



FACTCOALITION

Financial Accountability & Corporate Transparency

March 20, 2020

The Honorable Mitch McConnell
Majority Leader
U.S. Senate
The Capitol
Washington, D.C. 20510

The Honorable Chuck Schumer
Minority Leader
U.S. Senate
The Capitol
Washington, D.C. 20510

The Honorable Nancy Pelosi
Speaker
U.S. House of Representatives
The Capitol
Washington, D.C. 20515

The Honorable Kevin McCarthy
Minority Leader
U.S. House of Representatives
The Capitol
Washington, D.C. 20515

RE: Oppose International Tax Giveaways to Multinational Corporations in COVID-19 Response Packages; Support Increased Transparency of Tax Payments

Dear Leader McConnell, Leader Schumer, Speaker Pelosi, and Leader McCarthy,

On behalf of the Financial Accountability and Corporate Transparency (FACT) Coalition, I urge you to protect workers, the competitiveness of domestic small businesses, and individual American taxpayers by ensuring that, in any upcoming COVID-19 emergency response funding packages, multinational corporations do not receive any tax giveaways that would needlessly shrink government revenues in a time of crisis by further incentivizing the outsourcing of jobs and investments. At the same time, should policymakers consider any targeted tax breaks or bailouts for certain industries, it is imperative that we hold those same companies benefiting from such tax breaks or bailouts accountable to taxpayers by requiring expanded disclosures, such as environmental, social, and governance (ESG) disclosures, including tax transparency measures such as the public country-by-country reporting (CbCR) of taxes, profits, revenues, and number of employees.

The Financial Accountability and Corporate Transparency (FACT) Coalition is a non-partisan alliance of more than 100 state, national, and international organizations in the United States working toward a fair tax system that addresses the challenges of a global economy and promoting policies to combat the harmful impacts of corrupt financial practices.¹

The FACT Coalition acknowledges that the COVID-19 pandemic has put the U.S. in an unparalleled crisis that requires bold responses from our government. However, the last thing our nation's workers, small businesses, or populace need right now is to worsen the "America last"² components of our international tax regime. It is important to note that corporations only pay taxes when they are profitable. That means that cutting corporate taxes or widening offshore tax loopholes will do nothing to immediately help the many businesses that are on the verge of collapse due to the economic fallout

¹ A full list of FACT members is available at <http://thefactcoalition.org/about/coalition-members-and-supporters/>.

² Kimberly Clausing, *Fixing Our "American Last" Tax Policy*, The Hill (April 11, 2019), <https://bit.ly/2xpb9Su>.

of the COVID-19 pandemic. Weakening protections against offshore tax dodging is an unjustifiable response to the humanitarian and economic crisis facing our country, and will unnecessarily reduce long-term tax revenues that are necessary to ensuring we have the resources to make important public health investments in the months and years to come.

Over the past several decades, corporations have managed to pay a smaller and smaller portion of the total cost for needed government services. In 2018, figures from the Office of Management and Budget show that corporations contributed only 6 percent of U.S. tax revenues.³ Worse, more than 90 profitable Fortune 500 corporations paid nothing at all in federal taxes in 2018 — with many even receiving a refund.⁴ Part of this problem is due to the fact that multinationals have been engaged in a global race to the bottom, utilizing tax haven jurisdictions to avoid paying taxes by artificially booking profits to international subsidiaries. International corporate tax dodging was estimated to cost U.S. taxpayers about \$60 billion in 2018.⁵ And, Internal Revenue Service (IRS) data show that U.S. multinationals book 41 percent of their foreign profits in ten tax havens.⁶ When multinationals use accounting tricks to shift their profits to tax havens, other taxpayers like small businesses, workers, and consumers pick up the tab — three constituencies that are suffering greatly in the current COVID-19 crisis.

