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Consumers Association of Penang
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Letter to the Editor

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Set up RCI to investigate financial outflows to secret accounts in tax havens

Consumers Association of Penang (CAP) welcomes the investigation by SPRM into the secret accounts in tax havens operated by Malaysians, as revealed in the Pandora Papers. The investigation should also include Malaysian individuals and companies named in the earlier 2015 Panama Papers and 2016 Paradise Papers.

In 2015, the Panama Papers revealed that 2,300 Malaysian individuals and entities were hiding money in offshore tax havens. In 2016, the Paradise Papers exposed how multinationals and super-rich individuals moved money to and from 19 tax havens to evade or avoid taxes. What is their reason for hiding the money and what is its source? The Papers reveal that many offshore companies are “sham” entities engaged in tax evasion/avoidance, manipulation of the market, money laundering, round tripping (taking untaxed money out of the country through inflated invoices and then bringing it back as an investment), parking black money, bribery, etc.

These illicit funds come from transnational crimes, corruption, and tax evasion. Billions of ringgit are involved in illegal activities. The prostitution industry, which is linked to human trafficking, is estimated to be worth US\$963.8 million, or RM3.68 billion. Security officials estimate that illegal online gambling syndicates earn up to US\$2.4 billion (RM7.9 billion) a year from illegal gambling activities in Malaysia. Much of these ill-gotten gains are likely to end up in tax havens like Singapore, which is also a gateway to other tax havens.

In 2010, the government set up the High-Level Multi-Agency Special Task Force to reduce illicit financial flows. Has the Task Force investigated the financial outflows from Malaysia to secret accounts in tax havens as disclosed in the Panama Papers and Paradise Papers? If so, what were its findings and recommendations? We are left in the dark.

In October 2021, the then leader of the opposition moved a resolution in Parliament to debate the Pandora Papers but it was rejected by the Speaker then. The outcome was that the Minister in the Prime Minister’s Department, Datuk Seri Dr. Wan Junaidi Tuanku Jaafar, directed SPRM, BNM and the police to carry out an investigation. For over one year nothing was heard of the investigation until three months after the formation of the unity government led by Datuk Seri Anwar Ibrahim, when the media reported that SPRM had interrogated a former government minister mentioned in the Pandora Papers.

More than a year ago, CAP called on the government to set up a Royal Commission of Inquiry (RCI) to investigate the outflow of financial assets from Malaysia to secret accounts in tax havens, which adversely impacts our economy. We reiterate our call to set up an RCI. The investigation by agencies is not enough to address the issue. The RCI must identify the weaknesses in our laws and institutions which enable illicit money outflows and make recommendations to strengthen our legal-institutional framework to tackle the problem.

The outflow of funds to tax havens has become a major global problem, adversely affecting development in Third World countries. According to an International Monetary Fund (IMF) paper, tax havens collectively cost governments between US\$500 billion and US\$600 billion a year in lost corporate tax revenue through legal and not-so-legal means. Low-income economies lost around US\$200 billion, a higher percentage of their GDP compared to developed countries.

American Fortune 500 companies alone held an estimated US\$2.6 trillion offshore in 2017, though a small portion of that has been repatriated following US tax reforms in 2018. Individuals have stashed in tax havens US\$8.7 trillion by one estimate and, by another, US\$36 trillion. Both, assuming very different rates of return, put global individual income tax losses at around US\$200 billion a year, which must be added to the corporate total.

On the impact of capital outflows to tax havens, the IMF paper warns that “financial flows seeking secrecy or fleeing corporate taxes seem likely to be exactly the kind that exacerbates the finance curse, worsening inequality, increasing vulnerability to crises, and dealing unquantifiable political damage as secrecy-shrouded capital infiltrates Western political systems. And as financial capital flows from poorer countries to rich-world tax havens, labour migration will follow”.

Malaysia needs to strengthen its legal-institutional framework to eliminate tax avoidance and evasion, and curb the outflow of much-needed capital to tax havens. In 2021 the European Union placed Malaysia on its “grey list” of non-cooperative jurisdictions for tax purposes after the Pandora Papers revelations.

We call on the government to:

1. Set up a Royal Commission of Inquiry to investigate the outflow of financial assets from Malaysia to secret accounts in tax havens and make recommendations to address the problem
2. Work with other nations to put in place:
 - a) Automatic exchange of financial information across borders
 - b) Public disclosure of the ultimate human beneficiaries of companies, trusts and foundations
 - c) Country-by-country reporting for multinational corporations
 - d) Unitary tax with formula apportionment to prevent tax avoidance
 - e) A system to identify, contain and reduce transfer mispricing by companies artificially inflating their costs and deflating profits through intra-company transactions.

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