Picking Up the Tab

Average Citizens and Small Businesses Pay the Price for Offshore Tax Havens

Georgia PIRG
Standing Up
To Powerful Interests

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Phineas Baxandall, Abigail Caplovitz Field and Dan Smith

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Executive Summary

Some U.S.-based multinational firms or individuals avoid paying U.S. taxes by transferring their earnings to tax haven countries with minimal or no taxes. These tax haven users benefit from their access to America's markets, workforce, infrastructure and security; but they pay little or nothing for it—violating the basic fairness of the tax system and forcing other taxpayers to pick up the tab.

Even when tax haven abusers act perfectly legally, they force other Americans to shoulder the burden in a variety of ways. The taxes they don't pay must be balanced by other Americans paying higher taxes, coping with cuts to public spending priorities, or increasing the federal debt.

Congressional studies conclude tax haven abuse costs the United States approximately $100 billion in tax revenues every year. Multinational corporations account for $60 billion and individuals the rest.

- Based on the $100 billion in avoided taxes, the average tax filer from Georgia would need to pay an average of $351 in additional taxes.

- Based on the $100 billion in avoided taxes, the average tax filer in the United States would need to pay an additional $426 to pick up the tab. That's enough money to feed a family of four for three weeks.

- Based on the $60 billion multinational corporations avoided in taxes, small business in the United States would need to pay an average of $2,116 each in additional taxes. Small businesses can be hit particularly hard by the effects of tax havens because they are generally unable to use these tax schemes and are put at a competitive disadvantage.

- Based on the $60 billion multinational corporations avoided, Georgia small businesses would each need to pay, on average, an additional $1,520 in taxes. Viewed this way, the total additional tax bill multinationals shifted to Georgia small businesses would be $1,442,327,140.

- Because some local counties have more small businesses than others, the tab from multinational corporations' use of tax havens is not felt evenly throughout each state. The following five counties face the greatest extra burden: Los Angeles County, California ($2.1 billion); Cook County, Illinois ($1. 4 billion); Harris County, Texas ($870 million); New York County, New York ($790 million); Kings County, New York ($680 million).

Some of America's biggest companies use tax havens, including many who have taken advantage of government bailouts or rely on government contracts. As of 2008, the most recent data available, 83 of the 100 largest publicly traded U.S. corporations maintained revenues in offshore tax haven countries.

- **Wells Fargo** avoided paying nearly $18 billion in federal income tax from 2008-10, in part by using 58 subsidiaries in offshore tax havens. During that same time period, the company reported about $49 billion in profit to shareholders. Even with those profits and tax subsidies, at the end of that period Wells Fargo still hadn't repaid some $5 billion in bailout money.

- **eBay** received a tax refund of $131 million in 2010, despite reporting pre-tax profits of $848 million to their shareholders and paying its CEO $12.4 million. eBay's tax avoidance strategies include 31 subsidiaries in 9 tax havens.

- **Prudential Financial** received a federal income tax refund of $722 million in 2010, despite reporting $2.4 billion in profits that year. Prudential uses 36 tax haven subsidiaries to help achieve that feat.

To restore fairness to the tax system by preventing corporations and wealthy individuals from avoiding taxes through the use of tax havens, policymakers should:

- End the ability of U.S. multinational corporations to indefinitely defer paying U.S. tax on the profits they attribute to their foreign entities. Instead, they should pay U.S. taxes on them immediately. "Double taxation" is not an issue because the companies already get a credit against their U.S. taxes for the foreign taxes they pay on these profits.

- Reject a "territorial" tax system. Tax haven abuse would be worse under a system in which companies could temporarily shift profits to tax haven countries, pay minimal tax under those countries' tax laws and then freely bring them back to the United States without paying any U.S. tax.

- Require full and honest reporting to expose tax haven abuse. First, end the ability of multi-national corporations to avoid taxes by hiding the identity of their owners and the origins of their profits behind layers of shell companies. Second, require multinational corporations to report how they attribute their profits to other countries so they can't mislead each nation about how much of the income was taxed in the other countries.

- Eliminate the incentive for U.S. companies to transfer intellectual property (e.g. patents, trademarks) to shell companies in tax haven countries for artificially low prices and then pay inflated royalties to use them in the United States. This manipulation masks what would otherwise be U.S. taxable income and can be addressed by implementing stricter transfer pricing rules with regard to intellectual property.

- Stop the ability of multinational companies to manipulate how they define their corporate status to minimize their taxes. Right now, companies can make inconsistent claims to maximize their tax advantage, telling one country they are one type of corporate entity while telling another country the same entity is something else entirely.

- Close the credit default swap loophole by treating swap payments made from the United States to offshore entities as taxable U.S. income.

- Treat the profits of publicly traded "foreign" corporations that are managed and controlled in the United States as domestic corporations for income tax purposes.

- Close the current loophole that allows U.S. companies that shift income to foreign subsidiaries to place that money in American financial institutions without it being considered repatriated, and thus taxable. This "foreign" U.S. income should be taxed when the money is deposited in U.S. financial institutions.

- Give the Treasury Department the enforcement power it needs to stop tax haven countries and their financial institutions from impeding U.S. tax enforcement.

- Stop companies from taking bigger tax credits than they are entitled to for the taxes they pay to foreign countries. Congress can stop companies from double counting some of their foreign taxes simply by requiring companies to report full information on foreign tax credits on a pooled basis.

- Fully implement the Foreign Account Tax Compliance Act (FATCA), which was adopted by Congress in March 2010. FATCA has been stalled by financial institutions in an extraordinarily protracted stakeholder process.

