

**PRESS RELEASE**

**U. S. Senate Permanent Subcommittee on Investigations**  
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS COMMITTEE



Carl Levin, Chairman  
John McCain, Ranking Member

**FOR IMMEDIATE RELEASE**

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**Subcommittee to Examine Offshore Profit Shifting  
and Tax Avoidance by Apple Inc.**

WASHINGTON – Apple Inc. has used a complex web of offshore entities – including three foreign subsidiaries the company claims are not tax resident in any nation – to avoid paying billions of dollars in U.S. income taxes, a bipartisan investigation by the Senate Permanent Subcommittee on Investigations has found.

The subcommittee will spotlight Apple’s extensive tax-avoidance strategies at a Tuesday hearing. Witnesses will include Apple CEO Tim Cook, other Apple executives, Treasury Department officials and outside experts. Senator Carl Levin, D-Mich., and Senator John McCain, R-Ariz., Subcommittee Chairman and Ranking Member, respectively, will also issue a 40-page memorandum with findings and recommendations.

The subcommittee, which previously explored tax avoidance by other multinational corporations using offshore subsidiaries, found similar practices at Apple. In addition, the subcommittee review discovered an unusual tax scheme: Apple’s claim that three key offshore companies are not tax residents of Ireland, where they are incorporated, or of the United States, where Apple executives manage and control the companies. One of those Irish subsidiaries has paid no income taxes to any national tax authority for the past five years.

“Apple wasn’t satisfied with shifting its profits to a low-tax offshore tax haven,” said Sen. Levin. “Apple sought the Holy Grail of tax avoidance. It has created offshore entities holding tens of billions of dollars, while claiming to be tax resident nowhere. We intend to highlight that gimmick and other Apple offshore tax avoidance tactics so that American working families who pay their share of taxes understand how offshore tax loopholes raise their tax burden, add to the federal deficit and ought to be closed.”

“Apple claims to be the largest U.S. corporate taxpayer, but by sheer size and scale, it is also among America’s largest tax avoiders,” said Sen. McCain. “A company that found remarkable success by harnessing American ingenuity and the opportunities afforded by the U.S. economy should not be shifting its profits overseas to avoid the payment of U.S. tax, purposefully depriving the American people of revenue. It is important to understand Apple’s byzantine tax structure so that we can effectively close the loopholes utilized by many U.S. multinational companies, particularly in this era of sequestration.”

Sen. McCain added: “I have long advocated for modernizing our broken and uncompetitive tax code, but that cannot and must not be an excuse for turning a blind eye to the highly questionable tax strategies that corporations like Apple use to avoid paying taxes in America. The proper place for the bulk of Apple’s creative energy ought to go into its innovative products and services, not in its tax department.”

Tuesday’s hearing is the subcommittee’s second examining the tax-avoidance strategies of multinationals. A September 2012 hearing explored how Microsoft and Hewlett-Packard used dubious strategies to avoid billions in U.S. taxes. Similar practices at Apple include:

- Using a so-called cost sharing agreement to transfer valuable intellectual property assets offshore and shift the resulting profits to a tax haven jurisdiction.
- Taking advantage of weaknesses and loopholes in tax law and regulations to “disregard” offshore subsidiaries for tax purposes, shielding billions of dollars in income that could otherwise be taxable in the United States.
- Negotiating a tax rate of less than 2 percent with the government of Ireland – significantly lower than that nation’s 12% statutory rate – and using Ireland as the base for its extensive network of offshore subsidiaries.

In addition to those standard multinational tactics, Apple established at the apex of its offshore network an offshore holding company that it says is not tax resident in any nation. That subsidiary, Apple Operations International, has no employees and no physical presence, but keeps its bank accounts and records in the United States and holds its board meetings in California. It was incorporated in Ireland in 1980, and is owned and controlled by the U.S. parent company, Apple Inc. Ireland asserts tax jurisdiction only over companies that are managed and controlled in Ireland, but the United States bases tax residency on where a company is incorporated. Exploiting the gap between the two nations’ tax laws, Apple Operations International has not filed an income tax return in either country, or any other country, for the past five years. From 2009 to 2012, it reported income totaling \$30 billion.

A second Irish subsidiary claiming not to be a tax resident anywhere is Apple Sales International which, from 2009 to 2012, had sales revenue totaling \$74 billion. The company appears to have paid taxes on only a tiny fraction of that income, resulting, for example, in an effective 2011 tax rate of only five hundredths of one percent. The third Irish subsidiary is Apple Operations Europe. In addition to creating non-tax resident affiliates, Apple Inc. has utilized U.S. tax loopholes to avoid U.S. taxes on \$44 billion in otherwise taxable offshore income over the past four years, or about \$10 billion in tax avoidance per year.

The Levin-McCain memorandum offers recommendations to close those offshore corporate tax loopholes. They include strengthening U.S. transfer pricing rules, and reforming the so-called “check-the-box” and “look-through” loopholes that enable multinationals to shield offshore income from U.S. taxes.

Tuesday’s hearing will take testimony from three witness panels:

- Harvard Professor Stephen Shay and Villanova Professor J. Richard Harvey;
- Apple Chief Executive Officer Tim Cook, Chief Financial Officer Peter Oppenheimer, and Tax Operations Head Phillip Bullock; and
- Mark Mazur, Treasury Assistant Secretary for Tax Policy, and Samuel Maruca, IRS Director of Transfer Pricing Operations.