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May 18, 2018

U.S. House of Representatives
Committee on Ways & Means
1102 Longworth House Office Bldg.
Washington, DC 20515
Via email to: waysandmeans.submissions@mail.house.gov

Re: "Hearing Series on Tax Reform: Growing Our Economy and Creating Jobs," 05/16/18

Dear Honorable Committee Members,

On behalf of Public Citizen's more than 400,000 members and supporters, we write to provide our perspective on the "Tax Cuts and Jobs Act," (Public Law No. 115-97.) This legislation has done much to enrich wealthy shareholders, corporate CEOs and Wall Street bankers and has done little to assist average Americans. We urge you to reevaluate the legislation and go back to the drawing board in a bipartisan fashion to have a real discussion about what would be best for Americans-- including which glaring loopholes in our tax code to close and how to grow revenues to provide real investment in our communities.

The Tax Cuts and Jobs Act would be better named the "Benefits Cuts and Lost Jobs Act" since it will lead to declining services for families that are suffering and fewer health care dollars for seniors and other vulnerable populations who need care. And instead of creating jobs, the new tax law will kill jobs by opening the door to further outsourcing of investments by multinational corporations. In short, the legislation is unfair, cruel, and disliked.

The tax legislation is unfair in several ways—first, we abhor the unequal footing created by the bill for domestic companies as compared to multinational corporations. Unlike Main Street U.S. companies, multinational corporations are able to make use of accounting gymnastics to book their profits to offshore subsidiaries housed in low tax countries—tax havens—as a way to reduce or eliminate their U.S. tax bill. Instead of fixing this problem, the Tax Cuts and Jobs Act worsens the offshoring of investments by allowing deductions that zero out, or at most halve, the tax rate applied to profits said to be made by offshore branches, keeping the incentive in place to book profits to foreign subsidiaries. The provisions included meant to minimize tax avoidance will actually mean outsourcing of investments will be worse since companies are more likely to make physical investments offshore, like building plants, in order to lower their taxes. According to the Congressional Budget Office (CBO), "By locating more tangible assets abroad, a corporation is able to reduce the amount of foreign income that is categorized as GILTI [global intangible low-tax income]. Similarly, by locating fewer tangible assets in the United States, a corporation can increase the amount of U.S. income that can be deducted as FDII [foreign-derived intangible income]. Together, the provisions may increase corporations' incentive to locate tangible assets abroad."[1]

The tax legislation was also unfair for the way that it rewarded tax dodgers with a windfall for utilizing past avoidance schemes. Under the previous system of deferral, corporations had an estimated $2.6 trillion in profits "booked offshore" on which they owed an estimated $752 billion in taxes. Instead of making these companies pay what they owe, the tax bill gave a windfall to those tax dodgers by allowing deferred profits to be taxed at the bargain basement rate of either 8 or 15.5 percent. This gave around a $400 billion payout for companies that had gambled on using profit shifting to defer paying their taxes in hopes such a handout would eventually come their way. We are bound to see the same failure as when a similar tax holiday was tried in 2004.

Already we're seeing companies using the money they have received from their discounted tax rate to pay shareholders dividends and buy back stock to increase the value of the existing shares, all the while cutting existing jobs. This clearly breaks promises about this bill made by the Republicans to American workers, who were sold the lie that these cuts are going to "trickle down" to everyday wage earners, instead of further lining the pockets of Wall Street investors. According to estimates of the results so far from the Tax Cuts and Jobs Act, corporations are spending more than 60 times as much on stock buybacks than they are shelling out for increased wages or one-time bonuses.[2]

The tax bill also further rigs our economy to benefit the wealthy in numerous ways. Study after study has shown just how much the tax breaks were tilted toward the rich. It's estimated that 83 percent of the benefits of the tax cuts will go to the top 1%.[3] And, late last month, the Joint Committee on Taxation estimated that millionaires stand to gain handsomely from the changes, including the provision related to "pass-through" companies where almost a full half of the benefit will go to persons making $1 million or more, with that figure surpassing the halfway point by 2024.[4] This when millionaires are only .3 percent of tax filers.

