The current issue and full text archive of this journal is available on Emerald Insight at:
https://www.emerald.com/insight/1059-5422.htm

“Agentic” cluster aggression: KIBS auditors and law firms as key tax haven drivers

Philip Cooke
The Mohn Center for Innovation and Regional Development, Western Norway University of Applied Sciences, Bergen, Norway

Received 5 July 2023
Revised 20 July 2023
Accepted 20 July 2023

Abstract

Purpose – The purpose here is to show how the “shadow” economy has grown in scale and impetus in recent years, though even before modern times it has been present (e.g. the City of London, Shaxson, 2011) since at least the middle ages. The reasons for this have become complicated, but we can identify some “deep structures” that are common. Firstly, “globalisation” made it easier for multinationals to escape national regulatory regimes. Secondly, one of the ways neoliberal trading regulations allowed such actors to augment their assets was by means of what they initially called “transfer-pricing” but which now is officially known as “profit shifting” through tax havens. Thirdly, the growth in international trade in legal and illegal ways caused money laundering – even by otherwise respectable banks – to grow across borders. Conversely, from the supply-side, tax haven status was increasingly accessed by jurisdictions that sought to achieve economic growth by supplying tax haven services, both Delaware and Ireland as exemplars of a “developmental” fiscal policy.

Design/methodology/approach – This paper adopts a “pattern recognition” design, an approach that is abductive, meaning interpretive, as shown in the observation that explanation can be valid or reliable without direct observation. This is shown in the indirect observation that “rain fell because the terrace has puddles” or “ancient glaciers once carved this valley”.

Findings – Reviewing the European Union’s (EU) list of non-co-operating jurisdictions in support of the OECD’s review of base erosion and profit-shifting activity, Collin concluded the EU’s listing “moved the needle” somewhat but was only a modest success. This is because of its reluctance to sanction its own members or large economies like the USA. Data on foreign direct investment and offshore banking assets suggest listed jurisdictions did not suffer notably from being named and shamed. In all cases studied, this contribution found legally damaging, fraudulent, conflict of interest and corrupt practice activities everywhere.

Originality/value – The originality is found in three spheres. Firstly, the pattern recognition method was vindicated in yielding hard to research results. Secondly, the “assemblage-thirdspace” theory was found advantageous in demonstrating the uneven geography of tax haven clusters and their common history in turbocharging economic development. Finally, the empirics showed the ruses executed by cluster members in tax havens to circumvent the law from global management consultancies to micro-firms consisting of tax lawyers and other experts interacting in knowledge supply chains of dubious morality.

Keywords Clusters, Assemblage, Tax havens, Urban and regional development

Paper type Research paper

Introduction

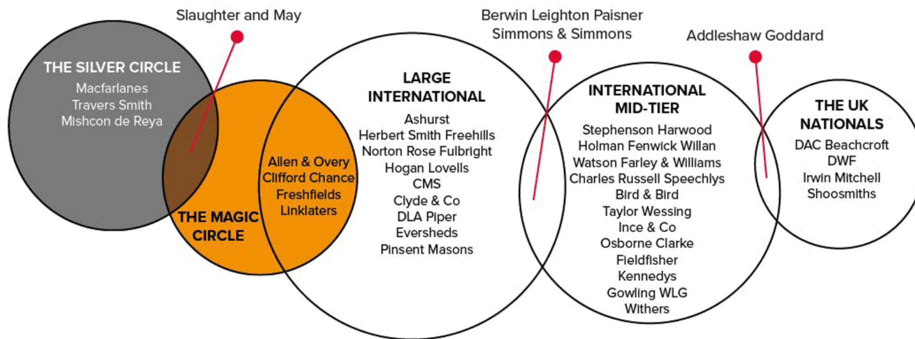
It has become apparent that despite their ubiquity, “tax haven” clusters have seldom been studied as agglomeration economies. This is particularly true in the broad field of regional science, economic geography and spatial planning, although less so in business studies. Thus, a recent business studies PhD showed that over 50 of these were mainly so-called “dot tax havens” where the use of them is mostly to do with tax avoidance. But there are others,

Competitiveness Review: An International Business Journal
© Emerald Publishing Limited
1059-5422
DOI 10.1108/CR-07-2023-0159

which are bigger than "dots" (on the map) signifying that they are specialised in money laundering, profit shifting, terrorist funding, tax evasion, bribery, corruption and other means of criminal activity. Some of these are sovereign states, others are non-sovereign states (e.g. in the USA) but in such larger jurisdictions there is normally an epicentral cluster in which the crucial mechanisms of the tax haven are kept well-oiled. The "shadow" economy has grown in scale and impetus in recent years, though even before modern times it has been present (e.g. the City of London, Shaxson, 2011) since at least the middle ages. The reasons for this have become complicated, but we can identify some "deep structures" that are common. Firstly, "globalisation" made it easier for multinationals to escape national regulatory regimes. Secondly, one of the ways neoliberal trading regulations allowed such actors to augment their assets was by means of what they initially called "transfer-pricing" but which now is officially known as "profit shifting" through tax havens. Thirdly, the growth in international trade in legal and illegal ways caused money laundering – even by otherwise respectable banks – to grow across borders. Conversely, from the supply-side tax haven status was increasingly being sought by jurisdictions that sought to achieve economic growth by supplying tax haven services, both Delaware and Ireland as exemplars of a "developmental" fiscal policy (Zucman, 2015; Lénártová, 2020). Thus, this paper has chosen to anatomise in the main empirical parts of what follows; the sovereign state of Ireland and the federal state of Delaware in the USA. However, the epicentral clusters under inspection are the Dublin International Financial Services Centre (IFSC), located in 1987 in that city's regenerated docklands Special Economic Zone, and Wilmington, Delaware's equally de-industrialised area nowadays revitalised by its Financial Center Development Act (FCDA) of 1981.

This project started as the first part of a study into the power and influence of the notorious KIBS (Knowledge – Intensive Business Services) "agents" of corporate support for global business such as McKinsey & Company, Boston Consulting Group and Bain Consultants (the Big 3), subsequently to be more forensically anatomised by Bogdanich and Forsythe (2022) and Mazzucato and Rawlinson (2022). The appearance of these books indicated that the "agents" of corporate management, namely, the giant intermediary management consultants that advised corporate "profit shifters" had become subjects of interest to regulators (who increasingly fined them for their malpractice) and investigative journalists and academics alike. But it soon evolved into a critical narrative of the Big 4 auditing firms, Deloitte, Ernst & Young (EY), Price Waterhouse Coopers (PwC) and Klynveld Peat Marwick Goerdeler (KPMG) who also sold corporate consultancy as well as accountancy services to global business and were getting massively fined by regulators for their serious malpractice, as were the Big 3. Finally, the study took in the critical analysis of the main global banks who were similarly revealing instances of serious misconduct and being prosecuted with gargantuan fines in the lawcourts for bribery and corruption, money-laundering, fraudulent practices and tax avoidance just as the tax havens were being accused of similar legal infractions (Cooke, 2023; 2024a, 2024b). It transpired, all too predictably that the Big 3, the Big 4 and the banks were all fully represented in most of the "dot" and larger tax havens, being responsible for as many as some hundreds of subsidiary offices, agencies, facilities (like Special Purpose Vehicles and Entities) and independent agents, notably specialist tax lawyers (the so-called "Magic Circle" and "Silver Circle"; Figure 1.) who would fashion the latest loopholes in the regulatory attempts to police the legality of the advice sold to their clients.

