

## TESTIMONY



**Statement  
of  
Donald C. Alexander  
Before  
the United States Senate  
Committee on Governmental Affairs  
Permanent Subcommittee on Investigations  
July 18, 2001**

As a former IRS Commissioner, I am here to express my personal views about the U.S. position on the tax haven project of the Organization for Economic Cooperation and Development (OECD).

As I understand it, the OECD created the Forum on Harmful Tax Competition in 1998. Part of the OECD initiative was directed at "harmful preferential tax regimes" and the other part at tax havens. As to the first segment, OECD would assist governments to cope with regimes engaging in practices that "attract investment or savings originating elsewhere and when they facilitate the residents legally escaping tax in their home country." The Forum evaluated these preferential tax regimes and determined whether they would be considered "harmful preferential tax regimes" based on some combination of the following characteristics: (a) no or only nominal effective tax rates, (b) lack of effective exchange of information, (c) lack of transparency, and (d) absence of a requirement of substantial activities. Regimes fitting these criteria might become the target of economic sanctions by the OECD if they did not agree to cooperate.

The OECD's June, 2000 report of its progress in countering harmful tax regimes and tax havens stated specifically that its project "is not primarily about collecting taxes and is not intended to promote the harmonisation of income taxes or tax structures generally within or outside the OECD, nor is it about dictating to any country what should be the appropriate level of tax rates." This seems to be a good place to draw the line. The OECD should not dictate to any country what type of tax system the country should have (*e.g.*, income tax, value added tax, retail sales tax, property tax) nor what the tax rates should be. If Country A chooses to impose a heavy burden of taxation

upon its citizens, it should have no right, nor should the OECD attempt to assert any such right, to insist that Country B's citizens should be subjected to a similar burden. As Secretary O'Neill stated: "And we will not interfere in other people's tax systems." (*Business Week*, June 25, 2001, at 39.)

Nevertheless, the OECD's year 2000 report, like its description of the 1998 Forum, did not limit its concerns to havens and harmful tax practices, but instead expressed detailed concerns about certain features of tax laws considered to have the potential to constitute "harmful tax competition". One of the listed features was the foreign sales corporations provisions of the U.S. Internal Revenue Code. Concerns like this can be appropriately viewed as interfering with a particular country's structure of taxation; "harmful tax competition" might be viewed by a high-tax country as any system that produces a lesser burden than its own. The OECD should be slow to condemn Country A's tax policies that promote investment and economic growth, even though Country A's laws are less burdensome than those of competing Country B.

Having said that, I strongly support OECD's efforts to cope with the serious threat that tax havens pose to effective enforcement of U.S. tax laws. I am glad that the OECD has made meaningful progress in dealing with harmful tax practices of tax haven countries. A number of countries have made commitments to cooperate and to change their practices and, if necessary, their

privacy laws, to help OECD members and the United States curb evasion through offshore accounts and money laundering. Secretary O'Neill is right. "We will do everything to collect every dollar owed under our tax laws by working in cooperation with other countries. . . . We want all the information that's necessary to ensure that our tax laws are fully enforced." (*Business Week*, June 25, 2001, at 39) We should advocate, not impede, the OECD tax havens project.

If a tax haven country's practices or laws should prevent the United States from obtaining the information necessary to ensure that U.S. laws are fully enforced, such practices or laws should be changed to remove this obstacle. Frankly, I have difficulty understanding apparent views to the contrary that seem to have been expressed by certain Members of Congress. Should a tax evader's "right of privacy" prevail over the duty of all U.S. citizens to comply with U.S. tax laws? Should

secreting money in a tax haven country give more protection to a would-be U.S. tax evader than hiding the money under the mattress? As a former U.S. tax collector and a long-time U.S. taxpayer, I don't think so.

The Chairman's June 29, 2001, letter raised a number of specific questions. My brief responses are as follows:

1. In my experience, the United States has long encountered great difficulties in attempting to enforce the U.S. tax laws when offshore tax havens are involved. The U.S. has long pushed for tax treaties and agreements providing for exchange of necessary information, and it should continue and strengthen its efforts in this respect. It badly needs the cooperation of tax haven countries, particularly those in the Caribbean, and sporadic enforcement efforts by using informants and sting operations were troublesome and ineffective years ago and, I believe, remain troublesome and ineffective.

2. As stated above, I think the OECD tax haven project has made meaningful progress and should continue to do so. This part of the OECD overall initiative serves our national interest and should be endorsed and supported.

3. While, as stated above, I can understand concerns about the OECD's "harmful tax competition" initiative, I do not think that the recent criticism of the OECD tax haven project itself is well founded. It seems to be based upon extreme libertarian notions founded in anti-government bias, and it even seems to claim that the United States tax system is territorial (or should be territorial) when it is not. Since 1913 U.S. citizens have been taxed on their worldwide income, and unless and until this tax system is abandoned, it should be enforced.

4. I am sorry to see delays in the OECD tax haven project, particularly the long delay in implementing sanctions. I hope there are no further delays.

5. a. I think the United States should continue to support requiring offshore tax havens to exchange information for civil and criminal tax enforcement purposes, and I believe that our current exchange of information agreements provide a generally useful framework.

b. I think the United States should continue to support requiring offshore tax havens to improve transparency, having

in mind the current debate about transparency when offshore funds are placed in the United States. It is hard for us to ask more of others than we are willing to grant them.

c. As to defensive measures against uncooperative offshore tax havens, I think we want to move carefully. Again, I do not think we should undermine OECD efforts and we should be supportive of firm, but not harsh, measures.

[Committee Members](#) | [Subcommittees](#) | [Hearings](#) | [Key Legislation](#) | [Jurisdiction](#)  
[Press Statements](#) | [Current Issues](#) | [1997 Special Investigation](#) | [Video of Select Hearings](#) | [Sites of Interest](#)