



# Picking Up the Tab 2015

Small Businesses Pay the Price  
for Offshore Tax Havens

**Maryland PIRG**  
Foundation

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Jaimie Woo and Dan Smith

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# Executive Summary

Every year, corporations and wealthy individuals use complicated gimmicks to shift U.S. earnings to subsidiaries in offshore tax havens – countries with minimal or no taxes – in order to reduce their federal and state income tax liabilities by billions of dollars. While tax haven abusers benefit from America's markets, public infrastructure, educated workforce, security and rule of law – all supported in one way or another by tax dollars – they continue to avoid paying for these benefits.

Small business owners are hit twice by the effects of tax dodging by large multinational corporations. Since they almost never have the kind of subsidiaries in the Cayman Islands or armies of tax lawyers and accountants to exploit tax haven loopholes that their multinational rivals do, small businesses are routinely placed at a competitive disadvantage in the market place. In addition, small businesses, like average taxpayers, end up picking up the tab for offshore tax avoidance in the form of higher taxes, cuts to public services, or increases to the federal debt. In this report, four small business owners share why offshore tax haven abuse matters to them in their states.

This study examines the potential impact of corporate tax dodging on America's small businesses.

**The United States loses approximately \$110 billion in federal and state revenue each year due to corporations using tax havens to dodge taxes.** In considering the impact of tax haven abuse, it is not possible

to determine what portion of the lost revenue gets absorbed by program cuts or additional debt, but the analysis in this report shows the extent that tax responsibilities would be shifted in each state if the rest of the business sector picked up the tab – divided equally among the small businesses.

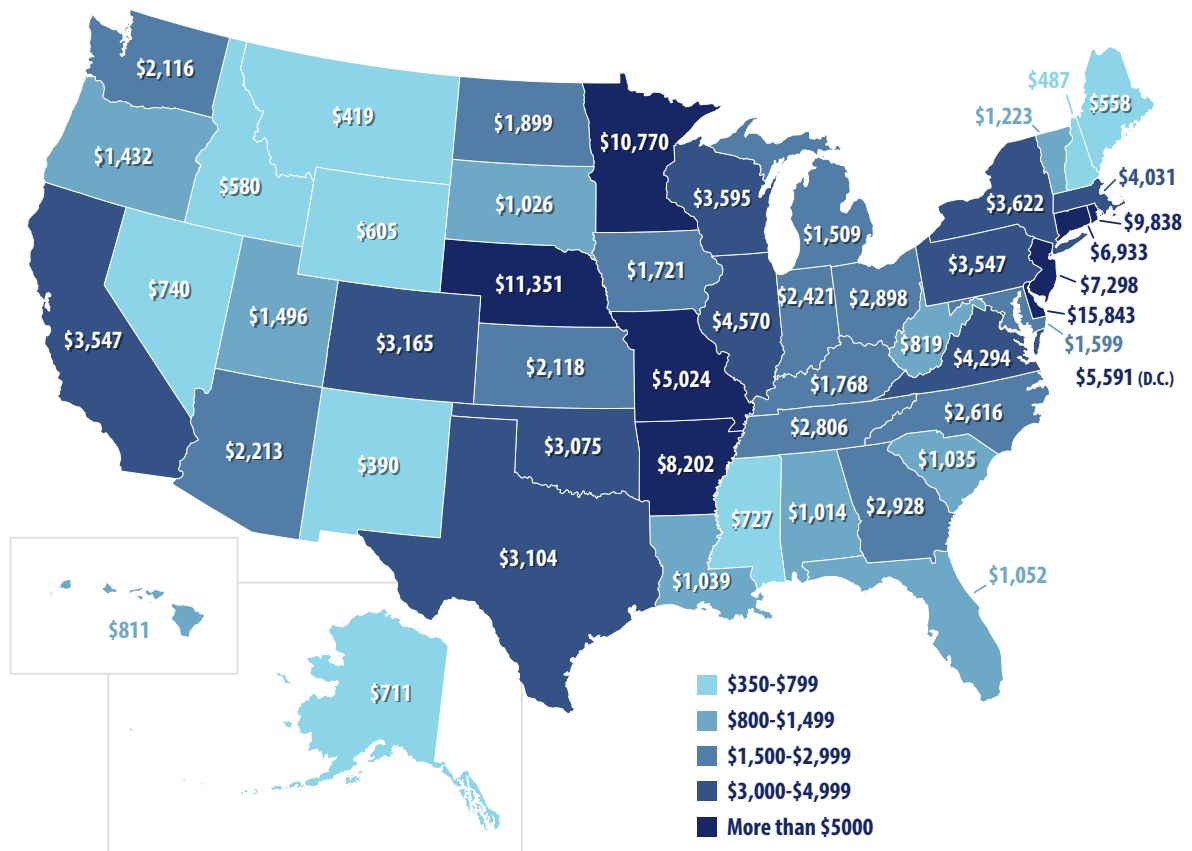
**Each small business would need to pay an average of \$3,244 in additional taxes if they were to pick up the full tab for income lost to corporations exploiting tax havens.**

- Corporate tax haven abuse costs the federal government \$90 billion in lost tax revenue. Every small business would need to pay an additional \$2,684 in federal taxes to account for the revenue lost.
- Corporate tax haven abuse costs state governments an estimated \$20 billion in lost tax revenue. Every small business would need to pay an additional \$560 in state taxes to account for the revenue lost.

**Most of America's biggest companies use tax havens to avoid tax obligations in the United States, including many that have taken advantage of government bailouts or rely on government contracts. At least 362 companies, making up 72 percent of the Fortune 500, maintained subsidiaries in tax haven jurisdictions as of 2013.<sup>1</sup>**

- **Pfizer**, the world's largest drug maker, paid no U.S. income taxes between 2010 and 2012 despite earning \$43 billion world-

**Figure ES-1. Picking Up the Tab: The Average Amount Small Business Owners in Each State Would Need to Pay to Make Up For State and Federal Revenue Lost To Offshore Tax Havens**



wide. In fact, the corporation received more than \$2 billion in federal tax *refunds*. In 2014, Pfizer operated 143 subsidiaries in tax haven countries and had \$74 billion offshore and out of the reach of the Internal Revenue Service (IRS).

