

NARRATIVE REPORT ON CURAÇAO



PART 1: NARRATIVE REPORT

Curaçao ranks 96th in the 2020 Financial Secrecy Index with a score of 74.85 and a global scale weight of 0.002.

A Caribbean Tax Haven

Curaçao is a small island nation of about 160,000 inhabitants that lies 70 km north of Venezuela. The country is fully autonomous in internal affairs while the Netherlands manages its external affairs and defence. After constitutional changes in October 2010 dissolved the Netherlands Antilles,¹ Curaçao became a constituent country in the Kingdom of the Netherlands, which consists of the European nation plus six island entities in the Caribbean. Three of those island entities - Aruba, Curaçao and St. Maarten - are countries while the remaining three - Bonaire, St. Eustatius and Saba - are special municipalities of the Netherlands.

General history

The Spanish took possession of Curaçao in 1527, and the Dutch gained control in 1634. The island’s agricultural potential was limited, therefore the Dutch found privateering to be the most profitable activity in the Caribbean in the 17th century. Curaçao, with its large, deep harbour and proximity to major trade routes, played an important role in regional trade, mainly smuggling and slaves. In 1675 Curaçao was declared a free port, and the island prospered until the end of the 18th century.

The slave trade declined in the 18th Century, and the last slave ship docked on the island in 1778. In 1795 French troops occupied the Netherlands, and from 1800 to 1816 Curaçao was mostly under British control. The economy stagnated until 1915 when Shell built oil storage tanks and a refinery for Venezuelan oil on the island, bringing employment, income and investment in infrastructure. As a result, in 1928 Curaçao became self-supporting for the first time since 1895 and gained fiscal autonomy, a necessary element for a tax haven. In the Second World War, Shell’s refinery in Curaçao and Jersey Standard’s in Aruba produced an estimated 85 per cent of the Allies’ aviation fuel.

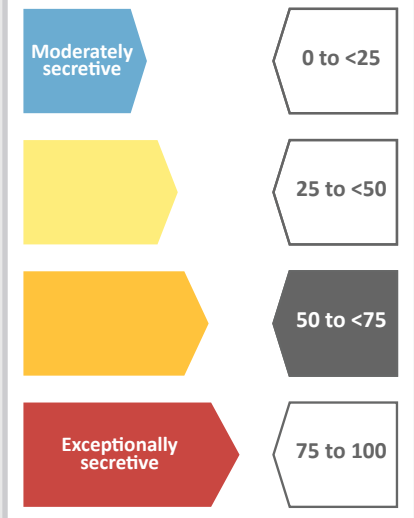
The evolution of Curaçao’s offshore industry can be broken down into five distinct phases: origins, construction, success and decline, temporary recovery, and decline.

Origins of the tax haven

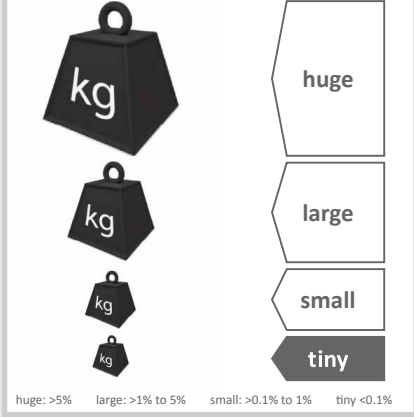
Curaçao’s financial offshore activities started in 1951 when the Netherlands Antilles introduced legislation designed to attract offshore companies. It created an attractive fiscal climate for offshore companies with profits taxed at 2.4 per cent to 3 per cent, a tenth of the normal rate. That decision was inspired by the Nederlandsche Handel-Maatschappij (NHM), a prominent Dutch bank, which wanted a tax haven in the Western hemisphere to facilitate European clients seeking a safe destination for their assets. In 1950 the bank chose Curaçao for that purpose because it was a small jurisdiction with political stability and fiscal autonomy. The NHM set up a trust office in the capital, Willemstad, and by pointing to the substantial tax income that offshore companies could generate, succeeded in convincing Curaçao’s elite to

Rank: 96 of 133

How Secretive? **75**



How big? **<0.01%**



Curaçao accounts for 0.002 per cent of the global market for offshore financial services. This makes it a tiny player compared to other secrecy jurisdictions.

The ranking is based on a combination of its secrecy score and scale weighting.
 Full data is available here: <http://www.financialsecrecyindex.com/database>.
 To find out more about the Financial Secrecy Index, please visit <http://www.financialsecrecyindex.com>.
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introduce special legislation.

