

'Government should get revenues from land, not offshore business or income tax'

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Martin St-Hilaire on Vanuatu's financial sector and its future, the Income Tax, and EU 'bullying' Pacific tax havens

Martin St-Hilaire, Managing Partner of AJC Vanuatu, and Chairman of the Vanuatu Financial Centre Association, in exclusive interview for Vila Times talks about the reason Vanuatu ended up in international financial 'bad guy' list, potential solutions for government's revenues instead of the income tax, and future economic development of Vanuatu.

– Hi Martin. Could you please tell us more about yourself and your history in Vanuatu?

Martin St-Hilaire: I arrived in June 2003 to work for Hawkes Law (ex-KPMG), straight from Montreal, Canada. They needed a CA to handle French and English accounting clients. After our 2 year contract finished, my wife Marie Eve and I moved back to Canada. But we lasted only one winter. We knew that another world existed, so we returned to the South Pacific in 2006, this time to New Caledonia. I worked for KPMG for a few months after which we decided to come back to Vanuatu in April 2007, and we have not left since. My lovely wife works at Bred Bank as CFO and we have 3 young kids.

We love Vanuatu and aim to participate positively in the economic development of our adopted country. We feel very fortunate to have found Vanuatu in our life. I am deeply respectful of other points of view and different visions; I feel I have a duty to the community to share my own point of view to hopefully enhance the public debate.

'Vanuatu is a heaven on earth in some respects, but not so perfect in others'

– The recent article titled "The Final Days of a Tax Haven" in Bloomberg. Would you agree with its general message, predicting the "end of Vanuatu as a tax haven," or you think it is an overstatement after all?

Vanuatu is not really a tax haven, as the current tax system includes a variety of imposts such as customs duty, value added tax, license fees, various type of visas and permits, several administration fees are raised and collected, land lease, municipal tax, bank turnover tax, capital gain on transfer of land, stamp duty, transfer fees (on business share and on property), yellow garbage bag tax, road tax, school fees, registration fees, specific taxes on certain products and services like alcohol, tobacco, casino (sin tax), excise tax, provident fund contributions, exported service turnover tax, etc.

All these methods of collecting revenue have been implemented over the years to suit Vanuatu's needs. This is a quite comprehensive mix of tax.

Vanuatu is not a tax haven; it is a heaven on earth in some respects, but not so perfect in others. It is essentially a developing nation, a "frontier" market, a lot of things still need to be enhanced, and I do agree that our Government needs more funding and we need more foreign direct investment.

The UK colonial government set up the offshore industry (Financial Centre) in the 1970s to help Vanuatu generate some wealth locally, in order to be less reliant on the colonial administration and to finance their management of the colony. They did the same thing in many other islands and territories that lacked natural resources and these Financial Centres are still operating today maintaining that heritage and using it as a source of income. This network created by the British explains why London is still to this day the financial capital of the world.

Most of the significant tax havens existing today have developed around two principal geo-political poles. One pole has evolved with close links to the City of London. This includes British Crown dependencies such as the Channel Islands, Jersey, Guernsey and the Isle of Man, British Overseas Territories among which the most significant tax havens are the Cayman Islands, Bermuda, British Virgin Islands, Turks and Caicos and Gibraltar, and recently-independent British Imperial colonies such as Hong Kong, Singapore, the Bahamas, Bahrain and Dubai. Less significant in terms of impact, but more numerous, are newly independent British Pacific territories. The other pole developed in Europe and consists of the Benelux countries – Belgium, Netherlands and Luxembourg – Ireland, and of course, Switzerland and Liechtenstein. The only other significant tax havens today which are not part of these two poles are Panama and, to a lesser extent, Uruguay.

'Vanuatu Financial Centre should be modernised and adapted to the 2017 situation'

Vanuatu does have like all the countries named above and many others a Registrar (VFSC) that allows incorporation of international companies, and legislation that allows international businesses to setup trusts or other business vehicles in Vanuatu. This industry is small compared to most of the other Financial Centres in the world, but it is still contributing to the national treasury every year and in my opinion it should not be closed down.

It should rather be modernised and adapted to the 2017 situation. It should follow the lead of the best ones, like Caiman, Singapore, Hong Kong, BVI, Delaware (USA), Jersey, London, and many others. International Finance centres must be much more transparent than they used to be, Vanuatu must comply with international standards.

In my opinion, this is currently happening. VFIU, under the strong leadership of Floyd Ray Mera and the NCC (National Coordination Committee), are working hard with APG and FATF, and with the Salwai Government to pass a significant series of legislation that are long overdue. I am optimistic that these modernisation changes will help Vanuatu, and that the Government and public sector will fight to preserve this industry since it is bringing some significant wealth to the nation and helps fund much needed public services such as education and health. It must be Vanuatu first, and we should not bend due to Australian pressure about this.

