**Written Testimony for Hearing, "Building Back Better: Raising Revenue to Invest in Shared Prosperity"**

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Chairman Beyer, Ranking Member Lee, and distinguished members of the Committee, thank you for the opportunity to testify.[1]

Part I of my written testimony explains that sound tax policy can both lift living standards of low- and moderate-income Americans and support economic growth with shared benefits for workers, families, and businesses. Tax policy designed to achieve these goals should:

- **Raise revenues to support needed investments in a dynamic, sustainable and inclusive economy—including the next generation of workers and entrepreneurs;**
- **Ensure that investment flows to where it is most productive rather than where tax savings are the most lucrative; and, in doing so**
- **Level the playing field for small and domestic businesses so they can fairly compete with businesses that currently use tax avoidance, profit-shifting to tax havens, or even outright tax evasion as a business strategy.**

Part II discusses revenue-raising proposals before Congress that are well-tailored to these ends, including proposals to:

- **Ensure that large corporations and wealthy filers pay taxes they already owe under the law**. Increasing tax compliance will ensure honest businesses that do not cheat on their taxes are not unfairly penalized.
- **Reverse some of the 2017 tax law's corporate provisions that went beyond even what corporate lobbyists asked for, and reduce the tax code's subsidy for shifting profits and investments offshore;** and

[1] This testimony draws heavily on prior work of the author. See Chye-Ching Huang, "Funding Our Nation's Priorities: Reforming the Tax Code's Advantageous Treatment of the Wealthy," Prepared Testimony for the U.S. House of Representatives, Ways and Means Committee, May 12, 2021, https://waysandmeans.house.gov/sites/democrats.waysandmeans.house.gov/files/documents/Huang.Testimony.pdf; Chye-Ching Huang, "How U.S. International Tax Policy Impacts American Workers, Jobs, and Investment," Prepared Testimony for the U.S. Senate, Committee on Finance, March 25, 2021, https://www.finance.senate.gov/imo/media/doc/Huang%20testimony%2003220221%20rev.pdf. Citations for this introductory section are in the body of the testimony.

- **Reduce tax subsidies for income from wealth compared to income from work.**

Part III explains that such policies are far more likely to strengthen the economy and raise the living standards of low- and moderate-income Americans than maintaining tax cuts and subsidies that flow directly to the well-off.

It reviews the evidence that tax policies such as the 2017 corporate tax cuts have failed to live up to their proponents' promises. And it systematically refutes arguments for maintaining tax cuts for wealthy filers and corporations that: (1) cite unsound paid studies; (2) inaccurately describe the actual revenue proposals; and (3) promote a view of "competitiveness" that misattributes America's economic success to its willingness to subsidize multinationals' tax avoidance, rather than the quality of American research, innovation, workers, markets, and institutions.

## PART I: TAX REVENUES SUPPORT INVESTMENTS THAT DIRECTLY RAISE THE LIVING STANDARDS OF LOW- AND MODERATE-INCOME AMERICANS, AND PROMOTE GROWTH WITH SHARED AND SUSTAINABLE BENEFITS

Low- and moderate-income workers and families should be at the center of policymaking: they have faced decades of near-stagnant wages, and COVID-19 has disproportionately impacted low-wage workers and workers of color.[2] Income and wealth inequality are high in the U.S. relative to other countries and heavily skewed by race due to historic and current barriers to full economic opportunity for people of color.[3] Children in low- and moderate-income families in the U.S. have lower rates of upward economic mobility than their counterparts in nearly all other rich countries. [4]

Tax policy can help address these challenges by raising revenue for sound investments that together: (1) directly raise living standards for low- and moderate-income American workers and families; and (2) promote economic growth that is sustainable, increases mobility, and helps U.S. workers, researchers, innovators, and entrepreneurs realize their full potential.

### 1. Raising revenues to support investments in a dynamic and sustainable economy.

Investments in physical infrastructure, work supports including job training, educational support, and research and development (R&D) have long been recognized as delivering proven long-term economic benefits.[5] Other investments can forestall and mitigate large foreseeable costs, such as

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[2] See: Huang (May 2021), *supra* note 1 at fn 58.
[3] See: Huang (May 2021), *supra* note 1 at fn 55. See also: Neil Bhutta et al, "Disparities in Wealth by Race and Ethnicity in the 2019 Survey of Consumer Finances," FEDS Notes, Board of Governors of the Federal Reserve System, September 28, 2020, https://doi.org/10.17016/2380-7172.2797.
[4] Chye-Ching Huang and Roderick Taylor, "How the Federal Tax Code Can Better Advance Racial Equity," CBPP, July 25, 2019, https://www.cbpp.org/research/federal-tax/how-the-federal-tax-code-can-better-advance-racial-equity; Raj Chetty, Nathaniel Hendren, Maggie R. Jones, and Sonya Porter, "Race and Economic Opportunity in the United States: An Intergenerational Perspective," *Quarterly Journal of Economics*, Vol. 135, Iss. 2, May 2020, https://academic.oup.com/qje/article/135/2/711/5687353.
[5] Congressional Budget Office (CBO), "The Macroeconomic and Budgetary Effects of Federal Investment," June 2016, https://www.cbo.gov/sites/default/files/114th-congress-2015-2016/reports/51628-Federal_Investment.pdf.

