

## The Taxcast, February 2022 transcript

“Hello and welcome to the Taxcast, the Tax Justice Network podcast. We’re all about fixing our economies so they work for all of us. I’m your host, Naomi Fowler. You can find us on most podcast apps. Our website is [www.thetaxcast.com](http://www.thetaxcast.com) If you’re on twitter, we’re on @thetaxcast. If you want to make sure you’ll never miss a Taxcast, just email me on [naomi@taxjustice.net](mailto:naomi@taxjustice.net) and I’ll put you on the subscriber’s list. Let me know what you think of the show. Coming up later:”

“As each day went by, it became more and more obvious that I was a victim of a huge scam. How any of them can sleep straight in bed at night, I have no idea.”

Naomi: “We’ll hear how a pensioner was robbed of his dream retirement – he tells of his fight for justice. But first I’m joined by the Tax Justice Network’s Rachel Etter-Phoya who has some very sad news. Rachel?”

Rachel: “Yes, today I’ve got a deeply tragic story to share about a Malawian hero, a tax collector. Over a year ago, Alinafe Bonongwe was moved by the Malawi Revenue Authority to a border post in central Malawi. He was appointed the Station Manager in what we understand was a bid to clean up corruption. Dedza Border Post is on the Malawi-Mozambiquan border. Loads of trucks cross the border each day. They bring fuel and goods that have landed at ports in Mozambique and South Africa. Smuggling, tax evasion, bribery and fraud are huge problems at our borders. And stories are rife of collusion between traders, big business people, police and tax and customs officials. The Malawi Revenue Authority’s been trying to stamp this out and make sure revenue is not stolen from the people. And this is where Alinafe comes in. He was a family man in his early 40s, Nafe was doing his job well, honestly and bravely at Dedza border post. As we understand it, he was closing in on some powerful and politically connected business people involved in Malawi’s trucking and trade businesses. Last year, people attempted to tarnish his image on social media. That was presumably an attempt to have him removed from his position. It didn’t work, didn’t deter Alinafe in his quest for justice. Then Alinafe started to receive death threats, and earlier this month, Alinafe was murdered.”

Naomi: “That’s a terrible loss for Malawi.”

Rachel: “Yes. The Malawian President paid tribute to him, he described Alinafe as a “warrior of justice” who stood up to lawless and corrupt cartels in defence of our national treasures.”

Naomi: “Yeah and it’s when we lose such good, honest people, we realise how important they were, not just in the work they were doing but for the heart and soul of a country.”

Rachel: “Yes, so important and all over the world, just as here in Malawi, tax collectors are undervalued, they’re taken for granted, and they’re so often poorly paid aren’t they? That really must change. When we lose people like Alinafe, it becomes crystal clear how much they’re the life blood of our nations. So, we offer our heartfelt condolences to Alinafe’s family and colleagues. And as the Malawi Revenue Authority has said in his honour, ‘The fight will continue. You have not died in vain Alinafe.’”

Naomi: "Thank you Rachel. The Tax Justice Network's Rachel Etter-Phoya in Malawi. Now it's time for the Taxcast special feature. We know that so-called 'blue collar crime' tends to get all the attention. But white collar crime is seen as somehow more acceptable, less serious - they're men in suits after all – well, they're usually men! In this Taxcast special feature, we'll hear the experiences of one pensioner's fight for justice, in multiple jurisdictions. Since there are various legal proceedings in process, and still to take place, we're going to call him *our* pensioner. Here's his story:"

Pensioner: "I was in the fortunate position of being able to retire relatively early and it had always been a long term ambition of ours to try and live permanently in the sunshine somewhere. We had always put in motion the process of emigrating to the States, we'd already bought a plot in Southwest Florida. So that was where it all started, and then talked to my UK accountant and said you know, what do I do now about pensions? And they said, well, you know, there are such things as these QROPS..."

