The Hidden Cost of Offshore Tax Havens

State Budgets Under Pressure from Tax Loophole Abuse

WashPIRG Foundation

Jordan Schneider and Elizabeth Ridlington,
Frontier Group

Phineas Baxandall and Dan Smith,
U.S. PIRG Education Fund

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Executive Summary

When U.S. corporations and wealthy individuals use offshore tax havens to avoid paying taxes to the federal government, it is an abuse of our tax system. Tax haven abusers benefit from our markets, infrastructure, educated workforce, and security, but they pay next to nothing for these benefits. Ultimately, taxpayers must pick up the tab, either in the form of higher taxes, cuts to public spending priorities, or increased national debt.

Tax havens are countries or jurisdictions with minimal or no taxes. Corporations and individuals shift earnings to financial institutions in these countries to reduce their U.S. income tax liability—costing the federal government $150 billion in lost revenues each year.

Federal taxpayers are not the only victims of offshore tax havens. Tax havens deprive *state* governments of billions of dollars in badly needed revenues as well. Based how much income is federally reported in each state, and on state tax rates, it is possible to calculate how much each of the state governments lose as a result of offshore tax dodging.

In 2011, states lost approximately $39.8 billion in tax revenues from corporations and wealthy individuals who sheltered money in foreign tax havens. Multinational corporations account for more than $26 billion of the lost tax revenue, and wealthy individuals account for the rest.

- $39.8 billion would cover education costs for more than 3.7 million children for one year.

- This sum is also roughly equivalent to total state and local expenditures on firefighters ($39.7 billion) or on parks and recreation ($40.6 billion) in FY 2008.

- Table ES-1 lists the top 10 states with the most revenue lost to tax haven abuse.

- Some of the largest companies in the United States use tax havens, including many that have taken advantage of government bailouts or rely on government contracts. As of 2008, 83 of the 100 largest publically traded corporations in the United States maintained revenues in offshore tax havens, according to the Government Accountability Office.

- At the end of 2011, 290 of the top Fortune 500 companies using tax havens collectively held $1.6 trillion in profits outside the United States—up from $1.1 trillion in 2009—according to Citizens for Tax Justice.

Table ES-1. Total Annual Income Tax Revenues Lost to Tax Havens (Individual and Corporate Income Taxes Combined)

Rank	State	Revenue Losses (Millions)
1	California	$7,147
2	New York	$4,275
3	New Jersey	$2,833
4	Illinois	$2,545
5	Pennsylvania	$2,105
6	Minnesota	$1,953
7	Massachusetts	$1,688
8	North Carolina	$1,049
9	Florida	$979
10	Maryland	$966

Federal policymakers must crack down on tax haven abuse, but with Congress often gridlocked, states should act independently to reduce the impact of offshore tax havens on state budgets.

States can act immediately to restore fairness to the tax system and minimize the fiscal impact of offshore tax haven abuse through policy changes that will close loopholes and increase their ability to detect and penalize tax avoidance. For example:

1. **States can "decouple" their tax system from the federal tax system.** Because states typically use the same definitions of income as those in the federal tax code, they automatically lose money when tax haven users don't report income to the federal government. Decoupling would help prevent those automatic losses. Rather than allow income that has been shifted out of sight from federal tax authorities to diminish the tax baseline, states can close loopholes that restore this hidden income.

2. **States can require worldwide combined reporting for multinational corporations.** Combined reporting is the practice of treating the parent and subsidiary companies of a multinational corporation as one corporation for the purpose of calculating taxes. Adding up all profits earned worldwide by a company, and then taxing a share of those combined profits according to the company's level of activity in each country, would eliminate the tax benefits of shifting profits to tax havens such as Bermuda or Ireland.

3. **States should urge their federal representatives to reject a "territorial" tax system,** which would further erode state revenue. Such a system would allow companies to bring all of the profits they have parked offshore in tax havens back into the United States without paying U.S. taxes.

4. **States can require increased disclosure of financial information** about corporations' business presence in other countries and how they price their transfers with their own foreign subsidiaries; as well as to explain why large disparities exist between the profits corporations report to

shareholders and tax authorities. These measures would provide more information for state authorities to search for red flags, decide when to audit, and crack down on abuse.

5. **States could withhold taxes as part of federal FATCA withholding.** The Foreign Account Tax Compliance Act (FATCA) prescribes a 30 percent federal withholding tax on companies that transfer funds to foreign financial institutions that do not comply with U.S. disclosure and reporting requirements. States that collect income taxes could withhold state taxes on these funds at the same time.

Introduction

The recent economic recession created severe budget shortfalls for state governments. Consumer spending, income, property values and business profits have been depressed, and so have state tax revenues. In the last four years, state policymakers have had to close more than $540 billion in budget shortfalls by making tough choices about cutting critical public services, such as fire and police, cutting pensions for public employees, firing and furloughing teachers, and even reducing the number of days that children go to school.[1]

The problem is compounded when corporations and wealthy individuals in those states avoid paying their taxes by hiding their taxable income in offshore tax havens. While large multinational corporations such as Apple, ExxonMobil, or Goldman Sachs routinely make national headlines for the billions of dollars in federal taxes they avoid annually by parking profits offshore, the impact of missing federal tax revenues on *state* budgets has received virtually no attention. States automatically lose billions of dollars in revenue each year simply because their tax codes are closely linked to federal tax codes. When multinational firms shift the reporting of profits offshore on their federal taxes, those profits go unreported for state tax purposes too.