Construction of the tax haven

The second phase, the construction of the Curaçao offshore centre, began in 1951 with the introduction of legislation concerning participation exemption and ended around 1975 with the centre's take-off, by which time the tax generated by its offshore industry already exceeded 25 per cent of government revenues. This success can be largely attributed to the 1955 tax treaty with the United States, as well as the BRK (Belastingregeling voor het Koninkrijk), a kind of tax treaty with the Netherlands. The treaty with the US wholly or partially exempted dividends, interest and royalties from the US to the Netherlands Antilles from the American withholding tax of 30 per cent. That boosted the establishment of offshore holding companies, as well as investment, financing, and royalty companies in Willemstad. The BRK, which came into force in 1965, exempted dividends paid from the Netherlands to a Curaçao parent company from Dutch dividend tax. That exemption helped make the Netherlands a hub through which dividends originating in other countries were routed to Willemstad.

The tie with the Netherlands was therefore essential for Curaçao's offshore financial centre, and the US tax treaty would not have been possible without it. Moreover, many trust offices were owned by Dutch banks, accountancy firms and tax consultants frequently had a Dutch background and Dutch companies exercised a strong influence on legislation. The Dutch financial sector and the Curaçao OFC had a symbiotic relationship.

After enacting the tax treaty with the US in 1955, Curaçao's offshore activities grew fast. The rapid growth fostered the growth of trust offices, offshore banks and allied professionals, creating economies of scale and agglomeration effects. Critical mass was reached, enabling the centre's boom to begin around 1975.

Success and decline

From the beginnings of the boom to around 1984/1985, offshore activities increased sharply before going into several years of decline. In 1984, offshore generated approximately half of the total government revenue and about one-third of GDP. The growth can be attributed on the one hand to investment, financing and real estate companies using the American-Antillean tax treaty to partially or completely evade the US withholding tax, and on the other to dividend payments from and via the

Netherlands to Curaçao offshore companies.

Several measures by the Netherlands and the United States triggered a decline of Curaçao's offshore activities. This included a BRK-revision (imposed by the Netherlands), repeal of the American withholding tax and termination of the tax treaty with the Netherlands Antilles by the US. The repeal of the US withholding tax on interest rendered obsolete Antillean financing companies set up by American corporations. The cancellation of the tax treaty followed the Antilles's refusal to sign a new treaty because of fears that stricter rules about exchanging information would scare away offshore customers. The Antilles later came to regret its refusal and twice tried, in vain, to obtain a new treaty with the US. The BRK-revision replaced the zero rate on dividends from the Netherlands with a 10.5 per cent tax to stem Dutch tax losses but was also prompted by complaints from other countries about tax losses due to the routing of zero-taxed dividends through the Netherlands to Curaçao. Even so this dividend routing remained attractive, since the current rate in the Netherlands was 25 per cent, so the revision did not really harm the Netherlands' position as a financial hub.

Temporary recovery

From 1989 to 1995 Curaçao's offshore industry temporarily recovered thanks to zero-tax rulings and the *pensionado* scheme. Netherlands Antilles tax rulings gave mutual funds exemption from the offshore profit tax rate under certain conditions. The *pensionado* scheme was introduced to attract wealthy foreign pensioners (*pensionados*) by offering income tax rates as low as 5 per cent. As a result, many wealthy Dutch emigrated to Curaçao — for real or just on paper — including people with good pension entitlements who moved only to sell them in Curaçao and reap a substantial tax benefit compared to what they would have had to pay in the Netherlands. Many Dutch also transferred their personal pension schemes into Curaçao offshore companies.

Decline

After 1995 renewed decline set in, pushing down the government's offshore profit tax income from 47 per cent of total revenue in 1988 to 6 per cent in 2007 and forcing it to finance budget deficits by borrowing. The downturn was mainly caused by measures from the Netherlands and the EU. The Netherlands introduced legislation subjecting lump-sum pension payouts from a foreign company holding personal pension schemes to a 60 per cent

corporate tax. The measure was meant to reduce tax losses and not specifically directed against Curaçao but it had a negative effect on offshore activities there. In 1997 the Dutch government imposed a BRK revision intended to reduce tax losses from the *pensionado* scheme and also adopted legislation about group financing intended to bring the financing activities of Dutch corporations back to the Netherlands. Consequently, many Dutch corporations ended their offshore financing activities in Willemstad. Meanwhile, the EU Parent-Subsidiary Directive had entered into force in 1992 and abolished withholding taxes on dividend payments between group companies residing in different EU member states. As a result it became more attractive to direct dividends via Luxembourg, for instance, rather than Curaçao, and the routing of dividends to Curaçao via the Netherlands decreased significantly.

As a result, Curaçao's offshore industry entered into a steady decline. The Dutch banks left and the number of offshore companies, trust offices and offshore banks dropped. The dwindling amount of net foreign exchange (forex) the offshore sector received for their services is a good indicator of the decline of offshore activities.² The received net forex dropped from NAf 350 million in 1995 to 70 million in 2017. Comparing the forex flows to the GDP of Curaçao in the mentioned years shows a sharper decline. In 1995 the net forex to the sector was 11.4 per cent of GDP, but in 2017 it was only 1.3 per cent.

