Government Matters
The eDigest of the Center for Effective Government

December 9, 2014 Vol. 2, No. 23

In This Issue

Freedom of Information Act Reform Prevails over Last-Minute Holds

by Sean Moulton

In the final days of the 113th Congress, the Senate successfully passed bipartisan legislation to reform the Freedom of Information Act (FOIA). The measure prevailed after several senators placed holds on the bill, temporarily blocking a vote. The last hold, by Sen. Jay Rockefeller (D-WV), was lifted Monday afternoon, and the Senate passed the bill by unanimous consent. The House, which already passed a version of the legislation, now has a handful of days to approve the Senate bill and send it to President Obama for his signature.

Freedom of Information Act Shortcomings Cry Out for Reform

The importance of the Freedom of Information Act as a means to access government information cannot be overstated. Reporters, researchers, advocates, businesses, and lawyers frequently use FOIA to get vital information from federal agencies. That information is often used to benefit the public – to inform them through news stories, to hold government and corporate officials responsible for their

actions, and to empower people with the information needed for action. Even in the age of websites and huge online databases, agencies receive hundreds of thousands of requests each year.

Despite its importance, the FOIA process has never worked as envisioned. Delays have plagued the process, and high fees and the inconsistent and questionable use of exemptions to withhold information have prevented the law from fulfilling its full potential.

The Legislation

Sens. Patrick Leahy (D-VT) and John Cornyn (R-TX) introduced the FOIA Improvement Act of 2014 to address some of the law's shortcomings. Their bill contains much-needed improvements to the process and increases oversight of the law's implementation and enforcement.

The legislation builds the presumption of openness into FOIA and only allows agencies to withhold information if disclosure would result in "foreseeable harm." This would cut down on agencies reflexively withholding information with little or no cause. The bill would also encourage greater proactive disclosure by updating records management requirements. Under the legislation, agencies would have to identify records of interest to the public and make them available electronically.

The legislation would also improve oversight of FOIA implementation. It contains several provisions to give the Office of Government Information Services (OGIS) greater authority and input into agency FOIA practices. The legislation would also establish a Chief FOIA Officer Council that OGIS would co-chair with the Department of Justice. The office would also have greater independence to report FOIA recommendations directly to Congress and the president without layers of review or political interference.

The legislation includes several other improvements, including a requirement for a central online portal for filing FOIA requests with any agency, a 25-year time limit on using the exemption that protects communications within or between agencies, and changes to prevent agencies from charging normal fees when they miss response deadlines. These changes will address many of the real-world problems that requestors struggle with currently.

The Senate Holds

The Senate Judiciary Committee passed the Leahy-Cornyn bill unanimously on Nov. 20. As the bill moved toward the floor for a vote, several senators placed holds on it, including Sens. Tom Colburn (R-OK), Tim Johnson (D-SD), Bob Corker (R-TN), and Rockefeller.

Supporters of the legislation quickly took to social media to push the senators to lift their holds and allow the Senate to vote on the bill. Most of the senators lifted their holds in a matter of hours as their respective questions about the legislation were answered, but Rockefeller maintained his hold throughout this past weekend over concerns that the bill might make it more difficult for agency attorneys to prepare cases against people and companies engaged in financial fraud.

Open government advocates steadfastly maintained that that the proposed FOIA changes would not result in any significant interference with government investigations or enforcement activities, and they worked with Rockefeller on several minor language changes to clarify the intent of the legislation.

Leahy responded with a statement explaining the importance of the legislation and urging all senators to support the bill. "This week, we can pass this bill in the Senate and send it over to the House, where I am confident that it will pass, and send it to the President to sign before the end of the year," he said. "There is no reason to delay this legislation, which has broad support from a range of stakeholders, costs very little to implement and will improve access to government for all Americans."

Time Is of the Essence

With only five legislative days remaining, time is short for the House to pass the bill and send it to the president's desk. Leahy seems unworried about the short timeframe, however, and open government advocates are optimistic that the House will act quickly on this common-sense transparency reform.

