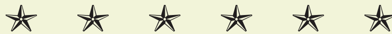
Patriotic Millionaires

CRACK THE CODE 2.0



Proposed Internal Revenue Code of 2026

TAX THE RICH. PAY THE PEOPLE. SPREAD THE POWER.

Proposed by the Patriotic Millionaires in advance of the 2025 expiration of the 2017 Tax Cuts and Jobs Act provisions related to individual taxes and the dynamic public debate that will ensue.

The Real American Agenda

Tax the Rich.
Pay the People.
Spread the Power.

Save America.

America Turns 250

2026 marks the beginning of America's second act. We have a choice to make. Will we acquiesce to the coming of a Second Gilded Age or challenge the concentration of wealth and power that threatens to topple our democracy?

The promise America held at its inception no longer exists for many Americans. Nearly half of American households are hanging on by their fingernails, unable to afford an unexpected expense of $400, while the richest households control fortunes that exceed $100 billion, an amount of wealth greater than that of many mid-sized cities.

Extreme wealth concentration precipitates extreme concentration of political power. The concentration of wealth is strangling our economy, while the concentration of political power is strangling our democracy.

All of this – a rigged economy, obscene wealth concentration, and the destabilizing effect it has on democracy – rests on a rigged income tax code. The time for tinkering is over. In order to realize the promise offered at the dawn of our first 250 years, we must first unrig the tax code and rebuild it into a fair, equitable system.

Foundational changes to America's tax law usually augur a change in the year referenced by the Internal Revenue Code's naming convention. We are currently operating under a tax regime written in 1986. After nearly forty years, the changes required dwarf those of any tax reform package enacted since the income tax first was introduced 111 years ago.

It's time for a fundamentally new tax code: it's time for the Internal Revenue Code of 2026.

An Existential Threat to American Freedom

For almost 50 years, the American tax code has been deliberately structured to ensure the benefits of the economy flow to the uber-rich at the expense of everyday working people.

President Reagan cut corporate taxes, cut the top income tax rate from 70 percent to 33 percent, more than tripled the exemption from the estate tax and cut the estate tax rate, and cut the capital gains rate from 28 percent to 20 percent. He promised the cuts would create jobs, spur growth and eventually "trickle down" to everyone else. Shockingly, that never happened.

Undeterred, politicians of both parties continued to espouse the virtues of voodoo economics.

Decades of economic mismanagement perpetrated by cutting taxes on the rich increased inequality in the United States to historic, destabilizing levels. It has also slowed economic growth and decimated America's middle class. The country is more unequal than it has been in 100 years, and it is getting worse. The consequences will be dire.

A new approach is desperately needed.

A Unique Solution for the 21st Century

We propose a new, innovative way to permanently address structural economic inequality and ensure the viability of democratic capitalism for the next 250 years. By making **three** basic changes to our wage and tax laws, we can restore the distribution of economic gains that underpinned America's former economic dominance. And we can do so in a way that ensures a stable capitalist democracy.

- **First:** Tax all income over $1 million at the same rates, regardless of how income is generated (ordinary income, capital gains, or inheritance).
- **Second:** Reduce the number of people who are required to pay income taxes by creating a full "cost of living" exemption and imposing progressively higher marginal tax rates of up to 90% for annual incomes over $100 million.
- **Third:** Create a wealth tax designed to rein in the extreme concentrations of wealth over one billion dollars.

Change is possible, and an opportunity to make significant progress is just around the corner. In 2025, most of the provisions of former President Trump's Tax Cuts and Jobs Act (TCJA) are sunsetting. This is a moment to not only rectify the worst provisions of the legislation but to overhaul the existing broken system.

Background / Discussion

How do you rig an economy? You start with the tax code, of course. The architects of the so-called "Reagan Revolution" understood this, which is why their political project targeted and deliberately marginalized **the poor and the middle class.** With the 1981 Economic Recovery Tax Act, the Reagan administration utilized the tax code to ensure the fruits of soaring productivity flowed largely in their direction. They inaugurated a movement that lasted through six presidencies - including Clinton's and Obama's - which heaped tax cut after tax cut on the wealthiest Americans regardless of which political party was in charge.

In short, Reagan's administration rigged the economy, and America is now paying the price.

Inequality in America is currently at a 100-year high. In fact, the wealth being hoarded by the ultra-rich is worse than what we experienced during the **notorious Gilded Age**. As currently constructed, the federal tax code - formally known as the Internal Revenue Code of 1986 (yes, we're still operating under rules written in 1986) - will continue to exacerbate inequality to an even worse degree. It is nothing short of a mess, rife with loopholes and laden with preferences for the super-rich at the expense of working people. The majority of Americans viscerally understand this.[2] They believe the economy is rigged against them. **And they're right.**

So how do you *un-rig* an economy? The answer is the same. You start with the tax code.

It is time to enact a new tax code that more evenly distributes the gains of a modern economy toward working people. Moreover, we need a tax code that requires those who have benefitted the most from America's economic prosperity to reinvest a significant portion of that benefit back into our society, rather than allowing them to amass fortunes so large they threaten our democracy. This requires not

just unwinding the tax policy mistakes of the past 43 years, but fundamentally resetting our tax framework to preserve and strengthen American democratic capitalism.

The 2024 election will determine who controls tax policy when critical provisions of the 2017 Tax Cuts and Jobs Act (TCJA) affecting individual taxpayers will sunset. This provides an opportunity to not only let the worst of those provisions expire, but also to seize the opportunity to overhaul the existing broken system, which guarantees increasing levels of destabilizing inequality, and enact a brand new tax code that doesn't - one that instead mitigates inequality and protects our capitalist democracy for the long term.

This memo outlines a vision for how our nation can un-rig our tax code. We will use the sunsetting provisions of the TCJA to:

1. Tax those at the top according to their level of income instead of parsing how that income was generated.
2. Lift the income tax burden off of those who haven't yet provided for themselves.
3. Constrain the accumulation of stratospheric wealth to prevent it from threatening our democracy.

Appendix I to this memo provides more detailed information regarding the sunsetting provisions of the TCJA and how the expiration or extension of those provisions can be combined with additional changes to lay the groundwork for the Internal Revenue Code of 2025. Appendix II details the OLIGARCH Act, the Patriotic Millionaires' proposal to permanently constrain America's extreme levels of inequality by connecting the level of wealth taxation to the level of inequality. Appendix III describes the American Stability Act, a proposal to raise the wage floor and ensure workers share in economic prosperity while also ensuring taxes do not drive them further into poverty. Appendix IV outlines the Equal Tax Act, which eliminates preferential treatment for different types of income.

Proposal Details

Our agenda is based on three principles:

First: A tax code in which all income over $1 million is treated in the same manner, regardless of how it is generated (ordinary income, capital gains, and inheritance).

Money is money is money, whether it comes from birth into the right family, an investment gain, or a bloated salary. At upper-income levels, therefore, money should all be taxed at the same rates.

Instead, our current tax code creates multiple categories of income, each defined differently, with varying forms of tax treatment. Capital gains are taxed at preferable rates, as is income from so-called "pass-through" businesses. Income from gifts and inheritances is not taxed at all. Instead, the tax code imposes gift and estate taxes on the ultra-rich under a system so loophole-ridden that it is effectively optional, even for billionaires. Paradoxically, "earned" income – or wages - is treated the most harshly of any category in the tax code. The only exception is income from the work of fund managers, many of whom are among the highest-paid people in the country. For this group, income is typically taxed at a preferential rate for capital gains through a loophole known as "carried interest." And some income – the increase in value of investments held until death and passed on to heirs – is not even taxed at all, thanks to a loophole known as stepped-up basis.

We propose that all income over $1 million be subject to the same income tax rates, regardless of how it is generated. (And it should be noted that we're not referring to $1 million in assets—a category of net worth that many people today possess, and often worked hard for. We're aiming only at people with more than $1 million in *income, every year*—a level of wealth that truly warrants the term disposable income.)

This proposal breaks down as follows:

- Taxing capital gains and ordinary income at the same rates (and thereby also eliminating the carried-interest loophole).
- Replacing the estate and gift tax system with an income tax on inheritances equal to the rate imposed on other types of income, subject to a lifetime exclusion of $1 million of inheritance income per person.
- Taxing all unrealized gains in excess of $1 million upon transfer to heirs by closing the stepped- up basis loophole, with appropriate protections for family-owned farms, ranches and businesses.
- Allowing the so-called pass-through deduction to expire, as described in Appendix I.
- Adopting a measure to tax the unrealized gains of the ultra-rich on a current basis, such as the Billionaire Minimum Income Tax, which would impose a minimum tax on a wealthy households' true economic income, including unrealized capital gains. Alternatively, the Billionaire Income Tax as proposed by Senator Wyden. Either of these would eliminate the incentive for billionaires to hoard assets and avoid selling, and instead live on low-interest personal loans.

Appendix IV contains a more detailed description of our proposal, the Equal Tax Act (ETA), which would eliminate preferential tax rates for taxpayers with over $1 million of income. The ETA includes appropriate protections in cases of gains attributable to the passing of family farms and businesses without consideration, where the farm or business will continue to operate in the hands of the transferee(s).

Second: A tax code that begins with a full cost-of-living exemption from all income tax. At the same, the new tax code would impose progressively higher marginal rates of tax throughout the entire income scale going up to 90% for incomes over $100 million.

The current tax code, through the standard deduction, effectively exempts income up to approximately the poverty level from income tax (the exemption for a single individual is $14,600). It is time to expand on that concept by establishing the threshold for federal taxation at the first dollar above a cost-of-living wage, as opposed to the first dollar beyond a federally defined 'poverty wage.' We propose that the standard deduction be increased to an amount equal to the wages needed to keep up with the current cost-of-living index so that no one pays income tax on the amount they need to cover basic living expenses such as food, housing, healthcare, and transportation. This number should be determined by the government on an annual basis.

