

What is a secrecy jurisdiction?

Every country in the world provides some sort of secrecy for non-residents, whether it be a basic failure to set up systems to exchange relevant information automatically with all other countries, or more deliberate targeted strategies to offer particular secrecy facilities.

Popular terms such as ‘tax haven’ and the more recent ‘secrecy jurisdiction’ – probably [coined](#) in the United States in the 1990s – are useful. These can be whole countries, dependencies of bigger countries, or even states within countries. We use the two terms interchangeably, depending on the context, and sometimes also loosely use the word ‘offshore.’ None is ideal, since none captures the full range of services that such places provide.

Rather than say ‘Country X is a secrecy jurisdiction,’ however, we prefer to emphasise the concept of a **secrecy spectrum**. The question of whether a location is a secrecy jurisdiction or not is largely a question of degree, and we leave it to others to decide.

This article does not offer hard-and-fast definitions, but instead suggests ways to think about them. (A longer, more technical [analysis](#) by Richard Murphy complements this analysis.)

The main facilities secrecy jurisdictions offer are:

- Secrecy, in various forms
- Escape from tax
- Avoiding financial regulations
- Avoiding criminal laws
- Escape from other rules of society, such as inheritance rules, litigation or corporate governance rules.

Drill down into these, and we reach two core elements.

The first is **escape**. These places offer the chance to evade scrutiny, tax, financial regulations, criminal laws, and so on.

The second is ‘**elsewhere**’ (hence the term ‘offshore.’) Secrecy jurisdictions provide facilities for non-residents, located elsewhere. Their influence lies beyond their borders.

The effects

Both elements – ‘escape’ and ‘elsewhere’ have profoundly anti-democratic effects.

The ‘escape’ feature helps narrow interests avoid the responsibilities and costs associated with society, leaving majorities to shoulder their burdens instead in the form of higher taxes, degraded public services and so on.

As regards ‘elsewhere,’ offshore lawmakers are always separated from those, elsewhere, who are directly affected by their laws. So there is never proper democratic consultation with those affected. So secrecy jurisdictions, almost by definition, are equivalent to the [smoke-filled room](#), where decisions are taken in private by insiders without accountability.

We have also found that such places typically suffer a very high degree of political dominance – even political capture – by banks, accountants, lawyers and other private intermediaries.

Secrecy jurisdictions, in their defence, like to boast about their ‘flexibility.’ They can change laws and regulations fast, without kerfuffle, in response to private customers’ wishes. The Luxembourg Bankers’ Association, for example, [highlights](#) a key attraction of Luxembourg in its “easy access to decision-makers; limited red tape.”

This is taken to be a positive attribute – but it is not. The ‘flexibility’ and speed results from there being no proper democratic accountability: no affected stakeholders to “slow down” the process. Decisions in smoke-filled rooms can indeed happen fast, but in this context that is a bad thing. For all the weaknesses of any particular law, societies put laws in place for very good reasons.

We also note that the biggest users of secrecy jurisdictions are, contrary to long-held popular views, not celebrity tax exiles or mafiosi, but big corporations. In multiple surveys, the biggest corporate user of [in every jurisdiction](#) surveyed was a bank. Their ability to operate in zones of extreme secrecy is profoundly dangerous.

This ‘elsewhere’ zone of ‘escape’ is, by its very nature, a loosely- (or un-) regulated space, whether it be in terms of crime, tax, financial regulation or other rules. Capital flows into this space, putting pressure on other jurisdictions to deregulate their economies to staunch the outflows of capital. The result is a ‘race to the bottom’ on lax regulation, on secrecy and so on.