

## Transparency now: Paradise Papers sparks demands for public registers in tax havens

The release of the Paradise Papers has reignited the debate about tax avoidance in UK overseas territories and crown dependencies, with politicians calling for public beneficial ownership registers to be extended to such jurisdictions.

German newspaper Süddeutsche Zeitung obtained [13.4 million](#) leaked files from two leading offshore service providers, Appleby and Asia City, as well as 19 company registers from tax havens. These jurisdictions include all of the major tax havens in UK overseas territories. With so much information available, there is still plenty to come out in the days ahead.

Government ministers in Australia, Canada, India, New Zealand, South Africa and Sweden, among others, have been quick to say that they will investigate the leaks, but the UK has been surprisingly silent in pledging the same action despite many of its crown dependencies being at the centre of the issue.

“These leaks confirm the systemic nature of tax abuse and corrupt practices, with global financial secrecy being marketed by major law firms, banks and accounting firms,” Alex Cobham, chief executive of the Tax Justice Network, said. “Government efforts to combat this problem have been piecemeal at best.”

“World leaders need to seize the moment and convene at the UN to agree a path to ending financial secrecy and tax abuse for good. And we, as citizens of the world, must demand this from our elected representatives,” Cobham said. “Otherwise we may as well just sit and wait for the next leak.”

Although there are plenty of calls for tax reform, the debate over what exactly the UK authorities must do to change this state of affairs concerning its offshore jurisdictions and what is realistic in the short-term has yet to reach a definitive conclusion.

### Looking for answers

The Paradise Papers was the first issue to be debated in the UK Parliament this week. It was quickly apparent that there is support for public beneficial ownership registers to be implemented across party lines, but the move faces an equal amount of opposition.

“The real problem with all the action that has been taken so far is that it has not got to the heart of the issue, which is that we need to have openness and transparency about who owns what company and where, and who owns what trust,” Dame Margaret Hodge, Labour MP for Barking, [said](#) in Parliament on Monday.

“There is a very simple action that the government could take without any legislation, and that would immediately slice through a lot of the problems that we have seen in the Paradise Papers, the Panama Papers, the Falciani leaks and the Luxembourg leaks,” Hodge said. “Why will the government not insist now that our overseas territories – our tax havens – have public registers of beneficial ownership?”

This question was followed up by similar sentiments from Nigel Mills, Conservative MP for Amber Valley: “The anti-corruption strategy was promised for last December, but it got lost when the then champion stood down at the election. We are still waiting to know whether we will have a public register of the ownership of properties here by overseas companies.”

"There needs to be central registers in these jurisdictions and the registers must be open to the public," Lord Timothy Kirkhope, former Conservative MEP for Yorkshire and Humber, told attendees at a special Paradise Papers briefing on Tuesday of the All Parliamentary Party Group on Responsible Tax (APPG). Notably, Kirkhope had previously worked on EU legislation to combat money laundering.

However, Bim Afolami, Conservative MP for Hitchin and Harpenden, argued that there are technical limits to public registers and they are "not a magic bullet" for the current issues that is "part of a very global system".

According to Afolami, the registers would not necessarily simplify the information brought to the tax authorities. It's possible that the information could be deliberately obscured to avoid disclosing vital details, particularly when it comes to who really benefits from such financial arrangements.

Just how effective the public registers could be has even been questioned by whistleblowers. "It is a fact that if you have those registers globally it still is possible to engage a strawman, a nominee somewhere in this world in order to act in the name of the real beneficiary," [Rudolf Elmer](#), the Swiss whistleblower, told *International Tax Review*.

### Why not public registers?

There may be a burgeoning consensus on the problem of tax avoidance, but there are still those who believe public beneficial ownership registers will not help in solving the problem.

For example, UK Prime Minister Theresa May recently said that transparent registers will not result in a higher tax take from the overseas territories.

"There is already work that is being done to ensure greater transparency in the dependencies and British overseas territories and we continue to work with them," the Guardian reported May as saying at the Confederation of British Industry's annual conference this week. "HMRC is already able to see more information about the ownership of shell companies for example so they can ensure that people are paying their tax. We want people to pay the tax that's due."

Former Prime Minister David Cameron wanted to prioritise tax transparency and moved to implement public registers for beneficial ownership in [2013](#). Yet the plan to rollout such regimes across British overseas territories was quietly dropped. The end result was a compromise for registers to be established, but not made public.

While May told the CBI annual conference that her government has been continuing Cameron's work in the area of tax transparency, there has been little evidence of this.

It's worth noting, however, that there are already registers in place in the Cayman Islands, but these are not open to the public and this is the crux of the dispute. The beneficial ownership register in the Caymans was put in place in July 2017, stipulating that the details of individuals who own or control more than 25% of the company's equity are recorded. But these records are only accessible by local authorities.

Ironically, this compromise may have left such low-tax, high-secrecy jurisdictions open to far more exposure to data leaks – in this case the Paradise Papers. "The leak appears to go far beyond what a public beneficial ownership register would disclose, in that it includes emails from advisers and so reveals the actual tax planning advice that was provided," Dhana Sabanathan, partner at Winckworth Sherwood, told *International Tax Review*.

"Tax authorities already have the ability to obtain beneficial ownership information from the main offshore jurisdictions," Sabanathan said. "Whilst I completely agree with the disclosure of offshore structures to relevant tax authorities, I still think individuals should have the ability to preserve their privacy if they want to, particularly in respect of personal assets (like their homes), where public disclosure could expose them to considerable security risks."

### [What is likely to change?](#)

While the UK government appear to be doing very little to combat tax avoidance practices that take advantage of the low or no tax regimes in its offshore territories and crown dependencies, a lot of observers are looking towards the international community for a multilateral solution, but some remain pessimistic about the chances for reform even at this level.

The European Union has its own plans for tackling tax havens and will be publishing a lengthy blacklist of 53 jurisdictions in December. Meanwhile, the OECD is continuing to work on the issues through its BEPS action plan and measures being taken by the Global Forum.

However, to make the UK take charge and require its territories to change, some EU ministers have suggested that Brexit offers a great opportunity for some persuasion on the matter. "The British are particularly sceptical about the EU's blacklist of tax havens for self-protection... We must make best use of the Brexit negotiations to close the UK's tax havens," said Sven Giegold, spokesperson for economic and financial affairs for the Greens-European Free Alliance in the European Parliament.

Whistleblower Elmer, however, believes sanctions are the only way to force change. "What is most important to me is that the facilitators have to face the prospect of long prison sentences and high-secrecy jurisdictions must be seriously sanctioned by the international community," Elmer said.

"I am not naive. It would take a political earthquake for some really major things to change in respect of the offshore business globally," Elmer continued. "Therefore, it would be extremely naive to believe that the Paradise Papers or even any other papers could create so-much political and global pressure which will change things fundamentally."

However, fundamental change is required and this needs to be done on a global platform, such as the UN. Until this happens, private tax data will continue to be at the mercy of leaks.

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