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Make America Great Again by Cracking Down on Tax Havens

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The United States has earned a place alongside Switzerland and Panama as one of the world's most lucrative tax havens and money laundering hotspots—a shameful situation that policymakers are finally trying to address. Several bipartisan bills are trekking through Congress that aim at halting money laundering, tax avoidance, and the use of anonymous shell companies for potentially nefarious purposes. One of the bills, the Corporate Transparency Act of 2019, has been in the works for more than a decade, and would require full disclosure of company owners' true names and addresses to the Treasury Department.

The bill was endorsed last month by Treasury Secretary Steve Mnuchin, who said he believes it is "headed in the right direction" and worthy of bipartisan support. The bill's lead sponsor, Congresswoman Carolyn Maloney, has called it "absurd that the U.S. allows criminals to launder their money here." Maloney's bill nevertheless faces a steep climb to become law. Although it's backed by over 100 groups, including the national District Attorneys Association and the Bank Policy Institute, it is opposed by other powerful institutions, including the American Bar Association and the U.S. Chamber of Commerce.

The 'corporate state of Delaware'

The bill also faces a rocky road because it proposes restricting loopholes that are used by powerful companies and politicians—including President Donald Trump. This is particularly the case in Delaware—or, as Democratic presidential contender Joe Biden termed it recently at a private fundraiser for wealthy donors, "the corporate state of Delaware." The First State has made its status as a shell company mecca and tax haven a cornerstone of its economy. It now has more corporate entities than it has residents.

Around two million corporations and LLCs (limited liability companies) are registered annually, and many states, notably Delaware, don't require specification as to who their true owners are. If there's now a bipartisan effort to resolve this lack of transparency, it's also a bipartisan problem. Trump himself has over 500 LLCs, the majority of which are registered in Delaware—curiously enough, at the same address in Wilmington where Hillary Clinton previously had companies registered. And Trump and Clinton are not outliers—the state brags that "more than 50% of all publicly-traded companies in the U.S. including 64% of the Fortune 500 have chosen Delaware as their legal home."

One of the world's foremost tax havens

Thanks in part to the opaque financial flows of these anonymous companies, last year the United States was ranked the second-most financially non-transparent jurisdiction in the world, behind only Switzerland. Let that sink in—the United States was rated less financially transparent than the infamous Cayman Islands.

Some have suggested that increasing financial transparency would burden small companies. As Diego Zuluaga of the Cato Institute has argued, Maloney's bill would create "a regime that applies to millions of businesses, which are not the target, and making it quite easy for the people that they are targeting to avoid this regime." Supporters of the Corporate Transparency Act, however, insist that anonymous shell companies give space to criminals and extremists.

Information from the Treasury Department and law enforcement would seem to back them up. American shell companies have allegedly been involved in various criminal enterprises. Notorious arms dealer and "Merchant of Death" Viktor Bout used shell companies—including in Delaware—to fund his profitable arsenal. Mexico's vicious Sinaloa drug cartel followed a similar playbook to funnel profits.

Freeports: an alternative vehicle for tax evasion

Easy-to-open LLCs may be a well-known way for the wealthy to stash their cash in the First State, but Delaware offers some less familiar options as well. Among them are the Fort Knox-like vaults known as "freeports," special trade zones in which luxury goods can remain in untaxed limbo.

The concept was popularized in Europe by so-called "freeport king" and Swiss art dealer Yves Bouvier. As the founder of one freeport in Newark, Delaware, Bouvier hoped that his facility "could replicate the benefits of overseas freeports 100 percent." It may also, however, have imported some of the downsides.

Essentially, freeports are de facto offshore banks, holding billions of dollars in luxury goods from diamonds to expensive artwork. Increasingly, Europe has been waking up to their potential as hubs for money laundering and tax evasion. Looted works from the Middle East have turned up in Swiss freeports—and may have even been used to fund terrorist groups like ISIS.

The Luxembourg freeport, meanwhile, is run by a host of dubious characters—from Bouvier himself, who's been the target of multiple lawsuits around the world and a tax evasion case in Switzerland, to CEO Philippe Dauvergne, who's reportedly linked to the Azerbaijani Laundromat—and is very cagey about the provenance of the items it stores and their owners' identities. Luxembourgish journalist Fabien Grasser testified before members of the European Parliament that Bouvier and the freeport's other shareholders sent him threatening messages after he started looking into the facility.

It's unsurprising, then, that freeports are increasingly on the radar of governments around the world, and stand accused of serving as "black holes for dodging taxes, laundering money or financing extremism." It's taken European policymakers years to wake up to the danger freeports pose, but many are now calling in no uncertain terms for them to be shuttered.

A step in the right direction

Unfortunately, the current bill that is making its way through Congress does not address freeports—and some critics have argued that it doesn't go far enough in addressing shell companies either. The proposed legislation only permits law enforcement and accredited banks—not the general public—to view real ownership information. Furthermore, the bill doesn't cover federally regulated public companies, banks, investment businesses, credit unions, or any American company with more than 20 full-time workers and over $5 million in gross annual revenue.

These compromises were required to get the bill put forward, however, so most critics have accepted it as the best they will get for now. For far too long, politicians on both sides of the aisle have turned a blind eye to tax havens on U.S. soil—in some cases, perhaps because they are taking advantage of them. Maloney's bill may never become law—and even if it does, it won't singlehandedly stamp out the problem of tax evasion and money laundering. But it's a refreshing example of bipartisan cooperation and a step in the right direction.