

Written Testimony
Of
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Before the Joint Economic Committee

“The Economic Consequences of Tax Complexity”

Thank you Chairman Coats and Ranking Member Maloney for the opportunity to talk with you today about the tax code’s complexity and its impact on the economy.

Anyone who has studied federal tax law or has tried to prepare their own taxes knows that the U.S. tax code is a mind-numbingly complex document.

Over the last century, the federal tax code has expanded dramatically in size and scope. In 1955, the Internal Revenue Code stood at 409,000 words in length. Since then, it has grown to a total of 2.4 million words: almost six times as long as it was in 1955 and almost twice its length in 1985.

However, the tax statutes passed by Congress are only the tip of the iceberg, when it comes to tax complexity. There are roughly 7.7 million words of tax regulations, promulgated by the IRS over the last century, which clarify how the U.S. tax statutes work in practice. On top of that, there are almost 60,000 pages of tax-related case law, which are indispensable for accountants and tax lawyers trying to figure out how much their clients actually owe.

Tax complexity creates real costs for American households and businesses, starting with just the time it takes us to comply with the tax code. The National Taxpayer Advocate estimates that Americans spend over 6 billion hours complying with tax filing requirements, equal to more than 3 million full-time workers doing nothing but tax return paperwork.¹ Indeed, the IRS recently revised its estimate of the hours required to comply with business tax returns from 363 million to 2.8 billion.² Put in dollar terms, those 6 billion hours add up to at least \$168 billion each year, or about 15 percent of total income tax revenues.³

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1 National Taxpayer Advocate, “The Complexity of the Tax Code,” *Annual Report to Congress*, 2012, pp 5-6. <http://taxpayeradvocate.irs.gov/2012-Annual-Report/downloads/Most-Serious-Problems-Tax-Code-Complexity.pdf>
2 Dan Goldbeck, “The IRS’s New Year’s Resolution,” *Insight*, American Action Forum, January 4, 2016. <http://www.americanactionforum.org/insight/the-irss-new-years-resolution/>
3 Taxpayer Advocate, *Annual Report to Congress*, 2012, *ibid*.

Tax complexity, and the fear of making mistakes, motivates about 62 percent of all taxpayers to use tax return preparers, but the percentage climbs to about 73 percent for the poorest Americans claiming the EITC.⁴

But tax complexity creates other costs as well, besides our time. Specifically, many of the most complex features of the tax code distort individual and business behavior in numerous ways that leads to long-run economic harm. And we can measure that economic harm using the Tax Foundation's Taxes and Growth (TAG) Macroeconomic Tax Model.

To illustrate the tax code's harmful economic effects, I've selected a number of examples from the Tax Foundation's forthcoming *Options for Reforming America's Tax Code*. The *Options* book will contain nearly 100 specific policy changes to the individual and corporate tax code that have been scored with the TAG model. Each "Option" will include an estimate of the policy's economic effects (such as on GDP, wages, and jobs), revenue effects (measured conventionally and dynamically), and the distributional effects (also measured conventionally and dynamically).

The Individual Income Tax

I'll begin with the individual income tax code, which is filled with dozens of credits, deductions, limitations and other special provisions that make life more complex for American taxpayers.

Much of the complexity in our tax code results from our attempts to make the system progressive, insuring that as taxpayer's income rise, so too does their tax liability. Over the decades, lawmakers have attempted numerous ways of making the tax system progressive, overtly with graduated tax brackets and subtlety with back-door claw backs.

Progressive Tax Rates

Before the 1986 Tax Reform Act, a married couple was faced with 15 separate tax brackets as high as 50 percent. During the 1970s, those couples face as many as 26 different brackets as high as 70 percent. A taxpayer claiming Head of Household status faced 34 brackets as high as 70 percent.

Today, the tax code has seven brackets, with rates of 10, 15, 25, 28, 33, 35, and 39.6 percent. In many ways, this makes no sense because progressivity can be accomplished with as few as two rates—zero and 15 percent, for example.

