

# PRESIDENT'S FISCAL YEAR 2019 BUDGET

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## HEARING

BEFORE THE

### COMMITTEE ON FINANCE UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

SECOND SESSION

—————  
FEBRUARY 14, 2018  
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# PRESIDENT'S FISCAL YEAR 2019 BUDGET

WEDNESDAY, FEBRUARY 14, 2018

U.S. SENATE,  
COMMITTEE ON FINANCE,  
*Washington, DC.*

The hearing was convened, pursuant to notice, at 10:35 a.m., in room SD-215, Dirksen Senate Office Building, Hon. Orrin G. Hatch (chairman of the committee) presiding.

Present: Senators Grassley, Crapo, Isakson, Portman, Toomey, Heller, Scott, Cassidy, Wyden, Cantwell, Nelson, Menendez, Carper, Cardin, Brown, Bennet, Casey, Warner, McCaskill, and Whitehouse.

Also present: Republican staff: Jay Khosla, Staff Director; Jennifer Acuna, Senior Tax Counsel and Policy Advisor; Chris Armstrong, Chief Oversight Counsel; Tony Coughlan, Tax Counsel; Mark Prater, Deputy Staff Director and Chief Tax Counsel; Jeff Wrase, Senior Economist; and Nicholas Wyatt, Tax and Nominations Professional Staff Member. Democratic staff: Joshua Sheinkman, Staff Director; Adam Carasso, Senior Tax and Economic Advisor; Drew Crouch, Senior Tax and ERISA Advisor; Michael Evans, General Counsel; Daniel Goshorn, Investigative Counsel; and Tiffany Smith, Chief Tax Counsel.

## **OPENING STATEMENT OF HON. ORRIN G. HATCH, A U.S. SENATOR FROM UTAH, CHAIRMAN, COMMITTEE ON FINANCE**

The CHAIRMAN. The committee will come to order. This morning's hearing will be the first in a series of hearings on the President's fiscal year 2019 budget proposal.

The committee welcomes Treasury Secretary Mnuchin, who is here to testify on the budget along with other matters that may arise from member questions. The President's budget includes numerous proposals to deal with a vast array of policy issues, including the opioid epidemic, infrastructure, modernizing government, national security, and lowering drug pricing and payments, just to mention a few.

I think I speak for all members of the committee when I say that we are all very interested in Secretary Mnuchin's thoughts and insights on a number of items proposed in the budget.

The budget envisions that government's receipts will average 17.1 percent of GDP over the 10-year budget window, slightly below the long-run average of 17.4 percent over roughly the last 4 decades. It also has outlays averaging 20 percent of GDP over 10 years, which is also slightly below the long-run average. The budget also includes some tax proposals, but they are not as sweeping

as those we have seen in prior budgets, as you would expect following enactment of the new tax law at the end of last year.

Thus far, I am pleased by the success of the new tax law, which has already resulted in substantial benefits for American workers and job creators. Since the beginning of the year—and keep in mind that we are still in February—we have seen a stream of businesses come forward to announce plans to award bonuses, raise wages, or boost 401(k) contributions for their employees. Other companies have announced plans to expand business and hire more workers here in the United States.

According to some estimates, more than 340 companies have issued these types of statements impacting an estimated total of about 3.5 million workers. I will not go through the whole list, but I would like to highlight a few.

For example, Apple announced that it is going to hire 20,000 new employees and will issue \$2,500 employee bonuses in the form of restricted stock units. Apple is also increasing its financial support for coding, education, science, technology, engineering, arts, and math.

Wells Fargo raised its base wage offered to employees from \$13.50 to \$15 per hour, plus they have promised \$400 million in charitable donations. And Best Buy distributed \$1,000 bonuses to its full-time employees and \$500 bonuses for part-time employees, reaching more than 100,000 workers in total.

I remember during the floor debate on the tax reform bill, one of our fellow committee members and friends, Senator Stabenow, used a pretty great line. In evaluating the tax bill, she said, “The proof is in the paycheck.” Thus far, I think it is fair to say that Senator Stabenow was correct.

The tax law has been in effect for less than 2 months, and about 3.5 million workers in a variety of industries have already received bonuses, pay increases, enhanced retirement accounts, and other benefits as a direct result of our tax bill. Let us keep in mind that these announcements have been about direct decisions made by employers. They do not take into account the changes in the individual tax system, which have cut taxes considerably for tens of millions of American families.

As the economy expands further, it is safe to say that American workers will continue to benefit, as will the businesses that employ them, which is precisely what we intended to accomplish with the tax reform bill. Of course, no bill or law is perfect, and as implementation of the new tax law continues, it has become clear that one provision of the bill, section 199A, which provides a tax deduction for qualified business income, is having unintended effects in agricultural markets due to the treatment of qualified cooperative dividends.

Though the aim of that provision, in part, was to preserve benefits previously available to agricultural cooperatives and their patrons for income attributable to domestic production activities, the current statutory language does not maintain the previous competitive balance between cooperatives, other agricultural businesses, and the farmers who sell their crops to them, which existed prior to enactment of the tax reform bill.

Our colleagues here on the committee, in particular Senators Grassley, Roberts, and Thune, have taken a leading role in identifying a solution for this issue. I am committed to working with them and partnering with Ways and Means Chairman Brady as well as other congressional colleagues and stakeholders in affected communities to develop a solution to this issue that does not choose winners and lose losers and is fair to everyone involved.

Once a suitable solution is identified, my goal is to work with my colleagues to advance legislation that can be sent to the President for his signature as soon as possible. Of course, as is the case with any major tax reform bill, none of the important provisions we have written will have their intended effects if they are not properly implemented. That is why we will keep pressure on the administration to implement the law as Congress intended.

I am going to keep working to ensure that everyone recognizes and respects Congress's role in this process and the fact that the best place to get an explanation of Congress's intent is Congress itself. Where things are potentially unclear in the law, Congress should be the one to determine and explain what was intended, and if need be, such as with section 199A, provide a timely fix.

I will continue to facilitate this type of instructive interaction between Congress and the administration as things move forward, and I expect that Secretary Mnuchin will continue to ensure this important dialogue continues.

With that, I look forward to hearing from Secretary Mnuchin about his views on the President's budget and the ongoing fiscal challenges facing the Nation. And we are very happy and pleased to welcome you here before the committee.

[The prepared statement of Chairman Hatch appears in the appendix.]

The CHAIRMAN. Senator Wyden?

**OPENING STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON**

Senator WYDEN. Thank you very much. Mr. Chairman, today ought to start with the recap on taxes.

Now, a little more than 3 months ago, Treasury Secretary Mnuchin went on cable news and said that his tax model showed that the Trump tax bill would spur \$2.5 trillion in growth, enough to cover its \$1.5 trillion cost and leave a \$1 trillion cherry on top. The Secretary added, "We are happy to go through the numbers. We want full transparency to the American people."

If you are looking for transparency, the American people finally got a little bit on Monday when the budget showed how baseless that Mnuchin talking point was from the get-go. Revenue, according to the budget projections, is about to plummet—\$300 billion short in 2018, \$400 billion short in 2019. And it does not get any better.

The fiscal bottom line is so out of whack and the budget is so deep in fantasy land, there is a magical \$813 billion in growth dropped in out of nowhere to make the overall picture look a bit less irresponsible. But the idea that the tax cuts would pay for themselves is far from the only misleading statement about the tax law.

How about the idea that corporate tax cuts would get turned around immediately into workers' pockets, not shareholders'? Twenty times more money has been spent on stock buybacks than on workers' bonuses over the last few months.

As of this morning, millions of workers have not seen their Trump bump. It has been great for the slim, wealthy share of the population who dominate the stock market when stocks are doing well. But it is a prescription for trouble when you are reaching into the pockets of the middle class to fund the buybacks that drive up the value of stock portfolios.

The famed Mnuchin Rule, the promise that there would be no absolute tax cuts for the well-off, has been shattered in a few trillion little pieces. The administration did not follow through on the promise to close the carried interest loophole. And then, of course, there was the promise that the tax bill would not lead to cuts in Social Security, Medicare, or Medicaid.

On Monday, the worst fears of the American people were confirmed. The Trump budget admits that the tax cuts do not pay for themselves, so it hits those key programs, programs like Medicare and Medicaid, with massive cuts.

This morning, it is also important for the committee to discuss infrastructure. And here, we are talking about crumbling roads and bridges and rails in our transportation systems. The administration's infrastructure plan is fiction upon fiction upon fiction.

First off, the idea that this is a \$1.5-trillion infrastructure plan is just plain nonsense. Even factoring in the new \$200-billion infrastructure proposal, the Trump budget is a net decrease in infrastructure spending. It cuts infrastructure programs like a bulldozer through asphalt—\$122 billion cut out of the highway trust fund, \$14 billion cut from the Army Corps of Engineers, \$5 billion cut from the TIGER Transportation Grant program, \$7.6 billion cut from Amtrak, and it just goes on. In my view, if you want big-league infrastructure, a good place to start is by not making huge cuts to infrastructure programs that already work.

The second fiction is that this plan is somehow going to be workable for the States. Just a few weeks ago, the Trump administration kneecapped the ability of States to raise revenue to fund infrastructure projects with changes to the tax code. Now, the Trump infrastructure plan burdens them with huge new costs they cannot possibly afford.

And that leads to the third fiction, that the Trump infrastructure plan will not be a road map to more privatization and more tolls taking money out of the pockets of our families. If State and local governments cannot cover the cost of the projects, they are going to be looking for private dollars.

And that can only mean one outcome, colleagues: drive more than a few miles to work, get ready for more tolls. Rushing to school in the morning? Do not forget the cash for the toll booth. Heading to the grocery store or the mall to do some shopping? Better remember to budget tolls into your trip.

The infrastructure proposal also brings back a whole host of old, misguided ideas, for example, in our part of the world, selling off the Bonneville Power Administration's transmission system, which



makes sense only if you believe people's electricity bills in Oregon are not high enough.

The fact is, the Trump plan is a green light for infrastructure nationwide to be sold off to Wall Street investors or, worse, to shadowy buyers from China or other foreign countries.

I want to close with this last point. Mr. Chairman, on our side, we take a back seat to no one when the situation calls for major investments in our country's infrastructure. In our view, you cannot have big-league economic growth with little-league infrastructure.

And I also believe strongly in responsible private financing and tackling the issue on a bipartisan basis. But getting infrastructure done right, rebuilding the spine of the infrastructure system that connects the Nation, requires more than hoping for private dollars. It requires robust funding at a Federal level to tackle projects that are in the national interests.

That is not what the Trump plan does, and it is not even close. The bottom line is, the Trump infrastructure plan dumps huge costs onto States and cities, sells off public assets like an auction at a county fair, and raises transportation costs for hard-working families. And that is why it is a disappointment to see it added to the list of broken Trump promises.

We are going to have a lot more to say on these issues this morning. I look forward to questions.

The CHAIRMAN. Well thank you, Senator.

[The prepared statement of Senator Wyden appears in the appendix.]

The CHAIRMAN. With that enthusiastic set of comments, let us just say today I would like to extend a warm welcome to Secretary Steven Mnuchin. We are grateful to have you here. Thank you for taking the time to be with us here on the committee. It is important, and we appreciate it.

Secretary Mnuchin was sworn in as the 77th Secretary of the United States Treasury on February 13, 2017. Prior to his confirmation, Secretary Mnuchin was the finance chairman for Donald J. Trump for President. In addition to traveling with the President around the country in that role, Secretary Mnuchin also served as a Senior Economic Adviser to the President and assisted in crafting the President's economic positions and economic speeches.

Before those activities, though, Secretary Mnuchin also served as founder, chairman, and chief executive officer of Dune Capital Management. He also founded OneWest Bank Group, LLC and served as its chairman and chief executive officer until its sale to CIT Group, Inc.

Earlier in his career, Secretary Mnuchin worked at the Goldman Sachs Group, Inc., where he was a partner and served as chief information officer. He has extensive experience in global financial markets and oversaw trading in U.S. Government securities, mortgages, money markets, and municipal bonds.

Secretary Mnuchin is committed to philanthropic activities and previously served as a member of the boards of the Museum of Contemporary Art, Los Angeles; the Whitney Museum of Art; the Hirshhorn Museum and Sculpture Garden on the Mall; the UCLA Health Assistance Board; the New York Presbyterian Hospital

Board; and the Los Angeles Police Foundation. He was born and raised in New York City and earned a bachelor's degree from Yale University.

Secretary Mnuchin, I would like you to just please proceed with your opening statement here, and then we will get into some questions.

**STATEMENT OF HON. STEVEN T. MNUCHIN, SECRETARY,  
DEPARTMENT OF THE TREASURY, WASHINGTON, DC**

Secretary MNUCHIN. Chairman Hatch, Ranking Member Wyden, and members of the committee, it is a pleasure to be with you here today. Actually, it is my 1-year anniversary of being confirmed.

As Treasury Secretary, I am focused on advancing the President's policies that will bring prosperity to the American people through economic growth. This is a core focus of the President, and he is delivering.

Last year the economy had 2 straight quarters of 3 percent or higher GDP growth, and the growth rate was higher than the average over the previous 20 years.

The cornerstone of returning to more robust growth is deregulation and the Tax Cuts and Jobs Act. This law is already providing relief to middle-income families by putting money directly back into the pockets of hard-working American families.

Since the law was enacted, over 350 companies have announced bonuses, wage increases, higher 401(k) matches, and new hiring benefiting more than 4 million employees. We are seeing the fastest wage growth since 2009 at 2.9 percent. This is a meaningful difference in the lives of millions of American families.

Our reforms are making American companies competitive again, which is having a demonstrable effect on the economic success of the Nation. The Act lowered the statutory corporate rate from 35 percent, the highest in the industrial world, to 21 percent, below the industrial average. It also encourages companies to bring back profits that they have sitting overseas by eliminating the tax incentive for keeping that money offshore.

Turning to the budget, the fiscal 2019 budget reflects last year's tax reform legislation, which reduces the burden on taxpayers and sets the country up for long-term growth. The policies of this budget will drive down spending and grow the economy, which are both critical to putting the Nation on a sound fiscal path over the long term and reducing the budget deficit as a share of GDP.

The past year has been an important step forward for our country. We will continue this progress by enacting policies that enable the American people to succeed, and I look forward to continuing to work with Congress to make this happen.

Thank you very much.

The CHAIRMAN. Well thank you, Mr. Secretary.

[The prepared statement of Secretary Mnuchin appears in the appendix.]

The CHAIRMAN. Let us go to 5 minutes for questions.

Mr. Secretary, the economic growth assumptions in the budget show fourth quarter over fourth quarter GDP growth slightly above or at 3 percent for a number of years, eventually fading to 2.8 percent. As I understand it, those assumptions follow from anticipated

positive growth effects from policies put forward in the budget, including tax reform, regulatory reform, health-care reforms, boosting domestic energy production, and others.

If I recall correctly, several budgets put forward by the Obama administration similarly incorporated growth assumptions, sometimes above 4.0 percent, in anticipation of results it would obtain if the relevant budget proposal were to be enacted.

Secretary Mnuchin, are you comfortable with the growth assumptions contained in the budget, and do you believe that the policies proposed by the administration will lead to strengthened growth in the economy?

Secretary MNUCHIN. Yes, Mr. Chairman, I am comfortable with them, and I do believe in them.

The CHAIRMAN. Okay.

Now the President's budget, which incorporates effects on receipts of the recently enacted tax bill, has receipts as a share of GDP averaging 17.1 percent over the 10-year budget window and receipts as a share of GDP generally increasing over the window, ending at 17.8 percent in 2028. By comparison, the long-run value of receipts as a share of GDP over the period 1977 through 2016 was 17.4 percent. That is, receipts relative to the size of the economy shown in the budget largely fall in line with the long-run historical norm.

I take that as an indication that the tax reform legislation, in light of a 10-year expected revenue stream for the Federal Government of as much as \$45.5 trillion, can hardly be thought of as a fiscal action that in any sense guts the Federal tax take as a share of the economy. I wonder if you agree with my assessment there?

Secretary MNUCHIN. I do agree, Mr. Chairman.

The CHAIRMAN. Okay.

Mr. Secretary, I would like to thank you and your staff for the hard work you put into ensuring that we deliver tax relief to middle-class Americans throughout the country. And that will benefit workers. It will make American businesses more competitive and productive.

Of course as we move forward, it will be important that the tax law is properly implemented and that implementation is consistent with congressional intent. I appreciate how your department has worked productively with members of Congress and their staffs.

Now will you commit to continuing to work with Congress to ensure that our intent in writing the tax law is realized as the law is implemented?

Secretary MNUCHIN. Yes, I will. And we have already started those conversations on certain areas, as you have pointed out in your opening remarks. And we look forward to working with you.

The CHAIRMAN. Okay.

From what I understand, in coming months both the European Commission and the OECD may advance suggestions about how to tax a so-called digital economy. Despite past conclusions by both bodies that it is impossible to distinguish the digital economy from the broader economy, it seems as though they are contemplating measures directed specifically at digital goods and services, along with what some of us see as an emerging aggressive posture targeting American companies.

Mr. Secretary, will you commit to engaging forcefully in American efforts to ensure that nondiscriminatory policies are advanced in this area?

Secretary MNUCHIN. Yes, I will, Mr. Chairman. I have already begun those discussions with my foreign counterparts on these issues, making sure that we prevent U.S. companies from being unfairly targeted.

The CHAIRMAN. Thank you.

Mr. Secretary, this administration, as well as the prior administration, has engaged with the European Commission and member states to express concerns about targeting by the European Commission of U.S. firms through state aid investigations of the tax administration practices of EU member states. Now that we have reformed our tax code to tax the historical deferred earnings of U.S. multinationals that are the subject of existing state aid cases, as well as prospective earnings, by ending deferral and taxing intentional income on a current basis, the U.S. has addressed the so-called “stateless income” issue that was purportedly driving the state aid cases.

However, it is not clear that the European Commission acknowledges this fact. The Commission is continuing to pursue existing cases and is threatening to launch new investigations in an attempt to encroach on the U.S. tax base under the guise of state aid. At the same time and somewhat ironically, some EU member states have expressed their concerns with certain anti-base erosion measures included in U.S. tax reform and are threatening legal challenges.

Now, Mr. Secretary, I understand that Treasury plans to engage with European officials regarding their concerns with U.S. tax reform. Do you agree that Treasury needs to ensure that U.S. concerns with EU state aid cases are appropriately addressed?

Secretary MNUCHIN. Yes, Mr. Chairman. We are also in discussions on both those issues and look forward to working with you on that.

The CHAIRMAN. Well, thank you.

I have more questions, but I will submit them in writing. I am a little bit over my time.

So we will turn to Senator Wyden.

Senator WYDEN. Thank you very much.

Mr. Secretary, let me start with this question of the stock buybacks. Since Republicans jammed this massive corporate tax cut through Congress, major corporations have spent over \$120 billion on stock buybacks. This is a problem for the middle class.

Members of this committee promised that middle-class paychecks would be bulging early in 2018. But instead, the CEOs are funneling the tax windfall into buybacks that inflate the value of stocks held by affluent executives and wealthy shareholders. Meanwhile, recent public announcements by companies have found that the employee pay boost touted by the Republicans adds up to \$5 billion, give or take—\$5 billion. That means CEOs have spent 20 times more on corporate buybacks than on boosting their employees’ compensation.

Is it not correct, following this massive corporate tax cut, that CEOs have spent tens of billions of dollars more on corporate buy-backs than on compensation boosts for their employees?

Secretary MNUCHIN. Mr. Senator, I do not believe that is a fair comparison, because—

Senator WYDEN. Mr. Secretary, those are the facts. We got that information from public announcements, from companies, from SEC filings. So tell me how those facts are wrong.

Secretary MNUCHIN. Again, I was just going to explain—I am not doubting your facts. What I said is, I do not think it is a fair comparison.

There are over 4 million Americans who have received a one-time bonus as a result of this. We expect—and as the Council of Economic Advisers has reported—that wages will increase. And we expect that over the course of this year we will see close to several thousand dollars of wage increases.

So we would not have expected that all to occur in the first month.

Senator WYDEN. So we were told on the floor of the Senate last December that early this year we would see workers have bulging paychecks. You have just admitted that it has not happened yet, but you continue to believe that it might happen in the future.

Now the administration claims its tax plan, as I have just indicated, would focus on working Americans. If you care so much about delivering tax cuts to the middle class, why was it necessary to include in the tax bill a lower top rate for those with incomes over \$500,000, or expanded estate tax relief for those with estates worth more than \$5.5 million? Neither of those things helps the middle class.

In fact, you actually conceded last fall that the estate tax change disproportionately helps the affluent. Last year during your confirmation hearing, you specifically identified carried interest as a loophole the tax bill would close. Initially, you claimed to solve the problem, but that did not fool anybody.

Since then, you have admitted carried interest was not addressed. So tell me why these policies—the top rate being lowered for those with incomes over \$500,000, expanding tax relief for estates worth more than \$5.5 million, and not fixing the carried interest loophole, which was pledged repeatedly—how in some way does that help the middle class?

Secretary MNUCHIN. Thank you, I am happy to explain that. And just as a follow-up to your previous comment, we do expect—again, millions of Americans have seen the effects of this already. We expect with the withholding tax changes in February, people will see the tax cuts.

Now in regard to your question—

Senator WYDEN. Before we leave it, Mr. Secretary, I am not going to let the record be distorted that way.

As of now, CEOs have spent 20 times more on corporate buy-backs than on boosting employees' compensation. I will be happy to share with you the information that we have gotten from public reports and SEC filings.

Please proceed.

Secretary MNUCHIN. Thank you, and I am not debating your facts on that.

So, in regards to your specific comments, let me see if I can address them.

The original proposal had a full elimination of the estate tax. That was something that the President did support, working with Congress. We did scale that back to raising the personal exemption. We thought that was important for people to be able to pass on businesses without unfair double taxation.

In regards to the carried interest, it was the President's desire to get rid of carried interest. We worked with Congress and came up with a solution to increase the holding period to 3 years. Again, that was something we did working with Congress. And again, the reduction of the top rate—that was intended to help many parts of the country which account for a big part of the GDP, particularly New York, New Jersey, Connecticut, California, Illinois, where we were eliminating the full deduction of State and local taxes, and in essence wanted to offset some of what was the tax increase in those States by a drop of the top rate.

Senator WYDEN. I am just going to close this round on your so-called compromise on carried interest. And let me just read you a headline in *Bloomberg* this morning. They say, "New hedge-fund tax dodge triggers wild rush back into Delaware."

That is what they think of your so-called carried interest loophole. They really outline in this article the glorious fix that you have said is going to be so helpful. We already have hedge-fund managers, according to *Bloomberg*, showing up with ideas for an even bigger loophole for the fortunate few.

Mr. Chairman, I would just ask that this *Bloomberg* article—which shows what a farce the so-called carried interest fix actually is—I would ask unanimous consent that it be put in the record.

The CHAIRMAN. Without objection.

[The article appears in the appendix on p. 61.]

Senator WYDEN. Thank you.

Secretary MNUCHIN. Mr. Chairman, if I could just respond to that last comment.

The CHAIRMAN. Sure.

Secretary MNUCHIN. I have already met with the IRS and our Office of Tax Policy this morning. As a result of that article, the IRS and Tax Policy intends to send out, within the next 2 weeks, guidance that we do believe that taxpayers will not be able to get that loophole by going through subchapter S. And that is something that we believe we have the authority to do under the existing code that left a certain discretion to me as Secretary and the IRS.

So thank you for bringing that up. We will have that resolved.

Senator WYDEN. Mr. Chairman, we have heard again and again about how there would be fixes to these various problems, and we continue to see that the pass-through loophole which we were told again and again would be fixed still is an ongoing problem. We have all kinds of financial experts talking about how it can be gamed.