And, as Americans continue to struggle to regain their economic footing after the Wall Street crash and Great Recession, it was unfair for the legislation to lower taxes on the top earners in our society, down from 39.6 percent to 37 percent. The Tax Cuts and Jobs Act also benefitted the wealthy by further weakening the estate tax by doubling the exemption limits, meaning far fewer estates will be subject to the tax. The previous thresholds were far too generous, and by increasing the exemption to more than $11 million (or $22 million-plus for married couples,) we further entrench the ability of the "haves" in our society to hoard their wealth, and leave the rest of us to pick up the tab for government services that everyone depends on.

Not only was this legislation unfair, it was also cruel. The tax changes were unkind because senior citizens and working families will be made worse off through the passage of the legislation since decreasing government revenues will mean that funding for services like Medicare, Medicaid, nutrition services, and public education will be shortchanged. The newest estimates from CBO project that the

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[1] U.S. CONGRESSIONAL BUDGET OFFICE, THE BUDGET AND ECONOMIC OUTLOOK: 2018-2028 AT 109-110 (April 9, 2018), https://bit.ly/2Jt8P1b.
[2] *Key Facts: How Corporations Are Spending Their Trump Tax Cuts,* AMERICANS FOR TAX FAIRNESS https://americansfortaxfairness.org/trumptaxcuttruths (viewed on May 18, 2018).
[3] *Distributional Analysis of the Conference Agreement for the Tax Cuts and Jobs Act*, TAX POLICY CENTER (December 18, 2017) https://tpc.io/2Bv5yLd.
[4] JOINT COMMITTEE ON TAXATION, JCX-32R-18: TABLES RELATED TO THE FEDERAL TAX SYSTEM AS IN EFFECT 2017 THROUGH 2026 (April 24, 2018), https://bit.ly/2I0JDyX.

tax cut legislation will increase the U.S. deficit by $1.9 trillion over ten years.[5] And, lawmakers have already brazenly called for cutting of social safety net programs that seniors and families depend on in order to fill the hole caused by these tax cuts that mainly benefit their wealthy corporate donors. Moreover, the tax legislation is cruel because it ended the Affordable Care Act's insurance mandate, which will harshly push 13 million Americans out of the markets and will raise premiums for the rest of us[6], leaving our nation that much further away from reaching the goal of universal health care, a right enjoyed by citizens of other industrialized nations.

In addition to being unfair and cruel—or likely because of it—the tax cut legislation is disliked. Despite a momentary uptick, public opinion remains squarely against the law and approval of the bill continues to decline.[7] Even prominent Senators are speaking unfavorably about the law, most recently Sen. Marco Rubio is quoted as saying, "[corporations] bought back shares, a few gave out bonuses; there's no evidence whatsoever that the money's been massively poured back into the American worker."[8] And, Sen. Corker reportedly remarked, "If it ends up costing what has been laid out here, it could well be one of the worst votes I've made."[9]

In addition to the cuts that will come down the line to services hardworking Americans depend on like health and education programs, much of the reason the tax cuts are so disliked is because they are a clear example of self-dealing because the people who passed this law stand to benefit richly from the changes.[10] For example, many lawmakers have significant income from partnerships or limited liability companies where taxes "pass-through" and are filed by the owners on an individual basis, and a large number of President Trump's own web of companies are formed as LLCs. These business owners now get a 20 percent deduction, subject to some complicated rules and thresholds that are ripe for gamesmanship and that have proven difficult for true small business owners to navigate.[11] While, as noted previously, the majority of the benefit from this provision will go to millionaires.