The general structure of the international tax system under the 2017 tax law, the Tax Cuts and Jobs Act (or TCJA), creates a significant risk that multinational corporations will continue — or even expand — their profit-shifting efforts to avoid paying taxes. Fixing this problem requires ending the incentive to use tax avoidance measures by equalizing the domestic and international tax rates.⁷

While we work to enact long-term solutions to the problem of profit shifting, it's concerning to note that certain trade groups, like the U.S. Chamber of Commerce,⁸ seek to capitalize on this crisis by calling for scaling back, or even suspending, the limited guardrails that were put in place in the 2017 tax law to limit offshore tax avoidance by multinational corporations via profit shifting — namely, the base erosion and anti-abuse tax (BEAT) and the global intangible low-taxed income (GILTI) provisions. Weakening these modest tax safeguards would do nothing to help the many companies facing economic ruin. At the same time, without these, albeit still very inadequate, protections in place, the remaining profitable multinational corporations would be free to maximize their profit shifting strategies — starving our nation of corporate tax receipts at the time in which we need funding the most in order to tackle the unprecedented crisis facing our country.

³ *Office of Management and Budget*, Historical Tables, Table 2.2, Percentage Composition of Receipts by Source: 1934-2025 <https://bit.ly/2SCKE65>.

⁴ Matthew Gardner, Lorena Roque, Steve Wamhoff, Institute on Taxation and Economic Policy, Corporate Tax Avoidance in the First Year of the Trump Tax Law (Dec. 16, 2019) <https://bit.ly/39syBib>.

⁵ Richard Phillips, Institute on Taxation and Economic Policy, Post-TCJA, International Corporate Tax System Still Leaking Hundreds of Billions in Profits (Nov. 5, 2018) <http://bit.ly/393OI6e>. For a more precise 2017 (pre-TCJA) estimate, see also: Kimberly Clausing, *How Big Is Profit Shifting?* (Jan. 20, 2020) <http://bit.ly/Clausing2020>.

⁶ *Internal Revenue Service*, "Table 1A: Country-by-Country Report (Form 9975): Tax Jurisdiction Information (Schedule A: Part I) by Major Geographic Region and Selected Tax Jurisdiction, Tax Year 2017", <https://www.irs.gov/pub/irs-soi/17it01acbc.xlsx>.

⁷ See, for example, H.R.1711 and S.780 (116th Congress), No Tax Breaks for Outsourcing Act.

⁸ Laura Davison, *U.S. Chamber Suggests Suspending Parts of Tax Law Amid Virus*, Bloomberg Government (March 18, 2020) <https://bit.ly/2UoPXa9>.

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In addition to urging you to oppose any rollbacks of the TCJA's very minimal protections against international tax avoidance, we must also ensure that any companies that do benefit from changes to the tax code or receive government COVID-19 response monetary assistance be held accountable to taxpayers and the public. One way to ensure that would be to require public CbCR conditionality for any tax breaks or support given to large businesses. House Financial Services Committee Chairwoman Maxine Waters (D-CA) included the call for ESG disclosures in her recent plan to leadership regarding COVID-19 stimulus funding.⁹ This could easily be achieved through requiring public disclosure of the same information that is already included in the country-by-country reports currently submitted confidentially to the IRS, for those corporations receiving a bailout or tax break and that are already required to file those reports with the IRS (See IRS Form 8975 Schedule A, and Part I of Form 8975).

As our country comes together to tackle the urgent crisis caused by the virus outbreak, we urge you to make sure that big, profitable multinational corporations don't further damage small business competitiveness, starve public resources, or cause individual taxpayers to shoulder more of the cost of the COVID-19 response by opposing any effort to weaken, suspend, or repeal any of the TCJA's offshore safeguards against multinational tax avoidance as part of any COVID-19 response package. Furthermore, we encourage you to hold companies that receive any tax breaks or make use of any stimulus funds to a greater level of taxpayer accountability by requiring those corporations to disclose public country-by-country tax reports and other ESG information.

Thank you very much for considering the Coalition's thoughts on this topic. Should you have any questions, please feel free to contact me at +1 (202) 810-1334 or cgascoigne@thefactcoalition.org.

Sincerely,

Clark Gascoigne

Interim Executive Director

Cc Members of the U.S. Senate
 Members of the U.S. House of Representatives

⁹ Jim Saksa, *In Memo, Rep. Maxine Waters Lists Stimulus Priorities, Ignoring Industries*, Roll Call (March 18, 2020) <https://bit.ly/2x9zz5n>.

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