Government Matters

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In This Issue

Chemical Hazards in Your Backyard

by Sean Moulton and Amanda Frank

Now more than two years after the West, Texas fertilizer plant explosion, this report asks the question that haunted the community in the aftermath of the tragedy: why didn't the people who arrived to help fight the fire know that extremely flammable and explosive materials were inside?

Ten volunteer firefighters who rushed toward the fire were among the 15 killed in the explosion that followed. In addition to the deaths, the explosion destroyed three schools, a nursing home, and 37 city blocks, and over 200 people were injured. But it seems that neither the firefighters nor the town officials who approved the school sitings fully understood the risks the fertilizer storage facility presented.

Congress passed a law almost three decades ago that was designed to ensure that local communities are fully aware of hazardous substances near them and that emergency personnel know what to do in the event of a disaster like West, Texas. A few years later, an additional law required more reporting and planning. But local communities in many areas of the country still seem unaware and unprepared to deal with emergencies. As the number of chemical facilities increases and population centers expand, as plants age and inspection funds decline, the number of individual Americans at risk from toxic emissions, leaks, and explosions will grow.

This report examines the chemical reporting to states that occurs under the Emergency Planning and Community Right-to-Know Act of 1986 (EPCRA), using a sample of six states, and the reporting to the U.S. Environmental Protection Agency (EPA) that was established under the 1990 Clean Air Act amendments and the federal Risk Management Program.

Key Findings

Access to state data on hazardous chemicals is difficult for the public to obtain in many states. We were able to acquire the full hazardous chemical inventory that facilities report to state authorities under EPCRA for only five out of 50 states; we received partial inventories from five others. Only Illinois makes the full data available online. Texas does not release chemical information to the public at all, and Nevada refused our information request for dubious reasons.

In examining the chemical data reported to six states (Illinois, Indiana, Iowa, Michigan, Minnesota, and Wisconsin), we found nine very hazardous chemicals in common use in large quantities. In just these six states, 1,724 facilities kept over 600 million pounds of these nine highly toxic, flammable, or explosive chemicals on their premises. The risks from these chemicals are significant. But because they are not included on the EPA's Risk Management Program list, these facilities do not have to file detailed safety and risk assessments for these chemicals with the federal government.

In these six states, 3,161 facilities report to EPA because they have such large quantities of the 140 very hazardous substances that the agency tracks under the Risk Management Program. These facilities must produce and send in risk management plans every five years because of the presence of these chemicals. But the risk management plans submitted to the federal government do not have to note or take into account dangerous chemicals that fall outside of the program's narrow list. This happened at West, Texas, where the risk management plan did not mention that tons of ammonium nitrate were at the site because it is not on the EPA list, though it did note that anhydrous ammonia was being stored there. If the anhydrous ammonia tanks would have ruptured in the explosion, a poisonous cloud could have enveloped the town.

The Center for Effective Government has created an interactive map showing the facilities that report to the federal program and those with large quantities of the nine common hazardous chemicals that report only to state programs. Surprisingly, only about 15 percent of the facilities with these nine toxins at the state level reported to the federal program for highly hazardous chemicals.

The data is important because emergency responders and community residents need to understand what kinds of materials are involved in leaks, fires, and explosions and be prepared to respond appropriately.

Click here to view our interactive map.

Recommendations

- **Make state chemical reports available online.** Making this information easily accessible would give first responders and residents a place to find information quickly and efficiently when an incident occurs.

- **Improve local emergency planning.** States can combine their data with federal Risk Management Program information to target resources toward the communities with the greatest vulnerability to chemical risks.

- **Add all highly hazardous chemicals to the Risk Management Program's list.** EPA should work with state agencies to collect and merge their Tier II records into a national database and then identify all toxic, flammable, and volatile chemicals that should be added to the federal list. This will allow local communities to take advantage of the more in-depth planning that occurs when facilities create risk management plans under the program.

- **Put EPA Risk Management Program data online.** The EPA does not post Risk Management Program information online. If it did, it would make it easier for first responders, local officials, residents, researchers, and others to have a complete picture of chemical risks when developing emergency plans.

Industrial chemical facilities have significantly reduced the pollutants they release in nearby communities over the past 30 years. But we have miles to go with chemical safety. **It's time to start the journey.**

Read the full report now.

There Are Big Flaws in Our Main Chemical Safety Law. The Shimkus Bill Won't Fix Them.

by Katie Weatherford

See our related interactive maps of state chemical policies and our report, *Reducing Our Exposure to Toxic Chemicals*.

Every day, we are exposed to chemicals in our shampoo, body wash, hand sanitizer, toothpaste, lotion, and much more. We expect our government to ensure that the chemicals in products have been tested and are safe for us and our families.