For the annual determination of a cost-of-living wage, we recommend a methodology similar to the Massachusetts Institute of Technology's Living Wage Calculator. Such a tool can determine a living wage at the national level for both a single person and for a married couple living alone.[3]

A cost-of-living exemption would simply extend to compliant taxpayers the same grace that our tax law already gives delinquent taxpayers (people behind on their tax obligations). Right now, under the Collection Financial Standards (which govern the IRS's collection of back taxes), before delinquent taxpayers have to pay any current income for back taxes, they are allowed to keep income equal to "basic living expenses"—amounts roughly comparable to what's in the Living Wage Calculator.[4] At the very least, compliant taxpayers ought to be treated to the same allowance given to those who aren't paying their taxes.

At the other end of the scale, upper-income tax brackets should reflect the differences between the rich, the ultra-rich, and the obscenely rich. Currently, the top tax bracket (37%) threshold is $731,200 for a married couple filing jointly. While this constitutes a substantial income, it is dwarfed by the multimillion-dollar incomes of the wealthiest Americans. Our tax code should embrace the *marginal utility of money* concept by continuing a progressive rate structure all the way to the $100 million income level. Just one year of income at that level provides an extravagant lifestyle for an entire lifetime, and any income above it should be taxed at a 90% marginal rate.

Crucially, many of our neighbors are not sharing in the extraordinary wealth generated by the 21st-century economy because wages for America's lowest-paid workers have not kept pace with the nation's economic growth. If we consider ourselves patriots, it is our obligation to ensure our neighbors are equal partners in a booming economy. In practical terms, we can use the income tax brackets to build a tax code by making one simple change: instead of basing tax bracket thresholds on dollar amounts, they should be based on multiples of the minimum wage.

For more information on this proposal, see Appendix III.

Third: A tax code that is designed to rein in wealth concentration.

While the measures we propose above will go a long way toward addressing America's extreme inequality, our tax code should also include provisions that *directly* address the ongoing existential threat to our national stability and the effective functioning of our democracy. To that end, Representative Barbara Lee, along with 19 co-sponsors, has proposed the OLIGARCH Act,[5] a wealth tax that functions solely to constrain undue wealth concentration, through a level of taxation that is tied directly to the level of inequality in the country in any given year.

The OLIGARCH (Oppose Limitless Inequality Growth and Reverse Community Harms) Act sets the wealth tax bracket thresholds based on multiples of median American household wealth. The bracket thresholds are set at 1,000, 10,000, 100,000, and 1,000,000 times median household wealth, imposing marginal tax rates at 2, 4, 6, and 8 percent respectively. By historical standards, these tax rates are extremely modest—so modest, in fact, that for the people who fall into these ultra-rich brackets, the new tax would leave barely a scratch on their annual income, and no mark at all on their lifestyles.

The tax is designed to wax and wane depending on levels of wealth concentration—intensifying during periods of extreme inequality when wealth at the top is increasing faster than wealth in the middle, and tapering off to near non-existence when median household wealth increases and inequality moderates.

For more information on this proposal, see Appendix II.

Conclusion

America's Choice: Concentrated Wealth or Democracy

> *"We can have democracy in this country, or we can have great wealth concentrated in the hands of a few, but we can't have both."*
>
> — *Louis D. Brandeis*, U.S. Supreme Court Justice, 1916-1939

For decades, the tax code has been a central driver of growing inequality in America. At this point, the concentration of wealth among a relatively small number of America's most privileged citizens has become so acute that it creates a society that is unsustainable. If our economy and our democracy are to survive, we have to rebalance them both through the same system that got it off-balance: the tax code. For our future, our grandchildren's future, and our country's future, we must restore the heavier taxes on the rich that were the norm during the mid-20th century—a period, not coincidentally, that ushered in America's greatest era of economic growth.

As our nation enters its second 250 years, the three principles outlined above provide a stable platform on which a robust but fair form of capitalism can thrive—a platform that ensures the survival of American democratic capitalism.

APPENDIX I

TAX CUTS AND JOBS ACT EXPIRING PROVISIONS

Introduction: When enacted in 2017, the Tax Cuts and Jobs Act (TCJA) contained numerous temporary provisions. The sunsetting of many of those provisions at the end of 2025 is now approaching. While some of those provisions were indeed intended to be temporary only, others were made temporary solely to achieve a better revenue score for TCJA, with the hope that they would be extended by a subsequent Congress. 2025 likely is the next time serious tax reform discussions will take place. We expect the expiring provisions of TCJA will be a significant part of the tax policy debate and will create opportunities to improve the tax code beyond where it sat pre-TCJA.

Here's our summary of the TCJA provisions expiring in 2025 or 2026, along with our recommendations on which ones should be allowed to expire, which ones extended, and additional changes we believe should be made.

The Standard Deduction and Personal Exemptions

Explanation: The TCJA substantially increased the standard deduction, while eliminating personal exemptions.[6] For taxpayers who don't itemize deductions and have incomes below the phase-out threshold for personal exemptions, those two changes largely offset one another, with the net result being a slight increase in the amount of income exempt from the federal income tax, but still an amount slightly below the poverty level.[7] Increasing the standard deduction also decreased the benefit from itemized deductions, which high-income families are more likely to claim.

The slight increase in the amount of income exempt from the federal income tax is insufficient. We believe income should not be subject to federal income tax unless it exceeds the income required for a living wage, not a poverty wage.

The child tax credit, discussed below, should function to increase the income exempt from federal income tax to the living wage for households that include children.

Recommendation for Expiration or Extension: We recommend the change under the TCJA to the standard deduction be extended and the suspension of the deduction for personal exemptions be made permanent.

Additional Recommendation: To reach the goal of exempting income equal to a living wage from the federal income tax, we recommend that the standard deduction be made equal to a living wage. In 2024, that would translate to a standard deduction of about $41,600 for a single person and about $83,200 for a married couple filing jointly. A detailed proposal can be found in the American Stability Act (Appendix III).

Changes to the Child Tax Credit and Deductions for Dependents

Explanation: The TCJA made a series of changes to the provisions of the tax code that reduce taxes on taxpayers with dependent children. The specific changes were as follows:

- The elimination of deductions for exemptions for dependents.

- An increase in the maximum amount of the child tax credit.
- A lowering of the earned income threshold for qualification for the child tax credit.
- An increase in the level of income above which the child tax credit is phased out.
- A capping of the refundable portion of the child tax credit.
- The creation of a reduced credit of $500 for dependents other than children under age 17.

Prior to the TCJA, filers could claim an exemption of $4,050 for themselves and each of their dependents. In place of dependent exemptions, the TCJA increased the Child Tax Credit (CTC) and created a new $500 tax credit for dependents not eligible for the CTC (as discussed below). As a result, more income was considered taxable under the TCJA than under prior law for families with children.

Regarding the child tax credit, the TCJA doubled the maximum credit amount from $1,000 to $2,000 and lowered the phase-in requirement from $3,000 in income to $2,500. For some lower-income households, these two adjustments expand access to tax credits. The TCJA also raised the phaseout threshold from $75,000 for single filers and $110,000 for joint filers to $200,000 for single filers and $400,000 for joint filers, a combination that expanded access for higher-income households.

Another provision of the TCJA created a $500 credit for any dependent, such as a child over age 16, who would not otherwise be eligible for the maximum credit amount.[10] Before the TCJA, these individuals would not have qualified for a Child Tax Credit but would have qualified for the aforementioned dependent exemption, which was eliminated by the TCJA. Dependents eligible for this credit include children aged 17 or 18 and children aged 19-24 who were in school full-time during at least five months of the year. Older dependents, as well as some children who are not US citizens, qualify for the $500 credit.

Recommendations for Expiration or Extension Related to the CTC and Deductions for Exemptions for Dependents: We recommend changes to the CTC provisions and the elimination of the deductions for exemptions for dependents be extended.

Recommended Additional Action Related to the CTC and Deductions for Exemptions for Dependents: The CTC for older children and other dependents should be increased from the $500 limit under the TCJA to $2,000. The cost of raising children doesn't taper off after age 16.

The expansion under the American Rescue Plan Act (ARPA) of the changes made to the Child Tax Credit in the TCJA should be reinstated. Those changes included an increase in the maximum CTC amount to $3,600 for children under age 6 and $3,000 for children between ages 6 and 17, full refundability of the CTC, and removal of the phase-in threshold, making the CTC fully accessible to all low-income households.

The changes made by ARPA dramatically reduced child poverty. According to available data, the ARPA's CTC changes reduced child poverty from 9.7% in 2020 to 5.2% in 2021.[11] Now that these changes have expired, an estimated 19 million children in the lowest-income households - or 1 in 4 children under the age of 17 - are ineligible for the credit.

The “Pass-Through Deduction” for Business Income

Explanation: Section 199A, the so-called “pass-through deduction,” is in a category all by itself. This section provides for a deduction equal to 20 percent of “Qualified Business Income,” which is defined generally as income derived from most, but not all, active businesses operated through S corporations, partnerships, and sole proprietorships, including limited liability companies taxable as S corporations, partnerships, or sole proprietorships. Under the current top marginal income tax rate of 37 percent, the pass-through deduction translates to a maximum rate of 29.6 percent on Qualified Business Income. If the top marginal rate were to increase to 39.6 percent, the pass-through deduction would translate to a maximum rate of 31.7 percent on Qualified Business Income.

Recommendation for Expiration or Extension: We recommend Section 199A be allowed to expire.

Section 199A was yet another misguided decision to identify a category of income eligible for preferential treatment.

The tax benefit of Section 199A is skewed overwhelmingly in favor of wealthy Americans. According to an analysis by the Joint Committee on Taxation [table 3],[13] over half the tax benefits of Section 199A in 2024 will flow to those with incomes over $1 million. In 2018 alone, according to IRS data reviewed by ProPublica, Michael Bloomberg, whose wealth now exceeds $100 billion, avoided over $65 million in tax from deductions under Section 199A. At that annual rate for the entire 8-year period it is in effect, Section 199A will confer a half-billion-dollar gift on Bloomberg, one of the ten wealthiest Americans.

New York University law professor Daniel Shaviro described Section 199A as “the worst provision ever even to be seriously proposed in the history of the federal income tax.” There was no sound policy purpose behind Section 199A that might compensate for its glaring defects. The provision was an arbitrary determination that the income that rich people derive from certain businesses should be given preferential treatment compared to workers’ wages and income from other businesses. Section 199A was driven in large part by the need to discourage pass-through businesses from converting to regular corporations to qualify for the new corporate tax rate, which had been reduced by 40 percent to a 79-year low of 21 percent. These changes, Section 199A and the 40 percent cut in the corporate tax rate, were the last in a four- decade, regressive trend that has turned the sound policy that earned income should be taxed at a lower rate than income from other sources on its head. Besides its shocking immorality, this favoring of wealth over work is a large part of what has brought wealth concentration in America to such historic levels.