So I would just say, colleagues, when we hear that there is a serious problem outlined in a credible publication like I just cited and the Secretary says he is going to fix it, sometimes it reminds me

of the marquee at the old movie house where these so-called “fixes” are supposed to somehow show up and never get there.

Thank you.

Secretary MNUCHIN. Again, if you do not mind, I want to clarify my comment.

It is not a fix. We believe that the interpretation of the existing law is that people are not allowed to do that, and we will be putting guidance out. That is different than, Mr. Chairman, certain issues that we do need to work with Congress to fix.

But thank you.

The CHAIRMAN. Well, thank you.

Senator CRAPO?

Senator CRAPO. Senator Hatch, I am going to yield 1 minute of my time to Senator Grassley.

The CHAIRMAN. Sure. That is fine.

Senator GRASSLEY. I take this time, Mr. Chairman, to thank you for bringing up in your opening remarks the unintended consequences of the tax law language about 199A and the necessity for correcting it, and working with us to do that. I know you know what the problem is. I know you have been working on it for a long time.

It is pretty simple that Congress would not pass a law that would put some segments of our economy out of business, and that is why it needs to be changed. And I happen to sell and buy from a couple cooperatives in Iowa. So I am not anti-cooperative, but the status quo should be all anybody ought to be expecting. And this should have been taken care of back in January.

Thank you.

The CHAIRMAN. Thank you, Senator.

Senator CRAPO?

Senator CRAPO. Thank you.

Secretary Mnuchin, I want to go into two things, and I will try to do them quickly. I only have a few minutes here to do it.

Some allegations have been made or some statements have been made—even this morning—that the tax legislation that we passed will not achieve the revenue targets that we have discussed. I just want to clarify a couple of factors.

First of all, it is correct, is it not, that the Congressional Budget Office issued its analysis that if we do nothing, we could expect about 2-percent growth for the next 10 years under current law?

Secretary MNUCHIN. That is correct.

Senator CRAPO. And that is a pretty anemic rate of growth in my opinion. What is the historic average?

Secretary MNUCHIN. Again, it is closer to 3 percent.

Senator CRAPO. That is what I thought.

And so what you are projecting is that, since we did take action and pass some historic and, I think very powerful, tax reform, you expect through your analysis that we could achieve that or get close to that 3-percent rate of growth?

Secretary MNUCHIN. That is correct.

Senator CRAPO. And it would take—this is the last bit of information that I understand. I just want to confirm with you. In order to make the tax bill revenue-neutral, we would need to get to about 2.3 or 2.4 percent. Is that correct?

Secretary MNUCHIN. That is correct. It is about 35 basis points of additional growth.

Senator CRAPO. So we should see, if your projections are correct, approaching about 3-percent growth, not only a revenue-neutral tax bill, but one that does exactly what it was intended to do, generating surplus?

Secretary MNUCHIN. That is correct. I stand by my previous comments on this.

Senator CRAPO. All right.

Let me switch quickly. I have about 2½ minutes here.

To another topic now, another one that you have been approached about today in the hearing, and that is what the impact of the corporate tax rate reductions is on workers, and on salaries, and so forth.

During the deliberations over the tax bill, I had the opportunity to ask Tom Barthold of the Joint Committee on Taxation about what is the impact of corporate tax rate reductions. He indicated that his analysis and the analysis of Joint Tax was that approximately a quarter of the benefit of corporate tax rate cuts goes to workers in the form of wages and benefits and increased job opportunities, as opposed to owners.

And I want to get to owners here in a second. But is that roughly correct in your analysis?

Secretary MNUCHIN. No, and in our analysis, many economists believe that over 70 percent will go to workers. So Joint Tax is more conservative than we are in that analysis.

Senator CRAPO. And that is my understanding. That is a conservative range that you have just described there. I think almost everybody agrees it is at least 25 percent. And many believe it is up as high as 70 percent.

Secretary MNUCHIN. That is correct.

Senator CRAPO. Now, with regard to the owners, it is also, as I understand it—understood and analyzed—Mr. Barthold indicated that up to 75 percent of the corporate tax cut goes to corporate ownership, but that an increasing portion of that ownership is held by pension funds, defined contribution plans, and other retirement funds, not to mention just the stock ownership that members of the middle class now increasingly are owning in their own investments.

Again, what are your thoughts on that allocation that Mr. Barthold discussed?

Secretary MNUCHIN. I agree with that. Again, there is significant ownership.

And again, the capital—even if there are share buybacks and other things, that capital is recycled back into the economy. It just does not sit in banks. It goes back into the economy.

Senator CRAPO. And you just anticipated my next point. I guess I will ask you to close with this in my last 30 seconds.

The stock buybacks have been referenced here as though they were a terrible thing and just benefited really rich people. What is the impact of a stock buyback?

Secretary MNUCHIN. Stock buybacks or dividends—which are really the same—they are just different ways of returning capital to shareholders. When a company determines they do not have the use for that capital to make an appropriate return, it is returned



to the owners who then deploy it in other business back in the economy. So it is a healthy thing as well.

Senator CRAPO. Thank you. And I guess just to reiterate one last point, there are many, many people, millions and millions and millions of people in America, who are in the middle class as we describe it who own stock, whether it is in their pension fund, their retirement plan, or their own individual investments. Is that not also correct?

Secretary MNUCHIN. That is correct, and we are doing whatever we can to encourage that number to go up.

Senator CRAPO. Thank you very much.

The CHAIRMAN. Thank you, Senator.

Senator Portman?

Senator PORTMAN. Thank you, Mr. Chairman.

And, Mr. Secretary, thank you for being here again to talk about this tax reform legislation that has had incredibly beneficial impact, frankly has exceeded expectations, I think it is fair to say. We appreciate you working with us on it.

And so many of the aspects of this tax reform bill, as you know, had been bipartisan previously, including the changes on the international side that create enormous opportunities for growth. We had a system, of course, where jobs and investment were incentivized to go overseas, which is crazy. It made no sense.

Now we see announcements of companies coming back to the United States for their production. We see companies that are repatriating some of the \$2 or \$3 trillion that has been parked overseas back to this country to invest. And so I think this is something that—you know, we talked about a lot in a nonpartisan setting prior to the tax bill coming up, and then it became more partisan as it came to the floor. But we have to remember that this tax code that previously was in place made no sense for Ohio workers and American workers.

There are two things we focused on. One was providing direct relief to American families, and that is through the tax relief, including the middle-class families in Ohio who are now benefiting. The second was on the business side. And on the individual side, as Americans look at their paychecks even this Friday, many of them are going to see that their withholding has changed, right? So they are not seeing as much money going to Uncle Sam, more money in their pockets.

Can you tell us what percentage of American workers are likely to see their withholding changed in a way that helps them? In other words, that less is coming out of their paycheck every couple of weeks or every month?

Secretary MNUCHIN. We anticipate it will be about 90 percent of American—

Senator PORTMAN. Ninety percent?

Secretary MNUCHIN. Yes.

Senator PORTMAN. Ninety percent.

I want to thank you and the IRS for moving quickly with regard to the withholding tables so that employers can begin immediately to do that. My sense is, it is already happening, because I am hearing from my constituents. This morning I had a coffee. I heard from

constituents on it. I have had a lot of calls and emails to my office on it just in the last week.

John in Fairfield, OH, says he received an additional \$51 in his paycheck. He was surprised, because he was told by some people that there was going to be no relief for him, and there is. Carl from Salineville called in. He was pleased to see \$60 every other week coming in. Earlier this month, another Ohioan called my office to say when he opened his first check since the law had taken effect, he was pleased to see an additional \$300 there. He said those \$300 are going to be used for him to help cover the car payments for his two daughters.

So it is happening. When do you expect that all that 90 percent of American workers are going to see that in their paychecks? Will that happen by the end of this month?

Secretary MNUCHIN. Yes, we believe that is the case.

Senator PORTMAN. You have told the IRS to send these tables out. You have also told employers that they have to go ahead and make these withholding changes within the next few weeks. Is that accurate?

Secretary MNUCHIN. That is accurate. And we are very pleased with the work that the IRS is doing on already implementing the Act.

Senator PORTMAN. Of course, in addition to tax cuts that are going directly to these families, because of the changes on the business side, the international side—I talked about some of the pro-growth elements. We are seeing companies taking the savings and investing them back into their plant and equipment and making their companies more productive. All of the economists I talked to say that productivity in the economy is one of the reasons we have had this anemic growth. We have had such low growth not just over the past several years, but really over the past decade and a half, with no real increase in wages.

Now we are seeing that for the first time. More than 350 companies have now made decisions to invest in equipment, buildings, and employees. Over 4 million Americans are now receiving tax reform bonuses, raises, or increases to their benefits. That is amazing.

And let me just ask you, had you expected to have that much good news about the effects of the tax bill this soon?

Secretary MNUCHIN. No; we were pleasantly surprised by those announcements.

Senator PORTMAN. Let me ask you about some of the smaller business elements here. Yes, Walmart is paying people more. They are raising their minimum wage, their entry level. Walmart is the biggest employer in the State of Ohio, and in probably most of the States represented around this dais. That is important.

J.P. Morgan is adding 400 new branches and adding 4,000 new jobs. They are our third biggest employer in Ohio. Apple is paying \$38 billion to repatriate its overseas earnings. Hundreds of billions of dollars are coming back here—\$30 billion in capital expenditures right now in America they say, related to the tax bill.

So a lot of great news from larger businesses. But how about the smaller businesses? What are you hearing? I have been to four in Ohio, all of which are investing in their people, investing in their,

again, technology and modernization of their plants to make their workers more productive. What are you hearing from smaller businesses?

Secretary MNUCHIN. We are hearing good news as well from many small business owners whom we have either listened to or visited. We are getting the same response about how they can invest back into their business and that they are passing on wage increases.

Senator PORTMAN. The National Federation of Independent Businesses says that small business optimism is at record levels right now. And they relate that directly to the tax legislation.

I do have some questions for the record for you on the Production Tax Credit for refined coal facilities, also something on the international side. I will not surprise you. I want to make sure that the CFC net earnings calculation is done properly. I will submit those for the record.

I thank you for being here. And again, congratulations in helping us put together a tax bill that is helping the people I represent.

Secretary MNUCHIN. Thank you very much.

The CHAIRMAN. Senator, your time is up.

We will turn to Senator Cardin.

Senator CARDIN. Well, thank you, Mr. Chairman.

Secretary Mnuchin, it is always a pleasure to have you before the committee.

Secretary MNUCHIN. Thank you.

Senator CARDIN. I want to cover quickly an issue I mentioned to you before you walked in, and that is your responsibility on implementing the sanctions law that was passed by the Congress by 99 percent of the members, over 99 percent.

This past week, our intelligence committees held their annual briefing, and it was, I believe, the unanimous view of our intelligence agencies that Russia has not only continued its attacks on our country, but that they are even accelerating them and are expected to be active in the 2018 elections. It was for that reason that we passed the sanctions law, to make it clear to Russia that we will take action against them if they continue this type of conduct, if Mr. Putin continues it. He clearly has.

These sanctions are mandatory sanctions. These are not discretionary. There are various categories. Let me just mention one dealing with the intelligence and defense sector, that if there is a significant transaction involving Russia, mandatory sanctions need to be imposed.

Now I want to first start with a compliment. The global Magnitsky Law was implemented under the Trump administration. I think it was done the right way, including the Treasury Department's assessments on implementation of those sanctions.

It is just hard to understand how no sanctions have been imposed under this bill passed by Congress, and it sends a clear message to Mr. Putin that he can continue his activities without fear. Can you explain to us how you intend to implement this law passed by Congress, including the mandatory sanctions?

Secretary MNUCHIN. Sure. Well, Senator, thank you very much for that question, because I do think it is a very important issue.

So first of all, we very much support the legislation, and we are fully committed to follow through on it.

On the section that you mentioned, which is on the intelligence and defense sector, that area has been delegated to the Secretary of State and the State Department. So I cannot comment on that.

But what I will comment on is the other part of the law, the part that we are responsible for, which is the oligarchs and government leaders. And as I have mentioned previously in my testimony, we did deliver the report which was phase one. Part of it is classified. Part of it is unclassified .

We are actively—

Senator CARDIN. The unclassified part is basically a cut and paste from the *Forbes* list, which to me sends a signal to Russia that we are not going to take public action against his corrupt regime and the use of oligarchs.

Secretary MNUCHIN. Well, Senator, that is absolutely not the case. And I can assure you that, again, I met this morning with my internal group and the intelligence people. We are actively working on Russia sanctions coming out of the classified briefing. And I look forward to them. I am actually going to be meeting with the Banking Committee and giving them a classified briefing, and I would be more than happy to meet with you as well.

Senator CARDIN. I appreciate that. I will take you up on that, because I think it—and I understand there have been some conversations in the administration. This is the beginning of the process. But I just make the observation you got off to a bad start with no sanctions being imposed.

I want to cover the CDFI that your budget eliminates, the program that helps community minority banks in our community. It also administered the New Markets Tax Credit. I understand the budget continues the New Markets Tax Credit and the administration of the New Markets Tax Credit.

My concern is that in distressed communities, the stakeholders there, it is difficult for them to feel confidence that their institutions will be maintained. Yes, we want to rebuild distressed communities, but we also want to rebuild the institutions within distressed communities.

How can you assure the institutions that work within distressed communities that with the elimination of the CDFI there still will be a focus by the Trump administration on strengthening these communities?

Secretary MNUCHIN. Well, I can assure you that there will, and we are actually in the process of awarding the current CDFI grants. I think that they have been helpful. Again, this was just a difficult decision in the context of overall spending and having to make difficult decisions.

We look forward to continuing to work with you on these issues.

Senator CARDIN. Well, I appreciate that, and you are right. These grants went directly to institutions within distressed communities.

We are losing our community banks, let alone minority banks, that are particularly important for strengthening distressed areas. So I will take you up on your offer as to how we can find ways to strengthen the minority opportunities within distressed commu-

nities to participate with us, including the New Markets Tax Credit.

Secretary MNUCHIN. Thank you. I look forward to working with you on that.

Senator CARDIN. Thank you.

The CHAIRMAN. Senator McCaskill?

Senator MCCASKILL. I want to follow up on the sanctions stuff, because I cannot stress how important it is. It is a really big deal around here when we get a vote of 517 to 5. That is unprecedented in these times to get that kind of vote. That was the vote on the sanctions bill.

And yesterday Director Coats, who was selected by the President, and Director Pompeo both indicated that Russia sees their meddling in our election in 2016 as successful, and they are confident they will be repeating their efforts in 2018. Has the President of the United States asked you to impose sanctions on Russia?

Secretary MNUCHIN. Again, first of all, I have a lot of confidence in Directors Coats and Pompeo in their work. And that work has been incorporated into our report—

Senator MCCASKILL. That is not my question. Has the President asked you to impose sanctions on Russia?

Secretary MNUCHIN. He did not have to ask me, because I have updated the President.

Senator MCCASKILL. No. I do not care whether he did not have to ask you. I want to know if he asked you. I have never heard the President of the United States say a bad word about Russia—ever.

Secretary MNUCHIN. Well, that is not the case. I—

[Simultaneous speech.]

Senator MCCASKILL. Well, I need to see quotes. Because I have never seen it. He always avoids—this is—

The CHAIRMAN. Let him answer the question.

Senator MCCASKILL. I will, Mr. Chairman, but he is not answering the question. I want to know if the President asked him.

Secretary MNUCHIN. Again, what I am happy to tell you is that I have told the President—I updated him on the report. I told him we would be doing sanctions against Russia, and he was pleased to hear that.

Senator MCCASKILL. Okay. Has he ever—have you recommended to him that he publicly explain to the American people that he wants sanctions imposed on Russia?

Secretary MNUCHIN. I have not made that recommendation to him.

Senator MCCASKILL. Would you?

Secretary MNUCHIN. I have publicly said that, but I am happy to pass on your message to him.

Senator MCCASKILL. Do you think that the people of this country and, frankly, the government of Russia—would it be helpful if they heard from the President of the United States that he believes sanctions are appropriate when a country tries to break the backbone of democracies all over the world?

Secretary MNUCHIN. Again, the President has delegated to me the responsibility for sanctions. I represent the administration, and I have been very clear there will be sanctions on Russia. I do not

think I can be more clear on that, and that work is underway as a result of the report.

Senator MCCASKILL. Well, the elections are coming. They are fast approaching. And so far there have been zero consequences—zero.

Secretary MNUCHIN. Again, I think there were many sanctions that were issued last year, and we are happy to come and update you. And again, we are happy to give you a classified update of the work in the report. We are very proud of what the intelligence committees have done.

Senator MCCASKILL. Well, I—if there have been any sanctions, they certainly have not been heralded by this administration. And they certainly have not been effective, because it is very clear that Russia—according to your intelligence community—is actually engaged in doing the exact same thing again.

The release—the memo was very clear that the entire Twitter traffic were Russian bots, and not a peep from this administration or from you condemning that. Not one word. And that is what is so hard to understand. The vote was 517 to 5.

We all agree here. The chairman agrees. He voted for it. All my Republican colleagues with the exception, I think, of two, voted for it. And I just want to make sure you do not leave here without understanding that it is a real head-scratcher, the silence from the Oval Office about the conduct of Russia in attacking our democracy. And I hope that there is a new day and that maybe tomorrow the President will step forward and say, “Enough, Russia. We are coming after you. This is warfare. You do not attack our democracy and not pay serious consequences.”

I want to also talk about the tax bill briefly. I am really worried about the carried interest being left in there, but I am really worried about the new loopholes. And the *LA Times* headline, “GOP Tax Plan Creates One of the Largest New Loopholes in Decades”—that was the headline December 31st.

*Bloomberg* just recently: “Here’s the Trump Tax Loophole Your Accountant Can Blow Wide Open.” And this is all about pass-throughs, and the very complicated scenario that we have laid forth on pass-throughs.

Are you all prepared to lay out strict guidelines on these pass-throughs, because clearly all of the accountant world—it is embarrassing how generous this tax bill was to families like mine, yours. It is embarrassing.

I see now all of these pass-throughs, the vast majority of money that goes through pass-throughs, goes to the 1 percent most wealthy people in this country. And the accountants are having a heyday with this loophole.

How quickly can we expect written guidance on how we can make sure this is not a loophole that will allow the wealthy to avoid even more taxes going forward?

Secretary MNUCHIN. I can assure you that both the Tax Department at Treasury, where we have over 100 people, and the IRS are full-time focused on this. And I assure you we will be putting out guidance and regulations to make sure that people cannot abuse the pass-throughs, that the intent here was to create incentives so that businesses got those, but not for it to be abused. And I can

assure you we are working on that, and we will be doing that shortly.

The CHAIRMAN. Senator, your time is up.

Senator MCCASKILL. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you.

Senator Whitehouse?

Senator WHITEHOUSE. Mr. Mnuchin, this is—I am new to this committee, so let me start with some very simple questions.

The first is, what is your feeling about the present level of income inequality in the United States?

Secretary MNUCHIN. Again, the President—I—my number one focus is economic growth. And I think if we have proper economic growth, that that will shrink the income inequality.

Senator WHITEHOUSE. The ratio of CEO to average worker pay has gone from 18:1 to 270:1 in the last 50 years. The top 1 percent of income earners take 24 percent of all income out of the economy every year, according to the Federal reserve. And the top 25 hedge fund managers made more in the last year we have information for, this is 2014, than all 158,000 kindergarten teachers, according to *The Washington Post*. Do you think we are going to grow our way out of that?

Secretary MNUCHIN. Yes, I do.

Senator WHITEHOUSE. Okay.

Do you think that the tax code should be progressive in the sense that it demands a higher contribution as a percentage of income from high-income earners than from lower-income earners?

Secretary MNUCHIN. I think it is quite progressive, and many things we did in the tax cuts act, like eliminating the State and local deductions, actually made it more progressive.

Senator WHITEHOUSE. So it should be progressive. I am glad we agree on that. The last report that we had from the IRS was from 2014. They looked at the top 400 taxpayers, aggregated their income and their tax payments, and calculated that they paid an average Federal tax rate of 23 percent, which is a lower tax rate for the top 400 taxpayers than a lot of plumbers pay, a lot of teachers pay.

And one thing that bothers me is that the IRS has stopped reporting that information. You are in the position as Secretary of the Treasury to instruct the IRS to start reporting that information again, and I think it is—I do not know about what you think, but I think it is important for Americans to get a sense of how things are going in their democracy, to have a fair report of how much the highest-income earners are actually paying in taxes. I do not know why that is something that we would want to not disclose.

I am not going to put you on the spot right here, but I will ask you in a question for the record if you will tell the IRS to go back to reporting the aggregated tax information for the top 400 taxpayers. So as I said, I do not want to put you—

Secretary MNUCHIN. I am happy to answer the question, which is, I am not aware of the report. But I am happy to go back and speak to the IRS and understand why they were comfortable in the past and why they are no longer doing it. Obviously, there is a sensitivity to any specific taxpayer information, so whether that is a small enough sample—

Senator WHITEHOUSE. This is aggregated among the top 400.

Secretary MNUCHIN. I am happy to get back to you on that.

Senator WHITEHOUSE. I appreciate it.

The other issue I want to talk with you about is, as Treasury Secretary, you oversee FinCEN, and one of the problems that we are hearing very loudly in the Judiciary Committee—Senator Grassley and I have bipartisan legislation on this—is that the United States is becoming the haven for international kleptocrats and criminals because our incorporation transparency controls are so bad. And as the EU is cleaning up on this, and as the UK is cleaning up on this, the United States is becoming the laggard with the result that terror organizations, drug cartels, human traffickers, and other criminal enterprises can hide assets and launder money here in the United States.

Your Deputy Assistant Secretary at the Office of Terrorist Financing and Financial Crimes told the Judiciary Committee that this lack of information, this prevalence of American shell corporations, was what she called a “vulnerability.” And a former Treasury Special Agent and FinCEN Agent testifying said, “Requiring the real owner of a U.S. company to be named during the incorporation process will cut down in dramatic fashion the ability of criminals to finance their crimes.”

I would like to ask you to work with us, with Senator Grassley and myself, in trying to improve incorporation transparency in the United States. I think that when Ronald Reagan said we were a city on a hill, echoing John Winthrop, he said that for a reason. I do not think we look much like a city on a hill when we become the haven for crooked gains of criminals and kleptocrats.

Secretary MNUCHIN. Senator, I agree with you. This issue that we refer to as beneficial ownership, we need to have a way of tracking beneficial ownership. I am working with the Department. We look forward to working with Congress.

We do need to solve this issue. And it is something I look forward to working with you on.

Senator WHITEHOUSE. And for the record, Mr. Chairman—I know my time has expired. But the problem here is that even with a warrant, even with a subpoena, you cannot get this information, because it has been so well hidden. So the traditional tools of law enforcement fail up against this problem of the shell corporations.

I thank you, Mr. Mnuchin.

The CHAIRMAN. Senator Isakson, I think you are next.

Senator ISAKSON. Thank you very much, Mr. Chairman.

Secretary Mnuchin, I—like you, and I think most everybody—have been somewhat amazed with the results of the Tax Cuts and Jobs Act. I thought it would do a lot of good things. It appears that you have done even more.

But it does bear out the old saying that tax policy drives economic decisions. I think the policy of this administration and the policy that we passed is showing a reinvestment in America, American corporations, but a reinvestment also in their people through stock donations, through increases in pay, through reinvestment in their businesses. And we are going to get a large reward for that in the future because those businesses are going to grow.