⁴ National Taxpayer Advocate, Report to Congress: Fiscal 2010 Objectives, June 30, 2009, p. xxii, http://www.irs.gov/pub/irs-utl/fy2010_objectivesreport.pdf

Naturally, those paying at the 15 percent rate would pay a greater share of their income in taxes than those paying at the zero rate. We know too that marginal tax rates matter. When the “tax price” of earning the next dollar of income gets too high, people will stop working to earn that extra dollar. Economists have referred to these as “success taxes.”⁵

To illustrate the economic benefits of simplifying the progressive tax bracket structure, we consolidated the current bracket structure into three of 10, 25, and 35 percent. The TAG model estimates that this simplification would boost the long-run level of GDP by 1.4 percent, lift after-tax incomes by an average of 3 percent, and create the full-time equivalent of more than 1.1 million jobs.

PEP and Pease

Recognizing that statutory tax rates matter, lawmakers have often turned instead to backdoor efforts to raise additional taxes from higher-income households. Two particular tax code provisions stand out as overly complex attempts to increase taxes on the wealthy: the Pease limitation on itemized deductions and the personal exemption phase-out (PEP).

The Pease limitation on itemized deductions reduces the value of a taxpayer’s itemized deductions by three cents for every additional dollar of income they earn. While the Pease limitation is framed as a limit on itemized deductions, it actually resembles a marginal surtax on high-income taxpayers, with a top rate of 1.188 percent. As a result, repealing the Pease limitation would not only make the tax code less complex, but would increase long-run GDP by 0.3 percent, by removing disincentives on work and investment, and create the equivalent of 187,000 jobs.

Similarly, PEP reduces the value of the personal exemption for upper-middle income households. Because each additional dollar that these households earn leads to a smaller personal exemption, PEP is essentially equivalent to a marginal surtax of at least 1 percent. Repealing PEP would increase long-run GDP by 0.1 percent, by lowering marginal tax rates on upper-middle income households, and would create the equivalent of 87,000 jobs.

The Earned Income Tax Credit

At the other end of the spectrum, lawmakers’ well-intended attempts to use tax policy to help the working poor has not only added vast complexity, but unintentionally added features that can discourage poor people from working more as their incomes rise. A good example is the way in which the Earned Income Tax Credit phases out as a worker’s income increases. Consider this another hidden success tax.

5 Gentry, William H. & R. Glenn Hubbard (2004). *Success Taxes, Entrepreneurial Entry and Innovation*, NBER Working Paper No. w10551.

The EITC calculation formula includes four different phase-in rates, four phase-out rates, and different calculations based on filing status and number of children. It is no surprise that Americans made 219,122 math errors when calculating the EITC in 2014, or that the credit had an improper payment rate of between 22 and 26 percent in 2013.⁶

The complex structure of the EITC has the ironic effect of encouraging more work as the subsidy phases-in, but then it discourages work effort as the subsidy phases out by levying high marginal tax rates on households just over the poverty line. When a married household with two children begins to earn more than \$23,630, the EITC starts to phase out at a rate of 21.06 percent. This high phase-out rate has the perverse effect of penalizing a worker for every dollar they earn above the poverty line, thus discouraging that extra work effort.

We can measure the macroeconomic cost of this phase-out penalty by substituting a different phase-out rate. For example, if we substitute a uniform 10 percent phase-out rate for the EITC for the current 21.06 percent phase-out rate, the TAG model finds that this would reduce the penalizing marginal tax rate effect on working households, thus increasing long-run GDP by 0.1 percent, raising the after-tax incomes of the working poor by more than 1 percent, and creating 164,000 jobs.

Itemized Deductions

For middle-income households, one of the most complex areas of the tax code is itemized deductions. Only 30 percent of taxpayers choose to itemize their deductions, but it is likely that many other households devote significant time and energy determining whether it would be advantageous or not to itemize.

Certainly, one way to reduce the complexity of itemized deductions is to simply eliminate many of these deductions from the tax code. However, simply eliminating itemized deductions alone could actually produce harmful macroeconomic effects, as this would bump some taxpayers into higher brackets, increasing their marginal tax rates, and discouraging work and investment.

For example, the TAG model indicates that the marginal rate effects of simply eliminating all itemized deductions except for the charitable and mortgage interest deductions would lead to a long-term reduction in GDP of 0.4 percent and the loss of 290,000 jobs.

