AMERICANS FOR TaxFairness

April 15, 2015

U.S. Senate Committee on Finance
Individual Income Tax Working Group
Via email to: Individual@finance.senate.gov

Re: Comments on Bipartisan Tax Reform

Dear Senate Finance Committee Members:

On behalf of Americans for Tax Fairness, a coalition of 425 national and state endorsing organizations, I am submitting these comments for your consideration. These comments consist of five parts:

1. **ATF Report: Next Steps Towards Tax Fairness Revenue Options:** While issued in February 2013, its policy recommendations are still applicable today.
2. **ATF's Taxing Wealthy Americans fact sheet:** Recommends raising tax rates on unearned income to earned income levels, capping tax deductions at 28% for the wealthiest Americans, ending the step-up in basis loophole on capital gains, enacting the Buffett rule and more.
3. **ATF's Estate Tax fact sheet:** Provides recommendations for strengthening the estate tax, rather than repealing it.
4. **ATF's CEO Pay fact sheet:** Endorses the Stop Subsidizing Multimillion Dollar Corporate Bonuses Act sponsored by Sens. Jack Reed and Richard Blumenthal.
5. **Compilation of Polling Questions on Individual Tax Issues:** This is the most comprehensive review of polling on this subject that exists.

Thank you for considering our views.

Sincerely,

Frank Clemente
Executive Director

NEXT STEPS TOWARD TAX FAIRNESS:

Options for Closing Loopholes for the Richest 2% and Big Corporations

The fiscal-cliff tax deal passed by Congress in early January was only a first step toward ensuring that the richest Americans pay their fair share of taxes. And it did not ask corporations to contribute any new tax revenues to help reduce the deficit or to make new investments to grow the economy.

By closing loopholes and ending tax breaks for powerful special interests, Congress can raise the revenue needed to reduce the deficit, protect vital programs, and make the economy strong again. A summary of options for doing that is below; a more detailed list follows.

SUMMARY: OPTIONS FOR RAISING TAX REVENUES OVER 10 YEARS	
1. End corporate tax breaks for shifting jobs and profits offshore	**$221-$606 billion**
2. Close other corporate tax loopholes and tax breaks	**$162 billion**
3. Place a small sales tax on Wall Street trading	**$353 billion**
4. Limit tax deductions for the richest 2%	**$513 billion**
5. Close loopholes that allow the very wealthy to shield income from taxation	**$1.5-$1.7 trillion**
6. Place a 5%-5.6% surtax on the incomes of millionaires or multimillionaires	**$107-$453 billion**

Note that not all of the nearly 300 organizations that make up Americans for Tax Fairness necessarily endorse all of these options. However, they agree that the first priority of Congress should be to create a more fair tax system, rather than reducing the deficit on the backs of the middle class and the poor – and that there are multiple ways of advancing that goal.

The fiscal-cliff tax deal passed by Congress in early January was only a first step toward ensuring that the richest Americans pay their fair share of taxes. And it did not ask corporations to contribute a dime to help reduce the deficit or to make new investments to grow the economy.

The middle class and the poor are still bearing most of the burden when it comes to reducing the deficit: in federal budget agreements so far, there has been $1.5 trillion in program cuts and just $600 billion in new tax revenues.[1] That means for every $2.50 in cuts there has been just $1 in new revenue. Because of the fiscal-cliff tax deal, some rich Americans will have to pay a little more in taxes – but many loopholes and tax breaks that benefit corporations and the wealthy went untouched.

A recent poll by Hart Research shows that Americans agree: Congress should require the richest 2 percent to pay more in taxes and close corporate tax loopholes, rather than cut Social Security, Medicare and Medicaid benefits, education and other vital programs.[2]

AMERICANS FOR TaxFairness

DETAILED OPTIONS FOR RAISING TAX REVENUES OVER 10 YEARS	Savings ($ billions over 10 years)
End corporate tax breaks for shifting jobs and profits offshore • **End the ability of U.S. corporations to delay paying taxes on foreign profits by repealing "deferral.** Deferral allows corporations to delay paying taxes on the profits from their overseas subsidiaries until those profits are repatriated back to the U.S. This would tax profits made overseas the same as profits made in the U.S., with a credit for foreign taxes paid [Savings: $606 billion; Joint Committee on Taxation (JCT) estimate updated by Citizens for Tax Justice (CTJ)] • **Close various international tax loopholes** ▪ End companies taking immediate deductions against their U.S. taxes for interest expenses associated with offshore operations [$65 billion; JCT/CTJ] ▪ Make sure the foreign tax credit, which prevents double taxation, does not exceed the amount necessary to achieve that goal [$60 billion; JCT/CTJ] ▪ Reduce abuses that shift patents and other intangible property to tax havens [$21 billion; JCT/CTJ] ▪ Eliminate or reform "check-the-box" rules that make it easy for corporations to move profits to overseas tax havens [$41 billion; JCT/CTJ]	**$221-$606**
Close other corporate tax loopholes and tax breaks • End abuses of inventory accounting (Repeal "Last In, First Out" (LIFO) and "Lower of Cost or Market" (LCM) rules) [$70 billion; JCT] • End special fossil-fuel tax breaks [$25 billion; JCT] • End stock option loopholes [$25 billion; JCT] • Cap tax deductibility of executive compensation, which was done under TARP and the ACA [$42 billion; Economic Policy Institute]	**$162**
Place a small sales tax on Wall Street trading Apply a tax of 30 cents for every $1,000 in trades (0.03 percent) of stocks, bonds, derivatives, and other financial products [$353 billion; JCT]	**$353**
Limit tax deductions for the richest 2% Reduce the value of tax deductions and exclusions to 28%, as proposed by President Obama, which would affect the richest 2% [$513 billion; JCT estimate updated by CTJ).	**$513**
Close loopholes that allow the very wealthy to shield income from taxation • Close the inherited capital gains tax loophole [Savings: About $500 billion; JCT] • Tax capital gains and dividends of the richest 2% at the same rate as ordinary income [About $500 billion; CTJ] • Restore a robust estate tax affecting fewer than 2% of estates [$114-249 billion; JCT) • Close loopholes in the estate tax [$24 billion; Treasury Dept.] • Curb the deferral of tax on income from the purchase of annuities or life insurance policies by wealthy investors [$260 billion; Congressional Budget Office (CBO)] • Limit excessive IRA accumulations for investment fund managers [No estimate] • Ensure millionaires pay at least a 30% tax rate ("Buffett Rule") [$54 billion; JCT] • Close the "like-kind exchange" loophole, which allows real-estate investors and multinational corporations to sell property at an appreciated price while avoiding capital gains taxes [$28 billion; CTJ] • Close the "carried interest" loophole for investment fund managers [$17-21 billion; JCT and CBO] • Eliminate the Medicare loophole for S Corporations [$11 billion; JCT] • Deny the mortgage interest deduction for vacation homes and yachts [$15 billion; Committee for a Responsible Federal Budget] • Close the tax loophole for derivatives traders [$3 billion; JCT]	**$1,526-$1,665**
Place a 5%-5.6% surtax on the incomes of millionaires or multimillionaires • Set a $1 million threshold at 5.6% [$453 billion; JCT] • Set a $10 million threshold at 5% [$107 billion; JCT]	**$107-$453**

NEXT STEPS TOWARD TAX FAIRNESS:
Options for Closing Loopholes for the Richest 2% and Big Corporations

Income at the top has soared in recent years as the income of the middle class has stagnated. The average federal tax rate for the top 1 percent of households declined from 35.1 percent to 28.9 percent between 1979 and 2009.[3] The share of federal revenue from the corporate income tax has plummeted by 75 percent in the last 60 years,[4] while corporate America's profits have soared. Meanwhile, over the last 4 years, federal revenues have been the lowest they've been as a share of the economy since 1950: Revenues have averaged 15.4 percent, compared to 20 percent during 1998-2001, the last time the federal budget was balanced.[5]

The middle class and the poor are still bearing most of the burden when it comes to reducing the deficit. It's time for Congress to require the richest 2 percent and corporations to pay their fair share of taxes, rather than cut Social Security, Medicare and Medicaid benefits, education and other vital programs. Multiple options for doing just that are described below.

