

# Beneficial ownership avoidance: another case of law tha...

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Paul Beckett is an Isle of Man lawyer who is willing to argue against the hegemony of thinking in that island. He has [published an article](#) that explores the theme of what he calls 'beneficial ownership avoidance'. He summarises this as follows:

*In a post-2008 Great Recession world of increasingly complex criminality, corruption, doctrinal fanaticism and state terrorism, just as the distinction between legitimate tax avoidance and illegitimate tax evasion has been blurred, so the distinction between privacy and confidentiality on the one hand and secrecy and concealment on the other has ceased to resonate. Hence there has been a global initiative to identify beneficial owners. The new mantra is that "someone, somewhere must know who owns something or everything".*

*This essay focusses on the G20 High Level Principles on Beneficial Ownership Transparency ("Principles"), on State implementation responses (using the Isle of Man [1] as the example) and on how a very simple, inexpensive offshore device, the non-charitable purpose trust, can be used to render the application of the G20 principles legally impossible. The political will behind beneficial ownership disclosure measures may not be what it appears.*

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*The thesis is simple, but potent. Worldwide, efforts are being made to implement enforcement mechanisms for identifying the beneficial owners of companies (and other "legal persons" such as LLCs, Foundations etc.), and the policies driving this initiative are found in the Principles.*

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*The essay reviews just how effective (and sincere) implementation legislation is in practice, using the Companies (Beneficial Ownership) Act 2012 of the Isle of Man as a case study: politically expedient, but toothless in its application.*

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*Using an Isle of Man non-charitable Purpose Trust as a case study, the essay shows that in fact no enforcement mechanism — no matter how robustly crafted - will be of the slightest use if the structure under investigation has in fact no beneficial owner at all. When they get there, the cupboard is bare. This, by analogy with current tax enforcement thinking, is beneficial ownership avoidance.*

His point that the political will is lacking is, I think, accurate.

I argue that the loopholes are deliberate. This is yet another case of 'law for the little people' that is intended to 'make it look as though we are doing something'.

Paul's [article is here](#) and I think he is right to conclude:

*The G20 High Level principles on the beneficial ownership of companies are not fit for purpose. They are a paper tiger. They lack specificity as to how to define beneficial ownership, how effectively to gather data, and how to disseminate data broadly. They take no account of beneficial ownership avoidance structures, which simply stop the Principles dead in their tracks.*

*Lip service is being paid to these flawed Principles in the form of legislation itself hesitant and incomplete. At the same time, seemingly unobserved by the G20 but by no means underutilised, legislation promoting beneficial ownership avoidance is advancing apace, not merely in the tax haven micro nations, unchallenged.*