AMERICANS FOR TaxFairness

EXAMPLES OF OFFSHORE CORPORATE TAX DODGING FIXED BY THE "STOP TAX HAVEN ABUSE ACT"

The Stop Tax Haven Abuse Act (S. 1533) would raise about $220 billion over the next decade by closing tax loopholes that encourage U.S. corporations to move jobs, profits and operations offshore and prevent them from paying their fair share of taxes. The following are real-life examples of corporate tax dodging that would be prevented by S. 1533.

APPLE "CHECKS THE BOX" AND CHECKS OUT ON BILLIONS IN TAXES

Apple, Inc., the computer giant, has established overseas dummy corporations through which it channels tens of billions of dollars of profit, the U.S. Senate Permanent Subcommittee on Investigations (PSI) has found. But by simply checking a box on an IRS form, Apple has made these subsidiaries and their otherwise taxable transactions "disappear" for U.S. tax purposes. This has allowed Apple to avoid all U.S. taxes on $44 billion in profits over four years.[1] This is a big chunk of the total of $74 billion in profits Apple shifted offshore from 2009 to 2012, nearly all of which went untaxed.

S. 1533 would prohibit corporations from applying the "check the box" rule to foreign entities making their passive income invisible for tax purposes. It also would repeal the related Controlled Foreign Corporations "look through" rule, which similarly excludes from taxation certain passive income transferred between related offshore entities. Closing both loopholes would prevent an estimated $78 billion in offshore tax dodging over the next decade, according to the Joint Committee on Taxation.[2]

MICROSOFT DOWNLOADS ITS TAX OBLIGATIONS OFFSHORE

Software titan Microsoft "sold" the right to market its products in the Americas to an offshore subsidiary, which then "licensed" back to the parent company the right to sell its products in the United States. The effect was that in 2011, almost half of the value of Microsoft's U.S. sales was channeled offshore. Through this "transfer-pricing" shell game, the company avoided $4.5 billion in U.S. income taxes over three years, the U.S. Senate PSI determined. S. 1533 would close two tax loopholes that corporations use to shuffle their intangible property (like licenses and patents) to offshore subsidiaries to dodge the taxes they owe. This would raise $23 billion in revenue over 10 years.[3]

HEWLETT-PACKARD LENDS ITSELF A BIG TAX BREAK

Foreign profits are supposed to be taxed by the United States when they are brought back to America, even in the form of a loan. But there are exceptions for short-term loans (less than 30 or 60 days) and loans made and repaid within the same quarter. Hewlett-Packard (H-P), the technology pioneer, made aggressive use of this loophole, the U.S. Senate PSI found. H-P had two offshore subsidiaries—in Belgium and the Cayman Islands—make alternating short-term loans of billions of dollars to the parent company, essentially funding its operations for four years, tax-free. S. 1533 would eliminate the lending loophole, ensuring that companies can't dodge taxes on overseas cash funneled back to America under the guise of lending.[4]

NIKE SNEAKS OUT ON ITS TAXES

Sneaker king Nike has $6.7 billion in profits "permanently reinvested" in shell companies overseas, on which it has paid zero U.S. income taxes and paid practically no foreign tax as well, according to the nonpartisan research organization Citizens for Tax Justice.[5] To add insult to injury, ten of these dummy outfits, all based in Bermuda, sport the names of signature Nike shoes, such as Nike Flight and Nike Tailwind. By transferring these valuable brand names to shell corporations, then leasing them back at a steep price, Nike can artificially create profits in tax havens and declare expenses in the United States, cutting its domestic tax bill. S. 1533 would close two tax loopholes that corporations use to shuffle their intangible property (like brands and patents) through offshore tax havens to dodge the taxes they owe. This would raise $23 billion in revenue over 10 years.[6]

BILLIONAIRE WYLY BROTHERS ARE WILEY AT DODGING TAXES

Brothers Charles and Sam Wyly—who numbered among their holdings for almost 25 years the arts-and-crafts chain Michael's—crafted several artful offshore schemes to avoid paying their fair share of taxes. They set up 58 trusts and corporations in well-known tax havens like the Isle of Man. Despite maintaining effective control over all investment decisions, the Wylys claimed for tax purposes that these were independent entities, according to a U.S. Senate PSI investigation. S. 1533 would make such tax avoidance very difficult by strengthening existing laws against offshore tax avoidance, expanding disclosure requirements, boosting penalties, and better screening for the sources of cash repatriated to America from offshore entities.[7]

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[1] U.S. Senate Permanent Subcommittee on Investigations, Memorandum: "Offshore Profit Shifting and the U.S. Tax Code - Part 2 (Apple Inc.)" (May 21, 2013), p. 17. http://www.levin.senate.gov/download/exhibit1a_profitshiftingmemo_apple

[2] Sen. Carl Levin, "Senate Floor Statement on Introducing the Stop Tax Haven Abuse Act" (Sept. 19, 2013), Section 304. http://www.levin.senate.gov/newsroom/speeches/speech/senate-floor-statement-on-introducing-the-stop-tax-haven-abuse-act#sthash.Y0uF2y37.dpuf

[3] Levin, Sections 302 and 303.

[4] Levin, Section 305.

[5] Citizens for Tax Justice, "Nike's Tax Haven Subsidiaries Are Named After Its Shoe Brands" (July 25, 2013). http://www.ctj.org/taxjusticedigest/archive/2013/07/nikes_tax_haven_subsidiaries_a.php#.UkDM4IVOQ7A

[6] Levin, Sections 302 and 303.

[7] Levin, Sections 102, 104, 202, 203 and 204.