The truth is that the U.S. Environmental Protection Agency (EPA) has only tested about 250 of the 84,000 chemicals registered for use in the U.S. Of those, it has imposed restrictions on only nine.

This is due to significant shortcomings in our country's main chemical control law, the Toxic Substances Control Act (TSCA) of 1976.

This law is vastly out of date and needs to be updated and strengthened to protect our families, friends, and communities from toxic chemicals. Legislators on both sides of the aisle agree, but they have far different approaches to revising the law.

Draft TSCA "reform" legislation released by Rep. John Shimkus (R-IL) fails to make critical improvements necessary to keep families safe from harmful chemicals.

The Shimkus bill, released on April 7, addresses flaws in the current law by removing some of the hurdles EPA must clear before it can act to protect us against dangerous chemicals. However, ambiguous language in the bill opens the door for potential court challenges.

Under TSCA, EPA cannot restrict or ban a chemical unless the agency finds that it presents an "unreasonable risk" of harm to public health or the environment. The agency's finding must take into consideration the benefits of the substance, the availability of substitute chemicals, and the costs and benefits of imposing restrictions on the chemical.

EPA must then assess possible regulatory alternatives and select the "least burdensome" requirement, which means the agency must propose the least costly rule for the chemical industry, even if a slightly more expensive approach would provide greater benefits to public health and the environment. TSCA also subjects EPA decisions to judicial review under a strict "substantial evidence" standard, which led a court to overturn EPA's 1989 rule banning cancer-causing asbestos. This means judges are reviewing scientific evidence to rule on whether to allow toxic chemicals to remain on the market.

The Shimkus draft retains the "unreasonable risk" and "substantial evidence" standards despite long-standing concerns by public interest advocates that these standards undermine the fundamental purpose of TSCA. The Shimkus draft does, however, remove the requirements that EPA consider costs or other non-risk related factors in evaluating a chemical's risk and choose the least burdensome option. The bill also prohibits EPA from finding "no unreasonable risk" if the chemical poses a risk to only certain very vulnerable or highly exposed populations like children.

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While these changes are a step forward, "the discussion draft is ambiguous on how EPA is to incorporate cost and other factors into a risk management rule," James Jones, Assistant Administrator of EPA's Office of Chemical Safety and Pollution Prevention, testified at an April 14 hearing before the House Subcommittee on Energy and the Environment. He explained that requiring EPA to weigh costs and benefits when selecting rules is problematic. Costs can be easily expressed in dollars and cents, but this isn't always the case with benefits. This can result in a bias against public protections.

Amplifying Jones' concerns, Andy Igrejas, Director of Safer Chemicals, Healthy Families, told the committee that "cost considerations should be reserved for the question of *how* to mitigate the risk, not *whether* to mitigate it." However, the discussion draft "would allow a major risk – such as a chemical that causes cancer or birth defects – to remain unmitigated if it was deemed too expensive to do so," Igrejas explained. "This is a very different outcome than mitigating the risk in a cost-effective way."

The chemical industry demands could dominate the risk evaluation process.

Another concern with the Shimkus bill is that it imposes completely different procedures for prioritizing risk evaluations based on whether the process is initiated by EPA or by a chemical manufacturer.

EPA can only begin to evaluate a chemical's risks if the agency finds that the combination of a chemical's hazard and exposure presents "an unreasonable risk" of injury to health or the environment. This means EPA could find itself in a catch-22 situation of having to find a potential for risk before it even begins to do a risk evaluation, Jones told the subcommittee.

On the other hand, if a manufacturer requests that EPA conduct a risk evaluation, the agency cannot deny the request. The bill lacks any mechanism to prevent industry from requesting an endless number of evaluations of chemicals that it knows present little risk, draining resources from other potential investigations of substances with the potential to cause the most harm.

The Shimkus bill would override many of the 250+ actions taken by states to protect citizens from chemicals.

The Shimkus bill would undo many state actions taken over the past 40 years to fill the gaps in federal protections and prohibit states from taking many future actions.

If EPA concludes that a chemical does not present an "unreasonable risk" and decides not to restrict the chemical, the bill would ban a state from taking action.

Even if a state had previously determined that the chemical is dangerous, or that the chemical presents a greater risk to its residents' health than to the nation as a whole, the state would still be barred from restricting the chemical.

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If EPA finds that a chemical is unsafe and chooses to restrict it, states could only adopt or enforce policies that are identical to those set by EPA.

Furthermore, the Shimkus bill would override state actions even if EPA's evaluation only addressed risks from one source or hazard. As Igrejas explained in his testimony to the subcommittee, "the draft would prohibit a state from taking action on a chemical in a toy, for example, if EPA only examined the use of the chemical in furniture or looked only at acute health effects and not at chronic effects like cancer or reproductive toxicity."

The Shimkus bill fails to specify where EPA will get funding to carry out the law.

