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May 18, 2017

U.S. House of Representatives
Committee on Ways & Means
Washington, DC 20515
Submitted via email to: waysandmeans.submissions@mail.house.gov

Re: Submission for the Record for Hearing Entitled "How Tax Reform Will Grow Our Economy and Create Jobs"

Dear Chairman Brady, Ranking Member Neal, and Honorable Committee Members,

On behalf of Public Citizen's more than 400,000 members and supporters, we urge you to formulate a tax reform package that will benefit average Americans and Main Street businesses, not the wealthy elite and multinational corporations. The voting public understands that the tax code is currently rigged to benefit the richest of the rich and allows some hugely profitable corporations to pay zero taxes while the rest of us taxpayers pick up the tab. It's far past time to change that so that corporations, millionaires and billionaires pay their fair share.

Right now, our nation is suffering under a false austerity. While vital social services like Meals on Wheels and Medicaid are slated to be drastically cut under recent proposed budgets and are expected to see similar cuts in FY2018 proposals as well, America is leaving billions in potential tax revenues on the table by allowing corporations and the rich to game the system.

Trickle-down economics didn't work before and it won't work now. Instead of giving tax cuts to the top classes, we should be increasing the progressivity of our tax system so that those who can pay more—corporations and the rich—do so, rather than the middle class and small businesses.

In 2014, corporations paid taxes equal to less than two percent of the Gross Domestic Product (GDP), but in 1950s the average corporate share was double that, at more than 4 percent share of the GDP[1]. However, in 2014, individuals' tax payments equaled more than 8 percent of the GDP, four times the corporate share.[2] Though our statutory rate is 35 percent, effective rates for corporations are much less, with many profitable companies like General Electric, PG&E and Priceline.com paying no taxes at all in recent years.[3] Corporations utilize public services like our roads, our courts, and our educated workforce, so it is only reasonable to have them cover their portion of the tax responsibility for paying for these essential services.

[1] *Historical Source of Revenue as Percent of GDP, Receipts by Source as Percentage of Gross Domestic Product: 1934-2020,* TAX POLICY CENTER, (Updated Feb. 4, 2015), http://tpc.io/1INzwqu.
[2] *Id.*
[3] MATTHEW GARDNER, ROBERT S. MCINTYRE, AND RICHARD PHILLIPS, THE 35 PERCENT CORPORATE TAX MYTH, INSTITUTE FOR TAXATION AND ECONOMIC POLICY (March 2017), http://bit.ly/2mtMmHY.

One of the most obvious loopholes in need of closure that keeps corporate effective tax rates so low is so-called "deferral," which allows multinational companies to indefinitely avoid paying taxes on the profits that they book offshore, until the point that they are "repatriated" to the U.S. and reinvested or paid out as dividends to shareholders. Right now, there is an estimated $2.6 trillion in profits booked offshore by American corporations, meaning corporations are avoiding an estimated $767 billion in taxes.[4] Deferral provides a hefty incentive for corporations to offshore investments, as that provides the vehicle for profit shifting and other accounting maneuvers to move profits to the books of foreign subsidiaries, and be allowed to defer paying taxes on those profits. True tax reform to benefit the American economy would end deferral and force corporations to pay taxes annually instead of allowing them to use foreign subsidiaries to avoid taxation.

Moreover, allowing a repatriation "holiday" for those hoarded profits would do nothing but further incentivize offshoring since corporations would just bide their time, knowing another tax break would be coming their way, and would continue to defer taxation on their foreign-booked profits. Whereas the huge pot of money sitting (at least on the books) offshore is tempting source of funding for important public investments like infrastructure, to tax those deferred profits at anything less than the full statutory rate would incentivize the type of profit shifting that will continue to erode our tax base for years to come.

The American public is deeply offended by unpatriotic "inverting" corporations that merge with a foreign corporation and reincorporate in another country. The public backlash over inversions stopped several such mergers in their tracks, and Treasury rules to limit serial inverters and profit shifting will do much to stem the tide of inversions. However, comprehensive tax reform would also include measures to stop inversions, such as requiring companies with a majority ownership of U.S. shareholders and management and control of the corporation based in the U.S. to be considered domestic corporations for tax purposes. And, inverting companies should have to pay an exit tax on their foreign-booked deferred profits.

