



## Hong Kong Is New Target of U.S. Crackdown on Global Tax Evasion

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By David Voreacos, Carlyn Kolker and Alan Katz

Nov. 13 (Bloomberg) -- Hong Kong is a new target of U.S. prosecutors pursuing a global campaign against evaders of federal taxes, spurred by data acquired in their crackdown on Swiss banks.

Prosecutors are trying to determine what role financial professionals in Hong Kong play in tax evasion, according to people familiar with the matter. They are examining how much taxable money was moved to the former British colony that returned to China in 1997, whether accounts were based there in name only and what banks were involved, the people said.

The push follows the government's success in penetrating Swiss bank secrecy and learning from insiders how UBS AG helped Americans evade taxes. UBS, the largest Swiss bank by assets, avoided prosecution by agreeing in February to pay \$780 million and disclose account data on 250 clients. In August, it agreed to supply information on another 4,450.

"They must have reason to believe this is a target-rich environment and a very significant amount of tax evasion is going on there," said [Peter Zeidenberg](#), a former federal prosecutor now at [DLA Piper LLP](#) in Washington.

Since the February settlement, prosecutors have won guilty pleas from six UBS clients who described a web of bankers, lawyers and advisers who helped conceal income and assets. All six hid money in shell companies outside Switzerland. Four used Hong Kong corporations, including toy salesman Jeffrey Chernick.

### Probes Beyond Switzerland

Debriefings of Chernick started probes of financial institutions in Switzerland and beyond, "in particular tax-haven jurisdictions such as Hong Kong," prosecutor Michael Ben'Ary said Oct. 30 at Chernick's sentencing in Florida.

"From the public statements at the Chernick hearing and elsewhere, the government has made it very clear that they are interested in other secrecy jurisdictions, especially Hong Kong," said [Douglas Tween](#), an attorney for Chernick, 70.

Chernick told prosecutors he hid sales commissions in an \$8 million UBS account in the name of a Hong Kong corporation.

Hong Kong is already changing its laws to implement the Organization for Economic Cooperation and Development's efforts to enhance tax transparency, said Katherine Kwong, a spokeswoman for the government's [Financial Services and Treasury Bureau](#).

These changes would help "significantly enhance Hong Kong's position as a transparent tax jurisdiction," she said yesterday.

### Global Tax Standards

The OECD has a so-called gray list of countries that haven't complied with global tax standards. Hong Kong and Singapore announced in February that they would put forward legislation to meet them, according to Pascal Saint-Amans, who heads the tax competition division at the OECD. Macau made a similar announcement in March.

The UBS clients who used Hong Kong corporations told prosecutors how their bankers and lawyers helped them set up offshore corporations so their assets would be hidden in accounts that didn't bear their names, court records show.

Roberto Cittadini, a retired Boeing Co. sales manager, told a federal judge in Seattle Oct. 5 that he didn't report income from a \$1.86 million UBS investment account nominally owned by a Hong Kong corporation.

He said Swiss banker [Hansruedi Schumacher](#) and Zurich lawyer Matthias Rickenbach helped him with the account. Schumacher is a former NZB Neue Zuercher Bank manager who once ran the cross-border business for Zurich-based UBS, according to court papers. Both men were indicted Aug. 20 in federal court in Fort Lauderdale, Florida.

Schumacher no longer works at NZB, said Patrick Hunger, corporate secretary, in a telephone interview. He declined to say when Schumacher left the bank and wouldn't provide Schumacher's new contact details. Messages left at Rickenbach's office and home weren't immediately returned.

#### Malibu Businessman

John McCarthy, a businessman in Malibu, California, admitted Oct. 20 that he failed to declare \$1 million in a UBS Swiss account tied to a Hong Kong entity.

"I've been told there are active investigations on the West Coast of Hong Kong account holders," said McCarthy's attorney, **Steven Toscher**, of **Hochman, Salkin, Rettig, Toscher & Perez** in Beverly Hills.

Hong Kong hasn't been the only tax jurisdiction implicated in the past year. UBS admitted in February that it helped U.S. clients create sham companies in Panama and the British Virgin Islands, while hiding the true owners from the U.S. Internal Revenue Service. UBS clients who pleaded guilty also implicated Singapore, Liechtenstein, Mexico and the Cayman Islands.

The IRS is analyzing a trove of information from more than 7,500 taxpayers who voluntarily disclosed their offshore accounts this year to avoid prosecution. To qualify, clients had to disclose everyone who handled their money overseas and everywhere it went.

#### 'Scouring the 7,500 Disclosures'

"We're going to be scouring the 7,500 disclosures to identify financial institutions, advisers and others" who helped taxpayers cheat on taxes, IRS Commissioner **Douglas Shulman** said Oct. 14.

He said the IRS is hiring 800 people in the next year and increasing staff in eight overseas offices, including Hong Kong. It also will open offices in Beijing, Sydney and Panama City.

"There is a phenomenal amount of money in undeclared status in Singapore, Hong Kong and maybe now China," said **Scott Michel**, an attorney at **Caplin & Drysdale** in Washington. "The IRS has decided that the template has worked so well for Switzerland that it wants to mimic that investigative strategy with other countries."

While Hong Kong has strict anti-money laundering measures, it is easy to set up nominee and trust accounts there that obscure the ownership and control of assets, according to the **Financial Action Task Force**, an inter-governmental body.

#### 'Relative Ease'

"The availability of corporate services and the relative ease with which shell companies can be purchased contribute to the risk of Hong Kong being used for structuring of the proceeds of financial crime, corruption, tax evasion and smuggling," according to a **June 2008 report** by the task force, which works to combat money laundering.

Cittadini trusted UBS, as well as Schumacher and Rickenbach, when they advised setting up accounts in Hong Kong and the British Virgin Islands as a way to keep his assets hidden, his lawyer **John Colvin** said.

"It's totally routine," said Colvin, of **Chicoine & Hallett PS** in Seattle. "It would cost a few hundred or a few thousand dollars at most to set up."

Schumacher and Rickenbach told Cittadini such accounts were the easiest way to continue investing in U.S. securities while not reporting the income to the IRS, Colvin said. UBS was required to report the income under an agreement it signed with the U.S. in 2000.

**David Ellis**, a lawyer in Hong Kong, said he was a "bit surprised" to hear that corporations had been used there to help evade U.S. taxes.

#### 'Legitimate Tax Benefits'

"I suspect it's probably more for the legitimate tax benefits of operating through Hong Kong than Hong Kong companies are used rather than its efficiency in evading U.S. tax," said Ellis of **Mayer Brown JSM**. "I would have thought for evading U.S. tax you would want a different jurisdiction. But Hong Kong is maybe the legitimate end of it."

Zetland Corporate Services in Hong Kong sets up companies for foreign clients, said its managing director, **Michael Foggo**.

"Our client can act as director and shareholder," Foggo said. "Sometimes our clients do want us to act as directors for them and provide nominee shareholders if they are looking for confidentiality for whatever reason. It's not something unique to Hong Kong or any other place in Asia."

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