

Mr. MORAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from New Jersey (Mr. BOOKER), the Senator from New York (Mrs. GILLIBRAND), and the Senator from California (Ms. HARRIS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 56, nays 40, as follows:

[Rollcall Vote No. 205 Ex.]

YEAS—56

Alexander	Gardner	Perdue
Barrasso	Graham	Portman
Blackburn	Grassley	Risch
Blunt	Hawley	Roberts
Boozman	Hoeven	Romney
Braun	Hyde-Smith	Rounds
Burr	Inhofe	Rubio
Capito	Isakson	Sasse
Cassidy	Johnson	Scott (FL)
Collins	Jones	Scott (SC)
Cornyn	Kennedy	Shelby
Cotton	Lankford	Sinema
Cramer	Lee	Sullivan
Crapo	Manchin	Thune
Cruz	McConnell	Tillis
Daines	McSally	Toomey
Enzi	Moran	Wicker
Ernst	Murkowski	Young
Fischer	Paul	

NAYS—40

Baldwin	Hirono	Schatz
Blumenthal	Kaine	Schumer
Brown	King	Shaheen
Cantwell	Klobuchar	Smith
Cardin	Leahy	Stabenow
Carper	Markey	Tester
Casey	Menendez	Udall
Coons	Merkley	Van Hollen
Cortez Masto	Murphy	Warner
Duckworth	Murray	Warren
Durbin	Peters	Whitehouse
Feinstein	Reed	Wyden
Hassan	Rosen	
Heinrich	Sanders	

NOT VOTING—4

Bennet	Gillibrand
Booker	Harris

The nomination was confirmed.

The PRESIDING OFFICER. Under the previous order, the motion to reconsider is considered made and laid upon the table, and the President will be immediately notified of the Senate's action.

CLOTURE MOTION

The PRESIDING OFFICER. Pursuant to rule XXII, the Chair lays before the Senate the pending cloture motion, which the clerk will state.

The senior assistant legislative clerk read as follows:

CLOTURE MOTION

We, the undersigned Senators, in accordance with the provisions of rule XXII of the Standing Rules of the Senate, do hereby move to bring to a close debate on Treaties Calendar No. 1, Treaty Document No. 113-4, the Protocol Amending the Tax Convention with Spain.

Mitch McConnell, Mike Crapo, John Thune, Pat Roberts, Thom Tillis, Roger F. Wicker, Mike Rounds, Roy Blunt, Shelley Moore Capito, Steve Daines, Johnny Isakson, Kevin Cramer, John Boozman, Richard Burr, John Hoeven, John Cornyn, Lindsey Graham.

The PRESIDING OFFICER. By unanimous consent, the mandatory quorum call has been waived.

The question is, Is it the sense of the Senate that debate on The Protocol Amending the Tax Convention with Spain shall be brought to a close?

The yeas and nays are mandatory under the rule.

The clerk will call the roll.

The senior assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from New Jersey (Mr. BOOKER), the Senator from New York (Mrs. GILLIBRAND), the Senator from California (Ms. HARRIS), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 94, nays 1, as follows:

[Rollcall Vote No. 206 Ex.]

YEAS—94

Alexander	Graham	Reed
Baldwin	Grassley	Risch
Barrasso	Hassan	Roberts
Blackburn	Hawley	Romney
Blumenthal	Heinrich	Rosen
Blunt	Hirono	Rounds
Boozman	Hoeven	Rubio
Braun	Hyde-Smith	Sasse
Brown	Inhofe	Schatz
Burr	Isakson	Schumer
Cantwell	Johnson	Scott (FL)
Capito	Jones	Scott (SC)
Cardin	Kaine	Shaheen
Carper	Kennedy	Shelby
Casey	King	Sinema
Cassidy	Klobuchar	Smith
Collins	Lankford	Stabenow
Coons	Leahy	Sullivan
Cornyn	Lee	Tester
Cortez Masto	Manchin	Thune
Cotton	Markey	Tillis
Cramer	McConnell	Toomey
Crapo	McSally	Udall
Cruz	Menendez	Van Hollen
Daines	Merkley	Warner
Duckworth	Moran	Warren
Durbin	Murphy	Whitehouse
Enzi	Murphy	Wicker
Ernst	Murray	Wyden
Feinstein	Perdue	Young
Fischer	Peters	
Gardner	Portman	