Introduction

Ugland House is a modest five-story office building in the Cayman Islands, yet it is the registered address for 18,857 companies. The Cayman Islands, like many other offshore tax havens, levies no income taxes on companies incorporated there. Simply by registering themselves in the Cayman Islands, companies can legally shift much of their U.S.-earned profits to the Caymans and pay *no* tax on it.

The vast majority of these companies have no physical presence in the Caymans other than a post office box at Ugland House. About half of these companies have their billing address in the U.S.[1] This transparently false corporate "presence" is one of the hallmarks of a tax haven.

Tax havens are nation-states with very low or nonexistent taxes, to which U.S.-based multinational firms transfer their earnings to avoid paying taxes in the United States.[2] Wealthy individuals also use tax havens to avoid paying taxes by setting up offshore shell corporations or trusts. Many tax haven countries are small island nations, such as Bermuda, the British Virgin Islands, and the Cayman Islands.[3] Most tax haven countries also have financial secrecy laws that thwart international rules by limiting the disclosure about financial transactions made in their jurisdiction.

Abuse of tax havens by multinational companies and wealthy individuals is one of the most outrageous loopholes in the American tax system. The "sheltered" profits generally depend on America's largest-in-the-world consumer market;[4] America's well-educated workforce, trained by our extensive public school system; America's strong private property rights enforced by America's court and probate system; and American roads and rail to bring products to market. Despite their deep dependence on American economic and social infrastructure, these multinational companies shirk their duty to pay for it.

When tax havens are used this way, other Americans are forced to shoulder the burden. Ordinary Americans pick up the tab either by paying higher taxes, suffering from cuts to public programs, or facing a larger national debt.

Not surprisingly, Americans strongly voice their dislike for such corporate tax loopholes in opinion surveys. A Gallup Poll found that two-thirds of Americans believe that corporations pay too little in taxes.[5] Another Gallup Poll found that a solid 70 percent of Americans believe that lawmakers should increase taxes on some corporations by eliminating certain tax deductions.[6] The small business community similarly strongly favors closing corporate tax loopholes. An independent poll found that 90 percent of small business owners believe big corporations use loopholes to avoid taxes that small businesses have to pay, and 92 percent agree it's a problem when "U.S. multinational corporations use accounting loopholes to shift their U.S. profits to their offshore subsidiaries to avoid taxes."[7]

This report focuses on the problem of offshore tax havens and offers some solutions to solve these problems. The study is our third annual report illustrating how much more ordinary tax filers would need to pay to make up for the estimated $100 billion in revenue each year that Congressional studies estimate tax havens cost the Treasury. This year's report, which uses the most recent data on the distribution of taxes, also considers how much small businesses would need to pay in additional taxes to shoulder the $60 billion of this sum that is estimated to result from multinational corporations using tax havens.

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Ugland House
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18,857 companies register their address in this small office building in the Cayman Islands.

Corporations and Wealthy Individuals Use Tax Havens to Avoid Taxes

Worldwide, approximately $5 trillion is held in offshore tax havens. The IRS believes a large share of this is money from U.S.-based corporations and individuals.[8] According to an investigation by the U.S. Senate, the United States loses approximately $100 billion in tax revenues every year due to corporations sending their money to offshore tax havens.[9]

The majority of America's largest publicly held corporations avoid paying taxes through offshore havens. According to the Government Accountability Office, 83 of the 100 largest publicly traded U.S. corporations maintained revenues in offshore tax haven countries as of 2008.[10]

Examples of major corporations that use tax havens to avoid taxes include:

- **Wells Fargo** avoided paying nearly $18 billion in federal income tax from 2008-10, in part by using 58 subsidiaries in tax havens. During that same time period, Wells reported about $49 billion in profit.[11] Even with those profits and tax subsidies, as of 2010 Wells still hadn't repaid some $5 billion in federal financial bailout money.[12]

- **eBay** received a tax refund of $131 million in 2010, despite reporting pre-tax profits of $848 million to their shareholders and finding enough surplus to pay its CEO $12.4 million. eBay's tax-avoidance strategies include 31 subsidiaries in 9 tax havens.[13]

- **Prudential Financial** received a federal income tax refund of $722 million in 2010, despite reporting $2.4 billion in profits to shareholders that year. Prudential uses 36 tax haven subsidiaries to help achieve that feat.[14]

- **Caterpillar** allegedly dodged over $2 billion in income tax illegally attributing over $5.6 billion to Swiss banking jurisdictions, according to the firm's long-time global tax manager who became a whistleblower.[15]

- **Google** uses techniques nicknamed the "Double Irish" and the "Dutch Sandwich" in which it shifts its profits from two Irish subsidiaries to Bermuda – a tax haven – via the Netherlands. These techniques helped reduce its tax bill by $3.1 billion between 2008 and 2010 to achieve an effective tax rate of 2.4 percent.[16]

- **At least 22 of an identified "Dirty Thirty" Fortune 500** companies that paid more in lobbying and campaign contributions than taxes between 2008-2010 despite being profitable each of those years. Twenty-two used tax havens to reduce their income tax liability. Five of the companies used at least 20 tax haven subsidiaries each.[17]

- **General Electric** received a $3.3 billion tax refund in 2010 despite reporting over $5 billion in U.S. profits to their shareholders. In addition, in 2010 GE parked

$94 billion in profits offshore, with the help of its 14 tax haven subsidiaries.[18]

- **Boeing,** the airplane manufacturer and defense contractor, earned profits of $4.3 billion in 2010 but paid only $13 million in federal taxes for a whopping 0.3 percent income tax rate, thanks in part to its 42 subsidiaries based in tax havens.[19]

Ironically, firms such as Boeing that go to great lengths to avoid paying federal taxes also derive a large portion of their business from contracts with the federal government. In 2007, the Government Accountability Office calculated that, of the 100 largest publicly-traded U.S. federal contractors, 63 have subsidiaries in countries with sweeping financial privacy laws or that are tax havens.[20]

Big federal contractors are not the only users of tax havens who benefit from America's market, workforce, infrastructure and security but pay little or nothing for them. TransOcean, for example, the owner of the Deepwater Horizon platform that caused the Gulf oil catastrophe in 2010, was "headquartered" in the Cayman Islands from 1999 to 2008 and avoided paying many federal taxes.[21] Yet when the oil spill occurred, TransOcean relied upon U.S. federal personnel and vessels to respond quickly to the disaster. Though the federal government subsequently billed TransOcean and other responsible parties for the cost of the cleanup, TransOcean greatly benefited from the rapid response made possible by other taxpayers who contributed their share over the years.

