



To: Chairman Michael Rodrigues, Chairman Kaufman and Members of the Joint Committee on Revenue

From: Deirdre Cummings, Legislative Director of MASSPIRG, dcummings@masspirg.org and Phineas Baxandall, Ph.D, Senior Analyst for Tax and Budget Policy, USPIRG, Phineas@pirg.org, 617-747-4319

RE: Testimony in support of An Act closing a corporate tax haven loophole, HB 2477 and SB 1524 to reduce tax avoidance through use of off shore tax havens.

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MASSPIRG is a 40 year old, non- profit, non- partisan, public interest organization working to protect consumers, encourage a fair and sustainable economy and foster a responsive, transparent and democratic government. USPIRG is our national network working with all the state PIRGs and for public interest reforms in Congress.

We are here today in support of *An Act closing a corporate tax haven loophole*, HB 2477 and SB 1524 to reduce tax avoidance through the use of offshore tax havens saving Massachusetts taxpayers \$79 million a year while making the tax code fairer for ordinary taxpayers and small businesses.¹

An Act closing a corporate tax haven loophole, HB 2477 and SB 1524 was filed by Representative Josh Cutler (Duxbury) and Senator Mark Montigny (Montigny) and cosponsored by a bipartisan group of 57 lawmakers. The bill, already a law in place in Oregon and Montana, also known as the “water’s edge” loophole would require that companies treat profits made in Massachusetts and funneled to known tax havens like the Cayman Islands as domestic taxable income. Making this change to the tax code would save Massachusetts taxpayers \$79 million a year.

Included with our testimony today are two recently released reports by MASSPIRG on the cost of tax havens and how states can reduce off shore tax avoidance.

Many of America’s largest corporations use accounting tricks to shift profits made in America to offshore tax havens, where they pay little to no taxes. The U.S. corporate tax system allows companies to defer paying state and federal taxes on profits they earn abroad, until they declare

¹ MASSPIRG Education Fund, “Closing the Billion Dollar Loophole,” Jan. 30, 2014. This also includes estimate from the DOR of savings from \$64-\$94 annually.

the money has been brought back to the United States by paying dividends to shareholders, repurchasing stock, or making U.S. Investments. Many companies game this system using loopholes that let them disguise profits legitimately made in the U.S. as “foreign” profits earned by subsidiaries in offshore tax havens. The GAO found that at least 82 of the largest 100 publicly traded U.S. companies maintain subsidiaries in known tax havens.²

By using offshore tax havens, multinationals avoid an estimated \$90 billion in federal tax revenue each year.³ Because most state tax codes are so closely tethered to the federal one, states also lose billions in tax revenue from these loopholes annually. Based on an analysis of how much income is federally reported from each state, and on state tax rates, U.S. PIRG estimated that states cumulatively lost \$26 billion in revenue last year as a result of multinational corporations abusing tax havens.⁴

While much of the reform necessary to stop this tax haven abuse must happen at the federal level, states have begun to update their tax code to recapture some of the lost state revenue while making the tax code fairer and leveling the playing field for small businesses, which rarely use such loopholes.

Massachusetts can recapture some of the revenue lost to tax havens by treating income booked to corporate subsidiaries in known tax havens as domestic income for tax purposes. This option is readily available in Massachusetts because we have enacted combined reporting. Under combined reporting, passed in 2008, multistate companies report on their affiliates across the country. Information about the relative size of a company’s property, sales and payroll located in Massachusetts is already used in a formula to apportion the share of each company’s total domestic income that is subject to Massachusetts taxes.

Massachusetts enacted combined reporting to obtain a more complete picture of where companies apportion their income and to prevent companies from improperly claiming that income was earned in other states. Included in the combined reporting tax law, is a “water’s edge” provision that excludes the income and business activity multinational companies book to their foreign affiliates when calculating their taxable income. Thus, companies are not prevented from avoiding taxes by using accounting tricks to make it appear as if their profits were generated by foreign affiliates in tax havens, even if little or no business activity actually took place there.

For the rare companies that really do have significant business activity in tax haven countries, Massachusetts law already allows them to elect for “worldwide” reporting, which counts the offshore business activity – along with income – when apportioning the income taxable to Massachusetts.

²Government 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. The number of subsidiaries registered in tax havens is calculated by authors looking at exhibit 21 of the company’s 2013 10-K report filed annually with the Securities and Exchange Commission. The list of tax havens comes from the Government Accountability Office report..

³ Kimberly A. Clausing, “The Revenue Effects of Multinational Firm Income Shifting,” *Tax Notes*, 28 March 2011, 1580-1586

⁴ *The Hidden Cost of Tax Havens: State Budgets Under Pressure from Tax Loophole Abuse*, (U.S. PIRG, March 2013).

By changing the law so that income booked to a company's subsidiaries in known tax havens will no longer be considered beyond the "water's edge," Massachusetts can recoup \$79 million of the revenue lost from offshore avoidance. Oregon and Montana have already closed this loophole, and several other states are moving to follow suit. HB 2477 and SB 1524 have earned bipartisan support.

When multinational corporations use tax havens to avoid taxes, small businesses and ordinary taxpayers are forced to pick up the tab in the form of cuts to public services or higher taxes. There are many better uses of our tax dollars than to subsidize tax avoidance of large multinational corporations.

Thank you for the opportunity to testify today and we urge you to pass the bill quickly from your committee.