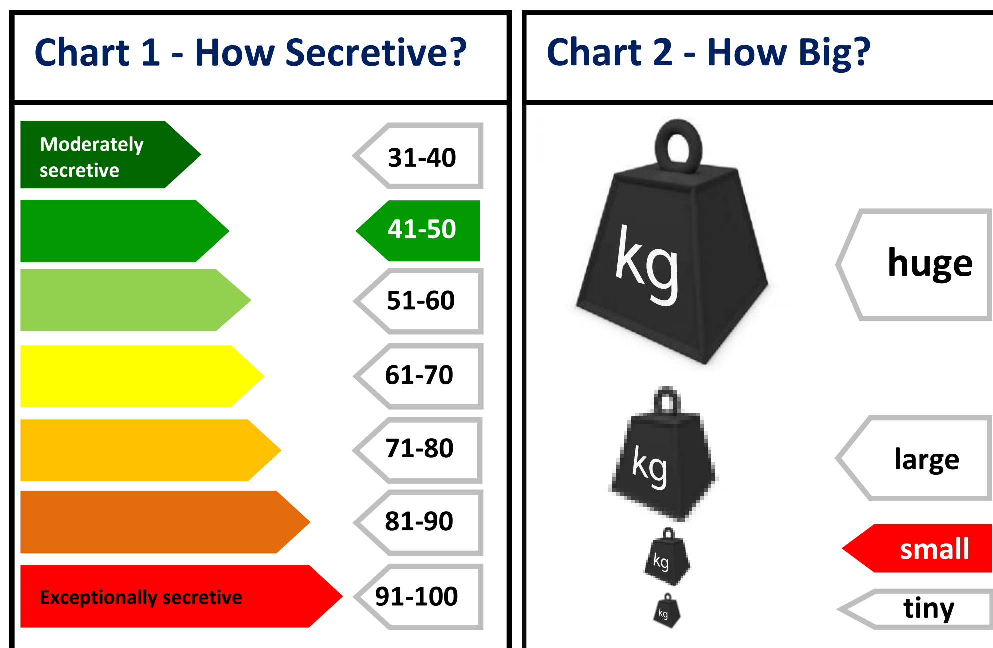
Report on Ireland

Ireland is ranked at 32nd position on the 2011 Financial Secrecy Index. This ranking is based on a combination of its secrecy score and a scale weighting based on its share of the global market for offshore financial services.

Ireland has been assessed with 44 secrecy points out of a potential 100, which places it in the lower mid range of the secrecy scale (see chart 1 below).

Ireland accounts for slightly over 3 per cent of the global market for offshore financial services, making it a small player compared with other secrecy jurisdictions (see chart 2 below).



Part 1: Telling the story

Ireland as a financial centre: history and background

Overview

Ireland's role as a secrecy jurisdiction, or tax haven, is based on two broad developments. The first, dating from 1956, is a regime of low tax rates and tax loopholes that have encouraged multinational businesses to relocate activity – often only on paper – to Ireland. The second big aspect is the role of the Dublin-based International Financial Services Centre (IFSC), a Wild-West, deregulated financial zone set up in 1987 under the Irish politician Charles Haughey.

Ireland's secrecy score of 44 puts it at the cleaner end of the spectrum.

On the tax side, three main elements stand out. The first is the most often cited as part of the "Celtic Tiger" economy: Ireland's 12.5 percent corporate tax rate on certain types of corporate income, which has encouraged some classes of corporate activity to relocate to Ireland (alongside other tax rates for other types of activity.) The second is Ireland's historical near-absence of transfer pricing rules, which have in effect turned Ireland into a prolific source of loopholes in international tax, most notably helping U.S. corporations pay far less than the headline 12.5 percent rate. The third element, essential but overlooked, is Ireland's membership of the European Union. As well as granting political stability and special access to European markets, membership has helped keep Ireland off tax haven blacklists that would apply to classic tax havens such as the Cayman Islands and Bermuda; many countries that would apply withholding tax on interest paid to traditional tax havens do not apply those to Ireland because it is falsely classified as "onshore".

As regards the International Financial Services Centre (IFSC,) its extraordinary growth stems in large part from its 'anything goes' approach to financial regulation, along with other classic 'tax haven' offerings such as ease of incorporation and company law very favourable to multinational corporations. Ireland, as one account puts it, "began to see itself as an outpost of American (or Anglo-American) free-market values on the far edge of a continent where various brands of social democracy were still the political norm."