Outgoing Maryland Governor Proposes Strongest Fracking Protections in the Nation

by Amanda Frank

Maryland may soon join neighboring West Virginia and Pennsylvania by allowing fracking in the state. Outgoing Governor Martin O'Malley announced that he will open the doors to drilling companies as long as they follow strict safeguards for protecting public health and the environment. He is developing proposed rules based on an extensive three-year study of the economic and environmental impacts of drilling in Maryland.

O'Malley previously postponed fracking in Maryland pending the release of the study. Three counties in the western part of the state are situated above the Marcellus Shale, a formation that includes reservoirs of natural gas reachable through new fracking technologies.

Proceed with Caution

The study, prepared by Maryland's Department of Natural Resources and Department of the Environment, draws from numerous impact studies on gas drilling on the Marcellus and addresses concerns specific to Maryland, including protecting watersheds and state land. It also evaluates many health and safety concerns raised by critics of fracking, from air and water pollution to noise disturbances and community impacts.

From this analysis, the report creates a list of "best practices" that the agencies recommend be incorporated into any fracking regulations. They propose adopting the following requirements:

- Operators must submit a five-year drilling plan detailing the location of well pads and other infrastructure, with a focus on minimizing potential impacts. The plan must be submitted before a well permit is granted.

- Operators must also conduct at least two years of baseline monitoring of ground and surface water near well sites *before* obtaining a permit. Once drilling begins, operators must continue monitoring in order to determine whether fracking is causing water contamination.

- Wells must be set back from existing infrastructure. For instance, the minimum distance between a well pad and an occupied building, school, or church is 1,000 feet. A minimum of 2,000 feet must separate wells from private drinking water wells.

- Operators must submit to Maryland's Department of the Environment the name and concentration of every chemical brought to the well site. If operators demonstrate that this information is a trade secret, they must submit a second list detailing all chemicals onsite, excluding quantities and product names. The original list (or the second list, in the case of a trade secret) must be shared with local emergency responders and be publicly available.

- Diesel is banned from use as a fracking fluid. (Federal law current allows operators to use diesel but only after obtaining a permit.)

Other recommendations include requiring noise reduction equipment at well sites and requiring operators to fix methane leaks and offset any methane emissions that occur during drilling.

These recommendations, if they become law, would give Maryland some of the strictest fracking regulations in the country. The state would be the first to require operators to submit a five-year plan prior to drilling. It would join a handful of states (such as Colorado and Wyoming) that require baseline water testing prior to drilling, although requiring two years of monitoring is unprecedented. Lastly, the state would close most chemical disclosure loopholes that plague other states, for which public interest groups have been fighting for years.

Moving Forward

O'Malley intends to release proposed regulations this month, in his final weeks as Maryland's governor. Any regulations would not go into effect until after Republican Governor-elect Larry Hogan takes office in January. Hogan has expressed his intention to permit fracking in the state and has vowed to carefully review any proposed regulations put forth under O'Malley's administration.

Regardless of the outcome in Maryland, the study's recommendations should serve as an example for other states where fracking is currently taking place. It designs safeguards based on rigorous testing at well sites, including minimum well setbacks from residences that are based on air quality data rather than industry convenience. And it proposes the strictest methane regulations in the country, helping to limit the emissions of this potent greenhouse gas that contributes to climate change. Adoption of the study's recommendations would provide some of the most aggressive chemical disclosure regulations while substantially reducing the risks to communities from the many dangers associated with fracking.

Industry complains that these tight regulations will discourage drilling companies from operating in Maryland. However, the state has a unique opportunity to craft rigorous safeguards to address concerns that have arisen in other areas with extensive fracking operations.

Fall 2014 Unified Agenda: What Health and Safety Standards Can We Expect in the Year Ahead?

by Katie Weatherford

Just before Thanksgiving, the White House quietly released the fall 2014 Unified Agenda, updating the status of public protections under development by agencies across the federal government. The fall agenda indicates that agencies expect to finalize several key health and safety rules in 2015, but other important protections will progress much more slowly or have been pushed far into the future.

