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Opinion: Partnership to Build America Act rewards corporation for bad behavior

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It will be a busy day on Capitol Hill as lawmakers scramble to find a compromise and end the partial government shutdown ahead of warnings that the government would exhaust its borrowing authority Thursday. (European Pressphoto Agency)

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By ***Nicole Tichon***

With any opportunity that seems too good to be true, there is often a fatal flaw.

That is the case with the Partnership to Build America Act, introduced by Rep. John Delaney (D-Md.) and Sen. Michael Bennet (D-Colo.)

The bill offers a way for multinational corporations to bring profits stashed offshore back to the United States and finally pay tax on those profits, albeit a minuscule one, in exchange for purchasing bonds that would fund infrastructure projects. It seems to offer something for everyone, Democrat and Republican alike. But upon closer examination, the bill is full of flaws and ends up rewarding those companies that ship profits offshore to avoid paying taxes on them.

Let's start with a basic question: Why are we rewarding bad behavior? For years, companies have been hiding money in low- or no-tax countries in an effort to minimize their tax bill, and in doing so have raised the tax burden on individuals and small businesses. Why should we reward behavior that has made things tougher on average Americans and job incubators, that is, small businesses? And what is to stop corporations from continuing to hide profits in offshore tax havens after this so-called "tax amnesty" expires?

In 2004, a similar program was enacted. The corporations that did bring profits home used them mostly to offer dividends to stockholders. Many did not invest in U.S. operations or create jobs, as they had promised. It provided no benefit to the economy and many of the corporations that participated actually reduced employment.

Rep. Delaney and Sen. Bennet would have us believe they've solved this problem by requiring the corporations to buy bonds from the proposed infrastructure bank. But here, too, the idea is fundamentally flawed.

As designed by Mr. Delaney, the bank would be controlled by a board of directors, a minority of which would be appointed by the president, and the rest appointed by the companies that purchase the most bonds. This means that corporations that repatriate the most under the proposal would effectively control the board of directors and thus the infrastructure bank. That's like giving infamous bank robber Willie Sutton the keys to the jail cell and asking him to lock up when he's done.

There are two major problems. Again, we would be rewarding bad behavior by putting the worst offenders in charge. But when some of the biggest users and abusers of offshore tax havens are companies whose main assets are in the form of intellectual capital, such as Google, Apple and Facebook, what possible incentive do they have to invest in roads and bridges? The simple answer is: none.

All of the "solutions" recently offered, which include a "one-time" tax break to contribute to a long-term and basic spending need, is political sleight of hand. It gives big corporations a tax break, gives Democrats a talking point on infrastructure spending, and makes everyone appear to be worried about the deficit, all the while actually contributing to the deficit in the long term.

A serious, long-term solution that would permanently keep much-needed revenues and jobs here in the U.S. would be to tax profits when they are made, wherever they are made. Period. It could raise $600 billion over 10 years and stop the flow of jobs overseas. And to use a phrase that is very much in vogue in tax and policy circles, that's a pretty valuable "pay-for."

Nicole Tichon is director of the Financial Accountability and Corporate Transparency (FACT) Coalition. Submitted by the American Forum.

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