Ireland enjoyed a tremendous "Celtic Tiger" boom, built on debt and an unsustainable property bubble, followed by a spectacular, debt-laden bust from about 2008 onwards, substantially worse than that which has affected most of its trading partners.

Ireland hosts over half of the world's top 50 banks and half of the top 20 insurance companies; in 2008 it hosted about 8,000 funds handling €1.6 trillion of assets; the Irish Stock Exchange hosts about a quarter of international bonds. In 2008 IFSC investment was equivalent to about 11 times Ireland's GNP; many toxic developments in the 'subprime' markets of the U.S. and elsewhere can trace their lineage back to Ireland.

Corporation Tax

Ireland has used tax as a central plank in its strategy to attract foreign multinationals.

The strategy first emerged in 1956 with the Export Profits Tax Relief (EPTR) exempting certain manufactured goods exports from income and corporation profits tax. This was pushed through by John Costello, the Irish Taoiseach (head of government) in an October 1956 announcement that he had not discussed with other members of the government, and in the face of objections from the Irish Revenue - relying instead (p6) on advice from his son-in law Alexis Fitzgerald and from personal advisers.

The tax exemptions were expanded in 1957 and 1958, but the system took off in the 1970s when the Industrial Development Authority (IDA) started aggressively marketing Ireland's tax system internationally, under the slogan 'no tax' or 'double your after-tax profits' (p246.)

However, as Ireland negotiated entry into the European Economic Community (EEC) in 1973, it was told these taxes were discriminatory – though the EEC allowed plenty of time to adapt.

The solution was to abolish the differential tax system and instead adopt a single, across-the-board tax rate of 10 percent to apply without discrimination to all manufacturing industries. It also delayed implementation until 1981.

Other sectors such as tourism, facing corporate tax rates of 40 percent, began to lobby hard to obtain the same low tax rate. So it was announced in 1997 that Ireland would introduce a 12.5 percent tax rate for all trading companies, and this was introduced in 2003 (Non-trading income is taxed at 25%.) That year also marked the return to power of Fianna Fail and the start of the final, madcap phase of the "Celtic Tiger" boom.

Tax loopholes and transfer pricing

While Ireland's 12.5 percent corporation tax rate is well known, far less is written about Ireland as a massive source of tax loopholes. As a result, Ireland became the single largest location outside the US for the declared pre-tax profits of American firms.

Although Ireland officially does apply a 12.5 percent tax on corporate profits, across the board, it lets multinationals artificially relocate their profits away from Ireland, usually via what are known as transfer pricing mechanisms, to lower-tax or zero-tax jurisdictions – so large chunks of their profits are excluded from Irish tax and they end up effectively paying far less than the headline rate.

For an example of how this is done, see the box below.

BOX: A story by Bloomberg reporter Jesse Drucker illustrates how the U.S. multinational Google Inc. cut its foreign tax bill to just 2.4 percent via a common scheme called the "Double Irish."

An Irish subsidiary of Google employs 2,000 people in Ireland, generating large real profits there. However, that Irish subsidiary is owned by a Bermuda-based subsidiary of Google. The Irish subsidiary pays massive royalties to the Bermuda-based subsidiary, then deducts those royalties as 'costs' against its Irish profits, effectively knocking out its Irish taxable profits: as a result, these came in at just one percent of sales in 2008.

Meanwhile, those massive royalties are realised as profits in Bermuda – which levies no tax on them. (This is a simplified version of the real story, which involves a "Dutch sandwich" further detour via the Netherlands.) Drucker notes:

"Tax planners call such an arrangement a Double Irish because it relies on two Irish companies. One pays royalties to use intellectual property, generating expenses that reduce Irish taxable income. The second collects the royalties in a tax haven like Bermuda, avoiding Irish taxes."

See the Bloomberg story for further details, and a further article looking at the drug Lexapro, which also uses the Double Irish scheme. See TJN's page on transfer pricing for more details on the broad practice.

Ireland's place inside the European Union, giving it privileges that are not available to other tax havens, combine with Ireland's own flimsy rules on transfer pricing, and a broad network of tax treaties, to make it a particularly effective route for this kind of subterfuge. (New transfer pricing rules introduced in 2011 exclude non-trading activities, so these shenanigans are mostly still allowed.)

According to one study, 60 percent of companies pay no or virtually no corporation tax, and effective tax rates in Ireland are, on one measure, the lowest in the EU area at 7.3%, compared with 37 percent for France.

European countries have also objected to 'harmful' competition from Ireland's low corporation tax, which is undercutting their own tax bases and putting pressure on them to lower the taxes. Ireland has also triggered 'beggar my neighbour' competition from other nations: most recently, Liechtenstein announced plans for a 12.5% across-the-board corporation tax rate, to match Ireland's.

