Sébastien Guex

The Emergence of the Swiss Tax Haven, 1816–1914

There is general consensus that tax havens have long played a major role in the evolution of the capitalist system on a global scale. There is also no doubt that Switzerland is one of the first, if not the first, tax haven to have emerged, as well as one of the most important in the world. However, knowledge and understanding of the history, particularly the distant past, of tax havens remains lacking, despite the considerable volume of literature devoted to them. Therefore, this article attempts to make two innovative contributions. The first is an attempt to explain the emergence of the Swiss tax haven, by analyzing the processes and factors whose intertwining led to its emergence. It thus improves the general understanding of the genesis of tax havens at an international level. The second contribution is to show that already on the eve of World War I, the Swiss Confederation possessed the necessary characteristics for a tax haven.

Keywords: tax havens, offshore centers, Switzerland, banking secrecy, tax competition, fiscal federalism

There is general consensus that tax havens have played a major role for many years in the evolution of the capitalist system on a global scale. The best overview on tax havens, written by political scientists Ronen Palan, Richard Murphy, and Christian Chavagneux, affirms that they constitute "a basic component of a modern, globalized economy."[1]

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[1] Ronen Palan, Richard Murphy, and Christian Chavagneux, *Tax Havens: How Globalization Really Works* (Ithaca, 2010), 76.

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There is also no doubt that Switzerland is one of the first—if not the first; the question will be discussed in the conclusion—tax havens to have emerged, as well as one of the most important in the world. In 1971, the seminal report published by the Economist Intelligence Unit opened with this sentence: "The oldest established of the modern tax havens is Switzerland."[2] Ten years later, the no less famous Gordon report, commissioned by the U.S. Justice, Treasury and Tax Office, characterized Switzerland as "the prototype of the modern tax haven."[3]

However, knowledge and understanding of the history, particularly the distant past, of tax havens remains lacking, despite the considerable volume of literature devoted to them. There are two main reasons for this situation. First, this literature has been produced mainly by lawyers, economists, political scientists, and journalists who have little or no interest in the historical dimension of tax havens and who sometimes confirm the existing stories and beliefs or add new ones. Second, even when the historical dimension is not neglected it is abundantly clear, as historian Vanessa Ogle has stated, that "archivally based literature on tax havens and offshore jurisdictions is extremely scarce."[4]

The balance sheet is less bleak for Switzerland. Thanks to a series of studies carried out mainly since 2000, the history of the Swiss tax haven, at least from the interwar period to the present day, is somewhat better known and understood in general terms.[5] However, as Palan, Murphy, and Chavagneux also point out, "the early development of Switzerland as an international tax haven is not entirely clear."[6]

Therefore, this article attempts to make two innovative contributions. The first is an attempt to explain the emergence of the Swiss tax haven, by analyzing the processes and factors whose intertwining led

[2] Tony Doggart and Caroline Voûte, *Tax Havens and Offshore Funds* (London, 1971), 1.

[3] Richard A. Gordon, *Tax Havens and Their Use by United States Taxpayers: An Overview: A Report to the Commissioner of Internal Revenue, the Assistant Attorney General (Tax Division) and the Assistant Secretary of the Treasury (Tax Policy)* (Washington, DC, 1981), 21.

[4] Vanessa Ogle, "Archipelago Capitalism: Tax Havens, Offshore Money, and the State, 1950s–1970s," *American Historical Review* 122, no. 5 (2017): 1437.

[5] The main works, in chronological order, are Michael Van Orsouw, *Das vermeintliche Paradies. Eine historische Analyse der Anziehungskraft der Zuger Steuergesetze* (Zurich, 1995); Sebastien Guex, "The Origins of the Swiss Banking Secrecy Law and Its Repercussions for Swiss Federal Policy," *Business History Review* 74, no. 2 (2000): 237–66; Marc Perrenoud et al., *La place financière et les banques suisses à l'époque du national-socialisme. Les relations des grandes banques avec l'Allemagne (1931–1946)* (Zurich/Lausanne, 2002); Guex, "Place financière suisse et secret bancaire au XXe siècle: Ombres et pénombres," in *La Suisse dans la constellation des paradis fiscaux*, ed. Dominique Froidevaux (Lausanne/Geneva, 2002), 54–79; Christophe Farquet, *La défense du paradis fiscal suisse avant la Seconde Guerre mondiale: une histoire internationale. Analyse de la politique helvétique dans les négociations internationales sur la double imposition et l'évasion fiscale durant l'entre-deux-guerres* (Neuchâtel, 2016); and Farquet, *Histoire du paradis fiscal suisse. Expansion et relations internationales du centre offshore suisse au XXe siècle* (Paris, 2018).

[6] Palan, Murphy, and Chavagneux, *Tax Havens*, 115.

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to its emergence. It thus improves the general understanding of the genesis of tax havens at an international level. The second contribution is to show that already on the eve of World War I, the Swiss Confederation possessed the necessary characteristics for a tax haven. The emergence of this haven therefore does not date from the interwar period, as the previous literature has collectively affirmed; rather, it is a process that was largely completed before 1914.

To better understand the causes of the transformation of a state like Switzerland into a tax haven, it is necessary to distinguish two spatial scales. On the one hand, this major change resulted from processes and factors that can be called "internal," "endogenous," or "pull" in the sense that, fundamentally, they refer to the national space, in which the Swiss state is sovereign, and are largely determined by the Swiss actors themselves. On the other hand, it was caused by processes and factors that can be called "external," "exogenous," or "push" in the sense that they took place outside the Swiss borders. This means that they presented themselves to the Swiss actors as specific situations, to which they could react—and actually did react—but which they could not, or could barely, influence directly. At the present stage of my investigations, it seems impossible to establish which of these two spatial scales was more influential. In other words, keeping in mind Palan, Murphy, and Chavagneux's analysis that "to understand tax havens" it is not sufficient to "focus on the territories themselves" but requires that "one needs to appreciate the geopolitical and environmental conditions that gave rise to them in the first place," I attribute an equally important role to external factors as to internal factors.[7]

It must be borne in mind, however, that while, heuristically, making a distinction between these two categories of causes is probably necessary, in reality the boundary between them is, more often than not, neither rigid nor watertight. It would therefore be necessary to nuance, to complexify, to show the interdependencies between the two scales. This is hardly possible within the set limits of this article, hence an additional simplification to this already schematic analysis. Moreover, because of the complexity of the material and the still gaping gaps in the available knowledge, the following pages should be considered as a first attempt to synthesize results, some of which are still provisional.[8]

The article begins by outlining the three endogenous processes whose combination led to the adoption of a number of tax provisions designed to attract capital from abroad or certain banking operations performed abroad to Switzerland. It then presents the two exogenous factors that played a major role in Switzerland's leading position in

[7] Palan, Murphy, and Chavagneux, 17.
[8] I am currently writing a book based on this research.