Companies and wealthy individuals that abuse offshore tax havens still benefit from their access to each state's markets, workforce, infrastructure, security, and public services. But they pay little or nothing for those benefits—violating the basic fairness of the tax system and forcing other taxpayers to pick up the tab.

The tax burden created by tax haven abuse that is shouldered by the public is ordinarily invisible. State residents have no way to know if a bridge in their community remains in disrepair because of tax haven abuse. Nor do taxpayers send a separate tax check in the name of General Electric or some other company when they pick up the tab. But the effect is the same.

This report shines a light on those otherwise unseen burdens placed on ordinary taxpayers. It estimates the tax revenues lost to state governments through the use of offshore tax havens by U.S. multinational corporations and wealthy individuals each year.

Fortunately, states have other options besides simply waiting for a gridlocked Congress to come to their rescue. State policymakers have numerous tools that they can use to reduce the fiscal impact of offshore tax havens on their budgets.

How Offshore Tax Havens Work

Tax havens are countries or jurisdictions with very low or nonexistent taxes, to which U.S.-based multinational firms transfer their earnings to avoid paying taxes in the United States.[2] Income earned by foreign subsidiaries of U.S.-based companies is not taxed until the money is returned to the United States. If the money is kept overseas, the company pays no taxes on it.[3] Companies have many strategies for moving money offshore, including taking on debt in high-tax countries from a lender in a low-tax country, or transferring patents to subsidiaries located in tax havens and paying royalties to the subsidiary to use them in the United States.

Wealthy individuals also use tax havens to avoid paying taxes by setting up offshore shell corporations or trusts. Income earned in the United States can be paid to these offshore entities, thereby avoiding U.S. taxes. These entities also can make investments in the United States without paying taxes because they are considered non-residents.[4]

Many tax haven countries are small nations, such as Bermuda, the Cayman Islands, Belize and Switzerland.[5] Financial secrecy laws in these nations thwart international rules by limiting disclosure about financial transactions made within their jurisdictions.

Impacts of Avoided Federal Taxes

Abuse of tax havens by multinational companies and wealthy individuals represents a major loophole in the American tax system. The federal government loses approximately $150 billion in federal tax revenues every year due to corporations and wealthy individuals sending their money to offshore tax havens.[6] The federal government currently shoulders this burden by cutting public services or adding to the national debt.

These companies and individuals benefit from the taxes paid by other corporations and citizens. The profits they shelter overseas are generally earned from America's largest-in-the-world consumer market;

The Delaware Loophole

Delaware's extremely lax corporate tax laws, including those governing the incorporation of new companies, have made Delaware shell companies a standard tool for multinational tax dodging. At last count, more than 945,000 corporate entities were legal residents of the state—more than the state's actual population of 898,000.[8]

Businesses operating in other states can transfer their profits to holding companies in Delaware to reduce their tax liability in their own states. This "Delaware loophole," has helped U.S. corporations reduce their state taxes by an estimated $9.5 billion in the last 10 years, according to the *New York Times*.[9] U.S. corporations can both register their U.S. subsidiaries in Delaware to avoid taxes in other states and make use of offshore tax havens to dodge federal taxes.

The same tax laws that attract U.S. businesses seeking to reduce their tax liability also attract criminal activity and illegal tax evasion. In Delaware, criminals can set up virtually anonymous shell corporations with no connections to a U.S. bank account and without disclosing their identity.[10] Criminals have used anonymous Delaware shell corporations as a tool for illegal activities, including arms dealing and drug trafficking, Medicare and mortgage fraud, embezzling and money laundering, giving and receiving bribes, and circumventing international sanctions.[11]

produced by America's well-educated workforce, which was trained in our extensive public school system; sustained by our road and rail systems that help transport goods to market; and protected by America's strong private property rights as enforced by America's court and probate system. Despite their deep dependence on American economic and social infrastructure, the companies and individuals who use offshore tax havens shirk their duty to pay for it.[7]

Recent Federal Action to Limit Tax Havens

Markets work best when companies prosper based on their productivity and ability to innovate, rather than their access to sophisticated tax lawyers and ability to employ complex tax-avoidance schemes. Closing loopholes that allow corporations to avoid paying their share of taxes would therefore improve market competition as well as increase federal revenues and improve the fairness of the tax system.

The president and Congress have recently taken some steps to eliminate offshore tax haven abuse, but much more still needs to be done.

The Foreign Account Tax Compliance Act (FATCA), adopted in March 2010, added new reporting requirements and penalties to discourage individuals, companies and banks from hiding money in offshore tax havens.[12] The law will impose a 30 percent withholding tax on U.S. source payments to foreign financial institutions that fail to meet disclosure requirements on their American clients' accounts.

