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Information, Power, and the Fight Against Tax Havens

Stuart MacLennan*

Introduction

Tax havens are not a new problem. The increasingly free-flow of global capital throughout the 20th century made the facilitation of tax minimisation an attractive option for developing countries that wish to grow their economic base. Although the existence of such jurisdictions, broadly described as 'tax havens', has long been acknowledged, there appeared to be little onus to do anything to curtail the practices of tax havens for much of the previous century. Indeed, at one time, there was a considerable body of literature (Slemrod, 2008) which took the view that tax havens were a somewhat benign phenomenon which actually mitigated the effects of large states' "sub-optimal" (read: "high") levels of taxation.

The focus of most of the contemporary debates on the challenges of international taxation has been on lawful, but harmful, tax avoidance. It should be noted that tax havens can be used entirely lawfully. A UK resident taxpayer might invest money in an offshore trust located in a tax haven so that they only pay tax on trust income on a remittance, rather than an arisal basis.[1] Although the use of tax havens for such purposes is unlikely to meet with approval from either domestic revenue authorities or the general public, such a practice is not unlawful. While action is being taken by states to curtail such arrangements (see, most recently, Sched. 8, Finance (No. 2) Act 2017); undesirable, but legitimate, utilisation of tax havens is not the subject of this chapter.

This subject matter of this book is corruption. The majority of the chapters in this book focus on regulating the conduct of corrupt private parties. The concept of enablers is a familiar one in the study of corruption – intermediate parties who use their knowledge and expertise, or their position, to facilitate corrupt practices. In general, these enablers are private parties – often professionals working in finance or legal services – however, in the fight against tax evasion the principal facilitators are, arguably, state actors. The focus of this chapter is therefore the role of states in facilitating tax evasion, the measures that states need to take in order to combat tax evasion, and the efforts and methods used to compel state actors to implement those measures.

According to Zucman, 8% of the world's private wealth is held in tax havens, three-quarters of which goes unreported (Zucman, 2013). While official figures establish the Eurozone as the world's second-largest debtor, under Zucman's analysis the currency bloc is actually a net creditor. While these findings undoubtedly affect perceptions as to the relative financial positions of states, as the vast majority of this wealth goes unreported Zucman's findings also illustrate the magnitude of the problem of illicit financial flows.

All efforts at tackling the use of tax havens for the purposes of avoidance have followed the same three steps: identification of tax havens; implementation of measures to curtail the viability of tax havens; and measures to compel compliance by tax havens. This chapter is, therefore, similarly structured. First, this chapter considers the characteristics that determine whether or not a state should be considered a tax haven. This chapter then proceeds to examine the principal weapon in the fight against tax evasion

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[1] It should be noted that the availability of such a scheme is now extremely limited in scope, applying principally to non-domiciled residents with foreign-source trust income.

– information – and efforts at improving transparency in tax matters. Among tax haven states there has been varying degrees of resistance to these proposals, so this chapter goes on to consider what power exists to compel states to comply with these measures.

Defining tax havens

There exists a widely recognisable stereotype of a tax haven: a small Caribbean island with a low level of natural resources, often with historical links to the British Empire. While there is always, naturally, a considerable risk to relying upon stereotypes, evidence suggests that in the case of tax havens the stereotype is not particularly wide of the mark. Dharmapala and Hines (Dharmapala and Hines, 2009) find that tax havens share many characteristics in common.

The necessity of being able to identify tax havens in order to take action against them is obvious. In 1998, the OECD outlined a number of criteria that can be used to identify a tax haven. These include

(a) No or only nominal tax rates (as a starting point);
(b) Lack of effective exchange of information (whether in their tax administration or in their financial services);
(c) Lack of transparency (in their legislative, legal, or administrative provisions);
(d) No requirement for any substantial economic activity in the jurisdiction.

It is arguable that the above criteria are unduly broad. At the time, the primary concern about the use of tax havens was not their use for the purposes of criminal tax evasion. Rather, the OECD's principal concern was tax competition, more broadly.

