REUTERS/STEFAN WERMUTH

The UK's 'non-dom' status is meant to shield foreign wealth from tax. But here's how it also shelters billions in home-grown assets.

Britain's home-grown tax haven

BY TOM BERGIN

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BRITISH INSTITUTION: When Mohammed Al-Fayed owned Harrods, he controlled it via an offshore firm held by a trust. He was a non dom, so the trust was out of the tax authority's sights. James Caan, below, is another non dom whose business was owned by a trust when he sold it.

REUTERS/TOBY MELVILLE, REUTERS TV

$4 billion

Value of UK assets held offshore by 13 non doms over the past 20 years

Source: Reuters analysis

One hallowed feature of Britain's finances is a tax break for individuals called "non-domiciled status." The break, which is more than 200 years old, is designed to attract foreign investors by allowing them to keep wealth they make abroad out of the reach of the British tax authority. Tax specialists say Britain is the only developed country to have such a system.

But a Reuters analysis shows that some "non doms," as they are known, have also found a way to use the status to avoid tax on money made in the United Kingdom.

By shifting ownership of their companies offshore, these non doms - including television stars and a former owner of the Harrods department store - have legally moved wealth worth billions of pounds out of the tax authority's sight.

Reuters has identified 26 people who have either said they are non doms or been identified as such by public officials or business associates. In the past 20 years, 13 of these people have amassed assets in the United Kingdom worth at least 2.6 billion pounds ($4 billion) which they have held through offshore structures. These foreign-held UK businesses have generated more than 1 billion pounds in gains for their owners, all of which would escape tax if the gains were kept offshore.

The ownership-shifting technique is common, accountants say. But it allows non doms to use their status in a way that was not intended. The rule is not meant to shelter British assets, Britain's tax authority says in a guidance note. Non doms "will pay UK tax on any of your income and gains which arise/accrue in the UK." Non doms can avoid this thanks to a gap in the rules.

The tax authority, which declined comment for this story, says there are around 114,000 non doms in Britain. It's difficult to know how many have used their status to shield money made in the country, because business owners don't have to publish that they are claiming non-dom status.

Generally speaking, "there is no rational basis for a system that transfers ownership of this UK income abroad," said Jolyon Maugham, a tax lawyer who has fought the tax authority on behalf of individuals and companies and advised the opposition Labour Party. "This is income that is derived from the UK, so it's difficult to see any basis on which it should not be taxed in the United Kingdom."

The finance ministry, which oversees the tax authority, said everyone must pay their fair share of taxes, and it plans to crack down on aggressive tax avoidance, including what it called "abuse of the non-dom rules."

Even when non-dom status is used as intended, it is controversial: All other British residents pay tax on worldwide income, no matter where they make it. The

Labour Party promised to axe non-dom status before this month's election, and other opponents, who include captains of British industry and establishment newspapers such as the Financial Times, say non doms get an unfair way to avoid taxes.

The system's backers, who include employers' group the Institute of Directors and free-market think tanks, say the non-dom status attracts foreign talent and money at no cost to the taxpayer.

One high-profile businessman who is known to be a non dom is James Caan. His case shows how British taxpayers may in fact be losing out.

Caan was born in Pakistan, which allows him to claim non-domiciled status in Britain, according to his lawyer. He has become a business guru following his role in "Dragon's Den," a television series about business startups, and has hosted a business show on CNBC. His best business decision, he has told several newspapers, was to found a recruitment consultancy in 1985.

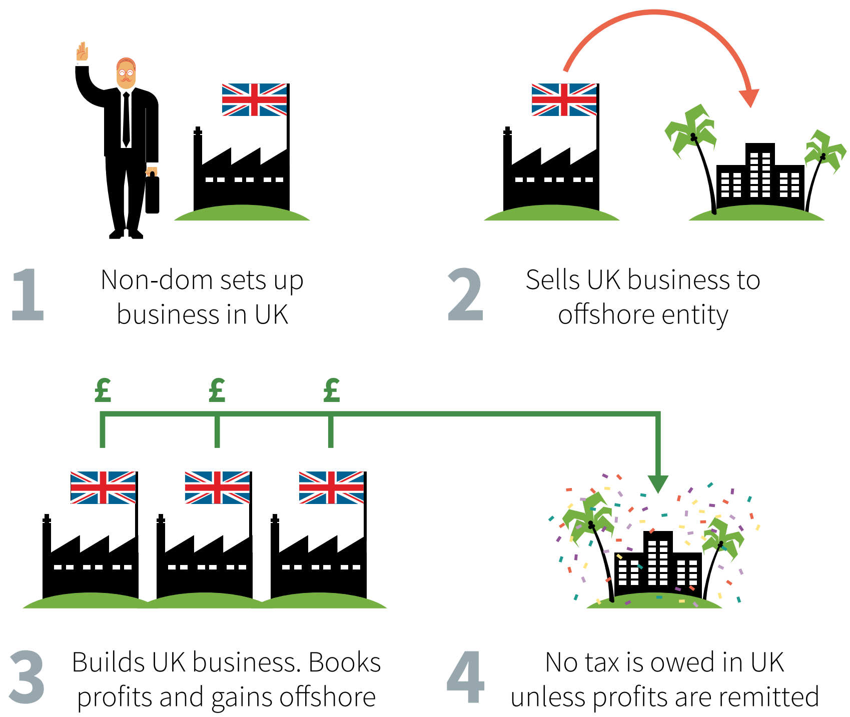
He set up the company, Alexander Mann, in "a glorified broom cupboard" in London's Mayfair and built it, through hard work and an eye for changes in corporate hiring needs, into one of Britain's biggest talent acquisition and management services groups. At the turn of the millennium, he sold the company - which made more than 98 percent of its sales in Britain - to a private equity group. It was "the height of the market," he said later.