NAYS—1

Paul

NOT VOTING—5

Bennet	Gillibrand	Sanders
Booker	Harris	

The PRESIDING OFFICER. On this vote, the yeas are 94, the nays are 1.

The motion was agreed to.

EXECUTIVE SESSION

THE PROTOCOL AMENDING THE TAX CONVENTION WITH SPAIN

The clerk will state the treaty.

The senior assistant legislative clerk read as follows:

Treaty Document No. 113-4, The Protocol Amending the Tax Convention with Spain.

Pending:

McConnell amendment No. 910, of a perfecting nature.

McConnell Amendment No. 911 (to Amendment No. 910) to change the enactment date.

The PRESIDING OFFICER. The Senator from Idaho.

ORDER OF PROCEDURE

Mr. RISCH. Mr. President, I ask unanimous consent that amendment No. 910 be withdrawn and the only amendments in order to Treaties Calendar No. 1 be the Paul amendment Nos. 924 to the treaty and 921 to the resolution of ratification; further, that at 5 p.m. today, the Senate vote on the Paul amendment No. 924; that following disposition of that amendment, the resolution of ratification be reported and the Senate vote on Paul amendment No. 921 take place; that following disposition of that amendment, the Senate vote on the resolution of ratification with no intervening action or debate; that if the resolution of ratification is agreed to, the motion to reconsider be considered made and laid upon the table and the President be immediately notified of the Senate's action; further, that the only amendments in order to treaties Calendar Nos. 2, 3, and 4 be the Paul amendment Nos. 922, 919, 923, 918, and 920; finally, that the cloture motions in relation to treaties Calendar Nos. 2, 3, and 4 be withdrawn, the pending amendments to the treaties be withdrawn, and the Senate vote on ratification of the treaties at a time to be determined by the majority leader in consultation with the Democratic leader on Wednesday, July 17.

Finally, I ask unanimous consent that the cloture motions with respect to the Corker, Blanchard, and Tapia nominations ripen following disposition of Treaties Calendar No. 4.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Mrs. BLACKBURN assumed the Chair.)

The PRESIDING OFFICER (Mr. CASSIDY). Under the previous order, the pending amendments are withdrawn.

The Senator from Kentucky.

AMENDMENT NO. 924

Mr. PAUL. Mr. President, I call up my amendment No. 924.

The PRESIDING OFFICER. The clerk will report the amendment.

The senior assistant legislative clerk read as follows:

The Senator from Kentucky [Mr. PAUL] proposes an amendment numbered 924 to Treaty Document No. 113-4.

Mr. PAUL. I ask unanimous consent that the reading of the amendment be waived.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To amend the Protocol to protect tax privacy)

In paragraph 1 of Article 27 of the Convention, as amended by Article XIII of the Protocol, strike "such information as is

foreseeably relevant” and insert “such information as is individualized and relevant to an individual investigation”.

Mr. PAUL. Mr. President, for several years now, I have been working on tax treaties that we have with other countries to try to protect Americans’ privacy. I think it is very important that your personal information—what you buy with your credit card, what checks you write, and what you do with your bank account—is private. It is yours, and it is not to be sifted through or rummaged through by the government.

I am very, very concerned that, over time, particularly with technology, the IRS is gaining too much power at the push of a button to simply sift through our bank accounts looking for anomalies.

I think it is important that we protect Americans who live overseas. About 8 million Americans live overseas, and I think the vast majority of them are law-abiding citizens.