I. End Tax Breaks to Corporations for Shifting Jobs and Profits Offshore

Revenue: $221-606 billion over 10 years; Joint Committee on Taxation estimate updated by Citizens for Tax Justice

The largest corporate tax loopholes are those that allow multinational corporations to avoid U.S. tax by locating investments or profits offshore. The fundamental way in which our tax system encourages the offshoring of jobs and corporate profits is that U.S. multinationals are allowed to "defer" (delay) paying taxes on the profits of their overseas subsidiaries until those profits are "repatriated" (brought back to the U.S.). As the Congressional Budget Office (CBO) explains:

> *The current tax system provides incentives for U.S. firms to locate their production facilities in countries with low taxes as a way to reduce their tax liability at home. Those responses to the tax system reduce economic efficiency because the firms are not allocating resources to their most productive use…The current system also creates incentives to shift reported income to low-tax countries without changing actual investment decisions.*[6]

In other words, our tax code subsidizes companies that shift profits and actual operations overseas, which costs revenue and jobs and ultimately drives down the wages of U.S. workers. The use of dodgy accounting schemes to shift corporate profits to offshore tax havens costs the United States as much as $90 billion a year in revenue.[7] Reforms are needed to stanch this massive revenue loss and level the playing field for investment and job creation in the United States.

There are two basic approaches to addressing tax breaks for corporate offshoring. The stronger approach would repeal deferral entirely. The more modest approach would close various loopholes that subsidize offshoring and allow tax avoidance.

- **End the Ability of U.S. Corporations to Delay Paying Taxes on Foreign Profits by Repealing "Deferral"**
  Revenue: $606 billion over 10 years; Joint Committee on Taxation estimate updated by Citizens for Tax Justice

  The way to completely remove the tax incentives to send jobs and profits offshore is simply to repeal deferral. Then U.S. corporations would pay current U.S. taxes on their foreign profits, as they do on domestic profits. They would continue to receive a credit for foreign taxes paid on their offshore profits (the foreign tax credit) so that they would never pay combined U.S. and foreign taxes at a rate exceeding the U.S. corporate tax rate.

  Senator Bernie Sanders (I-VT) has introduced legislation (S. 250) to repeal deferral. This proposal was also contained in bipartisan legislation sponsored by Sen. Ron Wyden (D-OR) and Sen. Dan Coats (R-IN) in 2010. The JCT estimated then that repealing deferral would raise $583 billion over 10 years if it took effect in 2011; Citizens for Tax Justice estimates it would raise $606 billion over 10 years if it takes effect in 2014.[8]

- **Close Various International Tax Loopholes**
  Revenue: $221 billion over 10 years; Joint Committee on Taxation estimates updated by Citizens for Tax Justice

  Another approach would be to adopt a set of multinational corporate tax reforms like those President Obama has proposed in his budgets that would reduce incentives for corporations to shift jobs and profits overseas, prevent corporations from claiming credit for foreign taxes they didn't pay, and crack down on tax havens. Overall, these 13 measures would raise about $221 billion over 10 years, based on JCT estimates updated by Citizens for Tax Justice, while reducing subsidies for corporate offshoring.[9] The largest of these reforms would:

  - End the practice of companies taking immediate deductions against their U.S. taxes for expenses associated with their offshore operations while deferring indefinitely the U.S. taxes on the resulting offshore profits: **$65 billion over 10 years.**
  - Help ensure that the foreign tax credit, which is supposed to prevent double-taxation of foreign profits, does not exceed the amount necessary to achieve that goal: **$60 billion over 10 years.**

- Reduce abuses involving intangible property like patents and trademarks, which are particularly easy to shift to tax haven-based subsidiaries that are really no more than a post office box: **$21 billion over 10 years.**
- Reform the rules relating to "dual capacity taxpayers," which allow multinational corporations such as large oil companies to claim foreign tax credits for payments that are essentially royalties, and therefore should not be creditable as foreign income taxes: **$10 billion over 10 years.**
- Eliminate or reform "check-the-box" rules that make it easy for corporations to move profits to overseas tax havens and avoid tax by "checking a box" that transforms subsidiaries into entities that don't have to pay tax: **At least $41 billion over 10 years.**[10]

In his "Framework for Business Tax Reform," President Obama also proposed a minimum tax on corporations' foreign profits to deter tax haven abuse, level the playing field for domestic investment, and prevent a global "race to the bottom" on corporate tax rates.[11] The details of the minimum tax proposal have yet to be released.

Public opinion on these tax reform options

- By a margin of 83% to 13%, voters want to "Increase taxes on the profits that American corporations make overseas, to ensure they pay as much on foreign profits as they do on profits made in the United States."
- By a margin of 73% to 25%, voters want to "Close loopholes that allow corporations and wealthy individuals to avoid paying U.S. taxes by shifting income to overseas tax havens."
  Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

II. Close Other Corporate Tax Loopholes and Tax Breaks

- **End Abuses of Inventory Accounting (Repeal "Last in, First Out" (LIFO) and "Lower of Cost or Market" (LCM) Rules**
  Revenue: $70 billion over 10 years; Joint Committee on Taxation

  The tax code currently allows companies to choose the most favorable method of valuing their inventory and cost of goods sold. Many taxpayers choose the "Last In, First Out," or LIFO, method, which can provide a substantial tax-deferral benefit. As Citizens for Tax Justice explains, "LIFO allows companies to deduct the (higher) cost of recently acquired or produced inventory, rather than the (lower) cost of older inventory."[12] LIFO, however, has been described as an inefficient and unnecessary subsidy for certain businesses, including oil companies, and it is not allowed by International Financial Reporting Standards.

A related and similarly flawed accounting method known as "Lower of Cost or Market" (LCM) allows businesses to choose whether to value inventory at its cost or market value, whichever is less, resulting in apparently smaller profits—and lower tax. Phasing out LIFO and LCM over a transition period would raise $69.9 billion over 10 years according to the Joint Committee on Taxation.[13]

- **End Special Fossil-Fuel Tax Breaks**
  Revenue: $25 billion over 10 years; Joint Committee on Taxation

The oil and gas industry continues to collect billions in special tax subsidies every year – relics of old energy policies that are simply not needed at a time when oil prices approach $100 per barrel.[14] The G-20 nations have agreed to phase out inefficient and wasteful fossil-fuel subsidies. President Obama has proposed to eliminate the following tax breaks, which would raise $24.9 billion over 10 years, according to the JCT:[15]

- Expensing of intangible drilling costs
- Percentage depletion for oil and gas wells
- Increase two-year geological and geophysical amortization period for independent producers to seven years
- Deduction for tertiary injectants
- Exemption to passive loss limitation for working interest in oil and natural gas properties
- Expensing, percentage depletion, and capital gains tax breaks for coal

Public opinion on this tax reform option

By a margin of 59% to 36%, voters want to "Eliminate tax breaks for oil companies." Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

- **End Stock Option Loopholes**
  Revenue: $25 billion over 10 years; Joint Committee on Taxation

Under present law, corporations can claim tax deductions for executive stock options that exceed the expense that they report to their shareholders for issuing the same options. Financial reporting rules require corporations to report an expense for stock options at the time they are granted to executives, based on an estimated value of the option. Yet tax rules allow them to deduct the value of the options when they are exercised – which is typically much higher than the value they ascribe for "book" purposes. In other words, corporations are allowed to tell shareholders one thing about how options affect their profits, and tell the IRS something else.[16] Stock options are also excluded from the existing rule that limits corporate deductions for executive pay to $1 million per year.