The regulatory relief that has taken place under this administration, combined with the tax changes that have incentivized investment in business, have done a lot for this economy and have built the consumer confidence level, which is so critical to our economic prosperity as a country. So I just want to commend you on being a part of that. Thank you for what you are doing with that. Thank you for the job that you are doing.

I also want to say that it is easy for any of us to demonize the upper 1 percent of anything—the top of anything—whether it is performance-wise, whether it is income, or anything else. But they invest an awful lot of money in our country that would not be invested otherwise. I live in a city called Atlanta that is led by a corporate leader called Coca Cola, which is a little syrupy soft drink. It was developed in 1906 and now has funded universities and hospitals and research and advancement for years. Those are moneys by the private sector and the upper 1 percent that have made our city better.

Home Depot started in Atlanta, GA. Two hardware store guys had an idea about how to change selling hardware and revolutionize the business—Arthur Blank and Bernie Marcus—and they did so.

So there are a lot of actors out there who have done things that would be less than admirable, but there are a lot of people at the top 1 percent who have done things that are unimaginable and would not have been possible in our country before. So I just wanted to say that first and foremost.

I also want to take the liberty of taking your time to talk about something that is not under your auspices and not under your responsibility, but it is a part of the budget. It is a part of our country's infrastructure. It needs to be addressed in the President's budget this year, and that is the Port of Savannah.

The Port of Savannah is the most profitable port on the east coast of the United States as a net export port. It is a port where 19 years ago we authorized its expansion to 47 feet, its depth to 47 feet. We have over the course of time reauthorized it, and 3 years ago approved it. My State put \$285 million in that project at the request of the United States Government, which the United States Government promised it would follow with investment in the Corps of Engineers to complete the \$600 million expansion of the port, so the Panamax ships of the 21st century that are going through the Panama Canal can come to the most profitable export port in the United States, the Port of Savannah.

The current budget falls short, and the President recommends \$49 million for the Federal share of finishing that project. That, unfortunately, is just enough for us to go back and re-dredge the sediment we have already taken out, but not enough to continue to expand the port.

So I am going to be talking every time I get the chance to encourage the administration to look at the Port of Savannah and the harbor-deepening project that has been for 19 years authorized by this Congress. It has been underway for the last 3 in the State of Georgia, with some Federal money and mostly State money.

It is time for the feds to deliver on their part of the investment, and I am going to do everything I can to fight to see that we get

it done. If we do not, we are going to lose jobs, and we are going to lose opportunity. That port generates 300,000 jobs in the southeastern United States and billions of dollars in income to the companies and individuals of the United States. And we have to see it finish its expansion, or else we are going to get passed by as a country as a port of call for the ships going through the Panama Canal. And that business is going to go somewhere else, and we do not want that to happen.

You do not have to respond to that except to tell me that you will keep the Port of Savannah in mind, and when you sit around the table—

Secretary MNUCHIN. I will keep it in mind.

Senator ISAKSON. Because it is good for America, and it is good for the guy who collects its taxes, and it is good for the Treasury of the United States of America.

Thank you very much.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Cassidy?

Senator CASSIDY. Secretary Mnuchin, a comment, a request, and then a question.

First I will add to the comments on the Tax Cuts and Jobs Act. Working in Louisiana—Louisiana-based companies like Builder Supply Company in Shreveport, Iberia Bank based in Lafayette, Gulf Coast Bank in New Orleans, as well as big box stores like Home Depot, Walmart, Best Buy, they are giving bonuses, better wages, better benefits, all benefiting on the long-term capital investment. ExxonMobil, with a major presence in Louisiana, announced \$35 billion in CapEx investment. That is going to increase competition for workers, driving up their wages. That is the way to reduce income inequality.

The Tax Cuts and Jobs Act bill has been good for our State, and thank you for your role in it. I am proud to have participated.

Now a request, if you will. One of the provisions in the tax bill was to provide fair treatment for taxpayers in a loss position upon deemed repatriation under section 965. The intent is clear. Free repatriation losses are ring-fenced, but a potential question has arisen as regards losses in 2017.

So I would just ask that your department work with us. We have an amendment to address that, but I want to make sure that we can address that.

Secretary MNUCHIN. We look forward to working with you. Thank you.

Senator CASSIDY. Let me now go to something that Senator Whitehouse raised, the FinCEN, the Financial Crimes Enforcement Network. You all have a strategic plan for 2018 through 2022 to modernize the system, the analytical capabilities, to better collect, assess, disseminate, and act upon financial data and intelligence. In my office, we are looking at how the drug cartels transfer \$110 billion per year from the United States down into Mexico. Best we can tell, Treasury is getting about \$7 billion of it.

We know it is going through bulk cash. It is going through trade-based money laundering. It is going through people buying cards

that have \$10,000 on them, and they are bringing down another form of bulk cash, if you will.

We are not sure, though, that the interdepartmental cooperation is very good. It has been a little difficult to find out, but it seems like we have one department doing this, another that, and another this, but the departments are not doing it in concert. Clearly this is important, and it is a way to get at the cartels.

Frankly, I would like to use that money to pay for the wall. It would not be the Mexican government, it would be the Mexican cartels. But you take out their ability to finance their crime mission.

Any comments on the effectiveness of our different departments working together?

Secretary MNUCHIN. From my experience, Senator, I actually think the departments are working very well together. But on this specific issue, we look forward to following up with you. It is a very important issue, and we want to do everything we can to get the money from the cartels.

Senator CASSIDY. Now it seems, though—just kind of *prima facie*, if you will—you have \$110 billion reportedly moving south, and Treasury is only getting \$7 billion of it. That seems to be a big gap. So we would like to continue to work with you on this, because \$7 billion is just what you might lose in the back of your couch if you are worth \$110 billion per year. And we need to grab that.

We also understand that FinCEN, in its anti-money laundering mission, uses data provided by the private-sector financial institutions. And again, this may relate to what Sheldon was speaking about. Does FinCEN have a process for verifying information contained in suspicious transaction reports?

Secretary MNUCHIN. They do, and they use those czars to follow up with the institutions, but one of the problems—as has already been pointed out—is the issue of beneficial ownership. We have a flaw in our process of how to track beneficial ownership, and whether we do it at the State level or the Federal Government level, that is something we need to solve.

Senator CASSIDY. Will that require a statute, or can you do that by regulation to address the issue of the lack of clarity regarding beneficial ownership?

Secretary MNUCHIN. It is unclear. It depends on what the solution is and which way we go, but this is something that we do want to work with Congress on and make sure that we are enacting it the right way.

Senator CASSIDY. Okay.

I am almost out of time. I yield back.

The CHAIRMAN. Senator Brown?

Senator BROWN. Thank you, Mr. Chairman.

Mr. Secretary, welcome. Glad you are in front of the committee. I have some short comments and then one pretty simple question. As you know, there has been a—you and I have talked about this in the Banking Committee. There has been a quiet crisis brewing. Millions of retired workers are at risk of losing the pension plans they spent an entire career paying into.

Many in this town do not really understand what happens at the bargaining table, where workers will give up wages today in order

to have retirement security in the future. Sixty thousand Ohioans, 1.5 million workers and retirees across the country, could see drastic cuts to the pensions that they have earned and they have been promised. It does not just affect retirees. It is current workers. It is small businesses.

This week I met with a group of businesses from Ohio, about a dozen of them that have done the right things for their workers. They have enrolled them in Central States. They are scared to death about their liability and what happens to their workers.

What is the thanks that these businesses got? Wall Street squandered that money. These businesses face bankruptcy if the plan is allowed to fail. We know what happens to the Pension Benefit Guaranty Corporation if we do not act.

These family-owned businesses that have been passed on for three and sometimes four generations are at risk. And that is not how their story should end. It is not partisan on this committee alone. Senator Portman has been interested, Senator Stabenow has been interested, Senator Roberts, Senator Nelson, Senator Scott, Senator Casey, next to me, Senator Thune, Senator Burr, Senator McCaskill, down the table, and the chair and the ranking member all have cared about this issue that affects most of these States. It affects thousands of workers.

I have introduced a bill, as you know, Mr. Chairman, with my Democratic colleagues to address it. We need all sides to bring their ideas to the table. That is why the joint select committee on pension reform is now law and why it is so important. The committee will force Congress to finally treat the pension crisis with the seriousness and urgency American workers deserve.

My question is this: the committee needs the administration's help. There will be four Republicans and four Democrats from each house. The committee and Congress need the administration's help to be successful. I know that you and I do not see eye-to-eye on some big issues that affect our country. I do not quarrel where you come from on this, and your ultimate goal. We sometimes disagree on things, but this is an area, I think, where we can agree something must be done.

Would you commit to this committee and ultimately to the Congress and to this select committee—would you commit that Treasury and the administration will provide technical support and expertise needed for the committee to succeed?

Secretary MNUCHIN. Yes, I will. It is an important issue, and we look forward to working with you, and we are pleased to provide technical help and any policy work you need from us.

Senator BROWN. Good. Thank you, Mr. Secretary.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Casey?

Senator CASEY. Mr. Chairman, thank you very much.

Mr. Secretary, good to be with you. Thank you.

I wanted to start with a matter that arose in the debate around the tax bill. And I think part of this story was missed in the coverage and missed in the debate, and that is what happened with regard to the Child Tax Credit. There was a lot of publicity and attention paid to the debate about the tax credit, and I am afraid that the real story was missed, because according to one source—

this would be the Center on Budget and Policy Priorities—the increase, the new part of the tax credit in a sense, the increase in the Child Tax Credit in the bill, when you compare it to current law, here is what it resulted in. A single mother with two children earning \$14,500, working full time at minimum wage, her increase in the Child Tax Credit year over year would be 75 bucks, total, 75 bucks.

But a married couple with two children, earning \$400,000, that family would benefit from the Child Tax Credit \$4,000 in the year, about 333 bucks per month. So, 75 bucks for the single mom and an increase of \$4,000 for the family with income over 400,000 bucks. And this is not your responsibility to publicize a provision in the tax bill, but I wanted to ask you about that.

How do you feel about that? What is your view of that policy? And when you consider, not just your job as Treasury Secretary, but the administration’s job with regard to helping families, what do you think the purpose of that tax credit is?

Secretary MNUCHIN. Well, again, I think the purpose of the tax credit was to get relief to middle-income families. I am not familiar with the specific example you have outlined at \$14,500.

I can tell you, I am familiar with the median numbers, and we have looked at lots of examples, but we are happy to follow up. I assume your number is correct, but obviously this impacts different taxpayers differently. But the intent was for the median family. It did deliver significant middle-class relief.

Senator CASEY. Well, I would argue that we had an opportunity to have a transformative Child Tax Credit and it did not happen. But let me move on.

The other issue I wanted to raise with you is wages. There were a lot of assertions made that a cut in the corporate rate would lead to a wage increase. In fact, *Bloomberg Intelligence’s* current estimates are that corporations will ultimately devote \$875 billion to buying back stock. So far this year, corporations have authorized 20 times more on stock buybacks than they have spent on increasing wages.

Last May you told the committee that “over 70 percent of the cost of corporate taxes are actually borne by the worker.” If companies are not keeping to that and instead are giving a majority of the value of the tax cut to shareholders and executives through dividends and buybacks, do you think we should have a mechanism in place to make sure that employees, the wage earners, see the gains from this tax cut?

Secretary MNUCHIN. I commented on this earlier, the similar question. And again, we do stand behind what we do believe. There are many economists who support this, that over-70-percent number. On the low end, it is probably 30 percent.

So we do stand behind that. We think we are going to see that. We think we are going to see wage increases. And as I commented earlier, to the extent there are share buybacks, that is capital that is recycled back being into the economy; it does not sit in banks.

Senator CASEY. I would have preferred that we just gave it directly to the workers. That would have been my preference. My argument did not prevail.

Mr. Secretary, I know we have less than a minute left, but I wanted to ask you a question about Russia sanctions.

We, as you know, passed the Countering America's Adversaries Through Sanctions Act, where Congress provided the administration with additional authorities to hold accountable countries like Iran, Russia, and North Korea for their aggressive actions.

Are there currently budget constraints that prevent Treasury from fully exercising the authorities granted under this legislation? And if not, are there other constraints?

Secretary MNUCHIN. There are not budget constraints, and I commented on this earlier—I apologize; you missed it, so I will restate it—that we are actively working on those sanctions. You should expect them in the near future.

Phase one was creating the report. I am happy to come talk to you in a classified setting about the report, but I assure you, those sanctions are coming. We are actively working on that as we speak.

Senator CASEY. Thank you, Mr. Secretary.

The CHAIRMAN. Thank you.

Senator Menendez?

Senator MENENDEZ. Thank you, Mr. Chairman.

Thank you, Mr. Secretary for being here. Last week when you testified before the Banking Committee, I asked you about the IRS's fundamentally flawed advisory released 2 days after Christmas, which prohibited thousands of New Jersey families from deducting their property taxes in 2017, despite rushing to pay them in the final days of last year.

You responded that the rule was meant to prevent taxpayers from "abusing the system." I have to say, I am offended—offended by that accusation. Let us be clear, the people of New Jersey work hard. They pay far more than their share of taxes. They punch way above their weight economically. We just are not a blue State, we are a blue-chip State that drives innovation and dynamism. So we are not abusing the system. In our view, the system is abusing us.

So let me ask you another way: prior to the passage of the Trump corporate tax bill, was there any prohibition against deducting prepaid State income taxes or local property taxes in the year that they were paid?

Secretary MNUCHIN. Well, first let me comment. I did not in any way mean to offend you. So I apologize if that is the case. The guidance that the IRS put out is completely consistent with what has been—

Senator MENENDEZ. I am sorry to interrupt you. That is not what I asked you. I asked you, was there any provision prior to the passage of the Trump corporate tax bill against deducting prepaid State income taxes or local property taxes?

Secretary MNUCHIN. Yes, there was. The IRS interpretation did not change as a result of the bill. And I would just say, in certain cases—again, it is very fact-specific. In certain cases, again, if it has been assessed, people could pay their taxes this year. In certain cases—

Senator MENENDEZ. Well then, let me ask you this: if that is the case, that they were both prohibited based upon your answer, why would section 11042 of the Trump corporate tax bill specifically prohibit the deduction of prepaid State income taxes? Why would

the bill prohibit something that was already disallowed? That is simply illogical.

Secretary MNUCHIN. Again, on the real estate side, there was no change to current law. And again, the IRS felt it was important to put out guidance to give taxpayers information.

Senator MENENDEZ. Well, is there anything in the Trump corporate tax bill that prohibits the deduction of prepaid property taxes? In the bill?

Secretary MNUCHIN. I am sorry. We are talking about prepaid property taxes. So our interpretation of the—

Senator MENENDEZ. I am asking you, in the law—can you point me to the section in the law that specifically prohibits the deduction of prepaid property taxes?

Secretary MNUCHIN. Again, not in the bill, but in the IRS actual code, yes. And we would be happy to follow up with your office, and I will bring a team from the IRS to go through this with you.

Senator MENENDEZ. So, listen. Prior law does not prohibit the deduction of prepaid property taxes—prior law. The Trump corporate tax bill does not prohibit the deduction of prepaid property taxes.

Therefore the property taxes should be deductible under the law. The law that we passed was silent on this issue specifically, but prohibitive about State income taxes. So it seems to me that clearly we should be allowed to permit the deduction of property taxes when they are paid.

I just heard you in an answer a little while ago talk about the estate tax. We want to avoid double taxation. Well that is exactly what is happening to places like New Jersey and other parts of the country that get hit with this tax bill that ultimately does not allow them the full deductibility that has existed for a long time.

Let me ask you another question. The administration has bragged about trickle-down bonuses that only about 2 percent of American workers are receiving after the Trump corporate tax bill. Do corporations get to deduct these bonuses from their 2017 taxes even if they do not pay the bonuses in 2017?

Secretary MNUCHIN. Again, that is a very fact-specific question that I am not prepared to answer.

Senator MENENDEZ. Well, let me inform you that corporations can deduct the full amount of the bonuses in 2017, regardless of whether or not they actually made the payment. This is important because, by deducting in 2017, corporations can, to use your words, Mr. Secretary, game the system and claim an even larger deduction in 2017 without spending a dime.

But in contrast, a middle-class family that actually paid their property taxes in 2017 will not be able to deduct them in the year that they paid them, which to me is blatant hypocrisy and would be shocking if it did not so neatly fit into the pattern of an administration that puts corporations and Wall Street above the people who live on Main Street.

So I urge you to look at this again, because if it is good enough for corporations to be able to make a deduction in the year in which they did not even pay it, then taxpayers should be able to make a deduction in the year in which they did pay it. And I urge you to relook at this issue, because it is just a question of fairness

and justice. And if it is good enough for corporations, it is good enough for middle-class families.

The CHAIRMAN. Senator Bennet?

Secretary MNUCHIN. I just want to clarify one thing. In certain circumstances, the prepayment would be eligible. In certain circumstances, the prepayment would not be eligible. So I just want to clarify that. The guidance was a strict interpretation of current law.

The CHAIRMAN. Senator Bennet?

Senator BENNET. Thank you, Mr. Chairman. Thank you for holding this hearing.

Mr. Mnuchin, it is nice to see you again. Thank you for your service.

This year, we are working on a farm bill. Chairman Roberts and Ranking Member Stabenow and I are all members of this committee, and we are working hard within very tight budget constraints to write the next farm bill.

I noticed that your budget cuts \$260 billion from farm bill spending on top of a 15-percent cut in discretionary spending for USDA. And I am all for finding savings. In fact, the Ag Committee—you may not know this—was the only committee that actually got bipartisan savings in the last budget process. The last farm bill was projected to save \$23 billion—the only committee that did its work.

CBO now tells us that that bipartisan work on behalf of and fueled by our farmers and ranchers is now saving \$100 billion. Now many of Colorado's farmers and ranchers are struggling with low prices, facing persistent drought, and are fighting hard every day to keep their operations moving. I would like you to tell those farmers and ranchers about the proposed cuts when these guys have already, unlike anybody else, actually done their work last time.

How are these proposed cuts going to help them?

Secretary MNUCHIN. Well, again, I am not an expert on the farm area, but it is an important part of the economy, and I look forward to working with you on these issues.

Senator BENNET. Well, but could you elaborate on how the cuts are going to affect our farmers and ranchers, particularly at these commodity prices?

Secretary MNUCHIN. Again, there were difficult decisions made in the budget, and obviously as it relates to farmers, this is something that would have some impact. And again, I look forward to following up—

Senator BENNET. Okay.

I know from at least my perspective, and I hope speaking both for Republicans and Democrats on the Ag Committee, it really adds insult to injury when we did our work the last time to see farmers and ranchers, especially in this commodity environment, getting whacked.

And by the way, I do not think you guys have made hard choices. Giving \$37 billion to 572,000 taxpayers that make more than a million dollars a year by borrowing that money from our kids is not a hard choice. And now you are having to backfill already, just a month later, Mr. Secretary.

Do you know what the deficit was when Bill Clinton left the presidency?



Secretary MNUCHIN. I do. And because of the economic growth during that period of time, we saw revenues increase significantly. And since that period of time, the deficits have increased significantly.

Senator BENNET. What was the deficit when Bill Clinton left the White House?

Secretary MNUCHIN. Well, we were actually, during that period of time, paying down.

Senator BENNET. We had a surplus, did we not?

Secretary MNUCHIN. That is correct.

Senator BENNET. It was a \$5-trillion surplus projected over a decade. Is that not correct?

Secretary MNUCHIN. I do not know what it was over the decade, but I do know we were paying—

Senator BENNET. That is what it was, and we were holding hearings about what to do with the surplus. Do you know what the deficit was when President Obama became president?

Secretary MNUCHIN. I have the numbers with me. I am—

Senator BENNET. It was about \$1.2 trillion. It became \$1.5 trillion. And I saw Jack Lew—who was here, your predecessor—and Secretary Geithner beaten to death by members of this committee over the deficit during the worst recession since the Great Depression.

I have statement after statement after statement of Republican colleagues who were unwilling to lift a finger to—when we had a 10-percent unemployment rate, beating those guys to death as they sat here. And now, we pass a \$1.5-trillion tax cut. We borrowed all that money from our kids.

Last week, the President signed that spending bill like we have never seen before. And so the estimates now are that even in an economy where we are seeing tremendous growth, we are going to have a trillion-dollar deficit next year and maybe as much as 2 trillion over 10 years.

How can you look yourself in the mirror?

Secretary MNUCHIN. Well, again, let me just first say, I share your concerns over the deficit, and that is why I think it is important, on a bipartisan basis, we work on this. We have put together a budget that shrinks the deficit, but the President is concerned that the debt went from \$10 to \$20 trillion—

[Simultaneous speech.]

Senator BENNET. And that was when we had a recession, Mr. Secretary. That was when we had a recession. We will have a recession. We may have an armed conflict of some kind, and the idea that we are now spending the money instead of trying to figure out how to work in a bipartisan way, to do the work—

And, Mr. Secretary, the assumptions that underlie your budget save \$675 billion by repealing the Affordable Care Act. The Majority Leader has already told us we are not doing that. They attempted to repeal it over and over and over again. The Majority Leader says we are not doing that. That is \$675 billion. You save \$1.5 trillion by slashing non-defense discretionary spending to a level we have not seen since President Hoover was the President.

The CHAIRMAN. Senator, your time is expired.

Senator BENNET. I look forward to trying to create a rational process here.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator.

Senator Wyden has a couple of questions, and then we are going to wrap this up.

Senator WYDEN. Thank you. I think Senator McCaskill may have a couple of questions.

The CHAIRMAN. You do?

Senator MCCASKILL. No. I do not.

The CHAIRMAN. Okay.

Senator Wyden?

Senator WYDEN. All right.

The CHAIRMAN. He will be the last one.

Senator WYDEN. I want to talk about infrastructure for a moment, Mr. Secretary. State and local governments now are responsible for more than three-quarters of all government investment in infrastructure.

Despite that, the core of the Trump infrastructure plan is for the States and localities to pony up even more money. In fact, administration officials were actually quoted over the weekend, talking about the need for local governments to increase property taxes and sales taxes.

This, of course, comes—as Senator Menendez eloquently noted—after the tax bill causes a dramatic curtailment of the State and local deduction, known as the SALT deduction. Aside from raising taxes on many middle-class families by subjecting them to double taxation, cutting back the SALT deduction makes it more difficult for local governments to raise new revenues.

So, I have a “yes” or “no” question, and I think it is pretty direct. Does the Trump administration actually support local governments raising taxes 2 months after passing a law that ensures that those taxes are no longer deductible from their Federal taxes? And this is a “yes” or “no” answer, Mr. Secretary, because of what your administration officials said last weekend. So you are either agreeing with them or not agreeing with them, and have at it.

Secretary MNUCHIN. Well again, I realize you want a “yes” or “no” answer, but not every single State is the same. Some States have very high taxes, like California and New York.

So I surely would not encourage California and New York to raise their taxes. I would encourage them to lower their taxes.

Senator WYDEN. So it seems to me you are definitely agreeing with the officials who were quoted last weekend that, certainly in substantial parts of the country, your answer on infrastructure is the need for local governments to increase property taxes and sales taxes. I will keep the record open so you can amplify on that, but you basically said, “Hey, what the administration officials said last weekend was our view, with the possible exception of some States that we know have been very concerned.”

Let me finish with one last question. As you know, I have repeatedly asked the Treasury Department to turn over to the committee its records on Russian financial transactions in the country. And across the board, the Department has refused—has refused—to

turn over to me as the Ranking Democrat, these records, many of which are not even classified.

So now, according to news reports, the FBI is investigating whether Aleksandr Torshin, a Russian official with close ties to Vladimir Putin and the National Rifle Association, used Russian-backed shell companies to funnel money to U.S. tax-exempt entities that spent millions of dollars backing the Trump campaign in 2016.