Long-Awaited Public Health and Environmental Protections

The fall 2014 Unified Agenda indicates that the U.S. Environmental Protection Agency (EPA) plans to finalize several long-awaited rules over the next year. These rules will restore and preserve our nation's water resources by preventing toxic pollution, and will limit climate change-causing air pollution.

By the end of this year, EPA expects to finalize its coal ash waste rule, which is intended to address the disposal of toxic waste generated by burning coal. Coal ash has contaminated hundreds of rivers, lakes, and drinking water aquifers across the country. The agency first proposed this rule in 2010, but it then stalled until 2012, when a lawsuit from environmental groups compelled the agency to move forward. After several years of needless delay, EPA is on schedule to meet a court-ordered deadline for final action by Dec. 19.

In 2015, EPA plans to finalize its rule defining "waters of the United States" under the Clean Water Act. The agency issued a proposed rule in April 2014 and has indicated in the fall 2014 agenda that a final rule is expected by April of next year. This rule has gained widespread support from business groups like the American Sustainable Business Council, whose members rely on clean water to run successful businesses, as well as environmental groups dedicated to protecting and preserving our nation's waterways for future generations.

EPA will also take action to limit toxic air pollutants over the next year. Consistent with the fall agenda, EPA is on track to complete its review of the current ozone air quality standard, having announced proposed revisions on Nov. 25. The agency should have completed the review much earlier, but it was stymied by White House interference. EPA is now required by court order to issue a final rule by Oct. 1, 2015. However, the fall 2014 agenda indicates the agency does not plan to finalize the rule until November 2015, one month late.

EPA intends to finalize its long-delayed formaldehyde standards for wood products and a related third-party certification framework rule by February 2015. The law tasking EPA with issuing these two rules, the Formaldehyde Standards for Composite Wood Products Act of 2010, required the agency to finalize new rules by Jan. 1, 2013. However, the agency did not issue the proposed rules by that deadline, in

large part because of the lengthy "executive review" by the White House Office of Information and Regulatory Affairs (OIRA). Although Executive Order 12866 grants OIRA a maximum of 120 days to review rules, the office took more than one year to review the proposed formaldehyde rules and did not complete its review until May 2013, five months past the statutory deadline for a final rule. EPA's ability to meet its February 2015 timeline is questionable since the agency has yet to submit its draft final rules to OIRA for review.

By mid-2015, EPA plans to finalize greenhouse gas emission limits for new, existing, and modified power plants. These rules would significantly reduce carbon dioxide emitted into the atmosphere, which is a major contributor to climate change. The president's Climate Action Plan directed EPA to propose a rule for new power plants by Sept. 20, 2013 and for existing and modified power plants by June 1, 2014. The climate plan also tasked the agency with finalizing the existing and modified power plant rules by June 1, 2015. According to the fall 2014 agenda, EPA expects to finalize the new power plant rule in January 2015 and the modified power plant rule by June 1. However, the agency's agenda also suggests it will not finalize the existing power plant rule until July 1, one month past the deadline. Given that these proposals are major components of the president's climate action plan, we hope EPA moves promptly to finalize these rules without delay.

While EPA's agenda includes several meaningful actions, rules needed to protect water quality will not move forward in the short-term. The agency has extended its expected timeframe for finalizing a rule to require electronic reporting by facilities subject to the national pollutant discharge elimination system (NPDES) permit program. This rule would improve the accuracy of the data provided to EPA and would improve public access to water pollution information. The agency also has not provided a timeframe for taking action to address stormwater discharges from developed sites. EPA has listed this important rule under long-term actions in the Unified Agenda since spring 2013, despite an October 2008 National Research Council report finding that EPA's existing stormwater program was likely failing to protect our waterways from harmful pollutants.

Essential Worker Health and Safety Standards

Based on the Occupational Safety and Health Administration's (OSHA) fall 2014 agenda, we can expect only limited progress on worker protections over the next year. The agenda indicates that OSHA plans to propose limits to reduce worker exposure to beryllium in January 2015. OSHA missed the July 2014 completion timeframe specified in the spring 2014 agenda. OSHA also plans to finalize its rule to modernize and improve the recordkeeping and reporting of occupational injuries and illnesses by August 2015.