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what can be called the international tax evasion market. The conclusion demonstrates why Switzerland can be considered a tax haven even before the outbreak of World War I and, in fact, the oldest in the world.

The Transformation of Switzerland into a Financial Center Specialized in the Management of International Private Wealth

During the second half of the nineteenth century, Switzerland was transformed into an international financial center that, admittedly, could not compete with London, Paris, or Berlin but that had enough clout and autonomy to play its own role.[9] The emergence of Switzerland as a financial center was largely due to the fact that the banks at the heart of the process—the so-called Big Banks (among which Credit Suisse and the forerunners of the present UBS already played a leading role), as well as the private bankers—were successfully working at occupying a specific role in the division of labor created by the competition between European financial centers. They endeavored to attract the highest possible amounts of movable assets, that is, assets held in the form of securities (shares, bonds, etc.) by the wealthy classes—the aristocracy as well as the bourgeoisie—who resided outside Switzerland. Once these funds were entrusted to them, they sometimes placed them in Switzerland itself. However, given the limited possibilities the Swiss economy offered in terms of investment, they also and mainly reinvested these funds abroad.[10] In short, they specialized in what was already starting to be called wealth management.

Three elements helped push the Swiss big banks and private bankers toward such specialization. First, this was part of a very ancient tradition, dating back at least to the sixteenth century. A pioneering piece of research on the history of Swiss finance, published in 1916, calls Switzerland the "oldest place of banking intermediation in the international flow of capital."[11] This characterization is masterfully illustrated by the famous study by Herbert Lüthy of the Protestant Bank, which shows the "central role" played in Europe by private bankers especially from Geneva but also from Basel, Saint Gall, Bern, Zurich, Lausanne, and Neuchâtel.[12]

[9] On this point and the following, see, in particular, Malik Mazbouri, *L'émergence de la place financière suisse (1890–1913)* (Lausanne, 2005); Malik Mazbouri, Sébastien Guex, and Rodrigo Lopez, "Finanzplatz Schweiz," in *Wirtschaftsgeschichte der Schweiz im 20. Jahrhundert*, ed. Patrick Halbeisen, Margrit Müller, and Béatrice Veyrassat (Basel, 2012), 478–83.

[10] Gabriel Zucman, *The Hidden Wealth of Nations: The Scourge of Tax Havens* (Chicago, 2015), 16.

[11] Julius Landmann, "Der schweizerische Kapitalexport," *Zeitschrift für Schweizerische Statistik und Volkswirtschaft* 52 (1916): 390.

[12] Herbert Lüthy, *La Banque Protestante en France de la Révocation de l'Edit de Nantes à la Révolution*, vol. 1, *Dispersion et regroupement (1685–1730)* (Paris, 1959), 427; see also vol. 2, *De la Banque aux Finances (1730–1794)* (Paris, 1961).

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Second, as Youssef Cassis points out when describing the evolution of the various banking systems from the beginning of the nineteenth century to World War I, "Private international bankers remained a far more significant force in Switzerland than in any other European country bar Britain."[13] Private wealth management from the whole of Europe was the core activity of some 150 to 200 private banking houses in Switzerland at the dawn of the twentieth century, certainly representing a world record for the number of inhabitants.

Finally, from the very beginning the Big Banks faced intense competition in the national market by the twenty or so banks that the cantons had set up, both in the drainage of savings and in current credit operations. In this contest the latter had serious advantages, including guarantees from their respective cantonal states.[14] For these reasons the Big Banks were early on encouraged, if not actually forced, to find a large part of their resources and activities in the international market and to specialize in the niche business of wealth management.

The Development of Sedentary Tourism

The emergence of Switzerland as a financial center was accompanied, from the second third of the nineteenth century, by a second process, driven by influential circles within the upper bourgeoisie and by the political authorities of a group of cantons: the transformation of Switzerland into a privileged place of luxury tourism, in particular, what can be called "sedentary tourism."[15] In short, it is a question of attracting thousands of aristocrats and members of the upper bourgeoisie from Europe, or from all over the world, to enjoy long stays in Switzerland or even to establish residence there. To this end, a rich and complex infrastructure was set up, which included hotels and sumptuous properties, state-of-the-art health services, prestigious private and public education and educational institutes, new leisure activities, inventive and subtle advertising, and spectacular and state-of-the-art means of transportation. The success of this strategy was impressive: From

[13] Youssef Cassis, "Private Banks and the Onset of the Corporate Economy," in *The World of Private Banking*, ed. Youssef Cassis and Philip Cottrell (Farnham/Burlington, 2009), 52.

[14] See Sebastien Guex, "Au carrefour de l'économie et de la politique. La genèse des banques cantonales en Suisse et leur développement jusqu'à la Première Guerre Mondiale," in *Des personnes aux institutions. Réseaux et culture du crédit du XVIe au XXe siècle en Europe*, ed. Laurence Fontaine et al. (Louvain-la-Neuve, 1997), 332–47.

[15] Marc Boyer, *Les villégiatures du XVIe au XXIe siècle. Panorama du tourisme sédentaire* (Colombelles, 2008). On this point and the following, see, in particular, Cédric Humair and Laurent Tissot, eds., *Le tourisme suisse et son rayonnement international (XIXe–XXe siècles): "Switzerland, the Playground of the World"* (Lausanne, 2011); and Tissot, *Histoire du tourisme en Suisse au XIXe siècle. Les Anglais à la conquête de la Suisse* (Neuchâtel, 2017).