Thus, the paper is constructed as follows. The first main section covers three things. The first of these is to outline the "pattern recognition" methodology, which is abductive and constructs explanation of a qualitative nature, based on interrogating truth claims,



Source: The lawyer

Figure 1. Hierarchy of legal practices as of 2017

according to binary psychological traits. The second step is theoretical and uses critical assemblage theory modified because of its professed tolerance of "amorality". Given the nature of this enquiry, this is an unacceptable form of discourse, in which the cause of "amorality" is precisely the issue. So its take on "assemblage" is moderated with reference to "thirdspace" reasoning which is tolerant of inclusivity rather than exclusivity (Soja, 1996). Finally, the third step is to reveal the deeper structure of motivation which it is shown lie in what may be called "dark" as compared with "lighter" psychological motivations for human action. In the second and third main sections, accounts are given of the structure and mechanisms of our two lengthy accounts of representative tax haven clusters, including their "agentic" actors and processes by which they are constrained and enabled. This leads to the final section which contains discussion, conclusions and implications of such cluster practices as are revealed by the evidence.

Method and theory and illustrative analysis in KIBS cluster analysis

Here we devote space, all too briefly, to the method, theory and data sources conducted in drawing together the complex threads of this research. Firstly, the method is called "pattern recognition" (Gibson, 1963), an approach that is abductive, meaning interpretive, as shown in the observation that explanation can be valid or reliable without direct observation. This is shown in the indirect observation "rain fell because the terrace has puddles" or "ancient glaciers once carved this valley". This is the approach known as "pattern recognition" which seeks the underlying lineaments beneath the visible empirical surface. Secondly, two theoretical approaches are used. One is "assemblage" which accounts for large-scale, complex entities such as power grids and all the institutional and technological entities and their interactions over space, including their "rhizomatic" underground and overground networks. The word "rhizomatic" captures the fungus-like qualities of their mycology but also the filament-like overground connections between elements and "agentic" practice (De Landa, 2019; Deleuze and Guattari, 2004). "Agentic" practice is conducted by "agents" – important intermediary or even peak actors who have primary or subsidiary powers to manipulate complex outcomes of such "assemblages". In this analysis, "assemblage" is moderated away from its acceptance of "amorality" by combining it with the geographical

notion of "thirdspace" which includes marginalised interests in its perspective, unlike "assemblage" which treats exclusion (social, racial and historical) neutrally as a consequence of "amoral" evolution (Soja, 1996). The second theoretical dimension is cluster "theory" which animates this contribution. It is the idea that small firms tend to agglomerate in geographical space for anticipated or realised security in a hostile world of cutthroat competition. It is their way of gaining a competitive advantage, via some degree of cooperation, which history shows, can cause long-term "creative destruction", in the face of corporate and governmental power to manipulate markets. Tax havens are a type of hierarchical cluster in which the peak "agentic" actors (the "tax shifters") are absent, but occupy a kind of "quantum" space by being both present and absent simultaneously. Their interests are protected by their "agents" represented both in the cluster and elsewhere as global intermediaries and by their affiliates mostly in the cluster as they diminish in scale.

Most cluster research is uncritical, being typically exploratory and explanatory but generally apologetic, not to say propagandist towards the object of interest. This is because of two things: firstly, it is generally neutral towards the entrepreneurial practice which characterises the phenomena under study, for example, take biotechnology, which is now more widely accepted despite past reservations regarding hitherto controversial issues, such as genetic testing, gene manipulation and genetically modified organisms (Braunerhjelm and Feldman, 2006). Secondly, in fields that appeared likely to be over-run by a burgeoning neoliberal discourse, any novel signs of a counter-discourse finding new forms of economic co-operation in place of egotistic entrepreneurialism were to be welcomed: even if such signs were later seen to be feebler than once hoped (Lazzeretti *et al.*, 2014) though less so for core financial clusters (e.g. after the Brexit "shock"; Fraccaroli *et al.*, 2023). Fraccaroli *et al.*'s (2023) research is interesting in taking a city-level focus rather than a nation-state perspective in differentiating Dublin, Amsterdam, Paris, Frankfurt and London as core, "competitive" financial clusters. Thus, while Amsterdam superseded London as the European Union's (EU) main share trading centre in February 2021; derivatives clearing in the form of over the counter swaps declined 2020–2021 from 40% to 10% in London as Amsterdam, Paris and Frankfurt ate into that market; and 44% of London financiers announcing moving £1.3tn in assets to the EU in 2021, these authors remain firm in the view that London's unique financial ecology nevertheless protects it in the longer term. The City of London's uniqueness flows from its franchise since the 1950s as a deregulated "quantum" space ("everywhere" and "nowhere") specialising in trading the Eurodollar internationally (Shaxson, 2011). Finally, for obvious reasons the data sources typically used in this kind of research are more qualitative than quantitative (in the metrics or econometrics senses) and draw on financial newsprint, websites, official governmental and consultancy reports and other "grey" literature, as well as specialist academic literature, publications and books.

But what of the role, in such "tax haven" settings, of the Big 4 global auditors in tendering financial services to their international clients? Estimates indicate that profit shifting by multinational companies deprives public tax systems of some $500bn or more each year. Investigative research reveals the central role of the "Big 4" accounting firms – Deloitte, EY, KPMG and PwC – in all the world's tax havens involved in such profit shifting. The research shows that multinationals using a Big 4 accountancy firm make substantially greater use of tax havens than multinationals that do not use the Big 4 (Jones *et al.*, 2018). They report that the LuxLeaks in 2014 and Panama Papers released in 2016 revealed PwC "entities" based in the Cayman Islands, Gibraltar, Luxembourg and Mauritius. KPMG "entities" were located in Guernsey, Hong Kong, Jersey and Switzerland. "LuxLeaks" showed that PwC assisted multinationals to obtain at least 548 legal but secret tax rulings in Luxembourg from 2002 to 2010. The rulings allowed them to divert hundreds of billions of

dollars through Luxembourg, arising from economic activities that took place elsewhere. Such profit shifting exploited Luxembourg's low effective tax rate that saved them billions of dollars. Subsequent leaks showed that Deloitte, EY and KPMG had also brokered such tax rulings. PwC has been accused of "insider-trading" for corporate clients on its contract with the Australian Government on its anti-tax-avoidance rules.

The "entities" in question cause pause for thought – what are they? Are they branches of the auditors' main offices? Hardly. Or are they subsidiaries of the Big 4? Again, it seems unlikely. Rather they are mostly varieties of affiliated firms or networks of instruments which are registered as subsidiaries of the multinationals seeking to avoid a variety of taxes through profit shifting. Central to this process is company registration whose presence is usually signified by a "brass plate" in the lobby of a supervised office building with all the names of the receiving and transmitting "entities" or also "vehicles" that the funds in question flow through on their way to their final destination. This activity, veering on the illegitimate in relation to the accountancy charter which is granted to audit firms to ensure their accountability, mean the Big 4 accountancy firms play a role beyond the accountancy services legally contracted to. By means of both external expertise (such as specialist tax lawyers) and internal specialists, recruited to or contracted through the leading accountancy firms, their experience, expertise and specialist tax advice thus allows their clients to reduce their effective tax rate. As in the case of PwC, experience may even have been derived from having advised the regulating jurisdictions or even written their tax codes and other regulations such as corporation tax. These activities are what have stimulated this reconsideration of the role of business clusters in establishment of foreign subsidiaries in tax havens.