However, OSHA's limits on exposure to silica dust, proposed in September 2013, will remain in the proposal stage. According to the fall agenda, OSHA plans to analyze comments on the silica proposal by June 2015, but the agency does not indicate it will finalize this critically important and long-delayed rule in the year ahead. Each year this rule is delayed, over 1,500 workers will suffer from adverse health effects from exposure to silica dust, including silicosis, a potentially fatal disease.

OSHA has also delayed action to protect workers from combustible dust. From 1980 to 2005, combustible dust incidents were responsible for 119 fatalities and 718 injuries, according to a 2006 investigative report conducted by the Chemical Safety Board. This rulemaking was listed in the "pre-

rule" stage in the spring 2014 agenda, with a small business review panel expected to convene this month. Unfortunately, OSHA has moved the rule to the long-term actions category in the fall 2014 agenda and has delayed convening the review panel until February 2016. Given that the review panel process must occur before the agency even finishes developing a proposed rule, delaying the review panel for more than a year indicates that a final rule will not be issued for several years. In the meantime, OSHA's delay leaves workers in harm's way.

Conclusion

While agencies will continue to experience challenges, including stagnant or declining resources and an expected increase in opposition from industry and anti-regulatory lawmakers during the 114th Congress, it is essential that the agencies finalize several long-overdue health, safety, and environmental protections over the next year. We also urge the agencies to move forward on other important rules in the pipeline that are needed to protect the public, workers, and environment from preventable harms.

EPA's War on Pollution: Agency Tackles Smog Standard to Improve Our Health

by Ronald White

Almost five years after first proposing to strengthen the national air quality standard for ozone pollution, the U.S. Environmental Protection Agency (EPA) announced on Nov. 25 that it intends to again propose a more health-protective air quality standard for ground-level ozone pollution. Breathing ozone, also known as smog, can cause health issues ranging from asthma attacks to early death from heart and lung disease.

Depending on the level EPA chooses for the final standard, the Thanksgiving-eve announcement holds the promise of either a relatively modest or potentially substantial improvement in public health protection from this widespread air pollutant. The agency announced that it is considering revising the ozone standard from the current 75 parts per billion (ppb) to between 65 to 70 ppb, while also asking for comment on keeping the current standard or setting a standard at 60 ppb, the lowest level in the range recommended by its science advisors. Those advisors have already told EPA that a new standard at the high end of the proposed range would not provide the "margin of safety" required under the Clean Air Act.

People most at risk from breathing ozone include: children; people with asthma and other respiratory diseases; older adults; and people who are active outdoors, especially outdoor workers. Air pollution controls needed to reduce ozone levels will also result in reducing levels of toxic particles in the air. EPA expects that air pollution control efforts to comply with already existing or proposed rules and programs limiting air pollution from power plants and vehicles will result in most areas of the country meeting the new standard by 2025, when all areas in the U.S. except those in California will need to be in compliance.

EPA estimates that the combined effect of tightening the ozone standard and reductions in particle pollution will prevent 730 to 4,300 premature deaths, 320,000 to 960,000 asthma attacks in children, and 1,400 to 4,300 asthma-related emergency room visits each year, among other health benefits.

These estimates exclude the health benefits in California, which, due to its severe ozone problems, will have an extra seven to 12 years to meet the new standard. Once targeted areas in the state meet the new standard, the nation will avoid 110 to 430 additional premature deaths, 99,000 to 210,000 additional asthma attacks in children, and 340 to 740 more asthma-related emergency room visits each year.

Depending on whether EPA selects the higher or lower end of the proposed range, the health benefits will amount to between $6.4 to $38 billion each year, with the eventual benefits in California adding an additional $1.1 to $4.1 billion annually.

As I discussed in an article this summer, EPA's past efforts to set a science- and health-based ozone standard have been battered by political forces. Ignoring the recommendations of its science advisors and bowing to pressure from industry and the George W. Bush White House, the agency in 2008 set the current ozone standard at a level characterized as "legally indefensible" by the Obama administration's first EPA administrator, Lisa Jackson. Administrator Jackson committed to expediting a new standard, only to have the rug pulled out from underneath her by President Obama's 2011 decision to postpone the final rule.

