

Conquering Hong Kong and Dubai: A Conversation With Virginia La Torre Jeker

by Nana Ama Sarfo

For the Love of Tax is a regular series appearing in *Tax Notes Federal*, *Tax Notes State*, and *Tax Notes International* that invites practitioners and other tax professionals to share what attracted them to the tax field and the things they find most fulfilling about the work they do.

In this installment, *Tax Notes International* contributing editor Nana Ama Sarfo interviews tax attorney, professor, and children's book author Virginia La Torre Jeker about her path from New York to Hong Kong to Dubai, where she has established herself as a top attorney for U.S.-related tax issues.

If you pick up the June 2011 edition of *Harper's Bazaar Arabia*, you will find tax attorney Virginia La Torre Jeker channeling Audrey Hepburn vibes in opera gloves and an elegant red shift, posing gracefully in a full-page spread.

La Torre Jeker, who works out of Dubai in the United Arab Emirates, has made a name for herself as a go-to expert for U.S. tax issues. Her musings are in *The New York Times*, *The Wall Street Journal*, *Newsweek*, and her wildly popular blog US Tax Talk. She's been one of *Forbes's* top 100 tax Twitter accounts for four years running.

But La Torre Jeker is a creative, too. Vintage clothing and "upcycling" are her currency — she never throws anything away, especially not the decades of jewelry and dresses she inherited from her aunt and grandmother. *Harper's*, which highlighted La Torre Jeker in a "Fabulous at Every Age" feature, wrote that La Torre Jeker has one of the most fascinating wardrobes into which the magazine has ever delved. It wouldn't be a stretch to call her the best-dressed attorney in Dubai.

La Torre Jeker, who has worked in Hong Kong and Dubai for the past 35 years, has a particularly fascinating career. She never intended to work

internationally; life just nudged her in that direction. But it's a direction she has embraced wholeheartedly, having toggled between law firms, the Big 4 accounting firms, banks, university teaching, and writing children's books before ultimately opening her own Dubai-based practice, VLJ US Tax Advisory.

La Torre Jeker's story begins in New York City, where, as a tax associate at Willkie Farr & Gallagher LLP, she happened to meet a Swiss banker working in New York. They met six weeks before he was to return to Europe. Within those days they fell in love, got engaged, and La Torre Jeker eventually left the United States to be with her now-husband.

The pair decided they would move somewhere new and start afresh, but they had strict parameters — La Torre Jeker's sole requirement was that they move to an English-speaking country where she could practice tax law.

"It was a very tall order, but when I spoke to headhunters they said to me, the place where you should look is Asia. It might work for the both of you. And they said look particularly in Hong Kong. So that's what I did," La Torre Jeker told *Tax Notes*.

In 1986 La Torre Jeker and her husband set off for Hong Kong, where she landed at Coudert Brothers. At the firm, she handled a slew of international tax matters: international tax planning for U.S. expats, non-U.S. people with U.S. investments, individuals with dual-nationality family members, and foreign businesses expanding to the United States. She found the work fascinating but difficult because her knowledge base mostly revolved around U.S. domestic tax law. She had to learn the numerous U.S. tax regimes and rules applicable in the international context.



Virginia La Torre Jeker

La Torre Jeker left the law firm when she became a mother and decided that she wanted to do part-time tax work. But it took her some time to find her bearings and the right niche.

“Back in the ‘80s, this was not an easy thing to do. Part-time/flex-time in law was simply not done. And I remember it was really difficult. Nobody was interested,” La Torre Jeker said.

“At that time, there were only a handful of professional women in the U.S. international tax world and very, very few in Hong Kong in those early days,” La Torre Jeker said. “It was somewhat challenging to be accepted as a woman, and since I was working part-time/flex-time while raising our son, it seemed even more difficult to prove myself.”

But Deloitte Hong Kong was open to the idea. La Torre Jeker’s hiring partner was also a U.S. attorney and needed someone who could do legal writing and research because the accountants in the office did not have these skills. She immediately hired La Torre Jeker and from there, La Torre Jeker started to branch out and work for other companies as well.

“I was doing work for a trust company and learning about foreign trusts and how they work from a U.S. tax perspective. I was working with a small financial and advisory firm, a local law firm, and a financial and tax return preparation firm where we got fascinating, absolutely fascinating, work coming in. And I remember one of our clients was manufacturing toys in Hong Kong and we eventually took that company public. So, you know, the breadth of the work I was experiencing was excellent,” La Torre Jeker said.

La Torre Jeker also spent those years handling U.S. tax issues for HSBC and other banks, guest lecturing for the University of Hong Kong’s LLM program, and teaching business law for a CPA review course.

She took on many projects to build her reputation and gain knowledge. But her career shifted again in 2001 when her family moved to Dubai. She quickly found that she needed to reinvent herself.

“Nobody was interested in tax here. The UAE is a tax-free jurisdiction. Back in the day the sentiment was ‘What? U.S. tax? I haven’t filed in years.’ The IRS wasn’t on people who were overseas.”

In the years that followed, La Torre Jeker taught adjunct law courses at the American University in Dubai and the American University of Sharjah. But the Dubai market was much tougher to crack than that of Hong Kong.

