

Financial Services

Offshore Fund Alert

Bermuda

PRICEWATERHOUSECOOPERS 

A Bill to Stop Abuse of Tax Havens May 9, 2007

Alert Number: 07-02

A Bill to Stop Abuse of Tax Havens

On May 3, House Ways and Means Committee members Lloyd Doggett (D-IL) and other Ways and Means Democrats introduced a bill to address perceived abuses involving "tax havens" and "abusive tax shelters." H.R. 2136, the Stop Tax Haven Abuse Act, is a companion bill to legislation (S. 681) introduced earlier this year by Senators Carl Levin (D-MI) and Norm Coleman (R-MN). In an effort to deter the offshore tax evasion, the bill would establish several legal presumptions against the validity of entities and transactions involving "offshore secrecy jurisdictions." The bill specifies 34 offshore secrecy jurisdictions (e.g., Cyprus, Gibraltar, Hong Kong, Luxembourg, Malta, Singapore, Switzerland, Bermuda, Caymans and most other Caribbean Islands) and authorizes the Treasury Department to add or remove countries from the list.

The bill also would extend from three to six years the statute of limitations for IRS examinations involving offshore secrecy jurisdictions, and limit the ability of taxpayers to rely on certain tax opinions to claim a "reason cause" exception to penalties on transactions involving offshore secrecy jurisdictions.

In addition, the bill would codify the "economic substance" judicial doctrine and impose a strict-liability understatement penalty up to 40 percent on transactions lacking economic substance. Further, the bill would expand the non-deductibility of fines and penalties to include certain settlement payments.

PwC Observes: There appears to be growing Congressional interest in anti-tax haven legislation. On May 3, the Finance Committee held a hearing on offshore tax evasion, the first of several anticipated Committee hearings on international tax policy. The timing and focus of additional Finance Committee hearings have not been announced. However, staff has said the Committee may hold a hearing this summer on recently introduced anti-tax haven legislation, such as the Doggett bill. In addition, House Democratic leaders have indicated they may make tax haven legislation a priority. The Ways and Means Committee is expected to hold hearings on international tax policy.

For additional information please call Rick Irvine at (441) 299-7136 or your PricewaterhouseCoopers tax advisor.