This unfair, cruel, and disliked bill was clearly the output of a corporate patronage system where campaign contributions go in one end and tax cuts come out of the other. Republican lawmaker Rep. Chris Collins shockingly admitted that his campaign donors were pressuring him to vote for the legislation.[12] The "debate" around the bill was also heavily mired in the swamp that Trump's base so clearly dislikes—Public Citizen research revealed the shocking statistic that more than 60 percent of all D.C. lobbyists weighed in on the bill—more than 7,000 individual lobbyists.[13]

If Congress and the President had truly cared about helping everyday Americans through the tax code changes, they would have actually closed unpopular tax loopholes instead of opening up new ones. For

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[5] U.S. CONGRESSIONAL BUDGET OFFICE, THE BUDGET AND ECONOMIC OUTLOOK: 2018-2028 (April 9, 2018), https://bit.ly/2Jt8P1b.

[6] U.S. CONGRESSIONAL BUDGET OFFICE, REPEALING THE INDIVIDUAL HEALTH INSURANCE MANDATE: AN UPDATED ESTIMATE (Nov. 8, 2017), https://bit.ly/2AugUyh.

[7] See e.g., Ryan Rainey, *Fewer Voters Report Seeing Paycheck Bump From 2017 Tax Law, Opposition to the Tax Code Rewrite Climbs to 39%*, MORNING CONSULT (April 25, 2018) https://bit.ly/2JryhDy; Lydia Saad, *Less Than Half in the U.S. Now Say Their Taxes Are Too High*, GALLUP (April 16, 2018) https://bit.ly/2I2sLdD; John Hardwood, *GOP Tax Cuts Have Gotten Less Popular With Voters, New NBC/WSJ Poll Says*, CNBC (April 16, 2018) https://cnb.cx/2qEpVRb.

[8] *Marco Rubio Offers His Trump-Crazed Party a Glint of Hope,* THE ECONOMIST (April 26, 2018) https://econ.st/2vYOkqv.

[9] Niv Elis, *Corker: Tax Cuts Could be "One of the Worst Votes I've Made,"* THE HILL (April 11, 2018) https://bit.ly/2I2ygc3.

[10] Brian Beutler, *New Memo Shows How Republicans Used Tax Bill to Enrich Themselves*, CROOKED (April 9, 2018) https://bit.ly/2H8twRJ.

[11] Ruth Simon and Richard Rubin, *Crack and Pack: How Companies Are Mastering the New Tax Code*, THE WALL STREET JOURNAL (April 3, 2018) https://on.wsj.com/2HKzoO2.

[12] Dylan Scott, *House Republican: My Donors Told Me to Pass the Tax Bill "Or Don't Ever Call Me Again*," VOX (November 7, 2017) https://bit.ly/2zmmQeO.

[13] TAYLOR LINCOLN, PUBLIC CITIZEN, SWAMPED (REVISED EDITION) (January 30, 2018) https://bit.ly/2FyuTV1.

example, the carried interest loophole, which allows investment fund managers to pay a lower tax rate than teachers or construction workers was barely touched. The same is true for the loophole that allows performance-based bonuses of more than $1 million dollars to be deducted for most employees receiving such exorbitant pay packages from financial firms or other hugely profitable companies.

Americans have come together as a society and agreed to invest in services like health care, education, nutrition assistance, roads, first responders, courts and other essential government programs. But the fact remains that we need tax revenues to fund these services that we depend on and expect. To address that, the tax debate should have also looked at creating new sources of revenue such as by taxing Wall Street trades, among other things. A tax of only 3 cents for every $100 traded would create more than $417 billion in revenue over 10 years. Money that could easily be channeled toward greater investments in our communities that will improve the lives of everyone, not just wealthy shareholders or corporate CEOs.

In America, equal opportunity should mean using taxes to pay for a hand up when you need it, not a handout to the rich who already have so much in comparison. We urge you to repeal the Tax Cuts and Jobs Act and come up with a real tax plan that will benefit all Americans, not just the few who need it the least.

Sincerely,

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