LEGISLATIVE RECOMMENDATIONS TO PRESIDENT JOE BIDEN FOR CREATING A FAIR-SHARE TAX SYSTEM

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Tax stock buybacks as income just as stock dividends are taxed

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Require that multinational corporations disclose key financial information publicly on a country-by-country basis to the Securities and Exchange Commission

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Restructure and expand refundable family tax credits—EITC and CTC—to better support struggling families

Replace current depreciation rules with economic depreciation

Americans for Tax Fairness (ATF) is a diverse campaign of more than 420 national, state and local endorsing organizations united in support of a fair 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. This requires big corporations and the wealthy to pay their fair share in taxes, not to live by their own set of rules.

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INTRODUCTION: THE BOLD BIDEN TAX PLAN

As a candidate, President Joe Biden proposed the most progressive tax plan of any major-party presidential nominee in modern American history. It was paired with an equally ambitious agenda to invest in working families and communities, narrow destabilizing wealth inequality and tackle the climate crisis.

According to an American for Tax Fairness analysis of Tax Policy Center (TPC) estimates, **the President's tax plan from the campaign would raise $3.3 trillion over 9 years from corporations and individuals making over $400,000 a year**. After subtracting the $1.2 trillion cost of tax credits that benefit working families and manufacturers, and promote green energy, tax increases would net about $2.1 trillion. Excluding revenues from payroll taxes dedicated to Social Security, the plan would raise about $1.4 trillion for new investments.

But the President's welcome, long-overdue approach only begins to reverse decades of failed trickle-down tax-and-spending policies that have benefited the wealthy and corporations at the expense of working families.

Our current tax system does not come close to adequately narrowing income and wealth gaps between the wealthy (and overwhelmingly white and male) elite and everyone else—especially women and Black and Latino communities—limiting genuine opportunity for all.

As one extreme example, the total wealth of America's 651 billionaires rose by $1.1 trillion, or nearly 40%, from the beginning of the pandemic in mid-March through January 18, 2021, according to a report from Americans for Tax Fairness and the Institute for Policy Studies. That's more than it would cost to send a stimulus check of $3,000 to every one of the roughly 330 million people in America. After declining in the pandemic spring, corporate profits have soared to record highs.

Yet, the wealthy and corporations are not paying anything close to their fair share of taxes. If they did, we could significantly reduce economic inequality, including that experienced by communities of color. We could also raise trillions of dollars to better fund public services and new investments that help create an economy that works for all of us.

So, we strongly recommend that the Biden tax plan be made even stronger. Through sensible and logical extensions of the principles the plan is based on—corporations and the rich should pay their fair share; accumulated and passed-on wealth should be taxed like work; certain favored industries like real estate should not enjoy special tax breaks—trillions more in much-needed revenue could be raised to better fund public services and further narrow the nation's troubling economic divide.

ATF's analysis shows that the moderate reforms to the Biden tax plan proposed in these recommendations, which are consistent with the Biden principle of not directly raising taxes on anyone making under $400,000 a year, could *raise at least another $2 trillion*—but likely much more depending on revenue estimates still to be determined. This would be on top of

the roughly $3.3 trillion proposed in the Biden tax plan. More ambitious structural reforms could raise another $3.7 trillion to $7.6 trillion, less proposed tax credits of some $1 trillion to $2 trillion for a restructured Earned Income Tax Credit and Child Tax Credit.

More comprehensive tax reform, such as some form of taxing wealth each year to curb the staggering and outrageous wealth gains of the richest Americans, would better support the President's ambitious proposals to expand critical public services and make a broad range of new investments to create a more vibrant and equitable economy.

The costs of Biden's proposed investments are substantial, but affordable, ranging from about $7 trillion to $11 trillion depending on the organization making the estimate and the scope of the analysis.

Those critical Biden investments include: Expanding and strengthening Social Security; improving access to healthcare; rebuilding the nation's infrastructure and creating a clean energy future; ensuring Pre-K for all children and access to high-quality, affordable childcare; providing caregivers with decent wages and benefits; making college more affordable and reducing student debt; increasing funding for schools serving low-income students and those in special education; lowering housing costs and reducing homelessness; expanding tax credits for working families, first-time homebuyers and domestic manufacturers; and supporting U.S. research and development in breakthrough technologies.

First, of course, the country must defeat Covid-19 and rebuild our shattered economy. That effort must advance without regard to revenue. But the unequal toll of the public health crisis and recession—which has hit low-wage workers, women of color, and communities of color hardest, in illness, job loss and death—makes it more important than ever that we begin to right the wrongs of our tax system and tackle inequality through our tax code.

OVERVIEW OF BIDEN'S FAIR-SHARE TAX REFORMS & SUMMARY OF PROPOSED MODIFICATIONS

1. **Corporate and Business Taxes:** Repeals the most egregious tax breaks in the 2017 Trump-GOP tax law (the Tax Cuts & Jobs Act, or TCJA). Increases the corporate tax rate from 21% to 28%, aims to reduce outsourcing and create jobs here at home, and reduces tax dodging from profit shifting to tax havens.

2. **Individual Taxes:** Repeals excessive giveaways to the rich in the TCJA (such as a lower top tax rate and a weakened estate tax), caps the value of itemized deductions at 28%, and closes other loopholes that shield the wealthy from paying their fair share.

3. **Taxing Wealth Income More Like Work Income:** Reforms how wealth and income from wealth is taxed by changing taxation of capital gains derived from the sale of assets (such as stocks, businesses, and real estate):
    - For those making more than $1 million, it raises the top tax rate on capital gains from 20% to 39.6% to match the top rate on wages and salaries.

- Closes the loophole that lets the wealthy pass valuable assets, such as stock, to their heirs without paying taxes on the increased value of those assets.

4. **Strengthening Social Security:** Requires the highest-income earners to contribute more to the system by levying Social Security payroll taxes on wages above $400,000. Currently, only wages below about $138,000 are taxed.

5. **Expanding Tax Credits:** Substantially expands existing tax credits for working families and caregivers and offers low- and moderate-income families new tax credits for first-time home purchases, retirement benefits and green energy. Provides meaningful and effective business tax credits for domestic manufacturing, green energy and investments in low-income communities.

As strong as it is, the Biden plan could be bolstered further with modifications that more completely fulfill the principles of his agenda. We recommend that the plan:

- Better discourage corporate outsourcing by taxing the foreign income of corporations at the same rate as domestic income, not just narrowing the gap between the two rates.
- Close loopholes that let multinational corporations avoid paying their fair share of taxes by shifting profits offshore and that also promote the outsourcing of jobs; require public country-by-country disclosures of key financial data to determine profit shifting.
- Clarify that everyone making over $400,000 will pay the higher tax rates in effect before the 2017 tax law.
- Repeal the high-income “excess business losses” tax cut in the CARES Act, which was meant to provide pandemic relief not a windfall to millionaires.
- Apply the principle of “taxing wealth like work” to those households making over $400,000, not just those making over $1 million to promote fairness and raise revenue.
- Further strengthen the estate tax on wealthy families by taxing the largest fortunes at higher rates and end the generation skipping tax exemption for existing dynasty trusts after 20 years.
- Specify real estate tax loopholes to close to curb sizable industry tax breaks.
- Apply Social Security payroll taxes on earnings above $250,000, rather than $400,000.
- Significantly reduce the annual $600-billion plus tax gap through a comprehensive approach, including restoring funding levels to historic levels as a share of collections, and a multi-year investment to modernize the IRS’s technology.
- Make the fully refundable Child Tax Credit (CTC) permanent; extend the Earned Income Tax Credit (EITC) to all childless workers, not just those over 65.

Beyond modifying the current tax plan, the Biden administration could more fully achieve tax fairness by expanding its agenda to include:

<u>Additional Moderate Reforms</u>

- Restore much higher tax brackets and tax rates on the biggest incomes, so that millionaires and other super-wealthy pay higher rates than upper-middle-class families.