The Irish Financial Services Centre (IFSC)

Attempts to set up Ireland as a financial services centre date back to the late 1970s when Irish officials, with the help of Wall Street lawyer Bob Slater, sought to set up an offshore banking centre modeled on Bermuda. The Irish Central Bank rejected it, however, saying that the project 'smacked of a banana republic." (p324)

The financial centre project was revived a decade later, in the International Financial Services Centre (IFSC,) pushed through by a tiny group with very little democratic consultation.

The biggest early driver of the project was the (now billionaire) financier Dermot Desmond, who put an initial proposal for a financial services centre to the government in 1985, and whose stockbroking firm part-financed the full-scale feasibility study by PWC. Desmond (who also owned some of the original buildings that would become designated to the IFSC project) put this proposal to his friend, the politician Charles Haughey, which led to a policy document launched by Haughey's party, *Fianna Fáil*, during the 1987 election campaign, with a promise of 7,500 full-time jobs within five years. Desmond and a business partner were the anonymous authors of the document. Although the document asserted (p318) that it was "not oriented in any way towards the creation of a tax haven," reality would demonstrate the exact opposite.

The "voraciously corrupt" Haughey was returned as Taoiseach in March 1987, and by May of that year the government had already chosen the Custom House Dock site in Dublin to host the IFSC. The project was bulldozered forwards by a fixer named Padraic O'hUiginn, Haughey's right hand man who, according to one official, had Haughey's authority to "persuade, bully...whatever needed to be done to get the other government departments on board." Padraic White, then head of the Industrial Development Authority, wrote in his co-authored book Celtic Tiger: the Inside Story of Ireland's Boom Economy:

> "Within the public service, new initiatives tend to develop slowly. These are advanced, after much consultation, and refined, usually by committees. So before a policy proposal finally emerges as government policy, it must survive a high degree of scrutiny via checks and balances.
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> . . .
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> In this instance, the composition of the IFSC committee made the vital difference. So when O'hUiginn turned to any departmental secretary and gently enquired, 'I presume this is possible,' there was no place to hide."

Tax incentives were sought to compete specifically with nearby banking centres such as Luxembourg and the Channel Islands, and a tax rate of 10 percent for licenced companies was agreed. Laws were crafted to attract global money management, foreign currency dealing, equity and bond dealing, and insurance – and the finance minister was given leeway to allow services 'similar to or ancilliary to those" – a very broad net. The laws were fully in place within *three months* of the new government being formed.

This pattern, an important component of a bigger tale that O'Toole calls "a lethal cocktail of global ideology and Irish habits," fits closely our experience with tax havens or secrecy jurisdictions as places where laws are formed by small groups of insiders, collaborating closely with financial sector interests, with little or no democratic consultation or accountability.

The IFSC was marketed aggressively abroad with a first showpiece seminar in the City of London on St Patrick's Day, 1988. The world's banks began to descend on Ireland; by the end of that year fifty banks had applied for licences, including Chase Manhattan and Citicorp., Commerzbank, Dresdner Bank and ABN. Financial services activity in Ireland exploded, notwithstanding the somewhat lukewarm approach taken by the *Fine Gael* government of 1994-1997 towards what was seen as a *Fianna Fail* project.

Before the financial crisis, most of what has been written about this episode was uncritical, even gushing: "an economy to be admired rather than examined." More recently, however, analyses such as Finlan O'Toole's book *Ship of Fools* have exploded the myth. As one reviewer summarises it:

> All this has been accompanied by a culture of corruption so shameless and spectacular that it makes Dublin look like Kabul. The former prime minister Charles Haughey stole €250,000 from a fund set up to pay for a liver transplant for one of his closest friends. . . . as O'Toole points out, bribery, tax evasion and false evidence under oath have not simply gone unpunished; the very idea of penalising the culprits is viewed by the governing elite as unsporting or even unpatriotic.

This willingness to brush dirt under the carpet to support the financial sector, sometimes called the Green Jersey agenda, contributed to remarkable regulatory laxity with massive impacts in other nations (as well as in Ireland itself) as global financial firms sought an escape from financial regulation in Dublin. The New York Review of Books describes the issues succinctly, and accurately:

> The new government believed it had discovered a quicker-acting formula for wealth creation: tax cuts to stimulate consumption, property to replace manufacturing as the source of wealth, Dublin to become a tax haven for businesses seeking to avoid the more rigorous regimes of London and New York.