– The Paradise Papers scandal. The Bloomberg article refers to the Paradise Papers as sort of final nail in Vanuatu tax haven's coffin, but in the same time we haven't seen any particular revelations in Paradise Papers, directly related to Vanuatu. So would you say the Paradise Papers really had a negative effect on Vanuatu as an offshore tax haven or not?

This is 2017, the news business is like that, fake news on one side, sensationalism on the other, this is not a search for the truth, this is a search to get as many clicks as possible on the news websites, and the palm tree with the word Tax Haven next to it helps to excite the masses in the rich and developed world. I am personally not aware of any story that involve Vanuatu Offshore centre in relation with any of these Papers.

'Vanuatu at the same level as Syria, Yemen and Iraq for the banking industry'

– *Particularly interesting thing you have said in a comment for Bloomberg. "It's much more difficult to do funds transfers in and out of Vanuatu than probably anywhere in the world." Is it really this bad, and if it is, what are the main reasons? I mean, how Vanuatu ended up being a place where bank transactions are "more difficult than anywhere in the world"?*

FATF/APG placed Vanuatu in a list of non-cooperative countries in term of compliance with their international Anti Money Laundering and Counter Terrorism Financing (AML-CTF) recommendations. That has sent a worldwide message to all the banks in the world that Vanuatu is high risk. The whole banking system must follow FATF recommendation to be compliant and not in the list themselves.

The system is risk base, so simply, if there is more risk perceived, there is a need for more scrutiny, and more scrutiny mean payment delays, more explanation and more documents need to be presented to the bank that must analyse it in detail before issuing the payment and the other bank that received the payment in a foreign county also increases scrutiny.

Just to be clear, in this list you can find countries such as Syria, Yemen and Iraq at the same level [as Vanuatu].

However it is important to repeat here that the NCC leaded by FIU and PM office are currently addressing the issue and the private sector is thrilled with the good work done so far this year. It should have been done before, a few years ago. But it is now in process and we can see the light at the end of the tunnel. We should get out of this list hopefully in 2018. In spite of getting out, high scrutiny on international transfers will stay. In my opinion, this will eventually happen everywhere. On a positive note, we should have less inappropriate rejection of transfers once we are out of the list, and it should get easier for local banks such as NBV to get new and a more diverse selection of correspondent banks.

'It is for certain that finance centres are used as scapegoats'

– [*Anthony Van Fossen in his interview for Vila Times*](#) recently has said that *"havens in the Pacific Islands were made into sort of scapegoats" by Europe. Would you agree with this statement, and would you say it is, to certain extent, a deliberate strategy?*

I don't know. I do not think it is a strategy against us, but if it is, it is not well thought through. I think, as I explained before, this is more a media-driven issue and also driven by internal politics of the rich and developed nations. It always helps politically, in order to get votes, to blame another party, another country, something external instead of blaming one's self.

It is for certain that finance centres are used as scapegoats.

Large corporations, all of them, Apple in Ireland, IKEA, Google, Amazon, GE, all of them have international structures that optimize their tax expenses. Tax lawyers are working in Sydney, Paris, London, NY, everywhere, big and small cities to make sure that each setup is fully compliant with all the legislation in each jurisdiction where these international businesses are operating and doing business. And at the same time, these corporations are paying as little as possible in taxes. They are also doing it within the same country, moving from one state to the other, setting up in one province instead of another, within one city instead of another city, they go where they get the biggest tax break; this is normal. For them, tax is an expense like cost of goods sold, wages or rent, they are built to minimize costs in order to compete with each other and to bring product and service to market at appealing prices.

Instead of blaming the legislation that allows it in rich developed nations, and blaming the national and local governments that are not addressing the problem with proper legislation, the public is led to blame either the corporation itself that is legally and legitimately doing what it should do – paying as little tax as possible within the law, and through that maximising the return to shareholders (the mission of all business operations within a free market capitalist economy), – or blaming the finance centre (called a "Tax Haven" in that case) that should not accept to serve these companies on moral grounds.

'Tax minimisation used to be a legitimate practice, and deemed normal and morally right. Now it is deemed to be immoral, but still legal'

We do not have any large corporations using Vanuatu to minimize their tax, they are favouring jurisdictions such as Luxemburg, Ireland, Hong Kong, Belgium, Bahamas, and many others. But when we talk about tax planning and about billions hidden and billions of tax avoidance, we talk about these guys, this is the subject of all the recriminations.

Nowadays, to summarize, the discussion has switched from legal to moral. At my first Tax course at University, I clearly remember my professor, a tax expert, teaching us that every tax payer should follow the law and it is legitimate to organise one's self to pay as little tax as possible within the rules; to avoid paying taxes if it is within the boundaries of the law. Without that principle, there would not be any legitimate tax lawyer. Tax minimisation used to be a legitimate practice, and deemed normal and morally right. Now it is deemed to be immoral, but still legal.