- Establish a Millionaires Surtax: a simple and effective method of more fairly taxing the highest incomes that would impose a 10% surtax on couples making over $2 million and individuals making over $1 million.
- Close or narrow costly business tax loopholes: end the ability of some wealthy business owners to avoid taxes funding healthcare programs; limit the deductibility of interest on business debt to 20%; reform how businesses account for advertising expenses; end manipulation of inventory accounting; and fully close the bonus-pay loophole.
- Tax stock buybacks as income the way stock dividends are taxed.
- Repeal or phase out the "Opportunity Zones" tax shelter.
- Require that multinational corporations disclose key financial information publicly on a country-by-country basis to the Securities and Exchange Commission.

Structural Reforms

- Annually tax great wealth or at least the increase in that wealth—both of which currently go untaxed for years and sometimes forever—through a wealth tax or mark-to-market taxation of capital gains.
- Adopt a Financial Transaction Tax, a small sales tax on every trade, to raise significant revenue while curbing dangerous speculation.
- Restructure and expand refundable family tax credits—EITC and CTC—to better support struggling families.
- Replace current depreciation rules with economic depreciation.

KEY ELEMENTS OF BIDEN'S TAX PLAN AND PROPOSED MODIFICATIONS

President Biden's plan provides a significant starting point for achieving a fair-share tax system and raising necessary revenue. But, as described below, there are changes that could be made in some of the proposals that would strengthen the plan while retaining its essential elements.

Specifically, we believe that people with extraordinary wealth, such as America's 651 billionaires, must contribute much more than the Biden tax plan requires of them. These proposed changes respect Biden's pledge not to increase taxes on those making less than $400,000 a year.

As a matter of policy, ATF does not subscribe to limiting tax increases to wealthy households making over $400,000. First, we believe it is better to set tax policy based on revenue needs and on reforms necessary to create a fairer tax system rather than a particular income threshold. **Second, we believe the $400,000 threshold is much too high: only 1.5% of taxpayers have an adjusted gross income (AGI) at that level or above.** A more sensible threshold is $250,000 for a married couple, the level proposed by President Obama during the debate over renewing the Bush tax cuts in 2012. That threshold would still limit tax increases to the highest-income 5%, per the Tax Policy Center.

ABOUT THE REVENUE ESTIMATES IN THIS REPORT: Unless otherwise noted with a hyperlink to another source, the following revenue estimates are from the Tax Policy Center's November 2020 analysis of the Biden tax plan. They are also available in a more explanatory form in this ATF fact sheet. Estimates cover 9 years, unless otherwise noted.

CORPORATE & BUSINESS TAXES

Total revenue raised from Biden plan:
$1.6 trillion ($1.3 trillion net after $318 billion in tax credits)

Additional revenue raised from ATF recommendations: At least $500 billion with more TBD

1. **Increase the domestic corporate income tax rate from 21% to 28%**
   Revenue raised: $727 billion
   Proposed change: None

   We believe 28% is an absolute minimum rate, only acceptable assuming other important reforms to the corporate tax system are enacted. Otherwise, it will be necessary to return to the pre-TCJA rate of 35% in order to raise sufficient revenues and ensure corporations pay their fair share.

   The best way to set the corporate tax rate is to begin by closing loopholes to broaden the tax base and then set the rate necessary to raise the revenue needed for public investments. Another approach is to consider whether corporations are paying their fair share. In 2013-2014 and fairly consistently before 2009, corporate tax revenue equaled about 2% of GDP, which was already far lower than the typical 3% raised by peer nations. But after passage of the TCJA, in 2018 and 2019 corporate tax revenue represented only 1% of GDP (Table 2.3), despite record corporate profits in comparative and historical terms. The changes proposed by President Biden and ATF would bring corporate tax revenue back closer to the historical average of 2% of GDP.

2. **Roughly double the tax rate U.S. multinationals pay on foreign earnings to 21%**
   Revenue raised: $442 billion

   Under the TCJA, U.S. corporations get a 50% tax discount on most profits earned offshore due to the global intangible low-tax income (GILTI) deduction. This is on top of a complete exemption from U.S. tax of the initial 10% return on foreign tangible assets. These loopholes encourage corporations to outsource production and shift profits to foreign tax havens, depriving Americans of work and the government of revenue. Biden will limit the GILTI discount to 25% of the new U.S. rate, which would effectively tax offshore profits at 21%, applying it as a minimum tax on a country-by-country basis. In addition, the Biden plan would eliminate the exemption for a 10% return on foreign tangible assets.

   Proposed changes:

   - **Repeal the GILTI deduction. The ATF coalition has a long-standing position that the tax rate on foreign income should match the domestic tax rate, in this case 28%.**
     Revenue raised: TBD

This position is embodied in the No Tax Breaks for Outsourcing Act, sponsored by Rep. Lloyd Doggett (H.R. 1711) and Sen. Sheldon Whitehouse (S. 780). The House bill has 117 cosponsors. The legislation also would curb inversions, as briefly discussed under Item 5 below. If the Biden administration will not support this position, we believe it is essential that it work with the OECD and international allies to establish a strong global minimum tax for corporations, which should be applied per country at a high global minimum rate, and without exemption for return on foreign tangible assets.

- **Eliminate the tax preference for foreign-derived intangible income (FDII)**
  Revenue raised: $225 billion, TPC (10 years)
  The FDII provision of the TCJA provides a tax break for export income derived from intangible assets like patents, trademarks and copyrights. This export income is calculated as the excess over a presumed 10% export profit from tangible U.S. assets like factories and mines. Because the return to U.S. tangible assets is fully taxed and the 10% return to foreign tangible assets is exempt under GILTI, FDII offers corporations an added incentive to cut investments in U.S. tangibles in order to keep the dollar value ascribed to tangible export-profits low, leaving more excess to be taxed at the discount rate.

- **Raise the base erosion and anti-abuse tax (BEAT) rate to 17.5%, from the current 10%:**
  Revenue raised: $111 billion, TPC (10 years)
  The BEAT is effectively an alternative minimum tax that is calculated without the benefit of certain deductions for payments to related foreign parties and payable when the BEAT tax liability is greater than a taxpayer's regular tax liability.

3. **Impose a 15% minimum tax on a corporation's global "book income"**
   Revenue raised: $109 billion
   Proposed change: None

   Corporations with over $100 million in profits would be required to pay a minimum tax equal to 15% on the income they report to their investors (which excludes many of the deductions, credits and exemptions that shrink the income and tax liability they report to the IRS), or the regular tax if it is higher.

4. **Impose a 10% "Offshoring Tax Penalty" on the profits of corporations that produce products and services in foreign countries for sale in the U.S.**
   Revenue raised: TBD
   Proposed change: None

   Biden's 10% "Offshoring Tax Penalty" has been proposed to discourage American corporations from producing products and services offshore for sale back into the U.S., including establishing foreign-based call centers. It would effectively raise the 28% corporate tax rate to 30.8% on profits from offshore production intended for the U.S. market. Assessing this surtax liability universally will require certain information from all U.S. multinational corporations, including where labor is located and sales occur. Such

information is currently collected automatically only from the largest U.S. companies. Moreover, foreign multinationals and "inverted" U.S. firms (see below) are not covered by this proposal but should be.

5. **Tighten anti-inversion rules**
   Revenue raised: $22 billion
   Proposed change: Ensure that corporations managed and controlled in the U.S. are treated as domestic firms, regardless of headquarters address. This may not be needed if the offshore penalty is expanded to cover foreign multinational corporations.

   Biden's tightened rules would make it more difficult for a U.S. multinational corporation to avoid taxes through an "inversion": merging with a foreign corporation and changing its headquarters address to a foreign country, typically a tax haven. (TPC assumes this proposal is one detailed by the U.S. Treasury Dept. in 2016, pp. 27-28 and p. 265).