In parallel to the OECD's efforts on harmful tax competition, the European Union undertook its own work in the area through the Code of Conduct Group for Business Taxation. At its inception in 1998 the focus of the Code of Conduct Group's attention was the perceived undercutting of the large, developed economies by low-tax jurisdictions – in particular within the EU itself. The Code of Conduct Group's first task was to identify criteria against which potentially-harmful tax regimes could be assessed. The Group identified the following factors as being potential indictors of a harmful tax regime:

(a) Whether advantages are accorded only to non-residents or foreign transactions;
(b) Whether the regime is ring-fenced from the domestic tax base;
(c) Whether the regime is made available without any real economic activity or substantial economic presence;
(d) Whether the regime uses non-standard transfer pricing rules;
(e) Whether the regime lacks transparency, for example, by relaxing legal requirements at an administrative level. (Code of Conduct Group (Business Taxation), 1999)

The work of the Code of Conduct Group did achieve some success in engendering a common approach to harmful tax practices among EU Member States. With consensus emerging, the EU increasingly turned its sights beyond its own members to third states.

In 2015, the European Commission published 'A Fair and Efficient Corporate Tax System in the European Union: 5 Key Areas for Action' (European Commission, 2015). Under action 4, on tax transparency, the Commission proposed 'a more common approach to third country non-cooperative tax jurisdictions' (2015, p.12), while under action 5 on improving coordination, the Commission proposed reforming the Code of Conduct on Business Taxation. While the Commission had previously recommended Member States maintain individual backlists of uncooperative tax jurisdictions, the 2015 proposal envisaged the EU throwing its collective weight behind a common blacklist of tax havens.

In 2016, ECOFIN[2] agreed the criteria (Council of the European Union, 2016) against which jurisdictions are to be assessed for the purposes of blacklisting. The criteria fall into three categories, the first of which is tax transparency. States should have taken steps to implement automatic exchange of information (the 'Common Reporting Standard') by 2017, with the first exchanges of information taking place by 2018. States should have a 'largely compliant' rating by the Global Forum with respect to OECD exchange of information requests. Sovereign states should have ratified OECD Multilateral Convention on Mutual Administrative Assistance ('the Multilateral Convention') or should have an equivalent network of conventions in place. Non-sovereign territories should be participating in the Multilateral Convention or an equivalent network of conventions. Until 30 June 2019 meeting two out of three of these sub-criteria is sufficient to be regarded as compliant with respect to tax transparency. The Council also agreed that a fourth category on beneficial ownership registers should be agreed and adopted at a later date.

The second criterion concerns fair taxation. States and territories should not operate harmful preferential tax regimes as set out in the EU Code of Conduct, nor should they facilitate offshore structures aimed at attracting profit shifting without any real economic activity.

Finally, states should have committed to implement to the OECD agreed minimum anti-BEPS standards by the end of 2017. Implementation of the OECD minimum standards will be incorporated as an independent criterion at a later date.

A total of 20 states and territories were placed on the EU blacklist – the majority of which are located in the Caribbean, although this total has dwindled somewhat at the time of writing.[3] Even beyond the Caribbean presence on earlier drafts of the list, the blacklisted states and territories shared a remarkable number of characteristics in common. Of the 20 states that have appeared on the blacklist, five are currently overseas territories (in some form or other) of the United States; 13 were either colonies or protectorates up until the latter-half of the 20th century; and 15 are small island groups. Of the 16 former colonies or protectorates, eight are formerly territories of the British Empire.

According to Dharmapala and Hines

> tax havens have open economies, in that they are physically close to major capital exporters, are unlikely to be landlocked, are likely to be islands, and large proportions of their populations live close to coasts. They are also likely to have British legal origins and parliamentary systems, and to use English as an official language. Finally, tax havens have substantially smaller natural resource endowments than non-havens. (Dharmapala and Hines, 2009: 1059)

One startling aspect of Dharmapala and Hines' research is the quality of governance of tax havens. Having assigned states a governance rating ranging from -2.5 to 2.5, the mean rating for tax havens is more than a whole standard deviation removed from the mean for non-havens (2009, 1061). Furthermore, according to Eden and Kudrle "[h]avens typically have low or zero tax rates on personal and/or corporate income, secrecy laws on banking and other financial transactions, and few or no restrictions on financial transactions" (2005: 101). According to Slemrod (Slemrod, 2008) there is a degree of correlation between those states that are money laundering states and those that are tax havens.

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[2] Economic and Financial Affairs Council

[3] As of January 2019, only two Caribbean territories – US Virgin Islands and Trinidad & Tobago – remained on the EU blacklist, with the remaining three territories – American Samoa, Guam, and Samoa – all being Pacific islands.