Legislation introduced by Sen. Carl Levin (D-MI), S. 268, would prevent companies from claiming tax deductions for stock options that exceed the expense reported to shareholders, while also subjecting stock options for top executives to the $1 million limit. It is estimated to raise $25 billion over 10 years.[17]

Public opinion on this tax reform option
By a margin of 63% to 34%, voters want to "Prevent corporations from avoiding taxes when they award their executives millions of dollars in stock options."
Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

- **Cap the Tax Deductibility of Executive Compensation**
  Revenue: $42 billion over 10 years; Economic Policy Institute

  Currently, there is no meaningful limit on how much corporations can deduct from their income taxes for the expense of executive compensation. The more they pay their CEO, the less they pay in taxes. As a result, ordinary taxpayers wind up subsidizing excessive executive pay.

  A Clinton-era reform capped the tax deductibility of executive compensation at $1 million, but with a huge loophole: the cap doesn't apply to "performance-based" pay. This led to the increased use of stock option-based compensation that greatly expanded CEO paychecks.

  Executive compensation experts found that pay arrangements that rely heavily on "performance pay" are leading managers to focus excessively on the short term, motivating them to boost short-term results at the expense of long-term value.[18] One study found that executive influence over their own pay has led to compensation schemes that weaken managers' incentives to increase firm value and even create incentives to take actions that *reduce* long-term firm value.

  The Troubled Asset Relief Program (TARP) legislation and the Affordable Care Act both have provisions that closed the loophole and lowered the cap to $500,000 for executives of bailout recipients and health insurance companies. The Income Equity Act of 2013 (H.R. 199) would close the loophole for performance-based pay and extend the TARP/ACA cap on deductibility of executive compensation to all firms. This approach is estimated to generate nearly $4.2 billion in revenues annually, or roughly $42 billion over 10 years.[19]

III. Place a Small Sales Tax on Wall Street Trading

Revenue: $353 billion over 9 years; Joint Committee on Taxation

It's time for Wall Street to help Main Street by placing a very small Financial Transaction Tax (FTT) on Wall Street trading in stocks, bonds, derivatives and other financial products. A tax of just 30 cents on each $1,000 worth of trades (0.03 percent) would raise $353 billion over nine years, according to the JCT.[20]

Besides raising much-needed revenue, the FTT would reduce dangerous financial market speculation and encourage longer-term productive investment. It would hit high-volume, high-speed trading the hardest, serving to discourage short-term speculation, as well as the proliferation of ever more complex financial instruments that increasingly destabilize financial markets. By reducing the volume and profitability of short-term trading that serves no productive purpose, the tax would encourage Wall Street to find new ways to make money from longer-term, productive investments. That would mean more jobs on Main Street and an economy based on producing things rather than on speculating. Eleven European Union (EU) governments have now agreed to implement an FTT.

Public opinion on this tax reform option

By a margin of 61% to 32%, voters want to "Establish a small tax on all trading in stocks and bonds and other financial market trades. For example, for every ten thousand dollars in a trade the tax would be three dollars."
Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

IV. Limit Tax Deductions for the Richest 2 Percent

Revenue: $513 billion over 10 years; Joint Committee on Taxation updated by Citizens for Tax Justice

Under the current tax code, the highest-income taxpayers get a much larger tax break from tax deductions or exclusions from taxable income than middle-class taxpayers. For example, for a wealthy taxpayer in the 39.6 percent tax bracket who pays $10,000 in mortgage interest, the mortgage interest deduction is worth $3,960. For a middle-income taxpayer in the 15 percent tax bracket who pays the same $10,000 in mortgage interest, the deduction is only worth $1,500. This is both unfair and inefficient. It's unfair because the richest 2 percent of Americans shouldn't get a bigger tax break than middle-class families for doing things like buying a house or saving for retirement. It's inefficient because these costly tax incentives are poorly targeted at those least likely to need them or respond to them.

President Obama proposes to reform the "upside-down" problem with tax deductions and exclusions by limiting the value of several deductions and exclusions for the richest 2 percent – those households making more than $250,000 a year in taxable income – to 28 percent. In other words, the richest taxpayers would get the same tax benefit from these tax breaks as a household in the 28 percent bracket, but not more as they do now. This policy would raise an estimated $513 billion in revenue over the next decade.[21]

Public opinion on this tax reform option

By a margin of 56% to 41%, voters support "Limit[ing] tax deductions for people making over $250,000 a year."
Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

V. Close Loopholes that Allow the Very Wealthy to Shield Much of Their Income from Taxation

Revenue: $1.5-$1.7 trillion over 10 years

Very wealthy taxpayers can accumulate even more wealth – while paying little or no taxes – by taking advantage of a variety of tax breaks and loopholes that allow them to exclude, defer, or under-report income, so that much of their added wealth escapes tax altogether.[22] There are a number of approaches to close these loopholes:

- **Close the Inherited Capital Gains Tax Loophole**
  Revenue: About $500 billion over 10 years; Joint Committee on Taxation

  One of the largest loopholes in the tax code allows wealthy people to avoid capital gains tax by holding onto their assets until they die and bequeathing them to heirs. Normally, capital gains – the appreciation in value of stocks, businesses, or other assets – are taxed when a person sells them. But if a person holds onto assets until his death and passes them onto heirs, then neither the decedent nor his heirs ever have to pay capital gains taxes on the appreciation during the decedent's lifetime. As a result of this loophole, about 56 percent of the value of estates worth more than $10 million is unrealized capital gains that is never taxed.[23] This tax code rule also creates inefficiency as investors are "locked into" holding onto assets they would otherwise want to sell.

  Reforming the inherited capital gains loophole – technically called "step-up of basis at death" – could increase revenues substantially. The JCT estimates that $258 billion will be lost between 2013 and 2017 because of the exclusion of capital gains at death. Over 10 years the loss could be at least $516 billion.[24] To prevent these losses a person's estate should be required to pay capital gains tax on appreciation during that person's lifetime (perhaps with an exemption that would limit the reform to large capital gains so that the vast majority of people would be unaffected[25]).

  The deficit-reduction proposal made by Erskine Bowles and Alan Simpson, under the auspices of the National Commission on Fiscal Responsibility and Reform, also called for closing this loophole.[26]

  Another approach, which is likely to be less effective in raising revenue, would be to provide that heirs inherit assets with a "carryover basis," so that that untaxed appreciation is subject to capital gains tax when they sell assets.

  Public opinion on this tax reform option
  By a margin of 60% to 35%, voters want to "Eliminate the loophole that allows wealthy families to avoid paying any capital gains taxes on stocks and bonds that they inherit." Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

- **Tax Capital Gains and Dividends of the Richest 2% at the Same Rate as Ordinary Income**
  Revenue: About $500 billion over 10 years; Citizens for Tax Justice

  The reason very wealthy Americans like Warren Buffett and Mitt Romney pay a lower tax rate than millions of middle-class Americans is that most of their income is from selling assets like stocks and bonds, and from dividends, all of which are taxed at a special low 23.8 percent rate for people in the highest tax bracket, as opposed to the new top rate of 39.6 percent on income from work. This income from investments is also exempt from Social Security payroll taxes that working people pay on their wages. Workers who get most of their earnings from salaries or wages often pay a higher tax rate than the rich, especially when payroll taxes are included.

  These special low tax rates promote inequality and divert resources to unproductive tax shelters that would never exist but for the tax benefits. Capital gains income from stocks and bonds overwhelmingly goes to the wealthiest taxpayers. The richest 1 percent of taxpayers receive 71 percent of all capital gains, while the bottom 80 percent only get 6 percent of all capital gains, according to the Tax Policy Center.[27] Income from dividends is also heavily skewed to the wealthy, with the richest 5 percent of taxpayers receiving 68 percent of stock dividends compared with 17 percent for the bottom four-fifths of taxpayers.[28] Even among the elderly, capital gains and dividend income is highly concentrated at the top.