1880 to 1913 the part tourism played in Switzerland's gross domestic product rose from 1.5 percent to 4.1 percent. During this same period, the number of hotel beds increased from about 70,000 to 220,000, which in 1913 represented one hotel bed for seventeen inhabitants.[16]

Considerably more was at stake with this transformation than with the already very important "industry of foreigners," as it was then called. The prospect was also to stimulate the development of Swiss banks, starting with their activities related to the management of international wealth. A recent monograph devoted to the rapid growth of luxury tourism around Lake Geneva between 1850 and 1914 notes that, from the perspective of the banking circles of Geneva or Lausanne, "tourism acted as a stepping stone for the influx of foreign pensioners, mainly English, who came to settle and spent their old age in the Lake Geneva region, bringing with them considerable amounts of money to manage."[17] It is therefore not surprising that already in 1877 one of the most influential Swiss daily papers, the *Gazette de Lausanne*, characterized these foreign rentiers as "the goose that lays the golden egg."[18]

Tax Competition between Cantons

Although the new state established in Switzerland by the adoption of the Constitution of 1848 was somewhat more centralized than the old confederation of sovereign cantons, it continued to be deeply federalist and has remained so to this day. This means that the twenty-five cantonal states retain general prerogatives in almost all areas, including law and justice, education and teaching, infrastructures (transportation, energy, etc.), health services, and political, economic, and social policies. In particular, the taxation of income and wealth remained the exclusive prerogative of the cantons until World War I. The federal state had the right to levy only indirect taxes.[19]

In a country as small as Switzerland (within twenty miles of the city of Zurich, Switzerland's economic center, are five cantons: Zug, Schwyz, Aargau, Schaffhausen, and Saint Gall), and one that also experienced a

[16] Paul Bairoch, "La Suisse dans le contexte international aux XIXe et XXe siècles," in *La Suisse dans l'économie mondiale*, ed. Paul Bairoch and Martin Körner (Zurich, 1990), 124; Cédric Humair, "Introduction. Le tourisme comme moteur du développement socioéconomique et vecteur du rayonnement international de la Suisse (XIXe–XXe siècles)," in Humair and Tissot, *Le tourisme suisse*, 53.

[17] Cédric Humair, Julie Lapointe Guigoz, Stefano Sulmoni, and Marc Gigase, *Système touristique et culture technique dans l'Arc lémanique. Analyse d'une success story et de ses effets sur l'économie régionale (1852–1914)* (Neuchâtel, 2014), 367.

[18] "La loi sur l'impôt mobilier," *Gazette de Lausanne*, 28 Dec. 1877.

[19] The exception was a tax, which played only a marginal role, on men exempt from military service.

radical and rapid development of capitalism during the nineteenth century, this factor exerted a decisive influence. The leaders of the various cantons were engaged in an "active tax competition" to try to attract the most lucrative taxpayers, individuals with high incomes and wealth, as well as corporations.[20] They pursued what is now called a policy of *tax dumping* by combining all kinds of preferential measures aimed at attracting the wealthy taxpayers and companies of other cantons. These measures included levying reduced taxation rates, limiting the scope of taxable items, and implementing advantageous tax procedures. This policy brought about, or greatly accelerated, the development by both the political authorities and the cantonal tax administrations of what might be called a business mentality vis-à-vis the rich and the powerful. Considering the latter as clients to be attracted or retained, they did not feel the need to respect, in the field of taxation, one of Switzerland's fundamental constitutional principles: that of isonomy, or equality before the law. On the contrary, they believed that in terms of legislation as well as practice, broad privileges in favor of these clients were justifiable. In his famous 1911 book on the history of the imposition of income tax in industrialized countries, American economist Edwin Seligman gives many examples, when he deals with Switzerland, of this clientelist attitude of the authorities and cantonal administrations toward the members of property-owning sections of society. This went so far that in some cantons, Seligman asserts, "it has become the custom for the assessors to ask the taxpayers directly as to how much they care to pay."[21]

Key Tax Measures to Attract Foreign Capital to Switzerland

The combination of the three endogenous processes described above had the effect of stimulating, within Swiss employers' and ruling circles, the development of strategies that use taxation as a national and, increasingly, international competitive instrument. On this last point, it should be stressed that the competition between the cantonal authorities in tax matters was an eminently dynamic process that, through its own impetus, sooner or later started to transcend regional borders in order to expand internationally. In short, we can observe the development in Switzerland, during the second half of the nineteenth century, of measures that, through tax privileges, aimed to attract the rich, businesses, and capital not only from other cantons but increasingly from

[20] Mark Spoerer, "Wann begannen Fiskal- und Steuerwettbewerb? Eine Spurensuche in Preussen, anderen deutschen Staaten und der Schweiz," *Jahrbuch für Wirtschaftsgeschichte* 2 (2002): 47.

[21] Edwin Seligman, *The Income Tax* (New York, 1911), 359.

other countries. In this regard, the main tax measures adopted up to World War I can be divided into three categories.

The first includes arrangements designed to encourage prolonged stays by, or the establishment of, very wealthy individuals from outside of Switzerland. Thus, when in 1816 the authorities of the canton of Geneva introduced a wealth tax, they were careful to exempt residents of foreign nationality, on the only condition that they did not engage in any lucrative activity in the canton itself.[22] In 1862, the authorities of the neighboring canton of Vaud took an important step further by introducing into tax legislation an express provision almost completely exempting the same category of foreigners not only from wealth taxation but also from income taxation. Until 1914, at least four cantons imitated Vaud and Geneva: Neuchâtel from 1867, followed by Grisons, Ticino, and Lucerne.[23] To this must be added the fact that in practice, as we saw above in the quotation of Seligman, many cantons allowed their tax authorities to not fully apply the law but rather to establish specific arrangements when it came to encouraging the establishment or preventing the departure of an opulent person.

In order to increase their fiscal attractiveness, the Vaud authorities—undoubtedly pioneers in this field—concluded, with the approval if not the encouragement of the Swiss government, the first so-called international double taxation conventions signed in the world: in 1870 with Russia, and in 1872 with Great Britain.[24] These agreements allowed the many wealthy Russians or Britons settled or wishing to settle in the canton to also avoid the Vaud tax on inheritance. As early as the 1890s, the Vaud authorities extended the exemption to all foreign nationals who resided in the cantonal territory without having expressly established their legal residence there.