This debate has been going on for several years now. I first tried to engage the Obama administration in this. We had meeting after meeting but no meaningful engagement. Currently, we have been involved in negotiations with the Trump administration, which has been more open to discussions of how we protect Americans’ privacies. Unfortunately, these negotiations were sabotaged by the Republican leader, who chose to bring these tax treaties forward at a time when we were in the middle of negotiations. This is very disappointing to me because I think we were at the point of actually achieving a deal that would protect the privacy of Americans. This process has been severely damaged and short-circuited by the Republican leader’s choosing to push this forward and destroy the negotiations that we were having at the time.

When we look at these treaties, and we say, “well, how could we make them better,” there are ways that we could actually make them better. There are also ways that these treaties could have come up at any point in time in the past. No one Senator can really block legislation. The fact that this legislation hasn’t come up for several years is really due to the fact that the Republican leader has failed to engage in any meaningful compromise or discussion over these.

The treaties are being brought up against my objections now. So they could have been brought up against my objections 2 years ago, 4 years ago, or 6 years ago. Really, the fault and the responsibility for the delay of these tax treaties lies squarely at the foot of the Republican leader, who has failed to engage on this subject and has, rather, chosen at the end just to rush them through without any meaningful debate.

Americans are constitutionally guaranteed to be free from unreasonable, suspicionless search—or at least we used to be. Today this Chamber begins consideration of four tax treaties, and

each one of them contains provisions that would violate the fundamental right to be free from unreasonable searches.

To be sure, these treaties would bestow benefits to the United States and our trading partners, and those provisions have my support. In fact, I have said for years now that I support the gist of the treaties and that they try to prevent double taxation and they make it easier for companies to do business overseas, as well as to do business in our country. That is why I have said from the beginning: Let’s negotiate a settlement. Let’s try to put taxpayer protections into the treaties. But at every point we have been stymied.

I don’t think the benefits of these treaties should come at the grave expense of violating the rights of every American with a foreign bank account, regardless of whether there is a shred of evidence that a crime has been committed.

These treaties make it easier for tax authorities, such as the IRS, to obtain an American citizen’s bank deposit account information. Previously, the IRS could only obtain such information if it was necessary to address a tax dispute, but that is not the standard these treaties will keep. In the past, there had to be at least an accusation of wrongdoing, an accusation of fraud, or an accusation that a taxpayer was doing something against the law. These treaties, though, would allow the IRS—the government Agency that instills terror in every citizen it contacts, the government Agency that has almost limitless power to put anybody out of business—to obtain individual bank account records if that information is “foreseeably relevant” or “may be relevant.”

Think for a minute what the standard is here. So if you happen to be an American who does business overseas, if it may be relevant, the government can look in your bank account. Really, the standard is “may be relevant” to the Tax Code, “may be relevant” to a question, instead of “is relevant” to an active investigation concerning wrongdoing by a taxpayer. I think this is a big mistake. It is going to lead to bulk transfer of information from countries back and forth.

We live in an era where some people leave one country or another, hoping to get away from totalitarianism and hoping to get away from the snooping authorities that may well debit their account or control their account based on their political behavior. I think it is a mistake to allow the information to be transferred back and forth without any kind of standard. The standard is “foreseeably relevant,” or “may be relevant.” What kind of standard is that?

Historically, the standard required, at the very least, is an accusation of a crime. It will no longer require that. Will it require suspicion of a crime? No, it will require anything the government asks that it may be relevant to the treaty, that it may be relevant to

the Tax Code, which is basically no standard at all. No American overseas will have any kind of protection of their privacy.

Some recent international court decisions have provided an idea as to what meets this new standard. According to the Swiss Federal Supreme Court, under the new standard of these new tax treaties and the “foreseeably relevant” standard, an information request will only be denied if the link between the requested data and the information is improbable. No consideration is necessary as to whether there is reasonable suspicion of a crime. People can go after the information, basically, based on no accusation of a crime or no suspicion of a crime. It will be a fishing expedition.

