MEDIA BRIEFING MEMO

To: Editors and Columnists
From: Frank Clemente, Executive Director
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TRUMP TAX PLAN TO INDEX CAPITAL GAINS IS GREEDY, COSTLY, FRAUDULENT AND ILLEGAL

WASHINGTON, D.C. – A year after first floating the idea of indexing capital gains to inflation, and then wisely shying away from it, the Trump administration is again considering handing the richest 1% another meaty tax cut at the expense of everyone else—and doing it without Congress's approval. Besides probably being illegal, the proposal would cost up to $200 billion, do little or nothing to stimulate the economy and personally benefit President Trump and his wealthy friends. Yet support for the plan is strong within the Republican party: 21 GOP senators recently urged the Treasury Department to adopt this harmful proposal.

We urge you to write an opinion column informing your readers of this proposal and how greedy, costly, fraudulent and illegal it is.

THE PROPOSAL
Owners of corporate stock, real estate, and other assets are only taxed when they sell those assets. Income taxes are paid on the difference between the sale price and the purchase price. For example, under the current system if an asset is bought in one year for $1,000 and sold 10 years later for $2,000, the amount of income that capital gains tax would apply to is $1,000 (the difference between the initial cost of the asset and what it was sold for).

The Trump administration is considering taking unilateral action—bypassing the lawmaking powers of Congress—to index capital gains for inflation. This would mean the portion of the increase in the asset's value resulting from inflation would not be taxed. So, if inflation over 10 years is 20%, then the owner of the asset initially purchased for $1,000 would be able to exclude an additional $200 from the reported gain, meaning that rather than paying the tax on a $1,000 profit they would pay it on $800.

While the GOP is eager to dole out extravagant tax cuts to its wealthy donors, it is downright stingy to the working families. For years it has opposed raising the minimum wage and especially indexing it for inflation to help the lowest-paid workers who are barely surviving. In fact, the minimum wage has lost almost a third of its purchasing power over the past 50 years.

INDEXING CAPITAL GAINS WOULD BE A GREEDY GIVEAWAY TO THE VERY WEALTHY

The tax rate on most capital gains is already much lower than the tax rate on wages—20% (plus a 3.8% surcharge on investment income of married taxpayers with income above $250,000 a year) vs. a top rate of 37%. Since wealthy Americans reap the lion's share of capital gains, Trump's capital gains tax giveaway would be highly skewed to the rich. According to the Penn Wharton Budget Model, **86% of the tax cuts would go to the top 1% and nearly two-thirds (63%) would go to the top 0.1%.** The bottom 90% of taxpayers would get just 2.5% of the benefit. It's people with over $1 million a year in income who pay three-quarters of all capital gains taxes, according to the Tax Policy Center (TPC), so they're the ones who would benefit the most from this effective cut in the capital gains tax rate. Middle-class families hold the bulk of their relatively modest investments in tax-favored retirement accounts and so would gain nothing from the change in how gains are calculated.

CAPITAL GAINS TAX GIVEAWAY IS VERY COSTLY AND WILL THREATEN CRITICAL SERVICES

Indexing capital gains for inflation will cost at least $100 billion and perhaps up to $200 billion over 10 years, according to Penn Wharton and TPC respectively. This would come on top of the nearly $2 trillion cost of the 2017 Trump-GOP tax law that mostly benefited the wealthy and corporations. Hiking the deficit with more unpaid-for tax cuts would increase Republican demands for even deeper cuts to Medicare, Medicaid, education and other vital services for working families. In his most recent budget, the president proposed cuts totaling about $3 trillion to Medicare, Medicaid, the Affordable Care Act and a wide range of other services to help pay for 2017's huge tax cuts.

THE ECONOMIC JUSTIFICATION IS FRAUDULENT, JUST LIKE FOR THE TRUMP-GOP TAX CUTS

Apparently with a straight face, the 21 U.S. senators pushing for this measure claim it will "unlock capital for investment, increase wages, create new jobs, and grow the economy, benefiting Americans all across all income levels." These fraudulent supply-side, trickle-down claims are what they said about the Trump-GOP tax cuts in 2017. Penn Wharton estimates " that indexation spurs roughly zero net additional economic growth during the 10-year budget window." The non-partisan Congressional Research Service (CRS) says the capital gains proposal would have little economic effect.