The second type of tax measure was aimed at encouraging the establishment of foreign companies in Switzerland. The first canton to act in this direction, at least on a legal basis, was Glarus, in May 1903.[25] The authorities of this canton observed that "unfortunately, indigenous

[22] See Archives d'Etat de Genève, "Loi qui établit une taxe sur les fortunes, nommée Taxe des Gardes," 12 June 1816, *Recueil authentique des Lois et Actes de la République et Canton de Genève* (Geneva, 1816), 297.

[23] This list is probably not exhaustive; see, in particular, Max De Cerenville, *Les impôts en Suisse. Leur Assiette et leur quotité* (Lausanne, 1898), 109–13.

[24] Sunni Jogarajan, "The Conclusion and Termination of the 'First' Double Taxation Treaty," *British Tax Review* 3 (2012): 283–306.

[25] In terms of practice it seems that, from the last decades of the nineteenth century on, authorities in several cantons concluded (without really having the right legal basis) discreet agreements with certain companies, exempting them from all or part of the tax on profit and/or capital. This seems to be the case particularly for the cantons of Neuchâtel and Berne. See Apolline Anor, "L'imposition directe sur les fortunes et les ressources dans le canton de Neuchâtel (1848–1917)" (master's thesis, University of Lausanne, 2018), 50;

capital does not invest much in the canton" and therefore it was a question of strengthening the "power of attraction" of the canton over "capital . . . from the outside" by offering "favorable tax conditions." They therefore introduced into law a provision stipulating that "companies that have only their headquarters in the canton are exempt from tax."[26] In other words, they created a privileged class of taxation for an entire category of firms: those that do not, or barely do, engage in productive and/or commercial activity in the canton, that is, companies that would soon be referred to as domiciliary companies, such as holding companies. One commentator who reflected on the adoption of this provision a few years later soberly concluded, "the state thus takes on the role of a merchant, if not a shopkeeper."[27] Thanks to this policy of tax dumping, the number of such companies in the canton increased from two in 1903 to thirty-four in 1913. Thus, in 1909, it was in Glarus that the Company for the Construction of Railways in Turkey, responsible for financing the famous Baghdad Bahn, was created under the aegis of the Deutsche Bank—causing quite a stir internationally.

Seeking immediately to compete with their neighbors in Glarus, the authorities of the canton of Saint Gall reacted by introducing, a few months later, tax privileges in favor of domiciliary companies. Since they were not as generous as the authorities of the canton of Glarus, however, they did not do as well.[28] In contrast, in 1911 the circles governing the canton of Schaffhausen introduced tax privileges copied from those of Glarus, which was a great success: from 1911 to 1914, eleven domicile companies (several of which were quite large) came from other cantons or from abroad and established their headquarters in Schaffhausen territory.[29]

The third type of tax measure aimed to attract certain international financial operations to Switzerland. In 1863, the business community of the canton of Zurich obtained from the cantonal authorities the abolition

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Vivien Ballenegger, "Réforme de l'imposition directe dans le canton de Berne à la fin de la Première Guerre mondiale" (master's thesis, University of Bern, 2016), 22.

[26] *Bericht der Landrats-Kommission betreffend die Besteuerung der anonymen Erwerbsgesellschaften an den Landrat des Kantons Glarus* (Glarus, 1902), 14, 28–29; see Jakob Toggweiler, *Die Holding Company in der Schweiz* (Zurich, 1926), 20–21.

[27] Hans Trümpy, "Glarus," *Schweizerisches Zentralblatt für Staats- und Gemeinde-Verwaltung* 18 (2 June 1917), 128. Note that despite the fact that they do not use the exact phrase "commercialization of state sovereignty," contemporaries are already raising the issue; see Palan Ronen, "Tax Havens and the Commercialization of State Sovereignty," *International Organization* 56 (2002): 151–76.

[28] See Paul-René Rosset, *Les holdings companies et leur imposition en Suisse* (Paris, 1928), 77–81, 89–90.

[29] See Patrick Landolt, *Standortgunst oder Wirtschaftsförderung. Der Industrie- und Gewerbestandort Schaffhausen in den Jahren 1830 bis 1914* (Zurich, 2011), 408–10.

of the tax called "stamp duty" on bills of exchange, namely, on payment and credit instruments then widely used in the financing of trade, and particularly of international trade. Cleverly using the Zurich precedent, Basel's banking circles succeeded in obtaining the elimination of this stamp duty in the canton of Basel-Stadt in 1899. Therefore, the two cantons, in which the major Big Banks of the country were concentrated, gave these banks a significant advantage over their competitors based in other countries. This was especially the case for neighboring or nearby states—Germany, France, Great Britain, Italy, and Austria—which all levied a stamp duty between 0.05 percent and 0.075 percent on bills of exchange.[30] During a debate in the Swiss Parliament in 1911, this policy of lower taxation was vigorously justified. Having pointed out that the absence of stamp duty gave the "cantons of Zurich and Basel a certain advantage . . . over foreign banks," Paul Speiser, an influential member of Parliament very close to the Basel banking community, insisted that thanks to this "exemption from stamp duty on bills of exchange, . . . bank business"—particularly that of discounting and exchange operations—"had flourished." He concluded that in the area of competition, including tax competition, "any sentimentality toward foreign countries is unfounded."[31] He was supported by his colleague Alfred Frey, the central secretary of the Swiss Trade and Industry Association, Switzerland's most powerful employers' association. Frey pointed out that "in the canton of Glarus, a number of very large limited companies have been established in recent times simply because there is a reasonable taxation level on stock companies." He went on to argue, "We must be careful not to make the same mistakes that have been made . . . in other countries [that] have stamp duty on bills of exchange."[32] He could not have been clearer.

The Franco-Prussian War of 1870–1871

We now turn to the two exogenous factors that contributed to Switzerland's transformation into a tax haven. The first of these was the Franco-Prussian War of 1870–1871. This conflict gave a strong impetus to the development of Swiss financial institutions. "For the Swiss banks, the war was of the utmost importance" was the retrospective observation made in 1915 by Adolf Jöhr, the then secretary-general of the Swiss National Bank.[33] A 1907 book on the first fifty

[30] See *Bulletin officiel de l'Assemblée fédérale-Conseil national*, 12–13 June 1911, 139–43, 155–59, 160–61.

