

From: [Shapley Gary A Jr](#)
To: [Cole Justin T](#); [Lee James C](#)
Cc: [Ficco Guy A](#); [Mazzella Christine M](#); [Goodlin Scott D](#)
Subject: RE: Atlantis Article
Date: Monday, August 15, 2022 10:03:05 AM

Justin

Great article. Great job Justin - your work on this has been fantastic! The focus of that article is exactly what we intended to do and involved outside the box thinking.

Great to see our plan realized. Thanks for passing this.

Gary Shapley
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From: Cole Justin T <Justin.Cole@ci.irs.gov>
Sent: Aug 15, 2022 9:10 AM
To: Lee James C (b)(6); (b)(7)(C)
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 Gary A Jr (b)(6); (b)(7)(C)
Subject: FW: Atlantis Article

Ensuring you guys saw this from today's clips.

International Tax Enforcers Flex Their Muscles in Puerto Rico

By: Joseph Rillotta and Andy Howlett

Bloomberg

Washington, DC

August 15, 2022

The IRS has shown it can “do more with less” by improving coordination with foreign tax enforcement agencies. The epitome of this effort—the Joint Chiefs of Global Tax Enforcement consortium, or J5—appears to have contributed to the collapse of Puerto Rico-based Euro Pacific Bank, says Miller & Chevalier’s Joseph Rillotta and Andy Howlett.

“Do more with less” has been the IRS’s mantra since the Tea Party wing of the Republican Party ushered in an era of tight tax enforcement budgets about a decade ago. At times, the mantra has seemed aspirational. With 31% fewer full-time employees working in enforcement roles compared to 2010, the IRS has conducted 48% fewer audits on individual income tax returns—a jarring trend that has had ripple effects in criminal tax enforcement, since historically, many criminal investigations originated from leads uncovered in civil audits.

Yet, in certain areas, the IRS-Criminal Investigations component has innovated and adapted, and this has enabled it to investigate cases more efficiently. One key set of innovations is in IRS-CI's improved coordination with foreign tax enforcement agencies, which was recently epitomized in the Joint Chiefs of Global Tax Enforcement consortium, or J5.

The J5's work appears to have contributed substantially to the recent demise of Puerto Rico-based Euro Pacific Bank.

'History of Noncompliance'

Puerto Rico's chief bank regulator, the Office of Commissioner of Financial Institutions issued an order on June 30 directing that Euro Pacific Bank cease operations and declared its intention to revoke the bank's license. OCIF's cease-and-desist order was premised in large part on Euro Pacific's insolvency.

But the regulator also made lengthy and emphatic reference to the bank's "history of non-compliance," asserting that it would "not allow or tolerate any financial entity with a license issued by the government of Puerto Rico to operate outside the law." No doubt at front of mind was the J5's coordinated investigation of Euro Pacific for tax evasion and money laundering violations—code name Operation Atlantis—which dated back at least to 2019.

The J5 is a lightly institutionalized network of five law enforcement agencies with jurisdiction over tax crimes: IRS-CI and its counterparts in Australia, Canada, the Netherlands, and the UK. Formed in 2018, its goal is enhanced collaboration among investigators, not surprisingly focused on transnational tax crime and on offshore banks and other international institutions that facilitate such crime. Operationally, the J5's stated objectives include sharing information and coordinating investigations and deterrence messaging, all ultimately to disrupt the global operations of criminal actors and enterprises.

In the founding myth of the J5, the seminal event is the 2016 disclosure of the Panama Papers. That document revealed a shadowy network of cross-border tax evaders, money launderers, and facilitators. Within about a year, the J5 assembled a sort of white-collar Avengers to combat them. In truth, many OECD tax enforcement agencies have a much longer history of reasonably constructive, if not perfect, cooperation. Yet the J5 is different in key respects—a function of its multilateral nature, its relative durability as an institution, and the breadth and depth of the member agencies' coordination and information sharing.

'Concerned by the Interplay'

Much of the impetus for the Euro Pacific Bank investigation seems to have come from the US contingent, which was eager to avoid the troubling optics of a US jurisdiction slipping into full-on tax haven status. As part of a 2020 appropriations bill, the IRS was directed "to submit a report ... that provides the number of individuals and businesses that have relocated ... to Puerto Rico and have been granted tax exemptions under Puerto Rico Acts 20 and 22."

Puerto Rico Act 22 exempts qualifying residents from Puerto Rican income taxes on all passive income realized or accrued after an individual becomes a resident. Individuals qualifying for Act 22

treatment generally also will qualify for an exemption from US income taxation on income derived from sources within Puerto Rico under IRC Section 933.

Thus, as the House report accompanying the appropriation bill noted, the Ways & Means Committee was “concerned by the interplay” between Puerto Rico Acts 20 and 22 of 2012 and IRC Section 933 “that enables tax avoidance and denies revenues to federal, state, and territorial governments, including Puerto Rico.” The IRS submitted to the committee its report, which found hundreds of millions of dollars of lost US income tax revenue occurring as a result of beneficiaries of Act 22. The media reported Euro Pacific’s founder, Peter Schiff, to be one such Act 22 beneficiary.

Day of Action

In January 2020, the J5 revealed Operation Atlantis and proclaimed a day of action featuring coordinated investigative activities concerning “an international financial institution located in Central America”—including search warrants, interviews, production orders, subpoenas, and other measures implemented by each of the J5 components.

In the aftermath, the J5 Chiefs said their agencies were working hundreds of civil and criminal cases in the five jurisdictions relating to the financial institution, not including bank regulator proceedings, which advanced independently. The media reported in October 2020 that unnamed financial institution was Euro Pacific Bank, notwithstanding that the bank is in Puerto Rico, not Central America.

Following the day of action, in September 2021, the IRS Large Business & International division announced a campaign targeting taxpayers who claimed benefits under Act 22 without meeting the requirements of IRC Section 937, which sets for the residence and sourcing rules for US income tax. LB&I stated that allegedly relocated individuals “may be erroneously reporting US source income as Puerto Rico source income in order to avoid US taxation.”

The timing of the IRS’s announcement suggested that Euro Pacific Bank account holders were in its crosshairs. In any event, as a result of the J5’s actions, IRS has likely come into a wealth of information to begin or accelerate investigations into alleged abuse of Act 22.

Congress, take note of this instance of the IRS doing more with less: leveraging foreign tax enforcement, international cooperation, and coordinated financial intelligence gathering—not only to make current cases and to support the shutdown of an allegedly abusive offshore bank, but also to plant the seeds for future enforcement activities. We expect a multitude of criminal prosecutions and audits involving alleged Act 22 abusers.