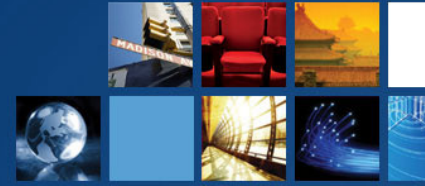




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LAW BLOG



Federal Bill to Discourage Offshoring and Use of Tax Havens Reintroduced

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Rep. Jerry McNerney (D-Calif.) has reintroduced legislation designed to discourage corporations from offshoring jobs. The Stop Outsourcing and Create American Jobs Act of 2011 (H.R. 3338) allows the federal government to give contracting preferences to companies that have not offshored jobs and substantially increases penalties for companies that use illegal tax havens. Rep. McNerney previously had introduced the same legislation in June 2010, but the bill (H.R. 5622) never made it out of committee.

The Act would require federal departments and agencies to ask corporations about their outsourcing practices when those companies seek government contracts, and would provide contracting preferences for those companies that have not engaged in “outsourcing” – defined as the “laying off of a United States worker from a job, and the hiring or contracting for the same job to be performed in a foreign country” – during the prior year. Corporations that lie about their “outsourcing” practices could be fined up to the value of the contract sought, and would be barred for two years from seeking new government contracts. Any revenue raised from fines would go towards pay down the national debt.

The Act would also direct the Secretary of the Treasury to develop and publish, within one year of the bill’s enactment and every three years thereafter, a list of countries determined to be offshore tax havens that help corporations to outsource jobs based on certain enumerated criteria, including tax rate in the country, lack of effective exchange of information between governments, lack of transparency in the financial services sector, lack of requirements of substantial economic activity, and incentives that may encourage a U.S. corporation to invest abroad instead of in the U.S., as well as other factors the Secretary deems relevant.

The Act would also amend the Internal Revenue Code of 1986 to increase various penalties for corporate tax evasion practices related to returns, documents and activities in which a “tax haven country” as established by the Treasury is involved.

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