those from climate change.[6] The proposals before Congress have sound investments in all of these areas, and overall are designed in ways that would address racial, gender, and geographic disparities that are the result of "historical and continuing barriers to economic opportunity."[7]

Further, a growing and robust body of research shows that financial support for low-income families increases the likelihood that children in those families grow up healthier, do better in school, attend college, and earn more as adults.[8] Thus, proposals including **strengthening the Child Tax Credit (CTC) should be seen as a true "investment" that will deliver continuing benefits for the life trajectories of children and the broader economy**.[9]

Based on this body of research, Harvard University economists Hendren and Sprung-Keyser estimate that the long-term economic benefits of policies that invest directly in low-income children – like a CTC that is fully available to low-income families -- can significantly reduce or offset their initial fiscal costs.[10]

Such estimates do not account fully for positive effects that are harder to quantify but nonetheless potentially important. For example, new research suggests that expanding economic security for children in low- and moderate-income families can help ensure more children can

[6] "Investing in Climate, Investing in Growth," OECD, May 23, 2017, https://www.oecd.org/environment/investing-in-climate-investing-in-growth-9789264273528-en.htm. For more on categories of investments that can particularly directly improve living standards of low-income communities and communities of color, see: Chye-Ching Huang and Roderick Taylor, "Any Federal Infrastructure Package Should Boost Investment in Low-Income Communities," CBPP, June 28, 2019, https://www.cbpp.org/research/federal-budget/any-federal-infrastructure-package-should-boost-investment-in-low-income.

[7] Adam Hersch, "'Build Back Better' agenda will ensure strong, stable recovery in coming years," Economic Policy Institute, September 16, 2021, https://www.epi.org/publication/iija-budget-reconciliation-jobs/; Danilo Trisi et al, "House Build Back Better Legislation Advances Racial Equity," CBPP, September 27, 2021, https://www.cbpp.org/research/poverty-and-inequality/house-build-back-better-legislation-advances-racial-equity.

[8] Arloc Sherman and Tazra Mitchell, "Economic Security Programs Help Low-Income Children Succeed Over Long Term, Many Studies Find, CBPP, July 17, 2017, https://www.cbpp.org/research/poverty-and-inequality/economic-security-programs-help-low-income-children-succeed-over; National Academy of Sciences, Engineering, and Medicine (NAS), *A Roadmap to Reducing Child Poverty,* National Academies Press, 2019, https://www.nap.edu/catalog/25246/a-roadmap-to-reducing-child-poverty. Raj Chetty, John N. Friedman, and Jonah Rockoff, "New Evidence on the Long-Term Impact of Tax Credits," IRS Statistics of Income Paper Series, November 2011, https://www.irs.gov/pub/irs-soi/11rpchettyfriedmanrockoff.pdf

[9] Making permanent the monthly, fully-refundable CTC is sound policy that fills a gap left by the 2017 tax law's CTC expansions that largely left the poorest families and workers out of its full CTC increase. See Chye-Ching Huang, "Unfinished Business From the 2017 Tax Law," Prepared Testimony for the U.S. House of Representatives, Ways and Means Committee, Select Revenue Measures Subcommittee, March 12, 2019, https://www.cbpp.org/research/federal-tax/unfinished-business-from-the-2017-tax-law.

[10] Nathaniel Hendren and Ben Sprung-Keyser, "A Unified Welfare Analysis of Government Policies," *Quarterly Journal of Economics,* Vol. 135, No. 3, 2020, https://scholar.harvard.edu/hendren/publications/unified-welfare-analysis-government-policies. Such estimates are too imprecise to incorporate into official budget "scoring," but these long-term benefits are nevertheless important for policymakers to consider. Similarly, the National Academy of Sciences estimated that "child poverty exacts a cost of $800 billion to $1.1 trillion in lost economic output annually."; NAS, *A Roadmap to Reducing Child Poverty, supra* note 8.

develop and apply their talent for innovation and entrepreneurship, leading to follow-on benefits for the economy at large.[11]

Critics worry that revenue-raising proposals will negatively affect the economy but they fail to consider the economic benefits of new investments. This is a mistake:

- Harvard University Professor of Economics Raj Chetty noted of the Biden Administration's recovery proposals, "[t]he impacts of the infrastructure programs are likely to be an order of magnitude larger than any disincentive effects from the taxes."[12]
- Moody's Analytics estimates that the *combined* effect of the investments and taxes in the infrastructure and economic investment legislation would be a net plus for economic growth, and "direct the benefits of stronger growth to lower-income Americans and address the long-run skewing of the income and wealth distribution."[13]
- Seventeen recipients of the Nobel Memorial Prize in Economic Sciences have noted that by financing investments that boost long-run economic capacity, revenue-raising tax policies can ease long-term inflationary concerns.[14]

[11] Bell et al found that if girls, children of color, and children from non-rich families grew up to invent at the same rate as white boys from high-income families, there would be four times as many inventors in America as there are today. Studies indicate that the reason for these "missing inventors" is that children with equal talent and potential are growing up in households too poor and/or not connected enough to make use of those talents. Alex Bell et al., "Who Becomes an Inventor in America? The Importance of Exposure to Innovation," *Quarterly Journal of Economics*, Vol. 134, Iss. 2, May 2019, https://opportunityinsights.org/paper/losteinsteins/. Also see: Wesley Tharpe, Michael Leachman, and Matt Saenz, "Tapping More People's Capacity to Innovate Can Help States Thrive," CBPP, December 9, 2020, https://www.cbpp.org/research/state-budget-and-tax/tapping-more-peoples-capacity-to-innovate-can-help-states-thrive.

