

NARRATIVE REPORT ON CANADA



PART 1: NARRATIVE REPORT

Overview

Canada’s role in the offshore system has three main components. First, compared to its peers it has an extremely low effective tax rate on businesses. Second, it is effectively a regulatory haven for the world’s extractive industries. Third, Canadian interests played a significant part in the development of tax havens elsewhere, notably in the Caribbean. Canada also offers some secrecy facilities.

With a secrecy score of 55 out of 100, Canada ranks among the less secretive jurisdictions on the Financial Secrecy Index list, though there is still room for improvement.

History: Canada in the Caribbean

The history of trade relations between Canada and the Caribbean islands begins as far back as the development of [New France](#)¹ in the 17th Century. By the 19th century, these relations were so close that Canada wanted to put British dependencies in the Caribbean under its own colonial administration. London rejected this but in 1837 the Colonial Bank of the Caribbean, the British banking authority for its dependencies in the region, signed an agreement with the Halifax Banking Company allowing it to develop there even before it had been registered in Toronto. At various stages Ottawa has wielded more influence than London on financial decisions affecting the Caribbean islands.

This helps explain the spectacular growth of Canadian banking in the Caribbean in the twentieth century. Particularly in the Bahamas and the Cayman Islands, Canadians were instrumental in the development of business districts and legislative initiatives that provided tax benefits for banks, businesses and private wealth holders. As the [IMF noted in 2013](#) (page 5):

“Foreign banks, primarily Canadian, play a leading role throughout the Caribbean, accounting for about 60 percent of banking system assets.”

Since 1980, the most notorious Canadian-linked tax haven has been Barbados. A non-double taxation treaty between the two countries allows Canadian corporations to register assets in Barbados and then transfer them back to Canada, with income that has been realised in Barbados being almost completely untaxed.

Today, Canada is using this privileged tax relation as a model for tax information sharing treaties (known as “Tax Information Exchange Agreements”, or [TIEA](#)) signed with other tax havens. TIEAs signed by the Canadian government are unusual. They are being enacted as non-double taxation treaties. According to Consolidated Regulation 5907(11) of the Canadian Income Tax Act, as soon as Canada has signed such an agreement with a tax haven, companies declaring international income in jurisdictions where taxes are close to zero are allowed to bring the money back home to Canada as dividends without paying Canadian tax. So far, highly accommodating agreements have been established

Rank: 21

Chart 1 - How Secretive?

55
Secrecy Score

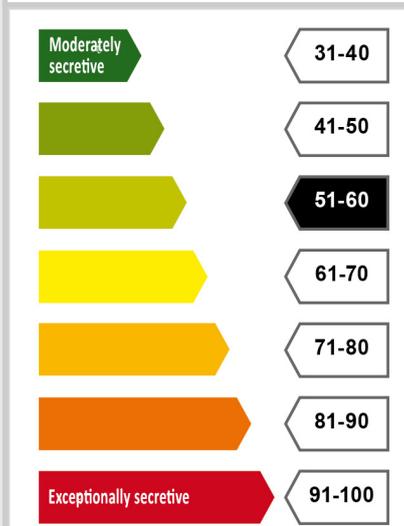
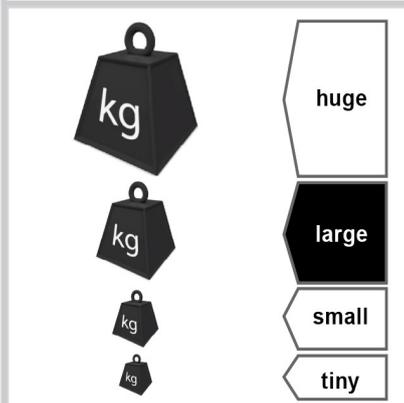


Chart 2 - How Big?



Canada accounts for more than 1 per cent of the global market for offshore financial services, making it a large player compared with other secrecy jurisdictions.

The ranking is based on a combination of its secrecy score and scale weighting.