Adding to concerns over the draft, the Shimkus bill fails to provide EPA with a dedicated source of funding for carrying out the law. Instead, fees from industry-initiated risk evaluations would go to the U.S. Treasury without any assurance they would be allocated to EPA for this work. The lack of dedicated funding for EPA undercuts efforts to update the law since the agency would lack the resources needed to implement the changes.

The Boxer-Markey Bill remains the model of meaningful TSCA reform.

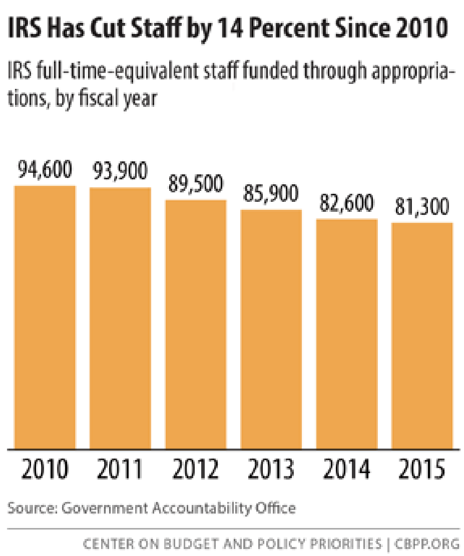
The new draft Shimkus bill updates his previous discussion draft, which he circulated in the last session of Congress. It also follows two TSCA reform bills introduced in the Senate last month, one introduced by Sens. David Vitter (R-LA) and Tom Udall (D-NM), and another introduced by Sens. Barbara Boxer (D-CA) and Edward Markey (D-MA). While Shimkus' latest draft is an improvement over his previous version, as well as the Vitter-Udall bill, the Boxer-Markey legislation still stands as the model for meaningful TSCA reform.

Rep. Shimkus should work to update his bill before the Subcommittee on Energy and the Environment markup tentatively scheduled for May 14. The subcommittee must ensure that the major concerns with the bill are addressed before sending it to the floor for a vote.

Budget Cuts at the IRS Leave Phones Ringing and Hurt the Middle Class

by Scott Klinger

As Tax Day approaches, the news is filled with stories of unanswered phone calls at the Internal Revenue Service (IRS). The stories will spark an eye-roll or a sarcastic mumble about our "unresponsive government." But most will fail to mention that the IRS is an agency dealing with a 17 percent cut to its budget since 2010. These cuts have meant there are 26 percent fewer IRS workers answering questions than there were five years ago, even though the number of people filing returns has grown by seven million.



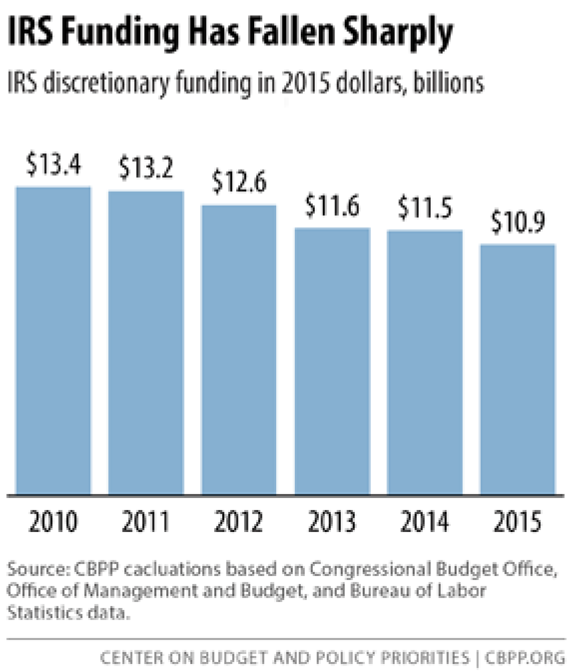
Source: Center on Budget and Policy Priorities

More than 100 million Americans are expected to try to contact the IRS with questions about their taxes. Only about 40 percent will succeed in reaching an IRS employee, and those that do will have waited an average of 28 minutes on hold. And when they do reach an IRS agent, the person at the end of the line may not be able to answer more than the most basic questions because the IRS is training far fewer employees to be issue specialists. People who try IRS walk-in centers around the country may be even more disappointed – many are not open during the evening or on weekends.

Cuts in IRS funding and resources increase the country's deficit.

The IRS has lost 18,000 employees since 2010, 10,000 of them in the enforcement division, a 20 percent cut from 2010. Each revenue agent brings in $1.2 million, on average, in tax revenue that would otherwise go uncollected.