[12] Heather Long, "Biden's infrastructure plan faces controversy over price tag and design," Washington Post, March 31, 2021, https://www.washingtonpost.com/business/2021/03/31/deficit-cost-infrastructure-biden/.

[13] Mark Zandi and Bernard Yaros, "Macroeconomic Consequences of the Infrastructure and Budget Reconciliation Plans," Moody's Analytics, July 21, 2021, https://www.moodysanalytics.com/-/media/article/2021/macroeconomic-consequences-infrastructure.pdf.

[14] "Open letter from Nobel Laureates in support of economic recovery agenda," Economic Policy Institute, September 20, 2021, https://www.epi.org/open-letter-from-nobel-laureates-in-support-of-economic-recovery-agenda/. Not every dollar of new federal spending should be offset by a dollar in savings or revenues. Stimulus that prevents deeper and longer recessions and the erosion of long-term economic capacity (hysteresis) is one case. Further, with low interest rates, there is a greater case for deficit financing some government spending, especially that which delivers long-term returns. See Jason Furman and Lawrence Summers, "A Reconsideration of Fiscal Policy in the Era of Low Interest Rates," The Brookings Institution, November 30, 2020, https://www.brookings.edu/wp-content/uploads/2020/11/furman-summers-fiscal-reconsideration-discussion-draft.pdf. Nevertheless, the U.S. has historically and comparatively very low revenues as a percentage of GDP. Rich countries that tend to invest more in a range of areas including in reducing child poverty, work supports, and paid leave also tend to raise more revenue over the long run. Tax Policy Center, "How Do US Taxes Compare Internationally?" May 2020, https://www.taxpolicycenter.org/briefing-book/how-do-us-taxes-compare-internationally. See Figure 3: Arloc Sherman, Claire Zippel, Robert Gordon, and Danilo Trisi, "Widespread Economic Insecurity Pre-Pandemic Shows Need For Strong Recovery Package," CBPP, July 14, 2021, https://www.cbpp.org/research/poverty-and-inequality/widespread-economic-insecurity-pre-pandemic-shows-need-for-strong.

Such revenue-raising policies can also be designed to support growth in other important ways, discussed below.[15]

**2. Sound tax policy can help ensure that investments flow to where they are most productive and businesses can compete based on delivering real-world value rather than tax avoidance and evasion.**

The tax code includes various tax breaks and incentives for specific types of income, such as:

- Capital gains income from the growth in value of assets is taxed at a lower rate than income from work[16]—or even a zero percent rate for gains on assets held until death.
- The public subsidizes the foreign profits of multinationals by about $60 billion per year with a lower tax rate for those profits (between zero and 10.5 percent) than the 21 percent tax rate on domestic profits.[17]
- The 2017 tax law created a new tax expenditure (section 199A) that provides a special lower rate on most income earned through pass-through business entities. It allows very high-income business owners to game the tax code and reap windfalls by re-characterizing their income so that it qualifies for the tax break. Despite supposed guardrails, tax advisors have called section 199A a "gaping hole" in the code.[18]

These tax breaks invite aggressive avoidance strategies that stretch the boundaries of the law, with a weakened IRS unable to push back. The erosion of IRS enforcement has also invited blatant tax evasion, as discussed below. This can encourage businesses and individuals in search of tax savings to move resources away from more productive uses, undermining what economists term "allocative efficiency." [19]

For example, the zero percent tax rate on capital gains on assets held until death encourages the wealthy to hold onto old investments, even across generations, instead of reallocating resources to investments that would deliver a higher return if the tax rate did not exist.

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[15] Tax policy can help address growth is by ensuring that the costs of certain economic activities (such as pollution including carbon, the community and public costs of certain products, or even overleveraging of certain financial institutions that creates systemic economic risks) are borne by those who create those costs. Revenue raising proposals of this kind are not currently a major component of proposals before Congress but would be another sound source of revenue.

[16] Long-term capital gains are taxed at a max of 20% (23.8% including the net investment income tax), while ordinary income is taxed at a max of 37% (40.8%). 26 U.S.C. §§ 1, 1411.

[17] JCT, "Estimates of Federal Tax Expenditures for Fiscal Years 2020 – 2024," JCX-23-20, November 5, 2020, https://www.jct.gov/publications/2020/jcx-23-20/.

[18] Emily Horton, "Tax Planner: Drive Wealthy Clients Through 'Gaping Hole' in Tax Code," CBPP, May 31, 2018, https://www.cbpp.org/blog/tax-planner-drive-wealthy-clients-through-gaping-hole-in-tax-code.

[19] For a review of the empirical literature suggesting that allocative efficiency effects can be more substantial than supply-side impacts in the context of individual income tax reform, See William Gale and Andrew A. Samwick, "Effects of Income Tax Changes on Economic Growth," The Brookings Institution, February 1, 2016, https://www.brookings.edu/research/effects-of-income-tax-changes-on-economic-growth/.

Such tax breaks can also spawn various tax shelters and other tax planning techniques that both pull investment away from more productive activities, and also pull talent and creative energy into the production of tax schemes rather than innovations with more widespread benefits.

