

FINANCIAL TIMES

Wealthy French eye Belgian tax perks

James Fontanella-Khan in Brussels February 15, 2013

For decades, Thierry Afschrift's boutique tax law practice was among the best-kept secrets of Belgium's wealthy elite, his name passed discreetly between the landed gentry and industrialists in Brussels' leafy suburbs seeking shelter from the kingdom's Byzantine tax laws.

But in the past five months, Mr Afschrift's phones have been ringing off the hook from another clientele altogether – wealthy Frenchmen seeking to set up private foundations in Belgium to protect their family fortunes from onerous taxes imposed by President François Hollande.

"We have loads of people coming every day asking us questions about setting up foundations," Mr Afschrift said from his office on Brussels' upmarket Avenue Louise. Other Belgian tax lawyers say they have been receiving around 10 calls a day from France inquiring about private family foundations.

Mr Afschrift calls it the "Arnault effect", named after French luxury goods magnate Bernard Arnault, the owner of fashion and champagne house LVMH and reputedly Europe's richest man, who last year applied for Belgian citizenship after Mr Hollande's election.

Mr Arnault's move – and the subsequent flirtation with Belgian residency by French actor Gérard Depardieu – shone a light not just on the thousands of wealthy Frenchmen seeking to move to Belgium since Mr Hollande's election but also on the tax perks of foundations. In the bucolic southern Brussels neighbourhood of Uccle alone, French registrations more than doubled last year to about 1,200, according to local officials.

Brussels-based tax lawyers say the attention paid to their decamping French neighbours has obscured a much wider trend: wealthy Frenchmen seeking not to move there, but to utilise a less-heralded loophole Mr Arnault is believed to be exploiting.

In December 2008 – well before France's Socialist government came to power in May 2012 – Mr Arnault, who owns 47 per cent of the capital of LVMH through a family holding company, set up a private foundation in Belgium for some of these assets, with the aim of protecting his empire from a break-up after his death.

This type of private foundation is not allowed in France. Moreover, Belgian law also offers the additional advantage of much lower inheritance tax rules than in France.

The key to Belgian foundation law is that it permits the patron to hand over all assets to children as a gift, taxed at only 3 per cent instead of France's 45 per cent inheritance tax. It also avoids France's annual wealth tax, a levy that does not exist in Belgium. To top it off, the foundation's benefactor retains full control of the assets while alive and can set disbursement terms for after their death.

FINANCIAL TIMES

"It is a very good tool to transfer assets gradually and assure the children don't squander that family's accumulated wealth," says **Manoël Dekeyser**, one of Belgium's most prominent tax attorneys.

"If the children want the money to play at the casino, the foundation's manager can block them from doing so, if he has been instructed to do so by the parents.

"Not all the new attention brought by Mr Arnault is welcome in Belgium's cloistered and publicity-shy monied set. Brussels may be known as the home of EU bureaucrats, but by some Eurostat measures the Brussels area trails only central London and Luxembourg as the EU's richest.

Several Belgian tax lawyers say they are increasingly concerned that outsiders will begin to view Belgium in the same way they view Luxembourg and Switzerland, as a tax haven. This could bring increased scrutiny of their foundations.

"Before, people used to set up these kinds of foundations in Panama and Liechtenstein, but over the years these places have been increasingly criticised for attracting tax evaders," says Mr Afschrift. "Now people prefer coming to Belgium; it has a better reputation and is not considered a tax haven."

Counterintuitively, part of Belgium's appeal to potential tax avoiders is its reputation for high taxes. For some workers – particularly the unmarried and childless – income taxes are the highest among OECD states. Those high rates can obfuscate a tax code littered with loopholes for the rich, including no taxes on capital gains or rental income.

Said one lawyer, who asked not to be named to protect his firm: "Unfortunately, Arnault brought greater attention to the foundations system than we would have hoped.

"I would have preferred to keep it very discreet. Rich people know how to find us. They don't need to read it in the Financial Times."

Mr Arnault has said that he seeks dual nationality and he will remain fiscally domiciled in France.