It makes no sense to implicitly value some types of income over others by conferring favorable tax rates upon them. Worse, when the disfavored category of income is wages paid to workers, it insults the dignity of labor and fosters a belief that the entire system is rigged against ordinary Americans.

Much like the capital gains rate or any other tax provision that creates a class of income taxed at a preferred rate, Section 199A is subject to abuse. Tax avoidance planners can easily manipulate income that in substance is income from work. ProPublica exposed how several billionaires manipulated their incomes to qualify for massive deductions under Section 199A.[12]

For example, billionaires Dick and Liz Uihlein, founders of Uline, reduced their wages by 60%, which made more than $6 million qualify for the 20 percent deduction under Section 199A.

Recommended Additional Action: To prevent tax avoidance through the conversion of existing pass-through entities to corporations, we recommend that tax rates on corporate income and dividends be increased. If Section 199A expires and the maximum marginal tax rate for individuals is allowed to revert to 39.6 percent, as we recommend, the combined tax rate at the corporate and individual levels will total 36.8 percent, nearly three percentage points less than the top individual rate. In addition to that rate reduction, businesses that convert from pass-through entities to corporations will gain the advantage of being able to defer tax at the individual level until dividends are distributed. To foreclose the potential here for tax avoidance, the corporate tax rate should be increased to no less than 28 percent.

Estate and Gift Tax Changes

Explanation: Section 2010(c)(3)(C) of the TCJA doubled the amount that can be excluded from estate and gift tax. If this section is allowed to expire, it would be yet another step toward tax fairness. That one move would cut in half the current exclusion from estate and gift tax, currently $13.61 million per person and $27.22 million for a married couple, to $6.80 million and $13.61 million, respectively.

Recommendation for Expiration or Extension: We recommend Section 2010(c)(3)(C) be allowed to expire.

The doubling of the exclusion from estate and gift tax was the most scandalous giveaway in the Tax Cuts and Jobs Act. It benefited only the wealthiest Americans. At a time of extreme inequality, it served the sole purpose of exacerbating that inequality.

On the surface, an additional $13.61 million exclusion from estate tax for a married couple, at a 40 percent estate tax rate, would seem like an unnecessary $5.44 million gift to the heirs of an ultra-rich couple. But it's actually far worse. Estate and gift tax avoidance planning works by leveraging the amount that can be excluded from tax, at a ratio of 10 to 1 or higher. So, an additional $13.61 million exclusion can be used to avoid estate and gift tax on amounts well in excess of $100 million, even $1 billion or more. Worse, the amount sheltered from tax typically can be lodged in a trust that will allow succeeding generations to avoid tax for generations, no matter how large the fortune held in trust grows.[14]

Recommended Additional Action: Merely allowing the doubled exclusion from estate and gift tax to expire is only a baby step, but it's a clear step in the right direction. Legislation to close the gaping loopholes in the transfer tax system, first proposed nearly a decade ago and included in all three of President Biden's budgets, must be enacted. Yet even that legislation will not be sufficient to address the trillions of dollars in extreme fortunes that have been lodged in trusts that could be beyond the reach of the current system for a century or more.

The harm from sheltering family fortunes in trusts goes well beyond lost tax revenue. For example, trusts can allow members of ultra-rich families to avoid liability to ex-spouses or for those injured by their tortious conduct. Additional legislation will be needed to impose an appropriate tax cost on the maintenance of existing dynasty trusts. One possibility would be to impose a progressive excise tax on trusts holding wealth above a threshold amount.

A Better Approach: We believe the better approach would be to scrap the entire wealth transfer tax system altogether and transition to one that treats gifts and inheritances as income to the recipient,

with appropriate exemptions. That would conform closer to our philosophy that all forms of income should be treated the same for income tax purposes.

Rate Changes

Explanation: The TCJA changed the federal tax brackets by lowering the rates applicable to all but the first of the seven brackets and adjusting the threshold for each bracket. Under the TCJA, the top bracket rate decreased from 39.6% to 37%. The threshold income level at which the top bracket started to apply was increased as well. For married taxpayers filing jointly, it increased from $470,700 to $600,000. With adjustments for inflation since 2018, the threshold for the top tax bracket for married taxpayers filing jointly now stands at $731,200.

Recommendation for Expiration or Extension: We recommend that the changes in the federal income tax brackets be extended, but that the current 37% bracket be allowed to expire and return to a 39.6% top bracket for all income in excess of $1 million.

Recommended Additional Action: We recommend that additional brackets be added for taxpayers at income levels above $1 million, as follows:

- For income between $1 million and $10 million, 50%
- For income between $10 million and $25 million, 60%
- For income between $25 million and $50 million, 70%
- For income between $50 million and $100 million, 80%
- For income above $100 million, 90%

The Cap on the Deduction for State and Local Tax Payments

Explanation: Section 164(b)(6) capped the deduction for state and local taxes (SALT) at $10,000 ($5,000 for married persons filing separately).

Recommendation for Expiration or Extension: We make no recommendation on the expiration of Section 164(b)(6), as we believe a different approach to the federal tax treatment of state and local tax payments is warranted.

While the benefits of repealing the arbitrary $10,000 SALT deduction cap reportedly would flow overwhelmingly to those at the top,[15] the benefits of the SALT deduction itself, including deductions of $10,000 or less, are shared far more evenly across the income scale than media reports might indicate.[16]

The fact that a tax provision's benefit flows largely to wealthy taxpayers does not by itself make it bad policy. In fact, the states worst impacted by the SALT cap – California, New York, Connecticut, and a few others – generally are those with the most progressive state tax codes. That's because those states impose progressive income taxes, whereas other states impose flat or, in some cases, no income taxes, relying instead on fees and fines, property taxes, and regressive sales taxes (which can tax all of the income of somebody living paycheck to paycheck, but very little of the income of the affluent).

Any discussion about removing the SALT cap must take this into consideration and, for that reason, we believe that modification, as opposed to elimination, of the SALT cap is warranted. Modifying the cap could encourage state-based investment and reduce the incentive for states to engage in "tax competition," which we see as fomenting a race to the bottom that ultimately causes states to decimate their revenue bases and force themselves to cut vital services to their residents. With a modified cap, state-level policymakers could be induced to rely more on progressive income taxes and less on regressive consumption and property taxes.

Recommended Additional Action: We suggest the deductibility of state and local tax payments at the federal level should take a more nuanced approach, making appropriate distinctions between income-tax payments and consumption and property tax payments.

If the American Stability Act (see Appendix III) is enacted or if the top marginal income tax rates otherwise are increased substantially, a full deduction should be allowed for state income tax. In fact, the deduction for state and local income tax under such a scenario should be changed from an itemized deduction to an "above-the-line" deduction (i.e. taken in the calculation of Adjusted Gross Income). If taxpayers are subject to marginal federal income tax rates in excess of 50 percent, we see no reason any income applied to state and local income tax should be subject to federal income tax

However, deductions for regressive property and consumption tax payments should be limited. Property tax deductions should not serve to subsidize the cost of housing, often mansions, for the super-rich. To prevent that, the deduction for property tax payments should be phased out for incomes above $1 million at the rate of a one percent reduction in the deduction for each $5,000 of income above $1,000,000, with full phase-out at an income of $1,500,000. The deduction for consumption tax payments should not be allowed. A deduction for consumption tax paid on basic living expenses makes policy sense in the abstract, but would not translate to a meaningful tax benefit, as consumption taxes paid on basic living expenses are far below the standard deduction amount. The better approach is to increase the standard deduction, as we have advocated, to the amount of a cost of living wage, which would include consumption taxes paid on basic living expenses. A deduction for consumption taxes paid on discretionary purchases is harder to justify. As a practical matter, it would have its greatest effect in the case of high-end purchases of planes, cars, boats, etc., where it would function to subsidize extravagance.

Provisions Related to the Alternative Minimum Tax

Explanation: The expiration of several provisions of the TCJA will expand both the reach and the bite of the alternative minimum tax (AMT).

The AMT is an additional tax, added to a taxpayer's regular tax liability, in situations where the taxpayer's effective tax rate is reduced too heavily by certain deductions and credits, known as "preference items." To compute a taxpayer's AMT, the taxpayer's taxable income is adjusted to include those deductions not allowed in computing the AMT, then reduced by the amount of income that is exempt from the AMT to arrive at alternative minimum taxable income, then multiplied by the applicable minimum tax rate, then reduced by credits allowable in determining the AMT and by the taxpayer's regular income tax liability. At higher income levels, the exemption from alternative minimum taxable income is phased out.

Under Section 55, the exemption from the AMT and the income level at which it begins to phase out were increased through 2025, returning to their pre-TCJA levels in 2026. The return of the AMT exemption amount and phaseout threshold to pre-TCJA levels will subject more taxpayers to the AMT.

Other expiring provisions also shielded taxpayers from the AMT. By eliminating personal exemptions and offsetting the elimination with an increased standard deduction, the TCJA removed an item – personal exemptions – that could be included in alternative minimum taxable income. For high-income taxpayers in higher-income tax states, the combined effect for regular tax purposes of two expiring provisions – the SALT deduction cap and the lowering of the top marginal tax rate from 39.6 percent to 37 percent – was minimal. The increase in regular tax resulting from the SALT deduction cap largely offsets the decrease in regular tax resulting from the decrease in the top rate. But the combined impact of the two expiring provisions was beneficial for purposes of the AMT, because SALT deductions are not allowed in the calculation of alternative minimum taxable income.

Recommendation for Expiration or Extension: We recommend that the changes to the AMT be extended.

Expiring Revenue Offsets

Explanation: The TCJA contained various provisions designed to offset the revenue loss from the corporate tax cut and other giveaways. With one exception, these are arbitrary changes, not driven by any policy objective. The provisions in this category are as follows:

Suspension of Miscellaneous Itemized Deductions (Section 67(g)): Prior to the TCJA, miscellaneous itemized deductions, including unreimbursed employee job expenses, investment expenses and tax preparation fees, were deductible as itemized deductions to the extent they exceeded 2 percent of a taxpayer's adjusted gross income.