6. **Phase out 20% deduction for owners of "pass-through" businesses with income above $400,000**
   Revenue raised: $143 billion

   Proposed change: **None, in keeping with Biden's promise not to raise taxes on anyone making less than $400,000. ATF believes, however, that the better policy would be to eliminate or greatly reduce the deduction for all business owners, not just those with income above $400,000.**

   The pass-through deduction was created in part to equalize tax treatment of corporate and noncorporate businesses under the TCJA. The tax law lowered the corporate tax rate from 35% to 21%. Pass-through business owners are taxed on their business income at individual rates, which under current law range up to 37%. For those who qualify for the full income deduction, it drops the effective top rate to 29.6%. The remaining difference with the 21% corporate rate is mitigated by the taxation of corporate income at both the business and shareholder levels.

   Yet among married business owners making less than Biden's "hold harmless" level of $400,000, none will pay a marginal tax rate greater than 35% in 2021 under current law (and probably under Biden's reforms as well). And most owners of real "small businesses" pay a much lower tax rate: in 2017, the median income of the owners of incorporated businesses employing fewer than 500 employees was around $51,000; owners of similar non-incorporated businesses had a median income of just about $25,000. The top rate at those income levels is just 12%, far below even the current low corporate rate and making an income deduction unnecessary.

   Thus, real small-business owners would benefit from a full repeal of this tax break that mostly helps the richest owners. The increased tax revenues could be used to fund services like small-business loans, community infrastructure repair and income support for small-business customers, among other priorities.

7. **Repeal the high-income "excess business losses" tax cut in the CARES Act, which was meant to provide pandemic relief**
   Revenue raised: $64 billion (2021, JCT) to $100 billion
   Proposed change: None

   When it was enacted in March, the CARES Act meant to offer coronavirus relief to working Americans contained a little-noticed tax cut for wealthy business owners costing $135 billion. Biden has proposed repealing this tax break and using the revenue to alleviate student debt. TPC did not include this reform in its analysis of the Biden tax plan.

   The tax break suspends for 2020 and for the two previous years the dollar limits the TCJA temporarily placed on the use of business losses to offset personal gains. For 2020, the Joint Committee on Taxation (JCT), estimated over 80% of the break—tax cuts averaging $1.6 million each—would go to just 43,000 business owners already making over $1 million annually. The tax break is a temporary suspension of a rare provision in the TCJA that actually closed a loophole for the wealthy, but that is scheduled to expire in 2025 anyway.

   According to the JCT, the tax break will reduce revenues by $74 billion in 2020 and $64 billion in 2021 (and recoup just $3 billion in the remaining eight years of the 10-year budget window). Rep. Lloyd Doggett and Senator Sheldon Whitehouse introduced H.R. 6579 and S. 3640 to repeal this tax break by permanently restoring the TCJA loss limitation. It passed the House in May and October, as part of its two versions of the Heroes Act, and would raise $246 billion per the JCT.

   Legislation making the TCJA loss limitation permanent without clawing back the revenue loss from the CARES Act could raise an estimated $100+ billion, according to private communications between JCT and the bill's author.

8. **Eliminate special tax breaks for the real estate industry**
   Revenue raised: estimate not possible due to difficulty determining who will be included over the $400,000 income threshold

   The only real-estate tax break Biden has specifically named is "like-kind exchange," which allows real estate investors to indefinitely defer capital-gains taxes. Based on other Biden statements, TPC in its March revenue estimates of the Biden tax plan assumed the real estate reforms also include revoking exceptions to "passive loss rules" (which generally limit the ability to claim tax-reducing losses from passive investments) and ending accelerated depreciation (which allows building owners to write off property wear and tear faster than it occurs). TPC estimated these reforms would raise $294 billion, but that estimate assumed application of the reformed rules to all taxpayers, including those making less than $400,000.

   Proposed changes: ATF strongly urges the Biden administration to pursue broad real-estate tax reforms given the significant tax-law preferences the industry enjoys.

Many other real estate tax loopholes remain to be closed, including:

- **Exemption from interest-expense limitation: $16 billion, JCT** (10 years)
  The TCJA required almost all businesses to accept new limitations on their right to deduct interest payments on their loans, restricting the deduction to 30% of income. But real estate developers got an exception, allowing them to continue to deduct all their interest.

- **Exemption from "at-risk" rules (no revenue estimate)**
  Most taxpayers can only claim losses from businesses in which their own money is at risk. The "at-risk" rule prevents investing in a business with a loan secured only with the property used by the business (a mortgage), then deducting the loss if the business loses money. But real estate investors have a special exception, allowing them to reap tax-saving losses from properties they bought mostly with borrowed money.

- **Special treatment of capital losses (no revenue estimate)**
  Unlike other business owners, real estate investors can subtract capital losses from regular income, which is a better deal because regular income is taxed at higher rates than are capital gains.

- **Tax-free cancelled debt (no revenue estimate)**
  In most cases, cancelled debt is considered taxable income because the forgiven debtor has received an economic benefit. Without this rule, it would be easy to avoid taxes by recharacterizing regular income as forgiven loans. But cancelled debt related to commercial real estate is an exception and need not always be counted as income.

- **Deny deductions for interest that is unlikely to be paid (no revenue estimate)**
  Taxpayers that use the "accrual' method of accounting may deduct their obligation to pay interest as it arises, regardless of when, or even whether, they actually pay the amount due. Yet on the other side of the loan, the holders of distressed debt may avoid reporting any interest income from that debt under the "doubtful collectability" doctrine. The same rules should apply to both sides of a loan: taxpayers that are unlikely to make an interest payment should not be able to take an interest deduction until the payment is made or the holder of the debt reports the unpaid interest payment as accrued income.

9. **Assess a fee on big banks for holding risky debt**
   Revenue raised: $84 billion
   Proposed clarification: Set the fee at 0.15%

Greedy, risky behavior by Wall Street banks helped crash the economy and usher in the Great Recession in 2008. Biden would assess the biggest financial institutions—those with at least $50 billion in assets—an unspecified fee to discourage, and cover the consequences of, risky borrowing in order to avoid taxpayer bailouts such as occurred during the financial

crisis. President Obama proposed such a fee, of 0.07%. CBO estimates that a 0.15% fee would raise $103 billion, which is the basis of the TPC estimate.

10. Eliminate tax breaks for fossil fuels
Revenue raised: $25 billion or more

Proposed changes: The TCJA gave oil and gas companies deep tax cuts while at the same time opening the pristine Arctic National Wildlife Refuge to oil drilling. The law also preserves numerous existing tax breaks for the fossil fuel industry (including coal companies), thereby continuing to subsidize the carbon pollution threatening the Earth. The Congressional Research Service estimated those subsidies at $4.6 billion a year in 2017. Biden's bold plan for a clean energy revolution and environmental justice would be furthered by adopting the End Polluter Welfare Act (H.R. 7781 and S. 4887), introduced by Reps. Ilan Omar (D-MN) and Nan Barragan (D-CA) and Senators Bernie Sanders (D-VT), Jeff Merkley (D-OR) and Ed Markey (D-MA).

These bills would end corporate giveaways to the fossil fuel industry by abolishing dozens of tax loopholes, subsidies, and other special interest giveaways littered throughout the federal tax code; ending energy-resource giveaways to polluters on lands and waters owned by the public; and prohibiting taxpayer-funded fossil fuel research and development. According to one estimate, the legislation would save taxpayers up to $150 billion over ten years.