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

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

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with the following, among others: Anguilla, the Bahamas, Bahrain, Brunei, Bermuda, the British Virgin Islands, the Cayman Islands, the Cook Islands, Curaçao, Dominica, Liechtenstein, Saint Lucia, Saint Vincent and the Grenadines, San Marino, St-Kitts and Nevis, and the Turks and Caicos Islands.

The election of a new Liberal Party government in 2015 has made no change in Canada's accommodating relationship with tax havens. Ottawa signed a new version of its very permissive TIEA with the Cook Islands, as Conservatives had done before. The Liberal majority at the House of Commons also voted against a [private member's motion tabled by MP Gabriel Sainte-Marie](#), which asked the government to amend "subsection 95(1) of Income Tax Act and section 5907 of the Income Tax Regulations to specify that no business that is entitled to a special tax benefit conferred by Barbados under the Canada-Barbados Income Tax Agreement Act, 1980, shall be exempt from taxation because of a tax treaty." Voting against this proposal was a way for the House to [endorse, for the first time, a very controversial treaty](#) that the government had signed in 1980 without consulting Parliament in any way.

In 2011 Canada also approved a [free-trade agreement with Panama](#), even though Panama is viewed by many crime experts as a leading center for laundering the proceeds from drug trafficking.

According to Statistics Canada, Canadian corporations have placed [262 billion Canadian dollars](#) in so-called „direct investments“ in the top 10 tax havens, of which more than 68 billion dollars were held in [Barbados](#). This is a conservative figure, since the data was provided to Statistics Canada by the corporations themselves.

Under public pressure, in July 2017, Canadian Finance Minister Bill Morneau announced measures targeting Canadians who use private corporations to "sprinkle" income among family members, thereby lowering their collective tax burden. The minister claimed to be closing "loopholes" available to Canadians, while continuing to ignore the astonishing phenomenon of wealthy corporations taking advantage of Canadian treaties with tax havens to lower their tax payments.

Canada's role as a tax haven

Within its own jurisdiction, Canada has allowed entire sectors of the financial industry to develop an offshore flavour.

Canada's fairly low secrecy score shows it is less opaque than many jurisdictions. One area where it falls down badly, however, is in the area of lack of transparency of beneficial ownership of corporations and trusts and the ease with which one can register anonymous shell corporations. World Bank research [summarised](#) by Canada's *National Magazine* notes:

"Canada and the U.S. are the two most lax jurisdictions in the world when it comes to the rules for preventing the incorporation of anonymous shell companies. What's more, corporate service providers operating in those two countries are less compliant than those operating in Ghana, Lithuania, or Barbados, and follow laxer rules than those in Malaysia or the Cayman Islands."

The Panama Papers leak also revealed that the Panamanian law firm, Mossack Fonseca was advising its clients in 2010 that,

"Canada is a good place to create tax planning structures to minimize taxes like interest, dividends, capital gains, retirement income and rental income,"²

In terms of taxation, Canada's system is more complex.

A prime example is the city of Halifax, in eastern Canada, which for the past few years has been the headquarters of a development agency known as [Nova Scotia Business Inc.](#), created by the Nova Scotia government and managed exclusively by private partners. The agency is in practice a place where [tax advantages](#)³ can be obtained by hiring accountants working for firms involved in insurance and hedge funds in connection with the tax havens of Bermuda and the City of London.

„A report by KPMG, Competitive Alternatives 2016 Special Report: Focus on Tax, concludes that total business tax costs in Canada are the lowest in the G7 and 48 per cent lower than those in the United States.⁴

A study of 99 of the largest Canadian corporations from 2009 to 2011 revealed that on average, the effective tax rates paid by the corporations amounted to 19.5 percent – though many enjoyed far lower rates.⁵

In 2009, the Canadian Department of Transport produced a document whose title says it all: *Canada Tax and Duty Advantages: Enjoy the Benefits of Foreign Trade Zones... Anywhere in Canada!* The programme, known as “Canada’s Gateways,” freely adopts offshore language and eliminates GST and customs tariffs on exports. The International Financial Centre of Montreal, established in 1986⁶, says that 75% of the net profits of foreign companies that register with it will not be taxed, and that other tax advantages will be provided for employees. Canadian companies can claim identical benefits through their offshore subsidiaries.