Among the suppliers of the "entities" of note in the inner workings of tax havens are the tax lawyers. We provide, later, a taste of their elite status in reportage supplied by O'Boyle and Allen (2022) on Ireland's tax haven status. But firstly, we draw attention to the "Magic Circle" and "Silver Circle" because the relevant literature has highlighted the role played by the Big4 alongside these "Circles" of lawyers in firms' tax avoidance activities. The Magic Circle of tax lawyers has to be – as all such exclusive rankings must be – differentiated by status from the "Silver Circle". First up, these are essentially London law firms, although the graphic in Figure 1 contains "internationalists" who have merged with a foreign practice. But the Magic Circle consists of four or five in that category with a profit per equity partner (PEP) and average revenue per lawyer (RPL) far above the UK norm. Silver circle firms are content to advise a premium UK client base rather than service global institutions. The largest growing category between 2005 and 2017 has been the Large International practices, followed by the International Mid-Tier group. The UK Nationals bring up the rear. Top US law firms in 2021 are the following:

Kirkland & Ellis with a PEP of $7.3m, founded 1909 in Chicago, Illinois; Latham and Watkins – PEP of $5.7m, founded in 1934, in Los Angeles, California; and DLA Piper – PEP of $2.5m, founded originally in Leeds, Yorkshire, but merged with firms from Baltimore, Maryland, and San Diego, California in 2005 (Table 1).

To analyse the "The Legal" 500's three largest UK tax rankings – corporate tax, tax litigation and investigations and value added tax (VAT) and income tax – to pull out the market-leading firms over the past decade, we get a slightly different ranking of tax law firms. Across The Legal 500 UK's main three tax rankings, only four firms have spent the entirety of the past 10 years in tier 1. This is indicated in Figure 2:

- Slaughter and May – 10 years in tier 1 for corporate tax and tax litigation.
- Herbert Smith Freehills – 10 years in tier 1 for tax litigation.

Table 1.
Top ten law firms in the USA, 2021

Rank	Firm	Revenue $	Lawyers	RPL $	PEP $	Country
1	Kirkland & Ellis	6.042bn	3,025	1.95m	7.39m	USA
2	Latham & Watkins	5.488bn	3,078	1.78m	5.71m	USA
3	DLA Piper (v)	3.471bn	4,028	0. 86m	2.50m	USA
4	Baker McKenzie (v)	3.127bn	4,795	0.65m	1.83m	USA
5	Skadden, Arps, Slate, Meagher	3.022bn	1,644	1.84m	5.09m	USA
6	Dentons (v)	2.941bn	12,064	0.24m	0.38m	China
7	White & Case	2. 870bn	2,464	1.17m	3.51m	USA
8	Sidley Austin	2,795bn	1,893	1.48m	3.72m	USA
9	Clifford Chance	2.712bn	2,585	1.05m	2.92m	UK
10	Ropes & Gray	2.674bn	1,372	1.95m	4.33m	USA

Note: Structured as a Swiss (verein) partnership
Source: Wikipedia

Figure 2.
Top 5 UK–US tax lawyer practices 2014–2023

Source: The Legal 500 (2023)

- Joseph Hage Aaronson – 10 years in tier 1 for tax litigation.
- Baker McKenzie – 10 years in tier 1 for VAT and income tax.

After the auditors, what do the lawyers actually do?

We researched the "Top Tax Lawyers in Tax Havens" website and Baker McKenzie showed fourth, as follows:

> With 4,700 lawyers in 46 countries and revenue of $3.1 billion, Baker McKenzie bills itself as "the original global law firm". It is among about a dozen U.S. and U.K. firms that have established large international networks and transformed the profession of law itself. Baker McKenzie is an architect and pillar of a shadow economy, often called "offshore," that benefits the wealthy at the expense of nations' treasuries and ordinary citizens' wallets. Baker McKenzie has helped multinationals and the wealthy avoid taxes and scrutiny through the use of shell companies, trusts and complex structures in tax havens. These vehicles, shrouded in secrecy, hold vast riches – homes, yachts, stock and money that is sometimes of murky origin.

Baker McKenzie played a role in more than 440 offshore companies registered in tax havens. Acting on behalf of Big Banks and Big Tech companies, the firm pushed back against

proposals aimed at strengthening financial regulatory oversight and tax laws. A US Government court brief revealed its lawyers helped Apple and Facebook route billions of dollars in profits to low-tax Ireland. Baker McKenzie used three offshore providers to which the firm or its clients delegated work: Trident Trust, with offices in the British Virgin Islands; Alemán, Cordero, Galindo & Lee (Alcogal), a law firm based in Panama; and Asiaciti Trust, based in Singapore. Baker McKenzie routinely refers clients and legal matters to other law firms and service providers in jurisdictions where it does not have an office. In the 1950s, Baker McKenzie made a discovery that they recommended incorporating companies in Venezuela and other countries that allowed owners to remain anonymous through the use of so-called "bearer shares". Bearer shares are stock certificates that do not need to be registered under the name of a specific person or business. Many countries would later ban bearer shares because bad actors used them to hide crimes and assets. Another tax-dodging innovation was to conduct an "inversion", where one company merges with another, usually a smaller one, in a low-tax jurisdiction, often realising huge tax savings. The strategy emerged in the 1980s with "mailbox inversions", wherein US firms created shell companies at a post office box in the tax haven of Bermuda. The US Congress passed anti-inversion legislation that became law in 2004. Other companies became global, emulating Baker McKenzie's 4,700 lawyer establishment – DLA Piper would grow to 4,000 lawyers; Norton Rose Fulbright to 3,180; and Latham & Watkins to 2,860 currently. Part of this geographical growth encompassed Hong Kong where Baker McKenzie partners set up B. McK. Custodians Ltd. and a colleague founded B. McK. Nominees Ltd. The latter arranged for stand-ins, known as nominees, to serve as company directors or shareholders. By means of innovation, local alliances and lobbying, Baker McKenzie helped transform Hong Kong into a global financial hub, famous for low taxes, high secrecy and minimal rules. B. McK. Nominees pumped out directors, shareholders and secretaries for hundreds of companies and entrepreneurs in Hong Kong, including corporate giants like Nike and Apple.

To provide a clear picture of the network relationships by which these ultra-complex assemblages of states, multinationals, management consultancies, auditors, banks and the constellations of their subsidiaries or independent "agents" working in tax haven clusters, insights can be drawn from the Irish "assemblage". The usage is appropriate as it is an "amoral" assemblage, but the pattern recognition methodology works because it is moderated by a "thirdspace" perspective which highlights the "amorality" of its essential vitamin, which is corruption. We start out from 70 Sir John Rogerson's Quay, which houses Matheson, Ireland's largest tax lawyer practice. At this office, 125 US companies have registered several hundred subsidiaries or investment funds and associated "special purpose entities". These include Airbnb, Dell, Honeywell International, LinkedIn and Pepsi. Matheson solicitors served as directors on hundreds of these companies, which grew in numbers with the fashioning by legal and accountancy firms of Section 110 of the Irish Tax Consolidation Act (1997). This was intended to attract US multinationals to locate in Dublin's IFSC with "Securitization", a provision for turning assets into bonds, as recommended by McKinsey & Co. through its "Securitization Project" of 1986 (Bogdanich and Forsythe, 2022). These used the special purpose vehicles (SPVs) to separate a risky project "off balance sheet" so that if they failed, the owner avoided bankruptcy. Ireland's Revenue Commissioners had facilitated a unique tax-dodging ruse for the owner of Dunnes Stores by inventing a Dunnes Settlement Trust (an SPV) to minimise tax for Ben Dunne from which he paid the Taoiseach, Charles Haughey £2m. Haughey then reciprocated when he met the head of the Revenue and the head of Dunnes Stores to agree a settlement of Dunnes Stores' £38.8m tax bill for only £16m. In 2001, Matheson devised an early version of the "Double Irish" for Microsoft's subsidiary Round Island, one which held and licensed

Microsoft's copyrighted software by virtue of being incorporated in Dublin but not paying tax there. Registered at the Matheson address, with assets of $16bn, the subsidiary saved Microsoft some $1bn annually. In 2015, Matheson successfully lobbied in favour of profit shifting against an Irish Finance Bill that sought to tax intellectual property rights (IPR) at 6.25%, which was eventually set at 2.5%. The company also devised an SPV that retained Ireland's absence of a withholding tax which allowed US investors to avoid such taxes in the USA (O'Boyle and Allen, 2022; O'Toole, 2021).