- **Microsoft** maintains five tax haven subsidiaries and stashed \$92.9 billion overseas in 2014. If Microsoft had not booked these

profits offshore, they would have owed an additional \$29.6 billion in taxes.

- **Citigroup**, bailed out by taxpayers in the wake of the financial crisis of 2008, maintained 41 subsidiaries in tax haven countries in 2014, and kept \$43.8 billion in offshore jurisdictions. If that money had not been booked offshore, Citigroup would have owed an additional \$11.6 billion in taxes.

**To restore fairness to the tax system, decision makers should end incentives for companies to book their income to offshore tax havens, close the most egregious loopholes, and increase transparency.**

- End the ability of multinational corporations to indefinitely defer paying taxes on the profits they attribute to their foreign entities.
- Reject a “territorial” tax system, which would allow companies to temporarily shift profits to tax haven countries, pay minimal tax under those countries’ laws, and then bring the profits back to the United States tax-free.
- Put an end to the “check-the-box” rule, which currently allows multinational companies to make inconsistent claims about their corporate status. To maximize their tax advantage, corporations can currently tell one country that they are one type of entity while telling another country that the same entity is something else entirely.
- Stop companies from deducting interest expenses from their U.S. tax liability when that interest is paid to a foreign affiliate, a practice known as a form of “earnings stripping” that makes U.S. income appear to disappear.
- Shrink the ability for corporations to invert, or merge with an oftentimes smaller foreign entity and artificially re-designate their headquarters abroad to lower their tax bill.
- Reduce the incentive for corporations to license intellectual property (for example, patents and trademarks) to shell companies in tax haven countries before paying inflated – and tax-deductible – fees to use them in the United States.
- Treat the profits of publicly traded “foreign” corporations that are managed and controlled in the United States as domestic corporations for income tax purposes.
- Require multinational corporations to report their profits with a list of how their other profits were designated to each other nation, also known as “country by country reporting.”
- Equip the Department of Treasury with the enforcement power it needs to stop tax haven countries and their financial institutions from impeding tax collection in the United States.
- Require all companies to disclose their tax liability on their untaxed foreign profits – 55 of the Fortune 500 companies already do so, while the rest maintain it is not possible to calculate this number<sup>2</sup>.

# Introduction

If you saw the Ugland House, a modest five-story office building in the Cayman Islands, for the first time, you would probably be surprised to learn that it is registered address for 18,857 companies.<sup>3</sup> The Cayman Islands, like many other offshore tax havens, levies no income taxes on companies incorporated there. Simply by registering subsidiaries in the Cayman Islands, U.S. companies can legally shift much of their U.S.-earned profits to the Caymans and pay *no* tax on them.

They are able to do this because the U.S. corporate tax system allows companies to defer paying U.S. taxes on profits they earn abroad, until they declare the money has been brought back to the United States by paying dividends to shareholders, repurchasing stock, or making U.S. investments. Many U.S. companies game this system by using loopholes that let them disguise profits legitimately made in the U.S. as “foreign” profits earned by a subsidiary in a tax haven.

The vast majority of subsidiaries registered at Ugland House have no physical presence, products, or employees in the Caymans other than a mere post office box. About half of these companies even maintain their billing address in the U.S.<sup>4</sup> This unabashedly false corporate “presence” is one of the hallmarks of a tax haven.

Tax havens are countries or jurisdictions with very low or nonexistent taxes, to which U.S.-based multinational firms transfer their reported earnings to avoid paying taxes in the United States. These companies then use a variety

of strategies to bring the money back to the United States nearly tax-free.<sup>5</sup> Many tax haven countries are small island nations, such as Bermuda, the British Virgin Islands, and the Cayman Islands.<sup>6</sup> Most tax haven countries also have financial secrecy laws that create barriers to disclosure about financial transactions made in their jurisdiction.

While decision makers at the state and federal level grapple with how to bridge budget gaps and plan for America’s future, closing tax haven loopholes represents a way to reduce the deficit, make the tax system fairer, and avoid raising tax rates. Over ten years, the \$90 billion in annual revenue lost from the corporate abuse of offshore tax havens could be used to forestall increased national debt, higher across the board tax rates, or cuts to important public priorities, like badly needed infrastructure and education funding.

It makes sense for profits earned in America to be subject to U.S. taxation. The profits generally depend on access to America’s largest-in-the-world consumer market<sup>7</sup>, a well-educated workforce trained by our school systems, our strong private property rights enforced by America’s court system, and American transportation networks to bring products to market. Multinational companies that depend on America’s economic, physical, and social infrastructure are shirking their duty to pay for it if they “shelter” the resulting profits overseas.

When tax havens are used this way, other Americans are forced to shoulder the burden.





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

Small business owners, along with ordinary Americans, pick up the tab either by paying higher taxes, suffering from cuts to public programs, or facing a larger national debt. And without access to offshore subsidiaries, small businesses and medium-sized domestic businesses are put at an unfair competitive disadvantage and forced to compete on an uneven playing field.

It's no wonder that the small business community shows strong support for closing corporate tax loopholes. An independent scientific 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.”<sup>8</sup>

This report focuses on the impact of offshore tax haven abuse on small businesses and offers some solutions to solve these problems. The study is our fifth annual report illustrating how much more small business owners would need to pay each year to make up for the estimated \$110 billion in federal and state tax revenue lost due to the corporate abuse of tax havens. While previous editions of this report documented the additional burden individual taxpayers would have to bear to make up for tax haven abuse, this edition focuses on the effects on small business owners.