Several factors contributed to the ongoing decline: the introduction of the New Fiscal Framework (NFF), EU regulations regarding investment funds, competition from other OFCs and faltering cooperation between Curaçao's government and the offshore sector. The Netherlands Antilles implemented the NFF — under pressure by the Netherlands, the OECD and the EU — and repealed the special profit tax for offshore companies, though with a very generous transition period of 20 years. In 2013, new European legislation concerning investment funds offered in the EU became law. Afterward, funds moved from Willemstad to countries like Luxembourg, which possessed an advantage over Curaçao not only in EU membership, but also in favourable fiscal facilities, political stability and the availability of specialized professionals offering a high quality of funds value assessment. As for cooperation between state and offshore sector in Curaçao, that worked very well until it started to unravel around 2005 as a result of disagreement within the sector. One faction wanted to raise profit tax rates to internationally acceptable levels to attract offshore companies with more substance, while another stuck to less stringent

substance requirements for offshore companies and low profit taxes. As a result, cooperation between state and offshore sector faltered, reducing government policy to an ineffective wait-and-see attitude.

With thanks to Tijn van Beurden

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Endnotes

1 <https://www.reuters.com/article/us-caribbean-islands/dutch-antilles-dissolves-as-two-new-countries-created-idUSTRE69913J20101010;04.02.2020>.

2 The fees that the offshoresector (trust offices, lawyers, notaries etc.) received for their services delivered to other jurisdictions, generated an incoming flow of forex. But there was also an outgoing flow of forex, due to services the offshoresector received from companies in other jurisdictions. The net compensation, incoming forex minus outgoing, gives a good indication of the offshore activities.

PART 2: SECRECY SCORE

OWNERSHIP REGISTRATION

- 60 1. Banking Secrecy
- 88 2. Trust and Foundations Register
- 100 3. Recorded Company Ownership
- 50 4. Other Wealth Ownership
- 100 5. Limited Partnership Transparency

LEGAL ENTITY TRANSPARENCY

- 100 6. Public Company Ownership
- 100 7. Public Company Accounts
- 100 8. Country-by-Country Reporting
- 100 9. Corporate Tax Disclosure
- 100 10. Legal Entity Identifier

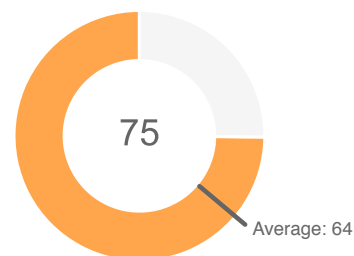
INTEGRITY OF TAX AND FINANCIAL REGULATION

- 75 11. Tax Administration Capacity
- 100 12. Consistent Personal Income Tax
- 100 13. Avoids Promoting Tax Evasion
- 100 14. Tax Court Secrecy
- 75 15. Harmful Structures
- 50 16. Public Statistics

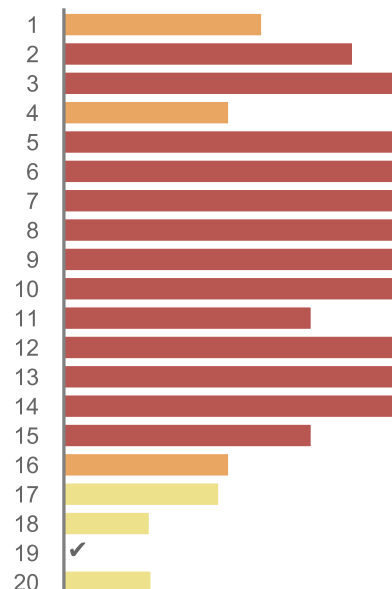
INTERNATIONAL STANDARDS AND COOPERATION

- 47 17. Anti-Money Laundering
- 26 18. Automatic Information Exchange
- 0 19. Bilateral Treaties
- 27 20. International Legal Cooperation

Secrecy Score



Key Financial Secrecy Indicators



Notes and Sources

The FSI ranking is based on a combination of a country's secrecy score and global scale weighting (click [here](#) to see our full methodology).

Curaçao has a secrecy score of 74.85. The secrecy score is calculated as an arithmetic average of the 20 Key Financial Secrecy Indicators (KFSI), listed on the right. Each indicator is explained in more detail in the links accessible by clicking on the name of the KFSI.

A grey tick in the chart above indicates full compliance with the relevant indicator, meaning least secrecy; red indicates non-compliance (most secrecy); colours in between partial compliance.

This report draws on data sources that include regulatory reports, legislation, regulation and news available as of 30 September 2019 (or later in some cases).

Full data is available here: <http://www.financialsecrecyindex.com/database>.

To find out more about the Financial Secrecy Index, please visit <http://www.financialsecrecyindex.com>.