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September 16, 2015

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

Re: opposition to H.R. 961 and H.R. 1430

Dear Chairman Ryan and Honorable Committee Members,

On behalf of Public Citizen's more than 400,000 members and supporters, we strongly urge against permanently extending loopholes in the tax code without some way of paying for those same giveaways. Though the Committee will be considering other tax breaks today, Public Citizen is most concerned with H.R. 961 and H.R. 1430, bills that would extend international tax loopholes that are used to shift profits overseas, eroding the U.S. tax base, and allowing multinational corporations to avoid paying their fair share of taxes.

H.R. 961 and H.R. 1430 are concerned with supposedly "temporary" tax breaks usually contained in the package of credits referred to as the "extenders" given they are routinely extended on a year-to-year basis. Instead of simply extending these loopholes for another year, which would also be unwise; these bills seek to *permanently* extend them. Not only is that egregious in that these tax breaks would not be matched with a "pay-for" or otherwise offset, these giveaways are of the type that incentivize multinational corporations to use accounting maneuvers to book profits to appear generated offshore and other tax avoidance schemes.

Because of the current system of deferral, where taxes may be indefinitely put off until profits are repatriated or "brought back" to the U.S. in the form of dividends or other shareholder payments, multinational corporations are able to play games with their accounting books and transfer profits between entities, usually to companies located in low or no tax jurisdictions (or "tax havens.") This type of corporate tax haven abuse costs the federal government $90 billion in lost revenue every year. In total, more than $2 trillion in profits are booked offshore.

H.R. 961 deals with the tax break called the “active financing exemption.” Under “Subpart F” of the tax code, U.S. companies generally cannot defer paying taxes on the foreign-made income of a subsidiary that is considered “passive,” such as interest, dividends, rents, and royalties. However, with the active financing exemption from Subpart F, a company may defer taxation on profits generated through financing of investments, broadly defined.

H.R. 1430 relates to another costly loophole typically included in the extender package called the “Controlled Foreign Corporation (CFC) Look-Through Rule,” which allows U.S. multinational corporations to defer tax liabilities on income generated by one of its foreign subsidiaries from sources of income such as royalties, interest or dividends.

Together, the Joint Committee on Taxation (JCT) scores these two tax provisions as costing the U.S. government nearly $100 billion between 2016 and 2025. In these times of fiscal austerity, it is unconscionable to consider such a massive permanent loss of revenue, especially without offsetting that revenue loss with a matching “pay-for.”

American small businesses and ordinary taxpayers should not have to bear the cost of tax avoidance schemes by multinational corporations. Permanently extending these supposedly “temporary” tax breaks not only means a huge loss of revenue, it means permanently incentivizing profit shifting and rewarding companies who are reaping the fruits of U.S. government-- including an educated workforce, infrastructure for moving products, and a court system to police transactions—without paying for their fair share of the cost of those services.

Thank you for the opportunity to submit our thoughts on this important topic.

Sincerely,

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