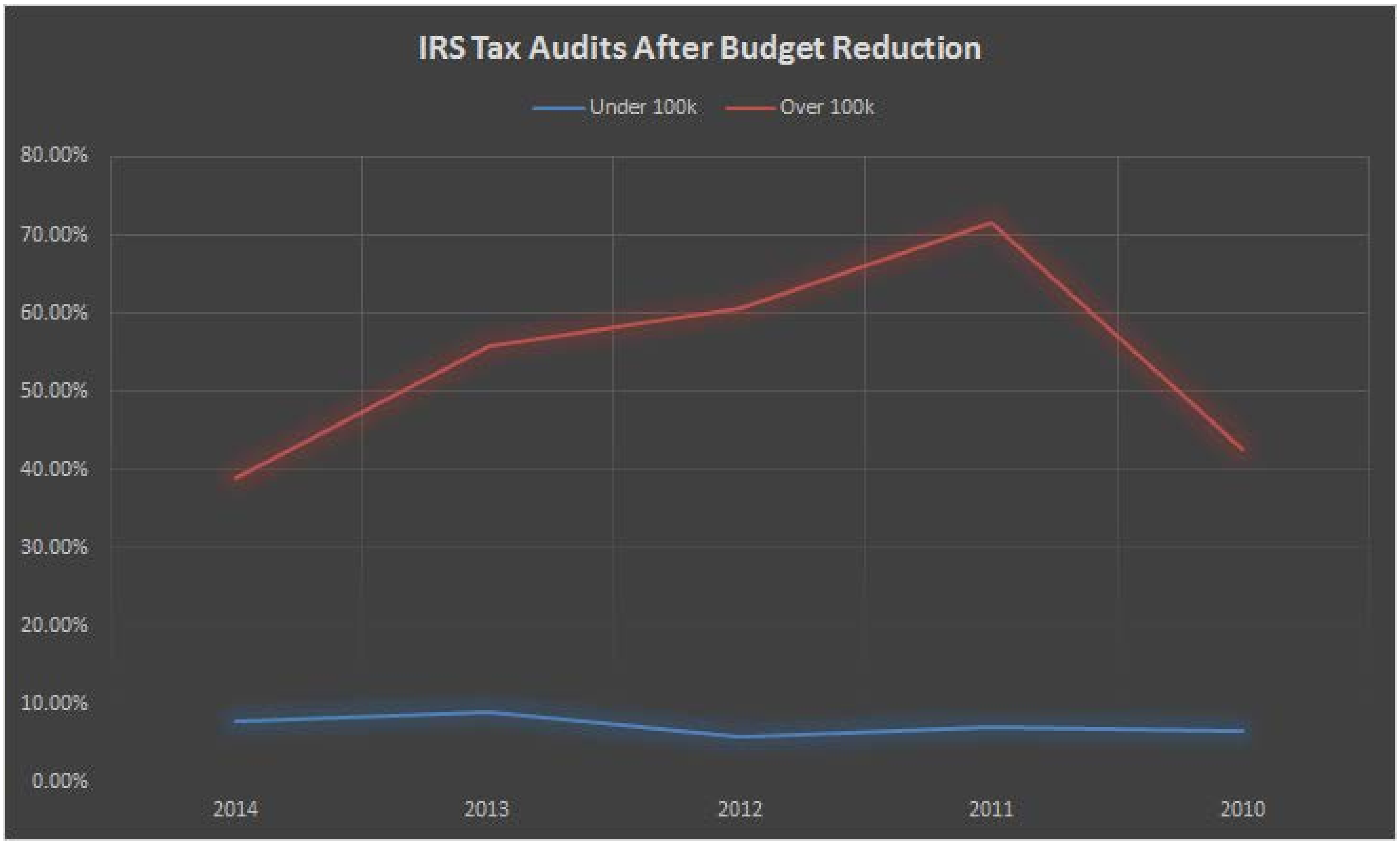
The loss of these enforcement positions means the IRS is conducting fewer audits. The audit risk for a household with more than $100,000 in income declined eight percent between 2013 and 2014. The IRS has also scaled back its audits of large businesses (those with more than $250 million in assets). In 2013, they audited more than 34 percent of such businesses; last year, it was just 26 percent. International transfer pricing abuses by large multinational corporations are one of the most serious abuses within the tax system, costing the country between $40 billion and $133 billion a year, yet the IRS lacks adequate resources to conduct the extensive audits required to collect this tax revenue.



Source: Center on Budget and Policy Priorities

When the IRS budget is cut, middle-income taxpayers feel the squeeze more than high-income taxpayers and corporations.

As a part of mandated budget cuts, Congress has slashed the travel budgets of the enforcement division, making it hard for IRS auditors to conduct the costly face-to-face field audits that wealthy families and large corporations require. In 2014, the IRS conducted 292,000 field audits, 15 percent fewer than the previous year. Instead, enforcement resources are focused on less expensive correspondence audits conducted through the mail. These audits focus on low- and middle-income taxpayers and generate far less revenue per audit than those focused on wealthier taxpayers. While the risk of audit has fallen for wealthy taxpayers, moderate-income taxpayers saw their likelihood of being audited rise by 17 percent.