While much of the law has not yet been implemented, progress has been made. In February 2012, the United States forged reciprocal agreements with France, Britain, Spain, Germany and Italy to provide for the automatic exchange of information about the foreign bank accounts of U.S. citizens.[13] In November, the Treasury Department announced it is now working with more than 50 jurisdictions to enable the exchange of tax information.[14] Despite the progress, FATCA's impact has been limited because financial institutions have been drawing out the stakeholder consultation process. These maneuvers have pushed back its effective date into 2014.[15]

Other legislation also adopted in March 2010 should facilitate IRS enforcement of the Economic Substance Doctrine by incorporating that doctrine into the IRS code. The Economic Substance Doctrine ensures that transactions have an economic purpose beyond manipulating tax exposure. The law places the burden of proof on taxpayers rather than regulators to demonstrate that a tax strategy is legal. It is projected to produce revenues of $4.5 billion over a decade.[16]

Finally, in September 2011, Congress passed legislation to ban tax strategy patents, which allowed tax lawyers to patent a myriad of tax avoidance strategies, including setting up shell companies in offshore tax havens.[17] While this ban does not necessarily reduce tax shelter abuse, it at least reduces its profitability to the lawyers that facilitate it, and thus removes an incentive for companies to pioneer new ways to rip off the public.

Offshore Tax Havens Cost States Billions in Avoided Taxes

When companies and individuals use offshore tax havens to avoid paying their share of federal taxes, they also reduce how much they pay in state taxes. This adds up to billions of dollars of revenue each year that state governments do not receive and cannot use to repair roads, improve schools, or maintain parks.

Based how much income is federally reported in each state, and on state tax rates, it is possible to calculate how much each of the state governments lose as a result of offshore tax dodging. **Altogether, tax havens cost state governments nearly $39.8 billion in lost revenues in 2011.**[18] **Of that total, corporations were responsible for $26 billion in lost revenues to tax havens, while wealthy individuals were responsible for the rest.**[19]

How Federal and State Taxes Are Linked

State and federal tax burdens are closely linked. State tax burdens are typically calculated using the same (or similar) definitions of income as those used in the calculation of federal taxes. This is done for the sake of simplicity and to reduce the cost of enforcement and compliance. The result, however, is that income that corporations and wealthy individuals avoid reporting for federal tax purposes is also left unreported for state tax purposes—depriving state governments of billions of dollars in revenue.

There are numerous tactics companies can use to manipulate their definition of "taxable income" to lower their federal tax burden, which translates to a lower state tax burden as well. For example, U.S. companies can take advantage of a loophole in the federal tax code that allows them to defer U.S. taxes on "passive" income. Passive income includes royalties, dividends, rents, and interest, and companies are required to pay annual U.S. taxes on this income even if it stays offshore. However, companies avoid this by creating transactions between foreign subsidiaries that transform this "passive" income into "active" income, or income resulting from actually doing business, which is not taxable by the U.S. government until it is brought onshore.[20]

For example, in order to reduce its passive income tax liability, Google can transfer ownership of patents to a Bermuda subsidiary; then, an Irish subsidiary pays royalties to the Bermuda subsidiary for the right to use the patents. Normally, this royalty payment would be considered passive income and subject to U.S. taxation. However, the tax loophole states that if the payment is related to the "active" business of the Irish subsidiary, the company can defer paying taxes. Google used this tactic to move $5.4 billion in royalties to its Bermuda tax haven in 2008, completely removing those royalties from its U.S. "taxable income" and keeping them out of the reach of states, as well.[21]

State-Level Tax Losses to Tax Havens

Through the use of offshore tax havens, U.S. corporations and wealthy individuals are reducing their overall state tax liability. Altogether, tax havens cost state governments nearly $39.8 billion in lost revenues in 2011.[22] Of that total, corporations were responsible for $26 billion in lost revenues to tax havens, while wealthy individuals were responsible for the rest.[23] Table 1 and Appendix B break down the lost revenues by state.

To put this figure into perspective, this amount could pay for the education of about 3.7 million school-age children for one year.[24] This sum is also roughly equivalent to total state and local expenditures on firefighters ($39.7 billion) or on parks and recreation ($40.6 billion) in FY 2008.[25]

Well-known companies engage in tax avoidance through the use of offshore tax havens, including the majority of America's largest publicly held corporations. According to the Government Accountability Office, 83 of the 100 largest publicly traded U.S. corporations maintained revenues in offshore tax haven countries as of 2008.[26] (See Appendix A.) After 2008, despite the financial crisis, large corporations increased the amount of profits stored overseas. At the end of 2011, 290 of the top Fortune 500 companies using tax havens held a collective $1.6 trillion in profits outside the United States—up from $1.1 trillion in 2009—according to Citizens for Tax Justice.[27]

Table 1. Total Annual Individual and Corporate Income Tax Revenues Lost to Tax Havens (Millions)

State	Individuals	Corporations	Total
California	$2,936	$4,211	$7,147
New York	$1,840	$2,435	$4,275
New Jersey	$1,058	$1,776	$2,833
Illinois	$607	$1,939	$2,545
Pennsylvania	$324	$1,780	$2,105
Minnesota	$629	$1,324	$1,953
Massachusetts	$439	$1,248	$1,688
North Carolina	$426	$623	$1,049
Florida	NA*	$979	$979
Maryland	$277	$690	$966

* "NA" (not applicable) indicates that states do not collect taxes on this type of income.