Citigroup took full advantage of U.S. markets and infrastructure when its business model failed and it became one of the banks most responsible for the 2008 economic collapse. During the recession, Citigroup managed to survive, thanks to a $45 billion bailout from federal taxpayers, despite the fact that the company has 427 subsidiaries located in tax havens—more than any other company in America, according to a 2008 report by the Government Accountability Office—and thus has avoided paying many federal taxes.[22]

Tax Havens Cost the Average American Taxpayer

Individuals and businesses that pay taxes in the United States shoulder the burden for those who do not. The $100 billion in revenues lost every year through the use of tax havens by corporations and wealthy individuals must still be paid by somebody. The lost billions can take a combination of three forms: recouping revenue through higher tax rates for households and companies who diligently pay their taxes, cutting public spending priorities, or increasing the national debt. Of course, that debt must be paid for by future tax increases or program cuts.

The tab picked up by the public from those that use tax havens is invisible. Americans have no way to know if a bridge in their community remains in disrepair because of tax haven abuse. Nor do taxpayers send a separate tax check in the name of General Electric or some other company. But the effect is the same.

Assuming that the added $100 billion tax burden was distributed evenly among all American tax filers, in 2011 each tax filer would have to pay an average of $426 to compensate for the revenue lost to tax havens.[23] That's enough money to feed a family of four for three weeks.[24]

To illustrate the burden big multinational corporations shift onto smaller U.S. businesses through their use of tax shelters, we distributed the $60 billion of the $100 billion attributable to multinationals to U.S. businesses with less than 100 employees. This calculation means each small business would need to pay an additional $2,116.[25]

Although those amounts are national averages, the actual burden on tax filers and small businesses varies across the country because different states with varying average incomes contribute different amounts of income tax to the federal Treasury. In 2011, the tax filers who on average paid the most lived in Delaware and Minnesota.[26] Based on the proportion of federal income taxes paid from these states, an average filer would need to pay an additional $1,317 and $774, respectively, to shoulder the tax burden shifted to them due to offshore tax havens. Table 1 lists the ten states where taxpayers faced the highest burden. A full list is available in Appendix A.)

Table 1. Average Tax Burden Shifted to Other Individual and Corporate Tax Filers, Top 10 States[27]

State	Additional Burden per Tax Filer
Delaware	$1,317
Minnesota	$774
Connecticut	$671
New Jersey	$668
Massachusetts	$636
Ohio	$591
Arkansas	$573
New York	$553
Rhode Island	$532
Illinois	$508

The distribution of the tax haven burden looks different when the *total* tax bills for each state are examined. Based on their share of total federal income tax receipts, the additional tax bill to cover $100 billion is largest in California and New York, totaling $11.8 billion and $8.6 billion, respectively. Table 2 shows the ten states that pay the highest total amount (see Appendix B for a full list).

Table 2. Total Tax Burden Shifted to Other Individual and Corporate Tax Filers, Top 10 States[28]

State	Additional Burden for Tax Filers, by State (billions)
California	$11.8
New York	$8.6
Texas	$8.2
Illinois	$5.0
Ohio	$4.9
New Jersey	$4.9
Florida	$4.5
Pennsylvania	$4.4
Massachusetts	$3.4
Minnesota	$3.3

The Tax Haven Burden on Small Businesses

Small businesses are less likely to use off-shore tax havens. They typically cannot pay for large accounting and legal departments, to have foreign subsidiaries, or to have large quantities of extra cash that they could shift around for tax advantages. Multinational companies therefore put small businesses at an unfair competitive disadvantage when they use offshore tax havens to avoid taxes. Instead of competing on a level playing field, small businesses and those without offshore tax havens must pick up the extra tax tab and compete against the artificially lower costs of multinational companies using tax havens.

To illustrate that burden, this paper looks at how much more the average small business tax bill would need to be to cover the $60 billion in federal revenues estimated lost each year from multinational corporations using offshore tax havens. We define a small business as one with less than 100 employees, using Census Bureau data on the number of such businesses. Based on the number of small businesses in the United States, each would need to pay an additional $2,116 in taxes to shoulder this burden.

The burden of offshore tax loopholes to small businesses in each state and county is illustrated by the average and total costs that would need to be paid by small businesses in different states and counties to cover $60 billion in missing revenues. Using the same state shares of net federal income tax revenue that we calculated for all tax filers to apportion the $60 billion, Table 3 shows the average amount extra that businesses with fewer than 100 employees would pay to cover that sum in each of the top ten states. Table 4

Table 3. Tax Burden Shouldered by Small Businesses by Offshore Tax Havens, Top Ten States, Plus DC[29]

State	Tax burden per business with less than 100 employees
District of Columbia	$8,293
Delaware	$7,692
Minnesota	$3,927
New Jersey	$3,668
Connecticut	$3,509
Massachusetts	$3,349
Ohio	$3,122
Rhode Island	$2,766
Arkansas	$2,677
New York	$2,590
Illinois	$2,556

Table 4. Total Tax Burden for Small Businesses from Tax Havens, by State[30]

State	Amount (in billions)
California	$7.1
New York	$5.2
Texas	$4.9
Illinois	$3.0
Ohio	$3.0
New Jersey	$2.9
Florida	$2.7
Pennsylvania	$2.6
Massachusetts	$2.1
Minnesota	$2.0

lists the top ten states by their total small business burden. (Appendix C lists the average and the total extra burden for every state.)