The result is an uneven playing field that can undermine the competitiveness of businesses that are unable or unwilling to use tax avoidance as a business strategy. A purely domestic, small, or start-up business that pays what it owes and does not engage in complex tax avoidance schemes can be at a disadvantage compared to an established multinational that uses a web of tax havens to reduce its tax costs.

Sound tax policies can support economic productivity by scaling back or eliminating tax breaks that create such a lopsided competitive environment.

## PART II: KEY REVENUE PROPOSALS ARE WELL-DESIGNED TO SUPPORT GROWTH

Lawmakers are considering three main categories of proposals that would raise substantial revenues, finance critical investments, and reduce after-tax income inequality.[20] These proposals are on the whole well-designed to support growth by reducing opportunities and incentives for unproductive tax gaming.[21]

**1. Ensuring that profitable corporations and well-off filers pay the taxes that they already owe under the law.**

The "tax gap" of taxes owed but not paid is an estimated $7 trillion over the next decade. [22] More than a fifth of federal income taxes that go unpaid due to income underreporting (or, recent research suggests, more than a third) come from the highest-income one percent of filers.[23] Even assuming the lower estimate (more than a fifth) is accurate, Treasury estimates the top 1 percent are responsible for $163 billion in unpaid taxes annually.

Shrinking the tax gap can raise revenue by ensuring high-income filers and large corporations pay what they already owe. Tackling this issue requires adequately funding the IRS. Between 2010 and 2019, the IRS enforcement budget was cut by more than a fifth, the IRS lost more than

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[20] Howard Gleckman, "The Ways & Means Reconciliation Bill Would Raise Taxes on High Income Households, Cut Taxes on Average for Nearly Everyone Else," Tax Policy Center, September 28, 2021, https://www.taxpolicycenter.org/taxvox/tpc-ways-means-reconciliation-bill-would-raise-taxes-high-income-households-cut-taxes-average.

[21] I have discussed in other forums and am happy to explain ways in which some of the proposed tax policies might be refined on the margins, including testimony in hearings examining specific revenue-raising proposals. See: Huang, *supra* note 1; Committee for a Responsible Federal Budget, "Tax Policy in the Build Back Better Act," Panel Discussion, September 30, 2021, https://www.youtube.com/watch?v=lqCddak2nZM. Directionally, the broad contours of these proposals being discussed by lawmakers are substantial improvements on current law.

[22] Natasha Sarin, "The Case for a Robust Attack on the Tax Gap," U.S. Department of the Treasury, September 7, 2021, https://home.treasury.gov/news/featured-stories/the-case-for-a-robust-attack-on-the-tax-gap.

[23] *Id.*; John Guyton, Patrick Langetieg, Daniel Reck, Max Risch, and Gabriel Zucman, "Tax Evasion at the Top of the Income Distribution: Theory and Evidence," WCEG, March 22, 2021, https://equitablegrowth.org/working-papers/tax-evasion-at-the-top-of-the-income-distribution-theory-and-evidence/.

a third of its expert revenue agents, and audit rates on America's highest-income filers and largest corporations fell by more than half.[24]

The IRS also needs information that will allow it to identify non-compliance by wealthy filers and large corporations. Compliance for wage and salary income is already 99 percent due to information reporting and withholding, but the income of large businesses and wealthy filers is generally not subject to similar reporting requirements.[25] The Administration's financial account information reporting proposal to address this gap is designed to:[26]

- **Place no new burdens on taxpayers.** Banks would simply report information that they already hold—total inflows and outflows through accounts—like they do with interest income. Taxpayers would not have to do anything more.
- **Safeguard taxpayer privacy.** The IRS would not see *any* information about specific transactions in accounts (just total inflows and outflows); and
- **Protect low- and moderate-income filers** by requiring that "[a]udit rates will not rise relative to recent years for those with less than $400,000 in actual income."[27]

Information reporting is a crucial component of the compliance proposal because it would reduce unnecessary audits on accurate filers.[28] Instead, the IRS would be able to use existing audit flags along with evidence of large amounts of unreported cash flowing through filers' accounts to identify non-compliance more accurately.

Increasing tax compliance will also support fair competition and productivity by leveling the playing field for honest businesses and filers that comply with their tax obligations.

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[24] Chuck Marr, Sam Washington, Samantha Jacoby, and David Reich, "Rebuilding IRS Would Reduce Tax Gap, Help Replenish Depleted Revenue Base," CBPP, April 13, 2021, https://www.cbpp.org/research/federal-tax/rebuilding-irs-would-reduce-tax-gap-help-replenish-depleted-revenue-base.

[25] Internal Revenue Service, "Federal Tax Compliance Research: Tax Gap Estimates for Tax Years 2011-2013," IRS Publication #1415, September 2019, https://www.irs.gov/pub/irs-pdf/p1415.pdf .

[26] Chuck Marr and Samantha Jacoby, "Reducing the Tax Gap: 5 Key Points on Information Reporting," CBPP, September 14, 2021, https://www.cbpp.org/research/federal-tax/reducing-the-tax-gap-5-key-points-on-information-reporting; Seth Hanlon, "Bank Tax Reporting Is a Critical Component of Biden's Build Back Better Agenda," Center for American Progress, September 14, 2021, https://www.americanprogress.org/issues/economy/news/2021/09/14/503821/bank-tax-reporting-critical-component-bidens-build-back-better-agenda/.