States Can Reduce the Fiscal Impact of Offshore Tax Havens

States can minimize the fiscal impact of offshore tax haven abuse through policy changes that close loopholes and increase their ability to detect and penalize tax avoidance. For example:

States can "decouple" their tax system from the federal tax system.

States can avoid losing billions of dollars in revenues due to unreported federal taxes by "decoupling" their tax systems from the federal tax system. States use a two-step process to determine how corporations should be taxed: first, they determine net profits; then, they use state-specific formulas to determine the share of those profits that should be subject to taxation in that state. States can "decouple" their definition of income from the federal code to avoid lost revenues when corporations and individuals don't report income for federal tax purposes.

For example, 22 states and the District of Columbia have decoupled from a federal tax break known as the Qualified Production Activities Income (QPAI) deduction.[28] This tax break was meant to help American manufacturers by allowing them to deduct up to 9 percent of income earned for "domestic production" activities. However, the legislation that enacted the QPAI deduction is loose in its definition of "production" activity, allowing corporations such as Starbucks and Walt Disney Company to use the QPAI deduction to avoid paying $48 million and $370 million in taxes, respectively, over five years.[29] The 25 states that have not decoupled from the QPAI measure stood to lose more than $505 million in 2011 alone, according to the Center on Budget and Policy Priorities.[30]

Likewise, more than 30 states have decoupled from "bonus depreciation" measures passed by Congress in 2002, 2003, 2004, 2008, 2009 and 2010, which allow companies to immediately deduct up to 100 percent of the cost of investments in machinery and equipment, according to the Institute on Taxation and Economic Policy.[31] As of 2011, 22 states had decoupled from this measure by requiring companies to add these deductions back into their taxable income.[32]

States can minimize losses to offshore tax havens by decoupling from the federal determination of income. Two specific examples of federal loopholes from which states could decouple are the "active financing exemption" and the "credit default swap loophole."

The active financing exception is an exception to the general rule in the tax code that companies must pay taxes on "passive" income—such as dividends, interest, or royalties—as it is earned. Instead of paying taxes right away, companies can use this loophole to defer tax payments on passive income earned overseas until the money is brought back into the United States. The U.S. Congress Joint Committee on Taxation estimates that this recently extended loophole will cost $11.2 billion in lost federal revenue over the next two years.[33] States could decouple from this federal exemption to recoup lost revenue.

Credit default swaps are complex financial instruments that many argue were at the center of the 2008 financial crisis. A loophole in the tax code allows companies to send swap payments offshore as "foreign" income even though the payment originated in the United States. States should also decouple from this loophole and treat swap payments that originate in the United States as taxable U.S. income.

The limitation of decoupling is that local tax authorities traditionally couple their taxes for simplicity, which also makes tracking compliance and enforcement easier. The Multistate Tax Commission (MTC), an intergovernmental state tax agency charged with determining state and local tax liability for multistate taxpayers; settling apportionment disputes; and promoting uniformity in state tax systems, could play a role in elevating best practices for greater decoupling.

States can require global combined reporting for multistate corporations.

Combined reporting is the practice of treating the parent and subsidiary companies of a multi-state corporation as one corporation for state tax purposes. The 23 states that currently require combined reporting have eliminated many of the tax benefits of shifting profits to tax haven states such as Delaware or Nevada by adding up all profits earned nationwide by a company, and then taxing a share of those combined profits according to the company's level of activity in that state.[34]

States can extend combined reporting to offshore subsidiaries, as well. This "worldwide" approach would require companies to report on profits earned by subsidiaries overseas as well as their domestic profits. Adding up all profits earned worldwide by a company, and then taxing a share of those combined profits according to the company's level of activity in each country, would eliminate the tax benefits of shifting profits to tax havens such as Bermuda or Ireland. It would also prevent companies from arbitrarily apportioning profits to jurisdictions where they won't be taxed.

Tax authorities would have the larger picture for a group of worldwide affiliates, and companies could not so easily portray contradictory stories to each country about where their business activities take place.

States should urge the federal government to reject a territorial tax system.

A territorial tax system would allow companies that temporarily shift profits to tax haven countries to freely bring those profits back to the United States without paying U.S. tax. Current loopholes already allow some corporations using tax havens to indefinitely defer much of their taxes on income earned abroad. A territorial tax system would exempt these earnings from taxation altogether, creating a permanent "tax holiday."

Such a move would increase existing incentives for corporations to disguise profits as "foreign" to unfairly avoid paying U.S. taxes—while also encouraging companies to move jobs and factories out of the country. State leaders should press their colleagues in the federal government to reject such a system.