Swap itemized deductions for lower rates. However, if the additional revenue from eliminating those same itemized deductions were then used to cut every income tax rate by 10 percent, this would increase long-run GDP by 0.6 percent and create 577,000 jobs.⁷

⁶ Internal Revenue Service, *Data Book*, 2015, <https://www.irs.gov/pub/irs-soi/15databk.pdf>; Treasury Inspector General for Tax Administration, *The Internal Revenue Service Fiscal Year 2013 Improper Payment Reporting Continues to Not Comply With the Improper Payments Elimination and Recovery Act*, 2014, <https://www.treasury.gov/tigta/auditreports/2014reports/201440027fr.pdf>.

⁷ For this example, it was necessary to eliminate the AMT because the loss of so many itemized deductions threw many taxpayers into the AMT.

Double the standard deduction. Another way of simplifying the tax code while reducing reliance on itemized deductions is to expand the standard deduction. A larger standard deduction would mean that fewer taxpayers would feel the need to keep detailed records of their expenses and fill out Schedule A.

A larger standard deduction could be economically beneficial, by bumping many households into lower marginal rates. The TAG model shows that doubling the standard deduction for all households would increase long-run GDP by 0.5 percent and create 463,000 full-time equivalent jobs.

Estate and Gift Taxes

Another unduly complicated area of the tax code aimed at stemming income inequality is the federal estate and gift tax. Albeit a minor source of federal revenues—it collected \$19 billion in 2014, just 0.6 percent of federal receipts—it has outsized economic effects because it strongly depresses capital formation relative to the modest amount it collects. Some have estimated that just the costs associated with complying with the estate tax exceed the revenue it generates.

Advocates say that it impacts very few estates since the first \$5.45 million of gifts and bequests is excluded from tax, and the amount is indexed for inflation. Thus, they say, it has minimal economic effect. However, critics say that by making it harder to pass family businesses and farms to the next generation, the estate tax is yet another “success tax.”

We find that eliminating the federal estate and gift tax would increase long-run GDP by 0.8 percent, lift the stock of private business capital (e.g., equipment, structures) by 2.3 percent, boost wages by 0.7 percent, and create for 159,000 new jobs.

Business Income Taxes

It is now well known that the U.S. has the highest corporate income tax among the leading industrialized nations. Indeed, Tax Foundation economists determined that the U.S. has the third highest corporate income tax among the 165 nations we surveyed. Only Chad and the United Arab Emirates levied a higher corporate tax rate than the U.S.

Economists at the OECD determined that the corporate income tax is the most harmful tax a national can impose. Individual income taxes, sales taxes, and property taxes were found to be less harmful.

One way of measuring the economic effects of our high corporate tax rate is simply to lower the rate in our TAG model. For example, the model shows that cutting the corporate tax rate to 25 percent from 35 percent (with no offsets) would boost the long-term level of GDP by 2.3 percent, increase wages by 1.9 percent, and create 443,000 jobs.

Aside from our uncompetitive corporate tax rate, there are many complex elements of the corporate code that have harmful effects too. We can estimate those costs as well.

Cost Recovery

Under the current tax code, when a business makes a capital investment, it is required to deduct the cost of the asset over time, according to one of over a dozen depreciation schedules. These schedules are essentially arbitrary, and the process of determining how to properly depreciate an asset is complex.

One tax code change that could make the tax code both less complex and more favorable to investment is moving to full expensing of capital investment. Allowing businesses to deduct the full cost of their investments immediately would encourage significantly higher investment levels.⁸

According to the TAG model, full expensing would increase long-run level of GDP by 5.4 percent, by growing the nation's capital stock by 16 percent, increasing wages by 4.5 percent, and creating more than 1 million full-time equivalent jobs.

Dollar-for-dollar, full expensing is one of the most pro-growth tax changes that Congress could enact.

Corporate Integration

Another complex feature of the business tax code is that firms face significantly different tax regimes depending on their legal form. For instance, traditional C-corporations typically face a much higher marginal tax burden than partnerships because corporate income is taxed twice, first at the entity level at 35 percent, and then at the shareholder level when capital gains and dividends are taxed at rates as high as 24 percent. Partnership and S-corporation income is taxed only once when the profits are distributed to the owner.