[27] Department of the Treasury, "The American Families Plan Tax Compliance Agenda," May 2021, https://home.treasury.gov/system/files/136/The-American-Families-Plan-Tax-Compliance-Agenda.pdf.

[28] As CBO notes, this "might reduce the burden on compliant taxpayers by allowing the IRS to better target noncompliant ones and to reduce the number of audits that resulted in no change in tax assessment." Phill Swagel, "The Effects of Increased Funding for the IRS," CBO, September 2, 2021, https://www.cbo.gov/publication/57444.

**2. Corporate and international tax proposals to reverse some of the 2017 tax law's tax cuts that went beyond even what corporate lobby groups asked for, and reducing the current tax code's subsidy for shifting profits and investments offshore.**

The 2017 tax law cut the top corporate rate from 35 percent to 21 percent, even below the 25 percent rate corporate lobbyists asked for.[29] It moved the U.S. tax regime towards a "territorial" system by permanently excluding certain foreign income of U.S. multinationals from U.S. tax. Today, U.S. companies can enjoy a tax rate on certain foreign profits that is lower than the rate on U.S. profits—and can be as low as zero percent.

After the 2017 tax law came into effect:

- **Corporations used the bulk of their tax cuts for buybacks and dividends,[30]** with firms announcing a record $1 trillion in stock buybacks in 2018.[31]
- **Economy-wide investment and wages failed to grow any faster than predicted by pre-enactment trends, and analyses accounting for the uneven impact of the tax cuts across industries and the impact of other economic conditions found no evidence of the large supply-side impacts predicted by the law's proponents:**

  There was "no indication of a surge in wages in 2018 either compared to history or relative to GDP growth," the Congressional Research Service (CRS) found.[32]

  "There is no evidence that the 2017 tax law has made a substantial contribution to investment or longer-term economic growth," Harvard University Professor of Economics and Peterson Institute for International Economics Senior Fellow Jason Furman found.[33] "The patterns in the data suggest instead that corporate tax cuts did not help workers very much," a 2021 Brookings Institution analysis found.[34]

  "[T]here is little evidence that the [2017 tax law] meaningfully increased underlying investment. Instead much of the tax windfall went into share repurchases and bigger dividends. If the tax cuts

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[29] Reforming America's Taxes Equitably Coalition, Statement for the Record before the House Ways and Means Committee, February 2, 2016, https://www.govinfo.gov/content/pkg/CHRG-114hhrg22375/pdf/CHRG-114hhrg22375.pdf.

[30] CRS, "Stock Buybacks: Background and Reform Proposals," February 27, 2019, https://crsreports.congress.gov/product/pdf/LSB/LSB10266; Emanuel Kopp et al., "U.S. Investment Since the Tax Cuts and Jobs Act of 2017," IMF Working Paper, May 2019, https://www.imf.org/-/media/Files/Publications/WP/2019/WPIEA2019120.ashx; Jason Furman, Prepared Testimony for the Hearing "The Disappearing Corporate Income Tax," House of Representatives, Committee on Ways and Means, February 11, 2020, https://www.congress.gov/116/meeting/house/110494/witnesses/HHRG-116-WM00-Wstate-FurmanJ-20200211.pdf.

[31] CRS, *supra* note 30.

[32] Jane Gravelle and Donald J. Marples, "The Economic Effects of the 2017 Tax Revision: Preliminary Observations," CRS, June 7, 2019, https://www.everycrsreport.com/files/20190607_R45736_7633cfe1a9ceda0931cd8ccfeca6eb5455e2ee1d.pdf.

[33] Furman, *supra* note 30; Mark Zandi and Bernard Yaros Jr., "The Macroeconomic Consequences of the American Families Plan and the Build Back Better Agenda," Moody's Analytics, May 3, 2021, https://www.moodysanalytics.com/-/media/article/2021/american-families-plan-build-back-better-agenda.pdf.

[34] Bill Gale and Claire Haldeman, "The Tax Cuts and Jobs Act: Searching for supply-side effects," The Brookings Institution, July 2021, https://www.brookings.edu/wp-content/uploads/2021/07/20210628_TPC_GaleHaldeman_TCJASupplySideEffectsReport_FINAL.pdf.

did not lift economic growth, it is tough to argue that increasing them will appreciably hurt growth," Moody's Analytics Chief Economist Mark Zandi and Assistant Director Bernard Yaros Jr. wrote.[35]

- **Multinationals report about the same share of their income in major tax havens as they did before the law**.[36]
- **The corporate tax cuts have drained revenues:** corporate revenues sunk from 1.5 percent of GDP in 2017 to 1.1 percent of GDP in 2019.[37] Each percentage point of the 2017 tax law's corporate rate cut costs about $100 billion over ten years, the Joint Committee on Taxation (JCT) estimates.[38]

Reversing some of the 2017 tax law's rate cuts along with international tax system reforms could ensure that highly profitable corporations contribute adequately to national investments from which they benefit. Aside from raising substantial revenues, sound international tax reform would help strengthen the economy by reducing current tax incentives for companies to locate profits and investments offshore or invert.[39]

Reducing large multinationals' ability to use cross-border tax avoidance as a profit center would help create a fairer competitive environment for U.S. businesses that are unable or unwilling to use tax avoidance as a business strategy. Rather than sinking resources into a tax-avoidance arms race, companies will be free to focus on customers, products, and innovation.

