Fair Tax®

Identifying tax havens
– characteristics and 2023 Tax Haven Listing

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Background

In terms of corporate tax abuse and artificial profit shifting, the use of tax havens has been an area of high concern for civil society, institutional investors and the public in general for many years. The growth of tax havens and unethical corporate tax conduct have become prominent concerns across the world. With aggressive avoidance negatively distorting national economies and undermining the ability of businesses to compete fairly, both domestically and internationally.

> *Across the globe, close to 40% of multinational profits (US$970bn) are artificially shifted to tax havens each year, leading to a US$250bn reduction in corporate income tax revenue.*
>
> *https://missingprofits.world*

When multinational corporations artificially shift their profits to tax havens, they are able to avoid paying taxes in the countries where they actually have economic activity. This means that these countries are losing out on tax revenues that could be used to fund vital public services and infrastructure, and can lead to higher tax burdens on individuals and smaller businesses instead – contributing to global inequality.

Sometimes a business will use a combination of tax havens to shuffle money around the globe and exploit loopholes in the bilateral tax treaties between particular countries. So, for example, Google has in the past combined a 'Double Irish' and a 'Dutch Sandwich', with a zero-tax haven such as Bermuda as the final destination. There have even been instances of corporate profits becoming 'stateless' from a tax perspective: as was revealed in the Paradise Papers and with Apple's income flowing through Ireland.[i]

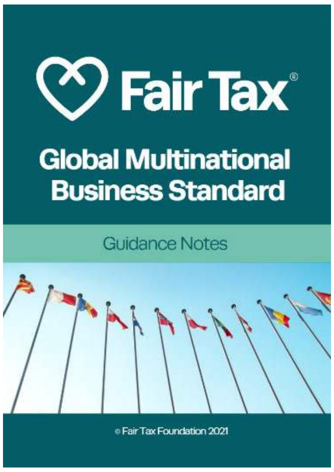
On the other hand, businesses should not be condemned for a legitimate commercial presence in a deemed tax haven jurisdiction. A business can demonstrate that it has genuine economic substance and value within a jurisdiction as we set out in our guide to public Country-by-Country Reporting.[ii]

How to identify a 'Tax Haven'

What is a tax haven? For many, the term 'tax haven' conjures up images of warm Caribbean beaches and palm trees, but there are plenty of colder climes that fit the description just as well – not least in Europe. In addition, the term 'tax haven' is increasingly taken to encompass secrecy jurisdictions – countries where a business can hide who its owners are, or which allow it to circumvent rules that would require it to disclose financial performance information elsewhere. It may be the case that a company is not seeking to avoid paying tax, but its owners are (which is why they are motivated to obscure their identities).

It may also be the case that a company has entirely legitimate reasons to be present in a tax haven: it might have its origins there, or have substantive economic activity on the ground, or have its incorporation in a low tax jurisdiction and its tax residency in a high tax jurisdiction.

The Fair Tax Foundation seeks to grapple with the complex question of definition with a view to encouraging Fair Tax Mark accredited businesses to be extra sensitive and transparent in connection with such jurisdictions.



The Fair Tax Foundation's Global Multinational Business Standard includes the following question:

"Does the business utilise tax havens as locations for either registration, subsidiaries or operations?"

Four points are awarded if the business does not utilise tax havens as locations for either registration, subsidiaries or operations.

Alternatively, four points are awarded if it is clear (from public Country-by-Country Reporting) that presences in deemed tax haven jurisdictions reflect genuine economic substance and value for the transactions within those territories, and that these transactions are taxed where value is added.

A tax haven is traditionally defined as a country or jurisdiction that offers favourable tax treatments to non-resident individuals and businesses. This obviously includes **various low- or no-corporate income tax rate jurisdictions** (e.g., the Marshall Islands and the Cayman Islands), but there are several other characteristics that need to be factored in.

- **Secrecy**. Jurisdictions that allow businesses to be incorporated with little or no public transparency on beneficial ownership or financial reporting are problematic, and often act as hubs for illicit financial flows. The United Arab Emirates and US Virgin Islands would be examples.
- **Harmful tax incentives**. Some jurisdictions may operate decent headline tax rates, but offer aggressive tax incentives that undermine these and encourage offshore structures and profit shifting, without the need for any genuine economic activity in that jurisdiction. Russia and Barbados would be examples.
- **Un-cooperative jurisdictions**. Some jurisdictions have failed to fulfil their commitments to comply with international good practice, and some countries have even refused to do so. A lack of international cooperation especially on information sharing between tax authorities acts as a break on efforts to counter money laundering and tax evasion. The British Virgin Islands would be an example.

Our considerations draw heavily on the work of others, especially that of the Tax Justice Network, and their Corporate Tax Haven Index and Financial Secrecy Index.[iii] We are very grateful for their work and fulsome co-operation. A full list of influential source material is detailed below.

- Tax Justice Network: Corporate Tax Haven Index 2021
- Tax Justice Network: Financial Secrecy Index 2022
- European Union: list of non-cooperative jurisdictions
- OECD: Harmful Tax Practices – Peer Review Results
- OECD's No or Only Nominal Tax Jurisdiction project
- Oxfam: general research and interventions

Fair Tax Foundation: Tax Haven Listing, 2023[iv]

Algeria	Gambia	Namibia
American Samoa	Gibraltar	Netherlands
Angola	Guam	Oman
Anguilla	Guatemala	Palau
Antigua and Barbuda	Guernsey	Panama
Aruba	Hong Kong	Puerto Rico
Bahamas	Hungary	Qatar
Bahrain	Ireland	Russia
Bangladesh	Isle of Man	Rwanda
Barbados	Jersey	Samoa
Belarus	Jordan	Seychelles
Belize	Kuwait	Singapore
Bermuda	Latvia	Sri Lanka
Bolivia	Lebanon	St Lucia
British Virgin Islands	Liberia	St. Kitts and Nevis
Brunei	Liechtenstein	Switzerland
Cameroon	Luxembourg	Thailand
Cayman Islands	Maldives	Trinidad and Tobago
Cook Islands	Malta	Turks and Caicos Islands
Costa Rica	Marshall Islands	UAE
Curacao	Mauritius	US Virgin Islands
Cyprus	Monaco	Vanuatu
Estonia	Montenegro	Venezuela
Fiji	Montserrat	Vietnam

The determination of tax havens is generally updated on an annual basis.

Note: related resources include:
- Global Multinational Business Standard (English and Spanish)
- Why focus on corporation tax?
- Public Country-by-Country Reporting explainer (includes template reporting table)
- Model tax notes
- Model tax policy

[i] The Irish Times (7.11.2017). Irish-based structure may still help Apple avoid billions in tax.
[ii] See https://fairtaxmark.net/why-get-the-mark/faqs/#1678724165766-530c1115-3d19
[iii] Absolute scores are utilised, not the weighted scores.
[iv] The "2023 listing" was originally published in June 2023. It was updated in August, with the addition of Bahrain after consideration of the OECD's No or Only Nominal Tax Jurisdiction project.