Source: Forbes.com

Not surprisingly, with fewer resources devoted to enforcement, the "tax gap" – the difference between what is collected and the amount of federal taxes actually owed – has grown to $448 billion, nearly enough to eliminate the entire budget deficit. But collecting more of this revenue will require significant increases in IRS staff. President Obama's budget takes the first step, calling for a more than 18 percent increase in IRS funding.

The additional funding could help the IRS respond to two new needs: identity theft and the new health care rules. Identity theft has exploded in recent years. Last year, 2.9 million taxpayers saw criminals file fraudulent tax returns under their name in order to steal their tax refunds. To respond to this problem, the IRS pulled 3,000 employees from other activities to deal with identity theft problems. The second new responsibility for staff is enforcing the health insurance mandate of the Affordable Care Act. In 2014, uninsured taxpayers will face a penalty for not having health insurance – it will be paid out of their tax return. Once again, more responsibilities for already-stretched IRS staff.

The legitimacy of the tax system depends on fair and effective collection.

As IRS budgets are cut, and the wealthiest taxpayers see their audit risks drop, we are likely to see the nation's tax gap rise even more. As Americans see their neighbors getting away with shirking their responsibility to pay taxes, they will lose confidence in the fairness of the tax system.

Each dollar the IRS spends on enforcement results in $6 of additional tax collection. The IRS is efficient. In fact, it costs far less to collect an additional dollar of tax revenue than it did a generation ago. But draconian cuts in staff over the last five years, expected to continue into the future, seriously undermine the IRS's ability to do its job. These cuts weaken the country and threaten to both increase the deficit and undermine our ability to pay for the public investments in infrastructure and education that we need to keep our economy competitive and our families secure.

Inequality and the Estate Tax: What You Need to Know

by Jessica Schieder

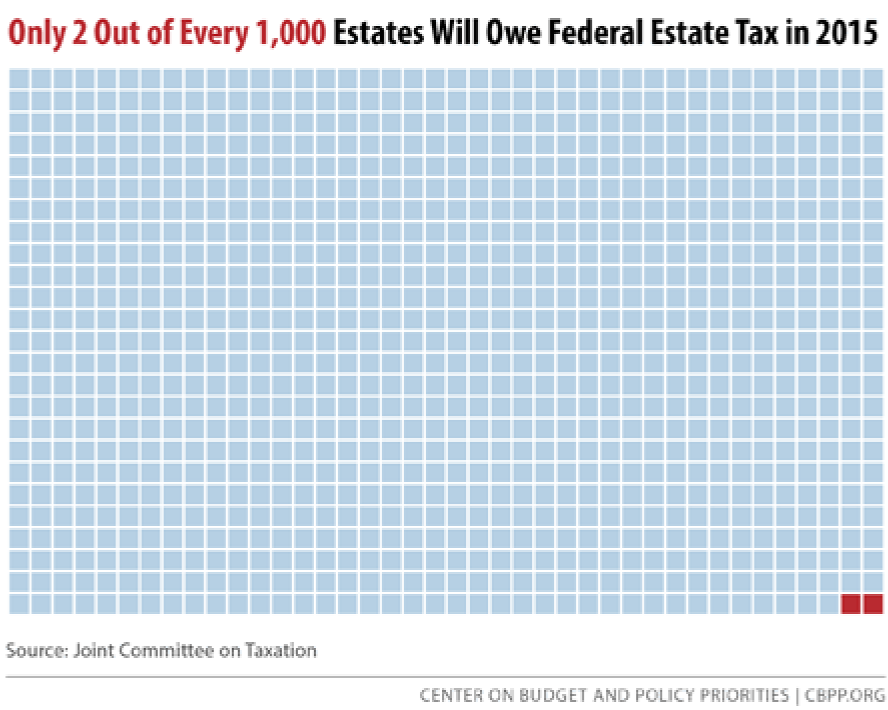
Beginning this evening, the House is expected to vote to repeal the estate tax – one of our nation's key checks on tremendous accumulations of wealth by a handful of the richest Americans.

This is alarming, given the revenue that would be sacrificed and the historical importance of the estate tax. Thankfully, the president appears poised to veto the repeal bill if it also passes the Senate and reaches his desk.

Surveys suggest many Americans are unsure who pays the estate tax and how the estate tax works. Let's clear up some of this confusion.

First of all, only two in 1,000 estates, or 0.2 percent, are subject to the estate tax.