Over the past few decades, there have been several notable proposals to equalize the tax treatment of all businesses, regardless of their legal form or financing method. This approach is known as corporate integration, and it would vastly simplify the taxation of U.S. businesses. Under corporate integration, companies would no longer have to spend time and resources determining what legal form to adopt or planning tax-efficient financing strategies.

Recently, the Tax Foundation modeled a version of corporate integration that would allow corporations to deduct dividends paid and would tax dividends received by individuals at ordinary income rates. In addition to greatly simplifying the business tax code, such a proposal would increase U.S. GDP by 2.9 percent over the long run, boost wages by 2.5 percent, and create 535,000 jobs.

⁸ See Zwick and Mahon, *Tax Policy and Heterogeneous Investment Behavior*, National Bureau of Economic Research, 2016, <http://www.nber.org/papers/w21876>

Business Tax Expenditures

There are roughly 80 so-called tax expenditures in the corporate tax code, with a budgetary value of more than \$120 billion. It's often thought that businesses and the economy would be better off if all of those tax breaks were eliminated in exchange for a lower corporate tax rate. However, our research has found that eliminating all business tax expenditures in exchange for a lower tax rate would actually negate the expected growth from the rate cut itself.⁹

The reason for this is that a number of corporate tax provisions—such as accelerated depreciation and the expensing of research and development costs—help move the tax code towards a more neutral treatment of capital investment. Eliminating these cost-recovery provisions raises the cost of capital and, thus, neutralizes any of the economic benefits of a lower tax rate.

However, there are many other tax preferences—such as energy credits, or interest exclusions on bonds—that could be eliminated with minimal economic harm, and provide revenue for overall rate cuts.

For instance, eliminating all business tax expenditures that are not connected to cost recovery would raise enough revenue to cut the overall corporate tax rate to 28 percent. This combination of changes would increase the size of the U.S. economy by 1.4 percent in the long run and create 275,000 jobs. Moreover, the new economic growth would actually increase federal revenues by more than \$550 billion over a decade.

International Taxation

Perhaps the most complex aspect of the U.S. tax code is the treatment of income earned overseas. Under current law, U.S. multinational corporations are required to pay tax on their worldwide income. If a corporation earns income in England, it is required to pay tax to Her Majesty's Revenue and Customs. As long as that company keeps those profits overseas, it can defer the additional payment of U.S. tax. Once that corporation decides to bring that income back to the United States, it is required to pay tax again to the U.S. government at 35 percent, minus a foreign tax credit.

Major complexities arise for multinational corporations operating abroad. The foreign tax credit, which prevents double-taxation of foreign profits, is littered with rules and exceptions. It includes strict rules limiting how much a company can claim in foreign taxes. In addition, the foreign tax credit has complicated rules determining what taxes that businesses pay overseas can be credited against U.S. tax liability. In the past, the IRS has used these rules to deny foreign tax credits to multinational corporations. This leads businesses to go to court against the IRS, costing time and resources.

⁹ Scott A. Hodge, "The Challenges of Corporate-Only Revenue Neutral Tax Reform," Tax Foundation Fiscal Fact No. 471, June 18, 2015.



Most nations do not require this level of complexity. Instead, they have territorial tax systems, which only require domestic multinationals to pay tax to the countries in which they conduct their business. These systems make the foreign tax credit rules unnecessary and eliminate much of the complexities of our worldwide system.

Tax Foundation economists are currently developing an extension of our TAG model to measure the economic and revenue effects of moving to a territorial tax system.

Replacing the Corporate Income Tax with a Value-Added Tax

Considering the complexity and economic harm caused by the corporate income tax, it makes sense to ask “what if it was replaced by a tax that was less damaging?” As a thought experiment, and we don’t necessarily advocate this policy, Tax Foundation economists modeled the effects of replacing the corporate income tax with a Value Added Tax (VAT).

A value-added tax is a consumption tax, levied at the business level on all profits and payroll. Unlike the current corporate income tax, value-added taxes are generally broad-based and simple, and they contain no bias against saving and investment.

There are two ways to administer a value-added tax. Under a credit-invoice method, businesses pay VAT on their gross sales and receive a credit for value-added taxes previously paid on their business inputs. Under a subtraction method, businesses calculate their VAT base by subtracting their operating expenses and capital expenditures from their revenues.