# Corporations Use Offshore Tax Havens to Avoid Taxes

Worldwide, approximately \$2.1 trillion is held offshore according to securities filings compiled by Bloomberg and the U.S. Office of Management and Budget in 2015.<sup>9</sup> Much of these profits get booked in tax havens – countries or jurisdictions with very low or non-existent taxes in often small island nations like Bermuda, the Cayman Islands and Seychelles – to which firms transfer their earnings to avoid paying taxes in the United States.<sup>10</sup> Income held overseas by foreign subsidiaries of U.S.-based companies is not taxed until the money is declared as returned to the United States, used for stock repurchases, paid in dividends to shareholders, or invested back in the U.S. Even then, many companies and individuals still find ways to dodge their tax obligations, either by taking advantage of tax holidays or using complicated accounting schemes and intermediate countries.<sup>11</sup>

Even though companies are not required to disclose how much of its profits are booked to tax havens, there is ample evidence of the widespread use of tax havens by American multinationals. An investigation by the Congressional Research Service found that in 2008, American multinational companies reported 43 percent of their foreign earnings in just five small tax havens countries. Yet these countries accounted for only 4 percent of the companies' foreign workforce and just 7 percent of their foreign investment. That same year, the amount of profit U.S. multinational corporations reported earning in Bermuda and Luxembourg

– two tax havens – equaled 1,000 percent and 208 percent of those countries' *entire economic output*, respectively.<sup>12</sup> That's not possible, of course, but it reveals the accounting and legal fictions in the booking of profits to tax havens.

## Corporate Profits Held "Offshore" Often Remain in the United States

Ironically, much of the money corporations stash offshore may actually be deposited in U.S. banks, using special accounts called "international banking facilities." The banks can lend this money overseas and earn profit on it. The money continues to be considered held offshore and not returned to the United States even though the cash may be in these special U.S. bank accounts with the benefits of the law and the stability of the U.S. banking system. A study of large U.S. multinational corporations by the Senate Permanent Subcommittee on Investigations found that nearly half of the profits considered "offshore" for tax purposes were actually in bank accounts or investments in the United States, allowing these corporations to benefit from the stability of the U.S. financial system without paying the taxes that support it.<sup>13</sup>

With their armies of tax lawyers and accounting specialists, companies have many strategies for shifting profits offshore. Corporations may transfer their patents or trademarks to subsid-

aries located in tax havens and spend their domestically earned income to pay tax-deductible royalties to the subsidiary to use the patents or trademarks in America. Other companies engage in forms of “earnings stripping,” such as when companies in the United States borrow money from subsidiaries in a tax haven and then deduct their interest payments from their taxable income.

The majority of America’s largest publicly held corporations avoid paying taxes through the use of offshore havens. According to an earlier U.S. PIRG Education Fund and Citizens for Tax Justice Study, at least 362 companies, making up 72 percent of the Fortune 500, maintained subsidiaries in tax haven jurisdictions as of 2013.<sup>14</sup>

Companies that consistently rank high both for the number of tax haven subsidiaries they maintain and for how much of their profits they book offshore for tax purposes include:<sup>15</sup>

- **Citigroup**, maintained 41 subsidiaries in tax haven countries in 2014, and kept \$43.8 billion in offshore jurisdictions. If that money had been repatriated, or brought back to the U.S., Citigroup would have owed an additional \$11.6 billion in taxes.
- **Pfizer**, the world’s largest drug maker, paid no U.S. income taxes between 2010 and 2012 because the company reported losses in the U.S. in those years, despite making 40 percent of its sales in the U.S. and earning \$43 billion worldwide. In fact, the corporation received more than \$2 billion in federal tax *refunds*.<sup>16</sup> Pfizer pulls this off by using accounting gimmicks to book its taxable profits offshore. The company licenses patents for its drugs to its subsidiaries in low or zero-tax countries before using its

U.S.-based operation to pay high – tax deductible – licensing fees to those subsidiaries to use the patent. In 2014, Pfizer operated 143 subsidiaries in tax haven countries and declared \$74 billion offshore and out of the reach of the Internal Revenue Service.

- **Caterpillar**, a manufacturer of construction equipment and engines, deferred or avoided \$2.4 billion in U.S. taxes between 2000 and 2012 by shifting \$8 billion in profits to a Swiss subsidiary, which was awarded a special corporate tax rate of just four to six percent in negotiations between Caterpillar and the Swiss government.<sup>17</sup> In 2014, Caterpillar operated a total of 71 subsidiaries in foreign countries and kept \$17.2 billion offshore.
- **Google** uses tax tricks with nicknames such as the “Double Irish” and the “Dutch Sandwich” to shift its profits through subsidiaries in countries including Ireland and Bermuda and the Netherlands. These techniques helped reduce the company’s tax bill by \$3.1 billion between 2008 and 2010 to achieve an effective tax rate of just 2.4 percent on its overseas profits.<sup>18</sup> In 2014, Google declared \$47.4 billion as sitting offshore.
- **General Electric** maintained 18 tax haven subsidiaries in 2014 and parked \$119 billion offshore. With the help of offshore subsidiaries, General Electric paid a federal effective tax rate of -7.3 percent between 2008 and 2014 despite being highly profitable all of those years. GE’s tax rate was negative during that period because the company received money back from the U.S. government even though it reported billions of dollars of U.S. profit.<sup>19</sup>

- **Microsoft** maintains five tax haven subsidiaries and reported a total of \$92.9 billion overseas in its 2014 10-K filing with the Securities and Exchange Commission. If this money had not been shifted offshore, Microsoft would have owed an additional \$29.6 billion in taxes.
- **Bank of America** declared operating 21 subsidiaries in 2014, a peculiar drop from its declared 257 subsidiaries in tax havens in 2013, which might reflect the Security and Exchange Commission's (SEC) lax disclosure standards pertaining to subsid-

aries. It kept \$17.2 billion offshore. If the money had not been shifted offshore, Bank of America would have owed an additional \$4.5 billion in taxes.