At the time of the sale, Alexander Mann was worth 130 million pounds, Caan said in a 2013 interview, although his lawyer told Reuters the figure may not be reliable. After the deal, Caan said, he did not have to work again. "I took up flying planes, went back to school and bought a yacht," he was quoted as saying in 2009.

Before Caan sold, he did something perfectly legal which would have implications for his tax bill. In 1998, he transferred ownership of his company to a Jersey-based family trust.

Business 'non-dom' style

Britain's non-domiciled status is meant to shield foreign earnings from UK tax. But it also protects home-grown wealth. Here's how.



Source: Reuters C.Inton/Reuters Graphics

It was the trust that sold Alexander Mann. Lawyers for Caan said he did not control the trust, and there were several beneficiaries to it. Nonetheless, as a result of that move, Caan himself owed no tax on money he made on the deal - although he may have been liable for tax on any money he brought back to Britain for personal purposes.

If Caan had been a normal UK resident, the tax authority would have had the power to look through this offshore trust and tax his capital gain. But as Caan is a non dom, the trust was – and remains - legally excluded from the tax authority's sights.

Caan declined to comment for this story. His lawyer said Caan had paid all the tax he owed. At the time of the sale, the lawyer added, the effective rate would have been around 10 percent; companies in which the offshore trust had invested had since generated more than 50 million pounds in UK tax.

TRUSTS

The non-dom idea stems from an 18th-century sense of fair play, its proponents say. The tax break helped colonial plantation-owners, as well as aristocrats fleeing the revolution in France, to shield their foreign interests from tax, according to Edward Troup, deputy head of Her Majesty's Revenue and Customs (HMRC), the UK's tax authority.

Until 1914, anyone could choose not to pay tax on overseas income that was not sent to Britain. Today, only non doms can.

To qualify for non-dom status you have to be born outside Britain, have a parent born or tax-domiciled outside Britain, or have lived outside Britain yourself for a period. You also have to say you plan to leave Britain in the future, show "personal links" to another country, and may have to pay a fixed annual levy to the tax authority.

Since one-third of babies born in Britain have at least one foreign parent and another 12 percent of residents were born outside the country, tax advisers say many millions of people could apply for non-dom status.

In the Reuters analysis, nine of the 13 non doms who held UK assets offshore have British nationality. Besides Caan, former racing star Jackie Stewart is another example of how non-dom status lets even Britons send British-earned profits offshore.

Stewart moved to Switzerland in 1968 to avoid punitive UK taxes. In the 1990s, the tartan-wearing "Flying Scot," as he was known, returned to live in Britain so he could establish a Grand Prix team.

He retained his Swiss tax domicile, he told the Sunday Times in 1997. His company, Stewart Grand Prix, was based in Britain but was owned via a Jersey trust for the benefit of Stewart's family.

In 1999 he sold his team to Ford, turning

"FLYING SCOT:" In the 1990s, former racing driver Jackie Stewart retained his Swiss tax domicile when he set up a UK Grand Prix company owned via a Jersey trust. **REUTERS/ LEONHARD FOEGER**

'Non dom' tax gap

"Non-domiciled" status lets British residents use offshore trusts to keep profits made on British businesses out of reach of the tax authority. Here are some of the non doms who have held assets offshore:

RE-DOMICILED: Lord Michael Ashcroft gave up his non-dom status in 2010. In the decade before, he held interests worth 50 million pounds via offshore entities. **REUTERS/PAUL HACKETT**

• South-Africa born Abe Jaffe built automobile dealership Currie Motors, which operates under the slogan "nice people to do business with," into an operation with turnover of 170 million pounds ($266 million at current rates) before he died in 2009. Currie Motors and his British property interests were held by a Dutch holding company, Curfin Holdings BV, controlled by a family trust. The value of Currie Motors and the property assets at the time of his death was around 124 million pounds, filings show. A spokesman said the structure was established in the late 1970s "primarily for asset protection in an uncertain South African political environment" and added the family paid all the appropriate taxes.

