United States

Wyden Opening Tax Evasion Inquiry Based on Panama Leak

The Senate Finance Committee’s top Democrat is going to investigate tax evasion based on leaked documents from a Panamanian law firm.

Sen. Ron Wyden (D-Ore.) said he believes that digging deeper should help strengthen anti-fraud efforts, along with tougher standards for foreign banks to tell U.S. tax authorities about U.S.-owned accounts under the Foreign Account Tax Compliance Act. Wyden also called for a registry of companies’ beneficial owners for law-enforcement purposes.

The Panama law firm set up shell corporations to help clients avoid taxes (65 TMIN, 4/5/16).

“I just think there are issues that certainly raise the potential of tax evasion kinds of questions,” he told reporters April 8. “We’re dealing with inversions, we’re dealing with gaming, we’re dealing with this double standard.”

Wyden said he would open the inquiry on his own, as the committee’s ranking member. No reaction was offered by Senate Finance Committee Chairman Orrin G. Hatch (R-Utah).

Treasury Beneficial Ownership Rule Imminent. The Panama Papers scandal comes as Treasury is preparing to issue a final rule that it says will give the U.S. broader ability to track down the “beneficial owners” of shell corporations set up for tax evasion and other financial crimes.

In an April 7 letter released by Wyden, Treasury said it continues to work on the rule and couldn’t yet discuss its wording, but stressed that it is one of the government’s highest priorities. The letter said the final regulation is imminent.

As proposed in 2014, the rule requires banks to get a lot more information on beneficial ownership at the time an account is opened.

Wyden Wants Fix. But some have said that if Treasury doesn’t fix the definition of beneficial ownership in the 2014 rule by changing a 25 percent ownership requirement to 10 percent, it will let foreign companies go on setting up shell corporations to help clients evade taxes and commit other wrongdoing.

Wyden said at the briefing he strongly supports that change to 10 percent.

“I’m going to push very hard for tougher rules in that area,” he said. “And then beyond that, it seems to me the next step is to create a registry of beneficial owners of shell companies.”

The administration has responded favorably to the registry idea, Wyden said.

Elise Bean, former staff director and chief counsel of the Senate Permanent Subcommittee on Investigations, said April 8 that the Panama scandal “is another wakeup call on the need to eliminate corporations with hidden owners.”

The subcommittee’s former chairman, Sen. Carl Levin (D-Mich.), who retired from the Senate in 2014, wrote a letter to Treasury sharply criticizing the proposed rule when it was issued. Bean said while U.S. banks now do “a pretty good job” of identifying the true owners of corporations seeking to open accounts with them, that could change if a “badly drafted” Treasury rule is finalized.

‘Badly Flawed.’ Bean said that as proposed, the rule would let banks treat a Mossack Fonseca employee named president of a shell corporation as the “beneficial owner” of that corporation, when that employee has no ownership role at all.

“If Treasury fails to fix that badly flawed provision, it will weaken current U.S. banking practice, while helping the Mossack Fonsecas of the world to continue concealing the owners of the corporations they manage,” she said.

It remains unclear whether Treasury has made changes to the final rule that respond to concerns voiced by lawmakers and others.

The Wyden development came the same day that government officials around the world called on the Organization for Economic Cooperation and Development to convene its group to combat tax shelters in light of the Panama documents’ revelations. The officials asked the OECD to open a “special project meeting” of the Joint International Tax Shelter Information and Collaboration (JITSIC) network (see related story in this issue).

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Text of Treasury’s April 7 letter can be found at http://src.bna.com/dZh.