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Is Rand Paul Right About Tax Treaties and Financial Privacy?

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Over the past two months, most of official Washington has been obsessed with Donald Trump, Brexit, and Puerto Rican insolvency. But there's been a very important tax policy fight happening mostly under the radar screen–tax treaty approval.

Senator Rand Paul (R-Ky.) has objected to eight tax treaties under consideration by the U.S. Senate. He believes that the treaties have a fatal flaw–namely, that they will lead to massive intergovernmental information sharing, snooping, cash grabs, and all sorts of other bureaucratic nefariousness.

Is he correct?

Senator Paul is certainly right to be suspect in this area. Over the past fifteen years, groups like the Center for Freedom and Prosperity and Dan Mitchell at the Cato Institute have been sounding the alarm over "tax harmonization" and other schemes perpetrated by international tax bureaucrats. The former has been so successful that they even were the subject of a recent hit piece by the Washington Post (their crime was raising money to support their group's mission–the horror).

Up against these efforts is a veritable alphabet soup of global tax hiking and privacy destroying conspiracy: the OECD, BEPS, FATCA–the list goes on and on. All of these have one goal in mind: share as much information as possible among tax agencies across the world with the aim of increasing aggregate taxes paid. It's snooping with a cash grab in mind. It's really as simple as that.

And Senator Paul is very much correct that one of these tax treaties–the Protocol amending the Multilateral Convention on Mutual Administrative Assistance in Tax Matters–is a lemon. It is a multi-lateral treaty which has been thoroughly dissected by David Burton of the Heritage Foundation. As his summary puts it:

The Protocol amending the Multilateral Convention on Mutual Administrative Assistance in Tax Matters will lead to substantially more transnational identity theft, crime, industrial espionage, financial fraud, and the suppression of political opponents and religious or ethnic minorities by authoritarian and corrupt governments. It puts Americans' private financial information at risk.

The risk is highest for American businesses involved in international commerce. The Protocol is part of a contemplated new and extraordinarily complex international tax information sharing regime involving two international agreements and two Organization for Economic Co-operation and Development (OECD) intergovernmental initiatives. It will result in the automatic sharing of bulk taxpayer information among governments worldwide, including many that are hostile to the United States, corrupt, or have inadequate data safeguards. It will add another layer to the already voluminous compliance requirements imposed on financial institutions and have a disproportionately adverse impact on small banks and broker-dealers.

Dan Mitchell on his "International Liberty" blog, Veronique de Rugy of Mercatus, and John Gray from Conservative Review have also weighed in against this dangerous multi-lateral treaty. And it's not "quirky," no matter what President Obama might say.

There's just one problem with all this–the Senate Foreign Relations Committee has approved eight tax treaties. Only one is of the harmful, multi-lateral, dangerous variety. The other seven are plain vanilla bilateral tax treaties (with Chile, Hungary, Japan, Luxembourg, Poland, Spain, and Switzerland).

These bilateral treaties are a totally different animal that the one that Burton, Mitchell, et al have rightfully opined against. The U.S. regularly executes bilateral tax treaties with individual countries in order to facilitate commerce and avoid double taxation. The same is true with these seven bilateral treaties.

The financial information protections and protocols in these treaties is the same as those in force in the rest of our existing tax treaties, according to the Foreign Relations Committee. It's also substantially the same standard of privacy used under U.S. domestic law, and is subject to checks and balances to avoid abuse. Put simply, if we've been satisfied with bilateral treaty protections up until this time (and there's little evidence we have not), then there is no reason to oppose these bilateral treaties before the Senate.

The countries in question are significant trading partners with the United States, having invested over $700 billion in this country. Hundreds of thousands of U.S. jobs are connected to this foreign direct investment. Approving these rather boilerplate bilateral treaties is a part of good governance as good governance is done.

Running the ship of state without needless stress is a big part of restoring productivity growth back to normal levels. For too long, excessive regulations, instability, uncompetitive tax policy, etc. has been a drag on our economic productivity. As a result, we're stuck in a "new normal" of slow growth that will make us all poorer than we should be over time. Federal Reserve Chair Janet Yellen recent said that "the most important factor determining living standards is productivity growth."

If the economy grows at 3 percent per year, the economy doubles every 24 years. But if the economy grows at only 2 percent per year because of slowed productivity, it takes 36 years to double. That's the difference between a living room with a DVD player and a living room with a

streaming Roku platform. We’re not exactly going to starve, but I’d rather live in a Roku world than a DVD one.

Passing standard, run of the mill bilateral tax treaties is just one of the many things we need to do in order to restore a sense of normalcy to our economy. This can absolutely be done while opposing questionable multilateral tax treaties.