Naomi: "QROPS is a special pension arrangement. It stands for Qualifying Recognised Overseas Pension Scheme"

Pensioner: "Basically it's available to any overseas citizens who have worked and lived and have earned a pension in the UK, who then when they go back to their motherland, can transfer their UK pension into one of these QROPS. So, one of the things that came to light in the early stages when we were going through the process with an American lawyer to get our green card sorted, was we needed to be careful that we didn't get caught in the trap of being taxed in two separate jurisdictions. They were specialist immigration lawyers, he said, I do know that there are other Brits who have taken out QROPS because there's a double taxation treaty between the UK and the US with Malta. So he said, we've got quite a few of our green card holders who have got pensions based in Malta because of this double taxation treaty and he said you know, it seems to work fairly well."

Naomi: "If you're getting a sinking feeling at this point, as our pensioner says, hindsight is a great thing."

Pensioner: "So on the back of that, I did some Google research and this was in the early days of Malta having been granted status by HMRC"

Naomi: "HMRC is Her Majesty's Revenue and Customs, the British tax authorities."

Pensioner: "and I think I'm right in saying that my pension provider was one of the first, or if not, the very first to be granted a licence by the MFSA to operate or administer a QROPS."

Naomi: "The MFSA is the Malta Financial Services Authority. Remember that, it'll come up later."

Naomi: "Did you know at the time when you started this whole business, did you know much about Malta as a jurisdiction?"

Pensioner: "No. Well, no. I mean, the, the ironic part is that when the subsidiary company was granted the MFSA licence, the MD of the parent company said, 'anybody that decides

to come with us can rest assured that as Malta is a full member of the EU, they will be fully protected by EU law and consumer protection, and I thought, yeah, you know, safe as houses, aren't we?!

Naomi: "Very reassuring!"

Pensioner: "Yes! Because this was a new venture in Malta, they had set up a contract with the Maltese shell companies to have all the administration of the Maltese pension provider supplied by one of their subsidiary companies in the UK. They were a UK FCA-regulated company, so that bit you know, stacked up, except that, of course, when it all started to go belly up, it transpired that this service administrative company was *not* FCA-regulated at all. It was registered in the UK, but was *unregulated*."

Naomi: "The FCA is the UK Financial Conduct Authority, the regulator for financial services. So, we've got two jurisdictions so far – Malta and the UK. Now enter Stage Right – the Independent Financial Advisor, the IFA:"

Pensioner: "I then obviously looked to see, try and find a pension advisor who was specialised in QROPS. Um, this name came up, did my research on that. He'd said at the outset that he was CII-qualified and he was FCA regulated, He claimed that had G60 advanced pension transfer qualifications, and the MD of the parent company in the UK, he'd been on various pension advisory boards, his CV you know, gold-plated in theory, as were the people involved in his Maltese company, you've got a former ambassador, who was a lawyer and specialised in financial services, so I, like the hundreds of others who eventually got sucked in, thought, well, this is the way to go. So anyway, the money got transferred and we moved to the States and so a policy was opened by my trustee company in Malta with one of the big insurers in the Isle of Man, all of whom assured me that they had done due diligence on my advisor. On paper, everything looked hunkydory."

Naomi: "So, now we've got Malta, the UK *and* the British Crown Dependency of the Isle of Man. And of course, the IFA, the Independent Financial Advisor:"

Pensioner: "My IFA assured me that the list of investments that he was going to put in my portfolio were all low risk, which I said, well, you know, I worked really hard to accumulate it, so I don't want to be speculating, so low risk is absolutely fine. He said, no, no, I assure you that everything will be low risk and this, that and the other."

Naomi: "So, our pensioner retires, and he starts living the dream in Florida. But only a year later the first 'low risk' investment in which his pension was invested went belly-up – that's now subject to legal proceedings involving the UK's Serious Fraud Office. That was soon followed by more of these supposedly 'low risk' investments going bad."