Given the number of characteristics that havens appear to share in common, it is tempting to conclude that setting-up as a haven state is a natural consequence of these characteristics. Furthermore, Dharmapala and Hines find poor governance scores in non-haven states (particularly in Africa), so while it can be observed that tax havens often have poor governance institutions, poor governance structures, alone, do not a tax haven make.

It does not appear to follow, therefore, that the decision by a state to establish itself as a tax haven is a natural consequence of meeting certain geographic, historical, political, or economic criteria. Rather, it appears that there is a degree of rational choice in the decision to become a haven state.

This is supported by Eden and Kurdle's (Eden and Kudrle, 2005) assessment of tax havens as "renegade states". Eden and Hermann define a renegade state as "a state whose practices are salient to an international regime but whose behaviour does not comply with the descriptive norms and practices of the regime" (Eden and Hermann, 1996).

The decision to operate as a tax haven is not always as easy as it might appear. While there are potentially lucrative revenue opportunities for haven jurisdictions, there are also significant potential costs. States that establish as tax havens risk considerable reputational damage. Furthermore, tax havens, increasingly, find themselves losing access to development aid.

From a taxpayer's perspective, too, concealing money in a haven jurisdiction is not free. There are significant costs associated with setting up evasion schemes. It is necessary, therefore, for taxpayers to balance the costs of evading tax against the cost of simply reporting to revenue authorities and paying taxes accordingly. Prudence requires that any cost-benefit assessment of offshoring income or wealth should include an assessment of risk. In order for a haven to be attractive, therefore, havens have to offer a degree of stability – in effect, guarantees that the tax regime will not substantially change. In this context, tax havens' resistance to international pressure makes considerable sense.

Information and the fight against tax evasion

Contract theory and economics tells us that one of the most powerful advantages one party can have over another is a favourable asymmetry of information. A classic example is the purchaser of a used car who believes they are getting a good deal because they don't know what the dealer knows – that the vehicle in question is a lemon soon likely to break down. Such asymmetry is generally regarded as highly inefficient and, as such, the law intervenes to level the playing field – in this example by requiring certain information be made available and that certain warranties be given.

Both tax avoidance and tax evasion involve information asymmetry – a taxpayer gains an advantage over revenue authorities by virtue of the fact that they are better informed about their own financial position. Naturally, revenue authorities do not simply take taxpayer accounts of their finances on trust, and the law intervenes to empower revenue authorities to compel the production of evidence, requires taxpayers to maintain adequate records, and imposes sanctions for non-compliance. As in contract law, the purpose of such rules is to address the asymmetry that exists between revenue authorities and taxpayers.

These rules are (at least arguably) effective in a domestic context, however, while revenue authorities are limited to working within their respective state's jurisdictional bounds, few boundaries exist insofar as taxpayers are concerned. The extent to which domestic laws can compensate for information asymmetry is, therefore, severely curtailed. Revenue authorities can compel compliance insofar as an individual or company's domestic dealings are concerned, but compelling compliance insofar as

overseas activities are concerned is rather more difficult. Such compliance is even more difficult to compel where overseas third parties are involved. It is in this latter scenario that tax evasion schemes are most often to be found.

Secrecy is the principal tool of the tax evader. As is discussed, above, a low tax rate, alone, does not lead to the conclusion that a state is a tax haven. The principal attraction of a tax haven is usually the secrecy that accompanies low tax rates. The secrecy afforded by tax havens can be exploited for the purposes of tax evasion in a number of ways, including concealing income-generating assets or investments, concealing the true source of income (thereby depriving that income's source jurisdiction of the power to tax it), and concealing income from illegal sources. Although that final category of income is principally of concern with respect to money laundering, to launder money is, almost always, to evade tax as well.

Tax havens have typically operated strict bank secrecy laws such that national revenue authorities are not permitted access to information about deposits held or transactions undertaken by their domestic financial institutions.

The OECD identifies the principal harm caused by bank secrecy as the fact that it undermines states' "ability to determine and collect the right amount of tax from their taxpayers, both domestic and foreign." (OECD, 2000: 9) Other harms identified by the OECD include fostering the "inequity of taxation between mobile capital and income derived from labour and immovable property"; discouraging voluntary tax compliance; and hampering international co-operation between tax administrations.

There exists, therefore, a pressing need to tackle the problem of secrecy in tax havens. Radon and Achuthan (Radon and Achuthan, 2017) point out that although tackling the issue of secrecy will not, of itself, solve the problem of tax havens, it is a necessary prerequisite for more effective tax laws and administrative practices in dealing with tax havens.