- Suspension of exclusion for reimbursement of bicycle commuting expense (Section 132(f)(8)).
- Suspension of exclusion for moving expense reimbursement (Section 132(g)(2)).
- Limitation on deduction for qualified residence interest; suspension of deduction for home equity interest (Section 163(h)(3)(F)).
- Limiting personal casualty losses to federally declared disaster areas (Section 163(h)(5)).
- Modification of rules relating to computation of wagering losses (Section 165(d)).
- Suspension of deduction for moving expenses (Section 217(k)).

Recommendation for Expiration or Extension: These provisions should be allowed to expire.

Recommended Additional Action: The deduction for qualified residence interest should be limited to indebtedness secured by the taxpayer's principal residence. If the standard deduction is made equal to a living wage, as we advocate, the deduction for qualified residence interest should be phased out for those with incomes over $1,000,000, with the deduction being reduced by one percent for every $5,000 of income over the $1,000,000 threshold, such that the deduction is entirely phased out for those with incomes above $1,500,000. In any case, the deduction for interest on debt related to second homes should be eliminated.

Expiring Benefits

Explanation: The TCJA included the following tax benefits scheduled to expire in 2025 or 2026:

- Suspension of the limitation on itemized deductions (Section 68(f)).
- Special excluding discharges of student loans from taxable income (Section 108(f)(5)).
- Increase in the percentage limitation on cash contributions to public charities (Section 170(b)(1)(G)).
- Deductibility of employer de minimis meals and related eating facility, and meals for the convenience of the employer (Section 274(o)). This provision is in the form of a limitation on the deductibility by employers of expenses related to employer-provided meals with a delayed effective date of January 2026. Its effect is similar to the expiring provisions in this category in that if no action is taken, the tax benefit involved will expire.

Recommendation for Expiration or Extension: The suspension of the limitation on itemized deductions and the exclusion of discharges of student loans from taxable income reflect sound policy decisions and should be extended. The non-deductibility of expenses related to employer-provided meals represents sound policy and should be allowed to take effect. The increase in the percentage limitation on cash contributions to public charities does not represent sound policy and should be allowed to expire.

APPENDIX II

THE OLIGARCH ACT

Oppose Limitless Inequality Growth And Reverse Community Harms (OLIGARCH) Act

America's extreme concentration of wealth and the accompanying threat to our democracy cries out for a tax designed exclusively to contain inequality. We've developed a proposal for that limited purpose.

Background: Societal Risks Posed by Extreme Wealth Concentration

The danger to democracy posed by extreme concentration of wealth is ever-present. Thomas Paine thought the freedom of elections was "violated by the overbearing influence" of inherited wealth. Abraham Lincoln believed in the taxation of extreme wealth to prevent the rise of an aristocracy. Nearly a century ago, as noted above, Louis Brandeis famously observed: "We can have democracy in this country, or we can have great wealth concentrated in the hands of a few, but we can't have both."

Even before the pandemic, wealth concentration in America had reached crisis levels. The pandemic has raised the alarm even higher. While families struggled with losses of jobs, income, and loved ones to the pandemic, America's 700-odd billionaires added $2 trillion to their collective net worth, an average increase of nearly $3 billion each.

In the three most recent election cycles, Americans for Tax Fairness reported, billionaires made close to 10 percent of all federal campaign contributions.

Political scientists Jeffrey Winters and Benjamin Page have analyzed the relative political power of America's wealthiest citizens. Using their Material Power Index (MPI), they found that "each of the top 400 or so richest Americans had on average about 22,000 times the political power of the average member of the bottom 90 percent, and each of the top 100 or so had nearly 60,000 times as much." Winters and Page concluded that the political influence of America's top 400 was greater than the aristocracy of ancient Athens and "nearly identical" to that of ancient Rome.[17]

In a stark real-world example, the Koch brothers demonstrated how powerful the influence of the ultra-wealthy could be during the passage of the Tax Cuts and Jobs Act. They spent $20 million ahead of the vote promoting the tax bill with direct lobbying, ads, canvassing operations, and more. Then, Speaker of the House Paul Ryan received $500,000 in contributions to his fundraising committee from Charles Koch and his wife, and the NRCC got an additional $474,000, and they pledged to spend millions more trying to convince voters that the unpopular tax plan was actually going to be an economic boon. Their reward for that spending was about $1.4 billion in annual tax savings.

Current Proposals to Tax the Ultra-Rich

Recent tax reform proposals to tax the ultra-rich include Senator Warren's Ultra-Millionaire Tax, Senator Sanders' For the 99.5% Act, Senator Van Hollen's Millionaires Surtax, and Senator Wyden's, President Biden's, and Representative Bowman's various plans to tax unrealized capital gains for the ultra-rich. While those well-conceived proposals all would impact American inequality in a meaningful way, they all serve multiple purposes, such as fairer tax policy, raising revenue, and limiting the future wealth of so-called trust fund babies. Consequently, none of the proposals is narrowly-tailored to the exclusive purpose of addressing democracy-threatening wealth concentration.

Our Proposal: Oppose Limitless Inequality Growth And Restore Civil Harmony (OLIGARCH) Act

Given the critical importance of constraining extreme wealth concentration and the threat it can pose to our way of life, we believe a tax designed exclusively for that purpose would be invaluable. The ideal proposal should satisfy the following requirements:

1. First, and most important, the tax should wax and wane along with wealth concentration, rather than in response to legislative tweaking. It should intensify during periods of extreme inequality, when wealth at the top is increasing faster than wealth in the middle. But when median household wealth increases and inequality moderates to an acceptable level, the tax should taper off to near non-existence.

2. Second, the threshold for taxation should have a clear connection to the objective of taxing only those whose wealth, if allowed to continue growing unchecked, could pose a significant threat to democracy and our society.

3. Third, the tax should be highly progressive, asking more from the ultra-ultra-wealthy than it does from those who are just ultra-wealthy.

We designed our proposal, the Extreme Inequality Containment Tax, to satisfy those three requirements. The structure is a straightforward progressive annual tax on extreme wealth, based on a household's wealth compared to the wealth of the median American household.[18]

It would have four tax brackets:

- 2% for all wealth between 1,000 and 10,000 times greater than median wealth;
- 4% for all wealth between 10,000 and 100,000 times median wealth;
- 6% for all wealth between 100,000 and 1,000,000 times median wealth;
- 8% for all wealth over 1,000,000 times greater than median wealth.

We intentionally chose not to peg the threshold for taxation to a specified dollar amount, as doing so would require constant re-examination of the appropriate dollar threshold.

To test whether our proposal satisfied the first criterion above, we used the analysis of Professors Thomas Piketty, Emmanuel Saez and Gabriel Zucman [table E4] to assess how robustly it would respond to changes in wealth concentration. They estimate wealth on a per adult basis, rather than a per household basis, but the relationship of extreme wealth holdings to the median should be similar. In 1980, fewer than 0.005 percent of adults would have had wealth in excess of 1,000 times median wealth, the threshold for taxation under our proposal, with maybe 0.0002 percent having wealth in excess of 10,000 times median wealth. In 2019, after 39 years of increasing wealth concentration but prior to the recent surge of the pandemic years, about 0.025 percent of adults – five times the 1980 level – had wealth in excess of 1,000 times median wealth, with .0008 percent or so – four times the 1980 level – having wealth 10,000 times median wealth.

At the two top tax brackets, the responsiveness of our proposal to changes in wealth concentration is even more robust. Comparing Forbes' data for the richest Americans in 1983 and currently and to estimates of median household wealth from the Federal Reserve, we estimate that in 1983 no Americans would have had wealth equal to 100,000 times median household wealth, the threshold for

the 6% tax rate under our proposal.[19] In 2021, about 52 Americans would have exceeded that threshold, with two Americans having wealth greater than 1,000,000 times median household wealth.

It is worth noting the limited scope of our proposed tax. A household with 999 times the wealth of the median household would not pay a nickel in added tax. And a household with 2,000 times that of the median household, would pay a tax equal to only one percent of its total wealth. The tax we propose would fall exclusively on those with what we consider "runaway wealth." This is wealth so great that swings in expenses such as basic living costs, which ordinarily constrain wealth accumulation, have virtually no impact.

Rationale for a Wealth Tax

Why a wealth tax? For the ultra-wealthy, any tax functions exclusively as a constraint on their rate of wealth accumulation, as it has no other impact on their lives. For most Americans, income taxes may impact decisions such as retirement planning, job choice, and whether a spouse chooses to work. Not so for the ultra-wealthy. Sales and excise taxes impact spending decisions for nearly all of us, but not for the ultrawealthy. Given those realities, and because the purpose for a separate tax that falls only on the ultra-wealthy is to rein in their accumulation of wealth, a tax based on wealth above a level well beyond the capacity of average Americans seemed the most logical approach.

We are of course aware that some experts believe a tax based on wealth could be ruled unconstitutional by the Supreme Court. Many other experts, however, do not agree, arguing that a tax on extreme wealth would pass constitutional muster. We do not believe Congress should be deterred by this uncertainty. The constitutionality of the Affordable Care Act was by no means certain at the time of its enactment. But by moving forward anyhow, Congress provided health care to millions.

By proposing a tax on wealth above extreme levels, we do not suggest that other reform proposals that impact mainly rich Americans, such as the various proposals to tax unrealized investment gains and to close the loopholes in the estate tax, should be abandoned. Those proposals serve other valid purposes and should be pursued.

But we believe the runaway wealth concentration in America today cries out for a specific tax, narrowly tailored to the purpose of reversing the extreme inequality that destabilizes our economy and threatens to turn our democracy into an aristocracy or, worse yet, an autocracy. America's founding documents are replete with calls for equality, and the right of every American to have equal access to life, liberty, and the pursuit of happiness. Over the years, that promise has been both honored and ignored. Today, unfortunately, it is all but forgotten. We believe that if our political leaders do not soon return this country to its true founding principles, we only hasten our peril.