11. End or limit two other corporate tax breaks
Revenue raised: $26 billion

Proposed Changes: None
- End the tax deduction for direct-to-consumer prescription-drug advertising: $13 billion
- Tighten rules to end the misclassification of employees as contractors: $11 billion

12. Provide tax credits for domestic manufacturing, investments in low-income communities and green energy
Revenue reduced: -$318 billion (loss)

Proposed changes: None
Biden's plan:
- Offers a 10% tax credit for new investments in domestic manufacturing: -$230 billion
- Expands the New Markets Tax Credit: -$41 billion
- Increases green energy tax credits: -$37 billion
  - Reinstates the renewable energy investment tax credit: -$24 billion
  - Enhances tax incentives for carbon capture, use and storage: -$6 billion
  - Expands tax deductions for emission-reducing investments in commercial buildings: -$5 billion
  - Helps develop a low-carbon manufacturing sector: -$2 billion
- Expands the low-income housing tax credit: -$9 billion

- Provides a new manufacturing communities tax credit: -$1 billion

INDIVIDUAL TAXES

Total revenue raised from Biden plan:
$1.75 trillion ($834 billion net after $920 billion in tax credits)

Proposed additional revenue raised from ATF recommendations: To be determined

13. Restore pre-TCJA tax rates on ordinary income above $400,000 for single taxpayers and married couples filing jointly and $200,000 for married individuals filing separately
Revenue raised: $112 billion

There is ambiguity about this Biden reform. There has been an implication that only taxpayers with income that falls in the current top tax bracket of 37% would be affected by an increase in that bracket to 39.6%. But in 2021 individual taxpayers reporting between $400,000 and $523,600 will not be in the 37% tax bracket but rather in the second highest bracket, 35%. Joint filers reporting between $400,000 and $418,850 will be in the third highest bracket, 32%; and those reporting between $418,851 and $628,300 will be in the 35% bracket.

It may be that these taxpayers will have those portions of their income that fall in these lower brackets taxed at the equivalent rates in effect just prior to the TCJA: an identical 35% for the second highest bracket, and a single-percentage point more of 33% for the third highest bracket. That is the assumption made by TPC (p. 10) in estimating revenue raised. The narrowest interpretation of the Biden plan is that only those taxpayers currently in the top tax bracket of 37%—which in 2021 is only scheduled to apply to the income of individual filers that exceeds $523,601 and the income of joint filers that exceeds $628,301—will be subject to a restored top rate of 39.6%.

Proposed change: Clarify that income tax rates revert to their pre-TCJA values for taxable income above the $400,000 threshold.
Interestingly, the TPC estimate of revenue raised by its interpretation of Biden's plan is considerably lower than a JCT estimate made in 2018 of the revenue impacts of a more limited increase in top rates. JCT estimated that returning only the top tax rate to the pre-TCJA level of 39.6% while retaining the TCJA top-bracket thresholds would raise $139 billion. If both the top tax rate and the bracket floors (adjusted annually for inflation) were restored to pre-TCJA levels—but nothing else were changed—almost $221 billion more in revenue would be raised. Because there has been so little inflation since 2018, presumably those JCT estimates would be roughly the same now.

14. **Limit the value of itemized deductions above $400,000 and $200,000 of income**
    Revenue raised: $51 billion
    Proposed change: **None**

    The "Pease Limitation" forced taxpayers with income above a certain threshold ($261,500 in 2017, the last year it was in effect) to subtract 3% of the amount they exceeded the threshold from the value of their deductions. The TCJA eliminated this limitation; Biden would reinstate it. The limitation would not apply to income exclusions, such as for employer-provided health care and retirement benefits.

15. **Limit tax benefits of itemized deductions to 28% of value**
    Revenue raised: $224 billion
    Proposed change: None

    Currently, the same dollar-value deduction—say, for mortgage interest—is more valuable for higher-rate taxpayers than those paying lower rates. (A $1,000 deduction saves a taxpayer in the 35% bracket $350, but only $240 for someone in the 24% bracket.) Biden will partially correct this by capping the value of deductions at 28% for married couples with income over $400,000 and over $200,000 for singles and married couples filing separately.

16. **Close loopholes that allow income from wealth to be taxed at a much lower rate than income from wages**
    Revenue raised: $373 billion

    - **Tax long-term capital gains and dividends at the ordinary-income tax rate for taxpayers with more than $1 million in income.** Under Biden, taxpayers making more than $1 million a year will pay the same top tax rate on long-term capital gains and dividends as they pay on wages, which will be 39.6%. Currently, the top rate paid on such investment income is just 20%. Long-term capital gains are the profits from the sale of businesses, stock, real estate or other financial assets held over a year.

    - **Tax unrealized capital gains at the time of an asset's gifting or bequest as if sold for taxpayers with income above $400,000.** Biden will end the "stepped-up basis" loophole that allows the inheritor of an appreciated asset to assign it a cost equal to its market price at the time of the original owner's death, rather than when it was first acquired. This reduces or even eliminates the capital gains tax due when the asset is eventually sold. This loophole is one of the largest tax breaks in the federal tax code, costing $45-55 billion a year. Biden's reform would require the wealthy to pay income tax on previously untaxed capital gains at the time of transfer.

    Proposed changes:

    - **Tax long-term capital gains of taxpayers with more than $400,000 in income—not just those making over $1 million—at the ordinary-income tax rate to promote fairness and raise much more revenue from the wealthy.** Taxpayers under the $400,000 income level would still enjoy a significant tax break on their capital gains. Ideally, all types of

income should be treated equally, and there is certainly no reason to give a deep tax discount on assets sold by wealthy people making between $400,000 and $1 million. (No revenue estimate).

- Close the "carried interest" loophole so that general partners in wealthy investment funds are not allowed to pay the lower 20% capital-gains tax on what is really employment income that should be subject to regular tax rates. (No revenue estimate)

17. Restore the estate, gift and generation-skipping transfer (GST) taxes to 2009 levels
Revenue raised: $218 billion

This reform would reduce the amount of an estate exempt from estate and GST taxes to $3.5 million for an individual and $7 million for a couple (these are the 2009 thresholds, down from the current $11.6 million and $23 million, respectively) and restore the tax rate to 45% from the current 40%. Gifts of under $1 million would be excluded from taxes. Exclusion amounts would not be indexed for inflation. TPC assumes Biden is reviving President Obama's 2016 proposal, which was estimated then to raise $226 billion (U.S. Treasury Dept., pp. 177-178 and p. 269). The 2009 parameters would still only affect about 3 out of 1,000 estates.

Proposed changes:

- **In addition to adopting the 2009 parameters, which include a flat estate tax rate of 45%, apply a scale of much higher rates to bigger fortunes, as proposed by Sen. Bernie Sanders (S. 309) and Rep. Jimmy Gomez (H.R. 4857).**
  This legislation would tax estates worth between $3.5 million and $10 million at 45%; between $10 million and $50 million at 50%; between $50 million and $1 billion at 55%; and over $1 billion at 77%. It would also limit the generation skipping tax exemption to trusts that terminate within 50 years of the date the trust is created or, for trusts already in existence, 50 years from the date of enactment, and curb low-ball valuations of assets meant to dodge the estate tax.

- **End the generation skipping tax exemption for existing dynasty trusts after 20 years.**
  Dynasty trusts refer generally to trusts that last virtually in perpetuity and shelter family fortunes from estate, gift and generation skipping transfer tax on the passing of each generation. The Sanders-Gomez proposal would end the generation skipping tax exemption for existing dynasty trusts after 50 years from the date of enactment. ATF recommends modifying that grandfathering provision to end the generation skipping exemption for trust distributions made after the later of 20 years from the date of enactment or the death of the person who established the trust, unless the distribution is made to a person alive at the time the trust was established.

- **Over the longer term consider replacing the estate tax with an inheritance tax.**
  Another way to tax the intergenerational transfer of big fortunes is through an inheritance tax. Inheritors would pay income and payroll taxes at ordinary rates—just as they would on wages—on any bequests that exceeded generous annual and lifetime

exemptions. Taxing the fortunate and very-much-alive recipients of the bequest rather than those who created the wealth may be more politically palatable than strengthening the estate tax. It would also help state finances because only 16 states have an estate tax or inheritance tax, but 41 states tax income from wages and salaries.