Pensioner: "Then there was another one and then another one and another one, and I started to ask my highly qualified IFA, you know, what was going on? And he said ah, don't worry about it. He said, all these are sound, it's just they've got cashflow problems - all sounded plausible, you know. And he said, you know, some of the funds are regulated by the Isle of Man FSA and so I said, okay. Anyway, I, I just had a gut feeling then that all was

not as it should be and I started to ask pointed questions of my IFA and he was being ever more devious in the replies I was getting. Out of the blue he said, I am resigning as your IFA and I wish you luck, but I will not now enter into any further correspondence with you. And at this stage, you know, I was relying on him for information as to what was going on with the suspended funds. Well, I obviously went back to my QROPS provider in Malta and said, you know, what is going on? And I also, at the same time sent an email to the admin provider in the UK because at that stage they were still contracted to provide all the administration for the QROPS in Malta. So they both acknowledged and said, 'oh, you know, we're sorry to hear this, leave it with us.' And I did leave it with them and they're *still* dealing with it!"

Naomi: "Our pensioner turned detective. He discovered that his IFA – Independent Financial Advisor had been suspended by the Chartered Insurance Institute for quite some time."

Pensioner: "And the FCA meantime had also confirmed that the IFA had never, ever been regulated by them either as an individual, the various companies which he had set up in various jurisdictions, none of which were regulated anywhere, some of which weren't even registered, he'd just made up a company name and given an address in Italy, and it then transpired much further down the line that all these addresses that he'd given were just accommodation addresses. Um, but anyway, hindsight's a wonderful gift, isn't it?!"

Naomi: "It is indeed. Scammers do use accommodation addresses, they open letterbox companies in the UK, they trade on Britain's supposed respectability and trustworthiness! We've reported before on the Taxcast about the kind of 'wild west' of Scottish and English limited partnerships. And then Companies House, the UK companies registry is an open joke."

Pensioner: "So, I mean, this guy's been operating for a long, long time and has scammed millions and millions and millions in fees and conditions and god knows what, facilitated and enabled by the insurers and indeed by HMRC because, you know, I've been backwards and forwards with HMRC for goodness knows how long saying, how can you allow these registered companies to still be operating when the UK Treasury last summer put Malta on its red list as being a jurisdiction which needs treating with great care? 1Nothing to do with us!"

Naomi: "Our pensioner didn't take all this sitting down:"

Pensioner: "So I then contacted a law firm in the UK because that stage all the administration was still being carried out by the unregulated company in the UK. They, in fairness, were very, very diligent, which is how so much of this information I think I've already shared with you came to light about the use of 14 different addresses, the fact that he was never, ever regulated in the UK. He denied that he'd lived in the UK, but in fact, he was on the electoral register. Um, they used trace agents, you know, the whole nine yards. And of course, as each day went by, it became more and more obvious that I was a victim of a huge scam."

Naomi: "Just as it looked like he was getting somewhere, possibly the worst news of all came from our pensioner's lawyers:"

Pensioner: "My UK lawyer said, 'look, although this contract between the QROPS in Malta and the administrative company in the UK says that the contract had been drawn up in accordance with English law, the reality is that - and they took advice from a barrister - because the trustees were based in Malta, the jurisdiction lay in Malta. So it was at that stage that I then appointed the lawyer in Malta to represent me, who has been an absolute star, I have to say, and then he submitted judicial papers as they call it in Malta to the courts to start a litigation case against the QROPS provider in Malta. And he said, I'll tell you now, this will drag on for years, it will end up eventually in the European courts, because he said, everybody here is a friend of a friend of a friend, they have got their friends in all the places where they need them to be, to ensure that what happens in Malta, stays in Malta."

Naomi: "That is exactly the situation in other small island jurisdictions that we've come across where the conflicts of interest are ridiculous, it's the same thing that you've experienced, so it's really interesting."

Pensioner: "Yeah, and it's the same in the Isle of Man. Because the insurers are based in the Isle of Man I've submitted complaints to the Isle of Man constabulary, the Isle of Man FSA, the Isle of Man financial ombudsman service. And it's the same with the FCA. They all say, well, no, no, I hear what you're saying, but the jurisdiction is in Malta, so they know what's going on, but they just don't want it to stick with them do they? It's the classic 'we'll pass the parcel until the music stops, and hope it doesn't stop with us!'"