• A period living abroad and a U.S. father gave London-born club owner Richard Caring non-dom status, he told a newspaper in February. He bought UK property through companies in tax havens that made profits of over 60 million pounds when the assets were resold. A spokesman said: "Any offshore income that has been made has been declared to the authorities... all of his business deals are totally within the law."

• Malawi-born Moni Varma founded rice producer Veetee Rice in London in 1987. He told Reuters the company is worth "much more than" 200 million pounds today. In the early 1990s he transferred ownership of the group to a Bahamas company that was owned by a family trust. Varma said the transfer was to facilitate investment from partners and that he didn't see the arrangement as tax avoidance. Nonetheless, he acknowledged the structure would let him or his heirs avoid some taxes if the business was sold. He also said that if he sold a stake in the business, the proceeds would go to the trust which may use them to invest in property or other assets in Britain, although he may also remit some money for personal purposes, in which case tax would be payable.

• India-born metals trader Raj Bagri founded Metdist Group in London in 1970 and through it, bought shares in the London Metal Exchange. Shortly before the exchange was sold in 2012, generating a $290 million profit for Metdist, he shifted ownership of Metdist to Malta. Bagri, a former member of the House of Lords, resigned from the upper house in 2010 when non doms were barred from sitting. He declined to comment.

• Chichester-born Michael Ashcroft gave up his "non-dom" status in 2010 so he could keep his Lords membership. In the decade before, he held interests worth over 50 million pounds in two UK businesses - British Car Auctions and Mavinwood Plc. These were held via Swiss and British Virgin Island entities. Ashcroft declined comment.

By Tom Bergin

an initial 1 million pound investment into a 76 million pound sales price, according to company filings. Because the team was held by an offshore trust, and because Stewart was a non dom, this gain was not subject to UK taxation. Stewart declined to comment.

THE RULES

Britain has had rules to restrain ordinary taxpayers from avoiding tax by shifting their assets offshore since at least 1936, and advisers say the rules on non doms have recently tightened.

Now, even if a non dom holds a British business offshore, any capital gains they make on selling shares in the business are taxable. That should remove any tax benefit from asset-shifting, said Christopher Groves, partner with law firm Withers LLP.

But the non dom can still escape tax if there is an offshore trust between the non dom and the company owning the British assets.

"It's a common tax-planning technique," said Mark Davies, who specialises in advising non doms on tax.

Trusts are frequently cited as the ultimate beneficial owner of UK assets controlled by non doms, filings show. Among other non doms who held UK-based businesses in offshore trusts were a car dealer and a peer of the realm.

Even one of the most British of institutions found its way into the tax gap.

Harrods department store was, for 25 years, owned by Mohamed Al-Fayed, the Egyptian business magnate whose son, Dodi, died in the 1997 car crash that killed Princess Diana.

Harrods funded a lavish, largely untaxed lifestyle for Fayed and his family. In the 1990s, the tax authority alleged that "enormous dividends" from Harrods went offshore, and that Harrods covered the cost of family expenditure without Fayed paying UK tax on the funds. These included the costs of corporate jets and a yacht in the Mediterranean that Dodi used to entertain Diana, according to documents from court actions between Fayed and the tax authority in the early 2000s. Fayed said at the time he always fulfilled his legal tax obligations.

All this was possible because of Fayed's non-dom tax status, which allowed him to cut a deal with the tax authority under which he would pay around 200,000 pounds in income tax annually between 1985 and 2003, irrespective of how much he earned.

Repeatedly denied UK citizenship, Fayed sold Harrods in 2010. Profits on that sale and on the sale of another retailer made Fayed and his family around 1 billion pounds, company filings show.

Had Fayed been domiciled in Britain, the sale would have represented a windfall for the tax authority. However, because of his status and the fact Fayed controlled Harrods via Bermudan companies and a family trust, Fayed would have escaped UK tax on the profits of the sale, Davies said.

A spokesman for Fayed said he had always conducted his tax affairs in a manner that is both legal and proper: "He has been resident but non-domiciled and as such has been entitled to such benefits as that entails."

Edited by Sara Ledwith

BERMUDA TRIANGLES: Bermuda is a popular offshore jurisdiction. The combination of an offshore entity, a trust, and non-domiciled status puts British-grown wealth out of reach of the UK tax authority. **REUTERS/GARY CAMERON**

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