States can require increased disclosure of financial information.

State tax authorities could require companies to disclose more information about their business presence in other countries and how they price their transfers with foreign subsidiaries; and to explain why large disparities exist between the profits they report to shareholders and to tax authorities. This would provide more information for state authorities to search for red flags, decide when to audit, and crack down on abuse.

For example, states could share financial information about companies and individuals suspected of tax avoidance. Current IRS rules prohibit states from exchanging information about taxes. However, these rules could be relaxed when certain suspicious tax activities occur, which would help states gather information to decide which companies and individuals to more closely scrutinize. Two such potential "red flags" could include:

- When the profits that companies report to shareholders exceed profits reported to the federal government by 10 percent. When this happens, current federal law requires these companies to file supplementary tax information. States should be able to share tax information when there are large discrepancies between reported earnings.
- When companies or individuals trigger FATCA withholding (see below) by transferring funds to overseas financial institutions that don't comply with U.S. disclosure laws. States should know when companies or individuals within their borders are suspected of tax avoidance through offshore tax havens.

States should also require all companies incorporated within their borders to disclose information about the true owners of the company, allowing law enforcement and local tax authorities to more effectively track fraudulent activity and protect the public, and avoiding the many problems associated with criminals using anonymous shell companies.

States could withhold taxes as part of federal FATCA withholding.

The Foreign Account Tax Compliance Act (FATCA) prescribes a 30 percent federal withholding tax on funds that corporations or individuals transfer to foreign financial institutions that fail to comply with U.S. disclosure and information sharing requirements.

Since states also lose tax revenue when multistate companies siphon off income to offshore tax havens, states could also impose a withholding tax on this income. States could withhold taxes on transactions according to the percentage of the company's share of income earned in that state.

Conclusion

States are not merely onlookers to the federal failure to address problems with offshore tax havens. Each state suffers an unjustified and painful loss of revenue, typically in the range of hundreds of millions if not billions of dollars annually. States can exercise their own leadership and make independent fixes to their own tax systems and require more comprehensive disclosure of suspicious tax avoidance. Working with the federal government, they can also urge greater information sharing, withhold state taxes on shady transactions that also trigger federal withholding, and insist against instituting a "territorial" tax system that would open the door to even greater offshore tax dodging.

Methodology

To estimate the amount of revenue forgone by state governments due to offshore tax havens, we needed to know the following:

1. How much federal income tax in each state is avoided by offshore tax havens,

2. How much federal income tax is avoided for business versus individual filers,

3. How much income individuals and corporations using tax havens earn based on their tax filings, and

4. How much state tax would have been generated on that income if it hadn't been shifted offshore.

1. How much federal income tax in each state is avoided through offshore tax havens?

We followed the methodology used by Phineas Baxandall, Abigail Caplovitz Field and Dan Smith of U.S. PIRG in *Picking Up the Tab* (April 2012), in attributing the federal income tax avoided through tax havens to each state. To apportion these lost revenues to the states, we obtained IRS data for total income tax revenues from each state. We then subtracted the total refunds, with interest, for each state to obtain net income tax revenues by state. We divided that number by the national net income tax revenue (national revenue minus national refunds with interest). The resulting percentage was the amount of net revenue attributable to each state, and we multiplied $150 billion by those percentages to apportion the $150 billion.[35]

2. How much of the money in offshore tax havens is from businesses versus individual filers?

The Senate Committee on Joint Investigations estimates that 60 percent of money in offshore tax havens belongs to businesses and 40 percent belongs to individual or household filers. We assumed that the number holds constant for each state, and split the state-level figures obtained in step 1 accordingly.

3. How much income is not subjected to taxation due to the use of tax havens?

To estimate the amount of taxable income that corresponds to this avoided tax, we multiplied the corporate and individual avoided taxes by the effective federal tax rates for each category. For corporations, we performed a further adjustment to incorporate the fact that businesses typically can deduct their state taxes from their federal taxable income. For individuals, we adjusted our state taxable income estimate to account for deduction of federal income tax from state taxable income in some states that allow it.

For businesses, we assumed that the effective federal corporate tax rate is 24.2 percent (versus a statutory rate of 39.2 percent), per Thomas L. Hungerford, Congressional Research Service, *An Analysis of the "Buffett Rule,"* 28 March 2012.

We then multiplied each state's statutory corporate tax rate (per Federation of Tax Administrators, *Range of State Corporate Income Taxes*, February 2012) by our estimate of federal taxable income, and added the resulting figure to the federal taxable income figure. The result is that, in states with state corporate tax, state taxable income is higher than federal taxable income.

For individuals, we assumed that tax avoidance strategies are used by the wealthiest individuals in society and therefore we chose to use the effective federal tax rate for the wealthiest 0.01 percent of filers. Those taxpayers paid a 24.77 percent effective income tax rate (total tax divided by total income) in 2006, per Thomas L. Hungerford, Congressional Research Service, *Changes in the Distribution of Income Among Tax Filers Between 1996 and 2006: The Role of Labor Income, Capital Income, and Tax Policy*, 29 December 2011. For Alabama, Iowa and Louisiana, three states that allow individual taxpayers to deduct their federal taxes from their taxable state income, we subtracted taxes that would be paid on offshore funds from our calculation of federal taxable income.

