

U.S. Nonprofits Join Tax Haven Fray

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Tax Justice Network USA (TJN) is coordinating a network of nonprofit organizations to educate the public, the media, and Washington policymakers on the harm caused by cross-border tax evasion and the abuse of secrecy jurisdictions.



The new network comprises groups active in preserving the environment, ensuring government and corporate accountability, protecting whistle-blowers, promoting economic development, fighting money laundering, and advocating on tax issues.


Although most of these groups don't normally work on tax policy issues, they have been motivated to work together on a public education project on cross-border tax issues.

Purpose for Network

Whether by design or coincidence, TJN's network of nonprofits is up and running just in time to contribute to the broad tax haven debate currently taking place in Washington.

The Stop Tax Haven Abuse Act (S. 506/H.R. 1265) is the most important tax haven proposal now before Congress. Sen. Carl Levin, D-Mich., and four cosponsors introduced the bill in the Senate on March 2, and House Ways and Means Committee member Lloyd Doggett, D-Texas, introduced the bill with 59

cosponsors in the House on March 3. (For S. 506, see *Doc 2009-4588* [\[PDF\]](#) or *2009 TNT 39-28* . For H.R. 1265, see *Doc 2009-4580* [\[PDF\]](#) or *2009 TNT 39-29* .)

The Levin-Doggett bills would attack the operation of tax havens through such avenues as new reporting and penalty provisions. They would both codify the economic substance doctrine and create a blacklist of tax haven countries that don't exchange tax information on U.S. citizens. (For prior analysis, see *Doc 2009-9733* [\[PDF\]](#) or *2009 TNT 84-7* .)

While the bill works its way through Congress, President Obama's fiscal 2010 budget also proposes provisions to deter the use of offshore accounts and entities for tax evasion. Finally, Senate Finance Committee Chair Max Baucus, D-Mont., is also developing draft legislation to help the IRS to detect and deter offshore tax evasion.

A debate on the U.S. policy response to tax havens is clearly taking place. But why does TJN want to assign an educational role in this debate to groups that rarely work in the tax policy field?

"You can come in and talk about great policy . . . but without lots of other people getting into the mix and raising hell from a variety of perspectives, we're not going to move anything," said Tax Justice Network USA Chair Jack Blum on August 13.

Blum spoke at a planning meeting in Washington attended by some of the nonprofits participating in the TJN network. Blum explained why he believes groups other than traditional tax policy groups, like Citizens for Tax Justice and TJN itself, need to add their voices to the tax haven debate.

"The bad guys are in there in force, and when I say 'in force,' I mean by the hundreds and hundreds of lobbyists," he said. "For every thing we say or do, there are probably 50 people on the other side brandishing campaign contributions and God knows what else to say, 'You can't let those people do that!'"

Therefore, Blum said, to educate the media and the public -- and through them the policymakers -- the public interest community must adopt a "concerted interest" in tax havens and an awareness "of how important this issue is to everything else that's going on."

Tie-In to Regulatory Issues

Blum's argument has a lot to do with the pro-regulatory reform climate resulting from the financial crisis. If the financial crisis has laid the groundwork for greater favorability toward government regulation across the board, the hand of the anti-tax-haven forces will be strengthened by having the environmental and other groups at the table.

"These issues are so bound up with each other," Blum said. "The biggest single interconnection point is simply if you want to get around any regulation, be it environmental, be it bank regulatory, you go to the offshore world," he said.

Blum told attendees to realize that, in the discussion on improving regulation, the tax havens are also regulatory havens "and that every device which was a tax evasion device was also used to get around all of the regulatory issues that the banks wanted to get around."

He suggested that each group represented at the August 13 meeting inform its membership about the interconnections between tax havens and the issues the group normally pays attention to.

He used the example of international ship registries to illustrate his point.

"Where is your ship registered, and who is the crew, and what safety regulations do they have?" Blum asked. The world's largest merchant marine today is Liberia, he said, and Panama is number two.

"And, boy, are these places totally nowhere when it comes to ensuring that the ships have proper equipment, they're properly inspected, and they don't dump oil everywhere that they go," he said. That is, the policy issues that matter to nonprofits, like environmental protection or labor rights, may be jeopardized by the lack of effective regulations in countries that are also tax havens.

"And you have all of these U.S. entities and U.S. people taking advantage of that kind of situation," Blum said, because they get around strict rules at home by setting up operations in places overseas that have weak rules.

