By Barbara R. Hauser

Around the World in 2010

A look at six countries—what went on and where they're heading

Ignited by the global financial crisis in 2010, many wanted to know, "Where's the money?"... "Who owns it?"..."How can our country get more?"... and ..."Where are the super-rich moving?" Here are some answers to these questions as we survey last year's activity in six countries: Switzerland, England, France, Italy, China and Singapore.

Keep in mind, as you read this overview, that these countries differ from the United States in one significant respect: Unlike the United States, which taxes its citizens regardless of where they live, the rest of the world is more like a constantly changing puzzle. That is, the super-wealthy who object to taxes in their home country can usually avoid those taxes by simply moving to another, more attractive place.

Switzerland

The UBS case is over—The end of the Internal Revenue Service's civil lawsuit in November 2010 against UBS AG marks the end of a lengthy probe. Although the UBS suit has been withdrawn, the IRS has said it isn't finished with chasing accounts at other large banks. In fact, the IRS says it's using leads it uncovered during the UBS probe to widen its investigations into U.S. clients of other global banks, including London-based HSBC Holdings PLC.[1] Everyone seems relieved, though, that the UBS matter has ended.

Michael Ambuhl, the head of the Swiss State Secretariat for International Financial Matters (SIF), called the withdrawal of the lawsuit "an important step in normalizing relations between Switzerland and the U.S. as pertains to tax matters."[2] The SIF confirmed that it had "examined approximately 4,450 UBS client accounts under an agreement with the U.S. and that the delivery of data by Switzerland to the United States was largely completed by mid-November."[3] Switzerland has signed a series of new double-taxation treaties with other countries that are partly aimed at confronting international efforts to crack down on "tax evaders and tax dodgers."[4] This could mean that foreign clients who hold funds in Switzerland might repatriate their assets. It's not clear yet what impact the UBS case and its ripple effects will have on the attractiveness of Switzerland for the super-wealthy.

Standardized income tax is rejected—Switzerland has long been an attractive destination for the super-wealthy to live (in addition to its appealing banking system for those who simply send their wealth to Switzerland). All sorts of celebrities (estimated to be as many as 5,000)—in addition to various royals and tycoons—live there. It's also an attractive location for global businesses, in part because of its favorable tax rates.

Switzerland is made up of 26 separate cantons (member states). Each canton competes for these residents by offering low tax rates. Cantons with very low rates include Zug and Schweiz, just outside of Zurich. The canton of Vaud, next to the canton of Geneva, notes on its website that the purpose of each canton's ability to determine its own rates and social welfare charges is to promote "healthy competition between the cantons, which enforces moderation."[5]

Not only do the cantons offer low tax rates, but also most of them are willing to negotiate a flat tax amount (known as a *forfait*) based roughly on the actual living expenses of the new, wealthy resident (provided the resident isn't locally employed), without regard to any outside income or assets. As a backlash against the ultra-rich, in 2009 the canton of Zurich voted to abol-

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ish the practice of *forfait*, effective Jan. 1, 2010.

But it's not only the low cantonal tax rates and flat tax amount that irk the local Swiss residents about the influx of the super-wealthy. The locals are also upset about how wealthy outsiders artificially inflate housing prices. For example, when some 30 Londoners reportedly relocated to Zurich in the summer of 2010 just before receiving their large Goldman Sachs bonuses, they pushed home prices above the reach of long-term Swiss residents who lived there. Thus, not everyone is happy when the rich and famous move next door, even in Switzerland.

In a move against favoring the wealthy, the Social Democrats in 2010 put a proposal on a ballot for a higher national tax (the Fair Tax Initiative), which would do away with the local cantonal competition for lower tax rates.[6] In response, many of the super-wealthy who already lived in Switzerland threatened to leave the country.