[31] *Bulletin officiel*, 12 June 1911, 145.

[32] *Bulletin officiel*, 13 June 1911, 153.

[33] Adolf Jöhr, *Die schweizerischen Notenbanken 1826–1913*, vol. 1 (Zurich, 1915), 126.

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years of Credit Suisse established that the "Franco-German War . . . has enabled the main banking centers in Switzerland to derive thereafter considerable and lasting benefits from this."[34] The figures support these observations: while the aggregate balance sheet of the five Swiss Big Banks that existed at the time stagnated between 1865 and 1869, it surged during the conflict to reach, as early as 1872, a level about 40 percent higher, in real terms, than that of the prewar period.[35]

The main factor behind this growth was the influx of funds and securities entrusted to Swiss banks by the possessing classes of the warring countries, in order to place them in a safe place. In this regard, Jöhr wrote that "large fortunes have sought to avoid the chaos of war by finding refuge in Swiss banks."[36] He also cited the case of the Bank in Basel, in which the amount of securities and funds deposited quadrupled from 9.4 million to about 37 million Swiss francs from the end of 1869 to the end of 1870. The book on Credit Suisse cited above states that following the "Franco-German war . . . the number and importance of securities deposits has increased in ways that we would not even have dared to dream before."[37]

If significant amounts of capital came from Germany, the influx from France was even larger. In his history of the Swiss stock exchanges published in 1914, Rudolf Luescher-Burckhardt, a Basel banker, noted, "Many French families and assets took refuge in Switzerland to escape the dangers of war, which became the starting point of many lasting relations between French capitalists and the houses that took the securities in deposit."[38] To take just one example, this was the case with the main banking institution of the canton of Vaud, the Banque cantonale vaudoise. Its annual report for the year 1870 stated, "During the war, we received from various parts of France a new clientele who came to ask our institution for a momentary shelter for valuables of all kinds, which naturally gave us a considerable increase in work. We like to believe that through the [attention] and care given these activities, we have satisfied these new customers."[39]

A considerable part of this capital, particularly French, was not removed after the end of the war but entrusted permanently to the management of the Swiss banks, essentially for two reasons. The first was

[34] Martin Esslinger, *Geschichte der Schweizerischen Kreditanstalt während der ersten 50 Jahre ihres Bestehens* (Zurich, 1907), 168.

[35] Calculated from figures given in the appendixes in Franz Ritzmann, *Die Schweizer Banken. Geschichte, Theorie, Statistik* (Bern/Stuttgart, 1973), 261–373.

[36] Adolf Jöhr, *Die Volkswirtschaft der Schweiz im Kriegsfall* (Zurich, 1912), 66.

[37] Esslinger, *Geschichte*, 138.

[38] Rudolf Luescher-Burckhardt, *Die Schweizerischen Börsen* (Zurich, 1914), 18.

[39] Banque cantonale vaudoise, *Rapport du Conseil d'administration présenté au Conseil général. Exercice 1870* (Lausanne, 1871), 2.

the neutrality of Switzerland, which made this country appear to be a relatively safe haven in a Europe where the rise of inter-imperialist rivalries made new armed conflicts very likely. The second reason was tax related. In order to cope with the additional expenses generated by war and defeat, the French authorities increased taxation of capitalist circles, especially of rentiers. On June 29, 1872, a tax on income from securities was introduced; its rate was set at 3 percent in 1872 and then increased to 4 percent in 1890. However, it was quite easy to avoid paying this tax, especially when it came to foreign securities and if the owner of the securities in question deposited them in banks located outside France.[40] The effect of the 1872 act was therefore not only to prompt wealthy French people not to bring these securities back to their country but, on the contrary, to encourage them to entrust even more capital to the management of foreign banks, especially Swiss ones. In any case, the evasion of this tax was sufficiently significant to alert, among others, the French economist Ernest Brelay. At a meeting of the Paris Political Economy Society in October 1897, Brelay pointed out that the "holders" of securities "have shipped them, in large part, to London, Brussels, Geneva, etc."[41] Therefore, the adoption of this act must certainly be considered as the first exogenous factor in the realm of taxation that stimulated the transformation of Switzerland into a privileged place for the reception of foreign assets from individuals evading taxes.

The Act of February 25, 1901

However, with regard to the flight of foreign capital to Switzerland to avoid taxation, it was undoubtedly the adoption in France, on February 25, 1901, of the law on the progressive inheritance tax that gave the phenomenon an entire new dimension. First, this law introduced progressive taxation—by brackets—of inheritance, with an upper marginal rate of 18.5 percent for inheritance by very distant relatives. Furthermore, its adoption opened the door to the introduction of a tax that worried the wealth-owning classes of France much more: the progressive income tax, which would indeed be passed by the Chamber of Deputies in March 1909 and by the Senate in July 1914. Finally, and perhaps most importantly, it greatly increased the ability of the French tax authorities to obtain information on taxpayers' assets, including by requiring banks to provide information in this regard. The 1901 act was therefore of crucial importance. Not only did it usher in a period of substantial

[40] See Jules Robin, *Régime légal des valeurs mobilières étrangères en France spécialement au point de vue fiscal* (Lyon, 1899), 371; and Etienne Clementel, "Les valeurs mobilières et l'impôt," *Revue politique et parlementaire* 36 (Apr.–June 1903): 479–80.