Citations

[1] See Hope, D., and Limberg, J, The economic consequences of major tax cuts for the rich (Socio-Economic Review, Vol. 20, Issue 2, April 2022, at 539-559) (Cutting taxes on the rich increases inequality but has no effect on growth or unemployment); Unger, R., Non-Partisan Congressional Tax Report Debunks Core Conservative Economic Theory – GOP Suppresses Study (Forbes, November 2, 2012) ("The reduction in the top tax rates appears to be uncorrelated with saving, investment and productivity growth. The top tax rates appear to have little or no relation to the size of the economic pie. However, the top tax rate reductions appear to be associated with the increasing concentration of income at the top of the income distribution.")(Quoting the nonpartisan Congressional Research Service).

[2] Heather Long, "71% of Americans believe economy is rigged" *CNN Business* June 28th, 2016

[3] https://livingwage.mit.edu/. The most recent update to the living wage calculator [see https://livingwage.mit.edu/articles/103-new-data-posted-2023-living-wage-calculator] indicates that the national average living wage for a single individual living alone would be about $36,000 per year, or $17.30 per hour.

[4] https://www.irs.gov/businesses/small-businesses-self-employed/collection-financial-standards. For example, a delinquent single taxpayer with no children living in Maricopa County, Arizona, would be allowed to keep up to $41,664 per year for basic living expenses, plus the cost of health insurance, before paying the first dollar towards back taxes.

[5] https://patrioticmillionaires.org/wp-content/uploads/Oligarch-Act-Memo.pdf

[6] https://www.taxpolicycenter.org/briefing-book/how-did-tcja-change-taxes-families-children

[7] Under pre-TCJA law, a single taxpayer in 2018 would have been able to claim a personal exemption of $4,150 and a standard deduction of $6,350, for a total amount exempt from federal income tax of $10,500. Under the TCJA, a single taxpayer could claim a standard deduction of $12,000, thus increasing the amount exempt from federal income tax by $1,500. The standard deduction in 2023 is $13,850 for single taxpayers and $27,700 for married couples filing jointly. The poverty level used by the Department of Health and Human Services for determining eligibility for Medicaid is $14,580 for a single person. (https://www.healthcare.gov/glossary/federal-poverty-level-fpl/)

[8] https://www.taxpolicycenter.org/briefing-book/how-did-tax-cuts-and-jobs-act-change-personal-taxes

[9] https://livingwage.mit.edu/. The most recent update to the living wage calculator [see https://livingwage.mit.edu/articles/103-new-data-posted-2023-living-wage-calculator] indicates that the national average living wage for a single individual living alone would be about $36,000 per year, or $17.30 per hour.

[10] https://www.taxpolicycenter.org/sites/default/files/briefing-book/what-is-the-child-tax-credit.pdf

[11] https://www.cbpp.org/research/federal-tax/year-end-tax-policy-priority-expand-the-child-tax-credit-for-the-19-million

[12] https://www.propublica.org/article/how-the-trump-tax-law-created-a-loophole-that-lets-top-executives-net-millions-by-slashing-their-own-salaries

[13] https://www.jct.gov/getattachment/5ce9eb00-6770-497c-b637-05caf612a358/x-32R-18-5093.pdf

[14] See Dynasty Trusts, Giant Tax Loopholes That Supercharge Wealth Accumulation (Americans for Tax Fairness, February 2, 2022).

[15] https://www.cbpp.org/research/federal-tax/repealing-salt-cap-would-be-regressive-and-proposed-offset-would-use-up-needed

[16] https://www.taxpolicycenter.org/sites/default/files/alfresco/publication-pdfs/2000693-Revisiting-the-State-and-Local-Tax-Deduction.pdf. According to Tax Policy Center analysis of 2016 tax return data, 30 percent of the

benefits of the SALT deduction went to taxpayers with incomes over $1 million [Table 4], while 45 percent of the benefits of the SALT deduction above a $6,000 cap went to taxpayers with incomes over $1 million [table 5].

[17] Jeffrey A. Winters & Benjamin I. Page "Oligarchy in the United States?, Perspectives on Politics" (Dec. 2009), pp. 731-51.

[18] The most often cited measure of median net worth is the Federal Reserve's triennial Survey of Consumer Finances. In the 2019 survey, median household net worth stood at $121,700. For years the survey is not conducted, the most recent determination of median household net worth could be assumed to increase or decrease by the same percentage as aggregate household net worth, which is determined on an annual basis.

[19] In 1983, median net worth for American households, excluding automobiles and other consumer durables, stood at $24,574, according to the Federal Reserve. That year, John Paul Getty topped the Forbes 400 list, as reported by the New York Times, with a net worth of $2.2 billion, about 90,000 times the median household net worth.

APPENDIX III

THE AMERICAN STABILITY ACT

An Integrated Wage and Tax System That Keeps Working Americans Out of Poverty and Ensures Equitable Distribution of Economic Growth

Introduction

At one time, America's income tax was truly progressive. Between the 1940s and 1960s, marginal income tax rates started at 14 percent and topped out at over 90 percent, which coincided with the largest sustained economic growth in American history. During that same period, wages for most Americans improved dramatically. By the 1960s, few Americans working full time faced poverty. In 1968, the federal minimum wage in America reached its zenith in inflation-adjusted dollars. Unfortunately, various federal and state policies prevented Black Americans from participating in the economic gains enjoyed by others. While in 1967, one-third of all Black Americans still lived in poverty[1], the American middle class, as a whole, experienced a level of stability and prosperity unmatched in world history.

Much of the progress made prior to 1968 has been lost over the course of the past five decades. Today, millions of hard-working Americans lack the income required to pay for basic living expenses. Although the income tax remains modestly progressive in the middle of the income scale, upper income brackets have largely unburdened themselves from the levels of taxation which fueled America's growth during the post-World War Two era. The tax code taxes annual income in excess of $750,000 at the same marginal rate as annual income in excess of $100 million. At the bottom, families with insufficient income to provide for basic living expenses may nonetheless face income tax, driving them deeper into poverty.

Meanwhile, the federal minimum wage has not budged in 14 years. From the time it was introduced in 1938 until 1968, the minimum wage increased on an inflation-adjusted basis. Since then, it has steadily fallen, now standing at the lowest level it's been since 1950, just over half of what it was in 1968 after accounting for inflation.

Our proposal – The American Stability Act – addresses these reversals. **First**, it calls for a federal minimum wage – the Stability Wage – that is at the very least a Cost-Based wage; a wage sufficient to pay the basic living expenses of a single, childless adult living in a location with a basic cost of living equal to the basic cost of living in the typical American state; that is, the American state with a cost of living neither higher nor lower than that of most other states[2]. Further, the American Stability Act calls for an annual increase in the Stability Wage proportional to the increase in the average wage for all workers. **Second**, it provides an exemption from federal income tax equal to the Cost-Based wage. **Third**, it provides for additional income tax brackets all the way up to 90 percent for those with annual incomes exceeding $100 million.

And it does this in a way that links tax bracket adjustments to future increases in the Stability Wage, so that all Americans share in the benefits of improved economic productivity.

Part 1) The Stability Wage: A Minimum Wage No Less Than A Livable Wage

We start with the principle that, in a country as rich as the United States of America, no person working full-time should be unable to afford the basic necessities of life, nor should they remain trapped in a cycle of poverty. The Stability Wage should be no less than a livable wage.

The income required to avoid poverty should not be confused with the official poverty line. The current federal minimum wage, $7.25 per hour, happens to be approximately equal to the official poverty line for a single adult, if we assume a 40-hour work week. That's largely a coincidence, since the federal minimum wage hasn't increased since 2009, when the poverty line was only $10,830 for a single adult. In 2024, the poverty line is $15,060 for a single person living alone while the minimum wage hasn't budged.

With a minimum wage approximately equal to the poverty line and no income tax required at that level of income, logically, there should be few if any working poor in America. Yet there are millions of them, because the official poverty line calculation is wildly misleading, and doesn't come close to what an American needs for basic living expenses.

This discrepancy emerges because the official poverty measure published by the Census Bureau has nothing to do with the cost of *living*. The poverty line was calculated as equal to three times the cost of a minimum food diet in 1963, adjusted for inflation, and taking into account family size and composition. Food costs are far less than one-third of basic living expenses. For a single person living alone, for example, the total cost of food and housing alone could equal or exceed three times the cost of food, leaving nothing to cover such necessities as healthcare, transportation, clothing and employment tax. Were it not used for determining federal means-tested program eligibility (such as Supplemental Nutrition Assistance Program, Women Infants and Children Program, and Head Start) and to approximate the income threshold for taxation, the official poverty measure would be a meaningless figure, other than perhaps as a measure of what it would cost to eat three times as much food as one should.

The Census Bureau itself recognized this in 2010, when it started publishing a supplemental poverty measure based on food, shelter, clothing and utilities. But that updated measure has yet to replace the official poverty measure.

Basing the Stability Wage on the principle that it should at least cover the basic cost of living for a full-time worker is complicated by the considerably wide range in the cost of living throughout the country. According to one study, if the average cost of living in the country is assigned an index of 100, the cost of living index assigned to each state ranges from a low of 85.3 (Mississippi) to a high of 179 (Hawaii).

Because the Stability Wage will apply nationwide, it should not be excessive for those areas where the cost of living is relatively low. For locations where the cost of living is higher, states and localities have the ability to institute a higher minimum wage. For example, although the federal minimum wage currently stands at $7.25 per hour, the minimum wage in Washington is $16.28 per hour. We used the Massachusetts Institute of Technology's Living Wage Calculator to rank the states and the District of Columbia by order of cost of living for a single person with no children[1]. We then chose the state that ranked above 25 of the others and below 25 of the others, North Carolina, upon which to base this proposal.

According to the Living Wage Calculator, the average amount needed by a single adult with no children for basic living expenses in North Carolina, *including taxes*, would be $44,848 for the year 2024. If the tax code were to exempt those who earned just a living wage from federal income tax (which our proposal would do), it would reduce that living wage to $41,450. That translates to an hourly wage of $19.93, based on a 40 hour work week.