**3. Reducing tax subsidies for the wealthy.**

Lawmakers are considering proposals that would rein in preferences that predominantly benefit the wealthy, including those that lead to income from wealth being taxed more lightly than income from work.

These proposals include raising the top tax rate on capital gains closer to the top rate on salaries.

Other proposals would reduce tax preferences for pass-through income, which flows overwhelmingly to the highest-income filers and is also a major source of tax non-compliance.[40] For example, proposals include scaling back the section 199A pass-through deduction (61 percent of which goes to the top 1 percent), and eliminating a loophole that allows certain

[35] Zandi and Yaros Jr., *supra* note 33.
[36] Kimberly A. Clausing, Deputy Assistant Secretary, Tax Analysis, U.S. Department of the Treasury, Prepared Testimony for the U.S. Senate, Committee on Finance, March 23, 2021, https://www.finance.senate.gov/imo/media/doc/DAS%20Clausing%20SFC%20Testimony_FINAL.pdf.
[37] OMB Historical Table 2.3, https://www.whitehouse.gov/omb/historical-tables/.
[38] JCT, "Estimated Budget Effects Of The Conference Agreement For H.R.1, The Tax Cuts And Jobs Act," JCX-67-17, December 18, 2017, https://www.jct.gov/publications/2017/jcx-67-17/. See also: CBO, "Options for Reducing the Deficit 2021-2030: Increase the Corporate Tax Rate by 1 Percentage Point," December 9, 2020, https://www.cbo.gov/budget-options/56864.
https://www.cbo.gov/budget-options/56864
[39] Kimberly A. Clausing, *supra* note 36.
[40] Chye-Ching Huang (May 2021), *supra* note 1.

owners of pass-throughs to avoid Medicare surtaxes on both earnings *and* investment income.[41] Improving the complex and inconsistent rules for taxing partnerships (overwhelmingly large finance and holding companies) would ensure their tax treatment is closer to the economic reality, less gameable, and more administrable.[42]

If implemented, such policies would help reduce unproductive tax planning and evasion

Lawmakers should also address a gaping hole in the tax code: the ability to wipe out accumulated tax on capital gains on assets held until death. This means large incomes of the wealthiest filers never face income tax, during their lifetime or their heirs'. Options include:

- A Biden Administration proposal to tax these gains when the asset is passed to heirs, while allowing the gain to continue accumulating untaxed over the original owner's lifetime.[43]
- A proposal to tax the gains of the very wealthiest filers as those gains accumulate, in the same way that wages and salaries are taxed in the year they are earned.
- A "carryover basis" approach, which would require a person's heirs (or their heirs' heirs, etc.) to pay tax on accumulated gains when the asset is eventually sold, rather than erasing the tax on gains altogether.

These options have strengths and drawbacks relative to each other,[44] but each, if well-designed, could improve on current law.

## PART III: SUPPLY SIDE CHANNEL HAS NOT DELIVERED PROMISED RESULTS

Those who favor cutting taxes on income from assets (for both individuals and businesses), argue that their approach will spur substantial investment, which will then cause higher productivity, which will then flow through to higher wages for workers.

But there are many reasons why this "supply-side" channel may fail to produce large promised benefits.[45] Private investment may not be as sensitive to after-tax rates of return as some

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[41] Chuck Marr, "JCT Highlights Pass-Through Deduction's Tilt Toward the Top," CBPP, April 24, 2018, https://www.cbpp.org/blog/jct-highlights-pass-through-deductions-tilt-toward-the-top.

[42] See: U.S. Senate Committee on Finance, "Wyden Unveils Proposal To Close Loopholes Allowing Wealthy Investors, Mega-Corporations To Use Partnerships To Avoid Paying Tax," Press Release, September 10, 2021, https://www.finance.senate.gov/chairmans-news/wyden-unveils-proposal-to-close-loopholes-allowing-wealthy-investors-mega-corporations-to-use-partnerships-to-avoid-paying-tax; Michael Cooper *et al.,* "Business in the United States: Who Owns It, and How Much Tax Do They Pay?" *Tax Policy and the Economy,* Vol. 30, No. 1, 2016, https://www.journals.uchicago.edu/doi/full/10.1086/685594#.

[43] The White House, "Fact Sheet: The American Families Plan," April 28, 2021, https://www.whitehouse.gov/briefing-room/statements-releases/2021/04/28/fact-sheet-the-american-families-plan/.

[44] For discussions, see CRS, "Tax Treatment of Capital Gains at Death," June 4, 2021, https://crsreports.congress.gov/product/pdf/IF/IF11812; Lily Batchelder and David Kamin, "Taxing the Rich: Issues and Options," September 11, 2019, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3452274&download=yes; David Kamin, "How to Tax the Rich," Tax Notes, January 5, 2015, https://taxprof.typepad.com/files/kamin.pdf.