[41] This was reported in *L'Economiste français*, 16 Oct. 1897, 502.

rises in the tax rates that affected the ranks of French society with high incomes and large amounts of wealth, but it ensured a more efficient collection of taxes, at least if the fortunes remained in the country. Therefore, for members of these classes of society who wished to escape the tax authorities, it became considerably more advantageous and safer to entrust all or part of their assets held in forms of securities to financial institutions outside the country. In this sense, the 1901 act gave rise to the phenomenon that can be conceptualized as the notion of a "marketplace for offshore financial services" or as the notion—which seems to me more precise—of an "international tax evasion market."[42]

Indeed, as soon as the law was passed, the banks of neighboring countries or those close to France—above all, of Switzerland and Belgium, but also of Great Britain, Germany, the Netherlands, and Spain, the list being perhaps not exhaustive—put in place an offer of services modeled on the needs of the potential demand, that is to say, wealthy French willing to evade the new tax. Thus, considering the case of Switzerland, as early as March 1901 the Swiss banks deployed intense propaganda encouraging the wealthy French affected by the inheritance tax to escape it by depositing their capital with them. To this effect the banks relied on brochures, circulars, personalized letters, and advertising in newspapers, and sent representatives who approached their clientele in person. In order to convince customers, they offered a series of instruments and processes designed to actively help them to escape the tax authorities, notably by guaranteeing them a very high degree of discretion toward the latter. They proposed to open joint accounts and/or numbered accounts, to use aliases and/or straw men, and to transfer the funds and securities abroad, among other things.[43] The possibility was thus offered to French depositors—but this was true for all foreign depositors—to avoid taxation altogether, since in almost all cantons the movable assets and the income derived from them were not subject to tax when owned by a nonresident.

Success was immediate. From 1901 until the outbreak of World War I, French capital flowed to Swiss banks more than to their Belgian,

[42] On the former notion, see, for example, Palan, Murphy, and Chavagneux, *Tax Havens*, 46–47. On the latter, see *Hearings before the Subcommittee on Select Revenue Measures of the Committee on Ways and Means, House of Representatives*, 19 June 1980 (Washington, DC, 1980), 109; Christophe Farquet, "Aux sources de la défense du secret bancaire suisse: les débats sur l'évasion fiscale et la double imposition à la Société des Nations (1922–1928)" (master's thesis, University of Lausanne, 2007), 43; Syndicat national unifié des impôts (SNUI), *Rapport sur le contrôle fiscal. Quel contrôle fiscal demain?* (Paris, 2008), 42.

[43] The joint account, opened in the name of two or more depositors, allowed the survivors, in case of death of one of the depositors, to take possession of the values entrusted to the bank without having to hand over any document to the state authorities. The risk that the tax administration be informed of the existence of such a deposit was avoided, which made the joint account a perfect instrument to evade the inheritance tax.

English, or other competitors. It is very difficult to give precise figures in this regard. Nevertheless, the reception by the Swiss banks of a total amount of between two and three billion current Swiss francs must be considered an absolute minimum, with a sum of up to double that amount being not implausible.[44] This represents a minimum of 50 percent of Switzerland's gross domestic product or at least 2 percent to 2.5 percent of the total financial wealth of French households at that time.[45] Needless to say, this latter proportion clearly points to the crucial role played by Swiss offshore wealth management already before World War I. Whatever the exact amount of the French capital flight to Switzerland, a debate that took place in June 1914 within the very influential trade association of the banking sector, the Swiss Bankers Association (SBA), shows the importance that the obtaining of French tax-evaded assets already had in the eyes of Swiss financial leaders. One of the main leaders of the association did not hesitate to say that the question raised issues that are "not only in the interests of the banks, but also in [the] national interest."[46]

In France, tax evasion through the transfer of movable assets to foreign banks provoked strong reactions. The phenomenon prompted a sustained and heated debate in the public sphere. The Swiss banks, whose "scandalous campaign" constituted "a direct invitation to escape the rights of the French tax authorities," in the words of the very influential deputy Etienne Clémentel, were the subject of numerous attacks and complaints in the press and in specialist magazines, as well as in Parliament.[47]

More worryingly from the Swiss point of view, French authorities took various steps to prevent the flight of capital abroad. The main one was the attempt to reach, on the international level, interstate agreements establishing the automatic exchange of information relating to financial transactions allowing tax evasion. Thus, at the end of 1906 the French government tried to obtain from several foreign states, first of all from Switzerland, the establishment of such conventions, and it would not abandon this prospect until the outbreak of war introduced other priorities.[48]

[44] See the journal edited by financial expert Paul Manchez, *Le Capitaliste*, 1 Aug. 1907, 502; and Maurice Brion, *L'exode des capitaux français à l'étranger* (Paris, 1912), 15–16.

[45] See Edmond Théry, *La fortune publique de la France* (Paris, 1911), 242.

[46] Minutes of the eighth meeting of the board, 21 June 1914, 3, Archives of the Swiss Bankers Association, Basel (hereafter, SBA Archives).

[47] *Journal officiel de la République française. Débats parlementaires. Chambre des Députés*, 13 July 1914, 3011–12.

[48] Shortly after the war, the French authorities again tried to get certain countries—Switzerland, in particular—to sign such international agreements; see Farquet, *La défense*; and Farquet, *Histoire*.

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The criticisms uttered in France and the official steps taken by the French government were decisive factors in the emergence of the Swiss tax haven. They did, in fact, force the federal authorities to meddle in what had been, for the most part, the product of initiatives taken by protagonists belonging to the private sector and/or by leaders of cantonal states. To put it another way, the positioning of the Swiss financial center in the growing international tax evasion market was being put at risk by a foreign state, moreover, by one of the world's major powers. This in turn drove the leaders of the Swiss state, or perhaps even forced them, to intervene to define and implement a strategy of defense and promotion of this position. In short, the question of the transfer of the Confederation into a tax haven became a national affair, a matter for the Swiss state.

For the most part, the strategy the Swiss leaders put in place was based on four guidelines. The first guideline was the refusal of any international tax agreement that could lead, if only very hypothetically, to the jeopardizing of the transfer to Switzerland of capital escaping the tax authorities of the country of origin. Thus, in July 1907 the federal authorities curtly declined, by means of a simple and brief press release, the French government's insistent requests to negotiate an agreement for the automatic exchange of tax information.[49] And to make it clear to the French government that it had no chance of succeeding in this area, the Federal Council would obstinately and repeatedly, in the years that followed, refuse the proposal of its French counterpart to start discussions on a tax arrangement dealing with a completely separate issue—one of little importance but that would have been to the advantage of Swiss nationals who owned buildings in France. The argument used to justify this attitude of complete rebuttal would become the leitmotif that the Swiss ruling circles would advance in each similar situation until very recently, that is to say, for a full century: "the Swiss authorities do not have to lend their support to foreign authorities in tax-related cases."[50]

The second guideline was that the federal legislation itself was set up in line with the project of promoting the attractiveness of Switzerland as a place of refuge for those with foreign capital wishing to escape taxes. For example, if the Swiss government renounced the adoption of a law controlling the banks before World War I, this was in part because it shared the fear expressed by Zurich or Geneva banking circles that such a law would lead to "indiscretions on the part of the state . . . ,

[49] This press release was published in the daily newspaper *La Gazette de Lausanne* on July 22, 1907.