Canada is also a tax and regulatory haven for the world’s extractive industries. According to government sources in 2009, three quarters of the world’s mining companies are headquartered in Canada. The Toronto Stock Exchange is more favourable than others to speculation in this area, and tax benefits are specifically designed to encourage investment in the mining industry.

Since 2011, income trusts in Canada have been tax exempt as long as they manage no substantial activity within the country. This rule, originally established in 2006, has benefited owners of mining assets throughout the world: they can register trusts in Canada that own mining assets elsewhere. Keith Schaefer, publisher of the *Oil and Gas Investment Bulletin*, wrote in 2011: “Last year, Eagle Energy Trust (EGL.UN) went public on the TSX, which was the first Canadian-listed oil and gas trust to launch since Flaherty’s Halloween surprise in 2006. The company holds only foreign oil-producing assets [...], a loophole that excludes it from the new Canadian tax regime.”

At the federal level, corporate taxes have been aggressively cut by successive administrations. Between 1981 and 2012, the corporate tax rate dropped from 38 percent to 15 percent. Moreover, tax breaks, constantly deferred tax payments and the abolition of other business taxes have turned Canada into a tax haven. As a result, major corporations such as Burger King or Valeant Pharmaceuticals

have decided to move their headquarters to Canada explicitly for tax purposes.

Politically, Canada tends to protect and lobby on behalf of mining industry despite the industry’s sorry ethical record at the international level, to the point where Canada incurred a rebuke from the OECD in a 2011 report on international corruption. In this report, an OECD working group explicitly asks why Canada has prosecuted only one company over a ten-year period, even though it is home to a majority of the world’s mining companies – companies which, according to the group, are known to be particularly likely to resort to influence-peddling –, and despite Canada’s commitment to investigating and prosecuting any corporation registered on its territory that is suspected of corruption abroad.

On the diplomatic front, Canada shares its seat on the Board of the World Bank and the IMF with a group of Caribbean tax havens consisting of Antigua & Barbuda, the Bahamas, Barbados, Belize, Dominica, Grenada, Guyana, Jamaica, St. Kitts and Nevis, Saint Lucia and Saint Vincent and the Grenadines.

Government agencies have done little to provide adequate measurement of the real losses incurred by the state as a result of tax evasion. At most, federal or provincial governments target illicit tax evasion practices within the small-scale domestic economy, rarely bringing up the problems caused by large corporations’ or high net worth individuals’ use of tax havens to conceal assets through the use of trusts, foundations or offshore subsidiaries.

While the federal Liberal government has increased the capacity of the Canada Revenue Agency to go after wealthy individuals using tax havens to evade taxes and announced other measures to curb tax haven facilitated tax evasion, they have not taken steps to curb corporate use of tax havens to shift profits and avoid taxes.

Even where the government has taken action to prevent tax avoidance, investigative authorities then need to navigate the courts. A government [consultation](#) on treaty shopping highlighted the frustration of the Canadian government in the lenient attitude the courts had taken to companies accused of abusing Canada’s tax treaty network. Canadian courts have already [endorsed a type of transfer pricing process](#) that has been shown to be an abusive tax avoid-

dance strategy throughout the world. This may explain why the Canada Revenue Agency chose not to sue KPMG clients who were [caught hiding funds on the Isle of Man](#), as Canada's public broadcaster revealed in 2017: going to court would have been extremely costly, and the rules followed by the courts are unpredictable. Suspicions were raised when the same media discovered Canadian judges attending KPMG-sponsored cocktails in Madrid.

With thanks to Alain Deneault and Dennis Howlett for their major input into this report.

Read more:

Alain Deneault, with the Réseau Justice fiscale (Canada), [Canada: A New Tax Haven. How the Country That Shaped Caribbean Tax Havens Is Becoming One Itself](#), Vancouver: Talonbooks, 2015.