[45] For general discussions of these issues, see: Chye-Ching Huang and Nathaniel Frentz, "What Really Is the Evidence on Taxes and Growth? A Reply to the Tax Foundation," CBPP, February 18, 2014,

predict,[46] any impact on private investment may be offset by the impact of tax cuts on public debt,[47] and any growth gains may not in fact make it into the wages of low- and moderate-income workers.[48] Instead, careful research on the real-world effects of tax changes indicates that supply-side impacts are at best modest, and can be negative for low-and moderate-income workers when considering how the tax cuts are financed.[49]

In the face of mounting empirical evidence and disappointing results of supply-side tax cuts, some proponents of such tax cuts have turned to three other types of flawed evidence:

**1. Deeply flawed studies funded by industry groups.**

Various industry and other special interest groups have mobilized against proposals to scale back their favored tax cuts or other tax advantages.[50] As a lobbying tactic, such groups fund various studies purporting to predict large GDP or job losses from specific tax proposals.[51]

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https://www.cbpp.org/research/what-really-is-the-evidence-on-taxes-and-growth; Chuck Marr and Chye-Ching Huang, "Raising Today's Low Capital Gains Tax Rates Could Promote Economic Efficiency and Fairness, While Helping Reduce Deficits," CBPP, September 19, 2012, https://www.cbpp.org/research/raising-todays-low-capital-gains-tax-rates-could-promote-economic-efficiency-and-fairness; Chye-Ching Huang, "Recent Studies Find Raising Taxes on High-Income Households Would Not Harm the Economy," CBPP, April 24, 2012, https://www.cbpp.org/research/recent-studies-find-raising-taxes-on-high-income-households-would-not-harm-the-economyl; "Chye-Ching Huang and Brandon DeBot, "Corporate Tax Cuts Skew to Shareholders and CEOs, Not Workers as Administration Claims," CBPP, August 16, 2017, https://www.cbpp.org/research/federal-tax/corporate-tax-cuts-skew-to-shareholders-and-ceos-not-workers-as-administration

[46] One reason may be a large share of these returns is from "excess returns" including rents from advantages such as market power. Laura Power & Austin Frerick, "Have Excess Returns To Corporations Been Increasing Over Time?" Department of The Treasury, Office of Tax Analysis, Working Paper 111, November 2016, https://www.treasury.gov/resource-center/tax-policy/tax-analysis/Documents/WP-111.pdf; Greg Leiserson, "In defense of the statutory U.S. corporate tax rate," WCEG, August 17, 2017, https://equitablegrowth.org/in-defense-of-the-statutory-u-s-corporate-tax-rate/.

[47] A low interest rate environment may mute the impact of deficits on investment—but equally mute theoretical supply-side effects of cutting tax rates such as the corporate tax rate. Alan Auerbach and Bill Gale, "Tax Policy Design with Low Interest Rates Conference Draft," Tax Policy Center, September 23, 2021, https://www.brookings.edu/wp-content/uploads/2021/09/Report-Tax-Policy-Design-with-Low-Interest-Rates.pdf.

[48] Even if gains were distributed proportionate to wages, the bulk of gains would flow to high-wage workers such as executives and CEOs, rather than low-wage workers. See: Chye-Ching Huang and Brandon DeBot, *supra* note 45; Further, due to market power or other factors, workers' wages may not reflect their productivity. WCEG, "Boosting wages for U.S. workers in the new economy: Ten essays on worker power, worker well-being, and equitable wages," January 2021, https://equitablegrowth.org/wp-content/uploads/2021/01/011421-spitzer-book.pdf.

[49] William G. Gale and Andrew A. Samwick, "Effects of Income Tax Changes on Economic Growth," The Brookings Institution, September 2014, https://www.brookings.edu/wp-content/uploads/2016/06/09_effects_income_tax_changes_economic_growth_gale_samwick.pdf.

[50] Tony Romm, "Corporate America launches massive lobbying blitz to kill key parts of Democrats' $3.5 trillion economic plan," The Washington Post, August 31, 2021, https://www.washingtonpost.com/us-policy/2021/08/31/business-lobbying-democrats-reconciliation/..

[51] For example, Ernst & Young, Repealing Step-up of Basis on Inherited Assets: Macroeconomic Impacts and Effects on Illustrative Family Businesses, April 2021, https://www.fb.org/files/FBETC_Stepped-Up_Basis_Report_2021.

These studies are often treated as a black box, and the paid ads that cite the studies typically use only the headline findings.[52] Analysts who look inside the box, however, often find severe methodological flaws.

For example, when former JCT economist Patrick Driessen evaluated an Ernst & Young study purchased by the National Association of Manufacturers claiming the Administration's international tax proposals would lead to large GDP and job losses, he found it relied on data so inappropriate and flawed as to "pretty much destroy the study's credibility."[53]

**2. Incorrect descriptions of the proposals.**

Other lobbyists have repeatedly mischaracterized tax proposals.

For instance, bank lobbyists have falsely said the Administration's financial account reporting proposal would require reporting of "all transactions" of covered accounts or "monitoring" of accounts.[54] This is untrue. The proposal would require reporting only of the total dollar amount of inflows and outflows without transaction-level details, using the same kinds of annual information returns that banks already file for accounts yielding $10 or more of interest.[55]

Similarly, opponents of the Administration's proposal to address the step-up in basis provision have repeatedly ignored its provision that inheritors of family farms and small businesses would not pay any tax on those assets until the assets are sold, in order to assert that the proposal would negatively affect these sympathetic figures.[56]

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52 See the landing page and twitter ads for NAM's 2021 anti-tax campaign: National Association of Manufacturers, "Don't Tilt the Playing Field," 2021, https://www.nam.org/dont-tilt-the-playing-field/; https://twitter.com/MFGUnited/status/1440684812168163332. The more sophisticated version of this argument is couched in what Ed Kleinbard termed a "battle of the neutralities," which he and others have established does not provide a sound framework for policymaking. Claims that these frameworks support lower taxation of multinationals rest on assumptions that not well-supported by empirical evidence. See: Edward D. Kleinbard, "Throw Territorial Taxation From the Train," Tax Analysts, February 5, 2007, http://www.taxhistory.org/www/features.nsf/Articles/5A846114FF6AC58F852579CD0064DE32?OpenDocument; Jane Gravelle, "Reform of U.S. International Taxation: Alternatives," CRS, August 1, 2017, https://sgp.fas.org/crs/misc/RL34115.pdf.

