

From Panama to Delaware: How the U.S. Promotes secret tax havens

By Mark Hays

There are two important lessons from the secret international financial dealings of the corrupt and powerful revealed by the Panama Papers.

The first is that the creation of anonymous corporations often used to hide illicit and illegal activities isn't restricted to Panama or other tax havens. In fact, America is one of the most popular places in the world to set up the kind of shell companies used by princes and presidents, gangsters and terrorists to shield shady money dealings.

Second, we can do more about the problem than express outrage. Legislation in Congress would tear the mask off these anonymous U.S. corporations and allow law enforcement to effectively pursue criminal activities ranging from tax evasion to drug dealing, money laundering to human trafficking.

Last week's leak of more than 11 million records from a Panamanian law firm that specializes in creating anonymous corporations to hide the financial activities of its clients have forced the resignation of one head of state (Iceland's premier). They have also raised questions about the offshore dealings of the friends and relatives of other world leaders, including Russia's Vladimir Putin, the president of China, the prime minister of Britain, and the king of Saudi Arabia.

Among the places the law firm set up secretive shell corporations for its clients were the British Virgin Islands, Singapore, Cyprus, and—perhaps surprising to some Americans—Nevada. In fact Nevada, Wyoming, and, most famously, Delaware have become prime locations for establishing anonymous companies. It's because the process is so simple and the ability of authorities to pierce the veil of secrecy is so limited.

In many states, you must provide more information to get a library card than you do to create a corporation. The actual human owner of the assets of the corporation doesn't have to be listed anywhere. And because corporations can own other corporations, a "nesting dolls" series of companies is often created — further frustrating attempts to find out who's ultimately behind them all.

Delaware is home to more corporations—over a million — than people.

It's important to remember that the crimes and other antisocial activities made easier by anonymous corporations are not victimless.

In the Democratic Republic of Congo, Global Witness exposed how secretive mining deals involving anonymous companies had deprived the people of one of the poorest countries on the planet of well over a billion dollars — twice the country's health and education budget combined. Closer to home, the biggest of Mexico's drug cartels used an anonymous Oklahoma company in a scheme to launder millions of dollars of drug money into the United States.



The collateral damage also includes the victims of tax evasion: all of us ordinary taxpayers. Whenever a wealthy individual uses a shell company to cheat on his taxes, the rest of us pick up the tab, either in higher taxes on ourselves, diminished public services, or higher public debt.

And it's often the most vulnerable members of society who are most severely impacted by those diminished services: poor toddlers denied preschool, elderly shut-ins deprived of hot meals, sufferers of disease awaiting a cure.

Not incidentally, the same kind of damage is caused by the legal avoidance — as opposed to illegal evasion — of U.S. taxes, especially by some large corporations. Using their own network of offshore subsidiaries, some American companies are currently dodging a staggering \$700 billion in U.S. taxes they owe on \$2.4 trillion in overseas profits.

Identical bills in the U.S. House of Representatives and Senate would, with some important exceptions, put an end to American-based anonymous corporations. The Incorporation Transparency and Law Enforcement Assistance Act (H.R. 4450 and S. 2489) would require states to ascertain the identity of the human beings behind corporations and make that information available to investigators with a subpoena or summons.

The Panama Papers show that anonymous corporations and the harm they cause are a worldwide scourge. By reforming our own laws, we can stop adding to the problem and start contributing to a solution.

Editor's note: Mark Hays is a Senior Advisor at Global Witness.