The estimated burden on small businesses can be illustrated at an even more local level. Using the average small business burden in each state and the number of small businesses in each county, Table 5 lists the 25 counties, including Washington D.C., with the largest total additional tax bill.

Defining Small Business:

There is no universal definition for "small business." The federal Small Business Administration includes separate definitions for small business for each of hundreds of different industries based on sales, assets or number of employees. For the purpose of this study, we use Census data which counts the number of businesses with various numbers of employees. We chose businesses with fewer than 100 employees as an intuitive definition of "small business." This definition represents about 98 percent of all registered businesses.

Table 5. Top 25 Counties in America by Total Small Business Tax Burden from Tax Havens[31]

County	Total County Tax Burden for Small Businesses (millions)
Los Angeles County, California	$2,133
Cook County, Illinois	$1,362
Harris County, Texas	$870
New York County, New York	$786
Kings County, New York	$682
Orange County, California	$671
Queens County, New York	$639
San Diego County, California	$592
Miami-Dade County, Florida	$549
District of Columbia, District of Columbia	$527
Middlesex County, Massachusetts	$523
Dallas County, Texas	$510
Maricopa County, Arizona	$497
Hennepin County, Minnesota	$497
Nassau County, New York	$427
Suffolk County, New York	$418
King County, Washington	$416
Bergen County, New Jersey	$397
Fairfield County, Connecticut	$374
Cuyahoga County, Ohio	$363
Tarrant County, Texas	$353
New Castle County, Delaware	$346
Riverside County, California	$345
Franklin County, Ohio	$325
Santa Clara County, California	$324

Eliminating Tax Havens Would Improve Fairness and Level the Playing Field

Markets work best when companies prosper based on their productivity and ability to innovate, not on their access to sophisticated tax lawyers and tax-avoidance schemes. Closing loopholes that allow corporations to avoid paying their share of taxes would therefore improve market competition as well as increase federal revenues and improve the fairness of the tax system.

Recent Action Limits Tax Havens, But More Work Remains

The President and Congress have taken some recent steps to eliminate tax avoidance through the use of offshore tax havens, but much more can still be done.

The Foreign Account Tax Compliance Act (FATCA), adopted in March 2010 added new reporting requirements and penalties to discourage individuals, companies and banks from hiding money in offshore tax havens.[32] The law will impose a 30 percent withholding tax on U.S. source payments to foreign financial institutions that fail to meet disclosure requirements on their American clients' accounts. While much of the law has not yet been implemented, progress has been made. In February, the U.S. forged reciprocal agreements with France, Britain, Spain, Germany, and Italy to provide for the automatic exchange of information about the foreign bank accounts of U.S. citizens.[33] Despite the progress, FATCA's impact has been limited because financial institutions have been drawing out the stakeholder consultation process. These maneuvers have pushed back its effective date into 2014.[34]

Other legislation also adopted in March 2010 should facilitate IRS enforcement of the Economic Substance Doctrine by incorporating that doctrine into the IRS code. The Economic Substance Doctrine ensures that transactions have an economic purpose beyond manipulating tax exposure. The law places the burden of proof on taxpayers rather than regulators to demonstrate that a tax strategy is legal. It is projected to produce revenues of $4.5 billion over a decade.[35]

Finally, in September of 2011, Congress passed legislation to ban tax strategy patents, which allowed tax lawyers to patent a myriad of tax avoidance strategies, including setting up shell companies in offshore tax havens. While this ban does not necessarily reduce tax shelter abuse, it at least reduces its profitability to the lawyers that facilitate it.

Decision-Makers Should Prohibit Use Of Offshore Tax Havens

Strong action to prevent corporations and wealthy individuals from using offshore tax havens will not only restore basic fairness to the tax system, but will also help alleviate America's fiscal crunch and improve the functioning of markets.

Tax "Repatriation" Holidays Are Not a Solution

Lawmakers have been considering instituting a tax holiday for U.S. companies' profits that have been parked offshore. A tax holiday would allow companies to bring these profits back to the United States at a hugely reduced tax rate—perhaps 5 percent compared to the standard corporate tax rate of 35 percent. That is very attractive to companies using tax havens, since their untaxed profits cannot easily be used in the United States or distributed to shareholders.

A massive lobbying effort spearheaded by the Chamber of Commerce has sought to portray a tax holiday as a win-win for multinational companies, ordinary Americans and the federal Treasury. The Chamber's lobbyists claim that the companies will use the nearly tax-free money they repatriate to create American jobs and provide a short-term bump in federal revenues.

However, experience shows that companies repatriating profits invest in their own stock shares, not jobs, causing negative long-term consequences for the federal deficit and the general public. A 2004 tax holiday allowed corporations to return foreign profits to the United States at a nominal 5.25 percent tax rate (companies used other strategies to lower that to an effective 3.7 percent rate). Companies brought $362 billion back into U.S. accounts, more than 85 percent of it at the reduced tax rate.[36] But numerous studies show that rather than creating jobs or investing in new facilities, companies used most of the repatriated funds to buy back stock shares.[37] In fact, a study done by the Senate Permanent Subcommittee on Investigations found that the 15 firms that repatriated the most money, collectively $150 billion, actually shed nearly 21,000 jobs, while increasing executive pay and stock buy-backs, and slightly decreasing investment in research and development.[38] The bipartisan Joint Committee on Taxation has estimated that another 5.25 percent repatriation holiday would cost nearly $80 billion over the next ten years.[39]

The 2004 tax holiday did not create jobs or investment, but it did encourage companies to divert more of their current earnings overseas in the hopes of a future tax repatriation holiday. Companies sharply increased the amount of profit they parked off-shore.[40] Just two years after the 2004 tax holiday, the total amount of profits kept abroad surpassed 2004 levels.

