealth managers I interviewed bragged about crafting custom-tailored laws to provide extra secrecy for their clients and extra protection from creditors; tax havens invited them to submit these legislative proposals and passed them promptly into law.

The professionals I studied helped their clients avoid all manner of obligations with such skillful uses of the offshore system. One wealth manager told me of a client who took a half-million-dollar loan from an American bank, deposited it into a Cook Islands asset protection trust — a structure designed not to avoid tax but to foil creditors — and never repaid a dime. The tiny South Pacific nation is known as "a paradise of untouchable assets" for good reason. For those with millions to shelter, its special trust laws permit a kind of legalized theft. The same structure was used by the late American financier Marc Rich to cache the vast fortune he made from violating U.S. trade sanctions against Iran; all the might of the U.S. government could not seize those assets, and his ex-wife Denise still receives the income they produce, maintaining multiple luxury residences and a yacht.

Offshore allows selective impunity as the ultimate power trip. Taxes are the best-known obligation that can be avoided, but as the Pandora Papers show, the possibilities are so much bigger than that. As Joan Didion wrote more than 50 years ago, "The secret point of money and power . . . is neither the things that money can buy nor power for power's sake . . . but absolute personal freedom, mobility, privacy." Even kings (and queens, as we saw when Elizabeth II of England appeared in the Paradise Papers) apparently crave this escape from rules and accountability.

Almost any obligation that people ordinarily take for granted as nonnegotiable can be avoided via skillful use of offshore structures. In addition to doing an end-run around the law, many high-profile people use offshore to avoid social norms: For example, they use shell companies and trusts to keep secret lovers in cozy hideaways or to support children born out of wedlock. This was a common theme in my research, almost to the point of cliche. Indeed, long before I began offshore research, Lloyd's Bank International published a profile of a "typical client" for offshore services: "Usually a male in his early forties, he owns a business in his own country with capital at risk there and wants to keep part of his capital offshore for safety reasons," so he establishes an offshore trust "leaving everything to his mistress."

Except for the age and scale of the wealth, this sounds very much like one of the lead stories from the Pandora Papers, in which a former Russian cleaning woman — long rumored to be a mistress of Putin — suddenly and inexplicably became the owner of a $4.1 million luxury apartment in Monte Carlo, purchased through an offshore shell company incorporated in the tiny Caribbean island of Tortola. This upward reversal of fortune took place in 2003, one month after the woman gave birth to a daughter, who has recently shot to global social media fame for being the spitting image of Putin. That the young woman can maintain a selectively high profile — with more than 80,000 followers on Instagram — while shell corporations shroud her family and their fortune in mystery is a testament to the power of the offshore system to protect elites, and a clue to the system's enduring appeal.