

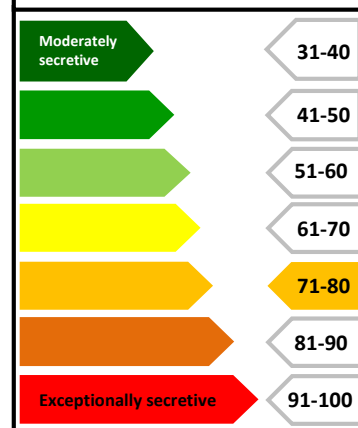
Narrative Report on Curaçao

Curaçao is ranked at 58th position on the 2013 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.

Curaçao has been assessed with 77 secrecy points out of a potential 100, which places it towards the top end of the secrecy scale (see chart 1).

Curaçao accounts for less than 1 per cent of the global market for offshore financial services, making it a tiny player compared with other secrecy jurisdictions (see chart 2).

Chart 1 - How Secretive?



Part 1: Telling the story

2 August 2013

A Caribbean secrecy jurisdiction

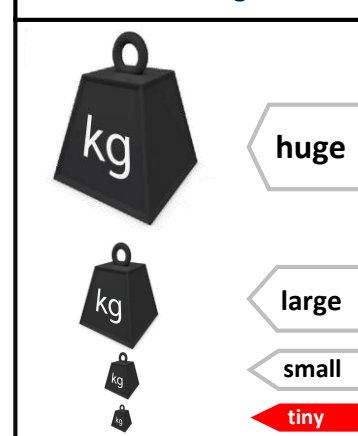
Overview

Curaçao is a country of the Kingdom of the Netherlands. Since constitutional changes in October 2010, this Kingdom has consisted of the Netherlands in Europe, plus six islands in the Caribbean, three of which are countries: Aruba, Curaçao and St. Maarten. The other three -- Bonaire, St. Eustatius and Saba -- are special municipalities of the Netherlands. (The 2010 changes involved the dissolution of the Netherlands Antilles, which then consisted of Curaçao, Bonaire, St. Maarten, St. Eustatius and Saba.) Curaçao lies about 70 km north of the coast of Venezuela, has about 140.000 inhabitants and is fully autonomous in internal affairs. The Netherlands manages external affairs and defence.

General History

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

Chart 2 - How Big?



The slave trade declined in the 18th Century and the last slave ship docked in 1778. In 1795 French troops occupied the Netherlands, and from 1800-1816 Curaçao was mostly in British hands. The economy stagnated until 1915 when Shell built oil storage tanks and a refinery for Venezuelan oil, bringing employment, income and infrastructure investment. In the Second World War the refineries of Shell in Curaçao and of Jersey Standard in Aruba produced an estimated 85% of the Allies' aviation fuel.

Historically, nearly all Curaçao's economic activity has been connected with international transactions, paving the way for the development of an Offshore Financial Centre (OFC).

The roots of the OFC

Various elements came together in the creation of an OFC. Just before World War II, many Dutch transnational corporations (TNCs) moved their seat to Curaçao to inhibit the confiscation of assets. These relocations created demand for lawyers, notaries and accountants on Curaçao, and a fledgling professional services infrastructure grew up, ideal for the creation of an OFC. In 1954 the Netherlands Antilles (including Curacao) were granted autonomy over internal affairs, with almost complete autonomy on fiscal matters, creating the necessary jurisdictional space for an OFC. An attractive fiscal climate was created for offshore companies, with profits taxed at a tenth of the normal rate: effectively 2.4 - 3%. In 1955 the all-important DTA (Double Tax Agreement) between the United States and The Netherlands was extended to the Netherlands Antilles, paving the way for new offshore business.

The rise of Curaçao's OFC

The combination of favourable tax treaty provisions and the low tax rates made the Antilles very attractive as a conduit for foreign investment into the United States. Virtually all investments involved "treaty shopping" by third country residents, where U.S. withholding taxes on certain forms of cross-border income could be eliminated or reduced drastically if paid via an Antillean company interposed in the corporate structure, thereby gaining access to the favourable U.S.-Netherlands DTA. The Antilles, along with Switzerland, were regarded as world pioneers of treaty-shopping.

U.S. TNCs issued billions of dollars of Eurobonds via Netherlands Antilles finance subsidiaries, whose interest payments were not subject to the 30% U.S. withholding tax that would have been paid if issued directly. U.S. corporations could use the Antilles to access capital from European financial markets at costs below the US internal market, and an IRS ruling at first explicitly allowed this. Remarkably, Eurobond issues through the Antilles for a while represented nearly all US bond issues.