Once the proposed standard is published in the *Federal Register*, EPA will accept public comments for 90 days. A final decision on the ozone standard is due under a court-ordered deadline by Oct. 1, 2015. Big industry and their proxies in Congress have already started a drumbeat opposing any change to the current standard. It will be essential for the public to weigh in with comments on the importance of EPA selecting the most health-protective standard under consideration.

Congress's Latest Stealth Attack on EPA Standards – Restrict Expert Scientific Advice

by Ronald White

In the leading edge of what is expected to be a wave of legislation in the new Congress aimed at undermining the U.S. Environmental Protection Agency's (EPA) ability to set essential public protections, the House of Representatives last week passed two bills that would undermine the agency's ability to advance good, science-based policy and improve public health.

Under the guise of improving the scientific process, the Secret Science Reform Act (H.R. 4012) deliberately creates a Catch-22 situation that would prevent EPA from developing new rules essential for protecting public health. It would prohibit the agency from developing new standards unless *all* scientific and technical data used to develop the rules are publicly accessible. At the same time, the legislation acknowledges that EPA is legally prohibited from disclosing the private medical data, trade secrets, and industry data that the agency uses to develop these rules.

Some of the best real-world public health research that EPA uses to develop its standards relies on patient data like hospital admissions and emergency room visits. EPA would be excluded from considering this key source of data because personal medical data can't, and shouldn't, be made publicly available. Information on costs of controlling pollution provided by industry that EPA uses in developing its analyses of the costs of new rules is also protected as confidential business information. Requiring public release of underlying study data and industry's own information *that the agency cannot legally disclose* sets up the ideal opportunity for industry and its allies in Congress to cynically accuse the agency of hiding information.

The legislation expands on long-standing industry efforts to undermine EPA's work to strengthen air quality standards by attacking the agency's use of scientific data. Those efforts previously resulted in the so-called Shelby Amendment, a two-sentence rider buried in the fiscal year 1999 appropriations bill, which required that data generated by federally funded academic and nonprofit research be publicly available under the Freedom of Information Act. The actual intent behind this seemingly reasonable effort at improving scientific transparency was to provide a mechanism for industry to require academic scientists to turn over their study data for “reanalysis” to undermine study findings linking pollution to health outcomes.

The second bill, the EPA Science Advisory Board Reform Act (H.R. 1422), attacks EPA's scientific process by making it easier for industry experts directly impacted by new rules to serve on the agency's Science Advisory Board while preventing independent scientists from reviewing a body of science that includes their own research. This would restrict the ability of EPA to receive input from scientific experts who know the most about a subject while providing industry and its consultants the opportunity to influence the science assessment process and potentially block or delay crucial standards and safeguards.

The bill also would also encourage delays in EPA rulemaking by pushing the Science Advisory Board into an endless cycle of additional public comment on scientific advice the agency receives. It would do this despite the fact that industry already has multiple opportunities (as do the public and public interest groups) to provide input on the various technical documents used in developing rules. Adding insult to injury, the Congressional Budget Office estimates that H.R. 1422 would cost the agency $2 million over the next four years, at a time when EPA is already severely underfunded and has far more important, publicly supported priorities to address.

Public policy and the rules to implement it should be based on the best available science. EPA already has an extensive and effective science assessment process in place. These bills aren't intended to promote good science or public health policy – rather, the goal of the legislation is to weaken or entirely eliminate public protections by attacking the science underpinning EPA's efforts. As Rep. Eddie Bernice Johnson (D-TX) noted, the bills are a "misguided and disingenuous war on the dedicated scientists and public servants of the EPA" and represent the "culmination of one of the most anti-science and anti-health campaigns I've witnessed in my 22 years as a member of Congress."

The White House has already said it will veto both H.R. 4012 and H.R. 1422 should they ever reach President Obama's desk. As it's likely these bills, or similar versions, will be reintroduced in the next Congress, here's hoping that responsible members of Congress from both parties recognize them for

what they really are – efforts to promote industry's self-serving agenda in the guise of "good science."

