AMERICANS FOR TaxFairness

EDITORIAL BOARD MEMO

To: Editors and Columnists
From: Frank Clemente, Executive Director, Americans for Tax Fairness
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Report Reveals Walmart's Secretive Use of Tax Havens Allowing Company to Dodge Taxes

WASHINGTON, D.C. – A groundbreaking report released this week by Americans for Tax Fairness unveils that Walmart has built a vast, undisclosed web of 78 subsidiaries and branches in 15 offshore tax havens, which may be used to minimize foreign taxes where it has retail operations and to avoid U.S. taxes on those foreign earnings. These secretive subsidiaries have never been subject to public scrutiny before and have remained largely invisible, in part because Walmart fails to list them in its annual 10-K filings with the U.S. Securities and Exchange Commission (SEC).

We urge you to editorialize on this important issue as every dollar in taxes that is dodged by corporations is a dollar that needs to be made up by other taxpayers – or that gets added to the deficit.

The report, *The Walmart Web: How the World's Biggest Corporation Secretly Uses Tax Havens to Dodge Taxes*, is available here and the report's Key Findings are here.

Other key findings in the report include:

- Luxembourg, dubbed a "magical fairyland" by one tax expert because of its ability to shelter profits from taxation, has become Walmart's tax haven of choice. It has 22 shell companies there – 20 established since 2009 and five in 2015 alone. Walmart does not have one store there. Walmart has transferred ownership of more than $45 billion in assets to Luxembourg subsidiaries since 2011. It reported paying less than 1 percent in tax to Luxembourg on $1.3 billion in profits from 2010 through 2013.

- Walmart has made tax havens central to its growing International division, which accounts for about one-third of the company's annual profits. At least 25 out of 27 (and perhaps all) of Walmart's foreign operating companies (in the U.K. Brazil, Japan, China and more) are owned by subsidiaries in tax havens. All of these companies have retail stores and many employees. Walmart owns at least $76 billion in assets through shell companies domiciled in the tax havens of Luxembourg ($64.2 billion) and the Netherlands ($12.4 billion) – that's 90 percent of the assets in Walmart's International division ($85 billion) or 37 percent of its total assets ($205 billion).

- Walmart appears to be playing a long game – from tax deferral to profit windfall. It is using tax-haven subsidiaries to minimize foreign taxes where it has retail operations and to avoid U.S. tax on those foreign earnings. Walmart apparently hopes the U.S. Congress will reward its use of tax havens by enacting legislation that would allow U.S.-based multinationals to pay little U.S. tax when repatriating current low-taxed foreign earnings (such as to fund infrastructure spending) and pay no tax with the adoption of a territorial tax system. Under such a system, U.S. corporations would no longer pay income taxes to the United States on their foreign profits, which would invite even greater use of loopholes to shift profits offshore than currently occurs.

Former U.S. Senator Carl Levin (D-MI), a long-time leader in the fight against corporate tax evasion, summed ATF's Walmart report up well: "Walmart is another example of a multinational corporation engaging in deceptive tax practices, in this case hiding from investors and the public for years the existence of an extensive network of 78 tax haven subsidiaries by dubbing them 'not significant' and omitting them from its public filings. Walmart's undisclosed subsidiaries in 15 different tax havens hurts its credibility on tax matters and raises questions about whether it is using hidden offshore tax dodges. Walmart is a perfect example of why multinationals should be required to provide publicly-available country-by-country reports on their revenues and tax payments — disclosures that would help stop profitable multinationals from engaging in offshore tax schemes to avoid paying tax."

The release of this report is particularly timely as Congress and the Obama Administration are considering whether any form of corporate tax reform can be crafted and voted on this year. A central part of that discussion is how to tax the $2.1 trillion in offshore profits that are held by U.S. corporations and are currently untaxed here at home.

There is a growing consensus in Washington that corporations should be able to bring these profits home at a steeply discounted tax rate, and the revenue could be used to rebuild roads and bridges. Funding for the highway trust fund expires at the end of July and once again Congress will be scrambling to come up with a more "permanent" funding solution make up for a revenue shortfall due to an inadequate gas tax.

President Obama has proposed a 14 percent tax rate; Republicans are pushing for a rate as low as 6 percent, as compared with the current 35 percent corporate tax rate – less any taxes paid to foreign countries where the profits are booked. Such low rates on profits already earned would result in a huge tax break for multinational corporations that have already dodged paying their fair share of taxes, many through the use of offshore tax havens. Instead, Congress should require that Walmart and other multinationals pay all legally required taxes on their growing pile of overseas earnings, most of which are stashed in tax havens. This would raise substantially more revenue to rebuild infrastructure or to make other new investments and to help reduce the deficit.

The debate about taxing overseas profits is going to heat up this summer, and given the content of this report we think that Walmart's offshore tax-avoidance strategies should be a part of the discussion. American small business owners are particularly harmed by the types of tax haven abuse that Walmart may be engaged in. They compete with Walmart for business and play by the rules, but when corporations like Walmart use tax havens other American businesses have to foot the bill.

Recently U.S. PIRG released a report, *Picking Up the Tab 2015*, which showed that every American small business would have to pay an average of $3,200 in additional taxes to make up for all the lost revenue due to corporations exploiting tax havens. A state-by-state breakdown from the U.S. PIRG report shows how much small businesses would owe on average and cumulatively in each state.

Walmart owes its success to the resources and services that are made possible through taxes: roads, bridges, schools, the legal system and everything else that helps the American economy thrive. But Walmart – and many other corporations – is increasingly utilizing tax havens in an apparent effort to avoid paying its fair share. It should be loudly criticized for doing so and investigations are needed to assess whether Walmart is indeed skirting the law by engaging in these practices.

We urge you to editorialize on Walmart's secretive use of overseas tax havens to avoid paying its fair share of taxes, and to join the call for Congress, federal agencies and international organizations to determine if Walmart is skirting the law and using various schemes to dodge taxes.

Americans for Tax Fairness is a diverse coalition of 425 national and state endorsing organizations that collectively represent tens of millions of members. The organization was formed on the belief that the country needs comprehensive, progressive tax reform that results in greater revenue to meet our growing needs. ATF is playing a central role in Washington and in the states on federal tax-reform issues.

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