We have barely scratched the surface in this brief account of the intricacies of the corruption that has run through the "assemblage-cluster" that describes Ireland's tax haven status. Pattern recognition showed, illustratively, that how the complexity of institutional networks running from retail via tax law and accountancy devices was important. Then the context of compliant governance agencies intervening at political behest to lobbying that conferred advantage. Elsewhere a climate of responding to tax-dodging innovations in faraway places and foreign jurisdictions set the scene. This facilitated the re-drawing of regulatory controls implemented to prevent vulnerabilities in fragile financial systems. But these "refinements", nevertheless, worked to the advantage of avaricious individuals and shareholder groupings over the long term. In the next two sections, this contribution examines in greater detail the distinctive histories if the Delaware and Ireland tax havens as "amoral" forms of economic practice which have the potential to become hegemonic in a neoliberal "small- state", "market-driven", "deregulated" and "financialised" global economy.

Delaware and its tax haven cluster-assemblage

Hence Delaware, historically a maritime, shipbuilding, foundry and railway stop on the New York City to Washington DC line, was largely a heavy industry port. In 1802, it was founded as a gunpowder manufacturer and grew to become headquarters (HQs) of the Du Pont (now Chemours) chemical empire, benefiting from the US Civil War and subsequent conflicts. As part of this contribution to understanding how sometimes "dark" motives may explain "fortune favouring the prepared mind", we review the book by Weitzman (2022) that helps amplify the "singularity" afforded to a "winner" financial locality. This occurs in his account of Delaware's (and Wilmington's) rise to prominence as a tax haven; an assemblage with most large US corporate registrations and legal home to over a million smaller companies while remaining its smallest state after Rhode Island. An early study by Wayne (2012) was already *finessing* Weitzman's later designation of Delaware as the *de facto* capital of corporate America. He referred to Wilmington's 1209 North Orange Street as one of the most remarkable corporate collections in the world, housing the legal addresses (at that time) of no fewer than 285,000 separate businesses. The office of the Corporation Trust, a subsidiary of Dutch company Wolters Kluwer, is at the heart of the cluster. On Orange Street and in legal terms, lay the HQs of Ford, General Motors Corporation, Coca-Cola, Kentucky Fried Chicken, Intel, Google, Hewlett-Packard (HP), Texas Instruments and other global corporates. These include specialised trusts, special purpose entities or SPVs crafting or processing Cayman Island credit default options that caused the Great Financial Crash. Secrecy ruled access to such workspaces but inquiry revealed that a floor of long rows of office cubicles were housing 80 low-paid clerical workers not high-fee lawyers (Shaxson, 2011). Weitzman (2022) went on to show how Delaware and its key city provided a safe haven to money launderers, kleptocrats, traffickers and corrupt foreign rulers, by multinational companies and international criminal gangs. Revenues from Delaware's business-formation industry, known as the Franchise in which a flat fee (normally $300) charged by the state for firms to register a corporation there generated $1.6bn by 2020. This accounted for two-fifths of the state's budget, helping to keep the domestic tax burden

among the lowest in the USA. This diverted public funds from some of the poorest Americans while sustaining assorted dictators and criminals. The Franchise also gives massive power to Delaware because it writes the incorporation code for the entire country as well as the rules for much of the rest of the world. As a case in point, the 2023 trial of Fox News versus Dominion Voting Systems on grounds of the former's defamation of the latter, settled out of court for a world record $787.5m, was held in Wilmington, with the Delaware Supreme Court Judge presiding, because Fox was incorporated in that city. Fox, in 2023, was still facing a $2.7bn lawsuit from a second voting machine manufacturer, Smartmatic.

Since 1980, normal state corporation tax as a share of total revenue entered decline from roughly 50% to 2.5%. Delaware earned only $245m in corporate income tax in 2020 meaning the Franchise tax had become the key source of Delaware's wealth. But "escheatment" generated Delaware's third largest source of funds at $444m in 2020. Escheatment (as the anachronism, specifying a form of "cheating") is exemplified from cases like Disney Company v. PwC which turn on the issuance of many kinds of gift cards (Cooke, 2024a). If such gift card businesses are incorporated in Delaware and have an expiry date, any unspent balances automatically divert to the state. Furthermore, an important contributory source of income for Wilmington is via Delaware's legal system. Because so many firms are incorporated in Wilmington, a significant share of litigation is tried there, as with Fox News. Bankruptcies, for which Wilmington leads the country on bankruptcy law, company registrations and mergers and acquisitions are significant sources of secondary income in legal fees, hospitality expenses and accommodation for lawyers and communications staff. Sadek (2022) in interview cited Weitzman's (2022) observation that:

> Attorney fees, lawyer fees in Delaware are the most expensive in the country, on average, more expensive than New York, more expensive than California. And Washington, D.C., they're the most expensive hourly rates. (Sadek, 2022)

Heavy industry dominated until post-Second World War reconstruction, the arrival of the I-95 highway and urban renewal cleared the inner city, which led to serious race rioting in 1968. Subsequently, by 1981, it began "de-territorializing" by capturing parts of the de-regulated banking, especially the credit-card industry, augmenting its growing Franchise "business formation" (incorporation) and asset management industries. This had followed long after early tightening of business incorporation rules, which had diverted that business from New Jersey in the early 1910s. New Jersey had been known as the "traitor state" for its loose corporate legislation, for which then-Governor Woodrow Wilson had sought to cleanse it of its murky reputation. In mid-century, it promoted "shell companies" to foreign investors who sought such "black box" anonymity for often nefarious motives. Specialisation in incorporation of businesses led to Wilmington and its District of Delaware attracting the US Bankruptcy Court, which became the busiest of the 94 federal bankruptcy courts in the USA. Among the largest Wilmington employers is Manufacturers and Traders Trust (M&T) Bank (Wilmington Trust Corporation) a provider of third-party trustee (SPV) and administrative services to hedge funds, investment management and private banking. The firm was founded as a banking, trust and safe deposit company by paternalist Du Pont's "agency" in 1903 then acquired by M&T bank in 2010, employing 1,900 by 2019; Blackrock Capital Management Inc, the world's largest hedge fund and asset manager, employed 834 in 2019; and Wilmington Savings Fund Society Financial Corporation included commercial banking, retail banking, cash management, trust and wealth management services that in 2019 employed 801.