Verizon Disputes Our Report Without Backing Up Its Claims

by Scott Klinger

Last week, my colleague Sarah Anderson and I published *Fleecing Uncle Sam*, which examined large corporations that paid their CEOs more than they paid in federal corporate income taxes.

The report generated widespread media coverage and significant corporate backlash. Verizon was one of the corporations that challenged the veracity of our reporting. In an e-mail to Reuters reporter Kevin Drawbaugh, a Verizon representative stated the company paid $422 million in income taxes in 2013. The spokesman added, "We do not provide a breakdown between federal vs. state in that total; however, I am confirming for you that the federal portion of the number is well more than Verizon's CEO's compensation."

Let's examine Verizon's claims.

Our report drew data directly from corporate tax disclosures filed regularly with the U.S. Securities and Exchange Commission (SEC). Here is what Verizon reported about the taxes it paid to the SEC and company shareholders in its 2014 Annual Report (Form 10-K):

Years Ended December 31,	2013	2012	2011
Current			
Federal	$ (197)	$ 223	$ 193
Foreign	(59)	(45)	25
State and Local	201	114	290
Total	(55)	292	508

We use the current federal income taxes line in our report. Most corporations file their annual reports a few months after the end of their fiscal year. Since most companies end their fiscal year at the end of December, most 10-K reports come out in late February or early March. Corporate tax returns are not due until Sept. 15. Thus, the number reported as "current federal taxes" is the company's best estimate of the U.S. corporate income taxes it expects to pay. In Verizon's case, that number was -$197 million for 2013.

Contrary to the Verizon representative's assertion that the company doesn't break out federal and state taxes, it clearly does in the tax footnote of its annual report shown above. According to the company's audited financial statements filed with the SEC, it received refunds of $197 million from the federal government, and paid $201 million in state income taxes. Even if you added these together, Verizon still paid its CEO far more ($15.8 million) than it paid in federal and state income taxes ($4 million).

The bigger problem is that companies feel empowered to simply tell journalists information that is not verifiable. The information is easily available and could be shared. Corporations file a tax return similar to that which individuals file. The tax return filed by individuals is the widely known Form 1040.

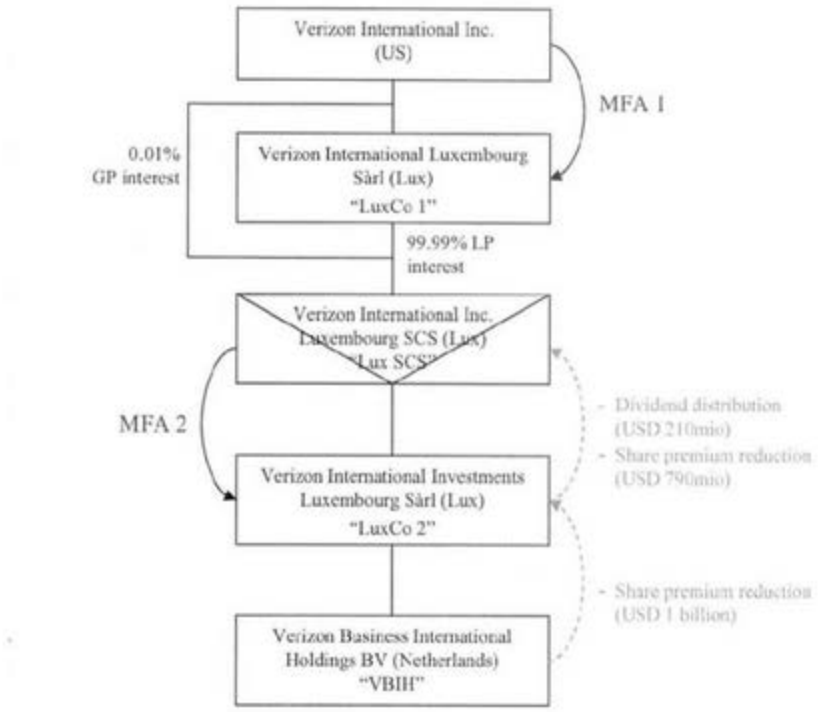
Corporations file Form 1120. Both have a single line called "Total Taxes." On Form 1120, it is line 31. Corporations could clear up confusion and better make their case by simply publicly disclosing the first page of their Form 1120, which provides basic summary information, including the line that shows what taxes they actually owed.