Exchange of information

One solution to the problem of secrecy has been exchange of information. Double taxation conventions (DTCs) normally contain provision for exchange of information,[4] however, the conclusion of DTCs often involves complex and lengthy negotiation. Since the early 2000s, states have been concluding bilateral tax information exchange agreements (TIEAs), which are stand-alone agreements to exchange information without dealing with the broader issues addressed by DTCs. TIEAs, like DTCs, principally provide for exchange of information by request.

One key flaw with exchanges under DTCs and TIEAs is that a request for information by the revenue authority of one state to that of another requires prior knowledge on the party of that first authority. Such prior knowledge is, obviously, extremely hard to come by, and it is reasonable to assume that the most valuable tax evasion schemes will also be among the best hidden. In 2005, the OECD updated Art. 26 of the Model Convention so that information to be exchanged no longer needs to be "necessary" but rather need only be "foreseeably relevant" to the administration or enforcement of domestic tax laws. The significance of these reforms can be easily overstated, however, with the Commentary to Art. 26 noting that the change was for clarification purposes and is not intended to alter the effect of the

[4] See Art. 26 of the OECD Model Convention.

provision. The commentary explicitly rules out the use of Art. 26 for "fishing expeditions" (OECD, 2012).

The effectiveness of TIEAs has been subject to criticism. Lynne Oats describes TIEAs as a "costly diversion" (Oats et al., 2017). Johannesen and Zucman (2014) find that tax treaties, in particular exchange of information, have only a modest impact on the use of tax havens by tax evaders. They postulate that tax evaders have, not unreasonably, concluded that exchange of information only modestly increases their odds of detection. A further issue is that much of the wealth in question is held by shell companies, the beneficial owners of which are unknown.[5]

Johannesen and Zucman's analysis (2014: 75) reveals that a significant response to the conclusion of bilateral tax treaties by tax havens is for depositors to simply shift their deposits to a different tax haven. Although this may make the conclusion of such treaties seem like a futile exercise, the number of tax treaties in force year-on-year has only ever gone up. On this basis it is arguable that as more and more such treaties are concluded there will be commensurately fewer and fewer jurisdictions to which evaders can shift their funds.

In order to address these concerns, the OECD has shifted its attention from the bilateral approach of TIEAs to a new multilateral convention on mutual administrative assistance. Although the Multilateral Convention was concluded between the members of the OECD and the Council of Europe in 1988, in 2011 the Multilateral Convention was repurposed to address the issue of global tax evasion through expansive exchange of information.

Unlike Art. 26 of the OECD Model and most TIEAs, the Multilateral Convention provides for more than mere exchange of information on request. The Multilateral Convention provides that states may agree to share information that was previously only shared on request automatically. Furthermore, Art. 7 of the Multilateral Convention provides that signatories shall spontaneously share information with each other. The situations in which information should be exchanged spontaneously include those in which one state "has grounds for supposing that there may be a loss of tax" in another state. This represents a significant expansion of information exchange in tax matters.

While the Multilateral Convention was, originally, open to member states of the OECD and Council of Europe, following the 2011 amendments to the convention the treaty was opened up to third countries to accede either by invitation or request. By April 2019, 128 jurisdictions participate in the Multilateral Convention, including a number of states widely regarded as tax havens.

Nevertheless, there exist a number of limitations to the effectiveness of information exchange in tackling some of the most harmful tax behaviour. These limitations largely take two forms.

The first limitation is the substantive shortcomings of information exchange as a method of tackling tax havens. Despite the fanfare surrounding the OECD's efforts at pursuing TIEAs, Robert Kudrle found that information exchange has "no discernible impact" on the use of tax havens (Kudrle). Although the Multilateral Convention provides for more comprehensive exchanges of information than was is required under TIEAs, few states, at present, gather what is arguably a key piece of information where tax evasion is concerned – the beneficial ownership of assets and legal persons.