“Dubai was essentially uncharted territory when I arrived in 2001. At that time, women were not often present in the professional workplace. It took a much longer time to build my reputation and standing in the UAE than it took in Hong Kong,” she said.

La Torre Jeker said she initially had some uncomfortable experiences at meetings — sometimes the men in the room would not acknowledge her as she gave her point of view, or they would text on their phones as she spoke.

“I remember one meeting when the male client demanded to see the law ‘written in the law book’ because he did not think I could possibly have had it right. The law book, i.e., the Internal Revenue Code, was duly produced and the poor client had to eat some humble pie,” she said.

“While such events were difficult to manage at the time, I always kept my composure.

Thankfully, things have changed, and I do not have any such experiences now.”

Then Bradley Birkenfeld happened. Birkenfeld, a U.S. banker who worked for UBS, blew the whistle on UBS in the early 2000s for enticing wealthy Americans to park their cash and assets at the Swiss bank to avoid paying U.S. tax.

“Everybody was scared and everybody suddenly needed a U.S. tax attorney. So here I was, as a tax attorney. And my practice just exploded,” La Torre Jeker said.

As business grew, La Torre Jeker relied on her international network. She leaned on her former Hong Kong colleagues to handle the tax return work while she handled the legal issues. There are many issues La Torre Jeker has publicly flagged over the years.

Accidental Americans

Many years ago, the idea that some U.S. citizens might be unaware of their citizenship status and their U.S. tax obligations seemed preposterous. Woe betide any individual who received a notice and demand for payment from the IRS and responded that she did not know she was a U.S. citizen.

“Back in the early days, the IRS had no concept of what an accidental American was. The predominant attitude was, how could someone not know they’re American or how could they not understand their tax obligations?” La Torre Jeker said.

The U.S. Foreign Account Tax Compliance Act fully exposed the extent of the situation. The law, which took effect in 2010, requires foreign financial institutions to turn over to the U.S. Treasury Department information about U.S. account holders and U.S.-held foreign entity accounts. In turn, those account holders must annually report their assets to the IRS.

But what is a “U.S. account holder”? It is a definition that has generated a considerable amount of controversy over the years. There are several indicia of U.S. status — for example, being born in the United States, having a U.S. phone number, and granting a power of attorney to a person with a U.S. address.

Over the years thousands of financial account holders caught under FATCA have declared that they are “accidental Americans” — most

commonly, people who were born in the United States but never resided in the country. For years, individuals subject to FATCA who had undisclosed assets had to pay penalties. As more accidental Americans began to emerge, the IRS realized it needed to become more lenient, and implemented programs that can forgive penalties for non-willful violations. In an unprecedented move, the IRS in 2019 created a new program, the Relief Procedures for Certain Former Citizens, allowing some accidental Americans to renounce their citizenship and exit the U.S. tax system without paying back taxes or penalties.

Based on her experiences with clients, La Torre Jeker believes the IRS needs to do more work educating people on what it means to be a U.S. taxpayer, and should fold mandatory tax education into the U.S. green card and citizenship application process.

“They give people green cards, but they never tell them they’re responsible for tax on their worldwide income. There are a lot of green card holders who have their money or a business wherever they are from. They think when they move to the U.S. they are only responsible for reporting their U.S. business activities or income, which is totally incorrect,” La Torre Jeker said.

“They come to me and they’re almost fainting when I’m trying to explain to them, ‘well, you have a controlled foreign corporation, I can tell you what that means.’ They can’t believe it; they think I’m from Mars.”

In some respects, taxpayers abroad now have more knowledge about their U.S. tax obligations — the IRS has made a concerted effort to share more information on its website. But even that has its limits, La Torre Jeker said.

“Sadly, you can’t rely on the IRS website. You can’t cite it as precedent, and you can’t cite the instructions on the forms. If it’s not published in the Internal Revenue Bulletin, it’s not authority for your position. So we have people who read something in an IRS publication and they think it’s right and it’s not. And then they rely on it and they have a problem.”

Another unexpected FATCA issue concerns foreign mutual fund holdings and other investment accounts, which must be reported. Often, U.S. taxpayers living abroad will invest in foreign mutual funds and other vehicles for

retirement purposes. However, the IRS classifies foreign registered funds as passive foreign investment companies, which means their gains are taxed as ordinary income at the highest possible tax rate, instead of a lower capital gains rate, and are subject to harsh interest charges. This puts U.S. citizens abroad at a disadvantage compared with their domestic counterparts. It's an issue La Torre Jeker has extensively discussed, and her findings have been cited twice in submissions to the U.S. Senate Finance Committee.

U.S. Tax Law and Sharia Law Collide

Imagine a scenario in which a U.S. taxpayer is preparing a will and wants to leave all his property to his wife, including property in the UAE. The client plans to rely on the full marital deduction, which would eliminate any estate tax liability. But there's a hitch: The client is Muslim but the wife is not, which means a UAE court would not honor the property transfer under Sharia law.