The record of the Trump-GOP tax cuts is that they have failed to significantly raise wages, have had little effect on business investment and have come nowhere close to "paying for themselves," according to a comprehensive CRS analysis. Forbes recently noted that "for the first time since 2016, business investment turned negative last quarter. This slowdown in business purchases of plant and equipment contrasts sharply with President Trump's rosy forecast of a long-term investment boom that would lead to annual wage increases of $4,000 or more."

TRUMP BYPASSING CONGRESS TO GET HIS CAPITAL GAINS TAX GIVEAWAY MAY BE ILLEGAL

Since another round of tax cuts for the rich has little chance of passing Congress, the Trump Administration is considering taking unilateral action that is likely illegal. In 1992, the Treasury and Justice departments determined that Treasury did not have the legal authority to make this tax law change without Congressional approval. The U.S. attorney general said at the time, “The question was: Can we, simply through administrative action, index capital gains. And not only did I not think we could, I did not think that a reasonable argument could be made to support that position.” [p. 35] **That attorney general was William Barr, who is again the attorney general today.**

But that may not stop the imperial presidency of Donald Trump. According to media reports, because Trump’s own Treasury department is “slow-walking” the legally questionable move, the initiative is now being spearheaded by the White House itself.

THE RIGHT CHANGE WOULD BE THE REVERSE: CAPITAL GAINS TAX RATES SHOULD RISE

The taxation of capital gains needs reforming, but in the opposite way now being pushed by the GOP. Instead of effectively cutting the capital gains tax rate, we should end the favored tax treatment of capital income, raising significant new revenue for important public purposes.

While the wages of working people are taxed every year, taxes on the growing value of assets mostly held by the wealthy—a skyrocketing stock portfolio, rapidly appreciating modern art, a booming private business—can be indefinitely delayed, greatly diminished or even made to completely disappear. On top of this glaring loophole, income from wealth—when taxed—is taxed at rates much lower than income from work. This greatly reduced or even tax-free growth of wealth is a significant contributor to the nation’s destabilizing wealth inequality.

As noted earlier, most capital gains are taxed at about 24% for wealthier Americans vs. a top rate of 37% for their wages and salaries. Instead of giving rich investors another tax cut by indexing capital gains, their investment income should be taxed at the same rate as income from work. Most of the major Democratic presidential candidates now support that position. [See here and here] Taxing income from long-term capital gains and dividends at regular individual income tax rates (combined with other necessary loophole closures) could raise nearly $1.5 trillion over 10 years, according to the Institute on Taxation and Economic Policy (ITEP). Related reforms could bring the total revenue gain up over $2.4 trillion. This revenue could be used to protect and strengthen Medicare, Medicaid and the Affordable Care Act and make necessary investments in education, housing, infrastructure and more. But President Trump instead wants to keep handing out tax cuts to the wealthy while demanding that these services for working families be cut to help pay for them.

WHAT OTHERS ARE SAYING

New York Times, Trump Administration Is Divided Over Tax Cut for Investors (July 30, 2019)

Los Angeles Times, Column: Incredibly, GOP senators are demanding billions more in tax cuts for the rich (July 30, 2019)

American Prospect, Without Congressional Input, Trump May Further Widen the Gap between Rich and Poor (July 3, 2019)

ITEP, Why Trump Administration's Plan to Index Capital Gains to Inflation Is Just Another Giveaway to the Wealthy (June 28, 2019)

Washington Post column, Trump is Considering the Most Useless and Regressive Tax Cut Ever (June 28, 2019)

Center on Budget and Policy Priorities, "Indexing Capital Gains for Inflation Would Worsen Fiscal Challenges, Give Another Tax Cut to the Top" (Sept. 6, 2018)

New York Times editorial, Trump's Crony Capitalists Plot a New Heist: The Treasury Secretary Floats a Plan to Hand $100 billion in Capital Gains tax Savings to His Moneyed Friends. It's Almost Certainly Illegal. (July 31, 2018)

Washington Post editorial, Our Nation Is Too Strapped to Focus on Making the Rich Richer (July 31, 2018)

Washington Post op-ed (Jared Bernstein column), The Administration's Pitch to Lower Capital Gains Taxes Is Another Trickle-Down Sales Job Designed to Deliver a Fat Pay Packet to its Donors (Aug. 1, 2018)

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