Ironically, many firms 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 63 of the 100 largest publicly traded U.S. federal contractors had subsidiaries in tax haven countries or countries with sweeping financial secrecy laws.<sup>20</sup>

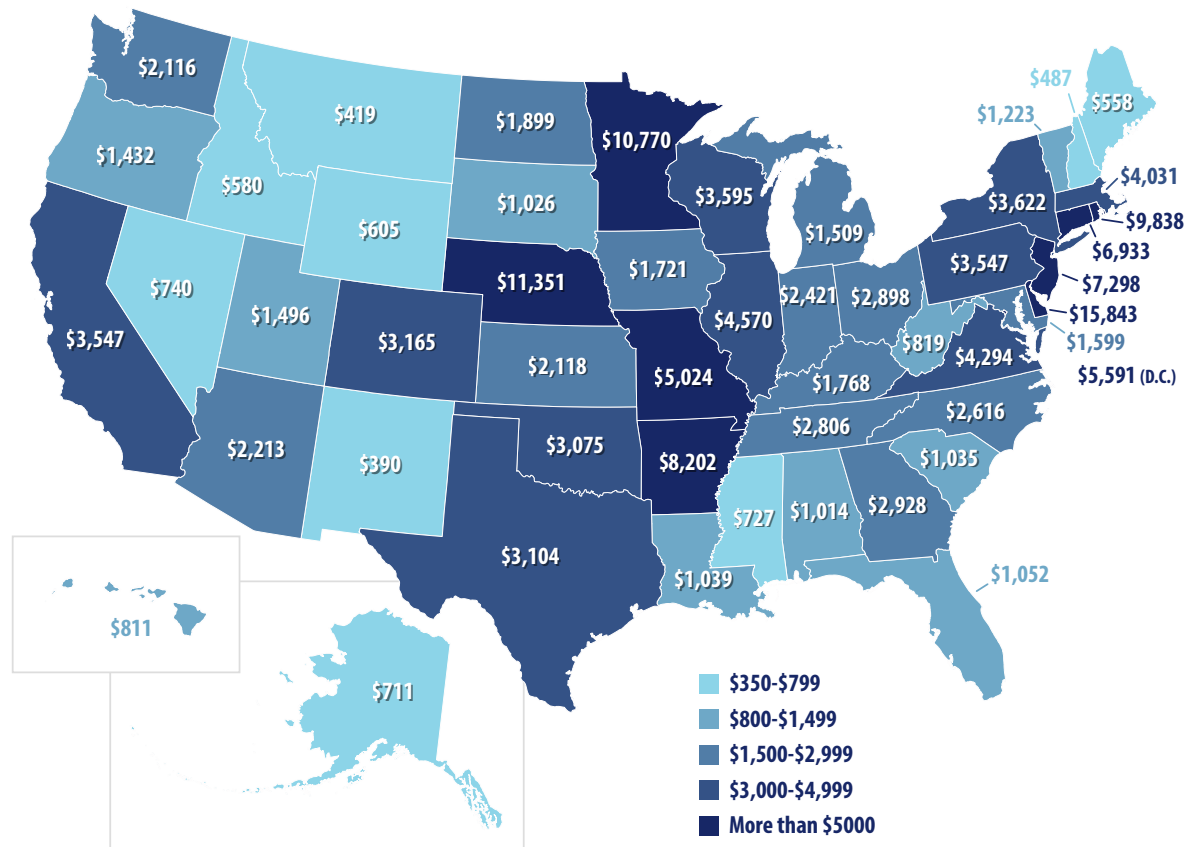
# Offshore Tax Havens Cost American Small Business Owners Billions

Offshore tax haven abuse impacts both federal and state budgets. States calculate taxes based largely on federally-defined income for the sake of simplicity and to reduce the cost of enforcement and compliance.<sup>21</sup> This means that when corporations do not report income to the federal government, that income typically also

goes unreported to states that levy a corporate income tax, too.

By booking income to tax haven countries, corporations unfairly deprive the United States of approximately \$90 billion in federal tax revenue and \$20 billion in state tax revenue.<sup>22</sup> At

**Figure 1. Picking Up the Tab: The Average Amount Small Business Owners in Each State Would Need to Pay to Make Up For State and Federal Revenue Lost To Offshore Tax Havens<sup>24</sup>**





both the federal and state level, tax dodging can have an especially large impact on budgets. Given that most states are subject to balanced budget requirements, the impacts of state revenue losses are necessarily more immediate because states cannot take on more debt to cover the shortfall.<sup>23</sup> Americans will either pay more in state taxes or endure cutbacks to state spending on services and infrastructure.

On average, each small business would need to pay an additional \$3,244 on its taxes if they were to collectively bear the full cost of compensating for *combined federal and state corporate tax revenue* lost to tax havens. The combined tax obligation on small businesses would vary depending on the business' home state based on differing average tax contributions to the Federal Treasury from each state (See Figure 1 and Appendix A).

Without the aid of armies of tax lawyers and accountants that large corporations employ

to help them dodge their tax obligations, America's small businesses pay what they owe and, consequently, must help pick up the tab when major companies abuse off-shore tax havens.<sup>25</sup> If America's small businesses were to fully account for the *federal corporate tax revenue* lost to tax havens in 2014 – approximately \$90 billion – each small business would pay, on average, an additional \$2,684 in federal corporate income tax (See Appendix A). Small businesses in Delaware would pay the most in additional federal-level taxes, paying, on average, an extra \$12,472 (See Table 1).

Focusing on just on state revenues lost to off-shore tax haven abuse, which amounts to approximately \$20 billion, each small business would pay an average of an additional \$560 in state business taxes (see Appendix A). Small businesses in Delaware would pay the most in additional state-level taxes, paying, on average, an extra \$3,370 (see Table 1).

**Table 1. Additional Federal and State Corporate Tax Obligation per Small Business, Top 10 States**

State	Additional Combined Federal and State Corporate Tax Obligation per Small Business	Additional Federal Corporate Tax Obligation per Small Business	Additional State Corporate Tax Obligation per Small Business
Delaware	\$15,843	\$12,472	\$3,370
Nebraska	\$11,351	\$9,150	\$2,201
Minnesota	\$10,770	\$8,237	\$2,533
Rhode Island	\$9,838	\$8,104	\$1,734
Arkansas	\$8,202	\$6,848	\$1,354
New Jersey	\$7,298	\$5,700	\$1,598
Connecticut	\$6,933	\$5,635	\$1,298
District of Columbia	\$5,591	\$4,321	\$1,270
Missouri	\$5,024	\$4,223	\$801
Illinois	\$4,570	\$3,689	\$880

## Tax Repatriation Holidays Are Not a Solution

Tax repatriation holidays allow companies to bring profits booked offshore back to the United States at a greatly reduced – and supposedly temporary – tax rate. Such holidays are attractive to companies using tax havens because it is usually challenging to return offshored profits to the United States without paying taxes, which companies must do if they want to distribute earnings to their shareholders.