Alfred Schindler, the billionaire owner of the Schindler lift and escalator company, reportedly argued that his personal tax rate would rise to a prohibitive 70 to 80 percent. He complained that "Switzerland is becoming a socialist land," and repeatedly threatened to leave the country if the referendum passed: "I can be out of here before you know it," he told a newspaper.[7] In reaction, the Social Democrats' youth wing, Juso, sent Schindler a one-way ticket to Bulgaria, arguing that it's the only other country in Europe where his taxes would be lower than in Switzerland.[8]

Already shaken by the United States' assault on traditional bank secrecy and worried that more private wealth would be leaving the country, the Swiss administration pleaded for a vote against the higher national tax. Rudolf Strahm, a former federal price regulator and supporter of the Social Democrats' initiative, said that he doubted the rich would carry out their threats to leave the country, because no other country would be as comfortable for the super-wealthy as Switzerland: "Where do these super rich think they're going to go? Basically their options are Singapore and eastern Europe."[9] He said the initiative coincided with a growing swell of resentment towards Switzerland's "tax tourism," which "the normal earners of this country reject and find loathsome."[10] Although the Fair Tax Initiative was widely watched as an attack on the super-rich, (with London newspaper headlines like "Super rich in Switzerland could lose tax breaks under 'socialist' proposals: Swiss to vote on plan which would see ultra wealthy residents like Tina Turner and Lewis Hamilton pay more tax on income"[11] and "Temperatures rise as rich face tax vote"[12]), Marnin Michaels, a partner in the Zurich office of Baker & McKenzie, calls the flack over the initiative a misunderstanding. According to Michaels, the cantons with low tax rates have been pleased with their success in attracting hedge funds, insurance companies and financial institutions, all of which are good for the local economy and which also increase local employment. Accordingly, in his view, the initiative had more to do with competition over employment issues than issues of individual taxation.[13] The results? On Nov. 28, 2010, the Fair Tax Initiative was put to a general vote–and the tax failed to pass.

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England

Landmark divorce case upheld a pre-nup—The big case in England this year was a divorce dispute between German heiress Katrin Radmacher and her French husband, Nicolas Granatino. The couple had met in London, entered into a pre-nuptial agreement in Germany (a country that upholds pre-nups), married in England (a country that didn't uphold pre-nups at that time),

lived in England with their two children and ultimately applied for a divorce in England about 10 years after their marriage.

Radmacher, whose fortune was admittedly much larger than Granatino's (she claimed it was perhaps "only" just over £50 million (over $78 million) as against his future inheritance of up to £20 million) was ordered to pay Granatino close to £6 million, despite the pre-nup that said they wouldn't be financially liable to each other. Although Granatino had been a well-paid investment banker during their marriage, he had changed careers to become a graduate student. As a result, he had argued that Radmacher needed to pay him maintenance after the divorce, and the lower court agreed.

The United Kingdom cracked down on ultra-rich who moved there to escape their higher home country taxes.

Radmacher appealed the decision, and the case made its way to the Supreme Court in England. The court issued a landmark ruling in October 2010, upholding the pre-nup and denyng Granatino's claim for maintenance payments.

Simon Bruce, head of the family law group at the London firm of Farrer and Co, represented Radmacher and said his client was delighted by the result. He commented, "The decision means a hugely important change in English law—pre-nuptials are now binding as long as they are fair . . . Katrin and her ex-husband had promised that if anything went wrong between them they wouldn't make financial claims—it was meant to be a marriage for love not money . . . Sadly, that promise was broken by him." Bruce also said that Granatino had a "glittering banking career" in London and New York, before deciding to study for a phD: "He is nobody's fool, he is well able to look after himself," Bruce added.[14]

Special unit created to take care of 5,000 super-wealthy—In 2010, Her Majesty's Revenue and Customs (HMRC) re-organized the way in which they handle their relationships with wealthy taxpayers. In the past, the HMRC Complex Personal Return Team (CPRT) handled those taxpayers with "complex" activities. Roughly 42,000 taxpayers fell into this category. Last year, the CPRT was disbanded and a new unit, the High-Net-Worth Unit (HNWU) was established.