Perhaps we should thank the Swiss Federal Supreme Court for effectively telling us what we already knew, that the “foreseeably relevant” standard is really no standard at all.

At a time when the United States is over \$22 trillion in debt and running annual trillion-dollar deficits, these treaties would empower the IRS to obtain sensitive bank account information under the weakest of pretenses. In short, the information is exchanged with no questions asked, no reasonable suspicion, and no due process in an effort to swell the coffers of the U.S. Treasury.

I am outraged by this. The Senate should be outraged, and the American people should be outraged that their liberties are so cavalierly cast aside to accommodate the IRS’s perpetual search for more taxpayers to shake down.

My amendment to the treaties would end bulk exchanges of financial records by simply mandating that the United States and our treaty partners would exchange information only if an identified individual is subject to an individual investigation related to the enforcement of the Tax Code. I am not against going after people not paying their taxes, but I am against going after the 8 million Americans who live overseas and are just trying to abide by the laws and just trying to earn a living.

While those who have evaded their tax obligations must be held to account, the power to search and seize is not absolute in the United States or in any free country. A government dedicated to securing the blessings of liberty does not allow the IRS to rummage through our bank accounts hoping to find a crime.

Obtaining the deposit account information of an American should be done on an individualized basis without resorting to indiscriminate sweeps of sensitive information gathering.

I urge every Senator to stand up for the Fourth Amendment rights of all Americans and to support my amendment.

My amendment would simply do this. It would put a standard into the treaties that says that there has to be suspicion. You have to individualize an investigation. You can't push a button and search through 8 million Americans' bank records overseas. If we allow this to go without personal privacy protections, we are setting ourselves up for a dystopian nightmare, where the government looks at every transaction, every purchase, and everything we do in our lives. It is a big mistake to let this go.

There is no reason why this couldn't be corrected.

I have spoken to the countries involved, and they have assured me that there is not a problem at all with making these amendment changes to the treaties. Yet they have fallen on deaf ears.

It is a sad day for Americans taxpayers and a sad day for privacy that these tax treaties are being rushed through. I strongly object and hope other Senators will consider voting for taxpayer privacy.

The PRESIDING OFFICER. The Senator from Idaho.

Mr. RISCH. Mr. President, I ask unanimous consent that the vote take place after the completion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. RISCH. Mr. President and fellow Senators, today the Senate is considering four tax protocols. These treaties—and these are treaties—have been approved by substantial bipartisan majorities in the Foreign Relations Committee in multiple successive Congresses. Two of these four protocols were reported out of committee without objection during the four most recent Congresses. It is in the interest of U.S. taxpayers that these be approved, and it is time for these to be approved.

I am honored that on my watch, we have finally brought these to the floor and brought them here at this moment to actually adopt these treaties, which will be adopted when the vote is called.

Tax treaties benefit U.S. businesses and citizens in a number of ways. Tax treaties create certainty for the business community. They promote a favorable business environment by minimizing uncertainty and helping U.S. businesses grow.

In the case of Americans working and conducting business abroad, tax treaties are indispensable in that respect. Tax treaties facilitate trade and investment by preventing double taxation. They provide U.S. taxpayers and investors with greater clarity about their tax burden. They provide tools to ensure that U.S. taxpayers are treated equally and fairly overseas, allowing them to invest and compete abroad with the knowledge that they will not face discriminatory barriers.

Tax treaties strengthen the ability of U.S. businesses to explore new opportunities abroad by establishing a predictable framework for how a tax burden

will be assessed. These treaties also provide tools to help resolve tax disputes between the United States and our tax treaty partners. Without these tools, U.S. investors would have limited ability to resolve these problems on their own.

It is not just businesses that benefit from tax treaties. These treaties impose reasonable limits in the amount of tax the other country can impose on a U.S. person who might live or work overseas. Tax treaties help us ensure that the United States can maintain an appropriate tax base by preventing tax fraud.