Multinational corporations and their lobbyists seek to portray tax holidays as a win-win-win for companies, everyday Americans, and government budgets. They claim that repatriation brings money back to the United States so it can be invested in ways that create new jobs, and potentially provides an immediate, albeit small, bump in tax revenue for the government. While allowing companies to bring back their profits at a reduced rate might produce temporary revenue, the long-term negative effects of a tax holiday ultimately undermine the ability to invest in public priorities by incentivizing companies to continue shifting their profits offshore.

Experience suggests that companies repatriating profits do not necessarily use those funds to make productive investments in the U.S. economy. A 2004 tax holiday that allowed corporations to return foreign profits to the United States at a nominal rate of 5.25 percent, versus the statutory corporate income tax rate of 35 percent, led to the repatriation of \$362 billion in corporate money. Unfortunately, the repatriating companies used much of that money to fund stock buybacks rather than investment that spurred new job creation.<sup>26</sup> The United States Senate's Permanent Subcommittee on Investigations – a part of the Committee on Homeland Security and Governmental Affairs – also found that the 15 firms that repatriated the most money that year – approximately \$150 billion collectively – actually shed nearly 21,000 jobs, while increasing executive pay and slightly decreasing investment in research and development.<sup>27</sup> The Joint Committee on Taxation, Congress's nonpartisan tax scorekeeper, estimates that enacting another similar tax holiday would cost the United States nearly \$96 billion in lost tax revenue over the next 10 years.<sup>28</sup>

# American Small Business Owners Want to Stop Offshore Tax Haven Abuse

Unsurprisingly, public opinion surveys find that average Americans show little tolerance for corporate abuse of tax havens. According to an April 2015 poll from the independent and nonpartisan research and polling non-profit organization, Pew Research Center, Americans' top complaint about the tax system is not the amount that they pay in taxes, but rather, 64 percent say they are "bothered a lot by the feeling that some corporations do not pay their fair share of taxes."<sup>29</sup> Likewise, a January 2013 Hart Research Poll found that 73 percent of Americans agree that we should "close loopholes allowing corporations and the wealthy to avoid U.S. taxes by shifting income overseas." The same poll found that 83 percent of Americans agreed that we should "increase [the] tax on U.S. corporations' overseas profits to ensure it is as much as [the] tax on their U.S. profits." This was the most popular policy of the 12 choices that were included in the poll.<sup>30</sup>

The small business community shows similarly strong support for measures to close offshore tax loopholes and is similarly frustrated by the gimmicks corporations use to game the system. Businesses should thrive based on the quality of their products and the strengths of their busi-

ness model, but tax haven abuse turns this on its head. Ordinary small businesses suffer when they must compete on an uneven playing field against corporations that avoid paying their fair share in taxes by employing high-priced lawyers, accountants and lobbyists. According to a 2012 survey, sponsored by the American Sustainable Business Council, Main Street Alliance, and Small Business Majority, three leading small business organizations representing hundreds of thousands of small business owners in the U.S., 90 percent of small business owners believe big corporations use loopholes to avoid taxes that small businesses have to pay, and 92 percent think that it is a problem when "U.S. multinational corporations use accounting loopholes to shift their U.S. profits to their offshore subsidiaries to avoid taxes."<sup>31</sup> A 2013 poll found that, when asked what Congress' top budget priority should be, one-third of small businesses chose "closing tax loopholes for large corporations" – twice as many as chose the second most popular priority.<sup>32</sup> In particular, 64 percent of small business owners support ending the ability of corporations to defer paying U.S. taxes indefinitely on income booked overseas, and an overwhelming 85 percent are opposed to instituting a territorial tax system.<sup>33</sup>

## Small Business Owners Share Why This Matters

The following is a letter written by Marlene Nuechterlien, owner of Caboodle Gifts, in Denver, Colorado.

*I own a small business – technically an LLC – with my husband in Denver. It's called Caboodle Gifts, and we offer unique, handcrafted and upcycled gifts that are locally made as well as classes that are fun for all ages. I run the store – we have no other employees. As you can probably guess, it's a lot of work. As a small business owner, I pay my taxes. This is a sizeable chunk of money, too. I must plan for it, so I'm ready and able to pay when the tax bill comes. Though I do pay a lot in taxes, I'm happy with what they are paying for. As a culture, we pay taxes to make a better living environment for all – from a good education system that develops a good workforce, to a safe and efficient infrastructure. It is unfair that huge corporations – the big guys that already have every advantage over small businesses — are avoiding their taxes by using offshore tax havens. It is unfair that while we're all paying back into the system that gave us our profits, they are not. They benefit just as much off of the public goods our taxes pay for. These tax loopholes need to be closed to not only restore fairness in our tax code, but to also help out Colorado and the rest of our country by putting more funding into our infrastructure, watersheds, schools, health care, and more.*

George Street Camera is a camera and framing shop in New Brunswick, New Jersey, and is owned by A.G. Ritter. He has four employees and has been in business for 33 years. In an interview with Mr. Ritter, he expressed that he has no problem with paying taxes because the “reality of doing business in society necessitates funding for highways, roads, and other services.” He believes that everyone “needs to do their fair share,” and attributes the complexity of our tax system to the pervasiveness of corporate tax loopholes. Ritter's niche has been shrinking with the rise of digital photography and mail order purchasing, and he explained that corporate tax loopholes represent yet another unfair advantage that large manufacturer leverages against small businesses.

Jeff Schorr is the owner of Craftsman House, an art gallery built in 1918 that showcases American craft artwork from over 300 local and national artists, in St. Petersburg, Florida. When talking about what inspired him to start his business roughly ten years ago, Jeff shared, “I had the idea for awhile about creating an art gallery with a homey feel – one with a café, and one that combined my passion for arts, good food, music, and most importantly, community.” He describes the last ten years as challenging, but underscores the importance of the taxes that he pays: “I understand that my taxes are a necessity, as they pay for schools, roads, and infrastructure. I don’t mind paying my fair share, but it’s frustrating when others don’t. St. Petersburg is going through a bit of a Renaissance, with an economy that’s finally improving, and with a community that is more progressive and forward thinking. Taxes that fund our schools, police, and fire department, help support that.”