Earlier this month, Verizon was caught in another tax disclosure controversy. The International Consortium of Investigative Journalists (ICIJ) released more than 500 private tax rulings (involving nearly 340 companies) secretly negotiated with the government of Luxembourg. The leaked documents revealed the work of PricewaterhouseCoopers to help corporate clients avoid paying income taxes. One of the companies the accounting giant helped was Verizon. In a document dated March 10, 2010, PricewaterhouseCoopers outlines a complex accounting arrangement (see a diagram of the relationships below) involving three Verizon Luxembourg subsidiaries used to shelter at least $400 million from taxes in the United States. Though the SEC requires companies to disclose significant subsidiaries to shareholders each year, Verizon made no mention of any Luxembourg subsidiaries in its 2008, 2009, or 2010 annual reports. In fact, it listed no foreign subsidiaries at all.

PRICEWATERHOUSECOOPERS

Appendix 1

Simplified chart of the structure as of December 18, 2009



Source: International Consortium of Investigative Journalists: Luxembourg Leaks Database

Actions such as those undertaken by Verizon in Luxembourg appear to have no clear economic purpose beyond allowing the company to avoid paying taxes. The arrangements are legal in Luxembourg, but it is less clear whether the IRS will view them that way now that these documents have come to light. If the IRS determines the arrangements that Verizon undertook do not have sufficient economic purpose, the company could be on the hook for more than $100 million of U.S. income taxes on the transaction.

Corporations like Verizon are public companies not because they are publicly traded, but because so much of their success comes from public subsidies, including government contracts and tax breaks. If you are a U.S. taxpayer, you are paying to help Verizon build its cell towers, and you help subsidize the inflated pay of its CEO and other executives (every three dollars paid to a CEO reduces a company's taxes by a dollar). As taxpayers, we invest in the success of American corporations, and as investors, we need basic information about our investments. One of those pieces of information is precisely how much corporations are investing in the common good through the taxes they pay.