  Taxing capital gains and dividends at the same rates as other income is the fairest solution. Ronald Reagan signed such a measure into law in 1986.[29] However, the rates for capital gains and other types of income diverged again in the 1990s and in 2003, when tax cuts enacted under President George W. Bush lowered the top capital gains rate from 20 percent to 15 percent and lowered the tax rate for corporate stock dividends to 15 percent, from the ordinary income tax rate.

  Under the fiscal-cliff deal passed in January 2013, known as the American Taxpayer Relief Act, the top capital gains tax rate and dividends rate will rise to 20 percent for couples with income above $450,000 ($400,000 for individuals). An additional 3.8 percent tax on net investment income, enacted as part of the Affordable Care Act in 2010, will apply to couples with income above $250,000 ($200,000 for individuals). More than half of the revenue raised by this additional 3.8 percent tax – $123 billion from 2013 to 2019 – will come from the top 0.1 percent of taxpayers and 86 percent will come from the top 1 percent.[30]

  Congress should go even further and tax capital gains and dividends at the ordinary income tax rates for the richest 2 percent. Although revenue estimates for this proposal are not available, a rough comparison with the revenue raised over a shorter period by the smaller 3.8 percent tax and earlier estimates of the revenue raised from taxing capital gains as ordinary income (assuming dividends were already being taxed the same as ordinary income) shows that it should raise at least $500 billion over 10 years.[31]

Public opinion on this tax reform option

- By a margin of 52% to 36%, voters support a proposal that would "For those making over two hundred fifty thousand dollars, end the lower tax rate on income from selling stocks and other assets."
- By a margin of 48% to 39%, voters support a proposal that would "For those making over two hundred fifty thousand dollars, end the lower tax rate on dividend income from stocks."
  Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

- **Restore a Robust Estate Tax**
  Revenue: $114-$249 billion over 10 years; Joint Committee on Taxation

The estate tax is a potentially important source of federal revenue that encourages billions of dollars in charitable donations each year and is a means to make the tax system modestly progressive so that the wealthy pay a fairer share of taxes. However, the Bush tax cuts dramatically reduced the estate tax, and it was cut further by the estate tax cut enacted in 2010, which expired in 2012.

The fiscal cliff deal extended most of that temporary estate tax cut, exempting the first $10.5 million of a couple's estate from tax and applying a top tax rate of 40 percent to taxable assets above that level. At this much reduced level, only the richest 0.14 percent of estates – or 1 in 700 – will owe any estate tax in 2013,[32] and the estate tax will raise only $19 billion more over 10 years than would have been raised by extending the 2012 estate tax.[33]

Under President Obama's proposal to restore the generous estate tax parameters in effect for 2009 ($7 million exemption for couples, 45 percent top rate), only 0.26 percent of estates – or 1 in 380 – would owe any estate tax in 2013.[34] Even with so few estates subject to the estate tax, the Obama proposal would raise $114 billion more over 10 years than the deal struck in January 2013.[35]

Another proposal (H.R. 3467), introduced by Rep. Jim McDermott in 2011, set the estate tax exemption at $2.6 million per couple, which would affect fewer than 2 percent of estates.[36] It would set a top rate of 55 percent on the value of estates above that amount. This would largely restore the estate tax to where it was before the Bush tax cuts, adjusted for inflation and with some reforms. It would raise $249 billion more than the deal struck in January.[37]

- **Close Loopholes in the Estate Tax**
  Revenue: $24 billion over 10 years; Treasury Department

  Though the estate tax now allows couples to transfer $10.5 million of wealth tax-free to heirs, wealthy people use numerous aggressive strategies to avoid estate and gift taxes while transferring even larger amounts of wealth. President Obama's budgets in recent years have identified several reforms to prevent people from undervaluing their assets for estate tax purposes or using trusts as estate tax avoidance devices.[38] The Treasury Department estimated in 2012 that these reforms would raise $24 billion over 10 years.[39] That amount might be less under the now-looser estate tax parameters enacted under the American Tax Reform Act in 2013, but it is not a complete estimate of the revenue that can be raised through estate tax reform: there are undoubtedly other tax avoidance strategies that deserve further scrutiny.

- **Curb the Deferral of Tax on Income from the Purchase of Annuities or Life Insurance Policies by Wealthy Investors**
  Revenue: Up to $260 billion over 10 years; Congressional Budget Office

  Normally, when people hold investments outside of tax-preferred retirement accounts, they must pay income taxes when interest or dividends are paid from those investments or when assets are sold resulting in capital gains. However, people who buy annuities or whole-life insurance policies can effectively defer tax on their earnings from their premiums as they accumulate. The tax could be paid by individuals or directly by the company providing the annuity or insurance policy. It is estimated that curbing this loophole could save up to $260 billion, according to CBO.[40] The benefit seems to go mainly to the well-off. Data from the Federal Reserve indicates that over half of this untaxed investment income is owned by the richest 10 percent of Americans, and very little is owned by the bottom half of Americans.[41] The deficit-reduction proposal made by Erskine Bowles and Alan Simpson, under the auspices of the National Commission on Fiscal Responsibility and Reform, also taxed inside buildup on life insurance benefits at death.[42]

- **Limit Excessive IRA Accumulations for Investment Fund Managers**
  Revenue: no publicly available revenue estimate

  Tax-favored retirement accounts such as Individual Retirement Accounts (IRAs) and 401(k)s are intended to help regular workers save for a secure retirement, not to provide tax shelters for the rich. But extremely wealthy people, such as investment fund managers, can accumulate tens of millions of dollars in their IRAs – avoiding the contribution limits that apply to middle-class workers – by under-valuing the contributions they make to their IRAs.[43] For example, Mitt Romney's IRA is reported to be worth $87 million.[44]

This loophole is of dubious legality to begin with. But Congress can guard against abuses by enacting rules to limit the use of IRAs as tax shelters. For example, Congress could require distributions from IRAs if their value rises above a certain amount, or require retroactive taxation of contributions to IRAs if the value of those contributions rises above some set percentage.

- **Ensure Millionaires Pay at Least a 30 Percent Tax Rate ("Buffett rule")**
  Revenue: $54 billion over 10 years; Joint Committee on Taxation

  Closing the various loopholes that enable the very wealthy to shield income from taxation is good tax policy. But until that job is done, the "Buffett rule" (named after Warren Buffett, the billionaire who famously said he shouldn't pay a lower effective income tax rate than his secretary) will at least ensure that millionaires pay a tax rate equal to that of many middle-class families.

  Senator Sheldon Whitehouse has introduced legislation, S. 278, that would require taxpayers earning over $2 million to pay at least a 30 percent effective federal income tax rate. The minimum tax would begin to phase in at $1 million. This measure is estimated to raise $53.6 billion over 10 years).[45]

- **Close the "Like-Kind" Exchange Loophole**
  Revenue: $28 billion over 10 years; Citizens for Tax Justice

  Real-estate investors and multinational corporations have exploited a tax break ("like-kind exchanges") originally intended to enable farmers to exchange acreage, transforming it into a multi-billion dollar loophole that enables them to sell property at an appreciated price without paying capital gains taxes. This loophole has been widely exploited by many giant companies, including General Electric, Cendant and Wells Fargo.[46]

  The revenue loss due to the "like-kind exchange" tax break is $94 billion over 10 years, according to the JCT.[47] Congress could eliminate like-kind exchanges entirely or restrict who can take advantage of them. Citizens for Tax Justice estimates that reforms could net about $28 billion over 10 years.[48]

- **Close the "Carried Interest" Loophole for Multi-Millionaire Investment Fund Managers**
  Revenue: $17-21 billion over 10 years; Joint Committee on Taxation and Congressional Budget Office

  Very wealthy private investment fund managers can pay a lower tax rate on their earnings than many working Americans by arranging to receive their compensation as a share of profits ("carried interests"), so it is taxed at preferential capital gains rates. This income represents compensation for managing other people's investments, and should be taxed in the same manner as wages and salaries from all other jobs – as ordinary income. Closing this loophole would save between $17 billion and $21 billion over 10 years respectively, according to the JCT and CBO.[49]

