

SUMMARY OF THE STOP TAX HAVEN ABUSE ACT

September 19, 2013

The Levin-Whitehouse-Begich-Shaheen Stop Tax Haven Abuse Act, S. 1533, would:

Title I – Deterring the Use of Tax Havens for Tax Evasion

- **Authorize special measures to stop offshore tax abuse (§101)** by allowing Treasury to take specified steps against foreign jurisdictions or financial institutions that impede U.S. tax enforcement, including prohibiting U.S. banks from doing business with a designated foreign bank.
- **Strengthen FATCA (§102)** by clarifying when, under the Foreign Account Tax Compliance Act, foreign financial institutions and U.S. persons must report foreign financial accounts to the IRS.
- **Establish rebuttable presumptions to combat offshore secrecy (§102)** in U.S. tax and securities law enforcement proceedings by shifting to the U.S. taxpayer, who takes advantage of the related loopholes, the burden of proving: who controls an offshore entity; when money sent to or received from offshore is taxable income; and when offshore accounts have sufficient funds to trigger a reporting obligation.
- **Stop companies incorporated offshore but managed and controlled from the United States from claiming foreign status (§103)** and avoiding U.S. taxes on their foreign income by treating them as U.S. domestic corporations for tax purposes.
- **Strengthen detection of offshore activities (§104)** by requiring U.S. financial institutions that open accounts for foreign entities controlled by U.S. clients or open foreign accounts in non-FATCA institutions for U.S. clients to report the accounts to the IRS.
- **Close the offshore swap payments loophole (§105)** by treating swap payments that originate in the United States as taxable U.S. source income.

Title II-Other Measures to Combat Tax Haven Abuses

- **Require annual country-by-country reporting (§201)** by SEC-registered corporations to disclose their employees, gross revenues, and tax payments on a per country basis.
- **Establish a penalty on corporate insiders who hide offshore holdings (§202)** with a securities law fine of up to \$1 million per violation.
- **Require anti-money laundering programs (§§203 and 204)** for private funds and formation agents to ensure they screen high risk clients and offshore funds.
- **Strengthen John Doe summons (§205)** by streamlining court procedures used by the IRS to obtain these summons, while also strengthening court oversight.

- **Combat hidden foreign financial accounts (§206)** by facilitating IRS use of Foreign Bank Account Reports and Suspicious Activity Reports, and simplifying penalties for unreported foreign accounts.

Title III – Ending Corporate Offshore Tax Avoidance

- **Eliminate incentives for offshoring jobs and operations (§301)** by deferring corporate tax deductions for expenses related to deferred income so that, for example, a U.S. corporation could not take a tax deduction for building a plant offshore until it also declared and paid taxes on income produced by that plant.
- **Stop foreign tax credit manipulation (§301)** by requiring foreign tax credits to be considered on a pooled basis.
- **Limit incentives to move intellectual property and related marketing rights offshore (§§302 and 303)** by taxing excess income earned from transferring that property offshore to a related foreign entity, and by allowing the IRS to use common sense methods to value the transferred property.
- **Repeal check-the-box rule for foreign entities and CFC look-through rule (§304)** to stop U.S. multinationals from disregarding their offshore subsidiaries to avoid U.S. taxes on passive income.
- **Stop offshore loan abuse (§305)** by preventing multinationals from artificially repatriating offshore funds tax-free by treating them as short-term loans from their offshore subsidiaries to their U.S. operations.

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