Plus, Liberia's entire ship registry operation has been run out of Alexandria, Va., for years, Blum said, and most of the money never leaves the United States. Therefore, the argument that Liberia shouldn't strengthen its ship registry rules on economic grounds doesn't hold up because that sector doesn't really benefit the Liberian economy.

"And so it goes," he concluded. "We could go through country after country where it's a corrupt elite that allows [weak regulatory oversight] to happen and then some people here take real advantage of it."

TJN Network

The groups participating in the TJN network include the Center for Corporate Policy, Citizens for Tax Justice (CTJ), Global Financial Integrity (GFI), Global Witness, the Government Accountability Project (GAP), the International Labor Rights Forum, Monitor, Oxfam America, the Project on Government Oversight (POGO), Publish What You Pay U.S. (PWYP), and TJN itself.

In assembling this network, TJN has had to make allowance for the fact that some of the groups are structured as 501(c)(3) organizations and some are structured as 501(c)(4) organizations.

The groups that are 501(c)(3) organizations are nonprofits that may not influence legislation "as a substantial part" of their activities. In effect, these groups may not be able to lobby at all for purposes of the TJN network. The 501(c)(4) organizations, however, are nonprofits devoted to charitable, educational, or recreational purposes that *can* lobby. GAP, Oxfam America, and POGO are all 501(c)(3) organizations; CTJ is a 501(c)(4) organization.

To make sure that the network and all its members abide by the law, TJN says the network will not lobby on tax haven legislation. Instead, the network will work to educate the public, the media, and policymakers.

Center for Corporate Policy

The Center for Corporate Policy is a "nonpartisan public interest organization working to curb corporate abuses and make corporations publicly accountable," according to its Web site.

Charlie Cray, a policy analyst with the Center for Corporate Policy, told Tax Analysts that his group cares about tax havens because it cares about tax justice and corporate finance issues. It is participating in the TJN network because it doesn't want to get outmuscled by corporate lobbyists.


The Center for Corporate Policy is analyzing the *Fortune* 1,000 companies to discover which have the most tax haven subsidiaries. This work will build on the January 2009 Government Accountability Office study of which *Fortune* 100 companies have the most tax havens. (For prior coverage, see *Doc 2009-1166* [PDF]

or *2009 TNT 11-7* )

Citizens for Tax Justice

CTJ is a "research and advocacy organization focusing on federal, state, and local tax policies and their impact upon our nation," as described by the group in testimony presented on Capitol Hill.

The group promotes fair taxes for low-income persons, a fair sharing of the tax burden by the wealthy, closing corporate tax loopholes, adequately funding government services, and lowering the federal debt. CTJ Director Bob McIntyre at a July 24 congressional briefing on corporate tax compliance said multinational corporations use tax haven subsidiaries to shift corporate profits offshore and to manipulate U.S. international tax rules. (For a summary of the testimony, see *Doc 2009-17199* [PDF] or *2009 TNT*

144-25 )

Global Financial Integrity

GFI "promotes . . . policies, safeguards, and agreements aimed at curtailing the cross-border flow of illegal money," according to a statement the group e-mailed to Tax Analysts.

"We believe the current financial system provides the channels to funnel illegal financial capital out of poor nations," the GFI statement says, which encourages bribery, smuggling, human trafficking, and tax evasion. GFI is therefore concerned with corporate responsibility, economic development, and human rights. "Given the dollars involved, this is a David versus Goliath effort that requires many groups working in concert to make progress," the GFI statement says.

The TJN network is meant "to give our David stronger tools to deal with the unlevel playing field" and should be the "first place to turn" for statistics, new ideas, and updates on pending tax haven legislation, according to the statement.

Global Witness

Global Witness investigates and campaigns against natural resource-related conflict and corruption, according to the Global Witness Web site.

"Global Witness's report *Undue Diligence: How Banks Do Business with Corrupt Regimes* highlights how banks are facilitating corruption and state looting by doing business with dubious customers in natural resource-rich countries, including the presidents of corrupt regimes and their families," the group said in a statement to Tax Analysts.


"Tax havens foster secrecy behind which corrupt politicians can hide their identity and loot state assets" for personal enrichment, Global Witness said.

The group favors better enforcement of anti-money-laundering rules, public online registers of the ultimate beneficial owners of all companies and trusts, and effective due diligence rules for banks, the statement says.

Government Accountability Project


GAP is a public interest group that promotes government and corporate accountability by defending whistle-blowers, GAP International Program Director Beatrice Edwards told Tax Analysts.