400 Richest Americans Paid Same Effective Tax Rate as a Family Earning $105,000

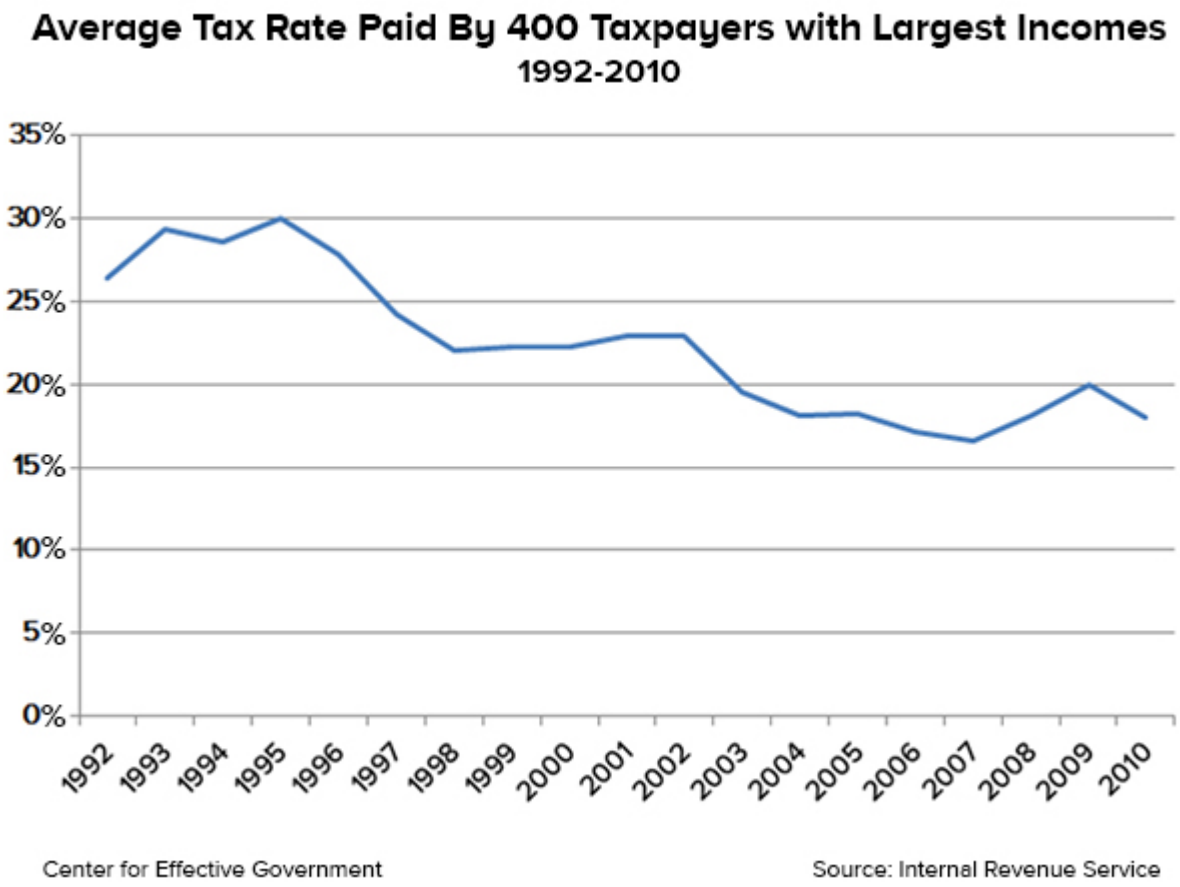
by Scott Klinger

The 400 Americans with the highest incomes paid roughly 18 percent of their earnings in federal income taxes in 2010, down from just under 20 percent in 2009, according to the Internal Revenue Service (IRS). Of the 400 elite taxpayers in 2010, 37 paid an effective tax rate of less than 10 percent.

To put this in perspective, middle-class families earning about $105,000 a year paid 18.5 percent of their income in federal taxes in 2011 (the closest year for which data is available), according to Citizens for Tax Justice. These figures include payroll taxes, which would represent an extremely small and meaningless portion of taxes for America's top 400.

The wealthiest 400 taxpayers – one out of every 790,000 Americans – accounted for 1.3 percent of the total income reported on tax returns that year. They reported $106 billion in income to the IRS, an average of $265 million per taxpayer.

Composite data on the 400 Americans reporting the most income on their tax returns is released by the IRS every year, and the decline seen in this year's tax rate mirrors a longer-term trend. Back in 1995, the country's 400 wealthiest paid nearly 30 percent of their income to support public services and investments provided by the federal government.



The IRS lags in reporting the data because taxpayers are allowed to file amended returns for three years after those returns are due. Thus, 2010 data is considered final, with no further amendments to returns allowed.

The most significant reason for the super-rich's low tax rate is that they receive nearly two-thirds of their income in the form of capital gains, which were taxed at a 15 percent rate, less than half the tax rate for income from work.

The IRS data also provides an interesting glimpse into the changes to those at the top of the income ladder. In 1992, the first year the IRS released data, it took $24.4 million to qualify for the list ($40 million in 2010 dollars). By 2010, the cutoff level had more than doubled to $99.1 million.

Ninety-five taxpayers have been on the list in at least ten of the 19 years for which the IRS has released this data. More than 2,900 taxpayers have appeared on the list at least once.

Last year, President Obama signed legislation raising the highest income tax rate modestly and increasing the capital gains tax rate from 15 percent to 20 percent. But if we are serious about reducing inequality and the wealthy paying their fair share of taxes, it is time we stop privileging income earned from investments over income earned from work. The wealthiest 400 should not have their own discounted tax schedule. Instead, they should pay taxes at the same rates as those who work every day for a living.

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