56 National Organizations Object to the Portman-Schumer International Tax Reform Framework

July 31, 2015

Dear Senators:

We are writing to express our significant concern with the Portman-Schumer international tax reform framework that was recently released. While it is just a framework with many details yet to be filled in, the proposal appears to fail two principles of corporate tax reform outlined by Americans for Tax Fairness. First, corporate tax reform should raise a significant amount of revenue over the long term, not be revenue neutral, in order to help meet our country's critical needs. Second, our tax code should not incent corporations to shift profits to tax havens and to invest in foreign countries rather than in the United States, such as by allowing them to pay a lower tax rate on their offshore profits than on their domestic profits.

We have three specific concerns with the framework. It would appear to move the United States much closer to a territorial tax system, expressed as a "dividend exemption system" in the framework. This would provide huge incentives for corporations to shift profits and jobs offshore at the expense of U.S. workers and communities. The framework suggests a very low tax rate would be paid on the $2.1 trillion in U.S. corporate profits that are currently offshore, rewarding companies that have been the most successful tax dodgers. And, the framework would create a big new tax loophole, known as a patent or innovation box.

A more detailed explanation of our objections is below.

1. **The framework would appear to bring the United States closer to a territorial tax system, which we oppose.** Our current tax system requires U.S. corporations to pay U.S. taxes on their foreign earnings, less credits for foreign taxes paid. A territorial tax system would eliminate most U.S. taxation of offshore profits creating an incentive for companies to move jobs offshore and disguise domestic profits as offshore profits, which typically get booked in tax havens. While the framework suggests that measures will be enacted to limit erosion of our tax base to tax havens, there are no specifics regarding which proposals are being considered and we are, therefore, skeptical that they will succeed in preventing substantial revenue losses. Moreover, multinational corporations will have an unfair edge over domestic companies and small businesses.

   U.S. multinationals today benefit from a giant tax loophole known as "deferral," which effectively allows them to indefinitely defer U.S. taxes on most of their offshore profits until they are repatriated to the United States. This is a primary reason that U.S. corporations have accumulated $2.1 trillion in offshore profits, which have not been taxed here at home. Rather than move more towards a territorial tax system, which would accelerate the shifting of profits and jobs offshore, the U.S. should repeal deferral thereby removing incentives for corporations to dodge taxes and to disinvest from America. It would raise nearly $600 billion over 10 years.

2. **The framework would appear to establish a very low tax rate on $2.1 trillion in existing offshore profits, costing billions of dollars that could be used to create jobs and improve services here at home.** The framework proposes to enact a deemed repatriation requirement, whereby a one-time transition tax would be assessed on the $2.1 trillion in U.S. corporate

profits that are currently offshore and not taxed here. Some of those profits have been invested in legitimate brick-and-mortar facilities, but a lot of them have been booked in tax havens where companies have no assets or even employees. The framework would be modeled on deemed repatriation proposals by President Obama and former Rep. Dave Camp, which proposed tax rates of 14% and 8.75% respectively – far below the current 35% corporate tax rate. Corporations would get credit for foreign taxes paid so profits legitimately invested would likely escape U.S. taxes under these much lower rates. It is primarily profits booked in tax havens that would benefit the most from this proposal.

This would be a huge giveaway to companies that have engaged in the most egregious international tax-avoidance schemes. A 14% tax rate would hand ten companies alone $82 billion in tax savings, according to Citizens for Tax Justice. The 35% corporate tax rate should apply to all corporate profits, whether domestic or foreign. To give a tax break to multinational corporations for offshore profits they have already earned would be grossly unfair to domestic companies paying the full rate, especially to Main Street businesses. Deemed repatriation should only be a down payment on future taxes owed.

3. **The framework will create a huge new tax loophole known as a patent or innovation box.** This is a top priority of the corporations that have already engaged in the greatest amount of offshore tax avoidance using tax havens. A patent box would allow corporate profits derived from intellectual property, such as patents and trademarks, to be taxed at a much lower rate than domestic profits are taxed. One of our nation's biggest offshore tax loopholes is the ability of corporations to characterize their income as derived from intellectual property. Companies do not need yet another tax break on income from this source. Moreover, the patent box is an ineffective way to incent research because it is poorly targeted, and it provides a windfall for past research that needs no tax break. Detailed critiques of this loophole are available from Tax Notes, Citizens for Tax Justice and the Center for American Progress.

U.S. corporate profits are at record levels and U.S. corporate taxes as a share of GDP and of federal revenue are at record lows. Our corporations and business environment are the envy of companies around the world. Yet U.S. corporations have not contributed a dime to deficit reduction, and they are looking for even more tax breaks from corporate tax reform, such as are proposed in this framework.

Rather than create new loopholes that reduce corporate taxes as the Portman-Schumer framework would do, corporations need to start paying their fair share. Only then will we have the revenue needed to ensure economic security for families and seniors; to make investments in education, energy, roads and research needed to grow the economy and create jobs; and to help reduce the deficit.

Sincerely,

AFL-CIO
Agenda Project
Alliance for a Just Society
Alliance for Retired Americans
American Family Voices
American Federation of State, County and Municipal Employees
American Federation of Government Employees
American Sustainable Business Council

Americans for Democratic Action
Americans for Tax Fairness, a coalition of [425 national and state endorsing organizations]
Campaign for America’s Future
Center for Biological Diversity
Center for Community Change Action
Center for Effective Government
Center for Global Policy Solutions
Citizens for Tax Justice
Coalition on Human Needs
Communications Workers of America
Community Organizers in Action
CREDO Action
Demand Progress
Democracy for America
Economic Policy Institute
Every Child Matters
Fair Share
Institute for Policy Studies, Global Economy Project
International Brotherhood of Teamsters
Leadership Conference on Civil and Human Rights
Main Street Alliance
MoveOn.org
National Association for Hispanic Elderly
National Education Association
National Employment Law Project
National Low Income Housing Coalition
National People’s Action
National Priorities Project
National Women’s Law Center
NETWORK, A National Catholic Justice Lobby
Oxfam America
Program on Inequality and the Common Good at the Institute for Policy Studies
Progressive Democrats of America
Public Citizen
Racial and Ethnic Health Disparities Coalition
Responsible Wealth
RESULTS
RootsAction.org
Service Employees International Union
Tax Justice Network, USA
The Financial Accountability and Corporate Transparency (FACT) Coalition
United for a Fair Economy
United Steel, Paper and Forestry, Rubber, Manufacturing, Energy, Allied Industrial and Service Workers International Union (USW)
USAction
Voices for Progress
Working America
Working Families Party