

THE CSI FILE – Neither Illegal or Immoral

The term tax haven has come to be associated with unsavoury, immoral, and perhaps even illegal activities in the minds of many. Constant negative media coverage and government propaganda have perhaps caused the public to associate tax havens with shady business deals and characters of questionable nature. As a result, many wonder why anyone would want to take their money offshore.

The reality of tax havens and those who use them could not be further from the truth.

For centuries Europe's wealthy have moved their money offshore to protect their assets and to reduce their tax burden. There are currently over 200 jurisdictions that offer these and other special incentives to foreign investors across the globe. They vary from sun-drenched Caribbean islands with palm-lined beaches to mountainous, European principalities filled with castles and picturesque villages.

First, it is important to define what a tax haven is. A tax haven is a foreign country or dependency that has a series of unique characteristics, the primary one being relatively lower tax rates in comparison with other countries. In fact, many tax havens impose no taxes at all on income earned by foreign individuals. Bank secrecy and strict privacy laws are other important characteristics of tax havens. In fact, in some tax havens, it is illegal for anyone to reveal such private financial information. The Agents' handbook defines tax haven as **"a term that generally connotes any foreign country that has either a very low tax or no tax at all on certain categories of income."** Revenue Services define at least 30 jurisdictions around the world as tax havens, including BVI, Austria, the Cayman Islands, Nevis, Hong Kong, Liechtenstein, Panama, Singapore and Switzerland and even lesser known places such as Bahrain, Nauru, Anjouan and Turks & Caicos Islands.

The UK & US governments, and especially their tax-collecting agencies, would have everyone believe that the use of a tax haven is the same thing as tax evasion. The US government frowns on you relocating your money offshore. If everyone could invest abroad and in secrecy and never pay taxes the federal government would go broke. Governments tend to do everything in their power to discourage citizens from moving funds offshore because when you move your money offshore, the government loses control. It is in no way illegal to take your money offshore, even though the government has done its part to try to persuade you to not do so.

To this end, most Revenue Services would have the public believe that tax havens are used exclusively for tax evasion, but that is just not the reality of the matter. The Agents' **handbook carefully notes that taxpayers use havens to avoid taxes, not evade them. Tax avoidance is the legal reduction of taxes, while evasion is any illegal means of reducing or eliminating taxes.**

Furthermore, the guide concedes that taxpayers may also use tax havens for tax planning reasons. This same guide also admits that some transactions conducted through tax havens have a beneficial tax result that is completely within the letter of the law.

In fact, the US Supreme Court stated in **Gregory vs. Helvering (1935)**, **that taxpayers can arrange their affairs so that they can make their taxes as low as possible. Given that admission, it becomes highly probable that many British and Europeans are overlooking tax havens, private international banking and offshore investing as a fully legal means of restructuring their income and reducing their tax liability.**

Given the information above, there are multiple reasons for using tax havens. One of the most important tax related reasons is the formation of an offshore corporation to engage in international business activities. Through expert planning, taxes may be minimised or deferred. The most prominent of non-tax reasons for using a tax haven is the privacy and confidentiality they offer for business transactions. Where banking secrecy is the rule of law, it is very difficult for the a government to obtain information about business activities that take place in offshore tax havens or to locate income from investments made through an offshore corporation. Although not a concern for UK-residents, tax havens can provide economic and political stability for individuals who live in countries where such stability is sadly lacking.

An excellent example of a well-known public figure that is publicly known to utilise tax havens to his advantage is Rupert Murdoch. In 1985, media magnate Rupert Murdoch renounced his Australian citizenship and became a US citizen and so was able to comply with the US law that prohibits foreign ownership of television stations. This very wise business move helped Mr. Murdoch build a global entertainment empire that includes among its many subsidiaries the 20th Century Fox studios. Mr. Murdoch's company, News Corp., earns most of its revenue from US subsidiaries, but through the use of international tax havens, Mr. Murdoch has paid corporate income taxes of one-fifth the rate of his US competitors during the 1990s. US authorities do in no way suggest that there is any impropriety in his business strategies. News Corp. has remained incorporated in Australia in spite of Mr. Murdoch's taking on US citizenship. News Corp. has mastered the use of the offshore tax haven in its many international transactions. The company reduces its annual tax bill by moving profits through multiple subsidiaries in offshore tax havens like the Cayman Islands. Mr. Murdoch has taken advantage of the differing tax regimes around the globe and so has been able to make sure his companies keep more of what they earn. Mr. Murdoch provides an excellent example of the proper use of tax havens in business strategy for all to follow.

Tax havens offer numerous opportunities and if you have not yet researched the use of one or more in both your personal and business tax planning, it is now time to seriously consider the matter.

Every tax-law student is required to memorise Judge Learned Hand's declaration, ***"Over and over again courts have said that there is nothing sinister in so arranging one's affairs as to keep taxes as low as possible. Everybody does so, rich or poor; and all do right, for nobody owes any public duty to pay more than the law demands: taxes are enforced exaction's, not voluntary contributions. To demand more in the name of morals is mere cant."***

It is foolish to not take advantage of the tax code regulations and provisions that give one legal right to use tax havens. Only the government loses because it will be taking less of your money in taxes. Keeping more of what you earn is not such a bad outcome after all, is it?