Jeff also explained, “If these loopholes that allow tax haven abuse were closed, it would affect my business. As far as I know, I might still be paying the same, but there are certain sections of the city, such as the Warehouse Arts District, that need development – better sidewalks, lighting – that corporations need to help contribute to pay for.” Jeff talked about how he is put at a disadvantage by working on an unequal playing field with large corporations.

Lora Fraracci is the owner of EarthMadeClean, which offers commercial and residential cleaning services with environmentally friendly and low-carbon chemicals, in Des Moines, Iowa. Lora opened EarthMadeClean in 2009; she shared, “Because we travel to our clients, we benefit from many of the public goods that our federal and state taxes pay for, such as roads and bridges.” Her business also depends on wealthier households that are able to spend money to have a cleaning service, which means that they need to have good schools and strong town infrastructure.

Lora called state and federal taxes “daunting,” and emphatically explained, “When I hear that businesses are getting all of these breaks, and taking advantage of legal loopholes, it frustrates me because I don’t have that advantage. If the outlets are there to take, somebody will take them. If we don’t close these loopholes, people are going to continue taking advantage of them. If people or corporations don’t pay their taxes, it hurts our entire economy.”



# Closing Offshore Tax Loopholes Would Level the Playing Field for Small Business and Recapture Lost Revenue

Decision makers should take strong action to prevent corporations from booking their income to offshore tax havens. In doing so, the United States can restore fairness to the tax system and recoup billions of dollars in both federal and state tax revenue – money that could be used to support squeezed state and federal spending priorities, to fund tax relief for working families and small businesses, or to pay down the national debt.

To end offshore tax haven abuse, the United States should eliminate the incentives and mechanisms that exist to shift money overseas.

- **End the ability of multinational corporations to defer paying taxes indefinitely on the profits they book to their foreign entities.** The foundation of offshore tax haven abuse is the legal provision that allows corporations to defer paying taxes on profits stashed overseas until they are repatriated to the United States. This feature of American tax law incentivizes the establishment of foreign subsidiaries for the purpose of housing corporate money out of reach of the Internal Revenue Service (IRS). The United States Senate's Joint Committee on Taxation estimates that no longer permitting such deferral would raise nearly \$600 billion over 10 years.<sup>34</sup> Double taxation would not be a concern because companies can already deduct any taxes paid to foreign governments from their tax liability in the United States.
- **Reject a “territorial” tax system.** Unlike in a “worldwide” tax system in which corporate income from around the globe is accounted for in calculating taxes, under a territorial tax system, countries only levy taxes based on the income that corporations decide to declare within their borders. Under current law, the United States employs features of both systems, allowing corporations to defer taxes on their foreign income as long as it remains declared overseas and imposing a levy once the money is repatriated. Territorial taxation would permanently exempt income booked overseas from American taxation, effectively establishing a permanent tax holiday for corporate profits booked offshore. Thus, a territorial tax system would exacerbate existing perverse incentives for corporations to shift profits abroad to dodge their U.S. tax obligations, while also encourage companies to move their operations wholesale to other countries to exploit these incentives.
- **Put an end to the “check the box” rule.** The “check the box” rule allows U.S. companies to “check the box” on their tax forms when describing their various subsidiaries for tax purposes. When used by U.S.-based multinationals, the rule allows American corporations to strip profits out of high tax countries by checking the relevant box on their IRS tax form to transform a subsid-

iary into a “disregarded entity” – irrelevant for tax purposes. The Department of Treasury estimates that this one rule alone costs the federal government almost \$10 billion in lost annual revenue.<sup>35</sup>

- **Prevent corporations from deducting interest expenses paid to their own offshore affiliates.** One “earnings stripping” mechanism is for U.S.-based parent companies to borrow money from their foreign subsidiaries and pay them interest, a tax-deductible expense. The interest income, in turn, may be taxed at low levels or not at all depending on local tax rates in the country where the foreign subsidiary is based.
- **End incentives for corporations to “invert”, or merge with an often smaller foreign entity and change its headquarters on paper to shrink their tax bill.** By buying out a foreign company and using it as a tax haven, companies that “invert” don’t relocate abroad in any real sense. Burger King and Walgreen’s were two high profile companies that attempted to invert (of which Burger King did in fact invert), which would have added to more than 75 inverted companies since 1983. The Joint Committee on Taxation estimates that such defections could cost \$20 billion over the next ten years.<sup>36</sup> Oftentimes, inversions are coupled with earnings stripping, described above.
- **Reduce the incentive for corporations to license intellectual property to shell companies or other subsidiaries in tax haven countries.** A common gimmick used by large corporations to dodge their tax liability is to license patents or trademarks or other forms of intellectual property to a shell corporation or other subsidiary located in a tax haven jurisdiction, and then pay heavily inflated – and tax-deductible –

fees to use them in the United States. This can dramatically reduce a company’s taxable income in the United States and, in effect, transfer the money to a subsidiary facing few tax obligations in a country like Bermuda or the Cayman Islands. Imposing stricter transfer pricing rules with regard to intellectual property, as well as taxes on excess income generated by transferring property offshore, could reduce the incentive for corporations to license intellectual property to related entities at inflated prices.

Offshore tax haven abuse is made easier by inadequate transparency in multinational corporate finance and lackluster enforcement of existing laws. Decision makers should strengthen the ability of the United States to crack down on offshore tax haven abuse by:

- Requiring multinational corporations to report their profits, sales, employees, and those of their related subsidiaries on a country-by-country basis so it is clear to governments around the world where the money is actually earned.
- Requiring all companies to disclose their tax liability on their untaxed foreign profits – 55 of the Fortune 500 companies already do so, while the rest maintain it is not possible to calculate this number.
- Equipping the Department of Treasury and the IRS with the enforcement power it needs to stop tax haven countries and their financial institutions from impeding U.S. tax collection.
- Implementing in full the Foreign Account Tax Compliance Act (FATCA), passed by Congress in 2010. The law’s implementation has been slowed by multinational companies in a protracted stakeholder process.

# Methodology

This report calculates the cost of corporate tax haven abuse for small businesses, in terms of both additional federal and state tax obligations. It hypothetically looks at how much more an average small business in each state would need to pay, if the full burden of offshore tax dodging was picked up by other corporate taxes and shouldered evenly among small business.