Separately, an analysis of the financial statements of 30 major companies shows that the amount of profits kept overseas increased by 560 percent from 2000 to 2010.[41] As of mid-2011, over $1.4 trillion in U.S. corporate profits remained undeclared foreign earnings, in hopes of a new tax holiday. Almost half of these "foreign" earnings were actually deposited in financial institutions on U.S. soil.[42]

A tax repatriation holiday will not help solve the nation's long-term financial problems. In fact, it is likely to make those problems worse by encouraging corporations to increase their use of offshore tax havens and by removing pressure for comprehensive reform of the tax code.

To combat tax haven abuse, policymakers should:

- End the ability of U.S. multinational corporations to indefinitely defer paying U.S. tax on the profits they attribute to their foreign entities. Instead, they should pay U.S. taxes on them immediately. "Double taxation" is not an issue because the companies can already get a credit against their U.S. taxes for the foreign taxes they pay on these profits.

- Reject a "territorial" tax system. Tax haven abuse would be worse under a system in which companies could temporarily shift profits to tax haven countries, pay minimal tax under those countries' tax laws and then freely bring them back to the United States without paying any U.S. tax.

- Require full and honest reporting to expose tax haven abuse. First, end the ability of multi-national corporations to avoid taxes by hiding the identity of their owners and the origins of their profits behind layers of shell companies. Second, require multinational corporations to report their profits on a country-by-country basis so they can't mislead each nation about how much of their income was taxed in the other countries.

- Eliminate the incentive for U.S. companies to transfer intellectual property (e.g. patents, trademarks) to shell companies in tax haven countries for artificially low prices and then pay inflated royalties to use them in the United States. This manipulation masks what would otherwise be U.S. taxable income and can be addressed by implementing stricter transfer pricing rules with regard to intellectual property.

- Stop the ability of multinational companies to manipulate how they define their corporate status to minimize their taxes. Right now, companies can make inconsistent claims to maximize their tax advantage, telling one country they are one type of corporate entity while telling another country the same entity is something else entirely.

- Close the credit default swap loophole by treating swap payments made from the United States to offshore entities as taxable U.S. income.

- Treat the profits of publicly traded "foreign" corporations that are managed and controlled in the United States as domestic corporations for income tax purposes.

- Close the current loophole that allows U.S. companies that shift income to foreign subsidiaries to place that money in American financial institutions without it being considered repatriated, and thus taxable. This "foreign" U.S. income should be taxed when the money is deposited in U.S. financial institutions.

- Give the Treasury Department the enforcement power it needs to stop tax haven countries and their financial institutions from impeding U.S. tax enforcement.

- Stop companies from taking bigger tax credits than they are entitled to for the taxes they pay to foreign countries. Congress can stop companies from double counting some of their foreign taxes simply by requiring companies to report full information on foreign tax credits on a pooled basis.

- Fully implement the Foreign Account Tax Compliance Act (FATCA), which was adopted by Congress in March 2010. FATCA has been stalled by financial institutions in an extraordinarily protracted stakeholder process.

Appendix A:

Average Tax Burden Shifted to Other Corporate and Individual Tax Filers, by State[43]

State	Additional Burden per Tax Filer
Alabama	$233
Alaska	$331
Arizona	$297
Arkansas	$573
California	$423
Colorado	$410
Connecticut	$671
Delaware	$1,317
District of Columbia	$1,568
Florida	$280
Georgia	$351
Hawaii	$209
Idaho	$213
Illinois	$508
Indiana	$400
Iowa	$310
Kansas	$381
Kentucky	$353
Louisiana	$478
Maine	$222
Maryland	$459
Massachusetts	$636
Michigan	$310
Minnesota	$774
Mississippi	$153
Missouri	$457
Montana	$185
Nebraska	$470
Nevada	$219
New Hampshire	$334
New Jersey	$668
New Mexico	$209
New York	$553
North Carolina	$347
North Dakota	$350
Ohio	$591
Oklahoma	$382
Oregon	$309
Pennsylvania	$452
Rhode Island	$532
South Carolina	$204
South Dakota	$260
Tennessee	$429
Texas	$467
Utah	$297
Vermont	$238
Virginia	$415
Washington	$368
West Virginia	$198
Wisconsin	$372
Wyoming	$276

Appendix B:

Total Tax Burden Shifted to Other Corporate and Individual Tax Filers, by State[44]

State	Additional Burden for Tax Filers, by State
Alabama	$737,348,846
Alaska	$200,053,512
Arizona	$1,298,187,183
Arkansas	$1,119,092,758
California	$11,768,452,269
Colorado	$1,722,934,679
Connecticut	$1,956,620,708
Delaware	$964,725,498
District of Columbia	$878,153,613
Florida	$4,538,601,110
Georgia	$2,403,878,566
Hawaii	$227,561,038
Idaho	$240,866,325
Illinois	$5,010,831,327
Indiana	$1,816,469,910
Iowa	$723,601,565
Kansas	$825,476,025
Kentucky	$995,301,902
Louisiana	$1,522,354,645
Maine	$237,793,578
Maryland	$2,076,760,582
Massachusetts	$3,422,045,731
Michigan	$2,208,823,728
Minnesota	$3,308,444,447
Mississippi	$291,834,186
Missouri	$1,988,007,777

