Cayman Finance

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TJN'S State of Tax Justice : A Critical Review FACT SHEET

The Tax Justice Network has published its State of Tax Justice 2021 report, which criticised the Cayman Islands as contributor to lost tax revenue around the world. However, **TJN based its conclusions on extremely distorted estimates** of the extent to which specific jurisdictions facilitate both tax evasion (a crime, combatted by Cayman and jurisdictions worldwide) and tax avoidance (abuse of loopholes in home country tax laws to minimize tax liability effectively). **The estimates for Cayman, in particular, lack any grounding in reality and are contradicted by other, more credible sources.**

In both SOTJ 2020 and 2021, TJN claims that hundreds of billions of dollars are "lost" each year due to "international tax abuse," including "multinational corporations shifting profit into tax havens," and, "wealthy individuals hiding undeclared assets and incomes offshore." TJN has previously claimed the Cayman Islands was the "biggest contributor to other countries tax losses," allegedly contributing a tax loss of billions of dollars to other countries through "corporate tax abuse" and "offshore financial wealth." It still contends the Cayman Islands is a leading secrecy jurisdiction.

TJN's claims in the State of Tax Justice for both 2020 and 2021 regarding the Cayman Islands raise suspicions for three reasons. First, **Cayman does not have any double tax treaties and so cannot directly facilitate tax avoidance**. Second, **Cayman's laws make it extremely difficult for individuals, companies or other entities to hide money from foreign tax authorities**. Third, as the OECD has acknowledged, **Cayman plays an important role as a tax neutral jurisdiction, facilitating trillions of dollars investments in a way that automatically avoids double taxation**. Unfortunately, it would appear that TJN has falsely assumed funds are domiciled in Cayman to evade tax. Finally, describing the Cayman Islands as a leading secrecy jurisdiction is an inaccurate claim recycled from TJN's Financial Secrecy Index.

Like other TJN reports, as long as the **State of Tax Justice** relies on inflated estimates and baseless conclusions it **cannot be considered a credible assessment of the Cayman Islands role in the global financial system**.

LAWS, REGS. MAKE IT DIFFICULT TO HIDE MONEY FROM TAX AUTHORITIES

The Cayman Islands is a transparent jurisdiction, having adopted a wide range of global standards for information-sharing. TJN's own metrics for Banking secrecy show Cayman is not a secrecy jurisdiction. Cayman's verified beneficial ownership registry combined with its tax information exchange agreements strongly disincentivize individuals from attempting to use the jurisdiction for tax evasion.

- **Cayman goes to great lengths to assist tax authorities in other jurisdictions** and, as a result, it is extremely difficult to undertake such abuses in Cayman. For example, **under FATCA** and the Common Reporting Standard, **financial institutions in Cayman automatically share financial and personal information of account holders with relevant competent authorities** in the jurisdictions where those individuals are tax resident.

- In the unlikely event that such an abuse is facilitated **in Cayman, routine checks on transactions are likely to pick up any suspicious activities, which are then reported to competent authorities**.

- Cayman corporate service providers and financial institutions assist in the criminal and tax investigations of competent authorities around the world, providing relevant information for investors such as copies of passports and proof of residence. In addition, **Cayman financial institutions report financial information to foreign authorities under the Common Reporting Standard (CRS) automatically**, no request required.

TAX NEUTRALITY FACILITATES INVESTMENTS & AVOIDS DOUBLE TAXATION

In contrast to jurisdictions that have tax treaties with high-tax jurisdictions, Cayman simply cannot directly facilitate profit shifting because it is a Pure Tax Neutral Jurisdiction. As such it has no direct taxes on corporate or personal income and has no double tax agreements that allocate taxing rights. In a Pure Tax Neutral Jurisdiction like Cayman, all taxing rights are automatically retained by the other jurisdictions in which MNEs have entities.

- **Cayman's tax neutrality and well-developed laws make it an attractive choice for domiciling private entities** (companies, trusts) that pool funds on behalf of investors whose members are dispersed across different jurisdictions because it ensures that income is only taxed in the jurisdictions of beneficiaries (if the jurisdiction imposes income tax). Again, **there is nothing abnormal about deposits associated with investments of this kind.**

- TJN asserts that jurisdictions with "abnormal" bank deposits are more likely to facilitate tax evasion. But **TJN's criteria for "abnormal" captures nearly 40% of all foreign bank deposits in the world**, including over 99% of deposits in Cayman. Given the very large scale of Cayman's entirely legitimate financial industry, this is simply incorrect.

- Tax treaty shopping, whereby variation in withholding tax rates among the world's more than 3,000 double taxation treaties (DTTs) enables shifting profits to jurisdictions within the network of DTTs that have lower withholding taxes. The **Cayman Islands has no such double tax treaties**.

- One of TJN's own founders, Richard Murphy, concedes that
  - TJN uses BIS data that does not differentiate personal and corporate deposits.
  - TJN fails to recognise "that there may be commercial reasons for some of these deposits despite this referring to the fact in the methodology note."
  - Offshore holding is not necessarily for the purposes of tax abuse.