There is an opaque episode that further explains the transformation of Delaware into a significant global tax haven, the origin of which lies in the early issuance of credit cards. It

involves the decision in 1978 by the state of Nebraska to enable the First National Bank of Omaha to break the biblical-era "usury" sanction for out-of-state cardholder interest rates. In the founding case, the target was consumers in neighbouring Minnesota. Could the Nebraska interest rate (18%) be charged to residents of Minnesota (capped at 12%)? The US Supreme Court ruled it could. Delaware's governor, Pierre Du Pont, realising it could do the same as "first-mover" South Dakota. This state had subsequently removed all interest caps. Doing so would enable dissemination of local credit cards countrywide on condition all major US banks were incorporated in Delaware. Its FCDA of 1981 facilitated that. Next the phenomenon of proto-cluster clientelism occurred at the venerable Wilmington Whist club. Here local bankers expressed the fear that non-local oligopolists would out-compete them while the oligopolists, in turn, simply needed to operate in a lower-tax environment than New York. A compromise was reached in the 1981 FCDA that, while legally innovative was morally indefensible. Delaware's tax ladder would be "regressive", meaning local banks would be protected by a bank franchise interest cap of 8% on income below $20m, 6% on $20m–$25m and so on, up to peak incomes of oligopolist subsidiaries incorporated in Delaware that paid only 1.7%. Oligopoly banks, subsidiaries and intermediaries inundated Wilmington with local incorporations and its credit card business boomed. This in fact heralded and coincided with the rise to prominence of "Reaganomics" after the 1980 US election. It also promulgated the debt-ridden complexities and catastrophes of the 2008–2009 global financial crisis (Shaxson, 2011).

Accordingly, it is possible to test the resulting financial "assemblage" from the qualitative data and interpretations made of the results. A simplified "layering" of this "thirdspace" (Bhaba, 1994; Soja, 1996; Thelen and Mahoney, 2010; De Landa, 2019) "assemblage" and its community hubs indicate the following key nodes and networks:

- Firstly, at regional paradigm level, the "reversibility" of the Delaware Valley up to Philadelphia and even Pittsburgh identifies a varied metropolitan "carbonscape" composed of coal, steel and shipyards. Delaware shared some of that, though Wilmington as its main city inverted from a "munitionscape" to a company town "chemoscape" under the patriarchal, "agentic" Du Pont interest.
- At the regional regime level, inter-state rivalry and the "dark" reputation of, in particular, New Jersey led to regulated "reversibility" that undermined New Jersey's lax and predatory business incorporation advantage. In De Landa (2019), "amorality" as a cognitive value is an allowable sentiment in "assemblage". As a traditionally weak "agentic" parastatal actor, Delaware nevertheless usurped New Jersey, also shaping a financial agency "singularity" out of its "agentic" Du Pont "chemoscape" monoculture. A Du Pont heir Delaware state-governor subsequently innovated legalised US "anti-usury" conventions in the 1980s.
- Deindustrialisation of Wilmington led to further collective "agentic" initiative of a negative kind by the "creative destruction" of worker and black residential districts with hegemonic 1960s "carbonscape" transportation-led, urban renewal initiatives. More amorally but good for growth after the 1980s, the new century transitioned pre-feudal "usury" reforms, near-feudal "Franchise" and "escheatment" revenue-raising and business tax relief incentives. These favoured core banking and ancillary financial regulatory and jurisdictional "singularity". Alongside waterfront development, designation of the Financial Quarter and of federal institutions like the US Bankruptcy Court these anchored the new cyclical profile.
- Finally, these consolidated into the Wilmington "hub" that also sustains annually 6,000 University of Delaware graduates as a fintech talent pool, many of whom are cognitively and physically proximate through personal and transactional contacts

to core commercial law, venturing, regulatory, political and financial services markets. Accordingly, the assemblage had been "territorialized", "de-territorialized" then "re-territorialized" during three evolutionary cycles.

To reflect on the geographical "assemblage" cycles narrated above, numerous connotations are identified but the "rhizomatic" (De Landa, 2019) character of its non-linear "everywhere" node and network spatial relations requires teasing out. This is because their "fungal" connotations invite reflection on their "underground" as well as "overground" existence. The former characteristic is captured in the amorality or "darker" aspects of many of the interactions pinpointed such as "the Franchise" and "escheatment" legacy advantages of the manipulation of business incorporation conducted by the regional regime of regulators, on the one hand, and on the other, of the paradigmatic crimes of fraudulence, embezzlement, tax avoidance, money-laundering, conflict of interest or corruption tried in the Delaware Court of Chancery, its Federal Bankruptcy Court. The "lighter" spatial relations can be argued to lie in Wilmington's "agentic" history of Du Pont patrimony and even its earlier colonial history recalled in its New Castle County, echoing Fort Christina as the capital of colonial New Sweden from 1638 to 1655. More recently, the replacement of the state's carbonscape legacy and transition to fintech-embedded new nodes in major trader training at the University of Delaware, networks of fintech start-ups and new urban entrants to the Wilmington Financial Quarter. Soft branding integrated Waterfront Riverwalk design along the historic Christina River in a post-industrial urban fabric. This underpinned the digital business connections to firms, law and knowledge flows spreading as underground and overground connections to a global financial client base. The ultimate "rhizome" is the free market, deregulated and neoliberal ideology of often untested or over-risky trading criminality and *laissez-faire* superprofits in a winner-takes-all business climate.

Apple and the double Irish

Ireland's learning curve as a tax haven has been a case of acceleration out of a state of arrested development. Its heroic achievement was to gain independence from the British state in 1916 with typically "clingy" step-by-step withdrawal of UK sovereignty as expressed in the status of the "freed" possession. From the "Kingdom of Ireland" until the Act of Union in 1800 (when it became part of the UK) and the post-revolutionary 1916 proclamation, ratified in 1919, it was the Irish Republic, or sometimes the Republic of Ireland. Then it became Éire (in Irish) and Ireland (in English) but from 1920 to 1922 it was legally "Southern Ireland". In 1922, it was legally the "Irish Free State" and in 1948 it officially adopted the name "Republic of Ireland". Politics largely explains these shifts, not least because Britain would not accept "Republic", as signifying disconnection from the British monarchy and that would mean departure from the British Empire. The other political dimension of influence was "Northern Ireland" – hence, temporarily "Southern Ireland" – which remained in the UK and the domestic Irish divisions between those that became conflicting interests during and after the Irish Civil War. The upshot of these convolutions was that Ireland remained an agrarian pastoral economy with a small manufacturing base in Dublin and moderately elsewhere also with an emphasis on food processing, both for domestic consumption and export to the UK. Until the 1950s, Ireland's economic development stagnated, gross domestic product grew glacially slowly and emigration was a debilitating demographic condition.

Following another bout of low growth, business stagnation and revived youth emigration to stronger European growth economies, which time proved to have been valuable experience building from engagement with high technical skill–based industries,

the Irish economy turned around significantly in the late 1980s to 1990s and beyond to the disastrous ending of the "Celtic Tiger" with the Great Financial Crash of 2007–2009. This can be explained with two "agentic" events but they mask a deeper lineament structure in the "assemblage" of a flywheel of economic growth from an "institutional" concept realised by greed masquerading as international tax avoidance (legal) that later turned into a culture of tax evasion (illegal) and protean corruption among society's upper echelons as Ireland blossomed into a full-blown and relatively, for its size, "gargantuan" global tax haven. According to O'Toole's (2021) account, the institutional agent was the Industrial Development Authority (IDA) an innovation in itself as the first (1949; statutorily formalised in 1950) such parastatal development agency in history. In 1969, it changed into a non-commercial autonomous state-sponsored body. It thus became an influential model on the formation of comparable – UK – sub-state parastatals such as Scottish Enterprise, the Welsh Development Agency with the UK National Enterprise Board (each 1976) and Invest Northern Ireland (2002) for promoting entrepreneurship and attracting foreign direct investment (FDI).