State	Additional Burden for Tax Filers, by State
Montana	$165,457,655
Nebraska	$674,489,927
Nevada	$443,398,066
New Hampshire	$361,058,062
New Jersey	$4,867,048,342
New Mexico	$298,808,788
New York	$8,610,746,112
North Carolina	$2,270,739,007
North Dakota	$209,040,579
Ohio	$4,925,434,708
Oklahoma	$1,008,240,377
Oregon	$930,883,819
Pennsylvania	$4,357,495,427
Rhode Island	$449,721,363
South Carolina	$637,651,336
South Dakota	$182,264,013
Tennessee	$1,818,570,472
Texas	$8,164,110,663
Utah	$576,988,665
Vermont	$134,205,872
Virginia	$2,489,201,511
Washington	$1,954,175,094
West Virginia	$231,235,691
Wisconsin	$1,613,528,338
Wyoming	$141,284,604

Appendix C:

Average Tax Burden to Small Business to Cover Estimated $60 Billion in Lost Federal Corporate Income Taxes Due to Tax Havens

State	Additional Burden per Tax Filer
Alabama	$1,096
Alaska	$1,698
Arizona	$1,525
Arkansas	$2,677
California	$2,010
Colorado	$1,855
Connecticut	$3,509
Delaware	$7,692
District of Columbia	$8,293
Florida	$1,306
Georgia	$1,520
Hawaii	$1,119
Idaho	$959
Illinois	$2,556
Indiana	$2,148
Iowa	$1,582
Kansas	$1,903
Kentucky	$1,635
Louisiana	$2,535
Maine	$954
Maryland	$2,298
Massachusetts	$3,349
Michigan	$1,561
Minnesota	$3,927
Mississippi	$719
Missouri	$2,282
Montana	$865
Nebraska	$2,407
Nevada	$1,181
New Hampshire	$1,571
New Jersey	$3,668
New Mexico	$1,106
New York	$2,590
North Carolina	$2,196
North Dakota	$1,911
Ohio	$3,122
Oklahoma	$1,759
Oregon	$1,571
Pennsylvania	$2,528
Rhode Island	$2,766
South Carolina	$1,004
South Dakota	$1,343
Tennessee	$1,889
Texas	$2,085
Utah	$1,417
Vermont	$1,002
Virginia	$2,201
Washington	$2,082
West Virginia	$1,099
Wisconsin	$2,165
Wyoming	$1,371

Appendix D:

Total Tax Burden to Small Businesses to Cover Estimated $60 Billion in Lost Federal Corporate Income Taxes Due to Tax Havens, by State

State	Amount
Alabama	$442,409,307
Alaska	$120,032,107
Arizona	$778,912,310
Arkansas	$671,455,655
California	$7,061,071,362
Colorado	$1,033,760,808
Connecticut	$1,173,972,425
Delaware	$578,835,299
District of Columbia	$526,892,168
Florida	$2,723,160,666
Georgia	$1,442,327,140
Hawaii	$136,536,623
Idaho	$144,519,795
Illinois	$3,006,498,796
Indiana	$1,089,881,946
Iowa	$434,160,939
Kansas	$495,285,615
Kentucky	$597,181,141
Louisiana	$913,412,787
Maine	$142,676,147
Maryland	$1,246,056,349
Massachusetts	$2,053,227,439
Michigan	$1,325,294,237
Minnesota	$1,985,066,668
Mississippi	$175,100,511
Missouri	$1,192,804,666

State	Amount
Montana	$99,274,593
Nebraska	$404,693,956
Nevada	$266,038,840
New Hampshire	$216,634,837
New Jersey	$2,920,229,005
New Mexico	$179,285,273
New York	$5,166,447,667
North Carolina	$1,362,443,404
North Dakota	$125,424,348
Ohio	$2,955,260,825
Oklahoma	$604,944,226
Oregon	$558,530,292
Pennsylvania	$2,614,497,256
Rhode Island	$269,832,818
South Carolina	$382,590,802
South Dakota	$109,358,408
Tennessee	$1,091,142,283
Texas	$4,898,466,398
Utah	$346,193,199
Vermont	$80,523,523
Virginia	$1,493,520,907
Washington	$1,172,505,056
West Virginia	$138,741,414
Wisconsin	$968,117,003
Wyoming	$84,770,762

Appendix E: Methodology for Calculations

Tax Filer Calculations

National: To illustrate the average extra tax burden per filer on the national level, we divided $100 billion by the number of tax filers. The data from these calculations comes from the IRS, 2011 Databook, available at http://www.irs.gov/pub/irs-soi/11databk.pdf (last visited 3/28/12), Table 1.

State: To illustrate the average extra tax burden per state, we apportioned the $100 billion among the states and then divided by the number of filers in each state. To do that, we figured out what percentage of the national net revenue came from each state. Specifically, we used the IRS data for total revenues from each state, subtracted the total refunds, with interest, from each state, and divided that number by the total net revenue (national revenue minus national refunds with interest.) The resulting percentage was the amount of net revenue attributable to each state, and we multiplied $100 billion by those percentages to apportion the $100 billion. To determine how much of the burden fell to an average tax filer in each state, we divided each state's burden by the number of tax filers in each state. The data from these calculations comes from the IRS, 2011 Databook, available at http://www.irs.gov/pub/irs-soi/11databk.pdf (last visited 3/28/12), Tables 1, 3 and 8.

Small Business Calculations

The Data Sets: To conduct the small business calculations, we used Census data about businesses. We extracted the data using the Census's Fact Finder tool: http://factfinder2.census.gov/faces/nav/jsf/pages/searchresults.xhtml?refresh=t. We extracted data from the following two datasets: 2009 Nonemployer Statistics: Geographic Area Series: Nonemployer Statistics for the US, States, Metropolitan Areas, and Counties; and 2009 County Business Patterns: Geography Area Series: County Business Patterns by Employment Size Class 2009, which despite its name includes national and state data as well. For the purposes of this report, we defined a small business as having fewer than 100 employees. The 2009 data were the most recent available as of the date of this report.

