Maine Center for Economic Policy

Mailing: PO Box 437
Street: 1 Weston Court, Suite 103, Box 4
Augusta, ME 04332
Tel: 207.622.7381
www.mecep.org

**TESTIMONY IN SUPPORT OF LD 341**
**An Act To Prevent Tax Haven Abuse**

**March 9, 2015**

Good afternoon Senator McCormick, Representative Goode, and members of the Joint Standing Committee on Taxation. I am Joel Johnson, an economist at the Maine Center for Economic Policy (MECEP). MECEP advances public policies that help Maine people prosper in a strong, fair, and sustainable economy.

There is no doubt that corporations are shifting massive and growing amounts of profits earned in the United States to subsidiaries formed in foreign tax haven countries.[1] Under current state law, Maine cannot stop this form of tax avoidance. Major corporations doing business in Maine can enjoy the use of Maine's roads and bridges, our public safety, and our educated workforce, while at the same time paying far less than their fair share of the cost of these public goods and amenities. Maine's smaller homegrown businesses and residents have to pick up the rest of the tab.

Maine could stop the erosion of its tax base by requiring worldwide combined reporting, and it would be well within its rights to do so, as affirmed by the US Supreme Court in the both the Container Corp.[2] and Barclays[3] cases. A more targeted approach, contained in LD 341, would keep the state's use of water's edge combined reporting but add income from known offshore tax havens. LD 341 would help stop tax haven abuse and the erosion of Maine's tax base by multi-national corporations doing business here. It would simply require corporations to include in their combined report income accruing to subsidiaries in tax haven countries.

Several other states have already enacted similar requirements in their corporate tax laws. Montana was the first state to do so and there has been very little controversy in that state nor have there been any compliance problems for corporations. Many corporations include all foreign subsidiaries in their combined reports in states where they have the option of electing worldwide combined reporting, because it can be advantageous for them to do so in cases where they have significant legitimate overseas operations and/or sales.

In 1984, as part of the Reagan Administration's push for federal tax reform, Treasury Secretary Donald Regan convened the Worldwide Unitary Taxation Working Group, which included leaders from state government and private industry from all across the country. During the deliberations of that working group, it was widely conceded that even where states withdrew from Worldwide Combined Reporting to water's edge combined reporting, they were fully justified in including tax haven subsidiaries in their water's edge groups. In the final report of the working group[4], all five of the alternative water's edge policy packages included "certain tax haven corporations presumed to be part of the unitary business."

---

[1] See, for example, Jane G. Gravelle, "Tax Havens: International Tax Avoidance and Evasion," Congressional Research Service, January 15, 2015.
[2] Container Corp. of America v. Franchise Tax Board of California (1983)
[3] Barclays Bank PLC v. Franchise Tax Board of California (1994)
[4] See this web link to view the report: https://archive.org/stream/finalreportofwor00unit#page/47/mode/2up

The use of offshore tax havens to avoid paying taxes in the US has grown exponentially in the thirty years since the Worldwide Unitary Taxation Working Group issued their report. More corporations have become international in scope and a large industry of tax attorneys and accountants has sprung up to help corporations shift profits to tax haven countries. The legitimacy of including in combined reports the income generated by subsidiaries located in foreign tax havens was widely recognized thirty years ago and today the problem of tax haven abuse is orders of magnitude larger than it was then. It's time for Maine to follow the lead of other states and pass LD 341.

Appendix:

Please see the attached document, which includes an excerpt of a report (Jane G. Gravelle, "Tax Havens: International Tax Avoidance and Evasion," Congressional Research Service, January 15, 2015) from the Congressional Research Service demonstrating the magnitude and recent growth in the use of the offshore tax havens.