Congressman Ron Paul U.S. House of Representatives June 12, 2002

BAD TAX POLICY SENDS COMPANIES OVERSEAS

Mr. PAUL. Mr. Speaker, I wish to call my colleagues' attention to the following article entitled "Bad Tax Policy: You Can Run ....." by Daniel Mitchell, McKenna Senior Fellow at the Heritage Foundation. Mr. Mitchell discusses the practice of companies reincorporating in foreign jurisdictions to reduce their tax liability. As Mr. Mitchell points out, reincorporation benefits shareholders and American workers. This is because reincorporation In a low-tax foreign jurisdiction makes companies more competitive, thus enabling the companies to create new and better jobs for working Americans. Furthermore, reincorporation helps protect American companies from corporate takeovers by foreign investors. America's anti-competitive tax system is a major reason why several US companies have been taken over by foreign business interests.

In the vast majority of cases, when a company moves its corporate headquarters to a foreign jurisdiction, it maintains its physical operations in America. In fact, Mr. Speaker, Stanley Company, whose recently-announced decision to incorporate in Bermuda has caused much handwringing over reincorporation, will not be laying off a single American worker as a consequence of their action!

Though reincorporation benefits American investors and workers, some of my colleagues have objected to reincorporation because this action deprives the government of revenue. Some have even gone so far as to question the patriotism of companies that reincorporate. However, there is nothing unpatriotic about trying to minimize one's tax burden to enhance economic competitiveness. In fact, it could be argued that since reincorporation helps companies create new jobs and expand the American economy, those who reincorporate are behaving patriotically.

One also could argue that it is those who oppose reincorporation who do not grasp the essence of the American system. After all, two of the main principles underlying the Constitution and the Declaration of Independence are limited government and respect for private property. In contrast, opponents of reincorporation implicitly assume that the government owns all of a nation's assets; therefore taxpayers never should take any actions to deny government what the politicians have determined to be their "fair share." Mr. Speaker, this philosophy has more in common with medieval feudalism than with the constitutional republic created by the drafters of the Constitution.

In conclusion, Mr. Speaker, I once again urge my colleagues to read Mr. Mitchell's article, which forcefully makes the case that taxing offshore income is economically destructive. Such taxation also is inconsistent with the respect for individual liberty and private property rights which forms the foundation of America's constitutional republic, as well as a threat to the sovereign right of nations to determine the tax treatment of income earned inside national borders. I hope my colleagues will reject efforts to subject companies that reincorporate overseas to burdensome new taxes and regulations. Expanding federal power in order to prevent companies from reincorporating will only kill American jobs and further weaken America's economy.

[From the Washington Times, May 8, 2002] BAD TAX POLICY: YOU CAN RUN ..... (By Daniel Mitchell)

The worst Supreme Court decision of all time? One of the leading candidates has to be the infamous 1857 Dred Scott decision, in which the Supreme Court ruled that slaves did not gain freedom by escaping to nonslave states.

Instead, they were considered property and had to be returned to their "owners."

Some U.S. companies soon may be treated in a similar manner, thanks to legislation being touted by Sens. Max Baucus, Montana Democrat, and Charles Grassley, Iowa Republican.

It all starts with the Internal Revenue Code, which forces U.S.-based companies to pay an extra layer of tax on income earned in other countries.

In an effort to protect the interests of workers, shareholders and consumers, some of these companies are escaping bad U.S. tax law by rechartering in Bermuda.

This is a win-win situation for America. We get to keep factories and headquarters in America, and our companies remain on a level playing field with businesses based in Europe and elsewhere.

Not so fast, Sens. Baucus and Grassley are saying. They want to stop "corporate expatriations," even though they keep American jobs in America and help U.S. companies compete with their counterparts in Europe and Asia.

Their legislation would forbid U.S. companies from re-chartering in countries with better tax laws.

The politicians who support this are acting as if these companies belonged to the government. Yet when House Minority Leader Richard Gephardt, Missouri Democrat, for instance, accuses them of being "unpatriotic," he never explains what's so patriotic about higher taxes and noncompetitive tax policy.

Republicans are doing their share of business-bashing, too. Mr. Grassley claims that corporate expatriations are :immoral," as if companies would be moral if they instead kept their U.S. charters and fired some of their workers.

If politicians are upset that some companies want to recharter, they should blame themselves for trying to tax "worldwide" income. An American firm competing against a Dutch firm for a contract in Ireland, for instance, must pay a 35 percent tax on its income- and the lion's share goes to the IRS.

The Dutch firm, by contrast, pays only the 10 percent Irish tax on its Irish-source income because the Netherlands doesn't tax income earned outside its borders.

Before giving the IRS more power, politicians should consider the following:

Expatriation helps control government waste. High-tax California can't stop companies from moving to low-tax Nevada. Knowing this helps deter the big-spenders in the state capitol from wasting even more money. The politicians in Massachusetts must exercise some restraint because they know local businesses can flee to low-tax New Hampshire. Nations also should be subject to market discipline. This is why Washington politicians shouldn't stop companies from escaping bad U.S. tax law.

Expatriation protects American jobs. Rechartering in another jurisdiction doesn't mean factories will go overseas. Nor does it require a company to move its headquarters. It simply means a company is chartered under the laws of a different jurisdiction, much as many American companies are chartered in Delaware, but operate factories and have their home offices in other states. In the case of expatriations, the newly formed foreign company still maintains its U.S. operations, but now won't have to fire workers since it can compete more effectively with overseas businesses.

Expatriation is not tax evasion. All corporations, regardless of where they're based, pay tax to the IRS on all profits they earn in the United States. This is true of U.S.-based companies, and it's true of all foreign-based companies- including those that expatriate. All that changes is that expatriating companies no longer have to pay taxes on income earned outside America's borders. Since worldwide taxation is misguided tax policy, this is a positive result. Indeed, every tax reform plan, including the flat tax, is based on this common-sense principle of "territorial" taxation.

Now is hardly the time, with the economy in the midst of recovery, for Washington politicians to make U.S. companies less competitive. Nor is it the time to give the IRS the power to prohibit businesses from rechartering in jurisdictions with more sensible tax laws. Instead of treating companies as if they're federal property, Sens. Grassley and Baucus should be fixing the problems in the tax code.