The Stock Buyback Accountability Act
Sens. Sherrod Brown and Ron Wyden
117th Congress

After the 2017 Republican tax law, instead of getting higher job growth or a GDP surge, we got corporations spending hundreds of billions of dollars buying back their stock. The big winners were rich shareholders, CEOs, and foreigners, not American workers.

The Stock Buyback Accountability Act helps level the playing field between shareholder giveaways and real investments, by assessing a two percent excise tax on the amount spent by a publicly-traded company on buying back its own stock. This should also help prevent abuse and reduce tax avoidance, both of which are significant risks from stock buybacks.

Large corporations buy back stock using the capital that could be used to make investments, create new jobs, and raise wages. For many years stock buybacks were nearly banned based on the market-manipulation risk they presented. Today, there remains serious concerns about corporations using stock buybacks to inflate their stock prices, particularly when corporate insiders have significant amounts of stock-based compensation themselves. Stock buybacks also provide a tax arbitrage opportunity for wealthy shareholders, as a means to delay and potentially fully-avoid tax on their share of corporate gains.

Stock buybacks were once a tiny share of corporate distributions, but now dominate, and have only exploded following the 2017 Republican tax bill – a literal case of the rich getting richer. In 2019, the largest U.S. companies spent a record $728 billion on stock buybacks, a 55 percent jump from the prior year. In 2021, as millions of families are struggling through the pandemic, corporate stock buyback should approach, or even surpass, this record. To put that in perspective, the median household in the U.S. has a net worth of $97,300, with Hispanic ($38,000) and Black ($23,000) families even less.[1]

Stock buybacks benefit large shareholders and corporate executives, whose pay packages include significant stock compensation. Compared to the typical worker, CEO compensation has increased significantly. In 1989, the ratio of CEO-to-worker compensation was 58 to 1, but, in 2020, that ratio was 351 to 1[2]. Over roughly the same period of time, the wealth gap in the U.S. has widened considerably. Between 1989 and 2016, the share of wealth held by the top 1 percent increased by one-third. In the same period, the share of wealth held by the bottom 90 percent dropped by nearly one-third.

The two-percent excise tax on stock buybacks by publicly-traded corporations in Sen. Brown and Sen. Wyden's Stock Buyback Accountability Act would not apply to the extent the stock buyback is used to fund an employee pension plan, an ESOP, or similar vehicle, is used for employee stock plans, or is below a de minimis threshold. Special rules address the treatment of foreign corporations, while inverted corporations are fully subject to the excise tax.

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[1] https://www.stlouisfed.org/on-the-economy/2021/january/wealth-gaps-white-black-hispanic-families-2019

[2] https://www.epi.org/publication/ceo-pay-in-2020/