Naomi: "So, I mean, you've got a lot of evidence which you've collected. There's a lot of litigation and a lot of processes that you've gone through. You've tried to pursue justice with HRMC, Her Majesty's Revenue and Customs, the Financial Action Task Force, Malta's Financial Services Authority, the Financial Conduct Authority, you've been to your Member of Parliament, you've been to the police, how would you describe the process of trying to get some kind of justice or some kind of accountability?"

Pensioner: "Um, character building!"

Naomi: "And then, our pensioner unexpectedly discovered he wasn't alone."

Pensioner: "We had an email from the QROPS provider in Malta, where inadvertently, they had put 30-plus people in copy rather than putting us all in blind copy, which was an update from the liquidators of one of the Isle of Man failed funds basically telling us, you know, good luck with this, you're gonna get, you know, half or nothing! I assumed I was no longer the only one who'd been caught up in this, but the provider obviously was desperate not to let it out that there were between 60 and 70 members of just this one QROPS provider who had been advised by this now absconded IFA."

Naomi: "So you, you got in touch with each other because you realised there were other victims in the, the email chain?"

Pensioner: "Yes, once this infamous email was shared amongst us, myself, and one other sort of have started basically an action group, for want of a better term. And I got in touch with them and said look, I've, you know, had lawyers in the UK on it since 2017, a lawyer in Malta on it. We're just part of an absolute huge scam in many, many different jurisdictions. And we've been sharing..."

Naomi: "Horror stories?"

Pensioner: "Oh, yeah, horror stories is the right way to describe it!"

Naomi: "Can I ask you, I mean, you don't have to answer this at all, but can you give an idea of what you've lost personally?"

Pensioner: "Personally, well, over a million, well, over a million. I hope to goodness, in one respect, you know, I am one of the biggest losers. Fortunately it hasn't brought us to our knees. I mean, we've had to move back to the UK, but I mean, I haven't lost everything."

Naomi: "Do you know, I mean, you've been in touch with some of the people that were involved in the same scam that you were, do you know any of their stories?"

Pensioner: "Oh, heartbreaking. I, I, I mean, there's one lady who was a nurse and is still working as a nurse in the States and she said 'I can't afford to envisage taking out legal action against them because of the legal fees involved.' And I mean, that is heartbreaking. There is somebody who died destitute in Spain because he had been scammed out of everything, his house had been repossessed and he died just days before the bank was gonna take the keys from him. I've shared that with the MFSA and with the police and everybody in Malta saying, you know, how can you allow this to happen and not take action? And the reality is because so many of those people involved are high up in government circles, have been former MPs, are former ambassadors and so on, and they're all just looking after themselves. Truly scandalous."

Naomi: "So in terms of, I mean, in one sense you could look at this as a story about Malta being a really bad and unsafe jurisdiction to do business. However, you could *also* say, this is also a story about lack of enforcement in *many* jurisdictions, so you're talking about the Isle of Man, you're talking about the UK where the company was registered there and actually, that wasn't safe either. So this is not just a story about 'don't put your money in Malta!'"

Pensioner: "No, oh no, no! And it's basically stick it under your mattress and look after yourself, because all these people that are meant to be batting for you aren't interested, or are incapable, or dare I even suggest it, perhaps facilitating because of the benefits they receive. I mean, certainly that's the case in Malta, and I'm increasingly convinced the same as in the Isle of Man, because you've got exactly the same scenario - small island, heavily reliant on financial services, they all know each other, all the auditors will know each other, all the insurers will know each other. And when I've got literally thousands and thousands and thousands of pages of documents, how *any* of them can sleep straight in bed at night, I have no idea."

Naomi: "I don't know either, and here's a question for you - how would you sum up - what is the Malta Financial Services Authority *for*?"

Pensioner: "Um, to cover the tracks of the criminals who are operating there."