Public opinion on this tax reform option

By a margin of 75% to 20%, voters want to "Eliminate the loophole that allows hedge fund managers to pay a lower tax rate than middle-class taxpayers."
Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

- **Eliminate the Medicare Tax Loophole for S Corporations**
  Revenue: $11 billion over 10 years; Joint Committee on Taxation

  Certain highly paid professionals sometimes take advantage of a tax loophole made infamous by former Speaker of the House Newt Gingrich (R-GA) and former Sen. John Edwards (D-NC). These professionals – lawyers, accountants, doctors, consultants, and entertainment professionals – form "S corporations," whose profits are not subject to Medicare taxes and who characterize much of their income as profits of the business instead of salaries. Regular wage-earners can't do this, and neither can the owners of other kinds of small businesses. Government watchdogs have flagged the S corporation loophole as an area of rampant abuse. Legislation introduced in the House and in the Senate in recent years would shut down this loophole, requiring these well-heeled professionals to pay their fair share into Medicare. Closing this loophole has been estimated to raise $11 billion over 10 years, according to the JCT.[50]

- **Deny Mortgage Interest Deduction for Vacation Homes and Yachts**
  Revenue: $15 billion over 10 years; Committee for a Responsible Federal Budget

  The mortgage interest deduction is intended to promote homeownership, but the tax code allows people to claim it not only on one property but on two. Moreover, under current Internal Revenue Service rules, a second home doesn't have to be a house – it can be a large boat, too. Under the rules, boats can qualify as second homes eligible for the tax break as long as they contain sleeping spaces, bathrooms (heads), and kitchens (galleys). In other words, only large boats qualify.

  This is a perfect illustration of how a tax break intended to help middle-class people afford homes winds up subsidizing lavish lifestyles and costing more than it should. It makes little sense to maintain tax breaks on vacation properties or yachts while regular homeowners who can't afford such luxuries can claim only a deduction on one home and renters receive no deduction at all, especially at a time when budget constraints have put federal housing programs at risk. Limiting the mortgage interest deduction to primary residences could raise $15 billion over 10 years.[51] The deficit-reduction proposal made by Erskine Bowles and Alan Simpson, under the auspices of the National Commission on Fiscal Responsibility and Reform, also denied the mortgage interest deduction for second homes.[52]

- **Close the Tax Loophole for Derivatives Traders**
  Revenue: $3 billion over 10 years; Joint Committee on Taxation

  Warren Buffett calls this one of the "extraordinary tax breaks" for the "mega-rich." Due to a special rule in the tax code, certain derivatives traders pay a "blended" rate on their income—60 percent at favorable long-term capital gains rates and 40 percent at ordinary income rates.

  Although investors must generally hold onto assets for one year in order to enjoy low-rate capital-gain treatment, traders who buy and sell derivatives are eligible for the blended rate even if they buy and sell instantly. The loophole was carved out a generation ago to protect investors in commodities futures whose purpose was to protect long-term profits, not engage in short-term speculation. But financial markets have changed, and as Buffett explains, a trader can "own stock index futures for 10 minutes" and get the favorable tax treatment "as if they'd been long-term investors."[53]

  Sen. Carl Levin (D-MI) introduced legislation in the last Congress to close this loophole. The JCT estimated that the Administration's proposal to close the loophole would raise nearly $2.7 billion over 10 years.[54]

VI. Place a Surtax on the Incomes of Millionaires

Revenues: $107-$453 billion over 10 years; Joint Committee on Taxation

The fiscal-cliff tax deal restored tax rates on income above $450,000 for households ($400,000 for individuals) to their Clinton-era levels of 39.6 percent. This rate is still low by historical standards; from 1932 to 1986, the top marginal tax rate was at or above 50 percent.[55] And it leaves CEOs and investment managers making tens of millions of dollars paying the same marginal tax rate as a professional couple.

The richest 1 percent hold 35 percent of the nation's wealth and the bottom 90 percent owns just 23 percent.[56] The top 1 percent have seen their average after-tax income rise nearly four-fold since 1979, while the income of the middle 60 percent rose just 40 percent.[57] Despite these staggering differences, the U.S. tax code only has six income tax rates, with the top marginal rate of 39.6 percent applied equally to a professional couple making $450,000 a year and a CEO making $20 million. That is not right, nor does it make good economic sense.

It is time for the rich and the super-rich to contribute their fair share by paying higher marginal tax rates. A relatively simple way to do this is to place a surtax on income over $1 million a year, such as the 5.6 percent surtax that was proposed in the American Jobs Act debated in the Senate in 2011. This measure was estimated to raise $453 billion over 10 years by the JCT,[58] and it would affect just 2 out of 1,000 households (two-tenths of 1 percent of all taxpayers).[59] A more modest alternative would be to assess a 5 percent surtax on incomes of $10 million or more. This measure is estimated to raise $107 billion over 10 years, according to JCT.[60]

Public opinion on this tax reform option

- By a margin of 73% to 22%, voters support "Plac[ing] a surtax of five percent on a person's income over ten million dollars per year."
- By a margin of 67% to 28%, voters support "Plac[ing] a surtax of five percent on a person's income over one million dollars per year."
  Hart Research Associates Poll, Jan. 18-22, 2013, Q. 12

Endnotes

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[9] *Ibid*., pp. 10-13. These revenue figures are CTJ's estimates for fiscal years 2014-2023 based on the JCT's scores of the various proposals by President Obama for earlier 10-year budget periods.
[10] *Ibid.,* p. 10. The Treasury Department estimated a much higher revenue yield from reforming "check the box." CTJ projects that the proposal would raise $115 billion over fiscal years 2014-2023 based on prior Treasury estimates.
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[12] CTJ, "Policy Options to Raise Revenue" (March 8, 2012), p. 12, http://ctj.org/pdf/revenueraisers2012.pdf.
[13] JCT, Estimated Budget Effects of the Revenue Proposals Contained in the President's Fiscal Year 2013 Budget Proposal (JCX-27-12) (March 21, 2012), Section XIV, H and I, p. 11, https://www.jct.gov/publications.html?func=startdown&id=4413
[14] Contract price of crude oil was $97.01 for March 13, 2013, *see* http://www.bloomberg.com/energy/ (Feb. 12, 2013).
[15] JCT, (JCX-27-12) Section XIII, pp. 10-11, *supra* note 13. This estimate does not include the Obama Administration's proposal to reform the rules regarding "dual capacity" taxpayers. Though oil companies are a

principal beneficiary of the existing "dual capacity" rules, that reform proposal is included in the previous section on international tax loopholes.

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Taxing Wealthy Americans

Overview

The federal income tax is designed to be progressive – tax rates increase in steps as income rises. For decades this helped restrain disparities in income and helped provide revenue to make public services available to all Americans. Today the system has badly eroded – many multi-millionaires and billionaires pay a lower tax rate than average American families.

Ironically, this has happened while the gap between the wealthy and everyone else has grown wider than ever. The extremely rich aren't only earning and owning more – many are also passing wealth to their heirs tax-free, creating a new American aristocracy with vast fortunes.