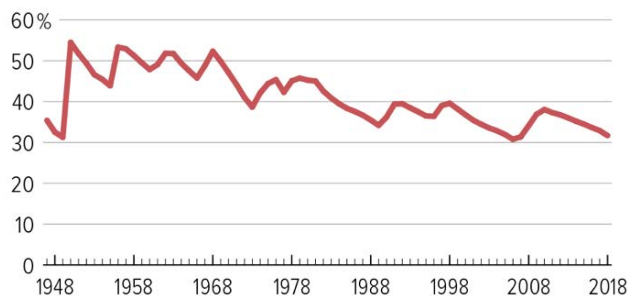
We concluded that $20 per hour, or $41,600 per year, is a reasonable determination of the Cost-Based Wage for purposes of the American Stability Act: that is, the basic cost of living, rounded to the nearest quarter per hour, for the typical single adult with no children in the American state with a cost of living at the midpoint of the ranking of the 50 states and the District of Columbia. This is intended to allow for the payment of federal payroll (FICA) tax, but not federal income tax. Thus, it should cover basic living expenses for America's full-time Stability Wage workers in 26 states.

This wage would not be a livable wage throughout the country. It would not be practical to enact a federal minimum wage that covered the basic cost of living nationwide, as that would be excessive in many locations. Instead, we must rely on states and cities with higher costs of living to enact local minimum wage requirements.

Adjusting the Stability Wage to Keep Pace with the Cost of Living and Average Wages

Since 1968, the minimum wage in America has lost 49.9 percent of its purchasing power. Effectively, the minimum wage has been cut in half.

For 15 years leading up to 1968, the minimum wage kept pace with the average wage, hovering around 50 percent of the average wage. Since then, the ratio of the minimum wage to the average wage has plummeted, standing at barely over 30 percent of the average wage in 2019.



The American Stability Act calls for annual adjustments that ensure that the Stability Wage is never less than the Cost-Based Wage (as calculated by the American Stability Act) and that it also keeps pace with the average wage for all employees. In other words, it ensures macroeconomic growth is passed along to the workers who create it; when the average wage rises, so too does the Stability wage.[4,5]

Phasing In the Stability Wage

The American Stability Act recognizes that an immediate increase from the current $7.25 per hour minimum wage by more than $12 per hour is not practical. Thus, the American Stability Act adopts an approach similar to that taken in the Raise the Wage Act of 2023[6]: an immediate increase in the federal minimum wage to $ $10 per hour, or $20,800 per year, increasing at the rate of up to $ $2.00 per hour per year until it is equal to the lesser of $ $20.00 per hour, or $41,600 per year, or the Stability Wage. Thereafter, if the minimum wage is less than the Stability Wage, the minimum wage will be increased by up to ten percent per year until it is equal to the Stability Wage.

The American Stability Act also calls for the elimination of the so-called "tipped minimum wage." Adopting an approach similar to the Raise the Wage Act of 2023, it calls for an immediate increase in the federal minimum wage of tipped workers to $7.50 per hour, or $15,600 per year, increasing at the rate of up to $ $2.50 per hour per year for five years, until it is equal to the lesser of $20 per hour or the Stability Wage. Thereafter, if the tipped minimum wage is less than the Stability Wage, the tipped minimum wage will be increased by up to ten percent per year until it is equal to the Stability Wage.

Part 2) The Cost-Based Wage Deduction: An Exemption from Income Tax for Basic Living Expenses

Historically, Congress has sought to eliminate the income tax burden for households with income below the poverty line. Currently, the standard deduction - the amount a taxpayer's income must exceed to have any income subject to federal income tax – approximates the official poverty line. But as we discussed above, this is a woefully inadequate number: the way the Census Bureau calculates the poverty line does not remotely correspond to what the average person actually needs to live. The result is that income above the current poverty line that's needed to pay for those basic living expenses is subject to income taxation. In 2024, the official poverty measure for a single person living alone is $15,060. The standard deduction for a single person is only slightly lower, $14,600.

Our simple concept is that people should not have to pay income tax when doing so will drive them further into poverty. As such, no income tax should be imposed on income a person needs to pay for food, housing, health insurance, childcare, transportation, or any other basic necessity.

Thus, the American Stability Act raises the standard deduction to a Cost-Based Wage Deduction, based on the principle that a livable wage should not be subject to federal income tax. If every full-time worker received at least the Cost-Based Wage and all workers paid no income tax on income up to the Cost-Based Wage, we would be close to having no "working poor" in America.

The Cost-Based Wage Deduction is equal to the Cost-Based Wage for single filers and married filers filing separately, twice the Cost-Based Wage for married taxpayers filing jointly, and one and one-half times the Cost-Based Wage for heads of household.

The federal government operates on a similar principle to what we propose here for the collection of unpaid taxes. The Internal Revenue Service publishes its own determination, known as the Collection Financial Standards, of what it will allow a delinquent taxpayer to apply from current income to basic living expenses before having to apply the remainder to a back tax liability. According to those

standards, which have not yet been updated for 2024, the IRS will allow a delinquent single taxpayer in Mecklenburg County, North Carolina, to apply up to $43,104 annually for basic living expenses, plus an additional amount for health insurance, before any portion of his income must be applied to back taxes.

Those same Collection Financial Standards are used for means testing in federal bankruptcy cases to determine the amount a bankrupt person can retain for living expenses from monthly income before paying the excess monthly income to creditors.

While it's obvious how setting the Stability Wage to at least the Cost-Based Wage would dramatically improve the lives of the working poor, the importance of exempting the Cost-Based Wage from federal income tax is not as obvious. However, it is critical.

Take, for example, a fast food worker earning $41,600 per year. If she's limited to the current standard deduction of $14,600, she could pay as much as $3,008 in federal income tax. That is $3,008 of basic living expenses she would not be able to pay.

So, how would that worker address her living expense shortfall? She might allow a medical problem to fester to avoid paying for healthcare. A year later, that would be a far more serious, more costly medical problem. Or maybe she'd delay replacement of a worn out mattress. A year later, she could be dealing with a back problem. Or she just might put those items on her high interest rate credit card. Whatever option she chose, her tax-driven shortfall ultimately would cost her a lot more than $3,008.

Would the Cost-Based Wage Deduction entirely preclude income tax payments from driving workers further into poverty? No, to avoid undue complexity, the cost of living used to determine the federal Cost-Based Wage would have to be uniform for all federal taxpayers, which means that residents of areas where the cost of living is relatively high might pay some income tax on income slightly below their actual cost of living.[7]

Still, these workers would find themselves in a far better, more stable, situation. And it's an easy, straightforward fix to a problem that's been allowed to persist for far too long. The American Stability Act calls for immediately raising the standard deduction to a Cost-Based Wage Deduction.

Because the American Stability Act calls for the Stability Wage to increase in proportion to the increase in the average wage for all workers, the Stability Wage may at some point exceed the Cost-Based Wage, in which case it will not be fully exempt from federal income tax. That's appropriate. If America's lowest-paid workers earn income greater than that required to cover the basic cost of living, they will be in a position to contribute, albeit modestly, to the nation's expenses.

Related Adjustments to the Federal Income Tax Brackets

Raising the standard deduction to a Cost-Based Wage Deduction to ensure federal income tax doesn't drive workers into (or further into) poverty is sound policy, but it shouldn't confer a windfall on higher-income taxpayers. To prevent that from happening, two adjustments to the federal income tax brackets would be required.

If the current standard deduction for 2024 of $14,600 for a single adult is raised to a Cost-Based Wage Deduction of $41,600 and no other changes are made to the federal tax brackets, the federal income

tax of all taxpayers who don't itemize their deductions would be reduced by the product of the $27,000 increase in the deduction and the taxpayer's marginal tax bracket. A taxpayer in the top one percent might see a federal tax reduction of as much as $9,990, more than triple the $3,008 benefit for the folks the proposal is designed to help.

Two adjustments to the federal tax brackets would address this. First, the threshold for each bracket would need to be reduced by the increase in the amount of the deduction. This adjustment causes the tax benefit to be equal for all taxpayers. For single taxpayers, the brackets would change from the current levels:

Table 1: Current Tax Brackets for Single Taxpayer

Tax rate	Taxable income bracket
10%	$0 to $11,600.
12%	$11,601 to $47,150.
22%	$47,151 to $100,525.
24%	$100,526 to $191,950.
32%	$191,951 to $243,725.
35%	$243,725 to $609,350.
37%	$609,351 or more.

To the following levels:

Table 2: Tax Brackets for Single Taxpayer Adjusted for replacement of Standard Deduction by Cost-Based Wage Deduction of $41,600

Tax rate	Taxable income bracket adjusted for Cost-Based Wage Deduction
10%	Eliminated
12%	$0 to $20,150.
22%	$20,151 to $73,525.
24%	$73,526 to $164,950.
32%	$164,9511 to $216,725.
35%	$216,726 to $582,350.
37%	$582,351 or more.

Those changes would limit the tax decrease for all taxpayers above the Cost-Based Wage to the same $3,008 decrease benefitting a single taxpayer earning the $41,600 Cost-Based Wage.

Even the $3,008 reduction in tax for those making barely the Cost-Based Wage would be unnecessary for higher-income taxpayers. That benefit should be phased out. The replacement of the current 12, 22 and 24 percent brackets with 21 and 24 percent brackets, as shown below, would cause the $3,008 tax decrease to be eliminated for all taxpayers with taxable incomes above $73,525.

Table 3: Tax Brackets for Single Taxpayer with Phase-out for Standard Deduction Replacement by Cost-Based Wage Deduction

Tax rate	Taxable income bracket with phase-out of increased deduction
10%	Eliminated
21%	$0 to $15,925.
24%	$15,926 to $164,950.
32%	$164,951 to $216,725.
35%	$216,725 to $582,350.
37%	$582,351 or more.

The foregoing adjustments would cause the benefit of the increased standard deduction to be phased out between the Cost-Based Wage of $41,600 and $115,125. A single taxpayer with an income of $83,200, twice the living wage, would enjoy a tax decrease of $639. A taxpayer with an income of $115,125 or more would see no change.