A second limitation is the existence of hold-out jurisdictions. Not only does the existence of hold-out jurisdictions undermine the effectiveness of measures (as there will always be somewhere to where a

[5] See below.

tax evader can shift their activity); as more jurisdictions sign-up to information exchange the greater the incentive for hold-out jurisdictions not to comply. As Avi-Yonah noted in 2006:

> [a] principal problem of dealing with tax havens is that if even a few of them do not cooperate with information exchange, tax evaders are likely to shift their funds there from cooperating jurisdictions, thereby rewarding the non-cooperating ones and deterring others from cooperation. (Avi-Yonah, 1 August 2006: 7)

In addition to more comprehensive information exchange rules it is also necessary, therefore, to find methods of compelling the compliance of those jurisdictions that continue to hold-out.

Beneficial Ownership Registers

The overwhelming majority of companies are established and operated for legitimate purposes. Furthermore, even where a company is not a trading company in the conventional sense, there are a number of reasons why businesses might establish shell companies or holding companies. These reasons include taking advantage of favourable legal regimes for protecting assets (such as intellectual property), compliance with national regulatory requirements, providing a legal structure for joint ownership of assets, or establishing a vehicle for future planned investments.

Such companies can also be used, however, to conceal the true owners of assets or investments for a variety of nefarious purposes, including money laundering and tax avoidance. For example, a jurisdiction may not require companies to keep registers of share ownership or to register shareholdings with public authorities. Many jurisdictions permit companies to issue bearer shares.[6] For the purposes of combating tax evasion, it is, therefore, increasingly important for authorities to know the beneficial owners of companies, partnerships, and trusts.

The UK's Money Laundering Regulations 2007 define a beneficial owner of a company as any individual who owns either more than 25% of the share or voting rights in a company, or "otherwise exercises control over the management of the body".[7] Similar regulations exist with respect to partnerships and trusts.

At their summit in St Petersburg in 2013, the G20 declared encouraged

> all countries to tackle the risks raised by opacity of legal persons and legal arrangements […] regarding the identification of the beneficial owners of companies and other legal arrangements such as trusts that are also relevant for tax purposes. (G20, 5 September 2013)

By the end of 2016, 53 countries had committed to implementing public registers of beneficial ownership (House of Commons Library, 2019). In April 2018, the Sanctions and Anti-Money Laundering Act 2018 received royal assent, requiring the UK's Overseas Territories under s51 to develop and publish registers of companies' beneficial owners. While s51(1) requires the Secretary of State to assist the Overseas Territories to do so on a voluntary basis, s51(2) of the Act requires the Secretary of State to prepare a draft order to compel compliance on the part of any territory that has not complied by the end of 2020. Furthermore, the Council of the European Union agreed in 2016 that

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[6] The United Kingdom only prohibited the issuance of bearer shares in the Small Business, Enterprise and Employment Act 2015. &

[7] Regulation 6, Money Laundering Regulations 2007. &

failure to implement beneficial ownership registers could be considered a future criterion for inclusion on the EU's blacklist of non-cooperative tax jurisdictions (Council of the European Union, 2016).

Those states that have implemented, or have committed to implement, beneficial ownership registers thus far are overwhelmingly European. While a handful of Caribbean jurisdictions have done so, they are almost all overseas territories of EU Member States. The overwhelming majority of sovereign haven jurisdictions have not implemented beneficial ownership registers, and do not appear to be in any rush to do so. Nevertheless, as this chapter discusses, below, these states may find themselves subject to considerable pressure from powerful international actors.

Power in global governance

The very existence of tax havens, and the fiscal structures extant therein, is a consequence of those states' sovereignty over their own tax affairs. This is reflected in both their internal and their external sovereignty. Internally, insofar as these states are free to construct their own tax regimes as they see fit. Externally, insofar as these states are at liberty to decide to what extent, if any, they are willing to cooperate with other sovereigns in tax matters.

Double taxation conventions, as articulated above, are states' principal weapon in the fight against tax havens. Prior to 2008, most tax havens refused to participate in these treaties (Johannesen and Zucman, 2014). Since then, however, haven states have come under sustained pressure to fall into line with increasingly broadly accepted international norms. At the G20's 2009 London Summit, the G20 leaders heaped pressure on tax havens to fall into line, threatening sanctions "to protect our public finances and financial systems" (G20, 2009).

Power in global governance comes in multiple forms. Broadly speaking, such power can be dichotomised as being derived either from social interaction or constitutive power. The latter can be characterised as 'power over', while the former can be characterised as 'power to'(Barnett and Duvall, 2004). While this taxonomy describes the origins of power in global governance, it does not describe the nature of that power.

Compulsory power

By far the most authoritative form of power in international relations is compulsory power. Such power relationships go beyond the example of vassal states, instead involving one state to have direct mandatory power over another.