[50] Robert Comtesse (head of the Federal Political Department) to the French Embassy in Bern, note, 11 May 1910, E 2001A-1000/45–436, Federal Archives, Bern.

foreign depositors [being] particularly sensitive to state control," and thus "could hinder all business operations."[51]

The third guideline was to put the information resources and foreign policy expertise of the state at the service of the activity deployed abroad by the Swiss banking community to capture the capital of tax evaders. Thus, in early June 1914 the head of the Department of Public Economy, Edmund Schulthess, informed the SBA that according to the information available to him, notably through diplomatic channels, attacks and claims against Swiss banks in France—but also in Germany, where Swiss banks had massively increased their propaganda since the introduction of a special tax on wealth (*Wehrbeitrag*) in the summer of 1913—were reaching such a level that he feared the adoption of retaliatory measures by foreign states. Schulthess suggested that the way forward to counter this was to "warn [the banks], for example through the Swiss Bankers Association, against recklessness."[52] As a matter of fact, the trade association would indeed adopt the strategy suggested by the minister, voting on June 22, 1914, to send to almost all bank executives in Switzerland "a circular urging them to exercise the greatest possible restraint in their propaganda" abroad.[53] Even before the end of the war, then, a collaboration was established between the SBA and the highest authorities of the state to protect the position of Swiss banks in the international tax evasion market. This collaboration was based on the "self-discipline" or "self-regulation" of the banking sector, that is, on its ability to prioritize its general and long-term interests, as well as the interests of the entire Swiss bourgeoisie—in this case, to avoid retaliatory measures by foreign states, for example, at the commercial level—rather than the particular and short-term ambitions of each bank to attract the highest possible volume of foreign capital.

Finally, the fourth guideline was that the highest institution of the state, the Swiss government, publicly guaranteed that the practice at the basis of any activity on the international tax evasion market—that is, banking secrecy—would be respected and defended against foreign authorities. On June 22, 1914, the same day that the SBA decided to send the circular mentioned above, the Minister of Finance, Giuseppe Motta, issued a press release, intended to reassure foreign customers of Swiss banks, especially French ones: "Switzerland has not concluded

[51] Report of the Verband Zürcherischer Kreditinstitute quoted in Ernst Wetter, *Bankkrisen und Bankkatastrophen der letzten Jahre in der Schweiz* (Zurich, 1918), 312; Minutes of the sixth meeting of the Committee, 26 Jan. 1914, 9, SBA Archives.

[52] Edmund Schulthess to Julius Frey (chairman of Credit Suisse board of directors), 5 June 1914, in *Documents Diplomatiques Suisses*, vol. 5, *1904–1914*, ed. Herbert Lüthy and Georg Kreis (Bern, 1983), 901.

[53] Minutes of the eighth meeting of the Committee, 22 June 1914, 13, SBA Archives.

any agreement or arrangement with France, nor with any state, which would grant foreign authorities the right to shine any light into the affairs of Swiss banks; in our country, the secrecy of the business that is concluded by our banks and on the deposits entrusted to them remains guaranteed in the most absolute way."[54]

Conclusion

Any study on tax havens that is scientifically rigorous cannot escape defining its object. In this regard, the definition that Palan, Murphy, and Chavagneux reached at the end of their analysis seems to me the most satisfactory: "We define tax havens as jurisdictions that deliberately create legislation to ease transactions undertaken by people who are not resident in their domains, with the view to avoiding taxation and/or regulations, which they facilitate by providing a legally backed veil of secrecy."[55]

Let us summarize the various aspects that correspond to this definition in order to establish whether Switzerland can be called a tax haven already before 1914. First, as early as 1816, the canton of Geneva (followed in 1862 by that of Vaud and then by a series of others) introduced provisions that exempted wealthy foreigners from taxes on wealth, income, and sometimes inheritance, to encourage those foreigners to settle in their territory, at least in practice if not recorded by law. Second, as early as 1863, several cantons, led by Zurich, abolished taxation on bills of exchange in order to attract certain international trade finance operations previously carried out in other cantons or, especially, abroad.

Third, at the turn of the century, several cantons, led by Glarus, adopted tax privileges that benefited an entire category of companies, so-called domiciled or administrative companies, in order to promote their installation in their territory from abroad. Fourth, at the same time, Swiss banks were setting up new services modeled on the needs of a potential new set of clientele: wealthy French circles wishing to evade the progressive inheritance tax introduced in February 1901 and the progressive income tax then on the verge of being adopted. The Swiss banks sought to attract the wealth of this clientele by deploying intense propaganda in France. An aspect that could not be developed in this article is that when the impending war prompted a series of other neighboring or nearby states to increase the tax burden on their wealthy citizens, the Swiss banks were also aiming their services and propaganda at these countries.

[54] *Gazette de Lausanne*, 22 June 1914.

[55] Palan, Murphy, and Chavagneux, *Tax Havens*, 236.

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Fifth, when the reaction of the ruling circles of France threatened to hinder the flight of capital to banks in Switzerland, the highest institution of the Swiss state stepped up to protect it. The Swiss government rebuffed all French requests that it believed could open the door to international cooperation in the fight against tax evasion. It guaranteed the absolute respect of banking secrecy toward foreign tax authorities. Finally, it collaborated with the trade association of bankers in the development of a policy of self-discipline of the latter, which was intended to prevent, mitigate, or hinder the steps and criticisms that might be launched against the Swiss banks.

The sixth and final aspect corresponding to the above definition is intentionality. It would be erroneous to conclude that from the beginning or middle of the nineteenth century there was a comprehensive strategy in place with the clear objective of transforming Switzerland into what would later be called a tax haven. Instead, multiple local and sectoral strategies existed. However, these strategies were being boosted by the dynamics of fiscal competition between the cantonal states and encouraged by the project of developing Swiss finance as a manager of private international wealth, all in a context deeply marked by the globalization of trade and finance and by the rise of intercapitalist rivalries. These strategies therefore tended, on the one hand, to aim farther than cantonal borders and, on the other hand, to converge toward a policy collectively articulated by increasingly extensive layers and fractions of the Swiss bourgeoisie.

