

HOW TO CHOOSE THE RIGHT OFFSHORE JURISDICTION

There are about fifty countries in the world that offering various tax benefits to non-residents, thus promoting what is called offshore business. Some of those countries are extremely popular and widely perceived as offshore tax havens - like British Virgin Islands, Panama or Seychelles. At the same time interesting tax breaks to non-resident businesses are actually available in some places that are not at all recognized as "offshore" – for instance, UK, US, Denmark or Netherlands. And there are all sorts and types in between.

So, which is the best jurisdiction to incorporate an offshore company?

There is really no standard answer. The choice of the right offshore jurisdiction will depend on the intended use of the offshore company, the personal and business circumstances of its owner, and the actual regions of the world where this company intends to trade.

But, before going into the details, what is a tax haven, anyway?

[What is an Offshore Jurisdiction?](#)

[Your profile](#)

[Political and economic stability](#)

[Legislation](#)

[Desirable corporate characteristics](#)

[Infrastructure](#)

[Cost](#)

[What is an offshore jurisdiction?](#)

According to a formulation by the OECD (Organisation for Economic Co-operation and Development), a tax haven is a jurisdiction which actively makes itself available for the avoidance of taxes which would otherwise be paid in a higher tax jurisdiction.

The keyword here is "tax avoidance". There is another one: "tax evasion". From purely legal point of view, tax avoidance is legal, while tax evasion is a crime. Basically, tax avoidance is structuring ones' business affairs in such a way that minimum possible amount of tax is payable, without still breaking the law. In principle, the whole international offshore financial services industry is about tax avoidance, not tax evasion. An offshore jurisdiction, therefore, is one that offers certain attractive instruments or opportunities for tax avoidance, and for asset protection.

In its broadest and historical sense, offshore also means simply a jurisdiction other than your own. So, for a Canadian, United States is technically "offshore", because it's on the other side of the border.

However, it's the practical meaning that usually prevails. There, offshore means a country or territory which offer specific benefits or incentives, mostly tax concessions. Such benefits can be available to (A) foreigners and non-resident businesses, or (B) to all businesses registered and situated in that country, regardless of their ownership and area of operation. Increasingly, option B becomes more popular amongst the more advance offshore tax havens.

The concessions and benefits may come in different forms. It may be a zero income tax for all (British Virgin Islands Business Companies), a complete tax exemption for all international business operated by non-residents (Seychelles or Belize International Business Companies), an ultra-low income tax for international businesses (Seychelles Special License Companies pay 1.5% tax), local tax exemption for non-residents of that jurisdiction (Gibraltar, Channel Islands); zero tax on receipt and distribution of dividends (holding companies in Cyprus, Denmark, Netherlands), tax holidays for certain types of investments (Portugal, Iceland); favorable tax treatment through treaties and agreements with the investor's home country (Cyprus, Netherlands, Malta).

In addition, some countries offer superior legal protection from creditors and potential litigants who might attempt to seize an individuals' wealth. This is the other most important reason why offshore jurisdictions are so popular – asset protection.

Sometimes, asset protection may not even have a tax motive, although most usually both are related. It's just safer to be offshore. Strict banking secrecy regulations, supported by stiff criminal penalties for those who might breach them, blanket confidentiality provisions for trust and company management firms, minimum information on public file are only some of the reasons why someones' assets are often better protected offshore than at home.

So, what are the most important questions that need to be evaluated before the choice of a particular offshore jurisdiction is made?

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