How the rich avoid paying taxes – and what to do about it

- **Tax income from investments like income from work.** Billionaires like Warren Buffett pay a lower tax rate than millions of Americans because federal taxes on investment income *(unearned income)* are lower than the taxes many Americans pay on salary and wage income *(earned income.)* Because Buffett gets a high percentage of his total income from investments, he pays a lower income tax rate than his secretary. Currently, the top *statutory* tax rate on investment income is just 23.8%, but it's 43.4% on income from work. To reduce this inequity, *we should raise tax rates on capital gains and dividends* so they match the tax rates on salaries and wages. These loopholes lose $1.3 trillion over 10 years.
- **Cap tax deductions at 28% for the wealthiest Americans.** The rich are able to get much bigger tax breaks for the same tax deductions taken by the middle class. For example, a wealthy family living in a McMansion gets a much bigger tax deduction on the interest on their large mortgage than a middle-class family gets on the interest on their small mortgage on a two-bedroom house. *President Obama* has proposed to *limit the tax break on deductions that the richest 3% can take to 28 cents on the dollar*. In other words, the rich would get the same tax benefit per dollar of deductions as a household in the 28% tax bracket, but not more (as they do now) at the higher 39.6% bracket. This would raise $500 billion over 10 years.
- **Strengthen the estate tax.** Some of the ultra-rich are able to take advantage of loopholes so they pay almost nothing in inheritance taxes. Others take advantage of the fact that the exemption levels for the estate tax are very high – $5.3 million per individual ($10.6 million per couple.) *President Obama proposes to restore the exemptions to their 2009 levels* – $3.5 million for an individual ($7 million for a couple) taxed at a 45% top rate. This and other reforms would raise $131 billion over 10 years. Only three estates for every 1,000 deaths would be affected.

Key Facts

The richest 1% of Americans own 35% of the nation's wealth. The bottom 80% own just 11% of the nation's wealth.

In the 1950s and 1960s, when the economy was booming, the wealthiest Americans paid a top income tax rate of 91%. Today, the top rate is 43.4%.

The richest 1% pay an effective federal income tax rate of 24.7% in 2014; someone making an average of $75,000 is paying a 19.7% rate.

The average federal income tax rate of the richest 400 Americans was just 20 percent in 2009.

Taxing investment income at a much lower rate than salaries and wages are taxed loses $1.3 trillion over 10 years.

1,470 households reported income of more than $1 million in 2009 but paid zero federal income taxes on it.

CEOs of major corporations earn nearly 300 times more than an average worker.

30 percent of income inequality is due to unfair taxes and budget cuts to services and benefits.

The largest contributor to increasing income inequality has been changes in income from capital gains and dividends.

News Coverage

Republican's Tax Plan Awkwardly Aims at Rich, The New York Times

Accidental Tax Break Saves Wealthiest Americans $100 billion," Bloomberg News

A Family's Billions, Artfully Sheltered, The New York Times

Report: Quarter of Millionaires Pay Lower Tax Rate than some in Middle Class, The Washington Post

Carried Interest Tax Break Comes Under Fire Again, The New York Times

Another way to ensure that large inheritances are taxed is to close the income tax loophole that lets wealthy people avoid capital gains taxes by holding their assets until they die. Their heirs then escape paying taxes on these gains. This would raise about $650 billion over 10 years. We should also end specialized trusts that allow families, such as the Waltons who own more than half of Walmart, to completely avoid paying estate and gift taxes.

Other ways to close tax loopholes for the wealthy

- **Pass the Buffett Rule.** The Buffett rule, inspired by billionaire Warren Buffett, would require millionaires to pay a minimum tax rate of 30%. This will guarantee that the wealthy will not pay a smaller share of their income in taxes than a middle-class family pays. It would raise $72 billion over 10 years.
- **Close the Wall Street carried interest loophole.** Wealthy private equity managers use a loophole to pay the lower 23.8% capital gains tax rate on the compensation they receive for managing other people's money. We should close this loophole so that they pay the same rate as others at their income level who receive their compensation as salary. This would raise $17 billion over 10 years.
- **Eliminate the payroll tax loophole for S corporations.** This loophole allows many self-employed people to use "S corporations" to avoid payroll taxes. Used by Newt Gingrich and John Edwards to avoid taxes, closing this loophole would require treating this income as salary rather than profit, making it subject to payroll taxes. This would raise $25 billion over 10 years.

What conservatives say – and why it's wrong

Conservatives claim the wealthy are overtaxed. But the overall share of taxes paid by the top 1% and the top 5% is about their share of total income. This shows that the tax system is not progressive when it comes to the wealthy. The richest 1% pay an effective federal income tax rate of 24.7%. That is a little more than the 19.3% rate paid by someone making an average of $75,000. And 1 out of 5 millionaires pays a lower rate than someone making $50,000 to $100,000.

Conservatives claim that the estate tax is a "death tax," wrongly implying that the tax is paid when every American dies. In fact, the tax primarily is paid by estates of multi-millionaires and billionaires. The vast majority of deaths – 99.9% – do not trigger estate taxes today.

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Changing the Tax Code Could Help Curb Inequality, The Washington Post

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Yup, the Buffett-and-his-Secretary Analogy is Completely Accurate, The Washington Post

Resources

The Buffett Rule: A Basic Principle of Tax Fairness, The National Economic Council

Addressing the Need for More Federal Revenue, Citizens for Tax Justice

How the Government Subsidizes Wealth Inequality, Center for American Progress

Tax Expenditure Reform: An Essential Ingredient of Needed Deficit Reduction, Center on Budget & Policy Priorities

Who Pays Taxes in America in 2014?, Citizens for Tax Justice

Rising Income Inequality and the Role of Shifting Market-Income Distribution, Tax Burdens, and Tax Rates, Economic Policy Institute

AMERICANS FOR TaxFairness

The Estate (Inheritance) Tax

Overview

The federal estate tax, also known as the inheritance tax, is primarily paid by the estates of multi-millionaires and billionaires before their assets are passed to their heirs. It was created nearly 100 years ago to raise revenue from those with the greatest ability to pay, encourage charitable giving and put a brake on the concentration of wealth and power. Conservatives call it the "death tax" in order to mislead people to believe that all Americans pay the tax. But the truth is the vast majority of deaths – 99.9% – will not trigger estate taxes in 2014.

Who pays the estate tax and how much do they pay?

Currently, the tax is assessed only on estates with assets exceeding $5.3 million ($10.6 million per married couple). Families with an estate worth less than those amounts pay nothing. Most families with estates worth $10.6 million or more do careful planning to avoid the tax. Tax loopholes let many wealthy families greatly reduce what they pay or pay no taxes at all. The estate tax is graduated – like the income tax – with a top rate of 40%. However, the average effective tax rate is 17% for those 1 out of 700 deaths that result in paying an estate tax.

Why is the estate tax important?

Very wealthy Americans have many ways to avoid paying their fair share in taxes. Some billionaires pay a lower federal tax rate than an average worker. Large portions of the incomes of the very rich are never taxed at all.

American society is rapidly becoming divided between the extremely rich – the top 1% – and everyone else. Huge family fortunes are passed down from generation to generation, creating a new American aristocracy. The estate tax is a small step toward levelling the playing field. And revenues generated by the estate tax – $14 billion in 2013 from 2,667 deaths – help fund essential services enjoyed by all.

Correcting misinformation about the estate tax

Conservatives misleadingly imply that every American will have to pay the estate tax when he or she dies. But this is pure propaganda – only 1 out of every 700 deaths results in paying estate taxes.

Conservatives claim that many small, family-owned farms and businesses must be sold to pay estate taxes. But in the entire country just 20 small, family-owned farms and businesses owe any estate tax a year. Virtually none of them get sold to pay the estate tax.

Conservatives claim that the estate tax constitutes "double taxation" because it applies to assets that already have been taxed once as income. But large estates consist mostly of "unrealized" capital gains that have never been taxed, like income from Wall Street investments and from real estate.

Key Facts

The estate tax raised $8.5 billion in 2012 – less than 1% of the $1.2 trillion inherited that year.

Only 1 out of every 700 deaths results in paying the federal estate tax today. The vast majority of estates – 99.9% – do not pay federal estate taxes.

While the top estate tax rate is 40%, the average tax rate paid is just 17%.

The estate tax is only paid on assets greater than $5.3 million per individual ($10.6 million couple). Even billionaires pay nothing on the first $5.3 million left to their heirs.

Only 20 small business and family farm estates nationwide will owe any estate tax in 2013.

The estate tax will raise $225 billion over the next 10 years. This is more than the $164 billion 10-year shortfall in the highway and mass transit trust funds.

