THE CORPORATE TAX DODGING PREVENTION ACT OF 2017

The Corporate Tax Dodging Prevention Act would prevent corporations from sheltering profits in tax havens like Bermuda and the Cayman Islands and would stop rewarding companies that ship jobs and factories overseas with tax breaks. The bill would likely raise at least $1 trillion in revenue over ten years. Specifically, it would reform the tax code by:

1. Ending the rule allowing American corporations to defer paying federal income tax on profits of their offshore subsidiaries. (Section 2)

Current law allows American corporations to defer paying U.S. income tax on profits of their offshore subsidiaries until those profits are "repatriated" (officially brought to the U.S.) which may not happen for years, if ever. As a result, American corporations would rather report foreign profits than domestic profits to the I.R.S. Deferral therefore creates an incentive to either move operations and jobs to a lower-tax country, or to use accounting gimmicks to make U.S. profits *appear* to be earned in a lower-tax country.

The Congressional Research Service has indicated that the cost of this tax avoidance to the U.S. Treasury approaches or exceeds $100 billion *annually*. This bill would crack down on this tax avoidance by ending the rule allowing deferral of U.S. income tax on offshore profits.

Under this legislation, American corporations would still be allowed a credit that reduces their federal income tax liability by an amount equal to income taxes paid to foreign governments on these profits. This foreign tax credit exists under current law and already prevents double-taxation of profits.

2. Transitioning to new rules by imposing a one-time tax of 35 percent on profits currently held offshore by American corporations. (Section 2)

American corporations are officially holding nearly $2.5 trillion in profits offshore. In many cases this money is actually located in the U.S. or invested in U.S. assets, but the companies are allowed to defer U.S. taxes on these profits because they are officially held by their foreign subsidiaries. These profits would be subject to the U.S. corporate tax at the full rate of 35 percent. This one-time tax would serve as a transition to the rules established under this bill. Corporations would be allowed to pay the tax over a period of eight years and would be allowed to use foreign tax credits.

3. Closing loopholes allowing American corporations to artificially inflate or accelerate their foreign tax credits. (Section 4)

When U.S. corporations earn profits overseas, taxes paid to the foreign country are credited against U.S. tax liabilities, in order to avoid double-taxation. Under current rules and tax planning strategies, corporations are allowed to claim foreign tax credits for taxes paid on foreign income that is not subject to current U.S. tax (i.e. foreign tax credits in excess of what is needed to avoid double-taxation). As a result, American multinational corporations are able to use such credits to pay less tax on their U.S. taxable income than they would if all income was all from U.S. sources – providing them with a competitive advantage over companies that are entirely domestic.

Under the Corporate Tax Dodging Prevention Act, foreign tax credits generated by profits earned in one country could not be used against U.S. income tax on profits earned in another country.

4. Preventing American corporations from claiming to be foreign by using a tax haven post office box as their address. (Section 5)

Some companies claim to be based in a tax haven like the Cayman Islands even though their presence in these locations consist of nothing more than a post office box and their actual staff is still located in the U.S. Today, a single five-floor office building in the Cayman Islands is claimed as the address for over 18,000 corporations, demonstrating how easy it is for companies to pretend to be based there. Under the Corporate Tax Dodging Prevention Act, a corporation could not claim to be foreign if its management and control operations are located in the U.S.

5. Preventing American corporations from avoiding U.S. taxes by inverting. (Section 7)

In an inversion, an American corporation acquires or merges with a foreign company (usually much smaller) and then claims that the newly merged company is a foreign one for tax purposes — even though the majority of the ownership is unchanged and little or no personnel or operations have actually moved offshore.

Under the Corporate Tax Dodging Prevention Act, the U.S. would continue to tax such a company as an American corporation so long as it is still majority owned by the owners of the American party to the merger or acquisition.

6. Prevent foreign-owned corporations from stripping earnings out of the U.S. by manipulating debt expenses. (Section 6)

Foreign controlled multinational corporations sometimes load up their U.S. affiliates with excessive debt as a way to shift profits out of the U.S. The foreign-owned U.S. affiliates then make interest payments to foreign companies that result in deductions that reduce or wipe out their U.S. income for tax purposes. Often the loans are made between entities owned by the same parent company, which means they are really an accounting fiction and the only real consequence is a lower U.S. income tax bill.

Under the Corporate Tax Dodging Prevention Act, a U.S. affiliate of a foreign-owned multinational corporation would not be allowed to deduct interest expenses that are disproportionate to its share of income of the entire corporate group (the entire group of corporations owned by the same parent company). The U.S. affiliate could choose instead to be subject to a different rule limiting deductions for interest payments to ten percent of its income.

7. Preventing large oil companies from disguising royalty payments to foreign governments as foreign taxes. (Section 3)

U.S. taxpayers are taxed on their income worldwide, but are entitled to a dollar-for-dollar tax credit for any income taxes paid to a foreign government. U.S. oil and gas companies have been disguising royalty payments to foreign governments as foreign taxes in order to claim foreign tax credits. The Corporate Tax Dodging Prevention Act would close this loophole which amounts to a U.S. subsidy for foreign oil production for the largest oil companies.