



FACTCOALITION

Financial Accountability & Corporate Transparency

February 10, 2017

Member of Congress  
U.S. House of Representatives  
Washington, DC 20515

**RE: Oppose H.J.Res.54; Protect Taxpayers from Offshore Tax Avoidance**

Dear Representative,

On behalf of the Financial Accountability and Corporate Transparency Coalition (FACT Coalition), we are writing to urge you to oppose **House Joint Resolution 54 (H.J.Res.54)**, sponsored by Rep. Todd Rokita (R-IN).

The FACT Coalition is a non-partisan coalition of more than 100 state, national and international organizations working toward a fair and honest tax system that addresses the challenges of a global economy and promotes policies to combat the harmful impacts of corrupt financial practices.<sup>1</sup>

H.J.Res.54 would nullify an important measure to safeguard American taxpayers against the egregious offshore tax avoidance practices of multinational companies that renounce their American citizenship.

The Department of the Treasury and the Internal Revenue Service finalized a long-awaited measure in October on the **Treatment of Certain Interests in Corporations as Stock or Indebtedness** (published at 81 Fed. Reg. 72858).<sup>2</sup> Specifically, the rule attempts to reduce the incentive for companies to invert by addressing an abusive practice known as “earnings stripping” — whereby multinational companies load up their U.S. subsidiaries with foreign debt and charge exorbitant fees and interest on the debt in order to reduce their U.S. taxable income.

We believe that a robust implementation of this rule will help curb abusive offshore corporate tax avoidance practices, including the incentive for companies to engage in corporate

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<sup>1</sup> A full list of FACT Coalition members is available at <http://thefactcoalition.org/about/coalition-members-and-supporters/>.

<sup>2</sup> See: <https://www.treasury.gov/press-center/press-releases/Pages/jl0580.aspx>

inversions. The corporate tax dodging technique known as earnings stripping has undermined the honesty and fairness of our tax code by allowing multinational corporations to artificially shift income from higher to lower (or zero) tax jurisdictions. Using its broadly granted authority under Section 385, Treasury appropriately moved to restore some honesty to cross-border transactions by curbing the incentive for companies to use intercompany debt to artificially shift their income.

Earnings stripping is one of the most significant incentives behind the recent slew of inversions because it allows U.S. companies to permanently, rather than temporarily, shift income outside of the taxing jurisdiction of the United States. In addition, curbing earnings stripping will not only raise much needed revenue, but it will also level the playing field between purely domestic businesses and the multinational companies with which they compete. This is why it is so important that Congress supports Treasury's earnings stripping action and rejects H.J.Res.54.

It is inaccurate to claim that the earnings stripping measure finalized in October amounts to regulatory overreach. Indeed, after initially proposing the rule in April, Treasury officials consulted thoroughly with stakeholders and made significant alterations to address industry concerns and minimize unintended consequences for normal businesses.<sup>3</sup>

The many recent, planned, and attempted inversions — such as those by Pfizer, IHS, and Johnson Controls — further demonstrate that immediate action was needed to prevent a significant erosion in the corporate tax base. In fact, analysts at Institute on Taxation and Economic Policy (ITEP) — a FACT Coalition member — estimate that Pfizer alone could have used an inversion to avoid \$40 billion in taxes on the \$194 billion that the company has in untaxed offshore earnings.<sup>4</sup>

Another recent study by Citizens for Tax Justice, U.S. PIRG Education Fund, and ITEP found that U.S. companies likely owe as much as \$715 billion on the \$2.5 trillion in earnings they hold offshore.<sup>5</sup> Given the substantial sum owed in taxes by these companies, allowing them to avoid taxes entirely through earnings stripping and related inversions could have negative implications on the tax base moving forward.

The gaming of our international tax system creates market inefficiencies; exacerbates economic inequality; drains revenue out of both developed and developing countries; hurts domestic corporations and small businesses; harms families and communities; and undermines our

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<sup>3</sup> See: <https://www.treasury.gov/press-center/press-releases/Pages/jl0580.aspx>

<sup>4</sup> Richard Phillips, "How Treasury Could Take Action to Prevent Inversions," *Institute on Taxation and Economic Policy*, March 23, 2016 (accessible at [http://www.taxjusticeblog.org/archive/2016/03/how\\_treasury\\_could\\_take\\_action.php](http://www.taxjusticeblog.org/archive/2016/03/how_treasury_could_take_action.php)).

<sup>5</sup> Richard Phillips, Matt Gardner, Kayla Kitson, Alexandria Robins, and Michelle Surka. "Offshore Shell Games 2016: The Use of Offshore Tax Havens by Fortune 500 Companies." Washington, DC: *Citizens for Tax Justice, Institute on Taxation and Economic Policy, and U.S. PIRG Education Fund*, October 2016 (accessible at <http://ctj.org/pdf/offshoreshellgames2016.pdf>).

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country's ability to govern. As such, it is vital that Congress uphold Treasury's sensible action to address earnings stripping by rejecting H.J.Res.54.

Thank you for your careful consideration of this matter. For more information, please feel free to contact Clark Gascoigne at [cgascoigne@thefactcoalition.org](mailto:cgascoigne@thefactcoalition.org).