Antillean Eurobond issues increased from \$ 1.1 billion in 1978 to \$ 6 billion in 1983, though it is hard to be fully precise since most data is only available for the Dutch Antilles and not separately for Curaçao (though Curaçao was by far the dominant player among the former Netherlands Antilles' islands, with St Maarten playing a minimal role.) These Eurobonds were bearer bonds: classic vehicles for tax evasion and other forms of financial crime, where the anonymity of the bondholder is protected.

Anonymous investors from Latin America, Europe and Arab countries also used the Dutch Antilles' tax benefits and secrecy to invest heavily in U.S. real estate. A significant share of real estate in the US was bought by Curaçao-based companies: the Miami Herald reported in 1980 that property sales using Netherlands Antilles companies were expected to reach \$1 billion just in Dade country.

Although the profit tax was very low on the Antilles, the enormous throughflows of capital meant the Antilles government raised significant sums from the offshore sector: \$ 1.5 million in income tax in 1963, rising to \$28.5 million in 1976, a big sum for such a small jurisdiction. By 1987, about half of government income originated from the offshore sector.

Slowly, the U.S. government began to react to the haemorrhaging of tax revenue via the Antilles. A major government enquiry into tax havens in 1981, the Gordon Report, recommended scrapping the DTA with the Dutch Antilles due to the routine abuses of the treaty. In 1984 the US repealed its withholding tax on interest payments to non-residents, and in 1987 it announced the termination of the tax treaty with the Netherlands Antilles, effective from January 1988. The announcement caused some turbulence in international markets, with some bond prices falling by 15 to 25%. It turned out, too, that some 30% of the bonds were held by U.S. investors, who "round-tripped" investment and income out to the Antilles and back again, to obtain offshore secrecy and the treaty's tax benefits that were supposed to be available only to non-residents. After considerable domestic pressure in the US from various interests, the Treasury modified the termination of the treaty by reinstating the treaty exemption from withholding tax for interest paid on bonds already issued.

The gradual erosion of the OFC

The "Antillean window" lost much of its attraction for many customers, resulting in a sharp decline of profit tax income from NAf 400 million (US\$225m) in 1985 to NAf 110m (\$62m) in 1998. It appears that the offshore sector made an extensive use of the *Belastingregeling voor het Koninkrijk (BRK)* with the Netherlands, which has the same effect as a tax treaty and shifted its attention to trust activities. Offshore financial services survived, albeit in weakened form, and the size of the sector has gradually eroded due to measures and pressure from the OECD and the Netherlands. At present tourism and petroleum refining

contribute more to the GDP than offshore finance. The sector contributed about 10 % of GDP in 2012.

Literature:

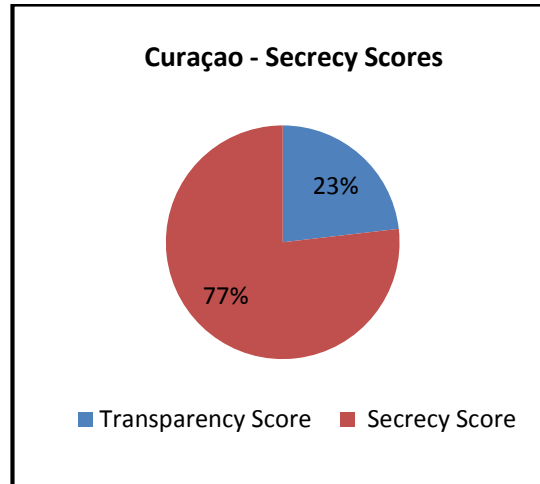
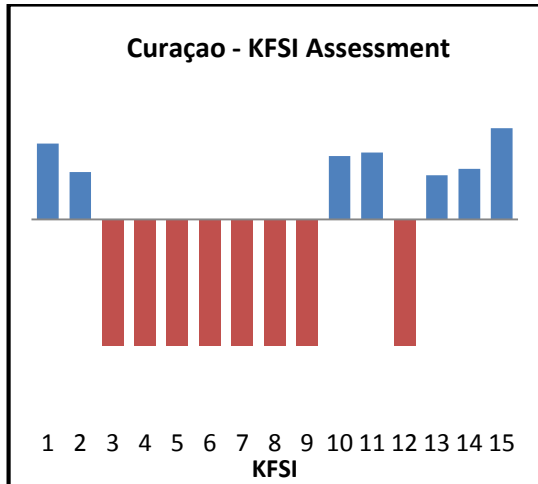
- Boise, C.M. en A.P. Morriss, 'Change, Dependency, and Regime Plasticity in Offshore Financial Intermediation: The Saga of the Netherlands Antilles', *Texas International Law Journal* 45-2 (2009) 377-456.
- Gordon, R.A., *Tax Havens and their use by United States Taxpayers* (Washington D.C. 1981).
- Mathieson, J.A., 'The Netherlands Antilles: the impact of offshore financial activities; final report (Washington 1982).
- Papke, L.E., 'One-Way Treaty with the World: The U.S. Withholding Tax and the Netherlands Antilles', *International Tax and Public Finance* 7 (2000) 295-313.
- Soest, J. van, *Trustee of the Netherlands Antilles* (Zutphen 1978).
- United States Committee on Government Operations, House of Representatives, *Tax Evasion through the Netherlands Antilles and other Tax haven Countries* (Washington 1983).