The HNWU will focus on approximately 5,000 taxpayers. Clare Maurice, partner in the London law firm of Maurice Turnor Gardner LLP, commented, "The jury is undecided as to whether or not clients should aspire to be members of this exclusive club . . . being a member of this new club is likely to result in an unprecedented level of HMRC attention."[15]

Non-domiciles haven't fled London (yet)—The United Kingdom cracked down last year on the ultra-rich who moved there to escape their higher home country taxes and take advantage of England's lower tax treatment—where new arrivals aren't subject to the standard income tax of their non-UK income indefinitely (or on inheritance tax for the first 16 years). As a result of political pressure, the United Kingdom enacted an annual flat tax of £30,000 on the "non-doms"(those considered "non-domiciliaries" under the tax system even though they physically live in the United Kingdom) who have been residents for seven years. Many predicted that non-doms would leave the country in response to the new flat tax. But apparently that wasn't the case. One recent property report issued in late 2010 stated that "the combination of the £30,000 tax on non-doms and the 50 per cent income rate to be introduced next April has driven away fewer people than have arrived thanks to the weak pound giving discounts of up to 45 per cent and rapid price falls at the end of 2008."[16]

The battle over non-doms may not be over. Late-breaking news provided by solicitor Maurice is that the Coalition government in England has said that it will review the taxation of non-doms.[17] According to the Coalition's June Budget Statement, "This will assess whether changes can be made to the current rules to ensure that non-domiciled individuals make a fair contribution to reducing the deficit, in return for greater certainty and stability for those bringing skills and investment to the UK."[18] Maurice adds that there

are no timelines mentioned and it's not clear what the scope of the review might be.[19]

France

L'Oreal heiress sued by daughter—Many in Europe are familiar with this messy family fight among the heirs to the L'Oreal fortune. A society photographer, Francois-Marie Banier, had been accused of tricking the elderly L'Oréal heiress Liliane Bettencourt out of some €1 billion (over $1.3 billion). The heiress' estranged daughter, Françoise Meyers-Bettencourt, age 57, brought the case against Banier, alleging that he exploited her mother's weak mental condition. But the scandal turned even bigger, turning into a case of alleged tax evasion and improper political donations by Liliane. Even the butler was involved—he allegedly made secret tapes of Liliane's conversations with various individuals. Those tapes allegedly revealed that Liliane had been hiding millions of dollars in secret Swiss bank accounts to avoid taxes. The lawyer for Banier argued in court "that Madame Bettencourt should have the misfortune of finding the brilliant Mr. Banier more amusing than her own daughter—and between you and me that's no surprise and is not for this court to judge."[20] The case continues as this article is published. (Note that under French law, the daughter would be entitled to a "forced heirship" share of her mother's estate.)

Wealth tax increase—There will be a slight "reduction in the reduction" (read: "increase") in the unpopular annual wealth tax. Instead of being reduced by 75 percent, it will be reduced by only 50 percent.[21] (The wealth tax is imposed on the market value of all assets owned, regardless of location.)

Entrepreneurs can protect their assets—As of Jan. 1, 2011, there's a new form of business protection for an entrepreneur (which the semi-socialist country might use more of). EIRL (Entrepreneur individuel à responsabilité limitée) was created to protect self-employed individuals—there's now a separation between professional and private assets. By registering as an EIRL, it's possible to protect all of an individual's assets from any business liability. Hugues Letellier, a lawyer in Paris, explains that a sole proprietor client will be able, under the new law 2010-658 (passed on June 15, 2010)[22] to split his assets into two different parts—one part fully exempted from seizure by the business creditors, and one part non-exempted. Letellier adds that it's very simple to make this split; no company formation is needed.

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UK residents enticed to move to France—A new measure was designed to attract new residents to France (or perhaps the return of wealthy French who relocated to London?) The new France-UK Double Tax Treaty (signed on June 19, 2008, effective in France as of Jan. 1, 2010 and in the United Kingdom as of April 6, 2010) adds a tax benefit for U.K. nationals who relocate to France: They won't be subject to wealth tax on their assets located outside of France for the first five years of their residency in France.[23]

Italy

Another tax amnesty— Italy claimed success in 2010 with yet another tax amnesty program, asking its residents to "bring the money home." The penalties were as low as 5 percent. Estimates are that the Italians brought home more than $82 million USD, most of it from Switzerland (especially neighboring Lugano)[24]. As with past tax amnesty programs in Italy, local lawyers anecdotally surmise that the bulk of the Italians' offshore funds are staying offshore.