Sincerely,



**Gary Kalman**  
*Executive Director*  
*The FACT Coalition*



**Clark Gascoigne**  
*Deputy Director*  
*The FACT Coalition*

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## Coalition Members and Supporters

### Organizational Members

#### *National/International*

ActionAid USA  
Americans for Democratic Action  
American Federation of Labor – Congress of Industrial Organizations (AFL-CIO)  
American Federation of State, County and Municipal Employees (AFSCME)  
American Sustainable Business Council  
Campaign for America’s Future  
Citizens for Responsibility and Ethics in Washington (CREW)  
Citizens for Tax Justice  
EarthRights International  
EG Justice  
Enough Project  
Fair Share  
Fair Share Education Fund  
Financial Transparency Coalition  
Friends of the Earth U.S.  
Global Financial Integrity  
Global Witness  
Government Accountability Project  
Institute for Policy Studies – Program on Inequality and the Common Good  
Institute on Taxation and Economic Policy  
JPIC Ministry – Missionary Oblates  
Jubilee USA Network  
Leadership Conference of Women Religious  
The Main Street Alliance  
National Priorities Project  
New Rules for Global Finance  
OpenTheGovernment.org  
Oxfam America  
Pacific Environment  
Polaris  
Project On Government Oversight (POGO)  
Public Citizen  
Sargent Shriver National Center on Poverty Law  
Service Employees International Union (SEIU)  
Small Business Majority  
Tax Justice Network USA  
U.S. Public Interest Research Group (PIRG)  
U.S. Public Interest Research Group (PIRG) Education Fund  
U.S. UNCUT

#### *State/Local*

##### **Arizona**

Arizona Fair Share  
Arizona Public Interest Research Group

##### **California**

California Fair Share  
California/Venezuela Region – Religious Sisters of Charity  
California Public Interest Research Group  
Jubilee Bay Area  
Main Street Alliance of California

##### **Colorado**

Colorado Fair Share  
Colorado Main Street Alliance  
Colorado Public Interest Research Group

##### **Connecticut**

Connecticut Fair Share  
Connecticut Public Interest Research Group

##### **Delaware**

Delaware Americans for Democratic Action (Delaware ADA)

##### **Florida**

Florida Fair Share  
Florida Public Interest Research Group  
Main Street Alliance of Florida

##### **Georgia**

Georgia Fair Share  
Georgia Public Interest Research Group

##### **Idaho**

Idaho Main Street Alliance

##### **Illinois**

Citizen Action / Illinois Illinois Fair Share  
Illinois Public Interest Research Group

##### **Iowa**

Iowa Citizen Action Network  
Iowa Citizens for Community Improvement

Iowa Fair Share  
Iowa Farmers Union  
Iowa Main Street Alliance  
Move to Amend – Iowa Chapter

#### **Kentucky**

Kentucky Fair Share

#### **Minnesota**

Main Street Alliance of Minnesota  
Minnesota Fair Share

#### **Maine**

Maine Small Business Coalition

#### **Maryland**

Maryland Fair Share  
Maryland Public Interest Research Group

#### **Massachusetts**

Massachusetts Fair Share  
Massachusetts Public Interest Research Group

#### **Michigan**

Michigan Fair Share  
Michigan Public Interest Research Group

#### **Missouri**

Missouri Public Interest Research Group

#### **Montana**

Montana Fair Share  
Montana Small Business Alliance

#### **Nevada**

Nevada Fair Share

#### **New Hampshire**

New Hampshire Fair Share  
New Hampshire Public Interest Research Group

#### **New Jersey**

New Jersey Main Street Alliance  
New Jersey Public Interest Research Group

#### **New Mexico**

New Mexico Public Interest Research Group

#### **North Carolina**

Fair Share in North Carolina  
North Carolina Public Interest Research Group

#### **North Dakota**

North Dakota Fair Share

#### **Ohio**

Ohio Fair Share  
Ohio Public Interest Research Group  
Main Street Alliance of Ohio

#### **Oregon**

Jubilee Oregon  
Main Street Alliance of Oregon  
Oregon Fair Share  
Oregon State Public Interest Research Group

#### **Pennsylvania**

Pennsylvania Fair Share  
Pennsylvania Public Interest Research Group  
SEIU Local 668, Pittsburgh, PA  
UFCW Local 23, Western PA

#### **South Carolina**

South Carolina Small Business Chamber of Commerce

#### **Texas**

Texas Fair Share  
Texas Public Interest Research Group

#### **Vermont**

Main Street Alliance of Vermont

#### **Virginia**

Virginia Fair Share  
Main Street Alliance of Virginia

#### **Washington (State)**

Main Street Alliance of Washington  
Washington Public Interest Research Group

#### **Wisconsin**

Wisconsin Fair Share  
Wisconsin Public Interest Research Group

### Individual Supporters

Eileen Appelbaum, Senior Economist, Center for Economic and Policy Research  
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Elise J. Bean, former Staff Director and Chief Counsel of the U.S. Senate Permanent Subcommittee on Investigations  
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