But it was from an external factor that the process received a decisive impetus and was completed in the decade leading up to World War I. To the extent that Swiss banking circles actively stimulated and assisted the large-scale evasion of progressive tax on inheritance introduced in 1901 in France, they aroused hostility and countermeasures on the French side. Because it symmetrically involved the intervention of the central state on the Swiss side, it was this conflict with one of the most powerful states on the planet that gave the final impetus to the implementation, within the Swiss ruling class, of a comprehensive strategy aimed at allowing Switzerland to occupy a permanent leading position in the international tax evasion market then in full expansion.

All the indications therefore come together to show that the emergence of the Swiss tax haven was a process already largely completed on the eve of World War I.[56] This is confirmed by contemporary observers outside Switzerland's borders. The editorial offices of such reputable newspapers as the *Times* and the *Financial Times* in London and *Le*

[56] On this point, I diverge from the peremptory, and sometimes contradictory or wrong, assertions of Farquet, in *Histoire*, 47–73.

Matin in Paris followed the process closely. All that is missing is the exact term "tax haven" to refer to Switzerland, but the newspapers come very close: "The paradise for stock corporation" was an April 1914 headline in *Le Matin*; "The capitalists' refuge" ran a *Times* headline in May 1914; "'Public trustee' for the hardly used capitalists of Europe [by] the enormous burdens laid on capital," the *Financial Times* reported in February 1914.[57] Even the press on the other side of the Atlantic began to pay attention to the phenomenon: the *Chicago Daily Tribune*, for example, characterized Switzerland in large print as a "Refuge for oppressed foreign capital" in July 1914.[58]

In specialized literature, and even more so in mass media, it is very often affirmed that the U.S. states of New Jersey and Delaware had already become tax havens at the end of the nineteenth century.[59] This would mean that they are older than the Swiss tax haven. However, this cliché does not seem borne out by facts.[60] It is true that from the 1890s until World War I, New Jersey and then Delaware attracted the headquarters of thousands of firms from other states to their territories, in particular from New York. However, this does not mean that New Jersey and Delaware transformed themselves into actual tax havens, comparable to Switzerland.

The first dissimilarity to Switzerland was that while the legislation adopted by New Jersey between 1888 and 1896 and imitated in the following years by Delaware (as well as by some other states) did include some tax measures, these played a secondary role at the time. It is necessary to recall the circumstances during which these laws were adopted. From the 1880s on, the owners and directors of big U.S. companies were in the process of forming gigantic trusts or holdings aimed at becoming monopolies. This process incited powerful resistance, which in the great majority of states led to the adoption of measures "intended to destroy or prevent trusts or monopolies."[61] New Jersey and Delaware tried to attract the companies of other states principally by offering, contrary

[57] *Le Matin*, 25 Apr. 1914; *Times*, 28 May 1914; *Financial Times*, 7 Feb. 1914.

[58] *Chicago Daily Tribune*, 12 July 1914.

[59] See, for example, Thierry Godefroy and Pierre Lascoumes, *Le capitalisme clandestin. L'illusoire régulation des places offshore* (Paris, 2004), 29–31; "Special Report Offshore Finance," *Economist*, 16 Feb. 2013, 5; and Yves Noël, *La fraude fiscale* (Lausanne, 2018), 46.

[60] On the following points, see Harold W. Stoke, "Economic Influences upon the Corporation Laws of New Jersey," *Journal of Political Economy* 38 (1930): 551–79; Russel C. Larcom, *The Delaware Corporation* (Baltimore, 1937); Joel Seligman, "A Brief History of Delaware's General Corporation Law of 1899," *Delaware Journal of Corporate Law* 1 (1976): 249–87; Christopher Grandy, "New Jersey Corporate Chartermongering, 1875–1929," *Journal of Economic History* 49 (1989): 677–92; and Charles M. Yablon, "The Historical Race Competition for Corporate Charters and the Rise and Decline of New Jersey: 1880–1910," *Journal of Corporation Law* 32 (2007): 324–80.

[61] Seligman, "Brief History," 263.

to the general tendency, an ultraliberal legal regime; as Woodrow Wilson, who was at the time governor of New Jersey and would soon become the president of the United States, stated in 1912, "The laws of New Jersey, as they stand, so far from checking monopoly actually encourage it."[62] Lowering taxes thus played a minor role.

The second difference with Switzerland was that the New Jersey and Delaware authorities tried only to attract corporate entities. They did not seem to have a multidimensional strategy as the Swiss authorities did, aiming to attract the wealth of physical persons wishing to escape taxation or to attract certain financial operations to their banks.

Third, the New Jersey and Delaware authorities limited their ambitions to the national territory, with the objective of delocalizing firms primarily from two neighboring or nearby states, New York and Pennsylvania. There is no evidence that these authorities tried, as did the Swiss ruling circles, to take part in the international market of tax fraud, which was then rapidly expanding.

Last, but not least, contrary to Switzerland, the most influential circles in Washington did not pursue a strategy to transform the United States as such, the federal state, into a fiscal paradise, that is, into a promotor and defender of practices of international tax competition or of attracting foreign capital wishing to escape taxes.

My conclusion is therefore that the report published in 1971 by the Economist Intelligence Unit, quoted at the beginning of this article, got it right: Switzerland is without a doubt the oldest of the modern tax havens operating on an international scale. But it is even older—and more important—than previously thought.

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SÉBASTIEN GUEX is professor of history at the University of Lausanne, Switzerland. His research interests lie in social, economic and political history. He has recently published "Debt, economic growth and interest rates: An empirical study of the Swiss case, presenting a new long-term dataset: 1894–2014," Swiss Journal of Economics and Statistics (2018). His next book will cover the emergence of the Swiss tax haven 1816–1914, and the following the history of Swiss imperialism from the begining of the 19th century up the the end of the 20th century.

[62] Quoted in Stoke, "Economic Influences," 578.