4. How much state tax would have been generated on that income if it weren't shifted offshore?

Corporations: We estimated the amount of state tax that would be paid on corporate income by multiplying the corporate taxable income shielded from taxation through the use of tax havens (as estimated in step 3) by each state's corporate tax rate. In states with multiple corporate tax brackets, we used the rate for the highest tax bracket, per Federation of Tax Administrators, *Range of State Corporate Income Taxes*, February 2012. We modified this method for several states based on state-specific conditions.

- For Delaware, we chose to use the rate for large financial institutions because the largest institutions are most likely to use offshore tax havens. Delaware charges a flat 8.7 percent tax to corporations except for financial institutions, which are subject to a rate that is lower for larger institutions. Financial institutions in the top bracket in Delaware pay 1.7 percent.

- In Hawaii, Iowa, Kansas, Maine, Massachusetts, Missouri, North Dakota, South Carolina and South Dakota, we used the tax rate for financial institutions instead of for all corporations.

- In Indiana, we used the new tax rate of 8 percent that took effect July 1, 2012.

- In Texas, we used the 1 percent tax rate that applies to corporations with revenues of more than $1 million.

Individuals: We calculated state tax that would be paid by individuals in a similar manner by using state-specific individual income tax rates, per Federation of Tax Administrators, *State Individual Income Taxes*, January 2012. Because we assume that individuals who use offshore tax havens are of significantly above-average wealth, we used the marginal tax rate for the highest income bracket.

By using the statutory tax rate rather than the effective tax rate for both individuals and corporations, we may be overstating potential tax revenues. Presumably, if individuals and corporations had to pay taxes on funds currently offshore, they might seek other tax avoidance strategies, thereby reducing the revenue generated.

Appendix A. Tax Haven Use by 83 of the 100 Largest Publicly Traded Companies*

State	Companies that Use Tax Havens	Subsidiaries Located in Tax Havens	2007 Revenue Combined (Millions)
New York	Alcoa; American Express; American International Group; Bank of America Corp.; Citigroup; Goldman Sachs Group; Hess Corporation; International Business Machines Corporation; J.P. Morgan Chase & Co.; Lehman Brothers Holdings†; Merrill Lynch†; MetLife; Morgan Stanley; News Corporation; PepsiCo, Inc.; Pfizer; Time Warner	1,373	$1,213,989
Texas	ConocoPhillips; Dell, Inc.; ExxonMobil Corporation; Marathon Oil; SYSCO Corporation; Valero Energy Corporation	193	$804,359
Illinois	Abbott Laboratories; Allstate; Archer-Daniels-Midland Company; Caterpillar, Inc.; Deere; Kraft Foods. Inc.; McDonald's; Motorola, Inc.; Sears Holdings; The Boeing Company; Walgreen Co.	178	$443,687
California	Apple; Chevron; Cisco Systems; Countrywide Financial†; Hewlett-Packard Company; Ingram Micro; Intel; McKesson Corporation; Safeway; Walt Disney; Wells Fargo	148	$696,155
New Jersey	Honeywell International, Inc.; Johnson & Johnson; Merck & Co., Inc.; Prudential Financial	116	$154,283
Ohio	Cardinal Health, Inc.; Kroger; The Procter & Gamble Company	107	$235,075
North Carolina	Wachovia Corporation†	59	$55,528
Michigan	Delphi; Dow Chemical; Ford Motor Company; General Motors Corporation	57	$434,488
Minnesota	3M; Best Buy; SuperValu; Target; UnitedHealth Group	46	$236,600
Connecticut	Aetna; General Electric Company; Hartford Financial Services; Travelers Companies; United Technologies Corporation	43	$310,948
Virginia	Altria Group, General Dynamics Corporation	43	$65,345
Tennessee	FedEx	21	$35,214
Washington	Costco Wholesale; Microsoft; Washington Mutual†	12	$141,053
Pennsylvania	Comcast; GMAC†; Sunoco	10	$104,486
Delaware	DuPont	9	$30,653
Georgia	Coca-Cola	8	$28,857
Kansas	Sprint Nextel Corporation	7	$40,146
Florida	Tech Data	7	$23,423
Arkansas	Tyson Foods, Inc.	6	$26,900
Nebraska	Berkshire Hathaway, Inc.	1	$118,245
Indiana	WellPoint	1	$61,134

*Table does not include some U.S. companies that began using tax havens after 2008.
Source: U.S. Government Accountability Office, *International Taxation: Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, December 2008.

†Indicates companies that have become defunct or were bought by other companies after the 2008 financial crisis.

