



Vermont House Ways & Means Committee
Testimony of Thomas Oppel
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Madame Chair and members of the Ways & Means Committee. I am Thomas Oppel, and I live and run a small consulting firm across the river in New Hampshire. So as a neighbor, I appreciate this opportunity to appear before, even if only remotely. For the last two years, I've been working with a national business advocacy organization, the Coalition for a Prosperous America, on the issue of tax equity.

The basic issue facing Vermont, New Hampshire and the rest of the states is one of fair competition. It is the simple fact that currently there is discrimination in how different businesses are treated for tax purposes. It was most definitively highlighted by the New Hampshire Supreme Court in a 1999 case involving the Caterpillar Corporation, when the justices' decision concluded "*...the water's edge method was adopted for the benefit of foreign businesses.*"

In a deal struck between then President Ronald Reagan and then British Prime Minister Maggie Thatcher, states were essentially bullied into adopting "water's edge," so the activities and tax liabilities of multi-national corporations are blocked from the view of state revenue departments "beyond the water's edge." This effectively gives multi-nationals, especially foreign owned companies, a competitive advantage by allowing them to reduce their tax liability for activities in Vermont or New Hampshire or any other U.S. state to low or no tax jurisdictions overseas. It's not a level playing field.

Multi-nationals use the euphemism "transfer pricing" as cover for what is the legal, but unfair, practice of profit shifting. Corporate advocates will try to tell you legislation and negotiations at the federal and international level have reduced the amount of this profit shifting, a recent study by the Institute for Taxation and Economic Policy (ITEP) highlights the real story.

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In 2020, American corporations claimed profits in 15 of low or no-tax jurisdictions that were often far too high to be possible. In just four of these jurisdictions – Bermuda, the Cayman Islands, the British Virgin Islands and Barbados – American corporations claimed profits that dramatically exceeded the jurisdiction’s entire economic output. In the first three of these, the claimed profits are *more than five times* the size of the jurisdiction’s entire economy.

These 15 jurisdictions together accounted for just 3 percent of global economic output outside the U.S. in 2020, yet American corporations reported to the IRS that 59 percent of their total offshore profits were generated in these tiny places. This obviously reflects accounting gimmicks used to escape taxes.

“Water’s edge” tax scheme creates winners and losers in an anti-competitive, anti-democratic system, with the losers being Vermont and other domestic companies, especially small and mom-and-pop kind of businesses, that can’t shift their profits and thus their tax liability. They pay their full tax bill, while the activities of foreign companies can be hidden from Vermont’s Department of Taxation, enabling those companies to dramatically reduce or even eliminate what they owe Vermont.

So Vermont businesses – contractors, store owners, craft breweries or any other domestic company – are paying more than their fair share to support needed state services, other taxpayers are making up the difference or the state is simply being short changed. Most likely, it is a little of all three.

A January 2019 study also done by the Institute on Taxation and Economic Policy approximated the cost of multinational profit shifting as potentially accounting for \$31 million dollars in lost revenue annually to the Green Mountain State and up to \$17 billion to the United States as a whole.

Under worldwide combined reporting, companies report activities for their entire enterprise without regard to borders. This is what they do now for domestic operations in every U.S. state. It’s what they also already do for their own corporate accounting and obviously any well-run business is doing this in every jurisdiction across the globe. However, now they don’t share that data with Vermont, which would allow your Taxation Department to more accurately assess whether these multi-nationals actually pay their fair share. And that’s the real bottom line, a level playing field and fair competition for everyone doing business in Vermont.

Thank you.

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