The Walton family – which owns half of Walmart – has exploited a loophole in the estate tax to avoid paying $3 billion in estate taxes. This could increase by tens of billions in the future.

Casino magnate Sheldon Adelson has exploited a loophole that allowed him to pass $8 billion to family members and avoid $2.8 billion in estate taxes.

News Coverage

Accidental tax break saves wealthiest Americans $100 billion," Bloomberg News

How Wal-Mart's Waltons Maintain Their Billionaire Fortune, Bloomberg News

Cook Couple Passed $6 Billion Fortune to Son to Avoid Tax, Bloomberg News

A Family's Billions, Artfully Sheltered, The New York Times

President Obama wants to strengthen the estate tax

The estate tax will currently raise about $225 billion over 10 years. President Obama wants to restore its parameters to 2009 levels – a $3.5 million exemption for an individual ($7 million couple) and a 45% top rate. This reform and others he proposed will raise $131 billion more over 10 years, and affect three estates for every 1,000 deaths.

Other stronger reform options

- **Restore the estate tax to what it was under President Clinton** – a $2.6 million exemption per couple with a 55% top tax rate. This would generate an additional $249 billion over 10 years – money that could be used to support popular public services and reduce the deficit. Even with this smaller exemption, the tax would affect fewer than 2 out of 100 estates. Rep. Jim McDermott (D-WA) proposed such legislation (H.R. 3467) in 2011.
- **Close the inherited capital gains tax loophole.** Wealthy people avoid capital gains taxes by holding onto their assets until they die and bequeathing them to heirs. The increase in value is not taxable when they are sold. This loophole will allow the wealthy to dodge about $650 billion in taxes over the next 10 years.
- **Close an estate tax loophole used by the super-rich, known as the "Walton" grantor retained annuity trust, or GRAT.** These specialized trusts allow families like the Waltons to completely avoid paying estate and gift taxes. This loophole may have cost the U.S. Treasury $100 billion since 2000.

Conservatives want to repeal the estate tax

There is a significant effort among conservatives to repeal the estate tax – with no plans to replace the $269 billion in revenue that would be lost over a decade, as estimated by the Joint Economic Committee. Americans for Tax Fairness strongly opposes such efforts.

Opinion

Changing the tax code could help curb inequality, The Washington Post

Look How Easy It Is to Game Estate Taxes, Bloomberg View

America's Taxation Tradition, The New York Times

Resources

Estate and Gift Taxes, Tax Policy Center

Policy Basics: The Estate Tax, Center on Budget and Policy Priorities

Myths and Realities About the Estate Tax, Center on Budget and Policy Priorities

Fixing and Expanding the Estate Tax, Institute for Policy Studies

Loopholes in the Estate Tax Show Why Revenue Must Be on the Table, Center for American Progress

Wealth and Our Commonwealth: Why Americans Should Tax Accumulated Fortunes, Bill Gates Sr. and Chuck Collins

AMERICANS FOR TaxFairness

Tax Subsidies for CEO Pay

Overview

Most American taxpayers would be shocked to learn that they subsidize CEO bonuses. A tax loophole allows corporations to deduct from their taxable income any amount paid to CEOs and their executives, as long as the pay is "performance-based." This means that the more they pay their executives, the less they pay in federal taxes.

Why does this tax loophole exist?

The CEO pay loophole defies common sense, but Congress thought was doing the right thing when it passed legislation in 1993 that capped the tax deductibility of executive pay at $1 million. But there was a huge loophole – the cap doesn't apply to "performance-based" pay, which includes stock options. Incentive bonuses were supposed to make CEOs better stewards of shareholders' money. This theory has proved false, with the 2008 financial crisis being only the most severe example of how huge performance bonuses can encourage risky activities that endanger single companies and the broader economy.

How much does this loophole cost taxpayers?

Closing the CEO pay loophole would save taxpayers $50 billion over 10 years, according to the non-partisan Joint Committee on Taxation.

What could $50 billion buy?

Rather than subsidize corporate executive pay, other pressing needs could be funded such as:

- Two-thirds of the $75 billion cost of President Obama's plan to provide all low- and moderate-income 4-year-olds with high-quality publicly funded preschool over 10 years.
- Food and Drug Administration funding over 10 years to ensure that our food, prescription drugs and many other products are safe.
- Eliminating the highway and mass transit trust fund shortfalls for the next 2½ years.

What are other benefits of closing the loophole?

Eliminating the loophole would give corporations less incentive to shower executives with lavish bonuses – money that could be used to increase pay for average workers. It would also reduce incentives for CEOs to take wild risks with their companies in order to get multi-million dollar "performance-based" bonuses.

Executive compensation experts found that pay arrangements relying heavily on "performance pay" are leading managers to focus excessively on the short term, motivating them to boost short-term results at the expense of long-term value.

Key Facts

Closing the CEO pay loophole would save taxpayers $50 billion over 10 years.

Walmart dodged $104 million in federal taxes over the past six years by exploiting the CEO pay loophole.

Voters strongly oppose the CEO pay loophole. By nearly 2 to 1 (63%-34%) they want to "Prevent corporations from avoiding taxes when they award their executives millions of dollars in stock options." Hart Research, Q. 12

CEOs of major corporations earn nearly 300 times more than an average worker. This is 10 times more than the CEO to worker pay ratio in 1978 when CEOs earned 30 times more.

CEOs often get their "performance-based" bonuses even when they don't reach performance goals.

News Coverage

How Taxpayers Subsidize Millions in CEO Pay, CBS News Moneywatch

Walmart Slashed Tax Bill By Giving Top Execs Big Bonuses, Forbes

Restaurant chains slash tax bill with executive pay deduction, The Hill

Tax Benefits From Options as Windfall for Businesses, The New York Times

Tax Breaks for CEOs Pay for Million-dollar Salaries, The Guardian

Executive Pay Of Austerity Advocates Saves Companies More Than $1 Billion Via Tax Loophole, The Huffington Post

Retailer's Executive Pay Plan Exploits Tax Break, Study Says, Bloomberg

You're Secretly Subsidizing A Fast Food CEO's Million-Dollar Salary, The Huffington Post

The CEO pay loophole debate

Corporate lobby groups often try to confuse the debate by arguing that Congress shouldn't tell corporations how much they can pay their CEOs. Under proposed reforms in Congress, corporations will still be free to shower their CEOs with huge bonuses. It's just that taxpayers won't have to pick up the tab.

Some conservatives say corporations should face no limits whatsoever on the deductibility of CEO pay since the executives also pay individual income taxes on this compensation. This is not a matter of "double taxation." Corporations and their employees are separate entities and it is the norm to tax money when it changes hands. For example, individuals pay taxes on their earnings and when they spend money at a store that business pays taxes on the income.

What is happening in Congress?

Sen. Jack Reed (D-RI) and Sen. Richard Blumenthal (D-CT) introduced the Stop Subsidizing Multimillion Dollar Corporate Bonuses Act (S. 1476) in the 113th Congress, which would save taxpayers $50 billion.

Rep. Dave Camp (R-MI), former Chairman of the House Ways & Means Committee, produced a tax reform plan that would stop taxpayer subsidies for a company's top five executive officers. It would generate $12 billion over 10 years (Sec. 3802).

These bills would build on precedents in the Troubled Assets Relief Program (TARP) and the Affordable Care Act that set a $500,000 deductibility cap on pay for bailout recipients and health insurers.