National: To illustrate the average extra tax burden per small business on the national level, we took the $60 billion of the $100 billion that the U.S. Senate study attributes to corporate tax shelter tax avoidance strategies and divided it by the number of small businesses in the United States that have fewer than 100 employees. For this count of small businesses, we used the most recent data available from the Census Bureau, which is from 2009. The Census Bureau divides small businesses into two groups: those without any employees, and those with various numbers of employees. To derive the number of small businesses for our study, we used the 2009 nonemployer establishment data and added the 2009 employer establisment data for firms with fewer than 100 employees.

State: To illustrate the average extra tax burden per small business on the state level, we apportioned the $60 billion among the states using the same percentages calculated for tax filers as discussed above in the explanation of our state tax filer calculations, and divided the quotient by the number of small businesses in each state, which was derived using the Census nonemployer establishment plus employer establishment data for businesses with less than 100 employees in each state.

County: To illustrate the average tax burden per small business on the county level, we took the average burden for a small business in a given state and multiplied it by the number of small businesses in the county. Again, the number of small businesses in each county is the sum of nonemployer small business establishments and employers with fewer than 100 employees.

Notes

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[3] Jane G. Gravelle, Congressional Research Service, *Tax Havens: International Tax Avoidance and Evasion*, 4 June 2010.

[4] "China to Become World's Second Largest Consumer Market", Proactive Investors United Kingdom, January 19, 2011 (Discussing a report released by Boston Consulting Group), available at http://www.proactiveinvestors.co.uk/columns/china-weekly-bulletin/4321/china-to-become-worlds-second-largest-consumer-market-4321.html (visited 3/31/12)

[5] Gallup Poll, "Americans Still Split About Whether Their Taxes Are Too High," April 18, 2011 http://www.gallup.com/poll/147152/americans-splitwhether-taxes-high.aspx

[6] Gallup Poll, "Americans Favor Jobs Plan Proposals, Including Taxing Rich," September 20, 2011 http://www.gallup.com/poll/149567/Americans-Favor-Jobs-Plan-Proposals-Including-Taxing-Rich.aspx

[7] American Sustainable Business Council, Main Street Alliance, and Small Business Majority. "Poll: Small Business Owners Say Big Businesses, Millionaires Not Paying Fair Share of Taxes" February 6, 2012, http://businessforsharedprosperity.org/content/poll-small-business-owners-saybig-businesses-millionaires-not-paying-fair-share-taxes

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[9] Permanent Subcommittee on Investigations, Committee on Homeland Security and Government Affairs, United States Senate, *Tax Haven Banks and U.S. Tax Compliance*, 17 July 2008

[10] Government Accountability Office, *International Taxation; Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, December 2008.

[11] "Representation Without Taxation, Fortune 500 Companies that Spend Big on Lobbying and Avoid Taxes", USPIRG and Citizens for Tax Justice, January 2012, at page 5. Available at http://www.ctj.org/pdf/USP-RepTax-Report.pdf (last viewed 3/31/12).

[12] Bailout Tally Report by Nomi Prins and Krisztina Ugrin, October 1, 2011, Supplemental Analysis for "It Takes A Pillage: Behind the Bailouts, Bonuses and Backroom from Washington to Wall Street" by Nomi Prins, (2009). See chart "Top Recipients of Bailout Money" and at text accompanying fn 175-195.

[13] "Executive Excess 2011: The Massive CEO Rewards for Tax Dodging", Anderson, Sarah; Collins, Chuck; Klinger, Scott; Pizzigati, Sam, Institute for Policy Studies, August 31, 2011 , See report at page 14.

[14] Ibid at Appendix 1, page 31.

[15] "Sen. Levin Says Tackling Tax Haven Abuse is One Way to Reduce Deficit", Susanna Kim, ABC News, July 14, 2011, page 2. Available at: http://abcnews.go.com/Business/corporate-tax-havens-raise-us-debt/story?id=14066564&page=2#.T0POl_Egdtw (last viewed 3/31/12.) The case appears to have settled in February 2012, see the relevant court filings at http://dockets.justia.com/docket/illinois/ilcdce/1:2009cv01208/46749/

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[18] David Kocieniewski, "GE's Strategies Let It Avoid Taxes Altogether," *New York Times*, 24 March 2011. Although the company claims it will end up paying some minimal taxes for 2010, it also collected a $3.2 billion tax benefit. See also Ryan Chittum, "GE Flubs a Pushback Against *The New York Times*," *Columbia Journalism Review*, 31 March 2011. See also Executive Excess 2011 at page 10.

[19] Executive Excess 2011

[20] Government Accountability Office, *International Taxation; Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, December 2008.

[21] David Kocieniewski, "GE's Strategies Let It Avoid Taxes Altogether," *New York Times*, 24 March 2011.

[22] See note 8. Note: "427" includes countries listed as "financial privacy jurisdictions." "$45 billion" from Eric Dash, "Citi Is Eager to Pay Back Bailout Aid," *The New York Times*, 10 December 2009.

[23] $426 is obtained by dividing $100 billion by the number of corporate and individual tax returns filed in 2010, per: Internal Revenue Service, *2011 IRS Data Book; Table 3: Number of Returns Filed, by Type of Return and State*. Available at http://www.irs.gov/pub/irs-soi/11databk.pdf (last visited 3/31/12.)

[24] U. S. Department of Agriculture, Center for Nutrition Policy and Promotion, *Official USDA Food Plans: Cost of Food at Home at Four Levels, U.S. Average, January 2012* Available at: http://www.cnpp.usda.gov/Publications/FoodPlans/2012/CostofFoodJan2012.pdf (visited 3/26/12).