China

New worries— Two segments of the Chinese society are concerned about the country having a new class of "super-wealthy." First, parents are worried about the effect of wealth on their children: A report in 2010 stated that 62 percent of parents in one wealthy district are worried that their children won't be prepared to handle the wealth. "Their ability to endure hardship and put things into practice is less than the first generation,"[25] says Yuan Qingpeng of the Beijing Business

Management Scientific Research Institute, regarding the children of the rags-to-riches pioneers. Qingpeng formed the Beijing Business Management Scientific Research Institute, one of several institutes that offer training courses to groom heirs of the super-rich, known there as the "wealthy second generation" or "Rich2Gers." Programs range from teaching golf skills to lessons on how to make spread sheets, to visits to Communist Party pilgrimage sites and the U.S. Military Academy at West Point. The worry is that it won't take the normal three generations to squander the wealth: the Rich2Gers may achieve that in only the second generation. Ironically, the rescue of Rich2Gers may come from marriage: The China News Service reported in May 2010 that in the southern Guangxi province, some parents say that their less-able sons may be better able to hang onto the fortune by marrying "a competent and virtuous wife."[26]

Second, policy makers are worried about the social unrest that can accompany huge gaps in personal wealth. "I'm very worried about the wealth gap and the potential for social crises," said Fan Gang, director of the China's National Economic Research Institute.[27]

Singapore

The "new" Switzerland?—This country continues to market itself as the replacement of Switzerland for private wealth. Ed Peter, a Swiss-born fund manager, boasts, "Our vision of this place is the Singapore version of London's West End."[28] The Boston Consulting Group estimates private banks alone in Singapore manage about $500 billion in assets. The numbers are dwarfed by the estimated $2 trillion in private wealth managed in Switzerland, but the growth in Singapore is startling, wealth managers say.

Endnotes

1. "UBS Tax Probe Closed, Others Remain," *Wall Street Journal,* Nov 17, 2010, available at *http://on.wsj.com/hmgDgW.*
2. *Ibid.*
3. *Ibid.*
4. *Ibid.*
5. *See http://bit.ly/ftCd92* .
6. *See* Marnin Michaels, "Swiss voters reject minimum cantonal tax rate for wealthy individuals," Baker Client Alert, November 2010: "The Initiative would have required each canton/commune to impose a minimum income tax rate of 22% for individuals with a taxable income of more than CHF 250 000...and a wealth tax of 5 on assets of more than CHF 2 000 000. The tax system of 15 (out of 26) cantons would have been affected by the Initiative because the tax rates in these cantons are currently well below 22% for wealthy individuals."
7. *See* Kate Connolly, "Super rich in Switzerland could lose tax breaks under 'socialist' proposals: Swiss to vote on plan which would see ultra wealthy residents like Tina Turner and Lewis Hamilton pay more tax on income," Nov. 26, 2010 at *http://bit.ly/erCefJ.*
8. *Ibid.*
9. *Ibid.*
10. *Ibid.*
11. *Ibid.*
12. Matthew Allen, *swissinfo.ch, http://bit.ly/fUaLIz.*
13. Dec. 6, 2010 email from Marnin Michaels to author; on file with the author.
14. *See http://bit.ly/hJi05V.*
15. Paper presented at the 2010 Barcelona conference of The International Academy of Estate and Trust Law.
16. "Non-doms remain, London property prices to rise from 2010," Spears Wealth Management Survey, *http://bit.ly/hbHNVf.*
17. Dec. 6, 2010 email from Clare Maurice to author; on file with author.
18. *Ibid.*
19. *Ibid.*
20. *See, e.g., http://bit.ly/hqX6ZG.*
21. *See http://bit.ly/fNhCYS.*
22. The new law is codified in the new articles L 526-6 to L 526-21 from the Code de commerce and will be applicable as of Jan. 1 2011.
23. *See http//http://bit.ly/fbTJJN.*
24. *See* "Italy Tax Amnesty Draws EU60 Billion From Switzerland [Update 1]," Feb. 17, 2010 at *http://bit.ly/eF690l.*
25. "China's Rich Worry Heirs Will Squander Fortunes: Parents Groom 'Rich Kids' for Future Wealth," *http://abcn.ws/gRzBtY.*
26. *Ibid.*
27. John W. Schoen, "China's wealth gap strains social fabric Widening income disparity tests famously patient people," Oct. 20, 2010, *http://on.msnbc.com/ifTg6f.*
28. *See http://reut.rs/gwlimW.*