The Tax Policy Center estimates that taxing inheritances in excess of $1 million at 35% or at the heir's marginal income tax rate plus 15% would raise about $565 billion over 10 years. The current estate tax raises about $200 billion over 10 years.

Shifting to an inheritance tax would also make possible the eventual taxation of the assets in existing "dynasty" trusts the estate tax cannot touch. Even if creation of any new abusive trusts were disallowed by reform legislation, trillions of dollars in existing trusts would pass to heirs tax free under the current estate tax. But an inheritance tax on the recipients of the assets of dissolved trusts would raise billions of dollars in revenue.

18. Expand application of Social Security payroll taxes
Revenue raised: $740 billion

President Biden proposes some important benefit increases to Social Security. His proposal would also extend the life of the program for about five years, according to the TPC. These goals are achieved by applying the 12.4% Social Security payroll tax (6.2% applied equally to employee and employer) to earnings above $400,000. This would affect the top 0.4% of wage earners, according to Rep. John Larson and Senators Richard Blumenthal and Chris Van Hollen, authors of the leading Social Security reform bills in the House (H.R. 860) and Senate (S. 269). In 2020, all earnings above $137,700 are exempt from Social Security taxes. By comparison, Medicare's 1.45% payroll tax is paid on all earnings.

Proposed change: Given the life-sustaining importance of Social Security—an earned benefit financed by its own revenue stream separate from the income tax—and its significant long-term anticipated revenue shortfall, **we recommend applying Social Security payroll taxes on earnings above $250,000**, rather than $400,000. This would raise $1.4 trillion, according to TPC's estimate of Sen. Sanders' proposal along those lines, significantly extending the program's ability to pay full benefits beyond the Biden plan's five years.

19. Narrow the tax gap by increasing IRS tax enforcement
Revenue raised: $36 billion, TPC; $103 billion, CBO; $1 trillion, Sarin & Summers

President-elect Biden's advisors have said strengthening enforcement would be among his first tax priorities but have not released a specific plan for doing so. The TPC's very conservative revenue estimate of $36 billion assumes the Biden administration would restore over three years the IRS enforcement budget to its 2010 level in inflation-adjusted dollars, and that spending would be focused on audits of corporations and the wealthy.

Moody's Analytics predicts much greater revenue—$300 billion—from Biden's as-yet undefined enforcement push. CBO estimates in general that $20 billion in extra enforcement funding would yield a net revenue increase of $61 billion and an extra $40 billion would net $103 billion, not counting the revenue gained indirectly from the deterrent effect of greater enforcement. An estimate from former IRS Commissioner Charles Rossotti, University of Pennsylvania professor Natasha Sarin and former Treasury Secretary Lawrence Summers finds that a much larger new investment of $100 billion for the IRS over 10 years could generate $1.2 trillion to $1.4 trillion in additional tax revenue. Most would be collected from high-income individuals, who are disproportionately responsible for underpayment of taxes owed.

Stronger and better-targeted enforcement is urgently needed. The IRS estimates that in the most recent period studied the federal government each year failed to collect one in seven dollars owed. This annual "tax gap" was pegged at $381 billion per year in 2011-13, and is probably likely much bigger today—over $570 billion, according to Rossotti and $630 billion in 2020, with about half of that shortfall coming from corporations and other businesses that underreport their income, according to Sarin and Summers.

Republicans repeatedly cut the IRS budget over the past decade, with some of the deepest reductions made to enforcement. The number of revenue officers fell by almost half between 2010-18. With less staff, the IRS shifted from tackling complex tax scams of the wealthy to targeting low-income households. As a result, audit rates of the wealthy and corporations have plummeted even as the audit rate for taxpayers reporting between $25,000 to $200,000 held roughly steady.

Proposed changes: The IRS enforcement function (enforcement and operations support) needs to be rebuilt and its systems modernized. It needs a certain and substantial ***multi-year*** funding stream so that the IRS can hire and train a reinvigorated audit staff and be in a position to make technology upgrade commitments. It is important for the Biden administration to stake out a strong position in its budget:

- A comprehensive approach, including restoring funding levels to historic levels as a share of collections, as proposed by Rossotti, Sarin and Summers.
- A multi-year investment to modernize the IRS's technology, as proposed by Rossotti is needed.
- Audit rates on high-income individuals and large corporations should be raised at least to the levels of a decade ago, with audit coverage targets similar to those proposed by Rep. Peter DeFazio (D-OR).

20. Reinstate, restore, extend and create individual income tax credits and deductions for low- and moderate-income households
Revenue reduced: -$920 billion (loss)

Biden's proposed tax credits benefiting individuals total $920 billion, giving back a little over half of the $1.754 billion in tax increases he has proposed on wealthy individuals, including $740 billion from greater Social Security payroll taxes on high-income employees. If Social

Security taxes are excluded from the calculation, more than 90% of the revenue raised from individuals would be returned to the American people and economy through tax credits. Biden would:

Expand working family tax credits: -$496 billon

- **Expand the Child Tax Credit (CTC): -$242 billion**
  To help families weather the coronavirus pandemic, Biden would temporarily increase for two years the maximum CTC benefit from $2,000 to $3,000 for children aged 6 to 17, offer an extra $600 for eligible children under 6 years old, extend the credit for eligible 17-year-olds, and make the CTC fully refundable.

  Proposed change: This proposal draws from the American Family Act (H.R. 1560 and S. 690) introduced by Reps. Rosa DeLauro (D-CT) and Suzan DelBene (D-WA) and Sens. Michael Bennet (D-CO) and Sherrod Brown (D-OH) and was included in the first iteration of the HEROES Act approved by the House in May. When Speaker Pelosi and House Democrats revised the HEROES Act, which was reapproved by the House in October, it retained the provision to make the CTC fully available for the millions of poor children who are currently left out. ATF agrees that this is the highest CTC priority for the temporary COVID package, and **it is a priority to propose and enact it permanently**. (See Structural Reforms section below for further discussion of a much more expanded CTC)

- **Expand the Child and Dependent Care Tax Credit (CDCTC): -$113 billion**
  The CDCTC would be made refundable and expanded to cover up to 50% of qualifying expenses. The maximum credit would be raised from $2,100 to $16,000 for two or more children and the maximum eligibility percentage would apply to households making up to $125,000. (The expanded credit would be paired with, and complement, a significant increase in direct childcare funding.)

- **Establish a tax credit for family caregivers: -$84 billion**
  A credit of up to $5,000 would be offered to informal caregivers of individuals with physical and cognitive disabilities.

- **Create a refundable low-income renter's credit: -$53 billion**
  Designed to limit rent and utility expenses to 30% of income, it would be available to those with incomes that are up to 150% of the federal poverty level.

- **Extend the EITC to childless workers 65 years old and older: -$4 billion**
  Proposed change: Expand EITC for all childless workers: -$100 billion
  Biden proposes to extend the current EITC for childless adults to people age 65 and older. ATF supports that change, but believes it is even more critical to expand age eligibility for younger people by lowering the minimum age from 25 to 19 and to increase the maximum EITC from its current tiny amount (about $540 for tax year 2020)

to roughly $1,500, as proposed in the second version of the House-passed HEROES Act. This provision draws from the Working Families Tax Relief Act introduced in the Senate (S. 1138) by Sherrod Brown (D-OH) and in the House (H.R. 3157) by Daniel Kildee (D-MI). The Senate measure is co-sponsored by all but one of the chamber's current 47 Democrats and Independents. (See Structural Reforms section below for further discussion of a much broader expansion of the EITC)

- **Proposed addition: Expand the American Opportunity Tax Credit: -$85 billion, JCT**
  The AOTC has helped millions of students and working families pay for college and was made permanent in 2015 with bipartisan support. But the credit should be better targeted to low-income students by increasing the portion of the $2,500 credit that is refundable to $1,500 and excluding Pell Grants when figuring net qualified expenses. The credit should also be expanded and simplified by consolidating the AOTC and Lifetime Learning Credit into one bifurcated credit with a $15,000 lifetime maximum instead of a four-year qualification limit. Finally, students with prior felony drug convictions should no longer be barred from receiving the credit. These reforms are included in Rep. Lloyd Doggett's (D-TX) bipartisan American Opportunity Student Tax Relief Act (H.R. 6749). The cost is estimated at $85 billion, per private communications between JCT and the bill's author. Sen. Chris Van Hollen (D-MD) and Rep. Danny Davis (D-IL) have standalone bipartisan legislation removing the ban on students with felony drug convictions (H.R. 4518 and S. 2553).