Alain Deneault and William Sacher, Imperial Canada Inc.: Legal Haven of Choice for the World's Mining Industries, Vancouver: Talonbooks, 2011.

Alain Deneault, *Offshore: Tax Havens and the Rule of Global Crime*, New York: The New Press, 2011.

Mario Possamai, *Money on the Run: Canada and How the World's Dirty Profits Are Laundered*, Toronto: Penguin Books of Canada, 1992.

Company	Before-tax profit (in millions of dollars)	Effective tax rate
Cott Corporation	193.20	-14.50 %
Emera Inc.	639.20	-7.00 %
Canadian Pacific Railway	2,199.00	-4.70 %
Molson Coors Brewing Company	2,420.70	-1.90 %
Canadian Oil Sands Limited	2,762.00	0.00 %
TransCanada Corporation	5,914.00	1.70 %
Québecor Inc.	1,822.20	3.80 %
Rogers Communications Inc.	6,192.00	5.10 %
Enbridge Inc.	4,764.00	5.30 %
SNC-Lavalin Group Inc.	1,567.70	6.20 %

⁶<http://www.finance-montreal.com/fr/mesure-cfi;> 30.7.2015.

¹https://en.wikipedia.org/wiki/New_France; 30.7.2015.

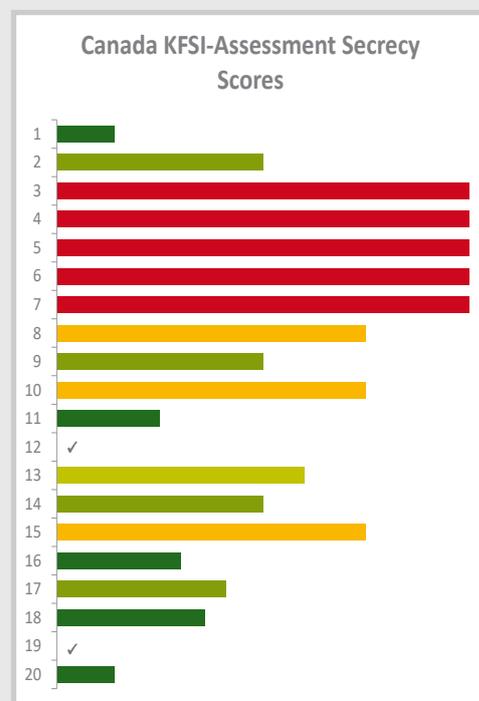
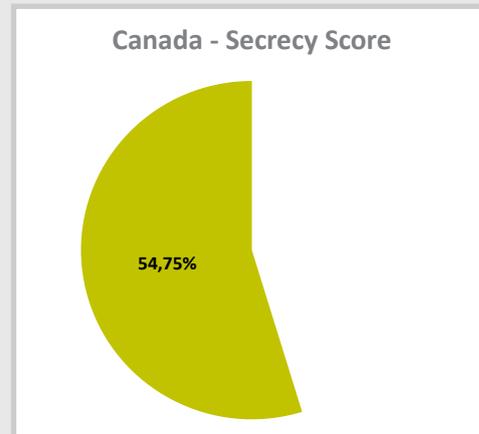
²<http://projects.thestar.com/panama-papers/canada-is-the-worlds-newest-tax-haven/>

³<http://www.novascotiabusiness.com/en/home/invest/incentivesandtaxes/default.aspx>; 30.7.2015.

⁴https://www.competitivealternatives.com/reports/compalt2016_report_tax_en.pdf

⁵The research was carried out by the Laboratoire de recherchesocioéconomique at the Université du Québec à Montréal. Their data included the following:

PART 2: CANADA'S SECRECY SCORE



Notes and Sources

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

The secrecy score of 55 per cent has been computed as the average score of 20 Key Financial Secrecy Indicators (KFSI), listed on the left. Each KFSI is explained in more detail by clicking on the name of the indicator.

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

This paper draws on data sources including regulatory reports, legislation, regulation and news available as of 30.09.2017.

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

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