Part 3) Ensuring that All Working Americans Share in our Increased Prosperity

Continued improvements to American productivity should result in benefits to both workers, in the form of higher wages, and taxpayers, in the form of reduced effective income tax rates. Historically, improvements in productivity have translated into either of those benefits, but often not both. According to a study by the Economic Policy Institute, wages rose with improvements in productivity prior to 1980. But since then, productivity has skyrocketed while wages stagnated. Moreover, since 1980, improvements in productivity have corresponded with massive tax reductions for those with the highest incomes.

That's morally and ethically wrong. Many of our neighbors are not sharing in the extraordinary wealth generated by the 21st Century economy because wages for our lowest-paid workers have not kept pace with our economic growth. If we consider ourselves patriots, it is our obligation to ensure our neighbors are equal partners in America's great economy. In practical terms, we can use the income tax brackets to build a patriotic tax code by making one simple change. Instead of basing tax bracket thresholds on dollar amounts, they should be based on multiples of the Stability Wage.

Here's what that would look like if we modify Table 3 above to state the bracket thresholds as multiples of the Stability Wage.

Table 4: Tax Brackets for Single Taxpayer Based on Multiples of the Stability Wage

Tax rate	Taxable income bracket as multiple of Stability Wage
21%	0 - 0.4
24%	0.4 - 4.0
32%	4.0 - 5.2
35%	5.2 - 14.0
37%	14.0 or more.

Under this structure, as the economy expands and enables an increase in the average wage, both minimum-wage workers and taxpayers would automatically benefit as well. Under the American Stability Act, the Stability Wage will ultimately increase in proportion to the increase in the average wage. Because the federal tax bracket thresholds are multiples of the Stability Wage, they also will increase in proportion to the average wage. Thus, the federal income tax owed at any given level of income will decrease as the average wage increases.

If Congress wanted to cut income tax rates, it could do so easily by simply raising the Stability Wage. This wouldn't prevent Congress from modifying the income tax brackets to reduce income tax rates for those at the top without raising the Stability Wage. But if it did so, we'd all know that Congress was taking action to benefit the rich while leaving everyone else behind.

To be sure, there might be difficult economic times that call for stimulative tax cuts when employers could not afford a higher Stability Wage. The American Stability Act would not preclude the enactment of such cuts. Those cuts could take the form of corporate income tax cuts, cuts in payroll taxes, or short-term income tax rebates. There would be no need, however, to break the commitment, embodied in the American Stability Act, to a tax code that ensures all Americans share in the long-term improvement in America's productivity.

Part 4) Unrigging the Tax Code for Top Income Brackets

The federal income tax code must become significantly more progressive to create a more fair and equitable system. The American Stability Act is designed to satisfy two important requirements:

1. The American Stability Act includes additional tax brackets to restore progressivity between the affluent, the very rich, and the ultra rich. Under current law, a lawyer who makes $750,000 per year pays income tax at the same marginal tax rate as a billionaire receiving $100 million or more in rental income. The American Stability Act recognizes the reality that taxpayers receiving $750,000 in annual income are in a different universe from those receiving $100 million.

2. To serve as a meaningful brake on the accumulation of wealth at the very top, the top marginal income tax rate should be substantially higher than the current 37% maximum rate. The top marginal rate of over 90% that the country had in the 1950s applied to income exceeding the equivalent of $2.5 million today. Because the incomes of the very rich today far exceed $2.5 million, a 90% top rate is reserved under the American Stability Act for income exceeding $100 million per year. That would limit the impact of the top rate to a very narrow group of Americans:

about 0.0005% of all US adults, or around 650 households. That would leave room for a fair progression of rates between the current top rate of 37% and the maximum rate of 90%.

Following is a progressive rate schedule based on multiples of a $41,600 Stability Wage, with marginal rates topping out at 90%:

Table 5: Full Tax Brackets for Single Taxpayer Based on Multiples of Stability Wage and Cost-Based Deduction Equal to $41,600

Tax rate	Taxable income bracket as multiple of Stability Wage	Dollar Equivalent at $41,600 Stability Wage
21%	0 - 0.4	0 - $16,640
24%	0.4 - 4.0	$16,640 - $166,400
32%	4.0 -5.24	$166,400 - $216,320
35%	5.2 - 14.0	$216,320 - $582,400
37%	14.0 - 25.0	$582,400 - $1.04 million
50%	25 - 241	$1.04 million - $10.02 million
60%	241-601	$10.02 million - $25 million
70%	601 - 1202	$25 million - $50 million
80%	1202 - 2404	$50 million - $100 million
90%	Over 2404	Over $100 million

Any person subject to a marginal rate greater than 50% under the American Stability Act will have received income in just one year greater than a minimum wage worker would receive for 241 years' work. A person paying a marginal rate of 90% will have received income in just one year equal to *24 centuries* (about 5 million hours) of wages for a minimum wage worker.

It is worth reiterating that the top tax rate of 90% under the American Stability Act will apply to very few individuals in the US, and only to the portion of their income over and above the amount that could conceivably be needed to fund even the most absurd level of personal consumption. There are very few people in this country who make more than $100 million per year. According to ProPublica's recent reporting, an income of $110 million per year would place a person in the top 400 taxpayers in the US.

The Appendix contains tax rate schedules for all taxpayers based on a Stability Wage of $41,600 a Cost-Based Wage Deduction of $41,600, bracket thresholds described in this memorandum for single taxpayers, and the relationship under current law of standard deductions and bracket thresholds for other categories of taxpayers to the standard deduction and bracket thresholds for single taxpayers.

Adjusting for Changes in the Cost-Based Wage and Stability Wage

Currently, the federal income tax brackets adjust automatically for inflation, whereas the federal minimum wage does not change in the absence of Congressional action. As a consequence, the minimum wage has not increased since 2009.

We have discussed the annual adjustments under our proposal for both the Cost-Based Wage and the Stability Wage. Under the American Stability Act, the annual adjustment of the Stability Wage would at a minimum take into account inflation.

Because the income tax bracket thresholds are based on the Stability Wage, adjusting the Stability Wage would automatically adjust the tax bracket thresholds for inflation under the American Stability Act. Because the Cost-Based Wage Deduction is based on the Cost-Based Wage, it also will be automatically adjusted for inflation under the American Stability Act.

Conclusion

The federal income tax never was intended to drive working Americans into poverty or exacerbate poverty. By raising the standard deduction to a Cost-Based Wage Deduction that reflects the basic cost of living in America, and setting the Stability Wage to at least the same level, we could effectively eliminate the idea of "the working poor" in America. By basing income tax bracket thresholds on the Stability Wage and making income tax brackets fully progressive, the benefits of increased prosperity in America would be shared more equitably throughout the entire economic scale.

Appendix

Tax Tables for Federal Cost-based Wage of $41,600

For Single Taxpayers
Cost-Based Wage Deduction = 100% of Cost-Based Wage = $41,600

Tax rate	Taxable income bracket as multiple of Stability Wage	Dollar Equivalent at $41,600 Stability Wage
21%	0 - 0.4	0 - $16,640
24%	0.4 - 4.0	$16,640 - $166,400
32%	4.0 - 5.2	$166,400 - $216,320
35%	5.2 - 14.0	$216,320 - $582,400
37%	14.0 - 25.0	$582,400 - $1.02 million
50%	25.0 - 241	$1.04 million - $10.02 million
60%	241-601	$10.02 million - $25 million
70%	601 - 1202	$25 million - $50 million
80%	1202 - 2404	$50 million - $100 million
90%	Over 2404	Over $100 million

For Married Taxpayers Filing Jointly
Cost-Based Wage Deduction = 200% of Cost-Based Wage = $83,200

Tax rate	Taxable income bracket as multiple of Stability Wage	Dollar Equivalent at $41,600 Stability Wage
21%	0 - 0.8	0 - $33,280
24%	0.8 - 8.0	$33,280 - $332,800
32%	8.0 - 10.4	$332,800 - $432,640
35%	10.4 - 16.2	$432,640 - $673,920
37%	16.2 - 25.0	$673,920 - $1.04 million
50%	25.0 - 241	$1.04 million - $10.02 million
60%	241-601	$10.02 million - $25 million
70%	601 - 1202	$25 million - $50 million
80%	1202 - 2404	$50 million - $100 million
90%	Over 2404	Over $100 million

For Married Taxpayers Filing Separately
Cost-Based Wage Deduction = 100% of Cost-Based Wage = $41,600

Tax rate	Taxable income bracket as multiple of Stability Wage	Dollar Equivalent at $41,600 Stability Wage
21%	0 - 0.4	0 - $16,640
24%	0.4 - 4.0	$16,640 - $166,400
32%	4.0 - 5.2	$166,400 - $216,320
35%	5,2 - 8.1	$216,320 - $336,960
37%	8.1 - 12.5	$336,960 - $520,000
50%	12.5 - 120.5	$520,000 - $5.01 million
60%	120.5 - 300.0	$5.01 million - $12.5 million
70%	300.5 - 601	$12.5 million - $25 million
80%	601 - 1202	$25 million - $50 million
90%	Over 1202	Over $50 million

For Heads of Household

Cost-Based Wage Deduction = 150% of Cost-Based Wage = $62,400

Tax rate	Taxable income bracket as multiple of Stability Wage	Dollar Equivalent at $41,600 Stability Wage
21%	0 - 1.7	0 - $70,720
24%	1.7 - 4.0	$70,720 - $166,400
32%	4.0 - 5.2	$166,400 - $216,320
35%	5.2 - 14.0	$216,320 - $582,400
37%	14.0 - 25.0	$582,400 - $1.04 million
50%	25.0 - 241	$1.04 million - $10.02 million
60%	241-601	$10.02 million - $25 million
70%	601 - 1202	$25 million - $50 million
80%	1202 - 2404	$50 million - $100 million
90%	Over 2404	Over $100 million

Citations

[1] https://blackdemographics.com/chart-history-of-poverty-in-black-american-families/

[2] The minimum wage can of course be set higher at the state or local level in areas where the cost of living is higher.

[3] https://livingwage.mit.edu.

[4] Thus, under the American Stability Act, the Cost-Based Wage increases annually according to the change in the consumer price index [Consumer Price Index for All Urban Consumers]. For any year subsequent to 2024, the Cost-Based Wage will be equal to the 2024 Cost-Based Wage of $41,600 multiplied by the ratio of the CPI-U for September of the year preceding that year to the CPI-U for January 2024.