[25] We used the most recent Census data available to determine the number of U.S. businesses with less than 100 employees. Details in Appendix E "Methodology."

[26] The fact that Delaware is an outlier is worthy of discussion. The state's share of national income taxes has been highly variable, falling substantially between 2008 and 2009, then rising sharply from 0.62 percent of total national net income taxes in 2010 to 0.96 percent in 2011. The jump in 2011 may be due to a large number of high-income filers in 2010 filing late and thus appearing in 2011.

[27] We calculated this figure by dividing the state's share of $100 billion by the number of filers in the state. We apportioned out $100 billion to states based on each state's share of the nation's net revenue. Net revenue was calculated by subtracting refunds from collections by state, per Internal Revenue Service, *2010 IRS Data Book; Table 5: Gross Collections, by Type of Tax and State, Fiscal Year 2010*, and *Table 8: Amount of Refunds Issued, Including Interest, by Type of Refund and State, Fiscal Year 2010*, 2011. The number of filers came from: Internal Revenue Service, *2010 IRS Data Book; Table 3: Number of Returns Filed, by Type of Return and State*, 2011. Full data for every state available in Appendix A. This calculation illustrates the burden of lost tax revenue fully in the form of higher taxes by other filers. As mentioned earlier in the report, this burden is also absorbed by program cuts and increased national debt. The decision of how to distribute the burden among these three sources is ultimately political and the counterfactual cannot be reliably predicted based on tax payment data.

[28] To obtain these numbers, we apportioned the $100 billion total cost of offshore tax havens out by state based on each state's share of the nation's net revenue, as described in note 20. Full data for every state available in Appendix B.

[29] To illustrate the average extra tax burden per small business on the national level, we used the $60 billion of the $100 billion that the U.S. Senate study attributes to corporate tax shelter tax avoidance strategies and divided it by the number of small businesses in the United States that have fewer than 100 employees. To generate state level numbers, we apportioned the $60 billion among the states using the same percentages calculated for all tax filers and divided by the number of businesses with fewer than 100 employees in each state. See Appendix E Methodology for more details.

[30] To illustrate the average extra tax burden per small business on the national level, we used the $60 billion of the $100 billion that the U.S. Senate study attributes to corporate tax shelter tax avoidance strategies and apportioned among the states using the same percentages calculated for all tax filers. See Appendix E Methodology for more details.

[31] We treated D.C. as a county for the purposes of this table. County totals are derived by multiplying the average small business burden for the state and multiplying by the number of small businesses in the county. See Appendix E Methodology for more details.

[32] On March 18, 2010, the Hiring Incentives to Restore Employment Act of 2010, Pub. L. 111-147 (H.R. 2847) (the Act) was enacted into law. Section 501(a) of the Act added a new chapter 4 (sections 1471 - 1474) to Subtitle A of the Internal Revenue Code (Code). Chapter 4 expands the information reporting requirements imposed on foreign financial institutions (as defined in section 1471(d)(4)) with respect to certain United States accounts (as defined in section 1471(d)(1)) (U.S. accounts), and imposes withholding, documentation, and reporting requirements with respect to certain payments made to certain foreign entities.

[33] Treasury Department Press Release, "Treasury and IRS Issue Proposed Regulations Under the Foreign Account Tax Compliance Act to Improve Offshore Tax Compliance and Reduce Burden," February 8, 2012.

[34] See Internal Revenue Service, Notice 2011-53 at http://www.irs.gov/pub/irs-drop/n-11-53.pdf and Treasury regulations published on February 8, 2012, available at http://www.irs.gov/pub/newsroom/reg-121647-10.pdf

[35] Angie Drobnic Holan, "Require Economic Justification for Tax Changes," *St. Petersburg Times PolitiFact.com*, 10 June 2010. http://www.irs.gov/businesses/article/0,,id=242253,00.html

[36] Peter Coy and Jesse Drucker, "Apple, Google May Profit on a Tax Holiday," *Bloomberg Businessweek*, 17 March 2011.

[37] Center on Budget and Policy Priorities "Tax Holiday for Overseas Corporaate Profits Would Increase Deficits, Fail to Boost the Economy, and Ultimately Shift More Investment and Jobs Overseas," April 8, 2011 and revised June 23, 2011, available at http://www.cbpp.org/files/4-8-11tax.pdf

[38] "Repatriating Offshore Funds: 2004 Tax Windfall for Select Multinationals," October 2011. Senate Permanent Subcommittee on Investigations, Majority Staff Report. http://www.levin.senate.gov/download/repatriating-offshore-funds

[39] Ibid.

[40] Center on Budget and Policy Priorities "Tax Holiday for Overseas Corporaate Profits Would Increase Deficits, Fail to Boost the Economy, and Ultimately Shift More Investment and Jobs Overseas," April 8, 2011 and revised June 23, 2011, available at http://www.cbpp.org/files/4-8-11tax.pdf

[41] Peter Coy and Jesse Drucker, "Apple, Google May Profit on a Tax Holiday," *Bloomberg Businessweek*, 17 March 2011.

[42] Senate Subcommittee on Investigations, "Offshore Funds Located Onshore," December 14, 2011 Majority Staff Report Addendum to October 11, 2011 report, "Repatriating Offshore Funds." The $1.4 trillion figure is estimated by JP Morgan Chase, based on SEC filings and is cited in the Senate report as Dane Mott, J.P. Morgan, "Accounting Issues: Show Us the Foreign Cash!" at 4 (9/12/2011) (estimating that aggregate global undistributed foreign earnings attributable to U.S. corporations are in excess of $1.4 trillion based on its survey of recently increased corporate financial disclosures).

[43] See note 30.

[44] See note 31.