Barnett and Duval reject Dahl's suggestion (Weber, 1964) that compulsory power requires intention on the part of the compeller, arguing that "[compulsory] power is present whenever A's actions control B's actions or circumstances, even if unintentionally" (Barnett and Duvall, 2004: 14). In the present discourse, however, Dahl's conceptualisation of compulsory power is, arguably, preferable to Barnett and Duval's as the power exercised over the smaller states that are the subject of this chapter is quite deliberate.

An example of compulsory constitutive power can be seen in the relationships between colonial powers and their overseas territories. In April 2018, the Sanctions and Anti-Money Laundering Act 2018 received royal assent, to the near-universal dismay of the UK's Caribbean territories. The Act places a requirement on Overseas Territories under s51 to develop and publish registers of companies' beneficial owners. While s51(1) requires the Secretary of State to assist the Overseas Territories to do so on a voluntary basis, s51(2) of the Act requires the Secretary of State to prepare a draft order to compel compliance on the part of any territory that has not complied by the end of 2020.

Institutional power

Institutional power is rooted in the relationship dynamics within international institutions and organisations and can be characterised as ‘power within’ rather than ‘power over’. Although institutional frameworks may provide a source of institutional power (for example by granting a state larger voting weights), institutions can also serve as conduits for the exercise of power.[8] It is broadly acknowledged that certain Member States within the EU wield considerable power over others within the institutions even where their legal voting weights are equal.

Institutional power is socially removed. While compulsory power over another actor is direct, institutional power is often indirect. While the United Kingdom, as we have seen, evidently wields power over its former colonies; Germany’s power over Malta primarily exists through the EU. An example of institutional power with respect to tax havens is Luxembourg’s eventual adoption of the EU’s Savings Directive after a decade of resistance.

Structural power and productive power

Structural power exists in the relationships between parties. It allocates differing roles and capacities, as well as shaping parties’ perceptions of their self-understanding and subjective interests.

Productive power shares much in common with structural power. However, while structural power exists in the relationships between particular parties, productive power can be found in the context in which those parties exist. Such power can be seen on a transactional basis as well as in the ways in which states unilaterally structure their behaviour in response to others.

As Bradford explains

> without resorting to international institutions or seeking other nations’ cooperation, the EU is able to promulgate regulations that become entrenched in the legal frameworks of developed and developing markets alike, leading to the ‘Europeanization’ of important aspects of global commerce. (Bradford, 2015: 170)

Likewise, the ability of the OECD to exert pressure on states is increasingly apparent. Under direct pressure from the OECD Global Forum, Niue repealed its offshoring legislation in 2006 (OECD, 2016). Beyond these specific examples, a broader general shift towards normative tax behaviour among haven states is also apparent. Viewed through the prism of structural and productive power the rationale underpinning this shift becomes clear.

Conclusion

There has emerged in recent years a clear conception of what constitutes a tax haven. Low tax rates, alone, do not, of themselves, make a tax haven. The key characteristics of tax havens are regimes that are designed to attract foreign investment, often offering a degree of special treatment. Arguably the key characteristic of a tax haven regime, however, is secrecy. While tackling information asymmetry alone will not solve the problem of tax havens, it is arguable that it is not possible to tackle the problem of tax havens without first addressing the problem of secrecy.

To that end, developed countries, in particular in the OECD, have sought to improve the flow of information coming from tax havens through the conclusion of TIEAs. It is arguable, however, that TIEAs are somewhat limited in their usefulness where the information held by states about the

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[8] It is worth noting that institutional frameworks can often serve to limit the power of certain actors.

investment vehicles located therein remains incomplete. Registers of beneficial ownership are therefore necessary to ensure that tax authorities have a more complete understanding of the true owners of assets. While there remains a long way to go in the implementation of beneficial ownership registers, and While there remains a long way to go in the implementation of beneficial ownership registers, and some states will undoubtedly seek to gain an advantage by holding out against implementation, it is possible, as we have seen, for powerful states and international to exert their will over smaller jurisdictions. We have already seen the use of compulsory power with respect to overseas territories, as well as the use of institutional power over EU Member States. We have also seen, however, that the use of structural power and productive power can be effective in coercing haven states to fall into line. Although it will doubtless be a lengthy process, we may, therefore, be witnessing the beginning of the end for tax havens.

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