Unusual for "institutional" analysis, each of O'Toole (2021) and O'Boyle and Allen (2022) refers to the "agentic" architect(s) of this economic governance organisation as politician and shortly to be Prime Minister of Ireland Séan Lemass (1959–1966) and civil servant T.K. (Ken) Whitaker, secretary to the Irish Department of Finance. Advised initially in 1952 by US consultancy Stacy May to emulate Puerto Rico by becoming a tax haven, Whitaker led a small team of officials to write a 250-page document entitled *Economic Development*. In 1959, Lemass succeeded De Valera when he became president. Lemass had been Ireland's longtime Minister of Commerce and Industry, disagreeing with De Valera's failed import substitution policy but agreed with Whitaker's alternative. The government had also supported the *Economic Development* analysis and had authorised a white paper, the *Programme for Economic Expansion*. This proposed a doubling of economic growth to 2%, thought easily achievable; future industrial development of production for export markets; attraction of foreign capital for engagement in industrial production; a relaxation of extensive tariff or quota protection to free up trade; and seeking to raise the standard of workforce skills, technology and "know how". The policy was adopted in 1959 and its main facilitator was to be the IDA although according to O'Boyle and Allen (2022) the "shift outwards" occurred with the establishment of an Export Profits Tax Relief in 1956 that had pointed the way towards "Tax Haven Ireland". However, it was the Shannon Airport Free Trade Zone, the world's first, in 1959, that most signified the IDA's intent successfully to assist US investors to "double your after-tax profits". This would be implemented through the state's increasingly generous competitive tax regime, which rose for capital allowances from 20% in 1956 to 100% in 1978 with capital depreciation varying from 10% to 25% annually and 50% tax relief for five years on exports (Donnelly, 2013).

By the 1980s, the tax haven strategy had borne remarkable fruit, particularly from the US FDI "tech" cohort of the time. The IDA had presided over Ireland's university city growth poles, a successful geographical translation of the state's *Programme for Economic Expansion* into the rural West of Ireland rather than over-concentration in Dublin. These involved inward investment into peripheral towns and cities and their regions. Cork (University College) was one of the beneficiaries of FDI attraction to Ireland's outer growth locations. For example, on the heights of Hollyhill, site of Cork airport, was a low, grey, modernist factory clad in cement render and plate glass beside the airport approaches. In splendid isolation, it was the Apple plant, opened in 1980, then overseas manufacturer of the successful Apple Mac PC. Elsewhere, close to UC Galway, the first overseas Digital Equipment Corporation (DEC) plant was located in 1971. This closed in 1998 upon its

acquisition by Compaq before that firm was then absorbed into HP in 2002. DEC was at the Mervue Technology Park not far from the UC Galway campus but accessible by motorway to the airport. Its demise was early evidence of the high-tech FDI cycle in face of the rise of the desktop PC and demise of the VAX minicomputer that had, in turn, replaced the mainframe. In O'Toole (2021), describing the outlandishness of his brother's success in capturing a high-tech job in 1973 by migrating to the West of Ireland, he quotes the *Irish Independent* noticing a time-space discontinuity:

> [. . .] DEC was altering the identity of the city, changing its whole sense of space. . ..from the 'old' city of the quaint, narrow streets and the many links to the past to the big industrial estate out Mervue way [. . .]. There is a sense of purpose that is almost tangible, a spirit of adventure in the air, a widening of horizons so that Europe is seen almost on Galway's doorstep. (Quoted in O'Toole, 2021, p. 297)

Ten years after 1973, DEC employed 1,300 people in Ireland. This had the desired contagion effect of bringing other minicomputer firms of the period like Analog Devices and Wang Laboratories to the other West of Ireland "growth pole" – Limerick. Meanwhile Sord Computers, Technicon and Dataproducts transplanted to deprived north Dublin – 200 electronics companies overall, most from the USA.

Earlier, FDI had also come tentatively from pharmaceuticals firms like Warner Lambert (1960) and Pfizer (1969) which the latter acquired in 2000, with just General Electric (1963) from electronics. But after DEC (1971) came Measurex (1973), Northern Telecom (1973), Ericsson (1974), Data 100 (1975), Nippon Electric Company (1975), Nixdorf Computer (1977), Westinghouse Electric Corporation (1978), Amdahl (1979), Apple (1980) and Fujitsu (1980). These were not all US but also German, Canadian, Swedish and Japanese inward investors. In pharmaceuticals – another IDA target sector – Smith *et al.* (1974; later Glaxo Smith Kline), Merck *et al.* (1976), Allergan (1977) and Eli Lilly (1981) also arrived. The medical devices sector was then joined by Baxter Travenol (1971), Abbott Laboratories (1974) and Bausch and Lomb (1980). But in the early 1980s, a state commissioned review of industrial policy proved critical of the IDA's inward investment strategy. The Telesis review saw it was over-reliant on FDI, while indigenous industry was a Cinderella. In 1994, the state responded with the dividing of the IDA into three autonomous agencies: Forfás, the "holding" policy agency; Forbairt (later Enterprise Ireland) promoting indigenous industry; and IDA Ireland, responsible for FDI. Accordingly, strategy was shaped towards attracting key high-tech sectors rather than random successful firms in the hope of "cluster" integration. Thus, in computing, more software and infrastructure devices and equipment firms arrived that might just display supply chain characteristics: these included Lotus (1984), Microsoft (1985), Intel (1989), Motorola (1989), Dell (1990), HP (1995), International Business Machines (1996), Oracle (1996), Xerox (1998) and Cisco (2007). Financial services firms, seen as potential service suppliers to information and communication technology firms arrived, in the form of bankers: (Citi, 1996; Deutsche Bank, 1991; Hong Kong and Shanghai Bank, 2000), funds and investment management (State Street, 1996) and digital payments managers (Mastercard, 2009; PayPal, 2003). By the 2000s, digital, search, retail, social media and gaming platforms like Google (2003), Yahoo (2003), eBay (2004), Amazon (2005), Facebook (2008), Twitter (2011), LinkedIn (2010), Electronic Arts (2010) and Zynga (2010) had arrived. So despite stronger growth displayed by indigenous firms like Glanbia, Glen Dimplex, Greencore, Kerry Group, Kingspan and Smurfit Kappa, clearly FDI has been maintained at high and continuing velocity (Donnelly, 2013). For Apple, initial workforce contraction was followed by expansion and two floors of a newly redeveloped office block in Cork city centre were taken at Lavitt's Quay. It was recorded that Apple's workforce was 6,000 by 2019 (Sheehy, 2020; O'Toole, 2021; O'Boyle and Allen, 2022). Later, Apple's

European engineering and test facility to house its artificial intelligence and machine learning engineers had by 2022 grown to a team of more than 680 people (Gain, 2022).