Next steps for Curaçao

Curaçao's 77 per cent secrecy score shows that it must still make major progress in offering satisfactory financial transparency. 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 Curaçao's shortcomings on transparency. See this link <http://www.financialsecrecyindex.com/kfsi> for an overview of how each of these shortcomings can be fixed.

Part 2: Secrecy Scores

The secrecy score of 77 per cent for Curaçao 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 Curaçao. Our data sources include regulatory reports, legislation, regulation and news available at 31.12.2012¹. The full data set is available [here](#)². Our assessment is based on the 15 Key Financial Secrecy Indicators (KFSIs, below), reflecting the legal and financial arrangements of Curaçao. Details of these indicators are noted in the following table and all background data can be found on the [Financial Secrecy Index website](#)³.

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

TRANSPARENCY OF BENEFICIAL OWNERSHIP – Curaçao	
1.	Banking Secrecy: Does the jurisdiction have banking secrecy? Curaçao does not adequately curtail banking secrecy
2.	Trust and Foundations Register: Is there a public register of trusts/foundations, or are trusts/foundations prevented? Curaçao partly discloses or prevents trusts and private foundations

3.	Recorded Company Ownership: Does the relevant authority obtain and keep updated details of the beneficial ownership of companies? Curaçao does not maintain company ownership details in official records
KEY ASPECTS OF CORPORATE TRANSPARENCY REGULATION – Curaçao	
4.	Public Company Ownership: Does the relevant authority make details of ownership of companies available on public record online for less than US\$10/€10? Curaçao does not require that company ownership details are publicly available online
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/€10? Curaçao does not require that company accounts be available on public record
6.	Country-by-Country Reporting: Are all companies required to comply with country-by-country financial reporting? Curaçao does not require country-by-country financial reporting by all companies
EFFICIENCY OF TAX AND FINANCIAL REGULATION – Curaçao	
7.	Fit for Information Exchange: Are resident paying agents required to report to the domestic tax administration information on payments to non-residents? Curaçao does not require 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 efficiently, and is there a large taxpayer unit? Curaçao does not use appropriate tools for efficiently analysing tax related information
9.	Avoids Promoting Tax Evasion: Does the jurisdiction grant unilateral tax credits for foreign tax payments? Curaçao does not avoid promoting tax evasion via a tax credit system
10.	Harmful Legal Vehicles: Does the jurisdiction allow cell companies and trusts with flee clauses? Curaçao partly allows harmful legal vehicles

INTERNATIONAL STANDARDS AND COOPERATION – Curaçao	
11.	<p>Anti-Money Laundering: Does the jurisdiction comply with the FATF recommendations?</p> <p>Curaçao partly complies with international anti-money laundering standards</p>
12.	<p>Automatic Information Exchange: Does the jurisdiction participate fully in Automatic Information Exchange such as the European Savings Tax Directive?</p> <p>Curaçao does not participate fully in Automatic Information Exchange</p>
13.	<p>Bilateral Treaties: Does the jurisdiction have at least 46 bilateral treaties providing for information exchange upon request, or is it part of the European Council/OECD convention?</p> <p>As of 31 May, 2012, Curaçao had less than 46 tax information sharing agreements complying with basic OECD requirements</p>
14.	<p>International Transparency Commitments: Has the jurisdiction ratified the five most relevant international treaties relating to financial transparency?</p> <p>Curaçao has partly ratified relevant international treaties relating to financial transparency</p>
15.	<p>International Judicial Cooperation: Does the jurisdiction cooperate with other states on money laundering and other criminal issues?</p> <p>Curaçao partly cooperates with other states on money laundering and other criminal issues</p>

¹ With the exception of KFSI 13 for which the cut-off date is 31.05.2013. For more details, look at the endnote number 2 in the corresponding KFSI-paper here:

<http://www.financialsecrecyindex.com/PDF/13-Bilateral-Treaties.pdf>.

² That data is available here: <http://www.financialsecrecyindex.com/database/menu.xml>.

³ <http://www.financialsecrecyindex.com>.