Expand housing, retirement and green energy tax credits: -$424 billion
Proposed changes: None

- **Provide a $15,000 refundable tax credit for first-time homebuyers: -$208 billion**
  Available for down payments, the credit would be limited to 20% of a home purchase price. Its availability would phase out for married taxpayers making roughly $290,000 and for all other taxpayers making around $170,000.

- **Increase the tax benefit for middle-income retirement savings: -$151 billion**
  Retirement tax incentives ought to target low-income and middle-class workers, who need more retirement savings, not the richest Americans, who do not. The current deduction for worker contributions to traditional IRAs and the exclusion from taxable income of contributions to 401(k)s would be replaced with a 26% refundable tax credit, benefitting taxpayers making less than $400,000.

- **Establish automatic IRAs: -$13 billion**
  Small businesses would receive credits to offset the cost of retirement plans and workers without a pension or 401(k)-type plan would be automatically enrolled in an IRA. (TPC assumes this proposal is one detailed by the U.S. Treasury Dept. in 2016, pp. 134-138).

- **Reinstate tax credits for residential energy efficiency (-$27 billion) and electric vehicle tax credits (-$21 billion).**

- **Exempt forgiven student loans from taxable income: -$4 billion**

PROPOSED ADDITIONS TO BIDEN'S TAX PLAN

The following recommended additions to the Biden tax plan are divided into two categories: **more moderate reforms that adjust the existing tax code, and more structural reforms that create new taxes or systems of taxation.** The more moderate reforms could raise a minimum of $800 billion but likely substantially more. Structural reforms could raise another $3.7 trillion to $7.6 trillion. Proposed structural reforms to the EITC and CTC would reduce those amounts by $1 trillion to $2 trillion.

ADDITIONAL MODERATE REFORMS

Revenue Raised: Minimum of $1.3 trillion

1. **Raise income tax rates for millionaires and billionaires well above 39.6%**
   Revenue raised: Substantial, depending on rates

   The Biden plan restores the top marginal tax rate to 39.6%, the upper rate limit in the 24 years prior to the TCJA. But that level is well below the top marginal rates in effect during periods of the 20th century when growth was the strongest and most broadly shared—in stark contrast with today's widening income and wealth gaps. The Biden plan would allow millionaires and even billionaires to pay the same top 39.6% tax rate as a couple making $622,000 (or a single person making $518,000). Instead, the ultra-wealthy should pay significantly higher marginal tax rates by creating new tax brackets and tax rates on a graduated scale. Much higher top marginal rates would not only raise substantial revenue and reduce inequality directly but could also reduce inequality of pre-tax incomes.

2. **Establish a Millionaires Surtax**
   Revenue raised: $634 billion, TPC

   Another relatively easy way to raise significant revenue in a progressive manner from the very rich is to impose a surtax on the income of the wealthy, equally taxing income from wages and from investments, including capital gains and dividends.

   In November 2019, the "Millionaires Surtax Act" was introduced in the U.S. Senate (S. 2809) by Chris Van Hollen (D-MD) and Sherrod Brown (D-OH) and in the House of Representatives (H.R. 5043) by Don Beyer (D-VA), Jimmy Panetta (D-CA) and Jan Schakowsky (D-IL). It would add 10 percentage points to the top tax rates paid by married couples on their annual income over $2 million (over $1 million for individuals). The surtax would apply to both ordinary income and investment income. It would raise $634 billion, according to the TPC, and affect only the richest 0.2% of taxpayers. *This revenue is not being counted in ATF's additional revenue estimates at this time because the Biden policy to raise tax rates on*

capital gains to equal the rate on ordinary income above $1 million would negate the need for a surtax on capital gains up to the 37% rate, which is the basis of the cost estimate.

3. **Close loopholes allowing some wealthy business owners to avoid taxes funding healthcare**
   Revenue raised: Up to $362 billion, CBO

   Under current rules some high-income business owners can avoid two taxes of 3.8%: The Net Investment Income Tax (or NIIT, which helps fund the Affordable Care Act) and the Medicare tax (known as the Self-Employment Contributions Act—SECA—tax for pass-through business owners). Those with interests in S corporations and limited partnerships and considered "active" owners of those entities are not subject to either tax on their business profits (though they pay payroll taxes on "reasonable compensation" they receive working for the business). This loophole creates a disparity with regular workers and other business owners—for example, those who run sole proprietorships—who are subject to either the Medicare tax or NIIT on all their business income.

   To remedy this disparity, President Obama proposed ensuring that all business profits of high-income individuals be subject to a 3.8% tax, either through the NIIT or self-employment tax. The proposal also would have funneled all of the revenue raised from the NIIT into the Medicare trust fund to extend its solvency. In addition, Obama's proposal addressed a related loophole—sometimes called the "Gingrich-Edwards" loophole after two prominent ex-politicians who exploited it—that enables owners of professional services businesses to avoid self-employment taxes by deeming their income to be profits and not compensation for their work. Obama's plan would have raised $236 billion, according to a 2016 JCT estimate.

   The CBO has offered two similar solutions to the problem of wealthy business owners avoiding healthcare-related taxes through manipulative classification of their income. It estimated in 2018 that closing the NIIT loophole would raise $199 billion, and closing the SECA tax loophole would raise $163 billion.

4. **Limit the deductibility of interest on business debt to 20%**
   Revenue raised: $225 billion, TPC

   The tax code encourages companies to borrow because interest payments are generally deductible while the equivalent payments to investors who own the company's stock are not. Too much debt makes firms fragile during economic downturns, increasing business failures and prolonging and deepening recessions. Moreover, unnecessary borrowing is part of an array of corporate tax avoidance techniques, such as shifting income between taxing jurisdictions or borrowing to buy back stock. The TCJA limited the deductibility of interest to 30% of income, but this limit should be tightened further. Limiting interest deductions to 20% of adjusted taxable income would raise $225 billion, per the TPC.

5. **Reform how businesses account for advertising expenses**
   Revenue raised: Up to $132 billion, CBO

Just as businesses have traditionally been required to slowly deduct (depreciate) the cost of durable tangible items like buildings and equipment, they've also had to deduct over time (amortize) the cost of durable *intangible* assets, such as patents and trademarks. Advertising has not been considered an expense that results in a durable intangible asset and therefore all advertising expenses have been deductible in the year incurred.

While some advertising has only short-term goals—such as promoting a sale—another important purpose of advertising is long-term: to build brand awareness and goodwill. Therefore, a portion of advertising expenses should be amortized instead of written off immediately to reflect that long-lasting value.

This reform would require businesses to amortize half their advertising costs, and the longer the amortization period the more revenue raised. A 2018 CBO estimate found that a 10-year amortization period would raise $132 billion.

6. **End manipulation of inventory accounting: LIFO & LCM**
   Revenue raised: $58 billion, CBO

The LIFO ("Last In, First Out") accounting method allows companies to defer taxes by overstating the costs of their inventory. Under LIFO, companies assume they're selling the most recently made or acquired inventory, which typically costs more than older inventory. This artificially increases the cost of goods sold, lowering taxable income and thus taxes. Tax experts have called LIFO "a massive tax holiday for a select group of taxpayers" inconsistent with basic income tax principles that also creates inefficiencies by distorting companies' decisions about how much inventory to hold. The Treasury Department has warned (p. 105) that maintaining LIFO in the U.S. impedes efforts to synchronize accounting standards worldwide: "International Financial Reporting Standards do not permit the use of the LIFO method, [so the] adoption [of those standards] by the [U.S.] Securities and Exchange Commission would cause violations of the current [international] LIFO book/tax conformity requirement. Repealing LIFO would remove this possible impediment to the implementation of these standards in the United States."