Another commentator added:

> German banks, who used to fly their people from Germany to Ireland in order to do deals that were not allowed in Germany. . . This is known in the financial world as jurisdictional arbitrage. You and I would call it cheating if we were feeling charitable and lying if we weren't. . . .I have spoken to such people. Usually I can hear the sweat coming off them as they ask how I got their number and where did I get my information.

One of the only detailed academic examinations of Ireland's regulatory laxity comes from Professor Jim Stewart of Trinity College, Dublin. The IFSC, he reveals, formed a core element in the toxic global "shadow banking" system. So hedge funds, for example, have typically been listed in Dublin, managed in London and domiciled in a tax haven like the Cayman Islands.

When the global finanial crisis hit, many Dublin-listed structures collapsed.

Germany's Sachsen Bank, IKB, West LB and Hypo, for instance, all required massive state aid after luxuriating in Dublin's regulatory permissiveness. Hypo Bank was bailed out with €102 billion in German state loans and guarantees after it took over Ireland-registered Depfa Bank based in Dublin. In 2006 Depfa, which had equity of just €2.98 billion financing nearly €223 billion in gross assets, collapsed when its Irish subsidiary could not get short-term funding. Later, the head of the German financial regulator Bafin said that the rescue of Hypo had "prevented a run on German banks and the collapse of the European finance system." A Bear Stearns holding company, Bear Stearns Ireland Ltd., was similarly leveraged, with one dollar of equity financing $119 in gross assets.

Yet no other analyses of this and other episodes involving the likes of Lehman Brothers, AIG and various others, investigated the central role Dublin played in the problems that subsequently emerged.

Ireland, it seems, had not been interested in tackling or even investigating the dangers. The Irish financial regulator has been quoted as saying that it had no responsibility for such entities: its remit extended only to banks headquartered in Ireland. If the relevant documents were provided to the regulator by 3 p.m., Stewart noted, a fund would be authorised the next day (a prospectus can run to 200 or more pages; it can hardly be assessed between 3 pm and the close of business at 5 pm.!)

Much of the trouble can be traced to the toxic combination of ideology and insider Irish politics. An Irish analyst, in an email to TJN, remarked:

> "The main legacy of O'Huiginn was to politicise the civil service so no-one critical of government policy was ever promoted. O'Huiginn did his master's bidding (Haughey) and twisted all sorts of rules, protocols etc." This was a key element in the financial and economic disaster which has hit Ireland.

Read more:

Shadow Regulation and the Shadow Banking System: the role of the Dublin International Financial Services Centre, Tax Justice Focus, Vo. 4 Number 2, 2008

Financial Innovation and the Financial Crisis, Jim Stewart

Trinity College Dublin, presentation at the International Schumpeter Society Conference 2010, Aalborg, June 21-24, 2010

Corporation Tax: How Important is the 12.5 % Corporate Tax Rate in Ireland? IIS discussion paper, September 2011

Why Ireland is an EU corporate tax haven, Progressive Tax Blog, Feb 23, 2011, available here (scroll down.)

Finance Bill 2010: Ireland introduces Transfer Pricing rules, PWC

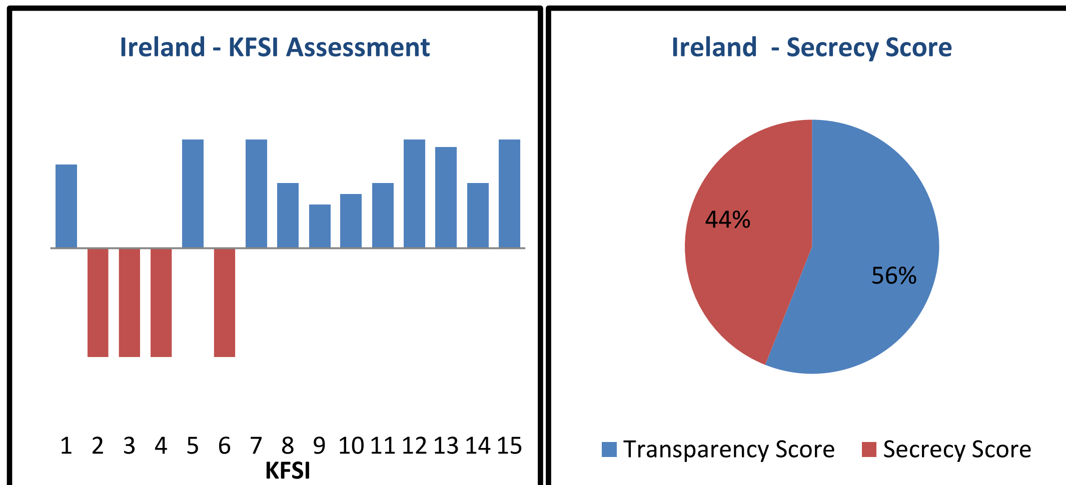
With thanks to Jim Stewart and Sheila Killian for their help with this article.