[5] The Stability Wage for any year will be equal to the greater of the Cost-Based Wage for that year or the Stability Wage for 2024 multiplied by the ratio of the average hourly wage for September of the year preceding that year to the average hourly wage for January of 2024. [US Bureau of Labor Statistics Table B-8. Average hourly and weekly earnings of production and nonsupervisory employees on private nonfarm payrolls by industry sector, seasonally adjusted(1)]

[6] The Raise the Wage Act of 2023 would follow a similar schedule of annual increases until the minimum wage reached $17 per hour, after which it would increase annually by the percentage change in the median hourly wage of all employees, as determined by the Bureau of Labor Statistics.

[7] That problem could be solved at the state or local level, by mandating a minimum wage in those higher-cost-of-living areas sufficient to cover the basic cost of living in those areas including the federal income tax payable on that wage.

APPENDIX IV

THE EQUAL TAX ACT: AN EQUALIZATION OF CAPITAL GAINS AND EARNED INCOME RATES

Income accrued through existing wealth is taxed at a lower rate than income earned through labor. The result is a grossly uneven tax code.

Introduction

There are lots of ways to make money. The vast majority of Americans earn their income through wages, but wealthier people often make money through investment gains, dividends, interest, royalties, rents, and various other accretions of wealth, as opposed to their labor. In other words, simply having money allows them to make more money. Unfortunately, our income tax law applies different tax rates to different types of income. Long-term capital gains and dividends, for example, are taxed at a lower rate than wages. With the right accountant, certain types of business income can avoid 20% of its associated tax liability. Investment managers can make their compensation look like capital gains—cutting their tax rate almost in half as a result. The tax on gains from the sale of real property can be deferred if reinvested in new property. And unrealized gains that have not been taxed prior to a person's death escape tax entirely.

And yet, regardless of how the money is acquired, it's all still money.

The federal income tax is designed to be progressive, asking the wealthiest to pay a higher percentage of their income. However, the differing treatment of various categories of income predominantly benefits America's ultra-rich, who structure their affairs to make many taxes optional and shift the tax burden onto America's working class. This fact, combined with the regressivity of most state and local taxes, means that the top 400 wealthiest Americans—all billionaires—pay an effective overall tax rate lower than most Americans.

A Gross Disparity and an Urgent Need

The special treatment provisions of America's income tax code, both individually and collectively, tilt substantially in favor of high-income taxpayers while leaving wage-earners responsible for shouldering the burden of taxes.

Virtually all of the current tax code's special provisions apply to income from capital, and as a result, the benefits flow predominantly to the very rich. Even moderately wealthy wage earners, such as doctors, lawyers, management personnel, etc. pay a much higher rate of combined income and employment tax than ultra-wealthy business owners and investors.

For example, according to reporting by ProPublica, of the top 15 income recipients in America, all with average annual incomes exceeding $800 million, a group that included six "centibillionaires," nine paid an effective federal income tax rate of under 20 percent. That is a considerably lower rate than that paid by emergency room doctors with incomes less than 0.1 percent (one one-thousandth) of those top-income recipients.

Moreover, tax code provisions that confer preferential treatment on income from wealth are often the essential ingredient for tax avoidance schemes. For example, the 17-percentage-point difference between taxation at ordinary rates and long-term capital gains rates can turn on a holding period of just one additional day. By structuring transactions that create gains and losses in nearly equal amounts, wealthy taxpayers can artificially offset short-term gains with losses on assets held for 365 days, while corresponding gains on assets held for 366 days are taxed at capital gains rates. Recently, ProPublica reported that billionaire Jeffrey Yass employed this exact strategy to avoid over $1 billion in taxes over a six-year period.

Policy considerations supporting the favorable treatment of income flowing to high-income taxpayers are weak or non-existent. For example, there is no sound reason why a high-income taxpayer who sells an asset prior to their death should pay tax on the gain, whereas one who holds the asset until death does not. Similarly, there is no reason why a high-income taxpayer should receive more favorable tax treatment if she invests the proceeds from the sale of an office building in a shopping center than she would if she invests the same proceeds in the stock market.

Lost in the complexity of these provisions is the reality that a dollar of income is a dollar of income regardless of the source. For taxpayers with modest incomes, some preferential treatment of capital items provides an incentive for saving and investment. For taxpayers with a million dollars or more of income, such an incentive is hardly necessary. Accordingly, our tax law should not make fine distinctions between various categories of income for those with annual incomes over $1 million.

We recognize, however, that the passage of family farms and businesses from one generation to the next is inevitable and that tax liabilities occasioned by the death of a family member should not jeopardize their continued operation. Accordingly, we've included several provisions that recognize the unique situation of families that operate multi-generational farms and businesses, including more generous treatment of gains on those assets provided they continue to operate for 10 years and a recognition that the assets of those farms and businesses should be assessed by their historical use and not their greatest value use (for instance, some farmland may be more profitable and hence more valuable if used for development), more flexible uses of the like-kind exchange rules for property that is used in those farms and businesses (for example, a farmer needs to change the location of their operation or a manufacturing business needs a larger building), and the opportunity to continue the cost basis and delay the payment of the tax liability until the point the asset ceases to be used as a farm or business.

A Gross Disparity and an Urgent Need

Our proposal closely follows what was originally presented in President Biden's first budget proposal, and eliminates the preferential treatment of different categories of income for all annual incomes over $1 million.

It is structured with several principles in mind:

- First, income over $1 million in any one year should not be taxed at lower rates, deferred, or otherwise given preferential tax treatment based on how it's made.
- Second, the tax rates of those with incomes under $1 million per year should not increase.

- Third, family-owned farms and small businesses should be protected from onerous tax payment obligations.

To adhere to those principles, we propose the following:

1. **Limit the Preferential Rate for Dividends and Capital Gains to Incomes Under $1 Million.** All income over $1 million, regardless of how it is earned, will not be subject to the preferential tax rate for dividends and long-term capital gains. The preferential rate for those types of income will only apply to the difference between the taxpayer's ordinary income and $1 million. For example, if a taxpayer has $800,000 of taxable income from wages and $1 million of long-term gains, $200,000 of the gains would be taxed at a preferential rate and the remainder would be taxed at ordinary rates.

2. **Close the Stepped-up Basis Loophole.** Subject to a $1 million exclusion and the exclusion for gains up to $500,000 from the sale of a principal residence, any assets transferred by gift or at death by a taxpayer shall require the recognition of gain or loss as if sold for fair market value at the time of transfer.
    a. This rule shall not apply to transfers between spouses.

    b. In order to avoid unnecessarily high rates when a taxpayer with an otherwise modest income recognizes substantial gains on investment property in the year of death, the taxpayer's personal representative may elect to determine the taxpayer's tax liability by allocating 20% of the income recognized as a result of the taxpayer's death to the taxable year of the taxpayer's death and each of the previous four taxable years. The tax liability for the year of the taxpayer's death shall be equal to their tax liability determined for that year plus the increases in liability for the previous four years resulting from the additional income.

    c. This rule shall protect family farms and small businesses as outlined in #5.

3. **Limit the Use of Like-Kind Exchanges to Avoid Tax on Real Estate Gains.** A $500,000 per year and $1,000,000 lifetime limit shall apply to all gains deferred pursuant to the like-kind exchange rules of Section 1031 of the Internal Revenue Code. The limitation on like-kind exchange treatment will not apply for property used for farming or other business exchanged for property for the same specific purpose.

4. **Limit the Qualified Business Income Deduction to Incomes Under $1 Million.** Assuming that section 199A, allowing for the deduction of 20 percent of qualified business income (also known as the "pass-through deduction") is extended past its current expiration date of 2025 (which we do not recommend), the deduction should only be applicable to the taxpayer's taxable income under $1 million. For example, if a taxpayer who had $300,000 of qualified business income receives income of $1,050,000, the $60,000 deduction otherwise allowed under Section 199A would be reduced to $10,000.

5. **Protect Family Farms and Businesses.** These protections will apply to the transfer by gift or bequest of a farm or business if the transferee(s) continue the operation for a period of at least ten years. ("Qualifying Farm or Business Interests"):

a. The limitation on the preferential rate for capital gains to incomes under $1 million shall not apply to gains realized from the transfer by gift or bequest of a Qualifying Farm or Business Interest. Further, the preferential rate applicable to the gain from the transfer by bequest (but not by gift) of a Qualifying Farm or Business Interest shall be equal to 50 percent of the rate otherwise applicable to long-term capital gains. If the farm or business interest ceases to be used in the operation of a farm or business during that 10-year period, the portion of the gain realized from the transfer by gift or bequest qualifying for preferential treatment shall be equal to the ratio of the number of full months the farm or business interest was used in a farm or business to 120. The remainder of the gain shall be taxed as of the date of the gift or bequest in the same manner as gain realized from the sale of an investment asset other than a Qualifying Farm or Business Interest.

b. The special use valuation provisions, which allow real property used in a farm or business operation transferred by bequest to qualified inheritors to be valued for that use (as opposed to the property's highest and best use) shall apply in the case of all real property used in a Qualifying Farm or Business. The total reduction in value shall not exceed $10 million. If the property is not used for the required period following the transfer, the decedent's estate shall be required to pay the additional income tax for the decedent's final taxable year determined by increasing the value of the real property by the product of (i) the reduction in value obtained through the special use valuation multiplied by (ii) one (1) minus the ratio of the number of months the real property was used in a Qualifying Farm or Business to 120.

c. The estate or, in the case of a transfer by gift, the transferor, may elect to have the cost basis of the Qualifying Farm or Business Interest in the hands of the transferee(s) be equal to the cost basis of the decedent or transferor, in which case no gain shall be recognized at the time of the gift or bequest.

Conclusion

The special tax treatment currently afforded to various forms of income operates collectively to create a tax system that confers special tax treatment to the ultra-wealthy and leads to aggressive tax avoidance schemes. That is antithetical to tax fairness and fundamentally disadvantages the working class. Our tax law must be structured so that high-income taxpayers—those with an annual income exceeding $1 million—are not privileged with a lower tax burden than working people who make substantially less. Regardless of how wealth is accumulated, the accumulation is still income. It all should be taxed the same way.

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