To do this, we first needed to identify: 1) how many small businesses were in operation in the United States in 2014 by state; and 2) the total federal tax revenue from corporations lost to offshore havens; and 3) the gross collection of federal business income tax revenue by state.

1. Consistent with previous editions of this report, we defined a small business as one with fewer than 100 employees.<sup>37</sup> This is both an intuitive definition and the one used by The Main Street Alliance and American Sustainable Business Council, both advocates for small business, when identifying samples for polling and surveys.

The United States Census Bureau stores data on the number of small businesses. Consistent with previous editions of this report, we consulted its Statistics of U.S. Businesses division, downloading a dataset entitled “U.S. & States, NAICS Sectors, Small Employment Sizes,” available at [www.census.gov/econ/susb/](http://www.census.gov/econ/susb/), accessed on 4 March 2015. This dataset contains information on the number of businesses in each state by employment size, allowing us to identify the number of businesses in

each state with 1-99 employees. We also consulted *Nonemployer Statistics*, available at [www.census.gov/econ/nonemployer/](http://www.census.gov/econ/nonemployer/) and accessed on 4 March 2015, to identify the number of non-employer establishments – businesses with no paid employees but subject to federal income tax – by state. By adding these numbers together, we arrived at a figure for the total number of small businesses with fewer than 100 employees in the United States as a whole, and in each state. Note that for our small business calculations we use 2012 data, the most recent data available, and identified 33,537,500 small businesses in the United States. Note also that for the purposes of this report, we assumed that all small businesses identified had taxable income in 2014.

2. The federal revenue lost to offshore tax havens totals \$150 billion, per United States Senate, Permanent Subcommittee on Investigations, Committee on Homeland Security and Governmental Affairs, *Offshore Tax Evasion: The Effort to Collect Unpaid Taxes on Billions in Hidden Offshore Accounts*, 26 February 2014. The portion of corporate federal revenue lost to offshore tax havens totals \$90 billion, per Kimberly A. Clausing, “The Revenue Effects of Multinational Firm Income Shifting,” *Tax Notes*, 28 March 2011. We deduced that the portion of federal tax revenue lost to *individuals’* use of offshore tax havens totals \$60 billion from the previous two sources. That additional amount is not examined in this report.

3. Last year's Internal Revenue Service's (IRS) annual Data Book, a publication containing data on the previous year's tax collections, reported the gross collection of federal business tax revenue by state in the United States. We consulted Table 5 in the *IRS Data Book 2014*, available at [www.irs.gov/uac/SOI-Tax-Stats-IRS-Data-Book](http://www.irs.gov/uac/SOI-Tax-Stats-IRS-Data-Book), to find that in 2014, the United States collected \$353,141,112,000 in federal business income tax revenue. This table also reported the amount of revenue by state.

## Additional Federal Tax Obligation

To calculate the additional federal tax obligation for small businesses, we did the following:

**Nationwide:** To illustrate the average additional federal tax obligation of corporate tax havens per small business owner nationwide, we divided \$90 billion – the total amount of federal corporate tax revenue lost to corporate offshore tax havens each year – by the number of small business owners as identified above.

**By state:** To illustrate the average additional corporate tax obligation for small businesses on a state-by-state basis, we used the gross business income tax federal revenue and apportioned it to each of the state's share of corporate income tax payments. Once we arrived at unique percentages for each state, we multiplied each by \$90 billion to get the total gross federal corporate tax revenue lost. We then divided each state's share by the number of small businesses in each state. (Note: state-by-state percentages

may not sum to 100 percent because our analysis does not consider federal tax revenue from Puerto Rico, overseas U.S. territories, and payments from Americans living abroad.)

## Additional State Tax Obligation

To calculate the additional state tax obligation small businesses would have to pay due to tax haven abuse, we first had to calculate how much state tax revenue is lost due to corporate profit shifting.

To do so, we calculated the corporate income sheltered from both state and federal taxes. First, we calculated the corporate income sheltered from federal taxes by taking the total federal business income tax revenue lost (by state) and dividing it by the effective federal corporate tax rate (35 percent). We then added this number to the corporate income sheltered from states taxes, which is the federal number multiplied by the 2015 state corporate income tax (this adjusts for the fact that state taxes are deducted from federal taxes). We then took the corporate income sheltered from state and federal taxes (by state) and multiplied it by the state corporate income tax to arrive at the state corporate tax revenue lost for each state. Once we had established the amount of state tax revenue lost for each state, we could calculate how much each small business would need to pay in state taxes to account for these losses. We divided each state's corporate tax revenue losses by the number of small businesses in each state, as determined in point number two above, to calculate how much additional corporate income tax businesses would need to pay.

## How Our Figures This Year Differ From Last Year's Report

In last year's version of our report, *Picking Up The Tab 2014: Average Citizens and Small Businesses Pay the Price for Offshore Tax Havens*, we based our percent of net revenue attributable to each state on individual income tax and SECA tax payments, located in the IRS Databook table 5 to apportion both the total federal corporate and federal personal income tax revenue and lost. Because we focused solely on the corporate federal income revenue lost and the associated tax obligation that would be placed on small businesses, this year, we based the percent of net revenue attributable to each state on the gross federal business income tax revenue by state. Additionally, we used 35 percent as our federal corporate tax rate as opposed to 30.5 percent, used in our last report. The 35 percent could be interpreted as a slight overestimation because companies without listed offshore subsidiaries would otherwise pay an estimated 30.5 percent, the 2008 median effective tax rate for the 13 companies – out of America's 100 largest – that did not have subsidiaries in offshore tax havens in 2007<sup>38</sup>. With a 30.5 percent rate, our aggregate figures would be: a combined federal and state tax obligation of \$3,326, state tax burden of \$643, and federal tax burden of \$2,684. However, recent findings of offshore tax dodging done by several of these 13 companies (i.e. Verizon and Walmart) suggest that offshore tax dodging may occur even when companies don't disclose affiliates based in offshore tax havens in their annual 10-K filings with the Securities Exchange Commission. Thus, we use the 35 percent figure.