Many whistle-blowers disclosing diversions of funds report the funneling of those funds through special-purpose entities in tax havens, Edwards said. The accounting fraud scandal at Satyam Computer Services in India is a notable recent case pointing to the need to shut down tax havens, she said. (For prior coverage,

see *Doc 2009-1695* [PDF] or *2009 WTD 29-14* )

GAP believes that the clandestine nature of most global corruption requires inside information to reveal diversions of funds, according to Edwards.

GAP therefore objects to penalizing whistle-blowers who voluntarily come forward with vital information, as the U.S. district court in Fort Lauderdale, Fla., did in sentencing Bradley Birkenfeld, the UBS whistle-

blower. (For a related letter, see *Doc 2009-19225* [PDF] or *2009 TNT 164-12* )

International Labor Rights Forum

The International Labor Rights Forum advocates for "just and humane treatment for workers worldwide," according to its Web site.

Monitor

Monitor is a consortium of conservation, environmental, and animal welfare groups that is mainly interested in ending the illegal trade in endangered and threatened wildlife species.

Monitor tracks the exploitation of wildlife that results from poaching and smuggling operations, organized crime, and government corruption. Because groups trading illegally in wildlife can be very profitable, Monitor follows money laundering and tax haven issues.

"Tax evasion and money-laundering go hand-in-hand, and are greatly facilitated by offshore tax havens and unscrupulous banks," Craig Van Note, Monitor's executive vice president, told Tax Analysts.

Oxfam America

Oxfam America is a member of Oxfam International, a confederation of 13 organizations "working together . . . to find lasting solutions to poverty, suffering, and injustice," according to the Oxfam America Web site.


Oxfam America believes that poor countries lose about \$120 billion annually due to hidden assets and the use of tax havens, Gawain Kripke, a staffer in the group's Washington office, told Tax Analysts.

"There are countries where millions of kids don't attend school, and there are countries where millions of people don't have healthcare," Kripke said. Helping poor countries to keep and benefit from their own wealth "becomes an issue of a moral imperative."

Oxfam America wants better financial system accountability and tax system accountability to help reduce global poverty, Kripke told Tax Analysts. For that reason, it is participating in the TJN tax haven network.

Project on Government Oversight

"POGO is an independent nonprofit that investigates and exposes corruption and other misconduct to achieve a more effective, accountable, open, and ethical federal government," according to the group's Web site.


Like GAP, POGO favors whistle-blower protections. POGO condemned the 40-month prison sentence handed down to UBS whistle-blower Bradley Birkenfeld on August 21. (For POGO's release, see *Doc 2009-19223* [[PDF](#)] or *2009 TNT 164-33* )

Publish What You Pay U.S.

"Publish What You Pay U.S. calls for full transparency and disclosure of extractive industry revenue payments and receipts by companies, governments and international financial institutions," according to the group's Web site.

The extractive industries are the oil, gas, and mineral industries. PWYP U.S. is part of the global PWYP campaign that believes that each nation should use its oil, gas, and mineral wealth to fund development and end poverty.

Tax Justice Network USA

Tax Justice Network is an international group with a U.K.-based secretariat that campaigns for social justice in the developing world and against tax havens. (For prior coverage, see *Doc 2009-7048* [[PDF](#)] or *2009 WTD 59-3* )

Tax Justice Network in March 2009 relaunched its U.S. national chapter, Tax Justice Network USA, just when issues related to tax havens were gaining prominence. In addition to the introduction of the Levin-Doggett bill, the revelations of the role that Swiss bank UBS has played in helping U.S. clients to evade taxes came to the fore.

Also, the prominent role played by the United States at the April G-20 meeting showed that the Obama administration cared about and wanted to address the tax haven issue.

General Interest in Changing U.S. Tax Rules

TJN's Blum also made the case at the August 13 meeting for clamping down on tax havens purely on tax policy grounds.

Blum described the enormous amount of wealth booked outside the United States "on which no tax is being collected even though tax is due" as "a massive, massive problem."

"The most egregious method of tax avoidance by major corporations is to move income out of the U.S." into offshore shell companies that own intellectual property, Blum said. He said the U.S. check-the-box rules that allow this movement of income came about "because of an incredible piece of stupidity, or stupidity by design -- I've never figured it out."

The result is that the tax rules promote the use of offshore shell companies and place midsize companies with purely U.S. operations at a disadvantage, he said.

"And this is an outrage," Blum said. "When it comes to people who are opposing the Levin proposal, anything that touches this becomes a third rail to the corporate community."

Nevertheless, he said these aspects of U.S. corporate tax rules must be discussed because the amounts of money involved "are staggering" and because the United States must bring in more tax revenue from companies if it wants to pay down its debt.