So, as you and I have talked about, I consider this oversight function absolutely key to the committee's work. So earlier in the month, I wrote letters to both you and the NRA, seeking more information about these alleged transactions, transactions that could involve shell companies, money laundering, and the like.

Now I just got a commitment from the NRA to respond to my request. They said they will get us these documents. So I would like to renew my request to you today. Will you respond, as the NRA has, to my request for documents and do it promptly?

Secretary MNUCHIN. Senator, I am aware of your request. As you know, we have lots of resources that are cooperating with three bipartisan committees, as well as the Special Prosecutor. These are the same resources that we use for sanctions and national security and, as we have talked about, our focus on Russia sanctions.

We have also been following through on previous administration information that we needed to follow up. So we look forward to working with you and the chairman. Again, we have the request.

The CHAIRMAN. Okay.

Senator WYDEN. Mr. Chairman, just very briefly.

The CHAIRMAN. Well, let us—

Senator WYDEN. And I will be very brief.

Mr. Secretary, you have not responded to one single request, not one. And now, when I asked about something where the NRA, to their credit, said they were going to get back promptly, you said, we will see what happens.

That is a textbook case of essentially telling the committee with lead jurisdiction over your agency that when it comes to oversight, and when it comes to reasonable requests, you are saying, not interested. I think that is very detrimental to the public interest, and I hope you change your mind.

Thank you, Mr. Chairman.

The CHAIRMAN. Well, thank you, Senator.

Secretary MNUCHIN. I do not think that was the interpretation of my comment.

Senator WYDEN. Not one request has been honored.

The CHAIRMAN. Nor did I interpret it that way as well.

Look, this has been a particularly contentious day as far as I am concerned. And you are in a tough position. There is no question about it. You are doing some very, very important work for this country, and I personally appreciate it.

I want to thank you for being here today. And I want to thank all my colleagues for their questions and for their participation at today's hearings.

Now, for any of my colleagues who have any written questions, I ask that you submit them by Wednesday, February 21st.

With that, this hearing is adjourned.

[Whereupon, at 12:12 p.m., the hearing was concluded.]



## A P P E N D I X

### ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

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PREPARED STATEMENT OF HON. ORRIN G. HATCH,  
A U.S. SENATOR FROM UTAH

WASHINGTON—Senate Finance Committee Chairman Orrin Hatch (R-Utah) today delivered the following opening statement at a Finance Committee hearing to consider the administration’s fiscal year (FY) 2019 budget request for the Treasury Department and to discuss the implementation of the largest tax overhaul in more than 3 decades.

This morning’s hearing will be the first in a series of hearings on the President’s fiscal year 2019 budget proposal. The committee welcomes Treasury Secretary Mnuchin, who is here to testify on the budget along with other matters that may arise from member questions.

The President’s budget includes numerous proposals to deal with a vast array of policy issues, including the opioid epidemic, infrastructure, modernizing government, national security, and lowering drug pricing and payments. I think I speak for all members of the committee when I say that we are all very interested in Secretary Mnuchin’s thoughts and insights on a number of items proposed in the budget.

The budget envisions that government’s receipts will average 17.1 percent of GDP over the 10-year budget window, slightly below the long-run average of 17.4 percent over roughly the last 4 decades. It also has outlays averaging 20 percent of GDP over 10 years, which is also slightly below the long-run average.

The budget also includes some tax proposals, but they are not as sweeping as those we’ve seen in prior budgets, as you would expect following enactment of the new tax law at the end of last year.

Thus far, I am pleased by the success of the new tax law, which has already resulted in substantial benefits for American workers and job creators. Since the beginning of the year—and keep in mind that we’re still in February—we’ve seen a stream of businesses come forward to announce plans to award bonuses, raise wages, or boost 401(k) contributions for their employees. Other companies have announced plans to expand business and hire more workers here in the United States.

According to some estimates, more than 340 companies have issued these types of statements, impacting an estimated total of about 3.5 million workers.

I won’t go through the whole list. But, I’d like to highlight a few.

For example, Apple announced that it is going to hire 20,000 new employees and will issue \$2,500 employee bonuses in the form of restricted stock units. Apple is also increasing its financial support for coding education, science, technology, engineering, arts, and math.

Wells Fargo raised its base wage offered to employees from \$13.50 to \$15.00 per hour, plus they have promised \$400 million in charitable donations.

And Best Buy distributed \$1,000 bonuses to its full-time employees, and \$500 bonuses for part-time employees, reaching more than 100,000 workers in total.

I remember during the floor debate on the tax reform bill, one of our fellow committee members and friends, Senator Stabenow, used a pretty great line. In evaluating the tax bill, she said: “The proof is in the paycheck.” Thus far, I think it’s fair to say that Senator Stabenow was correct. The tax law has been in effect for

less than 2 months, and about 3.5 million workers in a variety of industries have already received bonuses, pay increases, enhanced retirement accounts, and other benefits as a direct result of the tax bill.

And let's keep in mind that these announcements have been about direct decisions made by employers. They don't take into account the changes in the individual tax system, which have cut taxes considerably for tens of millions of American families.

As the economy expands further, it's safe to say that American workers will continue to benefit, as will the businesses that employ them, which is precisely what we intended to accomplish with the tax reform bill.

Of course, no bill or law is perfect, and, as implementation of the new tax law continues, it has become clear that one provision of the bill, section 199A, which provides a tax deduction for qualified business income, is having unintended effects in agricultural markets due to the treatment of qualified cooperative dividends.

Though the aim of that provision, in part, was to preserve benefits previously available to agricultural cooperatives and their patrons for income attributable to domestic production activities, the current statutory language does not maintain the previous competitive balance between cooperatives, other agricultural businesses, and the farmers who sell their crops to them, which existed prior to enactment of the tax reform bill.

Our colleagues here on the committee—in particular, Senators Grassley, Roberts, and Thune—have taken a leading role in identifying a solution for this issue. I'm committed to working with them and partnering with Ways and Means Chairman Brady as well as our other congressional colleagues and stakeholders in affected communities to develop a solution to this issue that does not choose winners and losers and is fair to everyone involved. Once a suitable solution is identified, my goal is to work with my colleagues to advance legislation that can be sent to the President for his signature as soon as possible.

Of course, with any major tax reform bill, none of the important provisions we have written will have their intended effects if they are not properly implemented.

That's why we will keep pressure on the administration to implement the law as Congress intended. I'm going to keep working to ensure that everyone recognizes and respects Congress' role in this process and the fact that the best place to get an explanation of Congress's intent is Congress itself.

Where things are potentially unclear in the law, Congress should be the one to determine and explain what was intended, and, if need be, such as with section 199A, provide a timely fix.

I will continue to facilitate this type of constructive interaction between Congress and the administration as things move forward, and I expect that Secretary Mnuchin will continue to ensure this important dialogue continues.

With that, I look forward to hearing from Secretary Mnuchin about his views on the President's budget and the ongoing fiscal challenges facing the Nation.

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PREPARED STATEMENT OF HON. STEVEN T. MNUCHIN,  
SECRETARY, DEPARTMENT OF THE TREASURY

Chairman Hatch, Ranking Member Wyden, and members of the committee, it is good to be here with you today.

As Treasury Secretary, I am focused on advancing the President's policies that will bring prosperity to the American people through economic growth. This is a core focus of the President, and he is delivering. Last year, the economy had two straight quarters of 3 percent or higher GDP growth, and the growth rate was higher than the average over the previous 20 years.

The cornerstone of returning to more robust growth is deregulation and the Tax Cuts and Jobs Act. This law is already providing relief to middle-income families by putting money directly back into the pockets of hardworking American families.

Since the law was enacted, over 350 companies have announced bonuses, wage increases, higher 401(k) matches, and new hiring, benefiting more than 4 million employees. We are seeing the fastest wage growth since 2009 at 2.9 percent.

This is a meaningful difference in the lives of millions of American families.

Our reforms are making America's companies competitive again, which is having a demonstrable effect on the economic success of the Nation. The Act lowered the statutory corporate tax rate from 35 percent—the highest in the industrial world—to 21 percent, below the industrial average. It also encourages companies to bring back the profits they have sitting overseas by eliminating the tax incentive for keeping that money offshore.

Turning to the budget, the fiscal year 2019 budget reflects last year's tax reform legislation, which reduces the burden on taxpayers and sets the country up for long-term growth. The policies in this budget will drive down spending and grow the economy, which are both critical to putting the Nation on a sound fiscal path over the long term and reducing the budget deficit as a share of GDP.

The past year has been an important step forward for our country. We will continue this progress by enacting policies that enable the American people to succeed, and I look forward to continuing to work with Congress to make this happen.

Thank you very much.

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QUESTIONS SUBMITTED FOR THE RECORD TO HON. STEVEN T. MNUCHIN

QUESTIONS SUBMITTED BY HON. ORRIN G. HATCH

SALT DEDUCTION AND PROGRESSIVITY

*Question.* Secretary Mnuchin, I'd like to ask you about the State and Local Tax deduction, sometimes called the SALT deduction. As you know, the Tax Cuts and Jobs Act capped the SALT deduction at \$10,000 per year. Prior to the Act, the non-partisan Joint Committee on Taxation repeatedly provided information to Congress that the SALT deduction, as a so-called tax expenditure, provided benefits that skewed strongly to upper earners, who some people in certain contexts loosely label "the rich."

Secretary Mnuchin, I have two questions regarding the SALT deduction in the context of the new tax law. I'll just pose the two questions, after which you can respond.

First, can you please tell us about whether this capping of the SALT deduction was a move in a progressive direction or not?

Answer. Capping Federal deductibility for State and local taxes (SALT) was a move in a progressive direction. Higher-income households were more likely to claim the SALT deduction than lower-income households, and the deduction amount rose with income among those who claimed it.<sup>1</sup> Treasury's analysis also shows that, under the prior law, tax benefits of the SALT deduction were highly skewed toward the upper end of the income distribution.<sup>2</sup> We expect a small share of taxpayers, consisting of mostly high-income households, will pay more in Federal income taxes because of the capped SALT deduction as included in the Tax Cuts and Jobs Act.

*Question.* Second, we have heard some criticize the capping of the State and Local Tax deduction, saying it will lead to State and local governments providing less social services. But I wonder whether you believe that the Tax Cuts and Jobs Act require State or local governments to either cut spending or to cut taxes?

Answer. The Tax Cuts and Jobs Act does not require any actions by State or local governments. Each State and local government must independently analyze the effect, if any, that changes made by the act will have on State and local fiscal policy choices. I also note that we expect the new law to generate economic growth that will benefit States and potentially increase their tax revenues.

WINNERS VS. LOSERS

*Question.* Secretary Mnuchin, under the Tax Cuts and Jobs Act, can you please tell us what percentage of individual taxpayers will have a tax cut versus the percentage that will have a tax increase?

Answer. According to the non-partisan Tax Policy Center, about 80 percent of families will experience a tax cut and 5 percent will experience a tax increase.

<sup>1</sup> <https://www.irs.gov/statistics/soi-tax-stats-historic-table-2> for the United States.

<sup>2</sup> <https://www.treasury.gov/resource-center/tax-policy/tax-analysis/Documents/Selected-Credits-Deductions-and-Exclusions-2017.pdf>.

## PERSONAL EXEMPTION SWAPPED FOR BIGGER CHILD TAX CREDIT

*Question.* Secretary Mnuchin, it is my understanding that the replacement of the personal exemption with an enhanced Child Tax Credit moved the Internal Revenue Code in a more progressive direction. I wonder whether you agree with that assessment.

*Answer.* Yes, I do. First, the personal exemptions would increase with a family's marginal tax rate, and, as such, provide bigger benefits as family incomes increase. In contrast, the expansion of the child credit, including the new \$500 credit for dependents who did not qualify before, is generally worth about the same amount, regardless of income. Second, we have increased the value of the refundable portion of the child credit from \$1,000 to \$1,400, which helps insure that even moderate income families benefit from the credit's expansion.

## DEBT VS. EQUITY

*Question.* Secretary Mnuchin, I understand that one of the effects of the Tax Cuts and Jobs Act is that corporations will rely less on debt financing and more on equity financing, as compared with the pre-TCJA law. Do you agree with that assessment, and do you believe that there are any benefits associated with less reliance on debt in the capital structure of businesses?

*Answer.* Yes. The different tax treatment of corporate debt and equity financing of investment was one of the largest distortions in the Code prior to passage of the TCJA when measured by effective marginal tax rates. Corporations were allowed to deduct interest payments at a high statutory tax rate, while dividends were not deductible. The preferential tax rate on dividends received by individuals only partially reduced this distortion. The higher tax on corporate equity encouraged corporations to take on more debt than would otherwise be optimal given relative non-tax financing costs. Excessive debt may increase the costs of financial distress, including bankruptcy, needing to engage in "fire sales" of assets, and lead to a lack of liquidity to finance productive investments. The lower corporate tax rate and limitation on interest deductions included in the TCJA both contribute to a considerable narrowing of the difference in effective marginal tax rates on debt and equity financed corporate investment. Consequently, the associated costs of excessive leverage should diminish as corporations alter their capital structures to rely less on debt.

## CORPORATE RATE COMPARISON

*Question.* Secretary Mnuchin, prior to the Tax Cuts and Jobs Act, the U.S. statutory corporate tax rate, at 35 percent, was the highest among all OECD countries. Upon enactment of tax reform, the U.S. corporate rate was reduced to 21 percent, putting the U.S. rate below the OECD average. It had been a bipartisan goal for some time to reduce the corporate tax rate to bring it more in line with rates of our global competitors. Do you believe that the corporate rate reduction and international tax provisions in the Tax Cuts and Jobs Act will benefit not only American businesses, but also workers?

*Answer.* The TCJA includes a number of provisions that directly increase the after-tax income of workers, including lower individual income tax rates for most brackets, larger standard deductions, and an increase in the child tax credit. In addition, workers benefit from TCJA's provisions such as expanded bonus depreciation and the permanent increase in section 179 expensing that encourage more investment in the United States. Higher levels of investment and capital stock accumulation are typically associated with increases in worker productivity, which in turn increases output and worker compensation. Estimates from the Joint Committee on Taxation indicate that the TCJA could increase employment by around 0.6 percent on average over the 10-year budget period relative to baseline levels.

## SOCIAL IMPACT PARTNERSHIP TO PAY FOR RESULTS ACT

*Question.* Mr. Mnuchin, I'm glad to see the President's budget proposes a focus on using evidence to fund what works. I've long been a champion of this effort, and I'm pleased to note that on February 9th the President signed into law the Social Impact Partnership to Pay for Results Act (as part of the Bipartisan Budget Act of 2018), a bill that will support innovative public-private partnerships to address critical social and public health challenges. As a result of this bill, States will identify key social challenges to address and the results they seek to achieve, and the Federal Government will sign an agreement with a State to pay if a rigorous, independent evaluation shows that they achieved the outcome. While many agencies will



be involved in reviewing State proposals for financing under this new law, Treasury was chosen as the lead department for this initiative both because these initiatives will cut across multiple Federal agencies and because of the agency's financial management and contracting expertise.

Implementing this law will require close coordination with the White House Office of Management and budget, as well as other Federal departments who may be involved in reviewing State proposals for performance-based funding. As this bill is now law, can you provide me with information regarding some of the major next steps your department plans to take to implement this policy?

Answer. Treasury staff have been evaluating the requirements of the new law and making some initial determinations of how best to staff the initiative. We are also working with OMB on the operations of the interagency Council, and we are looking forward to working with the Commission once appointments have been made.

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QUESTION SUBMITTED BY HON. JOHNNY ISAKSON

*Question.* A provision in the Tax Cuts and Jobs Act deals with stock attribution rules as they pertain to inbound companies as well as U.S.-headquartered companies with investments in foreign companies. As the Treasury Department and the IRS issue guidance on the new tax law, I urge its implementation in a manner that is consistent with the provision's historical application and the intent of Congress. Specifically, prior to its repeal in the new tax law, Internal Revenue Code section 958(b)(4) prevented the "downward attribution" of stock ownership from a foreign person to a related U.S. person for purposes of determining the status of a corporation as a controlled foreign corporation (CFC).

The new law's legislative history—the Senate Finance Committee report; a colloquy between Chairman Hatch and my colleague from Georgia, Senator Perdue; and the Conference Report—shows that Congress intended the modification of CFC rules should not result in income inclusions to a U.S. shareholder of a foreign corporation in cases where the U.S. shareholder is neither in control of the foreign corporation nor related to an affiliated group of which the foreign corporation is a part. The treatment outlined throughout the legislative process is also consistent with the purpose and historical application of the CFC rules over their 55-year history.

Given this clear legislative intent and the grant of regulatory authority to implement such intent, will the Treasury Department and the IRS issue administrative guidance to ensure that the modification of the stock attribution rules is implemented in a manner that is both consistent with its historical application and the intent of Congress?

Answer. We are aware of the legislative intent as evidenced by the legislative history, as well as the colloquy referred to in your question. We are still studying whether, and how, we can effectuate that intent, taking into account the statutory language.

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QUESTION SUBMITTED BY HON. PAT ROBERTS

*Question.* The IRS has for many years sought to collect the Federal air transportation excise tax, also known as the airline ticket tax, from aircraft management services (AMS) companies that manage and maintain fractional and wholly owned aircraft programs even though they provide private, non-commercial transportation. The IRS has pursued enforcement action for the ticket tax from AMS companies despite lacking statutory authority to do so. In addition, the agency's collection efforts against AMS companies has been inconsistent and arbitrary, effectively picking winners and losers and resulting in confusion within the AMS industry. Along with Senator Portman, I championed a fix for this issue in the recently passed Tax Cuts and Jobs Act (section 13822, H.R. 1) that was included in the final bill and States clearly that AMS companies are not subject to the ticket tax. Our view is that Congress has spoken and that the IRS should respect the law and stop trying to collect the ticket tax from AMS companies. Indeed, the conference report accompanying H.R. 1 states: "In 2017, the IRS decided not to pursue examination of the issue of whether amounts paid to aircraft companies by the owners or lessors of the aircraft are taxable until further guidance is made available." Although Congress has now spoken and settled the issue, I understand that the IRS is still pursuing collection

of the tax against some AMC companies for past tax years, undermining the law and creating additional confusion and instability within the AMS industry.

Will you follow the law and the clear intent of Congress by ceasing all collection activity of the air transportation ticket tax against aircraft management services companies?

Answer. IRS is not pursuing examinations of aircraft management companies involving the issue of whether fees paid by aircraft owners to aircraft management companies for whole aircraft management services are taxable under Internal Revenue Code section 4261. Aircraft management companies may, however, be under examination for other issues such as charter services.

Previous examinations of aircraft management companies involving whole aircraft management service fee issues have been closed, and the IRS has notified the aircraft management companies that this issue is not being pursued. The IRS is also working with aircraft management companies to resolve any claims for previously paid whole aircraft management service fees.

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QUESTIONS SUBMITTED BY HON. CHUCK GRASSLEY

*Question.* Secretary Mnuchin, the passage of tax reform was a significant accomplishment for the administration. However, I understand that in some respects the heavy lift for Treasury and the IRS is just beginning. What process or procedures do you have in place to determine the priority among the numerous issues on which you will no doubt be asked to provide guidance?

Answer. We have put in place processes to ensure that we are focused on the right guidance so that we provide timely information to the taxpaying public and ensure that we will have the forms, publications, and instructions necessary for the next filing season. For example, we created a program management team at the IRS that is well connected with the Office of Tax Policy in the Department of Treasury, to help facilitate the evaluation and timing of guidance necessary to implement Tax Reform. We also have added a section our Priority Guidance plan that lists our tax reform guidance priorities, and this is updated quarterly: <https://www.irs.gov/privacy-disclosure/priority-guidance-plan>.

*Question.* Secretary Mnuchin, at your nomination hearing I asked you about the IRS's private debt collection (PDC) program and concerns I had with the slow rollout. As I pointed out at the time, the number of accounts the IRS planned to release for private collection were woefully inadequate, guaranteeing the program would fall far short of collecting the hundreds of millions in revenue JCT estimates is possible. Unfortunately, despite your assurance of support for the program, this is exactly what has occurred. I understand the need for a testing period to ensure all systems are go, but what concerns me is that we are nearly a year in and the IRS is still placing accounts at little more than a trickle. I am told the program has the capacity to do more than 10 times the volume it is presently operating at.

Why haven't Treasury and the IRS implemented the program to the full extent required under the law?

Answer. The IRS is responsible for implementing the Private Debt Collection program and takes its obligations under the Private Debt Collection program seriously. The IRS has been working diligently toward a fully engaged Private Debt Collection program. The IRS delivered the first Private Debt Collection accounts to the Private Collection Agencies on April 10, 2017. The initial number of assigned cases was small to ensure the protection of taxpayer rights and the secure transmission of sensitive information. Over the next 9 months, the IRS increased the number of assigned cases and by the end of calendar year 2017, the IRS had delivered over 240,000 cases with a total of \$1.7 billion outstanding tax debt to the Private Collection Agencies. In calendar year 2018, the IRS plans to deliver between 700,000 and 800,000 cases totaling approximately \$5 to \$5.5 billion in total debt. Business cases will be assigned beginning in 2019.

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QUESTIONS SUBMITTED BY HON. JOHN THUNE

*Question.* The new pass-through deduction is significant rate relief for all types of pass-through businesses. I think it holds untold potential for the on-demand economy and the rapidly increasing number of entrepreneurs who are turning to this

sector on a part- or full-time basis. It also highlights the need for clear tax rules so these on-demand workers can have the certainty that the IRS will respect their choice to engage in this sector as independent contractors. I introduced my NEW GIG Act (S. 1549) last year as one approach, and I was very pleased to see that the administration included that concept in this year's budget proposal. Can you talk about how you see clearer rules for worker classification helping individuals who want to work in this rapidly growing sector, how such rules would interact with the new pass-through deduction for small businesses and entrepreneurs, and any actions the administration plans to take to take in this area?

*Answer.* Clearer rules for worker classification should remove one potential obstacle to growth of the on-demand economy by eliminating the uncertainty inherent in applying the common law employer-employee standards to workers in this sector. The new pass-through deduction is available to independent contractors in general and is not available to employees. Therefore, clearer rules for worker classification would be helpful in determining who is eligible to receive the pass-through deduction.

*Question.* As you may be aware, Senator Carper and I had engaged your predecessor on the topic of modernizing the preventive care safe harbor that currently exists for HSA-eligible high-deductible health plans. Under current Treasury guidance, the safe harbor narrowly defines prevention, failing to recognize the value that chronic disease management has in preventing future complications and eventual need for more costly care. We believe that the Department has the authority to update this definition to permit plans to cover high-value, preventive care services related to a chronic condition, but nevertheless have proposed legislation to address the matter as well. Is this something that the Department is considering through executive action, and if not, will you commit to working with Congress on the legislation Senator Carper and I have introduced?

*Answer.* While Treasury and the IRS are continuing to consider the appropriate standards for preventive care for HSA-eligible high deductible health plans under current law, and recently issued a specific request for comments on those standards and related issues, it is likely that legislation could provide for more flexible standards. Treasury is committed to working with Congress to pursue sound policies for defining preventive care for purposes of the rules for high deductible health plans and HSAs.

*Question.* In 2015, Congress passed the Trade Facilitation and Trade Enforcement Act (TFTEA) with the stated goal of ensuring a "fair and competitive trade environment." The Treasury Department and Customs and Border Protection (CBP) are required to promulgate regulations by February 24, 2018 that will allow manufacturers in the United States to fully realize the benefits of TFTEA, including with respect to updated drawback rules to help promote exports. To date, those regulations have not been released and the Department has not provided a timeline for the rule-making process. This committee, including members that were involved in the crafting of TFTEA, have a strong interest in ensuring that manufacturers are able to both utilize the benefits of the bill and that the regulations are crafted consistent with the bill's language and congressional intent. Please provide the committee with an update as to the status of the TFTEA regulations and rulemaking process and when manufacturers in the U.S. can expect to fully utilize the benefits of the bill.