Naomi: "I thought you might say something like that! And the conflicts of interest run beyond a small island culture where everyone knows everyone – in the Isle of Man for quite some time the insurance industry regulator *also* had a remit to *promote* the industry! That would cast some doubt on the proper assessment of new applicants wanting to do business there. Now, I know there are good people who work hard for regulators and they try to do the best they can – but we see time and time again that regulators are understaffed, underinvested in, and they often have no teeth. So far, neither the regulators nor law enforcement in the Isle of Man, in Malta or in the UK have dealt effectively with the *criminality* involved in our pensioner's case:"

Pensioner: "I've identified 50+ breaches in law - one of which clearly states that where, um, you can show that the regulated body has wilfully neglected to protect your interests they are obliged to reimburse you for the losses you have incurred. You know, it's there in black and white. All the MFSA has done so far, they've concentrated on the regulatory breaches. They've ignored all the criminal breaches because of course, if they actually go that way then of course it opens up a huge, huge can of worms. And one of the other big things that's been relevant to our scheme is that they have refused to confirm whether they have indemnity insurance, and the MFSA have not confirmed whether they have or haven't. And I fear the fact that nobody is saying so is that perhaps they have, but the insurers are saying well, you know, we're not gonna pay out on this because you've been naughty boys, haven't you?!"

Naomi: "Yeah. Yeah. That's very likely!"

Pensioner: "Well, I would think it's very, very, very likely!"

Naomi: "Our pensioner had early hopes that the Maltese Police might investigate the criminal aspects of his case. After a long wait, his lawyer had a go:"

Pensioner: "They said that they've been investigating, you know, and they clearly hadn't. He said, well, you know, it's up to you because if you don't fulfill on the report that you said you were going to make, then I'm gonna just take it to the European court of law because my client's human rights to justice are being denied. Within an hour, he had an email back from the Assistant Commissioner who is in charge of financial crime saying you will hear shortly from superintendent so-and-so, on progress that we are making. We are still waiting. I think this will be the end of Malta as a jurisdiction for pensioners because none of the insurers will now touch it with a barge pole, they won't be able to get insurance for their indemnity liabilities."

Naomi: "What would you say to anybody, you know, to, I don't know, to yourself back then, when you were looking at pension options?"

Pensioner: "If I knew then what I know now, I would've just left my pension with the company. Um, the, the, yeah."

Naomi: "What do you think has happened to your money, and to the money of the other people who have been involved in this scam?"

Pensioner: "Somebody somewhere is living off it very, very nicely, one of whom, no doubt is my now absconded fraudster IFA and his family."

Naomi: "They're probably living in Florida!"

Pensioner: "Well, they quite probably are, you know, they may even have bought the house that we had to sell! You know, the IFA, his company, or his final company was registered in Panama, so he was having his fees paid into a Barclay's account in the Isle of Man, who no doubt have been sending the money to, you know, Panama or Cayman islands or whatever. And the Isle of Man have said, well, there's no reason for us to investigate because there's no evidence of criminal activity. And I said, well, excuse me, I think there *is* because you know, that money has been paid by Isle of Man-registered and regulated insurer's, money taken from our portfolios and you've been paying fees and commissions. And I mean, my fees for transferring into the policy initially were over 43,000 pounds. And then he's had commissions from all these high risk bonds and God knows what, it's staggering."

Naomi: "It *is* staggering."

Pensioner: "I've gone back to the head of the economic crime unit in the Isle of Man, I said, you've got to review this now because you can't now say this is just a regulatory matter. This is a criminal matter. I've spent more than £70,000 on legal fees so far, on top of the money I've lost. And this is why I'm doing so much myself, because if I'd been trying to pay lawyers to do it, you know, I'd want millions to gather the information and the evidence that I've got. But anyway, I'm not giving up!"

Naomi: "Thank you to our pensioner for sharing his story with us on the Taxcast, we wish his group of pensioners good luck in their ongoing battles for justice. We've seen so many times that *on the surface* so many jurisdictions *look* good. They've got coats of arms, official bodies with crests above their names, shiny office blocks, oak panelled meeting rooms, and glossy brochures. But when things go wrong, you *really* can't be sure they'll help you. That's it for this edition of the Taxcast. Thanks for listening. We'll be back with you next month."