NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

Financing Vital Investments and Improving Tax Fairness: International Tax Reforms

Today, the tax code provides incentives for companies to shift jobs and investments overseas and opportunities for multinational corporations and very wealthy individuals to avoid and evade taxes through offshore tax havens.

- In 2004, the most recent year for which data is available, U.S. multinational corporations paid about $16 billion of U.S. tax on approximately $700 billion of foreign active earnings – an effective U.S. tax rate of about 2.3%, according to the U.S. Treasury.

- A January 2009 report by the Government Accountability Office found that of the 100 largest U.S. corporations, 83 have subsidiaries in tax havens. In the Cayman Islands, one address alone houses 18,857 corporations, very few of which have a physical presence in the islands.

President Obama's international tax proposals would reduce tax incentives for corporations to move jobs and income overseas, curb offshore tax havens, and raise $210 billion in revenue over 10 years that could help pay for health care reform and other vital investments. The proposals would:

- *Defer deductions against deferred offshore income*. Today, companies that move investments offshore can defer paying U.S. taxes on their offshore profits until they bring the income back to the U.S. -- but they can immediately take deductions for their overseas expenses. The proposal would prohibit companies with foreign operations from taking tax deductions related to foreign income, other than for research and experimentation, until they pay tax on that income ($60.05 billion over 10 years).

- *Close Foreign Tax Credit Loopholes*. The Foreign Tax Credit allows U.S. taxpayers who pay income taxes to a foreign jurisdiction to claim a credit against U.S. taxes. When it is claimed against income earned abroad that is also subject to U.S. taxes, the credit avoids double taxation. But, some corporations claim the credit against income that is not subject to U.S. tax. The proposal would close loopholes to prevent companies from artificially inflating or accelerating foreign tax credits ($43.0 billion over 10 years).

- *Eliminate Loopholes for Disappearing Offshore Subsidiaries*. Today, so-called "check-the-box" rules enable multinational corporations to make their foreign subsidiaries "disappear" for tax purposes, permitting them to legally shift income to tax havens and make the taxes they owe disappear as well. The proposal would require U.S. businesses that establish corporations overseas to report them as corporations on their U.S. tax returns ($86.5 billion over 10 years).

- *Crack Down on Tax Havens*. Today, very wealthy individuals and corporations can evade taxes by hiding money in offshore accounts in countries that prevent the disclosure of financial information. The proposal would crack down on abuses through a comprehensive package of disclosure and enforcement measures to make it more difficult for corporations and wealthy individuals to evade taxes – including withholding taxes from financial institutions that don't share information with the U.S., shifting the legal burden of proof for reporting purposes, extending the statute of limitations for enforcement, and hiring 800 additional IRS agents to work on tax evasion cases ($8.7 billion over 10 years).

- *Close other international tax loopholes*. Multinational corporations can use a variety of additional tax provisions to reduce tax liability. Among other things, the proposal would limit income-shifting among offshore subsidiaries, prevent the avoidance of withholding taxes on cross-border dividends, and repeal rules that allow certain companies with foreign income to avoid taxes on dividends and interest ($11.5 billion over 10 years).

The proposals are much-needed steps to stop abuses and cut back on the tax advantages of moving jobs and income offshore. Dire corporate claims that the measures are unfair or would hurt the U.S. economy are unwarranted.

Opponents of the proposals claim that the changes would eliminate U.S. jobs and spark a wave of acquisitions by foreign buyers. Although the proposals could raise the cost of doing business overseas for corporations that have been avoiding U.S. taxes, eliminating tax preferences would help balance the tax code and end the unfair advantages and opportunities for abuse currently enjoyed by multinational corporations and very wealthy individuals.

An analysis by Citizens for Tax Justice of Myths and Facts about Offshore Tax Abuses finds:

- The proposal won't encourage U.S. companies to move jobs abroad. On the contrary, the proposal would *reduce* tax incentives to move jobs offshore, and many other factors influence decisions about where to locate operations and jobs.

- U.S. businesses won't be less competitive. Many of the practices targeted don't involve real business activities, but sham transactions designed solely to reduce taxable income.

- The proposals won't put an excessive tax burden on U.S. corporations, which pay lower effective tax rates than in most industrialized countries. The foreign tax credit will still prevent corporations from being subject to double taxation.