*Answer.* A Notice of Proposed Rulemaking (NPRM) on Modernized Drawback was published in the Federal Register on August 2, 2018 (83 Fed. Reg. 37886), and the public comment period closed on September 17th. CBP will consider the comments received and prepare responses to be published with a final rule and provide that to Treasury for final approval. Although we anticipate many comments on the complex issue of drawback, we will be working with CBP to answer the comments and publish a final rule.

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QUESTIONS SUBMITTED BY HON. JOHN CORNYN

*Question.* Mr. Secretary, I want to highlight a pressing national security issue involving China, and a bill that you and I developed together to address this issue. The context is China, which uses both legal and illegal means to vacuum up advanced U.S. technology and know-how in an effort to turn it against us and erase our national security advantage. One of these legal means is investment, which China has weaponized for these very purposes. Thanks for your collaboration with Senator Feinstein and me over the past year on the Foreign Investment Risk Re-

view Modernization Act (S. 2098), which would update the jurisdiction of the Committee on Foreign Investment in the United States (CFIUS) to reflect the 21st-century landscape.

As you know, CFIUS plays a very important role in reviewing foreign investment transactions and vetting them for national security risks.

My legislation, which is supported by members on both sides of the aisle, takes a targeted approach to addressing specific national security problems, while also seeking to not unduly chill foreign direct investment.

Mr. Secretary, on a scale of 1 to 10, how important is it to our national security that we modernize CFIUS?

Answer. It is of the highest importance. Modernizing CFIUS to better address threats posed by today's foreign investment landscape is critical to protecting our national security, and implementing the Foreign Investment Risk Review Modernization Act (FIRRMA) is a priority for me and the administration. That is why the administration supported House and Senate passage of your legislation, FIRRMA, and I am truly grateful for your leadership on this issue. Using the new authorities afforded to us in FIRRMA, we have moved quickly to develop a pilot program related to critical technology and published regulations for this pilot program on October 11th.

*Question.* How important is cooperation with our friends and allies in ensuring that investments involving China and other competitors do not jeopardize our national security?

Answer. Engagement with our friends and allies on these issues is essential given that our own national security is linked to the security of our closest friends and allies, who face similar threats. Due to increasingly globalized supply chains, it is crucial to our national security that our allies maintain robust and effective national security review processes to vet foreign investments into their countries. FIRRMA recognizes this by providing CFIUS the tools to better collaborate with our friends and allies and encourage them to adopt similar processes. We have already begun engaging with foreign authorities on this topic.

If the bill is enacted, how extensively do you intend to exercise this "safe list" authority, and do you envision a decent number of countries being on that list eventually?

Answer. The final legislation included a "country specification" provision that allows CFIUS to develop regulations that limit the application of the provisions related to real estate and "other investments" to certain categories of foreign persons. We will need to take the time to ensure that any such specifications are consistent with the protection of our national security. The pilot program is expected to provide useful information to inform the full implementation of FIRRMA, including the "country specification" provision.

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#### QUESTIONS SUBMITTED BY HON. BILL CASSIDY

##### TRADE-BASED MONEY LAUNDERING

*Question.* Does FinCEN have a process for verifying information contained in suspicious activity reports submitted by financial institutions? If so, please describe the process.

Answer. FinCEN continually assesses BSA data for analytic and enforcement purposes, producing numerous reports for law enforcement and the intelligence community related to trade and trade based money laundering (TBML) in recent years. Additionally, authorized government users perform approximately 27,000 queries daily through FinCEN's secure portal to obtain SARs and other BSA reports in support of criminal, national security, regulatory and tax investigations. These users, including law enforcement investigators and prosecutors, review BSA information for potential investigative use and can further validate BSA information through subpoenas and other investigative methods.

FinCEN also monitors Suspicious Activity Reports (SARs) for systemic errors associated with data quality, *i.e.*, ensuring that filing institutions report required data in accordance with Bank Secrecy Act (BSA) regulations, including specific SAR filing instructions. FinCEN will notify a financial institution when it finds systemic filing errors, requesting that the institution take necessary action to correct existing

and prevent future errors. FinCEN does not verify the subject-related or transactional information reported in SARs, which are based on the filing institution's records, direct conversations with customers, and the filing institution's research on customers or other parties associated with the suspicious transactions. Pursuant to FinCEN regulations, SAR filers are required to keep records for 5 years (31 CFR § 1020.320(d)). When FinCEN has a particular interest in a SAR or subset of SARs, FinCEN can review SAR attachments containing additional transactional details and/or obtain underlying records from the filing institution. FinCEN can also validate some entities or activities reported in a SAR by cross-referencing other BSA reports, government, and open-source records (such as corporate, real estate, or other commercial records).

*Question.* Would changes in form or processing of suspicious activity reports allow FinCEN to address threats more efficiently or effectively? If so, please describe the potential changes.

*Answer.* FinCEN's SAR form is well-designed to assist law enforcement in addressing trade-based money laundering (TBML). The BSA database currently reflects 6,720 entries for TBML through December 2017, with 2017 accounting for 1,460 entries. In March 2011, FinCEN issued an automated SAR form to facilitate prompt reporting through the FinCEN Electronic BSA E-Filing System. The report now includes numerous check boxes to enable the filer to quickly select the type of activity, including TBML that the filer believed to be occurring. A recent revision to the form also included additional capabilities that allow reports to be more effectively flagged for additional attention. For example, the revised version allows the filer to include a "Note to FinCEN," allowing FinCEN analysts to more quickly identify and access that report. As a further enhancement, the BSA database has added the capability to "flag" or alert law enforcement of a particular SAR, which allows law enforcement to identify the SAR and quickly follow-up with the filing institution(s).

*Question.* Please describe the ways in which FinCEN coordinates its anti-trade-based money laundering activities with the IRS, CBP, DHS, DOJ, and other Federal agencies.

*Answer.* As part of its anti-TBML activities, FinCEN shares TBML typologies, trends, and schemes based on its review and analysis of BSA data with its on-site law enforcement liaisons, including the IRS-CI, DHS-HSI, FBI, U.S. Secret Service, DEA, and U.S. Federal Marshals Service on a regular basis. This collaboration takes many forms, to include substantive information exchange, FinCEN-convened training sessions, and specialized BSA analytic support. FinCEN also engages with financial institutions across the country at AML conferences to highlight specific FinCEN advisories and more broadly, to raise awareness of typologies including TBML. For instance, FinCEN recently hosted a TBML conference for 150 participants, including 20 from foreign jurisdictions (U.K., Canada, Mexico, and Australia), and 130 from U.S. industry, academia, defense and intelligence communities, and Federal law enforcement agencies. IRS-CI, CBP, HSI, State Department, and U.S. Attorneys' Office personnel were among the key presenters and attendees at the conference. Since the conference, FinCEN has seen increased information sharing and casework collaboration among participants on TBML and other topics. Additionally, FinCEN hosted a FinCEN Exchange public-private information sharing briefing on TBML in May 2018 with law enforcement partners and financial institutions.

Another example of operational coordination with our law enforcement partners is FinCEN's TBML-focused Geographic Targeting Orders (GTOs), imposing additional recordkeeping or reporting requirements on domestic businesses in a specific geographic area. In October 2014, FinCEN issued a GTO on the Los Angeles Fashion District to help identify and assist law enforcement pursue cases against persons engaged in illicit, currency-backed trade movements to Mexico and Colombia. In April 2015, FinCEN issued a GTO to help identify and pursue cases against persons engaged in trade-based money laundering involving electronics in Doral, Florida. These GTOs provided FinCEN and our law enforcement partners with useful financial intelligence and operational leads, which law enforcement is still actively pursuing. FinCEN also works closely with the other TFI components to determine other potential actions that may be appropriate to counter TBML.

Similarly, FinCEN has a number of other examples of engaging with the financial sector to share information related to TBML through advisories and other informational programming. For example, in 2010 following the Financial Action Task Force's work on TBML, and supplemented with analysis of U.S. financial reporting

and law enforcement cases, FinCEN issued an Advisory to inform and assist the financial industry in reporting suspected instances of TBML. In May 2014, FinCEN issued an advisory on TBML and Funnel Accounts. The advisory detailed how drug trafficking organizations used funnel accounts as part of a larger TBML scheme to launder drug proceeds. The advisory provided red flag indicators of such activity to financial institutions so that they could better detect, mitigate, and report such activities to FinCEN and law enforcement authorities through more effective SAR reporting. Most recently, in November 2017, FinCEN issued an advisory on how North Korea uses front and trade companies to disguise, move, and launder funds to finance its nuclear and ballistic missile programs.

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QUESTIONS SUBMITTED BY HON. RON WYDEN

ALCOHOL AND TOBACCO TAX AND TRADE BUREAU (TTB) FUNDING

*Question.* Secretary Mnuchin, between 2012 and 2016 the number of U.S. breweries has more than doubled, however, TTB funding has not kept pace. TTB is responsible for administration of Federal excise tax laws, as well as certain Federal alcohol and labeling regulations. Specifically, brewers are required to obtain TTB approval for beverage labels and formulas in certain cases. The brewing industry recognizes these regulations are crucial to ensure the integrity of the industry and fairness in the marketplace.

Due to resource limitations and the significant increases in the number of U.S. brewers, TTB has in recent years faced a significant backlog of formula and label approvals—sometime as long as 2 months. Since 2015, Congress has acted in a bipartisan, bicameral manner to address this backlog by appropriating \$5 million annually to streamline and accelerate formula and label approvals.

The TTB FY 2019 budget justification proposes to implement a hiring freeze within its “Protect the Public” function, which is projected to reduce staffing by 14 FTE and reduce expenditures by nearly \$2 million.

As you know, the formula and label approval program area is housed in the “Protect the Public” function. The budget justification states that the reduction will be taken across multiple program areas. Please describe specifically how this hiring freeze is expected to apply to each program area’s FTE and expenditure levels.

*Answer.* TTB takes its role in protecting the public very seriously. The bureau had to make many difficult choices in the FY 2019 request. TTB continues to improve its efficiency through tools such as electronic filing, streamlined processes, and risk modeling. The budget will fund further technology modernization while maintaining current service levels to industry. These investments will enable TTB to improve efficiency and provide better service in the long term with slightly reduced staffing levels.

*Question.* Since 2017, Congress has acted in a bipartisan, bicameral manner to increase trade practices enforcement resources by \$5 million annually to ensure craft beverage producers have fair access to tap lines and store shelves, and to ensure independent distributors have fair access to the marketplace. These new resources have increased trade practice enforcement activity from one case annually to 15 cases annually. The number of active cases illustrates that trade practices enforcement continues to present an enforcement challenge for TTB and industry.

The TTB FY 2019 Budget Justification proposes to scrap the \$5 million appropriation for trade practices enforcement, reducing the number of active cases from 15 to one. In addition, the budget justification states that this drastic cut to resources will require TTB to “reevaluate” the trade practices enforcement program.

Please describe why the administration believes robustly enforcing fair trade practices laws is no longer necessary.

*Answer.* TTB had to make difficult choices in the FY 2019 request. The request focuses TTB’s limited resources on maintaining service levels to the alcohol industry in areas such as formula and label approvals. These are critical to small business success. TTB also has focused on modernizing IT to make TTB more efficient and effective in providing service. In this era of very limited resources, it was not possible to fund the trade enforcement work.

*Question.* Please explain what the phrase “reevaluate the program” is intended to mean in the context of these dramatic proposed cuts to trade practice enforcement resources.

*Answer.* In reevaluating the Trade Practice Enforcement program, facilitating voluntary compliance is the most efficient means of tax administration, and it remains a priority for TTB in FY 2019. To this end, TTB will enhance its guidance related to Federal alcohol laws and regulations, and explore opportunities to streamline regulations and requirements to reduce compliance burden.

#### CONSERVATION EASEMENT SYNDICATION

*Question.* Secretary Mnuchin, on March 29, 2017, I wrote to IRS Commissioner John Koskinen about the growth in abusive tax shelters involving the syndication of conservation easements. I asked the IRS to provide a report on the nature and scope of this problem. On July 13, 2017, the IRS provided a partial response that revealed participants in these syndication deals claimed deductions that were nine times the amount of their original investment. The IRS also indicated that aggregate contribution deductions claimed by just 40 investors exceeded \$217 million.

The Treasury Department issued Notice 2017–10, identifying these syndication transactions as abusive tax shelters and requiring participants to disclose their involvement to the IRS. The notice was also intended to deter future deals, however, media reports suggest these deals are still taking place.<sup>3</sup>

Historically, when the Treasury Department and the IRS issue a notice “listing” a certain transaction as an abusive tax shelter, the promotion and use of such schemes stops. Can you confirm whether this activity is continuing despite the Notice?

*Answer.* Once 2017 Federal income tax returns are filed, the IRS will evaluate the information on these returns, as well as other information available to the IRS, to determine the impact of the notice on this activity.

*Question.* Please describe whether the administration has taken enforcement actions against the promoters of these abusive shelters identified via Notice 2017–10.

*Answer.* The IRS has responsibility for enforcement of the internal revenue laws, including taking enforcement action against tax shelter promoters in appropriate cases. Prior to release of the notice, the IRS has taken some enforcement actions which continue, and the IRS is currently analyzing the information provided in the disclosures to determine next steps for enforcement.

*Question.* Please describe whether the administration has developed plans to take any enforcement actions against the promoters of these abusive shelters identified via Notice 2017–10.

*Answer.* The IRS has responsibility for enforcement of the internal revenue laws, including taking enforcement action against tax shelter promoters in appropriate cases. The IRS is currently analyzing the information provided from the disclosures and determining the most effective way to address compliance issues.

*Question.* Will Treasury propose regulatory or statutory changes to address these abuses if Notice 2017–10 is shown to be insufficient to curb the use of these tax shelters?

*Answer.* Fulfilling the intent of Notice 2017–10 continues to be a top priority for the Department. As indicated in the responses to the above questions, Treasury and the IRS are waiting on the relevant information to evaluate the impact of Notice 2017–10.

With that said, Treasury is encouraged to hear of congressional interest in addressing the issue. Treasury is in the process of reviewing H.R. 4459 and S. 2436. While it remains unclear if a legislative solution will ultimately be needed, Treasury supports the efforts to lay the groundwork in the case that it is.

#### NEW REPUBLICAN TAX LAW AND IRS TELEPHONE LEVEL OF SERVICE

*Question.* In the Treasury Department’s Budget in Brief, the administration states that implementing the new Republican tax law “will require extensive administrative work in calendar years 2018 and 2019.” To implement this law, the brief says “the IRS will need immediate additional resources.”

<sup>3</sup>Peter Elkind, “The Billion-Dollar Loophole,” *ProPublica*, December 20, 2017.

The administration estimates that, due to the tax law, the IRS will receive four million additional phone calls, a 17-percent increase from fiscal year 2017.

Despite recognizing the IRS's need for greater resources and anticipating millions of taxpayers needing assistance navigating the complexities of the new tax law, the President's budget *cuts* funding for taxpayer services at the IRS by 4.63%. Funding specifically for Filing and Account Services for taxpayers is cut 6.47%. This budget activity funds taxpayer services such as issuing refunds and processing of paper and digital returns.

The administration projects that Customer Service Representative Level of Service (LoS) for Filing and Account Services will fall from an estimated 75 percent in FY 2018 to 47 percent in FY 2019. The LoS rate measures the share of taxpayers calling the IRS who get through to a person or an automated message. According to the administration's Congressional Justification of the IRS budget, Level of Service is the "the relative success rate of taxpayers who call the IRS toll-free number seeking assistance from a customer service representative."

What this means, in other words, is that *fewer than half* of taxpayers who try to call the IRS in 2019 would be able to get through.

Please provide the administration's rationale for cutting filing services and limiting taxpayers' ability to successfully call the IRS for help just when taxpayers would need assistance most—especially to assist with understanding the complicated new Republican tax law.

Answer. The Department requested \$397 million for implementing tax reform, including \$75 million for taxpayer assistance, education, and outreach efforts and \$3 million for taxpayer publications and guidance efforts. Based on anticipated call volumes and the requested resources, the IRS will ensure that a sufficient number of customer service representatives are available to answer taxpayer questions and that all CSRs and all assistors in IRS taxpayer assistance centers will be trained on the new tax law. The IRS has begun answering tax reform tax law questions year-round, not just during filing season. In addition, the 2019 budget includes resources for expanding taxpayer self-assistance tools and digital communications so that taxpayers have the option to interact with the IRS online and for IT modernization efforts that will improve the IRS's ability to respond to taxpayers promptly and securely when they interact with the IRS.

*Question.* Funding specifically for Pre-filing Taxpayer Assistance and Education is effectively flat-funded, with a meager increase of 0.72%. This budget activity includes helping taxpayers understand and meet their tax obligations, which includes tax law interpretation and advocate services.

Neither the administration's Budget in Brief nor the congressional justification project the Customer Service Representative Level of Service for Pre-filing Taxpayer Assistance and Education.

Given the administration's proposal to flat-fund pre-filing services, what are the administration's projections of Customer Service Representative Level of Service for Pre-filing Taxpayer Assistance and Education in FY 2019?

Answer. Based on anticipated call volume and the requested resources, the IRS will ensure that a sufficient number of customer service representatives are available to answer taxpayer questions and that all CSRs and all assistors in our TACs will be trained on the new tax law. In addition, the IRS will answer tax reform tax law questions year-round, not just during filing season.

*Question.* What are the administration's projections of how the near flat-funding of pre-filing services would impact taxpayer compliance?

Answer. We will be closely monitoring taxpayer compliance. The IRS is ensuring online resources like the withholding calculator, IRS guidance, and other web services are available to taxpayers and in addition, the IRS will answer tax reform tax law questions year-round, not just during filing season.

*Question.* Does the administration project an increase in the number of unintentionally non-compliant returns, due to the new tax law and the flat-funding of pre-filing services?

Answer. Not at this time. Tax reform is expected to simplify the filing process for many taxpayers and the frequency of certain disputes between taxpayers and the IRS. For example, approximately 90 percent of taxpayers will now be eligible to claim the increased standard deduction, up from approximately 75 percent. These



taxpayers will no longer have to file Schedule A to Form 1040, and many will no longer need to maintain records associated with claiming itemized deductions.

*Question.* Does the administration project an increase in the number of taxpayers paying penalties for unintentionally non-compliant returns, due to the new tax law and flat-funded pre-filing services?

Answer. Not at this time.

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QUESTIONS SUBMITTED BY HON. SHELDON WHITEHOUSE

*Question.* The United States Code, 26 U.S.C. § 7206(1), makes it a felony punishable by up to 3 years of imprisonment and \$100,000 in fines for a person who: “[w]illfully makes and subscribes any return, statement, or other document, which contains or is verified by a written declaration that it is made under the penalties of perjury, and which he does not believe to be true and correct as to every material matter.”

Why is it important to ensure that taxpayers are providing accurate information?

Are persons also subject to penalty under the criminal false statement statute, 18 U.S.C. § 1001, if they knowingly make material false statements to the IRS?

What steps do the Treasury and the IRS take to ensure that statements made to the IRS are accurate?

Does the Treasury or IRS review other filings and statements the person has made to the IRS to verify that the information regarding material matters is consistent?

Does the Treasury or the IRS review other filings the person has made to other Federal agencies to verify the information regarding material matters is consistent?

Answer. The IRS has primary responsibility for tax administration and enforcement of the tax laws. In criminal cases, the IRS Criminal Investigation division works with the Department of Justice to prosecute those committing crimes. Therefore, these are questions better answered by the IRS. That being said, the Treasury Department fully supports the IRS’s efforts to enforce both the civil and criminal tax laws.

*Question.* According to the IRS, the net tax gap—the difference between what people and companies owe in taxes and what the IRS ultimately collects—exceeds \$400 billion per year. This should be the low-hanging fruit of deficit reduction; this is money owed under the law. The budget request notes that an additional \$15 billion for enforcement over 10 years will generate \$44 billion in collections, “yielding a net savings of \$29 billion.” In other words, every dollar spent on enforcement brings in three.

Do you agree that additional enforcement dollars would produce a positive return and help reduce the deficit?

Answer. The enforcement dollars proposed by the administration in the FY 2019 budget will help reduce the deficit. The enhanced enforcement will also help deter non-compliance, thereby strengthening voluntary tax payments and protecting revenue. The administration proposes an IRS program integrity cap adjustment of \$362 million in FY 2019 (with additional resources in future years) to expand and improve tax enforcement over the 10-year budget window. Ultimately, a 10-year investment of \$15 billion will result in \$44 billion in additional revenue, with a net savings of \$29 billion.

*Question.* Are you aware that the FY19 request for the IRS enforcement budget is nearly \$1 billion lower than Congress appropriated for it in 2011?

Answer. I am familiar with the enforcement budget. I look forward to working with Congress on IRS funding in the coming appropriations negotiations.

*Question.* With the potential for enforcement dollars to cut the deficit, why hasn’t the President requested more?

Answer. The administration proposes an IRS program integrity cap adjustment of \$362 million in FY 2019 (with additional resources in future years) to expand and improve tax enforcement over the 10-year budget window. The administration proposes a 10-year investment of \$15 billion, which will result in nearly \$44 billion in

additional revenue, with a net savings of \$29 billion. I look forward to working with Congress to ensure support for the IRS's tax enforcement functions.

*Question.* Currently no jurisdiction in the United States requires shell companies to disclose their beneficial owners. At the hearing on the President's FY 2019 budget, in response to my question regarding abuse of anonymous shell companies, you said "we need to have a way of tracking beneficial ownership."

Do you agree the United States' lack of beneficial ownership collection presents a serious shortcoming in our anti-money laundering regime?

*Answer.* Treasury's ability to combat tax evasion and to detect, deter, and disrupt money laundering and terrorist financing would be greatly enhanced through reporting of beneficial ownership information. Illicit actors may more easily hide funds and avoid detection through business entities when the true owner is not disclosed. Treasury's Customer Due Diligence (CDD) rule, which was implemented by covered financial institutions in May 2018, requires those institutions to identify and verify the identity of the beneficial owners of their legal entity customers. The definition of beneficial owner includes all natural persons who own 25 percent or more of the equity in a legal entity, as well as one natural person who controls the legal entity. This change will assist financial institutions in managing risks and law enforcement in pursuing criminals who launder illicit proceeds through legal entities. This is an important step forward. We look forward to working with Congress on legislation that further addresses this issue.

*Question.* How can shell companies be used by criminals to avoid paying taxes?

*Answer.* Shell companies are sometimes a vehicle used in business transactions to avoid disclosing the identity of the beneficial owner of an entity and thus allow the entity to operate anonymously. Shell companies are used in lawful activities and in illegal activities. Perpetrators of tax evasion and other criminal activity use shell companies to conceal their beneficial owners and hinder government agencies or others in making legitimate determinations of ownership of assets and income. In some cases, the shell company allows a person to own both sides of what otherwise appears to be a legitimate transaction but is structured to move money to a more advantageous location or to obscure its source.

*Question.* What other risks do abuse of anonymous shell companies pose to the U.S. financial system?