"So what happens? Does the person lose the marital deduction for that, let's say, \$2 million worth of properties? Because under Sharia law, it can't go to a non-Muslim; it's going to go according to the Sharia rules of inheritance. And it's not going to be the spouse," La Torre Jeker said.

It's a relatively simple scenario, with a not-so-simple resolution, and U.S. tax law and Sharia law do clash like this in several respects. This is an issue La Torre Jeker has flagged repeatedly, including in *Tax Notes*.¹

"I think the more important thing is for practitioners to have a heads-up — that if you've got a Muslim client, or are dealing with a transaction in a Muslim country, you may be facing issues with Sharia law that you're not really thinking through and that need to be examined," she said. "We may not have guidance yet from the IRS on what to do when the two conflict, but as a professional, you have to be prepared to back up

your position. This is an area sorely needing IRS guidance."

Blogging Her Brand

If you do a quick Google search for accidental Americans in Dubai or international tax attorneys in Dubai, La Torre Jeker's website and blog are some of the early hits. It's not by coincidence. Over the years, La Torre Jeker has amassed a loyal following of readers who flock to her tax blog for updates.

But the blog almost didn't get off the ground — as a solo practitioner, La Torre Jeker feared that clients wouldn't come to her if she gave information away for free. But she found just the opposite to be true.

"People were coming to me saying, 'we've read your blog, we read this, we read that — we want you to help us.' That was when I realized I needed to make it the best I could, as if it's a piece of work for a client, because it establishes you as someone who is professional and who is very knowledgeable. And that's the image you want to project. If some people do take the information and use it, you know, for whatever. That's OK."

Writing — and building community through her writing — is not new for La Torre Jeker. Before she started blogging, she wrote and published a children's book series called the *Benji* series. She got the inspiration in Hong Kong, shortly after the birth of her son Marc.

"I wanted him to have a special book about Hong Kong because that was where he was born and where he was growing up. So I started my own story for him based on traditional Chinese lovebirds."

The main character is a bird, Benji, who flies all over Hong Kong exploring the city but gets lost and winds up in the Hong Kong Botanical Gardens, where he runs into a boy named Marc — La Torre Jeker's son. Marc takes the bird home and they become best friends. In two subsequent books, the duo have adventures learning all about different Chinese festivals and explore all of Asia, from A to Z, La Torre Jeker said.

When La Torre Jeker's son started college at Northwestern University, he wound up meeting a classmate who had relatives from Hong Kong. Although she had only been to the city twice, she knew a lot about the city's landmarks, as if she had

¹ See La Torre Jeker, "Handle With Care: How Sharia Law and U.S. Tax Law Affect the Foundations Regime in the United Arab Emirates," *Tax Notes Int'l*, May 4, 2020, p. 529; and La Torre Jeker, "When Sharia and U.S. Tax Law Collide," *Tax Notes Int'l*, Aug. 21, 2017, p. 787.

been there many times. When La Torre Jeker's son asked his classmate how she remembered so much, she said her mom had bought her a book when she was little about a bird who flew all over the city. That book happened to be La Torre Jeker's book.

The books wound up taking on a second life after the massive Indian Ocean earthquake and tsunami in 2004, which claimed more than 227,000 lives across Southeast Asia. One of La Torre Jeker's friends put out a call for donated books to help restock libraries at schools and orphanages, and La Torre Jeker had more than 1,000 extra *Benji* books sitting at home. She donated them to Books for Asia, and the endeavor was so well received that it generated several press pieces and sparked further charitable-educational works for needy children in the region.

Conclusion

Looking back on her international career, La Torre Jeker says it essentially occurred by happenstance because she married a foreigner, left the United States, and had to learn international tax to continue her practice and manage her personal affairs.

Even though it happened by chance, the steps she took thereafter were anything but — every position La Torre Jeker took and opportunity she accepted enabled her to build up her skill set and equip her for the practice she owns today.

"International tax, I learned over time, is an area that will enable you to go anywhere in the world and you will be needed. And your expertise will be in demand and respected, and there are figuratively just a handful of people that have that knowledge," La Torre Jeker said.

"The best part is that I love practicing international tax and have done so for over three decades. Over the course of this journey, I have learned that while an awful lot is indeed happenstance, hoping for luck and the magic of serendipity can't ever replace proactivity and hard work," she said. ■

Call for Entries:

Christopher E. Bergin Award for Excellence In Writing

Tax Notes is pleased to announce the opening of its annual student writing competition, renamed in honor of the late Christopher E. Bergin, longtime leader of Tax Analysts, the publisher of Tax Notes. This global competition enables winning students to publish a paper in Tax Notes' weekly magazines and receive a 12-month online subscription to all three magazines.

Submissions are judged on originality of argument, content, grammar, and overall quality.

- Students should be enrolled in an accredited undergraduate or graduate program during the 2019-2020 academic year.
- Papers should be between 2,500 and 12,000 words and focus on an unsettled question in tax law or policy.
- Papers must not have been published elsewhere.
- Deadline for entries is June 30, 2020.

For additional guidelines and to submit a paper, go to:

taxnotes.com/students

Click on "Submit your paper."

Questions may be emailed to:

studentwritingcomp@taxanalysts.org

taxnotes[®]