Schrödinger's cat and the quantum effect

What accounted for this FDI roller-coaster ride? Firstly, in O'Boyle and Allen's (2022) account, Apple's Hollyhill site was among the last to be opened before Ireland's Export Tax Relief Scheme, guaranteeing zero tax for firms manufacturing products for export, was abolished by the EU. However, those arriving before the scheme's termination in 1981 continued to receive the zero tax benefit for the next decade. Apple (and other FDI) was keen to continue receiving substantial tax holidays beyond the period of grace, and by 1984, Fine Gael government ministers were being legally advised on ways US inward investors could avoid taxation on profits by locating in Ireland. By 1990, when Apple was in trouble, a meeting with the Irish Government and the company occurred in 1991 where the threat of leaving the country was hinted. This was because Apple's accounts were recording too much profit in Ireland. Apple informed them that this was due to knowledge transfer (intellectual property; IPR) and "branding" rather than its manufacturing activity located in Ireland. This chimed with the earlier legal advice for the state to enable inward investors to establish foreign sales centres in their European bases. Instead of declaring $270m in net profit, Apple proposed to reduce recorded net profit to $30m–$40m as its net profit margin. Apple further proposed the Irish state would help to "disappear" the remaining $230m. This sleight of hand is, in metaphorical terms, former Trinity College, Dublin's most celebrated alumnus' "Schrödinger's cat" which is both alive and dead, present and absent, the origin of the quantum theory of particulate matter. O'Toole (2021) ventriloquises the meeting with state's agents accepting the following:

> [. . .] we'll say that the profit we make in Ireland as $30-$40 million, you will agree to collect the tax on that amount, and we will both be happy. All you need to do is to accept that the rest of the money exists in that place that has always been so central to the Irish imagination: elsewhere. (O'Toole, 2021, p. 495)

So, Apple established two Irish-incorporated companies as part of the Apple holding: Apple Sales International and Apple Operations Europe. The profits recorded by these two offices were assigned to a "head office" which did not exist. Accordingly, they were not subject to tax in any country and the after-tax $30m–$40m (to the Irish Revenue) residue (of $230m) had "disappeared", or in O'Toole's (2021) words "[. . .] a new kind of unknown known [. . .] about profit rates and companies that were not companies and magical money that could be everywhere and nowhere" (p. 496).

During the late 1980s and burgeoning until dismantled in 2014 the "Double Irish" tax instrument was the largest tax avoidance tool in history and by 2010 it was shielding $100bn annually in US multinational foreign profits from taxation. Prime Minister Haughey's second stimulus to Ireland's tax avoidance-to-evasion status came with the establishment of the IFSC and the true tax haven Ireland took off, spectacularly. The inward investors acted as a disguise for what became less of an FDI platform and much more of a conduit tax haven system of financial flows. The Irish state sought to claim legally that it was not a tax haven because its incentives helped build businesses and create jobs for people in Ireland, but the capital flows data related to the activities conducted in the IFSC belie that picture. Thus, the IFSC culture encompassed the illegal Ansbacher Cayman scheme for domestic Irish citizens and for non-domestic and domestic corporate entities. This required facilitating inward investors to incorporate (à la Delaware) without becoming resident for taxation. This in turn relied on globally "competitive taxation regimes" among

different tax regimes or jurisdictions. O'Boyle and Allen (2022) spelled out the manner in which IPRs were the key to exaggerated transfer pricing between corporations with entities in different jurisdictions working the "scam".

Thus, say, Apple created valuable IPR, which it then sold to an Irish-incorporated firm run out of, say, the Cayman Islands. For the US Internal Revenue Service, the Cayman entity is actually bona fide Irish thus a Controlled Foreign Company (CFC) which avoids US taxation. Apple then contacts the Irish Revenue, which sees Apple as a CFC controlled from Cayman and therefore tax resident in the West Indies. The Cayman-controlled entity then licenses the IPRs to a second Irish company (hence "Double Irish"). This, being in the EU, it can trade the IPR there tariff-free at an accepted profit of, say, 95%. This returns to the second Irish firm, having paid corporate profit tax (CPT) of, say, 33% on the 5% owing, a negligible sum. In Ireland, CPT at 12.5% is avoided by the Irish entity for the Cayman entity's IPR. This sum is taxed in Cayman at 0% meaning Apple retains the 95%. Because of the Irish Revenue's withholding tax of 20% for transfers to known tax havens, the Irish entity sends the sum to an EU (possibly Dutch) firm that is not liable for such charges. Thus, the two Irish entities represent the "Double Irish" tax avoidance trick and the Dutch client acts as the "Dutch Sandwich". This enabled Apple to become the world's greatest hoarder of avoided taxation, estimated at $246bn in 2017 starting from 1991 with Apple's variant dating from the early 1980s (O'Boyle and Allen, 2022).

In 2016, when the EU levied a €13bn fine on Apple (which the Irish state officially opposed on appeal), it was the largest tax fine in history only covering the period 2004–2014, during which Apple shielded €111bn in profits from US (and Irish) tax. Some of the largest offices in the IFSC are those of the major Irish accounting and law firms. Among these is Matheson which devised a variant of the "Double Irish" for Microsoft worth $1bn per year, Arthur Cox and Goodbody which conceal tax dodges in numerous trusts and "inversions" that disguise US corporations as Irish companies. Accordingly, Irish tax lawyers have become associated with the creation and development of international tax management tools, not only the Double Irish but its successor, the Single Malt. This originated in another tax haven, this time Malta, replacing, in reality Bermuda, as the Double Irish counterparty. This also included a further Irish bilateral tax treaty with the United Arab Emirates which still pertains. Meanwhile, by 2010, the "Dutch Sandwich" had been eliminated from the OECD "base erosion profit shifting" (BEPS) anti-transfer pricing of IPR scheme. The Irish Finance Minister then raised the stakes with a sporting analogy, advocating wearing a "Green Jersey" invoking yet another tax haven interlocutor. By 2017, reports indicated the Single Malt was rapidly replacing the Double Irish tax avoidance manoeuvre. Given the six-year grace period before closure it was widely known that the likes of Apple, Google, Facebook and Pfizer *inter alia* had lined up replacements in the form of capital allowances for intangible assets, profit shifting (BEPS) tools alongside Section 110 SPV, Qualifying Investor Alternative Investment Fund and the most popular Irish Collective Asset-management Vehicle zero-tax legal structures, strengthening Ireland's tax haven notoriety. In 2017, a University of Amsterdam study estimated that the IFSC was one of the world's largest conduit offshore financial centres for facilitating global corporate tax avoidance (Zucman, 2015).

Conclusions

It is clearly worth noting that the EU and OECD have been among the most significant regulatory institutions with an active interest in reducing the presence of tax havens and their clusters in the worlds they respectively oversee. Space does not permit other than a vignette of one of the former's initiatives to support the latter's longer-established actions

but a quite balanced review by the Brookings Institution is useful (Collin, 2020). Reviewing the EU's list of non-co-operating jurisdictions in support of the OECD's review of BEPS activity.

Collin concluded the EU's listing "moved the needle" somewhat but was only a modest success. This is because of its reluctance to sanction its own members or large economies like the USA. Data on FDI and offshore banking assets suggest listed jurisdictions did not suffer notably from being named and shamed.

So, for the genesis of the Delaware (and Its Wilmington epicentre) inter-state rivalry and the "dark" reputation of, in particular, New Jersey led to regulated "reversibility" that undermined New Jersey's lax and predatory business incorporation advantage. In De Landa (2019), "amorality" as a cognitive value is an allowable sentiment in "assemblage". As a traditionally weak "agentic" parastatal actor, Delaware nevertheless usurped New Jersey, also shaping a financial agency "singularity" out of its "agentic" Du Pont "chemoscape" monoculture. A Du Pont heir Delaware state-governor subsequently innovated legalised US "anti-usury" conventions in the 1980s. At the start of Ireland's tax haven story, Apple established two Irish-incorporated companies as part of the Apple holding: Apple Sales International and Apple Operations Europe. The profits recorded by these two offices were assigned to a "head office" which did not exist. Accordingly, they were not subject to tax in any country and the after-tax $30m–$40m (to the Irish Revenue) residue (of $230m) had "disappeared", or in O'Toole's (2021) words "[. . .]. a new kind of unknown known [. . .] about profit rates and companies that were not companies and magical money that could be everywhere and nowhere" (p. 496). In both cases, turning historic, even anti-colonial status, uneven development and finally freedom to develop "competitiveness" in terms of tax "arbitrage" among competing jurisdictions super-heated the growth prospects of Delaware and Ireland.