*Answer.* U.S. companies with hidden beneficial owners have been used by arms dealers, narco-traffickers, proliferators of weapons of mass destruction, and facilitators of massive health-care and mortgage frauds, among other abuses. As one example, Viktor Bout, a Russian arms dealer used at least 12 companies incorporated in the United States to carry out his arms dealing. Similarly, Tareck El Aissami, the current Venezuelan vice president, and Samark Lopez Bello (both designated pursuant to the Foreign Narcotics Kingpin Designation Act in February 2017) created five U.S. LLC companies in Florida to hold real estate or other U.S. assets in Lopez Bello's name. Similarly, in June 2017, four people in Florida were indicted as part of a nationwide round-up of alleged perpetrators of health-care fraud. In this case, the co-conspirators submitted more than \$8 million in false claims to Medicare for home health services that were never provided, and allegedly created a series of shell companies to launder the proceeds for their own benefit.

*Answer.* Would having access to beneficial ownership information make Treasury investigations into tax evasion and money laundering easier?

*Answer.* Yes. Treasury's ability to combat tax evasion and to detect, deter, and disrupt money laundering and terrorist financing would be greatly enhanced through reporting of beneficial ownership information at the time of company formation. We look forward to working with Congress on legislation that further addresses this issue.

*Question.* At a January 2018 Senate Banking Committee hearing, Greg Baer, president of the Clearinghouse Association, said that he "could not think of a valid reason you wouldn't want law enforcement to know who owns your company." Do you agree with Mr. Baer?

*Answer.* We believe that law enforcement access to information that identifies beneficial owners of legal entities is crucial for investigations of money laundering, terrorist financing and other financial crimes.

*Question.* When do you expect the administration to take a position on the various pieces of legislation in this area?

Answer. As of the date of this hearing, Treasury is aware of options in proposed legislation to report beneficial ownership information at the State or the Federal level. We look forward to continue working with Congress on legislation that further addresses this.

*Question.* In January 2016, FinCEN issued Geographic Targeting Orders (GTOs) to require U.S. title insurance companies to report beneficial ownership information on shell companies used to purchase certain luxury residential real estate in Manhattan and Miami without a bank loan and made, at least in part, using a cashier's check or similar instrument. In July 2016 and February 2017, FinCEN reissued the original GTOs and extended coverage to all boroughs of New York City, two additional counties in the Miami metropolitan area, five counties in California (including Los Angeles, San Francisco, and San Diego), and the Texas county that includes San Antonio. In August 2017, FinCEN also expanded the GTOs to include transactions conducted in the city and county of Honolulu, Hawaii. Within this narrow scope of real estate transactions covered by the GTOs, FinCEN's data indicates that about 30 percent of reported transactions involve a beneficial owner or purchaser representative who was also the subject of a previous suspicious activity report.

*Question.* The current GTO is set to expire on March 20, 2017. Does FinCEN plan to further extend the order?

Answer. FinCEN uses GTO data on an ongoing basis for both tactical and strategic purposes. FinCEN, for example, has analyzed real estate GTO data to identify (1) those subjects who are also flagged in SARs, and trends associated with these cross referenced SARs; (2) industry responses to the GTOs themselves, to include indicators of potential evasion; (3) potential targets to share with law enforcement; and (4) transactions requiring follow up for further review and potential enforcement action.

In March, FinCEN renewed the GTO for an additional 6 months. In the future, FinCEN may consider modifications to the GTOs as appropriate.

*Question.* What does the FinCEN and the Treasury Department do with the information collected from the GTOs?

Answer. FinCEN uses GTO data on an ongoing basis for both tactical and strategic purposes. FinCEN, for example, has analyzed real estate GTO data to identify (1) those subjects who are also flagged in SARs, and trends associated with these cross referenced SARs; (2) industry responses to the GTOs themselves, to include indicators of potential evasion; (3) potential targets to share with law enforcement; and (4) transactions requiring follow up for further review and potential enforcement action. FinCEN also uses GTO data to help achieve broader, more strategic goals. For example, FinCEN uses GTO data to help take a more data-centric approach to rulemaking by folding its analysis into the regulatory review and development process. For example, GTO data can be used to help develop more focused Advance Notice of Proposed Rulemaking (ANPRMs), so that industry responses are more focused. This allows FinCEN to develop more targeted policy responses to AML/CFT risks in areas such as real estate that may be the subject of a GTO. FinCEN also has mechanisms, such as through an advisory, where key risks identified in the GTO, can be shared with the real estate market and the financial sector.

*Question.* What do FinCEN and the Treasury Department do with the information collected from the GTOs?

Answer. FinCEN analyzes the real estate GTO data to identify, among other things, the following: (1) persons involved in the transactions who are the subjects of SARs and any trends in such SARs; (2) market responses to the GTOs themselves, including potential evasion; (3) potential targets to share with law enforcement; (4) transactions requiring follow up for further review and potential enforcement action; and (5) to inform potential rulemaking.

*Question.* At the hearing on the President's FY 2019 budget, I asked you to provide information about why the IRS stopped publishing the "The 400 Individual Income Tax Returns Reporting the Largest Adjusted Gross Incomes" data. This information served to illustrate trends in income and tax inequality in the United States.

Why did the IRS stop publishing this information?

Answer. The IRS and Treasury revise publications and publication schedules from time to time, as data sources and user needs change. Recent publications by the IRS and Treasury on the distribution of incomes include tables on the shares of AGI re-

ceived by income percentile (including the top 0.001 percent) over time and the distribution of cash incomes and tax burdens for various years.

*Question.* Knowing that this information is useful to the public and to members of Congress, will you commit to reviving this annual report?

*Answer.* We do not plan to revive this report. I believe that the reports cited above and other data released by the IRS are more useful than a report based on a fixed number of taxpayers.

*Question.* What role does Treasury play in ensuring foreign money is not entering our political system through outside organizations like LLCs and tax exempt organizations?

*Answer.* We refer you to the Federal Election Commission for questions regarding U.S. elections laws and campaign finance. FinCEN focuses its enforcement activity on the Bank Secrecy Act authorities it is charged with administering. The information reported to FinCEN pursuant to the Bank Secrecy Act is made available to law enforcement agencies via their access to the Bank Secrecy Act database.

*Question.* Does FinCEN play a role in these efforts? If not, what obstacles prevent FinCEN from doing so?

*Answer.* FinCEN's role in these efforts includes (a) ensuring the data integrity of the BSA database for use in the investigations; (b) using its authorities to strategically gather relevant information; (c) facilitating and supporting law enforcement access to BSA data; and (d) providing analysis of BSA data related matters, as needed, to assist investigations.

*Question.* Are the current disclosures to the IRS by such groups sufficient to ensure that foreign actors are not funneling money through cutouts or domestic organizations? If not, what recommendations do you have to improve those disclosures?

*Answer.* The information that the IRS collects from LLCs and tax-exempt organizations is sufficient to enforce the Internal Revenue Code. We refer you to the Federal Election commission for questions regarding disclosure under campaign finance laws.

*Question.* Does the IRS have sufficient resources to enforce 501(c)(4) rules?

*Answer.* The IRS continues to focus enforcement efforts on areas with the highest risk of noncompliance and allocates its resources as necessary.

*Question.* The FY 2019 congressional budget justification notes that "it is imperative that the IRS implement and sustain a robust security strategy in an ever-evolving threat and technology environment" and that the IRS is undertaking a number of steps to "meet emerging security needs."

Do you believe that the IRS and the Treasury Department have sufficient resources and authorities to attract the most capable cybersecurity professionals to implement this strategy?

*Answer.* Enacting the budget, including approximately \$304 million for IRS cybersecurity and roughly \$25 million for Treasury-wide cybersecurity initiatives, would allow us to implement this strategy. Recruiting qualified cybersecurity professionals remains a challenge. Treasury would benefit from additional hiring authorities, including streamlined critical pay authority for the IRS.

*Question.* Would the recruiting and talent-management challenges related to cybersecurity professionals be more efficiently managed if a central agency or office were made responsible for FISMA audits and penetration testing, for example?

*Answer.* Treasury is open to exploring a centralized solution. In the case of the IRS, restoring streamlined critical pay will address many of the most pressing workforce challenges related to IT, including cybersecurity. The IRS successfully used this authority to recruit top talent from the private sector before it expired.

*Question.* How many matters involving false statements by taxpayers on IRS forms has the Department of Treasury referred to the Department of Justice for prosecution since January 20, 2017?

*Answer.* Since January 20, 2017, the IRS Criminal Investigation Division (IRS-CI) has referred 440 individuals to the Department of Justice for making false statements in violation of 26 U.S.C. 7206(1) with an aggregate criminal deficiency of approximately \$1.9 billion. These figures are through September 30, 2018.

It should be noted these figures do not include prosecutions in violation of 26 U.S.C. § 7206(1) recommended by Treasury's Inspector General office, the Treasury Inspector General for Tax Administration (TIGTA), or the Special Inspector General for the Troubled Asset Relief Program (SIGTARP).

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QUESTIONS SUBMITTED BY HON. DEBBIE STABENOW

*Question.* One of the concerns I hear from families in Michigan repeatedly is about the rapidly rising cost of prescription drugs. Pharmaceutical companies are among the biggest winners from last year's tax bill, significantly lowering their tax rates. The tax bill gives middle-class families only temporary tax relief and many families will face tax increases after 2025, while pharmaceutical companies received permanent tax relief.

The tax cuts for pharmaceutical companies come despite years of record profits from the sale of prescription drugs. What I fear is that pharmaceutical companies will use their tax savings to give dividends to their investors while continuing to increase prices on families struggling to pay for their prescription drugs.

What is even more maddening about this is many of the medicines that people need to survive, and they are paying outrageous amounts for, have been developed with support from tax breaks financed by U.S. taxpayers.

Michigan seniors, many of whom live on a fixed income, are among those most impacted by the rising cost of prescription drugs.

Does the tax bill come with any safeguards to ensure pharmaceutical companies pass on their tax savings to seniors and families in the form of more affordable prescription drugs?

*Answer.* There are no specific provisions in the Tax Cuts and Jobs Act that require pharmaceutical companies to pass all their tax savings to consumers. The tax cut, however, will give pharmaceutical companies more money to invest, including in developing new drugs, as well as pay employees more. This investment could benefit pharmaceutical consumers in the long run.

*Question.* Does the President's budget contain any such safeguards?

*Answer.* There is no specific budget proposal that requires pharmaceutical companies to lower prices to consumers.

*Question.* I believe that if we are not growing things and making things here in America we will not have a strong economy. In Michigan, small businesses are an essential piece of the economy, employing over half of Michigan's workforce.

Opening a small business requires a lot of hard work and a willingness to accept risk. One of the best parts of my job is traveling the State to meet with small businesses owners, and I bring their ideas and concerns back to Washington. That is why I am distressed to see that your budget makes cuts to programs that small businesses rely upon to get off the ground and later expand. I fear that last year's tax cuts did too little to help our small businesses and these budget cuts are even more distressing.

Have you studied the impacts the elimination of the Community Development Financial Institutions Fund (CDFI Fund), which gives small businesses access to funding in underserved communities, would have on small business growth?

*Answer.* The budget does not eliminate the CDFI Fund. The CDFI Fund will continue to certify financial institutions. Not only does certification make an entity eligible for multiple programs at the CDFI Fund, it also serves as a basis for eligibility to apply for other Federal Government programs such as the Small Business Administration's Community Advantage Pilot Program and Federal Home Loan Bank membership.

In addition, the budget provides funding for the CDFI Fund to continue to operate the non-grant programs, like the New Markets Tax Credit Program, which provide support for CDFIs and other community organizations lending and investing in economically distressed communities across the country. Since 2001, the New Markets Tax Credit Program has allocated \$54 billion in tax credit allocations in urban and rural areas. The budget also proposes to reauthorize the Bond Guarantee Program to allow \$500 million in new guarantees in FY 2019. This program provides capital to CDFIs at no cost to the taxpayer. Effectively managing those resources will en-

sure that CDFIs have access to capital to continue to support urban and rural distressed communities.

*Question.* I have long been critical of the loopholes for big oil companies that to be permanently enshrined in the tax code. In fact, I have fought for years to get rid of them.

Unfortunately, the new tax law actually went the wrong direction, by not only failing to eliminate any of the existing loopholes, but also creating a new \$4 billion loophole for oil companies that want to dodge their U.S. taxes in our international system.

What proposals does the President's budget contain to end the tax loopholes for big oil companies, including the new tax loophole included in the tax reform law?

*Answer.* There are no proposals in this area at this time.

Are we to assume that this means the administration supports the giveaways in our tax code for big oil companies?

*Answer.* This administration does not support tax giveaways or loopholes for any industry.

*Question.* What is the policy justification for the tax bill's elimination of foreign base company oil-related income as a category of income under subpart F?

*Answer.* This change to Subpart F was not included in the administration's framework for tax reform.

*Question.* Michigan families are extremely charitable—85 percent of Michigan families make charitable donations to help their community and those in need. Charitable giving helps feed families that do not have enough to eat, delivers education and support to children, and provides housing to those who are not fortunate enough to have a roof over their head.

However, the tax bill passed last year has caused great concern among charitable organizations. There are countless estimates that the recent tax legislation could reduce charitable giving by billions of dollars every year. The government should be finding ways to encourage and expand charitable giving, not making it available only to the top one percent. As charitable organizations scramble to try to make up the difference, corporations are projecting record profits.

Has the Department of the Treasury done any studies about the effect of last year's tax law on charitable giving?

*Answer.* Treasury has not conducted a study of the effect of the Tax Cuts and Jobs Act (TCJA) on charitable giving.

*Question.* What percentage of people do you estimate will take the charitable deduction after the changes to the tax law, as compared to those who took the charitable deduction under the previous law?

*Answer.* Treasury estimates that, for tax year 2018, approximately 10 percent of returns will itemize their deductions, many of which will claim the deduction for charitable contributions. In the absence of the changes brought about by the TCJA, Treasury estimates that, for tax year 2018, approximately 25 percent of returns would itemize their deductions.

*Question.* Unfortunately, the charitable sector is also wrestling with many of the new changes to the tax on unrelated business income.

In particular, I know they are struggling with determining whether an activity constitutes single or multiple trades or businesses; the disallowance or limitation of deductions for expenses associated with providing qualified transportation fringes and some health and wellness fringe benefits; and the correlation between fiscal year and calendar year expenses, given that many tax exempt organizations have fiscal years that begin on April 1st or July 1st.

When can these organizations expect to have guidance on these issues?

*Answer.* Treasury is aware that there is a need for guidance relating to a number of the new rules under the TCJA, including the important issues that you have identified relating to these changes in the rules for unrelated business income that affect charitable organizations. Thus, Treasury has a process for assessing both the priority for issuing guidance and for allocating the resources needed to develop the guidance. As this process is ongoing, I do not yet have specific time frames when all the guidance under TCJA will be issued.

*Question.* It was concerning to see that the administration's FY 2019 budget proposes a near elimination of a program at TTB that enforces current Federal law in order to transfer ATF functions into the TTB. Under recent funding levels, TTB increased its capacity to handle 15 new trade practice enforcement cases annually, which is no easy feat given that these are, by nature, time-intensive investigations that keep the marketplace safe, fair, and transparent.

Why would the administration propose this change when TTB has made such great progress in working with State/local regulatory partners to ensure that entities in the marketplace follow the law?

*Answer.* The Alcohol and Tobacco Tax and Trade Bureau (TTB) had to make difficult choices in the FY 2019 request. The request focuses TTB's limited resources on maintaining service levels to the alcohol industry in areas such as formula and label approvals. These are critical to small business success. TTB also has focused on modernizing IT to make TTB more efficient and effective in providing service. In this era of very limited resources, it was not possible to fund the trade enforcement work.

*Question.* How does the administration plan to make sure that the Federal Alcohol Administration Act is fully enforced?

*Answer.* Facilitating voluntary compliance is the most efficient means of tax administration, and it remains a priority for TTB in FY 2019. To this end, TTB will enhance its guidance related to Federal alcohol laws and regulations, and explore opportunities to streamline regulations and requirements to reduce compliance burden.

*Question.* Can you provide the committee with data specifying the TTB's inability to join current or recent State/local enforcement action for trade practice violations, including the number and types of cases?

*Answer.* I cannot get into specifics on law enforcement actions. TTB's FY 2019 request was the result of many difficult prioritization decisions. TTB participates in State/local enforcement action for trade practice violations where feasible and will continue to do so.

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QUESTION SUBMITTED BY HON. BENJAMIN L. CARDIN

*Question.* Though the general economic and trading environment between the U.S. and China remains somewhat uncertain, I understand that investment flows in certain sectors have increased, including in financial services. Could you please elaborate on the administration's strategy or other thinking regarding market access for U.S. companies in financial services sectors in China?

*Answer.* While we welcome China's November 2017 announcement that it will begin to remove ownership restrictions and provide national treatment for foreign firms in its financial services sector, we are concerned that China has not yet implemented this announced opening. We have pressed China to implement this opening as soon as possible, and to do so in a manner that provides non-discriminatory regulatory treatment of foreign firms in these sectors.

However, this opening is not sufficient to address the significant imbalance in market access and openness between our two economies. The administration will continue to press China to guarantee fair and reciprocal treatment for all U.S. companies, provide greater market access for U.S. exports and firms, and implement market-oriented reforms to reduce our trade deficit with China.

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QUESTIONS SUBMITTED BY HON. ROBERT MENENDEZ

*Question.* Mr. Secretary, in October, 32 members of the House Ways and Means Committee—both Republicans and Democrats—sent you a letter asking you to withdraw IRS Notice 2007-55 which was issued over a decade ago and continues to deter foreign investment in the United States. The notice relates to the Foreign Investment in Real Property Tax Act, or FIRPTA. In short, the notice treats certain distributions from REITs as the sale of REIT assets rather than the sale of REIT stock. The result is that the distributions are subject to tax rates as high as 54 percent. The practical effect is to raise the tax burden on investors in U.S. commercial real estate and infrastructure to levels that are punitive and prohibitive. Cal-Berkeley professor and economist Ken Rosen recently estimated that FIRPTA costs

the United States between \$65–\$125 billion in lost investment and between 147,000–284,000 in lost jobs. This is an infrastructure issue—FIRPTA blocks private investment in U.S. infrastructure. Repealing IRS Notice 2007–55 is a simple and immediate thing that the administration could do to boost private investment in U.S. real estate and infrastructure.

Many of us have been working on this issue for years—no senior official seems willing to defend the current notice, but it just keeps getting kicked down the road.

Could you review this matter and let us know within 30 days, in writing, whether you will repeal section 2 of the notice and restore prior law, as dozens of members of Congress have encouraged?

*Answer.* We agree that encouraging foreign investment in the United States, including in commercial real estate and infrastructure, is an important priority. We look forward to continuing to work with Congress to explore ways in which we can achieve our shared goal of encouraging foreign investment in U.S. infrastructure while protecting the U.S. tax base.

*Question.* Secretary Mnuchin, in my understanding that the 2014 FinCEN guidance for banks and financial institutions that provide services to marijuana-related businesses is currently in full force and effect, notwithstanding the status of the Cole Memorandum. Is that correct?

*Answer.* The 2014 Guidance set forth FinCEN’s expectations under the Bank Secrecy Act as to the customer due diligence and suspicious activity reporting obligations of financial institutions with respect to customers engaged in marijuana-related activity and currently remains in place.

*Question.* The legal cannabis industry in the United States is in a state of turmoil as banks and financial institutions withdraw from the space following the rescission of the Cole Memorandum. What is the Treasury Department’s guidance to financial institutions which are choosing, legally, to bring transparency and accountability to the legal cannabis market by offering banking services?

*Answer.* As you are aware, FinCEN’s 2014 guidance was prompted by the Justice Department’s guidance on marijuana-related enforcement priorities, and clarified portions of FinCEN regulations that implemented the BSA. FinCEN’s February 2014 guidance and the SAR reporting structure it set forth, both remain in place. We are reviewing the guidance in light of the Attorney General’s announcement and are consulting with law enforcement. We continue to work closely with law enforcement and the financial sector to combat illicit finance and will notify the financial sector and supervisory authorities of any changes to FinCEN’s SAR reporting expectations, in general and specifically with respect to the provision of financial services to marijuana-related businesses.

*Question.* Please describe in detail your deliberations on the following mandatory provisions and explain to me why they have not been implemented?

Sec. 224: Sanctions with respect to activities of the Russian Federation undermining cybersecurity;

Sec. 225: Sanctions related to special Russian crude oil products;

Sec. 226: Sanctions with respect to Russian and other foreign financial institutions;

Sec. 227. Sanctions with respect to significant corruption in the Russian Federation;

Sec. 228: Sanctions with respect to certain transactions with foreign sanctions evaders and serious human rights abusers in the Russian Federation;

Sec. 231: Mandatory Sanctions with respect to persons engaging in transactions with the intelligence and defense sectors of the Government of the Russian Federation.

Sec. 233: Sanctions with respect to investment in or facilitation of privatization of state-owned assets by the Russian Federation; and

Sec. 234: Sanctions with respect to the transfer of arms and related materiel to Syria.

*Answer.* Countering Russia’s malign activities is one of Treasury’s highest priorities. Indeed, along with North Korea and Iran, Treasury’s Russia sanctions program has been among this administration’s most active to date—since January



2017, this administration has sanctioned 232 Russian-related individuals, including 215 subject to Treasury actions.

CAATSA is a powerful statute that adds new tools to Treasury's current menu of sanctions authorities available to counter Russia's malign activities.<sup>4</sup> To achieve CAATSA's important objectives of imposing real costs on and deterring Russia, Treasury has employed not only the new authorities granted under title II of CAATSA, but also other sanctions authorities, some of which title II of CAATSA codified and others, such as those applicable to the North Korean and Syrian regimes, that further enable Treasury to target Russian entities and individuals.

For example, in March of this year, Treasury used the provisions of title II of CAATSA to achieve the critical objective of imposing costs on Russia for its malign cyber activities, including interference in the 2016 U.S. presidential election. Indeed, on March 15, 2018, Treasury designated five entities and 19 individuals for their role in conducting a variety of destabilizing activities, including interference in the 2016 U.S. election, using section 224 of CAATSA and Executive Order (E.O.) 13694, as codified by CAATSA. And Treasury continues to actively develop additional targets using CAATSA authorities. On June 11, 2018, we followed this action when Treasury designated five entities and three individuals for enabling the malicious activities of the FSB pursuant to E.O. 13694, as amended. One of these entities, Kvant Scientific Research Institute, was concurrently designated pursuant to section 224 of CAATSA for also being owned or controlled by the FSB. And on August 21, 2018, Treasury designated two entities and two individuals in order to counter attempts to evade U.S. sanctions pursuant to E.O. 13694, as amended. Furthermore, on September 12, 2018 and in recognition of the centrality that elections play in our democracy, the administration issued Executive Order 13848, "Imposing Certain Sanctions in the Event of Foreign Interference in a United States Election." This executive order authorizes sanctions, as well as other measures, against those determined to have interfered in a United States election.

Treasury has also continued to aggressively respond to Russia's pernicious activities in Ukraine and elsewhere using the E.O.s codified in title II of CAATSA. On April 6, 2018, Treasury sanctioned seven of Russia's wealthiest and most politically connected oligarchs along with 12 companies they own or control, and 17 senior Russian government officials. These actions have, among other things, demonstrated the acute impact the United States can bring to bear on the Russian economy and have provided the United States with leverage to help extricate Oleg Deripaska, one of Russia's most notorious oligarchs and a close Putin associate, from his business empire.

In fact, these recent designations followed from Treasury's submission on January 29, 2018 of a report pursuant to CAATSA section 241, providing Congress with the names, net worth, any indicia of corruption, and other information about significant senior political figures and oligarchs in Russia.