Other inventory accounting concepts—the "Lower of Cost or Market" (LCM) and subnormal goods methods—allow businesses to write-down the value of inventory if its market value declines, creating artificial losses that lower their taxes. But they are not required to recognize income when the value increases, an accounting adjustment that would increase their taxes. As the Treasury Department has explained (p. 106), these methods are "essentially a one-way mark-to-market regime that understates taxable income."
CBO estimated in 2018 that prohibiting this kind of inventory-accounting manipulation would raise $58 billion. President Obama made the same proposals in 2016, which the Treasury estimated then (under the previous tax system) would raise a total of $88 billion ($81 billion from LIFO reform and $7 billion from reforming LCM). Accounting for the 40%

lower corporate tax rate now, the total figure would be about $53 billion. If Biden's proposed one-third increase in the corporate rate—from 21% to 28%—is enacted, the figure would rise again to around $70 billion.

7. **Fully close the bonus-pay loophole not completely closed by the TCJA**
   Revenue raised: $27 billion, JCT

In 1993, Congress amended the tax code to prevent corporations from deducting the amounts that they pay top executives in excess of $1 million per executive—unless the compensation was in the form of stock options or other "performance" pay. This loophole encouraged corporate boards to hand out massive bonuses that dramatically widened the pay gaps between corporate executives and rank-and-file workers.

The TCJA closed this "performance" pay loophole, but only for compensation going to the CEO, CFO, and the three other highest-paid employees. The JCT estimated $9.2 billion will be raised by the loophole's partial closure.

However, pay above $1 million going to other highly paid employees—such as traders at large Wall Street firms—remains fully deductible. Extending the $1 million deductibility cap to all forms of compensation for all employees, as proposed by Senator Jack Reed and Rep. Lloyd Doggett's Stop Subsidizing Multimillion Dollar Corporate Bonuses Act (H.R. 3970 and S. 2268), will generate $27 billion over 10 years.

8. **Tax stock buybacks as income just as stock dividends are taxed**
   Revenue raised: $500 billion from foreigners alone by one conservative estimate

Share repurchases, or buybacks, have surpassed dividends in recent years as the primary means through which publicly traded corporations distribute cash to shareholders. A number of the largest U.S. corporations—including Amazon, Alphabet (Google), Facebook, and Berkshire Hathaway—now pay no dividends whatsoever. The U.S. tax system generally accords more favorable treatment to shareholders of firms that distribute cash via buybacks rather than dividends. First, and most importantly, *foreign shareholders* generally owe no U.S. tax on buybacks, whereas they are subject to a federal withholding tax of up to 30% on dividends paid by U.S. corporations. This allows *foreign shareholders*—including those who collectively hold trillions of dollars of U.S. stock through accounts in tax havens—to avoid U.S. taxation (and sometimes, all taxation) on shareholder-level gains.

Second, buybacks allow U.S. taxpayers to choose when they will trigger shareholder-level taxes. This allows founders of phenomenally successful U.S. companies with zero-dividend policies—like Facebook's Mark Zuckerberg—to avoid virtually all taxation of shareholder-level gains during their lifetimes. Favorable basis recovery rules also allow U.S. shareholders who participate in buybacks to pay less in taxes than if they had received distributions in dividend form.

More than 50 years ago, then-Yale law professor Marvin Chirelstein proposed to equalize the taxation of buybacks and dividends by treating buybacks as imputed dividends to all

shareholders. For example, when Facebook buys back stock, Chirelstein's proposal would impute dividend income to the holder of each share equal to the amount of the buyback divided by the number of outstanding shares. All shareholders—including Facebook's founder and investors in tax-haven jurisdictions—would owe tax on the imputed dividend. The imputed dividend amount would then be added to the shareholder's basis to prevent double taxation of shareholder-level gains.

Chirelstein's proposal would generate two major tax-policy improvements. First, it would ensure that founders of some phenomenally successful corporations that do not pay dividends would pay some income tax during their lifetimes when their corporations pay out cash to shareholders—even if those payments take the form of buybacks rather than dividends and even if the founders do not tender their own shares. Second, and more significantly from a revenue perspective, Chirelstein's proposal would ensure that the U.S. collects shareholder-level taxes when *foreign investors* generate gains from non-dividend-paying U.S. corporations.

The revenue that can be raised from a dividend withholding tax is considerable—perhaps $50 billion a year or $500 billion over 10 years just from foreigners. This assumes a buyback rate of approximately 3% since 2018 on about $27 trillion of U.S. equities held by S&P corporations, and with foreign shareholders owning 40% of U.S. equities. (S&P corporations are about two-thirds of total stock market capitalization, which would push the revenue raised much higher when all buybacks are included.) About an additional $300 billion per year would be subject to dividend withholding tax based on blended treaty and non-treaty withholding tax rates.

9. **Repeal or phase out the "Opportunity Zones" tax shelter**
   Revenue raised: TBD (JCT estimates that Opportunity Zones will reduce revenue by $8.2 billion over 2020-2024).

The TCJA allowed localities to create designated areas for special federal tax treatment known as "Opportunity Zones." The ostensible purpose is to increase investment in low-income communities, but the program is fundamentally a capital gains tax shelter for the wealthy. Investors can defer and reduce taxes on capital gains by shifting those gains into Opportunity Zone funds, investment vehicles that carry additional tax advantages). There is no requirement that OZ investments create jobs or otherwise benefit the residents of the zones—they can even be used for projects that displace zone residents.

The program also suffers from a lack of transparency and undue political influence in the selection of zones. Because of the program's loose definition of eligible neighborhoods, places that no one would describe as impoverished are receiving a lot of the investment. Trump Administration regulations for implementing the program created new loopholes and failed to improve transparency or ensure community benefit. Recent research has found no significant impact on job creation.

Commendably, President Biden has drawn attention to the flaws of OZs and pledged to implement greater transparency and accountability. Senator Ron Wyden (D-OR) has

introduced legislation (S. 2787) to reform the program and curb abuses. Senator Sherrod Brown (D-OH) and Rep. Lloyd Doggett (D-TX) plan to introduce legislation offering additional reforms, such as requirements for community input and tying the tax breaks to job creation and affordable housing construction. Such reforms are essential if the OZ program is to remain in place. But given its fundamental flaws, the OZ program—adopted as a temporary measure—should be allowed to expire on schedule in 2027, or be repealed immediately, as Rep. Tlaib (D-MI) and others have proposed. Programs that invest directly in low-income people and communities are far more effective than trickle-down tax cuts like the OZ program.

10. Require that multinational corporations disclose key financial information publicly on a country-by-country (CbC) basis to the Securities and Exchange Commission
Revenue Raised: TBD

Proposed changes: None
Requiring corporations to publicly report basic financial and tax information on a country-by-country basis—information they already report to the IRS—improves the public debate on corporate tax reform, sheds light on multinational tax avoidance strategies, and has had a proven impact in mitigating corporate profit-shifting. Reporting should be modeled after the CbC standards promulgated by the Global Reporting Initiative (GRI), a nonprofit whose voluntary corporate reporting standards have been adopted by most Fortune 500 corporations. Using the GRI standards as a model would help increase global uniformity while making it easier for many corporations to comply.