The chart below, from the Center on Budget and Policy Priorities, puts this number into perspective:



Those who want to eliminate the estate tax have confused the public by incorrectly referring to the tax as the "death tax." They say that we shouldn't put a tax on death, *but that isn't what the estate tax does.*

The vast majority of inheritors actually receive a tax *break*.

All estates that are worth less than $10.8 million per married couple or $5.4 million for a single person – 99.8 percent of all estates – are exempt. This means the vast majority of inheritors actually receive a tax *break* when a loved one passes.

How? Let's take property ownership as an example. Real estate, like many other valuables and investments, tends to increase in value over time. For instance, let's say the house your grandmother bought in 1975 for $35,000 is now worth $200,000. The current value of the home has increased substantially. Your grandmother could sell her home today for around $200,000. Because she would make a profit on the sale, she would owe capital gains taxes on that profit.

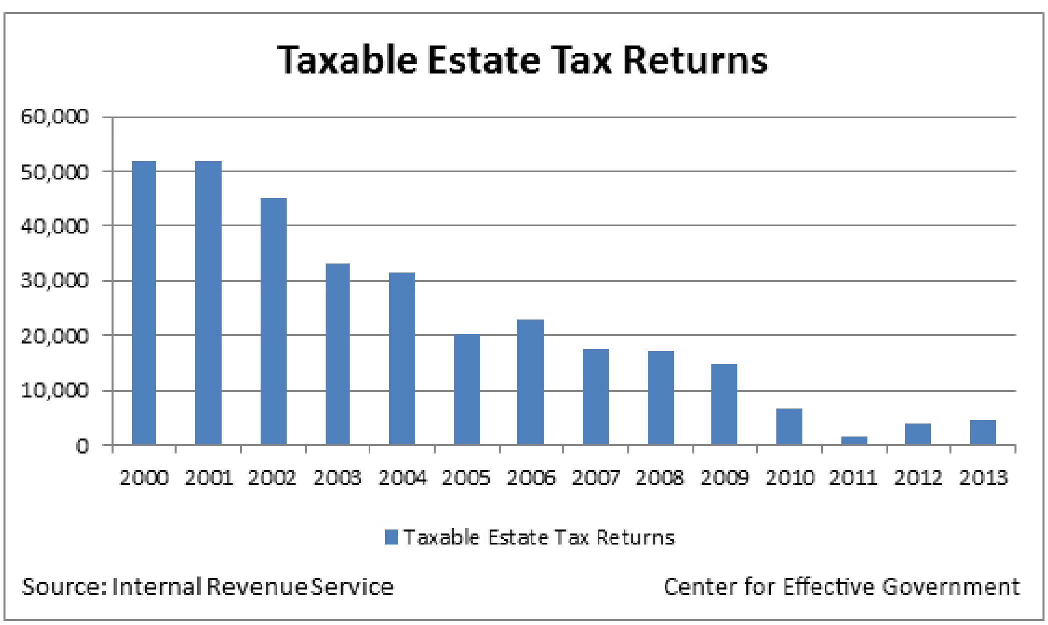
However, if she doesn't sell and lives out the rest of her days in the house, she'll avoid ever having to pay taxes on her profitable real estate investment. When she leaves the house to her loved ones after her passing, they will also be exempt from this tax, saving them thousands of dollars. For 99.8 percent of Americans, death is a time when taxes are forgiven, not owed.

The estate tax is imposed on only the wealthiest 0.2 percent of Americans.

The first $5.43 million, or $10.8 million for a married couple, of the property, stocks, and other assets that a person owns when they die is exempt from the estate tax. Amounts over this threshold are taxed at 40 percent. After accounting for tax deductions and other exemptions, the effective tax rate on estates is 16.6 percent.

The estate tax also applies to many fewer estates than it has in the past. Prior to 2003, about two percent of estates were subject to the estate tax — ten times the current number. Under President George W. Bush, the number of estates subject to the tax was reduced, and the maximum tax rate was cut from 60 to 45 percent.