Tax fraud is another story, this is money laundering since it is illegal to not pay tax when legally you should, by not declaring revenues, cheating, lying, and this must be fought like all other crimes.

'Vanuatu has not properly invested into keeping up the pace with the outside world'

– So how Vanuatu can be this kind of place [with funds transfers "more difficult than anywhere in the world"], when there are so many well-known jurisdictions in Europe, widely used for money laundering and tax evasion – like Cyprus (used by Russian politicians and oligarchs to hide billions of dollars every year), Jersey, Malta and others, not even mentioning all the activities in Switzerland and London?

Vanuatu has simply not properly invested into keeping up the pace with the outside world about these subjects. We have waited too long to enhance our legislation and to implement tools to properly collect data about funds movement and to properly report this data.

In my opinion, we have been put in the bad guy list simply by a lack of information. When they came to assess Vanuatu on these aspects we were not well prepared and they caught us off guard.

Also, since Vanuatu is relatively unimportant and uninfluential, there is not much to lose in terms of the world economy and political equilibrium. It is politically much easier to place Vanuatu on such a list and much more problematic to place Cyprus there, a member of the EU.

Bullying Vanuatu is easier, and it works since we needed to be bullied to evolve, and to invest into that area.

– Would you agree with Van Fossen, who said "Pacific Islands tax haven countries should push for a more comprehensive list of tax havens, including (and even emphasising) the major havens in Europe and Asia" as part of the strategy to protect themselves against "scapegoating"?

Yes, maybe, I am not sure that this is a fight worth fighting. Nobody in this world really talks about Vanuatu much.

'Vanuatu is the best nation in the South Pacific on many measures, and it will position itself to thrive into the future no matter what'

– Other offshore tax havens in the Pacific. Can we say that Vanuatu is losing (or lost) the competition against Cook Islands, Samoa and the Marshall Islands in this field? Is there such a thing as competition among Pacific tax havens (for clients and money from overseas)?

I do not know about that. I do not personally perceive there to be much competition. Some of the offshore businesses eventually lead to onshore operations, and that has a not insignificant impact on the country's economic growth and FDI. Vanuatu in my mind is the best nation in the South Pacific on many measures, and it will position itself to thrive into the future, no matter what.

– Vanuatu selling its citizenship for investments. Is that something contributing a lot to Vanuatu's generally bad financial reputation?

That is another subject in itself!

No, I do not see that as negative, I do understand why the government is doing it, and I think it is clever.

In Canada, we also sell our citizenship to Chinese investors, this is everywhere, all governments are trying to attract FDI and outsider money. Most of the Caribbean islands have similar programs, you can also get citizenship and passport in Portugal, Spain, Cyprus and tens of other nations.

Many people in Vanuatu do not know that these types of programs are everywhere.

'The solution for government revenues is not growth of the offshore business, and neither Income Tax, in my opinion the source of wealth should come from the land'

– What are your thoughts on the future of this industry in general? Many experts say CIP industry, as we know it, is about to end soon.

I am optimistic by nature.

I think the industry, the service providers, the accountants and legal firms that provide corporate services, for local and international company will survive in any scenario.

The industry is changing because of the new technologies available. We are all doing most of our turnover serving the local business community. Most of the business service providers are also doing offshore services. This helps the industry, it brings in funds to employ more people. Let me give you a concrete example: in my firm, if Vanuatu decides to pull the plug on that almost 50 year old legacy business, now we are 18 working at the office, and I will have to let go maybe 4 Ni-Vanuatu staff.

I would prefer the scenario where we build on that legacy industry, following the new implementation of the updated laws, and the removal of Vanuatu from the bad guy list, we could imagine that I might need 4 more staff in the office to serve more international clients?

– As you know, Vanuatu's Government intends to push the income tax through and there are many parties opposing this initiative. What are your general thoughts and expectations, you think it will go through? And if it will, how the income tax itself will affect Vanuatu's offshore tax haven activities?

I have read the Income Tax draft act. It is basically a simplified version of the Australian Income Tax legislation. I would advise against Income tax.

If Vanuatu Government decides to go ahead with Income Tax, I would then advise to review the draft act. The current one is not adapted and is built on a worldwide tax instead of being territorial tax. I would advise Vanuatu Government to properly assess its options about that particular point since it is obvious for me and all knowledgeable observers that you start with a territorial tax before doing the second step to worldwide taxation, and even more so in the case of Vanuatu where you do not have many citizens earning money abroad from their investments.

And lastly, the solution for government revenues is not into growth of the offshore business, and neither into Income Tax, in my opinion the source of wealth should come from the Land.

Land leases in urban area, commercial and industrial leases should be based on the market value of Land, and it should be assessed annually, and significant annual land lease payments should be paid to the government.