Over the last year, Treasury has also carried out other Russia-related designations consistent with CAATSA's intent to hold Russia accountable for its global conduct, including targeting (a) nine Russians for malign activities related to the North Korea sanctions program, (b) Russia's state-owned arms marketing firm Rosoboron Export and its bank, Russian Financial Corporation Bank, for supporting the Assad regime's brutality in Syria, and (c) two Russians for serious human rights abuses under the Global Magnitsky Human Rights Accountability Act. Further, on June 20, 2017, Treasury imposed sanctions on 58 individuals and entities related to Russia and Ukraine, continuing to raise the pressure on Russia's illicit activities.

Title II of CAATSA is one of numerous sanctions authorities that Treasury has availed itself of to effectively target and deter Russia's malign activity. In selecting which authority to use against a particular target, Treasury relies on the tools that will most expeditiously and effectively advance U.S. foreign policy and national security objectives. Where other authorities will allow Treasury to act more speedily and effectively, we will rely on them instead of CAATSA in order to effectuate the overarching objectives of CAATSA. In making this determination, Treasury con-

<sup>4</sup>As you know, the President delegated the provisions of CAATSA, and statutes it amended, to various departments and agencies. Pursuant to the delegation memorandum issued on September 29, 2017, the President delegated to the Department of State, among other provisions, the waiver authorities and the following provisions of title II of CAATSA: sections 225, 231, 232, 255, and 256. Treasury works closely with the Department of State and other interagency partners in a consultative role to implement these and other provisions of CAATSA. In this letter, however, Treasury focuses specifically on the provisions of title II of CAATSA delegated to it.

siders numerous factors, including the type of information available to target a given individual or entity and whether such information meets the necessary threshold to withstand a legal challenge; the speed with which Treasury can act; the public message the U.S. Government wishes to send; the deterrent impact an action will take; the impact on allies and partners; and equities of other U.S. departments and agencies. This flexibility to choose among the available sanctions authorities allows us to fine tune our targeting to most effectively and successfully achieve our objective.

There is no question that CAATSA has provided Treasury with important additional tools to counter Russia's malign activities, and we appreciate and intend to continue to use this powerful statute in addition to the other powerful sanctions authorities we possess. While the means we use may vary, Treasury will continue to prioritize its efforts to hold Russia accountable for its actions; deter ongoing and future misconduct; and protect U.S. and global security. Congress' role in this effort will remain essential, and we look forward to working closely with you to achieve these ends.

In addition to identifying and designating targets, another aspect of that work is helping<sup>5</sup> the regulated community understand and comply with our sanctions. To that end, Treasury developed and published guidance in the form of Frequently Asked Questions about CAATSA provisions that seemed to be of particular interest to the regulated community relative to other parts of the statute. That guidance, which pertains primarily to changes made or prohibitions imposed under CAATSA sections 223, 226, 228 and 233, is available on the CAATSA landing page that Treasury's Office of Foreign Assets Control (OFAC) established on its website at <https://www.treasury.gov/resource-center/sanctions/Programs/Pages/caatsa.aspx>.

#### SANCTIONS EVASION

*Question.* The Russian Government has reportedly created banks which would help Russian defense firms evade U.S. sanctions and be less transparent in their public reporting. What measures are you taking to respond to that dynamic?

*Answer.* We are mindful of this troubling dynamic by Russian defense firms and while we cannot forecast specific future actions, Treasury has a range of authorities under which to address sanctions evasion—including CAATSA section 228.

OFAC remains committed to maintaining the integrity of our sanctions programs by rooting out sanctions evasion. Most recently, on April 6, 2018, Treasury designated Rosoboroneksport, a state-owned Russian weapons trading company, and its subsidiary, Russian Financial Corporation Bank (RFC Bank), a Russian bank, pursuant to E.O. 13582, a sanctions authority targeting the Government of Syria. Rosoboroneksport was designated for having materially assisted, sponsored, or provided financial, material, or technological support for, or goods or services in support of, the Government of Syria. RFC Bank was designated for being wholly owned by Rosoboroneksport.

*Question.* According to *BuzzFeed News*, a Treasury Department official confirmed that the publicly released oligarch list was “drawn from publicly available sources”—that is, the 2017 Forbes list of the richest businessmen in Russia. Do you dispute that account?

<sup>5</sup>Treasury can sanction Russian malign activity under seven E.O.s.

- Russia: E.O.s 13660, 13661, 13662, 13685 (the sanctions therein were codified by section 222 of CAATSA).
- Cyber: E.O. 13694, as amended by E.O. 13757 (the sanctions therein were codified by section 222 of CAATSA).
- E.O. 13818, implementing the Global Magnitsky Human Rights Accountability Act (GloMag). Treasury can also sanction Russian malign activity under five statutes (including GloMag, which was implemented through E.O. 13818).
- Title II of CAATSA.
- Ukraine Freedom Support Act of 2014 (UFSA), as amended by CAATSA.
- Support for the Sovereignty, Integrity, Democracy, and Economic Stability of Ukraine Act of 2014 (SSIDESU), as amended by CAATSA.
- Sergei Magnitsky Rule of Law Accountability Act of 2012.
- GloMag, as implemented by E.O. 13818.

Answer. The report required under CAATSA section 241 was released in an unclassified form, with a classified annex that reflects in great detail the extensive work of experts within the Department of the Treasury, the Office of the Director of National Intelligence, and the Department of State, as well as other key agencies. Among the publicly available sources used for the report required under section 241 of CAATSA was the 2017 Forbes list.

*Question.* According to reports, “At the last minute . . . somebody high up . . . threw out the experts’ work and instead wrote down the names of the top officials in the Russian presidential administration and government plus the 96 Russian billionaires on the Forbes list.” Do you dispute that account? Had Treasury in fact developed its own non-public list? If so, why was that list not released?

Answer. The report required under CAATSA section 241 was released in an unclassified form, with a classified annex that reflects in great detail the extensive work of experts within the Department of the Treasury, the Office of the Director of National Intelligence, and the Department of State, as well as other key agencies. In preparing and releasing the report, we sought to limit the risk of asset flight of individuals that may be subject to future sanctions actions, as well as protect intelligence sources and methods used to prepare the report.

*Question.* When was the decision made to create and release the public oligarchs list that the Treasury department published? Who was the senior-most official that made that decision?

Answer. The decision to release the report as it finally appeared was made in the course of multiple discussions in the lead up to January 29th. I made the ultimate decision to release the report.

*Question.* Releasing lists that are publicly available, that anyone could copy and paste off the Internet send a signal—to Congress, to the public, and to Russia—that this administration is not taking this sanctions regime seriously. If this is how the Treasury Department treats this important mandate from Congress, how do you expect us to have any confidence that you are giving serious consideration to imposing sanctions?

Answer. Treasury is the primary agency responsible for implementing and enforcing U.S. sanctions, and we treat this responsibility with the utmost seriousness. An extraordinary amount of work went into the report, particularly the classified annex, by Treasury and other agencies. This report informed our actions in sanctioning seven of Russia’s wealthiest and most politically-connected oligarchs along with 12 companies they own or control, and 17 senior Russian government officials. These actions have, among other things, demonstrated the acute impact the United States can bring to bear on the Russian economy and have provided the United States with leverage to help extricate Oleg Deripaska, one of Russia’s most notorious oligarchs and a close Putin associate, from his business empire.

For the purposes of the unclassified report, and consistent with our interest in avoiding asset flight and protecting intelligence sources and methods, the unclassified report encompassed a range of senior political figures and oligarchs while not tipping our hand to any future action. A critical aspect of effective sanctions implementation is to avoid providing notice to potential targets in order to reduce the risk that they move their funds or obscure their connection to property in which they have an interest. By releasing the report in the manner we did, we sought to respond to the provisions of the statute while preserving our ability to take meaningful action against potential future targets. As we have made clear, we are using the report to inform our actions.

*Question.* How many man-hours would you estimate that it took to compile the public oligarchs list?

Answer. The compilation of the unclassified portion of the report was part of the broader drafting of the report, which was an extensive effort involving dozens of analysts and other officials over a number of months. The extent of this effort is reflected in particular in the classified annex of the report. Treasury has not sought to estimate the man-hours of any particular portion or section.

*Question.* Why did the public oligarchs list include an identical spelling error of a name found on the *Forbes* list of billionaires?

Answer. There are several possible variations in the transliteration of Russian names. To the extent the name was misspelled elsewhere, it is possible that the error carried over into the unclassified report.

*Question.* Why does someone with an estimated net worth of \$1 billion or more count as an oligarch, but someone with an estimated net worth of \$950 million does not?

*Answer.* There is no statutory or regulatory definition of oligarch. For purposes of efficiency and accuracy, Treasury deemed it appropriate to include individuals with an estimated net worth of \$1 billion or more in the unclassified report.

*Question.* Why did the public oligarchs list not include people worth several hundreds of millions of dollars and who are close to Putin and assist his domestic agenda? For example, President Putin has trusted Grigory Berezkin, worth an estimated \$800 million, to purchase media assets, like RBC, that are useful for the Kremlin's domestic propaganda machine. Yet he was not included on the list.

*Answer.* For the purposes of the unclassified report, and consistent with our interest in avoiding asset flight and protecting intelligence sources and methods, we cast a wide net that encompassed a broader variety of senior political figures and oligarchs while not tipping our hand to any future action. The result was a line-drawing exercise intended to respond to the statutory language while preserving programmatic and operational flexibility to the greatest extent possible. There is no statutory or regulatory definition of oligarch. Treasury determined it appropriate to include individuals with an estimated net worth of \$1 billion or more in the unclassified report.

*Question.* Why did the public oligarchs list include Russian citizens who hardly do any business in Russia and are targets of Putin's regime? For example, Yuri Shefler, who was included on the list, runs a Luxembourg-based company that makes Stolichnaya vodka in Latvia, and the Russian government taken Shefler's company' to court to take away its rights to produce Stolichnaya and other Russian vodka brands. Another example is Oleg Boyko, who made his fortune with casinos until Putin banned them in Russia, and who now owns casinos in Germany, Italy, Romania, and Croatia, as well as a peer-to-peer lending company that operates outside of Russia.

*Answer.* The compilation of the unclassified portion of the report was an objective exercise based on net worth. It did not seek to account for the specific circumstances of each and every individual included.

*Question.* Why did the administration classify the oligarchs list in the annex, which was based on reliable information? Would publishing only the names in the annex reveal intelligence sources and methods?

*Answer.* For the purposes of the unclassified report, and consistent with our interest in avoiding asset flight and protecting intelligence sources and methods, Treasury sought to avoid tipping our hand to any future action. As mentioned, a critical aspect of effective sanctions implementation is avoiding providing notice to potential targets in order to reduce the risk that they can move their funds or obscure their connection to property in which they have an interest. By releasing the report in the manner we did, Treasury sought to respond to the provisions of the statute while preserving our ability to take meaningful action against potential future targets. As we have made clear, we are using the report to inform our actions, including the designations announced on April 6, 2018, in which Treasury sanctioned seven of Russia's wealthiest and most politically-connected oligarchs along with 12 companies they own or control, and 17 senior Russian Government officials.

*Question.* Would any changes need to be made to the classified list in the annex to allow it to be made public?

*Answer.* The classified report remains classified consistent with our interest in avoiding asset flight in addition to preventing the divulgence of intelligence sources and methods. Treasury has no plans to release the classified portion of the report.

*Question.* Do you agree that the publicly released version of the list does not fully comply with section 241 of CAATSA? Do you commit to reviewing the classified list to ensure that any information that can be publically released will be released?

*Answer.* The report that Treasury submitted to Congress is entirely consistent with CAATSA section 241. As we made clear, Treasury is using the report to inform sanctions actions. To prevent asset flight of the individuals listed in the report and to protect intelligence sources and methods, Treasury has no plans to make the classified portion of the report public at this time.

*Question.* On January 30th, when you appeared before the Senate Banking Committee, you stated that "there will be sanctions" coming out of the report issued

under section 231 of CAATSA. What is the status of Treasury's review of who may be subject to sanctions? Do you have an anticipated timeline for when sanctions would be announced? Has Treasury made any recommendations to the President for who should be subject to sanctions under this section? What is the extent of Treasury's involvement in recommendation sanctions under this provision?

Answer. As our April 6, 2018 action demonstrates, we have already targeted a number of the individuals listed in the unclassified CAATSA section 241 report, including those who benefit from the Putin regime and play a key role in advancing Russia's malign activities. The CAATSA section 241 report will continue to inform future sanctions actions as Treasury counters worldwide Russian malign activity. Treasury does not comment on potential sanctions actions.

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QUESTIONS SUBMITTED BY HON. MARIA CANTWELL

LIHTC

*Question.* Today there is a nationwide shortage of 7.4 million affordable rental homes for our most vulnerable citizens, a 60 percent increase from 2000. Over 11 million people face extreme unaffordability, also a 60 percent increase. If we do not act, that number is projected to increase to nearly 15 million by 2025.

The corporate rate cuts in the recently passed tax reform bill (H.R. 1) lower the value of the LIHTCs, and if we do nothing to increase the total allocation of the credits, the number of affordable housing units built with the LIHTC each year is likely to be lower than it was under the law prior to the passage of H.R. 1.

Senator Hatch and I continue to work very hard to pass the Affordable Housing Credit Improvement Act, which would increase the allocation for the 9 percent credit by 50 percent, set a floor for the 4 percent credit, which enables the program to better serve lower income populations, and make many other important improvements.

While we are in the middle of a housing crisis, the FY 2019 HUD budget would take us in the wrong direction. These proposals would result in the loss of at least 200,000 Housing Choice Vouchers, and eliminate several key resources, including: the National Housing Trust Fund; flexible funding used by States and communities to address their housing needs; rural housing grants and direct loan programs; and assistance to help low income families heat their homes. We need to be doing more to address affordable housing, not cutting valuable programs.

Given the success of the LIHTC program in bringing together public and private resources, will the administration support the Hatch-Cantwell Affordable Housing Credit Improvement Act?

Answer. The administration has not taken an official position on the Hatch-Cantwell Affordable Housing Credit Improvement Act. We look forward to learning more about the proposal by working with both Senators and with Representatives who have sponsored corresponding legislation in the House.

EXTENDERS

*Question.* Congress recently retroactively extended 34 previously expired tax provisions for 2017, including important clean energy provisions for geothermal, hydroelectric generation, and biodiesel. But none of these provisions were extended for 2018.

Many of us believed that Congress was going to address these provisions after tax reform. But this was not the case. Businesses need certainty at the beginning of the year rather than waiting until the end of the year for a retroactive extension of these provisions.

We know that renewable energy is among the fastest-growing job sectors in the U.S. Making sure these credits are extended now for 2018 is crucial. This will help provide economic growth, good jobs, and a cleaner environment.

From your background in business, is it preferable to have certainty when making business decisions?

Answer. The administration believes that certainty is important to business owners when making investment decisions. Therefore, the administration looks forward

to working with Congress to determining which tax provisions that expired at the end of 2017 merit further extension.

*Question.* One of the administration's priorities is investing in infrastructure. How would investments in clean energy also help the future economic competitiveness of the United States?

*Answer.* The administration believes that investments in energy, of all types, will help reduce energy prices, allowing American families to keep more of their hard-earned dollars and providing workers with access to more jobs and opportunities. Reduced energy prices and continued advances in clean energy technologies will make American businesses more competitive across the world stage.

#### INFRASTRUCTURE FINANCING

*Question.* The administration recently released its infrastructure plan, which called for \$1.5 trillion in infrastructure investment over the next 10 years. But the administration would only provide \$200 billion in Federal financing.

This proposal would shift the remaining cost of repairing our Nation's infrastructure to city, State, and local governments. Municipal governments are facing lower revenue collections due to the changes in the State and local deductions and other provisions in the recently passed tax bill. Under this proposal, these localities would bear the costs to fund the much needed investments in infrastructure.

Has the Treasury reviewed the current debt service coverage ratios for the city, State, and local governments with the greatest infrastructure needs to determine if they have the additional borrowing capacity needed to make the investments necessary to repair, rehabilitate, or construct their infrastructure identified in the President's infrastructure proposal?

*Answer.* We have not reviewed these metrics because they are not part of the evaluation criteria that the administration proposes for its infrastructure incentives initiative. Those criteria emphasize securing new, non-Federal revenue rather than additional debt.

*Question.* How would the priority order for projects be determined? Would they be determined by available financing, or by benefit to the community and the economic and social returns on investment?

*Answer.* Both financing and economic and social returns are part of the administration's proposed weighting criteria. The President's infrastructure framework describes the criteria that would be used for each of the proposed programs. For example, for the Incentives program, the evaluation criteria would include the dollar value of the project, new non-Federal funding for the development, operation, and maintenance of the project, efficiency improvements utilized in the project, new technologies used in the project, and evidence of how the project will spur economic and social returns.

#### APPRENTICESHIPS

*Question.* According to a survey by the National Association of Manufacturers, 67 percent of responding employers reported a shortage of available, qualified workers. Over the next decade, the United States will need to fill 3.5 million manufacturing jobs, but there are gaps in workforce training that could leave the U.S. as many as 2 million trained workers short.

According to the National Skills Coalition, "middle skills" jobs, which require education beyond high school but not a 4 year degree, make up 54 percent of our labor market, yet only 44 percent of our workers are trained to that level, a gap of 10 percent.

I have introduced legislation, along with Senator Collins, to provide a \$5,000 tax credit per new hire for businesses that expand or start registered apprenticeship programs. Such a tax credit would support more than 1.5 million apprenticeships over the next 10 years in high-demand jobs in the mechanical or technical, health-care, or technology professions.

*Question.* What is the administration doing right now to train American workers for the challenges and opportunities of the future?

*Answer.* The Federal Government funds numerous training and retraining programs in many different Federal agencies. In addition, the administration's infrastructure initiative includes reforms to career and technical education and expand-

ing Pell grant eligibility to short-term programs that lead to a credential in an in-demand field. The administration is also making new strides on national workforce development strategy, in part through the National Council for the American Worker, established by President Donald J. Trump on July 19, 2018, through Executive Order (EO) 13845. The current economic environment brings both new challenges and new opportunities to support more workers with specific skill sets to fill an increasing number of open jobs. The administration is also continuing to leverage and advance the progress on implementing the vision of the President's EO 13801 on Expanding Apprenticeships in America to help job seekers and workers find good jobs, and employers to build a skilled workforce.

*Question.* Will the administration support a tax incentive for apprenticeship programs?

*Answer.* We would consider such legislation if it is presented to the President. The administration is also moving forward with introducing a new, innovative form of apprenticeship, the industry-recognized apprenticeship, that will allow more employers to adopt this work-based learning approach to meet their talent development needs. The administration has issued interim guidance on Industry Recognized Apprenticeships this past June and has announced the availability of \$150 million for sector-based approaches to apprenticeship.

#### RUSSIA SANCTIONS

*Question.* On February 13, 2018, six of the highest-ranking officials in the Intelligence Community confirmed their assessment that Russia interfered in the 2016 elections. They also unanimously confirmed that they fully expect Russia to continue to try to influence our upcoming 2018 midterm elections.

However, despite this ongoing threat, and the assessment done by the Intelligence Community, this administration has dragged its feet, or flat out refused every opportunity to impose new sanctions against Russia in relation to its past electoral interference.

Will the administration impose additional sanctions against Russia?

*Answer.* The assertion that the administration has "refused every opportunity to impose new sanctions" is incorrect. On March 15, 2018, Treasury designated five entities and 19 individuals under CAATSA and E.O. 13694 for their role in conducting destabilizing activities, ranging from interference in the 2016 U.S. election to conducting destructive cyber-attacks, including the NotPetya attack, which was launched by the Russian military and was the most destructive and costly cyber-attack in history. On June 11, 2018, we followed this action when Treasury designated five entities and three individuals for enabling the malicious activities of the FSB pursuant to E.O. 13694, as amended. One of these entities, Kvant Scientific Research Institute, was concurrently designated pursuant to section 224 of CAATSA for also being owned or controlled by the FSB. And on August 21, 2018, Treasury designated two entities and two individuals pursuant to E.O. 13694, as amended in order to counter attempts to evade U.S. sanctions. Furthermore, on September 12, 2018 and in recognition of the centrality that elections play in our democracy, the administration issued Executive Order 13848, "Imposing Certain Sanctions in the Event of Foreign Interference in a United States Election." This executive order authorizes sanctions, as well as other measures, against those determined to have interfered in a United States election.

To date, the administration has sanctioned 136 individuals and entities under our Ukraine/Russia-related sanctions authorities, which were codified pursuant to section 222 of CAATSA. On April 6, 2018, Treasury used the Ukraine/Russia-related sanctions authorities to designate seven Russian oligarchs and 12 companies they own or control, as well as 17 senior Russian Government officials.

On December 20, 2017, Treasury designated five individuals pursuant to the Sergei Magnitsky Rule of Law Accountability Act of 2012, bringing the total designated under this program to 49.

Additionally in 2017, Treasury designated nine Russians targeted for malign activities related to the North Korea sanctions program, and the President imposed sanctions on two Russians under Executive Order 13818, which implements the Global Magnitsky Human Rights Accountability Act.

Treasury's track record demonstrates that we have and will continue to actively target the full range of Russian malign activities. And in considering additional fu-

ture measures, we will look for opportunities to use the full range of authorities at our disposal.

EXPORT-IMPORT BANK

*Question.* The Export-Import Bank recently stated that they have approximately \$35 billion in transactions currently pending that cannot be entered into because they lack a quorum on their board.<sup>6</sup> According to the Bank's Acting First Vice President, this backlog represents a loss of approximately a quarter of a million jobs. Each day the Bank is closed, U.S. businesses are losing ground in the global marketplace. The Treasury Secretary has leadership over U.S. economic policy. I believe strongly in promoting exports as a way to promote U.S. economic growth.

How is the administration conveying its support for a quorum on the Board of Directors at the Bank?

Answer. Given the degree to which global competitors—such as China—subsidize their exporters, the administration is fully supportive of a fully functional EXIM that helps to level the playing field for U.S. exporters, particularly for our small and medium enterprises. At the same time, the administration believes that the role of government financing should be targeted, with exporters turning first to the private market to meet their financing needs, and that governmental lending should seek to minimize taxpayer risk. Regarding next steps in the process of restoring a quorum on EXIM's Board of Directors, this is an issue that the White House is working on with the Senate Banking Committee. Treasury has no further information on this issue.

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PREPARED STATEMENT OF HON. RON WYDEN,  
A U.S. SENATOR FROM OREGON

Today ought to start off with a recap on taxes. A little more than 3 months ago, Treasury Secretary Mnuchin told CNN that his models showed the Trump tax bill would spur \$2.5 trillion in growth—enough to fully cover its \$1.5-trillion cost and leave a \$1-trillion cherry on top. He added, quote, “And we’re happy to go through the numbers . . . we want full transparency to the American public.”

If you’re looking for transparency, the American public finally got a little of it on Monday, when the budget showed how baseless that talking point was from the get-go. Revenue, according to the budget projections, is about to plummet: \$300 billion short in 2018, \$400 billion short in 2019. And it doesn’t get better. The fiscal bottom line is so far out of whack and the budget so deep in fantasy land, there’s a magical \$813 billion in growth dropped in out of nowhere to make the overall picture look a bit less irresponsible.

But the idea that the tax cuts would pay for themselves is far from the only misleading statement about the tax law.

How about the idea that corporate tax cuts would get turned around immediately into workers pockets, not shareholders? Twenty times more money has been spent on stock buybacks than on worker bonuses over the last few months. As of today, millions of workers haven’t seen their Trump Bump.

It’s great for the slim, wealthy share of the population who dominate the stock market when stocks are doing well. But it’s a prescription for trouble when you’re reaching into middle-class pockets to fund the buybacks that drive up the value of stock portfolios.