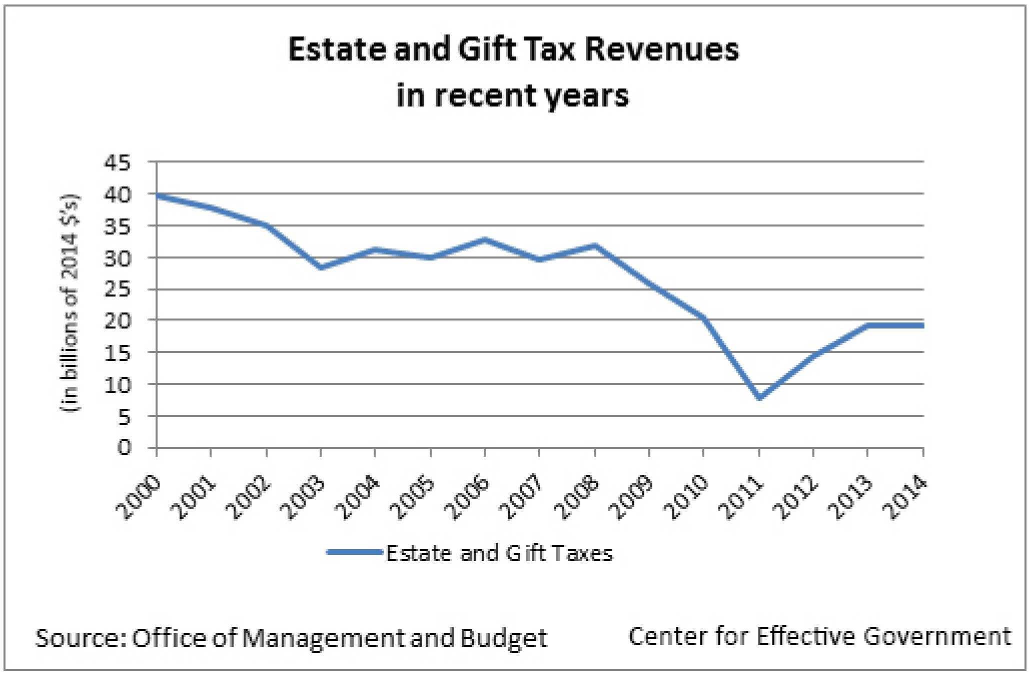
In turn, the number of estates affected by the estate tax has fallen rapidly in the last decade.



Cuts to the estate tax have left less revenue for public goods and services, even as the concentration of wealth among the superrich has increased.

Even as the share of wealth held by the top 1 percent, and especially the top 0.1 percent, has increased, the estate tax has collected less revenue for public investments. This trend in recent years is a consequence of the 2001 Bush tax cuts, which gradually phased out the estate tax over ten years. Before the estate tax was entirely eliminated, Congress restored it in 2010. Historically, the estate tax has made up one to two percent of federal revenues, although this percentage has jumped dramatically in times of war.

The estate tax currently makes up less than one percent of all federal revenue, but this is still a significant amount. Repealing the estate tax would eliminate $246 billion in funding for programs like education, child nutrition, and protecting the environment over the course of the next decade.



According to some indicators, the high levels of wealth concentration among the 1 percent that we see today are approaching levels not seen since the 1920s. At that time, business titans had accumulated such unimaginable amounts of personal wealth that there were real fears it would create a permanent American plutocracy. In the face of a threat to our nation's democracy, our country's most progressive tax, the estate tax, was established.

Today, we face a concentration of wealth that surpasses that of a century ago. If we were to stop taxing the transfer of massive wealth, we increase inequality now and in future generations. If Congress' response is to eliminate the nation's most progressive tax, the wealth inequality we see today will soon look mild in comparison to what's to come.

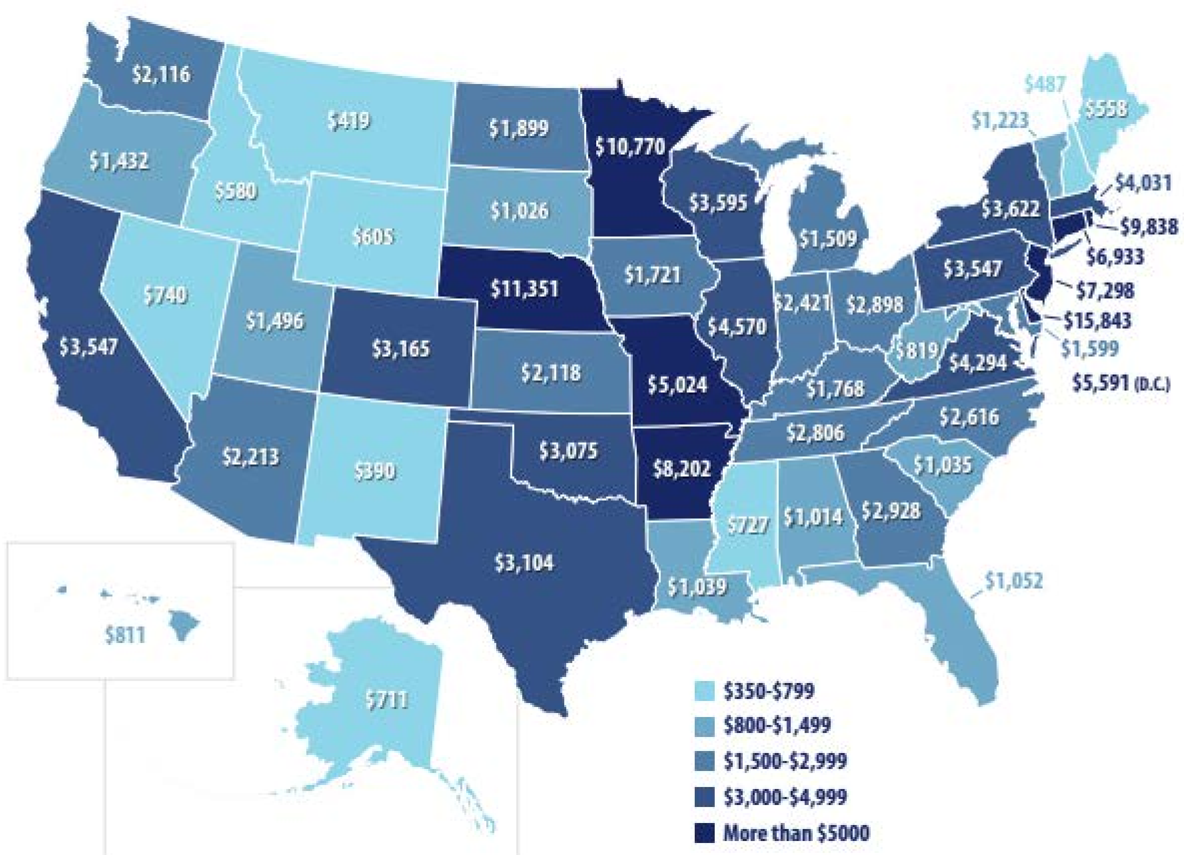
Offshore Tax Dodgers Jeopardize Long-Term Financial Health of American Small Businesses