53 Patrick Driessen, "EY's GILTI Study Flawed on Data and Tax Rates," Tax Notes, August 30, 2021, https://www.taxnotes.com/tax-notes-international/global-intangible-low-taxed-income-gilti/eys-gilti-study-flawed-data-and-tax-rates/2021/08/30/777bt.

54 See, Marr and Jacoby, *supra* note 26; Hanlon, *supra* note 26.

55 *Id.* Two former bank industry executives, who conclude that claims by current bank lobbyists "do not withstand scrutiny:" Charles Ellis and Alexander Boyle, "Banks Are Wrong to Fight Proposed New IRS Disclosure Rule," Bloomberg, September 28, 2021, https://www.bloomberg.com/opinion/articles/2021-09-28/banks-are-wrong-to-fight-proposed-new-irs-disclosure-rule.

56 Robert Frank, "Former Sen. Heidi Heitkamp, a Democrat, Says Biden's Plan to Tax Assets at Death Would Hurt Family Businesses," CNBC, September 1, 2021, https://www.cnbc.com/2021/09/01/former-democratic-senator-sounds-the-alarm-about-bidens-tax-plan.html; Nick Buffie and Bob Lord, "The American Families Plan Taxes Billionaires and Protects Family Farms and Businesses," Center for American Progress, August 30, 2021, https://www.americanprogress.org/issues/economy/reports/2021/08/30/503225/american-families-plan-taxes-billionaires-protecting-family-farms-businesses/, Albert Hunt, "Washington's oldest contact sport: Lobbyists scrum to dilute or kill Democrats' tax bill," The Hill, September 19, 2021, https://thehill.com/opinion/campaign/572906-washingtons-oldest-contact-sport-lobbyists-scrum-to-dilute-or-kill-democrats.

**3. A "competitiveness" assertion behind which sits a narrow view of America's economic strengths.**

Multinationals repeatedly claim proposed corporate tax reforms would hurt their competitiveness.[57] In essence, these large, profitable corporations are insisting they cannot compete with foreign companies unless the American public continues to subsidize them by retaining their access to tax havens.

This does not withstand scrutiny. U.S. multinationals are very profitable, and make up a disproportionate share of the most profitable companies in the world. In fact, even before the windfalls they enjoyed as a result of the 2017 tax cuts, U.S. multinationals had been so profitable that they held "about *$2.6 trillion* in profits offshore in order to avoid U.S. tax," and their lobbyists "pushed for the 2017 tax law to allow them to access those profits at a greatly discounted rate."[58]

The view of competitiveness advanced by U.S. multinationals relies on an extremely narrow vision of U.S. economic strength. Fundamentally, they argue that America's economic success does not depend on the skills and creativity of U.S. workers and entrepreneurs, or the strength of U.S. physical infrastructure, institutions, markets, and basic research. Rather, it depends on tax cuts for large corporations.

Lawmakers should reject this constrained view of America's economic potential. The building blocks of a dynamic economy can foster the next generation of researchers, inventors, innovators, and entrepreneurs who might be responsible for new breakthrough products and services with widely shared benefits. Existing profitable corporations with market power and lobbying operations are certainly louder today, but to secure U.S. economic growth it is important to take a long-term, expansive view of what drives a strong, inclusive U.S. economy rather than focusing narrowly on tax breaks that add to corporations' short-term profits.[59]

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[57] Nina Trentmann, "What CEOs, CFOs Are Saying About the Prospects of Higher Taxes," The Wall Street Journal, April 15, 2021, https://www.wsj.com/articles/what-ceos-cfos-are-saying-about-the-prospects-of-higher-taxes-11618510341; Curtis Dubay, "Raising the Corporate Tax Rate Will Damage Economic Recovery and Threaten Competitiveness," U.S. Chamber of Commerce, May 26, 2021, https://www.uschamber.com/series/above-the-fold/raising-the-corporate-tax-rate-will-damage-economic-recovery-and-threaten-0.

[58] Chuck Marr and George Fenton, "Corporate Lobbying Campaign Against Biden Tax Proposals Is Inaccurate, Unpersuasive," CBPP, September 10, 2021, https://www.cbpp.org/research/federal-tax/corporate-lobbying-campaign-against-biden-tax-proposals-is-inaccurate (citing Institute on Taxation and Economic Policy, "Fortune 500 Companies Hold a Record $2.6 Trillion Offshore," March 28, 2017, https://itep.org/fortune-500-companies-hold-a-record-26-trillion-offshore/.).

[59] Research shows that new and growing businesses are disproportionately responsible for job creation. Magnus Henrekson and Dan Johansson, "Gazelles as Job Creators: A Survey and Interpretation of the Evidence," Small Business Economics, Vol. 35, 2010, https://link.springer.com/article/10.1007/s11187-009-9172-z.