July 17, 2008

PERMANENT SUBCOMMITTEE ON INVESTIGATIONS ISSUES REPORT ON TAX HAVEN BANKS HIDING BILLIONS FROM THE IRS
Report: Tax Haven Banks and U.S. Tax Compliance

WASHINGTON – At a Thursday hearing entitled, Tax Haven Banks and U.S. Tax Compliance, the latest in a series of hearings with insider information about the workings of the offshore industry, the Senate Permanent Subcommittee on Investigations will examine how tax haven banks facilitate tax evasion by U.S. clients, hide client and bank misconduct behind the cloak of bank secrecy laws, and add to the offshore abuses that cost U.S. taxpayers an estimated $100 billion dollars each year.

A six month-long bipartisan Subcommittee investigation examined LGT Bank in Liechtenstein and UBS in Switzerland to expose how tax haven banks are assisting U.S. taxpayers to evade taxes, in particular by urging U.S. clients to open accounts in their offshore jurisdictions, assisting them in structuring those accounts to avoid disclosure to U.S. authorities, and providing financial services in ways that do not alert U.S. authorities to the existence of the foreign accounts. Subcommittee Chairman Sen. Carl Levin (D-Mich.) and Ranking Minority Member Norm Coleman (R-Minn.) will release a 115-page joint staff report detailing the findings of the investigation in conjunction with the hearing.

"Tax havens are engaged in economic warfare against the United States, and the honest, hardworking American taxpayer is losing," said Levin. "The iron ring of secrecy around tax haven banks and their deceptive banking practices enable and encourage tax cheats to hide assets from the United States. Congress needs to enact strong penalties on tax haven banks that help U.S. taxpayers avoid paying taxes to Uncle Sam."

Senator Coleman said, "It is simply unacceptable that some individuals are using offshore tax havens and secrecy jurisdictions to shelter trillions of dollars from taxation, forcing working families to shoulder the tax burden. By exploiting gaping loopholes, these foreign banks are enabling felony tax evasion. Simply put, foreign banks should not be Al Capone safe-houses for evading taxes. Closing these loopholes means we must strengthen reporting requirements, broaden the scope of the audit program, and extend the amount of time the IRS has to investigate cases involving an offshore tax haven."

Exposing a trove of internal bank documents and interviews with bank insiders, the Subcommittee report shines a spotlight into the murky operations of two high-profile tax haven banks. Eight case studies expose bank practices that could facilitate, and have resulted in, tax evasion by U.S. clients:

1. Marsh. The Marshes of Ft. Lauderdale, Florida, hid $49 million in four Liechtenstein foundations over 20 years.
2. Wu. LGT helped William Wu hide ownership of assets, including his house in Forest Hills, New York, using an elaborate offshore structure.
3. Lowy. LGT used transfer companies and a foundation with a Delaware corporation to help the Lowys hide their beneficial interest in a foundation with $68 million in assets.
4. Greenfield. LGT private bankers, including Prince Philipp of Liechtenstein, met with Mr. Greenfield and his father to pitch the transfer of $30 million from Bank of Bermuda to LGT.
5. Gonzalez. LGT helped a Gonzalez car dealership inflate invoices, move funds offshore and, after getting sued for their pricing practices, hide assets in case of a court judgment.
6. Chong. LGT helped Richard Chong use hidden accounts to move millions of dollars related to his business ventures, routing them through an offshore corporation to avoid scrutiny.
7. Miskin. LGT helped Michael Miskin hide assets from courts, tax authorities, and his wife.
8. Olenicoff. Bradley Birkenfeld, a private banker employed by UBS AG, pleaded guilty last month to conspiring with a U.S. citizen, Igor Olenicoff, to defraud the IRS of $7.2 million in taxes owed on $200 million of assets hidden in Switzerland and Liechtenstein.

In reviewing these case histories, the investigation found: (1) bank secrecy laws and practices are serving as a cloak, not only for client misconduct, but also for misconduct by banks colluding with clients to evade taxes, dodge creditors, and defy court orders; (2) from at least 2000 to 2007, LGT and UBS employed banking practices that could facilitate, and have resulted in, tax evasion by their U.S. clients,

including assisting clients to open accounts in the names of offshore entities; advising clients on complex offshore structures to hide ownership of assets; using client code names; and disguising asset transfers into and from accounts; (3) since 2001, LGT and UBS have collectively maintained thousands of U.S. client accounts with billions of dollars in assets that have not been disclosed to the IRS; UBS alone has an estimated 19,000 accounts in Switzerland for U.S. clients with assets valued at $18 billion, and the IRS has identified at least 100 U.S. taxpayers with accounts at LGT; and (4) LGT and UBS have assisted their U.S. clients in structuring their foreign accounts to avoid QI reporting to the IRS, including by allowing U.S. clients who sold their U.S. securities to continue to hold undisclosed accounts, and by opening accounts in the name of non-U.S. entities beneficially owned by U.S. clients; while these banking practices did not technically violate the banks' Qualified Intermediaryagreements with the IRS, the result is that the banks helped keep accounts secret from the IRS and thereby facilitated tax evasion by their U.S. clients.

Reforms recommended by the Levin-Coleman report to reign in tax haven abuses include the following:

1. Strengthen QI Reporting of Foreign Accounts Held by U.S. Persons. In addition to prosecuting misconduct under existing law, the Administration should strengthen the Qualified Intermediary Agreements by requiring QI participants to file 1099 forms for: (1) all U.S. persons who are clients (whether or not the client has U.S. securities or receives U.S. source income); and (2) accounts beneficially owned by U.S. persons, even if the accounts are held in the name of a foreign corporation, trust, foundation, or other entity. The IRS should also close the "QI-KYC Gap" by expressly requiring QI participants to apply to their QI reporting obligations all information obtained through their Know-Your-Customer procedures to identify the beneficial owners of accounts.

2. Strengthen 1099 Reporting. Congress should strengthen the statutory 1099 reporting requirements by requiring any domestic or foreign financial institution that obtains information that the beneficial owner of a foreign-owned financial account is a U.S. taxpayer to file a 1099 form reporting that account to the IRS.

3. Strengthen QI Audits. The IRS should broaden QI audits to require bank auditors to report evidence of fraudulent or illegal activity.

4. Penalize Tax Haven Banks that Impede U.S. Tax Enforcement. Treasury should penalize tax haven banks that impede U.S. tax enforcement or fail to disclose accounts held directly or indirectly by U.S. clients by terminating their QI status, and Congress should amend Section 311 of the Patriot Act to allow Treasury to bar such banks from doing business with U.S. financial institutions.

This hearing and report follow other investigations into offshore abuses by the Subcommittee. Hearings held by the Subcommittee in 2001 examined the historic and ongoing lack of cooperation by some offshore tax havens with international tax enforcement efforts and their resistance to divulging information needed to detect, stop and prosecute U.S. tax evasion. A hearing held in December 2002 and report issued in January 2003 provided an in-depth examination of an abusive tax shelter used by Enron. Two days of hearings in November 2003, and a bipartisan report issued in 2005, provided an inside look at how some respected accounting firms, banks, investment advisors, and lawyers had become engines pushing the design, sale, and implementation of abusive tax shelters to corporations and individuals across the country. In August 2006, a hearing and report examined six case studies illustrating the operation of the offshore tax industry, its service providers and clients, and how tax haven abuses are undermining, circumventing, or violating U.S. tax, securities, and anti-money laundering laws.

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