As bad as inversions are, though, if tax reform were to move the U.S. to a territorial system rather than the hybrid global system we are currently under, multinational corporations would not even need to go through the kabuki theater of reincorporating in a foreign country. They would simply move even more profits to the books of foreign corporations, defer paying taxes, and eat away our remaining tax base, leaving the rest of us taxpayers to pick up the pieces.

Nor should the mega wealthy avoid paying their fair share. We should strengthen the estate tax by lowering the exclusion levels and institute other reforms. And, we must keep in place the Alternative Minimum tax, so that every person will contribute a reasonable amount toward the upkeep of our government.

The disastrous economic crash and Great Recession were fueled in part by tax policies that incentivized risk-taking by financial industry professionals. As part of the Take on Wall Street campaign to strengthen financial reforms to protect our nation's economy, we seek to close several loopholes such as disallowing corporate tax deductions for executives earning more than $1 million per year. And, to create greater fairness in the tax code, investment fund managers' income should not be allowed to be taxed as capital gains instead of as wages. And, corporations should not be allowed to deduct from their taxes the cost of settlements for misdeeds.

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[4] INSTITUTE ON TAXATION AND ECONOMIC POLICY, FORTUNE 500 COMPANIES HOLD A RECORD $2.6 TRILLION OFFSHORE (March 2017), http://bit.ly/2pUZEN5.

In addition to closing loopholes, Public Citizen and our allies in the Take on Wall Street campaign are also seeking to enact new, progressive taxes that will require the financial industry to pay their fair share of taxes. For example, though Americans pay sales tax on our purchases like cars, shoes, tools, and everything else, Wall Street traders are not taxed on financial transactions like stock, bond, and derivative trades. To enact a fraction of a percent tax on Wall Street trades would strengthen our economy by calming our markets that are currently prone to flash crashes, exacerbated by high-frequency trading algorithms.[5] In 1914 through 1965, the U.S. had a modest Wall Street tax, also known as a financial transaction tax – ranging from 0.02 to 0.06 percent – in place. n fact, the economy grew at 5 percent annually from 1959 until 1965, the period in which the legacy Wall Street tax most closely resembled modest current day policy proposals. Incentivizing long-term investments over high-speed trading will put capital investments in Main Street America, growing jobs and providing economic security for small businesses. Other taxes like a bank leverage fee or taxing derivatives mark-to-market are also critical improvements that will grow significant revenue while making our markets safer and our economy more stable.

In addition to addressing fairness in our tax code and creating revenue for investing in our economy, comprehensive tax reform should look at other ways that the tax code is used—for example standardizing the definition of electioneering activity in the Internal Revenue Code so that electioneering front groups can be easily distinguished from genuine 501(c) nonprofit organizations and be required to register as political committees. Rules must also be in place to ensure that nonprofits can fully participate in our democracy while ensuring that they play by the rules when it comes to influencing our elections. And, tax reform must absolutely not do more to dilute the voice of the American public by increasing the ability of special interests to influence our elections. For example, that means preserving the Johnson Amendment that prohibits 501(c)3 tax-exempt organizations from funding, endorsing or opposing political candidates. If we were to allow partisan politics into religious and charitable life would threaten the public's confidence that their contributions would be used for universally valued purposes rather than mere partisan politics and would open those institutions to partisan exploitation by donors and leaders with political agendas.

American corporations are reporting record profits. They are dodging taxes at outrageous levels. There is zero rationale for cutting corporate taxes and zero reason to think that lower taxes will generate more investment. We urge you to keep the interests of the American people and Main Street businesses at heart so that wealthy and the financial elite do their civic duties like the rest of us and pay their fair share of taxes. That's the real recipe for a strong and prosperous economy.

Sincerely,

Lisa Gilbert
Vice President of Legislative Affairs
Public Citizen's Congress Watch

Susan Harley
Deputy Director
Public Citizen's Congress Watch

[5] TAYLOR LINCOLN, PUBLIC CITIZEN, THE FINANCIAL TRANSACTION TAX, AN OLD SOLUTION TO A NEW PROBLEM (Oct. 8, 2015), http://bit.ly/2pUZi8U.