One of our colleagues has raised concerns about how the treaties deal with individual privacy and sensitive information. These treaties protect taxpayer information in a manner consistent with decades-long, established standards and practices under U.S. domestic law. These standards and practices have been upheld by the U.S. Supreme Court for more than half of a century. They have been used by administrations of both parties for decades. Changing the standard now would create confusion related to global administration of our tax laws.

I do not view this issue as an impediment or a change to how these matters have been successfully handled in the past. I ask my colleagues to oppose any amendments to these treaties. The treaties are consistent with the U.S.-modeled tax treaty and with a decades-long practice of implementing and enforcing our tax laws.

To be clear, any amendment to this resolution that materially changes the underlying provisions of these treaties will require acceptance by both our President and the foreign partner or the treaty cannot be ratified. These amendments constitute a material change to the treaties. They are damaging and would lead to, potentially, years of further delay when further delay is simply not acceptable.

These treaties had been held up for 8 years, and I am very pleased that this week we are finally moving forward in our role of advice and consent to the President on these commonsense treaties. It is time to move for the Senate to act on these treaties and a vote.

I urge my colleagues to approve them and to vote against the proposed amendments.

Mr. RISCH. Mr. President, I ask unanimous consent that Senator PAUL have up to 5 minutes of debate prior to the second tranche of votes in this series.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

VOTE ON AMENDMENT NO. 924

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the pending amendment.

Mr. GRASSLEY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from Colorado (Mr. BENNET), the Senator from New York (Mrs. GILLIBRAND), the Senator from California (Ms. HARRIS), and the Senator from Vermont (Mr. SANDERS) are necessarily absent.

The PRESIDING OFFICER (Ms. MCSALLY). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 4, nays 92, as follows:

[Rollcall Vote No. 207 Ex.]

YEAS—4

Cruz	Paul	
Lee	Sullivan	
NAYS—92		
Alexander	Gardner	Portman
Baldwin	Graham	Reed
Barrasso	Grassley	Risch
Blackburn	Hassan	Roberts
Blumenthal	Hawley	Romney
Blunt	Heinrich	Rosen
Booker	Hirono	Rounds
Boozman	Hoeben	Rubio
Braun	Hyde-Smith	Sasse
Brown	Inhofe	Schatz
Burr	Isakson	Schumer
Cantwell	Johnson	Scott (FL)
Capito	Jones	Scott (SC)
Cardin	Kaine	Shaheen
Carper	Kennedy	Shelby
Casey	King	Sinema
Cassidy	Klobuchar	Smith
Collins	Lankford	Stabenow
Coons	Leahy	Tester
Cornyn	Manchin	Thune
Cortez Masto	Markey	Tillis
Cotton	McConnell	Toomey
Cramer	McSally	Udall
Crapo	Menendez	Van Hollen
Daines	Merkley	Warner
Duckworth	Moran	Warren
Durbin	Murkowski	Whitehouse
Enzi	Murphy	Wicker
Ernst	Murray	Wyden
Feinstein	Perdue	Young
Fischer	Peters	

NOT VOTING—4

Bennet	Harris
Gillibrand	Sanders

The amendment (No. 924) was rejected.

The PRESIDING OFFICER. The clerk will report the resolution of ratification.

The bill clerk read as follows:

Resolution of Advice and Consent of the Protocol Amending the Convention between the United States of America and the Kingdom of Spain for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with respect to Taxes on Income and its Protocol, signed at Madrid on February 22, 1990, and a related Memorandum of Understanding, signed on January 14, 2013, at Madrid, together with correcting notes dated July 23, 2013, and January 31, 2014 (the Protocol).

The PRESIDING OFFICER. The Senator from Kentucky.

AMENDMENT NO. 921

Mr. PAUL. I call up my amendment No. 921.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Kentucky [Mr. PAUL] proposes an amendment numbered 921 to the resolution of ratification for treaty document No. 113-4.

The amendment (No. 921) is as follows: