The HIGH PRICE OF TAX LOOPHOLES

AMERICANS FOR TaxFairness

NATIONAL WOMEN'S LAW CENTER
EXPANDING THE POSSIBILITIES

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Americans for Tax Fairness is a diverse campaign of more than 325 national, state and local organizations united in support of a tax system that works for all Americans. It has come together based on the belief that the country needs comprehensive, progressive tax reform that results in greater revenue to meet our growing needs and investments that create and sustain jobs while taking a balanced approach to addressing America's fiscal challenges. Visit online at www.AmericansForTaxFairness.org.

The National Women's Law Center is a nonprofit organization working since 1972 to expand opportunities and eliminate barriers for women, with a major emphasis on family economic security, education and employment opportunities, and women's health and reproductive rights. Visit online at www.nwlc.org.

THE HIGH PRICE OF TAX LOOPHOLES

HIGHLIGHTS

Medical Research OR Tax Breaks for CEO Pay

Automatic across-the-board spending cuts known as the "sequester" slashed $1.5 billion from the 2013 budget at the National Institutes of Health, which support research on life-threatening diseases. Meanwhile, a tax loophole allows huge corporations to duck $2.5 billion in taxes each year by taking tax deductions for showering their CEOs with stock options.

Unemployment Benefits OR Tax Loopholes for Wall Street Traders

Due to $2.4 billion in across-the-board federal spending cuts this year, Americans who have been unemployed for a long time have had modest weekly benefits averaging just $289 cut by $43 a week. Meanwhile, wealthy investors in risky financial products such as derivatives get special tax breaks that cost $2.9 billion a year.

Head Start for Kids OR Tax Giveaways for Corporate Jets

Head Start, the early childhood education program for disadvantaged children, was cut by $400 million in 2013, denying services to thousands of kids. On the other end of the economic spectrum, corporations get a special tax break worth $370 million a year for owning private jets.

Better Education for Kids OR Tax Breaks for Hedge Fund Managers

Federal support for elementary, secondary and special education has plummeted by $1.7 billion this year. Congress continues to protect the exorbitant incomes of Wall Street titans by taxing many of their earnings at a low 20 percent rate, rather than applying the top marginal income tax rate that is twice as high. This "carried interest" loophole costs $1.7 billion a year.

Help Seniors Get Social Security OR Lower Taxes for Multimillionaires

Funds needed to handle Social Security applications and to process checks have been cut by $286 million, causing significant delays in getting benefits to those who need them. Meanwhile, a provision in the tax code meant to encourage middle-class families to save for retirement is being used by extremely wealthy families to shelter tens of millions of dollars. Annual tax break: $388 million.

Food for Low-Income Families OR Tax Subsidies for CEO Bonuses

House Republicans have announced a plan to kick 4 to 6 million Americans off the Supplemental Nutrition Assistance Program (SNAP), known as Food Stamps. The cuts total $40 billion over 10 years. While poor kids would get less food, large corporations would continue to get tax deductions when they give their CEOs lavish "performance-based" bonuses. That tax loophole costs $50 billion over 10 years.

Protect the Environment OR Give Tax Breaks to Oil Companies

The sequester cut $4.6 billion in 2013 funding for agencies that conduct research and enforce regulations to protect the environment. But for decades, the tax code has provided special subsidies to highly profitable oil and gas companies, which cost $4.6 billion a year.

Modernize Our Infrastructure OR Give Tax Breaks to Send Jobs Overseas

America's infrastructure is crumbling, while other industrial nations continue to modernize. A robust investment of $464 billion over five years in highways, bridges and other systems would create more than 2.6 million new jobs a year and provide for stronger long-term economic growth. But large corporations like Apple dodge their responsibility to support America's infrastructure by hiding billions of dollars in offshore tax havens. Ending this huge loophole, known as "deferral," would raise $606 billion over 10 years.

INTRODUCTION

The U.S. Congress faces a choice: continue trudging down the austerity road of budget cuts and sluggish growth, or turn toward a prosperity built on investing in our people and everyone paying a fair share of taxes. That choice is what the budget battles in Washington this fall will really be about.

Of course, budgets are always about choices. How you raise and spend money reflects your priorities. Public budgets – the tax and spending decisions of governments – are no exception.

We can make vital public investments, from highways to health care to education; support a vibrant economy that works for all of us; and address our long-term fiscal challenges – but only if we get enough tax revenue from the right places.

But in two and a half years of deficit reduction deals, we've put in place three times as much budget cutting ($1.8 trillion) as revenue boosting ($620 billion).[1] And all of the tax increases have come from individuals. Corporations have so far contributed nothing to the effort.

Some politicians pretend there's no link between taxes and spending. They'll vote a corporate tax cut on Monday and a school funding cut on Tuesday – and claim there's no connection. The media's guilty, too: Tax cuts are a serious business story, but funding cuts are just sad human interest – if they are reported at all.

But taxes and spending are two sides of the same coin – a public coin that the public should tightly grasp. Every dollar given away in tax breaks to multinational corporations and Wall Street gamblers is one less dollar available to repair crumbling bridges, care for the elderly and teach our kids.

In this brief report, short, straight lines have been drawn between taxes and the public services they pay for. It provides a few examples of how we can avoid painful and destructive cuts to services our families and communities depend on, and have money left over to make bold new investments that would rebuild our economy and create jobs – if we require big corporations and the very wealthy to pay their fair share of taxes.[2]

So, the choice is clear: more tax cuts for the rich and big corporations, or more service cuts that hurt average Americans and fewer investments that offer opportunities for a better future. It's time to stop tax dodging and invest in America.

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[1] These figures are for 2013-2022. U.S. Senate Budget Committee, "Foundation for Growth: Restoring the Promise of American Opportunity," Fiscal Year 2014 Senate Budget Resolution (March 2013), p. 2. http://www.budget.senate.gov/democratic/index.cfm/files/serve?File_id=ee2613d9-cf20-402c-8a65-e1b670b21fa0

[2] See Americans for Tax Fairness, "Next Steps for Tax Fairness: Options for Closing Loopholes for the Richest 2% and Big Corporations" (Feb. 2013). http://www.americansfortaxfairness.org/files/ATF-Next-Steps-Toward-Tax-Fairness-Revenue-Options-2-15-13-FINAL.docx

MEDICAL RESEARCH OR TAX BREAKS FOR CEO PAY

Doctors work hard to find medical options for their patients. Corporations work hard to award stock options (the right to buy shares in the future, usually at a steep discount) to their top executives. Which effort would you like your tax dollars to support?

The National Institutes of Health (NIH) fund research on cancer, Parkinson's, Alzheimer's and many other serious diseases. The across-the-board budget cuts, known as the "sequester," have impaired NIH's ability to foster hope and find cures. **2013 Budget Cut: $1.5 billion**.[3]

Huge corporations shower their CEOs with stock options, which often make up the bulk of their millions of dollars of annual compensation. But because of a loophole in the law, companies get a tax windfall because they are allowed to deduct more from their taxes than these options are worth, according to normal accounting standards. **Annual Tax Break: $2.5 billion**.[4]

It doesn't take a research scientist to figure out the smart choice here: Fund medical research rather than subsidize CEO pay.

[3] Office of Management and Budget (OMB), "OMB Report to the Congress on the Joint Committee Sequestration for Fiscal Year 2013" (March 1, 2013), p. 24. http://www.whitehouse.gov/sites/default/files/omb/assets/legislative_reports/fy13ombjcsequestrationreport.pdf

[4] U.S. Sen. Carl Levin, "Levin-Brown Would End Corporate Stock Option Tax Break, Reduce Deficit by $25 Billion" (July 15, 2011). Figure equals the average cost of this tax break over 10 years. http://www.levin.senate.gov/newsroom/press/release/levin-brown-bill-would-end-corporate-stock-option-tax-break-reduce-deficit-by-25-billion

UNEMPLOYMENT BENEFITS OR
TAX LOOPHOLES FOR WALL STREET TRADERS

Going jobless for more than six months may seem rough, but apparently it's Wall Street's riskiest gamblers who really deserve our sympathy.

Thanks to across-the-board spending cuts, known as the "sequester," the long-term unemployed are facing a $43 cut in their already austere average weekly benefit of $289, according to the National Employment Law Project. **2013 Budget Cut: $2.4 billion**.[5]

Meanwhile, wealthy speculators who trade risky investments called derivatives can avoid paying their fair share of taxes.[6] Normally, quick traders are denied the special low capital gains tax rate enjoyed by long-term investors – but investors in derivatives and certain other financial and insurance industry products can avoid, defer or reduce taxes on investment income. **Annual Tax Break: $2.9 billion**.[7]

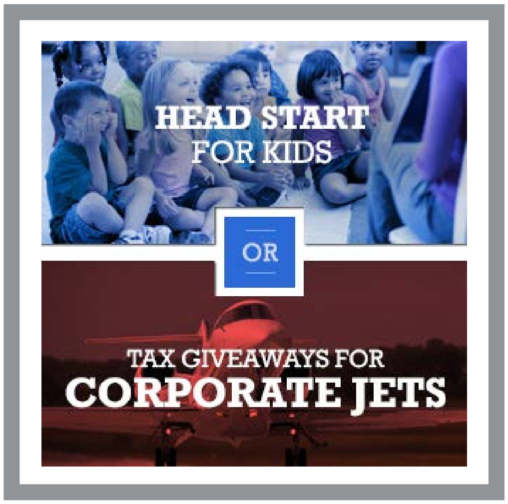
Moral of the story: Don't suffer from unemployment. Cause it – through risky investments subsidized by taxpayers.

[5] National Employment Law Project (NELP), "Sequester Takes a Big Bite Out of Federal Benefits for the Long-Term Unemployed" (July 2, 2013), p. 1. http://www.nelp.org/page/-/Press%20Releases/2013/Sequester-Takes-A-Big-Bite-Out-of Federal-Benefits.pdf?nocdn=1

6 Citizens for Tax Justice (CTJ), "Derivatives Proposal from Top House Tax-Writer Could Improve Tax Code – if the Revenue Is Not Used for Rate Cuts" (February 4, 2013). http://ctj.org/ctjreports/2013/02/derivatives_proposal_from_top_house_tax-writer_could_improve_tax_code_--_if_the_revenue_is_not_used.php#.Ufvt540sn-I

[7] Joint Committee on Taxation (JCT), "Estimated Budget Effects of the Revenue Provisions Contained in the President's Fiscal Year 2014 Budget Proposal" (JCX-11-13) (May 10, 2013), p. 3, Section VI.A-D. Figure equals the average cost of these tax breaks over 10 years. https://www.jct.gov/publications.html?func=startdown&id=4520

HEAD START FOR KIDS OR
TAX GIVEAWAYS FOR CORPORATE JETS



Low-income children receive an early boost from Head Start, which gets them ready to learn and helps them stay healthy so they can succeed in school and beyond. Corporate executives with their own private jets get a jump on the competition, avoiding all the hassles of commercial air travel. The question: Which group is more deserving of taxpayer support?

The across-the-board federal budget cuts known as the "sequester" are forcing Head Start to drop thousands of children from the program, eliminate transportation, reduce days and hours that Head Start centers are open, and lay off teachers.[8] **2013 Budget Cut: $400 million**.[9]

As equipment ages, companies are allowed to deduct the annual loss in value from their taxable income. Commercial airlines have to wait seven years to write off their jumbo jets, but corporations that own private jets enjoy a loophole that allows them to "depreciate" their Cessnas, Gulfstreams and other luxury rides over just five years, even though the planes last for decades. **Annual Tax Break: $370 million**.[10]

Should we help CEOs get quick takeoffs or give kids a Head Start?

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[8] National Women's Law Center (NWLC), "Impact of Sequestration Cuts on Head Start, Child Care and Early Education: State and Local Examples" (July 2013). http://www.nwlc.org/sites/default/files/pdfs/summary_of_sequester_cuts_ece_impacts.pdf

[9] Dept. of Health and Human Services, Administration for Children & Families, "Final FY 2013 Funding Level ACF-PIHS-13-03" (accessed Aug. 12, 2013). Figure is based on a 5.27% cut on $7.573 billion. http://eclkc.ohs.acf.hhs.gov/hslc/standards/PIs/2013/resour_pri_003_042613.html

[10] JCT, JCX-11-13, p. 4, Section VIII.D, *supra* note 7. Figure equals the average cost of this tax break over 10 years.

BETTER EDUCATION FOR KIDS OR
TAX BREAKS FOR HEDGE FUND MANAGERS

The best investment is a good education. But the across-the-board federal budget cuts, known as the "sequester," are shrinking that investment in our children's and our nation's future. Meanwhile, the managers of big Wall Street investment funds have learned a valuable accounting trick to cut the taxes they pay on their multimillion-dollar earnings in half.

Cuts in funding for elementary and secondary education, and for special education, have hit school districts hard across the country. They have taken away extra help for kids who come from low-income households or have learning challenges. From lost classroom aides and specialized instructors to reduced transportation,[11] the most vulnerable kids are suffering most. **2013 Budget Cut: $1.7 billion.**[12]

The huge earnings of Wall Street private equity and hedge fund managers should be taxed the same way as earnings from all other jobs – at the maximum federal rate of 39.6 percent for the highest earners. But they have figured out how to cap their tax rates at 20 percent – half of what it should be – by mischaracterizing part of the money they make as investment income called "carried interest."[13] **Annual Tax Break: $1.7 billion**.[14]

The lesson for us all: Making investment fund managers play by the rules can support smart investments for America.

[11] National Education Association (NEA) Education Votes, "At school year's end, students and schools already feeling sequester cuts" (June 4, 2013). http://educationvotes.nea.org/2013/06/04/at-school-years-end-students-and-schools-already-feeling-sequester-cuts/

[12] OMB Sequestration Report (March 1, 2013), p. 20, *supra* note 3.

[13] CTJ, "Will the 'Carried Interest' Loophole Finally Be Closed?" (May 12, 2010). http://ctj.org/pdf/carriedinterest2010.pdf

[14] JCT, JCX-11-13, p. 7, Section XV.I, *supra* note 7. Figure equals the average cost of this tax break over 10 years.

HELP SENIORS GET SOCIAL SECURITY OR LOWER TAXES FOR MULTIMILLIONAIRES

During the 2012 election, we learned that presidential candidate Mitt Romney had accumulated over $100 million in his tax-favored retirement account.[15] He was able to do this because of a provision in the tax code that encourages middle-class families to save money for retirement in IRA and 401(k) accounts. But some very wealthy individuals are using these retirement accounts to tax shelter tens of millions of dollars. **Annual Tax Break: $388 million**.[16]

Meanwhile, the Social Security Administration (SSA) has been forced to cut its budget. SSA will handle 5 million new applications for retirement benefits this year, and administer payments for more than 60 million Americans.[17] But the across-the-board federal budget cuts, known as the "sequester," have forced the agency to close offices and limit hours, forcing seniors to wait in long lines or experience significant delays in receiving needed benefits.[18] **2013 Budget Cut: $286 million**.[19]

Which would you choose: A gaping tax loophole for the very wealthy to have a cushy retirement, or sufficient funding to process Social Security benefits for seniors and people with disabilities?

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[15] Richard Rubin and Margaret Collins, "Obama's Budget Would Cap Romney-Sized Retirement Accounts," Bloomberg Business Week (April 5, 2013). http://www.businessweek.com/news/2013-04-05/obama-budget-calls-for-cap-on-romney-sized-iras

[16] JCT, JCX-11-13, p. 8, Section XV.M, *supra* note 7. Figure equals the average cost of this tax break over 10 years. https:// https://www.jct.gov/publications.html?func=startdown&id=4520

[17] Strengthen Social Security Coalition, "Transition Report for the New Commissioner of Social Security: How to Ensure the World-Class Service the American People Deserve" (Mar. 2013), p. 3. http://www.strengthensocialsecurity.org/sites/default/files/Transition_Report_for_the_New_Commissioner_of_Social_Security.pdf

[18] Statement of Carolyn W. Colvin, Acting Commissioner, Social Security Administration, before the House Committee on Appropriations Subcommittee on Labor, Health and Human Services, Education, and Related Agencies (March 14, 2013). http://www.socialsecurity.gov/legislation/testimony_031413.html

[19] OMB Sequestration Report (March 1, 2013), p. 60, *supra* note 3.

FOOD FOR LOW-INCOME FAMILIES OR TAX SUBSIDIES FOR CEO BONUSES

Congress has a choice: Will it cut a program that feeds poor children in order to protect tax subsidies for CEO pay?

The Supplemental Nutrition Assistance Program (SNAP), commonly known as food stamps, helps provide food for millions of struggling American families. The program has been a lifesaver in the aftermath of the Great Recession, as poverty and unemployment remain high and wages have stagnated.

Yet Republicans in the U.S. House of Representatives have announced a plan to kick 4 to 6 million more low-income people off the SNAP program.[20] **10-Year Budget Cut: $40 billion**.[21]

Meanwhile, our tax system subsidizes corporations by giving them a tax break for what they pay their top executives. The law limits the tax deduction to $1 million – more than 20 times the income of the typical household[22] – but there is a loophole for so-called "performance-based" pay.[23]

This loophole provides an unlimited tax deduction that costs billions. It also provides incentives for CEOs to take huge risks with their company's money in order to boost short-term gains. Even when those risks lead their companies to the brink of collapse, executives are often still rewarded richly for their performance. **10-Year Tax Break: $50 billion**.[24]

The choice is clear: Fully fund food for kids by cutting tax subsidies for CEOs.

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[20] Center on Budget and Policy Priorities, "Statement of Robert Greenstein on the House Republican Leadership's New SNAP Proposal" (Aug. 2, 2013). http://www.cbpp.org/cms/index.cfm?fa=view&id=4000

[21] Politico, "House GOP takes another cut at food stamp bill" (Aug. 1, 2013). http://www.politico.com/story/2013/08/food-stamps-bill-house-gop-95084.html

[22] U.S. Census Bureau, "Income, Poverty, and Health Insurance Coverage in the United States: 2011" (Sept. 2012), p. 5. http://www.census.gov/prod/2012pubs/p60-243.pdf

[23] Steven Balsam, Economic Policy Institute Briefing Paper #344, "Taxes and Executive Compensation" (Aug. 14, 2012). http://www.epi.org/publication/taxes-executive-compensation/

[24] Sen. Jack Reed, "Reed-Blumenthal Introduce the Stop Subsidizing Multimillion Dollar Corporate Bonuses Act" (Aug. 2, 2013). The unpublished Joint Committee on Taxation figure has been made available to Sen. Reed's office. http://www.reed.senate.gov/news/release/reed-blumenthal-introduce-the-stop-subsidizing-multimillion-dollar-corporate-bonuses-act

PROTECT THE ENVIRONMENT OR
GIVE TAX BREAKS TO OIL COMPANIES

From national parks to solar power to basic research, the U.S. government funds programs that help us preserve, understand and make wiser use of our natural environment. The government also funds – through obsolete and illogical tax breaks – the oil and gas industry. But since the five biggest oil companies last year had combined profits of $118 billion,[25] it's not hard to think of better uses for those public dollars.

Environmental, energy and science programs are spread throughout the government, but are particularly concentrated in the Energy and Interior Departments, EPA, NASA, National Oceanic and Atmospheric Administration and the National Science Foundation. The across-the-board budget cuts, known as the "sequester," applied this year to those agencies threaten the quality of the air we breathe and the water we drink, delay our energy independence and make it harder to be good stewards of our planet. **2013 Budget Cuts: $4.6 billion**.[26]

For the past century, we've been subsidizing oil and gas companies with special rules and tax loopholes, nurturing the industry as though it were a fragile newcomer. But with gas prices averaging more than $3.60 a gallon nationwide[27] and with the Big 5 oil companies having earned over a trillion dollars in profits in the past dozen years,[28] it's time to stop the coddling. **Annual Tax Break: $4.6 billion.**[29]

Next time you pull up at the pump, think about where you want your money to go.

[25] Center for American Progress (CAP), "Speed Trap: Big Oil Profits from High Gasoline Prices" (Feb. 6, 2013). http://www.americanprogress.org/issues/green/news/2013/02/06/51967/big-oil-profits-from-high-gasoline-prices/

[26] OMB Sequestration Report (March 13, 2013), *supra* note 3. Figure excludes the defense and nuclear energy functions of the Energy Department, but, in addition to the agencies named, includes conservation programs of the Agriculture Department and transit funding by the Transportation Department.

[27] U.S. Energy Information Administration, "Gasoline and Diesel Fuel Update" (accessed Aug. 12, 2013). http://www.eia.gov/petroleum/gasdiesel/

[28] Daniel J. Weiss, CAP, "Meet the New Oil Tax Breaks, Same as the Old Oil Tax Breaks" (March 12, 2013). http://www.americanprogress.org/issues/green/news/2013/03/12/56240/meet-the-new-oil-tax-breaks-same-as-the-old-oil-tax-breaks/

[29] JCT, JCX-11-13, pp. 3-4, Section VII.A., *supra* note 7. Figure excludes Section VII.B. Eliminate Coal Preferences. Figure equals the average cost of this tax break over 10 years.

MODERNIZE OUR INFRASTRUCTURE OR GIVE TAX BREAKS TO SEND JOBS OVERSEAS

Tax dodging by corporations and the wealthy hits human needs hard. It also crimps our imagination: We stop dreaming big about a better future. From moonshots to the Interstate Highway System, Social Security to Medicare, Americans have triumphed when we've tackled tough challenges and pursued inspiring ideas together.

Restoring to world-class status our nation's failing infrastructure – crumbling bridges, leaky dams and dilapidated schools – is one of those challenges. We can meet it, and in the process create millions of well-paying jobs, by closing the corporate tax loophole that encourages corporations to ship profits and jobs overseas. This is one of the biggest corporate tax giveaways of all.

Rundown classrooms, collapsing bridges, overflowing wastewater: America's neglected infrastructure is a menace to our health and safety, a heavy drag on our economy, and an insult to our pride as a great nation.[30] An accelerated program of infrastructure investment in schools, transportation, energy and water would create over 2.6 million new jobs per year[31] over the next five years to put Americans back to work and create an even stronger foundation for growth for decades to come. **Five-Year Investment: $464 billion**.[32]

A huge loophole that allows multinational corporations like Apple[33] to dodge billions of dollars in U.S. taxes each year is called "deferral." It allows companies to avoid U.S. taxes indefinitely on profits they've made overseas – or claim to have made overseas – as long as those profits remain offshore. This encourages companies to shift profits to foreign tax havens, where they are lightly taxed if at all, and promotes moving production and jobs offshore. **Ten-Year Tax Break: $606 billion**.[34]

Clearly, it's time to create jobs at home by ending tax breaks for shipping jobs overseas.

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[30] American Society of Civil Engineers, "2013 Report Card for America's Infrastructure" (accessed Aug. 12, 2013). http://www.infrastructurereportcard.org/a/#p/overview/executive-summary

[31] Political Economy Research Institute, University of Massachusetts, "How Infrastructure Investments Support the U.S. Economy: Employment, Productivity and Growth" (January 2009), p. 31. http://www.peri.umass.edu/fileadmin/pdf/other_publication_types/green_economics/PERI_Infrastructure_Investments. This includes jobs created directly and indirectly, and induced job creation, under the "high-end" investment scenario.

[32] Id. at p. 28. This is the cost to the public sector under the "high-end" investment scenario.

[33] Sen. Carl Levin, "Subcommittee to Examine Offshore Profit Shifting and Tax Avoidance by Apple Inc." (May 20, 2013). http://www.hsgac.senate.gov/subcommittees/investigations/media/subcommittee-to-examine-offshore-profit-shifting-and-tax-avoidance-by-apple-inc

[34] CTJ, "Working Paper on Tax Reform Options" (Feb. 4, 2013), pp. 7-9. http://ctj.org/pdf/workingpapertaxreform.pdf