The "Schrödinger's cat" or "quantum space" analogy is apposite in more than one way for these two (and other) tax haven statuses. Firstly, it designates a space which is not really a "space of stocks" so much as a "space of flows". In other words, such spaces represent a missing reality in which the "real" economy operates elsewhere, while its fruits "flow" to or through the tax haven. This cannot be regulated into normality because there is no political will, and it also cannot be regulated from outside because it is sovereign territory. Secondly, its status is quantum-like from the quantum analogy that says – like Schrödinger's cat – that it is both present and absent at the same time. This can be expressed as the coin that is flipped to find out whether it is heads or tails, but during the toss it is neither, a quantum result. As the quote from Fintan O'Toole's book repeats it was "[. . .] magical money that could be everywhere and nowhere"(O'Toole, 2021).

The key question in the analysis of what is a nascent, emergent implication of this form of economic jurisdiction in neoliberal times when markets rule politics, authoritarianism is on the rise and those who can just want to get rich is an old one – "Cui bono?" – Who benefits? Both our tax haven studies were once poor and are now rich. But what of the tax revenue that made them rich, and what about the citizens of those tax havens who remain deprived, jobless or homeless because the tax income foregone has deprived their public budgets of necessary investment in their citizen's needs? One might also conceive the result as a Faustian bargain where, as a reminder, a Faustian bargain is a pact whereby a person trades something of supreme moral or spiritual importance, such as personal values or the soul, for some worldly or material benefit, such as knowledge, power or riches. Competitiveness through the arbitraging of competitive and aggressive taxation regimes needs regulation to create even playing fields, not the

descent to the lowest competitiveness denominator, volatility and capital flight to the next safest haven.

Glossary

B. McK (Baker McKenzie); BEPS (base erosion profit shifting); CFC (controlled foreign company); CPT (corporate profit tax); DEC (Digital Equipment Corporation); EY (Ernst & Young); FCDA (Financial Center Development Act); FDI (foreign direct investment); HQs (headquarters); HP (Hewlett-Packard); IDA (Industrial Development Authority); IFSC (International Financial Services Centre); IPR (intellectual property rights); KPMG (Klynveld Peat Marwick Goerdeler); M&T (Manufacturers and Traders Trust Bank); PEP (profit per equity partner); PwC (Price Waterhouse Coopers); RPL (revenue per lawyer); SPV (special purpose vehicle);VAT (value added tax)

References

Bhaba, H. (1994), *The Location of Culture*, Routledge, London.

Bogdanich, W. and Forsythe, M. (2022), *When McKinsey Comes to Town*, The Bodley Head, London.

Braunerhjelm, P. and Feldman, M. (Eds) (2006), *Cluster Genesis*, Oxford University Press, Oxford.

Collin, M. (2020), *Did the EU's Attempt to Name and Shame Tax Havens into Behaving Better Work*?, The Brookings Institution, Washington, DC.

Cooke, P. (2023), "The dark side of KIBS agency, the creative economy", *And Sustainability Implications Journal of Open Innovation, Technology, Markets and Complexity*, Vol. 9.

Cooke, P. (2024a), "Rogue auditors: dark motivations of the Big 4 accountants in regional sustainability and the creative economy", *European Planning Studies*, Vol. 32.

Cooke, P. (2024b), "Questionable relations: on financial violator 'assemblages' in the global economy", *European Planning Studies*, Vol. 32.

De Landa, N. (2019), *A New Philosophy of Society: Assemblage Theory and Social Complexity*, Bloomsbury, London.

Deleuze, G. and Guattari, F. (2004), *A Thousand Plateaus*, Continuum, London.

Donnelly, P. (2013), "How foreign firms transformed Ireland's domestic economy", Irish Times, 13 November, available at: www.irishtimes.com/business

Fraccaroli, N., Regan, A. and Blyth, M. (2023), "Brexit and the ties that bind: how global finance shapes city-level growth models", *Journal of European Public Policy*, doi: 10.1080/13501763.2023.2176531.

Gain, V. (2022), "Apple has a new engineering and test facility at its cork campus", Silicon Republic, 26 April, available at: www.siliconrepublic.com/business/apple-cork (accessed 21 April 2023).

Gibson, W. (1963), *Pattern Recognition*, Penguin, London.

Jones, C., Temouri, Y. and Cobham, A. (2018), "Tax haven networks and the role of the Big 4 accountancy firms", *Journal of World Business*, Vol. 53 No. 2, pp. 177-193.

Lazzeretti, L., Sedita, S. and Caloffi, A. (2014), "Founders and disseminators of cluster research", *Journal of Economic Geography*, Vol. 14 No. 1, pp. 21-43.

Lénártová, G. (2020), "The economic and social consequences of tax havens in the world", *SHS Web of Conferences*, Vol. 83, p. 1041.

Mazzucato, M. and Rawlinson, R. (2022), *The Big Con*, Penguin, London.

O'Boyle, B. and Allen, K. (2022), *Tax Haven Ireland*, Pluto Press, London.

O'Toole, F. (2021), *We Don't Know Ourselves*, The Bodley Head, London.

Sadek, N. (2022), “Delaware is everywhere’: how a little-known tax haven made the rules for corporate America”, June 27, ICIC, available at: www.icij.org/inside-icij/2022/06/delaware-is-everywhere (accessed 28 January 2023).

Shaxson, N. (2011), *Treasure Islands*, Vintage, London.

Sheehy, P. (2020), “Apple is to create 500 jobs at Cork plant”, RTE News, 19 April, 2023, available at: www.rte.ie/news/player/2012/0419 (accessed 21 April 2023).

Soja, E. (1996), *Thirdspace: Journeys to Los Angeles and Other Real-and-Imagined Places*, Blackwell, Oxford.

Thelen, K. and Mahoney, J. (2010), *Explaining Institutional Change: Ambiguity, Agency, and Power*, Cambridge University Press, Cambridge.

Wayne, L. (2012), “How Delaware thrives as a corporate tax haven”, *The New York Times*, June 30, available at: www.nytimes.com/2012/07/01/business/how-delaware (accessed 31 January 2023).

Weitzman, H. (2022), “What’s the matter with DE?”, *How the First State Has Favoured the Rich, Powerful and Criminal — and How It Costs Us All*, Princeton University Press, Princeton, NJ.

Zucman, G. (2015), *The Hidden Wealth of Nations: The Scourge of Tax Havens*, Chicago University Press, Chicago, IL.

Further reading

City of Wilmington (2019), “Comprehensive annual financial report”, Wilmington, Department of Finance, available at: www.wilmingtonde.gov/ (accessed 31 January 2023).

Freedberg, S., Armendariz, A. and Escudero, J. (2021), “How America’s biggest law firm drives global wealth into tax havens”, International Consortium of Investigative Journalists, ICIJ.

Luong, H.-P. (2021), *The Use of Tax Havens by Firms in Business Clusters*, Aston University, Birmingham.

Corresponding author
Philip Cooke can be contacted at: CookePN@cardiff.ac.uk

For instructions on how to order reprints of this article, please visit our website:
www.emeraldgrouppublishing.com/licensing/reprints.htm
Or contact us for further details: **permissions@emeraldinsight.com**