Appendix B. Tax Avoidance by State*

Total Annual Income Tax Revenues Lost to Tax Havens (Individual and Corporate Income Taxes Combined)

Rank	State	Revenue Losses (Millions)
1	California	$7,147
2	New York	$4,275
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7	Massachusetts	$1,688
8	North Carolina	$1,049
9	Florida	$979
10	Maryland	$966
11	Virginia	$936
12	Georgia	$918
13	Connecticut	$904
14	Missouri	$843
15	Wisconsin	$814
16	Michigan	$755
17	Indiana	$733
18	Ohio	$707
19	Louisiana	$656
20	District of Columbia	$549
21	Oregon	$506
22	Colorado	$504
23	Arizona	$503
24	Arkansas	$478
25	Tennessee	$468
26	Kentucky	$380

Rank	State	Revenue Losses (Millions)
27	Oklahoma	$367
28	Nebraska	$323
29	Texas	$307
30	Iowa	$260
31	Alabama	$257
32	Rhode Island	$229
33	Delaware	$220
34	South Carolina	$220
35	Kansas	$200
36	Utah	$183
37	Hawaii	$133
38	New Mexico	$126
39	New Hampshire	$124
40	Idaho	$119
41	West Virginia	$106
42	Mississippi	$92
43	North Dakota	$78
44	Alaska	$77
45	Vermont	$75
46	Montana	$72
47	Maine	$58
48	South Dakota	$2
49	Nevada	NA
50	Washington	NA
51	Wyoming	NA

*Note: "NA" indicates that the state does not collect taxes on this type of income.

Total Annual Individual Income Tax Revenues Lost to Offshore Tax Havens

Rank	State	Revenue Losses (Millions)
1	California	$2,936
2	New York	$1,840
3	New Jersey	$1,058
4	Ohio	$707
5	Minnesota	$629
6	Illinois	$607
7	Massachusetts	$439
8	North Carolina	$426
9	Georgia	$349
10	Virginia	$347
11	Pennsylvania	$324
12	Connecticut	$318
13	Wisconsin	$303
14	Missouri	$289
15	Maryland	$277
16	Michigan	$233
17	Oregon	$223
18	Colorado	$193
19	District of Columbia	$190
20	Arkansas	$190
21	Louisiana	$166
22	Delaware	$158
23	Indiana	$150
24	Kentucky	$145
25	Arizona	$143
26	Kansas	$129

Rank	State	Revenue Losses (Millions)
27	Oklahoma	$128
28	Iowa	$118
29	Nebraska	$112
30	South Carolina	$108
31	Utah	$70
32	Alabama	$67
33	Rhode Island	$65
34	Hawaii	$61
35	Maine	$49
36	Idaho	$46
37	West Virginia	$36
38	New Mexico	$36
39	Mississippi	$35
40	Vermont	$29
41	Montana	$28
42	North Dakota	$20
43	Alaska	NA
44	Florida	NA
45	Nevada	NA
46	New Hampshire	NA
47	South Dakota	NA
48	Tennessee	NA
49	Texas	NA
50	Washington	NA
51	Wyoming	NA

*Note: “NA” indicates that the state does not collect taxes on this type of income.

Total Annual Corporate Income Tax Revenues Lost to Offshore Tax Havens

Rank	State	Revenue Losses (Millions)
1	California	$4,211
2	New York	$2,435
3	Illinois	$1,939
4	Pennsylvania	$1,780
5	New Jersey	$1,776
6	Minnesota	$1,324
7	Massachusetts	$1,248
8	Florida	$979
9	Maryland	$690
10	North Carolina	$623
11	Virginia	$589
12	Connecticut	$587
13	Indiana	$584
14	Georgia	$569
15	Missouri	$554
16	Michigan	$523
17	Wisconsin	$512
18	Louisiana	$489
19	Tennessee	$468
20	Arizona	$360
21	District of Columbia	$358
22	Colorado	$310
23	Texas	$307
24	Arkansas	$288
25	Oregon	$283
26	Oklahoma	$239

Rank	State	Revenue Losses (Millions)
27	Kentucky	$235
28	Nebraska	$211
29	Alabama	$190
30	Rhode Island	$164
31	Iowa	$141
32	New Hampshire	$124
33	Utah	$113
34	South Carolina	$112
35	New Mexico	$91
36	Alaska	$77
37	Idaho	$73
38	Hawaii	$72
39	Kansas	$71
40	West Virginia	$69
41	Delaware	$62
42	North Dakota	$58
43	Mississippi	$57
44	Vermont	$46
45	Montana	$44
46	Maine	$9
47	South Dakota	$2
48	Nevada	NA
49	Ohio	NA
50	Washington	NA
51	Wyoming	NA

*Note: "NA" indicates that the state does not collect taxes on this type of income.

Notes

1 $540 billion in budget shortfalls, per Phil Oliff, Chris Mai, and Vincent Palacios, Center for Budget and Policy Priorities, *States Continue to Feel Recession's Impact*, 27 June 2012.

2 Jesse Drucker, Bloomberg News, "Avoiding Taxes on Offshore Earnings an Art; Tax Holiday at Issue but Who Needs It?" *Pittsburgh Post-Gazette*, 30 December 2010.