The famed Mnuchin Rule—the promise that there would be no absolute tax cut for the well-off—that’s been shattered in a few trillion little pieces. The administration didn’t follow through on the promise to close the carried interest loophole. And then, of course, there was the promise that the tax bill would not lead to cuts to Social Security, Medicare or Medicaid. Well, on Monday, our worst fears were confirmed. The Trump budget admits the tax cuts don’t pay for themselves, so it hits those programs with massive cuts.

This morning I’ve also got to address infrastructure. The administration’s infrastructure plan is fiction upon fiction upon fiction.

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<sup>6</sup>Tomlinson, Chris, “Republican Senator Blocks Trump’s Efforts to Increase Trade,” *Houston Chronicle*, February 12, 2018, <https://www.houstonchronicle.com/business/columnists/tomlinson/article/Republican-senator-blocks-Trump-s-efforts-to-12563114.php>.



First off, the idea that this is a \$1.5 trillion dollar infrastructure plan is nonsense. Even factoring in the new \$200 billion infrastructure proposal, the Trump budget is a net DECREASE in infrastructure spending. It cuts infrastructure programs like a bulldozer through asphalt: \$122 billion cut out of the Highway Trust Fund; \$14 billion cut from the Army Corps of Engineers; \$5 billion cut from the TIGER transportation grant program; \$7.6 billion cut from Amtrak; and more. In my view, if you want big-league infrastructure, a good place to start is not making huge cuts to infrastructure programs that already work.

The second fiction—that this plan is going to be workable for the States. Just a matter of weeks ago, the Trump administration kneecapped the ability of States to raise revenue to fund infrastructure projects with changes to the tax code. Now the Trump infrastructure plan burdens them with huge new costs they cannot possibly afford.

And that leads to the third fiction—that the Trump infrastructure plan will not be a roadmap to more privatization and more tolls taking money out of families' pockets. If States and local governments can't cover the costs of projects, they're going to look for private dollars. And that can only mean one outcome.

Drive more than a few miles to work? Get ready for more tolls. Rushing to school in the morning? Don't forget cash for the tollbooth. Heading to the grocery store or the mall to do some shopping? Better remember to budget tolls into your trip.

The infrastructure proposal brought back an old, misguided idea to sell off the Bonneville Power Administration's transmission system, which only makes sense if you believe people's electricity bills in Oregon aren't high enough. The fact is, the Trump plan is a green light for infrastructure nationwide to be sold off to Wall Street investors, or worse, to shadowy buyers from China or other foreign countries.

Colleagues, I take a back seat to nobody when it comes to calling for major investments in our infrastructure systems. In my view, you cannot have a big-league economy with little-league infrastructure. And I'm also a firm believer in responsible private financing, and in tackling this issue on a bipartisan basis.

But getting infrastructure done right, rebuilding the spine of our infrastructure system that connects the country, requires more than hoping for private dollars. It requires robust funding at a Federal level to tackle projects that are in the national interest. That's not what the Trump plan does—not even close. Bottom line, the Trump infrastructure plan dumps huge costs onto States and cities, sells off public assets like an auction at a county fair, and raises transportation costs for hard-working families. And that's why it's such a disappointment to see it added to the list of broken Trump promises.

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*From Bloomberg*

## NEW HEDGE-FUND TAX DODGE TRIGGERS WILD RUSH BACK INTO DELAWARE

By Miles Weiss

February 14, 2018

Wall Street's fast-money crowd is returning to well-trodden ground to elude Trump-era tax laws: Delaware.

Since late 2017, hedge fund managers have created numerous shell companies in the First State, corporate America's favorite tax jurisdiction. These limited liability companies share a common goal: dodging new tax rules for carried-interest profits through a bit of deft legal paperwork.

Big names appear to be embracing the maneuver, which requires setting up LLCs for managers entitled to share carried-interest payouts. Four LLCs have been created under the name of Elliott Management Corp., the hedge-fund giant run by Paul Singer. More than 70 have been established under the names of executives at Starwood Capital Group Management, the private-equity shop headed by Barry Sternlicht.

President Donald Trump turned carried interest into a rallying cry during his populist presidential campaign, declaring that "hedge fund guys are getting away with murder." Critics from billionaire Warren Buffett on down essentially agree, saying carried interest is a fee-for-service and should be taxed at the individual rate that

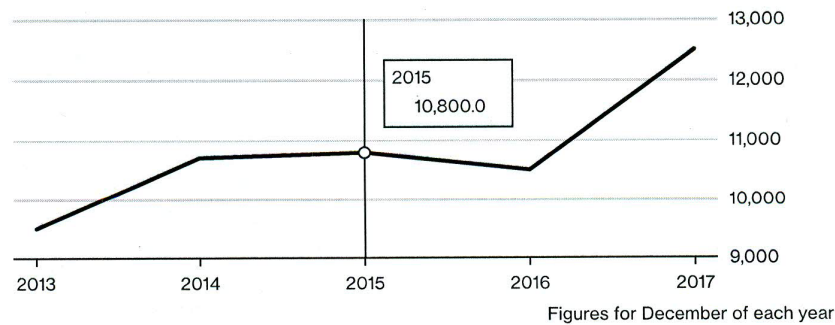
today tops out at 37 percent. But money managers are eligible to pay a rate of about 20 percent, having successfully argued for years that carried interest, or their portion of investment returns, is a capital gain.

#### Swiss-Cheese Rule

“Carried interest was a key litmus test of whether the bill can be called tax reform, and it failed,” Steven Rosenthal, a senior fellow at the Urban-Brookings Tax Policy Center in Washington, said of the tax overhaul passed in December. “This legislation was a Swiss cheese.”

#### Flocking to Delaware

Hedge funds and private-equity firms drove a jump in new LLCs in December of last year



Source: Delaware Division of Corporations

It wasn't supposed be this way. But the LLCs demonstrate, yet again, how determined Wall Street players are to circumvent whatever rules Washington throws at them.

Under pressure from industry lobbyists and exploiting a split among White House advisers, the Republican Congress in December failed to fulfill Trump's promise to end the tax windfall enjoyed by money managers. And lawmakers may have stumbled in trying to narrow their tax advantage, writing the new carried-interest rule in a way that provides firms an easy escape.

The rule requires hedge funds and private-equity players to hold investments for at least 3 years to get the lower capital gains rate, rather than 1 year under the old law. Otherwise, they must pay the higher income tax rate.

#### “Total End-Run”

The rule, however, exempts carried interest from the longer holding period when it's paid to a corporation rather than an individual. To the surprise of legal and accounting experts, the law didn't specify that it applied solely to regular corporations, whose income is subject to double taxation.

Hedge funds are preparing to exploit the wording: Managers are betting that by simply putting their carried interest in a single-member LLC—and then electing to have it treated as an S corporation—the profit will qualify for the exemption from the 3-year holding period and be taxed at the lower rate. The maneuver by money managers contributed to a 19 percent jump in the number of LLCs incorporated during December in Delaware.

“It's a total end-run around the statute,” said Anthony Tuths, a tax principal in the alternative investment unit of KPMG's New York office. The Delaware filings “spiked through the roof because all these fund managers set up single-member LLCs,” said Tuths, adding that he doesn't endorse the strategy because the government could still close the loophole.

Spokespeople for the firms declined to comment or didn't return a request for an interview on the purpose of the LLCs.

#### Thousands of LLCs

Tax attorneys say hedge funds are setting up thousands of LLCs, most of which are difficult to identify. Some include the names or initials of executives at activist hedge funds Corvex Management and Sachem Head Capital Management, Delaware

records show. Steadfast Capital Management, Permian Investment Partners and Stelliam Investment Management also created LLCs.

Hedge funds that follow activist, credit and distressed strategies, which sometimes keep investments for 1 or 2 years, are particularly affected by the new 3-year holding requirement.

Private-equity firms also formed LLCs in late December, even though their typical 5-year holding period means the new law may not be an issue for many of them. Crestview Capital Partners, the private-equity firm co-founded by Barry Volpert and Thomas Murphy, incorporated 28 LLCs in the last month of the year.

By lengthening the holding period for capital gains treatment instead of eliminating it, lawmakers gave up revenue.

### **Losing Revenue**

The Congressional Joint Committee on Taxation estimated that the longer holding period would raise about \$1.1 billion in additional tax revenue through 2027, far less than a 2016 projection of \$19.6 billion from ending the capital gains treatment altogether. And the LLCs may prevent the government from even getting the total \$1.1 billion.

Tax attorneys and accountants are convinced the loophole resulted from a drafting error in the Republican rush to score a legislative victory before year end. They expect the government to close it by clarifying that the holding period exemption is available only to regular corporations.

The Treasury Department is confident that it has the power to narrow the law so only regular corporations would be included in the exemption, Dana Trier, the department's deputy assistant secretary for tax policy, said at a conference in San Diego last week.

That could create a quandary for hedge fund managers who set up LLCs in December. They have 75 days to decide whether they want the LLC to convert into an S corporation, a window that would close by mid-March. Those who make the election could face additional taxes and administrative nightmares if the government subsequently knocks down their strategy.

"I am telling everybody, 'Don't do anything at this point,'" said Robert Schachter, a tax partner in the financial and investment services group at the New York office of WithumSmith+Brown. "You are going to end up with egg on your face if you run too quickly."

—With assistance from Alexis Leondis

*<http://www.msn.com/en-us/money/companies/new-hedge-fund-tax-dodge-triggers-wild-rush-back-into-delaware/ar-BBJ6R1b>*



## COMMUNICATION

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CENTER FOR FISCAL EQUITY

Statement By Michael G. Bindner

Chairman Hatch and Ranking Member Wyden, thank you for the opportunity to submit these comments for the record to the Committee on Finance on the FY 2019 Budget. Recent legislation has not met the Center's policy goals, nor the goals of other advocates with similar proposals, for example the advocates of the FairTax, who were disappointedly silent in the last round of debate.

As you know, we did raise our voices and will continue to, as the recent law will still have all of the flaws of the prior system as well as the asset inflation which would have made another Great Recession inevitable, although the recently passed bill will increase the deficits enough to cancel out the tax reduction to the Executive/Donor Class.

We withdraw none of our proposals, most of which are about tax and entitlement policy and the process of estimating discretionary spending, rather than specific recommendations for departmental budgets. We are wondering, however, why this hearing, which mainly presents discretionary budget request data for the subject fiscal year, is still being held when on Friday last an Omnibus Appropriation for the period in question was passed and signed into law. Regardless, our comments still apply so we will preface them with our comprehensive four-part approach, which will provide context.

- A Value-Added Tax (VAT) to fund domestic military spending and domestic discretionary spending with a rate between 10% and 13%, which makes sure every American pays something.
- Personal income surtaxes on joint and widowed filers with net annual incomes of \$100,000 and single filers earning \$50,000 per year to fund net interest payments, debt retirement and overseas and strategic military spending and other international spending, with graduated rates between 5% and 25%.
- Employee contributions to Old-Age and Survivors Insurance (OASI) with a lower income cap, which allows for lower payment levels to wealthier retirees without making bend points more progressive.
- A VAT-like Net Business Receipts Tax (NBRT), which is essentially a subtraction VAT with additional tax expenditures for family support, health care and the private delivery of governmental services, to fund entitlement spending and replace income tax filing for most people (including people who file without paying), the corporate income tax, business tax filing through individual income taxes and the employer contribution to OASI, all payroll taxes for hospital insurance, disability insurance, unemployment insurance and survivors under age 60.

News reports indicate that the Administration and members of the House leadership favor deep cuts in entitlement programs benefiting the poor. We agree that these programs are non-functional and should be replaced by a \$15 minimum wage or a literacy and job training program paying the same wage to participants, a \$1,000 child tax credit per month per dependent through the net business receipts tax described above and health coverage mandated through the employer or training program provider. Medicaid for the disabled and elderly should be entirely federalized. Don't just make smalls, which is torture. Go big or go home.

These proposals are identical to what we have stated previously, but they bore highlighting. Let us return to the usual details and analysis.

We have no proposals regarding environmental taxes, customs duties, excise taxes, and other offsetting expenses, although increasing these taxes would result in a lower VAT.

Recent legislation has solved some of our international tax issues. It would still be simpler to adopt a VAT on the international level and it would allow an expansion of family support through an expanded child tax credit. American competitiveness is enhanced by enacting a VAT, as exporters can shed some of the burden of taxation that is now carried as a hidden export tax in the cost of their products. The NERT will also be zero rated at the border to the extent that it is not offset by deductions and credits for health care, family support, and the private delivery of governmental services.

Some oppose VATs because they see it as a money machine, however this depends on whether they are visible or not. A receipt visible VAT is as susceptible to public pressure to reduce spending as the FairTax is designed to be, however unlike the FairTax, it is harder to game. Avoiding lawful taxes by gaming the system should not be considered a conservative principle, unless conservatism is in defense of entrenched corporate interests who have the money to game the tax code.

Our VAT rate estimates are designed to fully fund non-entitlement domestic spending not otherwise offset with dedicated revenues. This makes the burden of funding government very explicit to all taxpayers. Nothing else will reduce the demand for such spending, save perceived demands from bondholders to do so—a demand that does not seem evident given their continued purchase of U.S. Treasury Notes.

Value-Added Taxes can be seen as regressive because wealthier people consume less, however when used in concert with a high-income personal income tax and with some form of tax benefit to families, as we suggest as part of the NBRT, this is not the case.

The shift from an income tax-based system to a primarily consumption-based system will dramatically decrease participation in the personal income tax system to only the top 20% of households in terms of income. Currently, only roughly half of households pay income taxes, which is by design, as the decision has been made to favor tax policy to redistribute income over the use of direct subsidies, which have the stink of welfare. This is entirely appropriate as a way to make work pay for families, as living wage requirements without such a tax subsidy could not be sustained by small employers.

The income surtax is earmarked for overseas military, naval sea and international spending because this spending is most often deficit financed in times of war. Earmarking repayment of trust funds for Social Security and Medicare, acknowledges the fact that the buildup of these trust funds was accomplished in order to fund the spending boom of the 1980s without reversing the tax cuts which largely benefited high income households.

Earmarking debt repayment and net interest in this way also makes explicit the fact that the ability to borrow is tied to the ability to tax income, primarily personal income. The personal or household liability for repayment of that debt is therefore a function of each household's personal income tax liability. Even under current tax law, most households that actually pay income taxes barely cover the services they receive from the government in terms of national defense and general government services. It is only the higher income households which are truly liable for repayment of the national debt both governmental and public.

If the debt is to ever be paid back rather than simply monetized, both domestically and internationally (a situation that is less sustainable with time), the only way to do so without decreasing economic growth is to tax higher income earners more explicitly and at higher rates than under current policy, or even current law.

The decrease in economic class mobility experienced in recent decades, due to the collapse of the union movement and the rapid growth in the cost of higher education, means that the burden of this repayment does not fall on everyone in the next generation, but most likely on those who are living in high income households now.

Let us emphasize the point that when the donors who take their cues from Americans for Tax Reform bundle their contributions in support of the No Tax Pledge, they are effectively burdening their own children with future debt, rather than the entire populace. Unless that fact is explicitly acknowledged, gridlock over raising adequate revenue will continue.

CBO projections on the size of the debt and the role of Net Interest are troubling, however, in that they show that while most discretionary and entitlement spending are projected to remain flat while net interest is due to explode. It is helpful to explore the reasons for this. This explosion essentially fuels the growth of the growth of the Dollar as the world's currency. Essentially, this means that we pay our expenses with taxation (even without adopting the Center for Fiscal Equity Plan) while we roll over our debt without repaying it. This seems like a wonderful way for American consumers to continue to live like imperial Rome, however it cannot last.

There are two possible ends to this gravy train. The first is the internationalization of the Dollar, the Federal Reserve and our entire political system into a world currency or government and its concurrent loss of national sovereignty or the eventual creation of rival currencies, like a tradable Yuan or a consolidated European Debt and Income Tax to back its currency. In the prior case, all nations which use the Dollar will contribute to an expanded income tax to repay or finance the interest on the global debt. In the second case, the American taxpayer will be required to pay the debt back—and because raising taxes on all but the wealthy will hurt the economy, it will be the wealthy and their children who will bear the burden of much higher tax levies.

To avert either crisis, there are two possibilities. The first is the elimination of deductions, including the Charitable Deduction itemized on personal income taxes—especially for the wealthy. If the charitable sector, from the caring community to the arts, industrial and education sectors, convince wealthier taxpayers to fight for this deduction, then the only alternative is higher rates than would otherwise occur, possibly including a much more graduated tax system.

Unlike other proposals, a graduated rate for the income surtax is suggested, as at the lower levels the burden of a higher tax rate would be more pronounced. More rates make the burden of higher rates easier to bear, while providing progressivity to the system rather than simply offsetting the reduced tax burden due to lower consumption and the capping of the payroll tax for Old Age and Survivors Insurance.

One of the most oft-cited reforms for dealing with the long-term deficit in Social Security is increasing the income cap to cover more income while increasing bend points in the calculation of benefits, the taxability of Social Security benefits or even means-testing all benefits, in order to actually increase revenue rather than simply making the program more generous to higher income earners. Lowering the income cap on employee contributions, while eliminating it from employer contributions and crediting the employer contribution equally removes the need for any kind of bend points at all, while the increased floor for filing the income surtax effectively removes this income from taxation. Means testing all payments is not advisable given the movement of retirement income to defined contribution programs, which may collapse with the stock market—making some basic benefit essential to everyone.

Moving the majority of Old-Age and Survivors Tax collection to a consumption tax, such as the NBRT, effectively expands the tax base to collect both wage and non-wage income while removing the cap from that income. This allows for a lower tax rate than would otherwise be possible while also increasing the basic benefit so that Medicare Part E and Part D premiums may also be increased without decreasing the income to beneficiaries.

If personal accounts are added to the system, a higher rate could be collected, however recent economic history shows that such investments are better made in insured employer voting stock rather than in unaccountable index funds, which give the Wall Street Quants too much power over the economy while further insulating ownership from management.

Too much separation gives CEOs a free hand to divert income from shareholders to their own compensation through cronyism in compensation committees, as well as giving them an incentive to cut labor costs more than the economy can sustain for purposes of consumption in order to realize even greater bonuses. Employee-ownership ends the incentive to enact job-killing tax cuts on dividends and capital gains, which leads to an unsustainable demand for credit and money supply growth and eventually to economic collapse similar to the one most recently experienced.

The NBRT base is similar to a Value-Added Tax (VAT), but not identical. Unlike a VAT, an NBRT would not be visible on receipts and should not be zero-rated at the border—nor should it be applied to imports. While both collect from consumers, the unit of analysis for the NBRT should be the business rather than the transaction. As such, its application should be universal—covering both public companies

who currently file business income taxes and private companies who currently file their business expenses on individual returns.

In the long term, the explosion of the debt comes from the aging of society and the funding of their health-care costs. Some thought should be given to ways to reverse a demographic imbalance that produces too few children while life expectancy of the elderly increases.

Unassisted labor markets work against population growth. Given a choice between hiring parents with children and recent college graduates, the smart decision will always be to hire the new graduates, as they will demand less money—especially in the technology area where recent training is often valued over experience.

Separating out pay for families allows society to reverse that trend, with a significant driver to that separation being a more generous tax credit for children. Such a credit could be “paid for” by ending the Mortgage Interest Deduction (MID) without hurting the housing sector, as housing is the biggest area of cost growth when children are added. While lobbyists for lenders and realtors would prefer gridlock on reducing the MID, if forced to choose between transferring this deduction to families and using it for deficit reduction (as both Bowles-Simpson and Rivlin-Domenici suggest), we suspect that they would chose the former over the latter if forced to make a choice. The religious community could also see such a development as a “pro-life” vote, especially among religious liberals.

Enactment of such a credit meets both our nation’s short term needs for consumer liquidity and our long term need for population growth. Adding this issue to the pro-life agenda, at least in some quarters, makes this proposal a win for everyone.

The expansion of the Child Tax Credit is what makes tax reform worthwhile. Adding it to the employer levy rather than retaining it under personal income taxes saves families the cost of going to a tax preparer to fully take advantage of the credit and allows the credit to be distributed throughout the year with payroll. The only tax reconciliation required would be for the employer to send each beneficiary a statement of how much tax was paid, which would be shared with the government. The government would then transmit this information to each recipient family with the instruction to notify the IRS if their employer short-changes them. This also helps prevent payments to non-existent payees.

Assistance at this level, especially if matched by state governments may very well trigger another baby boom, especially since adding children will add the additional income now added by buying a bigger house. Such a baby boom is the only real long term solution to the demographic problems facing Social Security, Medicare and Medicaid, which are more demographic than fiscal. Fixing that problem in the right way definitely adds value to tax reform.

The NBRT should fund services to families, including education at all levels, mental health care, disability benefits, Temporary Aid to Needy Families, Supplemental Nutrition Assistance, Medicare and Medicaid. If society acts compassionately to prisoners and shifts from punishment to treatment for mentally ill and addicted offenders, funding for these services would be from the NERT rather than the VAT.

The NBRT could also be used to shift governmental spending from public agencies to private providers without any involvement by the government—especially if the several states adopted an identical tax structure. Either employers as donors or workers as recipients could designate that revenues that would otherwise be collected for public schools would instead fund the public or private school of their choice. Private mental health providers could be preferred on the same basis over public mental health institutions. This is a feature that is impossible with the FairTax or a VAT alone.

To extract cost savings under the NBRT, allow companies to offer services privately to both employees and retirees in exchange for a substantial tax benefit, provided that services are at least as generous as the current programs. Employers who fund catastrophic care would get an even higher benefit, with the proviso that any care so provided be superior to the care available through Medicaid. Making employers responsible for most costs and for all cost savings allows them to use some market power to get lower rates, but not so much that the free market is destroyed. Increasing Part E and Part D premiums also makes it more likely that an employer-based system will be supported by retirees.

Enacting the NBRT is probably the most promising way to decrease health care costs from their current upward spiral— as employers who would be financially responsible for this care through taxes would have a real incentive to limit spending



in a way that individual taxpayers simply do not have the means or incentive to exercise. While not all employers would participate, those who do would dramatically alter the market. In addition, a kind of beneficiary exchange could be established so that participating employers might trade credits for the funding of former employees who retired elsewhere, so that no one must pay unduly for the medical costs of workers who spent the majority of their careers in the service of other employers.

Conceivably, NBRT offsets could exceed revenue. In this case, employers would receive a VAT credit.

In testimony before the Senate Budget Committee, Lawrence B. Lindsey explored the possibility of including high income taxation as a component of a Net Business Receipts Tax. The tax form could have a line on it to report income to highly paid employees and investors and pay surtaxes on that income.

The Center considered and rejected a similar option in a plan submitted to President Bush's Tax Reform Task Force, largely because you could not guarantee that the right people pay taxes. If only large dividend payments are reported, then diversified investment income might be under-taxed, as would employment income from individuals with high investment income. Under collection could, of course, be overcome by forcing high income individuals to disclose their income to their employers and investment sources—however this may make some inheritors unemployable if the employer is in charge of paying a higher tax rate. For the sake of privacy, it is preferable to leave filing responsibilities with high income individuals.

Dr. Lindsey also stated that the NBRT could be border-adjustable. We agree that this is the case only to the extent that it is not a vehicle for the offsets described above, such as the child tax credit, employer sponsored health care for workers and retirees, state-level offsets for directly providing social services and personal retirement accounts. Any taxation in excess of these offsets could be made border adjustable and doing so allows the expansion of this tax to imports to the same extent as they are taxed under the VAT. Ideally, however, the NBRT will not be collected if all employers use all possible offsets and transition completely to employee ownership and employer provision of social, health, and educational services.

Thank you for the opportunity to address the committee. We are, of course, available for direct testimony or to answer questions by members and staff.