STRUCTURAL REFORMS

Revenue raised: $3.7 trillion to $7.6 trillion
Revenue reduced by tax credits: -$1 trillion to -$2 trillion

11. Establish a wealth tax or mark-to-market taxation of capital gains
Revenue raised: $1.3 trillion to $5.2 trillion

America's wealth concentration is astounding. In 2016 (the most recent year with available data), the nation's wealthiest 1% was worth almost 40% more than the 200 million Americans in the middle of the economic spectrum: $25 trillion for the One Percenters vs. $18 trillion for the Middle Class. As of Dec. 7, 2020, the $4 trillion in total wealth of 651 U.S. billionaires was double the $2.1 trillion in total wealth held by the bottom half of the population, or 165 million Americans. Billionaire wealth had increased by $1 trillion, or 36%, since the pandemic began in mid-March.

By mostly limiting taxation to income—and regardless of the rates charged—our tax system fails to address this unhealthy concentration of wealth and forgoes substantial revenue. Biden's plan moves towards wealth taxation by reducing the tax benefits of wealth-created income. As noted above, he would raise the top tax rate paid on investment income to match that on ordinary income for those making more than $1 million a year and close the

loophole that now allows the wealthy to avoid capital gains taxes on assets given as gifts or bequests.

Important as these steps are, they are modest reforms considering the extraordinary wealth accumulated at the top of the economic pyramid. Much stronger measures are needed to raise trillions of dollars for vital public services while narrowing the divide between the super-rich and the rest of us. There are two main ways to achieve those ends: a tax on extreme wealth or a more comprehensive reform to the taxation of capital gains.

A wealth tax—an annual tax on net worth of the richest Americans—has been proposed in recent years by leading politicians and academics, including former presidential candidates Sens. Elizabeth Warren and Bernie Sanders. Proposed thresholds for the tax range from $10 million to $50 million, and brackets and rates vary from 1% on fortunes between $32-50 million up to 8% on wealth topping $10 billion. Revenue estimates run between $1.3 trillion and $5.2 trillion (p. 19).

A partial alternative to a tax on extreme wealth—though not a complete substitute, since it addresses only increases in fortunes, not the fortunes themselves—is much broader reform of the way capital gains are taxed.

Currently, capital gains are only taxed when an appreciated asset is sold (the gain is "realized"). But, unlike workers who must report their earnings each April and pay tax on it all year long, owners of appreciated assets can avoid taxes on capital gains simply by holding onto those assets. In addition, assets that have grown in value can be disposed of in other ways that do not trigger any tax at all: through bequests, donations, gifts and—in the case of real estate—in exchange for other property.

Wealthy investors should pay tax on their annual investment gains whether realized or unrealized in the same way that workers must pay tax on their annual labor earnings. Senator Ron Wyden is a leading proponent of this proposal, which he has dubbed "anti-deferral accounting rules for high-income taxpayers." It is more commonly referred to as a mark-to-market (MTM) system.

Publicly traded assets would be taxed every year on their change in value. Annual taxes on harder-to-price assets—such as real estate, privately held businesses and collectibles—would be due but deferred until the asset was sold or otherwise disposed of through gift or bequest. In the case of a sale, the sales price would establish the asset's current value; in other cases, the current value would be determined by appraisal. In either case, the tax paid at the time of disposal would be the accumulated taxes that would have been paid if the asset had been valued each year, plus interest to make up for the delayed payment.

Proposals vary on the proper threshold of wealth and income for an MTM system, but none would apply it to households outside the richest 1%. All plans would tax unrealized gains at ordinary tax rates and are estimated to raise roughly $2 trillion.

12. **Adopt a Financial Transaction Tax**
    Revenue raised: $777 billion

    Just like consumers pay sales taxes on everything from cat food to cars, Wall Street investors should pay a financial transaction tax on every trade. Besides raising a lot of revenue, a tax of just a small fraction of a percent would tend to slow the dangerous, high-frequency trading of stock market professionals, while having virtually no impact on small investors. The Wall Street Tax Act (S. 647 and H.R. 1516), sponsored by Sen. Brian Schatz (D-HI) and Rep. Peter DeFazio (D-OR), would raise $777 billion, according to CBO, by taxing the sale of stocks, bonds, and derivatives at 0.1% (10 basis points). The tax on a stock purchase of $100 would be just 10 cents.

    A financial transaction tax would be collected from financial intermediaries. It is unclear whether the cost would be passed onto investors, but even if it were, the impact would be aimed almost entirely at the wealthy, who own most financial assets. The Federal Reserve found that in 2019 the wealthiest 10% of households owned an average of $1.7 million in stock while the bottom 50% of households owned an average of just $11,000. Among the richest 10%, more than 9 out of 10 (94%) owned stock but just one-third (31%) of households among the bottom half owned stock either directly or indirectly (e.g., through mutual funds).

13. **Restructure and expand refundable family tax credits—EITC and CTC—to better support struggling families**
    Revenue reduced: -$1 trillion to -$2 trillion

    For decades, wages have stagnated for people without a college degree and wage growth has not been much better for those with a college education. The modern economy's big winners have been highly trained professionals and, most of all, those holding great wealth. The TCJA exacerbated these trends; Covid-19 has accelerated and highlighted them. While well-educated knowledge workers and the independently wealthy (both groups are overwhelmingly white and male) have mostly experienced the pandemic as an inconvenience, for low-income workers—among whom women and communities of color are overrepresented—the virus and attendant recession have been a grave threat to health, livelihoods and lives. As wealthy professionals and investors shelter in privileged places, low-wage workers who are lucky enough to still be employed ride crowded buses to dangerous service-sector jobs such as dishwashers, waitresses, and retail clerks.

    The tax code offers two important working-family tax breaks—the Earned Income Tax Credit (EITC) and Child Tax Credit—that push back against these powerful trends and lift millions out of poverty. Yet these tax credits could and should do more. Democrats in Congress have offered major improvements, including the Working Families Tax Relief Act (S. 1138 and H.R. 3157) introduced by Sen. Sherrod Brown (D-OH) and by Rep. Daniel Kildee (D-MI), and the American Family Act (H.R. 1560 and S. 690), introduced by Reps. Rosa DeLauro (D-CT) and Suzan DelBene (D-WA) and Sens. Brown and Michael Bennet (D-CO).

Both bills would boost the incomes of millions of struggling families, supplement the wages of millions who work hard for little pay, and dramatically reduce child poverty.

We encourage the Biden Administration to make such efforts a priority. The costs of such proposals are in the neighborhood of $1 trillion to $2 trillion.

14. Replace current depreciation rules with economic depreciation
Revenue raised: $1.6 trillion, TPC

Accelerated depreciation is the ability of businesses to write off for tax purposes the cost of equipment and other investments more quickly than they actually wear out. Businesses are allowed to deduct expenses from their revenue to determine their net income, yet the purchase of equipment is not a true expense until it wears out and loses its value. Proponents claim that accelerated depreciation is an acceptable distortion of the rule for expenses because it encourages investment that helps our economy. But accelerated depreciation appears to mainly reward companies for making investments they would have made anyway, even in the absence of any tax break.

In most cases, depreciation is accelerated under a system known as the Modified Accelerated Cost Recovery System (MACRS), although sometimes businesses must use the Alternative Depreciation System (ADS). ADS is closer to “economic depreciation”—a realistic accounting of how quickly assets lose value. Requiring all depreciation to be carried out under ADS is one way (among others) to repeal accelerated depreciation and replace it with economic depreciation.

In recent years, Congress has moved in the opposite direction from such reform. It has expanded accelerated depreciation by allowing temporary “bonus” depreciation and, most recently as part of the TCJA adopting the most extreme version, “full expensing,” which allows businesses to write off the cost of equipment entirely in the year purchased. Under the TCJA, between 2018 and 2022 the portion of equipment investment costs that can be deducted in the year of purchase is 100%, with the share gradually declining each year after that until it reverts to the old rules in 2027. Some lawmakers are trying to make the expensing provision permanent, entrenching a costly tax break that allows many large, profitable corporations to avoid paying federal income taxes. Instead, Congress should shift to economic depreciation.