OPPOSE TAX BREAKS FOR WEALTHY & CORPORATIONS IN YEAR-END CORONAVIRUS RELIEF AND RECOVERY PACKAGE

December 10, 2020

Dear Member of Congress:

The Americans for Tax Fairness coalition of more than 400 endorsing organizations is heartened by the news that lawmakers on both sides of the aisle are again trying to reach agreement on a coronavirus relief package. Millions of Americans face a dark and dangerous winter as key provisions of the CARES Act—including extended unemployment benefits, sick leave and housing aid—are all about to expire. Similarly, additional federal fiscal relief to help states and localities continue delivering health care, education, and other vital public services is needed—like that previously funded by the CARES Act.

Congress must provide working families the relief they need to endure a resurgent pandemic and all its attendant challenges and ensure public sector front-line workers can support these families and our communities. **But Congress must not include in the next relief bill costly tax breaks for the wealthy and corporations that would only further heighten the economic inequalities already exacerbated by the pandemic.**

Our coalition was grateful that the House-passed Heroes Act repeals one of the most egregious tax breaks in the CARES Act, the "Millionaires Giveaway" net operating loss (NOL) provision. This huge tax cut for the wealthiest owners of noncorporate businesses, especially hedge fund investors and real estate developers, showers $135 billion on those who need it least. The Heroes Act correctly redirects the money saved from the Millionaires Giveaway repeal to much-needed support for the unemployed, state and local public services, healthcare, and other important purposes. Similarly, we appreciate that the Heroes Act largely eschewed corporate and business tax breaks (with the exception of allowing recipients of forgiven Paycheck Protection Program (PPP) loans to deduct these government-paid expenses from their taxable income, which we oppose—see below).

We ask that you continue to uphold the priorities embraced by the Heroes Act: delivering aid to those who need it most and rejecting the call of high-priced K Street lobbyists to shower their wealthy clients with further tax breaks. The following is a list of tax items—some already proposed as elements of the current bipartisan package, some put forward in previous attempts at agreement—that could potentially find their way back into a final deal. **We urge you to oppose all of them.**

- **Business Meals Tax Deduction:** Senate Majority Leader McConnell included as part of his most recent relief package a measure based on Sen. Tim Scott's "Supporting America's Restaurant Workers Act" (S. 4319), which will allow businesses to deduct from taxable income the full cost of "business" meals—up from 50% today. The title of Sen. Scott's bill notwithstanding, expanding this tax break would mostly help high-paid executives enjoying three-martini lunches and the fancy restaurants they frequent. Neighborhood eateries and their millions of laid-off workers—those most hurt by the pandemic-induced decline in eating out—will get little or nothing. And even the fashionable bistros probably won't benefit much because what's keeping diners out of restaurants is not the tax treatment of the check but fear of getting sick.

  The Congressional Research Service (CRS) noted recently: *"The direct effects would be primarily felt by businesses that use entertainment and meals as part of their development strategies and a gain to businesses currently incurring entertainment and meal expenses. In other words, the direct effects of the change would likely benefit the businesses that are best weathering the COVID-19 pandemic."* Furthermore, a tax cut that underwrites expensive business meals while tens of millions of people struggle to put food on the table is a particularly troubling example of the divergent impact of the national emergency on rich and poor. These federal expenditures would be better targeted to families suffering with food insecurity.

- **Letting Businesses Cut Their Taxes by Deducting Expenses the Public Paid For:** The Problem Solvers' Caucus bipartisan emergency relief package allows businesses whose Paycheck Protection Program (PPP) loans are forgiven to deduct payroll and other expenses the loans paid for. Since forgiven PPP loans are excluded from income for tax purposes, permitting such deductions amounts to businesses double dipping: they receive tax-free income from taxpayers when the loan is forgiven, then deduct expenses that public income paid for to cut their own taxes.

  Wealthy business owners will benefit most from this double dipping, since they got the lion's share of PPP loans and benefit the most from tax deductions. Just 1% of the program's 5.2 million borrowers—high-rollers seeking $1.4 million in loans and above—got more than a quarter of the $523 billion disbursed.

- **Tax Extenders**: Thirty-three temporary tax provisions are set to expire at the end of this year. Their cost is $23 billion over 10 years, per CRS. We oppose any permanent or long-term extension of these expiring tax items in a year-end deal, and believe resources devoted to temporarily extending many of these tax provisions would be better directed towards direct pandemic relief.

- **CFC Look Through Rule.** The CFC Look-Through Rule (section 954(c)(6)) is a tax extender that allows a U.S. multinational to shift profits among its offshore subsidiaries without triggering the tax bill that would normally be due. Certain kinds of income—like interest, rents, dividends, and royalties—can be easily manipulated to disguise its country of origin. Such income is called "Subpart F income" after the section of the tax code designed to prevent its tax-avoidance abuse. The CFC Look-Through Rule allows companies to dodge taxes on Subpart F income by removing their obligation to report the transactions that create it, and its extension should be opposed on this basis. Extending this provision in a year-end deal would also complicate efforts by the incoming Biden administration to curb profit-shifting by multinationals.

- **Expansion of 529 Accounts.** Another item in Majority Leader McConnell's relief package would further expand 529 educational savings accounts beyond what was established by the 2017 GOP-Trump tax law. McConnell proposes to fund for two years Sen. Cruz's "Student Empowerment Act" (S. 157). This measure provides tax credits to those who send their kids to private schools or are homeschooled. This taxpayer subsidy mostly benefits the wealthy who send their kids to private schools while drawing resources away from the public schools that the vast majority of students attend.

The following tax provisions, which are likely to deliver windfalls to corporations and wealthy business owners without providing relief to working Americans, have been discussed in prior negotiations, and **we ask that you continue to oppose them now**:

- Making general business tax credits refundable
- Permanently extending the TCJA's full-expensing provision
- Expanding the R&D tax credit
- Providing tax breaks for U.S. multinationals onshoring intellectual property currently held in offshore tax havens

In the midst of a national health and economic emergency, legislative efforts should be focused on getting relief to those who need it most. No time, effort or money should be wasted on tax breaks that mostly or exclusively benefit the wealthy and corporations that have best weathered the crisis and in some cases thrived during it.

Sincerely,

Frank Clemente
Executive Director