Replacing the corporate income tax with a 5 percent value-added tax would eliminate many of the complexities in the current tax code and leave federal revenues roughly unchanged, as measured on a conventional basis. According to the TAG model, by eliminating the double taxation of saving and investment in the current corporate tax code, this swap would raise long-run GDP by 5.8 percent, create 532,000 jobs, and actually raise \$1.8 trillion in new revenue after accounting for the economic growth effects.

Again, this is not necessarily a policy we would endorse, but two presidential candidates proposed tax reform plans that included such a tax swap so it is a policy that should be taken seriously.

Lessons from Modeling Tax Reform Plans

Over the past year, Tax Foundation economists have gained special insights into what kind of tax policies boost investment, wages, jobs, and economic growth, and which policies lead to less of those things.

Using our Taxes and Growth (TAG) Macroeconomic Tax Model, we have scored the tax plans of every presidential candidate¹⁰, as well as numerous tax plans developed by members of the House and Senate. For example, we have modeled the plans of two members of this committee, Senator Lee's Lee-Rubio tax plan and Senator Cruz's tax plan, as well as Senator Ben Cardin's Progressive Consumption Tax plan and the business tax reform plan designed by Congressman Devin Nunes.

During this experience, we have modeled every conceivable tax reform plan one can think of, including the Flat Tax, FairTax, Bradford X-Tax, Value Added Tax (VAT), and numerous plans that incorporate features of each of these.

To one degree or another, the more pro-growth of these plans incorporate many of the lessons that I've outlined in the first portion of this testimony: they reduce marginal tax rates; reduce taxes on capital; reduce or eliminate the double-taxation of savings and investment; and, move toward a neutral or consumption tax base.

Here are four examples:

Senator Ben Cardin's Progressive Consumption Tax¹¹

Senator Ben Cardin's proposal would dramatically scale back the individual and corporate income taxes. Because the plan would exempt a couple's first \$100,000 of wages from the income tax, most people would no longer owe the individual income tax. Incomes above that amount would be subject to rates of 15, 25, and 28 percent. The corporate income tax rate would be cut to 17 percent.

The Cardin plan is intended to be revenue neutral. He would finance this with a value added tax, which he calls the Progressive Consumption Tax (PCT). Large rebates would make the overall package progressive.

At a PCT tax rate of 10 percent, the TAG model estimates that in the long run the plan would raise the level of gross domestic product (GDP) by 4.4 percent, increase the stock of capital used in production by 15.2 percent, and boost the number of jobs by 1.1 million.

Ben Carson's Flat Tax¹²

During his presidential bid, Dr. Ben Carson proposed to replace the current federal income tax (both individual and corporate) with a Hall-Rabushka-style flat tax. The plan would tax all wage income and business income at 14.9 percent, but exempt taxes on capital gains, dividends, and interest income at the individual level.

¹⁰ These scores can be found at: <http://taxfoundation.org/blog/comparison-presidential-tax-plans-and-their-economic-effects>

¹¹ Michael Schuyler, "An Analysis of Senator Cardin's Progressive Consumption Tax," Tax Foundation *Fiscal Fact* No. 473, July 8, 2015. <http://taxfoundation.org/article/analysis-senator-cardin-s-progressive-consumption-tax>

¹² Kyle Pomerleau, "Details and Analysis of Dr. Ben Carson's Tax Plan," Tax Foundation *Fiscal Fact* No. 493, January 6, 2016. <http://taxfoundation.org/article/details-and-analysis-dr-ben-carson-s-tax-plan>

Businesses would be allowed to fully expense capital investment, but would no longer be able to deduct interest expenses. The plan would also eliminate all itemized deductions and all tax credits except for the foreign tax credit. The plan would further expand the tax base by including fringe benefits, such as employer-provided health insurance, in the tax base.

Our analysis found that the plan would reduce federal revenues by \$2.5 trillion over the next decade. However, it also would improve incentives to work and invest, which would increase gross domestic product (GDP) by 16 percent over the long term if the tax cuts were appropriately financed. This increase in GDP would translate into 10.9 percent higher wages and 5.2 million new full-time equivalent jobs.