## Appendix A: Impact of Offshore Tax Haven Abuse on Small Businesses

State	Total Federal and State Corporate Tax Revenue Lost to Offshore Tax Havens (billions)	Combined Additional Federal and State Corporate Tax Obligation per Small Business	Total Federal Corporate Tax Revenue Lost to Offshore Tax Havens (billions)	Additional Federal Corporate Tax Obligation per Small Business	Total State Corporate Tax Revenue Lost to Offshore Tax Havens (billions)	Additional State Corporate Tax Obligation per Small Business
<b>United States</b>	<b>\$108.1</b>	<b>\$3,244</b>	<b>\$90.0</b>	<b>\$2,684</b>	<b>\$18.1</b>	<b>\$560</b>
Alabama	\$0.5	\$1,014	\$0.4	\$847	\$0.1	\$167
Alaska	\$0.1	\$711	\$0.1	\$549	\$0.0	\$161
Arizona	\$1.3	\$2,213	\$1.1	\$1,873	\$0.2	\$340
Arkansas	\$2.3	\$8,202	\$1.9	\$6,848	\$0.4	\$1,354
California	\$15.0	\$3,547	\$11.8	\$2,782	\$3.2	\$765
Colorado	\$2.2	\$3,165	\$1.9	\$2,780	\$0.3	\$385
Connecticut	\$2.7	\$6,933	\$2.2	\$5,635	\$0.5	\$1,298
Delaware	\$1.4	\$15,843	\$1.1	\$12,472	\$0.3	\$3,370
District of Columbia	\$0.4	\$5,591	\$0.3	\$4,321	\$0.1	\$1,270
Florida	\$2.7	\$1,052	\$2.3	\$902	\$0.4	\$150
Georgia	\$3.2	\$2,928	\$2.7	\$2,478	\$0.5	\$450
Hawaii	\$0.1	\$811	\$0.1	\$679	\$0.0	\$132
Idaho	\$0.1	\$580	\$0.1	\$473	\$0.0	\$107
Illinois	\$6.3	\$4,570	\$5.1	\$3,689	\$1.2	\$880
Indiana	\$1.3	\$2,421	\$1.1	\$1,994	\$0.2	\$427
Iowa	\$0.6	\$1,721	\$0.4	\$1,243	\$0.2	\$478
Kansas	\$0.7	\$2,118	\$0.6	\$1,893	\$0.1	\$225
Kentucky	\$0.7	\$1,768	\$0.6	\$1,496	\$0.1	\$272
Louisiana	\$0.5	\$1,039	\$0.4	\$834	\$0.1	\$206
Maine	\$0.1	\$558	\$0.1	\$437	\$0.0	\$121
Maryland	\$1.0	\$1,599	\$0.8	\$1,274	\$0.2	\$325
Massachusetts	\$3.0	\$4,031	\$2.4	\$3,233	\$0.6	\$798
Michigan	\$1.5	\$1,509	\$1.3	\$1,277	\$0.2	\$232
Minnesota	\$6.4	\$10,770	\$4.9	\$8,237	\$1.5	\$2,533

State	Total Federal and State Corporate Tax Revenue Lost to Offshore Tax Havens (billions)	Combined Additional Federal and State Corporate Tax Obligation per Small Business	Total Federal Corporate Tax Revenue Lost to Offshore Tax Havens (billions)	Additional Federal Corporate Tax Obligation per Small Business	Total State Corporate Tax Revenue Lost to Offshore Tax Havens (billions)	Additional State Corporate Tax Obligation per Small Business
Mississippi	\$0.2	\$727	\$0.2	\$632	\$0.0	\$95
Missouri	\$3.0	\$5,024	\$2.5	\$4,223	\$0.5	\$801
Montana	\$0.1	\$419	\$0.1	\$347	\$0.0	\$71
Nebraska	\$2.3	\$11,351	\$1.9	\$9,150	\$0.4	\$2,201
Nevada	\$0.2	\$740	\$0.2	\$740	N/A	N/A
New Hampshire	\$0.1	\$487	\$0.1	\$385	\$0.0	\$101
New Jersey	\$7.2	\$7,298	\$5.6	\$5,700	\$1.6	\$1,598
New Mexico	\$0.1	\$390	\$0.1	\$322	\$0.0	\$68
New York	\$8.9	\$3,622	\$7.3	\$2,976	\$1.6	\$647
North Carolina	\$2.5	\$2,616	\$2.2	\$2,275	\$0.3	\$341
North Dakota	\$0.1	\$1,899	\$0.1	\$1,673	\$0.0	\$226
Ohio	\$3.1	\$2,898	\$3.1	\$2,898	N/A	N/A
Oklahoma	\$1.2	\$3,075	\$1.0	\$2,602	\$0.2	\$473
Oregon	\$0.6	\$1,432	\$0.5	\$1,161	\$0.1	\$271
Pennsylvania	\$4.2	\$3,547	\$3.2	\$2,670	\$1.0	\$848
Rhode Island	\$1.1	\$9,838	\$0.9	\$8,104	\$0.2	\$1,734
South Carolina	\$0.5	\$1,035	\$0.4	\$900	\$0.1	\$135
South Dakota	\$0.1	\$1,026	\$0.1	\$1,026	N/A	N/A
Tennessee	\$1.8	\$2,806	\$1.5	\$2,343	\$0.3	\$463
Texas	\$8.5	\$3,104	\$8.3	\$3,017	\$0.2	\$87
Utah	\$0.5	\$1,496	\$0.4	\$1,300	\$0.1	\$195
Vermont	\$0.1	\$1,223	\$0.1	\$968	\$0.0	\$255
Virginia	\$3.4	\$4,294	\$2.9	\$3,634	\$0.5	\$660
Washington	\$1.4	\$2,116	\$1.4	\$2,116	N/A	N/A
West Virginia	\$0.1	\$818	\$0.1	\$683	\$0.0	\$135
Wisconsin	\$1.9	\$3,595	\$1.5	\$2,891	\$0.4	\$704
Wyoming	\$0.1	\$605	\$0.1	\$605	N/A	N/A

*Note: The figures in each column have been rounded individually based on our calculations for that particular data.*

# Notes

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