

## Secrecy jurisdictions

We use the term secrecy jurisdiction to describe places that are popularly called tax havens. The places in question would prefer that they were called offshore financial centres or international financial centres. The difficulty with the terms tax haven, offshore financial centre and international financial centre is that no one has ever been able to define what they mean by these terms, so we created the alternative, and more accurate description 'secrecy jurisdiction'.

### What is a secrecy jurisdiction?

The definition of a secrecy jurisdiction is in three parts. This reflects the complexity of what they do.

Firstly, secrecy jurisdictions are places that intentionally create regulation for the primary benefit and use of those not resident in their geographical domain.

This is important. To be a secrecy jurisdiction a place must deliberately create law that can be used by people who are not resident in its own territory. Or, to put it another way, it must deliberately create laws that wholly or mainly relates to activities that take place 'elsewhere' as far as it is concerned.

Secondly, we say secrecy jurisdictions deliberately design the regulation they create for use by people who do not live in their territories so that it undermines the legislation or regulation of another jurisdiction.

Again, we think this important because. It's one thing to create laws that help people who are not resident in your country. As a matter of fact many countries will do that, to encourage tourism for example. The difference this part of the definition suggests is that this legislation has what we would consider malicious intent: it is designed to undermine the rule of law in another country. That is a serious allegation to make.

Thirdly, we argue that to assist those from other places who want to make use of the laws that a secrecy jurisdiction provides those secrecy jurisdictions also create a deliberate, legally backed veil of secrecy that ensures that those from outside the jurisdiction making use of its regulation cannot be identified to be doing so.

This last point is no minor issue: by suggesting this we are saying that secrecy jurisdictions knowingly assist people from outside their domains break the law in the places where they live and make it as hard as possible for that law breaking to be discovered. As such we are suggesting that those secrecy jurisdictions are complicit in the law breaking process.

It must be stressed that to be a secrecy jurisdiction all three of these characteristics must be present but that of the three the most important is the last. If a place created laws for the

benefit of those living in other places which undermined the laws of those other places but did not also provide a veil of legally backed secrecy then no one would make use of those laws because their guilt would be readily transparent. As such it is obvious that secrecy is key to what secrecy jurisdictions do – hence the name.

### Why are secrecy jurisdictions important?

Secrecy jurisdictions are important for these reasons;

1. The secrecy they provide facilitates all manner of illicit financial flows. Illicit financial flows include those relating to:
  - a. The proceeds of crime, including theft, fraud, racketeering, drug dealing, human trafficking and insider dealing;
  - b. Piracy;
  - c. Counterfeiting;
  - d. Corruption;
  - e. Tax evasion;
  - f. and much more.

As a result secrecy jurisdictions undermine the rule of law and as such threaten the stability of the world;

2. Secrecy jurisdictions undermine free trade by firstly assisting illicit trade and secondly by creating opacity which prevents the best allocation of the world's economic resources to productive activity, so reducing world income;
3. Secrecy jurisdictions undermine democracy by seeking to force down the tax rates levied by democratically elected governments. The ballot box is the proper place for these rates to be chosen;
4. Secrecy jurisdictions create opacity, and so mistrust and this increases risk in the world to the disadvantage of all.

### What we think about secrecy jurisdictions

Transparency is the basis of effective markets. We define transparency as existing when the following information is readily available to all who might need it to appraise transactions they or others might undertake or have undertaken with another natural or legal person:

1. Who that other person is;
2. Where the person is;
3. What right the person has to enter into a transaction;
4. What capacity the person has to enter into a transaction;

And with regard to entities that are not natural persons:

5. What the nature of the entity is;
6. On whose behalf the entity is managed;

7. Who manages the entity;
8. The scale of transactions the entity has entered into;
9. A clear indication of where the entity has entered into those transactions;
10. An understanding of who has actually benefited from the transactions;
11. Whether all reasonable obligations arising from the transactions are likely to have been properly fulfilled.

Secrecy jurisdictions deliberately make it very hard or impossible to determine any of these issues. As such they create opacity, and not transparency.

Transparency provides the following benefits:

1. The confidence needed to transact with another person within any state, and as importantly, between states. Since trade is fundamental to human well being transparency increases that well being for everyone;
2. Confidence in the rule of law;
3. Confidence in democratic processes;
4. Confidence that people – whether individuals or legal entities - are tax compliant where tax compliance is defined as seeking to pay the right amount of tax (but no more) in the right place at the right time where right means that the economic substance of the transactions undertaken coincides with the place and form in which they are reported for taxation purposes.
5. Confidence that these who transgress will be held to account.

This confidence improves the quality of life for everyone. It follows that secrecy jurisdictions, by promoting opacity, do the exact opposite.

## What we are doing about secrecy jurisdictions

We are tackling secrecy jurisdiction practices in a number of ways:

1. We're tackling them head on! In our blogs we challenge secrecy jurisdictions to be accountable almost day in, day out. See, for example, [www.taxresearch.org.uk/blog](http://www.taxresearch.org.uk/blog);
2. By promoting changes in domestic and international tax and regulatory systems that will increase transparency and reduce the impact of the opacity that secrecy jurisdictions create;
3. One such campaign is for country-by-country reporting within the accounts of multinational corporations – which would reveal what they do in secrecy jurisdictions. No one can find this out at present. See [www.taxresearch.org.uk/Documents/CBC.pdf](http://www.taxresearch.org.uk/Documents/CBC.pdf) and <http://www.taxresearch.org.uk/Documents/BenefitsofCBC.pdf>;
4. We also campaign for automatic information exchange with secrecy jurisdictions – so that they have to report to other states the income that is hidden in secrecy

jurisdiction bank accounts. See [www.financialtaskforce.org/issues/automatic-tax-information-exchange/](http://www.financialtaskforce.org/issues/automatic-tax-information-exchange/);

5. And we campaign for disclosure of the beneficial ownership of all companies, trusts, charities and foundations wherever they are in the world. See [www.financialtaskforce.org/issues/beneficial-ownership/](http://www.financialtaskforce.org/issues/beneficial-ownership/).

What we can say, without a doubt, is that this activity is having an impact. Without this work the whole focus on secrecy jurisdictions that has become so commonplace in the world's press in the last year or so would not have happened.

### Where you can learn more

A great deal of information about secrecy jurisdictions, what they are, what they do and what their impact is can be found on the [www.secrecyjurisdictions.com](http://www.secrecyjurisdictions.com) web site that Tax Research UK helped research.

This in turn was used to help create the Financial Secrecy Index [www.financialsecrecyindex.com](http://www.financialsecrecyindex.com) which the Tax Justice Network and Christian Aid sponsored.

The Tax Justice Network website is a mine of information on campaigning issues related to secrecy jurisdictions [www.taxjustice.net](http://www.taxjustice.net)

The web site of Global Financial Integrity is important on the issue of tackling illicit financial flows. [www.gfip.org](http://www.gfip.org)

The Task Force on Financial Integrity and Economic Development [www.financialtaskforce.org](http://www.financialtaskforce.org) also addresses these issues.

Individually and together these resources and the organisations that sponsor them spearhead the worldwide campaign against secrecy jurisdictions in the Tax Research UK also plays a part. [www.taxresearch.org.uk/blog](http://www.taxresearch.org.uk/blog)

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