by Jessica Schieder

Every small business would need to pay [$3,244 in additional taxes](#) to offset the $110 billion in federal and state revenue lost every year to offshore tax avoidance by multinational corporations, according to a new report from [U.S. PIRG](#).

The report is an excellent reminder that corporate tax avoidance is not victimless. Offshore tax avoidance hurts communities by robbing the government of revenue to make public investments – in schools, infrastructure, first responders, and other public goods. Local small businesses and individuals are then left to pay for needed public investments. Additionally, since many of these loopholes are out of the reach of American small businesses, offshore tax loopholes benefit large corporations at the expense of Main Street small businesses. A map from the report shows how much revenue is lost per small business in each state when corporations exploit tax havens.

Figure 1. Picking Up the Tab: The Average Amount Small Business Owners in Each State Would Need to Pay to Make Up For State and Federal Revenue Lost To Offshore Tax Havens[24]



Source: [U.S. PIRG, *Picking Up the Tab 2015*](#)

In recent years, the amount corporations have stashed offshore has [increased](#). Well known American companies are among those that actively avoid paying U.S. taxes, including Google, Citigroup, Caterpillar, Microsoft, and Bank of America. In the long term, these multinationals will leave others to pay for investments in public goods and services that they too enjoy – like our nation's highway system and rules that even the playing field for businesses to compete. When these corporations get a free ride, it reduces investments in America's public structures and jeopardizes the long-term financial health of their own business as they are forced to compete in the global marketplace with outdated infrastructure and inadequate schools.

Several pieces of pending legislation could reverse this trend and put an end to these tax avoidance schemes by removing the incentives for corporations to move profits offshore. The report outlines the following principles for reform:

- **End tax deferrals**: Corporations are currently able to indefinitely defer paying taxes on some profits. This practice rewards corporations for keeping profits overseas and should be discontinued, as recently introduced legislation in the House and Senate would do.

- **Reject a "territorial" tax system**: Some advocates for tax code reform insist that only taxing income that corporations declare within the United States would improve the corporate tax system. In reality, this change could encourage corporations to move *more* operations, jobs and profits offshore.

- **End "Check-the-Box"**: A small checkbox on corporate tax forms allows multinationals to reduce their tax bills by using offshore subsidiaries. This format allows corporations to avoid approximately $10 billion in taxes every year.

- **Prevent "earnings stripping"**: Using an accounting mechanism, U.S.-based companies are able to avoid taxes by becoming indebted to their foreign subsidiaries. Under current law, they can deduct the interest payments as a business expense, and they can put off paying taxes on their profits as long as they remain offshore.

- **Stop inversions**: The playing field should be leveled so that corporations are no longer rewarded for merging with foreign entities, then adopting the foreign registration of their merger partners in order to avoid paying U.S. taxes.

- **Reduce incentives for corporations to shift intellectual property rights**: By licensing patents and intellectual property to offshore entities, corporations can avoid substantial amounts of taxes.

- **Increase corporate transparency**: With more public information about where in the world companies are reporting their profits, paying their taxes, and hiring employees, regulators and the public would be better equipped to hold corporations accountable for their actions.

Read U.S. PIRG's full report, *Picking Up the Tab 2015*, here.

2040 S Street, NW, 2nd Floor
Washington, DC 20009
202-234-8494