3 Jane Gravelle, Congressional Research Service, *Tax Havens: International Tax Avoidance and Evasion*, 9 July 2009.

4 Ibid.

5 Ibid.

6 Multinational corporation income-shifting cost the Treasury $90 billion in 2008, per: Kimberly A. Clausing, "The Revenue Effects of Multinational Firm Income Shifting," *Tax Notes*, 28 March 2011, 1580-1586; Individual income-shifting costs the Treasury in the range of $40 to $70 billion annually in lost revenue, per: Joseph Guttentag and Reuven Avi-Yonah, "Closing the International Tax Gap," in Max B. Sawicky, ed., *Bridging the Tax Gap: Addressing the Crisis in Federal Tax Administration*, 2006. The total amount of revenue lost ($150 billion) combines these two estimates.

7 Kenneth Rapoza, "China Official Says Country to Top U.S. Consumer Market by 2015," *Forbes.com*, 29 May 2012.

8 Leslie Wayne, "How Delaware Thrives as a Corporate Tax Haven," *New York Times*, 30 June 2012.

9 Ibid.

10 Ibid.

11 Michael Findley, Daniel Nielson, and Jason Sharman, Center for Governance and Public Policy, Griffith University, *Global Shell Games: Testing Money Launderers' and Terrorist Financiers' Access to Shell Companies*, 2012; Brian Grow and Matthew Bigg, "Special Report: Phantom Firms Bleed Millions from Medicare," *Reuters*, 21 December 2011.

12 On March 18, 2010, the Hiring Incentives to Restore Employment Act of 2010, Pub. L. 111-147 (H.R. 2847) (the Act) was enacted into law. Section 501(a) of the Act added a new chapter 4 (sections 1471 - 1474) to Subtitle A of the Internal Revenue Code (Code). Chapter 4 expands the information reporting requirements imposed on foreign financial institutions (as defined in section 1471(d)(4)) with respect to certain United States accounts (as defined in section 1471(d) (1)) (U.S. accounts), and imposes

withholding, documentation and reporting requirements with respect to certain payments made to certain foreign entities.

13 U.S. Treasury Department, *Treasury and IRS Issue Proposed Regulations Under the Foreign Account Tax Compliance Act to Improve Offshore Tax Compliance and Reduce Burden* (press release), 8 February 2012.

14 U.S. Treasury Department, *U.S. Engaging with More than 50 Jurisdictions to Curtail Offshore Tax Evasion* (press release), 8 November 2012.

15 See Internal Revenue Service, *Notice 2011-53* at www.irs.gov/pub/irs-drop/n-11-53.pdf and Treasury regulations published on 8 February 2012, available at www.irs.gov/pub/newsroom/reg-121647-10.pdf.

16 Angie Drobnic Holan, "Require Economic Justification for Tax Changes," *St. Petersburg Times PolitiFact.com*, 10 June 2010.

17 "President Signs Patent Reform Bill Banning New Tax Strategy Patents," *Journal of Accountancy*, 16 September 2011.

18 See Methodology.

19 See Methodology.

20 Citizens for Tax Justice, *Don't Renew the Offshore Tax Loopholes: Congress Should Kill the "Extenders" that let G.E., Apple, and Google Send Their Profits Offshore*, 2 August 2012.

21 Ibid.

22 See Methodology.

23 See Methodology.

24 On average, states spend $10,615 per year per student in the primary and secondary school systems per Mark Dixon, U.S. Census Bureau, *Public Education Finances: 2010—Table 19. Per Pupil (PPCS) Amounts and One-Year Percentage Changes for Current Spending of Public Elementary-Secondary School Systems by State: 2005–2010*, June 2012.

25 U.S. Census Bureau, *The 2012 Statistical Abstract – Table 436. State and Local Governments – Revenue and Expenditures by Function: 2007 and 2008*, downloaded from www.census.gov/compendia/statab/cats/state_local_govt_finances_employment/state_and_local_government_finances.html on 6 January 2013.

26 Government Accountability Office, *International Taxation; Large U.S. Corporations and Federal Contractors with Subsidiaries in Jurisdictions Listed as Tax Havens or Financial Privacy Jurisdictions*, December 2008.

27 Citizens for Tax Justice, *Fortune 500 Corporations Holding $1.6 Trillion in Profits Offshore* (press release), 13 December 2012.

28 Institute on Taxation and Economic Policy, *The "QPAI" Corporate Tax Break: How it Works and How States Can Respond*, August 2011.

29 Ibid.

30 Nicholas Johnson and Ashali Singham, Center on Budget and Policy Priorities, *States Can Opt Out of the Costly and Ineffective "Domestic Production Deduction" Corporate Tax Break*, 14 January 2010.

31 Institute on Taxation and Economic Policy, *Corporate Tax Dodging In the Fifty States, 2008–2010*, December 2011.

32 Ibid.

33 U.S. Congress Joint Committee on Taxation, *Estimated Revenue Effects of the Chairman's Mark as Modified to the Provisions of the "Family and Business Tax Cut Certainty Act of 2012," Scheduled for Mark Up by the Senate Committee on Finance on August 2, 2012*, 2 August 2012.

34 See note 31.

35 See note 6.