

Paradise Papers - Offshore Companies

Why in news?

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Centre reconstitutes the Multi-Agency Group formed in 2016 to investigate disclosures on offshore accounts of 714 Indians.

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What are the 'Paradise Papers'?

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- These are around 13 million leaked files from offshore service providers and company registries obtained by a German newspaper.

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- It was made public by the International Consortium of Investigative Journalists (ICIJ) and its media partners.

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- They essentially reveal the offshore interests and activities of politicians, world leaders and celebrities, and the tax engineering of more than 100 MNCs, from around 180 countries.

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- It also includes details of corporate registries maintained by governments in 19 secrecy jurisdictions often referred to as “tax paradises”.

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- Notably, a major portion of these files are in relation with a Bermuda firm Appleby and a Singapore-based Asiaciti Trust.

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- Unlike the previous leaks, the latest revelations are more about mega corporates than individual players, on their misuse of offshore jurisdictions.

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- India ranks 19th in terms of the number of names that feature in the papers.

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What is the Multi-Agency Group?

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- The latest report comes a few months after a similar 'Panama Papers' disclosure that came in 2016.
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- The Panama Papers named several prominent Indian politicians, actors, and businessmen as having offshore undisclosed bank accounts.
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- Following this, a Multi-Agency Group (MAG) was constituted.
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- The government has now reconstituted this MAG led by the Central Board of Direct Taxes (CBDT), to investigate cases relating to the 'Paradise Papers' data disclosure.
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- This will have representatives from CBDT, Enforcement Directorate, Reserve Bank of India and the Financial Intelligence Unit.
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How are offshore companies a concern?

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- **Legality** - It is not necessarily illegal to set up offshore companies.
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- This is because India has double-taxation avoidance agreements (DTAAs) with several countries with lower tax rates than its own.
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- The companies incorporated in such countries can use their tax residency certificates (TRC) to enjoy the tax benefits available legally.
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- **Concerns** - However, increasingly, companies and bank accounts are created overseas, providing nominee office-bearers and facilitating bank loans or transfer of shares in multiple secrecy jurisdictions.
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- This essentially means using or incorporating overseas shell companies to take tax advantages through illegal means.
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- These include:
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- i. operating as fake entities and engaging in tax evasion, manipulation of the market, money laundering, parking black money, etc.

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ii. round tripping i.e. taking untaxed money out of the country through inflated invoices and then bringing it back as investment.

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iii. instances of assets of Indian companies being used to guarantee loans raised by offshore companies without disclosing it to Indian regulators.

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iv. changing ownership of offshore companies to actually change the ownership of shares held in Indian companies without paying taxes in India.

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- **Complication** - A company is generally entitled to arrange its financial affairs in whichever way it wishes, to reduce its tax liability.

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- The fact that the motive for a particular transaction is to avoid tax does not necessarily invalidate the transaction unless the law of the land specifies so.

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- There is a corporate army engaged in imaginative bookkeeping to discover and exploit legal loopholes to evade tax in most cases.

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- The burden of justification thus is always on the financial regulators.

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- **Revelations** - The recent disclosures help regulators overcome the obstacle of secrecy, enabling them to investigate instances of financial malpractices.

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- The sheer size of the Paradise Papers disclosures and the corporate-centric leads they provide, mark a big step forward.

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- Such insight into corporate ingenuity allows regulators to bring in better laws and global tax reforms.

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Source: The Hindu, Indian Express

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