Américas

How Mossack Fonseca Helped Clients Skirt or Break U.S. Tax Laws With Offshore Accounts

By GUILBERT GATES JUNE 5, 2016

Panama-based law firm Mossack Fonseca helped wealthy clients in the United States, as well as many others worldwide, set up offshore corporations, foundations and bank accounts where the clients could place large amounts of cash and other assets.

While federal law allows United States citizens to transfer money overseas, these foreign holdings must be declared to the Treasury Department, and any taxes on capital gains, interest or dividends must be paid. But in some cases, Mossack Fonseca appeared to create accounts with the express purpose of shielding identities or avoiding scrutiny from American authorities.

How to Shield Your Identity With an Offshore Account

Clients convey their money to one or a series of corporations that Mossack Fonseca creates in spots around the world. In some cases, the firm has advised clients to justify the money flow out of the United States by falsifying receipts for imaginary purchases, or claiming they had made bad investments and lost the money.
In Panama, Mossack Fonseca sets up a private foundation, not subject to Panamanian taxes and not required to make any actual donations to a charity. Clients who “contribute” funds to such foundations are shielded from legal claims filed against them in the United States, even though they often indirectly still control the use of the money, via Mossack Fonseca.

To further conceal the connections between the foundations and their true owners, employees of Mossack Fonseca (or, in some cases, their family members) are appointed as officers to a foundation and to the various shell companies. This arrangement allows Mossack Fonseca to argue that a client who donated the money does not own or control this new legal entity, even if emails and other correspondence show that the client does.

In some cases, Mossack Fonseca secretly names the client as the sole beneficiary of the private foundation and the various shell companies it has created. But the client’s actual identity remains hidden from public documents, and perhaps also from American authorities.

Mossack Fonseca’s employees, now acting as officers of the foundation or shell companies, transfer large chunks of money to and from bank accounts it has separately set up on the client’s behalf, in tax havens like Andorra, Switzerland, the British Virgin Islands and Panama, which have historically helped customers hide their names from government authorities. In other cases, money is used to buy luxury apartments or yachts. These maneuvers make it difficult to know where the money originally came from, or if capital gains taxes and other obligations have been paid.
Money deposited by the client to the private foundation may be shifted into the accounts of shell companies, and through them to the personal accounts of the client’s family members, such as children, potentially allowing the United States' ceiling on tax-free gifts from parents to children to be illegally evaded. The firm argues that it is the client’s responsibility to pay these taxes, when appropriate.

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**Other Risky or Potentially Illegal Uses**

By not reporting to the United States government income earned abroad, or even the existence of these overseas accounts, clients can evade United States taxes on passive income (like interest, dividends and capital gains) they earn on their offshore investments. Mossack Fonseca argues, again, that it is up to its clients to pay what they owe.

By setting up the shell companies in foreign countries and claiming that the client is not a resident of the United States, even if the firm knows that is not true, the firm can help the client evade taxes owed to the United States.

The offshore companies can also be used to shield assets if an individual is sued in the United States or is going through a divorce or other family dispute.