THOUGHT LEADERSHIP

by
L. Burke Files
President
Financial Examinations & Evaluations, Inc.
International Due Diligence Organization

WHAT WAS THE OECD/FATF THINKING?

The Organisation for Economic Co-operation and Development (OECD) and the Financial Action Task Force (FATF) recently targeted 16 nations offering Citizenship by Investment (CBI) or Residency by Investment (RBI) programs. They have divined that these sovereign nations' programs can be misused; "Schemes that are potentially high-risk for these purposes are those that give a taxpayer access to a low personal income tax rate of less than 10%". Do not misinterpret; this is purely a move to block persons in high tax jurisdictions from relocating to or using lower tax jurisdictions.

Since 1990, the FATF has produced a blacklist list of Non-Cooperative Countries and Territories (NCCTs) every year, twice yearly more recently. This list was always about taxation, only after September 11, 2001, was Counter-Terrorism Finance and Anti-Money Laundering (AML) added to the list.

At the first AML conference in New York City in early 2002 – after I had read the Patriot Act - I sat down with several U.S. Senate staffers and said, "The Patriot Act has nothing to do with terrorism, but rather about how to button up an economy to recognize revenue and tax it." The response was, "Yes that is correct." I was disappointed as I was looking for a good spirited debate.

TAX BENEFITS FOR APPLICANTS IS AT THE HEART OF THE MOST RECENT BLACKLIST

Indeed, some people do leave a nation because of the tax burden. The average tax burden for the G20 countries is at 34.2% and the US is at 27.1%. France, at 46.2%, has by far the highest tax burden of all G20 countries.

According to a 2016 report by New World Wealth, the top five countries who gained millionaires were Australia (+11,000), the United States (+10,000), Canada (+8,000), the UAE (+5,000) and New Zealand (+4,000). In terms of losing millionaires, the top five were France (-12,000), China (-9,000), Brazil (-8,000), India (-6,000) and Turkey (-6,000).

"The UN Universal Declaration of Human Rights (UDHR) is very clear. "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality.""

India only lost one millionaire for every 218,345 residents. France lost one millionaire for every 5,583 residents whilst over 63,000 millionaires left France between 2000 and 2015.

David Lesperance, a specialist in second citizenships, says that the rate of "Golden Geese", the top 1% of a nation's income earners, leaving a country is an indicator of a nation's problems be they, tax, economic, or civil. The wealthy anticipate problems and also possess the wherewithal to act to insulate themselves from these issues. This insulation may include economic citizenship options.

PEACEFUL REBELLION

From my conversations with those offering residency consulting services, many of their clients are applicants from countries with other issues such as tyranny, civil war, dictators, or communism to name a few.

The CBI/RBI programs may or may not have tax advantages, so what is then the advantage they are seeking? Clearly, a second citizenship or resident visa will allow them to escape insecurity, racial or religious bias and violence in the mismanaged nations in which they live or if war breaks out, rightfully claim that they are a citizen of another country and be able to leave.

One form of rebellion is to leave – to take their talents and skills and just leave. The opportunities presented through the CBI/RBI programs permit this unarmed rebellion called "leaving" and offer an alternative to an armed insurrection; the peaceful protest of "exsurrection" or exodus. Does the OECD prefer an armed rebellion against a government that is recognized by the UN, even if it is a tyrannical state?

A CLEAR VIOLATION OF ARTICLE 15 (2)

The UN Universal Declaration of Human Rights (UDHR) is very clear. "No one shall be arbitrarily deprived of his nationality nor denied the right to change his nationality." The denial of one's right to leave should not be confused with one's opportunity to seek another citizenship. Who a country accepts or denies as a citizen is up to that country. Most of the nations targeted in the blacklist have simplified rules and are considered generally welcoming, whilst the majority of the G20 nations have much more restrictive notions on who can and may become citizens.

OECD MEMBER NATIONS ARE THE PRIMARY BENEFICIARIES OF CITIZENSHIP SCHEMES

In a joint report published in October 2018, Transparency International and Global Witness, described how the EU had gained nearly 100,000 new residents and 6,000 new citizens. According to this report, the EU has gained over 100,000 new, wealthy taxpayers. Assuming the investment of $1 million per prospective citizen, this would equal $100,000,000,000 in FDI for the EU – $100 billion!

In my opinion, the OECD/FATF is wrong, in word and deed, on blacklisting 16 nations - nearly 10% of the nations in the world - on their CBI/RBI programs because of their Common Reporting Standard (CRS) on taxation. What is so stunning is that it is clearly also against their very own financial interest. Without the yearly $100 billion of FDI, many of the G20 countries would be in even worse shape. It is no small irony that a bureaucracy, staffed by employees who do not pay taxes themselves, has and continues to threaten the sovereignty of other nations because of taxes. No nation has ever taxed its way to prosperity. ●