The Lee-Rubio Tax Reform Plan¹³

In March 2014, Senators Mike Lee and Marco Rubio introduced a comprehensive tax reform plan. While the plan has attracted a great deal of attention for its generous child tax credits, the structure of the plan incorporates the core planks of David Bradford's "X-Tax," or progressive consumption tax.¹⁴ The Lee-Rubio plan achieves this by cutting both corporate and passthrough business tax rates to 25 percent, moving to full expensing for all capital investment, eliminating the second layer of corporate taxation by repealing taxes on dividends and capital gains, and moving to a full territorial tax system. For individuals, the plan taxes wages at rates of 15 and 35 percent.

According to the Tax Policy Center, these measures reduce the marginal effective tax rate on new investment to zero. The Tax Foundation's model estimates that the Rubio plan would boost the long-term level of GDP by roughly 15 percent, the capital stock by 49 percent, which, in turn, would raise wages by 12.5 percent and create 2.7 million new jobs. We also found that the plan would reduce federal tax revenues by \$2.4 trillion over a decade.

Ted Cruz's Tax Plan^{15 16}

The plan proposed by Senator Ted Cruz takes a different approach to get to nearly the same place as these other tax reform plans. The plan would replace the corporate income tax and all payroll taxes with a 16 percent "Business Flat Tax," or value-added tax (VAT). This allows for the full expensing of all capital investment, but shifts the tax burden away from capital to labor. Cruz compensates workers for this shift by creating a single individual tax rate of 10 percent and expanding the Earned Income Tax Credit.

13 Michael Schuyler and Will McBride, "The Economic Effects of the Rubio-Lee Tax Reform Plan," Tax Foundation Fiscal Fact No. 457, March 9, 2015. <http://taxfoundation.org/article/economic-effects-rubio-lee-tax-reform-plan>

14 The corporate side of the Lee-Rubio plan shares many similar components to the Nunes tax plan. <http://taxfoundation.org/article/updated-details-and-analysis-nunes-plan-reform-business-taxation>

15 Kyle Pomerleau and Michael Schuyler, "Details and Analysis of Senator Ted Cruz's Tax Plan," Tax Foundation Fiscal Fact No. 489, October 29, 2015. <http://taxfoundation.org/article/details-and-analysis-senator-ted-cruz-s-tax-plan>

16 Rand Paul's tax plan was very similar to Cruz's plan. See: Andrew Lundeen and Michael Schuyler, "The Economic Effects of Rand Paul's Tax Reform Plan," Tax Foundation Blog, June 18, 2015. <http://taxfoundation.org/blog/economic-effects-rand-paul-s-tax-reform-plan>

The Tax Foundation's model estimates that the Cruz plan would boost the long-term level of GDP by 14 percent. This is slightly less growth than the Lee-Rubio plan because it does not eliminate the second layer of tax on corporate income. Still, the plan would increase the capital stock by 44 percent and wages by 12 percent. And because the 10 percent individual flax tax rate would encourage more people to enter the workforce, Cruz's plan would create nearly 5 million new jobs. We also estimate the plan would reduce federal revenues by \$758 billion over a decade.

Conclusion

A few years ago, the National Taxpayer Advocate named tax complexity the number one issue facing American taxpayers. In addition to robbing us of 6 billion hours of our lives complying with its Byzantine rules, our complex tax system punishes success and hard work, thus, robbing the economy of its ability to create jobs and better living standards.

Using the Tax Foundation's Taxes and Growth (TAG) Macroeconomic Tax Model, we are able to measure and quantify the cost of complex tax provisions on GDP, investment, and jobs. We find that the complexity caused by measures designed to make the tax code more progressive shrink the economy and kill jobs. We find that the complexity caused by tax policies to help the poor can discourage work and shrink wages. We find that the extremely complex corporate income tax—from its high rate, badly designed cost recovery systems, and twin layers of taxation—leads to less investment, fewer jobs, and a smaller economy.

Finally, by scoring a wide variety of tax reform plans with our TAG model, we learned that there are many valid ways of ridding the tax code of its worst parts and creating a new tax system that boosts economic growth, creates jobs, and lifts living standards.

I hope that the members of this committee, as well as your fellow lawmakers, take these lessons to heart and start us down the road to fundamental tax reform soon.

Thank you for your time. I welcome any questions that you may have.