Next steps for Ireland

Ireland's 44 per cent secrecy score shows that it must still make major progress in offering satisfactory financial transparency[1]. If it wishes to play a full part in the modern financial community and to impede and deter illicit financial flows, including flows originating from tax evasion, aggressive tax avoidance practices, corrupt practices and criminal activities, it should take action on the points noted where it falls short of acceptable international standards. See part 2 below for details of Ireland's shortcomings on transparency. See this link http://www.secrecyjurisdictions.com/kfsi for an overview of how each of these shortcomings can be fixed.

Part 2: Secrecy Scores

The secrecy score of 44 per cent for Ireland has been computed by assessing the jurisdiction's performance on the 15 Key Financial Secrecy Indicators, listed below.



The numbers on the horizontal axis of the bar chart on the left refer to the Key Financial Secrecy Indicators (KFSI). The presence of a blue bar indicates a positive answer, as does blue text in the KFSI list below. The presence of a red bar indicates a negative answer as does red text in the KFSI list. Where the jurisdiction's performance partly, but not fully complies with a Key Financial Secrecy Indicator, the text is coloured violet in the list below (combination of red and blue).

This paper draws on key data collected on Ireland. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2010[2]. The full data set is available here[3]. Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs, below), reflecting the legal and financial arrangements of Ireland. Details of these indicators are noted in the following table and all background data can be found on the Mapping Financial Secrecy web site[4]. This data is the basis on which the Financial Secrecy Index[5] is compiled.

The Key Financial Secrecy Indicators and the performance of Ireland are:

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Ireland	
1.	Banking secrecy: Does the jurisdiction have banking secrecy? **Ireland does not adequately curtail banking secrecy**
2.	Trust and Foundations Register: Is there a public register of Trusts and Foundations? **Ireland does not put details of trusts on public record**
3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies? **Ireland does not maintain company ownership details in official records**
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Ireland	
4.	Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for less than US$10? **Ireland does not maintain company ownership details in official records**
5.	Public Company Accounts: Does the relevant authority require that company accounts are made available for inspection by anyone for a fee of less than US$10? **Ireland requires that company accounts be available on public record**
6.	Country-by-Country Reporting: Are companies listed on a national stock exchange required to comply with country-by-country financial reporting? **Ireland does not require country-by-country financial reporting by companies**
EFFICIENCY OF TAX AND FINANCIAL REGULATION – Ireland	
7.	Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents? **Ireland requires resident paying agents to tell the domestic tax authorities about**

	payments to non-residents
8.	Efficiency of Tax Administration: Does the tax administration use taxpayer identifiers for analysing information effectively, and is there a large taxpayer unit? **Ireland partly uses appropriate tools for effectively analysing tax related information**
9.	Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments? **Ireland partly avoids promoting tax evasion via a tax credit system**
10.	Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses? **Ireland partly allows harmful legal vehicles**
INTERNATIONAL STANDARDS AND COOPERATION – Ireland	
11.	Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations? **Ireland partly complies with international anti-money laundering standards**
12.	Automatic Information Exchange: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive? **Ireland participates fully in Automatic Information Exchange**
13.	Bilateral Treaties: Does the jurisdiction have at least 60 bilateral treaties providing for broad information exchange, covering all tax matters, or is it part of the European Council/OECD convention? **As of June 30, 2010, Ireland had few tax information sharing agreements complying with basic OECD requirements**
14.	International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency? **Ireland has partly ratified relevant international treaties relating to financial transparency**
15.	International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues? **Ireland cooperates with other states on money laundering and other criminal issues**

[1] Our definition of financial transparency can be found here: http://www.secrecyjurisdictions.com/PDF/FinancialTransparency.pdf.

[2] With the exception of KFSI 13 for which the cut-off date is 30.6.2010. For more details, look at the endnote number 2 in the corresponding KFSI-paper here: http://www.secrecyjurisdictions.com/PDF/13-Bilateral-Treaties.pdf.

[3] That data is available here: http://www.secrecyjurisdictions.com/sj_database/menu.xml.

[4] http://www.secrecyjurisdictions.com.

[5] http://www.financialsecrecyindex.com/.