Taxpayers Subsidize CEO Pay, Report Says, ABC News

Senators Seek To End Taxpayer Subsidy For Exorbitant CEO Pay, ThinkProgress

Opinion

Ending the Taxpayer Subsidy for Exorbitant Executive Bonuses, The Austin American-Statesman

The CEO Aristocracy: Big Bucks for the Big Boss, The Washington Post

Pro-austerity CEOS rake in millions in taxpayer-subsidized 'performance' pay, The Raleigh News and Observer

Walmart's Top-to-Bottom Taxpayer Subsidies, Common Dreams

Resources

Walmart Executive Bonuses Cost Taxpayers Millions, Americans for Tax Fairness & Institute for Policy Studies

Executive-Pay Tax Break Saved Fortune 500 Corporations $27 Billion Over the Past Three Years, Citizens for Tax Justice

Restaurant Industry Pay: Taxpayers' Double Burden, Institute for Policy Studies

'Fix the Debt' CEOs Enjoy Taxpayer-Subsidized Pay, Institute for Policy Studies

CEO Pay Continues to Rise as Typical Workers Are Paid Less, Economic Policy Institute

Taxes and Executive Compensation, Economic Policy Institute

Compilation of Polling Questions on Individual Tax Issues

As of March 19, 2015

Americans for Tax Fairness has conducted an extensive online search of public polls conducted in recent years posing questions on tax issues. We found that media outlets do very limited polling on tax issues – typically a question or two when an issue is being publicly debated in Congress. The most relevant questions we could find related to the topics below are included here. On behalf of Americans for Tax Fairness and other clients, Hart Research Associates has conducted in-depth polling on tax reform issues in recent years, which comprise many of the poll questions below.

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SECTION 1: TAX TRADEOFFS

2014 Election Day voters when asked: “Which one of the following do you think should be the higher priority for the president and Congress right now–(A) reducing taxes on businesses and individuals or (B) investing in key priorities like education, healthcare, and job creation?” chose “investing in key priorities” (67%) over “reducing taxes” (29%).
Hart Research Assoc. poll for the AFL-CIO, November 2014, Q14

By 62% to 32%, 2014 Election Day voters favor “raising taxes on the wealthy and large corporations to fund priorities like education, job training, and deficit reduction.”
Hart Research Assoc. poll for the AFL-CIO, November 2014, Q17

By 54% to 35%, when asked what would do more to reduce poverty, respondents favored, “raising taxes on wealthy people and corporations to expand programs for the poor” instead of, “lowering taxes on wealthy people and corporations to encourage investment and economic growth.”
Pew Research Center, January 2014, Q26

SECTION 2: TAXING THE WEALTHY

Tax Investment Income at Same Rate as Wages/Salaries

By 56% to 16%, respondents favor “increasing the capital gains tax on the stocks held by people in households making more than $500,000 a year…as a way to pay for tax cuts or additional government spending.” (25% neither favored nor opposed this proposal).
Associated Press/GfK poll, February 2015, TAX2

By 52% to 36%, voters support a proposal that would “For those making over two hundred fifty thousand dollars, end the lower tax rate on income from selling stocks and other assets.”
Hart Research Assoc. poll for Americans for Tax Fairness, January 2013, Q12

By 61% to 28%, voters want to “End the lower tax rate on income from selling stocks and other assets, so that investors pay the same tax rates as workers do on their earnings.”
Hart Research Assoc. poll for Americans for Tax Fairness, November 2012, Q16

Taxing the Wealthy (General)

When asked what “bothers them” about the federal tax system, 61% of Americans said they were bothered “a lot” and 18% said they were bothered “some” by the “feeling that some wealthy people don’t pay their fair share.” By comparison, 27% said they were bothered “a lot” by and 26% said they were bothered “some” by “the amount you pay in taxes.”
Pew Research Center, March 2015, Q29

When asked to say if wealthy households pay “too much, too little, or about the right amount in federal taxes,” 68% of respondents said “too little,” 18% said “about the right amount” and 11% said “too much.”
Associated Press/GfK poll, February 2015, TAX1

62% of respondents (80% of Democrats, 59% of Republicans and 40% of Independents) think that "America's tax system favors the wealthy over the middle class and poor."
Huffington Post and YouGov poll, January 2015, Q2

When asked if "upper income people" are "paying their fair share in federal taxes, paying too much or paying too little," most respondents said they are paying too little:

	Fair Share	Too Much	Too Little
April 3-6, 2014	24%	13%	61%
April 4-7, 2013	26%	11%	61%
April 9-12, 2012	25%	10%	62%
April 7-11, 2011	25%	13%	59%
April 8-11, 2010	26%	15%	55%

Gallup poll, April 2010-April 2014

By 52% to 41%, voters want to "Limit tax deductions for people making over two hundred fifty thousand dollars a year."
Hart Research Assoc. poll for Americans for Tax Fairness, October 2013, Q20a/b

By 73% to 22%, voters want to "Place a surtax of five percent on a person's income over ten million dollars per year." By 67% to 28%, voters want to "Place a surtax of five percent on a person's income over one million dollars a year."
Hart Research Associates Poll, January 2013, Q12

By 61% to 31%, voters want to "Place a surtax of five percent on a person's income over one million dollars a year."
Hart Research Assoc. poll for Americans for Tax Fairness, November 2012, Q16

36% of the public believes that "taxes on wealthy people should be kept low because they invest their money in the private sector and that helps the economy and creates jobs." 56% of the public say that "taxes on wealthy people should be kept high so the government can use their money for programs to help lower income people."
CNN/ORC poll, November 2012, Q21

Buffett Rule

By 71% to 23%, voters want to "Pass the Buffett Rule, which sets a minimum income tax rate of thirty percent for millionaires to ensure they do not pay a lower tax rate than the middle class."
Hart Research Assoc. poll for Americans for Tax Fairness, October 2013, Q 20a/b

By 59% to 30%, the public supports "requiring all Americans of incomes of one million dollars or more to pay at least 30 percent of their income in taxes;" 42% strongly supported it and only 17% strongly opposed it.
[Associated Press/GfK Roper poll, April 2013, BUD5]

By 60% to 37%, Americans are "in favor Congress passing a law requiring households earning $1 million a year or more to pay a minimum of 30% of their income in taxes."74% of Democrats, 63% of Independents and 43% of Republicans support the measure.
[Gallup poll, April 2012, Q36]

Income Tax Rates and Carried Interest

56% of Americans (59% of Democrats, 48% of Republicans and 56% of Independents) feel that "the amount you pay is about right" when it comes to federal income taxes. 42% (40% of Democrats, 50% of Republicans and 43% of Independents) think that they pay "more than their fair share." Only 1% believes that they pay "less than your fair share."
[McClatchy/Marist poll, April 2014]

By 68% to 28%, voters want to "Eliminate the [carried interest] loophole that allows Wall Street hedge fund managers to pay a lower tax rate than middle-class taxpayers."
[Hart Research Assoc. poll for Americans for Tax Fairness, October 2013, Q20a/b]

81% of small business owners disapprove of the carried interest loophole that lets hedge fund managers "have their personal income taxed at the capital gains rate of 15% instead of the ordinary income tax rate."
[Lake Research Partners poll for Main Street Alliance, American Sustainable Business Council and Small Business Majority, February 2012, Q17]

Estate/Inheritance Taxes

By 60% to 35%, voters want to "Eliminate the loophole that allows wealthy families to avoid paying any capital gains taxes on stocks and bonds they inherit.
[Hart Research Associates poll, January 2013, Q12]

CEO Pay

By 63% to 34%, voters want to "prevent corporations from avoiding taxes when they award their executives millions of dollars in stock options."
[Hart Research Associates poll, January 2013, Q12]

Social Security Taxes

By 61% to 30%, 2014 Election Day voters favor “increasing Social Security benefits, paid for by having high-income people pay Social Security taxes on all of their wages.”
Hart Research Assoc. poll for the AFL-CIO, November 2014, Q14

By a four-to-one margin, 80% to 20%, Americans support a “proposal [that] would gradually eliminate the earnings cap (currently $117,000) over 10 years.”
National Academy of Social Insurance Survey, June 2014, Q42 and page 18

By almost a five-to-one margin, 83% to 17%, Americans support a proposal that “would raise the Social Security tax rate for workers and employers in two steps in the future – from 6.2% to 7.2% in 2022 and to 8.2% in 2052.”
National Academy of Social Insurance Survey, June 2014, Q44 and page 18